



**NOTICE OF A CALLED MEETING
OF THE BOARD OF ADJUSTMENT
OF THE CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, MARCH 2, 2022
6:00 P.M.**

Notice is hereby given that the Board of Adjustment of the City of Sunset Valley, Texas, will hold a called meeting on Wednesday, the 2nd day of March 2022 at 6:00 P.M. in the Council Chambers, City Hall, 3205 Jones Road, Sunset Valley, Texas.

Due to current COVID-19 restrictions and Travis County Order 2022-01, the number of public participants allowed into the Council Chambers may be limited. Masks are strongly recommended. The public is encouraged to leave public comments via Open Town Hall here: <https://www.opentownhall.com/11677>. The comments will be read by the Board Members. Additionally, the public may livestream the meeting using this link: <https://www.sunsetvalley.org/livestream>

On this date, the following items will be discussed, to wit:

1. Call to Order
2. Citizen/Public Comments
3. Consider approval of the minutes from the September 15, 2021 called meeting.
4. Public Hearing on an application submitted by Veronica Vargas for a variance at 11 Sunset Trail from Section 150.134 encroachment of an accessory structure (shed) into the 20-foot side yard setback.
5. Consideration and possible approval of an application submitted by Veronica Vargas for a variance at 11 Sunset Trail from Section 150.134 encroachment of an accessory structure (shed) into the 20-foot side yard setback.
6. Public Hearing on an application submitted by the Trubiana and Vasquez family, on behalf of the owner, for a variance at 6405 Brodie Lane, from Section 150.105(B)(1) the 100-foot landscape buffer regulations for the proposed botanical garden and eatery development.
7. Consideration and possible approval of an application submitted by the Trubiana

and Vasquez family, on behalf of the owner, for a variance at 6405 Brodie Lane, from Section 150.105(B)(1) the 100-foot landscape buffer regulations for the proposed botanical garden and eatery development.

8. Discussion and possible approval of the amended Board of Adjustment Processes document.
9. Adjourn

A quorum of the City Council may attend the meeting, however, no official action by the City Council shall be taken.

Remote Participation Notice

AT THIS MEETING AT THE STATED LOCATION, A QUORUM OF THE BOARD OF ADJUSTMENT WILL BE PHYSICALLY PRESENT AND THIS NOTICE SPECIFIES THE INTENT TO HAVE A QUORUM PRESENT THERE, AND THE BOARD MEMBER PRESIDING OVER THE MEETING WILL BE PHYSICALLY PRESENT AT THAT LOCATION. ONE OR MORE BOARD MEMBERS MAY PARTICIPATE IN THIS MEETING REMOTELY, AND IF SO, VIDEOCONFERENCE EQUIPMENT PROVIDING TWO-WAY AUDIO AND VIDEO DISPLAY AND COMMUNICATION WITH EACH MEMBER WHO IS PARTICIPATING BY VIDEOCONFERENCE CALL WILL BE MADE AVAILABLE.

I certify that the above notice of meeting was posted at City Hall, 3205 Jones Road, Sunset Valley, Texas, on Friday the 25th day of February 2022 at 6:00 P.M.

Matt Lingafelter
Matt Lingafelter
City Secretary



MINUTES OF A CALLED MEETING OF THE
BOARD OF ADJUSTMENT
OF CITY OF SUNSET VALLEY, TEXAS
WEDNESDAY, SEPTEMBER 15, 2021
6:00 P.M.

Members Present:

Thomas Cedel, Chair
Susan Durso, Vice Chair
Sandy Cox
Richard Hayes
Walter Jenkins

Staff Present:

Matt Lingafelter, Assistant to the City Administrator

1. Call to Order

Chair Cedel called the meeting to order at 6:04 P.M.

2. Citizen/Public Comments

None.

3. Consider approval of the minutes from the June 13, 2018 and June 30, 2021 meetings.

For the June 13, 2018 minutes, only Board Members Cedel, Cox and Durso were eligible to vote. Vice Chair Durso made a motion to approve the minutes from June 13, 2018, seconded by Sandy Cox. Board Members Cedel, Cox and Durso voted in favor and the motion carried.

Walter Jenkins made a motion to approve the June 30, 2021 minutes, seconded by Vice Chair Durso. All voted in favor and the motion carried.

4. Consideration and possible approval of an application submitted by Terry Cowan to construct an accessory structure at 4500 Stearns Lane which requires the following variances:

- a. From Section 2.506(a)(9) the height of an accessory structure exceeds the height of the principal structure; and,
- b. From Section 2.506(a)(10) an accessory structure in front of the principal structure.

This item was tabled from the June 30, 2021 meeting. A Public Hearing was held, in accordance with the Land Development Code, but additional information was requested by the Board, and clarification on the applicant's proposal as well as the legal parameters of a guest house.

Staff provided an update on both the applicant's request, and the definition of a "guest house" which was amended in 2016. The applicant, Terry Cowan, modified his proposal which reduced the size of the proposed guest house to a total of 1,000 square feet. So, a third variance would not be required. There was a total of five written public comments in favor of the proposed variances, which were provided to the Board in their agenda packet.

Terry Cowan addressed the Board and answered questions regarding his proposed guest house.

There was a discussion on the height of his proposed structure. The maximum height allowed for an accessory structure, which includes guest houses, is 20 feet according to Sunset Valley Code.

The Board also discussed the size and location of the pad. The applicant is building up rather than out, not wanting to cut down trees, encroach upon the Water Quality Transition Zone, or encroach on to either the front or side yard setbacks, which would require a separate variance. The applicant worked with City staff to choose the location of the proposed guest house.

The Board also discussed guest houses, as defined by the Code, with staff.

Sandy Cox made a motion to approve the applicant's request for a variance to Section 20506(a)(9) to allow the proposed accessory structure to exceed the height of the principal structure, provided that it remains in compliance with all other provisions of the Code. The motion was seconded by Walter Jenkins.

Richard Hayes made a friendly amendment to include the 20-foot height limitation of an accessory structure in the motion, and both Sandy Cox and Walter Jenkins agreed to the amendment.

Susan Durso made a friendly amendment that the pad of the accessory structure (guest house) be no greater than 500 square feet, and both Sandy Cox and Walter Jenkins agreed to the amendment.

The amended motion read: approve the applicant's request for a variance to Section 2.506(a)(9) to allow the proposed accessory structure to exceed the height of the principal structure provided that it remains in compliance with all other provisions of the Code, including the 20-foot height limitation of accessory structures, and that the pad of the accessory structure is no larger than 500 square feet. All voted in favor and the motion carried; the first variance request was approved, with conditions.

Vice Chair Durso made a motion to approve the variance request from Section 2.506(a)(10) to allow the proposed accessory structure be placed in front of the principal structure, seconded by Richard Hayes. All voted in favor, and the motion carried. The second variance request was approved.

5. Presentation and discussion on the procedures of the Board of Adjustment.

THIS IS NOT A TRANSCRIPT OF THE MEETING. A RECORDING OF THIS MEETING IS ON THE CITY'S WEBSITE.

Chair Cedel introduced this agenda item, and discussed the procedures of the Board of Adjustment, including what is codified by the Land Development Code, and what is technique or common practices by the Board.

Staff suggested changing "Chairperson" to "Chair" to which the Board agreed.

Comments from Vice Chair Durso on the Order of Business section. First, changing appeal to application or request. Second, Board Members being "not disqualified to hear an application" based on the language of the Disqualification section. She provided the edits to staff.

There was a question regarding Executive Sessions for the Board of Adjustment.

The Chair will continue to work with staff to edit and clean up the document.

6. Adjourn

Walter Jenkins made a motion to adjourn, seconded by Vice Chair Durso. All voted in favor, and the meeting adjourned at 6:59 P.M.

DRAFT

COMMISSION MEETING DATE: MARCH 2, 2022



BOARD OF ADJUSTMENT AGENDA ITEM #4-5

STAFF PREPARER/CONTACT INFORMATION: Carolyn Meredith, Public Works Director
cmeredith@sunsetvalley.org

SUBJECT: SIDE YARD SETBACK VARIANCE

DESCRIPTION:

4. Public Hearing on an application submitted by Veronica Vargas for a variance at 11 Sunset Trail, from Section 150.134* encroachment of an accessory structure (shed) into the 20-foot side yard setback.
 - a. Open Hearing
 - b. Presentation
 - c. Public Comments
 - d. Close Hearing
5. Consideration and possible approval of application submitted by Veronica Vargas for a variance at 11 Sunset Trail, from Section 150.134* encroachment of an accessory structure (shed) into the 20-foot side yard setback.

*Formerly Section 2.604 of the Land Development Code, pre-codification.

BACKGROUND: The subject property is 11 Sunset Trail, a single-family home located on a 0.76-acre lot on the east side of Sunset Trail. Veronica Vargas is requesting a variance for an existing shed that is located within the 20-foot side yard setback. When the home was purchased, there was an existing shed just to the south of where the new shed resides and was closer to the property line.

Ms. Vargas argues in her letter that moving the shed to come into compliance with the side yard setback would be “very costly and unreasonable.” The shed is currently encroaching into the setback 7-feet in the front and 4-feet into the rear.

FINDINGS FOR BOARD APPROVAL: The applicant submitted a letter addressing the ten findings as set forth in Section 150.066(F), which pre-LDC codification was Section 2.307(f):

(F) *Findings*. Findings of the Board, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board meeting at which such action is taken. The burden of establishing such conditions is on the

applicant. No variance shall be granted unless the Board of Adjustment finds that all the following criteria are met:

(1) Special circumstances or conditions exist such that requiring compliance with the provisions of the applicable zoning provisions of the Code will cause significant practical difficulties to the applicant. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute practical hardship.

(2) Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of this Code will result in one or more of the following:

- (a) Depriving the applicant of the reasonable use of his land;
- (b) Significant or unreasonable disruption of the natural terrain; or
- (c) Significant or unreasonable destruction of the existing flora.

(3) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(4) There is no practical alternative to the requisite variance that will alleviate the difficulty or hardship complained of or the requisite enhances the quality of the project as a whole and would result in a better project than requiring strict compliance with the provisions of the Code;

(5) The variance will be no greater than the minimum required to alleviate the difficulty or hardship complained of;

(6) The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to other property or improvements in the area;

(7) The granting of the variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this Code;

(8) The variance is in harmony with the intent of the Code's zoning provisions and with the goals, standards and policies of the City's Comprehensive Plan;

(9) The granting of the variance will not cause an unreasonable obstruction of direct sunlight to adjacent property; and

(10) The proposed variance prescribes only conditions deemed necessary to or desirable in the public interest.

A notice of public hearing was posted at City Hall, posted on the City Website, placed in the newspaper, and notices mailed to property owners within 500 feet, as required. Any written comments will be provided prior to the meeting, and comments left on Open Town Hall will be presented to the Board as available to the public.

RECOMMENDATION: If the Board agrees with the findings provided by the applicant, then a motion could be made to approve the variances as presented, based on the conceptual site plan and evidence set forth with the request.

APPLICABLE CODE SECTIONS: [150.066](#); [150.105](#)

SUPPORTING MATERIALS PROVIDED:

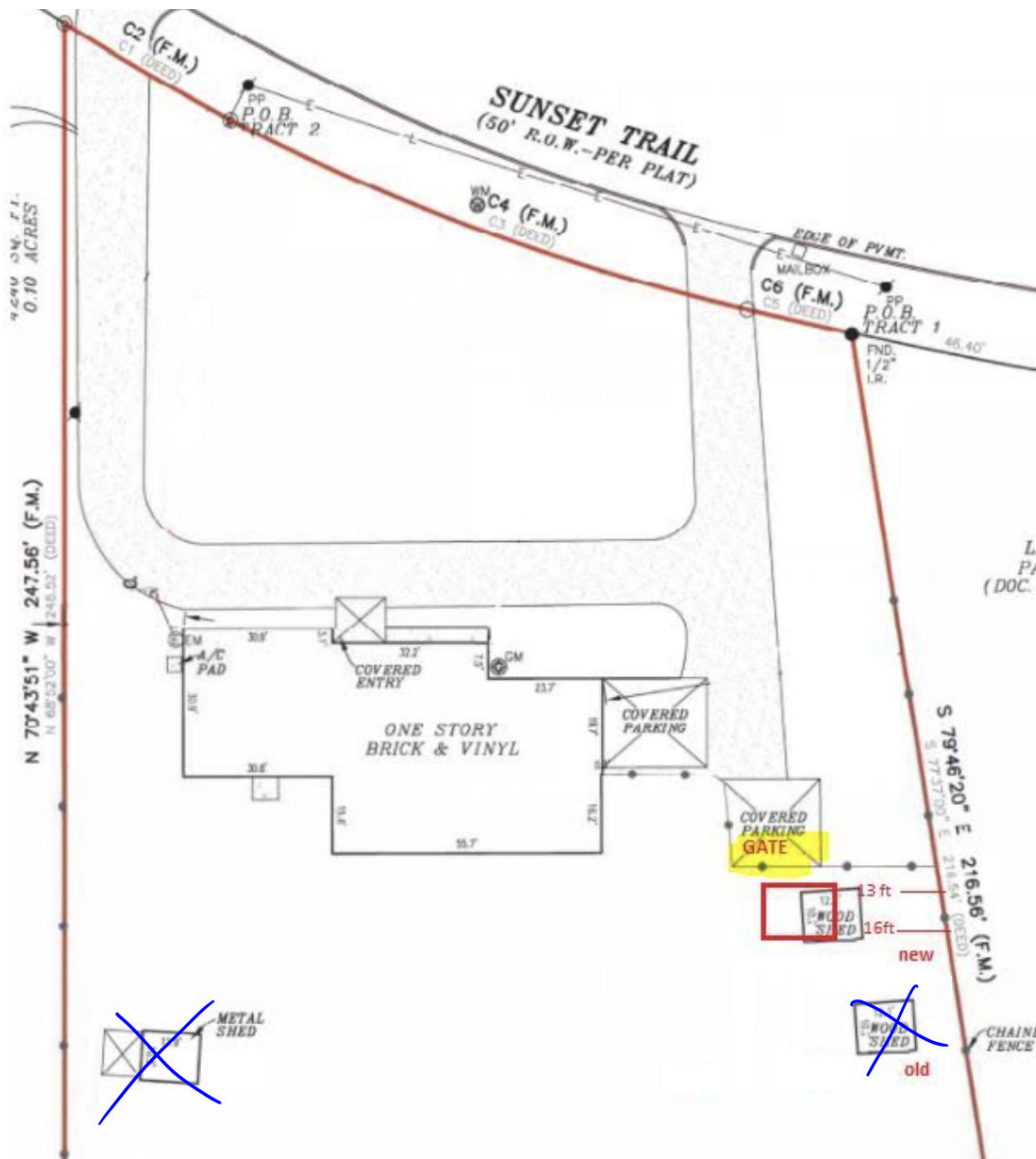
- VARIANCE REQUEST LETTER & SITE ILLUSTRATION

Sunset Valley Council
Encroachment Setback Variance Request – 11 Sunset Trl

I am seeking a variance approval for a shed that is currently encroaching the 20ft side setback requirement

- (1) **Special circumstances or conditions exist such that requiring compliance with the provisions of the applicable zoning provisions of the Code will cause significant practical difficulties to the applicant. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute practical hardship.**

On the drawing below you can see the location of the shed. The red square indicates where the shed will end up if moved to meet the 20ft requirement in comparison with my gate and driveway. The shed is encroaching 4ft at the back corner and 7ft in the front. My property line is at an angle, therefore the difference. Moving the structure and redoing fence and driveway to align with the shed will be very costly and unreasonable.



(2) Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of this Code will result in one or more of the following:

(a) Depriving the applicant of the reasonable use of his land;

The shed is a 10X18 structure, 6 ft of it is bare ground. The roof was extended to provide cover for tools. The lot size is 1 acre. The house doesn't have an attic and I believe it is reasonable to have the additional storage. The old shed used to be on the fence line, which means that it sat on the setback in its entirety. I consider the new location and the structure to be an improvement and reasonable.

(b) Significant or unreasonable disruption of the natural terrain; or

No concrete foundation was used. Structure sits on piers with a skirt. No changes to the terrain were made

(c) Significant or unreasonable destruction of the existing flora.

No flora and/or greenery on the location to destroyed or disturb.

(3) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

I enjoy gardening and working in the yard and need the extra space to stored tools. I also have multiple cars that my family uses so my garage is fully leaving no room where to store lawn equipment.

(4) There is no practical alternative to the requisite variance that will alleviate the difficulty or hardship complained of or the requisite enhances the quality of the project as a whole and would result in a better project than requiring strict compliance with the provisions of the Code;

If I moved to meet the 20ft at both corners, this process will be extremely costly but also will end up blocking over half of my gate making this entry impracticable for the intended purpose.

(5) The variance will be no greater than the minimum required to alleviate the difficulty or hardship complained of;

Allowing me to keep the shed where it is, will absolutely make a difference financially to me and my family. I also feel the distance that I am not in compliance is minimal in comparison as to where the old sheds structures were on the property before I acquire it.

(6) The granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and

Granting this variance will have no impact on my neighbors, and/or be in any way be detrimental to anyone's health and safety. The shed is behind my fence and is already away from my neighbor's property line.

(7) The granting of the variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this CodeThe variance will not affect any other lot/land development. The structure is well within the define property lines

Granting this variance will not affect any other lot/land use. The structure is well withing the define property lines

(8) The variance is in harmony with the intent of the Code's zoning provisions and with the goals, standards and policies of the City's Comprehensive Plan;

This variance conforms to the City's Comprehensive Plan

(9) The granting of the variance will not cause an unreasonable obstruction of direct sunlight to adjacent property; and.

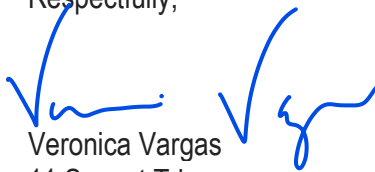
The placement of the structure does not block any natural light and/or creates an obstruction to either of my neighbors. It was placed so it cannot be seen from the neighbor's backyard closes to it.

(10)The proposed variance prescribes only conditions deemed necessary to or desirable in the public interest.

The current shed is no longer an eye sore to my neighbor's or the community.

Thank you for your time and consideration to my request.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Veronica Vargas', is written over the typed name. The signature is stylized with a large initial 'V' and a cursive 'g'.

Veronica Vargas
11 Sunset Trl

COMMISSION MEETING DATE: MARCH 2, 2022



BOARD OF ADJUSTMENT AGENDA ITEM #6-7

STAFF PREPARER/CONTACT INFORMATION: Matt Lingafelter, Asst. to the City Admin.
mlingafelter@sunsetvalley.org

SUBJECT: LANDSCAPE BUFFER VARIANCE

DESCRIPTION:

6. Public Hearing on an application submitted by the Trubiana and Vasquez family, on behalf of the owner, for a variance at 6405 Brodie Lane, from Section 150.105(B)(1)* the 100-foot landscape buffer regulations for the proposed botanical garden and eatery development.
 - a. Open Hearing
 - b. Presentation
 - c. Public Comments
 - d. Close Hearing

7. Consideration and possible approval of an application submitted by the Trubiana and Vasquez family, on behalf of the owner, for a variance at 6405 Brodie Lane, from Section 150.105(B)(1)* the 100-foot landscape buffer regulations for the proposed botanical garden and eatery development.

*Formerly Section 2.505(b)(1) of the Land Development Code, pre-codification.

BACKGROUND: The subject property is 6405 Brodie Lane, the southernmost property in Sunset Valley on the east side of Brodie Lane. The 4.976-acre tract is now zoned as Neighborhood Commercial, after approval by City Council on February 1st. The property is owned by the Estate of Betty Grubbs; the applicants, the Trubiana and Vasquez families, are proposing a Botanical Garden Café and Eatery. The applicants and their representatives presented their conceptual plan to the Zoning Commission in January and the City Council in February.

[Click Here to review the Applicant's Zoning Change Presentation from 02-26-22.](#)

The Zoning Change from SF to NC was approved by City Council with the following conditions:

- 10-foot fence along the east boundary of the property
- Limiting operating hours to 11 pm

- Dark sky lighting as presented by the applicant
- Security fence around the property
- Adding additional trees to contribute to the vegetative buffer
- Work with the Drakers between now and platting of the property
- At the platting stage, ensure adequate traffic circulation, which may or may not include installing a turning lane on Brodie
- Engaging a Traffic Engineer for a traffic study
- Ensuring that water runoff conditions from the property to 759 Oakdale Drive have improved from the current conditions

On February 23rd, the Zoning Commission recommended to the City Council to approve two Special Use Permits for the project, one to operate a restaurant within the Neighborhood Commercial district, and a second for the sale of alcoholic beverages to be consumed on-premises.

The City Council will deliberate and consider the two Special Use Permits, as well as impervious cover and parking dimension variance requests, at the March 8th meeting.

VARIANCE REQUEST: The conceptual and Appendix B site plans submitted by the applicants will require a variance to the landscape buffer regulations for adjoining zoning districts, as set forth in Section 150.105(B)(1). They are requesting a variance to the 100-foot landscape buffer for the northern setback. The property to the north is the city-owned Gault Life Estate. This property was purchased by the City in 2009 with “Green Tax” funds with the intention of being zoned as greenspace. However, the property is still zoned as Single Family, and so a variance is required.

§ 150.105 REGULATIONS FOR ADJOINING DISTRICTS.

(1) Effective buffering of residential districts from all other districts, except P Districts, shall include a minimum 100 feet landscaped setback. All buffering shall be fully contained within the property of the district required to provide the buffering, and all requirements for buffering shall be met within that same property. Credit for existing fences, screens, vegetation, etc. adjacent to commercially zoned land but physically located on lesser zoned land cannot be given. However, existing natural topographic changes may be considered for their buffering effect, regardless of the property on which it occurs. No roadways can be located within this setback. The applicant cannot comply with landscaping requirements of this Code in this buffer zone.

(2) *Applicability.* The standards and guidelines set forth in this section shall apply to O, NC, HC, GUI or other commercial or governmental zoning districts or land so conditionally zoned and located adjacent to any SF, P, or other non-commercial zoned district.

(3) *Evidence of compliance.* The burden of proving acceptable buffering shall be on the applicant. The use of plans, photographs, sections, elevations, scale models, etc.

may be employed as methods of demonstrating compliance. All requirements for screening shall be met at the time of project (or phase) completion. Maturation of vegetative screens is anticipated and is intended to provide a continuing and greater level of screening than the initial requirements.

The site plans provided by the applicants have a 25-foot landscape buffer along the city-owned Gault property, and so are requesting a 75-foot variance to the landscape buffer requirement. Although City-owned, the applicants did receive a letter of support for the project and zoning change application from Ms. Gault who still resides on the property. This letter is included in the backup materials.

The most recent variance to the 100-foot landscape buffer granted by the Board was in 2017 for the City Facilities project. The Board has granted two variances for the 100-foot landscape buffer requirement for Neighborhood Commercial properties: in 2012 for ATS Engineering at 4910 US Highway 290 West, and in 2011 for Marcus Whitfield at 4934 US Highway 290 West.

FINDINGS FOR BOARD APPROVAL: The applicants have submitted a letter addressing the ten findings as set forth in Section 150.066(F), which pre-LDC codification was Section 2.307(f):

(F) *Findings.* Findings of the Board, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the Board meeting at which such action is taken. The burden of establishing such conditions is on the applicant. No variance shall be granted unless the Board of Adjustment finds that all the following criteria are met:

(1) Special circumstances or conditions exist such that requiring compliance with the provisions of the applicable zoning provisions of the Code will cause significant practical difficulties to the applicant. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute practical hardship.

(2) Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of this Code will result in one or more of the following:

- (a) Depriving the applicant of the reasonable use of his land;
- (b) Significant or unreasonable disruption of the natural terrain; or
- (c) Significant or unreasonable destruction of the existing flora.

(3) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;

(4) There is no practical alternative to the requisite variance that will alleviate the difficulty or hardship complained of or the requisite enhances the quality of the project

as a whole and would result in a better project than requiring strict compliance with the provisions of the Code;

(5) The variance will be no greater than the minimum required to alleviate the difficulty or hardship complained of;

(6) The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to other property or improvements in the area;

(7) The granting of the variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this Code;

(8) The variance is in harmony with the intent of the Code's zoning provisions and with the goals, standards and policies of the City's Comprehensive Plan;

(9) The granting of the variance will not cause an unreasonable obstruction of direct sunlight to adjacent property; and

(10) The proposed variance prescribes only conditions deemed necessary to or desirable in the public interest.

A notice of public hearing was posted at City Hall, posted on the City Website, placed in the newspaper, and notices mailed to property owners within 500 feet, as required. Any written comments will be provided prior to the meeting, and comments left on Open Town Hall will be presented to the Board and available to the public.

RECOMMENDATION: If the Board agrees with the findings provided by the applicant, then a motion could be made to approve the variances as presented, based on the conceptual site plan and evidence set forth with the request.

APPLICABLE CODE SECTIONS: [150.066](#); [150.105](#)

SUPPORTING MATERIALS PROVIDED:

- VARIANCE REQUEST LETTER
- AERIAL SITE VIEW
- LOCAL NEIGHBORHOOD SUPPORT
- PROPOSED SITE PLAN
- PLANTING PLAN & PALETTE
- AUTHORIZATION LETTER FROM PROPERTY OWNER
- LETTER FROM ANNE GAULT
- [APPENDIX B SITE PLAN](#) (HYPERLINKED)

ARMBRUST & BROWN, PLLC

ATTORNEYS AND COUNSELORS

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February 14, 2022

Via Email

Board of Adjustment
3205 Jones Rd.
Sunset Valley, TX 78745

Re: Request for a variance from Section 150.105(B)(1) landscape buffer regulations for the botanical garden café and eatery project at 6405 Brodie Ln.

Dear Board of Adjustment:

On behalf of Gary McIntosh, Independent Executor of the Estate of Betty Grubbs (the “Owner”) and the Trubiana Family and Vazquez Family (the “Applicants”), we respectfully request a variance to Section 150.105(B)(1) of the Sunset Valley Land Development Code, which establishes a 100-ft. landscaped buffer from residentially zoned tracts. Specifically, we request a variance from this section only in relation to a Sunset Valley-owned triggering lot along our northern property line.

Case Summary

Currently, the 6405 Brodie Ln. site (the “Property”) faces unique hardships related to its location and surroundings. Specifically, the Property is uniquely located adjacent to a Sunset Valley-owned lot that the City explicitly designates on its official Future Land Use Map (“FLUM”) for a future “Park, Greenbelt, or Conservation Easement” use – though at present it still retains its older Single Family Residential zoning. For reference, parkland would not trigger the landscaped buffer setback. This unique circumstance, if left unaddressed, would impact about 38 percent of the Property. Additionally, when combined with another landscaped setback requirement, it would produce a total overall impact to about 45 percent of the entire Property. This constitutes a significant hardship that would deprive the Applicants of a reasonable use and of meaningful zoning rights.

The requested variance would directly address this hardship – and would do so in a manner that is targeted and context-sensitive. It would accomplish this by reducing the landscaped buffer requirement to 25 ft., but *only* in relation to the City-owned lot designated for future non-residential use. Importantly, the resident currently living on this lot *supports* the Applicants’ request. We have also committed to installing an 8-ft. solid wooden fence and to provide additional tree plantings along the northern property line. This request would also *fully maintain* the landscaped buffer requirement in relation to another adjacent lot designated for continued single-family use to the east.

Project Background

The Applicants are in the process of seeking the approvals needed to build and operate a botanical garden café and eatery at 6405 Brodie Ln. (the “Project”).

The Project would serve as a peaceful outdoor community gathering place where Sunset Valley could relax and enjoy culturally diverse food and drinks, provided by local, women-owned businesses. This use will serve to help provide a lower-impact transition between the busier Brodie Lane corridor and more internal neighborhood areas. The Property is surrounded by a 290-unit multi-family apartment community to the south (The Park on Brodie Lane), big-box commercial to the west (Lowe’s), a City of Sunset Valley-owned parcel designated for future parkland conservation area and with a current life estate to the north, and a single-family lot to the east.

The Applicants have designed the site that goes above and beyond to integrates Sunset Valley’s natural environment directly into the Project, with extensive trees, raised garden beds, integrated water quality features, and natural habitat plantings. For instance, the tree plan we are proposing is *16 times* that which would otherwise be required under the Land Development Code. The Project will also provide superior stormwater detention and water quality than what exists on the site *today*, with a stormwater runoff rate that is 25 percent lower than existing conditions.

The Project would also honor the Property’s history as the former home of Betty Grubbs, a World War II veteran (her uniform is preserved in Fredericksburg’s Nimitz Museum) and founding resident of Sunset Valley. Many of Betty’s personal values – love for the natural environment, community, and women-led initiatives – are directly reflected in this Project. Furthermore, a significant portion of the proceeds from the sale of this Property for the Project will fund the Betty Grubbs’ Endowed Scholarship Program for the University of Texas Women’s Athletics, the largest endowment for UT Women’s Athletics ever made. The Applicants will also host an annual fundraiser for the scholarship and place a memorial plaque to pay homage to Betty’s accomplished life.

Earlier this year, the Applicants brought forward the first major approval for the Project: a request to designate the Property for Neighborhood Commercial zoning. The explicit purpose of this rezoning was to establish a zoning right by which the Applicants could request that the City Council approve a special use authorizing a botanical garden café and eatery on the Property. Ultimately, City Council will have full discretionary authority over final approval of the requested special use.

Zoning Commission recommended and City Council approved rezoning to the requested Neighborhood Commercial, thus allowing the Applicants to move forward with their special use request. Additionally, during the rezoning process, the Applicants presented both Zoning Commission and Council with a proposed concept site plan and discussed several variances that would be necessary in order to implement the Project, including the landscape buffer variance requested here.

Variance Request

Section 150.066 of the Sunset Valley Land Development Code authorizes the Board of Adjustment to provide “relief from the provisions of this Code when strict compliance would cause undue hardship due to unusual circumstances or conditions peculiar to the subject property,” which specifically includes “location or surroundings.”

As noted, Section 150.105(B)(1) of the Land Development Code establishes a 100-ft. landscaped buffer from all residentially zoned property. Two lots currently trigger this landscaped buffer requirements upon 6405 Brodie Ln. (the “Property”): a single-family lot to the east (the “Draker Lot”) and a Sunset Valley-owned lot to the north that is designated for a future non-residential use as a parkland conservation area and is currently used as a life estate (the “Gault Lot”).

The discrepancy between the Gault Lot’s non-residential future use and its present residential zoning designation is at the core of the Applicants’ variance request, since the parkland use would not otherwise trigger the landscaped buffer requirements. This unique and unusual circumstance has created a major hardship for the Property: if no action is taken, the combined area of all 150.105(B)(1) landscaped buffers will impact roughly 45 percent of the Property. An impact of this scale would effectively preclude a botanical garden café and eatery project on the Property.

The Applicants request a variance to reduce the landscaped buffer requirements for the Gault Lot (designated for future non-residential use) to 25 ft. while fully maintaining them for the Draker Lot (intended to remain residential).

Throughout this process, the botanical garden café and eatery has received meaningful community support. The Applicants engaged with residents in the surrounding area early on and have worked to incorporate their feedback directly into the Project. This outreach has included numerous meetings, phone calls, and gatherings at the Property and in the area since November 2022. At this time, 22 Sunset Valley residents on the nearest neighborhood street, Oakdale Drive, have signed in support of this Project, which includes 17 households in the area closest to the Property. Importantly, the current resident at the life estate on the Gault Lot – the lot that triggers the landscaped buffer at the center of this variance – *supports* the Project.

Variance Findings

Section 150.066 of the Sunset Valley Land Development Code establishes ten findings for Board of Adjustment approval of a variance. The Applicants’ requested variance fulfills each of these findings, as follows:

- 1. Special circumstances or conditions exist such that requiring compliance with the provisions of the applicable zoning provisions of the Code will cause significant practical difficulties to the applicant. Pecuniary hardship to the applicant, standing alone, shall not be deemed to constitute practical hardship.**

Section 150.066 of the Sunset Valley Land Development Code provides specific examples of the types of special “circumstances or conditions” that would justify a variance, including “location or surroundings.” These are the precise conditions that justify approval of a variance from Section 150.105(B)(1) for the botanical garden café and eatery project at 6405 Brodie Ln.

The project – recently approved for Neighborhood Commercial zoning – is currently located adjacent to two residentially zoned lots:

- **The Draker Lot**, to the east, is zoned for Single Family Residential – and is intended to remain a single-family lot.

- **The Gault Lot**, to the north, is a Sunset Valley-owned lot that City policy explicitly designates for future non-residential uses: Sunset Valley’s FLUM officially identifies the site for “Park, Greenbelt, or Conservation Easement.” It is currently used as a life estate.

However, while the Gault Lot is now publicly owned and is officially designated on Sunset Valley’s FLUM for non-residential future uses, the zoning has not yet been updated to reflect this reality. As a result, the Gault Lot remains designated for Single Family Residential zoning, which, under Section 150.105(B)(1), triggers a requirement for the Property to provide a 100-ft. deep landscaped buffer across its entire northern property line. Were the zoning to match the FLUM designation for parkland, the landscaped buffer would not apply and no variance would be needed.

This unique and special circumstance is causing significant practical difficulties to the Applicants. To put this into perspective, this one requirement singlehandedly removes roughly 38 percent of the Property’s entire site area. Additionally, once the Draker Lot’s required 100-ft. buffer area is included, the total combined impact rises to roughly 45 percent of the Property area.

Thus, strict compliance with Section 150.105(B)(1) – due to its “location” and “surroundings” in relation to the Gault Lot – will directly cause “significant practical difficulties for the applicant” impacting a reasonable use of the site.

As a result, the Applicants request a variance to reduce Section 150.105(B)(1)’s requirement for a landscaped buffer in relation to the Gault Lot from 100 ft. to 25 ft.. Importantly, the resident currently living at the life estate on the Gault Lot *supports* this Project. The Project will also fully comply with all buffering requirements in relation to the Draker Lot, and additional trees have been included as set forth on the attached exhibits.

We believe this request is fully consistent with the Land Development Code’s intent, which is to provide buffering for *residential* lots (like the Draker Lot) – not for non-residential lots (as is intended for the Gault Lot).

2. **Special circumstances or conditions affecting the parcel of land exist such that requiring strict compliance with the provisions of this Code will result in one or more of the following:**
 - (a) **Depriving the applicant of the reasonable use of his land;**
 - (b) **Significant or unreasonable disruption of the natural terrain; or**
 - (c) **Significant or unreasonable destruction of the existing flora.**

As discussed above in Finding 1, the Gault Lot triggers a 100-ft. landscaped buffer requirement on the Property, even though the Gault Lot is officially designated on Sunset Valley’s FLUM to transition to a non-residential use (parkland conservation area).

Strictly applying Section 150.105(B)(1) in relation to the Gault Lot single-handedly impacts roughly 38 percent of the Property. Furthermore, applying the Gault Lot requirement in conjunction with landscaped buffers and other setback design commitments related to the Draker Lot would impact about 45 percent of the entire site – effectively “depriving the applicant of the reasonable use of his land.”

As a result, a context-sensitive variance that reduces the Section 150.105(B)(1) buffer from 100 ft. to 25 ft. for the Gault Lot but maintains the full 100-ft. buffer for the Draker Lot is both warranted and appropriate.

3. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

This variance is necessary for the Applicants to exercise the zoning rights Council recently granted to allow them to seek a special use permit (subject to Council approval) to develop a botanical garden café and eatery.

At its February 1, 2022 meeting, City Council heard from the Applicants and the public regarding the Applicants' vision for the Project, including discussion of the variances that the Applicants intended to seek in order to achieve this vision. After this discussion, Council took the first step toward achieving this vision by approving a rezoning for the site to Neighborhood Commercial.

The explicit purpose of this rezoning was to establish a zoning right by which the Applicants could request that the City Council approve restaurant and alcoholic beverage sales special uses. This is a meaningful and substantial zoning right that exists in only two of Sunset Valley's zoning districts (the other being Highway Commercial, which is limited to sites fronting Highway 290).

In other words, City Council has directly granted the Property a zoning right to seek, subject to Council's final approval, the special uses needed to open a botanical garden café and eatery. However, strict application of Section 150.105(B)(1) would have a prohibitive impact on the site, thus effectively nullifying this zoning right and precluding the Applicants' ability to exercise the needed special uses, even if Council were to grant them. As a result, a variance is necessary and appropriate.

4. There is no practical alternative to the requisite variance that will alleviate the difficulty or hardship complained of or the requisite enhances the quality of the project as a whole and would result in a better project than requiring strict compliance with the provisions of the Code.

Under Section 150.105(B)(1), the Gault Lot single-handedly impacts 38 percent of the Property. When considered in conjunction with the landscaped buffer area and other design setbacks from the Draker Lot, the combined total impact constitutes about 45 percent of the Property.

Given the sheer scale of this impact, no practical alternative is possible under a strict application of Section 150.105(B)(1). As a result, we believe a variance to this section in relation to the Gault Lot is justified.

5. The variance will be no greater than the minimum required to alleviate the difficulty or hardship complained of.

The requested variance is targeted to address the identified hardship while upholding the intent and spirit of the Land Development Code's landscape buffering requirements.

As discussed in Finding 1, this request is limited only to waiving Section 150.105(B)(1) in relation to the Gault Lot, which the FLUM designates for future non-residential uses ("Park, Greenbelt, or

Conservation Easement”). It will fully maintain all 100-ft. landscaped buffering requirements in relation to the Draker Lot, which the FLUM designated for “Single Family.”

We believe this request is fully consistent with the Land Development Code’s intent, which is to provide buffering for *residential* lots (like the Draker Lot) – not for non-residential lots (as is intended for the Gault Lot).

6. The granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to other property or improvements in the area.

The requested variance will allow the Property to develop as an environmentally sensitive, lower-impact botanical garden café and eatery that will support quality of life in Sunset Valley. It will not be detrimental to public health, safety, or welfare, or damage other property or area improvements.

At its February 1, 2022 meeting, City Council rezoned the Property to Neighborhood Commercial zoning. Under Section 150.064(E)(4)(a) of the Land Development Code, an applicant must satisfactorily demonstrate that a proposed rezoning meets several conditions, including that the proposed change “is in the community’s best interest in terms of the public health, safety and welfare” and that it “will not negatively affect the value of property and improvements in the vicinity.”

Council approved the rezoning, confirming that the Project satisfactorily met these conditions.

In fact, the Project will have key benefits for improved quality of life. This includes a tree plan providing 16 times what would otherwise be required under the Land Development Code as well as drainage and water quality facilities that go above and beyond City requirements (with a stormwater runoff rate that is 25 percent lower than under *existing* conditions).

7. The granting of the variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this Code.

This variance is limited in scope and would only reduce landscape buffer requirements in relation to the Gault Lot. The resident currently living on the Gault Lot life estate supports this Project. The variance will not impact other land in the area.

Additionally, as noted in Finding 6, Section 150.064(E)(4)(a) requires an applicant in a rezoning case to demonstrate that their proposal meets several key conditions. These conditions include determining that the proposal “will not disrupt the existing uses of land in the vicinity” and that it “will not negatively affect the value of property and improvements in the vicinity.”

After a full discussion of this proposal (which included a concept site design that specifically included the requested landscape buffer variance), Council found that the proposal met these criteria – and approved the rezoning.

Also, as noted, the Project would provide drainage and water quality facilities that go above and beyond what would otherwise be required for the Project – and provide a stormwater runoff rate that is 25 percent lower than what exists on the site today. In other words, the Project will *improve* drainage conditions, supporting the use of other land in the area.

8. The variance is in harmony with the intent of the Code's zoning provisions and with the goals, standards and policies of the City's Comprehensive Plan.

This variance will allow the Property to develop under its existing Neighborhood Commercial zoning regulations with a botanical garden café and eatery vision that the Sunset Valley City Council has decided is fully consistent with the goals, standards, and policies of the City's Comprehensive Plan.

As noted in Findings 6 and 7, applicants requesting a rezoning must demonstrate that their request meets several conditions, the first of which is that it "is consistent with the goals, standards and policies of the City's Comprehensive Plan." After a full discussion of this proposal (including a concept site design that specifically included the requested landscape buffer variance), City Council found it to be consistent with the Comprehensive Plan.

9. The granting of the variance will not cause an unreasonable obstruction of direct sunlight to adjacent property.

The requested variance will have no impact on the Gault Lot's access to direct sunlight. In fact, approving this variance will allow the proposed botanical garden café and eatery project to move forward, thus providing a single-story design with a lower visual impact than what could have otherwise occurred on the site if it were to develop as two-story single-family residences. As noted, the resident currently living in the life estate on the Gault Lot supports the Project.

10. The proposed variance prescribes only conditions deemed necessary to or desirable in the public interest.

This variance is necessary to the Project and is in the public interest. First, approving this variance will maintain the City's consistency with its own policies, which designate the Gault Lot for non-residential use on the official Sunset Valley FLUM.

Second, the Project offers better outcomes on key environmental and quality of life indicators, with:

- A tree planting plan that provides 16 times what is otherwise required;
- Water quality and drainage facilities that go above and beyond what Sunset Valley requires, including a stormwater runoff rate that is 25 percent lower than existing conditions; and
- Extensive vegetation preservation and a planting plan that will both support healthy biodiversity.

Finally, this Project will provide Sunset Valley with a unique amenity that offers residents a quality space where they can enjoy drinks and local food with friends and family.

We believe that this application has fully demonstrated that the requested variance is both justified and appropriate, and respectfully ask for your approval. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael J. Whellan", with a horizontal line extending to the right.

Michael J. Whellan

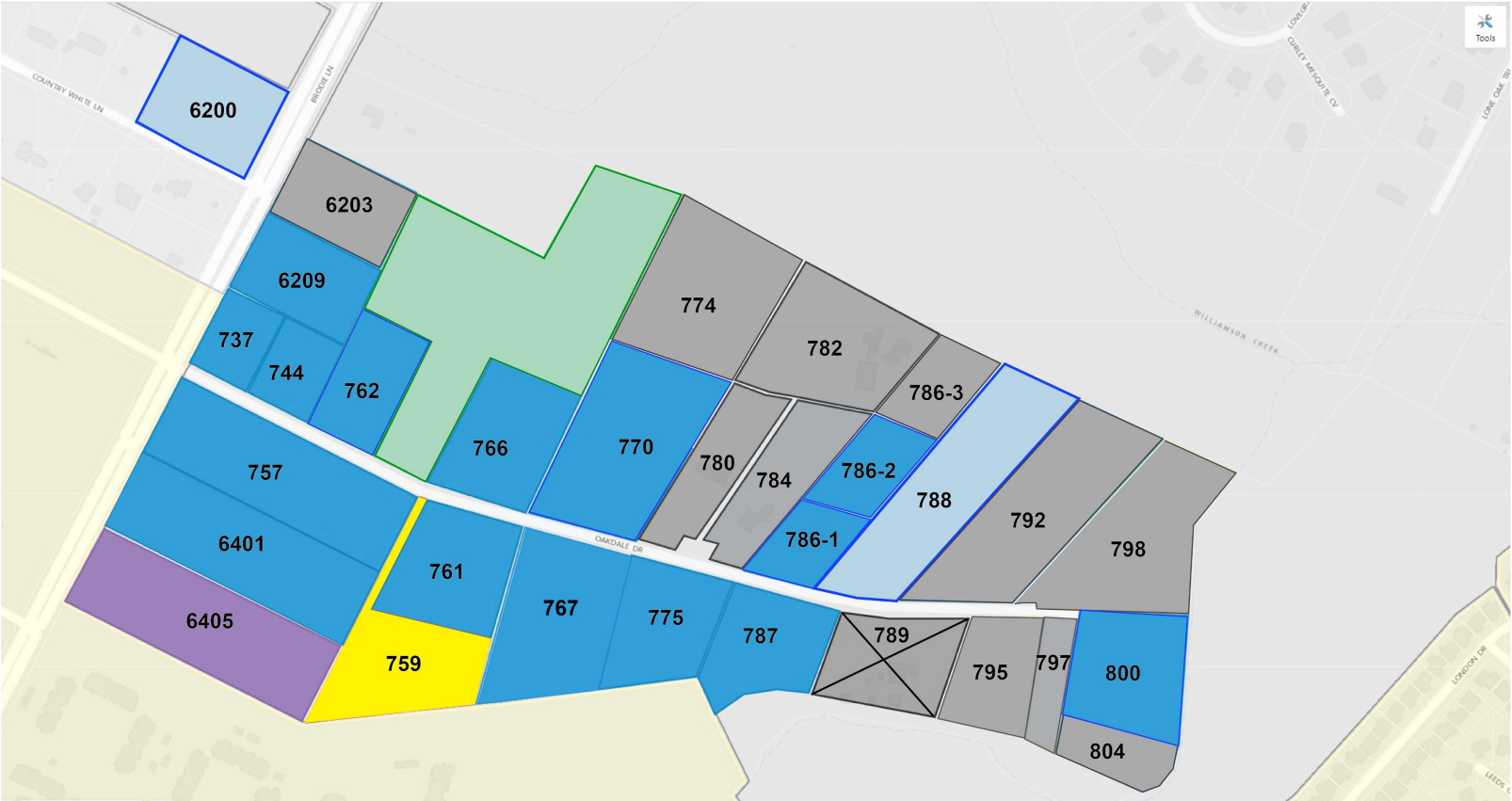
Attachments:

- Aerial of site and surrounding uses
- Local Neighborhood Support
- Proposed Site Plan with additional trees in buffer areas
- Planting Plan with additional trees
- Visual screening from fence and trees; tree species

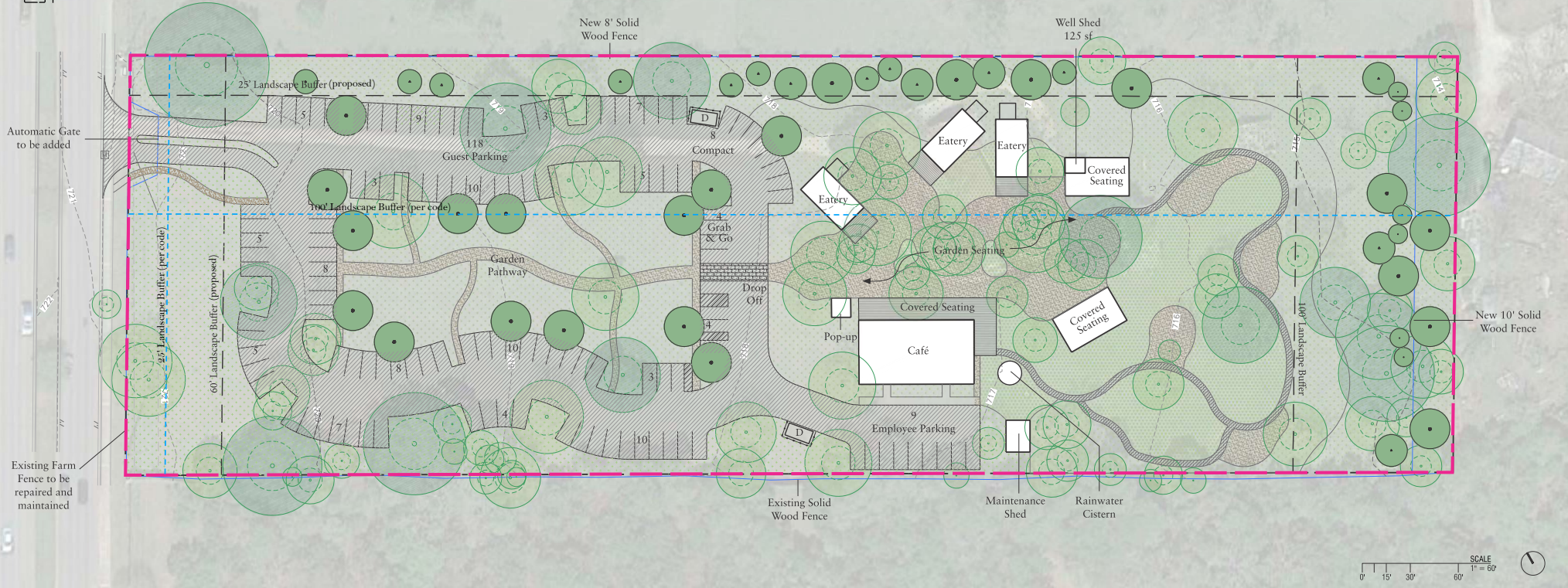
Site Context



Local Neighborhood Support



- Supports Project - Signature / Written Post
- Supports Project - Verbal
- Currently Opposed
- Project Site
- Nature Trails
- No Response
- Vacant / Abandoned Homesite














Proposed Site Plan

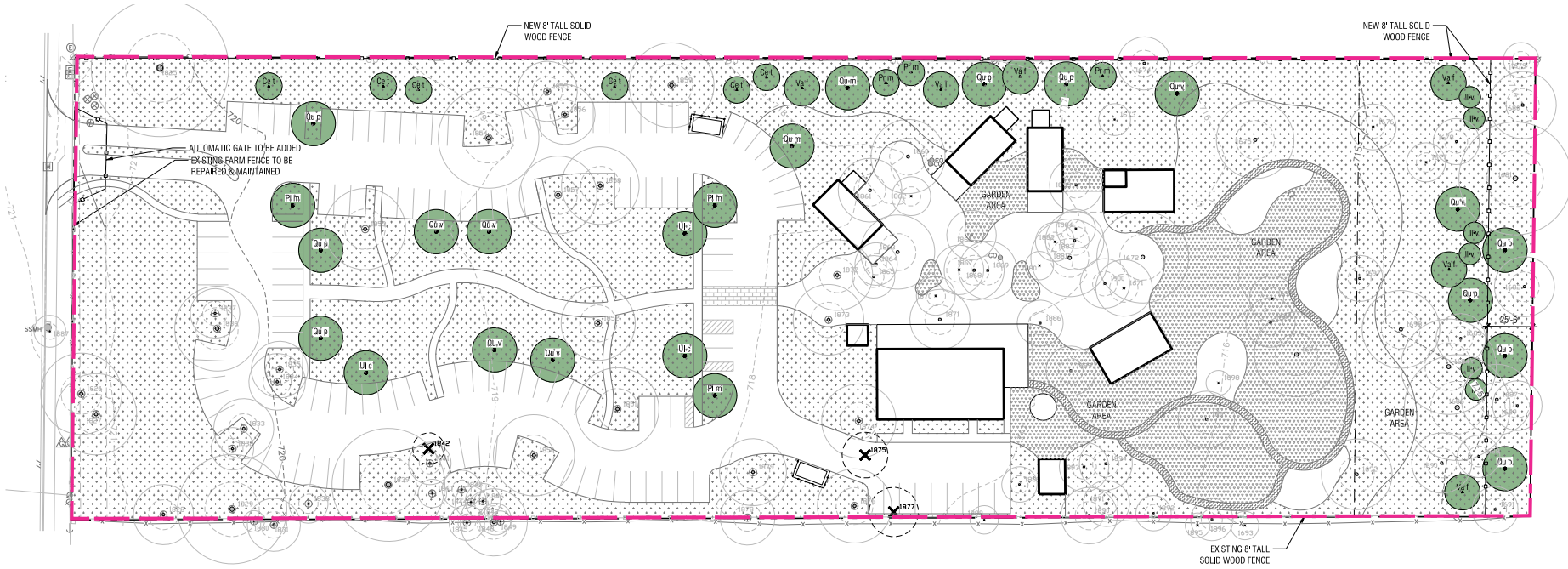
Michael Hsu
Office Of Architecture

CAMPBELL LANDSCAPE ARCHITECTURE

stansberry engineering co.

Impervious Coverage Calculations		
Total Site Area	4.98 ac	
Impervious Coverage		
Buildings & Covered Porches	7,272 sf	3.4%
Covered Outdoor Seating	1,920 sf	0.9%
Parking/Paved Area	48,576 sf	22.4%
Storage/Other	444 sf	0.2%
TOTAL	58,212 sf	26.8%
Eaves	3,226 sf	1.5%
Cistern Pads	450 sf	0.2%
TOTAL	61,888 sf	28.5%

-  Property Line
-  Asphalt
-  Decomposed Granite
-  Botanical Garden
-  Meadow
-  Mown Meadow Path
-  Proposed Tree
-  Existing Trees
-  Non-protected Tree (<10")
-  Protected Tree (10"-23.9")
-  Heritage Tree (24"+)



LEGEND - PLANTING PLAN

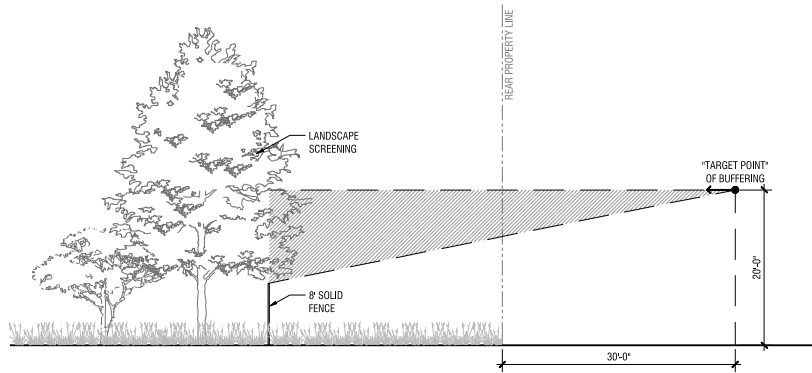
SYMBOL	ITEM
---	PROPERTY LINE
	EXISTING TREE TO PROTECT
	EXISTING TREE TO REMOVE
	PROPOSED SHADE TREE
	PROPOSED ORNAMENTAL TREE
	PROPOSED EVERGREEN SHRUB
	PROPOSED SOLID WOOD FENCE

City of Sunset Valley - Tree Mitigation Calculations [UDC Ch. 16 Sec.16.201]							
Tag #	Tree Species	Trees To Be Removed		Heritage Tree	Ancient Tree	Non-listed species	Total
		Non-protected Tree < 10"	Protected Tree 10" - 23.9"				
1842	cedar elm	9"					
1870	post oak		8.6 (4x4) 11"				
1875	live oak		13"				
Caliper inches per column:		9"	24"	0	0	0	
Total Caliper Inches Removed:							33"
Tree Replacement Ratio		0	1/3	1	2	0	
Replacement inches per column:		0	8"	0	0	0	
Total Caliper Inches Required:							8"
Total Caliper Inches Proposed:							137"

PLANT LEGEND

SYM	PLANT	SIZE	QTY
	LARGE TREES		
Pl m	Platanus mexicana Mexican sycamore	4" CAL.	3
Qu m	Quercus muhlenbergii Chinquapin oak	4" CAL.	2
Qu p	Quercus polymorpha Monterey oak	4" CAL.	9
Qu v	Quercus virginiana Live oak	4" CAL.	6
Ul c	Ulmus crassifolia Cedar elm	4" CAL.	3
TOTAL LARGE TREES			23
	ORNAMENTAL TREES		
Ce t	Cercis canadensis var. texensis Texas redbud	3" CAL.	6
Pr m	Prunus mexicana Mexican plum	3" CAL.	3
Va f	Vachellia farnesiana Huisache	3" CAL.	6
TOTAL ORNAMENTAL TREES			15
TOTAL TREES			38

	EVERGREEN SHRUBS		
Il v	Ilex vomitoria "Pride of Houston" Yaupon holly, Pride of Houston	5 GAL.	6
GROUNDCOVER/SEED MIXES			
	Meadow mix: Equal percentage mix of Lindheimer muhly, sideoats grama, little bluestem, deer muhly, & gulf muhly	1 GAL @	
	Botanical garden	4" O.C.	
	Mown meadow path		



Visual Screening Sec. 2.505(b)(4)(A)

PLANT LEGEND

SYM	PLANT	SIZE	QTY
LARGE TREES			
Pl m	<i>Platanus mexicana</i> Mexican sycamore	4" CAL.	3
Qu m	<i>Quercus muhlenbergii</i> Chinquapin oak	4" CAL.	2
Qu p	<i>Quercus polymorpha</i> ** Monterrey oak	4" CAL.	9
Qu v	<i>Quercus virginiana</i> ** Live oak	4" CAL.	6
Ul c	<i>Ulmus crassifolia</i> Cedar elm	4" CAL.	3
ORNAMENTAL TREES			
Ce t	<i>Cercis canadensis</i> var. <i>texensis</i> Texas redbud	3" CAL.	6
Pr m	<i>Prunus mexicana</i> Mexican plum	3" CAL.	3
Va f	<i>Vachella farnesiana</i> Huisache	3" CAL.	6
EVERGREEN SHRUBS			
Il v	<i>Ilex vomitoria</i> "Pride of Houston" Yaupon holly, Pride of Houston	5 GAL.	6

GROUNDCOVER/SEED MIXES	
	Meadow mix: 1 GAL @ 4" O.C.
	Equal percentage mix of Lindheimer muntly, sideoats grama, little bluestem, deer muntly, & gulf muntly
	Botanical garden
	Mown meadow path

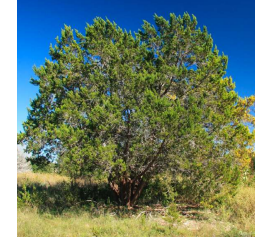
EVERGREEN SHADE TREES



Monterrey oak



Live oak



Juniper

DECIDUOUS SHADE TREES



American sycamore

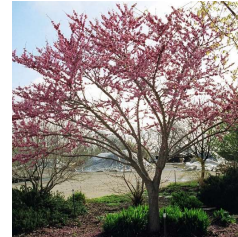


Chinquapin oak



Cedar elm

ORNAMENTAL TREES



Texas redbud



Mexican plum



Huisache

EVERGREEN SHRUBS



Yaupon holly



Mountain Laurel



Wax Myrtle

City of Sunset Valley
3205 Jones Rd
Sunset Valley, TX 78745
September 29, 2021

Re: Land Use Applications for 6405 Brodie Ln. (the "Property")

To Whom It May Concern:

I, Gary McIntosh, Independent Executor of the Estate of Betty Grubbs, hereby authorize Thomas Trubiana and Justin Trubiana to act as my agent on behalf of the Betty Grubbs Estate in connection with rezoning applications, special use permit applications, variance applications, and other related land use approvals for the above-referenced Property.

Gary McIntosh



Independent Executor, Estate of Betty Grubbs

SIGNATURE CERTIFICATE




REFERENCE NUMBER

27E96C62-9920-48D6-8687-2875A2F80DC6

TRANSACTION DETAILS	DOCUMENT DETAILS
<p>Reference Number 27E96C62-9920-48D6-8687-2875A2F80DC6</p> <p>Transaction Type Signature Request</p> <p>Sent At 09/29/2021 19:48 EDT</p> <p>Executed At 09/30/2021 08:11 EDT</p> <p>Identity Method email</p> <p>Distribution Method email</p> <p>Signed Checksum 3b9493e7caff53a9a3510481d2f3382790f13552e32bc233f5b3d7e18bdb8536</p> <p>Signer Sequencing Disabled</p> <p>Document Passcode Disabled</p>	<p>Document Name Authorization Letter</p> <p>Filename authorization_letter.pdf</p> <p>Pages 1 page</p> <p>Content Type application/pdf</p> <p>File Size 106 KB</p> <p>Original Checksum 4e08eb2fe5dfcc2a44f585f935e5b5c2e7380a8be512943aac92bbc81828229</p>

SIGNERS

SIGNER	E-SIGNATURE	EVENTS
<p>Name Gary McIntosh</p> <p>Email gary.mcintosh@weaver.com</p> <p>Components 1</p>	<p>Status signed</p> <p>Multi-factor Digital Fingerprint Checksum ab1ba6c2c39936b47aea453e2393d5cd28f751d3ea7ada67aa0088429fbf60cd</p> <p>IP Address 104.244.162.114</p> <p>Device Samsung Browser via Android</p> <p>Drawn Signature</p>  <p>Signature Reference ID 6352240E</p> <p>Signature Biometric Count 284</p>	<p>Viewed At 09/30/2021 08:11 EDT</p> <p>Identity Authenticated At 09/30/2021 08:11 EDT</p> <p>Signed At 09/30/2021 08:11 EDT</p>

AUDITS

TIMESTAMP	AUDIT
09/29/2021 19:48 EDT	Gary McIntosh (gary.mcintosh@weaver.com) was emailed a link to sign.
09/29/2021 19:48 EDT	Martha Adams (madams@abaustin.com) created document 'authorization_letter.pdf' on Chrome via Windows from 63.145.58.202.
09/29/2021 21:08 EDT	Gary McIntosh (gary.mcintosh@weaver.com) was emailed a reminder.
09/29/2021 21:46 EDT	Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 104.244.162.114.
09/29/2021 21:46 EDT	Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 35.170.190.110.
09/29/2021 21:46 EDT	Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via

Android from 54.236.143.143.

- 09/29/2021 21:47 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 104.244.162.114.
- 09/29/2021 21:48 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 104.244.162.114.
- 09/29/2021 21:48 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 104.244.162.114.
- 09/29/2021 21:49 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Firefox via Windows from 85.14.247.26.
- 09/30/2021 07:53 EDT Gary McIntosh (gary.mcintosh@weaver.com) was emailed a reminder.
- 09/30/2021 08:07 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 104.244.162.114.
- 09/30/2021 08:07 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 54.145.248.56.
- 09/30/2021 08:07 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 18.210.8.88.
- 09/30/2021 08:07 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 104.244.162.114.
- 09/30/2021 08:09 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Firefox via Windows from 172.255.126.195.
- 09/30/2021 08:11 EDT Gary McIntosh (gary.mcintosh@weaver.com) viewed the document on Samsung Browser via Android from 104.244.162.114.
- 09/30/2021 08:11 EDT Gary McIntosh (gary.mcintosh@weaver.com) authenticated via email on Samsung Browser via Android from 104.244.162.114.
- 09/30/2021 08:11 EDT Gary McIntosh (gary.mcintosh@weaver.com) signed the document on Samsung Browser via Android from 104.244.162.114.

City of Sunset Valley
3205 Jones Road
Sunset Valley, TX 78745
January 24, 2022

To the City of Sunset Valley:

Please support the application for a low-density botanical garden café and eatery proposed for 6405 Brodie Ln. As a neighbor to the botanical garden site – and as a member of one of the ‘founding families’ of Sunset Valley, I believe the owners of this project are being mindful and respectful of Sunset Valley residents and the Sunset Valley community.

I have lived next door to 6405 Brodie Ln. for over 50 years, which is how I got to know its former owner, Betty Grubbs. Betty was a vibrant person, a good friend, and an excellent neighbor. Betty not only loved Sunset Valley – she encapsulated the love of community that I have felt living in Sunset Valley.

Betty also had a deep appreciation for Sunset Valley’s natural setting – as do I. It has been one of my great joys to have become a master gardener and, while much in Central Texas has changed, I still appreciate the natural beauty that we have been able to maintain in Sunset Valley.

These values – community and nature – are important to me, and the owners of the botanical garden café and eatery have promised to live up to them. As a longtime resident, I have seen a number of large projects in the area that did *not* complement Sunset Valley’s character. (such as the Lowe’s across the street from my house.) Most of these were outside of Sunset Valley’s limits and ultimately beyond our control.

In contrast, I believe this project offers an opportunity to shape the future of Betty’s property in a way that fits better with what Sunset Valley wants and needs than other projects would. It is my understanding that it would be designed as a low-density gathering place within a carefully cultivated garden, with ample trees and greenery – and it would be run by locals, who I trust would be more responsive and have a better sense of our community.

Thank you for your consideration.

Sincerely,

DocuSigned by:

40D3D84AA1BF496...

Anne Gault
6401 Brodie Ln.

PROCEDURES FOR THE BOARD OF ADJUSTMENT

25 February 2022**SUBJECT:** Board of Adjustments Processes**BACKGROUND:** The Land Development Code provides that the Board may establish its own processes. These processes are governed by the Land Development Code, Sections 150.130 – 150.252. These are amended from time to time. The most recent amendments were approved by the Board in 2016.**RECOMMENDATION:** No action is required

Section 150.130 – 150.252 of the City of Sunset Valley’s Land Development Code governs the requirements of a zoning variance application and the required findings prior to granting of a variance. Section 150.046(C) provides that “The Board shall by majority vote adopt rules for the conduct of its duties, consistent with this Division and the Tex. Loc. Gov’t Code Chapter 211 as amended from time to time.” Public Hearings Hearing on all matters on which a decision of the Board is required by law shall be open to the public. The applicant may appear in his own behalf or be represented by counsel or agent.

Order of Business

The Chair shall call the Board to order and call the roll of members. At this time the Chair shall confirm that members of the Board are **not disqualified** to hear an **application** based on the criteria in the last paragraph of this document (Disqualifications). City Staff shall record the members present and absent. The Chair shall call each application in the order of the agenda and shall announce the name of the applicant, the location of the property involved, and the nature of the request. The City Staff shall publicly advise the Board of any written communications received. Supporting evidence for and against each application shall be presented to the Board.

Procedure for Hearing

The City Staff shall provide the Board with an overview of the application at the start of the Public Hearing. The Chair shall then call upon the applicant to present his case. The Chair shall then call on those who support the application. The Chair shall next call on those opposed to the granting of the application to present their arguments. The applicant shall then have the right of rebuttal to arguments presented by the opposition. Each side shall proceed without interruption by the other and all arguments and pleadings shall be addressed to the Board. No questioning or arguments between applicant or opponents will be permitted. The Board shall continue a hearing on any application for which the applicant fails to appear unless the applicant has requested that the Board act without his being present at the hearing; provided, however, that the Board shall dismiss for want of prosecution any application in which the

PROCEDURES FOR THE BOARD OF ADJUSTMENT

applicant has failed to appear for two (2) meetings at which the application was set for hearing; and provided further, that the Board shall hear those persons appearing in response to the notice of hearing.

Presentations regarding an application made by the applicant for a variance shall be limited to a total of ten (10) minutes each. Opponents and supporters shall have a total of three (3) minutes each to state their opposition to or support of the application. The applicant shall have a total of five (5) minutes to rebut the arguments of the opponents to the application.

The time for presentation of or opposition to an application may be extended at the discretion of the chair. Following the rebuttal, the Chair shall order the hearing closed.

Board's Questions

Upon ordering the Hearing closed, the Chair shall direct any question to the applicant or any person speaking in order to bring out all relevant facts, circumstances and conditions affecting the application, and then shall call for questions from other members of the Board and from the City Staff. During its review, the Board may call on City Staff member(s) for further questioning of technical reviews submitted. The Board may also call for an executive session to consult legal counsel.

Disposition of Variance Applications

The Board of Adjustment may deny or approve, in whole or in part, and/or may modify the variance request with conditions for approval. The Board may also defer action on any application whenever it concludes that additional evidence is needed or that alternative solutions need further study. An application may be dismissed when the Board finds that the application has been improperly filed or, upon notification by an Administrative Officer, that permits have been issued for development of the property.

Deliberation by the Board

The Board shall use the following procedures during deliberation on any item on the agenda:

- A. *Getting the floor.* Improper references are to be avoided. Any Board Member desiring to speak shall address the Chair, and upon recognition by the Chair shall confine himself or herself to the question under debate, avoiding all personalities and indecorous language. All Members have the right to be recognized, to make motions, and to speak.
- B. *Interruptions.* A Member, once recognized, shall not be interrupted when speaking unless it is to call to order, or as herein otherwise provided. If a Member, while speaking, be called to order, he or she shall cease speaking until the question of order is determined, and, if in order, he or she shall be permitted to proceed.
- C. *Amending a motion.* A Member, upon being recognized to speak, may request that a motion on the floor for discussion be amended. Upon such a request, the Chair shall ask the Members that made and seconded the original motion if they are willing to accept

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the amendment to the original motion. If both Members agree to accept the amendment, then the original maker of the motion will restate the original motion to include the amendment; the motion will be considered to be amended; and debate will continue on the amended motion. If either Member does not accept the amendment, then debate continues on the original motion.

- D. *Previous question.* Any Member, upon being recognized to speak, may move to call the question on the motion on the floor. A motion to call the question requires a second. If there is a motion and a second on the motion to call the question, then debate ends and there is a vote to consider ending debate on the original motion. A majority vote of Members present is required to end debate on a motion. Either the maker or the sponsor will be recognized by the Chair to make a closing comment for correction or clarification which will be two minutes or less if needed.

Vote Required

The affirmative vote of four (4) members (LDC Sec. 150.047) shall be necessary to grant or to grant conditionally any variance considered by the Board. When a motion in favor of an applicant fails to receive four (4) affirmative votes, it shall be entered in the minutes as a vote to deny; or if a member be absent at the vote and if the vote of that member added to the number voting for the applicant would equal four, the motion shall be recorded as a vote to continue consideration to the next meeting.

Disqualification

A Member shall disqualify himself from voting whenever he/she has a personal or monetary interest in the property under consideration or will be directly affected by the decision of the Board.

A Member shall disclose whenever any applicant or his agent has contacted the Member, uninvited by the Member, with the intent to influence the vote of any Member on his application, other than in the public hearing. The member shall disqualify himself/herself if deemed appropriate based on the contact.

A Member should neither initiate nor consider ex parte or other private communications concerning a pending case, except insofar as the Open Meetings Act allows Members in less than a quorum to discuss the case with City Staff or the City Attorney.