

**CITY OF BOERNE  
PLANNING AND ZONING COMMISSION**

**VARIANCE APPLICATION**

**APPLICANT:** Brown & Ortiz, P.C. (James B. Griffin) **PHONE NO.** 210.299.3704

**PROPERTY ADDRESS:** 17 Herff Road


**LOT:**            **BLOCK:**            **SUBDIVISION:**           

**OWNER:** CT 17 Herff Land, L.P. **PHONE NO.**             
(If different from Applicant)

**MAILING ADDRESS FOR NOTIFICATION OF PENDING COMMISSION MEETING:**

James B. Griffin  
Brown & Ortiz, P.C.  
112 E. Pecan, Suite 1360  
San Antonio, TX 78205

Owner is giving Brown & Ortiz, P.C. (James B. Griffin) authority to represent  
him/her at the hearing. (Applicant)

  
(Owner's Signature)

8/22/17  
(Date)

1. Applicant is making a request from the Boerne Subdivision Ordinance  
(Article & Section No. 4.01.001)

Check one: (X) Variance ( ) Appeal ( ) Special Exception

2. Describe request:

To allow for plat submittal for one phase of a two-phase project without the approval of a Master Planned Community plan.

3. Applicant hereby requests this case be reviewed by the Planning and Zoning Commission for a decision. I do hereby certify that the above statements are true and correct.

  
(Applicant's Signature)

8/22/17  
(Date)

**CITY OF BOERNE  
PLANNING & ZONING COMMISSION**

**ZONING VARIANCE WORKSHEET**

**Commission's Power to Grant Variances.**

The Planning and Zoning Commission may grant a variance from the requirements of this ordinance when, in the Commission's judgment, the application of a subdivision standard to a particular property or project meets the required findings of section 2.06.002 of the Subdivision Ordinance.

**Procedures for Variances.**

The subdivider shall submit to the City Manager a written application for each variance which is requested, 14 days prior to the meeting at which the variance is to be considered, along with the appropriate filing fee established by City Council. The Planning and Zoning Commission shall not consider any action on the variance request until this fee has been paid. The findings of the Commission, together with the specific facts upon which such findings are based, shall be incorporated into the minutes of the Commission meeting at which the variance is granted.

In order to make a finding of hardship and to grant a variance, the Planning and Zoning Commission must determine that all of the following conditions are met. State how your request meets these conditions.

**Findings Required for Variances.**

A variance to the standards in the subdivision ordinance may be granted where the Planning and Zoning Commission finds that the following conditions exist:

- A. Are there unusual topographic or other physical conditions of the land or surrounding area, and these conditions are not typical to other lands in the area.

The subject property has unique characteristics in that it is a large property – approximately 27 acres – bordered by Cibolo Creek on 2 sides, Cibolo Nature Center on another side, and public roadway (Herff Road) on the other side. This condition provides that access to public right of ways, both currently and potential future options, is limited to only 1 side of the property. Therefore, land use and layout of the areas fronting on Herff Road are defined but the remainder of the land use and layouts are in flux. This requires a variance to allow for platting of lots fronting Herff Road while the remainder of the property (approximately 14 acres) is planned and designed (including resolution of an ongoing rezoning request for the 14 acre portion).

- B. Is the condition beyond the control of the subdivider and is not due to the convenience or needs of a specific application or development proposal.

The size and layout of the subject property as described above is entirely beyond the control of the subdivider. Furthermore, the entire 27-acre property is currently zoned MU-1, although a proposed rezoning request for R-4 on the rear 14 acres is pending. There is certainty as to the retail use of approximately 13 acres: this 13-acre retail is proposed for subdivision platting immediately while the land use and layout of the remainder of the property is determined. This variance will allow for the platting of the approximately 13-acre retail portion, all of which fronts on public right of way (Herff

Road), without the need to define (and resolve the rezoning of) the rear portion of the property.

- C. Is the deviation minimal from the required standard necessary to allow a more appropriate design.

The deviation requested is minimal if any – the overall subject property will be platted in phases, with each phase meeting all requirements for approval of a subdivision plat within the City limits. The variance requested is simply to allow a plat of the first phase without the approval of a Master Planned Community. The overall subject property will be platted in only 2 total phases and all code requirements and appropriate design criteria will be met.

- D. Will the variance alter, negate or negatively impact the ability to meet any specific standard contained in the City of Boerne Zoning Ordinance.

No, the variance will simply allow a 27-acre mixed use project to be platted in 2 separate phases without first obtaining approval of a Master Planned Community plan. All of the other code requirements, which are extremely detailed and thorough, will be complied with.

- E. Demonstrate that the required standard is inapplicable to the specific site, so that the proposed plat equally or better meet all of the following:

1. The goals and policies of the Master Plan;
2. The purposes of these regulations; and
3. The intent of the standards.

The goals, intent and purposes of the regulations are to provide for orderly development, which includes providing the City with the proposed development units, lot sizes, density, street layout and proposed open and recreational spaces. Given that the 13 acres proposed for current platted are thoroughly laid out, the purpose and intent of the regulations and Master Plan will be met during the plat review process for such 13 acres. Similarly, this information will be laid out for the remainder of the subject property prior to – or during – the platting of the second phase. Allowing for the platting of the 13 acres fronting on Herff Road will provide for orderly development and will comply with the goals, purpose and intent of the City Master Plan and regulations.

- F. Will the variance have an adverse affect on existing adjacent landowners, potential future landowners in and adjacent to the subdivision, existing or potential development within any area of impact of the proposed subdivision.

No. As stated above, the variance will only affect the owner of the subject property but the effect will be positive. It will allow for the orderly development of the property and will not impact others as the lots proposed for platting all front on existing public right of way and have been laid out in a definitive manner. The remainder will be planned and platted once the zoning of such area has been resolved and, in all instances, the requirements of the City Zoning Ordinance and Subdivision Ordinance will be met.

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- G. Will the variance negatively impact efficient development of the land and surrounding areas based on sound planning principles and the goals and policies of the Master Plan.

No. All goals and policies will be met and the efficient development of land will occur. The layout of the first phase to be platted has been defined (including public access) and all technical requirements of the Subdivision Code will be met. Granting the variance allows for the orderly development of land without the requirement to master plan an entire 27-acre tract (although such will be done before the submittal of the second phase plat).

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- H. Will the variance adversely impact the general health, safety and welfare of the public.

Approval of the variance will not adversely impact the general health, safety or welfare of the general public. The health, safety and welfare will be protected by the orderly subdivision of land as confirmed through the platting process.

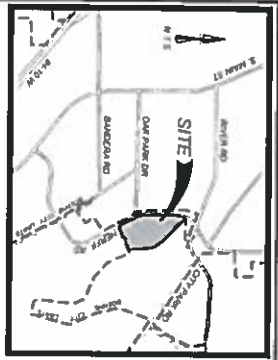
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Each subdivision standard for which a variance is requested shall be specifically identified as a Note on the final plat.

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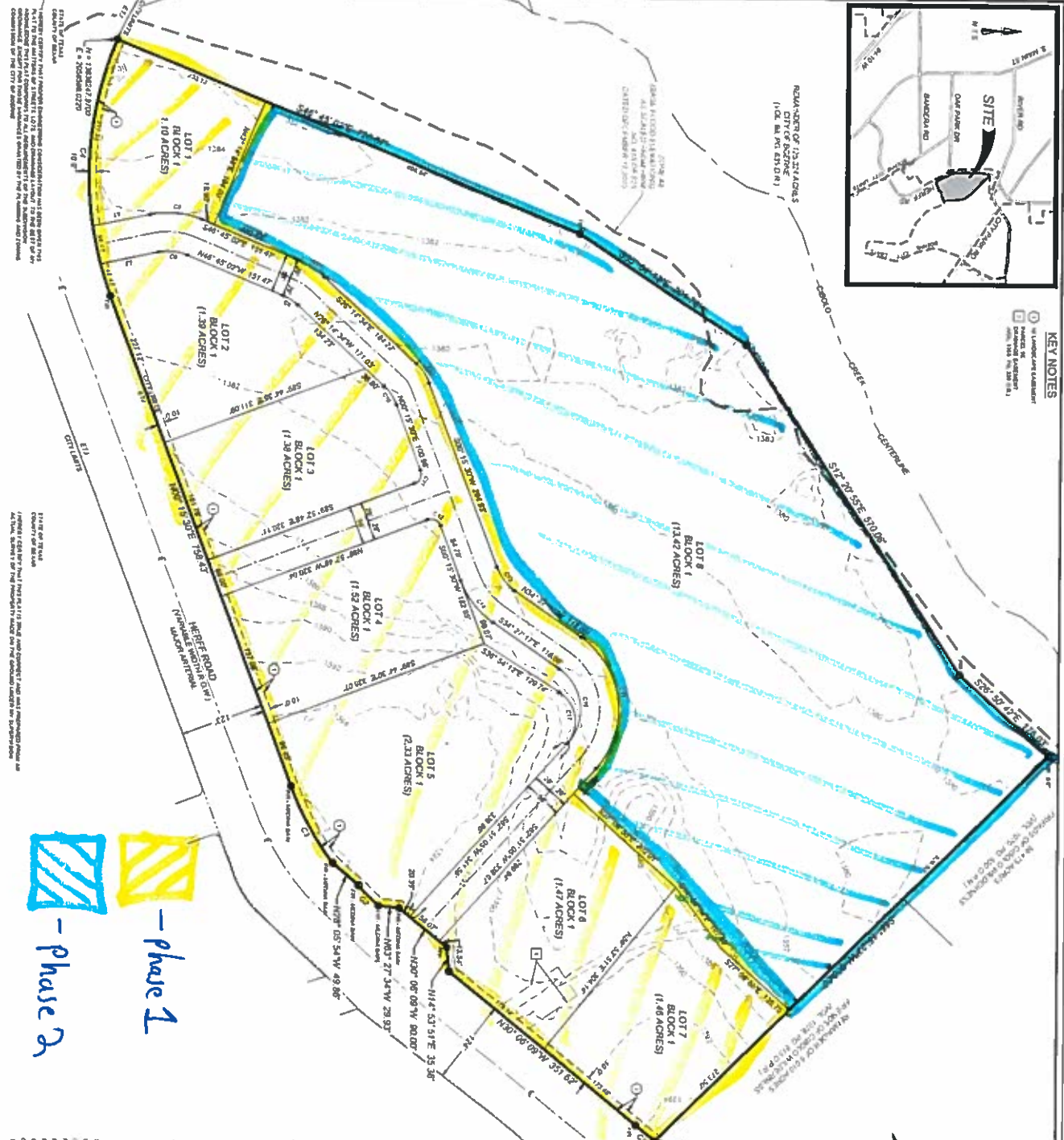
#### **Conditions.**

In granting approval of a subdivision with a variance, the Planning Commission may prescribe conditions to secure the objectives and interest of the City, and to enforce the purpose and intent of these regulations. In granting a variance, the Commission shall prescribe only conditions that it deems necessary to or desirable in the public interest.



**KEY NOTES**

- 1. All work shall be in accordance with the City of Brownsville, Texas, Ordinance No. 101, as amended.
- 2. All work shall be in accordance with the City of Brownsville, Texas, Ordinance No. 102, as amended.



**Phase 1**

**Phase 2**

**SCALE 1" = 100'**

0' 50' 100' 150' 200'

**KIEWIT**

**ENGINEERS & SURVEYORS**

3421 Professional Plaza, Suite 200, Brownsville, TX 77801  
Phone: (361) 731-1111  
Fax: (361) 731-1112  
Email: info@kiewit.com

**LEGEND**

- 1. All work shall be in accordance with the City of Brownsville, Texas, Ordinance No. 101, as amended.
- 2. All work shall be in accordance with the City of Brownsville, Texas, Ordinance No. 102, as amended.

**NOTES**

1. The project is located in the City of Brownsville, Texas, near the intersection of Highway 101 and Highway 102.

2. The project is divided into two phases: Phase 1 (yellow) and Phase 2 (blue).

3. The project is located in the City of Brownsville, Texas, near the intersection of Highway 101 and Highway 102.