

# **MODECO, LLC**

**CIVIL ENGINEERING SOLUTIONS**

---

December 21, 2017

Variance Request Letter  
City of Boerne  
Planning and Community Development  
402 E. Blanco  
Boerne, TX 78006

Attn.: Ms. Laura H. Talley

Re: El Chaparral Restaurant – Boerne  
36 Old San Antonio Road, Boerne TX 78006  
Subdivision Ordinance Variance Request  
(Section 3 Article 5.02.002)

Dear Ms. Talley:

A variance is being requested by the applicant, Mr. Carlos J Garcia, to allow deferral of the timing of the Old San Antonio Road streets and drainage improvements and utility service connections for each lot in the proposed two (2) lot subdivision to be constructed at a time when the proposed use and development plan for the each lot is identified and feasible. The applicant only intends to develop Phase 1 or Lot 1 of the property as identified on the attached site plan exhibit for the El Chaparral Restaurant – Boerne.

The subject property is currently an un-platted 6.103 acre tract of land located at 36 Old San Antonio Road, Boerne, Texas (see the attached site plan exhibit). The site is located inside the Boerne City Limits. The applicant currently plans to plat the property as a two lot subdivision plat and renovate and redevelop the existing residence located onsite as shown on the attached exhibit into a Restaurant. The proposed restaurant will be developed on the Phase 1 property. The applicant has no plans to develop the Phase 2 property at this time and it intends to keep the property in an undeveloped state until some unknown time in the future.

Currently, the property owner seeks approval of the variance to the City of Boerne Subdivision Ordinance Section 3, Article 5.02.002 that requires the adjacent Old San Antonio Road Street and drainage improvements to be completed at the time of platting and constructed to the minimum design standards that the City of Boerne Staff identified in the pre-application conference. The city staff and subdivision ordinance requires that the improvements shall be made to the entire length of the development that is contiguous to Old San Antonio Road. The applicant seeks approval to defer the required street and drainage improvements, and utility services for Phase 2 to be deferred to a time that development plans and a building permit application is submitted for development of that phase.

**City of Boerne Subdivision Ordinance: 5.02.002. Street Improvement - Timing**

*Streets improvements as set forth in Table 3-4: Street Cross-Section Standards of this ordinance, shall be made at such time as subdivision or development occurs. If a street improvement is required to be made to an existing street, arterial, collector or street identified in the Thoroughfare Plan, the improvement shall be made to the entire length of the development that is contiguous to that street.*

Based on the above detailed information, the variance will not be contrary to the spirit and intent of the City of Boerne Subdivision Ordinance and specific regulations from which an exception is requested.

Under the circumstances outlined herein and those associated with the property, the public interest underlying the proposed exception outweighs the public interest underlying the particular regulation for which the variance is requested.

As per the variance application and the finding required for variances the following conditions must be met and a response to these items has been provided:

- 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.*

Response: *The majority of the ROW in front of phase 2 that is contiguous to Old San Antonio Road has slopes in excess of 5% which creates an unusual condition for the proposed street and drainage improvements on that portion of the ROW.*

- 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.*

Response: *The ordinance requirement is outside of the control of the applicant/sub divider and is not due to convenience or needs of a specific application or development proposal.*

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

Response: *The deviation or deferral for the timing of construction for the ordinance required street improvements is minimal and will allow for a more appropriate design for the street improvements to be put in place in the future when the phase 2 development is realized or proposed.*

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

Response: *The variance will not alter, negate or negatively impact the ability to meet any specific standard contained in the City of Boerne Subdivision Ordinance.*

- 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.*

# MODECO, LLC

CIVIL ENGINEERING SOLUTIONS

---

Response: The required construction of street improvements and utility services for phase 2 of this development is unnecessary, and will result in undue costs for improvements that will be subject to damage or reconstruction since the future development of this portion of property is undetermined at this time. The granting of this variance for the deferral of the timing of the Old San Antonio Road improvements and utility services shall be in harmony with the intent and purpose of the Goals and Policies of the Master Plan, the City of Boerne Subdivision Ordinance and the City of Boerne Standards.

- F. Will the variance have an adverse effect 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?

Response: It is our understanding that the variance will not have an adverse effect on existing adjacent landowners, potential future landowners in and adjacent to the subdivision, and/or existing or potential development within any area of impact of the proposed subdivision.

- 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?

Response: It is our understanding that the variance will not negatively impact efficient development of the land and surrounding areas based on sound planning principles and the goal and policies of the Master Plan.

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

Response: In our professional opinion, the proposed variance remains in harmony with the spirit and intent of the City of Boerne Subdivision Ordinance and it will not adversely affect the health, safety, or welfare of the public.

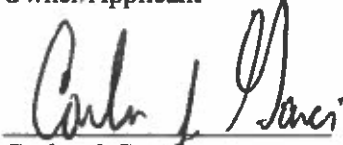
We seek review, concurrence and approval of this request for this property to defer the timing of the Old San Antonio Road street and drainage improvements and utility services for the phase 2 property until a time that development is planned on that portion of the property.

If you have any questions, please do not hesitate to call.

Sincerely,  
MODECO, LLC  
Texas Board of Professional Engineers, Firm Registration # 14593

  
Justin M. Lieck, P.E.

Owner/Applicant

  
Carlos J Garcia

Attachments