

May 5, 2016

Planning Variance case no. PV16-07: Paul Torres

CASE DESCRIPTION: a request of a variance for a 10-foot reduction to the 25-foot minimum front building setback generally required on residential lots zoned Residential District – 5,000 (RD-5) , to allow the construction of new single-family residences which will extend to within 15 feet from the subject property’s front property line along Cavitt Avenue

LOCATION: 211 Sulphur Springs Road, being 0.6 acres of land located at the southwest corner of Cavitt Avenue and Sulphur Springs Road

LEGAL DESCRIPTION: Lot 1 in Block 1 of Seale Addition (proposed Lots 1-R1 through 1-R4)

ZONING: Residential District – 5,000 (RD-5)

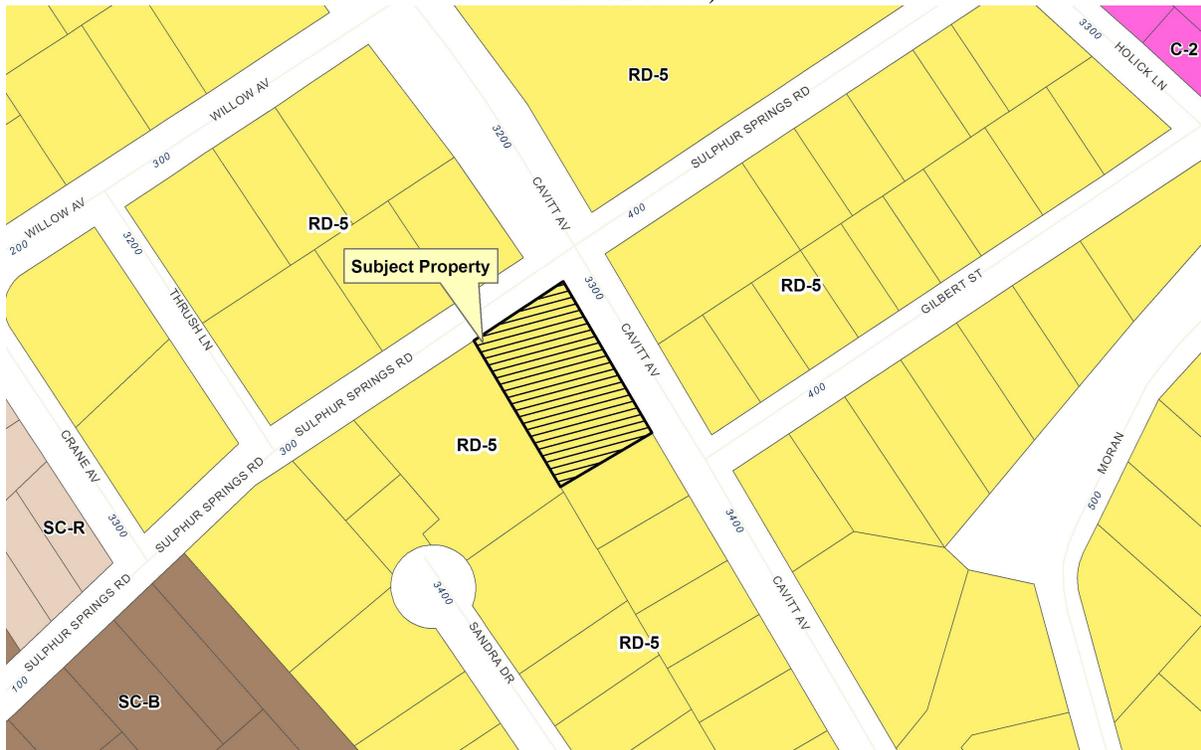
EXISTING LAND USE: single-family homes

PROPERTY OWNER: Paul Torres

APPLICANT: Kyle Grant, Alberta Real Estate Holdings, LLC

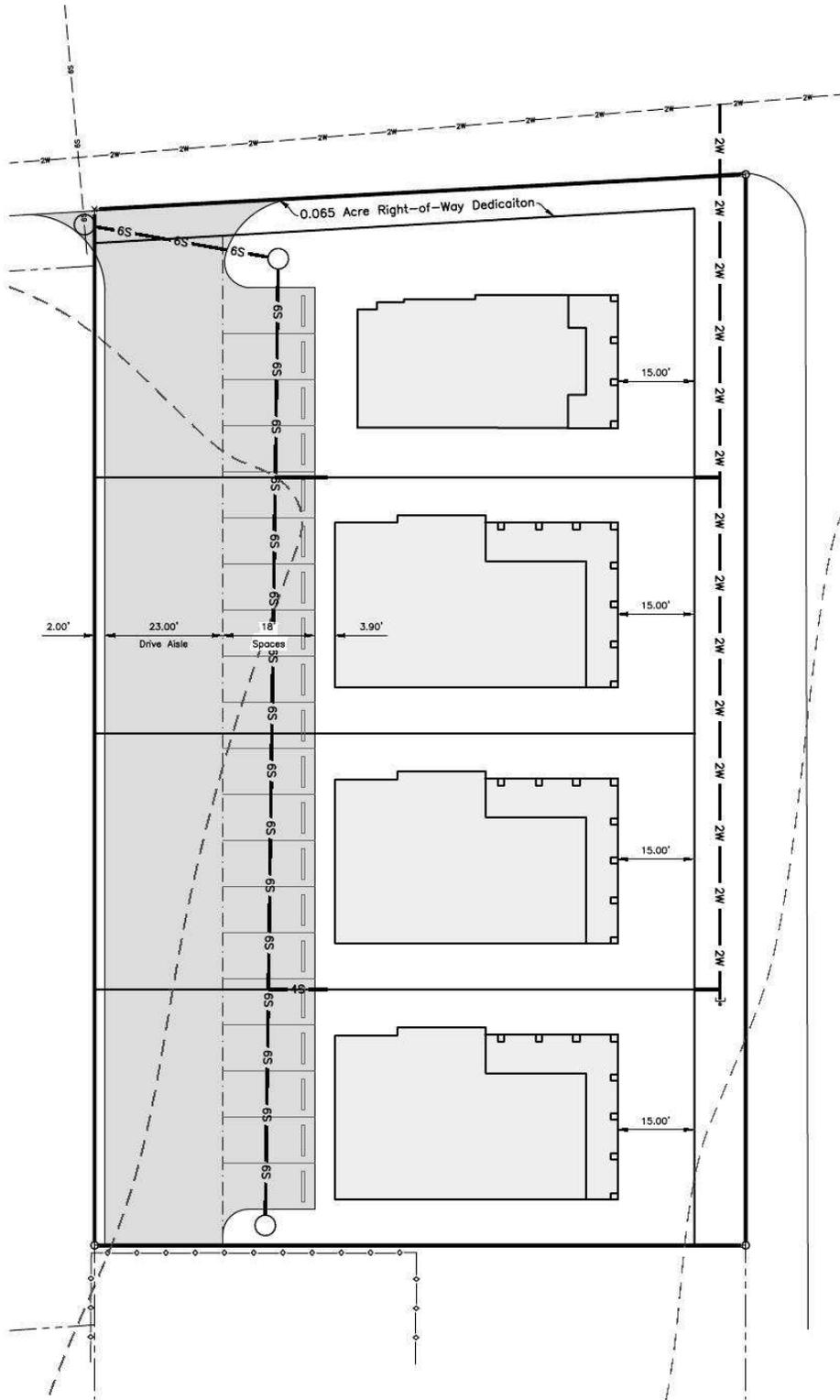
STAFF CONTACT: Matthew Hilgemeier, AICP, Senior Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** the requested variance, **subject to** prior approval and recording of replat (case no. RP16-04).





PROPOSED SITE LAYOUT:



EXCERPT FROM APPLICATION:

Setback Variance Request

The following page should be completed ONLY for setback variance requests.

Please describe the type of variance being requested:

Front setback reduction from 25' to 15' along Cavitt Avenue.

State how the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties in the area:

Rear parking will be constructed for this project in lieu of driveway connections to Cavitt Avenue. The reduction of the number of driveways entering Cavitt Avenue will reduce the amount of potential vehicle conflicts, thus making a safer neighborhood.

State how the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties directly abutting the subject property:

The rear access and front setback reduction will be fully contained within the proposed property and will not require additional land or easements from neighboring properties. Avoiding new driveway cuts onto Cavitt Avenue will create a safer street for the properties adjacent to this project.

State how the hardships and difficulties imposed upon the owner are greater than the benefits to be derived by the general public through compliance with the requirements of the ordinance:

Without the 15' front setback, this property would not be viable for development unless driveway cuts were granted along Cavitt Avenue. The increased safety along Cavitt Avenue benefit the public in general, not only this development.

BACKGROUND:

The subject property, located at the southwest corner of the intersection of Cavitt Avenue and Sulphur Springs Road, currently consists of one lot, 0.60 acres in size and zoned Residential District-5,000 (RD-5). The lot is currently developed with one single-family home which takes access via one residential driveway to Sulphur Springs Road. The subject property is surrounded by residential properties that are also zoned RD-5 District and that vary in size from 0.33 acres to 0.22 acres. Diagonally, to the northeast, across Cavitt Avenue, lies Crockett Elementary School.

With a separate application (case no. RP16-04), the applicant is requesting to replat the subject property into 4 smaller lots, all of which exceed the minimum lot standards of 50 feet wide by 100 feet deep (each proposed lot measures 117 feet in depth). The front of these 4 new lots will adjoin Cavitt Avenue which is classified as a major collector street on the City's Thoroughfare Plan.

Residential driveway access to collector streets is generally discouraged to help guarantee a smooth flow of traffic on these major streets that transect the community. Section 62-296(a)(7) of the City of Bryan's Land and Site Development Ordinance specifically prohibits single-family dwelling units from taking direct access to a collector street if the property can be accessed by a local street.

Rather than creating a scenario where 4 new residential driveways would provide access to Cavitt Avenue, the aforementioned replat proposes the dedication of a 44-foot wide private joint access easement to guarantee all 4 new lots perpetual driveway access to Sulphur Springs Road, not Cavitt Avenue. Required off-street parking for new homes here is also envisioned in the rear of these lots.

However, the proposed private joint access easement significantly reduces the buildable area on each new lot when compared to the lots that do not have a reduced buildable area. When taken together with applicable minimum 25-foot front building setbacks from front property lines, the depth on each lot where a new home could be built is reduced to 48 feet (117 feet – 44 feet – 25 feet = 48 feet).

In order to be able increase the buildable area on each lot, the applicant is requesting a variance from the minimum 25-foot front building setbacks that will be required on each of the 4 new lots along Cavitt Avenue. Specifically, the applicant is requesting to reduce the front setbacks on these 4 new lots by 10 feet, which, if approved, would allow new single-family home construction within 15 feet from Cavitt Avenue on each lot.

ANALYSIS:

The Planning and Zoning Commission may authorize a variance from minimum building setback standards stipulated in the Land and Site Development Ordinance. No variance shall be granted unless the Planning and Zoning Commission finds that all of the following criteria are met:

1. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area (an area encompassing approximately a 200-foot radius);

By limiting the locations of buildings on a lot, minimum building setback regulations help reduce the danger of conflagration, ensure that there is adequate room for emergency apparatus between and around the properties, and provide access to utilities. Building setback requirements also help provide a minimum degree of open space for light and air circulation, landscaping, recreational use, privacy (e.g., distance between neighbors to mitigate noise and

odors) and space for maintenance on a home. Minimum front building setbacks, in particular, are intended to help preserve a minimum degree of open space at the front of each property, to help prevent the overcrowding of the streetscape in single-family residential neighborhoods and maintain a clean, uncluttered streetscape.

While all of the aforementioned reasons for maintaining minimum building setbacks are still valid, staff believes that, in this particular case, granting the requested variance from the minimum front building setback along Cavitt Avenue will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area. Between Sulphur Springs Road and Pleasant Street, 7 other single-family homes face the same block face (the west side of Cavitt Avenue) where the subject property is located. Existing buildings on these properties have not maintained a uniform building setback from Cavitt Avenue as required by current development standards. Specifically, two properties to the immediate south of the subject property have carports that appear to extend much closer than the minimum required 25 feet from Cavitt Avenue. Properties on the east side of Cavitt Avenue also have structures that extend much closer than 25 feet from Cavitt Avenue due to the fact that, on those properties, the property line along Cavitt Avenue is a street side property line where only a minimum 15-foot building setback is required.

The cumulative effect of these existing encroachments on adjoining properties in the area is such that no uniform building setbacks currently exist in this particular area. These existing setback encroachments, in this particular case, do not appear to be detrimental to the public health, safety or materially injurious to properties or improvements in the area. In the case of the subject property, these encroachments have not prevented the applicant's interest in investing in a redevelopment of the subject property and proposing to subdivide these 0.6 acres into 4 new lots.

Under these circumstances, and when weighted against the consideration that the proposed development attempts to prevent new residential driveway and off-street parking access to Cavitt Avenue, staff believes that the effect of the requested variance from the minimum front building setback requirements is one that does not detrimentally affect the area where the subject property is located. Four new residences set back 10 feet closer to the front property line on each of the proposed new lots, in this particular case, should not significantly more crowd the streetscape along this segment of Cavitt Avenue than existing structures on properties on both sides of the street already do. Cavitt Avenue has 60 feet of right-of-way with 41 feet of pavement, which is 14 feet more than a typical residential street. This existing configuration of Cavitt Avenue will also help guarantee at least the appearance of open space, and lessen any potential crowding effect that may be perceived as a result of this variance approval along this block face.

2. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property;

For the same reasons stated above, staff believes that the placement of new single-family homes on the proposed new lots the subject property within 15 feet of Cavitt Avenue will not appear out of place in this particular environment, and, therefore, will not be detrimental to the public health, safety or welfare, or materially injurious to properties abutting the subject property.

3. That the hardships and difficulties imposed upon the owner/applicant are greater than the benefits to be derived by the general public through compliance with the requirements of this chapter.

While maintaining minimum building setbacks in residential subdivisions remains important, strict enforcement of the minimum 25-foot front building setback, in this particular case, would appear to pose an added difficulty (reduced buildable area) upon the applicant, without producing a significantly measurable public benefit. Other properties in the immediate vicinity are already enjoying the benefit of similarly reduced building setbacks for which the applicant is requesting a variance. In this particular case, staff believes approving the requested variance will have the most likely long-range benefit, balancing both public and private purposes.

RECOMMENDATION:

Staff recommends **approving** the requested variance, **subject to the condition that the property is subdivided into 4 new lots, as it has been requested with replat case no. RP16-04.** Approval of the recommended condition will prevent the applicability of this variance request should the related subdivision of this property into 4 lots not be recorded for any reason.