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PAUL M. JUAREZ
OF COUNSEL

April 2, 2019

Planning Commission
Development Services Department
1901 South Alamo Street
San Antonio, Texas 78204

Via Hand Delivery

RECEIVED
19 MAR 33 PM 1:35

RE: Appeal Regarding The Trails RV Resort Repair Shop & Parts Sales, LLC's (the "Owner") Administrative Exception Variance Request for Plat #180539, Concerning an Approximately 37.5-acre Property, Generally Located at the Intersection of IH-37 and SE Military Drive, BCAD Property ID: 467789, in the City of San Antonio, Bexar County, Texas (the "Subject Property", *see* "Exhibit 1"), *Our File No. 9974.001*.

To the Honorable Members of the Planning Commission:

The purpose of this correspondence is to formally appeal the decision of the Development Services Department ("DSD") to deny the Owner's Administrative Exception Variance Request ("AEVR") for Plat #180539. This appeal is made pursuant to the City of San Antonio's ("COSA") Unified Development Code ("UDC"), §§35-501(c)(3) and 35-483.

The Subject Property is an irregularly shaped lot with narrow corridors for ingress and egress. On November 1, 2018, the Owner sought an Administrative Exception Variance Request from the requirements of §§35-506(a)(2)(B) and 35-506(q) (*see*, "Exhibit 2"). The AEVR was sought to prevent the already narrowly configured roadway from being made narrower, and to prevent the possibility that residents within the RV Park would be displaced by conformance with the aforementioned requirements. The RV Park is located within the Subject property and fronts on the narrow access corridor. Due to the irregular shape of the Subject property, there is little to no buffer between the access road and the RV Park. Constructing a barrier or sidewalk in conformance with UDC §§35-506(a)(2)(B) and 35-506(q), would cause the narrowly configured roadway to be made narrower, thereby raising the likelihood that residents within the RV park would be displaced.

On January 29, 2019, DSD issued an Administrative Exception Variance Request Analysis (the "Analysis", *see* "Exhibit 3"). In the Analysis, DSD Staff concluded that a four-foot (4') wide sidewalk could be placed on the full length of the west side of the Owner's proposed private street.

As rationale for their finding, Staff found the following: 1) there are significant pedestrian generators within one-half mile of the Subject Property; 2) sidewalks have been required at other residential developments within one-half mile; 3) the land use and density are conducive to pedestrian access; and 4) COSA Disability Access Office did not support an exception for the location. However, the Analysis fails to consider whether a barrier and sidewalk meeting §§35-506(a)(2)(B) and 35-506(q) requirements is feasible given the irregular lot character and constricted arrangement of the Subject Property. It is our contention that requiring a barrier and sidewalk on the proposed private street, in accordance with UDC §§35-506(a)(2)(B) and 35-506(q), is impractical due to the narrow configuration of the Subject Property. Therefore, we respectfully appeal the decision of DSD denying the AEVR of UDC §§35-506(a)(2)(B) and 35-506(q) as applied to the Subject Property (*see*, “Exhibit 4” for Appeal to Planning Commission Application).

Background

The Subject Property is an approximately 37.5-acre property, fronting on IH-37 and SE Military Drive, and is currently zoned “I-1” (*see*, “Exhibit 5”). There are currently three access points to the Subject Property: 1) Orkney Avenue; 2) SE Military Drive; and 3) the IH-37 exit ramp (*see*, “Exhibit 6”). The latter two access points, SE Military Drive and the IH-37 exit ramp (collectively “CVS Driveways”), also serve as access points for the neighboring CVS Pharmacy. In the Fall of 2017, the Owner attempted to dedicate the CVS Driveways to COSA. The proposed dedication was ultimately unsuccessful because the right-of-way was found to be insufficient for the proposed street type.

Subsequent to the attempted CVS Driveway dedication, the Owner met with COSA staff to discuss development plans for the Subject Property. At this May 2, 2018 meeting, the Owner proposed to develop approximately 7.6-acres of the Subject Property as a mini-storage project, a use most often found in commercially zoned districts. Although the Subject property is zoned for industrial uses, the Owner recognized that an industrial use would be averse to the neighboring residential and commercial developments. Conversely, the Owner’s proposed mini-storage project will be composed of low-profile and low impact (low traffic) business, thereby resulting in a development that is in harmony with the residential and commercial uses currently in the area. As previously mentioned, the Subject Property is irregularly shaped, with a narrow configuration for vehicular access. To ease vehicular access to the narrowly configured roadway, the Owner sought a variance to the landscape buffers required by UDC §§35-310.01, Table 310-1 and 35-510, Table 510-1 (*see*, “Exhibit 7”). Recognizing Owner’s proposed mini-storage project achieves a dual convenience, congruence with the commercial and residential character of neighboring properties and development of an irregular shaped lot, the Board of Adjustment (“BOA”) approved the requested variance, and reduced the required landscape buffer where the Subject Property abuts residential property (the variance reduced the landscape buffer from the required 25 feet to 10 feet) (*see*, “Exhibit 8”).

Following consent for the landscape buffer variance, the Owner sought COSA staff input regarding conversion of the private internal commercial driveway system to a private shared driveway in an irrevocable ingress/egress easement. Currently, the private internal commercial driveway system serves as access to the Subject Property and the neighboring CVS Pharmacy. The Owner and COSA staff ultimately agreed the most feasible method for vehicular access to the Subject Property would be to plat the proposed private driveway as a Private Commercial Street within a Commercial Enclave Subdivision. Anticipating that the UDC requirements, applicable to a Private Commercial Street, would cause issue with the narrow road configuration thereby resulting in the possible displacement of residents within the RV Park, the Owner filed an AEVR application with DSD. In the AEVR application, the Owner sought a variance from requirements which would result in a reduction of roadway, and specifically the barrier and sidewalk requirements of UDC §§35-506(a)(2)(B) and 35-506(q). Despite the narrow configuration of the Subject Property and the fact that sidewalks would cause the Subject Property to become narrower, DSD recommended denial of the requested AEVR.

Grounds for Appeal

UDC §35-501(c)(3) allows for an applicant to appeal denial of an administrative exception/variance request related to subdivision plats. UDC §35-483, in turn, outlines the process for the appeal itself.

As stated above, the Owner submitted an AEVR application to DSD which requested a variance from the requirements of UDC §§35-506(a)(2)(B) and 35-506(q). The request was made pursuant to UDC §35-501(c)(1) of the UDC, which outlines the process and criteria for application for an AEVR. On January 29, 2019, DSD issued an Analysis of the AEVR application and ultimately denied the Owner's variance request. DSD provided five factors as grounds for the AEVR denial, however the Analysis did not explore whether it is feasible to place a barrier and sidewalk on the Subject Property. Failure to explore the adverse effects which sidewalk construction would have on the Subject Property overlooks the main reason that the Owner sought the AEVR to UDC §§35-506(a)(2)(B) and 35-506(q) –prevent the narrowing of the constricted access corridor along the east boundary of the Subject Property. The oversight becomes increasingly important when it is considered that the Owner acquired a variance to UDC §§35-310.01, Table 310-1 and 35-510, Table 510-1 for the purpose of ensuring that the roadway's narrow configuration would not be made narrower.

The Subject Property is currently zoned "I-1" and is surrounded by commercial properties to the north and south; residential properties to the east; and IH-37 to the west. Although the zoning designation allows for an industrial use of the Subject Property, such a use would be averse to the neighboring residential and commercial developments. The Owner's proposed project will be composed of low-profile and low impact (low traffic) business, thereby creating a development that is in harmony with the residential and commercial uses currently in the area. As the proposed project achieves a dual convenience–matches the surrounding commercial a residential character

and allows development of the irregular shaped lot—the proposed project is a reasonable use to the area and the Owner.

Although a reasonable use, access to and through the Subject Property remains an issue. Due to the unique topography of the Subject Property, the Owner has limited options available for access to developments within the Subject Property. As stated above, the Subject Property has a long, narrow configuration with limited access points. The configuration is complicated by the fact that the current and proposed developments are located along the southwestern portion of the Subject Property. Therefore, the southeastern property line presents the only feasible option for access to the proposed private driveway system. Although the private commercial street may safely be constructed along the southeastern property boundary, it must be noted that the current driveway area is narrow and any increased development requirements would further reduce the roadway area. The increased development requirements include UDC §§35-506(a)(2)(B) and 35-506(q) barrier and sidewalk requirements. Provided the Owner were to comply with UDC §§35-506(a)(2)(B) and 35-506(q) requirements, the roadway would become narrower, thereby raising the possibility that residents within the RV park may be displaced.

Because of the foregoing reasons, the Owner respectfully requests the Planning Commission reverse DSD's initial decision and grant the variance to UDC §§35-506(a)(2)(B) and 35-506(q) barrier and sidewalk requirements.

The applicant hereby provides the following information in order to address the findings of fact necessary to be met in order for the City of San Antonio's Planning Commission to grant the subject appeal request:

If the applicant complies strictly with the provisions of these regulations, he/she can make no reasonable use of his/her property;

As stated above, the Subject Property is currently zoned "I-1", which allows for industrial uses. Industrial use of the property would not be in conformance with the character of the surrounding residential and commercial developments in the area. However, the Owner seeks to develop the Subject Property as a mini-storage project, a use most commonly found in "C-2" commercially zoned areas. In addition to corresponding with the character of the surrounding neighborhood, the proposed development will make use of an irregularly shaped lot. Therefore, the proposed development is reasonable to the area surrounding the Subject Property, and the personal interests of the Owner.

As the proposed development requires practical access to the Subject Property, the Owner sought to plat the current internal private driveway system as a Private Commercial Street. Because the topography and traffic conditions of property adjacent to the Subject Property's western boundary, a roadway for vehicular ingress/egress access must be placed along the eastern boundary. Although the east boundary is currently able to allocate the proposed roadway, the eastern boundary presents a narrow corridor for vehicular ingress/egress. Requiring construction of a barrier and sidewalk in conformance with UDC §§35-506(a)(2)(B) and 35-506(q) requirements would further reduce allowable roadway and make the eastern ingress/egress corridor narrower. Because development of the Subject Property requires sufficient access, strict

compliance with UDC §§35-506(a)(2)(B) and 35-506(q) requirements would prevent Applicant from making reasonable use of the Subject Property. In essence, denial of the AEVR would prevent the Applicant from making reasonable use of the Subject Property.

The hardship relates to the applicant's land, rather than personal circumstance;

The Owner's present hardship, limited access to the Subject Property, applies to the land because the land is irregularly shaped and bears a narrowly configured roadway. As a large portion of the western boundary is at the top of an incline—a raised area approximately fifteen feet (15') above the adjacent land—the topography of the Subject Property prevents a roadway from being placed along the west boundary. Additionally, heavy vehicular traffic frequents the west boundary. Because of the topography and unsafe conditions caused by the frequent heavy traffic along the western boundary, the only feasible option for placement of the roadway is along the eastern boundary of the Subject Property. As previously stated, the Subject Property is an irregularly shaped lot which results in a narrow ingress/egress corridor along the eastern boundary. As the Owner's current hardship stems from limited access to the Subject Property, the hardship relates to and is exacerbated by the layout of the Subject Property.

The hardship is unique, or nearly so, rather than one shared by many surrounding properties;

The Owner's hardship is the result of limited access to the Subject Property. The Subject Property faces issues with limited access due to the fact that the lot is irregularly shaped. The irregularly shaped lot leaves limited options available for property development. As surrounding properties do not share the same irregular shape of the lot, the Owner's current hardship—limited access—is unique to the Subject Property.

The hardship is not the result of the applicant's own actions;

As expressed above, the Owner's hardship stems from limited access to the Subject Property. The limited access issue is intensified when considering that the only feasible option for roadway development requires construction along the eastern boundary of the Subject Property. Because the Owner is limited in development options by the irregular shaped character of the Subject Property, the Owner's hardship is not the result of his own actions.

The granting of the variance will not be injurious to other property and will not prevent the orderly subdivision of other property in the area in accordance with these regulations.

Granting the Owner's requested variance to UDC §§35-506(a)(2)(B) and 35-506(q) will not be injurious to other property in the area and will not prevent the orderly subdivision of other property in accordance with the stated regulations. As stated above, the Owner seeks the requested variance to increase access to the Subject Property and to ensure that the narrow vehicular access corridor along the eastern property line is not made narrower.

For the reasons stated above, we respectfully appeal the decision of DSD to deny Owner's AEVR Application for Plat #180539 and request the Planning Commission grant the variance to UDC §§35-506(a)(2)(B) and 35-506(q) as applied to the Subject Property.

Please do not hesitate to contact our office should you have any questions or need any additional information regarding the above. Included with this correspondence, please find the following documents:

- | | |
|--|------------------|
| 1. BCAD Maps | Exhibit 1 |
| 2. AEVR Application | Exhibit 2 |
| 3. DSD Analysis | Exhibit 3 |
| 4. Appeal to the Planning Commission Application | Exhibit 4 |
| 5. Zoning and Aerial Map | Exhibit 5 |
| 6. Site Plan | Exhibit 6 |
| 7. Variance Request | Exhibit 7 |
| 8. BOA Approval of Variance | Exhibit 8 |

Very truly yours,

BROWN & ORTIZ, P.C.


James B. Griffin

Property Identification # 467789

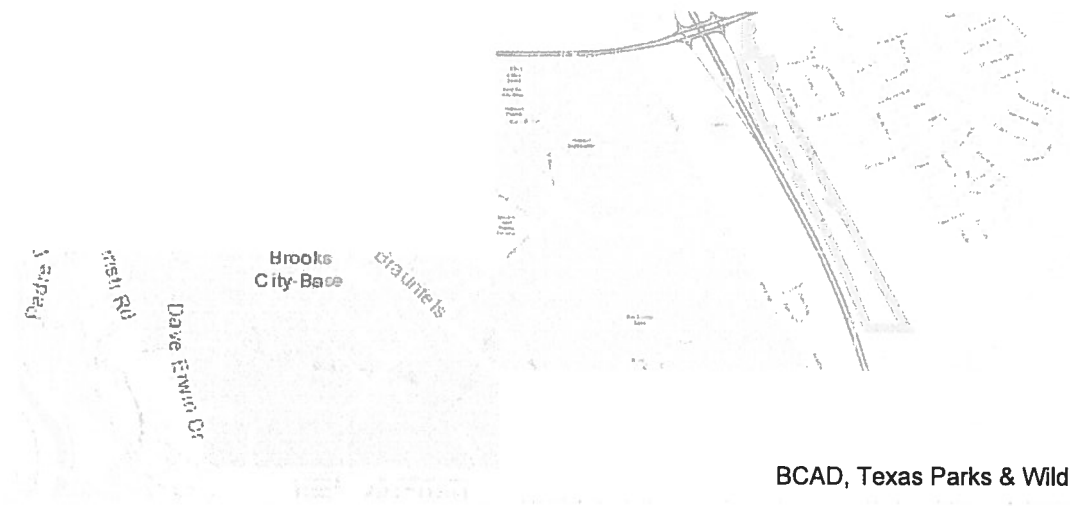
Property Information 2018

Owner Identification # 2629804

Geo ID: 10879-001-0010
Situs 3600 ORKNEY SAN
Address: ANTONIO, TX 78223
Property Type: Real
State Code: F1

Legal Description: NCB 10879 BLK 1 LOT 1
EXC N 50X50 FT & EXC
NE IRR TRI, P-119 &
P-119A MISSION TRAIL
RV PARK SUBD
Abstract: S10879
Neighborhood: NBHD code12090
Appraised Value: N/A
Jurisdictions: 06, 10, 11, SA016, 08, 09,
CAD, 51, 21

Name: THE TRAILS RV RESORT
REPAIR SHOP & PARTS
SALES LLC
Exemptions:
DBA: MISSION TRAIL R.V.
RESORT



BCAD, Texas Parks & Wildlife, Esri, HERE, Ga

Bexar CAD Map Search

This product is for informational purposes only and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. The Bexar County Appraisal District expressly disclaims any and all liability in connection herewith.



Bexar CAD

Property Search > 467789 THE TRAILS RV RESORT REPAIR SHOP & PARTS SALES LLC for Year 2017

Tax Year: 2017

Property

Account

Property ID: 467789

Legal Description: NCB 10879 BLK 1 LOT 1 EXC N
50X50 FT & EXC NE IRR TRI,
P-119 & P-119A MISSION
TRAIL RV PARK SUBD

Geographic ID: 10879-001-0010

Zoning: C-2, C-2NA, MH, R-4

Type: Real

Agent Code: 60521

Property Use Code: 8980

Property Use Description: RV PARK

Protest

Protest Status:

Informal Date:

Formal Date:

Location

Address: 3600 ORKNEY
SAN ANTONIO, TX 78223

Mapsco: 652B8

Neighborhood: NBHD code12090

Map ID:

Neighborhood CD: 12090

Owner

Name: THE TRAILS RV RESORT REPAIR SHOP & PARTS SALES LLC
Mailing Address: 3500 ORKNEY
SAN ANTONIO, TX 78223-4021

Owner ID: 2629804
% Ownership: 100.0000000000%

Exemptions:

Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$1,323,120	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$701,880	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
<hr/>			
(=) Market Value:	=	\$2,025,000	
(-) Ag or Timber Use Value Reduction:	-	\$0	
<hr/>			
(=) Appraised Value:	=	\$2,025,000	
(-) HS Cap:	-	\$0	
<hr/>			
(=) Assessed Value:	=	\$2,025,000	

Taxing Jurisdiction

Owner: THE TRAILS RV RESORT REPAIR SHOP & PARTS SALES LLC

% Ownership: 100.000000000000%

Total Value: \$2,025,000

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
06	BEXAR CO RD & FLOOD	0.012868	\$2,025,000	\$2,025,000	\$260.58
08	SA RIVER AUTH	0.017290	\$2,025,000	\$2,025,000	\$350.12
09	ALAMO COM COLLEGE	0.149150	\$2,025,000	\$2,025,000	\$3,020.29
10	UNIV HEALTH SYSTEM	0.276235	\$2,025,000	\$2,025,000	\$5,593.76
11	BEXAR COUNTY	0.291229	\$2,025,000	\$2,025,000	\$5,897.38
21	CITY OF SAN ANTONIO	0.558270	\$2,025,000	\$2,025,000	\$11,304.97
51	EAST CENTRAL ISD	1.335000	\$2,025,000	\$2,025,000	\$27,033.75
CAD	BEXAR APPRAISAL DISTRICT	0.000000	\$2,025,000	\$2,025,000	\$0.00
SA016	San Antonio TIF #16 Brooks City Base	0.000000	\$2,025,000	\$2,025,000	\$0.00
Total Tax Rate:		2.640042			
Taxes w/Current Exemptions:					\$53,460.85
Taxes w/o Exemptions:					\$53,460.85

Improvement / Building

Improvement #1: Commercial State Code: F1 Living Area: 9837.8 sqft Value: \$550,224

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
400	OFFICE	C - G	BR	1999	3384.0
320	STORAGE WAREHOUSE	C - L	BR	1999	1163.8
350	SERVICE GARAGE - AUTOMOTIVE	S - G	ME	1999	5290.0
CNP	Canopy	* - A		0	450.0

Improvement #2: Commercial State Code: F1 Living Area: 84.0 sqft Value: \$701,666

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
TPK	Trailer park	* - G		0	84.0

Improvement #3: Commercial State Code: F1 Living Area: sqft Value: \$41,664

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
ASP	Asphalt	* - A		0	25000.0

Improvement #4: Commercial State Code: F1 Living Area: sqft Value: \$25,355

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
FEN	Fence	S - A		0	2500.0

Improvement #5: Mobile Home State Code: F1 Living Area: 1064.0 sqft Value: \$4,211

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
LA	Living Area	A - NO		1984	1064.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	CSS	Commercial Store Site	10.5740	460603.44	0.00	0.00	\$257,940	\$0
2	RER	Rear Lot	24.2000	1054152.00	0.00	0.00	\$442,740	\$0
3	LPR	Lake/Pond/Reservoir	2.7500	119790.00	0.00	0.00	\$1,200	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2018	N/A	N/A	N/A	N/A	N/A	N/A
2017	\$1,323,120	\$701,880	0	2,025,000	\$0	\$2,025,000
2016	\$998,120	\$701,880	0	1,700,000	\$0	\$1,700,000
2015	\$562,120	\$687,880	0	1,250,000	\$0	\$1,250,000
2014	\$422,120	\$687,880	0	1,110,000	\$0	\$1,110,000

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	6/6/2008	SWD	Special Warranty Deed	BIERSCHWALE DONALD J	THE TRAILS RV RESORT REPAIR SHOP & PARTS SALES LLC	13558	1227	20080134310
2	5/6/1999	Deed	Deed		BIERSCHWALE, DONALD J	7959	1469	0

Tax Due

Property Tax Information as of 03/05/2018

Amount Due if Paid on: 

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
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NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

2018 data current as of Mar 5 2018 12:44AM.

2017 and prior year data current as of Mar 2 2018 9:34AM

**For property information, contact (210) 242-2432 or (210) 224-8511
or email.**

For website information, contact (210) 242-2500.




CITY OF SAN ANTONIO

DEVELOPMENT SERVICES DEPARTMENT

1901 S. Alamo, San Antonio, TX 78204

ADMINISTRATIVE EXCEPTION/VARIANCE REQUEST APPLICATION

Project Name:	MISSION TRAILS COMMERCIAL ENCLAVE SUBDIVISION
A/P # /PPR # /Plat #	PLAT #180539
Date:	11/1/2018
Code Issue:	Sidewalk Requirements for Private Street
Code Sections:	UDC Section 35-506 (q) (various subsections)

Submitted By:	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Owners Agent * (Requires notarized Letter of Agent)
Owners Name:	Rob Chelico	
Company:	The Trails RV Resort Repair Shop & Part Sales, LLC	
Address:	1100 N Blue Angel Pkwy Pensacola, FL	Zip Code: 32506
Tel #: 850-393-4574	Fax#	E-Mail: collisionrepair@aol.com
Consultant:	Matt Cox P E	
Company:	Kimley-Horn and Associates Inc	
Address:	601 NW Loop 410, Suite 350, San Antonio, TX	Zip Code: 78216
Tel #: 210-541-9166	Fax#	E-Mail: matt.cox@kimley-horn.com
Signature:		

Additional Information – Subdivision Plat Variances & Time Extensions				
1.	<input type="checkbox"/> Time Extension	<input checked="" type="checkbox"/> Sidewalk	<input type="checkbox"/> Floodplain Permit	<input type="checkbox"/> Completeness Appeal
	<input type="checkbox"/> Other _____			
2.	City Council District <u>3</u>	Ferguson Map Grid <u>652-B8</u>	Zoning District <u>I-1</u>	
3.	San Antonio City Limits	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	
4.	Edwards Aquifer Recharge Zone?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
5.	Previous/existing landfill?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
6.	Parkland Greenbelts or open space? Floodplain?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	

EXHIBIT

2



November 21, 2018

Administrative Exception / Variance Request Review
Development Services Department
c/o Development Services Staff
City of San Antonio
1901 S Alamo
San Antonio, TX 78204

RE: *Mission Trails Commercial Enclave Subdivision*
Plat #180539
Owner: The Trails RV Resort Repair Shop & Part Sales, LLC
UDC Section 35-506 (q) (various subsections)

- ☒ Administrative Exception
- ☐ Environmental Variance
- ☐ Subdivision Platting Variance – Time Extension

Dear City of San Antonio DSD,

Kimley-Horn is formally requesting an Administrative Exception ("AEVR") to Section 35-506 of the City of San Antonio Unified Development Code (UDC) for a platting variance. Portions of a previously submitted AEVR was approved for the subject plat to reduce certain Private Commercial Enclave Street ("private street") construction requirements. The request to not build sidewalks along the private street was the only portion of the original AEVR not approved.

On behalf of the Owner, we request that the City consider this AEVR, separately from the previously approved AEVR, to address sidewalk construction associated with the proposed private street associated with this plat.

I. Overall Purpose of the AEVR Submittal for the Subject Enclave Project:

- 1 To reduce the requirement of sidewalks to be built on both sides of the private street, to one side of the private street
- 2 To allow for the construction of sidewalk only along newly proposed sections of the private street or along sections of the existing private street where the Owner controls the underlying land and is physically able to construct a sidewalk without the need of easements from third party owners
- 3 To allow the sidewalk to be built in phases as the property is developed

II. Brief Project Background and Introduction (as stated in the previously approved AEVR):

The subject property consists of approximately 37.5 acres, zoned I-1, and located in the southwest quadrant of SE Military Drive and the I-37 northbound exit ramp ("Property"). The Property is home to an existing RV Park (Case #NC-18-047) and has a private internal commercial driveway system that serves as access to a CVS Pharmacy ("CVS"). The existing CVS driveways are currently not dedicated

"private streets," but are proposed to be dedicated as private streets with the subject plat. The Property has three existing access points as further described below:

1. From Orkney Avenue, directly into the existing RV Park.
2. Right and left-in movements, from SE Military Drive (a Primary Arterial), which currently serves CVS. This commercial driveway is located on the Property, and was built with the CVS by the CVS Developer. The commercial driveway is in an existing Access Easement as shown on the CVS Pharmacy #10633 Plat, Book 9705, Page 170 ("CVS Plat").
3. Right-in/Right-out movements, from I-37 northbound exit ramp, which currently serves CVS Pharmacy. This commercial driveway is also located on the Property, was built by CVS, and is in the same Access Easement as shown on the CVS Plat.

Driveways #2 and #3 above are hereinafter collectively referred to as the CVS Driveways. The CVS Driveways intersect at the southeast corner of the CVS, and the CVS Driveways were stubbed to the south for future extension. Refer to Appendix A for a Site Plan Exhibit.

In the Fall of 2017, the Property owner attempted to dedicate the CVS Driveways to the City as public streets, but those attempts were unsuccessful since records of the construction and materials testing could not be found and the right-of-way width was insufficient for the proposed street type. At the same time in 2017, it was discussed with the City that the future extension of the CVS Driveways to the south would be privately owned shared driveways for access to the remaining portions of the property, dedicated in an irrevocable access easement.

On May 2, 2018, Kimley-Horn conducted a PDPR meeting with City staff to discuss the current development plans for the Property, which included the sell and development of approximately 7.6 acres of the Property for a mini-storage development ("Mini-Storage"). Access to the Mini-Storage was proposed to be a private shared driveway, in an irrevocable access easement, approximately 1,260 linear feet from the existing stub at the CVS Driveways. Access to the remaining 21-acres to the south of the Mini-Storage site was not provided via the proposed private shared driveway.

At the meeting, it was noted that the proposed Mini-Storage was too far from SE Military Drive to be properly addressed for emergency response and the City would require the private driveway to be platted as a Private Commercial Street, as part of a Commercial Enclave Subdivision ("Enclave"). This would allow the private street to be named and an address be given off the private enclave street for the Mini-Storage, and any future redevelopment of the RV Park.

Since then, the site plan for the proposed Mini-Storage has changed. They have reduced their site to approximately 2.71 acres and the length of the Private Commercial Enclave Street is now approximately 2,100 linear feet long and will serve as primary access to the remaining 21-acres south of the Mini-Storage site.

III. UDC Requirements and Project-Specific Code Issues for a Private Street within an Enclave:

This section highlights two categories of UDC references that are further mentioned in this AEVR:

1. UDC Requirement – Established requirement in the UDC that supports this AEVR request or is referenced herein.
2. Code Issue – Established requirement in the UDC that this project seeks an AEVR to

In the order they are listed in the UDC

Code Issue: Section 35-506(q)(1)(A) States that sidewalks shall be required on both sides of all streets and the subdivision side of all adjacent or perimeter streets, with exceptions

Code Issue: Section 35-506(q)(1)(C)(IV) States that sidewalk shall be required as part of the street improvements along the street frontage of existing developed lots when streets are extended

Code Issue: Section 35-506(q)(11) States that sidewalks on private streets shall meet the same criteria as for public streets. Furthermore, it states that sidewalks shall be included in the same lot [e.g. Lot 999] as the private streets or within an access easement designated on the plat if located on private lots. Deed restrictions shall be required to ensure that sidewalks remain unobstructed

IV. Justification and Discussion:

As previously discussed with City staff, the Owner understands that sidewalk is required only along the west side of the proposed private street, beginning at the southernmost end of the street, continuing north along the Property being platted with Plat 180539, turning west along the south side of the existing CVS Driveway and terminating at the right-of-way of the I-37 ramp. Sidewalk will not be placed on the east side of the proposed private street

The Owner also understands that sidewalk is not required to continue north to SE Military Drive. Continuance of the sidewalk to SE Military is problematic given the existing topography on the east side of the existing CVS driveway and lack of available right-of-way on the west side of the existing CVS driveway.

As noted above, there is an underlying RV Park operating on the portion of the Property where the Private Enclave Street will traverse. The RV Park will remain in service for an undetermined amount of time, and the narrower the street, its right-of-way and any associated sidewalk, the less impact there will be to the RV Park operations. The Board of Adjustment approved, on May 21, 2018, a variance to reduce the landscape buffer on the I-1 zoned property to 10-feet from 25-feet adjacent to residential zoning for this same reason (refer to Appendix B for the approval letter, Case A-18-096). The existing RV Park does not have dedicated sidewalks or known accessible routes from each RV lot to what will be private street right-of-way.

Furthermore, the timing of the development of the remaining property south of the proposed Mini-Storage is unknown. The property is zoned Industrial at this time and the future use of that property is unknown.

Given the unknown type and timing of the remaining development, outside of the Mini-Storage development, the Owner desires to only construct sidewalk along the frontage of the Mini-Storage lot with the public improvements associated with Plat 180539. Future sidewalk construction will be tied to future further platting efforts or building permits. The current sidewalk will be constructed in a sidewalk easement that will be shown on Plat 180539, and future sidewalk will also be constructed in the same sidewalk easement that will be reserved.

V. Conclusions:

Given the information and justifications provided above we hereby request City to approve the following:

1. A sidewalk (6-feet wide at back-of-curb or 4-feet wide with 3-foot planter strip) to be constructed on the west side of the proposed new private street, along the frontage of the Mini-Storage site only, at this time

- 2 Future sidewalk (6-feet wide at back-of-curb or 4-feet wide with 3-foot planter strip) along the remaining portions of the new private street, terminating at the location noted above at IH-37 ramp right-of-way, will be constructed at a later date, as other portions of the Property are developed.

Variance from UDC Sections

- a Section 35-506(q)(1)(A)
- b Section 35-506(q)(1)(C)(IV)
- c Section 35-506(q)(11)

This request is made in accordance with UDC Section 35-483(e) and meets the following criteria:

1. ***If the applicant complies strictly with the provisions of these regulations, he/she can make no reasonable use of his/her property.***

Complying with the stated public street sidewalk standards will have a significant impact on the existing RV Park.

2. ***This hardship relates to the applicant's land, rather than personal circumstances.***

As stated above, there is not sufficient right-of-way to construct the portions of sidewalk that would be adjacent to the existing CVS Driveway network to SE Military Drive. Also, the location of the existing RV Park has an impact on the ability to construct sidewalk along the frontage of the RV Park.

3. ***The hardship is unique, or nearly so, rather than one shared by many surrounding properties.***

The existing residential subdivision to the east of the proposed development does not have an existing sidewalk network, and also, the CVS development to the north does not have a sidewalk network to connect to. There is not an obvious destination that pedestrians from the proposed development can walk to and remain on sidewalk, therefore, construction of the entire portion of sidewalk is not applicable at this time.

4. ***The hardship is not a result of the applicant's own actions.***

This hardship is not a result of the applicant's own actions: 1) the CVS Driveways do not have an existing sidewalk network, and 2) the existing residential subdivision does not have an existing sidewalk network.

5. ***The granting of the exception/variance will not be injurious to other property and will not prevent the orderly subdivision of other property in the area in accordance with these regulations.***

This exception/variance simply proposes to defer construction of the stated sidewalk. No other property will be injured nor prevented from orderly operation at this time.

In my professional opinion, the proposed administrative exception remains in harmony with the spirit and intent of the UDC as it will not adversely affect the health, safety, or welfare of the public. Your consideration of this variance is greatly appreciated.

Sincerely yours.



B. Matthew Cox, P.E.
Kimley-Horn and Associates, Inc.



Rob Chelico
The Trails RV Resort Repair Shop & Part Sales, LLC

For Office Use Only:		AEVR # _____	Date Received: _____
<u>PDSD – Director Official Action:</u>			
<input type="checkbox"/> APPROVED	<input type="checkbox"/> APPROVED W/COMMENTS	<input type="checkbox"/> DENIED	
Signature _____	Date: _____		
Printed Name _____	Title _____		
Comments: _____			



CITY OF SAN ANTONIO

DEVELOPMENT SERVICES DEPARTMENT

ADMINISTRATIVE EXCEPTION VARIANCE REQUEST ANALYSIS

Project:	Mission Trails Commercial Enclave
Address:	SE Military and IH-37
A/P #/PPR #/Plat#:	Plat#180539
AEVR #:	NA
AEVR Submittal Date:	11/26/18
AEVR Submitted by:	Matt Cox, P.E., Owner's Agent
Issue:	Sidewalk Requirements
Code Sections:	Unified Development Code (UDC), Section 35-506 (a) (2) and (q).
By:	Kevin Collins, P.E., Senior Engineer

The Development Services Department (DSD) has reviewed the information presented in Mr. Cox letter submitted November 26, 2018. Please refer to the attached Map for approximate location. Also refer to the applicant's letter for more information about this request.

The Unified Development Code (UDC) – Article V, Section 35-506 (a) (2) (B) and (q), Building Permit Requirements for Curb and Sidewalk – Refer to section (q) for sidewalk standards.

Currently, the applicant does not wish to construct the full length of 4 foot sidewalk along both sides of the private enclave street proposed under the subject plat as per COSA code requirements. DSD staff does not agree with the applicant's analysis and request to not construct the sidewalk for the full frontage for the following reasons:

1. It is staff position that the four foot wide required sidewalk can be placed on the West side of the proposed private street for the full length, due to space considerations and existing topography the city is willing to forego the placement of the required four foot wide sidewalk on the East side of the private street as this side backs up to existing residential properties which would not have direct access to the street. Staff does not support a complete waiver of the ADA accessible path at this time.
2. There are significant pedestrian generators within one half mile of the location including residences and other commercial uses.
3. Sidewalks have been required at other residential developments within one half mile.
4. The land use and density are conducive to pedestrian access.
5. The Disability Access Office does not support an exception for this location.

DSD staff does not agree with the applicant's analysis and is of the opinion that approval would constitute a waiver of the code. The AEVR does not meet the intent of the UDC; therefore staff recommends **Denial** of the AEVR.

RECOMMENDATION: Administrative Exception Denial



Kevin Collins, P.E.
DSD Engineer
DSD – Land Development Engineering



Date



CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT

APPEAL TO THE PLANNING COMMISSION

Instructions:

1. All applicable information must be legibly printed or typed for processing.
2. Application must include a copy of the notification and decision letter, and the rationale, in detail, for the request for appeal. Please attach additional pages as necessary. All additional pages must be numbered and labeled.
3. All signatures must be originals. Applications may not be faxed or emailed.
4. An application will not be accepted without the required application fee. All checks must be made payable to "City of San Antonio."
5. Any appeal of the decision of the Director to the Planning Commission will be based on information submitted to the Director for the related application.
6. Language interpreters are available and must be requested 48 hours prior to the meeting. For more information or to request an interpreter, call (210) 207-6044. Hay servicios de traducción simultánea disponibles. Estos servicios deben ser pedidos con 48 horas de anticipación. Para más información o para servicios de traducción, llame al (210) 207-6044.

To the Honorable Members of the Planning Commission:

In reference to:

Project Name: Mission Trails Enclave Subdivision
Application Type: Administrative Exception/Variance Request Application No.: Plat #180539
Address/Location: SE Military Drive & IH-37 North
Legal Description: BCAD Property ID: 467789

The Applicant, Brown & Ortiz, P.C., alleges that the following error in an order, requirement, decision or determination has been made by an administrative officer in the enforcement of the City of San Antonio's Unified Development Code (UDC). Please explain in detail by attaching a separate letter outlining the criteria below:

As per the UDC, the appeal request letter must address the following criteria prior to submission.

1. If the applicant complies strictly with the provisions of these regulations, he/she can make no reasonable use of his/her property; and
2. The hardship relates to the applicant's land, rather than personal circumstance; and
3. The hardship is unique, or nearly so, rather than one shared by many surrounding properties; and
4. The hardship is not the result of the applicant's own actions; and
5. The granting of the variance will not be injurious to other property and will not prevent the orderly subdivision of other property in the area in accordance with these regulations.

APPLICANT INFORMATIONBusiness/Company Name: Brown & Ortiz, P.C.Point of Contact: James B. GriffinStatus: Owner ☐ Agent ☒Mailing address: 112 E. Pecan Street, Suite 1360 San Antonio, TX 78205Telephone: Home/Office: (210) 299 - 3704 Mobile: () -Other phone: () - Email: james@brownortiz.law**PROPERTY OWNER INFORMATION**Business/Company Name: The Trails RV Resort Repair Shop & Parts Sales, LLCPoint of Contact: Rob ChelicoMailing address: 1100 N. Blue Angel Parkway Pensacola, FL 32506Telephone: Home/Office: () - Mobile: () -Other phone: () - Email: **AUTHORIZATION FROM PROPERTY OWNER**

I, Robert S. Chelico the owner of the subject property,
authorize Brown & Ortiz, P.C. / Kimley-Horn to submit this application and represent
me in this appeal before the Planning Commission.

RS Chelico
Property owner's signature04/02/19
Date

I, the undersigned, hereby certify that all information contained herein and the attached documents are true and correct to the best of my knowledge. I understand my continuing obligation to notify in writing the Development Services Department of the inaccuracy of any statement or representation that was incorrect when made or becomes incorrect by virtue of changed circumstances.

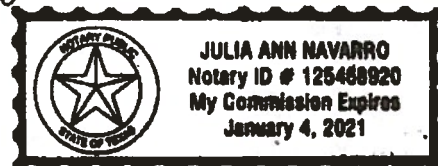
James Griffin
Applicant's Name[Signature]
Applicant's signature4/2/19
Date

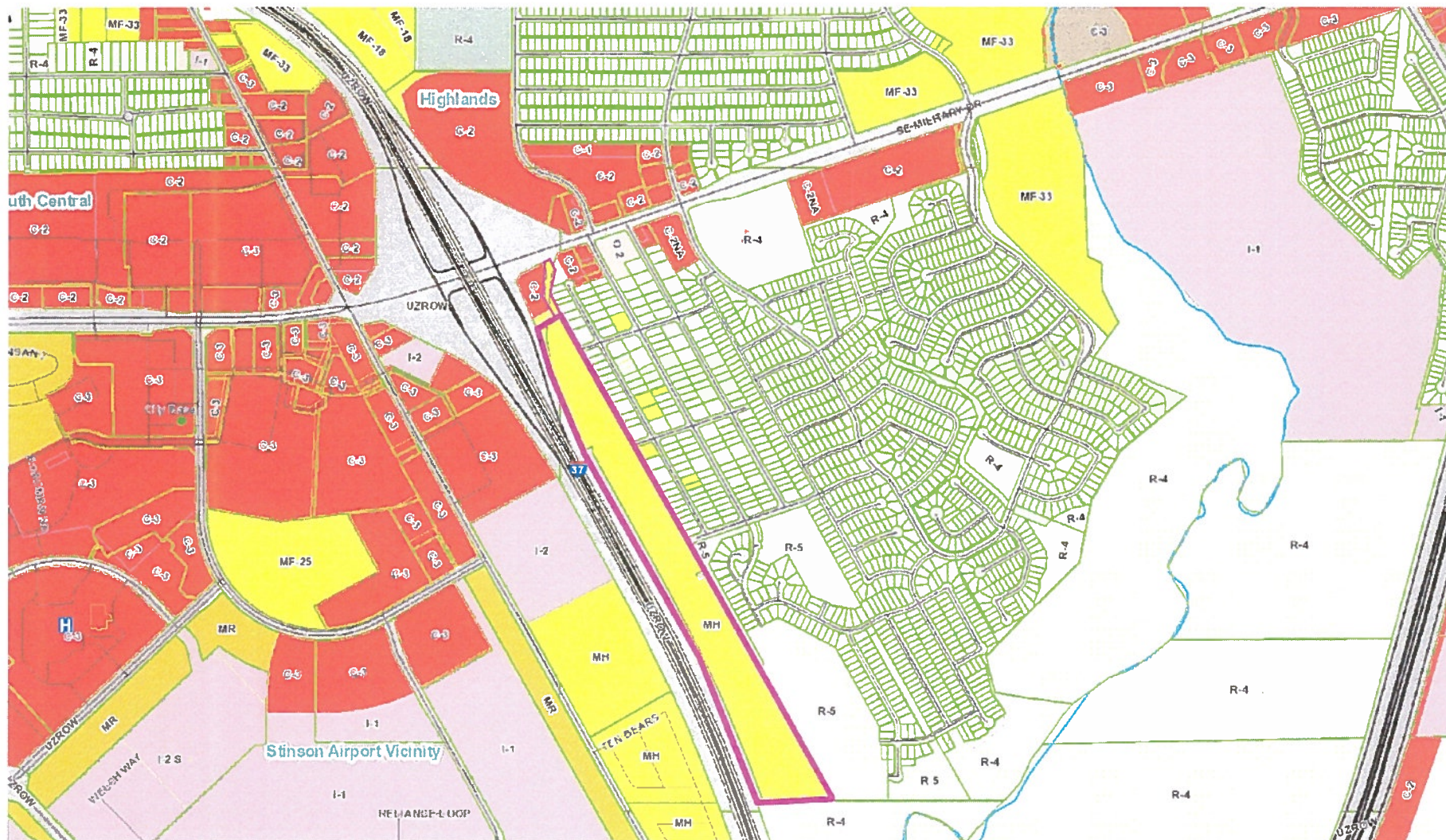
Sworn to and subscribed before me by JAMES GRIFFIN on this 2nd day of
APRIL in the year 2019, to certify which witness my hand and seal of office.

OFFICE USE ONLY

Application/Case No.: _____

Submittal Date: _____

Julia Ann Navarro
Notary Public, State of Texas





EXHIBIT

5

Printed: Mar 15, 2018

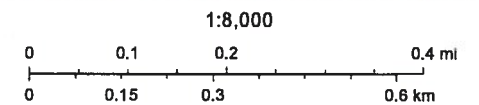
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I-37 and SE Military_Aerial



April 2, 2019

- Community Service Centers
- ⊙ Pre-K Sites
- CoSA Parcels
- BCAD Parcels
- COSA City Limit Boundary



KENNETH W. BROWN, AICP
DANIEL ORTIZ
JAMES B. GRIFFIN
JAMES MCKNIGHT
NINA PRADO
CAROLINE E. McDONALD

BROWN & ORTIZ, P.C.
ATTORNEYS AT LAW

PAUL M. JUAREZ
OF COUNSEL

112 E. PECAN STREET
SUITE 1360
SAN ANTONIO, TEXAS 78205
TELEPHONE: 210.299.3704
FAX: 210.299.4731

April 16, 2018

The Honorable Board of Adjustment
C/O - Development Services Department
City of San Antonio
1901 S. Alamo
San Antonio, Texas 78204

Via Hand Delivery

RE: Request for Variances to Sections 35-310.01 Table 310-1 and 35-510 Table 510-1 of the San Antonio Unified Development Code ("UDC"), for Property Described as Lot 1 Block 1 of NCB 10879, San Antonio, Texas, (the "Subject Property;" *see Exhibit "1"*); *Our File No. 9794.001.*

To the Honorable Board of Adjustment:

On behalf of the owner of the Subject Property, we respectfully request the following variances:

- A fifteen-foot (15') variance to the minimum rear setback of thirty feet (30') as required by Section 35-310.01, Table 310-1, of the UDC, for the Subject Property; and
- A fifteen-foot (15') variance to the minimum bufferyard distance of twenty-five feet (25') as required by Section 35-510, Table 510-1, of the UDC, for the Subject Property.

The purpose for the requested variance is to allow the Subject Property to be developed as a commercial, self-storage facility in the most efficient manner on an irregularly shaped property (the "Project", *see Exhibit "2"*). These variances are requested due to the hardship created by the unique circumstances existing on the Subject Property, such as the restricted size and location of the property (given the industrial zoning), the lot layout and configuration, and other aspects unique to the Subject Property. The Subject Property is currently zoned "I-1" and has been partially developed as an RV Park. However, the Subject Property is now undergoing redevelopment, with the northern half (currently an RV park) to be developed as commercial/retail space, and southern area to be redeveloped for a self-storage facility (*see Exhibit 3* for proposed Site Plan). Because of the long, narrow configuration of the Subject Property and the extremely limited access, the primary concern for use of the site will be adequate and continuous vehicular access. This access drive directly abuts a residential neighborhood zoned "R-4" and its location on



the eastern edge of the Subject Property would be within the currently required 25-foot bufferyard. Furthermore, at least for the southern half of the Subject Property, and the proposed buildings would be closer than 30 feet to the eastern boundary.

The applicant hereby provides the following information in order to address the findings of fact necessary to be met in order for the City of San Antonio's Board of Adjustment to grant the subject variance requests:

1. *The granting of this variance will not be contrary to the public interest.*

The granting of this variance will not be contrary to the public interest, as it will not cause any disruption to the privacy or enjoyment of the neighboring residential properties. One important aspect of the Project is that it is a commercial use, despite the "I-1" industrial zoning. An industrial use "squeezed" between the highway and a residential neighborhood would not be best for the residents or the City, hence the desire to incorporate a use such as retail and self-storage facilities, which are most often found in the "C-2" zoning district. The UDC recognizes such uses as being less intrusive and intensive, requiring less buffering than industrial uses require. While the proposed buildings would encroach into the rear setback, there is still a fifteen-foot (15') rear setback in place, maintaining the intent of the requirement. More importantly, as you can see from Exhibit 3, referenced above, the developer will agree to increase the landscaping in the 10-foot bufferyard beyond what is required to ensure an enhanced transition between uses and create a better buffer than what would otherwise exist. When considering the bufferyard variance, it is noteworthy that although we are requesting a 15-foot variance, commercial uses typically only require a 15-foot bufferyard; in essence, we are only asking for a 5-foot waiver to accomplish what is needed for the proposed development. The proposed development is low-profile (single-story) and low impact (minimal traffic), yet would still have plenty of landscaping buffer needed between itself and the residential neighbors. This not only achieves the purpose of the setbacks and bufferyard, but will ensure the development is not contrary to the public interest.

2. *The literal enforcement of the ordinance(s) will result in unnecessary hardship.*

The literal enforcement of the ordinances will result in unnecessary hardship as it will result in a loss of use of the property on the eastern property boundary, which is necessary for the proposed development, and could lead to unsafe conditions on the western edge of the property if not granted. As mentioned above, one major problem with the site is that it lacks access to adjacent right-of-way for most of the western property boundary. Although the Subject Property runs north-south along IH-37, there is a long strip of property between the site and the highway, owned by a third party, and the portion along the IH-37 exit ramp is similarly barred from creating access. Therefore, the major point for ingress/egress is from the northern portion of the Subject Property. Vehicular access has to be delivered via a north-south road to an extremely long, relatively narrow site. The practical reality means that such road must be on one edge of the Subject Property in order to make any efficient use out of it: either the eastern boundary or the western boundary. Adding to the site's difficulties is the topography. A large portion of the western property boundary is at the top of an incline, a raised area approximately 15 feet above the adjacent

land. Placing the access road along that western property boundary creates an unsafe condition as heavy trucks drive along it. The safe, and proper solution is to have the access road along the eastern property boundary, as proposed. However, without the requested variance, the increased bufferyard would push such a roadway into an already narrow site. Given the long, narrow nature of the site, and its inability to access any ROW from the west, the Subject Property faces an unnecessary hardship if the current setbacks and bufferyards are enforced.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The requested variances are in harmony with the spirit of the applicable requirements, as the intent of the setback and bufferyard provisions will still be met. The purpose for setbacks is to ensure proper separation between intensity of uses within the City. The purpose for the bufferyard is for use separation as well, but also to ensure visual, auditory, and physical barriers between different use intensities. This is clear when analyzing the difference between a bufferyard between I-1 and R-4 zoning districts compared to that between C-2 and R-4 districts (which is 10 feet less). We have agreed, pending this variance approval, to increase the density of the landscape buffer between the Subject Property and the single-family use in order to keep that barrier and enhance it. This will actually result in a stronger separation between the uses than would otherwise be constructed. Furthermore, the uses proposed are extremely low-impact, and do not require large separation from single-family users. This is not an industrial use, which is key to this proposal, and any variance granted would be for this use and owner. There is no danger of granting a decreased separation, only to have an industrial user come to the Subject Property. The spirit of the ordinance, to property separate intensity of uses, is observed and, in fact, exceeded.

4. *Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.*

The variances will not authorize the operation of a use other than those uses specifically authorized for the "I-1" zoning district in which the Subject Property is included. In fact, the variance will allow for the proposed use, which is far less intense than a typical (and allowable) general industrial and manufacturing use, such as a lumber yard, dry cleaning plant, machine shop, or clothing manufacturer. The I-1 zoning district is unique and has stringent guidelines of its own; the variance will not authorize any use other than those set forth in Section 35-311 of the UDC for the I-1 zoning district.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The variance, if granted, will not injure the appropriate use of adjacent conforming property. As stated above, the proposed commercial use is of low intensity and low impact,

both to the Subject Property itself and to adjacent properties. Granting a reduced setback and bufferyard (with increased landscaping) will not affect the use of those adjacent properties. Moreover, the current character of the district and surrounding properties will remain. Currently, a portion of the Subject Property holds an RV park, and has for many years, without incident, adjacent to several single-family homes. The proposed uses for retail and self-storage are within the same character as such existing park. Especially when considering the proximity of the Subject Property to the highway. This property has a natural, intensive character, which is more than appropriate for commercial uses, and the proposed use and variance would keep the status quo of the character of such character.

6. *The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of the general conditions in the district in which the property is located.*

As mentioned above, unique circumstances exist due to the Subject Property's shape, location, and access points. These were all inherent to the property and not created by the owner. Furthermore, the request is not purely financial. Although a loss of use for portions of the Subject Property is a financial consideration, the variance requests are based on the layout of the property and efficiency of use.

For the reasons stated above, we respectfully request a variance to allow for a 15-foot decrease to the rear/side setback, and a 15-foot decrease to the rear/side bufferyard in order to allow for the proposed retail/commercial buildings and self-storage facility on the Subject Property.

Please do not hesitate to contact our office should you have any questions or need any additional regarding the above. Including with this correspondence, please the following documents:

1. BCAD info and deed for the Subject Property;
2. Detailed construction and elevation drawings of the proposed improvements;
3. Application for variance

Very truly yours,

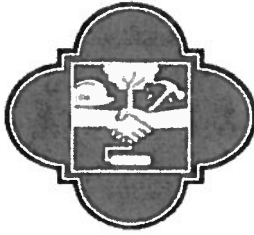
BROWN & ORTIZ, P.C.

BY: _____

James McKnight



Enclosures: As stated



CITY OF SAN ANTONIO
DEVELOPMENT SERVICES DEPARTMENT
P O BOX 839966 | SAN ANTONIO TEXAS 78283-3966



**Board of Adjustment
Notification of Decision**

May 22, 2018

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

RE: Case: A-18-096
Legal: Lot 1, Block 1, NCB 10879 Exc N 50X50 FT & Exc NE Irr Tri, P-119 & P-119A
3600 Orkney Avenue

Dear Brown & Ortiz, P.C.:

At its meeting on May 21st, 2018 the City of San Antonio Board of Adjustment made a motion to approve your requests for 1) a 15' variance from the 30' side setback to allow a 15' side setback, in between Blythe Avenue and Copinsay Avenue and 2) a 15' variance from the 25' bufferyard to allow a bufferyard to be 10' North of Copinsay Avenue, which PASSED. The Board's decision is not final until the meeting minutes are adopted. Hearing minutes are adopted by the Board at a later Board of Adjustment hearing. These variances must be exercised (i.e. obtain a building permit or submit plans) within twelve (12) months of the adoption of the Board's minutes, or these variances will be rendered void. While the Board's decision is not final until minutes are adopted, Development Services Department may issue conditional building permits following the Board hearing, subject to a final decision.

If you wish, a copy of the Board's minute records from the May 21st, 2018 meeting will be made available to you for your records once they are approved by the Board. If you have further questions or concerns, please do not hesitate to contact me at 210.207.3074 or via email at Debora.gonzalez@sanantonio.gov.

Sincerely,

Debora Gonzalez
Senior Planner

Cc: File

