



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-1449

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 1/14/2019

**Title:** BOA-18-900024: A request by JD Dudley for a 14.5' variance from the 15' Type B landscape bufferyard along the west property line to allow for a bufferyard to be 6" deep, and 2) a 10' variance from the 15' Type B landscape bufferyard along the south property line to allow a bufferyard to be 5' deep, located at 2707 NE Interstate 410 Loop. Staff recommends Denial. (Council District 10)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 18-900024 Attachments

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

**Case Number:** BOA-18-900024

**Applicant:** JD Dudley

**Owner:** D. Tran, Inc.

**Council District:** 10

**Location:** 2707 NE Interstate 410 Loop

**Legal:** Lot 1, NCB 12117

**Description:**

**Zoning:** "C-3 AHOD" General Commercial Airport Hazard Overlay District

**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for 1) a 14.5' variance from the 15' Type B landscape bufferyard, as described in Section 35-510, along the west property line to allow for a bufferyard to be 6" deep, and 2) a 10' variance from the 15' Type B landscape bufferyard, as described in Section 35-510, along the south property line to allow a bufferyard to be 5' deep.

### Executive Summary

The subject property is located at 2707 NE Interstate 410 Loop at the intersection with Perrin Beitel Road. The subject property is currently a gas station were the applicant is intending to demolish and remove all traces of the existing station to re-build the entire site. The subject property is at the intersection of Beitel Road and front NE Interstate 410 Loop, and is surrounded by various commercial uses. The applicant intends to provide landscape in the public right of way but is seeking to reduce the landscape bufferyard requirements within the

subject property lines. The code requires that the bufferyard be established on the property as any landscaping of the public Right-of-Way (ROW) may need to be removed for road expansion.

**Code Enforcement History**

No violations of the requirements of the UDC were observed upon a staff visit to the site, and there have been no code violations reported.

**Permit History**

No permits have been issued for this project.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“C-3 AHOD” General Commercial Airport Hazard Overlay District	Gas Station

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“C-3 AHOD” General Commercial Airport Hazard Overlay District	Restaurant
South	UZROW	NE Interstate 410 Loop
East	“C-3 AHOD” General Commercial Airport Hazard Overlay District	Parking Lot
West	“C-3 AHOD” General Commercial Airport Hazard Overlay District	Restaurant

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the San Antonio International Airport Vicinity Plan and designated as “Mixed Use” in the future land use component of the plan. The subject property is within Village North II Neighborhood Association. As such, they were notified and asked to comment.

**Street Classification**

Interstate 410 Loop is classified as an Interstate Highway.

**Criteria for Review**

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the applicant is asking for a near elimination of the bufferyard requirements. These requests are contrary to public interest as it negatively impacts any surrounding properties or the general public. Bufferyards are intended to provide landscaped separation between uses and to screen from view certain land uses that may create visual clutter and

distraction, as well as to enhance streetscapes throughout the City. Staff cannot support the near elimination of the west and south bufferyards.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Literal enforcement of the 15' bufferyards would make the use of a parking lot impossible for a lot of this size. However, there is no special condition present that warrants the near elimination of the bufferyards as requested.

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

The spirit of the ordinance is the intent of the requirements rather than the strict letter of the law. The intent of the bufferyards is to reduce conflicts between adjacent land uses as well as maintain landscaping. The variances requested compromise the integrity of each of the aforementioned criteria. As such, allowing the 6" bufferyards and 5' bufferyards reductions do not observe the spirit of the ordinance.

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

The requested variances will not authorize the operation of a use on the subject property other than those specifically authorized in the 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.*

Staff cannot support the requested variances. These requests are at odds with the intent of the UDC.

6. *The plight of the owner of the property for which the variance is sought 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 general conditions in the district in which the property is located.*

Staff finds that there are no unique circumstances present in this case to warrant the granting of the requested variances for the near elimination of the bufferyards

### **Alternative to Applicant's Request**

Denial of the variance request would result in the owner having to meet the required bufferyards set forth in Section 35-510.

### **Staff Recommendation**

Staff recommends **DENIAL** of the variance in **BOA-18-900024**, based on the following findings of fact:

1. The requests do not observe the spirit of the ordinance, and;
2. The proposed development is seeking the near elimination of the required bufferyards surrounding the property.