



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4475

**Agenda Item Number:** 3.

**Agenda Date:** 8/17/2015

**In Control:** Board of Adjustment

**Case Number:** A-15-135  
**Applicant:** Brown & Ortiz, PC  
**Owner:** Walmart Real Estate Business Trust  
**Council District:** 6  
**Location:** 9418 & 9526 W Military Drive  
**Legal Description:** Lots 1 & 2, Block 32, NCB 17643  
**Zoning:** "C-2 AHOD" Commercial Airport Hazard Overlay District  
**Case Manager:** Logan Sparrow, Senior Planner

### Request

A request for 1) a one foot variance from the six foot maximum fence height, as described in Section 35-514, to allow for the construction of a seven foot tall wall along a portion of the property; and 2) a two foot variance from the maximum six foot fence, also described in Section 35-514, to allow columns eight feet in height.

### Executive Summary

The subject property is located at 9418 & 9526 W Military Drive at the southeast corner of the W Military Drive and N Hunt Lane intersection. The property was recently developed as a Walmart Neighborhood Market. Several homeowners located in the subdivision to the southeast of the store have complained about light shining into their homes during early morning and late evening deliveries to the store, as well as customers visiting during these hours. In response to these complaints, Walmart has offered to build a seven foot tall wall, with eight foot tall columns, along a portion of the property line for the benefit of these adjacent homeowners.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-2 AHOD" Commercial Airport Hazard Overlay District	Retail Store

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
-------------	-----------------------------	--------------

North	"R-6 PUD AHOD" Residential Single-Family Planned Unit Development Airport Hazard Overlay District	Single-Family Dwellings
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings
East	"R-6 PUD AHOD" Residential Single-Family Planned Unit Development Airport Hazard Overlay District	Single-Family Dwellings
West	"R-6 PUD AHOD" Residential Single-Family Planned Unit Development Airport Hazard Overlay District	Single-Family Dwellings

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is located within the boundaries of the West Sector Plan and currently designated Community Commercial in the future land use component of the plan. The subject property is located within 200 feet of The Enclave at Westover Hills Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

### **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 represented by fence height standards to provide adequate protection for property owners and to contribute to a sense of community within San Antonio. The variance request serves to mitigate the effects of having commercial operations in close proximity to residential uses. The Walmart Neighborhood Market is slightly elevated above adjacent property, and thus an additional foot of wall height is necessary to prevent light from customers and deliveries to the store negatively affecting adjacent properties. Staff finds that the variance request is not contrary to the public interest.**

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

**Staff finds that the special condition present in this case is that the subject property is elevated above adjacent properties. As such, one additional foot in wall height, and two additional feet for decorative columns, is merited to protect adjacent property owners.**

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

**Granting the requested variances would allow one additional foot in wall height, an adequate height to ensure the protection of adjacent property owners. This would result in substantial justice and, as the spirit of the ordinance intends to provide adequate protection for property owners, staff finds that granting the requested variance would also honor 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 variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "C-2 AHOD" Commercial Airport Hazard Overlay 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 store is located entirely by residential subdivisions and each of these subdivisions benefit from subdivision perimeter walls, which are designed similarly to the proposed wall. Currently, the neighborhood to the southeast does have a six foot tall subdivision perimeter wall. However, as those properties are located downhill of the subject property, additional height is needed. As the wall seeks only one additional foot of height, it is unlikely that the design of the wall will detract from the essential character of the district in which it is located.**

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.*

**The property owner is attempting to establish a means to protect adjacent property owners from unintended lighting stemming from the business. This is not merely financial in nature, nor is this due to, or the result of, general conditions within the district in which the property is located.**

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

Denial of the requested variances would result in a wall height that is inadequate for the protection of adjacent property owners.

### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variances in A-15-135** based on the following findings of fact:

1. The subject property is elevated above adjacent properties and the additional one foot in wall height is necessary to mitigate adverse impacts associated with having commercial operations in close proximity to single-family residences.
2. The wall serves to protect adjacent property owners, which serves the public interest.