



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-1614

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 2/8/2016

**Title:** A-16-042: A request by Dakota Day for a 100 foot variance from the requirement that a mobile food court to be located 200 feet from any single family use or single family zoning to allow a mobile food court within 100 feet of residentially zoned vacant land, located at 2322 Bandera Road. (Council District 7)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-042

**Applicant:** Dakota Day

**Owner:** James Day, Jr.

**Council District:** 7

**Location:** 2322 Bandera Road

**Legal Description:** SW IRR 309.48 FT of Lot 93, NCB 11544

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

**Case Manager:** Margaret Pahl, AICP Senior Planner

### Request

A request for a 100 foot variance from the requirement that a mobile food court to be located 200 feet from any single family use or single family zoning, as described in Section 35-399(a)(1)A. to allow a mobile food court within 100 feet of residentially zoned vacant land.

### Executive Summary

The 1.46 acre parcel is located within a busy commercial area on Bandera near the Interstate Loop 410 interchange. The applicant is hoping to construct a mobile food truck court there, but one of the development standards requires a 200-foot spacing from residential use or zone. In this case, there is vacant residentially zoned property across Bandera from the site. The 15 acre parcel, half of which is undevelopable due to floodplain issues, is zoned for 20,000 square foot single-family lots. A recent neighborhood master plan designated this vacant parcel for future commercial land use, indicating the City's desire for this land to be developed for commercial purposes. In addition, a CPS Substation is also zoned residentially and within the 200 foot radius. At 180 feet away, the utility use of this property will never transition to future residential, regardless of its zoning. All of the established residential land uses within the area exceed the required distance.

The applicant is requesting a 100 foot variance to allow the food truck court to be 100 feet from the nearest residentially zoned property.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"C-3 AHOD" General Commercial Airport Hazard Overlay District	Vacant

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"C-3 AHOD" General Commercial Airport Hazard Overlay District	Church
South	"R-20 AHOD" Residential Single-Family Airport Hazard Overlay District	Vacant
East	"C-3 AHOD" General Commercial Airport Hazard Overlay District	Auto Body Repair Shop
West	"C-3 AHOD" General Commercial Airport Hazard Overlay District	Gasoline Service Station

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Near Northwest Neighborhood Plan and currently designated as Community Commercial in the future land use component of the plan. The subject property is within 200 feet of the Ingram Hills Neighborhood Association. As such, the neighborhood was notified and asked to comment.

*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 public interest is represented by a minimum spacing requirement to prevent land use conflicts arising from proximity. **The proposed food truck court is proposed along a primary arterial and surrounded by other commercial uses. The nearby residentially zoned parcel is designated for future commercial land use, making the variance consistent with the public interest.**

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

**With current "C-3" zoning, the property could be developed for a number of uses that could include potentially negative impacts for nearby residential neighborhoods. The property directly across the street, triggering the need for the variance, is severely hampered by its floodplain designation. These two conditions make literal enforcement an unnecessary hardship.**

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

The spirit of the ordinance represents the intent of the requirement. **The separation requirement was inserted to protect neighboring homes from the potential impact of outdoor dining, a necessity in a food truck court. In this case, the heavy traffic noise generated by cars traveling on Bandera, a primary arterial street, will negate the noise from the proposed food truck court, making the variance consistent with the spirit of the Code.**

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-3 AHOD” General 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.*

**According to the applicant, the requested separation variance will allow the construction of a family-friendly food truck park. This use will not injure the surrounding uses, or alter the character of the district. The topography of the site is sloping downward away from the street which may also reduce noise generated by outdoor dining.**

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 unique circumstance existing on the property is that while it is adjacent to a primary arterial and zoned for commercial uses, a large vacant property across the busy arterial is zoned for large lot single-family residential uses. As a result of the floodplain, future residential development here would be challenging.**

#### **Alternative to Applicant’s Request**

The applicant could develop the property with any of the permitted uses in the “C-3” General Commercial Zoning District.

#### **Staff Recommendation**

Staff recommends **APPROVAL of variance request in A-16-042** based on the following findings of fact:

1. The proposed variance would allow a use with fewer impacts on nearby residential than many of the uses permitted by right in the C-3 zoning district.