



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-3290

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 5/23/2016

**Title:** A-16-087: A request by Marek Sieczynski for a five foot variance from the ten foot side setback to allow a commercial development with a five foot side setback, located at 2015 Guadalupe Street. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-16-087 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-087

**Applicant:** Marek Sieczynski

**Owner:** Marek Sieczynski

**Council District:** 5

**Location:** 2015 Guadalupe Street

**Legal Description:** Lot 9C, Block 5, NCB 2432

**Zoning:** "C-2 AHOD" Commercial Airport Hazard Overlay District

**Case Manager:** Logan Sparrow, Senior Planner

### Request

A request for a five foot variance from the ten foot side yard setback to allow for a commercial development with a five foot side yard setback.

### Executive Summary

The subject property is located at 2015 Guadalupe Street, approximately 100 feet east of South Navidad Street. The applicant is seeking a variance to reduce the ten foot side yard setback, measured from the west property line, from ten feet to five feet. Ordinarily when two commercially zoned properties abut there is no side yard setback. In this case the adjacent property at 2017 Guadalupe Street is a nonconforming residential use. Because the subject property is zoned "C-2" and abuts a residential use the ten foot side yard setback must be established. In that the subject property is only 30 feet wide, a ten foot setback would create an obstacle to development of the site.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“C-2 AHOD” Commercial Airport Hazard  
Overlay District

Vacant, proposed office

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“C-2 AHOD” Commercial Airport Hazard Overlay District	Vacant, Retail
East	“C-2 AHOD” Commercial Airport Hazard Overlay District	Vacant
West	“C-2 AHOD” Commercial Airport Hazard Overlay District	Nonconforming Single-Family Dwelling

### Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Guadalupe/Westside Community Plan and currently designated as Low-Density Mixed-Use in the future land use component of the plan. The subject property is within the boundaries of the Avenida Guadalupe Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

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 public interest is represented by setback requirements to ensure uniform, safe development within the City of San Antonio. The ten foot side setback is required only because of the nonconforming use abutting the subject property. The site plan has parking in front of the building and a small landscaped area on the west of the property to buffer the use from the nonconforming residential use adjacent to it. There are 15 vacant lots within 200 feet of the subject property. Staff finds that the reduced setback is not contrary to the public interest in that the project will establish a use within the community and because the site plan is sensitive to the nonconforming adjacent use.**

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

**The special condition present in this case is the nonconforming use of the adjacent property. If the adjacent property was commercially developed, as it is zoned for, then there would be no side setback requirement.**

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

**Granting the requested variance will result in substantial justice in that it will allow for a new office**

development in a community that needs it. The spirit of the ordinance is observed in that the applicant has designed a site plan that provides as much of a setback as possible, and has offered a landscaped area to block the view of the off-street parking.

*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.**

*1. 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 applicant has screened the view of off-street parking from view of the adjacent property, and left room for maintenance of the subject property without trespass. This portion of Guadalupe Street is heavily commercial in nature, with residential properties located behind on smaller, local streets. This project will not detract from the essential character of the district in that the proposed office use is compatible with the commercial corridor.**

*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 present in this case is the nonconforming status of the adjacent property. This is not the fault of the owner of the property and is not merely financial in nature.**

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

The applicant would have to build the office to meet all setbacks.

### **Staff Recommendation**

Staff recommends **APPROVAL of variance request in A-16-087** based on the following findings of fact:

1. The unique circumstance is the nonconforming status of the adjacent lot.
2. The site plan is sensitive to the needs of the nearby property owner.