



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-5992

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 11/6/2017

**Title:** (Continued from 10/16/17) A-17-180: A request by Alvin Peters for a 7.5 foot variance from the 15 foot landscape buffer to allow a 7.5 foot landscape buffer, located at 8638 Fairhaven Street. Staff recommends Approval. (Council District 8)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-17-180 Attachments

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

**Case Number:** A-17-180

**Applicant:** Alvin Peters

**Owner:** Islamic Center of San Antonio

**Council District:** 8

**Location:** 8638 Fairhaven Street

**Legal:** Lot 14, Block 6, NCB 14445

**Description:**

**Zoning:** “O-2” High Rise Office District and “O-2 AHOD” High Rise Office Airport Hazard Overlay District

**Case Manager:** Oscar Aguilera, Planner

### Request

A request for a 7.5 foot variance from the 15 foot landscape buffer, as described in Section 35-510, to allow a 7.5 foot landscape buffer.

### Executive Summary

The subject property serves as a religious center and the owner is proposing a new building on the site. The applicant is requesting a 7.5 foot bufferyard variance to allow a service drive to be constructed around the rear of the building in order to relieve congestion. The applicant has not begun construction of the proposed building. The bufferyard is only required along the area where “O-2” High Rise Office District and the adjacent “MF-33” Multi-Family District zoning abut.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
-----------------	--------------

“O-2” High Rise Office District and “O-2 AHOD” High Rise Office Airport Hazard Overlay District	Religious Center
---	------------------

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District, “PUD O-2” Planned Unit Development High Rise Office Airport Hazard Overlay District	Apartments
South	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District, “PUD C-2” Planned Unit Development Commercial Airport Hazard Overlay District	Apartments, Vacant Commercial
East	“C-2” Commercial Airport Hazard Overlay District	Apartments
West	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Apartments

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

The subject property is within the boundaries of the North Sector Plan and it is currently designated as Regional Center in the future land use component of the plan. The subject property is not located within a neighborhood association.

### **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 the setbacks and buffers in order to ensure that neighboring property rights are not violated. The site has been a religious congregation center since 1996. The owner is proposing an additional building on the northwest portion of the property. The owner requires the variance since the applicant is proposing a rear driveway to alleviate congestion and it does not comply with the required bufferyard requirements. The applicant will still provide a 7.5 foot bufferyard and a six foot tall fence along the property line being affected. The adjacent property is developed as an apartment complex and there are several trees between the properties. These trees create an approximately 30 foot buffer between the residential buildings and the proposed building. Therefore, granting the variance for a seven and a half foot bufferyard requirement along the northwest property will not be contrary to the public interest.**

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

**Literal enforcement of the 15 foot landscape bufferyard would make the addition impossible. The owner will be unable to build since this is the only location for the proposed building and the applicant will be unable to provide the required circulation and fire department accessibility requirements.**

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 bufferyard is to reduce conflicts between different land uses. The existing vegetation, proposed fence, and proposed vehicular circulation, in addition to the proposed 7.5 foot bufferyard, will accomplish the intent of the bufferyard requirement.**

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 “O-2” High Rise Office District and “O-2 AHOD” High Rise Office 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 applicant is seeking a new building addition to an existing religious center, originally constructed in 1996. The new project intends to better serve the community and improve the services for the youth in the community. The effect of the additional building will be mitigated by the location of the multi-family building, the existing trees, the proposed fence, and the proposed vehicular circulation.**

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.

**Literal enforcement of the 15 foot bufferyard would make the additional building impossible. The owner has struggled to find a design that meets all development codes. This is not merely financial in nature, nor is it the fault of the owner of the property.**

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

Denial of the variance request would result in the owner having to meet the bufferyard requirements.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of the requested bufferyard variance in A-17-180, based on the following findings of fact:

1. The owner has struggled to find a layout that meets all development standards; and;
2. The existing vegetation, proposed fence, and proposed vehicular circulation, in addition to the proposed 7.5 bufferyard, will accomplish the intent of the bufferyard requirement.