



City of San Antonio

Agenda Memorandum

File Number:16-2425

Agenda Item Number: 3.

Agenda Date: 4/4/2016

In Control: Board of Adjustment

Case Number: A-16-072
Applicant: Becky Carol
Owner: LG Loop 410 and Babcock, LLC
Council District: 7
Location: 4315 NW Loop 410
Legal Description: Lot 8, Block 1, NCB 13914
Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District and "C-3 AHOD" General Commercial Airport Hazard Overlay District
Case Manager: Logan Sparrow, Senior Planner

Request

A request for the elimination of the Type B, 15 foot deep bufferyard, as described in Section 35-510, to allow a commercial development with no buffering along the NW Loop 410 and Babcock Road frontages.

Executive Summary

The subject property at 4315 NW Loop 410, northwest of the Loop 410 frontage and Babcock Road intersection. The property was formerly developed as a bank and is being re-developed as a Pollo Tropical restaurant. The site plan submitted by the applicant shows that parking will be located around the perimeter of the property, as it is today and has been since the bank was first developed. The applicant is seeking to eliminate the required Type B buffer, which are required to be 15 feet deep, to allow the restaurant to retain its parking layout. The applicant has proposed a five foot bufferyard along Babcock Road. During field visits, staff noted the presence of a large grassy right of way (ROW) the helps to separate this use from the streetscape.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-2 AHOD" Commercial Airport Hazard Overlay District and "C-3 AHOD" General Commercial Airport Hazard Overlay District	Proposed Food Service Establishment

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"C-2 AHOD" Commercial Airport Hazard Overlay District	Music Store
South	UZROW	Loop 410
East	UZROW	Babcock Road
West	"C-3 AHOD" General Commercial Airport Hazard Overlay District	News Station

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Sector Plan and currently designated as Mixed-Use Center in the future land use component of the plan. The subject property is not any registered neighborhood association.

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, these are represented by requiring bufferyards to provide landscaped separation from incompatible uses. The applicant is re-developing a former bank into a Pollo Tropical restaurant and is seeking a variance from providing the Type B landscape bufferyard; they are providing a five foot bufferyard along Babcock Road. The property is elevated above the adjacent streets and benefits from a large ROW which helps to provide for the separation established by a bufferyard. Additionally, the applicant is proposing to keep almost all of the trees on the property. If they were required to provide the 15 foot bufferyard, to accommodate the required parking they would likely have to remove several of the trees to make up the space. Staff finds that the request is not contrary to the public interest.

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

The special condition present in this case is that the property is elevated well above the adjacent streets and separated by a large, grassy ROW. This distinctive elevation change provides a buffer of its own. Coupled with the proposed five foot buffer along Babcock Road, staff finds that the proposed site plan adequately provides for buffering.

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 because the new development will still provide some buffering along Babcock Road and because the large ROW area and elevation changes provide the remaining separation. Also, granting the variance allows the property owner to keep the trees on site, which adds beauty to the streetscape and the proposed development.

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 and "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.*

This bufferyard does not separate incompatible uses, but rather seeks to add a natural aesthetic to the NW Loop 410 and Babcock Road frontages. It is unlikely that eliminating this bufferyard requirement would injure adjacent properties. The commercial property across Babcock Road to the east, and the development immediately to the west, does not have any more buffering than this property does today. As such, it is unlikely that the variance request will alter the essential character of the community 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 unique circumstance present in this is that the applicant is re-developing a site that was built to standards outside of what we require today. This is not the fault of the applicant nor merely financial in nature. Redeveloping a built commercial site, and retrofitting to meet all of the current requirements can be challenging. Allowing a small deviation from the bufferyard requirement will benefit the community in this case.

Alternative to Applicant's Request

The applicant could re-design the site plan to accommodate the parking requirements and bufferyard. However, it is likely that this option would result in the loss of trees.

Staff Recommendation

Staff recommends **APPROVAL of variance request in A-16-072** based on the following findings of fact:

1. The property benefits from an elevation change and large ROW which helps to separate uses.
2. The applicant is providing some buffering along Babcock Road and keeping the trees on the property.