



# City of San Antonio

## Agenda Memorandum

**File Number:**16-3592

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**Agenda Item Number:** 4.

**Agenda Date:** 6/20/2016

**In Control:** Board of Adjustment

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**Case Number:** A-16-106  
**Applicant:** Jose L. Garcia  
**Owner:** Jose L. Garcia  
**Council District:** 5  
**Location:** 2316 South Laredo Street  
**Legal Description:** Lot 17, Block 6, NCB 3163  
**Zoning:** "I-2 AHOD" Heavy Industrial Airport Hazard Overlay District  
**Case Manager:** Logan Sparrow, Senior Planner

### **Request**

A request for 1) the elimination of the required 30 foot front setback, as described in Table 35-310 to allow a covered patio to remain on the front property line and 2) a 21 foot variance from the Clear Vision requirement, as described in 35-514, to allow a 5 foot fence to remain in its current location.

### **Executive Summary**

The subject property is located at 2316 South Laredo Street, just east of its intersection with South Trinity Street. The existing building on the property was constructed with a 14 foot front setback. The owner has a walk-up food service establishment with a window for ordering fruit cups. His customers requested some shade and he wanted to add some seating. He built the patio cover and installed some bollards along the sidewalk in effort to prevent customers from being hit by passing traffic. He was cited by Code Enforcement and was instructed to request a permit.

The front zoning setback is 30 feet and the survey submitted by the applicant shows the addition was built on the front property line. As such, the entire front setback would need to be eliminated to allow the structure to remain.

In addition to the setback, the owner added fencing between the bollards that is in violation of the clear vision ordinance. The view to the east, from South Trinity, is almost entirely blocked by the top portion of the fence. The fence creates unsafe traffic conditions by blocking the motorist's view of westbound traffic on Laredo. It was the addition of the wooden trim that created the clear vision violation. The need for clear vision is above three feet, a height determined to account for drivers in most vehicles.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
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"I-2 AHOD" Heavy Industrial Airport Hazard Overlay District	Fruit Stand
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### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	UZROW	South Laredo Street
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"I-2 AHOD"	Auto Body Shop
West	UZROW	South Trinity Street

### Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Guadalupe Westside Community Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is within the boundaries of the Collins Garden Neighborhood Association and within 200 feet of the Avenida Guadalupe Neighborhood Association. As such, the neighborhood associations were 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 30 foot setback was established for industrially zoned properties, anticipating intensive industrial uses. This use is more typical of a commercial use where no setback is required. Therefore, the covered patio itself is not against the public interest.**

The fencing as constructed however severely compromises sight lines for motorists entering South Laredo Street from South Trinity Street. The top portion of this fence creates unsafe traffic conditions, and is therefore contrary to the public interest.

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

**A literal enforcement of the large front setback required for industrial zones may be considered an unnecessary hardship in this location because the business is a food service establishment. The building is constructed very close to the front property line and the addition of a shade structure to the front was surveyed to establish its location. It does not encroach into City right-of-way.**

Enforcing the clear vision requirements for the fence cannot be considered an unnecessary hardship because of their importance in life safety.

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

### **Granting the requested setback variance to allow the patio cover may observe the spirit of the Code.**

The clear vision variance could result in a dangerous safety hazard and the potential loss of life. The bollards and a lower fence could improve safety for customers but the fencing as constructed must be lowered.

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 “I-2 AHOD” Heavy Industrial 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.*

**Other properties in the community are set back various distances from their front property lines, but the required minimum 30 foot front setback is unusual.**

The fence as constructed compromises the clear vision of motorists in the community.

*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.*

Every property located on a corner is restricted from interfering with the clear vision requirements created for the safety of the traveling public. This is not unique. The customers of this business may need some protection as they order, protection that was enhanced by the original bollards.

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

The applicant could relocate the covered patio to the rear of the property for customers and allow for safe traffic conditions at the intersection of South Laredo and South Trinity.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the setback variance request in A-16-106 based on the following findings of fact:

1. The setback was established for industrial uses and this is an existing non-conforming structure.

Staff recommends **DENIAL** of the clear vision variance request in A-16-106 based on the following findings of fact:

1. The clear vision requirements are essential to safe driving techniques.