



# City of San Antonio

## Agenda Memorandum

**File Number:**16-4348

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**Agenda Item Number:** 4.

**Agenda Date:** 8/22/2016

**In Control:** Board of Adjustment

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Case Number: A-16-134  
Applicant: Eric Watson  
Owner: Eric Watson  
Council District: 3  
Location: 3422 Commercial Avenue  
Legal Lot 11 and 12, Block 179, NCB 9463  
Description:  
Zoning: "C-3NA AHOD" General Commercial Non-Alcoholic Sales  
Airport Hazard Overlay District  
Case Manager: Shepard Beamon, Planner

### Request

A request for 1) a 20 foot variance from the 30 foot side setback requirement, as described in Section 35-310.01, to allow for a commercial development with a ten foot side yard setback and 2) a ten foot variance from the Type C, 15 foot deep bufferyard requirement, as described in Section 35-510, to allow a bufferyard to be five feet deep

### Executive Summary

The subject property is located at the intersection of Commercial Avenue and Formosa Blvd. The subject property is currently vacant and is zoned for commercial purposes. The applicant is re-developing a vacant lot into used car lot, but due to the narrow lot configuration, the lot is unable to meet all of the development regulations. The applicant is seeking a reduction in the required bufferyard and side setback to allow for more developable space.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-3NA AHOD" General Commercial Non-Alcoholic Sales Airport Hazard Overlay District	Vacant Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	UZROW	Commercial Tributary
West	UZROW; “C-2 AHOD” Commercial Airport Hazard Overlay District	Commercial Tributary; Barbershop

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

The property is within the boundaries of the West Sector Plan and currently designated General Urban Tier in the future land use component of the plan. The subject property is not located within registered 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 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 and setbacks to ensure the safety and health of adjacent properties is upheld. If the bufferyard and setback were established, the commercial development would lose a large amount of developable space, pushing the development out of compliance with the parking requirements. The applicant is proposing a reduced landscape bufferyard and an adequate side setback. 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 in this case is the small shape of the lot as well as the “R-6” zoning on the adjacent property. With the commercial zoned property abutting a residential zoned property, a 30 foot setback is triggered. If the ordinance is enforced, the new construction must comply with all required setbacks and current development standards limiting the ability to construct a building.**

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

**The spirit of the bufferyard and setback requirements, in this case, aims to beautify our urban streetscapes and protect the rights of adjacent property owners. The applicant has designed a site plan to provide both setbacks and a bufferyard to protect neighboring properties. Staff finds the proposed landscape plan, five feet of the required bufferyard, and ten feet of the required setback, meets the spirit of the ordinance.**

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-3NA AHOD” General Commercial Non-Alcoholic Sales 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.*

**It is unlikely that reducing this bufferyard requirement would injure adjacent properties. Since the owner is still providing a landscape bufferyard and setback, the adjacent property will have adequate separation and space to prevent any water runoff, fire hazard, or trespassing for maintenance. As such, staff finds that the reduction of this bufferyard would not alter the essential character of the district 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 in this case is the narrow lot shape and the bufferyard and setback requirements. With such a small lot, and the triggered large bufferyard and setback requirements between residential and commercial zones, the developable space is very limited. This are not the fault of the owner and are not merely financial in nature.**

### **Alternative to Applicant's Request**

The applicant would have to redesign the site plan to meet the bufferyard and setback requirements.

### **Staff Recommendation**

Staff recommends **APPROVAL of variance request in A-16-134** based on the following findings of fact:

1. The subject property is a small lot with a narrow width; 2. If the applicant provided the required bufferyard along the side property line, they would lose a majority of their developable space; 3. The applicant's plan does call for a reduced bufferyard and setback, providing adequate protection of the adjacent property.