



City of San Antonio

Agenda Memorandum

File Number:16-5857

Agenda Item Number: 3.

Agenda Date: 11/21/2016

In Control: Board of Adjustment

Case Number: A-17-006
Applicant: Stone Oak Care Center
Owner: Hardy Oak Development, LLC
Council District: 9
Location: 18803 Hardy Oak Blvd
Legal: Lot 1, Block 8, NCB 17606
Description:
Zoning: "C-2 MLOD ERZD" Commercial Military Lighting Overlay
Edwards Recharge Zone District
Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A variance request for 12 foot variance from the required Type B 15 foot rear bufferyard planting, as described in Table 35-510.

Executive Summary

The subject property includes 5.3 acres and was recently the site selected for construction of a new 63,000 square foot senior convalescent living center. The project is nearly completed. It is strategically located adjacent to a medical office building and very near the Stone Oak Methodist Hospital. Between the subject property and the adjacent residential neighborhood, the City owns a 25 foot wide drainage easement. During permit review, the bufferyard requirement was identified, but a conditional permit was issued. The applicant applied for an administrative variance to allow credit for the drainage easement, proposing installation of a tree screen along the rear interface with the easement. Because the requirement originated from the bufferyard section of the UDC, it cannot be considered administratively. Instead, it must be considered as a variance by the Board of Adjustment. Since the drainage easement is a "natural area" the bufferyard can be reduced by 20%, which is 3 feet.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-2 MLOD ERZD" Commercial Military Lighting Overlay Edwards Recharge Zone District	Senior Care Center

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“NP-10 MLOD ERZD” Neighborhood Preservation Military Lighting Overlay Edwards Recharge Zone District	Single-Family Homes
South	“C-3 MLOD ERZD” General Commercial Military Lighting Overlay Edwards Recharge Zone District	Medical Offices
East	“C-2 MLOD ERZD” Commercial Military Lighting Overlay Edwards Recharge Zone District	Vacant
West	“C-2 MLOD ERZD” Commercial Military Lighting Overlay Edwards Recharge Zone District	

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Sector Plan and currently designated as Regional Center in the future land use component of the plan. The subject property is not located within the boundaries of 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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by the quantity of plantings required in a bufferyard to separate incompatible uses. The Senior Care Center however will not generate the typical commercial impacts and therefore the bufferyard variance is not 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 prescriptive planting scheme would likely result in an unnecessary hardship. The applicant has presented a generous landscape plan along with a landscaped interior court for the benefit of the residents. In addition, a wide drainage easement is also located between the center and the nearby homes.

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 Code, rather than the strict letter of the law. In this case, bufferyard intent is accomplished by a natural 25 foot wide drainage easement. The senior living center is not the typical commercial use for which the bufferyard was designed, another factor in meeting 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “C-2 MLOD ERZD” Commercial Military Lighting Overlay Edwards Recharge Zone 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 proposed landscaping plan for the complex shows compliance with every other aspect of the requirements. The requested variance to reduce the plantings in the rear will be unnoticeable to the surrounding district.

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 is that the project is located adjacent to a 25 foot wide drainage easement and has several internal gardens to benefit the residents of the project. This natural area provides the desired separation.

Alternative to Applicant’s Request

Without the requested variance, the owner would have to eliminate emergency fire lane in the rear of the building.

Staff Recommendation

Staff recommends **APPROVAL** of the requested bufferyard variance, detailed in A-17-006 based on the following findings of fact:

1. The intent of the bufferyard is to mitigate impacts which will not be generated by the use; and
2. The applicant has proceeded through construction without the bufferyard.