



# City of San Antonio

## Agenda Memorandum

**File Number:**17-2715

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**Agenda Item Number:** 1.

**Agenda Date:** 4/17/2017

**In Control:** Board of Adjustment

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Case Number: A-17-060  
Applicant: GD Bar Family LP  
Owner: GD Bar Family LP  
Council District: 10  
Location: 11110 North IH-35  
Legal: Lot 40, NCB 14946  
Description:  
Zoning: "C-3R IH-1 AHOD" General Commercial Restrictive  
Alcoholic Sales Northeast Gateway Corridor Airport Hazard  
Overlay District  
Case Manager: Margaret Pahl, AICP, Senior Planner

### **Request**

A request for 1) a 11 foot variance from the 20 foot rear setback to allow a building 9 feet from the rear property line; 2) a 10 foot variance from the 20 foot side setback to allow a building 10 feet from the side property line and 3) a variance from the requirement that 50% of the first floor street frontage be windows, each as described in UDC 35-339.01 regarding Gateway Corridors.

This case was postponed from the April 3, 2017 Board of Adjustment Meeting.

### **Executive Summary**

The property is located on the southeast corner at the intersection of North IH-35 and North Wiedner Road. The site is a former gas station, currently used for vehicle sales. The proposed use will be a new 7-Eleven convenience store and gas station. The applicant has applied for building permits to construct the site as designed. The subject property is within the Exxon Subdivision Unit 7, which includes a 25 foot platted building setback, however, since the property is within the Northeast Gateway Corridor, the new building must also comply with the "IH-1" design standards, which consists of a minimum 60 foot front setback and 20 foot side and rear setbacks. Other corridor overlay standards regarding landscaping, building materials, percentage of windows on front façade were also noted as denial comments during the permit review.

The case was considered at the March 6, 2017 Board of Adjustment hearing and was continued to allow the owner time to revise the site plan to address concerns expressed by adjacent property owners. The owner has revised the proposed site design to accommodate the large front setback, a primary concern voiced at the first Board of Adjustment hearing. This modification pushed the building into the minimum 20 foot rear setback,

which is now being proposed for a variance. The applicant is also requesting a variance from the side setback, but has increased the proposed distance to provide a ten foot side setback, rather than the original requested five feet. The applicant has also added a request for a variance from the minimum percentage of windows required on the front façade. The store appears normal but the percentage of glass is 25.17% of the front façade. The applicant states that the internal configuration of the store, including refrigerated coolers and offices, prevent increasing the percentage of windows.

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

Existing Zoning	Existing Use
“C-3R IH-1 AHOD” General Commercial Restrictive Alcoholic Sales Northeast Gateway Corridor Airport Hazard Overlay District	Car Sales

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

Orientation	Existing Zoning District(s)	Existing Use
North	UZROW	IH-35
South	“I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Airport Hazard Overlay District	Bank, Parking Lot
East	“I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Airport Hazard Overlay District	Vacant Lot, Auto Dealers
West	“I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Airport Hazard Overlay District	Gas Station, Used Auto Dealer, AT&T Facility

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

The property is not within the boundaries of a sector or neighborhood plan and does not have future land use designation. The subject property is not located within the boundaries of a 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.*

**In this case, the public interest is represented by setback requirements to ensure an open streetscape and uniform and safe development within the City. Properties with commercial zoning adjacent to other commercially zoned properties are permitted to construct on or near the property lines along the side and rear, making these requested variances not contrary to the public interest. It is unlikely that traveling public will notice the reduction in windows.**

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

**The special condition present in this are the lot dimensions in conjunction with the “IH-1” setback requirements. The rectangular shaped lot, approximately 300 feet long and 140 feet deep, is severely constrained by the large front building setback. The owner has revised the site plan to meet this front**

**setback. Literal enforcement of the side and rear setbacks would result in an unnecessary hardship. Satisfying the percentage of glass is not possible given the other site constraints on the property.**

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

**The spirit of the ordinance will be observed by the revised site plan. The intent of the side and rear setbacks are to allow fire separation and room for maintenance without trespass, which can be accomplished despite the requested variances. The intent of the required window percentage is to increase interior light and encourage visibility and surveillance. The provided windows will satisfy the intent of the code.**

*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-3R IH-1 AHOD” General Commercial Restrictive Alcohol Sales Northeast Gateway Corridor 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 has revised the site plan layout in response to concerns voiced by the adjacent property owners at the last public hearing. These revisions generated different variances to the side and rear setbacks, but still provide room for fire separation and maintenance. The window percentage is difficult given the shape of the building, but will appear to have the typical amount of windows.**

*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 “IH-1” setback requirements impose significant design constraints, especially on properties such as this, which are considerably smaller in lot size. The applicant is providing the large front setback with room for significant landscaping to enhance the gateway corridor. The required percentage of windows creates a burden for a building with the longer façade designated as the front.**

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

The applicant would need to construct to meet the “IH-1” corridor setbacks.

### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variances in A-17-060** based on the following findings of fact:

1. The requested setbacks provide adequate room for maintenance without trespass;
2. The applicant revised the site plan to address the concerns voiced by the adjacent property owner at the original hearing.