



# City of San Antonio

## Agenda Memorandum

**File Number:**18-5289

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**Agenda Item Number:** 6.

**Agenda Date:** 9/17/2018

**In Control:** Board of Adjustment

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Case Number: A-18-156  
Applicant: Mission DG, Ltd.  
Owner: Four Oaks Tower, Ltd.  
Council District: 8  
Location: 11327 Expo Boulevard  
Legal: Lot 16, Block 1, NCB 15017  
Description:  
Zoning: "MF-50" Multi-Family District  
Case Manager: Dominic Silva, Planner

### Request

A request for a 3'2" variance from the 10' rear setback requirement, as described in Section 35-310.01, to allow the structure to be 6'10" away from the rear property line.

### Executive Summary

The subject property is located at 11327 Expo Boulevard, 546' south of Huebner Road. The applicant is requesting a rear setback variance in order to bring the property into compliance with Section 35-310.01. The property is zoned "MF-50" multi-family which allows for 50 units per acre. The property is 2.039 acres and rightfully allows up to 101 residential units; currently, the property has 47 units and with the proposed renovations, will increase to 89 units. The property was built in 2004 with all necessary permits and inspections completed and finalized as required. The exterior of the building will not be modified or expanded during the interior renovations.

The current setback of 6'9" is due to the attached 1-story ground level parking garage for residents. Because the garage does not meet the 10' rear setback, permitting for interior renovations cannot begin and, since the building has been complete since 2004, is not financially feasible to reconstruct the rear wall to meet requirements.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"MF-50" Multi-Family District	Condominiums

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-3" General Commercial	Strip Mall and Restaurant
South	"C-3" General Commercial District	Auto Dealership
East	"C-2" Commercial District	Apartments
West	"C-3 PUD" General Commercial Planned Unit Development District	Office Tower

## Comprehensive Plan Consistency/Neighborhood Association

The property is within the North Sector Plan and designated as Mixed Use Center in the future land use component of the plan. The subject property is located within the boundaries of the Vance Jackson Neighborhood Association. As such, they were notified and asked to comment.

## Street Classification

Expo Boulevard is classified as a Local Street.

## 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, given that no exterior modifications or expansion will be done and the current zoning allows up to 101 residential units, granting the variance will not be 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 ordinance would result in unnecessary hardship by prohibiting interior renovations and allowing greater of the applicant's zoning. The property was constructed in 2004 and no exterior renovations to the building will be done once permitting begins.**

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. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved. The building was built in 2004 with no registered complaints. The lot adjacent to the property is a parking lot for an auto dealership.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

**The requested variance will not permit a use not authorized within the "MF-50" Multi-Family 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 building has been in place since 2004. The character of the district is mixed uses of commercial and residential. This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the 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 circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The building, built in 2004, applied for and completed all necessary permits and inspections in order to obtain their certificate of occupancy. In order to renovate the interior, a setback relief of 3'2" must be cleared before permitting can begin.**

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to conform to rear setback requirements set forth in Section 35.310.01 of the Unified Development Code.

### **Staff Recommendation**

Staff recommends **APPROVAL of A-18-156** based on the following findings of fact:

1. The requested variance is for a building that has been completed since 2004 with all permits and inspections completed as necessary, and;
2. Adequate space has been verified as present in prevention of storm water runoff, maintenance of property, and maintenance of the structure without trespass, and;
3. The result of this variance, to proceed with interior renovations, will not modify nor change the exterior façade of the structure.