



City of San Antonio

Agenda Memorandum

File Number:21-2957

Agenda Item Number: 1.

Agenda Date: 4/19/2021

In Control: Board of Adjustment

Case Number:	BOA-21-10300023
Applicant:	Marius Perron
Owner:	Audio Engineering, LLC
Council District:	7
Location:	8555 Abe Lincoln
Legal Description:	North 300' of Lot 1 and Lot 2, except South 5', Block 1, NCB 14662
Zoning:	"O-2 AHOD" High Rise Office Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

Request

A request for a 40' variance from the 80' maximum front setback requirement in order, as described in Section 35-310.01, to allow a front setback of 120'.

Executive Summary

The subject property is located north of the intersection of Eckhert Road and Abe Lincoln. The property is currently zoned "O-2" High Rise Office District. This zoning district requires a front setback of 25 feet and has a maximum front setback of 80 feet. The applicant is proposing a front setback of 120 feet in order to preserve a large heritage tree located in the center of the property which measures over 6 feet in width.

Code Enforcement History

There are no relevant code enforcement violations outstanding for the property.

Permit History

There are no relevant permits pulled for the property.

Zoning History

The subject property was annexed into the City of San Antonio on January 8, 1970 by Ordinance 38136 and was zoned "O-1" Office District. The zoning converted from "O-1" to the current "O-2" High-Rise Office

District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“O-2 AHOD” High Rise Office Airport Hazard Overlay District	Vacant lot and wireless communications tower

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“O-2 AHOD” High Rise Office Airport Hazard Overlay District	Single-family dwelling
South	“C-1 AHOD” Light Commercial Airport Hazard Overlay District and “C-3NA AHOD” General Commercial Non-Alcoholic Sales Airport Hazard Overlay District	Vacant Lot
East	“RE AHOD” Residential Estate Airport Hazard Overlay District	Single-family dwelling
West	“RE AHOD” Residential Estate Airport Hazard Overlay District	Single-family dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Huebner/Leon Creek Community Plan and is designated “Low Density Residential Estate” in the future land use component of the plan. The subject property is located within the Alamo Farmsteads Babcock Road Neighborhood Associations and as such they were notified of the case.

Street Classification

Abe Lincoln Road is classified as a Collector Road.

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. The removal of a heritage tree of this size would be contrary to the public interest and the tree canopy of San Antonio.

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

Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. In

order to construct the building at the maximum setback distance, the property owner would need to remove a large Heritage Live Oak.

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 defined as the intent of the code, rather than the exact letter of the law.

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.*

No uses other than those allowed within the district will be allowed with this variance.

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 request to reduce a portion of the front setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located along a busy collector road, so having the building setback farther than what is required will allow for separation from the road.

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.*

Staff finds that the applicant is requesting the variance to construct an audiovisual school on the property. The unique circumstances existing on the property were not created by the owner of the property and are not merely financial. The plight of the owner was created by the location of the Heritage Tree on the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot & Setback Dimensions of the UDC Sections 35-310.01.

Staff Recommendation

Staff recommends **Approval** in **BOA-21-10300023** based on the following findings of fact:

1. The proposed structure will be set back 120'; and
2. The live oak tree is more than 80' away from the front property line.