



# City of San Antonio

## Agenda Memorandum

**File Number:** 15-3426

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**Agenda Item Number:** 8.

**Agenda Date:** 6/1/2015

**In Control:** Board of Adjustment

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**Case Number:** A-15-097  
**Applicant:** Brown & Ortiz PC  
**Owner:** Joel Dauley  
**Council District:** 3  
**Location:** 331 W Buchanan & 358 W Villaret Boulevard  
**Legal Description:** Lots 304, S 544.60 feet of W 65 feet of 303 or 303F, E 192 feet of S 340 feet of 303 or 303A, W 70 feet of S 498.32 feet of 302, Block 29, NCB 11128  
**Zoning:** "R-4 CD AHOD" Residential Single-Family Airport Hazard Overlay District with Conditional Use for a Noncommercial Parking Lot  
**Case Manager:** Margaret Pahl AICP, Senior Planner

### **Request**

A request for a variance from the requirement as described in 35-526 (f) and (j) that the parking lots be hard-surfaced.

### **Executive Summary**

The subject property is located at 331 W Buchanan & 358 W Villaret Boulevard, generally northwest of the Loop 410 Expressway and Moursund Boulevard intersection. The property was the subject of a rezoning case (Z2013129 CD), in which conditional use authorization for a noncommercial parking lot was granted on September 5<sup>th</sup>, 2013. Section 2 of Ordinance 2013-09-05-0616, stipulates that:

- A. The conditional use will not be contrary to the public interest.
- B. The conditional use will not substantially nor permanently injure the appropriate use of adjacent conforming property in the same district.
- C. The conditional use will be in harmony with the spirit and purpose for conditional uses as set forth in Section 35-422, Conditional Zoning, of the Unified Development Code.
- D. The conditional use will not substantially weaken the general purposes of the regulations as set forth in Section 35-422, Conditional Zoning, of the Unified Development Code.
- E. The conditional use will not affect adversely the public health, safety, and welfare.

Section 35-526(j) stipulates that additional spaces, i.e. overflow parking, may be permitted so long as the parking has pervious surfacing. The applicant is seeking a variance to waive this requirement so that vehicles

can park on the natural grass. The applicant further states that the property owner, as well as adjacent property owners, wishes that the subject property remain in a more natural state, rather than covered with asphalt or concrete paving. The Board should consider that the Unified Development Code does not require concrete or asphalt, but pervious surfacing, including gravel.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 CD AHOD” Residential Single-Family Airport Hazard Overlay District with Conditional Use for a Noncommercial Parking Lot	Vacant

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
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 and “RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District and “C-3 NA AHOD” General Commercial Nonalcoholic Sales Airport Hazard Overlay District	Outdoor Thrift Market
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Existing parking
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of any neighborhood plan. The subject property is not located within the boundaries of any 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 criteria are represented by the requirements that pervious surfacing be established for overflow parking areas. Pervious surfacing is required to ensure that vehicles, after leaving the parking areas, do not track mud onto public streets. The buildup of mud on roadways can lead to loss of traction for vehicles traveling along the road. The applicant has realized the necessity of this type of surfacing on other portions of the property. The east-most lot on the property has already been surfaced with gravel pervious surfacing. Staff contends that this should be provided for the remaining portion of the parking lot to ensure that mud is not tracked onto public streets.

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

Staff is unable to establish any circumstance present on the subject property to warrant the granting of the requested variance. Pervious surfacing would protect public streets and contribute to a uniform development across the property. The Unified Development Code does not mandate that surfacing must be impervious. Section 35-526(j) states that “Vehicle Parking spaces may exceed the maximum number of spaces permitted if the additional spaces are designed as pervious pavement.” As such, the Unified Development Code forbids that impervious coverage be installed. Staff has provided an alternative option of allowing the subject property to use gravel, or similar material, rather than impervious surfacing. Since the property is zoned for residential single-family uses, this material would provide safe and adequate surfacing for overflow parking, and could still be easily removed for potential future, residential development. However, staff cannot identify any reason that should permit the owner of the property to provide no surfacing for parking.

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

The spirit of the ordinance demands that surfacing be provided for safe parking conditions. Allowing the owner of the property to simply utilize a field is dangerous for a number of reasons. In the hot, dry climate that San Antonio often experiences, parking in grass fields is extremely unsafe. Hot catalytic converters from vehicles can ignite dry grass, starting potentially major fires. Providing some surfacing drastically reduces the chances of this occurring.

After major rains, wet fields are difficult to traverse and introduce additional hazards including vehicles getting stuck.

Lastly, staff finds that waiving the requirement in this case, which lacks a unique circumstance, grants the applicant privileges not enjoyed by similarly situated property owners and, therefore, does not meet 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 “R-4 CD AHOD” Residential Single-Family Airport Hazard Overlay District with Conditional Use for a Noncommercial Parking Lot.

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.*

Permitting the owner of the property to allow parking on unimproved grass fields will injure adjacent properties as vehicles exiting the parking lot will track mud onto public streets. This buildup of mud can lead to unsafe roads within this community. Currently, one parking lot, which is owned by the same property owner, has provided gravel parking for vehicles. Staff finds that not continuing this pattern onto the remaining overflow lots could alter the essential 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.*

Staff is unable to identify any unique circumstances that warrant the elimination of hard surfacing on the subject property. Staff has recommended that the parking lots be provided with gravel for public safety. This alternative material can be easily removed for future, potential development.

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

The applicant could provide gravel parking for public safety rather than pervious concrete or pervious asphalt designs.

### **Staff Recommendation**

Staff recommends **DENIAL of A-15-097** based on the following findings of fact:

1. Allowing parking on grass fields could spark grass fires or, in wet conditions, jeopardize public safety as vehicles could sink into the mud;
2. Vehicles exiting the grass parking lot could track mud onto public streets.
3. An alternative temporary option was provided to the applicant instead of asphalt or concrete;