



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4279

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**Agenda Item Number:** 2.

**Agenda Date:** 8/3/2015

**In Control:** Board of Adjustment

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**Case Number:** A-15-132  
**Applicant:** David Fabian  
**Owner:** Aksan RE United Fortune, LLC  
**Council District:** 10  
**Location:** 1327 Austin Highway  
**Legal Description:** Lot 38, Block A, NCB 8695  
**Zoning:** "C-2 MC-3 AHOD" Commercial Austin Highway/Harry Wurzbach  
Metropolitan Corridor Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl AICP, Senior Planner

### Request

A request for a 20 foot variance from the maximum 25 foot sign height, as required in Section 35-339.01, to allow a free-standing pole sign that is 45 feet tall.

### Executive Summary

The subject property is located in the City's most recent design overlay, Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay District, adopted in March of 2012. The primary goal of the overlay regulations is to encourage the continued revitalization that began with the Austin Highway Revitalization Project (AHRP) in 2002. AHRP was a non-profit board of directors who approved revitalization grants for proposed projects consistent with design requirements. The corridor is recognized as one of the City's first commercial corridors and as such is experiencing a surge in renovation and re-investment.

The applicant recently constructed and opened a new Taco Bell restaurant, adjacent to another new business, the Bubble Bath Car Wash. The Taco Bell restaurant came to the Board of Adjustment in August of 2014 seeking 5 variances from the development standards of the corridor overlay, including reductions in landscaping and an increase in maximum front setback. These were all granted. One of the impacts of the increased building setback is that the sign is also setback and, while installed at the allowed sign height of 25 feet, is difficult to see according to the applicant. To correct this problem, the applicant is seeking a 20 foot variance from the maximum 25 foot sign height to allow the sign to be raised to 45 feet in height.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“C-2 MC-3 AHOD” Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District	Restaurant
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### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“MF-33 MC-3 AHOD” Multi-Family Austin Hwy/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District	Apartments
South	“C-2 MC-3 AHOD” Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District and “MF-33 MC-3 AHOD” Multi-Family Austin Hwy/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District	Apartments
East	“MF-33 MC-3 AHOD” Multi-Family Austin Hwy/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District and “C-2 MC-3 AHOD” Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District with a Conditional Use for Auto and Light Truck Repair	Driveway to Apartments and Auto and Light Truck Repair
West	“C-2 MC-3 AHOD” Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District with a Specific Use Authorization for a car wash	Car Wash

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

The property is located within the boundaries of the Northeast Inner Loop Neighborhood Plan and currently designated as Community Commercial in the future land use component of the 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. Nearly doubling the height of the sign over the limitations adopted by the City Council is not within the public interest. However, **the sign is difficult to see and some additional height is warranted and within the public interest.**

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

**The special circumstance present on the subject property is that the shared driveway forces vehicles to**

enter the site on the wrong side requiring a two way internal driveway between the public right of way and the building. This site design decision pushed the sign back more than 40 feet from the street. Therefore this unique circumstance makes literal enforcement an unnecessary hardship.

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

The variance process was created to address those situations that are unique. The corridor anticipated the signs would be closer to the street, with no setback required. An additional 10 feet would increase its visibility and observe 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 “C-2 MC-3 AHOD” Commercial Austin Highway/Harry Wurzbach Metropolitan 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 current conforming sign is adjacent to the recently installed sign for the Bubble Bath Car Wash, both measuring 25 feet in height. The requested variance for an additional 20 feet in height could alter the anticipated character of the corridor. **A smaller modification of 10 feet in height to accommodate the increased setback will not alter the 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.*

According to the applicant, trees block the view of the sign for vehicles traveling south. In addition, the corridor has high voltage power lines along the right of way, adding to the visual clutter. This circumstance was not created by the applicant.

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

The applicant could leave the existing conforming sign.

### **Staff Recommendation**

Staff recommends a modified **APPROVAL of A-15-132** based on the following findings of fact:

1. An additional 10 feet of sign height is warranted by the site design resulting from the shared driveway requirement.