

Case Number:	BOA-23-10300283
Applicant:	Creo Architects
Owner:	H. E. Butt Family Foundation
Council District:	1
Location:	150 West Sunset Road
Legal Description:	Lot 93, NCB 11888
Zoning:	“C-1 AHOD” Light Commercial Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

**Request**

A request for a 17'-8" variance from the minimum 30' rear setback, as described in Section 35-310.01, to allow a structure to be 12'-4" from the rear property line.

**Executive Summary**

The subject property is located along West Sunset Road, west of Broadway. The applicant is requesting a variance from the rear setback requirement of 30' to allow a structure to be 12'-4" from the rear property line. Currently, the subject property is vacant and is composed of two existing buildings. The applicant is proposing to expand the smaller existing structure towards the rear property line and construct a new structure entirely in the rear setback. The new structure has the closest distance from the rear property line, measuring 12'-4".

**Code Enforcement History**

Trees Investigation (INV-TRE-INV21-24000226)- December 2021

**Permit History**

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Tree Affidavit Permit (TRE-AFF-PMT23-39001050)- June 2023

**Zoning History**

The property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned “A” Single-Family Residence District. The property was then rezoned by Ordinance 94534, dated September 13, 2001, from “A” Single-Family Residence District to the current “C-1” Commercial District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-1 AHOD” Light Commercial Airport Hazard Overlay District	Non-Profit Organization

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Apartments
South	“MF-40” Multi-Family Airport Hazard Overlay District	Assisted Living Facility

East	“C-3R AHOD” General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Strip Mall
West	“C-2NA” Commercial Nonalcoholic Sales Airport Hazard Overlay District	Medical Office

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the San Antonio International Airport Vicinity Land Use Plan and is designated as “Community Commercial” in the future land use component of the plan. The subject property is not located within a registered neighborhood association.

**Street Classification**

West Sunset Street is classified as a minor road.

**Criteria for Review – Rear Setback Variance**

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 represented by minimum rear setback requirements, as they ensure that buildings are positioned a safe and suitable distance from property lines. Staff finds a 17'-8" variance from the minimum 30' rear setback to allow a structure to be 12'-4" from the rear property line is not contrary to the public interest. The request is an allowable distance from the rear property line and neighboring property.**

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

**The special condition found is the length and width of the property. A literal enforcement of the ordinance would result in the applicant abiding by the minimum 30' rear setback requirement. This would result in an unnecessary hardship, as the additional square footage of the building would be drastically reduced.**

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. The intent of the 30' rear setback requirement is to provide for consistent development patterns and establish space for routine maintenance. A 17'-8" variance to allow a structure to be 12'-4" from the rear property line would adhere to the spirit of the ordinance and substantial justice will be served.**

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.*

**If granted, the structure will maintain a 12'-4" rear setback. This request will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located. Upon site visits, staff observed the block was primarily composed of commercial and multi-family uses. The request is not out of character.**

- 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 the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the length and width of the property. Without the variance, the applicant would lose square footage for the proposed office use.**

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

The alternative to the applicant's request is to conform to the Setback Regulations of the UDC Section 35-310.01

### **Staff Recommendation – Rear Setback Variance**

Staff recommends **Approval** in **BOA-23-10300283** based on the following findings of fact:

1. The request is an allowable distance from the rear property line and neighboring property;  
and
2. The rear of the property abuts a driveway on a developed multifamily property.