

Case Number:	BOA-23-10300312
Applicant:	Stephen J. Kramer Architecture and Design
Owner:	Averitt Properties Inc
Council District:	2
Location:	3722 Binz-Engleman Road
Legal Description:	Lot 10, Block 1, NCB 17487
Zoning:	"I-2 MLOD-3 MLR-1" Heavy Industrial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District
Case Manager:	Colton Unden, Planner

### **Request**

A 40' variance from the minimum 40' landscape buffer, as described in Section 35-510, to allow the elimination of a landscape buffer on the western property line.

### **Executive Summary**

The subject property is located along Binz-Engleman Road, just south of Brooke Army Medical Center. The applicant is requesting a 40' variance from the landscape buffer requirements which would result in the elimination of the landscape buffer for a Heavy Industrial district adjoining a Multi-Family district on the western property line. The current industrial development was established in 2000 with surrounding properties being industrial zoned properties. A 2006 rezoned to the abutting western property created the current landscape buffer.

### **Code Enforcement History**

There is no relevant code history for the subject property.

### **Permit History**

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

### **Zoning History**

The property was annexed by the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned Temporary "A" Single-Family Residence District. The property rezoned to "LL" First Manufacturing District by Ordinance 24417, dated February 14, 1957. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "LL" First Manufacturing District converted to the current "I-2" Heavy Industrial District.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"I-2 MLOD-3 MLR-1" Heavy Industrial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Warehousing

### **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	“MR MLOD-3 MLR-1” Military Reservation Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Military Base
South	“C-3 MLOD-3 MLR-1” General Commercial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Extended Stay Hotel/Motel
East	“I-2 MLOD-3 MLR-1” Heavy Industrial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Warehousing
West	“MF-33 HE MLOD-3 MLR-1” Multi-Family Historic Exceptional Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Multi-Unit Development

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

The subject property is not under any community plans or within the boundary of a neighborhood association.

### **Street Classification**

Binz-Engleman Road is classified as a collector.

### **Criteria for Review – Landscape Buffer Variance on the Western Property Line**

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, the public interest is represented by the landscape buffer requirements. The applicant is requesting a variance of 40’ to the landscape buffer on the western property line, resulting in the elimination of the landscape buffer. If granted, the request will be contrary to the public interest by leaving inadequate spacing between the abutting property and not allowing a transitional space to provide screening between residential and non-residential uses.

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

Staff found no other special conditions on the subject property to warrant the need for a 40’ variance to eliminate the landscape buffer. A literal enforcement of the ordinance would not result in an unnecessary hardship, as there is adequate room on the lot to allow the presence of a landscape buffer.

*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. Staff finds that the need to allow a 40’ variance to eliminate the landscape buffer will not observe the spirit of the ordinance. Deviating from this requirement allows for visual clutter, distraction, and a loss of the transitional space between residential and non-residential uses.

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, a 40' variance to the landscaping buffer along the western property line will allow the elimination of the landscaping buffer for that property line. Upon site visits, staff observed the adjoining residential multi-family property on the western property line would be substantially injured by the loss of a landscaping buffer.

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 not due to unique circumstances existing on the property. The development is still in its preliminary stages and can be altered.

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

The alternative to the applicant's request is to conform to the buffer standards of the UDC Section 35-510.

#### **Staff Recommendation – Landscape Buffer Variance on the Western Property Line**

Staff recommends Denial in BOA-23-10300312 based on the following findings of fact:

1. The request will be contrary to the public interest by leaving inadequate spacing between the adjoining property and not allowing a transitional space to provide screening between residential and non-residential uses, and
2. Not abiding by the landscape buffer requirements will substantially injure the appropriate use of adjacent conforming property.