



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** February 24, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon, Director

**CASE NUMBER:** BOA-25-10300004

**APPLICANT:** Olivas Armendariz

**OWNER:** Olivas Armendariz

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 306 South General McMullen and 4538 Monterey Street

**LEGAL DESCRIPTION:** Lot 43, Block 49, NCB 8196 and Lot Un-Div Int 1A, Block 9, NCB 8196

**ZONING:** "C-3R MLOD-2 MLR-2 AHOD" General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

A fence material variance to allow corrugated metal fencing.  
Section 35-514 (a)(6)

**Executive Summary**

The subject property is located along South General McMullen and Monterey Street, south of West Commerce Street, located within the Las Palmas Neighborhood Association. Applicant had a fence constructed without a permit and received a violation notice from Code Enforcement in December 2024. The fence is a corrugated metal fence surrounding the rear and side yards measuring 7'. The property consists of a concrete lot and a garage structure. The property is permitted an 8' fence height on the side and rear yard as commercials abutting single-family use is permitted an 8' fence.

**Code Enforcement History**

INV-PBP-24-3100006862 - PMT-Building Without A Permit – Pending Resolution

INV-PBP-23-3100004322 - PMT-Building Without A Permit – Closed

INV-PBP-21-3100004298 - PMT-Building Without A Permit – Closed

**Permit History**

COM-BLG-PMT23-40200895 – Active

COM-SIT-PMT23-40100349 - Complex Plans Olivas Tire Shop – Active

**Zoning History**

The subject property was annexed by the City of San Antonio by Ordinance 1258, dated August 2, 1944, and originally zoned “JJ” Commercial District. The property was rezoned by Ordinance 73389, dated March 28, 1991, to “B-3R” Restrictive Business District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B-3R” Restrictive Business District converted to the current “C-3R” General Commercial Nonalcoholic Sales District.

**Subject Property Zoning/Land Use****Existing Zoning**

“C-3R MLOD-2 MLR-2 AHOD” General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Tire Shop

**Surrounding Property Zoning/ Land Use****North****Existing Zoning**

“R-4 HL MLOD-2 MLR-2 AHOD” Residential Single-Family Historic Landmark Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**South****Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**East****Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Vacant Lot

## **West**

### **Existing Zoning**

“C-3R MLOD-2 MLR-2 AHOD” General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

### **Existing Use**

Auto and Light Truck Repair

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

The subject property is not located within any future land use plans. The subject property is located within the Las Palmas Neighborhood Association, and they have been notified of this request.

### **Street Classification**

South General McMullen is classified as a Primary Arterial Type A.

Monterey Street is classified as a Local Road.

### **Criteria for Review – Fence Material 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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by adhering to fence material guidelines to provide uniformity, safety, security, and appeal to neighborhood characteristics. The fence material variance is contrary to the public interest as the fence material utilized is prohibited within the city and was not observed in the immediate surrounding area.

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

A literal enforcement of the fence material ordinances would not result in unnecessary hardship as the applicant can reconstruct a fence in compliance with the Unified Development Code's guidelines that provides security and privacy while utilizing an allowed material.

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

The requested fence material variance does not appear to be in the spirit of the ordinance as the fence material utilized is prohibited within the city and was not observed in the immediate surrounding area.

*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.*

Staff finds that the fence material variance would substantially injure the appropriate use of adjacent properties as the fence material utilized is prohibited within the city, is abutting single-family dwellings that are utilizing allowed fence materials, and corrugated fence material was not observed in the immediate surrounding area.

*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 no unique circumstances existing on the property for the fence material variance as security and privacy can be afforded by allowed fence materials.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the fence material requirements of the UDC Section 35-514 (a)(6).

**Staff Recommendation – Fence Material Variance**

Staff recommends Denial in BOA-25-10300004 based on the following findings of fact:

1. Security can be provided on the lot by a non-prohibited fence material, and the use of corrugated metal does not appear to provide any added security.
2. The property is abutting single-family dwellings to the south and north and the industrial-like fence material will adversely impact the neighborhood look and character.
3. The requested variance will alter the essential characteristics of the district in which the property is located.