



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** May 6, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300002

**APPLICANT:** SS Engineering PLLC

**OWNER:** Hasan Zakaria

**COUNCIL DISTRICT IMPACTED:** District 6

**LOCATION:** 10000 Block of Culebra Road

**LEGAL DESCRIPTION:** Lot 3, Block 7, NCB 18836

**ZONING:** "C-3R" General Commercial Restrictive Alcoholic Sales District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

1) A 154' variance from the required 200' separation to allow the use of a mobile food court within 46' of a residential lot.

Section 35-399

2) A 3' variance from the minimum 15' landscape buffer to allow a 12' landscape buffer.

Section 35-510

**Executive Summary**

The subject property is located east of West Loop 1604 North and approximately 500' east of the Les Harrison Drive and Culebra Road intersection. The applicant, on behalf the property owner, is proposing the development of a mobile food court with no more than (10) food trucks on a vacant commercial lot located on the 10000 block of Culebra Road. As the subject property is within 200-feet of a single-family residential community, the applicant is seeking a 154' variance

from the required 200' separation to allow the proposed mobile food court to be within 46' of the neighboring residential properties. Additionally, the applicant is requesting a 3' landscape buffer variance from the minimum 15' landscape buffer requirement to allow for a 12' landscape buffer to better accommodate the use of space on the property. The issuance of a building permit is pending the outcome of the Board of Adjustment. This development would require a minimum 6' fence in the rear, providing a separation from the residential lots.

### **Code Enforcement History**

No Code Enforcement history found.

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 68296 dated, December 30, 1989, and zoned Temporary "R-1" Single-Family Residence District. The property was rezoned by Ordinance 71383 dated, April 12, 1990, from Temporary "R-1" Single-Family Residence District 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 "C-3R" General Commercial Restrictive Alcoholic Sales District.

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

#### **Existing Zoning**

"C-3R" General Commercial Restrictive Alcoholic Sales District

#### **Existing Use**

Vacant Land

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

#### **North**

#### **Existing Zoning**

"C-3R" General Commercial Restrictive Alcoholic Sales District

#### **Existing Use**

Vacant Land

#### **South**

#### **Existing Zoning**

"C-2" Commercial District

#### **Existing Use**

Public School

Vacant Land

#### **East**

#### **Existing Zoning**

"C-2NA" Commercial Nonalcoholic Sales District

#### **Existing Use**

Vacant Land

**West**

**Existing Zoning**

“C-3R” General Commercial Restrictive Alcoholic Sales District

**Existing Use**

Retail Store

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Northwest Community Plan and is designated as “Neighborhood Commercial” in the future land use component of the plan. The subject property is located within the notification area of the Hidden Meadow Neighborhood Association, and they have been notified of the request.

**Street Classification**

Culebra Road is classified as a Primary Arterial Type A 120’.

**Criteria for Review – Mobile Food Court Residential Separation and Landscape Buffer 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.*

(Mobile Food Court) The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum distance requirements for mobile food courts and the impact they may have on proximity to single-family residentially zoned districts. The applicant is requesting a variance to deviate from the minimum 200’ requirement to allow a mobile food court to be 46’ from the neighboring residential property, which is contrary to the public interest as this will severely reduce the distance needed to ensure neighboring residential communities are provided privacy and noise control from multiple food trucks and patrons.

(Landscape Buffer) The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by complying with landscape buffer standards to improve property and community appearance and provide an environmentally sustainable barrier for the surrounding area. The applicant is requesting a 3’ landscape buffer variance to allow a mobile food court to be 12’ from the property line. The reduced buffer yard does not provide suitable green space for the intended use as a mobile food court and so is contrary to the public interest.

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

(Mobile Food Court) A literal enforcement of the ordinance would result in the applicant the inability to develop a mobile food court as abutting residential properties are inside 200-feet. This

would not result in an unnecessary hardship as the buffer exists to protect residential property owners from the intensity a mobile food court brings.

(Landscape Buffer) A literal enforcement of the ordinance would result in the applicant providing a 15' landscape buffer for a mobile food court which would not result in an unnecessary hardship as staff found no special conditions on the subject property that would warrant the need for a buffer yard reduction.

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

(Mobile Food Court) The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. A reduction of residential separation for the development of a mobile food court does not observe the spirit of the ordinance as it would not provide adequate distance between residential and high intensity nonresidential use.

(Landscape Buffer) The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. A reduction to the landscape buffer to 12' for the development of a mobile food court does not observe the spirit of the ordinance as it would not provide adequate landscape separation between nonresidential use and the primary arterial.

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.*

(Mobile Food Court) If granted, the reduced distance is likely to cause harm to the adjacent properties, as the 200' separation regulates the safety and privacy for the neighboring residential properties as well as reduce noise and light pollutants produced by the mobile food courts. Reducing the distance to 46' would injure the neighboring properties and alter the essential character of the district.

(Landscape Buffer) If granted, reduction to the landscape buffer is likely to cause harm to the character of the arterial and adjacent properties, as buffer requirements are regulated to provide natural privacy screen between neighboring properties, reduce noise pollutants and promote a sense of character for the community.

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.*

(Mobile Food Court) 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.

(Landscape Buffer) 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.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the mobile food court residential separation as well as the landscape buffer regulations per UDC Sections 35-399 and 35-510.

**Staff Recommendation – Residential Separation Variance**

Staff recommends Denial in BOA-24-10300002 based on the following findings of fact:

1. A 154' separation variance would injure residential properties as it does not provide an acceptable distance between residential and nonresidential use.
2. The applicant can reduce the number of mobile food trucks allowed on the property to accommodate the required distance.

**Staff Recommendation – Buffer Variance**

Staff recommends Denial in BOA-24-10300002 based on the following findings of fact:

1. The buffer will not adequately protect residences from light and noise.
2. The reduced buffer will alter the essential character of the district.