

Case Number:	BOA-22-10300195
Applicant:	Claymoore Engineering
Owner:	6202 N IH35 Rittiman LLC
Council District:	2
Location:	6202 N IH 35
Legal Description:	Lot WEST IRR 46037 FEET of 4, Block, NCB 12191
Zoning:	"C-2 MLOD-3 MLR-2 AHOD" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for 1) a 10' landscape buffer variance from the 15' landscape buffer to allow a 5' landscape buffer along the street frontages, 2) a 29' landscape buffer variance from the 30' landscape buffer to allow a 1' landscape buffer along the northern property line, and 3) a 25' landscape buffer variance from the 30' landscape buffer to allow a 5' landscape buffer along the eastern property line.

Executive Summary

The subject property is located at the intersection of IH-35 and Rittiman Road. The applicant is requesting reduced buffers for 5' on IH-35, 1' on the northern property line and 5' on the eastern property line. The buffer is required due to the abutting industrial use and frontage on a major arterial. Tree/Landscape plans have not been submitted for review to the Development Services Department's Tree Review division.

Code Enforcement History

There are no relevant Code Enforcement violations in relation to this variance request.

Permit History

There are not applicable building permits on file.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 39443, dated May 26, 1971, and zoned "F" Local Retail District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "F" Local Retail District converted to the current "C-2" Commercial District

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-2 MLOD-3 MLR-2 AHOD" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Convenience Store

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"I-1 MLOD-3 MLR-2 AHOD" General Industrial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Land
South	"C-2 MLOD-3 MLR-2 AHOD" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Convenience Store
East	"I-2 MLOD-3 MLR-2 AHOD" Heavy Industrial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Fast Food Restaurant
West	ROW	North IH-35

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located in a Comprehensive Plan. The subject property is not located within a boundary of a neighborhood association.

Street Classification

North Interstate 35 is classified as an Interstate Highway.

Criteria for Review - Variances

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 variance request is to allow landscape buffers on the street frontages, the northern property line and the eastern property line to be reduced to less than the minimum requirements.

Staff finds an alternate recommendation for the landscape buffers to be 7' 5" along the street frontage frontages, 1' along the North property line and 7'-5" along the eastern property line to better serve the public interest as it will allow for more adequate space.

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

A literal enforcement of the ordinance would result in having to meet the landscape buffer requirements along the street frontages, northern property line, and the eastern property line. The subject property currently has an existing structure situated close to the street and side property line.

The subject property would have more open spaces for parking and impervious cover in general.

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 proposed 5' landscape buffer along the streets, 1' along the northern property line and 5' along the eastern property line which is likely to negatively affect the adjacent neighboring properties does not observe the spirit of the ordinance.

An alternate recommendation for the landscape buffer variance would observe the spirit of the ordinance by still maintaining the buffer.

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 property will be subject to maintain a 5' landscape buffer along the street frontages, 1' along the northern property line and 5' along the eastern property line which is likely to negatively affect the adjacent neighboring properties.

In order to mitigate any adverse effects on neighboring properties, it is recommended that the landscape buffers maintain the following: 7'-5" landscape buffer along the for street frontages, 1' along the northern property line and 7'-5" along the eastern property line.

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.*

It appears 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 location of the lot which contains an existing building. The variance request is not merely financial.

Alternative to Applicant's Request

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

Staff Recommendation – Landscape Buffer Variance

Staff recommends Denial **with an Alternate Recommendation for 1) a 7'-5" landscape buffer variance from the 15' landscape buffer to allow a 7'-5" landscape buffer along the street frontages, 2) a 29' landscape buffer variance from the 30' landscape buffer to allow a 1' landscape buffer along the Northern property line. 3) and a 22'-5" landscape buffer variance from the 30' landscape buffer to allow a 7'-5" landscape buffer along the Eastern property line in BOA-22-10300195** based on the following findings of fact:

1. The surrounding area is in need of more green space; and
2. The subject property currently has an existing structure situated close to the street and side property line; and