

Case Number:	BOA-22-10300179
Applicant:	Charles Riley
Owner:	Cielo Hills LLC
Council District:	3
Location:	2819 South East Military Drive
Legal Description:	Lot TR-2, NCB 10979
Zoning:	“C-2 AHOD” Commercial Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 15’ variance from the 30’ rear setback requirement, as described in Section 35-310.01, to allow a structure to have a 15’ rear setback.

Executive Summary

The subject property is currently an undeveloped area and is located along SE Military Drive near South New Braunfels Avenue. The applicant is requesting a 15’ variance from the 30’ rear setback requirement due to the subject property abutting a multi-family apartment complex. The intention of this variance is to build a commercial shopping center on the lot.

Code Enforcement History

There are no code enforcement violations for this property.

Permit History

December 2021- Tree Affidavit Permit

Zoning History

The property was annexed into the City of San Antonio by Ordinance 18155, dated September 24, 1952 and zoned “B” Residence District. The property was rezoned by Ordinance 34688, dated August 4, 1966 to “R-3” Multiple-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-3” Multiple-Family Residence District converted to “MF-33” Multi-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-2 AHOD” Commercial Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Apartment Complex
South	“C-3 HS AHOD” General Commercial Historic Significance Airport Hazard Overlay District	Vacant Lot
East	“C-2 AHOD” Commercial Airport Hazard Overlay District”	Vacant Lot

West	“IDZ-2 AHOD” Mid-Intensity Infill Development Zone Airport Hazard Overlay District with Uses Permitted in C-2	Vacant Lot
------	---	------------

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Brooks Area Regional Center and is designated “Urban Mixed Use” in the future land use component of the plan. The subject property is located within the boundary of the Highland Hills Neighborhood Association, and they have been notified of the request.

Street Classification

Southeast Military is classified as a principal 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 defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to have a 15’ variance from the 30’ rear setback requirement to allow a commercial shopping center to have a 15’ rear setback. The proposed variance allows for more parking on the property, which would reduce the traffic flow through the proposed parking lot and is not contrary to the public interest.

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 the applicant having to abide by the 30’ rear setback requirement. The size and shape of the subject property is irregular.

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 variance will not adversely affect surrounding properties in the immediate area and will allow for the development of a vacant lot.

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 does not find evidence that the requested variance would alter the essential character of the district, as it is fully consistent with the Brooks Area Regional Center SA Tomorrow Plan and the Urban Mixed-Use Category that is applicable to the property. Additionally, the applicant is proposing to construct a retaining wall between the subject and adjacent properties.

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 small amount of available space on the lot.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Zoning District Design Regulations of the UDC Section 35-310.01.

Staff Recommendation – Rear Setback Variance

Staff recommends **Approval of a 15' variance from the 30' rear setback requirement to allow a structure to have a 15' rear setback in BOA-22-10300179** based on the following findings of fact:

1. The applicant is requesting a variance prior to obtaining a building permit; and
2. Construction of a retaining wall will provide separation to the adjacent property; and
3. There is limited amount of space available to comply with the rear setback requirement; and
4. The structure will conform to the front and side setback requirements.