

Case Number:	BOA-22-10300153
Applicant:	Parra & Co., LLC
Owner:	Southton Road Venture LTD
Council District:	3
Location:	14135 IH 37 South
Legal Description:	Lot P-297, NCB 16626
Zoning:	“C-2 CD” Commercial Conditional Use Manufactured Home Sales/Storage District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for a variance to reduction number of trees and shrubs within the Type B Landscape Buffer, as described in Section 35-510, to 1 for every 100 lineal feet along the front property line.

Executive Summary

The subject property is located on IH 37 South just south of the intersection of Southton Road. The applicant is requesting a landscape buffer variance for their property to reduce the number of trees and shrubs within the Type B buffer along the front property line. The buffer requirement requires trees and shrubs along the front property line, however the applicant states that trees and shrubs along the front property line will block the view of the mobile homes while being displayed for sale.

Code Enforcement History

There are no relevant code compliance cases for the subject property.

Permit History

There are no relevant building permits for the subject property.

Zoning History

The property was annexed by Ordinance 66019 on December 30, 1987. The property was rezoned by Ordinance 99558, dated August 12, 2004, to “RD” Rural Development District. The property was rezoned by Ordinance 2021-03-04-0153, dated March 4, 2021 to “C2 CD” Commercial District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-2 CD” Commercial Conditional Use Manufactured Home Sales/Storage District	Vacant Commercial

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RD” Rural Development District	Car Wash
South	OCL-PMT	Vacant Commercial
East	“RD” Rural Development District	Fire Station
West	“ROW” Right of Way	IH 37 South Access Road

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located in the Heritage South Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is not located within a neighborhood association.

Street Classification

IH 37 South is classified as a Major Arterial.

Criteria for Review –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.*

The public interest is defined as the general health, safety, and welfare of the public. The applicant has requested a variance to reduce the number of trees and shrubs within the Type B Landscape Buffer to 1 for every 100 lineal feet along the front property line.

- 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 required number of trees and shrubs being required within the Type B landscape buffer. This would result in an unnecessary hardship.

- 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 reduction in the number of trees and shrubs within the Type B Landscape Buffer to 1 for every 100 lineal feet along the front property line will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate 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.*

If granted, the landscape buffer variance will not alter the essential character of the district.

- 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. The unique character of the business would be hindered by the existing buffer standard.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Landscape Buffer requirements listed in Section 35-510.

Staff Recommendation –Landscape Buffer Variance

Staff recommends **Approval** in **BOA-22-10300153** based on the following findings of fact:

1. The required trees and shrubs can be located in other areas of the property; and
2. The landscape buffer will not alter the essential character of the district.