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|--------------------|---|
| Case Number:       | BOA-22-10300202   |
| Applicant:         | Marek Sieczynski  |
| Owner:             | Salehi Family LTD   |
| Council District:  | 5   |
| Location:          | 5711 South IH 35 and 930 Fitch Street   |
| Legal Description: | Lot 20, Block 3, NCB 8951 and Lot 15 and 16, Block 18, NCB 7881   |
| Zoning:            | “C-1 MLOD-2 MLR-2 AHOD” Light Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District and “R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District with a Conditional Use for a Noncommercial Parking Lot |
| Case Manager:      | Vincent Trevino, Senior Planner   |

### **Request**

A request for 1) a 25’ variance from the minimum 30’ rear setback, as described in Section 35-310.01, to allow structures to be 5’ from the rear property line, 2) a 10’ variance from the minimum 15’ rear buffer, as described in Section 35-510, to allow structures to be 5’ from the rear property line, 3) a 5’ variance from the minimum 15’ side buffer, as described in Section 35-510, to allow a structure to be 10’ from the side property line, and 4) a 10’ variance from the minimum 15’ Type B buffer, as described Section 35-510, to allow parking to be 5’ from the side property line.

### **Executive Summary**

The subject property is located along South IH 35, just north of the intersection West Southcross Boulevard and is currently a vacant lot. The applicant is requesting side, rear and landscape buffer variances for the development of multiple office buildings, and a side buffer variance for parking in the northern lot.

### **Code Enforcement History**

There are no code violations for this property.

### **Permit History**

There are no permits on file for the property.

### **Zoning History**

The property was annexed into the City of San Antonio by Ordinance 1391, dated September 22, 1944 and zoned “B” Residence District. The property was rezoned from “B” Residence District to “B-2NA” Non-alcoholic Sales Business District and “O-1” Office District by Ordinance 86316, dated July 24, 1997. The property converted from “B” Residence District, “B-2NA” Non-alcoholic Sales Business District, and “O-1” Office District to the current “R-4” Residential Single-Family District, “C-2NA” Commercial Nonalcoholic Sales District, and “O-2” High-Rise Office District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001. Ordinance 2019-02-21-0165 dated March 3, 2019 rezoned the property to "R-4 CD" Residential Single-Family District with Conditional Use for a Noncommercial Parking Lot, and "C-1" Light Commercial District.

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

| <b>Existing Zoning</b>   | <b>Existing Use</b> |
|--|---------------------|
| “C-1 MLOD-2 MLR-2 AHOD” Light Commercial<br>Lackland Military Lighting Overlay Military Lighting<br>Region 2 Airport Hazard Overlay District and “R-4 CD<br>MLOD-2 MLR-2 AHOD” Residential Single-Family<br>Lackland Military Lighting Overlay Military Lighting<br>Region 2 Airport Hazard Overlay District with a<br>Conditional Use for a Noncommercial Parking Lot | Vacant              |

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

| <b>Orientation</b> | <b>Existing Zoning District(s)</b>   | <b>Existing Use</b>               |
|--------------------|--|-----------------------------------|
| North              | “R-4 MLOD-2 MLR-2 AHOD” Residential<br>Single-Family Lackland Military Lighting<br>Overlay Military Lighting Region 2 Airport<br>Hazard Overlay District | Vacant Residential                |
| South              | “R-4 MLOD-2 MLR-2 AHOD” Residential<br>Single-Family Lackland Military Lighting<br>Overlay Military Lighting Region 2 Airport<br>Hazard Overlay District | Single-Family Residence           |
| East               | ROW  | Interstate Highway<br>Access Road |
| West               | “R-4 MLOD-2 MLR-2 AHOD” Residential<br>Single-Family Lackland Military Lighting<br>Overlay Military Lighting Region 2 Airport<br>Hazard Overlay District | Vacant Residential                |

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

The subject property is in the Nogalitos/South Zarzamora Plan and is designated “Neighborhood Commercial” and “Low Density Residential” in the future land use component of the plan. The subject property is located within the Tierra Linda Neighborhood Association and were notified of the case.

### **Street Classification**

5711 South IH 35 is classified as a Major Arterial.

### **Criteria for Review – Side and Rear Setback 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.*

**The variance for the rear setback to allow a structure to be 5’ from the rear property line and the side buffer to allow a structure to be 10’ from the side property line and the landscape buffer to be 5’ does not appear to be 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 maintain 30' from the rear property line and 10' from the side property line and 15' landscape buffer requirement. Staff finds an unnecessary hardship since the lot is too small to allow the development of a structure with this requirement.**

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

**The structure has not been constructed and the proposed setback is 5' from the rear property line, 10' from the side property line and 5' landscape buffer for a parking lot. The spirit of the ordinance will be observed as there will still be reasonable space between the structure and neighboring properties.**

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. The area in which the subject property is located has several similar sized lots.**

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.*

**Because of the width of the lot and configuration of the existing property the request is not merely financial.**

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the setback requirements of the Unified Development Code Section 35-310.01 and Section 35-510.

### **Staff Recommendation – Side and Rear Setback and Landscape Buffer Variance**

Staff recommends **Approval** in **BOA-22-10300202** based on the following findings of fact:

1. The structure has not been constructed; and
2. There is a limited amount of space available to comply with the side and rear setback and landscape buffer variances to develop multiple structures.