

Case Number:	BOA-22-10300261
Applicant:	Elizabeth Haynes Architect
Owner:	Rise Recovery
Council District:	1
Location:	2803 Mossrock Drive
Legal Description:	Lot 40, Block 6, NCB 13266
Zoning:	"O-1.5 AHOD" Mid-Rise Office Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 2' special exception from the maximum 6' fence height requirement as described in Section 35-514, to allow a predominately open fence to be 8' tall along the rear and side yard, 2) a 3' special exception from the maximum 5' front fence height requirement, as described in Section 35-514, to allow a predominately open fence to be 8' tall along the front yard, and 3) a 7' variance from the minimum 15' clear vision requirement, as described in Section 35-514(a)(2), to allow a fence to be 8' from the front and side driveways.

Executive Summary

The subject property is located along Mossrock Drive near the intersection of Vance Jackson Road and Northwest Loop 410. The applicant constructed an 8' fence in the front, rear, and side yards. Additionally, the fence encroaches into the clear vision area for the front and side driveways. Upon site visits conducted by staff, the fence measured 8' from the front and side driveways. Fences that are constructed in the front yard are allowed to be 5', if predominantly open, and 6' in the side and rear yards. Furthermore, fences are required to maintain a minimum distance of 15' when located near a driveway.

Code Enforcement History

There is no relevant code enforcement history for the subject property.

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Electrical General Permit- September 2021

Electrical TML Permit- September 2021

Fire Sprinkler Permit- June 2021

Fire Alarm Permit- June 2021

Fire Underground Fire Line Permit- April 2021

Electrical General Permit- March 2021

Commercial New Building Permit-March 2021 (Building No: 2; Unit No: 2)

Commercial New Building Permit-March 2021 (Building No: 1; Unit No: 1)

Commercial Retaining Wall Permit- March 2021

Commercial Sitework Permit- March 2021

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and originally zoned "A" Single-Family Residence District. The property rezoned by ordinance 34804, dated September 15, 1966 to "R-3" Multiple-Family Residence District. The property rezoned again under Ordinance 37775, dated August 7, 1969, to "O-1" Office District. The property rezoned again under Ordinance 48038, dated May 19, 1977, to "B-1" Business District. Under the 2001 Unified Development Code, established by Ordinance 93881,

dated May 03, 2001, the property zoned “B-1” Business District converted to “C-1” Light Commercial District. The property rezoned under Ordinance 2017-05-18-0356, dated May 18, 2017, from “C-1” to the current “O-1.5” Mid-Rise Office District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“O-1.5 AHOD Mid-Rise Office Airport Hazard Overlay District	Addiction Recovery Center

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“C-3NA AHOD Commercial Nonalcoholic Sales Airport Hazard Overlay District	Workforce Training Center
East	“C-2 AHOD Commercial Airport Hazard Overlay District	Vacant Commercial
West	“R-5 AHOD Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the North Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is located within a boundary of Colonial Hills Neighborhood Association and they have been notified of this request.

Street Classification

Mossrock Drive is classified as a local road.

Criteria for Review – Fence Height Special Exception

According to Section 35-482(h) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

A. The special exception will be in harmony with the spirit and purpose of the chapter

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence height being requested is predominantly open, located along the front, side, and rear property lines and does not exceed 8’ in height. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

B. The public welfare and convenience will be substantially served.

In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence be requested will be located along the front, side, and rear property lines and is exceeding the maximum height requirement by 2’ and 3’. The fence is predominantly open which still serves the public welfare and convenience.

C. The neighboring property will not be substantially injured by such proposed use.

The fence will create enhanced security and privacy for the subject and adjacent properties. Additionally, there is 30' public earthed channel, which separates the residentially zoned districts from the subject property.

D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

The additional fence height in the front, side, and rear yards of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts are commercially zoned. Additionally, the property is zoned for more intense commercial uses that would be beneficial to add an 8' fence.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district

The requested special exception will not weaken the general purpose of the district.

Criteria for Review – Clear Vision 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 clear vision variance to allow a fence to be 8' from the front and side driveways. Staff finds that this request will not be contrary to the public interest as this is an acceptable distance.

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 re-constructing the fence to meet the minimum 15' clear vision requirement for the front and side driveways. This would result in an unnecessary hardship as there exists 8' clear vision on a driveway that would not have any vehicles back out.

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

The clear vision request to allow a fence to be 8' from the front and side driveways will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed.

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 clear vision distance will be maintaining 8' from the front and side driveways, which is not likely to 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, such as abutting an alley to the rear. The circumstances do not appear to be merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Height Regulations of the UDC Section 35-514 and Fence Clear Vision Area of the UDC Section 35-514 (a)(2).

Staff Recommendation – Fence Height Special Exception

Staff recommends **Approval** in **BOA-22-10300261** based on the following findings of fact:

1. The fence will create enhanced security and privacy for the subject and adjacent properties; and
2. The property is separated from residential areas by a public earthed channel.

Staff Recommendation – Clear Vision Variance

Staff recommends **Approval** in **BOA-22-10300261** based on the following findings of fact:

1. The driveway will not have any vehicles backing out; and
2. The clear vision request to allow a fence to be 8' from the front and side driveways will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed.