

Case Number:	BOA-23-10300102
Applicant:	Brevity Coffee Company
Owner:	Albuquerque Family Trust
Council District:	6
Location:	6005 and 6007 Tezel Road
Legal Description:	Lot 2, Block 1, NCB 18830
Zoning:	“C-3R AHOD” General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 120’ variance from the minimum 200’ distance requirement, as described in Section 35-399 (a)(1)(c), to allow a Mobile Food Court to be 80’ from a single-family lot.

Executive Summary

The subject property is located along Tezel Road north of Culebra Road on the northwest side of San Antonio. The subject property is currently a coffee shop with drive thru service, with the applicant seeking a variance to place three (3) mobile food establishments less than two hundred (200) feet from the property lines of a single-family residential use. Per the UDC, a “mobile food court” is a parcel or group of parcels of land where three (3) or more mobile food establishments congregate to offer food or beverages for sale to the public and must be located at least two hundred (200) feet away from any single-family zoning use or district. The two-hundred-foot minimum distance is measured from property line to property line. In this case, the distance measured to be 80’ from the nearest residential single-family use located directly across the street of the subject property. The property is required to have a 15’ Type B Buffer along Tezel Road.

Code Enforcement History

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

Permit History

Electrical General Permit (MEP-ELE-PMT22-33340463)- December 2022
 Plumbing Sewer Permit (MEP-SEW-PMT22-34837729)- November 2022
 Plumbing General Permit (MEP-PLM-PMT22-34332323)- October 2022
 Commercial New Building Permit (COM-BLG-PMT22-40200835)- August 2022
 Commercial Sitework Permit (COM-SIT-PMT22-40100374)- August 2022
 On-Premises Sign (SIG-OPS-PMT22-21501086)- July 2022
 Demolition Permit (DEM-DEM-PMT22-39200228) - June 2022

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 68296, dated December 30, 1989, and originally zoned “R-1” Single-Family Residence District. The property rezoned under Ordinance 71383 dated April 12, 1990, from “R-1” Single Family Residence District to “B-2” Business District. The property rezoned under Ordinance 73206 dated February 28, 1991, from “B-2” Business District to “B-3R” Restrictive Business District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B-3R” Restrictive Business District converted to the current “C-3R” General Commercial Restrictive Alcoholic Sales District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-3R AHOD” General Commercial Restrictive Nonalcoholic Sales Airport Hazard Overlay District	Coffee Shop

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3R AHOD” General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Storage Units
South	UZROW	Drainage ROW
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“C-3R AHOD” General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Storage Units

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near Northwest Neighborhood Community Perimeter Plan and is designated as “Neighborhood Commercial” in the future land use component of the plan. The subject property is located less than 200’ of the Great Northwest Community Improvement Neighborhood Association and they have been notified of the request.

Street Classification

Tezel Road is classified as a Secondary Arterial Type A.

Criteria for Review – Mobile Food Court 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. In this case, the public interest represented by minimum distance requirements for mobile food courts and the impact they may have on proximity to single-family residentially zoned districts. The applicant is requesting a variance to deviate from the minimum 200’ requirement, which is not contrary to the public interest as there is an 81’ Right of Way, commercial use, and an existing 55’ drainage Right of Way separating the subject property from the surrounding residential uses.

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

The special condition found on the subject property is amount of space on the property is limited to place the mobile food court. Without the variance, the applicant would be limited to two food trucks, as the measurement is calculated from property line to property line.

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. By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done, as the mobile food court use, nor any seating areas will be in a required zoning setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement and/or fire lane.

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 mobile food court will be located 81' from the nearest residentially zoned district. This will not substantially injure the appropriate use of adjacent conforming properties, as the abutting zoning districts to the west and north are zoned "C-3R", which allow for more intense commercial uses. The request does not seem to cause any harm to adjacent property owners as the variance will not appear to create parking on residential local streets does not appear an issue created.

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 limited buildable area without imposing into the minimum distance requirement. 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 Location and Placement requirements for Mobile Food Courts of the UDC in Section 35-399 (a)(1)(c).

Staff Recommendation – Mobile Food Court Variance

Staff recommends **Approval** in **BOA-23-10300102** based on the following findings of fact:

1. An 81' Right of Way, commercial use, and an existing 55' drainage Right of Way separate the subject property from the surrounding residential uses; and
2. Without the variance, the applicant would not be able to have a mobile food court, as space is limited and imposes into the minimum distance requirement anywhere on the subject property.