

Case Number:	BOA-23-10300217
Applicant:	Alamo Consulting Services
Owner:	Linton Weems
Council District:	10
Location:	2523 Nacogdoches Road
Legal Description:	Lot 8, Block 1, NCB 11974
Zoning:	"C-2 AHOD" Commercial Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for 1) a 21'-2" variance from the required minimum 30' rear setback, as described in Section 35-310.01, to allow a structure with an 8'-10" rear setback and 2) a request for a 6'-2" variance from the minimum 15' Landscape Buffer, as described in Sec 35-510, to allow an 8'-10" Landscape Buffer on the western property line.

Executive Summary

The subject property is located on Nacogdoches Road, North of Loop 410, between the intersections of Danbury Drive and Blossom Drive. Applicant constructed a structure with a permit that encroaches on the rear setback and buffer. The permit applied for did not indicate any building expansion. Development Services Strike Team issued a Building Investigation (INV-BLD-INV23-23200559)-March 2023. Electrical (INV-ELE-INV23-23300556)- March 2023, Mechanical (INV-MEC-INV23-23400554)- March 2023, and Plumbing (INV-PLB-INV23-23500555)-March 2023 Investigations were also issued. The structure was constructed for office use purposes.

Code Enforcement History

Building Investigation (INV-BLD-INV23-23200559)- March 2023
Electrical Investigation (INV-ELE-INV23-23300556)- March 2023
Mechanical Investigation (INV-MEC-INV23-23400554)- March 2023
Plumbing Investigation (INV-PLB-INV23-23500555)-March 2023

Permit History

Building/Permits/Minor Commercial Repair Permit/Permit (REP-CRP-PMT21-35400354)
October 2021

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

Zoning History

The property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952 and zoned "B" Residence District. The property was rezoned by Ordinance 50980, dated July 12, 1979 to "B-2" Business District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B-2" Business District converted to the current "C-2" Commercial District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-2 AHOD" Commercial Airport Hazard Overlay District	Office

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“C-2 AHOD” Commercial Airport Hazard Overlay District	Restaurant
East	“C-2 AHOD” Commercial Airport Hazard Overlay District	Gas Station
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the San Antonio International Airport Vicinity Plan and is designated as “Community Commercial” in the future land use component of the plan. The subject property is not located within the boundary of a registered Neighborhood Associations.

Street Classification

Nacogdoches Road is classified as a minor Secondary Arterial Type A.
Danbury Drive is classified as a Local Street.

Criteria for Review – Rear Setback and 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. In this case, the public interest is represented by restricted rear setback and buffer yard to provide spacing between the commercial use lot and the abutting residential lot. The applicant is requesting a variance to the rear setback and buffer yard to be 8’-10” from the rear property line. Staff finds this distance is not suitable, as it imposes on the public interest of the adjacent residential neighbor by being too close to the shared property line and commercial uses.

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

Staff found no special conditions on the subject property that warrant the need for the structure to have an 8’-10” rear setbacks and buffer yard. No unnecessary hardship seems to be presented in this case, as the applicant could redesign the addition.

- 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. In this case, the intention is for sufficient spacing between a commercial use and a residential use to the rear. The structure does not observe the spirit of the ordinance or intent of the code as it will be too close to the shared property line and neighboring residential 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.*

If granted, the structure will maintain 8'-10" from the rear property line, which is likely to injure the appropriate use of the adjacent conforming property by having commercial uses close to the residential side property line.

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 found no unique circumstances on the subject property that would warrant the need for a reduced rear setback and buffer yard. Additionally, if the applicant had obtained permits for the addition, the setback dialogue would have been communicated.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Structure Setback of the UDC Section 35-310.01 and conform to the Buffer Requirements of the UDC Section 35-510.

Staff Recommendation – Rear Setback and Buffer Variance

Staff recommends Denial in BOA-23-10300217 based on the following findings of fact:

1. This distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared residential property line; and
2. The spirit of the ordinance is not being observed as it increases commercial uses close to the residential side property line.