

Case Number:	BOA-23-10300239
Applicant:	Brown & McDonald PLLC
Owner:	MG Building Materials LTD
Council District:	4
Location:	9501 New Laredo Highway
Legal Description:	Lots P-1A, P-1D, P-89, P-1F, P-11F, P-91, and P-12, NCB 14492
Zoning:	“C-3R CD MLOD-2 MLR-1 AHOD” General Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District with a Conditional Use for a Lumber Yard and “C-3R MLOD-2 MLR-1 AHOD” General Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 15’ variance from the required 15’ buffer, as described in Section 35-510, to allow the elimination of a buffer on the front property line.

Executive Summary

The subject property is located along New Laredo Highway, south of Quintana Road and Cassin Road. It is 20.574 acres, with 738 feet of frontage on New Laredo Highway. With the current zoning designation of C-3R, it is required that properties have a required Type B landscape buffer of 15’ along New Laredo Highway. A buffer yard is the required installation of landscaping and screening materials between zoning districts and certain uses. The applicant is proposing to eliminate this requirement, to prevent the loss of parking and driveways.

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 Tree Affidavit Permit (TRE-AFF-PMT23-39000908)- April 2023
Commercial New Building Permit (COM-BLG-PMT22-40200986)- October 2022
Commercial Sitework Permit (COM-SIT-PMT22-40100455)- October 2022

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 81105, dated December 30, 1994, and originally zoned Temporary “R-1” Single-Family Residence District. The property rezoned under Ordinance 82683, dated August 24, 1995 from Temporary “R-1” Single-Family Residence District to current “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 CD MLOD-2 MLR-1 AHOD” General Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District with a Conditional Use for a Lumber Yard and “C-3R MLOD-2 MLR-1 AHOD” General Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Lumberyard

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“I-1 S MLOD-2 MLR-1 AHOD” Industrial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District with a Specific Use Authorization for a Wooden Truss Manufacturing Business	Lumberyard
South	“C-3R MLOD-2 MLR-1 AHOD” General Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Auto Parts Recycler
East	ROW	Railroad
West	“C-3R MLOD-2 MLR-1 AHOD” General Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Auto Parts Recycler

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/Southwest Sector Plan and is designated “Agribusiness Tier” in the future land use component of the plan. The subject property is not located within the boundaries of a registered neighborhood association.

Street Classification

New Laredo Highway is classified as a Secondary Arterial Type A.

Criteria for Review – Buffer Yard 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 buffer yard requirements to provide landscaped separation between uses and to screen from view certain land uses that may create visual clutter and distraction. The applicant is proposing to eliminate the minimum 15’ buffer along New

Laredo Highway. This request is contrary to the public interest, as buffering assists the screening of unsightly equipment or materials from the view of persons on public streets or adjoining properties.

A reduction to a 7'-6" buffer yard would leave enough separation from the property and the public right of way and would not be contrary to the public interest.

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

Staff was unable to find any special conditions on the subject property to warrant the need for the elimination of the buffer yard. A literal enforcement of the ordinance would result in the applicant incorporating the minimum 15' buffer yard, which not result in an unnecessary hardship, as the property is 20.574 acres and could accommodate the parking elsewhere on the property.

A 7'-6" buffer yard would eliminate any unnecessary hardships from the developer while maintaining half of the required buffer yard.

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 elimination of the buffer yard will not adhere to the spirit of the ordinance, as buffer yards are intended to serve the environment, which help create a more livable and sustainable urban environment.

Maintaining half of the buffer yard would be in spirit of the ordinance as it will help create a sustainable urban environment.

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 subject property will have no buffer yard along New Laredo Highway. The granting of this variance will injure the appropriate use of adjacent conforming properties and alter the essential character of the district. The property is abutting a Right of Way, which if eliminated, can affect the appearance of the streetscape.

While the area appears to have been established prior to any buffer yard standard, a reduced buffer yard will help keep 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 not due to unique circumstances existing on the property. Providing a 15' landscape buffer along New Laredo Highway is attainable within a 20.574-acre property. 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 Buffer Yard Requirements of the UDC Section 35-510.

Staff Recommendation – Buffer Yard Variance

Staff recommends Denial **with an Alternate Recommendation for a 7'-6" buffer yard variance** in BOA-23-10300239 based on the following findings of fact:

1. This request is contrary to the public interest, as buffering assists the screening of unsightly equipment or materials from the view of persons on public streets or adjoining properties; and
2. The subject property is 20.574 acres and could accommodate the parking elsewhere on the property; and
3. The reduced 7'-6" buffer yard will protect the essential character of the district.