

Case Number:	BOA-21-10300161
Applicant:	Roi Biton
Owner:	Promisedland Investments Properties & Rentals LLC
Council District:	2
Location:	1407 North Pine Street
Legal Description:	Lot 45, Block 3, NCB 495
Zoning:	“C-2 CD AHOD” Commercial Airport Hazard Overlay District with Conditional Use for Auto Rental
Case Manager:	Kayla Leal, Principal Planner

**Request**

A request for a 14’ 11” variance from the landscape buffer requirement to allow 1” landscape buffer along the northern side and rear property lines.

**Executive Summary**

The subject property is located at the corner of North Pine Street and Duval Street. The applicant is requesting to reduce the landscape buffer in order to accommodate their commercial business and develop the lot with off-street parking for customers. The commercial building is being proposed closer to the corner of North Pine Street and Duval Street, which will be setback an appropriate amount of space from the residentially zoned lots, providing adequate space from the residential structures. The property was rezoned in 2019 to the current zoning district, which was approved with the proposed site plan.

**Code Enforcement History**

There is no relevant Code Enforcement History for the subject property.

**Permit History**

Commercial Project Plans have been submitted and are pending the outcome of the BOA Meeting due to the landscape buffer.

**Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio, and was originally zoned as "A" Residence District. The property converted to "R-5" Single Family Residence District with the adoption of the 1965 Unified Development Code on June 28, 1965 by Ordinance 33412. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May, 03, 2001, the property zoned "R-5" Single Family Residence District converted to "R-5" Residential Single-Family District. The zoning changed from “R-5” to the current “C-2 CD” on November 7, 2019, established by Ordinance 2019-11-07-0933.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-2 CD AHOD” Commercial Airport Hazard Overlay District with Conditional Use for Auto Rental	Vacant Lot

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-5 AHOD" Residential Single-Family Hazard Overlay District.	Single-Family Residence
South	"I-1 AHOD" General Industrial Single-Family Hazard Overlay District.	Warehouse and Industrial Uses
East	"R-5 AHOD" Residential Single-Family Hazard Overlay District.	Single-Family Residence
West	"R-5 AHOD" Residential Single-Family Hazard Overlay District.	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Government Hill Community Plan and is designated "Mixed Use" in the future land use component of the plan. The subject property is located within the Government Hill Alliance Neighborhood Association and they were notified of the case.

**Street Classification**

North Pine is classified as a local road.

**Criteria for Review – 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 public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the landscape buffer in order to allow for parking and better accommodate the development. The property went through a rezoning process with the proposed site plan. The variance 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 provide a 15' landscape buffer, which would reduce the amount of space on the property for off-street parking.**

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. The placement of parking along the property lines abutting the residential properties will provide an adequate buffer between the residences and the commercial buildings and will provide space between structures.**

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.*

**The requested variance is to reduce the landscape buffer on a small lot which would provide off-street parking for customers, which is not likely to injure adjacent properties or 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 the small size of the commercial lot. The request does not appear to be merely financial in nature.**

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

The alternative to the applicant's request is to conform to the Buffer Yard Requirements, as described in Section 35-510.

### **Staff Recommendation – Landscape Buffer Variance**

Staff recommends **Approval** in **BOA-21-10300161** based on the following findings of fact:

1. The submitted site plan was reviewed and approved by City Council as part of the rezoning case in 2019; and
2. The reduced landscape buffer will meet allow for more parking space for the commercial business.