



City of San Antonio

Agenda Memorandum

Agenda Date: March 4, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-24-10300015

APPLICANT: E Z SHOP 7-11 INC

OWNER: Somerset Business LLC

COUNCIL DISTRICT IMPACTED: District 4

LOCATION: 8823 South IH 35

LEGAL DESCRIPTION: Lot 4, Block 1, NCB 17497

ZONING: "C-2 MAOZ-2 MLOD-2 MLR-1 AHOD" Commercial Military Airport Overlay
Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District

CASE MANAGER: Richard Bautista-Vazquez, Planner

A request for

- 1) a 15' variance from the minimum 15' buffer yard and composition to allow a 0' buffer yard and composition to allow a 0' buffer yard and composition along a 193' portion of the southern property line. (Section 35-510)
- 2) a request for an 8' variance from the minimum 10' buffer yard to allow a 2' buffer yard structure encroachment along eastern property line. (Section 35-510)
- 3) a request for a 15' variance from the minimum 30' buffer yard to allow a 15' buffer along northern property line. (Section 35-510)

4) a request for a 30' variance from the minimum 30' buffer composition to allow a 0' buffer composition along northern property line. (Section 35-510)

Executive Summary

The subject property is located along the intersection of Somerset Road and Interstate 35, in the southwest side of San Antonio. The applicant wishes to eliminate the buffer along a 193' southern portion, reduction of the buffer to 2' along the eastern portion, reduction to 15' buffer along the northern portion, and an elimination of buffer composition along northern property line. A similar nearby property observed by staff has similar buffers and compositions. The proposed development is a fuel station with a convenient store. The fuel station will have a 40,000-gallon tank and will be over 100 feet away from any residential use as required by Section 35-397.01 of the Unified Development Code.

Code Enforcement History

There is no code history for the subject property.

Permit History

COM-PRJ-APP24-39800053 - Phased-Minor Plans - 01/09/2024

COM-PRJ-APP23-39803135 - Phased-Complex Plans - 12/27/2023

The issuance of a 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. Ordinance 64961 dated April 30, 1987 rezoned the property 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 current "C-3R" General Commercial Restrictive Alcohol Sales District. Ordinance 2007-02-15-0203 dated February 15, 2007 rezoned the property to "C-2" Commercial District.

Subject Property Zoning/Land Use

Existing Zoning

"C-2 MAOZ-2 MLOD-2 MLR-1 AHOD" Commercial Military Airport Overlay Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District

Existing Use

Vacant Commercial

Surrounding Property Zoning/ Land Use

North

Existing Zoning District(s)

"C-3R MAOZ-2 MLOD-2 MLR-1 AHOD" General Commercial Restrictive Alcohol Sales Military Airport Overlay Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District

"I-1 MAOZ-2 MLOD-2 MLR-1 AHOD" General Industrial Military Airport Overlay Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District

Existing Use

Car Dealership

South

Existing Zoning District(s)

UZROW

Existing Use

Interstate 35

East

Existing Zoning District(s)

C-3R MAOZ-2 MLOD-2 MLR-1 AHOD" General Commercial Restrictive Alcohol Sales Military Airport Overlay Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District

"I-1 MAOZ-2 MLOD-2 MLR-1 AHOD" General Industrial Military Airport Overlay Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District

Existing Use

Vacant Land

West

Existing Zoning District(s)

UZROW

Existing Use

Interstate 35

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/ Southwest Sector Plan and is designated as "Suburban Tier" in the future land use component of the plan. The subject property is not located within the boundary of a registered neighborhood association.

Street Classification

Interstate 35 is classified as an Interstate.

Somerset Road is classified as a Secondary Arterial Type A.

Criteria for Review – Buffer Yard Variances

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 adjacent uses and arterial roadways. The elimination of the buffer yard is not contrary to public interest as it does not negatively impact any surrounding properties or the public.

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 the limitation of the variance request on the southern property line, a limited structure encroachment on the eastern property line, and established commercial use on the northern property line. A literal enforcement of the ordinance would result in the applicant incorporating the minimum buffer yard requirement, which would result in an unnecessary hardship, as the applicant would need to reconfigure the development plans.

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 yards and composition will adhere to the spirit of the ordinance, the request is limited and the established adjacent use would normally not require a bufferyard.

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 reduced and eliminated buffer yards along the perimeter of the property. The appearance of the streetscape will not be altered, if approved.

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 utilizing the irregular shape of the property.

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 Approval in BOA-24-10300015 based on the following findings of fact:

1. The request will not negatively impact surrounding property owners and does not significantly alter the appearance of the district; and
2. The variance requests are limited, and the established adjacent use is commercial.