

Case Number:	BOA-22-10300087
Applicant:	Pape-Dawson Engineers
Owner:	Stone Oak Park II LP
Council District:	6
Location:	Generally located northwest of the Rogers Road and Wiseman Boulevard
Legal Description:	LOT P-42A (3.74) & P-100A (.67), NCB 17642 and Lot P-6B (4.433) & P-16B (10.75), NCB 17640
Zoning:	"MF-33 GC-2" Multi-Family Highway 151 Gateway Corridor District
Case Manager:	Rebecca Rodriguez, Senior Planner

### **Request**

A request for a 61' variance from the maximum 90' front setback requirement, as described in Section 35-310, to allow a structure to be 151' from the front property line.

### **Executive Summary**

The subject property is located along Rogers Road and is currently a vacant lot. The property was rezoned in 2018 to the current "MF-33" Multi-Family District which would allow a multi-family development at a maximum density of thirty-three units per acre. An application was submitted for the construction of a multi-family development on the lot, however during the plan review process it was determined that a setback variance would be required based on the current plans. The applicant is requesting to allow the nearest structure to Rogers Road to be 151' from the front property line. Based on the size of the lot and road classification, the maximum front setback permitted is 90'.

### **Code Enforcement History**

There are no Code Enforcement investigations for the subject property.

### **Permit History**

A permit application for a multi-family development was submitted on January 28, 2022. The issuance of the permit is pending various departmental reviews including the outcome of the Board of Adjustment hearing due to a zoning review hold.

### **Zoning History**

The property was annexed into the City of San Antonio by Ordinance 59776, dated December 31, 1984, and zoned Temporary "R-1" Single-Family Residence District. The property was rezoned to "B-3" Business District by Ordinance 67776, dated August 18, 1988. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B-3" Business District converted to the current "C-3" General Commercial District. The property was rezoned by Ordinance 2018-03-01-0171, dated March 1, 2018, to "MF-33" Multi-Family District.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"MF-33 GC-2" Multi-Family Highway 151 Gateway Corridor District	Vacant Lot

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"MF-33 GC-2" Multi-Family Highway 151 Gateway Corridor District	Multi-Family
South	"C-3 GC-2" General Commercial Highway 151 Gateway Corridor District	Vacant Lot
East	TxDOT ROW	State Highway
West	"C-2" Commercial District	Offices

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Highway 151 and Loop 1604 Area Regional Center Plan and is designated "Regional Mixed Use" in the future land use component of the plan. The subject property is not located within a boundary of a registered neighborhood association.

### **Street Classification**

Rogers Road is classified as a Secondary Arterial Type A.

### **Criteria for Review – Maximum Front Setback 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 allow the proposed multi-family development to have a front setback of 151'. The structure would be situated a reasonable distance from Rogers Road, which 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 redesign of the proposed development to maintain the maximum setback permitted of 90'. Staff finds an unnecessary hardship due to the substantial size of the lot and the street frontage classification.**

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. A 151' setback will observe the spirit of the ordinance, as there is no minimum front setback requirement. Maintaining this distance will provide additional security and safety due to the frontage being off Rogers Road, a Secondary Arterial A roadway.**

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.*

**Staff does not find evidence that the requested variance would alter the essential character of the district. Properties located along Rogers Road all maintain an extended distance from the street due to the size of the lots, therefore the request would not alter the essential character of the neighborhood.**

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 the size and location of the lot. The variance request is not merely financial.**

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

The alternative to the applicant's request is to conform to the Zoning District Design Regulations of the UDC Section 35-310.

#### **Staff Recommendation – Front Setback Variance**

Staff recommends **Approval** in **BOA-22-10300087** based on the following findings of fact:

1. The request does not appear out of character for the area; and
2. The property is substantial in size so a variance to the maximum front setback appears to observe the spirit of the ordinance.