

Case Number:	BOA-23-10300033
Applicant:	Alvin Peters
Owner:	203 W Magnolia Court Apartments LLC
Council District:	10
Location:	14807 O'Connor Road
Legal Description:	Lot 11, Block B, NCB 15705
Zoning:	"C-2 AHOD" Commercial Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 20' variance from the maximum 25' height requirement, as described in Section 35-310.01, to allow a structure height to be 45'.

Executive Summary

The subject property is located along O'Connor Road near the intersection at Stahl Road. The applicant is proposing to construct a mixed-use sports facility, with a roof height of 45', to allow the construction of volleyball and basketball courts within the complex. The subject property is currently a vacant lot that abuts a church and a gas station to the rear and sides, with the requested variance height being located towards the rear of the property. Per the UDC, the maximum building height for a commercially zoned district is 25' and the applicant is requesting for it be 45'.

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 Adjustments.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 42200, dated June 13, 1973, and originally zoned Temporary "R-1" Single-Family Residence District. The property rezoned under Ordinance 61140, dated August 1, 1985, from Temporary "R-1" Single-Family Residence District to "R-3" Multiple Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "R-3" Multiple Family Residence District converted to "MF-33" Multi-Family District. The property rezoned under Ordinance 2014-09-18-0727, dated September 18, 2014, from "MF-33" Multi-Family District to the current "C-2" Commercial District.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“C-2 AHOD” Commercial Airport Hazard Overlay District	Gas Station
South	“C-3 AHOD” General Commercial Airport Hazard Overlay District	Self-Storage
East	“C-2 AHOD” Commercial Airport Hazard Overlay District	Gas Station
West	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Church

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the San Antonio International Airport Vicinity Plan and is designated “Community Commercial” in the future land use component of the plan. The subject property is located within the boundary of the El Chapparral/Fertile Valley Neighborhood Association and they have been notified of the request. Additionally, the subject property is located within 200’ of the boundary of Pepperidge Neighborhood Association and they have been notified as well.

Street Classification

O’Connor Road is classified as a minor road.

Criteria for Review – Rear 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. In this case, the public interest is represented by building height requirements for the protection of view and preserving the character of the neighborhood. Staff finds this variance is not contrary to the public interest as the highest point of 45’ is located towards the rear of property, shielding it from the public right of way.

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 building the structure 25’ in height. This would result in an unnecessary hardship as the applicant would not have sufficient building height for the proposed use intended.

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. At its highest point, the proposed structure will be 45’ for the accommodation of the proposed use. Staff finds the spirit of the ordinance will be observed and substantial justice will be done as the subject property is zoned “C-2” which allows for community commercial uses, with unlimited building size. The request does not seem to be out of character with the assigned base zoning district.

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 proposed structure will be 45' at its highest point. The request variance will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district. Upon site visits, staff observed the subject property being located near the intersection of O'Connor Road and Stahl Road. This intersection is a major thoroughfare for this community where other medium commercial uses were observed thus not being out of character from the surrounding land uses.

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 applicant not having sufficient height requirements for the proposed use. 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 Building Height Regulations of the UDC Section 35-310.01

Staff Recommendation – Building Height Variance

Staff recommends **Approval** in **BOA-23-10300033** based on the following findings of fact:

1. The highest point of 45' is located towards the rear of property, shielding it from the public right of way; and
2. The applicant would not have sufficient building height for the proposed use intended; and
3. The request would not be out of character with surrounding land uses and zoning districts.