

Case Number:	BOA-22-10300027
Applicant:	Patrick Christensen
Owner:	Gecko Resources LLC
Council District:	10
Location:	Generally located on the 6200 block of Franklin Street.
Legal Description:	Lot north 201.22 feet of D, Block 1, NCB 8687
Zoning:	“C-3NA” General Commercial Non-Alcoholic Sales District
Case Manager:	Richard Bautista-Vazquez, Planner

**Request**

A request for 1) a 25' variance from the minimum 30' setback requirement, as described in Section 35-310, to allow for a structure to be 5' from the rear property line and 2) a 10' variance from the minimum 15' landscape buffer yard requirements, as described in Section 35-510, to allow a 5' landscape buffer.

**Executive Summary**

The subject property is generally located in the 6200 block of Franklin Street. The subject property is currently vacant and zoned “C-3NA” General Commercial Non-Alcoholic Sales District. There is residentially zoned properties to the rear of the subject property which impose a 30' rear setback requirement and a 15' landscape buffer requirement. The subject property has an unusual configuration and size, which present a hardship in development of the property with the imposed setback and buffer requirements.

**Code Enforcement History**

There is currently no Code Enforcement History.

**Permit History**

No permits have been issued. A permit is pending the outcome of the BOA Meeting.

**Zoning History**

The subject property was into the City Limits of San Antonio by Ordinance 1257 dated August 2, 1944 and was zoned “B” Residence District. Ordinance 83174 dated November 09, 1995, rezoned the property “B-3NA” Non-Alcoholic Sales District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “B-3NA” Non-Alcoholic Sales District to the current “C-3NA” Commercial District, Nonalcoholic Sales, established by Ordinance 93881, dated May 3, 2001.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-3NA” General Commercial Non-Alcoholic Sales District	Vacant Lot

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4” Residential Single-Family District	Single-Family Dwelling
South	“C-3NA” General Commercial Non-Alcoholic Sales District	Auto Shop
East	“R-4” Residential Single-Family District	Single-Family Dwelling
West	“R-4” Residential Single-Family District	Water Tower

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Northeast Inner Loop Neighborhood Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Terrill Hill Neighborhood Association and were notified of the case.

**Street Classification**

Franklin is classified as a local road.

**Criteria for Review - 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. The applicant is requesting a 25' variance from the minimum 30' setback requirement to allow for a structure to be 5' from the rear property line. Additionally, a landscape buffer of 15' is required, so a 10' variance is being requested as well. The size and shape of the lot is unusual and the requirements would prohibit any development. The variances do not appear 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 property not being developable due to the unusual configuration of the lot. The shape and size of the lot is a hardship.**

- 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 proposed rear setback and landscape buffer do observe the spirit of the ordinance as there will be adequate space from adjacent 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.*

**Staff finds the variance requests to allow a structure to be 5' from the rear property line provides adequate space away from the property line and is not likely to negatively affect the adjacent neighboring property.**

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 unusual configuration and size of the lot.**

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

The alternative to the applicant's request is to conform to the required setbacks per UDC Section 35-310 and the landscape buffer requirements per UDC Section 35-510.

### **Staff Recommendation – Rear Setback and Landscape Buffer Variance**

Staff recommends **Approval** in **BOA-22-10300027** based on the following findings of fact:

1. The proposed rear setback and landscape buffer will be 5' from the rear property line; and
2. The unusual configuration of the lot will prevent development that can meet the required setbacks.