

## Legislation Details (With Text)

<b>File #:</b>	21-1131	<b>Name:</b>	
<b>Type:</b>	Report	<b>Status:</b>	Individual Item Ready
<b>File created:</b>	10/18/2021	<b>In control:</b>	Other Public Meetings
<b>On agenda:</b>	10/28/2021	<b>Final action:</b>	
<b>Title:</b>	ZB21-0007 Hold a public hearing and consider a request for a variance to Chapter 114, Section 98(b) (3) to allow a proposed driveway within a right-turn lane, at property located on the southeast corner of IH 35 and S. Solms Road.		
<b>Sponsors:</b>			
<b>Indexes:</b>			
<b>Code sections:</b>			
<b>Attachments:</b>	1. Application, 2. Aerial Map, 3. Survey and Proposed Site Plan, 4. Traffic Impact Analysis Supporting Documents, 5. Exhibit of Approximate Driveway Location, 6. Exhibit of Master Plans in the Vicinity, 7. Notification Packet		

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Presenter/Contact  
*Applicant: David Wanders*  
 (210) 332-4037 - [dwanders@quiktrip.com](mailto:dwanders@quiktrip.com)

**SUBJECT:**

ZB21-0007 Hold a public hearing and consider a request for a variance to Chapter 114, Section 98(b) (3) to allow a proposed driveway within a right-turn lane, at property located on the southeast corner of IH 35 and S. Solms Road.

**BACKGROUND / RATIONALE:**

**Case #:** ZB21-0007

**Applicant:** David Wanders  
742 NW Loop 410, Suite 102  
San Antonio, TX 78216  
(210) 332-4037 - [dwanders@quiktrip.com](mailto:dwanders@quiktrip.com)

**Staff Contact:** Maddison O’Kelley  
(830) 221-4056 - [<mokelley@nbtexas.org>](mailto:mokelley@nbtexas.org)

[Mary Hamann](#)  
[\(830\) 221-4028 - mhamann@nbtexas.org](mailto:mhamann@nbtexas.org)

The subject property is located at the southeast corner of S. Solms Road and IH 35 N. It is zoned “C-3” Commercial District and is currently vacant. The property is irregularly shaped and approximately 5.83 acres in area, with the lot depth varying from 1,108 to 1,168 feet and the lot width varying from

180 to 408 feet.

Solms Road is identified as a Major Collector on the City's Thoroughfare Plan and will move traffic to and from IH 35 that is associated with future development south of IH 35 along Morningside and the extension of Solms Road. Most of the area is currently farmland located outside city limits, but two residential master plans for almost 1,500 homes have been approved along Solms Road which are approximately only 25% built out.

The applicant intends to develop the property as a convenience store with fuel sales, which is an allowed use in the "C-3" district. The project includes 4 points of access for vehicles entering the property from the right of way, including two driveways onto S. Solms Road.

Chapter 114, Section 98(b)(3) of the Code of Ordinances regulates access to roadways and states driveways in right turn lane transition areas "shall not be permitted." The applicant is requesting a variance to allow one of the proposed driveways taking access from S. Solms Road to be located within a recently constructed right turn lane.

The Public Works Department assisted in the review of this request and is opposed to the proposed driveway onto S. Solms Road because it is in the right turn lane on the approach to the IH 35 Frontage Road. The city code requirement to not allow driveways within right turn lanes is supported by the FHWA as their guidance discourages access within the functional areas of an intersection. Because of this, Public Works staff cannot support the proposed driveway location in the right turn lane.

**Authority and Rationale:**

It is recognized that in certain cases a variance from city regulations may need to be granted. In cases where the possibility of undue hardship would result from compliance with Chapter 114, a request may be made for review by the access management board of adjustment. A variance shall not be granted to relieve a self-created or personal hardship, nor based solely on economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by Chapter 144 to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

Section 114-100(a) of the New Braunfels Code of Ordinances (Street, Sidewalks and Other Public Places) states the Access Management Board of Appeals may approve a variance from Chapter 14 only upon finding all of the following facts:

- 1) **Granting the variance will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of the property;** (The applicant had a Traffic Impact Analysis (TIA) prepared to show the current level of service would be acceptable and to indicate they would construct a median that would prevent traffic from any other movements besides right-in and right-out to the driveway. However, the applicant's TIA does not take future traffic into consideration. Further there is a second driveway proposed onto Solms Road outside the right turn lane which will provide access to the site and future development. Staff also notes the purpose of restricting driveways within right turn lanes is to discourage points of conflict within functional areas of an intersection) **and**
- 2) **Because of the particular physical surroundings, shape, and/or topographical conditions of the specific property involved, a particular hardship to the property owner**

would result, as distinguished from a mere inconvenience, if the strict letter of the regulations is carried out; or an alternate proposal will achieve the same result or intent as the standards and regulations prescribed in the ordinance; (The applicant notes the subject property is located on the southeast corner of IH 35 and S. Solms Rd and that the IH 35 frontage road allows only for one-way traffic. The applicant has secured an access easement on the adjacent property to construct a second driveway located approximately 475' away from the intersection. The applicant states the primary purpose of this access point is to allow for south-bound drivers on S. Solms Road to access the property. Staff believes the proposed driveway 475' away from the intersection can adequately serve the proposed QT station and future development on the adjacent tract.) **and**

- 3) **The variance or alternative proposal will not in any manner vary the provisions of the Zoning Ordinance or other ordinance(s) of the City.** (The applicant states no provision of the zoning ordinance, nor other city ordinances, will be affected by the variance.)

**GENERAL INFORMATION:**

**Size:**

Approximately 5.83 acres in area  
Varies 1,108 to 1,168 feet in depth  
Varies 180 to 408 feet in width

**Variance Request Due to Notice of Violation:**

No

**Surrounding Zoning and Land Use:**

North - Across Interstate 35, C-3 / Car Repair and Service Facilities  
South - ETJ / Single Family Dwelling  
East - C-3 / Car Dealership  
West - Across S. Solms Road, APD/ Vacant

**Notification**

Public hearing notices were sent to 4 owners of property within 200 feet. Staff has not received any responses in favor or in objection.

**Attachments:**

1. Aerial Map
2. Application
3. Survey and Proposed Site Plan
4. Traffic Impact Analysis Supporting Documents
5. Exhibit of Approximate Driveway Locations
6. Exhibit of Master Plans in the Vicinity
7. Notification Packet