



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** August 19, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Department Head

**CASE NUMBER:** BOA-24-10300121

**APPLICANT:** Oxbow Development Group

**OWNER:** Oxbow Development Group

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 1301 and 1311 East Elmira Street, 813 East Myrtle Street, 818 East Locust Street, and 1212-1218 East Euclid Street

**LEGAL DESCRIPTION:** Lots 7, 8, 9, 19, 20, 21, 28, 29, North 15 ft of 30, South 15 ft of 31, 32, 33, 34, 35, 36, 37, North 27.42 ft of 38, South 12.58 ft of 38, 39, 40, 41, 42, Block 4, NCB 6792

**ZONING:** "IDZ-3 RIO-2 AHOD" High Intensity Infill Development Zone River Improvement Overlay 2 Airport Hazard Overlay District with uses permitted in "C-2" Commercial District, Bar/Tavern without cover charge 3 or more days per week, Microbrewery, Winery with bottling, Timeshares or Corporate Apartment, Hotel, Studio Sound and Recording, Club Private, Office Warehouse (Flex Space) and Multifamily dwelling units not to exceed 325 units

**CASE MANAGER:** Colton Uden, Planner

**A request for**

A 4'-11" variance from the minimum 5' side and rear setbacks to allow a 1" side and rear setback. Section 35-343.01

**Executive Summary**

The subject property is located along East Elmira Street, Myrtle Street, East Locus Street, and East Euclid Street, spanning a city block, east of North St. Mary's Street, located within the Tobin Hill

Community Neighborhood Association, as well as the notification boundary of the Sojo Crossing Homeowners Association. The applicant is requesting 1-inch setbacks for the side and rear of the property. The property was recently rezoned in June 2024 entirely to IDZ-3, which does not require a front setback. The proposed use per approved rezoning is a variety of mixed commercial and up to 325 residential dwelling units. BOA Staff originally recommended denial however after the applicant worked with the traffic section, they concluded that no sight distance variance is required.

The Office of Historic Preservation (OHP) has stated the following for this request: The property is located within the River Improvement Overlay, District 2. Conceptual Approval of the proposed new construction was issued by the Historic and Design Review Commission (HDRC) on May 15, 2024, with stipulations. Final approval by the HDRC is required prior to the issuance of a Certificate of Appropriateness. Approval of a site plan or materials submitted as part of a variance application does not supersede any requirements for design review outlined in Article VI of the Unified Development Code.

### **Code Enforcement History**

No relevant code enforcement history.

### **Permit History**

The issuance of build permits is pending Board of Adjustment outcome.

### **Zoning History**

The subject property is part of the original 36 square miles of the City of San Antonio and was originally zoned "J" Commercial District. The property was rezoned by Ordinance 83331, dated December 14, 1995, to "B-3NA" Business District, Nonalcoholic Sales and "I-1" Light Industrial District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, "B-3NA" Business District, Nonalcoholic Sales converted to the current "C-3NA" General Commercial Nonalcoholic Sales District and "I-1" Light Industrial District converted to "I-1" General Industrial District. A portion of the property was rezoned by Ordinance 2020-02-20-0120, dated February 20, 2020, to the current "IDZ-3" High Intensity Infill Development Zone District. The property was rezoned by Ordinance 2024-06-20-0508, dated June 20, 2024, to "IDZ-3" Infill Development Zone 3.

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

#### **Existing Zoning**

"IDZ-3 RIO-2 AHOD" High Intensity Infill Development Zone River Improvement Overlay 2 Airport Hazard Overlay District with uses permitted in "C-2" Commercial District, Bar/Tavern without cover charge 3 or more days per week, Microbrewery, Winery with bottling, Timeshares or Corporate Apartment, Hotel, Studio Sound and Recording, Club Private, Office Warehouse (Flex Space) and Multifamily dwelling units not to exceed 325 units.

#### **Existing Use**

Transitional, Commercial, and Vacant Uses

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

#### **North**

#### **Existing Zoning**

“C-3NA RIO-2 AHOD” General Commercial Nonalcoholic Sales River Improvement Overlay 2  
Airport Hazard Overlay District

**Existing Use**

Professional Office

**South**

**Existing Zoning**

“C-3NA RIO-2 AHOD” General Commercial Nonalcoholic Sales River Improvement Overlay 2  
Airport Hazard Overlay District

**Existing Use**

Retail

**East**

**Existing Zoning**

“MF-50 IDZ RIO-2 AHOD” Multi-Family Infill Development Zone River Improvement Overlay  
2 Airport Hazard Overlay District.

**Existing Use**

Parking Lot

**West**

**Existing Zoning**

“C-3NA AHOD” General Commercial Nonalcoholic Sales Airport Hazard Overlay District and  
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District.

**Existing Use**

Professional Office and Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Midtown Area Regional Center and is designated as “Regional Mixed Used” in the future land use component of the plan. The subject property is located within the Tobin Hill Community Neighborhood Association, the Sojo Crossing Homeowners Association and the San Antonio Texas District One Resident Association Community Organization, and they have been notified of the request.

**Street Classification**

East Elmira, East Myrtle, East Euclid, and East Locust are classified as Local Roads.

**Criteria for Review – Side and 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.*

In this case, the public interest is represented by setback requirements to prevent interference with pedestrian foot traffic and vehicular traffic safety. The applicant is requesting a variance to the side and rear setback to allow a structure to be 1’ from the property line. The variance does not create a sight vision issue as pedestrian traffic will not be impacted.

*2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Staff has found special conditions existing on the subject property that would warrant the need for the side and rear setback variance such as space required for the proposed development.

*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 granting of this variance will observe the spirit of the ordinance as the zoning ordinance was recently approved by the city and allows the amendment for the reduced setbacks.

*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, a structure will be 1" from the side and rear property lines. This will not injure the appropriate use of adjacent conforming properties as the project is located on its own block and will not create a sight vision issue.

*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 side and rear setback variances are sought is due to unique circumstances existing on the property such as the required development area needed on the block.

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

The alternative to the applicant's request is to conform to the IDZ-3 Side Setback Regulations of Section 35-343.01 of the Unified Development Code.

#### **Staff Recommendation – Side and Rear Setback Variance**

Staff recommends Approval in BOA-24-10300121 based on the following findings of fact:

1. The project is located on its own block and will not create a sight vision issue.
2. The granting of this variance will observe the spirit of the ordinance as the zoning ordinance was recently approved by the city and allows the amendment for the reduced setbacks.