



City of San Antonio

Agenda Memorandum

Agenda Date: July 15, 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.

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 building fire codes. 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 will create a sight distance issue that will be contrary to the public interest.

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

Staff has not found special conditions existing on the subject property that would warrant the need for the side and rear setback variance as sufficient space exists 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 not observe the spirit of the ordinance as the required setbacks will prevent sight vision issues.

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 injure the appropriate use of adjacent conforming properties a sight distance issue will be created, directly affecting the surrounding properties.

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 not sought is due to unique circumstances existing on the property as a reasonably sized development can be established on the lot.

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 Denial in BOA-24-10300121 based on the following findings of fact:

1. The variance will create a sight distance issue that will be contrary to the public interest.
2. Sufficient space exists for the proposed development.