



# 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-24-10300139

**APPLICANT:** Randy Cunniff

**OWNER:** Randy Cunniff

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 1420 North Main Avenue

**LEGAL DESCRIPTION:** Lot 2, Block 22, NCB 385

**ZONING:** "C-3 UC-5 AHOD" General Commercial Main Ave./McCullough Ave. Urban Corridor Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

A 14' variance from the 15' setback to allow a Structure to be 1' from the Urban Corridor district front setback.

Section 28-69(d)

**Executive Summary**

The subject property is located along North Main Avenue, south of West Evergreen Street, located within the Tobin Hill Community Neighborhood Association. The applicant is seeking to install a structure to provide shade over an outside area within the Main Avenue / McCullough Avenue Urban Corridor District (UC-5). The urban corridor prescribes a setback of 15 feet for the road classification of North Main Avenue. While the standard derives from Chapter 28, the corridor standards contained within provide building setback standards to generally create a more visually appealing entry into the city and along key tourist areas.

### **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 was included in the original 36 square miles of the City of San Antonio and originally zoned "H" Local Retail District. The property was rezoned to "B-3" Business District, by Ordinance 83331, dated December 14, 1995. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B-3" Business District converted to the current "C-3" General Commercial District.

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

#### **Existing Zoning**

"C-3 UC-5 AHOD" General Commercial Main Ave./McCullough Ave. Urban Corridor Airport Hazard Overlay District

#### **Existing Use**

Retail Stores

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

#### **North**

##### **Existing Zoning**

"C-2 UC-5 AHOD" Commercial Main Ave./McCullough Ave. Urban Corridor Airport Hazard Overlay District

##### **Existing Use**

Bar

#### **South**

##### **Existing Zoning**

"C-3 UC-5 AHOD" General Commercial Main Ave./McCullough Ave. Urban Corridor Airport Hazard Overlay District

##### **Existing Use**

Bar

#### **East**

##### **Existing Zoning**

"C-2 AHOD" Commercial Airport Hazard Overlay District and "C-3 AHOD" General Commercial Airport Hazard Overlay District

##### **Existing Use**

Parking Lots

#### **West**

##### **Existing Zoning**

“IDZ UC-5 AHOD” Infill Development Zone Main Ave./McCullough Ave. Urban Corridor  
Airport Hazard Overlay District

**Existing Use**

Apartments

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Midtown Regional Center Plan and is designated as “Regional Mixed Use” in the future land use component of the plan. The subject property is located within the Tobin Hill Community Neighborhood Association, and they have been notified of this request.

**Street Classification**

North Main Avenue is classified as a Local Road.

**Criteria for Review – Urban Corridor 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. The public interest is represented by minimum setback requirements along a corridor. Staff finds the reduced setbacks to be consistent with other structures in along the corridor in the immediate vicinity, and not out of character for the urban corridor district.

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

Staff found a special condition existing on the property where a literal enforcement of the ordinance does not leave adequate space to fully develop the lot.

*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 request appears to be in the spirit of the ordinance, as the requirement is there to protect the urban corridor, and there are other structures along the corridor also within the urban corridor setback in the immediate vicinity.

*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 urban corridor setback variance will not substantially injure the appropriate use of the adjacent conforming property. Proposed development will leave sufficient room from the property and not alter the essential character of the district, as it would adhere to other setback requirements.

*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 limited space for covered outdoor dining.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the urban corridor setback requirements of the UDC Section 28-69(d).

**Staff Recommendation – Urban Corridor Setback Variance**

Staff recommends Approval in BOA-24-10300139 based on the following findings of fact:

1. Other properties in the vicinity, also within the urban corridor district have structures within the setback prescribed in Section 28-69(d).
2. It will not alter the essential character of the district.