

Case Number:	BOA-23-10300052
Applicant:	Ringtail Rhinos
Owner:	Ringtail Rhinos
Council District:	1
Location:	1817 South Presa Street
Legal Description:	Lot 30, Block 31, NCB 791
Zoning:	“C-3NA RIO-4 MC-1 NCD-1 AHOD” General Commercial Nonalcoholic Sales River Improvement Overlay 4 Roosevelt Metropolitan Corridor South Presa/South St. Mary’s Streets Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Jake Exler, Planner

Request

A request for 1) a 20' variance from the minimum 30' side setback requirement, as described in Section 35-310.01, to allow a structure to have a 10' side setback, and 2) a 5' variance from the minimum 15' buffer requirement, as described in Section 35-510, to allow reduced buffer of 10' in the northern property line.

Executive Summary

The subject property is located along South Presa Street in Southtown. The applicant is seeking to construct a structure that is anticipated to be 10' from the side property line and is requesting a 10' buffer on the northern property line. San Antonio Water Systems (SAWS) has a sewer line running through the subject property.

This property is located within the RIO-4 zoning overlay. Any exterior modifications or new construction will require approval from the Office of Historic Preservation. In accordance with the San Antonio City Unified Development Code, the Office of Historic Preservation reviews all demolition applications for any property located within the city limits of San Antonio. Approval of a site plan or materials submitted as part of a variance application does not supersede any requirements for design review or demolition review outlined in Article VI of the Unified Development Code. To date, no application for demolition or work at this address to accommodate the proposed project has been submitted for review to the Office of Historic Preservation. Directly to the south of the property there is a Railroad right-of-way.

Code Enforcement History

There is no relevant Code Enforcement History for the subject property.

Permit History

There is no relevant permit history – foundation repair permit and minor building repair permit were issued in October 2022.

Zoning History

The subject property is located within the original 36 square miles of San Antonio and originally zoned “J” Commercial District. The property rezoned under Ordinance 74924, dated December 9, 1991, from “J” Commercial District to “B-3NA” Business, Non-Alcoholic Sales District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B-3NA” Business, Non-Alcoholic Sales District converted to the current “C-3NA” General Commercial Nonalcoholic Sales District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-3NA RIO-4 MC-1 NCD-1 AHOD” General Commercial Nonalcoholic Sales River Improvement Overlay 4 Roosevelt Metropolitan Corridor South Presa/South St. Mary’s Streets Neighborhood Conservation Airport Hazard Overlay District	Millwork, construction company

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 RIO-4 NCD-1 AHOD” Residential Mixed River Improvement Overlay South Presa/South St. Mary’s St Neighborhood Conservation Airport Hazard Overlay District AND “C-2 NCD-1 AHOD” Commercial South Presa/South St. Mary’s St Neighborhood Conservation Airport Hazard Overlay District AND “C-2 IDZ NCD-1 AHOD” Commercial Infill Development Zone South Presa/South St. Mary’s St Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence AND Empty Structure AND Vacant Lot
South	“IDZ-2 MC-1 AHOD” Infill Development Zone Roosevelt Metropolitan Corridor Airport Hazard Overlay District with uses permitted in “C-2”, food product, wine, storage. AND “C-2P CD MC-1 AHOD” Commercial Pedestrian Conditional Use Roosevelt Metropolitan Corridor Airport Hazard Overlay District AND “C-2NA AHOD” Commercial Nonalcoholic Airport Hazard Overlay District AND “C-3NA AHOD” General Commercial Nonalcoholic Sales Airport Hazard Overlay District AND “IDZ AHOD” Infill Development Zone Airport Hazard Overlay District with uses permitted in “C-2P”	Vacant Building AND Architect AND Gym
East	ROW	<u>S. Zarzamora</u>
West	“RM-4 NCD-1 AHOD” Residential Mixed South Presa/South St. Mary’s St Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence AND Office Supply Store

	AND “C-3NA NCD-1 AHOD” General Commercial Nonalcoholic Sales South Presa/South St. Mary’s St Neighborhood Conservation Airport Hazard Overlay District	
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Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Area Regional Center Plan and designated as “Urban Mixed Use” in the future land use component of the plan. The subject property is located in the Lavaca Neighborhood Association and is within 200 feet of the Roosevelt Park Neighborhood Association.

Street Classification

South Presa is classified as a Secondary Arterial Type B.

Criteria for Review-- Side Setback and Buffer 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. Setback regulations ensure that structures do not affect neighboring properties. The applicant is requesting a variance to the side setback and landscape buffer to allow a structure to be 10’ from the side property lines. This distance does not provide suitable spacing to bordering homes and so is 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 applicant building the structure thirty feet from the side property line, which would not result in an unnecessary hardship as staff found no special conditions on the subject property that would warrant the need for a reduced side setback.

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 structure would be 10’ from the side property lines, which does not observe the spirit of the ordinance as it would be too close to the side property line and neighboring 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.*

If granted, the structure will be 10' from the side property lines, which is likely to cause harm to the adjacent conforming property, as these setbacks are regulated for safety reasons, such as fire prevention and promote a sense of character for neighboring residential 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 variance is sought is not due to unique circumstances existing on the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setbacks and Buffers per Section 35-310.01 and Section 35-510 of the UDC.

Staff Recommendation - Side Setback Variance

Staff recommends Denial in BOA-23-10300052 based on the following findings of fact:

1. The reduced side setback would encroach on a residential area; and
2. There do not appear to be unique circumstances preventing the applicant from building within the requirements.

Staff Recommendation - Buffer Variance

Staff recommends Denial in BOA-23-10300052 based on the following findings of fact:

1. The buffer will not adequately protect residences from light and noise; and
2. The reduced buffer will encroach on the residential area.