



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-4243

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 7/20/2020

**Title:** BOA-19-10300162: A request by David Ranjbar for 1) a 5' variance from the 10' Type A landscape bufferyard requirement to allow a bufferyard to be 5' along the south property line, 2) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the north property line, 3) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the west property line, 4) a 10' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 5' along the east property line, and 5) a 5' variance from the required 10' side setback to allow a structure to be built 5' from the east property line, located at 4674 South Presa. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments, 2. HDRC Decision Letter

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

**Case Number:** BOA-19-10300162

**Applicant:** David Ranjbar

**Owner:** Shauaot Momin; Shak & Ike Corporation

**Council District:** 3

**Location:** 105 Stratford Court

**Legal Description:** Lot S 124.2 FT OF Lot 2 & SE 108.27 FT TRI OF Lot 1, Block 1, NCB 7603

**Zoning:** "C-2 RIO-5 MC-2 AHOD" Commercial River Improvement Overlay South Presa Metropolitan Corridor Airport Hazard Overlay District

**Case Manager:** Dominic Silva, Senior Planner

### Request

A request for 1) a 5' variance from the 10' Type A landscape bufferyard requirement, as described in Section 35-510, to allow a bufferyard to be 5' along the south property line, 2) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the north property line, 3) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the west property

line, 4) a 10' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 5' along the east property line, and 5) a 5' variance from the required 10' side setback, as described in Section 35-310.01, to allow a structure to be built 5' from the east property line

### **Executive Summary**

The applicant is requested multiple variances in order to redevelop the subject property and construct a commercial structure to feature approximately 3,500 square feet of retail space. The applicant will be demolishing the current commercial structure on site and maintaining the station pumps.

The proposed commercial structure within the east of the property is within both the setback and bufferyard. Due to the existence of a residentially used lot to the east, the applicant has a 10' side setback along with a 15' Type B bufferyard.

The applicant has applied for and obtained HDRC conceptual approval for the proposed project on March 18, 2020.

### **Code Enforcement History**

There is no code enforcement history on file for this property.

### **Permit History**

No permits are on file for the property.

### **Clear Vision Review**

A review of Clear Vision is not required for this request.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 1256 dated August 3, 1944 as "J" Commercial District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned "J" Apartment district was converted to "I-1" General Industrial district. The property was rezoned by Ordinance 2011-05-19-0425 dated May 19, 2011 to "C-2" Commercial District.

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

Existing Zoning	Existing Use
"C-2 RIO-5 MC-2 AHOD" Commercial River Improvement Overlay South Presa Metropolitan Corridor Airport Hazard Overlay District	Convenience store with gas sales

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

Orientation	Existing Zoning District(s)	Existing Use
-------------	-----------------------------	--------------

North	"BP RIO-5 MC-2 AHOD" Business Park River Improvement Overlay South Presa Metropolitan Corridor Airport Hazard Overlay District	Business Park
South	"C-2 RIO-5 MC-2 AHOD" Commercial River Improvement Overlay South Presa Metropolitan Corridor Airport Hazard Overlay District	Vacant
East	"R-4 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Residential
West	"IDZ RIO-5 MC-2 AHOD" Infill Development Zone with uses permitted in "C-1" and Multi-Family not to exceed 100 Units per Acre River Improvement Overlay South Presa Metropolitan Corridor Airport Hazard Overlay District	Commercial

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within Brooks Regional Center Area plan and designated Urban Mixed Use within the future land use component of the plan. The subject property is within the boundaries of the Hot Wells Mission Reach Neighborhood Association.

### **Street Classification**

Stratford Court is classified as a local street. South Presa is classified as a minor arterial.

### **Criteria for Review**

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 requested bufferyards on the south, north, and west property lines is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. As of now, the property has no bufferyards established, so any new development will be beneficial and a net improvement to the surrounding district.**

Staff does not support the reduction of the east bufferyard and setback adjacent to a residentially used lot that would limit equal access to light, air, and open space.

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

**Literal enforcement would not allow the redevelopment of the property as proposed due to the compact configuration of the lot and establishing new bufferyards as required.**

Staff is unable to establish a special condition that would allow decreased bufferyard and setbacks on the east property line.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**In this case, the proposed bufferyard and east setback reduction will adhere to the spirit of the ordinance and substantial justice will be done by implementing the requested bufferyards on the north, south, and west property lines where none exists currently in order to rehabilitate the property.**

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the bufferyard and setback requirements is to prevent fire spread, increase privacy, and separate uses within a district. The requested variances along the east property does not meet the intent of the code.

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.*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district.**

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.*

**The introduction of the requested bufferyards would only enhance the overall appearance of the property, streetscape, and district.**

Although the applicant is introducing bufferyards to the east property line adjacent a residentially utilized lot, the requested setback and bufferyard width along that property line would decrease privacy and increase fire spread, which can substantially injure adjacent property owners.

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.*

**The plight of the owner for which the variance is sought is due the absence of bufferyards on an already developed property.**

Staff cannot find any unique circumstances to grant the requested variances along the east property line that will minimize the setback and bufferyard adjacent to a residential property.

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

The alternative to the applicant's request is to conform to the setback requirements in Section 310.01 and the landscape bufferyard requirements in Section 35-510.

### **Staff Recommendation**

Staff recommends **APPROVAL** of 1) a 5' variance from the 10' Type A landscape bufferyard requirement, as described in Section 35-510, to allow a bufferyard to be 5' along the south property line, 2) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the north property line, 3) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the west property line in **BOA-19-10300162** based on the following findings of fact:

1. The proposed redevelopment of the property will increase the bufferyard landscaping than what is currently there, and;
2. The introduction of the requested bufferyards will enhance the overall appearance of the district.

Staff recommends **DENIAL** of 4) a 10' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 5' along the east property line, and 5) a 5' variance from the required 10' side setback, as described in Section 35-310.01, to allow a structure to be built 5' from the east property line in **BOA-19-10300162** based on the following findings of fact:

1. Due to the existence of a single-family residential home on the east of the proposed project, a 5' setback would limit equal access to light, air, and open space, and;
2. A 5' setback does not reasonably allow access for maintenance of a commercial property and maintenance of the structure while simultaneously providing adequate space and privacy for the adjacent residential property.