

HISTORIC AND DESIGN REVIEW COMMISSION

May 02, 2018

HDRC CASE NO: 2018-144
APPLICANT: Office of Historic Preservation
TYPE OF WORK: Review and Recommendation of UDC Amendments relating to Viewshed Protection (Updated with revisions)

REQUEST:

With direction from the City Council Arts, Culture & Heritage Committee, the Office of Historic Preservation is requesting review and recommendation of amendments to Chapter 35 (Unified Development Code) of the City Code relating to viewshed protection and the establishment of Viewshed Protection Districts.

FINDINGS:

- a) District 7 Councilwoman Ana E. Sandoval and District 2 Councilman William “Cruz” Shaw have submitted a City Council Resolution to initiate the process to consider additional San Antonio landmarks for viewshed protection and to enable the establishment of potential Viewshed Protection Districts. The CCR also directs OHP staff to study additional views and vistas of historic places, landmarks, and cultural resources for consideration for viewshed protection.
- b) The current provisions of the UDC limit the types and opportunities for viewshed protection. For instance, the provisions do not currently allow for more than one view to be protected from a single site. The UDC also does not consider natural views and requires that protected sites be buildings with a “front door”. Other structures, such as bridges or public art pieces, are not currently considered.
- c) The proposed amendments (provided in the exhibits for this request) address the following:
 - a. Updates and clarifications to the original 2003 ordinance
 - b. Eligibility requirements that establish where and when a new viewshed protection district may be established
 - c. Criteria for the objective evaluation of proposed viewshed protection districts
- d) Viewshed Protection Districts function as a zoning overlay. With a district in place, individual projects within the district are reviewed for conformance with any imposed height restrictions as part of the development review process. Any amendments to the designation criteria would not automatically result in a new district or associated regulations for the listed sites. With direction from Council, staff would further explore the best approaches for each site and work with the public to propose and adopt any new zoning districts. The HDRC will be included in the future adoption process for new districts.

RECOMMENDATION:

Staff recommends approval of the proposed UDC amendments.

CASE MANAGER:

Cory Edwards

Sec. 35-337. - "VP" Viewshed Protection and "MPOD" Mission Protection.

STATEMENT OF PURPOSE

The purpose of this district is to establish regulations to protect, preserve and enhance of views and vistas by authorizing and establishing viewshed protection districts. The City of San Antonio has many views and vistas of historic places, landmark buildings, and other sites of cultural importance which have always been important to the city. These views will continue to be amenities and assets of great value to the city, its people and its economy. New development in the vicinity of these important places is usually beneficial, but when construction becomes too tall and begins to overwhelm or intrude, in scale and mass, the main view or vista of a smaller place of significance, then the viewshed located behind the significant property should be protected. Viewshed protection districts are overlay districts that will be used primarily for unique situations regarding views and vistas that are not adequately covered by the standard zoning districts.

Specific purposes of these viewshed protection districts are as follows:

- To safeguard San Antonio's heritage by preventing the despoliation of views of areas and buildings that reflect important elements of the city's cultural, natural, historic, and economic fabric.*
- To create favorable impressions of San Antonio as well as provide environmental enrichment for the citizens of the city.*
- To enhance San Antonio's image as a scenic and livable city and to provide appropriate measures to maintain the existing ambiance of certain historic and cultural sites.*
- To preserve, protect, and enhance visually those areas of high visitor interest.*
- To reduce visual distractions and enhance the photographic quality and opportunities of important historic and cultural sites and landscapes.*

(a) Evaluation and Designation.

(1) Initiation. Viewshed protection may only be initiated by City Council.

(2) Eligibility Review & Assessment. Sites that are proposed for viewshed protection shall be reviewed by the Historic and Design Review Commission for eligibility. In its review, the Historic and Design Review Commission shall evaluate potential viewshed protection using the criteria listed. To be eligible for viewshed protection, an area must lie within the directional viewshed to or from an important historic landmark, plaza, public art installation, public monument, or an important cultural landscape that is characterized by natural or scenic qualities. Eligible viewsheds shall originate from a location that is publicly accessible such as the public right-of-way, public property, or common spaces, including parks, plazas, or overlooks. Eligible viewsheds shall further meet at least two (2) of the criteria listed below:

A. ICONIC SNAPSHOT: The view is significant to public memory, is revered as a shared community experience, and is widely identifiable. This can be demonstrated through photographic evidence that view has remained substantially unobscured for at least 25 years and is iconic to San Antonio and/or its neighborhoods, or if the view is regularly featured both historically and currently in print, video, and promotional materials.

B. CULTURAL TIES: The view represents a familiar or recognizable aspect of the cultural or social history of San Antonio and/or its neighborhoods that has remained substantially unobscured for at least 25 years and can be demonstrated through written or oral histories and community or personal archives.

C. URBAN PLANNING: This view yields benefits in terms of urban planning and design by enhancing the quality of the urban environment and contributing to a sense of place in San Antonio and/or its neighborhoods that is an essential visual link or means of wayfinding that is commonly recognized.

Sites and associated views that are determined eligible for viewshed protection shall be recommended to City Council for Resolution to proceed with the creation of a viewshed protection district.

(3) **Decision.** Following City Council Resolution, proposed viewshed protection districts shall be referred to the Historic and Design Review Commission and Zoning Commission for further review and recommendation. Public hearings shall be conducted in accordance with section 35-404. An economic impact assessment that identifies the current land development capacity of potentially impacted properties shall be provided to City Council for its consideration of a proposed viewshed protection district.

~~-(a) Designation Criteria.~~

~~(1) To be designated as a viewshed protection district or a mission protection overlay district, an area must lie within the viewshed of the major entrance or front door to the following historic landmark buildings, objects, sites, or structures:~~

(4) **Eligible Sites.** Sites previously determined to meet the approval criteria and are eligible for viewshed protection include, but are not limited to, the following:

- A. The Alamo (Mission San Antonio de Valero)
- B. Mission Concepcion
- C. Mission San Jose
- D. Mission San Juan
- E. Mission Espada
- F. Espada Aqueduct
- G. Espada Dam
- H. Bergs' Mill
- I. Municipal Auditorium (former)
- J. The Old Ursuline Academy (Southwest School of Art)
- K. Thomas Jefferson High School
- L. Navarro Homestead
- M. Spanish Governor's Palace
- N. Yturri-Edmonds Home and Mill
- O. Church of the Little Flower
- P. San Fernando Cathedral
- Q. Hays Street Bridge
- R. Woodlawn Lake
- S. Tower Life Building
- T. Japanese Tea Garden

U. Arneson River Theater

V. Tower of the Americas

W. Emily Morgan Hotel

Site	Legal Description	Address
The Alamo (Mission San Antonio de Valero)	All of "NC"B 115	320 Alamo Plaza
Mission Concepcion	Lot A 31 and all lots 26, 27, 28, and the south 83' of Lot 25 "NC"B 3975	807 Mission Road
Mission San Jose	3.3 acres out of "NC"B 7664	701 East Pyron
Mission San Juan	Tract 3, "NC"B 10933	9101 Graf Road
Mission Espada	P 5, "NC"B 11173	10040 Espada Road
Espada Aqueduct	The east part of track I-A and the south part of tract 14, "NC"B 11174	9000 Block of Espada Road
Espada Dam	P 5, "NC"B 10932	1800 Block of SE Military
Bergs' Mill	The northwest irregular 310' of the south 330" of P 11, "NC"B 10932	2400 Block of Ashley Road
Municipal Auditorium	"NC"B 412	100 Auditorium Circle
The Old Ursuline Academy (Southwest School of Art and Craft)	All of "NC"B 180	300 Augusta Street
Thomas Jefferson High School	"NC"B 6758 Blk 8 Lot 21	723 Donaldson
Navarro Homestead	"NC"B 13418, Lot 4	228 Laredo Street
Spanish Governors Palace	"NC"B 117 Lot A 6 and 4	105 Plaza de Armas

Yturri-Edwards Home and Mill	Lot 13, "NC"B 6305	257 Yellowstone Street
Church of the Little Flower	"NC"B 2072, Blk 004, Lot 24	906 Kentucky

~~Notes and Rules of Interpretation: "P" refers to the parcel number; "NC"B refers to the new city block number.~~

~~(5)(2) Mission Protection Overlay Districts (MPOD) allow for a~~ Additional mission protection of outward views ~~not within the major entrance or front door~~ may be granted based on written descriptions, survey information, photos, maps or illustrations in accordance with the standards and process of this section. Such protection may be related to corridors, outward views and other visual links.

(b) Zoning Process and Classification.

- (1) This Code authorizes the establishment of viewshed and mission protection districts; however, separate ordinances are required to designate each district. This chapter also specifies the general purposes of the protection districts and the scope of the standards which the separate ordinances may address. Ordinances designating each viewshed or mission protection district shall identify the designated districts and the scope of the standards which the separate ordinances may address.
- (2) Ordinances designating each protection district shall identify the designated viewshed or mission protection district(s) and specify the individual purposes and standards for that district.
- (3) The office of historic preservation shall undertake land use and other background studies necessary to designate a viewshed or mission protection district. All property owners within the proposed district and adjacent areas shall be afforded the opportunity to comment on the ordinance regulations.
- (4) The viewshed or mission protection districts are established as overlays to the regular base zoning districts.
- (5) The zoning designation for the viewshed or mission protection district shall consist of a base zone symbol and the viewshed or mission protection district symbol ("VP" or "MPOD") as a suffix. Viewshed or mission protection districts shall be numbered sequentially to distinguish among different districts, i.e., "VP-1", "VP-2", "MPOD-1", etc. and shall be give a specific name, i.e., Alamo Viewshed, Mission Conception Viewshed, Mission Conception Protection Overlay District, etc. along with a number.

(c) Boundaries.

- (1) To be designated as a viewshed or mission protection district, ~~an area must be located in front of or behind a building or site as described in~~ any proposed boundary must represent a view that is determined to be eligible under subsection (aa)2 of this section (~~designation eligibility~~ criteria) ~~unless other or additional areas are designated by approved ordinance.~~
- (2) Prior to viewshed or mission protection designation, a brass disk or other permanent marker shall be set and named to designate the viewpoint origination. Each monument shall be numbered and named sequentially, i.e., "VP-1", "VP-2", etc. From the named monument the elevation, horizontal angle, and vertical angle of the viewshed shall be determined. The viewshed or protection boundary shall be described in the ordinance designating a viewshed or mission protection district.

- (3) Using these points, the viewshed or mission protection area shall also define the volume or envelope within which new construction will be allowed. New construction beyond or outside of this envelope that protrudes into the viewshed or protected area and obstructs the view of the designated building or site being photographed, filmed, or otherwise enjoyed by visitors to the site shall be limited by this chapter.
- (4) The viewpoint origination brass disk monument shall also mark the spot where a photograph can be taken at five and fifty-one one-hundredths (5.51) feet above the pin (which is the approximate eye level for most adults). The photograph taken at this point represents a protected view.

(d) **Development Standards.**

General. Ordinances establishing specific viewshed or mission protection districts shall comply with the requirements in this section subject to the guidelines included herein. In the event of a conflict between the specific viewshed and/or mission protection district and other provisions of this chapter, the viewshed or mission protection district provisions shall prevail.

- (1) **Limitation on Construction.** No part of a new structure, sign, tower, wireless communication system, roof top equipment or other appurtenance shall be permitted to encroach into any **designated** viewshed or protected area as set forth in this chapter unless an encroachment is approved in accordance with subsection (2), below. If the maximum height allowed in any zoning district within the city differs from the height permitted by a protection district, the more restrictive height limitation shall apply.

A. **Protection Angles.** No single building, structure, sign, wireless communication system or object shall be constructed within a [Viewshed Protection or Mission Protection Overlay District](#) which exceeds the allowable height established by the protection angle for each district.

B. Recommended Viewshed Protection Districts. When, following City Council Resolution, the Historic and Design Review Commission has made a positive recommendation regarding the boundaries and protection angles of a proposed viewshed protection district, then the provisions of this section shall apply until final action by City Council on the recommendation for rezoning.

C. Projects Underway. In instances where permits were properly issued for construction prior to a positive recommendation for a viewshed protection district where the established boundaries and protection angles are clearly defined, the provisions of this section shall not apply in accordance with 35-711.

(2) **Nonconforming Structures.**

- A. Any structure which presently encroaches into a viewshed or mission protection district which was lawfully authorized by ordinances or regulations existing prior to the effective date of a protection district may continue. However, such encroachments will be encouraged to be removed as part of any remodeling or reconstruction of the structure. In the case of certain focal points that contribute to the historic character and to the quality of the urban design of the city, their removal due to their nonconforming status is not encouraged.
- B. Structures lawfully established prior to the effective date of a protection district may be modified provided that such modification does not cause the structure to encroach into the viewshed or mission protected area to any greater extent in any dimension or configuration, specifically height, width or mass, than the existing structure.
- C. Nonconforming structures may be maintained and repaired as necessary for the safe and efficient operation or use provided that no such maintenance or repair shall cause the structure to encroach into a viewshed or mission protected area to a greater extent in any dimension or configuration, specifically height, width, or mass, than the structure encroached prior to such maintenance and repair.

- D. When a structure which does not conform with the provisions of this chapter is destroyed by an event such as a fire, other calamity, or by act of God, its use may resume or the structure may be restored provided that restoration commences within one (1) year of said event and completion is diligently pursued. The structure, after such restoration, - After such restoration, the non-conforming structure shall not encroach into a viewshed or mission protected area to a greater extent in any dimension or configuration, specifically height, width, or mass, than the encroachment which existed prior to destruction.
- (e) **Public Facilities and Utilities.** Notwithstanding article I, the city (including its departments and agencies) and all utilities as identified in subsection 35-507(a) shall comply with the siting and design requirements of structures and utility facilities which are located within a viewshed or Mission Protection Overlay district. Utility lines are encouraged to be located underground and in the right-of-way where possible.

Sec. 35-803. - Historic and Design Review Commission.

(b) Duties and Functions. The commission shall serve to assist in an advisory capacity to the City of San Antonio directors of parks and recreation, planning and community development, development services, code enforcement services, public works, arts and cultural affairs, office of historic preservation and other appropriate heads of municipal departments, in accordance with Section 49 of the City Charter, and to the city manager. The commission shall have no authority to bind the City of San Antonio by contract or otherwise. The commission shall have the following duties and functions:

- (1) To conduct an ongoing inventory to identify historically, culturally, architecturally, and archaeologically significant buildings, objects, sites, structures, public art and design enhancements, and areas that exemplify the cultural, social, economic, political, archaeological, or architectural history of the city, state, or nation;

- (15) To hold public hearings and review and make recommendations on applications for new development or redevelopment on property zoned "D" Downtown Zoning District, in accordance with the Downtown Design Guide in Appendix G of this chapter (35-G101).

(16) To review and recommend sites as eligible for viewshed protection and to recommend through the city zoning commission the boundaries and protection angles of proposed viewshed protection districts in accordance with the provisions of section 35-337.