



City of San Antonio

Legislation Details (With Text)

File #: 19-7799

Type: Zoning Case

In control: Board of Adjustment

On agenda: 10/21/2019

Title: BOA-19-10300112: A request by Patrick Christensen for a height variance from the two stories height limitation to allow construction of a new theater to be three stories and 38' in height within the Alta Vista Neighborhood Conservation District, located at 725 and 741 West Ashby Place. Staff recommends Approval. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, dominic.silva@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA-19-10300112 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300112

Applicant: Patrick Williams Christensen

Owner: The San Antonio Little Theater Inc.

Council District: 1

Location: 725 and 741 West Ashby Place

Legal: Lot 9 and 10, Block 8, NCB 1891

Description:

Zoning: "IDZ NCD-2 AHOD" Infill Development Zone with uses permitted for an Indoor Venue, Two Screens, Stages, and Performing Arts Alta Vista Neighborhood Conservation Airport Hazard Overlay District

Case Manager: Dominic Silva, Senior Planner

Request

A request for a height variance from the two stories height limitation to allow a new theater construction to be three stories and 38' in height within the Alta Vista Neighborhood Conservation District.

Executive Summary

The subject property is located at 725 and 741 West Ashby Place at the intersection of North Flores Street and West Ashby Place. The property owner is requesting a variance from the height restrictions in the Alta Vista Neighborhood Conservation District to allow for a new theater and performing arts center to be three stories

and 38' in height to be constructed. The NCD-2 only allows for two stories of height for properties North of Ashby.

The applicant states that in order for the performing arts space to be able to accommodate theatrical productions, with its associate stage and stage mechanicals, along with public art facilities, the additional height is required. The subject property is surrounded by a mix of uses such as single-family, multi-family, and commercial and the San Pedro Springs Park.

Zoning Commission initially heard case Z-2018-900017 on January 15, 2019. The site plan reflected the three story proposed construction. A continuance was requested on both the January 15 and February 19, 2019 Zoning Commissions to continue to allow the applicant to work with the neighborhood. On March 5, 2019, the zoning commission voted on the item. Tami Kegley of the Alta Vista Neighborhood Association and Teresa Nino, resident of Alta Vista, spoke in support. Commissioner Head made a motion of approval, seconded by Commissioner Bustamante. Commissioners Nix, Sipes, Gibbons, Kamath, McDaniel, Romero, Lopez, Rosalez, and McGhee voted in favor. The case went to City Council on April 4, 2019 where Councilmember Trevino moved to approve. Mayor Nirenberg and councilmembers Hall, Viagran, Gonzales, Sandoval, Courage, and Perry voted in favor.

Code Enforcement History

No Code Enforcement history exists on the property.

Permit History

No permits have been issued for this project.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“IDZ NCD-2 AHOD” Infill Development Zone Alta Vista Neighborhood Conservation Airport Hazard Overlay District with uses permitted for an Indoor Venue, Two Screens, Stages, and Performing Arts	Vacant, Proposed Theater Construction

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2NA NCD-2 AHOD” Commercial Nonalcoholic Sales Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Antique Sales
South	“ RM-4 HS UC-6 NCD-2 AHOD” Residential Mixed San Pedro Springs Park San Pedro Urban Corridor Alta Vista Neighborhood Conservation Airport Hazard Overlay District	San Pedro Springs Park

East	“O-2 NCD-2 AHOD” High-Rise Office Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Office
West	“C-2 NCD-2 AHOD” Commercial Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Flower Shop

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Midtown Neighborhoods Plan and designated as “Mixed Use” in the future land use component of the plan. The subject property is located within the boundaries of the Alta Vista Neighborhood Association. As such, they were notified and asked to comment.

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 public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by height limitations to ensure that future development is compatible within the context that it is placed. The owner of the property is trying to develop a new theater and performing arts center. The proposed three stories and 38' in height development will be surrounded by a mix of housing, business and a park. Staff finds that permitting the requested height is warranted and is not contrary to the public interest.

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

Literal enforcement of the ordinance would limit the structure to two stories. The project, as an infill development, presents challenges in its design configuration as it encompasses two lots; there is no harm to the abutting properties.

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 the intent of the code, rather than the strict letter of the law. The intent of the code is to ensure that new development is appropriately scaled and compatible with specific design and height criteria. The applicant is not seeking variance to the required design aspects listed in the code, only seeking the additional height. The proposed project is compatible with surrounding development, and existing neighborhoods in use and character. Staff finds that the request for additional height observes the spirit of the ordinance.

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 by 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 proposed project is compatible with surrounding development. Nearby uses will be buffered by the street right-of-way and the project sits at an intersection. The applicant is not seeking any other variances.

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 unique circumstance present in this case is the scale of proposed development. Because most of the block is included within the project area, staff finds that the request for additional height is warranted.

Alternatives to Applicant's Request

The alternative to the applicant's request is to conform to the height limitations set forth in the Alta Vista Neighborhood Conservation District non-residential design standards.

Staff Recommendation

Staff recommends **APPROVAL** of the variance in **BOA-19-10300112**, based on the following findings of fact:

1. The request does not negatively impact surrounding property owners, and;
2. The proposed height is appropriate because of the nature of the new theater and nearby land uses including commercial and mixed housing.