



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-5163  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 10/5/2015

**Title:** A-15-151: A request by 120 Ninth Street LLC for a variance from the requirement that a parking garage include a 2-story liner building to allow a parking garage without a liner building, located at 120 Ninth Street. (Council District 1)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-15-151 attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-15-151  
**Applicant:** 120 Ninth Street LLC  
**Owner:** 120 Ninth Street LLC  
**Council District:** 1  
**Location:** 120 Ninth Street  
**Legal Description:** Lot 10, Block 34, NCB 456  
**Zoning:** "FBZ T6-2 RIO-2 AHOD" Form-Based Zone Transect 6 River Improvement Overlay Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl AICP, Senior Planner

### Request

A request for variance from the requirement, as described in 35-209 (e) 6 D7, that a parking garage include a 2-story liner building to allow a parking garage without a liner building.

### Executive Summary

The subject property is located in the River North neighborhood, regulated by the From Based Zoning District (FBZD) design standards, as well as the River Improvement Overlay (RIO) design standards. The property owner assembled several parcels and re-platted them into a single lot slightly larger than 2 acres. Two existing buildings will be demolished, in preparation for the new multi-family residential structure and associated parking garage. The parcel has over 400 feet of frontage on the San Antonio River museum reach, 250 feet on 9<sup>th</sup> Street and 190 feet on Avenue B. The design team has worked to address all of the complex and sometimes conflicting regulatory requirements ranging from those of the River Authority, the Historic and Design Review (HDRC) Commission's RIO requirements and the FBZD standards. The RIO guidelines were the first to be incorporated into the plans, including those specific to the parking garage. As a part of this review process the applicant met several times with staff and the Design Committee. The committee asked for a metal wall mural,

green screens, and planter boxes on the edges of the parking garage to soften its impact. These were designed, incorporated and approved. More recently during building permit review, the liner building requirement within the FBZD District was brought to their attention.

The parking garage is being constructed on a combination of small lots totally 24,500 square feet. The current plan includes a height of 53 feet with 315 parking stalls incorporated inside. The neighboring residential structure will range between 54 and 65 feet in height for a total of 220 units. Essentially, parking garage design is dependent on the slopes of the ramps and the linear space they need to climb a half story. If the liner building were included into the design, the parking garage would need to be raised to 10 stories in order to accommodate a similar number of stalls. The applicant is asserting that a 10 story parking garage would be out of character in the area and thus is requesting approval of the variance to eliminate the design change.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“FBZ T6-2 RIO-2 AHOD” Form-Based Zone Transect 6 River Improvement Overlay Airport Hazard Overlay District	Vacant

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“FBZ T6-2 RIO-2 AHOD” Form-Based Zone Transect 6 River Improvement Overlay Airport Hazard Overlay District	VFW Post
South	“FBZ T6-2 RIO-2 AHOD” Form-Based Zone Transect 6 River Improvement Overlay Airport Hazard Overlay District	Auto Repair
East	“FBZ T6-2 RIO-2 AHOD” Form-Based Zone Transect 6 River Improvement Overlay Airport Hazard Overlay District	Warehouse
West	“FBZ T6-2 RIO-2 AHOD” Form-Based Zone Transect 6 River Improvement Overlay Airport Hazard Overlay District	Auto Repair

**Comprehensive Plan Consistency/Neighborhood Association**

The property is located within the boundaries of the River North Master Plan and currently designated as Mixed Use in the future land use component of the plan. The subject property is also located within the boundaries of the Downtown Resident’s Association, a registered neighborhood association. As such, they were notified of the request 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 mitigating the aesthetic impact of a parking structure. The HDRC has already required sufficient mitigation measures, making the variance not contrary to public interest.

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

The special circumstance present on the subject property is that the HDRC required detailed artistic design features which conceal and beautify the proposed garage, making the liner building duplicative.

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 letter of the law. In this case, the spirit is represented by incorporating design features which conceal the parking garage at the pedestrian level. Therefore, this variance observes the spirit of the code.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “FBZ T6-2 RIO-2 AHOD” Form-Based Zone Transect 6 River Improvement Overlay Airport Hazard Overlay 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 surrounding neighborhood is in a state of transition, changing land uses from primarily industrial to a mix of uses. This high density residential project implements the goals for this area and its design conforms to all other form-based regulatory requirements. Therefore, this variance will not negatively alter the character of the district.

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 project is regulated by a variety of design standards, some of which conflict and proceeded in good faith to comply with all design requirements.

### **Alternative to Applicant’s Request**

The applicant could reduce the footprint of the garage and increase its height to accommodate the liner building.

### **Staff Recommendation**

Staff recommends **APPROVAL** of **A-15-151** based on the following findings of fact:

1. The parking garage has already incorporated the necessary mitigation measures to comply with the spirit of the Code.