



# City of San Antonio

## Agenda Memorandum

**File Number:** 16-4910

**Agenda Item Number:** 1.

**Agenda Date:** 9/19/2016

**In Control:** City Council A Session

**Case Number:** A-16-145  
**Applicant:** Michael Perez  
**Owner:** Eleven 23 Presa, LLC  
**Council District:** 1  
**Location:** 1123 S. Presa Street  
**Legal Description:** East 146 ft. of Lot 4, NCB 2962  
**Zoning:** "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District with uses permitted for three single-family units  
**Case Manager:** Margaret Pahl AICP, Senior Planner

### Request

A request for a variance from the S. Presa/S. St. Mary's Neighborhood Conservation District (NCD) standards which restrict the number of stories to 2.5 to allow 3 story structures.

### Executive Summary

The subject property was rezoned to Infill Development Zone in April of 2016 to facilitate construction of three single-family structures. This zoning map amendment is identical to one approved a few years ago which facilitated the addition of three single-family homes immediately adjacent to the west. The applicant is seeking the variance to allow the additional third story, while satisfying all of the remaining design standards within the adopted conservation district.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"IDZ NCD-1 AHOD" Infill Development Zone S. Presa/S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District with uses permitted for three single-family units	Vacant

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“RM-5 IDZ NCD-1 AHOD” Residential Mixed Infill Development Overlay Zone S. Presa/S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District	Three residential units
South	“C-2 HS NCD-1 AHOD” Commercial Historical Significant S. Presa/S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District	Dentist Office
East	“C-2 NCD-1 AHOD” Commercial S. Presa/S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District	Convenience Store
West	“C-2 NCD-1 AHOD” Commercial S. Presa/S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District	Apartments

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Lavaca Neighborhood Plan and currently designated as Mixed Use in the future land use component of the plan. The subject property is located within the Lavaca Neighborhood Association boundaries and within 200 feet of the King William Neighborhood Association. As such both 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 the number of stories allowed (2.5 stories) and the allowable building height (35 feet). The construction plan does not require additional height (above 35 feet) and is therefore, not contrary to the public interest.**

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

**The literal enforcement of the ordinance would require that the construction be limited to 2.5 stories. The literal enforcement of this limitation creates an unnecessary hardship, by eliminating off-street parking spaces. While providing parking is not a requirement of the IDZ district, the lack of parking constitutes an unnecessary hardship.**

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. By identifying a specific building height, the intent is clarified. Allowing the applicant to construct the third story while staying within the maximum building height of 35 feet honors the intent of the limitation.**

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 “IDZ NCD-1 AHOD” Infill Development Zone S. Presa/S. St. Mary’s Neighborhood Conservation 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 proposed project mimics the three homes immediately adjacent, while preserving mature trees on site and creating outdoor living area for each home. The variance will not detract because the overall height is not increased.**

*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 circumstances on the property are the location of three mature trees that are proposed for preservation.**

**Alternative to Applicant's Request**

The applicant could eliminate the provision of parking.

**Staff Recommendation**

Staff recommends **APPROVAL of variance request in A-16-145** based on the following findings of fact:

1. The requested variance allows for the location of off-street parking stalls, a desirable amenity in this neighborhood.
2. The requested variance does not authorize additional height.