



City of San Antonio

Legislation Details (With Text)

File #: 16-4912

Type: Zoning Case

In control: Board of Adjustment

On agenda: 9/19/2016

Title: A-16-162: A request by Efraim Varga for variances from the S. Presa/S. St. Marys Neighborhood Conservation District (NCD-1) to include: 1) the prohibition of attached garages; 2) the requirement that a porch comprise at least one-third the width of the front façade; 3) to allow a window in the principal elevation which does not satisfy the 2:1 vertical ratio; 4) the 2.5 story limitation to allow 3 stories; and 5) the requirement that homes be within 20% of the block median setback of 24 feet to allow new homes which are no closer than 7 feet, located at 1511-1519 S. Presa Street. Staff recommends Approval. (Council District 1)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Maps and Pictures

Date	Ver.	Action By	Action	Result
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Case Number: A-16-162

Applicant: Efraim Varga

Owner: Eleven 23 Presa, LLC

Council District: 1

Location: 1511-1519 S. Presa Street

Legal Description: Lots 1, 2, 3, & E. IRR 47 ft. of Lot 4, Block 1, NCB 3097

Zoning: "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/ S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District with uses permitted in "MF-18" Multi-Family Residential uses up to 10 units

Case Manager: Margaret Pahl AICP, Senior Planner

Request

A request for variances from the S. Presa/S. St. Marys Neighborhood Conservation District (NCD-1) to include: 1) the prohibition of attached garages; 2) the requirement that a porch comprise at least one-third the width of the front façade; 3) to allow a window in the principal elevation which does not satisfy the 2:1 vertical ratio; 4) the 2.5 story limitation to allow 3 stories; and 5) the requirement that homes be within 20% of the block median setback of 24 feet to allow new homes which are no closer than 7 feet.

Executive Summary

Historically, the zoning along S. Presa Street has been a mixture of commercial and industrial. More recently, this corridor has experienced revitalization through several zoning map amendments for small infill projects. The subject property was rezoned to Infill Development Zone (IDZ) in November of 2015 to facilitate construction of ten single-family structures. The initial building permit review did not include review of the

requirements. Without the conservation district standards, the project was approvable as designed. The applicant has pre-sold half of the units based on the design that requires the above-described five variances.

The modern style homes are three stories with balconies on each floor. The ground floor parking is incorporated into the design. There is a covered entrance, but it does not extend across the façade to comply with the minimum one-third requirement for a porch. The street facing façade does include windows that satisfy the ratio requirements, but one of the windows in the staircase is square and needs the variance. The project includes 140 feet frontage on S. Presa Street and 200 feet of linear frontage on Locust, creating a significant impact on both streetscapes. However, the NCD requires a front setback that is related to the others buildings on the block. The project layout is closer to the front property lines than this requirement would allow, triggering the setback variance. The IDZ standards eliminate all setbacks except a 5 foot rear setback and led the designer to proceed without evaluating this standard.

Because of the pre-sales and permit review process, the applicant is hoping to build the project as proposed. The site was an abandoned gas station and the applicant has completed underground hazard mitigation to remove toxic traces of this previous business. The subdivision is awaiting recordation as well.

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 in “MF-18” Multi-Family Residential uses up to 10 units	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 NCD-1 AHOD” Residential Mixed S. Presa/S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District	Residential
South	“IDZ NCD-1 AHOD” Infill Development Zone S. Presa/ S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District with uses permitted in “MF-25” Multi-Family Residential uses up to 8 units	Vacant, Phase 2 of the project
East	“RM-4 NCD-1 AHOD” Residential Mixed S. Presa/S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District	Residential
West	“RM-4 NCD-1 AHOD” Residential Mixed S. Presa/S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District	Residential

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. 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 allowable building height, median setback, detached garage in rear yard and a wide porch on the front façade. The construction plan does not require additional height, includes off-street parking that is not required, has balconies for interaction and enough corner streetscape to make the setback cohesive. Therefore, the project as proposed is 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 applicant deviate significantly from the site plan that was presented to the Zoning Commission and approved by the City Council. This literal enforcement creates an unnecessary hardship.

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

Granting the requested variances will allow the project to proceed as anticipated by the City Council, the notified adjacent property owners and buyers with earnest money reservations.

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 design includes the introduction of modern architecture into a traditional neighborhood of single-family residential structures, primarily built over 70 years ago. While the proposed design is inconsistent with the assumed goal of the NCD, it is a large enough project to create the character of this section of the district. In addition, the applicant is hoping to expand the project to the corner just south on recently rezoned property, potentially requiring future 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 owner purchased a large corner gas station that had been closed since prior to 2002. The property was rezoned with a site plan to allow 10 homes served by a private lane. Hazardous waste clean-up, architectural design and subdivision platting proceeded without knowledge of issues triggered by the NCD.

Alternative to Applicant’s Request

The applicant could redesign the site and submit for a site plan amendment through the rezoning process.

Staff Recommendation

Staff recommends **APPROVAL of variance request in A-16-162** based on the following findings of fact:

1. The project was approved through the city Council rezoning process with an IDZ site plan to allow the development as proposed; and
2. The requested variances are required to construct the project as designed.