



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-6347  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 11/20/2017  
**Title:** A-18-011: A request by the San Antonio River Foundation for a two foot and six inch variance from the 39 foot and nine inch MPOD height limitation to allow a public art installation to be 42 feet and three inches tall feet tall, located at 9900 and 10040 Espada Road. Staff recommends Approval. (Council District 3)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-18-011 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-011  
**Applicant:** San Antonio River Foundation  
**Owner:** City of San Antonio  
**Council District:** 3  
**Location:** 9900 and 10040 Espada Road  
**Legal Description:** Southwest Irregular Point of Triangular 73 Feet Except the Southeast Irregular 96.12 Feet of the Non-Adjacent Property, NCB 11173  
**Zoning:** “NP-10 H HS RIO-6 AHOD” Neighborhood Preservation  
Mission Historic Significant River Improvement Overlay  
Airport Hazard Overlay District  
**Case Manager:** Logan Sparrow, Principal Planner

### Request

A request for a two foot and six inch variance from the 39 foot and nine inch MPOD height limitation, as described in Section 35-339.06, to allow a public art installation to be 42 feet and three inches tall feet tall.

### Executive Summary

The subject property is located at 9900 and 10040 Espada Road. The San Antonio River Foundation has commissioned an artist to construct a portal to Mission Espada and the applicant is seeking a variance to allow for the public art installation to exceed the maximum permitted height, as established in the “MPOD” Mission Protection Overlay District, to allow the installation to be 42 feet and three inches tall. The request was

considered by the Historic Design and Review Commission, which recommended approval of the art installation, up to 45 feet and three inches tall, on September 6, 2017.

### **Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“NP-10 H HS RIO-6 AHOD” Neighborhood Preservation Mission Historic Significant River Improvement Overlay Airport Hazard Overlay District	Multi-Family Dwellings

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	UZROW	Loop 410 Expressway
South	“FR H RIO-6 AHOD” Farm and Ranch Mission Historic River Improvement Overlay Airport Hazard Overlay District	Agriculture
East	UZROW	San Antonio River
West	“R-6 H RIO-6 AHOD” Residential-Single-Family Mission Historic River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is within the boundaries of the Heritage South Sector Plan and currently designated Civic Center in the future land use component of the plan. The subject property is not within the boundaries of any registered neighborhood association.

### **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 represented by maximum building height limitations to preserve the view of Mission Espada. The application included a height survey, conducted by a drone, clearly showing the requested height is not visible from Mission Espada. Because it does not obscure the view to the Mission, or the view from the Mission, staff finds that the request is not contrary to the public interest.**

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

**The special condition in this case is that the requested fence height does not interfere with the intent of the MPOD height limits. The height limits were established to prevent development from obscuring the view to and from Mission Espada. Because the proposed art installation does not conflict with these purposes, staff finds that a literal enforcement of the ordinance would result in 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 of the requirements rather than the strict letter of the law. The**

**intent of the height limit is to protect the Mission viewshed. In that the variance request does not detract from that intent, staff finds that granting the variance will result in substantial justice.**

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 “NP-10 H HS RIO-6 AHOD” Neighborhood Preservation Mission Historic Significant 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.

**It is unlikely that the variance will injure adjacent property owners. Loop 410 Expressway is located to the north, the San Antonio River is located east of the subject property, and there are agricultural uses to the south. The single-family homes to the west would be most directly affected, but the nearest home is located nearly 300 feet away.**

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 the case is that the intent of the MPOD height limitation is met as the requested variance does not obscure the view to or from Mission Espada.**

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

Denial of the variance request would result in the owner having to meet the required height limitation.

#### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variance in A-18-011**, based on the following findings of fact:

1. The requested variance does not obscure the view to or from Mission Espada, and;
2. The requested variance is unlikely to harm adjacent property.