



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-1892

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 2/19/2018

**Title:** A-18-047: A request by Yasaman Azima Living Trust for 1) a five foot variance from the maximum 15 foot tall light pole height to allow light poles to be 20 feet tall and 2) a request for a variance to allow for a 24 foot pole sign up to 150 square feet rather than an attached sign, located at 1434 East Commerce Street. Staff recommends Approval. (Council District 2)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-18-047 Attachments

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

**Case Number:** A-18-047

**Applicant:** Yasaman Azima Living Trust

**Owner:** Yasaman Azima Living Trust

**Council District:** 2

**Location:** 1434 East Commerce Street

**Legal:** Lot 19, Block 3, NCB 598

**Description:**

**Zoning:** “AE-1 AHOD” Arts and Entertainment Airport Hazard Overlay District

**Case Manager:** Logan Sparrow, Principal Planner

### Request

A request for 1) a five foot variance from the maximum 15 foot tall light pole height, as described in Section 35-358(c)(1)(A)(3), to allow light poles to be 20 feet tall and 2) a request for a variance from the “AE-1” design requirement that does not allow freestanding signs, as described in Section 35-358-(d)(5)(A), to allow a freestanding pole sign that is 24 feet tall and up to 150 square feet.

### Executive Summary

The subject property is located at 1434 East Commerce Street, at the northwest corner of East Commerce and South Hackberry Street. The applicant has purchased the property and is seeking to develop it into a professional office. They are seeking two variances: the first variance is to allow the use of 20 foot tall light poles, whereas the “AE-1” district limits the maximum height of light poles to 15 feet. They require the additional height so that fewer poles can provide an adequate amount of lamination on the property. The second variance sought by the applicant is to allow for the use of a freestanding pole sign that is 24 feet tall and up to 150 square feet. Based upon the street classification, if not for the design requiring attached signage, the

applicant would be permitted the 24 foot tall sign height by Chapter 28. VIA is proposing a new bus stop facility in front of the subject property, and the owner is concerned that the stop will obscure the sign if not allowed on a pole to increase location flexibility.

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

Existing Zoning	Existing Use
“AE-1 AHOD” Arts and Entertainment Airport Hazard Overlay District	Vacant, Proposed Professional Office

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

Orientation	Existing Zoning District(s)	Existing Use
North	“AE-1 AHOD” Arts and Entertainment Airport Hazard Overlay District	Pawn Shop
South	“AE-2 AHOD” Arts and Entertainment Airport Hazard Overlay District	Single-Family Dwelling
East	“AE-1 AHOD” Arts and Entertainment Airport Hazard Overlay District	Restaurant
West	“AE-1 AHOD” Arts and Entertainment Airport Hazard Overlay District	Vacant

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

The property is within the boundaries of the Downtown Neighborhood 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 Alamodome Gardens Neighborhood Association and within 200 feet of the Denver Heights 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 design requirements intended to provide for consistent development within the Arts and Entertainment District area. The applicant is seeking additional height for the light poles so that a lesser number of poles can provide an adequate amount of lighting for the property. During staff visits, it was noted that the City has installed 24 foot tall light poles along East Commerce Street. Because there are already light poles taller than those required by the “AE-1” District, and the proposed lighting will be shorter than those, staff finds that the public interest is not harmed by the request.**

**Further, the applicant is seeking a variance to allow for the use of a freestanding pole sign to be visible after VIA installs a bus stop in front of the property. Because the request is minimal in nature, and because without a variance, the subject property will struggle to advertise, staff finds that it, too, is not contrary to the public interest.**

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

**Staff finds that the special condition that warrants the additional light pole height is the applicant's need to illuminate the subject property for security concerns. Additionally, tall light poles are common along East Commerce Street within the right-of-way.**

**The special condition present that warrants the sign variance is the result of the placement of a VIA bus stop structure that would otherwise block the view to the applicant's signage.**

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 certain design elements are in scale with surrounding development along the East Commerce corridor. The corridor already has numerous examples of taller light poles, and the requested signage variance is necessary because the VIA stop would otherwise obscure the view to the sign.**

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 requested variance will not permit a use not authorized within the "AE-1 AHOD" Arts and Entertainment 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.*

**Staff cannot determine how either variance request would harm adjacent properties, nor can staff determine how either request detracts from the essential character of the community.**

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 plight of the owner is their need to secure the property through appropriate lighting conditions. Further, the plight of the owner of the property is that VIA is placing a bus stop that directly interferes with their ability to advertise. These issues are not merely financial in nature.**

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to conform to the design requirements set forth in the "AE-1" chapter.

### **Staff Recommendation**

Staff recommends **APPROVAL of A-18-047** because of the following reasons:

1. The applicant needs to secure the property with appropriate lighting, and;
2. The placement of a proposed VIA bus stop would directly interfere with the applicant's signage.

