



City of San Antonio

Legislation Details (With Text)

File #: 19-3006
Type: Zoning Case
In control: Board of Adjustment
On agenda: 4/1/2019
Title: BOA-19-10300030: A request for a special exception to allow 2 short term rental (Type 2) units, located at 340 West Elsmere Place. Staff recommends Denial. (Council District 1)
Sponsors:
Indexes:
Code sections:
Attachments: 1. BOA 19-10300030 Attachments

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

Case Number: BOA-19-10300030
Applicant: Estela Arechavala
Owner: Estela Arechavala II
Council District: 1
Location: 340 West Elsmere Place
Legal: The East 25 feet of Lot 2 & the West 25 feet of Lot 3, Block
Description: 2, NCB 3967
Zoning: "R-5 H AHOD" Residential Single-Family Monte Vista
Historic Airport Hazard Overlay District
Case Manager: Mercedes Rivas, Planner

Request

A request for a special exception, as described in Section 35-374.01, to allow 2 short term rental (Type 2) units.

Executive Summary

The subject property is located at 340 West Elsmere Place. The applicant is seeking a special exception to allow for the operation of two (2) Type-2 short term rental units at a property with a total of 2 dwelling units. A unit is defined as having its own distinct sleeping area, kitchen, and bathroom. Type-2 indicates that the owner/operator of the property does not occupy the site as their permanent legal residence. Per the recently adopted code, Type 2 Short Term Rentals shall be limited to no more than one-eighth (12.5 percent) of the total number of units on the block face. At least one (1) Type 2 Short Term Rental shall be permitted per block face, regardless of the total number of units on the blockface. In this case, the blockface is defined as the south side of West Elsmere Place between San Pedro Avenue and Belknap Street. There are eight (8) lots along this blockface, and according to available records, there are nine (9) units on this blockface, resulting in one (1)

Type 2 Short Term Rental permitted by right. One (1) Type 2 Short Term Rental Permit has already been approved by right at 334 West Elsmere Place. Any other Type 2 Short Term Rentals on this blockface must seek a Special Exception from the Board of Adjustment.

There are a total of 2 units within this two family dwelling. The applicant is requesting both of these units as Type 2 Short Term Rentals. If this special exception is approved, there will be a total of three (3) Type 2 Short Term Rentals on this block face, resulting in 33% of the blockface. Records also indicate that one property on this blockface to the east of the subject property is operating as a Type 1 (owner-occupied) short term rental (306 West Elsmere Place) and another Type 1 is operating on the blockface across West Elsmere Place (319 West Elsmere Place).

Code Enforcement History

No Code Enforcement history exists on the property.

Zoning History

The structure was built as a duplex in 1928. Zoning was first introduced in 1938 and the property was zoned “A” Single Family Residence District. As such, the property became a legal non-conforming use and has remained a legal non-conforming use. With the adoption of the 2001 Unified Development Code, the property converted from “A” to “R-5” Residential Single-Family District.

Permit History

The property owner is seeking a special exception to allow for the permits to be issued.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 H AHOD” Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Two-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 H AHOD” Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling
South	“R-5 H AHOD” Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling

East	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling
West	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Near North Community Plan. The subject property is located within the boundaries of the Monte Vista Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

West Elsmere Place is classified as a Local Street.

Criteria for Review

According to Section 35-374.01 of the UDC, in order for a special exception to be granted, the applicant must demonstrate all of the following:

A. The special exception will not materially endanger the public health or safety.

The property appears to be well kept. There is a driveway for guests to park as well as parking in the rear of the property, and nothing about the property in question places it out of character with those in the immediate vicinity. No Code Enforcement history exists on the property.

B. The special exception does not create a public nuisance.

Approval of this special exception will result in two additional Type 2 Short Term Rentals operating on a blockface which already includes several properties operating as a Short Term Rental Type 1 or Type 2, and may have the effect of saturating the blockface which may create a public nuisance. The applicant could provide data showing that occupancy rates for long-term rentals in the neighborhood will not be impacted which could mitigate this finding.

C. The neighboring property will not be substantially injured by such proposed use.

The applicant could provide data showing that occupancy rates for long-term rentals in the neighborhood and property valuations for the neighborhood will not be negatively impacted by the request, which could mitigate this finding.

D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.

During field visits staff noted that there is a driveway for guests to park as well as parking in the rear of the property for guests of the short term rentals. The structure already exists with adequate utilities.

E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.

The applicant is seeking their first permit for the operation of two (2) Type-2 short term rentals for this property. However, approval will result in two additional Type 2 Short Term Rentals operating on a blockface which already includes several properties operating as a Short Term Rental Type 1 or Type 2.

F. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

Essential character of the neighborhood may include potential impacts to occupancy rates and property valuations. The applicant could provide data showing that occupancy rates for long-term rentals in the neighborhood and property valuations for the neighborhood will not be negatively impacted by the request, which could mitigate this finding.

The Board can also consider public input from the neighborhood regarding the character in which the property is located. Additionally, the Board can also consider the unique situation of the request. The unique situation could be that the blockface only allows for one Type 2 Short Term Rental by right, which was already approved for a different property. The Board could also consider that this property has a total of two units and approval of one (1) STR would result in a total of two Type 2 units on the blockface, thereby allowing the remaining unit to be used for a long term rental.

Alternative to Applicant's Request

Denial of the requested special exception will result in the property owner not being able to operate a Type 2 Short Term Rental unit.

Staff Recommendation

Staff recommends **DENIAL** of the special exception in **BOA-19-10300030**, based on the following findings of fact:

1. One Type 2 rental already is permitted by right on this blockface. Approval of two additional Type 2 short term rentals operating on a blockface which already includes several properties operating as a Short Term Rental Type 1 or Type 2 may result in a change of character in the neighborhood.