



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-1902

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 2/17/2020

**Title:** BOA-20-10300013: A request by John Hertz regarding an appeal of the Historic Preservation Officer's decision to issue a Certificate of Appropriateness, located at 335 Trail. Staff recommends Denial. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, dominic.silva@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Map, 2. Appeal Application

Date	Ver.	Action By	Action	Result
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Case Number:	BOA-20-10300013
Applicant:	John Hertz
Owner:	Robert A. Price IV
Council District:	1
Location:	335 Trail
Legal Description:	Lots 9-14 & 17-20, Block 2, NCB 6078
Zoning:	"MF-33 H RIO-1 AHOD" Multi-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District
Case Manager:	Dominic Silva, Senior Planner

### Request

An appeal of the Historic Preservation Officer's decision to issue a Certificate of Appropriateness.

### Executive Summary

The subject property is located at 335 Trail, approximately 385' east of North St. Mary's Street. The applicant, John Hertz, is appealing the Historic Preservation Officer's decision to issue a Certificate of Appropriateness, as described in Section 35-451, Appeals to the Board of Adjustment, in the Historic and Design Review

Commission case # 2019-641. As per the recent changes to the appeal process as a result of HB 2497, the application meets the requirements for a Tier 2 appeal as the applicant lives within 200 feet of the subject property and the appeal was submitted within 20 days of the decision.

### **Zoning History**

The subject property was annexed via Ordinance 1258, dated August 3, 1944, and originally zoned “C” Apartment District. “C” Apartment District converted to the current “MF-33” District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001.

### **Code Enforcement History**

No code enforcement history exists on this property.

### **Permit History**

Plat #19-11800095 has been approved but not yet recorded. The stormwater technical review was approved on 7/31/19 with the following comment: “Pervious pavers are required for this development and detailed design to be provided at commercial site work permit. No additional flow allowed to existing historic acequia.”

Commercial building permit #2532986 has been submitted and is currently under review. No approvals under historic, stormwater, or tree preservation have taken place.

### **Applicable Code References (summarized)**

UDC 35-451(a). Certificate of Appropriateness. Applications proposing work or changes to the exterior of a landmark, in a historic district or in a river improvement overlay district, shall require review for appropriateness with the provisions of this article, and any adopted design guidelines. In addition, the demolition or relocation of any structure designated historic shall also require review for appropriateness in the same manner.

UDC 35-451 and 35-481. Appeals to the Board of Adjustment. The Board of Adjustment is empowered to consider an appeal of a decision by an administrative official, in this case, the Historic Preservation Officer (HPO). The appeal must be submitted by a person aggrieved the decision. The appeal must include details regarding the incorrect interpretation made by the administrative official. In determining whether or not to grant the appeal, the board of adjustment shall consider the same factors as the commission and the report of the commission.

UDC 35-610. ...Applications shall be reviewed for consistency with the historic or district specific design guidelines adopted by city council. The application shall be reviewed for conformance to the general rules and principles contained in the guidelines. Applications should be approved if in general conformance with the guidelines but denial of an application by the city manager or the city manager's designee may be based on any inconsistency or nonconformance with the approved guidelines...

UDC 35-671. In considering whether to recommend approval or disapproval of an application for a certificate of appropriateness for new construction, additions or alterations in a river improvement overlay district, the historic and design review commission shall be guided by the compatibility standards set forth below...The application shall be reviewed for conformance to the general rules and principles contained in this chapter and the applicable guidelines. Applications should be approved if in general conformance with the this chapter and

the applicable guidelines but denial of an application by the city manager or the city manager's designee may be based on inconsistency or nonconformance with the approved guidelines.

UDC 35-672(b)(7). Parking lots, structures, and hardscape shall not drain directly into the river or creek without installation of appropriate water quality best management practices (WQ BMPs). Acequias shall not be used for any type of drainage.

#### UDC 35-523. TREE PRESERVATION

UDC 35-673(c)(4). Where archeological evidence indicates a site contains or has contained a Spanish colonial acequia, incorporate the original path of the acequia as a natural drainageway or a landscape feature of the site by including it as part of the open space plan, and a feature of the landscape design.

### **Background and Interpretation**

The appeal is in regards to an incorrect decision or interpretation of the Unified Development Code. The applicant has cited UDC Section 35-610 and 35-671, building mass and form; Section 35-672(b)(7), acequias; Section 35-674.01(a), River Improvement Overlay District building tradition; Section 35-523, tree preservation, and; Section 35-673(c) storm water features.

The proposed development is partially located within the River Road Historic District; those portions (proposed Buildings 5 and 6) are subject to the Historic Design Guidelines. The project in its entirety is also subject to review under the River Improvement Overlay District.

### **Case History**

This project received a recommendation for conceptual review from the HDRC on January 2, 2019. Conceptual review is non-binding and is for initial feedback purposes only. Design details may only be approved by a Certificate of Appropriateness (COA).

Following conceptual review, a request was made for a COA. That request was denied by the HDRC on October 2, 2019.

A subsequent request for a COA was submitted which included an updated site plan indicated low impact development features, an updated stormwater management plan, and related design elements. This revised application was recommended for approval by the HDRC on December 18, 2019. OHP staff issued a Commission Action letter indicating the approval and stipulations to the approval.

At each point in this process, including Design Review Committee meetings, conceptual approval, and more recent Commission hearings for final approval, the overall height (of three stories) of the structures on Trail Street has been a concern expressed by OHP staff, some commissioners, and neighbors to the property. Commissioners have also expressed concern regarding architectural details and drainage. OHP staff has also noted the inconsistency of front-loading garages facing Trail Street with the Historic Design Guidelines and did not recommend approval of the project based on these design concerns.

### **Building Mass and Height**

As cited above, the decision to approve a request for a COA should be based on conformance to the general

rules and principles established in the Historic Design Guidelines. Applications should be approved based on general conformance with the Guidelines. Similarly, applications may be denied based on non-conformance or inconsistencies with the Guidelines.

The applicant has cited two inconsistencies with the Historic Design Guidelines which he believes should have been the basis for a denial by the HDRC:

1. **HEIGHT.** The proposed development indicates Buildings 1 through 5 to feature three stories in height, while Building 6 is to feature two stories in height. Per the Guidelines for New Construction 2.A.i., a height and massing similar to historic structures in the vicinity of the proposed new construction should be used. In residential districts, the height and scale of new construction should not exceed that of the majority of historic buildings by more than one-story. The River Road Historic District is comprised mainly of single family residential structures. Multi-family residential structures that exist within the District often feature two stories in height. At the time of conceptual review, staff found that Buildings 5 and 6 (facing Trail) should be limited to two stories as they are closest in proximity to structures located within the River Road Historic District. Following concessions made by the developer, including a revision to roof form and lowering of overall building heights on Trail, the HDRC voted to approve the proposed building heights.
2. **BUILDING-TO-LOT RATIO.** Per the Guidelines for New Construction, the building footprint for new construction should be no more than fifty (50) percent of the size of the total lot area. The proposed footprint exceeds that which is recommended by the Guidelines. In its review, OHP staff found that, given the lack of an established block pattern for this lot, additional lot coverage is appropriate. The applicant has incorporated recessed building masses and additional landscaping materials to reduce the impact of the proposed development's footprint. The proposed low impact design features were intended to alleviate concerns regarding impervious lot coverage. The HDRC voted to approve the proposed building footprints.

### Acequia and Stormwater Review

The River Improvement Overlay Districts provide design standards and guidelines which relate to stormwater management. There are also two instances in the UDC which reference Spanish Colonial Acequia systems that are commonly located in proximity to San Antonio's waterways.

The HDRC is not the reviewing agency for compliance with stormwater requirements. However, the HDRC does have purview over design interventions that are proposed to meet or exceed development standards related to stormwater management.

The applicant has cited two inconsistencies with the provisions of RIO which he believes should have been the basis for a denial by the HDRC:

3. **ACEQUIA.** The UDC prohibits the use of a historic acequia as a means for stormwater management or diversion from a site. In its undeveloped state, the current vacant lot drains toward the nearby acequia in addition to adjacent streets. Staff's interpretation of the code is that the acequia should not be considered as part of a stormwater management plan, and that efforts should be taken to avoid runoff into or toward an acequia where they exist. In response, the proposed drainage plan was revised to include an on-site rainwater catchment system (cisterns) and permeable pavers within driveways to handle rooftop and pavement drainage. The cisterns and pavers will be designed to capture a two year (2-yr) storm event, or

approximately the first four (4) inches of rainfall. Rainfall in excess of the 2-yr storm or in areas that do not drain to the pavers would be captured by drains throughout the site and conveyed to the proposed on-site detention pond at the northeast corner of the site. The detention pond will release water along Huisache. Additionally, the developer has proposed a small wall/curb to deter runoff from entering the acequia from the site. This overall drainage plan would result in a reduction of runoff entering the acequia adjacent to the site when compared to existing conditions. The proposed drainage plan has been reviewed by TCI who concurs that the design is generally compliant with storm water code requirements and does not use the acequia as part of the proposed drainage infrastructure. TCI will provide a full review of construction plans and drainage system design during the building permit process. The HDRC voted to approve the proposed solutions.

4. MULTI-PURPOSE FEATURES. In RIO, the UDC requires that stormwater features be designed to be multi-purpose and be aesthetically pleasing. The proposed detention pond utilizes stone and landscaping to appear similar to the nearby community garden. In its review, staff found this proposal to be consistent with the UDC. The HDRC voted to approve this feature.

### Tree Preservation

The tree review is currently denied pending revisions based on reviewer comments. Therefore, this component of the submitted appeal does not warrant further action.

### Staff Recommendation to the Board of Adjustment

The proposed development was thoroughly reviewed by the HDRC at multiple public hearings. All legal notice requirements were met. Ultimately, the HDRC voted to recommend the project with stipulations based on the applicable guidelines and standards.

It is City policy for the Historic Preservation Officer to uphold the recommendations of the HDRC. While OHP staff expressed concerns related to the project and its conformance to the Historic Design Guidelines, the appropriate action was taken when the Commission Action letter was issued in accordance with the HDRC recommendation.