



# City of San Antonio

## Agenda Memorandum

**File Number:**18-5262

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**Agenda Item Number:** 4.

**Agenda Date:** 9/17/2018

**In Control:** Board of Adjustment

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**Case Number:** A-18-167  
**Applicant:** Stream Realty Acquisition, LLC  
**Owner:** North Alamo Properties, LLC  
**Council District:** 2  
**Location:** 2100 Broadway Street  
**Legal:** All of Lots 1-4, 7-12, P-100 through P-106  
**Description:**  
**Zoning:** "C-2 DN RIO-1 UC-2 NCD-9 AHOD" General Commercial Development Node River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District and "IDZ DN RIO-1 UC-2 NCD-9 AHOD" Infill Development Zone Development Node River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District with uses permitted for Multi-Family Dwellings up to 175 units per acre.  
**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for 1) a 2.5' story variance and an 59' variance from the RIO-1, and Development Node regulations that limit height to 7.5 stories and 90 feet, to allow for a structure to be 10 stories and 149 feet in height, as described in Section 35-674.01(c)(4), Table 674-2.

### Executive Summary

The subject property is located at 2100 Broadway at the intersection of Alling Street and Broadway Street. The applicant is seeking a variance from the "RIO-1 DN" River Improvement Overlay Development Node regulations that currently would limit the height of the proposed structure to 7.5 stories at a total of 90 feet to allow for the construction of a new high-rise building being 10 stories tall at 149 feet in height. The applicant states that the subject property is currently underutilized and vacant; the proposed development is a mixed-use

project consisting of ground-floor retail, structured parking, office space and community open space.

The Design Review Committee is a subcommittee of the HDRC as authorized by the adopted Rules of Procedure. The subcommittee meeting is held in a work session format and is attended by current HDRC commissioners as well as citizen stakeholders. No formal action is taken at these meetings; however the subcommittee may make recommendations regarding presented designs to the full HDRC as well as other boards and commissions. On September 11, 2018, the Design Review Committee met to review the proposed variance in height at 2100 Broadway to allow for a 10-story building at 149 feet in height. Three members of the HDRC were in attendance which constitutes a quorum of the committee in accordance with the Rules of Procedure. The members in attendance generally found the proposal to be appropriate and support the request for a variance.

Existing Zoning	Existing Use
“C-2 DN RIO-1 UC-2 NCD-9 AHOD” General Commercial Development Node River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District and “IDZ DN RIO-1 UC-2 NCD-9 AHOD” Infill Development Zone Development Node River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District with uses permitted for Multi-Family Dwellings up to 175 units per acre.	Vacant, Proposed High-Rise Structure

#### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2 IDZ RIO-1 UC-2 AHOD” Commercial Infill Development Zone River Improvement Overlay Urban Corridor Airport Hazard Overlay District	Milling Company and Parking Lot
South	“C-2 IDZ RIO-1 UC-2 NCD-9 AHOD” Commercial Infill Development Zone River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District	Catering Business

East	“IDZ HS RIO-1 UC-2 NCD-9 AHOD” Infill Development Zone Historic Significant River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District	Under Construction
West	“C-2 RIO-1 UC-2 AHOD” Commercial Infill Development Zone River Improvement Overlay Urban Corridor Airport Hazard Overlay District	Parking Lot and Vacant

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

The property is within the boundaries of the Westfort Alliance 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 Downtown Residents 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 height limitations to ensure that future development is compatible within the context that it is placed. The owner of the property is trying to develop under-utilized tracts for the construction of a mixed-use development with structured parking. The proposed 10-story mixed-use development is surrounded by business, parking lots, and vacant land under construction. High density multi-family developments are nearby on Broadway Street and the Pearl to the west. Staff finds that permitting the requested height is warranted and is not contrary to the public interest.**

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

**Literal enforcement of the ordinance would limit the structure to 7.5 stories at a total of 90 feet in height. The project, as an infill development, presents challenges in its design configuration as it encompasses most of the block; there is no harm to the abutting property. Within the urban core, space is a premium; increased height is a reasonable alternative.**

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 new development is appropriately scaled and compatible with specific design and height criteria. The applicant is not seeking variance to the required design aspects listed in the code, only seeking the additional height. The proposed project is compatible with surrounding development, particularly with several nearby high-rise development and existing neighborhoods in use and character. Staff finds that the request for additional height observes the spirit of the ordinance.**

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 “C-2 DN RIO-1 UC-2 NCD-9**

**AHOD” General Commercial Development Node River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District and “IDZ DN RIO-1 UC-2 NCD-9 AHOD” Infill Development Zone Development Node River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District with uses permitted for Multi-Family Dwellings up to 175 units per acre.**

*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 proposed project is compatible with surrounding development. Nearby uses will be buffered by the street right-of-way and the project sits at an intersection. The applicant is not seeking any other 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 unique circumstance present in this case is the scale of proposed development. Because most of the block is included within the project area, staff finds that the request for additional height is warranted.**

### **Alternatives to Applicant’s Request**

The alternative to the applicant’s request is to conform to the height limitations set forth in the River Improvement Development Node Overlay regulations.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **A-18-167**, based on the following findings of fact:

1. The request does not negatively impact surrounding property owners, and;
2. The proposed height is appropriate because of the nature of nearby land uses including commercial and multi-family.