



# City of San Antonio

## Agenda Memorandum

**File Number:**20-3363

---

**Agenda Item Number:** 3.

**Agenda Date:** 6/1/2020

**In Control:** Board of Adjustment

---

Case Number: BOA-20-10300025  
Applicant: Michael A. Perez  
Owner: MP2 Urban Development, LLC  
Council District: 1  
Location: 1002 & 1006 West Magnolia Avenue and 715 & 719 Grant Avenue  
Legal Description: Lots 47, 48, 49 & 50, Block 35, NCB 1827  
Zoning: "IDZ HS NCD-5 AHOD" Infill Development Zone Historic Significant Beacon Hill Neighborhood Conservation Airport Hazard Overlay District with uses permitted for Four Single-Family Dwellings  
Case Manager: Kayla Leal, Senior Planner

### **Request**

The applicant is requesting a zoning variance from the Beacon Hill Neighborhood Conservation District (NCD-5) design standards that require street-facing windows to have a vertical to horizontal dimension ratio of 2:1 and a 1-over-1 light division. There are four (4) residential structures on the subject property, which were constructed with some of the windows having a vertical to horizontal dimension ratio of 1:1 and single-pane windows.

### **Executive Summary**

The subject properties are located on the corner of West Magnolia Avenue and Grant Avenue. The applicant is requesting a variance from the Beacon Hill Neighborhood Conservation District (NCD-5) design standards for street-facing windows. The development is currently constructed and the structures need a variance from the vertical to horizontal dimension ratio of 2:1 and at least a 1-over-1 light division. Currently, there are some street-facing windows that appear as a square, which do not abide by NCD-5 requirements. The applicant has installed divisions on the some of the windows in order to aesthetically display they have the 1-over-1 light division, however, is requesting the variance in the case that a new property owner wishes to remove them. The surrounding area is predominately single-family residential uses and contains some multi-family uses. These structures are recently built and the window design was caught during a staff NCD inspection at the site.

## **Code Enforcement History**

There is no code enforcement history on file for the project.

## **Permit History**

New Residential Building permits pulled and approved in 2018 for each unit.

## **Zoning History**

The subject property was included in the original 36 square miles of the City of San Antonio and was previously zoned "B" Residence District. The property was rezoned by Ordinance 86704, dated September 25, 1997 from "B" Residence District to "R-2" Two Family Residence District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to "RM-4" Residential Mixed District. The property was rezoned by Ordinance 2017-04-06-0211, dated April 6, 2017 to the current "IDZ" Infill Development Zone District for Four Single-Family Dwellings.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"IDZ HS NCD-5 AHOD" Infill Development Zone Historic Significant Beacon Hill Neighborhood Conservation Airport Hazard Overlay District with uses permitted for Four Single-Family Dwellings	Single family residential

## **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
South	"R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District and "RM-4 NCD-5 AHOD" Residential Mixed Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
East	"RM-4 NCD-5 AHOD" Residential Mixed Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential

West	"R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
------	--	---------------------------

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

The subject property is in the Midtown Neighborhood Plan and designated as “Low Density Residential” in the future land use component of the plan. The subject property is within the boundary of the Beacon Hill Neighborhood Association and as such, they were notified of the case.

### **Street Classification**

West Magnolia Avenue and Grant Avenue are both classified as local streets.

### **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 variance is requested to allow a shorter window to provide privacy to the homeowner.

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

Staff cannot find any special conditions that, if enforced, would result in an unnecessary hardship. The applicant is able to replace single pane windows with a 1-over-1 light ratio.

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 defined as the intent of the code, rather than the exact letter of the law. The intent of the design regulations of the Neighborhood Conservation District is to preserve appropriate design consistent with the surrounding community, which is not observed by the current design of the windows. The structures have street-facing windows that do not follow the 2:1 vertical to horizontal dimension ratio or the 1-over-1 light division. The Board could consider that the larger windows may impact privacy.

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.*

No uses other than those allowed within the district will be allowed with this variance.

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 street-facing windows of these residential structures are not in alignment with the design regulations

put in place of the Beacon Hill Neighborhood Conservation District (NCD-5) which creates an alteration in the essential character of the district in which the property is located.

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.*

Staff does not find any unique circumstances that warrant the granting of this request. The windows are street-facing and inconsistent with the NCD-5 design regulations.

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Beacon Hill Neighborhood Conservation District design regulations of the UDC Section 35-335.

### **Staff Recommendation**

Staff recommends **DENIAL** of the special exception in **BOA-20-10300025** based on the following findings of fact:

1. The street-facing windows of the development are not consistent with the design regulations of the Beacon Hill Neighborhood Conservation District.