



# City of San Antonio

## Agenda Memorandum

**File Number:**20-7122

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**Agenda Item Number:** 2.

**Agenda Date:** 12/7/2020

**In Control:** Board of Adjustment

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**Case Number:** BOA-20-10300109  
**Applicant:** GFR Development Services, LLC - Michael Knoespel  
**Owner:** High Cay LLC, Mark Granados  
**Council District:** 3  
**Location:** 4007 South Flores Street  
**Legal Description:** Lot 1, Block 1, NCB 6230  
**Zoning:** "C-3 NA HL MLOD-2 MLR-2 AHOD" General  
Commercial Nonalcoholic Sales Individual Landmark  
Lackland Military Lighting Overlay Military Region 2  
Airport Hazard Overlay District  
**Case Manager:** Cory Edwards, Deputy Historic Preservation Officer, Office  
of Historic Preservation; Azadeh Sagheb, Planner,  
Development Services

### **Request**

An appeal of the Historic Preservation Officer's denial of the demolition of the historic landmark at 4007 S Flores St and the conceptual approval of a new car wash.

### **Executive Summary**

The subject property is located on a triangular site created by South Flores Street on the east, Pleasanton Road on the west, and Toudouze Street on the south side. The applicant is willing to demolish the existing structure and build a new car wash.

On February 20, 2020, the subject property was designated as an individual local landmark by City Council. On April 20, 2020, the applicant submitted a request to OHP for the demolition of the structure and conceptual approval of a new car wash. And on September 16, 2020, HDRC denied the request.

The applicant is appealing the HDRC denial decision and requesting to approve the demolition permit for developing a new car wash on the vacant lot.

## **Code Enforcement History**

No Code violation record exists for this property.

## **Permit History**

The property has no permits on file related to this request.

## **Clear Vision Review**

A review of Clear Vision is not required for this request.

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

UDC 35-455(b)(1). Demolition Permit. Applications for a certificate regarding the demolition of a landmark shall be submitted to the historic and design review commission to be reviewed for appropriateness with the provisions of this article, and any adopted design guidelines.

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.

## **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “B-3 NA” Business Non-alcoholic Sales District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the property was converted to the current “C-3 NA” General Commercial Nonalcoholic Sales District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“C-3 NA HL MLOD-2 MLR-2 AHOD” General Commercial Nonalcoholic Sales Individual Landmark Lackland Military Lighting Overlay Military Region 2 Airport Hazard Overlay District	Vacant

## **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3 NA MLOD-2 MLR-2 AHOD” General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Region 2 Airport Hazard Overlay District	Commercial
South	“C-2 NA MLOD-2 MLR-2 AHOD” Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Region 2 Airport Hazard Overlay District	Commercial
East	“C-2 MLOD-2 MLR-2 AHOD” Commercial Lackland Military Lighting Overlay Military Region 2 Airport Hazard Overlay District	Commercial
West	“C-1 MLOD-2 MLR-2 AHOD” Light Commercial Lackland Military Lighting Overlay Military Region 2 Airport Hazard Overlay District	Commercial

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

The subject property is located within the South Central plan and is identified as “Mixed Use” in the future land use component of the plan. The subject property is not within the boundaries of any Neighborhood Association.

### **Street Classification**

South Flores street is classified as a local street.

### **UDC 35-614 Analysis:**

Demolition. Demolition of a historic landmark constitutes an irreplaceable loss to the quality and character of the City of San Antonio. Accordingly, these procedures provide criteria to prevent unnecessary damage to the quality and character of the city's historic districts and character while, at the same time, balancing these interests against the property rights of landowners.

- A. Applicability. The provisions of this section apply to any application for demolition of a historic landmark (including those previously designated as historic exceptional or historic significant) or a historic district.
  - i. Historic Landmark. No certificate shall be issued for demolition of a historic landmark unless the applicant provides sufficient evidence to support a finding by the commission of unreasonable economic hardship on the applicant. In the case of a historic landmark, if an applicant fails to prove unreasonable economic hardship, the applicant may provide to the historic and design review commission additional information regarding loss of significance as provided in subsection (c) in order to receive a historic and design review commission recommendation for a certificate for demolition.
- B. Unreasonable Economic Hardship.
  - i. Generally. The historic and design review commission shall be guided in its decision by balancing the historic, architectural, cultural and/or archaeological value of the particular landmark or eligible landmark against the special merit of the proposed replacement project. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate).

ii. Burden of Proof. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate). When a claim of unreasonable economic hardship is made, the owner must prove by a preponderance of the evidence that:

- The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;
- The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and
- The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.

C. Loss of Significance. When an applicant fails to prove unreasonable economic hardship the applicant may provide to the historic and design review commission additional information which may show a loss of significance in regards to the subject of the application in order to receive historic and design review commission recommendation of approval of the demolition.

If, based on the evidence presented, the historic and design review commission finds that the structure or property is no longer historically, culturally, architecturally or archeologically significant, it may make a recommendation for approval of the demolition. In making this determination, the historic and design review commission must find that the owner has provided sufficient evidence to support a finding by the commission that the structure or property has undergone significant and irreversible changes which have caused it to lose the historic, cultural, architectural or archeological significance, qualities or features which qualified the structure or property for such designation. Additionally, the historic and design review commission must find that such changes were not caused either directly or indirectly by the owner, and were not due to intentional or negligent destruction or a lack of maintenance rising to the level of a demolition by neglect.

The historic and design review commission shall not consider or be persuaded to find loss of significance based on the presentation of circumstances or items that are not unique to the property in question (i.e. the current economic climate).

#### **UDC 35-451(d) Analysis:**

(3) **Appeal.** An applicant for a certificate may appeal the decision of the city manager or designee to the board of adjustment within thirty (30) days after receipt of notification of the city manager's action. The applicant shall be advised by the city manager or designee of the time and place of the hearing at which the appeal will be considered and shall have the right to attend and be heard as to the reasons for filing the appeal. 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. If the board of adjustment approves the application, it shall direct the city manager or designee to issue a certificate for the work covered. If the board of adjustment disapproves the application, it shall direct the city manager or designee not to issue such certificate. Such disapproval may indicate what changes in the plans and specifications would meet the conditions. Upon receipt of the written disapproval of the board of adjustment, the city manager or designee shall immediately advise the applicant and the commission in writing.

#### **Findings:**

A. The structure was designated as an individual local landmark by City Council on February 20, 2020,

following the UDC process for designation and in accordance with State law.

B. The applicant submitted a request for the demolition of the landmark structure to the Office of Historic Preservation on April 20, 2020. The application included documentation submitted in an effort to substantiate an argument for undue economic hardship as outlined in UDC Section 35-614. Staff provided the following analysis of the applicant's documentation against the UDC requirements:

- i. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;

[Staff report: The applicant has provided an undated development pro forma that indicates a multimillion-dollar loss for the property's rehabilitation, based on a total investment cost estimate of \$3,263,285.00, revenue of \$344,308, a vacancy rate of 62%, and a ROI of 2.09%. The pro forma also accounts for a loan interest rate of 5.50%. An undated market analysis of nearby comparable properties has also been provided, which indicates 4007 S Flores St's parking at 0.607 per 1,000 square feet compared to a nearby average of 3.99 market parking per 1,000 square feet. The applicant has also provided a detailed appraisal report, produced by a consultant dated August 25, 2018, prior to the applicant's purchase of the property, that outlines comparable properties in the vicinity

and speaks to the highest and best use of the property. The applicant has not provided a detailed analysis of adaptation options, citing zoning and building siting, in addition to parking and square footage, as reasons that make the detailed exploration of reuse unfeasible. Based on the information submitted, the applicant has not pursued other potential solutions related to parking and other issues that may include shared parking, a variance, a rezoning, partial demolition to create space, or other relief avenues.]

- ii. The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return;

[Staff report: In addition to the undated pro forma referenced above that indicates an investment cost estimate of \$3,263,285.00, the applicant has provided one project proposal from a local general and demolition contractor that estimates a cost for rehabilitation, dated April 1, 2020. The proposed use is not indicated. The estimate totals \$1,400,000 for new roofing, landscaping, storefront doors, electrical, plumbing, exterior repairs, site

work, and the demolition of a rear portion of the structure, the existing storefront, and parts of the interior. The estimate does not break down line item costs in detail. The estimate also includes \$300,000 for exterior stucco and plaster repair, though the majority of the exterior of the structure is painted brick. The total cost for landscaping and site work is indicated as \$475,000, which does not reflect rehabilitation costs for the structure. Generally, the UDC encourages soliciting multiple detailed bids, with specific line item breakdowns that reflect the unique conditions of the structure, from qualified contractors to determine an accurate evaluation of the cost for rehabilitation based on current local market standards. The applicant has also provided a TAS site review report that outlines inconsistencies with TAS Standard Guidelines. The report includes many items that are routinely addressed through rehabilitation projects on historic structures. A one-page letter from registered architect has also been submitted that includes a bulleted list of site challenges, including limited parking, the need to install an elevator, ADA compliance concerns, foundation concerns, outdated mechanical and electrical components, and a single entrance; however, this letter does not offer information or details that specifically address if the structure can be reasonably adapted for another use resulting in a reasonable rate of return.]

- iii. The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the

owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.

[Staff report: Based on Bexar County Appraisal District records, the applicant was deeded the property on September 18, 2018. Since that time, the property has not been actively listed and the applicant has not provided substantial evidence of marketing the property to potential tenants. No evidence of repairs or improvements have been made on the property, and the last permit application on record dates to 2014 for signage. As previously noted, the applicant has provided an undated development pro forma; an undated market analysis; a letter from a local registered architect; one rehabilitation cost estimate dated April 1, 2020; an appraisal report dated August 25, 2018, prior to the deeding of the property, that estimates the total value of both tracts at \$920,000; and a Preliminary TAS Site Review Report in an effort to substantiate an argument that there is an unreasonable economic hardship created by the structure due to its large square footage, limited parking, zoning, existing condition, and siting, amongst other arguments.

Staff finds that the applicant has not demonstrated an unreasonable economic hardship in accordance with the UDC due to the lack of financial burden of proof documentation, the absence of evidence of good faith exploration of reuse options, as well as lack of active marketing of the property. The property is also structurally sound based on the site visit and evidence submitted.]

C. In addition to the documentation provided by the applicant prior to the hearing, the applicant stated that there was evidence of marketing the property for lease for several years to no avail, though no evidence was submitted or provided. The applicant also stated that a FOR SALE sign was located on the property for years in an effort to solicit buyers and meet the requirements outlined in UDC Section 35-614(b)(2)(C). Images from Google Street View indicate that a sign for the opening of the proposed new car wash was advertised on the property in 2019. There is no evidence that a FOR SALE or FOR LEASE sign was advertised on the property during the period of ownership of the current owner.

#### **Staff Recommendation to the Board of Adjustment**

Staff recommends **Denial** of the appeal. Staff determined that the owner/applicant did not meet the criteria for establishing an unreasonable economic hardship per UDC Section 35-614 or, failing that, a loss of significance.