



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** February 24, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-25-10300008

**APPLICANT:** Stewart Porter

**OWNER:** Stewart Porter, Vicky Porter, Carlton Jason, & Cesilie Carlton

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 320 Baltimore Street

**LEGAL DESCRIPTION:** Lot E Save and Except the North 7.75 Feet of the East 18.6 Feet, Block 24, NCB 816

**ZONING:** "FBZ (T5-1) RIO-2 AHOD" Form Based Zone Transect 5 (Calibrated T5-1) River Improvement Overlay-2 Airport Hazard Overlay District

**CASE MANAGER:** Joseph Leos, Senior Planner

**A request for**

A Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face (Section 35-374.01(c))

**Executive Summary**

The applicant is seeking a special exception to allow one (1) additional Type 2 Short Term Rental unit on the block face. There is currently one (1) active Type 2 Short Term Rental permit on the block, located at 318 Baltimore and is owned by the applicant, having been approved on December 5, 2018 (this Type 2 Short Term Rental permit has been renewed twice and does not expire until February 17, 2028).

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 code, Type 2 Short Term Rentals shall be limited to no more than one-eighth (12.5 percent) of the total number of single-family, duplex, triplex, or quadplex 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 block face.

In this case, the block face is defined as the northeast side of Baltimore Street between Merton Court and Dallas Street. There are seven (7) units along this block face, resulting in one (1) Type 2 Short Term Rental unit permitted by right. One (1) Type 2 Short Term Rental Permit has already been approved by right on the block face. Any other Type 2 Short Term Rentals on this block face must seek a Special Exception from the Board of Adjustment. If this special exception is approved, there will be a total of two (2) Type 2 Short Term Rentals on this block face, totaling 28% density of the current units.

On February 4, 2019, the Board of Adjustment granted a special exception to allow one (1) additional Type 2 Short Term Rental permit for 320 Baltimore Street. On February 17, 2022, this Type 2 Short Term Rental permit was renewed by staff, who made an error by not processing the request for consideration before the Board of Adjustment for another special exception.

#### **Code Enforcement History**

No Code Enforcement history found.

#### **Permit History**

Short Term Rental Permit Number: STR-22-13500219

Permit Request Type: Type 2

2<sup>nd</sup> Renewal Application Submission Date: 12/05/2024

#### **Zoning History**

The subject property is legally zoned for a Short-Term Rental. Per the ordinance Shorter Term Rentals are prohibited only on properties zoned "C-3" General Commercial District, as well as all Industrial Districts.

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

##### **Existing Zoning**

"FBZ (T5-1) RIO-2 AHOD" Form Based Zone Transect 5 (Calibrated T5-1) River Improvement Overlay-2 Airport Hazard Overlay District

##### **Existing Use**

Duplex

#### **Surrounding Property Zoning/ Land Use**

##### **North**

##### **Existing Zoning**

"FBZ (T5-1) HS RIO-2 AHOD" Form Based Zone Transect 5 (Calibrated T5-1) Historic Significance River Improvement Overlay-2 Airport Hazard Overlay District

**Existing Use**

Residential Single-Family

**South****Existing Zoning**

"FBZ (T5-1) RIO-2 AHOD" Form Based Zone Transect 5 (Calibrated T5-1) River Improvement Overlay-2 Airport Hazard Overlay District

**Existing Use**

Vacant Lot

**East****Existing Zoning**

"FBZ (T5-1) RIO-2 AHOD" Form Based Zone Transect 5 (Calibrated T5-1) River Improvement Overlay-2 Airport Hazard Overlay District

**Existing Use**

Triplex

**West****Existing Zoning**

"FBZ (T5-1) RIO-2 AHOD" Form Based Zone Transect 5 (Calibrated T5-1) River Improvement Overlay-2 Airport Hazard Overlay District

**Existing Use**

Duplex

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Downtown Area Regional Center Plan and is designated as "Regional Mixed Use" in the future land use component of the plan. The subject property is located within the notification area of the Downtown Neighborhood Association, and they have been notified of the request. The subject property is located within the notification areas of the NES Foundation, San Antonio Texas District One Resident Association, and Women in Film & Television San Antonio Community Organizations and have been notified of the request.

**Street Classification**

Baltimore Street is classified as a Local Street.

**Criteria for Review –Special Exception**

According to Section 35-374.01(c) 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*

**In that this is the second renewal, and staff has been unable to identify any code enforcement history to the location in the past six (6) years, staff finds that the request to operate an additional short term rental beyond the 12.5% density cap is not likely to materially**

**endanger the public health and/or safety, if approved. Additionally, the structure in which the STR is located within does not pose a hazard to life, health, or public safety.**

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

**The applicant has demonstrated, over the previous six (6) years, that the operation of this STR does not cause a public nuisance. Staff finds that this trend is more than likely to continue, with zero complaints registered against the property and operator.**

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

**The density caps were established to ensure that neighbors are not inundated by the presence of Type 2 STRs. Allowing this additional STR on this blockface will not substantially injure neighboring properties as it has been operating since 2019 and has not impacted the surrounding areas since then.**

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

**The subject property provides the minimum one off-street parking space and appears to have adequate utilities, access, and open space.**

*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 or owner does not have previously revoked licenses, confirmed citations, or adjudicated offenses or convictions.**

*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.*

**The requested special exception is not likely to alter the essential character of the district as the property is zoned “FBZ T5-1”, which allows for the land use of a STR and general residential land uses. The density limits established by City Council exist to ensure that neighborhood remain, primarily, residential. Staff finds that exceeding the 12.5% block face density is not likely to alter the essential character of the district.**

The board may also consider if any of the following apply, in accordance with UDC Section 35-399.03(h):

- (1) Distressed Structure. The applicant must demonstrate, and the board of adjustment must find:
  - (a) The restoration of a historic landmark or structure is a valuable addition to the quality and the character of the city; or
  - (b) There is proof that a short term rental (type 2) is the only economically feasible way to finance the preservation of the structure; and

- (c) The granting of a board of adjustment approval will not adversely impact the residential quality of the neighborhood in which the structure is located.
- (2) Non-Distressed Structure. The applicant must demonstrate, and the board of adjustment must find the public welfare and convenience will be served, as demonstrated by subsections (a) (b) and (c) below.
  - (a) That nearby streets will not be substantially impacted by the proposed short term rental (type 2). To make this determination, the board of adjustment shall consider input from the city traffic engineer.
  - (b) The residential character of the neighborhood will not be disrupted in a manner to prevent the adjacent owners from the quiet enjoyment of their property.
  - (c) The neighboring property will not be substantially injured by such proposed use.

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

The Board of Adjustment may approve or deny the applicant's request.

### **Staff Recommendation – Special Exception**

Staff recommends **Approval** in **BOA-25-10300008** based on the following findings of fact:

- 1. Staff finds that the approval of an increase in the Type 2 Short Term Rental permit density would not be detrimental as the request meets the six (6) conditions.**