

Case Number:	BOA-23-10300173
Applicant:	Marisa Perales
Owner:	City of San Antonio
Council District:	2
Location:	3700 North St. Mary's Street
Legal Description:	Part of A-2, A-4, A-52, NCB A49
Zoning:	“R-5 HS RIO-1 UC-2 AHOD” Residential Single-Family Historic Significant River Improvement Overlay 1 Broadway Urban Corridor Airport Hazard Overlay District
Case Manager:	Mirko Maravi, Principal Planner

### **Request**

Appeal of the Director's decision to not allow an appeal due to property owner outside 200'.

### **Executive Summary/Timeline of Events**

April 27, 2023 – a Certificate of Appropriateness was issued for improvements to the Lambert Beach area in Brackenridge Park as Phase I of the FY17 Bond Project.

May 16, 2023 – Ethel Moore applied for an Appel (BOA-23-10300125) from the Office of Historic Preservation’s decision regarding Lambert Beach.

May 18, 2023 – Development Services informed applicant that she does not meet the Tier Two standards to appeal the case.

June 8, 2023 – Appeal from Development Services’ decision to not allow an appeal regarding Lambert Beach was submitted.

June 9, 2023 – Development Services completed Completeness Review of the appeal.

### **Section 35-481 – Appeals to Board of Adjustment**

Appeals to the BOA are separated by 2 Tiers.

Tier One is an appeal related to a decision by an administrative official that is not related to a specific application, address or project. In this case, the appeal was directly related to a specific application and address.

This case would require a Tier Two applicant as it is related to a specific application and address. The subject property is located north of East Mulberry Avenue and includes the entire Bexar County Lot, although Lambert Beach area consists of only a portion of the lot. Property owners within 200 feet of the lot would be permitted to apply as Tier Two applicant. Ethel Moore is not a property owner within 200 feet of the lot.

## Sec. 35-481. - Appeals to Board of Adjustment.

### (a) Applicability.

(1) **Generally.** Pursuant to Section 211.010 of the Texas Local Government Code, there are hereby established two (2) separate tiers of appeals to the Board of Adjustment.

(A) **Tier One Appeal.** A Tier One appeal is an appeal of a decision by an administrative official that is not related to a specific application, address, or project.

Because a Tier One appeal is not related to a specific application, address, or project, Tier One appeals will not automatically stay any project. A Tier One appeal may be filed by any of the following persons:

1. A person aggrieved by the decision; or
2. Any officer, department, board, or bureau of the City of San Antonio affected by the decision.

(B) **Tier Two Appeal.** A Tier Two appeal is an appeal that is related to a specific application, address, or project. A Tier Two appeal may be filed by any of the following persons:

1. A person who filed the application that is the subject of the decision;
2. A person who is the owner or representative of the owner of the property that is the subject of the decision;

3. A person who is aggrieved by the decision and is the owner of real property within two hundred (200) feet of the property that is the subject of the decision; or

4. Any officer, department, board, or bureau of the City of San Antonio affected by the decision.

### **Zoning History**

The property was located within the original 36 square miles of San Antonio and zoned “A” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from “A” Single-Family Residence District to the current “R-5” Residential Single-Family District.

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

Existing Zoning	Existing Use
“R-5 HS RIO-1 UC-2 AHOD” Residential Single-Family Historic Significant Broadway Urban Corridor Airport Hazard Overlay District	Brackenridge Park

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

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential-Mixed Airport Hazard Overlay District	Single-Family Residence
South	“R-5 HS RIO-1 UC-2 AHOD” Residential Single-Family Historic Significant River	Brackenridge Park

	Improvement Overlay 1 Broadway Urban Corridor Airport Hazard Overlay District	
East	“C-2 RIO-1 UC-2 AHOD” Commercial River Improvement Overlay 1 Broadway Urban Corridor Airport Hazard Overlay District and “C-2 RIO-1 UC-2 AHOD” General Commercial River Improvement Overlay 1 Broadway Urban Corridor Airport Hazard Overlay District	Commercial
West	“C-2 AHOD” Commercial Airport Hazard Overlay District and “R-6 HS RIO-1 UC-2 AHOD” Residential Single-Family Historic Significant River Improvement Overlay 1 Broadway Urban Corridor Airport Hazard Overlay District	Commercial, Sunken Garden Theater

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

The subject property is in the Midtown Area Regional Center and is designated as “Parks Open Space” in the future land use component of the plan. It is in the Mahncke Park Neighborhood Association and the River Road Neighborhood Association.

### **Board of Adjustment**

The Board of Adjustment is asked to determine whether the decision to not permit Ethel Moore apply for an appeal is warranted per Section 35-481, Appeals to Board of Adjustment. In addition, the Board of Adjustment has the authority to review and consider the appeal, investigate facts, weigh evidence, and draw conclusions. The Board may reverse or affirm, in whole or in part, the administrative decision brought forward by the appellant and discussed in this report.

### **Conclusion**

Staff concludes that not permitting Ethel Moore to apply for an appeal with the Board of Adjustment is the correct course of action, based on the following findings of fact: 1) the case is related to an application and specific address which is classified as a Tier Two; 2) the applicant did not own property within 200 feet of the subject property.