

Case Number:	BOA-23-10300220
Applicant:	Julian Rotnofsky
Owner:	ARCHANGELOS INC
Council District:	1
Location:	617 East Euclid Avenue
Legal Description:	Lot 5, east part of Block 4, NCB 844
Zoning:	“IDZ-2 AHOD” Medium Intensity Infill Development Zone Airport Hazard Overlay District with uses permitted in “MF-25” Low Density Multi-Family District and “C-1” Light Commercial District
Case Manager:	Joseph Leos, Planner

Request

A request for a half story variance from the maximum 2.5 stories, as described in Section 35-517, to allow a building with 3 stories.

Executive Summary

The subject property is located along East Euclid Avenue, between Atlanta Avenue and Erie Avenue. Upon review for final inspections, it was observed that the applicant would need to obtain a variance to allow for an already built structure to exceed the maximum permitted height of 2 ½ stories, as established in Section 35-517 Building Height Regulations. The maximum height of any portion of a commercial, office or multi-family zoning district located within fifty (50) linear feet of the property line of an established single-family residential use shall be limited to the maximum height of the single-family district. This property is zoned “IDZ-2”, which does permit a height up to 40’ however, since abutting the single-family residential use at 615 East Euclid, is capped at 35’. The closest exterior wall of the structure is approximately 11’ from the neighboring structure.

Code Enforcement History

There is no relevant code enforcement history for the subject property.

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment

Commercial Finish Out Permit- August 2022

Commercial Shell Permit- August 2022

Commercial Foundation Permit- July 2022

Commercial Sitework Permit- March 2022

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and was originally zoned “E” Office District. The property rezoned under Ordinance 83331, dated December 14, 1995, from “E” Office District to “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to “R-6” Residential Single-Family District. Ordinance 2014-08-07-0548 dated August 7, 2014 rezoned the property to “RM-4” Residential Mixed District. The property was rezoned under Ordinance 2019-04-18-0336, dated April 18, 2019, from “RM-4” Residential Mixed District to the current “IDZ-2” Medium Intensity Infill Development Zone with uses permitted in “MF-25 Multi-Family District and “C-1” Light Commercial District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“IDZ-2 AHOD” Medium Intensity Infill Development Zone Airport Hazard Overlay District with uses permitted in “MF-25 Multi-Family District and “C-1 Light Commercial District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“C-2 S AHOD” Commercial Airport Hazard Overlay District with a Specific Use Authorization for a Hospital	San Antonio River Authority
East	“MF-25 IDZ AHOD” Low Density Multi-Family Infill Development Zone Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Regional Center Area Plan and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Tobin Hill Community Neighborhood Association, and they have been notified of the request.

Street Classification

East Euclid Avenue is classified as a local road.

Criteria for Review – Height Variance

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. For this case, the public interest is represented by height requirements for the protection of view for the adjacent residential uses. The applicant is requesting to deviate from the maximum 2 ½ stories permitted if adjacent to residential uses, to allow a structure to be 3 stories tall. Staff finds this request is not contrary to public interest of the abutting properties, as a towering structure will not impose onto the interest of the single-family residential uses and is located at the edge of a residential area.

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

A literal enforcement of the ordinance would result in the applicant building the structure 35' or 21/2 stories in height. This would result in an unnecessary hardship as the applicant would not have sufficient building height for the proposed use intended, living space would be drastically reduced, and alterations would need to be made.

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. Staff finds the spirit of the ordinance will be observed and substantial justice will be done as the subject property is zoned “IDZ-2” and has the allowance of up to 4 stories. The request does not seem to be out of character with the assigned base zoning district.

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 requested variance will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district. Upon site visits, staff observed the subject property being located near a high-volume intersection. This intersection is a major thoroughfare for this community where other three-story structures were observed thus not being out of character from the surrounding land uses.

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 finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the applicant not having sufficient height requirements for the proposed use. The circumstances do not appear to be merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Building Height Regulations of the UDC Section 35-517.

Staff Recommendation – Height Variance

Staff recommends **Approval** in **BOA-23-10300220** based on the following findings of fact:

1. Staff finds this request is not contrary to public interest of the abutting properties, as a towering structure will not impose onto the interest of the single-family residential use; and
2. A three-story structure is not of character with the surrounding area.