



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** April 15, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300005

**APPLICANT:** Jonathan Clarke

**OWNER:** Jonathan Clarke

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 825 E Park Avenue

**LEGAL DESCRIPTION:** Lot 1, Block 1, NCB 832

**ZONING:** "IDZ RIO-2 AHOD" Infill Development Zone River Improvement Overlay Airport Hazard Overlay District with uses permitted for (4) Four Residential Units

**CASE MANAGER:** Juan Alvarez, 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 permits on the block, having been renewed on March 23, 2022. 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 southeast side of Park Avenue between the northeast corner of Elmira St. There are four (4) lots 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 50% density of the current units.

**Code Enforcement History**

INV-PST-INV23-3010000416(Permits-Short Term Rentals/Status Closed)- 03/06/2023.

**Permit History**

Short Term Rental Permit Number: STR-23-13400490

Permit Request Type: Type 2

Application Submission Date: 12/26/2023

**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**

IDZ RIO-2 AHOD” Infill Development Zone River Improvement Overlay Airport Hazard Overlay District

**Existing Use**

Single Family Residential

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

MF-33 AHOD” Multi Family Airport Hazard Overlay District

**Existing Use**

Multi Family Residential

**South**

**Existing Zoning**

C-2 RIO-2 AHOD” Commercial River Improvement Overlay Airport Hazard Overlay District

**Existing Use**

Commercial

**East**

**Existing Zoning**

C-2 RIO-2 AHOD” Commercial River Improvement Overlay Airport Hazard Overlay District

**Existing Use**  
Commercial

**West**

**Existing Zoning**

IDZ RIO-2 AHOD” Infill Development Zone River Improvement Overlay Airport Hazard Overlay District with uses permitted for (4) Four Residential Units

**Existing Use**

Residential Single Family

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the notification area of Tobin Hill Community Neighborhood Association, and Sojo Crossing Homeowner Association.

**Street Classification**

East Park Avenue is classified as a local street.

East Elmira 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.*

Staff finds that the request to operate an additional short term rental beyond the 12.5% density cap is likely to materially endanger the public health and/or safety as the density caps were established to ensure that neighborhoods remain primarily residential.

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

The density caps were established to prevent public nuisances. Allowing Type 2 STRs to exceed those caps will likely lead to increased cases of public nuisance.

*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 additional STRs on this block face may substantially injure neighboring properties.

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

The subject property provides off-street parking 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 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 likely to alter the essential character of the district.

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

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

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

Staff recommends Denial in BOA-24-10300005 based on the following findings of fact:

1. Per Section 16-1100 of the City Code, staff finds that the approval of an increase in the Type 2 Short Term Rental permit density would be detrimental to “the health and safety of [the] occupant(s) of [the] short term rental property” and to the “integrity of the neighborhood(s) in which [the] short term rental property operates”; and,
2. Staff is unable to identify any unique circumstance which warrants nearly doubling the density limitation for Type 2 STRs on this block face.