



BOARD OF ADJUSTMENT AGENDA

Regular Meeting
Wednesday, February 12, 2014
7:00 p.m.
City Hall - Council Chamber
Daniel P. Moore Community Center Complex
1900 Billy G. Webb Drive
Portland, Texas

1. **CALL TO ORDER:** Chairperson Burton
2. **ELECTION OF OFFICERS:** The Board of Adjustment will elect a Chairperson and Vice-Chairperson - Chairperson Burton
3. **MINUTES:** The Board of Adjustment will consider approval of the minutes of its September 11, 2013 Regular Meeting - Chairperson Burton
4. **PUBLIC HEARING:** The Board of Adjustment will conduct a Public Hearing to solicit comments from citizens and other interested parties concerning a request for a Variance to Section 705.B of the Unified Development Ordinance to allow noncompliant façade articulations for a proposed LaQuinta Hotel located at the southwest corner of Buddy Ganem Drive and Cedar Drive – City Attorney and Director of Public Works and Development
5. **REQUEST FOR VARIANCE:** The Board of Adjustment will consider a request for a Variance to Section 705.B of the Unified Development Ordinance to allow noncompliant façade articulations for a proposed LaQuinta Hotel located at the southwest corner of Buddy Ganem Drive and Cedar Drive – City Attorney and Director of Public Works and Development
6. **ADJOURNMENT:** Chairperson Burton

RULES OF PARTICIPATION FOR ATTENDEES

- a. Persons who wish to speak must fill out and turn in a speaker card before the meeting is convened (The Chairperson will notify you when it's your turn speak and direct you to the podium).
- b. Persons who wish to speak must identify themselves and their places of residence.
- c. All comments, requests and proposals must be presented to or through the Chairperson.
- d. Persons who wish to speak will be given 4 minutes to do so. The Chairperson may permit persons to speak more than once if he/she believes doing so will improve the planning process and facilitate deliberation.

NOTICE OF ASSISTANCE

If you plan to attend this public meeting and you have a disability that requires special arrangements to be made, please contact City Secretary Annette Hall at 361-777-4513 or annette.hall@portlandtx.com in advance of the meeting. Reasonable accommodations will be made to facilitate your participation. The City Hall is wheelchair accessible and specially marked parking spaces are located in front of its entrance. Special seating will be provided in the Council Chambers during the meeting.

BRAILLE IS NOT AVAILABLE

Posted: February 7, 2014 by 5 p.m.
City Hall

By: 
Annette Hall
City Secretary

MINUTES

BOARD OF ADJUSTMENT

SEPTEMBER 11, 2013 MEETING

The Board of Adjustment conducted a September 11, 2013 Meeting in the Council Chambers of City Hall (1900 Billy G. Webb) that began at 7:00 p.m. It did so in compliance with requirements of the Texas Open Meetings Act, City of Portland City Charter and Unified Development Ordinance. The following persons were in attendance:

MEMBERS PRESENT

Logan Burton (Chairperson)
Samuel Haywood (Vice-Chairperson)
Murray Hudson
Robert Warner
Cliff Ezell

MEMBERS ABSENT

None

STAFF PRESENT

Randy Wright, City Manager
Brian DeLatte, Director of Public Works and Development

1. **CALL TO ORDER:** Chairperson Burton called the meeting to order at 7:00 p.m.
2. **MINUTES:** The Board of Adjustment will consider approval of the minutes of its May 15, 2013 Meeting - Chairperson Burton

Murray Hudson made a motion to accept the minutes of the May 15, 2013 Board of Adjustment Meeting. Robert Warner seconded the motion.

The motion passed (5-0).

3. **PUBLIC HEARING:** The Board of Adjustment will conduct a Public Hearing to solicit comments from citizens and other interested parties concerning a request for a Special Exception to Section 410. G of the Unified Development Ordinance to allow the construction of an in-ground swimming pool at 1000 Southcliff encroaching into the 25 foot side street yard setback—Chairperson Burton and Director of Public Works and Development

Chairperson Burton opened the Public Hearing at 7:03 p.m.

The Director of Public Works and Development presented the following application:

SPECIAL EXCEPTION TO BE DELIBERATED

City Staff is supporting a special exception that would permit the applicant to construct an in-ground swimming pool within the 25 foot side street yard setback at 1000 Southcliff. The lot was platted in 1968 with a 25 foot front yard setback on Southcliff and a 25 foot side yard setback on Moore Ave. The Section 410.G of the Unified Development Ordinance (UDO) generally prohibits swimming pool construction in the proposed location (underline added for emphasis):

***Swimming Pools.** No swimming pool shall be constructed until a permit for the principal use or structure has been obtained. The outside walls of a swimming pool or hot tub shall not project beyond the required yard line along any street. The outside walls of a swimming pool or hot tub must be at least three (3) feet from side and rear property lines. The outside walls of an in-ground swimming pool or hot tub shall also keep at least one (1) foot of horizontal distance to each one (1) foot of depth from any structure, easement, or property line (unless plans and a report are prepared by a Professional Engineer).*

The intent of the ordinance is to prohibit swimming pool (and other accessory structures) from being constructed in the front yard of properties or within side yards on corner lots immediately abutting the property line. The request for swimming pool construction on this lot is somewhat unique in that the 25 foot side yard setback on Moore is ten feet more than would be required if the lot was platted as R-6 Single-Family Residential under current UDO 410.D.4.a:

***Corner Lots.** A corner lot shall have one front yard as required by the table above, and a side yard adjacent to the street of not less than fifteen (15) feet, except in the R-8, Single-Family Residential, OT-1, Olde Town Residential, and OT-2, Olde Town Mixed Use districts, where only a ten (10) foot side yard shall be required. A side yard adjacent to a street may be reduced as necessary to maintain a forty (40) foot width between side yards, however in no case shall the side yard be reduced to less than five (5) feet. No accessory building shall project beyond the required yard line along any street. No structure shall be built within the "vision triangle" as defined in Chapter 10.*

The applicant is requesting that the pool construction be allowed 12 feet from the property line. The decking of the pool would be in compliance as proposed 9 feet from the property line. The 12 foot setback is the largest setback that would allow the construction of the pool without the relocation of the residence's wastewater and gas service lines.

PUBLIC NOTIFICATION AND RESPONSE

A legal notice was published in The Herald on August 22, 2013. Written notices were mailed to 21 property owners of record (all own property within 200' of the properties for which a special exception is being sought) on August 28, 2013. No one has yet responded to published or mailed legal notices.

STAFF ANALYSIS

The Staff, using the same step by step approach that the Board of Adjustment is legally required to use, has spent a significant amount of time and effort analyzing the special exception request. In analyzing the request, City Staff considered several positions:

1. City codes would allow the applicant to replat the property with a 15 foot setback, thus allowing the swimming pool 15 feet from the property line. While replatting the property is allowed by code, City Staff generally encourages applicants to pursue other approval processes, such as applying for relief from the Board of Adjustment, rather than initiate “spot platting” or “spot zoning” efforts.
2. In the review of other properties in the area, the use of the 25 foot side yard setback on Moore is inconsistent. Note the following addresses and side yard setbacks, moving north to south:
 - a. 1001 Southcliff – 25 feet
 - b. 1000 Southcliff – 25 feet
 - c. 1001 Starlite – 25 feet
 - d. 1000 Starlite – 15 feet
 - e. 1001 Polaris – 20 feet
 - f. Also note that the Stripes gas station directly across from 1000 Southcliff observes a 10 foot setback from Moore.
 - g. Further down Moore, Briar Bluff Unit 1 maintains 15 foot setbacks from Moore.
3. As noted by the applicant, multiple non-conforming structures already encroach into the setbacks on Moore on adjacent lots in the immediate vicinity of 1000 Southcliff.
4. Moore Avenue is at its ultimate width and will not be widened in the future.

Staff Comment: Aerial photography and copies of the adjacent plats confirming the above positions will be presented at the Board of Adjustment hearing and are not included in this agenda packet due to reprographic constraints.

DELIBERATION BY THE BOARD OF ADJUSTMENT

UDO Section 313 prohibits the Board of Adjustment from granting a special exception without an affirmative finding (minimum of 4 votes) that one or more of four prescribed circumstances applies (“*Special Circumstances Resulting in Unnecessary Hardship*” described by UDO 312.C.1, “*Overriding Public Interest*” described by UDO 312.C.2, “*Equity*” described by UDO 312.C.3 and “*Literal Enforcement*” as described by UDO 312.C.4). The Staff has determined that three of the four prescribed circumstances do in fact apply:

- ***Special Circumstances Resulting in Unnecessary Hardship.*** A special exception may be granted where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the

same zoning district, and that the circumstances are such that strict application of this Ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.

- **Equity.** A special exception may be granted to permit modifications of height or setback regulations as may be needed to secure equity in the development of a parcel of land where it has been demonstrated that, due to the existence of legally nonconforming structures, a substantial proportion of the other properties in the same area and zoning district are legally enjoying the conditions that the applicant is requesting.
- **Literal enforcement.** A special exception may be granted if it is found that the literal enforcement and strict application of this Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this Ordinance, and that, in granting the special exception, the spirit of the Ordinance will be preserved and substantial justice done. The Board of Adjustment shall state in their minutes the nature of the circumstances that justifies the special exception.

UDO 312.E prohibits the Board of Adjustment from granting a Special Exception without an affirmative finding (minimum of 4 votes) that all 6 criteria described by UDO 312.E.1-6 are met.

1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.

Staff comment: *Special circumstances exist and they are not merely financial. Platted building lines in the vicinity are inconsistent.*

2. These special circumstances are not the result of the actions of the applicant.

Staff comment: *The developer, not the applicant, created these special circumstances.*

3. Literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district.

Staff comment: *The literal interpretation and enforcement of the UDO would deprive the applicant of rights commonly enjoyed by other land in the same zoning district.*

4. Granting the special exception is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Ordinance and substantial justice.

Staff comment: Granting this special exception is the minimum action that will achieve a fair and just result.

5. Granting the special exception will not adversely affect adjacent land in a material way.

Staff comment: Granting the special exception will allow the applicant to construct a swimming pool in the same location as other similarly located structures on adjacent lots.

6. Granting the special exception will be generally consistent with the purposes and intent of this Ordinance.

Staff comment: Granting the special exception is consistent with the purpose and intent of the UDO.

CONCLUSIONS AND RECOMMENDATIONS

Upon review of the positions above, City Staff is in support of some level of relief from Section 410.G. The alternatives available to the Board of Adjustment are as follows:

1. Deny the application of the Special Exception.
2. Allow the construction of the pool using a 15 foot setback, which would be allowed by current subdivision codes and match the setbacks on Starlite.
3. Allow the construction of the pool using a 12 foot setback as requested by the applicant.
4. Allow the construction of the pool using a 10 foot setback, matching the setback of the Stripes gas station fuel pumps and those in R-8 zoning districts.

Using the analysis presented in this report, City Staff recommends that the Board of Adjustment approve the Special Exception for the construction of the pool at the 12 foot setback. This will match other properties in the immediate area and will not cause any adverse impacts on adjacent properties.

The Director of Public Works and Development concluded the presentation of the application.

Mr. Roland Chavez addressed the Board of Adjustment and reiterated neighbor support for the project.

Chairperson Burton closed the Public Hearing at 7:17 p.m.

4. **REQUEST FOR SPECIAL EXCEPTION:** The Board of Adjustment will consider a request for a Special Exception to Section 410. G of the Unified Development Ordinance to allow the construction of an in-ground swimming pool at 1000 Southcliff encroaching into the 25

foot side street yard setback—Chairperson Burton and Director of Public Works and Development

Murray Hudson asked the Director of Public Works and Development whether this Special Exception would apply to structures other than pools. Mr. DeLatte confirmed that only pools would be allowed in this area by this action.

Murray Hudson made a motion and Cliff Ezell seconded to grant the Special Exception. The motion passed 5-0.

5. **ADJOURNMENT:** CHAIRPERSON BURTON

Chairperson Burton adjourned the meeting at 7:21 p.m.

APPROVED:

Chairperson Logan Burton

ATTEST:

Brian DeLatte, P.E.
Director of Public Works and Development

AGENDA TITLE **PUBLIC HEARING:** The Board of Adjustment will conduct a Public Hearing to solicit comments from citizens and other interested parties concerning a request for a Variance to Section 705.B of the Unified Development Ordinance to allow noncompliant façade articulations for a proposed La Quinta Hotel located at the southwest corner of Buddy Ganem Drive and Cedar Drive – City Attorney and Director of Public Works and Development

REQUEST FOR VARIANCE: The Board of Adjustment will consider a request for a Variance to Section 705.B of the Unified Development Ordinance to allow noncompliant façade articulations for a proposed La Quinta Hotel located at the southwest corner of Buddy Ganem Drive and Cedar Drive – City Attorney and Director of Public Works and Development

MEETING DATE 2/12/2014

DEPARTMENT Building and Development

SUBMITTED BY Brian DeLatte, P.E.

EXECUTIVE SUMMARY

Portland Development, Inc., via Total Design Four, Inc., is proposing construction of a La Quinta Hotel on 1.837 acres at the southwest corner of Buddy Ganem Drive and Cedar Drive that does not meet horizontal or vertical façade articulation requirements. The applicant’s position is that the building varies slightly from the codes and should enjoy relief from a literal interpretation of the codes. The City Staff and City Attorney’s analysis shows that the applicant has not met the burden of proof for a variance request and that the application must be denied.

PUBLIC HEARING TO BE CONDUCTED

It is imperative that a fair, impartial and legally compliant public hearing be conducted, regardless of the outcome. Agendas have been posted, a legal notice has been published, and copies of the published legal notice have been mailed to property owners of record (persons owning property within 200 feet of the property for which a special exception has been requested). Please do not concern yourself with legal issues that may be raised during the presentation of public comments. When the Chairperson is satisfied that the request for a special exception has been fully articulated (the City Attorney and Director of Public Works and Development will present the case and the applicant will be given an opportunity to present a statement) and every person or party in attendance has been given an opportunity to comment, the public hearing should be formally closed.

PUBLIC NOTIFICATION AND RESPONSE

A legal notice was published in The Herald on January 23, 2014. Written notices were mailed to 8 property owners of record (all own property within 200' of the properties for which a variance is being sought) on January 22, 2014. No one has yet responded to published or mailed legal notices.

VARIANCE TO BE DELIBERATED

Portland Development, Inc., via Total Design Four, Inc., is proposing construction of a hotel on 1.837 acres at the southwest corner of Buddy Ganem Drive and Cedar Drive that does not meet building façade articulation requirements. The UDO requires depth articulation of at least three (3) feet for every thirty (30) feet of building façade length. The variance, if approved, would allow building façade lengths of 49'-2 ½" and 52'-7 ½" without the required depth articulation. The UDO further requires that height articulation for flat roofs of at least five (5) feet shall be required for every fifty (50) feet of building façade length. The variance, if approved, would allow height articulation of 4'-8".

The applicable code is as follows:

Sec. 705. Nonresidential Design Requirements

B. Façade Articulation.

1. *Façade depth and height articulation shall be required on the front façade of a building, per the following:*
 - a. *Depth articulation of at least three (3) feet shall be required for every thirty (30) feet of building façade length. Depth articulation applies only below the roofline.*
 - b. *Height articulation for flat roofs of at least five (5) feet shall be required for every fifty (50) feet of building façade length. Pitched roofs do not require height articulation.*

STAFF ANALYSIS

UDO Section 312 prohibits the Board of Adjustment from granting a variance without an affirmative finding that one or more of four prescribed circumstances applies ("*Special Circumstances Resulting in Unnecessary Hardship*" described by UDO 312.C.1, "*Overriding Public Interest*" described by UDO 312.C.2, "*Equity*" described by UDO 312.C.3 and "*Literal Enforcement*" as described by UDO 312.C.4). The applicant is seeking relief based on Literal Enforcement:

- ***Literal enforcement.*** A variance may be granted if it is found that the literal enforcement and strict application of this Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this Ordinance, and that, in granting the variance, the spirit of the Ordinance will be preserved and substantial justice done. The Board of Adjustment shall state in their minutes the nature of the circumstances that justifies the variance.

The City Staff and City Attorney have found that none of the four prescribed circumstances exist for the depth articulation request. While the applicant is asserting that the ordinance is being literally

enforced, the applicant's explanation that "our building does vary slightly in the facade offset and roof articulation from the literal dimensions lay out in section 705, (and) it is far from a large box building" does not prove that the ordinance is being literally enforced. The City Staff and City Attorney analyzed the literal enforcement argument from several different angles:

- The façade articulation requirements set forth in the UDO were established by the Planning and Zoning Commission and City Council during the 2011-2013 Comprehensive Plan and Unified Development Ordinance updates. These requirements were carefully crafted with the consultation of the consulting city planner. The depth articulation proposed does not meet the intent and spirit of the ordinance.
- Commercial property, and in particular those in highly visible areas, are exactly the types of projects that the City Council envisioned to contain façade articulation when drafting this requirement.
- While the UDO does not define "literal enforcement", it is the opinion of the City Attorney that a 49'-2 1/2" and 52'-7 1/2" distance when 30' is required does not meet the burden of proof for literal enforcement.
- "Literal enforcement" is also used to generally describe a situation in which a building or zoning condition is proposed that is unique and for which the building code cannot neatly apply. For example, applying a façade articulation requirement to a round building would not have been contemplated when the code was written and would be inappropriate to enforce.

Therefore, the City Attorney advises that the variance request for depth articulation must be denied and variance effects and criteria need not be deliberated.

The **height articulation** proposed is 4'-8", which is four inches shy of the code requirements. The City Staff and City Attorney analysis shows that the height articulation enforcement produces a special circumstance:

- Given that the building complies with all other height articulation requirements, requiring 5 feet instead of 4'-8" is not in the spirit of the ordinance.
- The overall characteristics of the building, including the tower, produce the desired effects.

Therefore, the City Attorney advises that a special circumstance exists for the height articulation to proceed with deliberations on the variance effects and criteria.

UDO 312.D prohibits the Board of Adjustment from granting a variance without an affirmative finding that none of the 9 specific effects described by UDO 312.D.1-9 would be created. In exercising its authority, the Board of Adjustment shall not grant a variance that would create any of the following effects:

1. The effect of the variance on the specific property would adversely affect the land use pattern as outlined by any City land use plan or policy.

*Applicant Comment: **The granting of the variance will have no effect on the land use of the area. There are commercial buildings nearby and on adjoining properties and one nearby property is also a motel.***

2. The variance would be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.

Applicant Comment: The variance would not be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity. It will in fact increase the value of the adjoining properties and attract further development to the immediate area.

3. The variance is not the minimum variance that will relieve the proven hardship.

Applicant Comment: The variance is the minimum variance that will relieve the proven hardship. The project as designed is very close to complying with the dimensional requirement but changing the profile of the building will increase the cost unnecessarily and will not improve the function or operation of the project. The delay caused in revising the design will substantially delay the project and possibility cause the developer to lose the franchise.

4. The variance would allow a use not allowed in the use table for the district in which the parcel is located.

Applicant Comment: The project is allowed in the use table for the district in which the parcel is located.

5. The variance will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land after the effective date of the subdivision regulations of this Ordinance, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.

Applicant Comment: There has been no illegal subdivision of the land and the property is proper for the development of the motel.

6. The variance will relieve the applicant of conditions or circumstances that are self-imposed.

Applicant Comment: The design of the project is dictated by the motel franchise and only very minor deviations are allowed. This design is in place in many cities and represents quality design by an experienced property development staff of the La Quinta franchise. Every aspect of the design is reviewed and confirmed that it meets the design criteria of the franchisee.

Staff Comment: These conditions are self-imposed for several reasons. First, the applicant notes later in the application letter that failure to grant the variance could cause the developer to miss development deadlines set by the franchise and lose the franchise. The developer and applicant would not be in this position if they had designed the building to meet the City's codes. Additionally, the City Engineer has previously designed two La Quinta hotels between 2008 and 2011, with each hotel deviating from the La Quinta prototype in order to meet façade requirements. It is the developer's, architect's, and engineer's responsibility to ensure code compliance prior to entering into development agreements.

7. The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.

Applicant Comment: The variance is requested so that the project will conform to the franchise requirement. It is not profit motivated.

Staff Comment: Granting of a variance would reduce cost to the owner.

8. The variance will modify any condition imposed by the Planning and Zoning Commission or City Council as part of a conditional use or special use review.

Applicant Comment: The variance will not modify any condition imposed by the Planning and Zoning Commission or City Council as part of a conditional use or special use review. No conditional use or special use review have been requested or granted.

Staff Comment: Agreed.

9. The variance would not only affect a specific parcel, but would be of such general nature as to constitute, in effect, a change in zoning of the parcel or a larger area, or would merit an amendment to this Ordinance.

Applicant Comment: The approval of the variance will not affect the in place zoning and will not require an amendment to any ordinance.

Staff Comment: Agreed.

UDO 312.E prohibits the Board of Adjustment from granting a variance without an affirmative finding that all 6 criteria described by UDO 312.E.1-6 are met.

1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.

Applicant Comment: The modification to the structure will not be in compliance with the design criteria of the La Quinta Franchise.

Staff Comment: As previously noted, the City Engineer has experience with La Quinta in designing hotels that conform to other city's façade requirements and has experience in modifying the La Quinta prototype. The applicant's further statements in number three below shows that deviating from the prototype is possible, just not desirable.

2. These special circumstances are not the result of the actions of the applicant.

Applicant Comment: The request is to allow compliance with the franchise design criteria.

Staff Comment: As noted, these special circumstances are the result of the applicant.

3. Literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.

Applicant Comment: The literal interpretation of this provision will cause the building to be redesigned. This will necessitate that the approval of the design be resubmitted to the

franchise and the approval process restarted. This resubmission will substantially delay the project and expose the project developer to the possibility of losing the La Quinta franchise because of failure to meet the development deadlines set by the franchise.

Staff Comment: The applicant's statement contradicts previous statements that the building elevations cannot be changed because they must conform to the La Quinta prototype. Therefore, it appears that the variance request is founded on convenience and in not performing due diligence prior to entering into the franchise agreement.

4. Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Ordinance and substantial justice.

Applicant Comment: The granting of the request is not contrary to the public interest, and it would carry out the spirit of this Ordinance and substantial justice. The differences from the literal application of the ordinance and the project design is very small.

5. Granting the variance will not adversely affect adjacent land in a material way.

Applicant Comment: The granting of this variance will not adversely affect adjacent land in a material way. It will actually increase the value of the adjacent property.

6. Granting the variance will be generally consistent with the purposes and intent of this Ordinance.

Applicant Comment: The granting of the variance will be generally consistent with the purposes and intent of this Ordinance. The project differs only slightly for the prescribed dimensions.

Staff Comment: As stated previously, the spirit of the ordinance as the deviations are more than "slight".

STAFF AND CITY ATTORNEY CONCLUSIONS

The City Attorney has found that the arguments presented for depth articulation do not meet the requirements set forth in UDO Section 312.C. Therefore, a variance for depth articulation must be denied.

The City Attorney and City Staff have determined that while a literal enforcement argument could be made for the height articulation, that the variance request is founded in correcting issues that are self-imposed by the applicant. Finding that any of the criteria in Section 312.E exists requires that the Board of Adjustment deny the application. Therefore, a variance for height articulation must be denied.

ATTACHMENTS

- Notice of Public Hearing
- Variance Application Letter
- Building Elevation and Floor Plan
- Building Rendering

RECOMMENDED ACTION

Adopt a motion that denies the variance request for depth and height articulation.



NOTICE OF PUBLIC HEARING

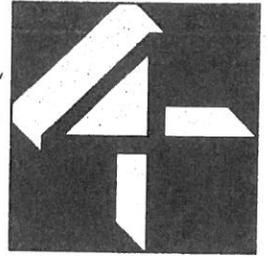
Notice is hereby given that a Public Hearing will be held before the Board of Adjustment of the City of Portland on Wednesday, February 12, 2014, in the Council Chamber of the City Hall (1900 Billy G. Webb Drive - Daniel P. Moore Community Center Complex) at 7:00 p.m. to solicit comments from citizens and other interested parties concerning a request for a variance to Section 705.B of the Unified Development Ordinance (UDO).

Portland Development, Inc., via Total Design Four, Inc., is proposing construction of a hotel on 1.837 acres at the southwest corner of Buddy Ganem Drive and Cedar Drive that does not meet building façade articulation requirements. The UDO requires depth articulation of at least three (3) feet for every thirty (30) feet of building façade length. The variance, if approved, would allow building façade lengths of 49'-2 ½" and 52'-7 ½" without the required depth articulation. The UDO further requires that height articulation for flat roofs of at least five (5) feet shall be required for every fifty (50) feet of building façade length. The variance, if approved, would allow height articulation of 4'-8".

Any questions concerning this matter should be directed to Brian DeLatte, Director of Public Works and Development, at (361) 777-4601 or brian.delatte@portlandtx.com.

Brian DeLatte, PE
Director of Public Works and
Development / City Engineer
City of Portland
1101 Moore Ave.
Portland, Texas 78374
Phone: (361) 777-4605 FAX: (361) 643-5709

TOTAL
DESIGN
FOUR



ARCHITECTURE
CONSULTING
PLANNING

Ref:
La Quinta Inn & Suites
Portland Texas

Mr. Delatte,

Attached please find an application for variance, photograph of typical La Quinta Motel and revised site plan on the project.

Thank You,

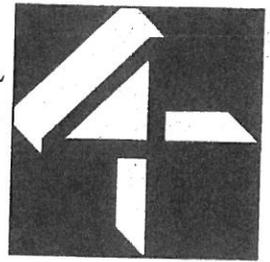

Clarence Upchurch AIA RAS

Total Design Four, Inc.
5700 South Staples - Suite F5
Corpus Christi, Texas 78413
361-993-6980 1-993-6981



Brian DeLatte, PE
Director of Public Works and
Development / City Engineer
City of Portland
1101 Moore Ave.
Portland, Texas 78374
Phone: (361) 777-4605 FAX: (361) 643-5709

TOTAL
DESIGN
FOUR



ARCHITECTURE
CONSULTING
PLANNING

Mr. Delatte,

We would request that a variance be granted to the development of the La Quinta Inn and Suites located at the corner of Buddy Ganem Dr. and Cedar Dr. Our request concerns Section 705 - Nonresidential Design Requirements - B Façade Articulation.

In response to section 312C Item #4 of the UDO of the City of Portland Texas.

4. Literal Enforcement

A variance may be granted if it is found that the literal enforcement and strict application of this Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this Ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done. The Board of Adjustment shall state in their minutes the nature of the circumstance that justifies the variance.

Although our building does vary slightly in the facade offset and roof articulation from the literal dimensions lay out in section 705, it is far from a large box building. There are seven separate planes of the front façade with offsets up to 8'-0" and there are four different roof heights.

In response to section 312D of the UDO of the City of Portland Texas. Long distance

1. *The effect of the variance on the specific property would adversely affect the land use pattern as outlined by any City land use plan or policy*

The granting of the variance will have no effect on the land use of the area. There are commercial building nearby and on adjoining properties and one nearby property is also a motel.

2. *The variance would be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity.*

The variance would not be a material detriment to the public welfare or create injury to the use, enjoyment or value of property in the vicinity. It will in fact increase the value of the adjoining properties and attract further development to the immediate area.



3 *The variance is not the minimum variance that will relieve the proven hardship.*

The variance is the minimum variance that will relieve the proven hardship. The project as designed is very close to complying with the dimensional requirement but changing the profile of the building will increase the cost unnecessarily and will not improve the function or operation of the project. The delay caused in revising the design will substantially delay the project and possibility cause the developer to lose the franchise.

4 *The variance would allow a use not allowed in the use table for the district in which the parcel is located.*

The project is allowed in the use table for the district in which the parcel is located.

5. *The variance will relieve the applicant of conditions or circumstances that are caused by the illegal subdivision of land after the effective date of the subdivision regulations of this Ordinance, which subdivision of land caused the property to be unusable for any reasonable development under the existing regulations.*

There has been no illegal subdivision of the land and the property is proper for the development of the motel.

6. *The variance will relieve the applicant of conditions or circumstances that are self-imposed*

The design of the project is dictated by the motel franchise and only very minor deviations are allowed. This design is in place in many cities and represents quality design by an experienced property development staff of the LA Quinta franchise. Every aspect of the design is reviewed and confirmed that it meets the design criteria of the franchisee.

7. *The variance is grounded solely upon the opportunity to make the property more profitable or to reduce expense to the owner.*

The variance is requested so that the project will conform to the franchise requirement. It is not profit motivated.

8. *The variance will modify any condition imposed by the Planning and Zoning Commission or City Council as part of a conditional use or special use review.*

The variance will not modify any condition imposed by the Planning and Zoning Commission or City Council as part of a conditional use or special use review. No conditional use or special use review have been requested or granted.

9. *The variance would not affect a specific parcel, but would not be of such general nature as to constitute, in effect, a change in zoning of the parcel or a larger area, or would merit an amendment to this Ordinance.*

The approval of the variance will not affect the in place zoning and will not require an amendment to any ordinance.

In response to section 312E of the UDO of the City of Portland Texas.

1. *Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.*

The modification to the structure will not be in compliance with the design criteria of the La Quinta Franchise.

2. *These special circumstances are not the result of the actions of the applicant.*

The request is to allow compliance with the franchise design criteria.

3. *Literal interpretation and enforcement of the terms and provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.*

The literal interpretation of this provision will cause the building to be redesigned. This will necessitate that the approval of the design be resubmitted to the franchise and the approval process restarted. This resubmission will substantially delay the project and expose the project developer to the possibility of losing the La Quinta franchise because of failure to meet the development deadlines set by the franchise.

4. *Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Ordinance and substantial justice.*

The granting of the request is not contrary to the public interest, and it would carry out the spirit of this Ordinance and substantial justice. The differences from the literal application of the ordinance and the project design is very small.

5. *Granting the variance will not adversely affect adjacent land in a material way.*

The granting of this variance will not adversely affect adjacent land in a material way. It will actually increase the value of the adjacent property.

6. *Granting the variance will be generally consistent with the purposes and intent of this Ordinance.*

The granting of the variance will be generally consistent with the purposes and intent of this Ordinance. The project differs only slightly for the prescribed dimensions.

We appreciate your consideration of our request. If there are any question or if additional information is needed we will respond immediately.

Thank You,



Clarence Upchurch AIA RAS
Total Design Four, Inc.
5700 South Staples - Suite F5
Corpus Christi, Texas 78413
361-993-6980 1 -993-6981

Attachments

Color rendering of typical La Quinta motel

RECEIVED
JAN - 7 2014

PAID
JAN - 7 2014



TOTAL
DESIGN
FOUR

INSTRUMENTS OF SERVICE
FOR THE CITY OF HOUSTON, TEXAS
PROJECT NO. 2013-0001
DATE: 12/12/13

LA QUINTA INN AND SUITES
PORTLAND TEXAS

LA QUINTA INN AND SUITES
PORTLAND TEXAS



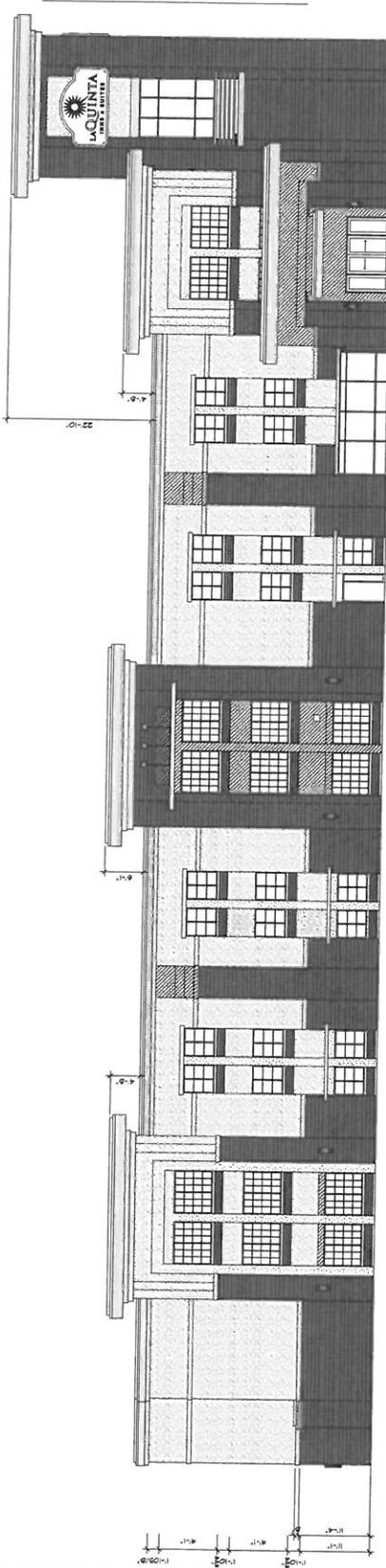
PROJECT
LA QUINTA
INN AND SUITES
PORTLAND TEXAS

SHEET TITLE
EXTERIOR
ELEVATIONS

SHEET NUMBER
A4.1

DATE
12/12/13

35 OF 63

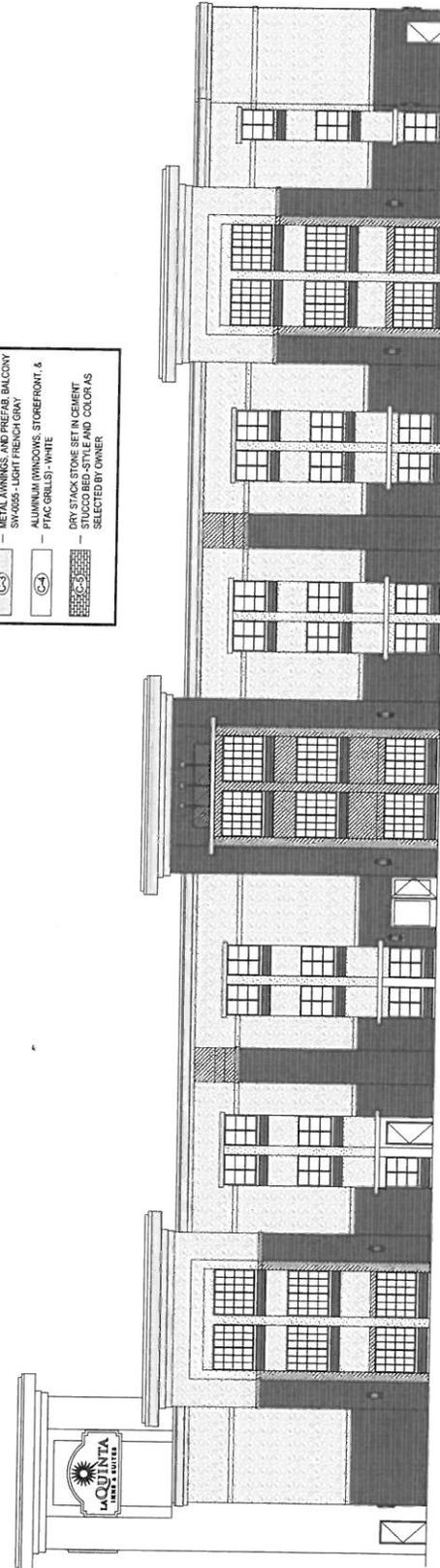


FRONT / EAST ELEVATION

1/8" = 1'-0"

COLOR SCHEDULE

C-1	STUCCO (FINE SAND TEXTURE) - SW4387 - COMPATIBLE CREAM
C-2	STUCCO (FINE SAND TEXTURE) - SW4374 - TORCHLIGHT
C-3	STUCCO (LIMESTONE TEXTURE) PAINTED - METAL FINISHES AND PREFAB. BALCONY - SW-0505 - LIGHT FRENCH GRAY
C-4	ALUMINUM (WINDOWS, STOREFRONT, & PTAC GRILLS) - WHITE
C-5	DRY STACK STONE SET IN CEMENT - STUCCO BED-STYLE AND COLORS AS SELECTED BY OWNER



REAR / WEST ELEVATION

1/8" = 1'-0"

