



# City of San Antonio

## Agenda Memorandum

**File Number:**19-8076

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**Agenda Item Number:** 7.

**Agenda Date:** 11/4/2019

**In Control:** Board of Adjustment

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**Case Number:** BOA-19-10300125  
**Applicant:** Adam Harden  
**Owner:** Adam Harden  
**Council District:** 1  
**Location:** 507 E Ashby Place, #102  
**Legal:** Lot 2, Block 10, NCB 2994  
**Description:**  
**Zoning:** "R-6 CD AHOD" Residential Single-Family District with a Conditional use for 3 Residential Dwelling Units Airport Hazard Overlay District  
**Case Manager:** Rachel, Planner

### **Request**

A request for a special exception, as described in Section 35-374.01, to allow for one Type 2 short-term rental.

### **Executive Summary**

The subject property is located at 507 East Ashby Place and 206 Rose Lane between Gillespie Street and N St Mary's Street. The property is a duplex and small home in a small block with single-family dwellings and multi-family buildings on an unplatted lot. The third dwelling is on the same parcel but is addressed to a different street, Rose Lane and a fence separates the two structures. The nonconforming use for the second home on Rose Lane was registered on December 17, 2018 and the property was conditionally rezoned in March of 2019 to allow the third dwelling.

The applicant is seeking a special exception to allow for the operation of one Type-2 short term rental unit(s) at a property with a total of three dwelling units. 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. The applicant states they originally applied for two short-term rentals for both units in the duplex. On August 27, 2019, Development Services issued two (2) short-term rental (Type 2) permits to allow short term rentals, on each block, at 507 E Ashby Pl unit #101 and 206 Rose Lane. The applicant states that the property at 206 Rose Lane has a long-term tenant residing in the unit and they do not

wish to rent that as a short term rental nor have the long term tenant be involved with the application for the permit. As a result, the applicant would like to transfer Type 2 STR Permit for 206 Rose Lane to 507 E Ashby Pl unit #102, and maintain a total of two (2) short term rental units within the subject property.

Per the recently adopted 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 quadraplex 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 blockface.

In this case, the blockface is defined as the south side of E Ashby Place between Gillespie and N. St. Marys Street. There are seven (7) residential uses and a commercial use (parking lot), resulting in one (1) Type 2 Short Term Rental permitted by right. One (1) Type 2 Short Term Rental Permit has already been approved by right for 507 E Ashby Place unit #101. Any other Type 2 Short Term Rentals on this blockface must seek a Special Exception from the Board of Adjustment.

There are a total of 2 units within this two family dwelling as well as the third unit on Rose Lane. If this special exception is approved, it will result in 29% of the units on the Ashby blockface occupied as Type 2 short-term rentals. There are other nearby Type 2 STRs which are grandfathered and not obliged to the density limitation. The grandfathered units are at 516 E Ashby Place (one permit) and 423 E Ashby Place (four permits).

### **Zoning History**

The subject property is in the original 36 square miles of the City of San Antonio and was zoned “D” Apartment District. The subject property was rezoned to “R-1” Single Family Residential District in 1995 by Ordinance #83331. Under the 2001 Unified Development Code, established by Ordinance #93881, dated May 3, 2001, the property zoned “R-1” Single Family Residential District converted to “R-6” Residential Single-Family District. The property was rezoned to “R-6 CD” on March 21, 2019 by ordinance 2019-03-21-0248 to allow three dwelling units.

### **Code Enforcement History**

No code enforcement history exists on the property.

### **Permit History**

8/27/19: The applicant initially applied for registration of two (2) short-term rental units at this address with one Type 2 permit issued for unit #101 and for 206 Rose Lane. The property owner is seeking a special exception to transfer the Rose Lane STR permit to unit #102.

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

Existing Zoning	Existing Use
“R-6 CD AHOD” Residential Single-Family Airport Hazard Overlay District with a Conditional use for 3 Residential Dwelling Units	Duplex and single family dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
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North	“RM-4” Residential Mixed Use “R-6” Residential Single Family	Duplex Single-Family Dwelling
South	“R-6” Residential Single Family	Single-Family Dwelling
East	“RM-4” Residential Mixed Use “R-6” Residential Single Family	Single-Family Dwelling Single-Family Dwelling
West	“R-6” Residential Single Family	Vacant residence

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

The property is within the boundaries of the Midtown Regional Center Area Plan and currently designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundaries of the Tobin Hill Community Association. The association was notified and provided with the opportunity to comment on the request.

### **Street Classification**

East Ashby Place is classified as a local street.

### **Criteria for Review**

According to Section 35-374.01 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.

There is no record of previous Code Enforcement issues in this property. The property appears to be well kept, and nothing about the duplex places it out of character with one more residential use in the immediate vicinity. This area has a combination of mostly commercial and industrial uses.

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

Approval will result in 29% of the units on the blockface being permitted as Type 2 STRs; such a saturation of short-term rentals may create a public nuisance. The applicant could provide data showing that occupancy rates for long-term rentals in the neighborhood will not be impacted which could mitigate this finding.

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

The applicant could provide data showing that occupancy rates for long term rentals in the neighborhood and property valuations for the neighborhood will not be negatively impacted by the request, which could mitigate this finding.

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

During the visit to the site, staff noted that the structure already exists with adequate utilities.

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 has a permit issued and no permits have been revoked as of yet. Approval of the requested permit will result in 29% of the units permitted as Type-2 STRs on this blockface.

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.

Essential character of the neighborhood may include potential impacts to occupancy rates and property valuations. The applicant could provide data showing that occupancy rates for long term rentals in the neighborhood and property valuations for the neighborhood will not be negatively impacted by the request, which could mitigate this finding.

The Board can also consider public input from the neighborhood regarding the character in which the property is located. Additionally, the Board can also consider the unique situation of the request. The unique situation could be that approximately 1/3 of the blockface is commercial uses.

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

Denial of the requested special exception will result in the property owner not being able to operate the additional short-term rental unit.

### **Staff Recommendation**

Staff recommends **DENIAL** of a special exception to allow a short-term rental (Type 2) unit in **BOA-19-10300125**, based on the following findings of fact:

1. The approval of an additional Type 2 short-term rental unit on this blockface will result in 29% residential units on this blockface being utilized as Type 2 short-term rentals.