



# City of San Antonio

## Agenda Memorandum

**File Number:**21-2577

**Agenda Item Number:** 7.

**Agenda Date:** 4/5/2021

**In Control:** Board of Adjustment

Case Number:	BOA-21-10300013
Applicant:	Adolfo Mijares
Owner:	Adolfo Mijares
Council District:	2
Location:	330 Utah Street
Legal Description:	West 6.8' of Lot 12 & East 33.92' of Lot 13, Block 2, NCB 1033
Zoning:	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### **Request**

A request for a 1,160 square foot lot size variance from the minimum 4,000 square foot requirement, as described in Section 35-310.01, to allow a lot to be 2,840 square feet.

### **Executive Summary**

The subject property is located near the intersection of Utah Street and South Palmetto Street. The lot is currently vacant, and the lot size is 2,840 square feet. The applicant is requesting the lot size variance in order to develop the lot with a single-family dwelling. The minimum lot size requirement is 4,000 square feet and the lot does not qualify as a non-conforming lot of record.

### **Code Enforcement History**

There are no open code enforcement cases.

### **Permit History**

There are no relevant permits pulled for the property.

### **Zoning History**

The subject property is located in the Original 1938 City Limits of San Antonio and was zoned "D" Apartment District. The zoning changed from "D" to the "R-2" Two Family Residence District on December 16, 1993,

established by Ordinance 79329. Upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001), the zoning converted from “R-2” to the current “RM-4” Residential Mixed District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-family dwelling

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-family dwelling
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant Lot
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-family dwelling
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-family dwelling

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

The subject property is in the Arena District Community Plan and is designated “Medium Density Residential” in the future land use component of the plan. The subject property is located within the Denver Heights Neighborhood Association and as such were notified of the case.

### **Street Classification**

Utah Street is classified as a Local Road.

### **Criteria for Review**

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. In this case, the variance being requested is for the lot size of the property in order to be developed.**

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

**Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement of the code, the property would need to undergo the rezoning process**

**and platting process.**

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. The intent of the lot size is to provide uniformity among properties and neighborhoods. The subject property is located in an older-developed community, so many of the lots are non-conforming and do not meet the minimum lot size.**

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 request to reduce the lot size does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. Many of the lots in the surrounding area are under the minimum lot size and developed with single-family dwellings.**

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 unique circumstances existing on the property were not created by the owner of the property and are not merely financial. The lot is currently vacant and does not meet the minimum lot size of the current code.**

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

The alternative to the applicant's request is to conform to the Lot & Setback Dimensions of the UDC Sections 35-310.01.

### **Staff Recommendation**

Staff recommends **Approval** in **BOA-21-10300013** based on the following finding of fact:

1. The lot size of the property is 2,840 square feet and surrounded by single family residential uses.