



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** August 5, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Department Head

**CASE NUMBER:** BOA-24-10300125

**APPLICANT:** Ton & Nguyen Bros LLC

**OWNER:** Ton & Nguyen Bros LLC

**COUNCIL DISTRICT IMPACTED:** District 10

**LOCATION:** 12822 Uhr Lane

**LEGAL DESCRIPTION:** Lot 4, Block 2, NCB 14681

**ZONING:** "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

(1) A variance to allow two separate structures on an "RM-4" that is less than one-third of an acre. Section 35-310.06(a)(1)

(2) A variance to allow a front entryway not oriented on the primary street and the requirement for a front walkway.

Section 35-310.01(Note 13)

**Executive Summary**

The subject property is located along Uhr Lane, north of Nacogdoches Road, located within the notification boundary of the Northern Hills Neighborhood Association. The property underwent a recent rezone (Z-2023-10700359) approved by City Council on February 15, 2024 from R-5 to RM-4. The lot is currently vacant, and the applicant is seeking to develop it by constructing two structures, to each to serve as duplexes, on a lot that is less than one-third of an acre. Additionally,

the structures will be orientated along a T-shaped driveway coming into the lot from the street, requiring a variance from Note 13 regulations on multi-unit entryway and walkway orientation.

**Code Enforcement History**

No relevant code enforcement history.

**Permit History**

The issuance of build permits is pending Board of Adjustment outcome.

**Zoning History**

The property was annexed into the City of San Antonio by Ordinance 41430, dated December 25, 1972, and zoned "R-5" Single Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "R-5" Single Family Residence District converted to the "R-5" Residential Single-Family District. The property was rezoned by Ordinance 2024-02-15-0120, dated February 15, 2024, to the current "RM-4" Residential Mixed District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

**Existing Use**

Vacant Lot

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**South**

**Existing Zoning**

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**East**

**Existing Zoning**

"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**West**

**Existing Zoning**

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the San Antonio International Airport Vicinity Land Use Plan and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the notification boundary of the Northern Hills Neighborhood Association, and they have been notified of this request.

**Street Classification**

Uhr Lane is classified as a Local Road.

**Criteria for Review – Multi-Unit construction on an RM-4 less than 1/3 of an acre and front entryway and walkway variances**

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 public interest is represented by efficient land use by concentrating units within a single structure on a lot less than 1/3 of an acre and providing front entry orientation to the primary street. If granted, the request will be contrary to the public interest, as concentrating units within a single structure can prevent overcrowding on smaller lots and front entry orientation for consistent streetscape for smaller lots.

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

Staff found no other special conditions on the subject property to warrant the need to allow for two structures to not be contained within a single structure and the front entry to not be oriented towards the primary street. A literal enforcement of the ordinance would not result in an unnecessary hardship, as construction of a single structure can fit on the lot.

*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 will not be observed, as the containment of units within a single structure is enforced to ensure efficient land use and maintain the quality of life in an established neighborhood. Deviating from this requirement allows for density requirements to be loosened that protect smaller properties from becoming overcrowded.

*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.*

If granted, the “RM-4” zoned lot will be allowed to contain two separate structures on a lot that is less than one-third of an acre, which interferes with the development pattern of the neighborhood and front entry will be on side, which impacts the community feel of the neighborhood. The requests will injure the adjacent use of conforming properties and will alter the essential character of the district.

*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 not due to unique circumstances existing on the property, as the project is in preliminary stages and plans appear to allow for alterations. 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 RM-4 Multi-Unit Construction regulations of Section 35-310.06(a)(1) and Front Entryway and Walkway regulations of Section 35-310.01(Note 13) the Unified Development Code.

#### **Staff Recommendation – Multi-Unit construction on an RM-4 less than 1/3 of an acre and front entryway and walkway variances**

Staff recommends Denial in BOA-24-10300125 based on the following findings of fact:

1. Concentrating the units in a single structure can prevent overcrowding on lots 1/3 of acre or smaller.
2. Not providing front entry orientation to the street the property is addressed from is out of character and contrary to addressing requirements.
3. The requests will alter the essential character of the district.