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| Case Number: | BOA-23-10300306 |
| Applicant: | Texas Ascending Homes |
| Owner: | Mater-Mac LLC |
| Council District: | 2 |
| Location: | 706 Martin Luther King Drive |
| Legal Description: | Lot 12, Block PT 114, NCB 1405 |
| Zoning: | “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District |
| Case Manager: | Vincent Trevino, Senior Planner |

Request

A request for 1) a variance, as described in Section 35-310.06(a)(1)(b), to allow two separate structures on an "RM-4" that is less than one-third of an acre, 2) a half story variance from the maximum 2.5 stories, as described in Section 35-310.01, to allow a structure with 3 stories, and 3) a 2-parking space waiver from the minimum 6-parking spaces, as described in Section 35-526, to allow 4-parking spaces.

Executive Summary

The subject property is located just east of downtown, flanked front and back by Martin Luther King Drive and Gravel Street, and Dreiss Street on the side. The applicant is requesting the variances in order to start construction on a second structure on the lot. The height variance is requested as the new structure is proposed to contain a rooftop terrace above the second floor and along side the half story on the third floor.

Code Enforcement History

There is no code history for the subject property.

Permit History

RES-RBP-PMT23-36604236 – Building permit for first structure. Approved.
 RES-RBP-APP23-35503713 – Building permit for second structure, depending on Board of Adjustment results.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. The property was rezoned by Ordinance 79328, dated December 16, 1993, to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two-Family Residence District converted to “RM-4” Residential Mixed District.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|---|---------------------------|
| “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District | Vacant/Under Construction |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|-------------|-----------------------------|--------------|
|-------------|-----------------------------|--------------|

| | | |
|-------|---|-------------------------|
| North | “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District | Vacant Lot |
| South | “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District | Single-Family Residence |
| East | “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District | Single-Family Residence |
| West | “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District | Single-Family Residence |

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Downtown Neighborhood Plan and is designated “Residential” in the Future Land Use component of the plan. The property is within the Denver Heights Neighborhood Association boundaries, and they have been notified of this request.

Street Classification

Martin Luther King Drive, Gravel Street, and Dreiss Street are classified as local roads.

Criteria for Review – Separate Structures on RM-4, Structure Height, and Parking Waiver

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 the overcrowding of structures, invasive height surrounding single-family dwellings and parking that would spill over into the right-of-way; all of which are contrary to the public interest.

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

Staff has found no special conditions which indicate that literal enforcement of the ordinance would cause an unnecessary hardship for the requested variances. Development can be redesigned to provide adequate parking spaces, four dwelling units in one structure and eliminate the third story.

- 3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance will not be observed for the requested variances as they will create an overcrowding of structures that tower over the surrounding dwellings and spill off required parking into the right-of-way.

- 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 requested variances will injure the adjacent conforming properties and alter the essential character of the district. The current lot does not have enough size to split off into two separate lots making the separate structures fit into the district. The structure height will be significantly taller than the surrounding conforming single-family dwellings. Additionally, the reduced parking will result in overcrowding of the right-of-way.

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. The proposed development can be altered to meet the structure, height and parking standards.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the "RM-4" standards of the UDC Section 35-310.06(a)(1)(b), the Structure Height standards of the UDC Section 35-310.01 and Parking Regulations of the UDC Section 35-526.

Staff Recommendation – Separate Structures on RM-4, Structure Height, and Parking Waiver

Staff recommends Denial in BOA-23-10300306 based on the following findings of fact:

1. The requested variances will create an overcrowding and towering development that will alter the essential character of the district; and
2. The parking waiver will create unnecessary parking in the right-of-way that will be contrary to the public interest.