

Case Number:	BOA-23-10300290
Applicant:	Ada Consulting Group, INC.
Owner:	Otima Investments, LLC
Council District:	2
Location:	909 and 915 South Pine Street
Legal Description:	North 48.62 feet of Lot 10 and North 48.62 feet of Lot 11, Block 3, NCB 661 and South 1/2 of Lot 10 and Lot 11, Block 3, NCB 661
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District & “RM-4 CD AHOD” Residential Mixed Airport Hazard Overlay District with a Conditional Use for a Noncommercial Parking Lot
Case Manager:	Joseph Leos, Planner

**Request**

A request for a variance to allow two separate structures, as described in Sec 35-310.06(a)(1), on an "RM-4" lot that is less than one-third of an acre.

**Executive Summary**

The subject property is located South Pine Street, south of Indiana Street. The vacant property is currently platted as two separate lots, with the applicant requesting a variance from the “RM-4” standards. Multi-unit construction on lots one-third (1/3) of an acre in size or smaller, shall be within a single structure. Each lot will have two separate units.

**Code Enforcement History**

There is not code enforcement history for the subject property.

**Permit History**

The issuance of a carport permit is pending the outcome of the Board of Adjustment.

**Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and was originally zoned “C” Apartment District. The property rezoned under Ordinance 79329, dated December 16, 1993, from “C” Apartment District 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 the current “RM-4” Residential Mixed District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant Lot

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	“RM-4 CD AHOD” Residential Mixed Airport Hazard Overlay District with a conditional use for a Noncommercial Parking Lot & “C-2NA AHOD” Commercial Nonalcoholic Sales Airport Hazard Overlay District	Vacant Residential and Commercial
South	“C-3R AHOD” General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Vacant Commercial
East	“IDZ-1 AHOD” Infill Development Zone Airport Hazard Overlay District with uses permitted to allow for (3) three residential units.	Dwelling Unit
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Arena District/ Eastside Neighborhood Community Perimeter Plan and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Denver Heights Neighborhood Association, and they have been notified of the request.

**Street Classification**

South Pine Street is classified as a collector road.

**Criteria for Review – Separate Structures on “RM-4” under 1/3 acre**

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. The applicant is requesting a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre. If granted, the request will be contrary to the public interest by maintaining the density of units being contained in a single structure can prevent overcrowding on 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. A literal enforcement of the ordinance would not result in an unnecessary hardship, as the structure has not been constructed and the applicant has the option to alter plans.

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 that the need to allow for two structures to not be contained within a single structure will not observe the spirit of the ordinance. 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 that is less than 1/3 of an acre will be allowed to have two separate structures. Upon site visits, staff observed all other properties in the immediate vicinity to abiding by the minimum building requirements.

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 development is still in its preliminary stages and can be altered.

#### **Alternative to Applicant’s Request**

The alternative to the applicant’s request is to conform to Density Requirements of “RM-4” Lots Less than 1/3 of an Acre Separate Structures of Section 35-310.06(a)(1).

#### **Separate Structures on “RM-4” under 1/3 acre**

Staff recommends Denial in BOA-23-10300290 based on the following findings of fact:

1. Maintaining the density of units being contained in a single structure can prevent overcrowding on smaller lots.
2. The request will alter the essential character of the district.