



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** September 9, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300160

**APPLICANT:** Juan Hernandez

**OWNER:** Juan Hernandez

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 1127 S. Hackberry Street

**LEGAL DESCRIPTION:** Lot 21, Block 19, NCB 666

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

**CASE MANAGER:** Vincent Trevino, Senior 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 15' variance from the minimum 20' requirement to allow a garage entry to be 5' from the front property line.  
Section 35-516(g)

**Executive Summary**

The subject property is located at the intersection of South Hackberry Street and Florida Street, East of IH-37 within Denver Heights. The lot is currently vacant, and the applicant is seeking to develop it by constructing two separate structures, one to serve as a duplex and another as a single structure, on a lot that is less than one-third of an acre. Additionally, the applicant is requesting a garage entry reduction from the front property line.

**Code Enforcement History**

No Code Enforcement history found.

**Permit History**

RES-RBP-APP23-35504014 - Residential Building Permit

**Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned "D" Apartment District. The property was rezoned by Ordinance 79329, 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 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

**Surrounding Property Zoning/ Land Use****North****Existing Zoning**

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

**Existing Use**

Single-Family Residence

**South****Existing Zoning**

"C-3R" General Commercial Restrictive Alcoholic Sales District

**Existing Use**

Church

**East****Existing Zoning**

"C-3E AHOD" General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District

**Existing Use**

Retail and Office

**West****Existing Zoning**

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

**Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Eastside Community Area Plan and is designated as “Neighborhood Mixed Use” in the future land use component of the plan. The subject property is located within the notification area of Denver Heights Neighborhood Association, and they have been notified of the request.

### **Street Classification**

South Hackberry Street is classified as a Secondary Arterial Type B.

Florida Street is classified as a Local Road.

### **Criteria for Review – Two Separate Structures on an “RM-4” that is less than one-third of an acre and Garage Entry from the front property line.**

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 separate structures to prevent overcrowding on smaller lots. Staff finds this request is contrary to the public interest as maintaining density of two separate structures contained in a single structure can prevent overcrowding on smaller lots, provides open spaces, and contributes to a more comfortable and aesthetically pleasing environment in an established single structure neighborhood. Additionally, the garage setback variance is contrary to the public interest as it leaves minimal room for backing into a residential street.

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

Staff found no special conditions on the subject property that would permit two separate structures on a lot that is less than 1/3 of an acre. The dwelling units are able to be constructed in one structure and alternative parking options are available without the requirement of a 20’ garage setback.

*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. Additionally the required garage setback variance allows for sufficient room to safely enter/exit on a residential street.

*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 and the garage setback will be reduced to 5’. The granting of these variances will injure the appropriate use of adjacent conforming properties, as this type of development is out of character with the development pattern of the neighborhood. The location of the garage entries would not allow for sufficient space and proper vision to drive in and out of each garage. Upon site visits, staff did not observe other “RM-4” properties with multiple units not contained in a single structure in the immediate vicinity.

*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 proposed design can be altered to meet safety regulations and aesthetics defined within the Unified Development Code

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

The alternative to the applicant’s request is to conform to the Two Separate Structures Construction regulations of the UDC Section 35-310.06(a)(1) and Garage Entry regulations of the UDC Section 35-516(g).

#### **Staff Recommendation – Two Separate Structures on an RM-4 less than one-third of an acre and Garage Entry from the front property line.**

Staff recommends Denial in BOA-24-10300160 based on the following findings of fact:

1. Maintaining density requirements can prevent overcrowding on smaller lots, provides open spaces, and contributes to a more comfortable and aesthetically pleasing environment in an established single structure neighborhood.
2. The garage setback variances would not provide adequate separation between the right of way and neighboring properties required in the district and that exists in the surrounding development.