



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** October 21, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300193

**APPLICANT:** RPGA Design Group, Inc.

**OWNER:** Melinda Wilhelm

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 109 Omaha Street

**LEGAL DESCRIPTION:** Lot 11, Block 1, NCB 604

**ZONING:** “AE-2 AHOD” Arts and Entertainment 2 Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for:**

- 1) A 4'-6" variance from the maximum 15'-6" driveway width to allow for 20' of driveway width. Section 35-358 (B)(1)
- 2) A half story variance from the maximum 2.5 stories to allow development for a 3-story structure. Section 35-358 (4)(B)

**Executive Summary**

Subject property is located west of Interstate 37, south of East Commerce Street between South Mesquite Street and South Hackberry Street on Omaha Street. The applicant, on behalf of the property owner, is proposing residential development in a “AE-2” Arts and Entertainment District. The “AE-2” restricts the driveway to 30% of the front yard. In the subject property, the 52-foot lot width allows a maximum driveway of 15’-6”. The applicant is seeking a 4’-6” driveway width

variance to allow a 20' driveway width and a half story variance to allow development of a 3-story residential structure. Permits are pending the outcome of the Board of Adjustment.

**Code Enforcement History**

No Code Enforcement History on file.

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

Subject property was part of 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. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the zoning converted from "R-2" Residence district to "RM-4" Residential Mixed District. The property was rezoned by Ordinance 2008-12-04-1128 dated, December 4, 2008, to current zoning of "AE-2" Arts and Entertainment District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"AE-2 AHOD" Arts and Entertainment 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"AE-2 AHOD" Arts and Entertainment 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South**

**Existing Zoning**

"AE-2 AHOD" Arts and Entertainment 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning**

"AE-2 AHOD" Arts and Entertainment 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West**

**Existing Zoning**

"AE-2 AHOD" Arts and Entertainment 2 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 “Medium Density Residential” in the future land use component of the plan. The subject property is not located within the notification area of a Neighborhood Association.

**Street Classification**

Omaha Street is classified as a local road.

**Criteria for Review – “AE-2 Driveway Width and “AE-2” Half Story Variance**

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. The requested half story variance is contrary to the public interest as other residential structures in the surrounding area conform to the driveway width and two and a half story height limits.

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

A literal enforcement of the ordinance of the half story regulation would not result in unnecessary hardship as the applicant could alter the floor plan to follow the ordinance.

*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 20’ driveway width and additional half story variance will not observe the spirit of the ordinance as the building height limit is intended to prevent towering structures around single-family dwellings and excessive driveway widths.

*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, staff finds that the 20’ driveway width and increased height will injure the use of appropriate use of conforming properties and alter the essential character of the district as no other homes in the area exceed the building height limit.

*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 variances are sought is not due to unique circumstances existing on the property. The property owner has the option to rezone or adjust the design of their proposed development.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the "AE-2" Requirements of the UDC Section 35-358.

**Staff Recommendation – "AE-2 Driveway Width and "AE-2" Half Story Variance**

Staff recommends Denial in BOA-24-10300193 based on the following findings of fact:

1. The 20' driveway width and increased story height will injure the use of appropriate use of conforming properties.
2. The requested variances will alter the essential character of the district.