



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** December 2, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300218

**APPLICANT:** Aldo Gutierrez

**OWNER:** Palera Construction LLC

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 330 Utah Street

**LEGAL DESCRIPTION:** West 6.8 feet of Lot 12 and east 33.92 feet of Lot 13, Block 2, NCB 1033

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

**CASE MANAGER:** Melanie Clark, Planner

**A request for:**

1) A 1,160 square foot lot size variance from the minimum 4,000 square foot lot size to allow single-family residential development on a 2,840 square foot lot.  
Section 35-310.01

**Executive Summary**

Subject property is located north of Interstate 10, east of Piedmont Avenue, approximately 97' from the South Palmetto Street and Utah Street intersection. The subject property was previously approved for the 1,160 square foot minimum lot size variance by the Board of Adjustment on April 5, 2021, however, were unable to obtain building permits within the allotted 12-month period. Additionally, following the previously approved BOA minimum lot size variance, a Certificate of Determination (COD) was issued on May 27, 2021, noting that the property must meet all other zoning requirements and limited to (1) dwelling unit only. The applicant, on behalf of the property

owner, is seeking a 1,160 square foot variance to allow single-family residential development on a 2,840 square foot lot. Much of the surrounding properties in similar size lots were constructed prior to established zoning code. Building permits are pending the outcome of the Board of Adjustment.

### **Code Enforcement History**

No Code Enforcement history found.

### **Permit History**

RES-RBP-APP21-35506260 - \*\*MIGRATED\*\* AP# 2652481 - 330 UTAH ST

### **Zoning History**

Subject property was part of the original 36 square miles of the City of San Antonio and zoned "C" Apartment District. The property was rezoned by Ordinance 79329 dated, December 16, 1993, to "R-2" Two Family 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.

### **Subject Property Zoning/Land Use**

#### **Existing Zoning**

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

#### **Existing Use**

Single-Family Residence

### **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**

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

#### **Existing Use**

Single-Family Residence

#### **East**

#### **Existing Zoning**

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

#### **Existing Use**

Single-Family Residence

#### **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 “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the notification area of the Denver Heights Neighborhood Association, and they have been notified of the request.

**Street Classification**

Utah Street is classified as a local road.

**Criteria for Review – Minimum Lot Size 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 applicant is requesting a 1,160 square feet variance from the 4,000 square feet minimum lot size requirement. The variance request does not appear to be contrary to the public interest as granting the variance would be in line with other lot sizes in the area.

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

A literal enforcement of the ordinance would result in having to rezone which would result in an unnecessary hardship.

*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. The request appears to be in the spirit of the ordinance as the requirement is there to protect the neighborhood, and there are other single-family homes on similar lot sizes in the area.

*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.*

Staff finds that the variance would not substantially injure the appropriate use of adjacent properties as many other lots do not meet the minimum lot size 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 due to unique circumstances existing on the property. The property owner's inability to utilize the lot was created by the placing the zoning district on the property that does not match with the size.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the minimum lot size requirements of the UDC Section 35-310.01.

**Staff Recommendation – Minimum Lot Size Variance**

Staff recommends Approval in BOA-24-10300218 based on the following findings of fact:

1. Other single-family homes in the area are built on similarly sized lots.
2. It will not alter the essential character of the district.