



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** November 4, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300200

**APPLICANT:** Aster Developments, LLC

**OWNER:** Aster Development, LLC

**COUNCIL DISTRICT IMPACTED:** 2

**LOCATION:** 501 Martin Luther King Drive

**LEGAL DESCRIPTION:** West 47.4 feet of Lot 28, Block 35, NCB 633

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

**CASE MANAGER:** Melanie Clark, Planner

**A request for:**

1) A 1,791 square foot lot size variance from the minimum 4,000 square foot lot size to allow single-family residential development on a 2,209 square foot lot.  
Section 35-310.01

**Executive Summary**

Subject property is located west of South Hackberry Street on the corner intersection of Martin Luther King Drive and South Olive Street. The applicant, being the property owner, is seeking a 1,791 minimum lot size variance to allow single-family residential development on a 2,209 square foot lot zoned "RM-4". The property will require a Plat or Plat Exception if lot size variance is approved by the Board of Adjustment prior to any development on the lot.

**Code Enforcement History**

No Code Enforcement history found.

### **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 “C” 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.

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

#### **Existing Zoning**

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

#### **Existing Use**

Vacant Lot

### **Surrounding Property Zoning/ Land Use**

#### **North**

#### **Existing Zoning**

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

#### **Existing Use**

Vacant Lot

#### **South**

#### **Existing Zoning**

“RM-4 HS AHOD” Residential Mixed Historic Significant 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 CD HL AHOD” Residential Mixed Historic Landmark Airport Hazard Overlay District with Conditional Use Performing Arts Studio

#### **Existing Use**

Single-Family Residence

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Downtown/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**

Martin Luther King Drive 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. Granting the 1,791 minimum lot size variances would result in a residential development on a lot that is 2,209 square feet. The variance is contrary to public interest as it would not provide the space and dimensions required to safely develop on the property.

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

A literal enforcement of the ordinance would not result in a hardship as the property can be rezoned from “RM-4” to a zoning that better meets the minimum lot size and setback requirements for this residential development.

*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 does not appear to be in the spirit of the ordinance as the variance will allow development that does not meet the minimum lot size.

*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 may substantially injure the appropriate use of adjacent properties by creating a higher density than the district permits.

*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 variance is due to the separation of an established conforming lot.

**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 Denial in BOA-24-10300200 based on the following findings of fact:

1. The requested variance would not provide the space and dimensions required to safely develop on the property.
2. The applicant has the option to request a change of zoning that better meets the minimum lot size and setback requirements.