

Case Number:	BOA-23-10300121
Applicant:	Jose Sepulveda
Owner:	Jose Sepulveda
Council District:	2
Location:	1722 North Olive Street
Legal Description:	The south 33.9 feet of Lot 8 and the north 5.3 feet of Lot 1, Block A, NCB 486
Zoning:	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

### **Request**

A request for 1) a 3,231 square feet variance from the minimum 6,000 square foot minimum lot size requirement, as described in Section 35-310.01, to allow a lot to be 2,769 square feet and 2) a 11’ variance from the minimum 50’ lot width requirement, as described in Section 35-310.01, to allow a lot to be 39’.

### **Executive Summary**

The subject property is located along North Olive Street near East Carson Street in the Government Hill neighborhood of San Antonio. Currently, the lot is vacant. It is approximately 2,769 square feet with a lot width of 39’. Upon denial for a Certificate of Determination, the applicant was informed that they would need to obtain a variance for the minimum lot size. Additionally, a lot width variance is required for the construction of a single-family dwelling. The minimum lot size and width for an “R-6” zoned district is 6,000 square feet and 50 feet, respectively. The subject property underwent a large area rezoning in 2010 (Ordinance 2010-11-04-0971), which led to the property not meeting the minimum lot size for the current base zoning district. The applicant is abiding by all other building regulations and the use is currently allowed within the base zoning district. Upon site visits, staff observed smaller and narrow lots in the immediate area.

### **Code Enforcement History**

There is no relevant code enforcement history for the subject property.

### **Permit History**

There are no relevant permits pulled for the subject property.

### **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “D” Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “D” Apartment District converted to “MF-33” Multi-Family District. The property was rezoned under Ordinance 2010-11-04-0971, dated November 4, 2010, from “MF-33” Multi-Family District to the current “R-6” Residential Single-Family District.

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

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant Residential

## **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“IDZ AHOD” Infill Development Zone Airport Hazard Overlay District With Uses Permitted (2) Residential Single-Family	Vacant Residential
South	“RM-5 AHOD” Residential Mixed Airport Hazard Overlay District	Apartments
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

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

The subject property is within the Government Hill Neighborhood 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 Government Hill Alliance Neighborhood Association, and they have been notified of the request.

## **Street Classification**

North Olive Street is classified as a local road.

## **Criteria for Review – Lot Size and Width 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. In this case, the public interest is represented by minimum lot sizes and width to prevent the overcrowding of development into smaller lots. The applicant is requesting a variance to deviate from these minimum requirements, which are contrary to the public interest. The increase of density for the assigned zoning district can infringe on surrounding property owners by the lot being smaller in size.

- 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 the applicant re zoning the property to “R-3” to allow for the development on this lot. This would not result in an unnecessary hardship the variances would not be necessary, as the applicant would meet the lot dimensions required.

- 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. If approved, the lot will not meet the minimum lot size and width in the assigned zoning district. Staff finds the spirit of the ordinance will not be observed, as lot dimension

requirements are enforced to provide consistency within an assigned base zoning district and surrounding areas.

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 lot size granted would be 3,251 square feet and width will be 39' within an "R-6" zoned district. Staff finds these requests will injure the appropriate use of adjacent conforming properties and alter the essential character of the district, as majority of properties in the immediate vicinity are abiding by the minimum lot size requirement.

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 does not find the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, as the applicant can rezone the property to allow for his requested variances. The circumstances do not appear to be merely financial.

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Lot Dimensions of the UDC Section 35-310.01

### **Staff Recommendation – Lot Size and Width Variance**

Staff recommends Denial in BOA-23-10300121 based on the following findings of fact:

1. The increasement of density for the assigned zoning district can infringe on surrounding property owners by the lot being smaller in size; and
2. The applicant can rezone to a zoning district that would alleviate the need for the requested variances.