

Case Number:	BOA-24-10300004
Applicant:	Travis Elseth
Owner:	AG EHC II (LEN) MULTI STATE 2 LLC
Council District:	3
Location:	1103 Crenshaw Way; 1102 Art Wall Way; 1103 Art Wall Way; 13510 Furyk Drive; 13203 Furyk Drive
Legal Description:	Lot 33, Block 49, NCB 11166; Lot 1, Block 49, NCB 11166; Lot 109, Block 48, NCB 11166; Lot 20, Block 66, NCB 11166; Lot 48, Block 65, NCB 11166
Zoning:	"R-5 PUD" Residential Single-Family Planned Unit Development District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A 15' variance from the minimum 20' exterior side yard setback (PUD) variance, as described in Section 35-344.02, to allow structures to be 5' from the side setback.

Executive Summary

The subject properties are in a newly developing subdivision located in the South Side of San Antonio. A total of five subject properties are subject to the variance. The applicant is requested to reduce the side setback for the subject properties that are in the perimeter of a PUD (Planned Unit Development). Residential including multi-family uses, require PUD perimeter setbacks to be twenty (20) feet.

Code Enforcement History

There is not relevant code enforcement history for the subject properties.

Permit History

The issuance of permits are awaiting Board of Adjustments decision.

Zoning History

The subject area was annexed by Ordinance 68292 dated December 30, 1988, and was zoned Temporary "R-1" One Family Residence District. Ordinance 69286 dated April 13, 1989 rezoned the property to "R-1" One Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned Temporary "R-1" One Family Residence District converted to "R-6" Residential Single-Family District. Ordinance 2011-05-19-0427 dated May 19, 2011 rezoned the properties to "R-5" Residential Single Family. Ordinance 2019-09-19-0776 dated September 19, 2019 rezoned the property to "R-5 PUD" Residential Single-Family Planned Unit Development District

Subject Property Zoning/Land Use

Existing Zoning

"R-5 PUD" Residential Single-Family Planned Unit Development District.

Existing Use

Vacant Lots

Surrounding Zoning/Land Use

North

Existing Zoning District(s)

"R-5 PUD" Residential Single-Family Planned Unit Development District.

Existing Use

Vacant Lots

South

Existing Zoning District(s)

"R-5 PUD" Residential Single-Family Planned Unit Development District.

Existing Use

Vacant Lots

East

Existing Zoning District(s)

"R-5 PUD" Residential Single-Family Planned Unit Development District.

Existing Use

Vacant Lots

West

Existing Zoning District(s)

"R-5 PUD" Residential Single-Family Planned Unit Development District.

Existing Use

Vacant Lots

Comprehensive Plan Consistency/Neighborhood Association

The subject properties are in the Heritage South Sector Plan and is designated "Suburban Tier" in the future land use component of the plan. There is no registered neighborhood association located in the area.

Street Classification

Crenshaw Way, Art Wall Way, Furyk Drive, are classified as local roads.

Criteria for Review – Side Setback 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 restricted setbacks to provide ample spacing between structures. The applicant is requesting a variance for multiple parcels to allow a structure to be 5' from the side property line.

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 building the structure 20' from the side property line, which results in unnecessary hardship reducing the structure footprint.

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 structures will be 5' from the side property line, which will observe the spirit of the ordinance.

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 structures will be 5' from the side property line. Upon site visits, staff observed similar developed homes and structures with reduced side setbacks of 5', which do not alter the essential character of the district or impose on the fabric of the community.

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, such as the structure being in the perimeter of the PUD (Planned Unit Development).

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to "PUD" Planned Unit Development Districts standards of the UDC Section 35-344.02.

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** of **BOA-24-10300004** based on the following findings of fact:

1. **The dwellings have not been constructed;**
2. **There is a limited amount of space available to comply with the side setback to develop;**
and
3. **The request does not seem to be out of character with the community, as other structures will be developed with similar setbacks.**