

Case Number:	BOA-23-10300007
Applicant:	Robert Saenz
Owner:	Robert Saenz
Council District:	6
Location:	5146 - 5166 Kelwood Street and 5143 - 5163 North Trails Drive
Legal Description:	Lots 2-6 and 8-13, Block 1, NCB 15905
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Jake Exler, Planner

Request

A request for a 1,607 square feet variance and below from the minimum 4,000 square feet lot size requirement, as described in Sec. 35-310.01, to allow the lots to be 2,393 square feet and above for 11 lots.

Executive Summary

The subject properties are located on Kelwood Street and North Trails Drive on the northwest side of San Antonio. The applicant is constructing 11 duplex units. The applicant is requesting a 1,607 square foot maximum variance from the minimum 4,000 square foot lot size requirement for 11 lots. The requested 1,607 variance represents the highest amount variance required on the smallest lot.

Lot Sizes and Variance required:

Lot 2 – 2,780 square feet – 1,220 square foot Variance
Lot 3 – 2,635 square feet – 1,365 square foot Variance
Lot 4 – 2,536 square feet – 1,464 square foot Variance
Lot 5 – 2,495 square feet – 1,505 square foot Variance
Lot 6 – 2,402 square feet – 1,598 square foot Variance
Lot 8 – 3,521 square feet – 479 square foot Variance
Lot 9 – 2,750 square feet – 1,250 square foot Variance
Lot 10 – 2,716 square feet – 1,284 square foot Variance
Lot 11 – 2,519 square feet – 1,481 square foot Variance
Lot 12 – 2,393 square feet – 1,607 square foot Variance
Lot 13 – 3,836 square feet – 164 square foot Variance

Code Enforcement History

There are no code violations for this property.

Permit History

There are no permits on file for the property.

Zoning History

The properties were annexed into the City of San Antonio by Ordinance 68296, dated December 31, 1989, and zoned Temporary “R-1” Single-Family Residence District. The properties were rezoned by Ordinance 80955, dated October 13, 1994, to “R-6” Townhouse Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the properties converted to “RM-4” Residential Mixed District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District AND “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant Lot AND Single-Family Residence
South	“C-3R AHOD” Commercial, Restrictive Alcoholic Sales Airport Hazard Overlay District AND “MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Multi-Family Residence AND Tire Shop
East	“C-2 AHOD” Commercial Airport Hazard Overlay District	Dental Clinic
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Northwest Community Perimeter Plan and is designated “Community Commercial” in the future land use component of the plan. There is no registered neighborhood association.

Street Classification

Kelwood Street and North Trails Drive are classified as local roads.

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 1,607 square foot variance and below from the 4,000 minimum lot size requirements for 11 lots. The variance request does appear to be contrary to the public interest as granting the variance would allow a much smaller lot size than the zoning permits.

- 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 replat which would not result in 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 does not appear to be in the spirit of the ordinance as the variance will allow development of 11 lots that do 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 allowing more density than is permitted by code. The neighboring properties 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 not due to unique circumstances existing on the property.

Alternative to Applicant's Request

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

Staff Recommendation – Minimum Lot Size Variance

Staff recommends Denial in BOA-23-10300007 based on the following findings of fact:

1. The lot sizes are significantly under the 4,000 square feet minimum; and
2. The applicant has the option to replat; and
3. Neighboring lots conform to the minimum lot size requirement.