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| Case Number:       | BOA-21-10300171  |
| Applicant:         | Emilie Weissler  |
| Owner:             | The Edwards Aquifer Authority  |
| Council District:  | 1  |
| Location:          | 1610 N. St. Mary's Street  |
| Legal Description: | Lot 5, 6 & S 46.06 FT OF 4, Block 13, NCB 999  |
| Zoning:            | "FBZ T5-1 AHOD" Form Based Transect Zone 5<br>Calibrated Transect Zone T5-1 Airport Hazard Overlay<br>District |
| Case Manager:      | Roland Arsate, Planner   |

### **Request**

A 10% variance from the 80% maximum coverage requirement, as described in Section 35-209, to allow a maximum lot coverage of 90%.

### **Executive Summary**

The subject property is located on the corner of North Saint Mary's Street and Camden Street. The applicant is proposing to increase the lot coverage by 10%. The Form Based Zoning District requires a maximum lot coverage of 80% and the applicant is requesting a lot coverage of 90%. The size of the lot is rather small and restricted, so increasing the maximum lot coverage would better accommodate the proposed construction.

Upon the site visit, staff observed two trees on the subject property. After consultation with DSD Tree Review Staff, the following comments were provided to establish that the requested variance will not negate the requirements established by UDC Sections 35-511 and 35-209:

1. The landscape requirements for this development shall earn a minimum of 25 Landscape Points since there is no surface parking proposed. The owner/developer may select one of the Elective Criteria within 35-511 to meet the minimum requirements independently with no support of an administrative variance.
2. The Streetscape Tree requirement shall be met as prescribed within 35-209.

### **Code Enforcement History**

07/02/20219 Site work with RPZ violation of protected trees

### **Permit History**

A demolition permit was issued in 2004.

### **Zoning History**

The subject property was located within the Original City Limits of San Antonio and was zoned "J" Commercial District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "J" Commercial District to "I-1" General Industrial District, established by Ordinance 93881, dated May 3, 2001. The subject property was rezoned by ordinance 2010-08-05-0680 dated August 05, 2010 to "FBZ T5-1" Form Based Transect Zone 5 Calibrated Transect Zone T5-1 District.

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

| Existing Zoning  | Existing Use |
|--|--------------|
| "FBZ T5-1 AHOD" Form Based Transect Zone 5 Calibrated Transect Zone T5-1 Airport Hazard Overlay District | Vacant Lot   |

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

| Orientation | Existing Zoning District(s)  | Existing Use          |
|-------------|--|-----------------------|
| North       | "FBZ T5-1 AHOD" Form Based Transect Zone 5 Calibrated Transect Zone T5-1 Airport Hazard Overlay District | Commercial Business   |
| South       | "FBZ T5-1 AHOD" Form Based Transect Zone 5 Calibrated Transect Zone T5-1 Airport Hazard Overlay District | Commercial Business   |
| East        | "FBZ T5-1 AHOD" Form Based Transect Zone 5 Calibrated Transect Zone T5-1 Airport Hazard Overlay District | Commercial Business   |
| West        | "FBZ T4-1 AHOD" Form Based Transect Zone 4 Calibrated Transect Zone T5-1 Airport Hazard Overlay District | Commercial Restaurant |

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

The subject property is in the Downtown Area Regional Center Plan and is designated "Regional Mixed Use" in the future land use component of the plan. The subject property is located within the Downtown Residents Association and were notified of the case.

### **Street Classification**

North Saint Mary's Street is classified as a Principal Arterial Road.

### **Criteria for Review - Variances**

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 10% variance from the 80% maximum coverage requirement to allow a maximum lot coverage of 90%. The request does not appear to be contrary to the public interest as other development standards and code requirements will be met.**

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 to only being able to construct on 80% of the total property. This will limit their development design and due to the small size of the lot the variance is necessary for the development to be feasible.**

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. A variance of 10% to allow a maximum lot coverage of 90% appears to maintain the spirit of the ordinance as other development regulations will be followed.**

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 the request for a 10% variance to allow a 90% lot coverage proposed is not likely to affect the adjacent neighboring properties. Adequate parking will be provided and the development on the lot will not appear to alter the essential character of the district.**

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 the small size of the subject property and is not merely financial in nature.**

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

The alternative to the applicant's request is to adhere to the Form Based Zoning Requirements of Section 35-209.

### **Staff Recommendation – Maximum Lot Coverage Variance**

Staff recommends **Approval** in **BOA-21-10300171** based on the following findings of fact:

1. The size of the lot is smaller than other lots in the surrounding area; and
2. The lot coverage will be no greater than 90%; and
3. By increasing the lot coverage by 10%, the development will be able to meet other UDC requirements.