

Case Number:	BOA-23-10300281
Applicant:	Irvin Rigal
Owner:	Housing Innovations Holdings LLC
Council District:	2
Location:	2109 Virginia Boulevard
Legal Description:	Lot 1, Block west point 1, NCB 1540 (BCAD 116943)
Zoning:	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

**Request**

A request for a variance, as described in Section 35-310.06(a)(1), to allow two separate structures on an "RM-4" that is less than one-third of an acre.

**Executive Summary**

The subject property is located along Virginia Boulevard. Currently, the lot is vacant, with the applicant proposing two duplexes on the lot. While the number of units are permitted by right in the “RM-4” Residential Mixed District, the applicant is requesting a variance to allow two separate structures on an “RM-4” lot that is less than 1/3 of an acre. Property is 11,178 square feet (0.2566 acres).

**Code Enforcement History**

There is no code history for the subject property.

**Permit History**

Residential Building Permit Application (RES-RBP-APP23-35503442) September 2023

**Zoning History**

The subject property was located within 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. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two Family Residence District converted to the current “RM-4” Residential Mixed District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Residential

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Residential
South	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 MLOD-3 MLR-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Arena District/ Eastside Community 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 Denver Heights Neighborhood Association, and they have been notified of the request.

**Street Classification**

Virginia Street is classified as Local Street.

**Criteria for Review – Two Separate Structures on an “RM-4” that Is Less Than One-Third of an Acre 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 defined by separate structures to prevent overcrowding on smaller lots. The applicant is requesting a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre. Staff finds this request is contrary to the public interest as maintaining density of four units contained in a single structure can prevent overcrowding on smaller lots, provides open spaces, and contributes to a more comfortable and aesthetically pleasing environment in an established single structure neighborhood.

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

Staff found no special conditions on the subject property that would permit two separate structures on a lot that is less than 1/3 of an acre.

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 code. Staff finds the spirit will not be observed, as the containment of units within a single structure is enforced to ensure efficient land use and maintain the quality of life in an established neighborhood. Deviating from this requirement allows for density requirements to be loosened that protect smaller properties from becoming overcrowded.

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 “RM-4” zoned lot will be allowed to contain two separate structures on a lot that is less than one-third of an acre. The granting of this variance will injure the appropriate use of adjacent conforming properties, as this type of development is out of character with the development pattern of the neighborhood.

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, as the project is in preliminary stages and plans appear to allow for alterations. 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 “RM-4” Specification of the UDC Section 35-310.06(a)(1).

#### **Staff Recommendation – Two Separate Structures on an “RM-4” that Is Less Than One-Third of an Acre Variance**

Staff recommends Denial in BOA-23-10300281 based on the following findings of fact:

1. Maintaining density requirements can prevent overcrowding on smaller lots, provides open spaces, and contributes to a more comfortable and aesthetically pleasing environment in an established single structure neighborhood.