



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** January 6, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Department Head

**CASE NUMBER:** BOA-24-10300226

**APPLICANT:** Jose Simon

**OWNER:** J & M Investment Group LLC

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 300 Delmar Street

**LEGAL DESCRIPTION:** Lot 22, Lot 23 and Lot 24, Block 27, NCB 1610

**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:** Melanie Clark, Planner

**A request for**

1) A variance to allow three separate structures on an "RM-4" that is less than one-third of an acre.  
Section 35-310.06 (1)(b)

2) A request for a 2 parking spaces variance from the minimum 5 required parking spaces to allow 3 parking spaces.  
Section 35-526 Table 526-3a

3) A variance from the front entry orientation to a primary street and walkway.  
Section 35-310.01; Note 13

**Executive Summary**

Subject property is located north of Interstate 10, approximately 530' west of South New Braunfels Avenue, on the corner intersection of Delmar Street and St. Anthony Avenue. The applicant, on behalf of the property owner, is proposing construction of three separate single-family residential structures on an "RM-4" lot less than one-third of an acre. As parking requirements for 3 Family Dwellings are 1.5 spaces per unit, the applicant requires a 2-space parking variance to reduce parking from the minimum of 5 spaces to 3 spaces. Additionally, the orientation of the proposed front door is not orientated to the principal street. Permits are pending the outcome of the Board of Adjustment

### **Code Enforcement History**

No Code Enforcement history found.

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

Subject property was part of the original 36 square miles of the City of San Antonio and zoned "B" Residence District. The property was rezoned by Ordinance 79329 dated, December 16, 1993, to "R-2" Two Family District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from "R-2" Two Family Residence District to "RM-4" Residential Mixed District.

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

#### **Existing 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

#### **Existing Use**

Single-Family Residence

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

#### **North**

##### **Existing 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

##### **Existing Use**

School

#### **South**

##### **Existing Zoning**

"RM-4 HL MLOD-3 MLR-2 AHOD" Residential Historic Landmark Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

##### **Existing Use**

Church

#### **East**

##### **Existing 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

**Existing Use**

Single-Family Residence

**West**

**Existing 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

**Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Eastside Community Area and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the notification area of Denver Heights Neighborhood Association, and they have been notified of the request.

**Street Classification**

Delmar Street is classified as a local road.

St. Anthony Avenue is classified as a local road.

**Criteria for Review – Multi-Unit construction on an RM-4 less than 1/3 of an acre, Parking Space, and Front Door Orientation 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. In this case, the public interest is represented by efficient land use by concentrating units within a single structure on a lot less than 1/3 of an acre, front door orientation that provides additional security for the property owner while showing occupancy and parking space requirements deter off street parking to reduce traffic congestion. If granted, the request will be contrary to the public interest, as concentrating 3 separate units onto a lot less than 1/3 of an acre will promote overcrowding on smaller lots. The front door orientation will decrease security visibility from the occupant and the 2-parking space variance request appears to be contrary to the public interest as it will contribute to overflow parking on the street.

*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 warrant deviating from the ordinances. Strict enforcement would require the applicant to follow UDC regulations for constructing units within a single structure if the lot is under one-third of an acre, front door orientation and parking requirements.

*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. 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. The front door orientation will prevent showing of occupancy and parking spaces will increase the need for off street parking and create traffic congestion.

*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 three separate structures on a lot that is less than one-third of an acre, the front door orientation will alter the architectural symmetry and parking, interferes with the development pattern of the neighborhood, which impacts the community feel of the neighborhood. The requests will injure the adjacent use of conforming properties and will 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 not due to unique circumstances existing on the property as the plans can be adjusted to accommodate current UDC building requirements and parking requirements.

#### **Alternative to Applicant’s Request**

The alternative to the applicant’s request is to conform to the RM-4 Multi-Unit Construction Regulation of Section 35-310.06(a)(1), Parking Space Regulation Section 35-526 Table 526-3a and Front Door Orientation Regulation of 35-310.0; Note 13.

#### **Staff Recommendation – Multi-Unit construction on an RM-4 less than 1/3 of an acre, Front Door Orientation, and Parking Space Variance**

Staff recommends Denial in BOA-24-10300226 based on the following findings of fact:

1. Concentrating the 3 units on a lot 1/3 of acre or smaller will promote overcrowding on smaller lots.

2. The reduced parking spaces will increase the need for off street parking and create traffic congestion.
3. The front door orientation will decrease security visibility from the occupant.