



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** November 4, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300205

**APPLICANT:** Our Casas Resident Council, Inc.

**OWNER:** Our Casas Resident Council, Inc.

**COUNCIL DISTRICT IMPACTED:** District 3

**LOCATION:** 1442, 1502 and 1504 Kayton Avenue

**LEGAL DESCRIPTION:** Lot TR-2, NCB 3197 and Lot 1 and Lot 2, Block 22, NCB 3197

**ZONING:** “R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

1) A 4’-11” variance from the minimum 5’ side setback to allow a 1” side setback for 3 lots.  
Section 35-310.01

2) A 14’-11” variance from the minimum 15’ clear vision to allow a 1” clear vision.  
Section 35-514 (a)(2)(b)

**Executive Summary**

The subject property is located along Kayton Avenue, south of Rigsby Avenue. The lots are currently vacant. The applicant is seeking to construct 3 single-family homes on 3 separate lots. The applicant site plan reflects 4’-6” and 1” side setbacks on each lot. Additionally, after staff review, clear vision was added to the request for the expected driveways. A steep elevation was observed that would likely require a retention wall in front of the property, however the fence

above the retaining wall would initiate the need for the clear vision variance request. The 3 lots have a Certificate of Determination and as such do not require a minimum lot size variance.

### **Code Enforcement History**

No relevant code enforcement history.

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

The subject property was a part of the original 36 square miles of the City of San Antonio, and was originally zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “R-4” Residential Single-Family District.

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

#### **Existing Zoning**

“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Vacant Lot

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

#### **North**

##### **Existing Zoning**

“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

##### **Existing Use**

Single-Family Dwelling

#### **South**

##### **Existing Zoning**

“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

##### **Existing Use**

Single-Family Dwelling

#### **East**

##### **Existing Zoning**

“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

##### **Existing Use**

Single-Family Dwelling

#### **West**

##### **Existing Zoning**

“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Vacant Lot

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Southeast SATomorrow Plan and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is not located with the notification boundary of any Neighborhood Association.

**Street Classification**

Kayton Avenue is classified as a Local Road.

**Criteria for Review – Side Setback and Driveway Clear Vision 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 side setback variance is contrary to the public interest as inadequate space will be left between structures creating potential fire safety and water runoff issues. Insufficient distance can facilitate the rapid spread of fire from one building to another.

The driveway clear vision variance is not contrary to the public interest as sufficient space will remain to safely back from and on to the local road.

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

A literal enforcement of the side setback ordinances would not result in unnecessary hardship as the applicant can modify their plans to abide by setback rules.

A literal enforcement of the driveway clear vision ordinances would result in unnecessary hardship as the fence and gate line is at an established line in the neighborhood.

*3. By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*

The requested side setback variance does not appear to be in the spirit of the ordinance as inadequate space between structures will create fire safety and water runoff issues, leading to potential flooding or erosion problems.

The requested driveway clear vision variance appears to be in the spirit of the ordinance as the fence and gate is located on an established line in the neighborhood.

*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 side setback variance would substantially injure the appropriate use of adjacent properties as the water runoff from buildings would be diverted into nearby lots and the risk of fire spread would be increased.

Staff finds that the driveway clear vision variance would not substantially injure the appropriate use of adjacent properties as the fence and gate location is consistent in the neighborhood in which relief is sought.

*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 does not find any unique circumstances existing on the property for the side setback variance as the applicant can modify plans to be in compliance with side setback rules.

Staff finds the unique circumstances existing on the property for the driveway clear vision is the established fence and gate line in the neighborhood.

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

The alternative to the applicant's request is to conform to the side setback and driveway clear vision requirements of the UDC Sections 35-310.01 and 35-514(a)(2)(b).

#### **Staff Recommendation – Side Setback Variance**

Staff recommends Denial in BOA-24-10300205 based on the following findings of fact:

1. Inadequate space between structures will aggravate water runoff issues, leading to potential flooding or erosion problems.
2. Insufficient distance can facilitate the rapid spread of fire from one building to another.

#### **Staff Recommendation – Driveway Clear Vision Variance**

Staff recommends Approval in BOA-24-10300205 based on the following findings of fact:

1. Sufficient space will remain to safely back from and on to the local road.
2. The requested variance will not alter the essential characteristics of the district in which it is located.