



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** October 21, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300185

**APPLICANT:** Arturo Rivera

**OWNER:** RTGF REAL ESTATE LLC

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 215 Lucas Street

**LEGAL DESCRIPTION:** Lot 25, Block 8, NCB 1081

**ZONING:** “MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District.

**CASE MANAGER:** Melanie Clark

**A request for**

A variance to allow development of two structures on an “MF-33” lot that is one-third of an acre or less.

Section 35-310.07(a)

**Executive Summary**

Subject property is located north of Interstate 35, east of North New Braunfels Avenue on Lucas Street. The applicant, on behalf of the property owner, is requesting a variance to allow development of eight dwelling units within two separate structures on an “MF-33” lot that is less than one-third acre. Permit is pending the outcome of the Board of Adjustment.

### **Code Enforcement History**

No Code Enforcement history found.

### **Permit History**

COM-PRJ-APP23-39801792 - Complex Plans - Lucas Residential Units

### **Zoning History**

Subject property is a part of the original 36 square miles of the City of San Antonio and was zoned “C” Apartment District. With the adoption of the Unified Development Code, established by Ordinance 93881, on May 3, 2001, the zoning converted from “C” Apartment District to “MF-33” Multi-Family District.

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

#### **Existing Zoning**

“MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation  
Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District.

#### **Existing Use**

Vacant Lot

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

#### **North**

#### **Existing Zoning**

“MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation  
Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District.

#### **Existing Use**

Apartments

Single-Family Residence

#### **South**

#### **Existing Zoning**

“MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation  
Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District.

#### **Existing Use**

Apartment

Single-family Residence

#### **East**

#### **Existing Zoning**

“MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation  
Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District.

#### **Existing Use**

Vacant Lot

#### **West**

#### **Existing Zoning**

“MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation  
Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District.

**Existing Use**

Vacant Lot

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Midtown Regional Center Area Plan and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the notification area of the Mahncke Park Neighborhood Association and have been notified of the request.

**Street Classification**

Lucas Street is classified as a local road.

**Criteria for Review – Multi-Unit construction on an MF-33 less than 1/3 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 represented by efficient land use by concentrating units within a single structure on a lot less than 1/3 of an acre. If granted, the request will be contrary to the public interest, as concentrating units within a single structure can prevent overcrowding on smaller lots.

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

Staff found no other special conditions on the subject property to warrant the need to allow for two structures to not be contained within a single structure. A literal enforcement of the ordinance would not result in an unnecessary hardship, as construction of a single structure can fit on the lot.

*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.

*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 “MF-33” zoned lot will be allowed to contain two separate structures on a lot that is less than one-third of an acre, which interferes with the development pattern and 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 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 MF-33 Multi-Unit Construction regulations of Section 35-310.07(a) of the Unified Development Code.

**Staff Recommendation – Multi-Unit construction on an MF-33 less than 1/3 acre Variance**

Staff recommends Denial in BOA-24-10300185 based on the following findings of fact:

1. Concentrating the units in a single structure can prevent overcrowding on lots 1/3 of acre or smaller.
2. The requests will alter the essential character of the district.