



# 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-24-10300186

**APPLICANT:** Cairo Developments LLC

**OWNER:** Cairo Developments LLC

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 1410 Montana Street

**LEGAL DESCRIPTION:** Lot 3, Block 18, NCB 1458

**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:** Colton Unden, Planner

### **A request**

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

### **Executive Summary**

The subject property is located along Montana Street, east of South New Braunfels Avenue, located within the Denver Heights Neighborhood Association as well the notification boundary of Jefferson Heights Neighborhood Association. The applicant is seeking to develop two structures on the RM-4 lot that is currently vacant. The lot size is 6,630 square feet/0.1533 acres. The UDC states that multi-unit construction on lots 1/3 of an acre or smaller must be within a single structure.

### **Code Enforcement History**

INV-LOT-24-2580033431 – Overgrown Yard Investigation - May 2024

### **Permit History**

Building permit is pending outcome from the Board of Adjustment.

### **Zoning History**

The subject property was a part of the original 36 square miles of the City of San Antonio and was originally 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**

"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**

Vacant Lot

### **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**

Single-Family Dwelling

#### **South**

#### **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 Dwelling

#### **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**

Vacant Lot

#### **West**

#### **Existing Zoning**

"C-3R MLOD-3 MLR-2 AHOD" General Commercial Restrictive Alcohol Sales Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Strip Mall

**Comprehensive Plan Consistency/Neighborhood Association**

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

**Street Classification**

Montana Street is classified as a Local Road.

**Criteria for Review – 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 separate structure variance is contrary to the public interest as no other RM-4 lots in the immediate area exhibited multi-unit construction in separate structures and the structures proposed can be contained within a single structure to prevent overcrowding on the lot.

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

A literal enforcement of the separate structure ordinances would not result in unnecessary hardship as the development would only benefit from having the units in one structure on the smaller lot.

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

The requested separate structure variance does not appear to be in the spirit of the ordinance as no other RM-4 lots in the immediate area exhibited multi-unit construction in separate structures and the structures proposed can be contained within a single structure to prevent overcrowding on the lot.

*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 separate structure variance will substantially injure the appropriate use of adjacent properties as no RM-4 lots in the immediate area featured multi-unit construction not

contained within a single structure. Furthermore, the requested variance is out of character for the district and area in which the property is located.

*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 no unique circumstances existing on the property warranting the need to have development split into multiple structures. Splitting the units into multiple structures poses to create overcrowding on the 6,630 square feet lot.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the RM-4 separate structure requirements of the UDC Section 35-310.06(a)(1)(b).

**Staff Recommendation – Separate structures on an "RM-4" that is less than one-third of an acre variance**

Staff recommends Denial in BOA-24-10300186 based on the following findings of fact:

1. No multi-unit separate structure development was seen in the immediate area.
2. The requested variance will alter the essential characteristics of the district in which the property is located.