



# 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-24-10300142

**APPLICANT:** Oscar Munoz

**OWNER:** Oscar and Cindy Munoz

**COUNCIL DISTRICT IMPACTED:** District 7

**LOCATION:** 207 Stardust Street

**LEGAL DESCRIPTION:** North 60 ft of Lot 9 and South 10 ft of Lot 10, Block 1, NCB 11504

**ZONING:** "NP-10 NCD-3 MLOD-2 MLR-2 AHOD" Neighborhood Preservation Ingram Hills Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for:**

- 1) A 31% variance from the NDC-3 maximum 35% impervious cover to allow 66% impervious coverage in the front yard  
Section 35-335(c)(C)
- 2) An NCD-3 variance to allow a front yard fence on the east side of property.  
Section 35-335(c)(C)
- 3) A 60' variance from the minimum 65' driveway separation to allow a 5' driveway separation.  
Section 35-335(c)(C)

**Executive Summary**

Subject property is located west of Bandera Road, north of Ingram Road on Stardust Street. The applicant, being the property owner, expanded the driveway on the property for dual approach. On June 10, 2024, the applicant was cited by Code Enforcement for not obtaining a driveway or curb cut approach permit, removal of Public Works baffle blocks and exceeding the impervious cover percentage for the front yard. Upon review the maximum allowable percentage for NCD-3 is 35%. The applicant is seeking a 31% impervious cover and a 60' driveway separation variance to allow for 61% impervious cover and 5' driveway to remain on the property. Additionally, applicant is seeking an NCD-3 variance to allow a front yard fence on the property. Permits are pending the results of the Board of Adjustment.

**Code Enforcement History**

INV-PBP-24-3100003211 - PMT-Building Without a Permit  
INV-ZRD-24-3170001724 - Zoning - Residential District  
COD-ADH-REQ24-43903905-Administrative Hearing  
COD-ADH-REQ24-43903906- Administrative Hearing

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

Subject property was annexed into the City of San Antonio by Ordinance 18115 dated September 24, 1952, and zoned "A" Single-Family Residence District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the zoning converted from "A" Single-Family Residence District to "R-5" Residential Single-Family District. The property was rezoned by Ordinance 95919 dated, April 13, 2006, from "R-5" Single-Family Residential to "NP-10" Neighborhood Preservation District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"NP-10 NCD-3 MLOD-2 MLR-2 AHOD" Neighborhood Preservation Ingram Hills Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"NP-10 NCD-3 MLOD-2 MLR-2 AHOD" Neighborhood Preservation Ingram Hills Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South**

**Existing Zoning**

“NP-10 NCD-3 MLOD-2 MLR-2 AHOD” Neighborhood Preservation Ingram Hills  
Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2  
Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning**

“NP-10 NCD-3 MLOD-2 MLR-2 AHOD” Neighborhood Preservation Ingram Hills  
Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2  
Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West**

**Existing Zoning**

“R-5 NCD-3 MLOD-2 MLR-2 AHOD” Residential Single-Family Ingram Hills Neighborhood  
Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard  
Overlay District

**Existing Use**

Elementary School Northside I.S.D

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Ingram Hills Neighborhood Plan and is designated as “Low Density Residential Estate” in the future land use component of the plan. The subject property is located within the notification area of the Ingram Hills Neighborhood Association, and they have been notified of the request.

**Street Classification**

Stardust Street is classified as a local road.

**Criteria for Review – NCD-3 Impervious Cover, NCD-3 Front Yard Fence and Driveway Separation 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 the maximum impervious surface requirements to prevent excessive surface water and pollutant runoff. The dual approach driveway, impervious surface and front yard fence are contrary, as it will injure neighboring properties by severely reducing permeable surface area, increasing risk of excessive water runoff onto adjacent properties and deter from the established front yard fencing standards.

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

Staff did not find any special conditions on the subject property that would result in unnecessary hardship to warrant the need for a dual approach, exceeding the 35% maximum impervious surface area coverage area of the property, or installation of a front yard fence on the property.

*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. The granting of the variances does not observe the spirit of the ordinance, as the Neighborhood Conservation District (NCD) was created to maintain a uniform appearance in the area.

*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.*

The variances appear out of character with the district as no other similarly designed properties were found in the area. If granted, the variances may injure the adjacent properties, as disproportionate impervious coverage hinders water drainage, increasing water runoff onto neighboring lots.

*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 incorporating permeable materials in the front yard to help reduce exceeding impervious surface allowances.

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

The alternative to the applicant's request is to conform to the Neighborhood Conservation District 3 requirements for the Unified Development Code of Section 35-335(c)(C).

#### **Staff Recommendation – NCD-3 Impervious Cover, NCD-3 Front Yard Fence and Driveway Separation Variance**

Staff recommends Denial in BOA-24-10300142 based on the following findings of fact:

1. The impervious cover variance would severely reduce the property's permeable surface area, increasing risk of excessive water runoff onto adjacent properties and right-of-way.

2. The variances may injure the adjacent properties as there are no similarly designed yards observed in the surrounding area