City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, April 7, 2014

1:00 P.M.

Board Room, Cliff Morton Development and Business Services Center

Anytime during the public hearing, the Board of Adjustment may meet in Executive Session to consult on attorney-client matters (real estate, litigation, personnel and security matters), as well as to discuss any of the agenda items. This notice was posted on the Development Services Department website (www.sanantonio.gov/dsd), and the City Hall kiosk, at least seventy-two (72) hours prior to this public hearing, in complaince with the Texas Open Meetings Act.

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1. **1:00 PM** - Public Hearing – Call to Order

2. Roll Call

3. Pledges of Allegiance

4. **A-14-042:** The request of Wes Putman for a 3-foot variance from the 10-foot setback requirement for a freestanding sign along an expressway to allow a freestanding sign along an expressway 7 feet from the front property line located at 2938 Northeast Loop 410. (Council District 2)

5. **A-14-044:** The request of Idalia Guzman for a special exception to allow a one-operator beauty/barber shop in a single-family residence located at 2118 Hunter Boulevard. (Council District 4)

6. **A-14-017: CONTINUED** The request of Robert Lawrence for a 5-foot variance from the required 5-foot side yard setback to allow several accessory structures encroaching into the east property line, located at7939 Viking Trail. (Council District 7)

7. **A-14-035: CONTINUED** The request of Javier C. Solis for a 3-foot variance from the 5-foot required side yard setback to allow a carport 2-feet from the side property line located at 758 Kirk Place. (Council District 5)

8. **A-14-040:** The request of Edgewood Independent School District for a 2-foot variance from the maximum 6-foot fence height to allow an 8-foot fence located at 3306 Ruiz Street (a privately-owned driveway). (Council District 5)

9. **A-14-041:** The request of Cinthya B. Flores for for a special exception to allow a 5-foot, 8-inch high ornamental iron fence in the front yard located at 1535 Beverly Ann Street. (Council District 4)

Board of Adjustment Membership

Andrew Ozuna, District 8, Chair *Mary Rogers, District 7, Vice Chair*
Frank Quijano, District 1 ● Alan Neff, District 2 ● Gabriel Velasquez, District 3 ● George Britton, District 4
Maria Cruz, District 5 ● Jesse Zuniga, District 6 ● John Kuderer, District 9 ● Roger Martinez, Distict 10
Gene Camargo, Mayor

Alternate Members

Harold O. Atkinson ● Paul E. Klein ● Henry Rodriguez ● Vacancy ● Vacancy ● Vacancy

10. **A-14-043:**

A. The request of KB Home to waive the 12-month time limitation of Section 35-482(f) of the UDC regarding a subsequent variance application on the property located generally at 9819 Walhalla Avenue. (Council District 3)

B. The request of KB Home for a 7-foot variance from the minimum 20-foot rear setback to allow a 13-foot rear setback on up to 45 single-family lots located generally at 9819 Walhalla Avenue. (Council District 3)

11. **A-14-046:** The request of Phil Bakke for 4-foot 9-inch variance from the maximum 40-foot building height to allow 44-foot 9-inch tall buildings, located at 3819 Harry Wurzbach. (Council District 10)

12. Approval of the minutes – March 17, 2014

13. Announcements and Adjournment

ACCESSIBILITY STATEMENT - This meeting site is accessible to persons with disabilities. Parking is available. Auxiliary aids and services, including Deaf interpreters, must be requested forty-eight [48] hours prior to the meeting. For assistance, call (210) 207-7268 or 711 (Texas Relay Service for the Deaf).

DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al lareunión. Para asistencia llamar a (210) 207-7268 o al 711 (servicio de transmitir para sordos).

Board of Adjustment Membership

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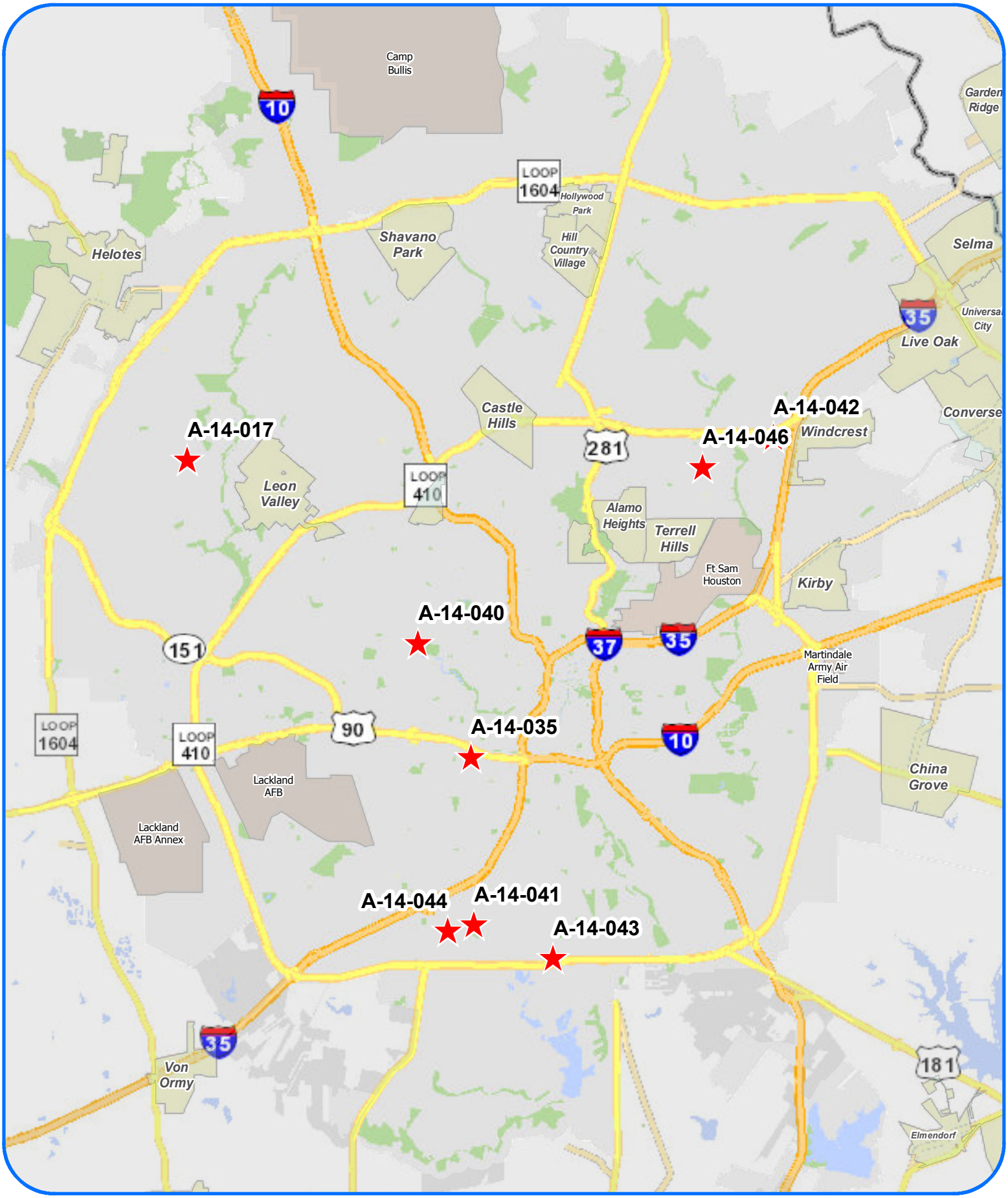
Gene Camargo, Mayor

Alternate Members

Harold O. Atkinson ● Paul E. Klein ● Henry Rodriguez ● Vacancy ● Vacancy ● Vacancy



Board of Adjustment

Subject Property Locations
Cases for 07th April 2014

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Development Services Dept.
City of San Antonio

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-14-042
Date:	April 7, 2014
Applicant:	Wes Putman
Owner:	Mid-Loop Inc.
Location:	2938 Northeast Loop 410
Legal Description:	Lot 10, NCB 12168 and the East 389.91 feet of the irregular portion of Lot 11, NCB 12168
Zoning:	"I-1 AHOD" General Industrial Airport Hazard Overlay District
Prepared By:	Tony Felts, Planner

Request

A request for a variance from Section 28-241(d)(1)c of the Sign Code for a 3-foot setback variance from the 10-foot setback requirement for a freestanding sign along an expressway to allow a freestanding sign along an expressway 7 feet from the front property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before March 20, 2014. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 21, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 4, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the southwest corner of the Loop 410/Austin Highway Interchange, and is currently developed as a movie theater. The site has direct frontage along Loop 410, an expressway, and Austin Highway, a Primary Arterial, Type A. An existing expressway sign is located along the Loop 410 frontage (outside of the Austin Hwy/Harry Wurzbach Metropolitan Corridor) which does not meet the 10-foot setback requirement for expressway signs. The sign is currently seven feet from the property line.

The applicant is proposing to refurbish and add a minimal amount of square-footage to the sign. Because the sign does not meet setbacks, a variance from the 10-foot setback is required in order to complete the refurbishment. It should also be noted that the existing sign is shorter and smaller in area than allowed for expressway signs.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"I-1 AHOD" (General Industrial Airport Hazard Overlay District) and "I-1 MC-3 AHOD" (General Industrial Austin Hwy/Harry Wurzbach Metropolitan Corridor)	Movie Theater

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	Right-of-way	Interstate Loop 410
South	"C-3 AHOD" (General Commercial Airport Hazard Overlay District) and "C-3 MC-3 AHOD" (General Commercial Austin Hwy/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District)	Retail Store
East	Right-of-way	Austin Highway/Loop 410 Highway Interchange
West	"I-1 AHOD" (General Industrial Airport Hazard Overlay District)	Professional Office

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a land use plan area. The subject property is located within the boundaries of the Village North One Neighborhood Association, a registered neighborhood association, and as such, they were notified and asked to comment.

Criteria for Review

According to Section 28-247 of Chapter 28: Signs and Billboards, in order for a variance to be granted, the applicant must demonstrate:

1. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography;* ***or***

2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and*

   This is an existing sign. According to the applicant, a portion of the property was acquired by the State of Texas for right-of-way for the Loop 410 expansion, thus leading to the current non-conformity. The sign is placed on a portion of the property which is not utilized for required parking, and relocating the sign would mean placing the sign in the required parking area. As such, the variance is necessary.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the board finds that:*

   A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*

      The requested variance would not grant a special privilege not enjoyed by other businesses similarly situated, as any business with expressway frontage is allowed an expressway sign.

   B. *Granting the variance will not have a substantially adverse impact on neighboring properties.*

      The area surrounding the site is characterized by Loop 410 and the interchange with Austin Highway. **The area is heavily developed in a commercial manner, with many expressway signs present. Additionally, because of the width of the Loop 410 (and associated frontage roads) right-of-way, a 3-foot setback variance would likely be indistinguishable from other expressway signs within the area. As such, a substantially adverse impact on neighboring properties is not anticipated.**

   C. *Granting the variance will not substantially conflict with the stated purposes of this article.*

      The requested variances do not appear to conflict with any of the stated purposes of Chapter 28.

Alternatives to Applicant's Request

The alternative to the applicant's request is to remove the current sign and replace with a sign that meets the required setbacks.

Staff Recommendation

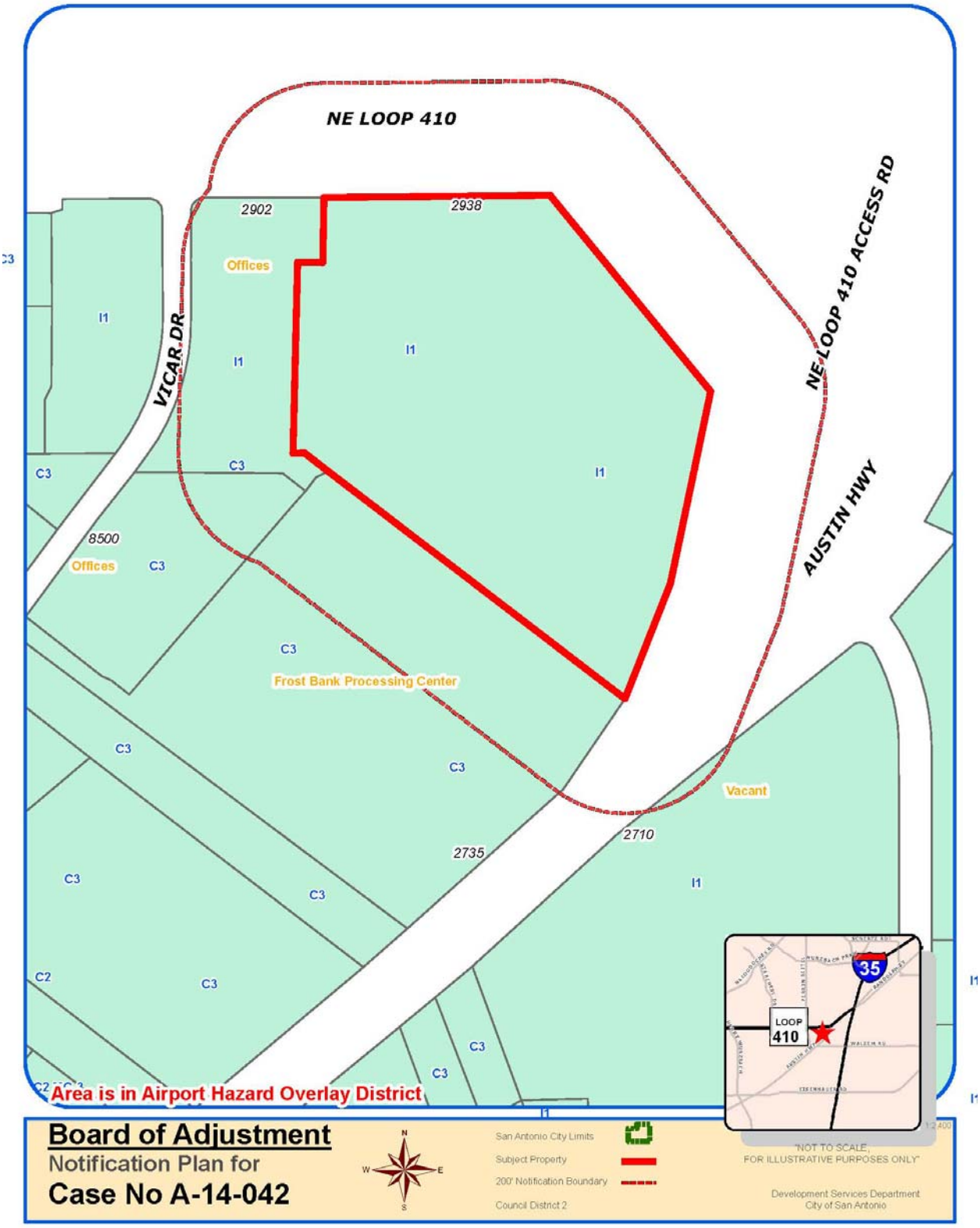
Staff recommends **approval of the requested variances,** due to the following reasons:

1. The setback variance request is slight and is due to the non-conforming nature of the sign.
2. The setback variance would likely be indiscernible to passersby.

Attachments

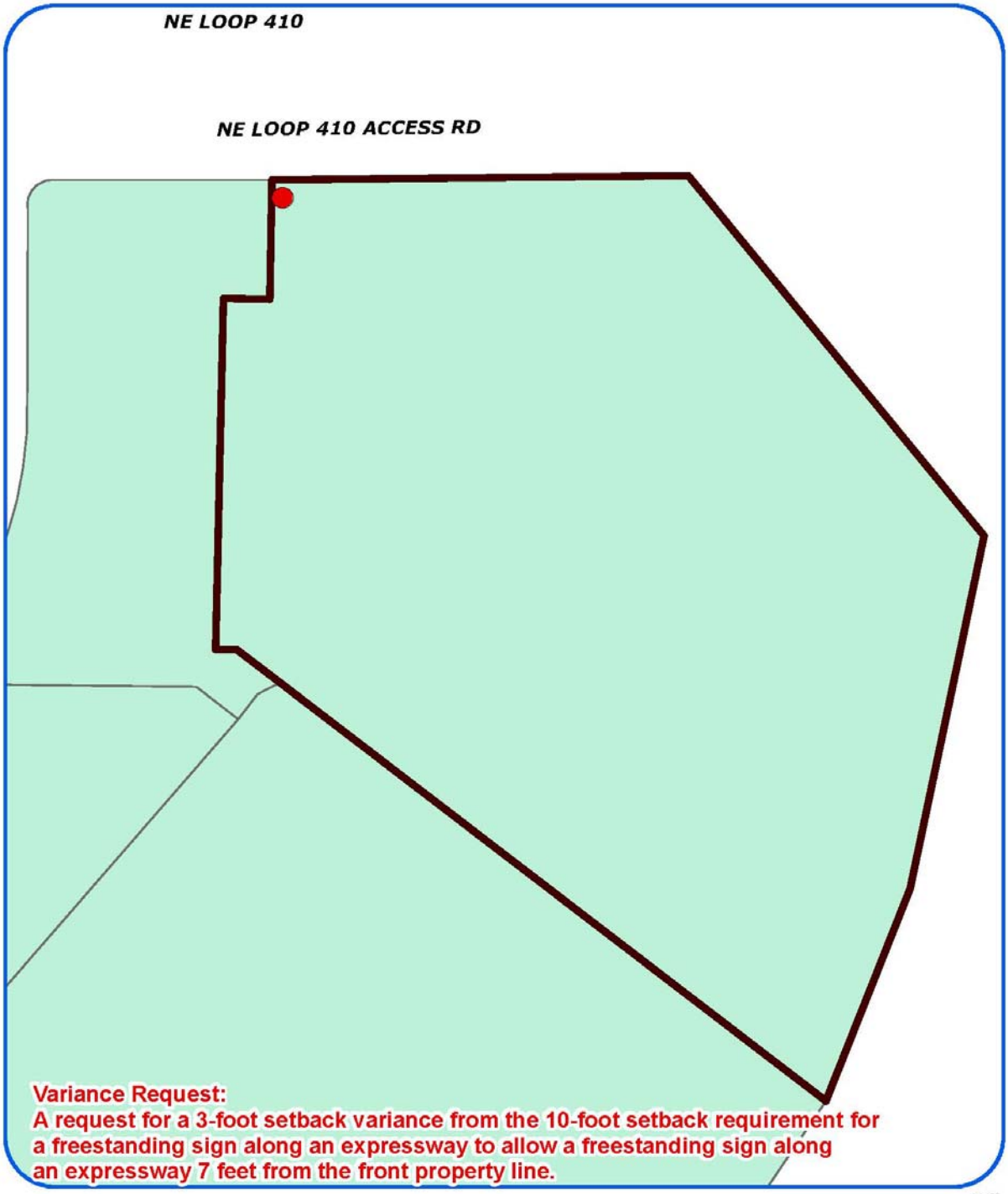
Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 – Site photos
Attachment 4 – Proposed Sign
Attachment 5 – Applicant's Site Plan

Attachment 1
Notification Plan



Attachment 1 (Continued)
Notification Plan

Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-14-042

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"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 2

2938 NE Loop 410

Development Services Department
City of San Antonio

Attachment 2 (Continued)
Plot Plan

Board of Adjustment
Plot Plan for
Case No A-14-042

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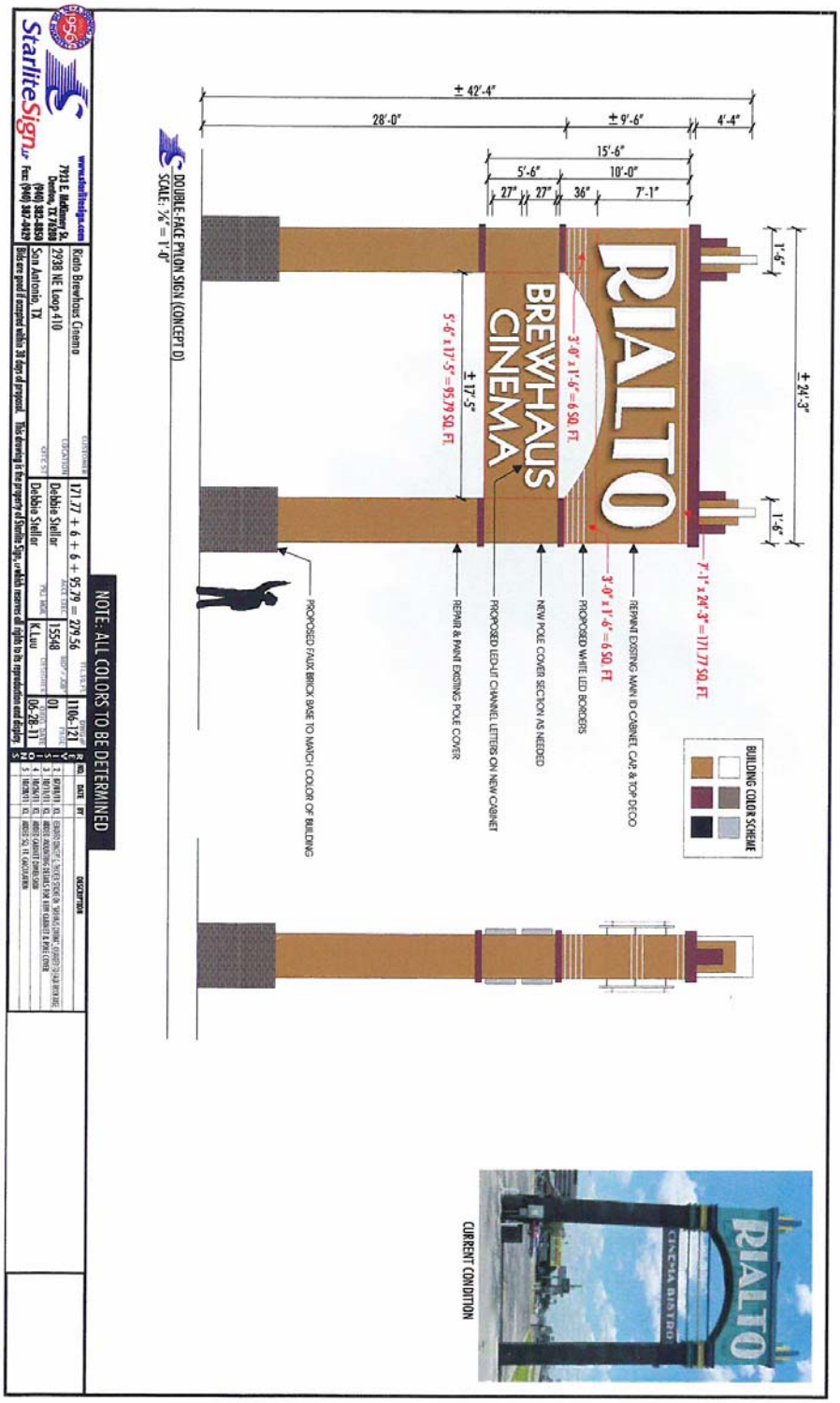
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 2

1:1,400
2938 NE Loop 410

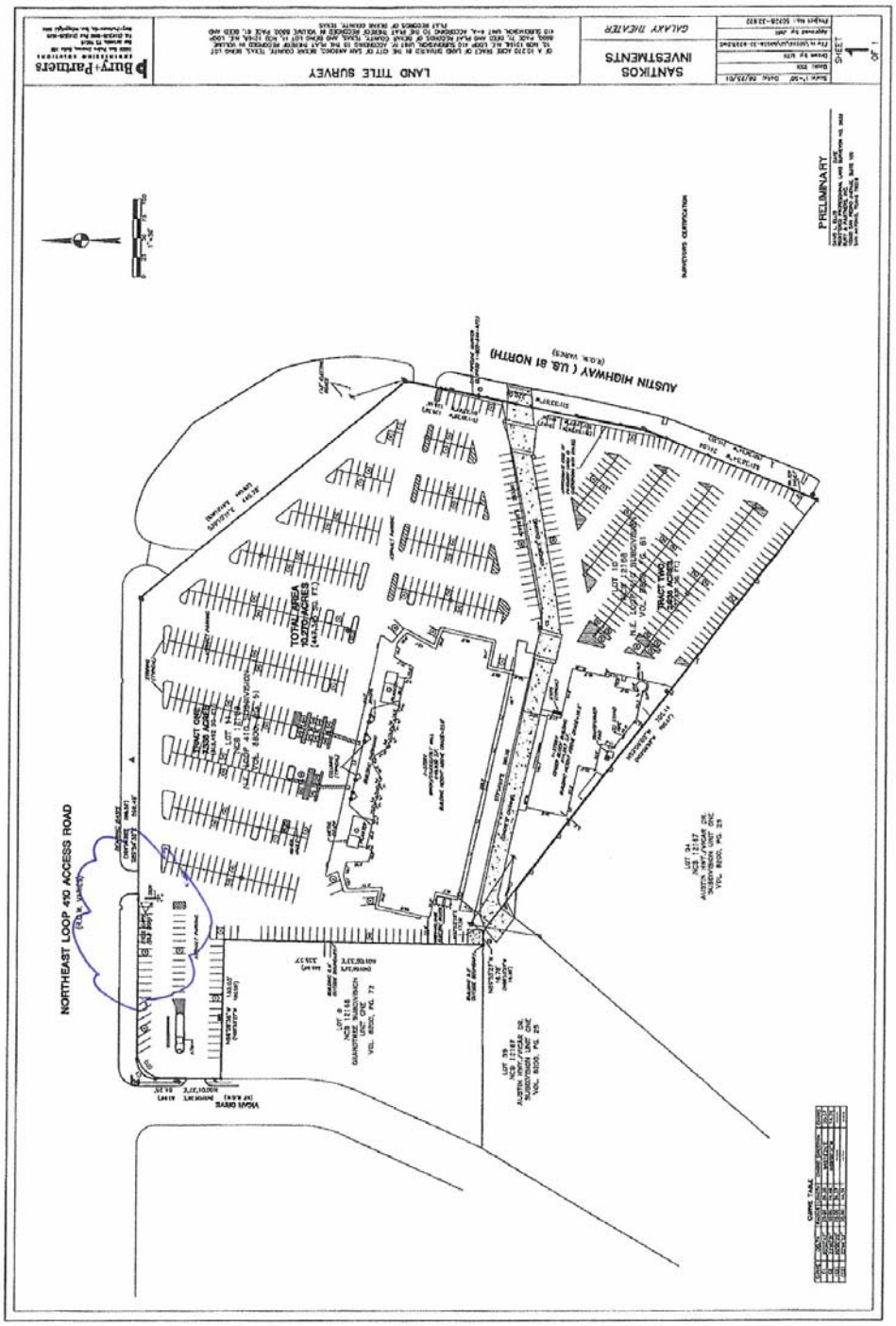
Development Services Department
City of San Antonio

Attachment 3
Site Photos

Attachment 4
Proposed Sign



Attachment 5
Applicant's Site Plan



City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-14-044
Date:	April 7, 2014
Applicant:	Idalia N Guzman
Owner:	Idalia N Guzman
Location:	2118 Hunter Boulevard
Legal Description:	Lot 6, Block 11, NCB 14343
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By:	Osniel Leon, Planner

Request

A request for a special exception pursuant to Section 35-399.01 of the UDC to allow a special exception for a one-operator beauty shop in a single-family home.

Procedural Requirements

A special exception is a decision vested with the Board of Adjustment, and includes uses which may be authorized under certain circumstances. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before March 21, 2014. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 21, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 4, 2014 in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the south side of Hunter Boulevard between Trident Street and Buda Street. The site is currently developed with an existing single-family residence which includes a one-operator beauty shop within the residence.

Section 35-399.01(i) of the UDC allows the Board to approve the requested special exception for a period not to exceed four years.

The applicant has proposed hours of operation of 10:00am to 5:00pm from Tuesday through Saturday. The beauty shop is proposed to be closed on Mondays and Sundays. The proposed hours of operation total 35. The applicant will be the only cosmetologist at the location.

No violations of the requirements of the UDC were observed upon a staff visit to the site, and there have been no code violations reported. However, the space has already been converted and will be required to pull necessary permits and inspections.

If approval is contemplated by the Board, it should be for a time limit of four years (48 months).

It should be noted that the applicant will be required to obtain a Certificate of Occupancy for the one operator beauty shop, if the request is approved by the Board.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling with a one-operator beauty salon

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). The subject property is not located within any neighborhood association.

Criteria for Review

According to Section 35-482(h) of the Unified Development Code, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the following conditions (in addition to the requirements of Section 35-399.01):

1. *The special exception will be in harmony with the spirit and purpose of the chapter.*

   The requested special exception will be in harmony with the spirit and purpose of the chapter **in that the proposed one-operator beauty salon will follow the specified criteria established in Section 35-399.01** of the Unified Development Code.

2. *The public welfare and convenience will be substantially served.*

   Public welfare and convenience will be served with the granting of this request **as it will provide a valuable and needed public service to the residents of the neighborhood and it will not negatively impact surrounding properties**.

3. *The neighboring properties will not be substantially injured by such proposed use.*

   The subject property will be primarily used as a single-family residence. **The beauty shop will occupy only a small part of the structure, and the fact that a beauty shop is being operated from the home will likely be indiscernible to passersby.** As such, neighboring properties will not be substantially injured.

4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

   The requested special exception will not alter the essential character of the district **as the use will likely be indiscernible to passersby.**

5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specified district.*

   The purpose of the zoning district is to promote the public health, safety, morals, and general welfare of the city. **The granting of this special exception will not weaken these purposes**, nor will it weaken the regulations established for this district.

Staff Recommendation

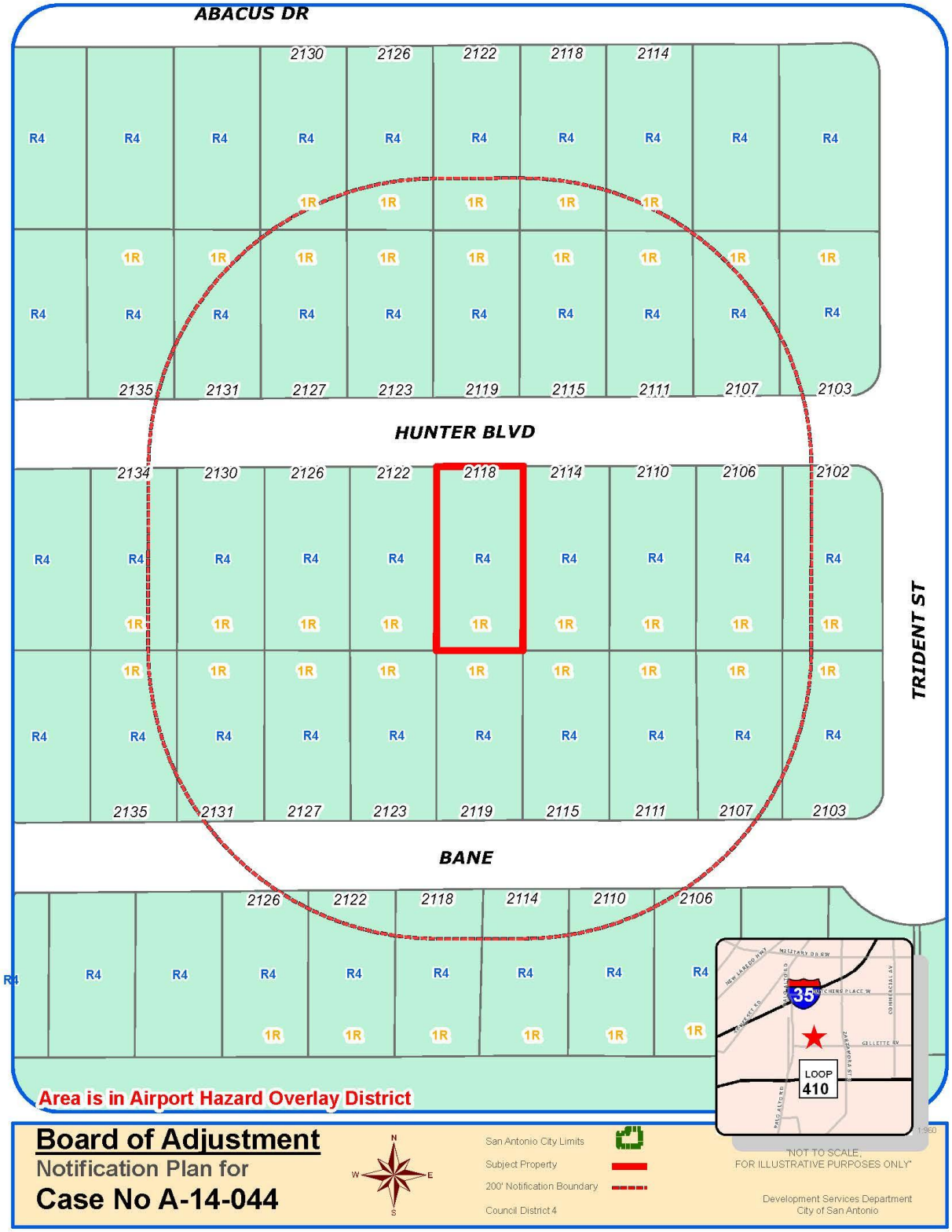
Staff recommends **approval of A-14-044 for a period of 48 months with hours of operation not to exceed 35 hours per week from 10:00am to 5:00pm (Closed on Tuesdays and Sundays),** due to the following reasons:

1. The request meets all of the criteria for granting the special exception

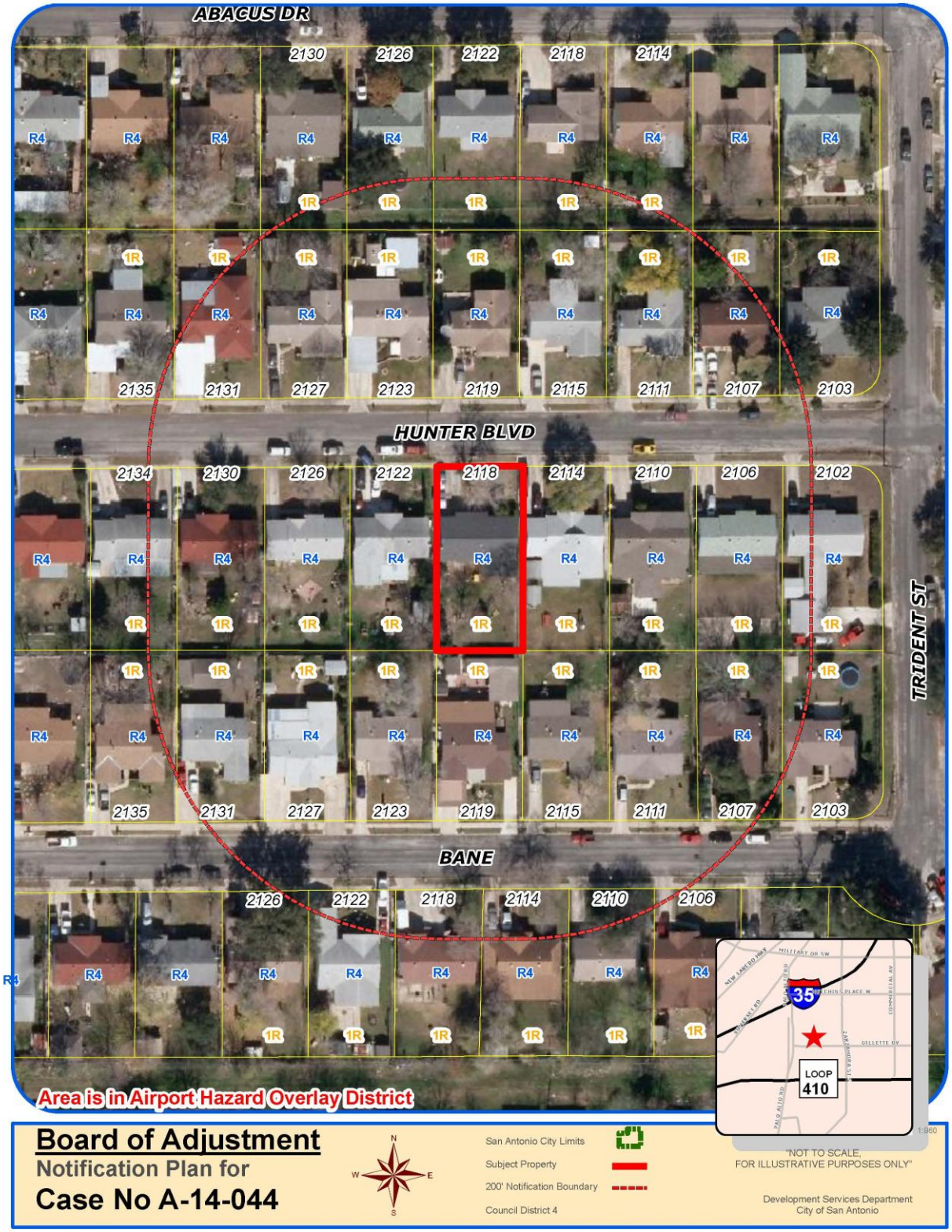
Attachments

Attachment 1 – Notification Plan
Attachment 2 – Plot Plan
Attachment 3 – Applicant's Site Plan
Attachment 4 – Site Photos
Attachment 5 – Interior Photos

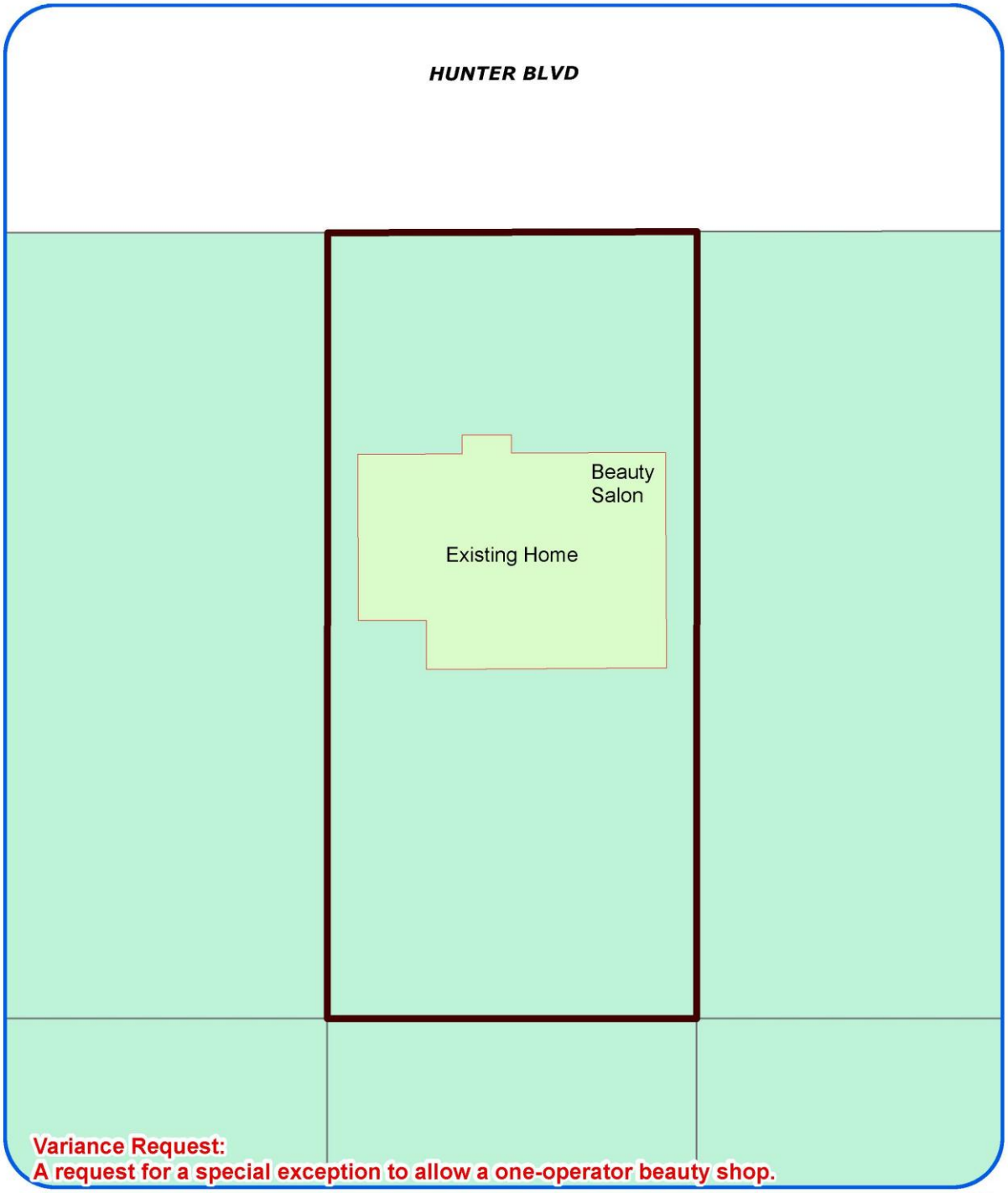
Attachment 1
Notification Plan



Attachment 1 (Continued)
Notification Plan



Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-14-044

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"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 4

1:240
2118 Hunter Blvd

Development Services Department
City of San Antonio

Attachment 2 (Continued)
Plot Plan

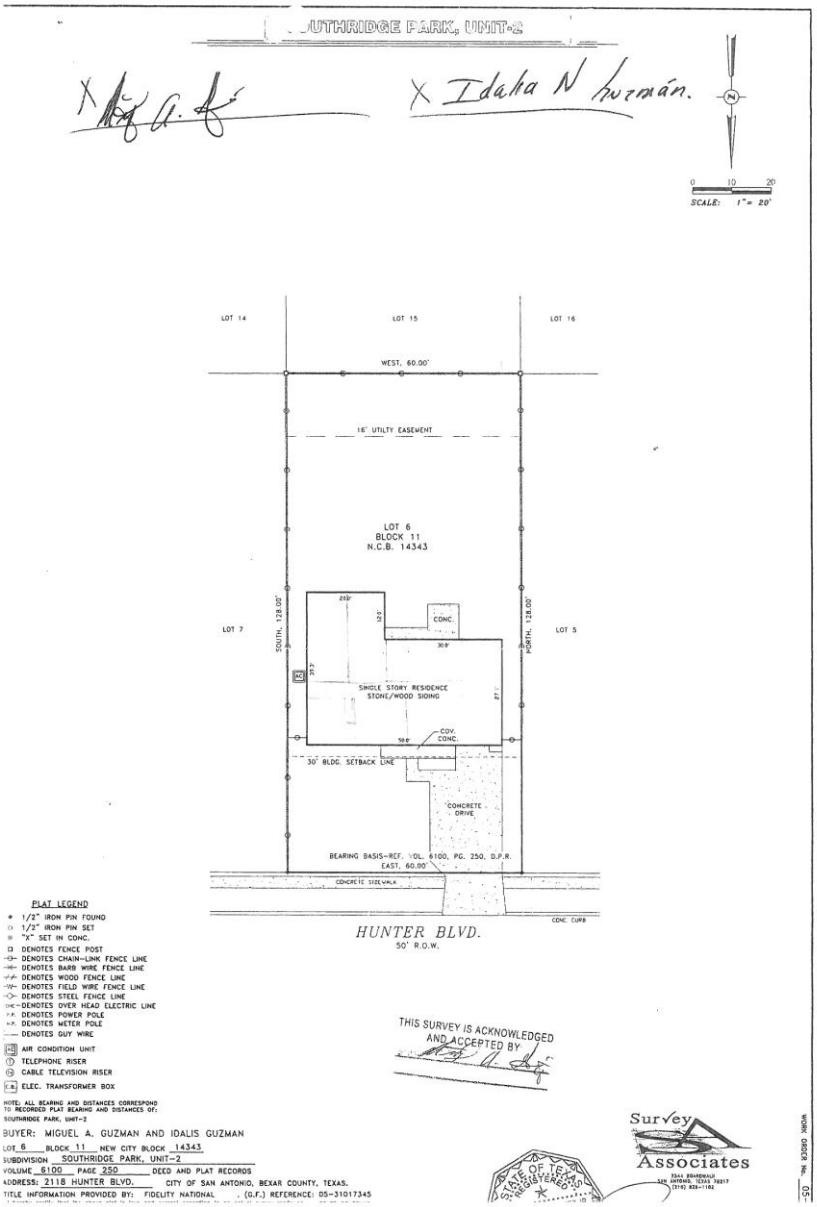
Board of Adjustment
Plot Plan for
Case No A-14-044

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 4

1:240
2118 Hunter Blvd

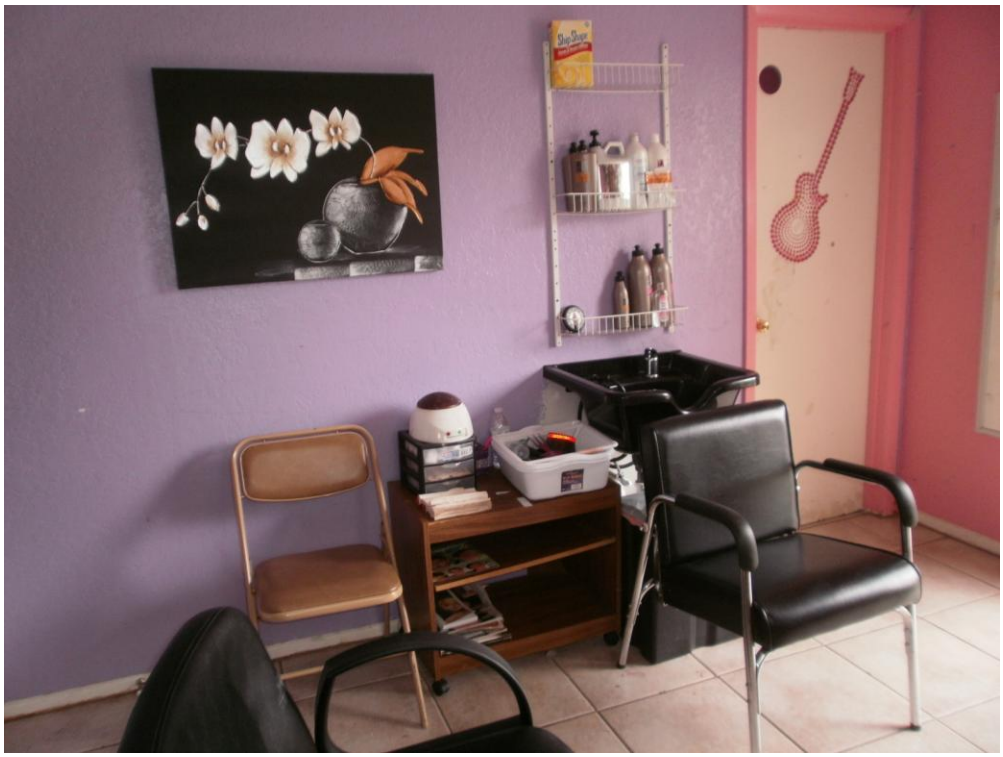
Development Services Department
City of San Antonio

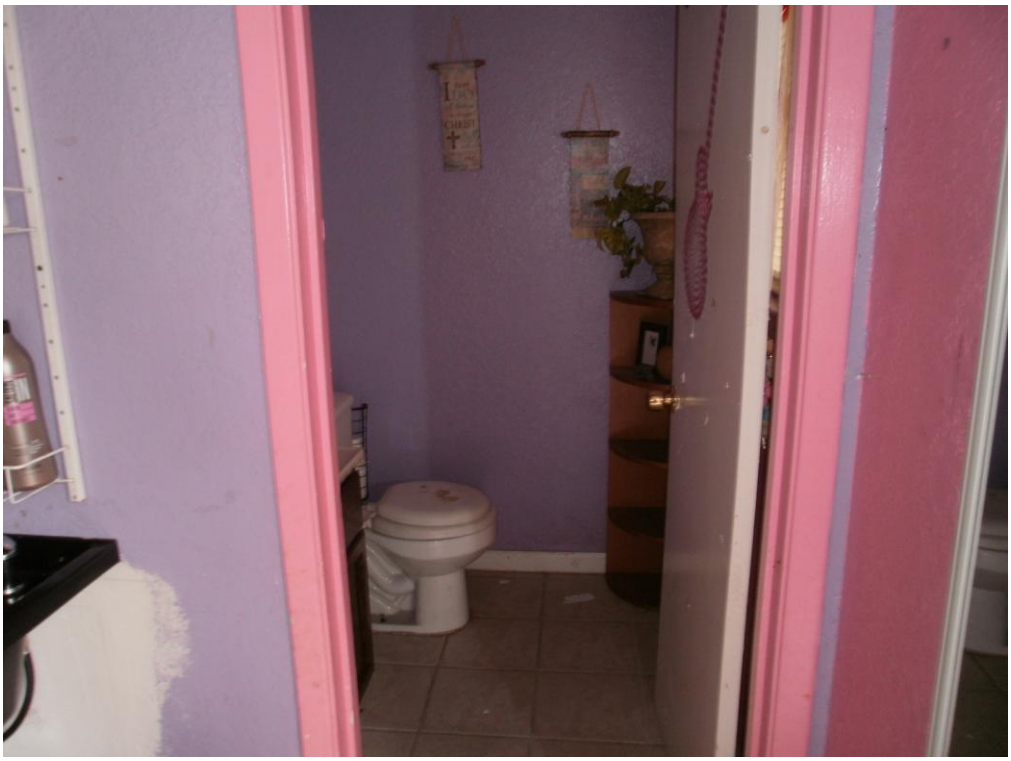
Attachment 3
Applicant's Site Plan



Attachment 4
Site Photos

Attachment 5
Interior Photos





City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-14-017
Date:	April 7, 2014 (Continued from February 3, 2014 and March 17, 2014)
Applicant:	Robert D. Lawrence
Owner:	Robert D. Lawrence
Location:	7939 Viking Trail
Legal Description:	Lot 1, Block 3, NCB 18666
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By:	Osniel Leon, Planner

Request

A request for a 5-foot variance from the required 5-foot side yard setback, as detailed in Table 35-310-1, to allow several accessory structures encroaching into the east side yard setback.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on January 16, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 21, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on April 4, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of Viking Trail, between Mirabella Drive and Gaslamp Lane. The property is currently developed as single-family residence measuring approximately 1,666 square feet, constructed in 1993 per BCAD records. The applicant built a carport, wood shed and an elevated patio deck encroaching into the east side yard setback without first obtaining the required permits and approval from the City.

Pursuant to Table 310-1 of the UDC, buildings in the "R-6" Residential Single-Family zoning district shall be set back a minimum of ten (10) feet from the front property line, and five (5) feet from the side property line. Furthermore, per Section 35-516(g) of the UDC, carports may be erected behind the minimum front setback required, so long as twenty (20) feet of total parking area depth is maintained within the lot.

The UDC regulates carports and garages under the identical provisions, calling them accessory structures. Accordingly, Section 35-370 (b) identifies the provisions including the required 5-foot setback from both side and rear property lines. Without any eaves or similar projections, the setback may be reduced to 3 feet.

It should be noted that if the variance request is approved, fireproofing consistent with the International Residential Code (and any other applicable building or city code) will be required. Furthermore, the applicant submitted a signed letter from the adjacent property owner in favor of the requested variance.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Multi-Family Residential
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Northwest Community Plan. The property is not located within the 200-foot radius of any registered neighborhood association.

Criteria for Review

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.*

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. The UDC does not contemplate any situations where the side setback is covered by a structure. The public interest in this case is represented by minimum setbacks established to ensure activities on individual properties do not impact the rights of a neighboring property owner. Setbacks also allow property maintenance.

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

The subject property is not subjected to special conditions that create unnecessary hardship through the literal enforcement of the setback requirements. A literal enforcement of the side setback requirement will require the applicant to relocate the accessory structures five (5) feet from the property line.

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

The variance request is neither in keeping with the spirit of the ordinance nor would granting it do substantial justice. The UDC does not contemplate any situation where structures would be allowed to be placed within the side setback. The subject property is not uniquely influenced by oppressive conditions, and its reasonable use is not contingent upon accessory structures at the side property line. The subject property has ample space on the lot to comply with the required five (5) feet from the east side property line. The existing single-family residential structure complies with the minimum setback requirements of this district with an approximately 20-foot side yard setback and a 30-foot front setback.

4. *Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6" base zoning district.

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 requested variance, if approved, may injure adjacent properties and alter the character of the district. By granting this variance, it will set a precedent to more construction of this type in the neighborhood. There is another nonconforming carport on the same block which was cited by Code Compliance on January 9, 2014.

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.

No unique conditions or circumstances exist on the property that prevents the applicant from using the property as intended and complying with the minimum requirements of the UDC. Had the applicant obtained permits prior to construction, the applicant would have been notified about the minimum required development standards including fire rated materials and this variance request would not be necessary. The result of the applicant's action to build accessory structures within the required side yard caused the violation on the property, thus self-imposing hardship.

<u>Alternatives to Applicant's Request</u>

The alternative to the applicant's request is to comply with the UDC setback requirements, or remove the accessory structures, which were constructed without permits.

Staff Recommendation

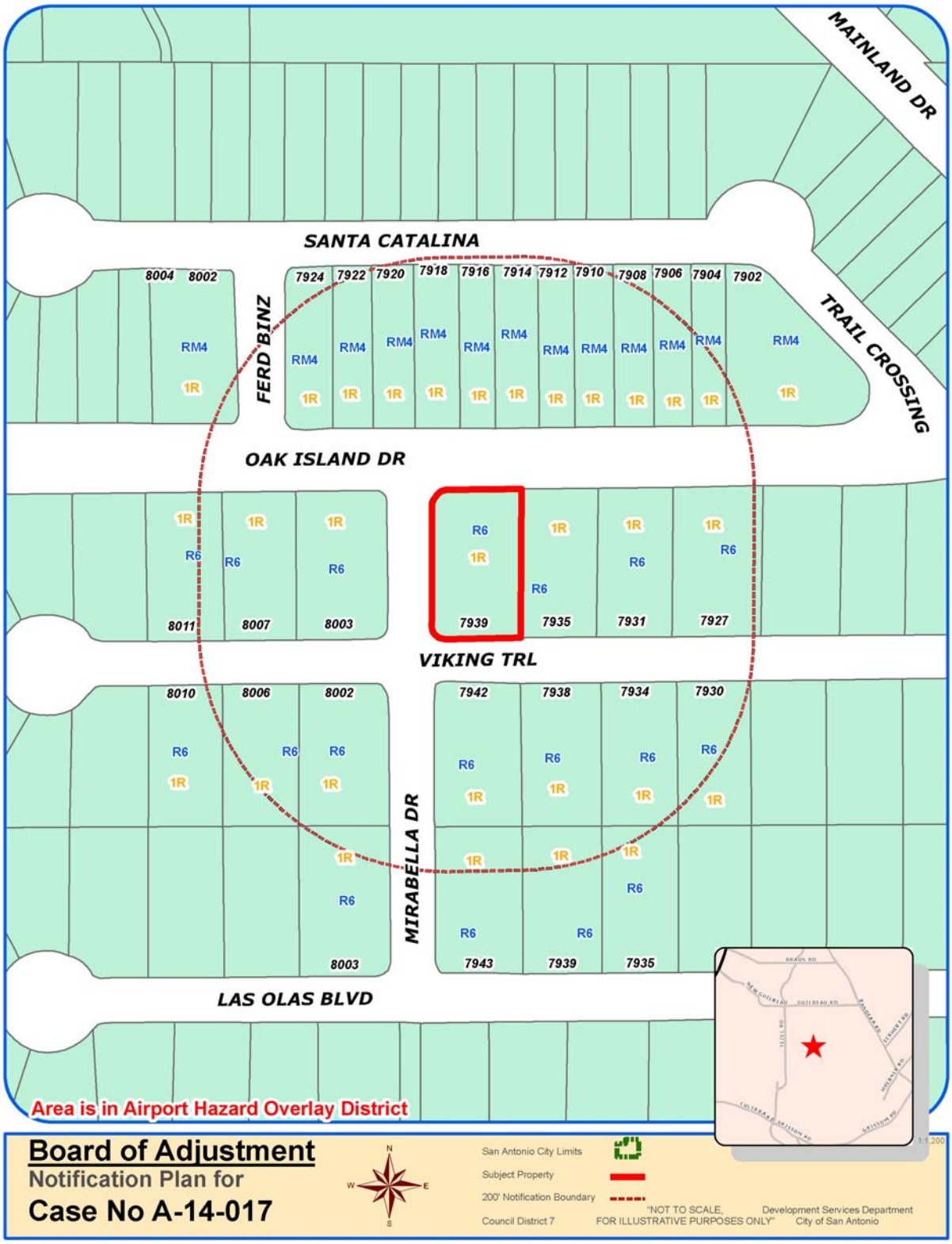
Staff recommends **denial of A-14-017,** based on the following findings:

1. There are no special conditions or circumstances on the property that warrant the granting of the requested variance.

Attachments

Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 –Applicant's Site Plan
Attachment 4 – Photos

Attachment 1
Notification Plan



Attachment 2
Plot Plan

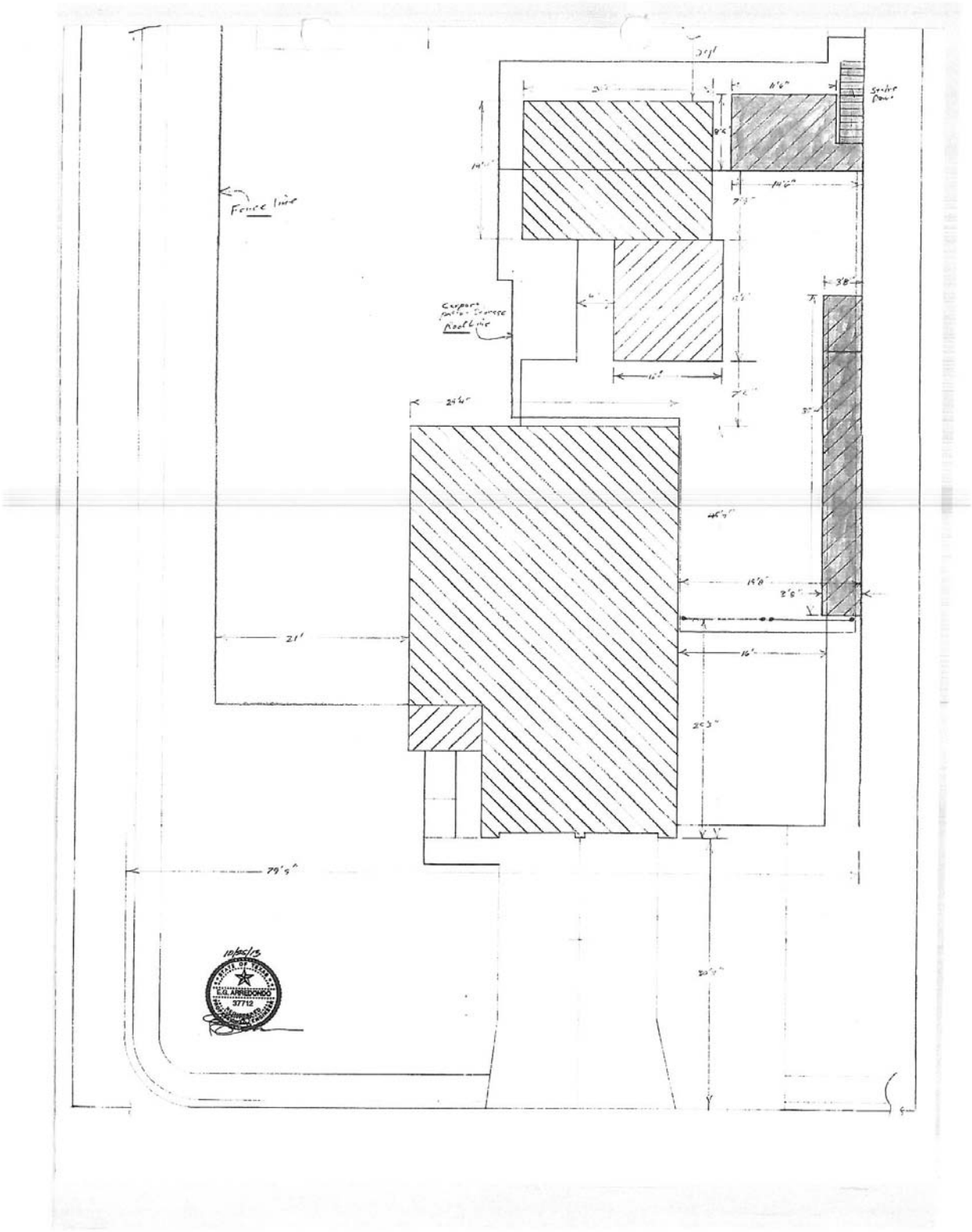
Board of Adjustment
Plot Plan for
Case No A-14-017

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

7939 Viking Trail

Development Services Department
City of San Antonio

Attachment 3
Applicant's Site Plan



Attachment 4
Site Photos

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-14-035
Date:	April 7, 2014 (Continued from March 17, 2014)
Applicant:	Javier C. Solis
Owner:	Javier C. & Rosa Maria Solis
Location:	758 Kirk Place
Legal Description:	Lot 6, Block 7, NCB 6774
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By:	Osniel Leon, Planner

Request

A request for a 3-foot variance from the 5-foot required side yard setback to allow a carport 2-feet from the side property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on February 27, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 21, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on April 4, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of Kirk Place, between Carolyn Street and South Zarazamora. The property is currently developed as a single-family residence measuring approximately 954 square feet, constructed in 1925 per BCAD records. The applicant built a carport encroaching into the east side yard setback without first obtaining the required permits and approval from the City.

Pursuant to Table 310-1 of the UDC, buildings in the "R-6" Residential Single-Family zoning district shall be set back a minimum of ten (10) feet from the front property line, and five (5) feet from the side property line. Furthermore, per Section 35-516(g) of the UDC, carports may be erected behind the minimum front setback required, so long as twenty (20) feet of total parking area depth is maintained within the lot.

The UDC regulates carports and garages under the identical provisions, calling them accessory structures. Accordingly, Section 35-370 (b) identifies the provisions including the required 5-foot setback from both side and rear property lines. Without any eaves or similar projections, the setback may be reduced to 3 feet.

If the variance request is approved, fireproofing consistent with the International Residential Code, gutters (and any other applicable building or city code) will be required.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Salvage yard
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Kelly/South San Pueblo Community Plan. The property is not located within the 200-foot radius of any registered neighborhood association.

Criteria for Review

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.*

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. The UDC does not contemplate any situations where the side setback is covered by a structure. The public interest in this case is represented by minimum setbacks established to ensure activities on individual properties do not impact the rights of a neighboring property owner and allow for property maintenance.

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

The subject property is not subjected to special conditions that create unnecessary hardship through the literal enforcement of the setback requirements. A literal enforcement of the side setback requirement will require the applicant to relocate the carport three (3) feet to maintain the minimum side yard setback from the property line. The Board will have to determine if this requirement creates an unnecessary hardship for the applicant.

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

The variance request is neither in keeping with the spirit of the ordinance nor would granting it do substantial justice. The UDC does not contemplate any situation where structures would be allowed to be placed within the side setback. The subject property is not uniquely influenced by oppressive conditions. In this case, substantial justice is done by encouraging the applicant to comply with the existing regulations.

4. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6" base zoning district.

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 requested variance, if approved, may injure adjacent properties and alter the character of the district. By granting this variance, it will set a precedent to more construction of this type in the neighborhood.

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.

No unique conditions or circumstances exist on the property that prevents the applicant from using the property as intended and complying with the minimum requirements of the UDC. Had the applicant obtained permits prior to construction, the applicant would have been notified about the minimum required development standards including fire rated materials and this variance request would not be necessary. The result of the applicant's action to build a carport within the required side yard caused the violation on the property, thus self-imposing the hardship.

Alternatives to Applicant's Request

The alternative to the applicant's request is to comply with the UDC setback requirements, or remove the carport.

Staff Recommendation

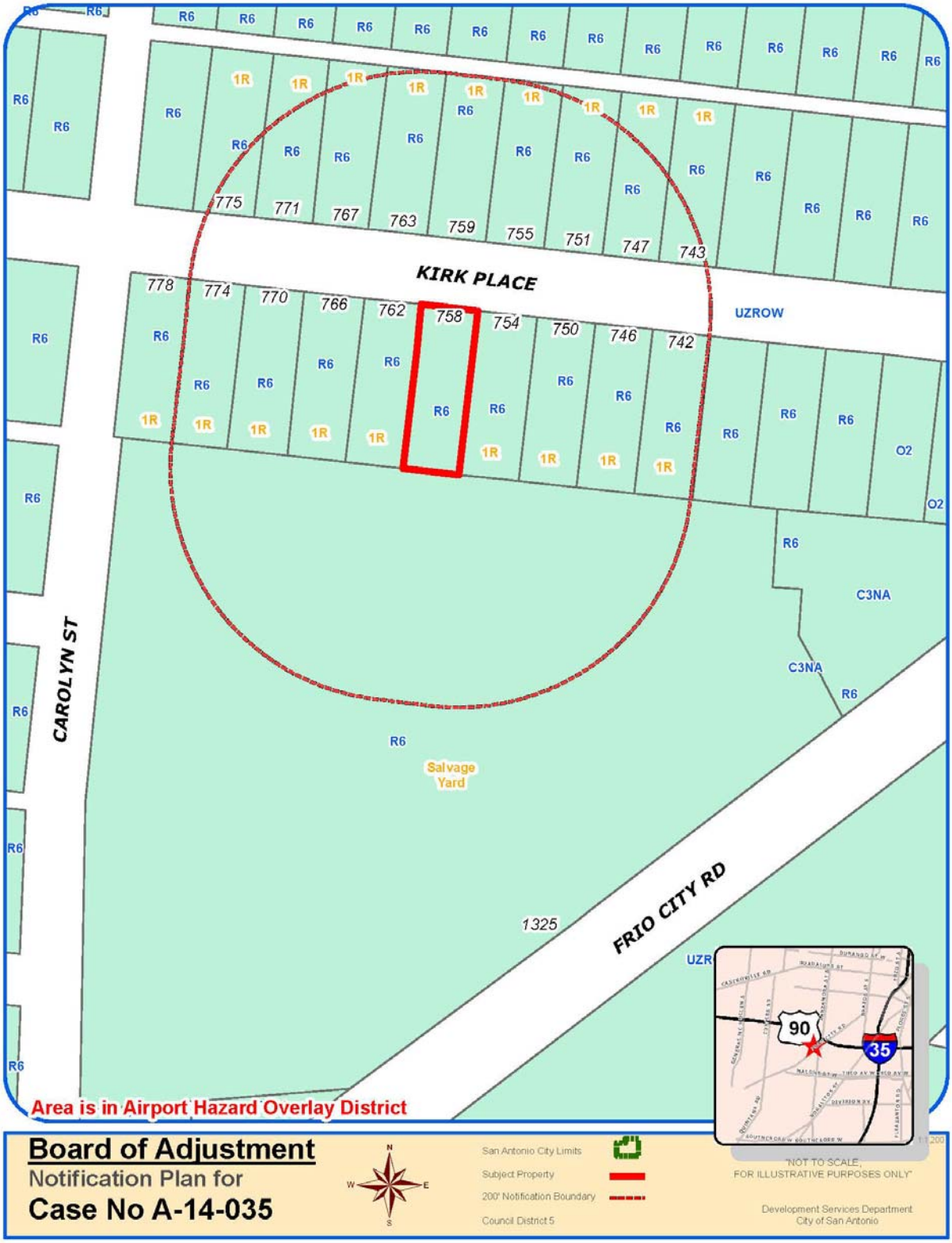
Staff recommends **denial of A-14-035,** based on the following findings:

1. There are no special conditions or circumstances on the property that warrant the granting of the requested variance.

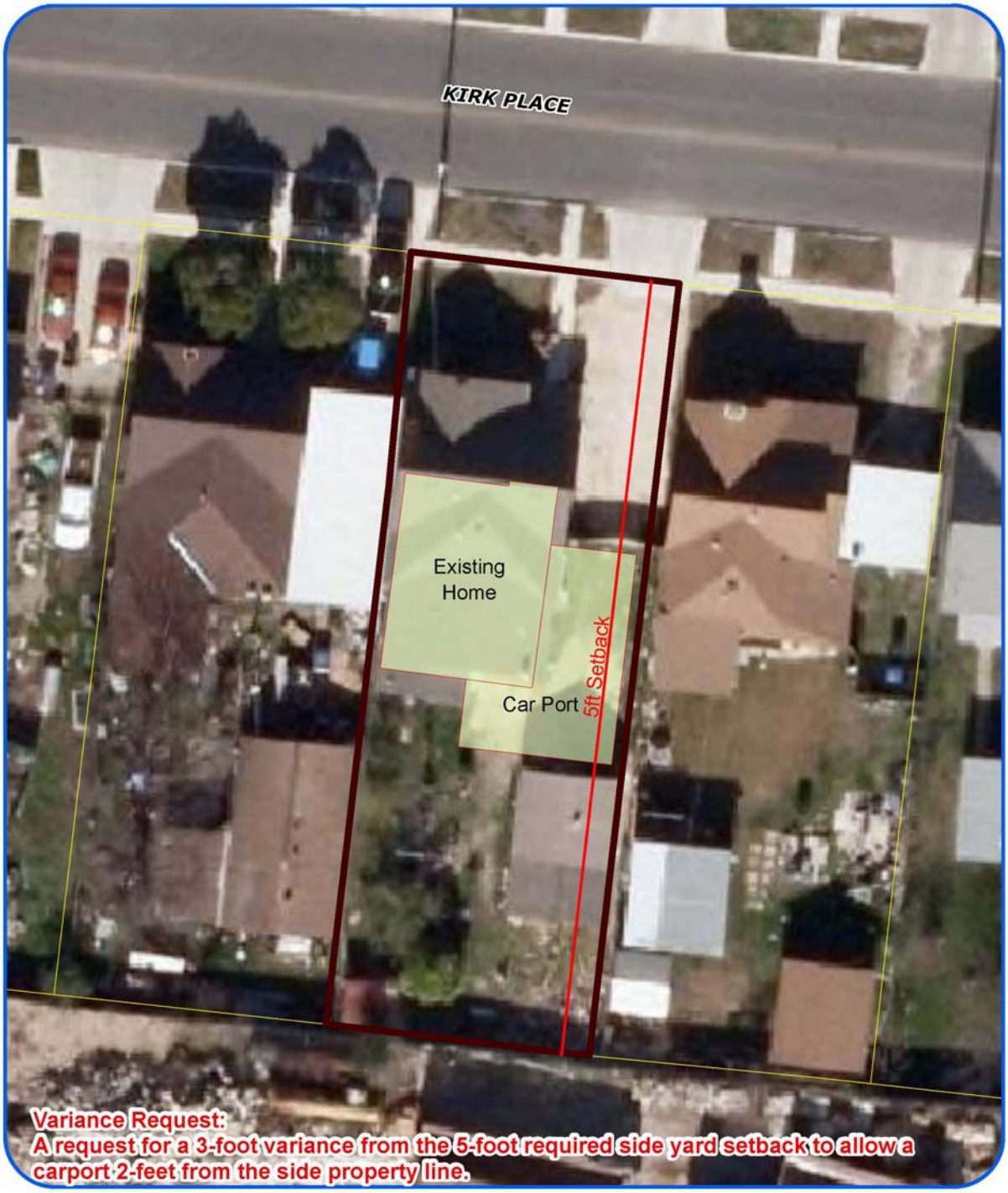
Attachments

Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 –Applicant's Site Plan
Attachment 4 – Photos

Attachment 1
Notification Plan



Attachment 2
Plot Plan



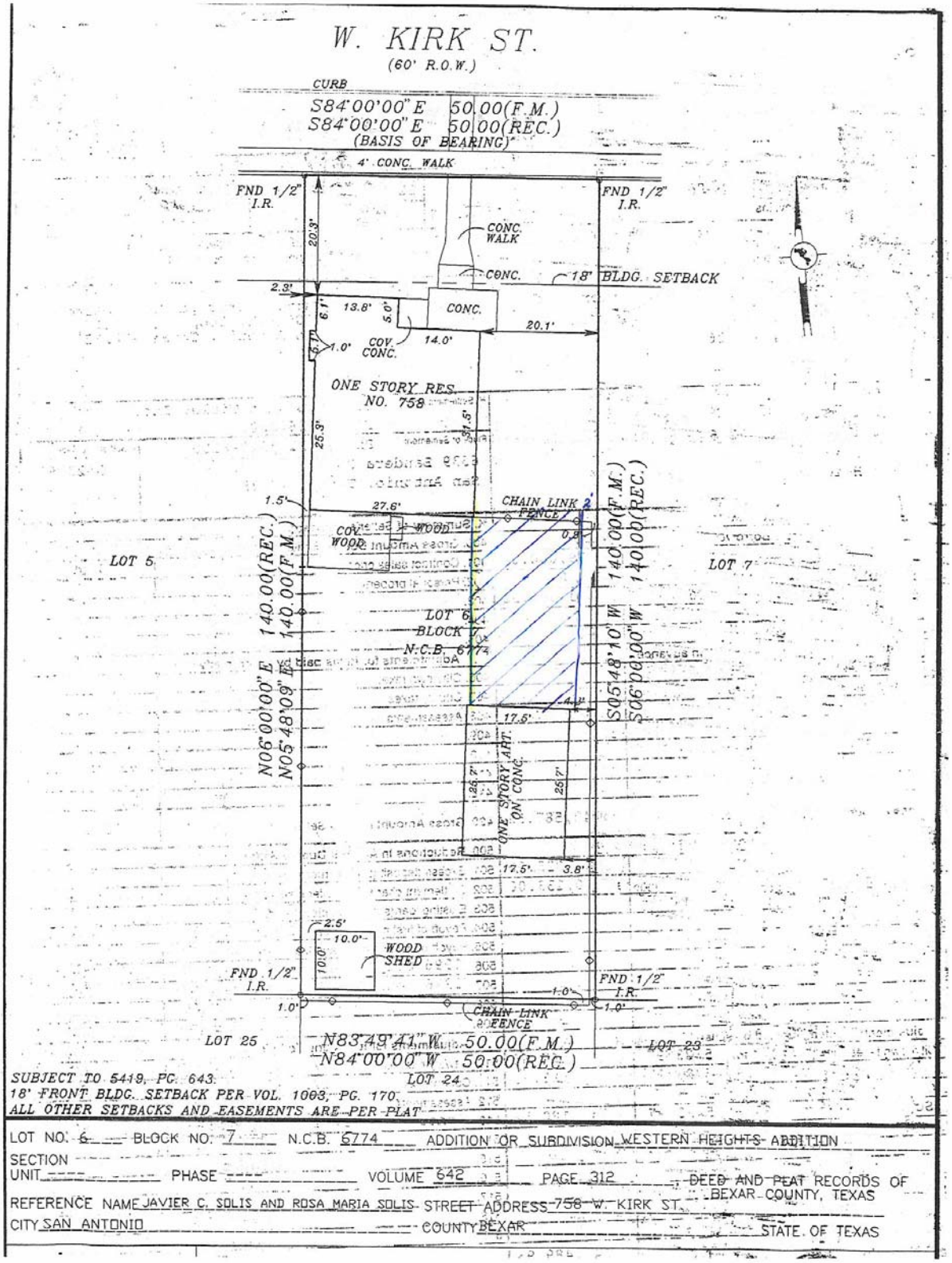
Board of Adjustment
Plot Plan for
Case No A-14-035

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

758 Kirk

Development Services Department
City of San Antonio

Attachment 3
Applicant's Site Plan



Attachment 4
Site Photos

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-14-040
Date:	April 7, 2014
Applicant:	Edgewood Independent School District
Owner:	Edgewood Independent School District
Location:	3300 & 3306 Ruiz (a privately owned driveway)
Legal Description:	Lot 6, NCB 9025
Zoning:	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By:	Margaret Pahl, AICP Senior Planner

Request

A request for a 2-foot variance from the maximum 6-foot fence height to allow an 8-foot fence along the north property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on March 21, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 21, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 4, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 25-acre school campus owned and operated by the Edgewood Independent School District. The District operates a middle school and a head start pre-school on the site. Their north boundary is constructed as a two-lane driveway signed for one-way circulation. The driveway is constructed along the same alignment as if it were the continuation of Ruiz Street. It is signed as Ruiz Street and many area residents assume it is a public street. A public street is created by a legal document entitled a *plat* where a property owner dedicates a portion of their land to the public; there is no legal evidence that a plat was ever recorded to dedicate this section of Ruiz. The majority of the property was given to the School District in 1970 by the Maverick family. The deed at that time did not show evidence of Ruiz Street as a public street, but rather showed the utility easements dedicated across private property.

While it would seem the question of the street is unrelated to the request for a fence variance, it is quite related. A neighboring commercial center has had a secondary access onto this lane approximately 40 feet from its intersection with General McMullen for a number of years. The driveway was not permitted according to available records and does not currently meet the minimum standards for a permitted driveway. This access has created conflicts between the neighbors, with parents parking in the center and cutting through the center's parking lot to avoid the exit stacking. The School District has instructed parents not to park in the center's lot and even towed a few repeated offenders. They finally decided to fence the connection.

The center's owner also has concerns about reducing access options by the installation of the fence. Over the years, this access point has provided a convenient option for customers coming from the neighborhood to the west. However, this access point leads to private property. With this access fenced, customers must use General McMullen. The discussion must remain focused on the variance request. The Board is not charged with evaluating whether the District is allowed to fence their private property; it is being asked to determine allowed height.

The applicant states that the reason for the extended fence height is the crime threats originating in the neighboring apartment complex. In fact, San Antonio Police Department statistics show an average of 60 police calls each month in the vicinity. Because one of the schools on the campus is a federally funded head start program, the school has to be "locked-down" whenever the police are chasing a suspect in the area. This lockdown has far-reaching consequences in reporting and identity verification for discharge. In addition, the applicant is installing the fencing on either end of the campus to connect to existing fencing around the apartment complex. Their fencing is 6 feet with 3 strands of barbed wire. The applicant hopes the new fencing is at least as difficult to climb as this existing section of fence.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Schools

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-2 & MF-33AHOD" Commercial & Multi-Family Airport Hazard Overlay Districts	Commercial Center & Apartments
South	"C-2 & MF-33 AHOD" Commercial & Multi-Family Airport Hazard Overlay Districts	Medical Clinic & Apartments
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Fire Station
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan, adopted by the City Council in April 2011. The future land use plan designates this property as Civic Center, appropriate for civic uses. The subject property is also located within the boundary of Loma Vista Neighborhood Association, and within 200 feet of Prospect Hill, both registered neighborhood associations. As such, they were notified and asked to comment.

Criteria for Review

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's interest is defined as the general health, safety and welfare of the public at large. **In the case of a school campus, many area families entrust their children to the school for care throughout the day. School Districts take this responsibility extremely seriously and generally do everything in their power to protect the safety of the children. Fencing is an important component to the protection plan. Therefore, the variance would not be contrary to the public interest.**

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

The applicant has explained that the allowed fence height of 6-feet is not an adequate deterrent. Portions of that property line have been fenced with 6-foot high fencing and there have been incidents of criminal trespass.

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

The UDC contemplates that there are uses and situations where additional fencing is warranted to protect properties. Schools are recognized as needing additional fencing and as such are allowed 6 feet in height around the entire perimeter. The applicant is replacing some of the fencing in the coming year to comply with the 6-foot limitation, but feels that this boundary warrants the additional protection of extra height.

4. *Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-5 AHOD" zoning district.

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 neighboring site is non-conforming in relation to buffering, landscaping and parking lot landscaping. Under today's requirements, the shared property boundary should include a 15-foot landscaped buffer on the commercial side and shade trees over 25% of the parking lot surface. Were this buffer in place, the visual impact of the fencing would be completely eliminated. The fencing is predominately open and the additional 2-

feet in height may not alter the character of the district. The applicant will be required to remove a portion of the fence that protrudes into the required sight triangle.

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.*

The applicant has unusual security concerns in protecting over 300 toddlers. This is a complicated task including confirming the identity of parents during drop-off and pick-up times. The area also experiences a high volume of police calls, averaging 60 per month over the last year. Increasing control of vehicular circulation on the campus is essential to ensuring safety.

Alternatives to Applicant's Request

The applicant can reduce the fence height to 6-feet as permitted in the UDC.

Staff Recommendation

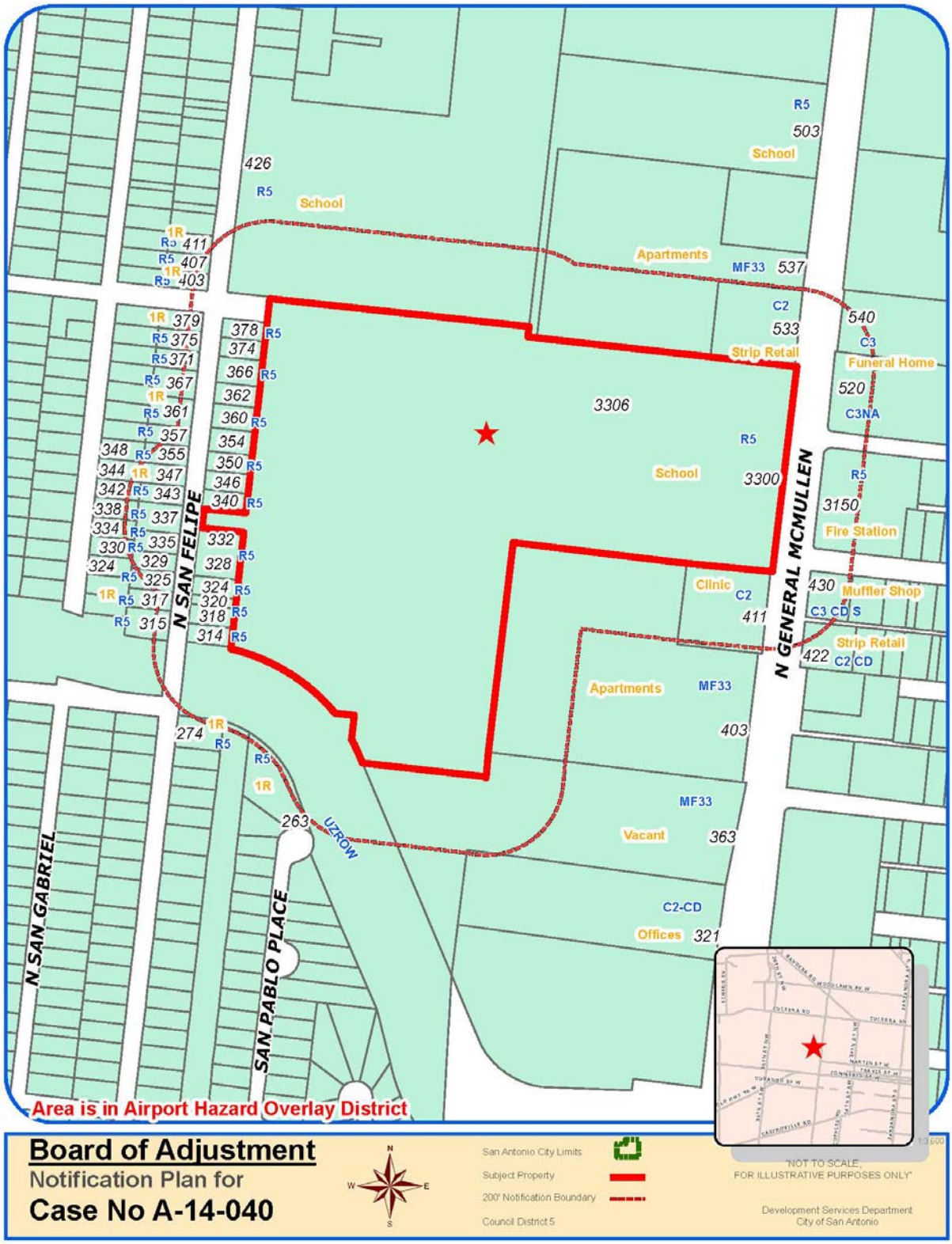
Staff recommends **approval** based on the following findings:

1. The mission of the School District is to protect children, including over 300 toddlers, during school hours. Secure fencing is necessary to achieving this goal.

Attachments

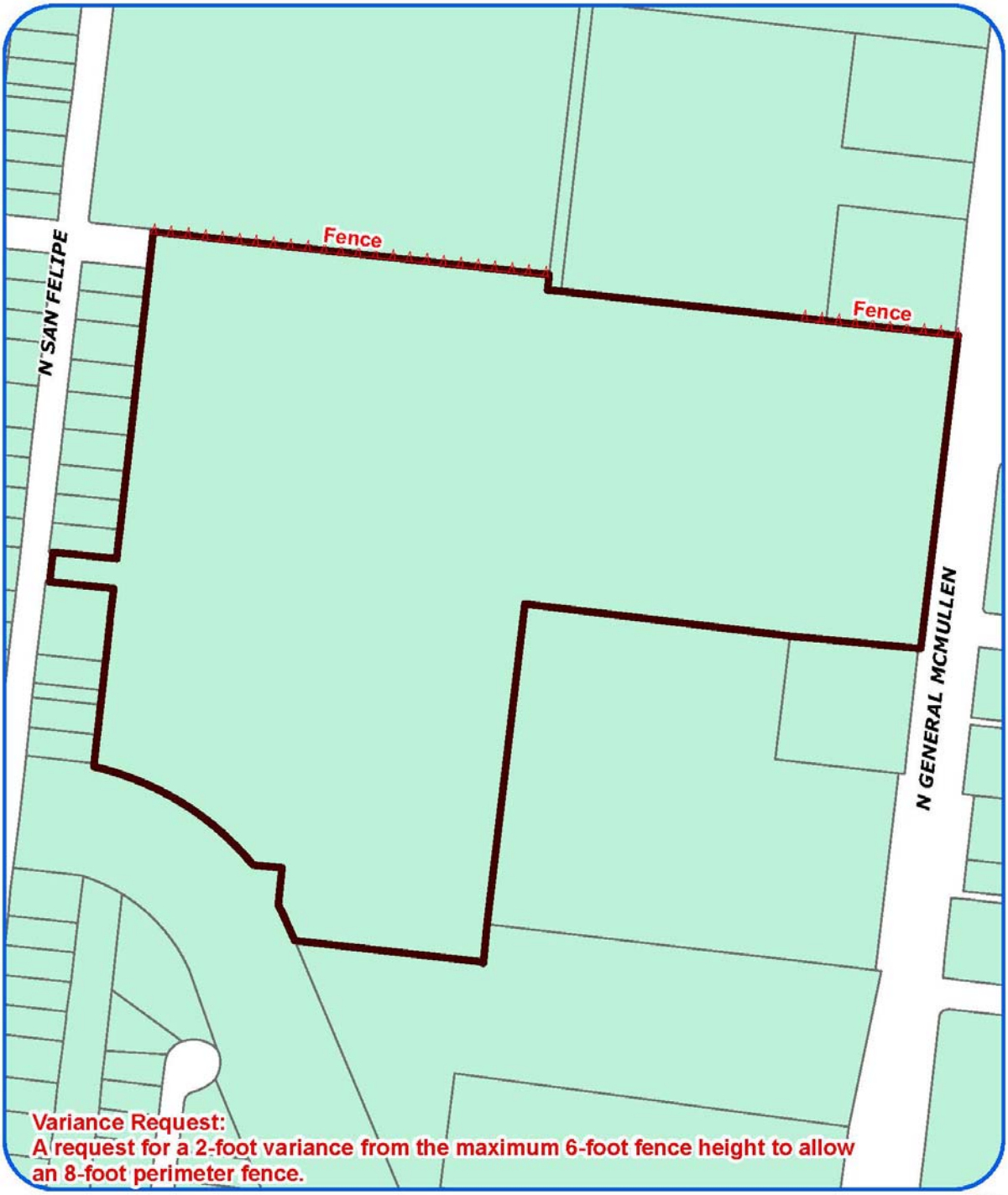
Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 – Applicant's Site Plan
Attachment 4 – Site Photos

Attachment 1
Notification Plan



Attachment 1
Notification Plan (continued)

Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-14-040

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

3306 General McMullen

Development Services Department
City of San Antonio

Attachment 2
Plot Plan (continued)

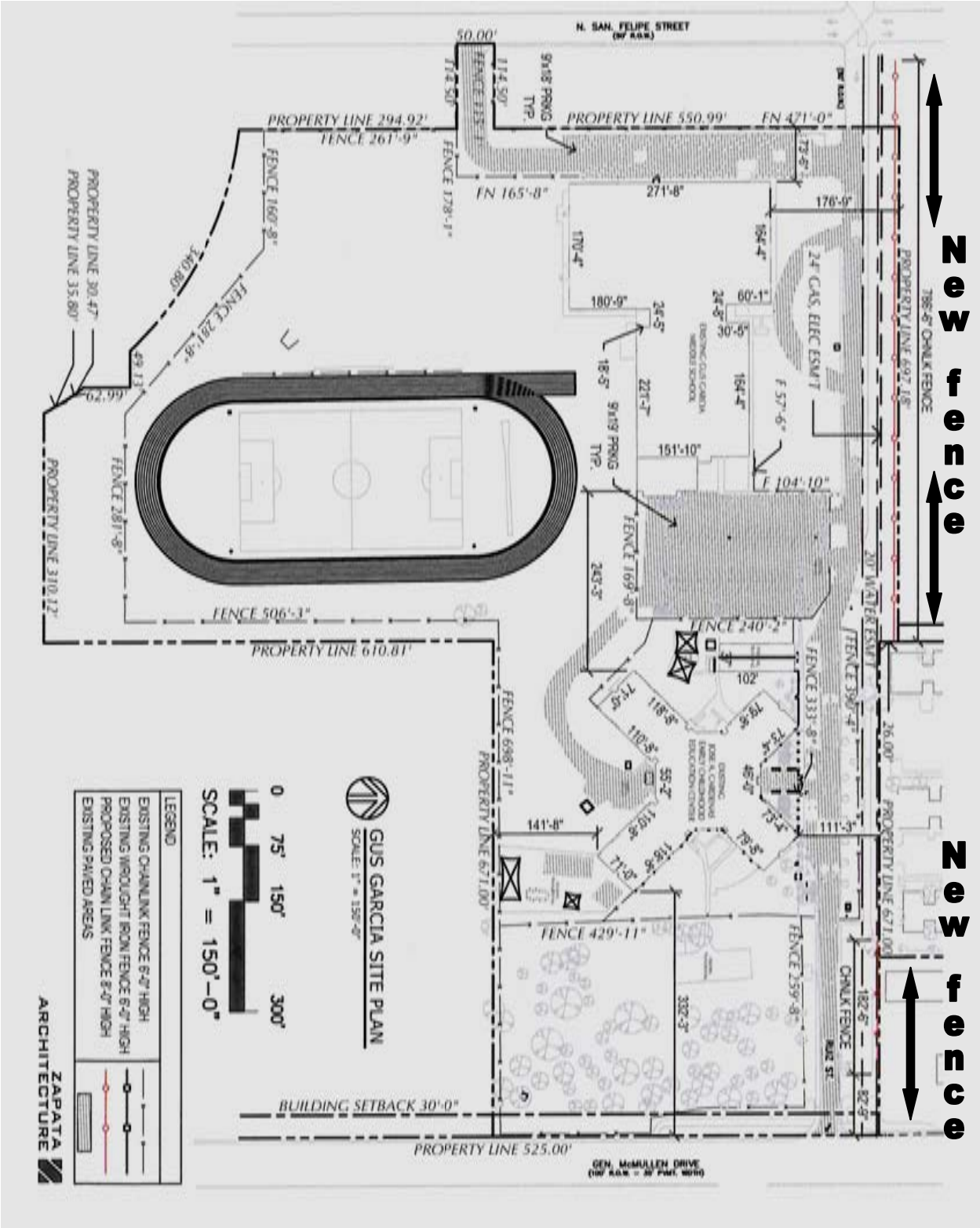
Board of Adjustment
Plot Plan for
Case No A-14-040

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

3306 General McMullen

Development Services Department
City of San Antonio

Attachment 3
Applicant's Site Plan



Attachment 4
Site Photos

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-14-041
Date:	April 7, 2014
Applicant:	Cinthya Flores
Owner:	Cinthya Flores
Location:	1535 Beverly Ann Street
Legal Description:	Lot 25, Block 1, NCB 14545
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By:	Tony Felts, Planner

Request

A request for a special exception under Section 35-399.04 to erect a 5-foot, 8-inch high Ornamental-Iron Front Yard fence.

Procedural Requirements

A special exception is a decision vested with the Board of Adjustment, and includes uses which may be authorized under certain circumstances. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before March 20, 2014. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 21, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 4, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of Beverly Ann Street, approximately 425 feet east of South Zarzamora Street. The applicant is proposing to complete construction of a 6-foot high ornamental iron fence in the front yard which was begun without proper permits.

The fence is proposed to be six feet in height and constructed of ornamental iron and concrete brick columns. Per Sections 35-514(b)(4) and 35-399.04 of the UDC, ornamental iron fences are allowed within the front yard area that exceed the height limitation of four (4) feet, up to a maximum of six (6) feet, with a Special Exception granted by the Board of Adjustment. The submitted plan meets all the requirements for granting a special exception.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single Family Residences
South	"R-4 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single Family Residences
East	"R-4 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single Family Residences
West	"R-4 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). The subject property is also located within the boundaries of the Gillette Area Neighborhood Association, a registered neighborhood association; as such, they were notified and asked to comment.

Criteria for Review

According to Section 35-482(h) of the Unified Development Code, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five (5) following conditions:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The requested plan, meeting all of the design requirements established in Section 35-399.04 of the UDC, is in harmony with the spirit and purpose of the chapter.

B. The public welfare and convenience will be substantially served.

The public welfare and convenience will be substantially served by allowing the applicant to securely protect the property.

C. The neighboring property will not be substantially injured by such proposed use.

Front yard fences are common in the area and the neighboring properties will not be substantially injured by granting the special exception. **The design of the fence will not encroach on the neighboring properties or cause any undue hardship.**

D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

There are several examples of ornamental-iron front yard fences, of varying heights, within the surrounding neighborhood. By granting the applicant's request for a special exception, the proposed fence will maintain the harmony and character of the district.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.

The requested special exception will not weaken the general purpose of the "R-4" Residential Single-Family base zoning district.

Staff Recommendation

Staff recommends **approval of A-14-041.** The request complies with all of the five required criteria for a special exception as established in Section 35-482(h) of the UDC, based on the following findings:

1) The proposed ornamental-iron fence plan complies with all of the design requirements established in 35-399.04 of the UDC.

2) The proposed ornamental-iron fence will serve to protect the subject property.

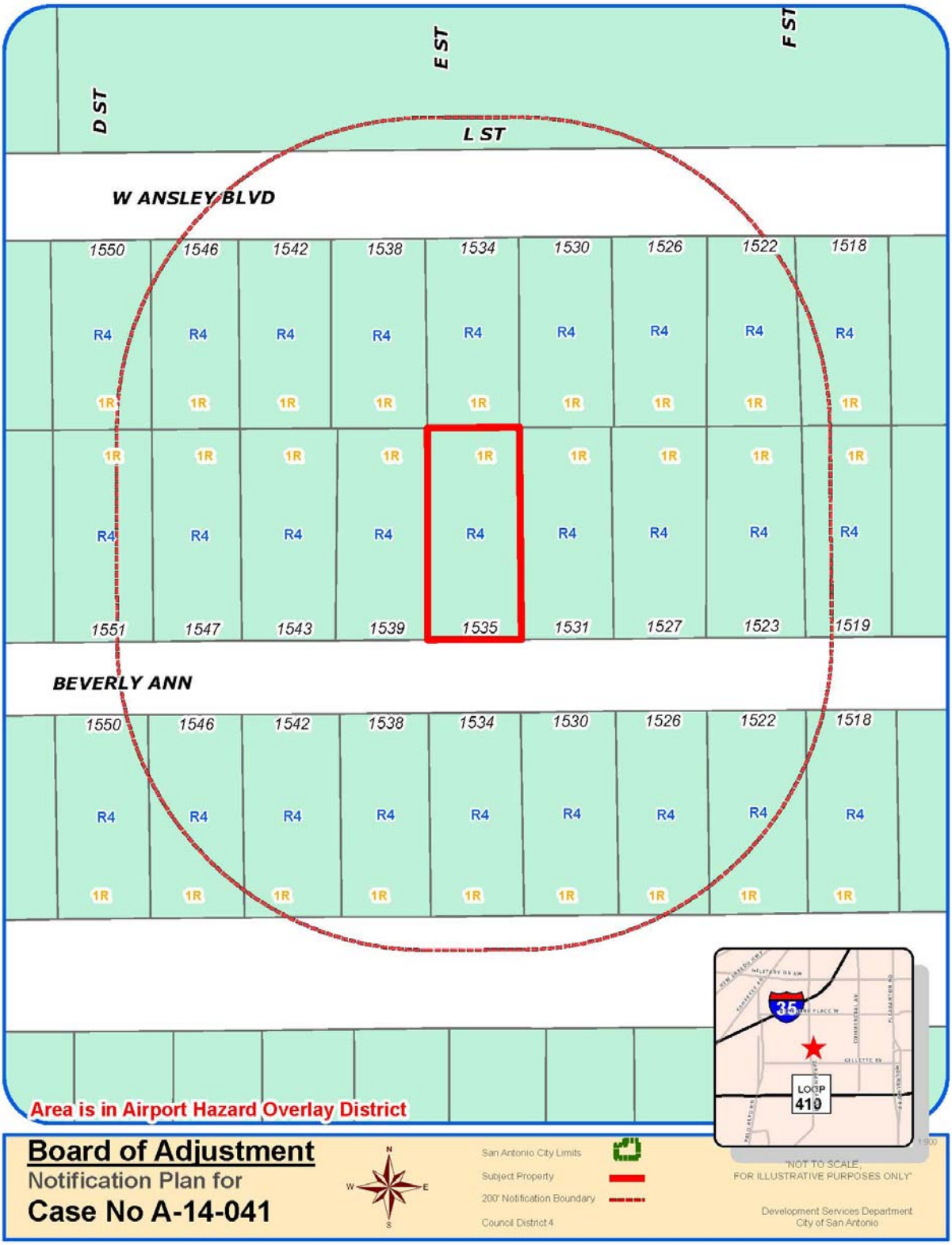
Alternatives to Applicant's Request

There are two alternatives to the applicant's request: build an ornamental-iron fence of four (4) feet in height, or build no fence at all.

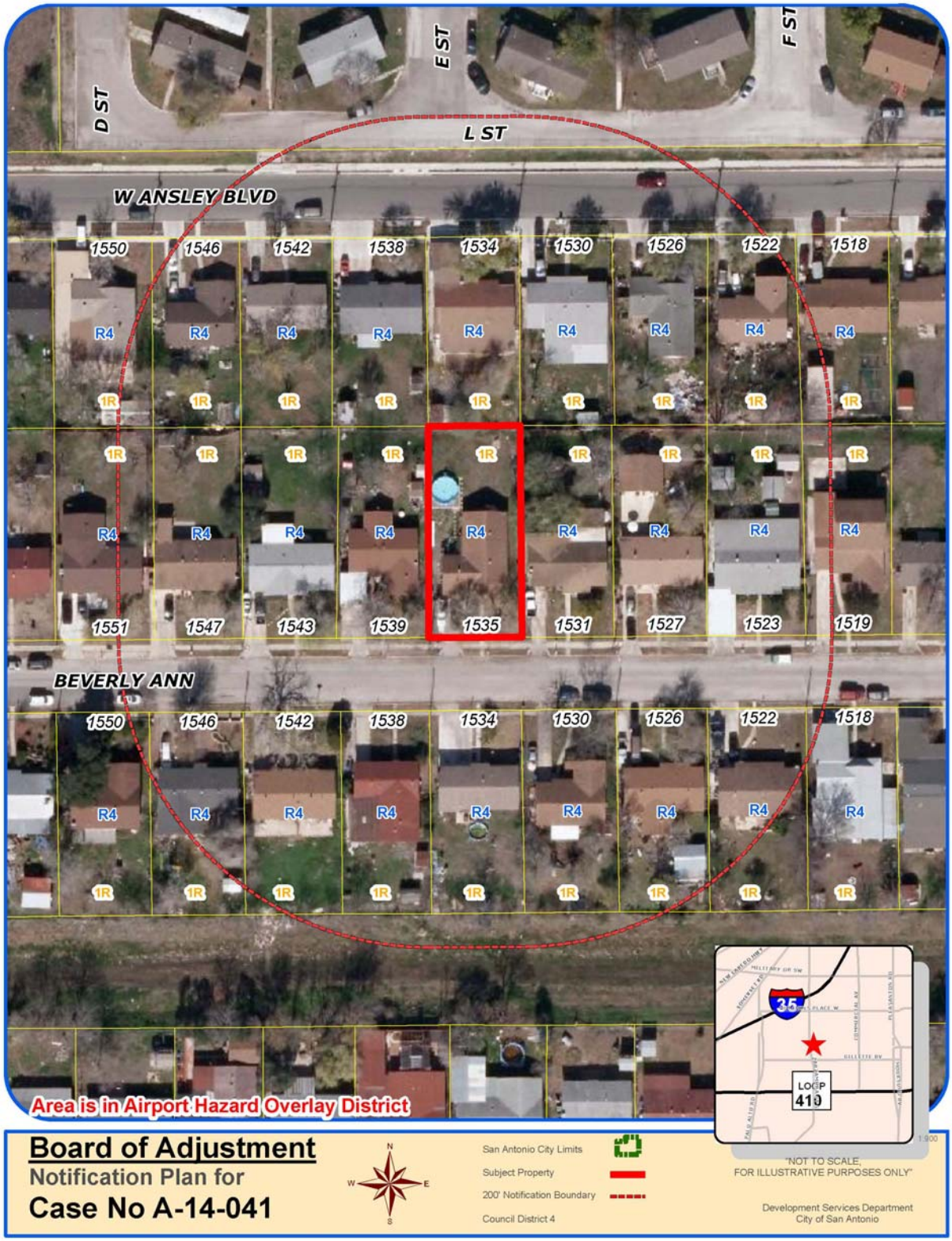
Attachments

Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 – Applicant's Site Plan and Fence Plan
Attachment 4 – Site Photos

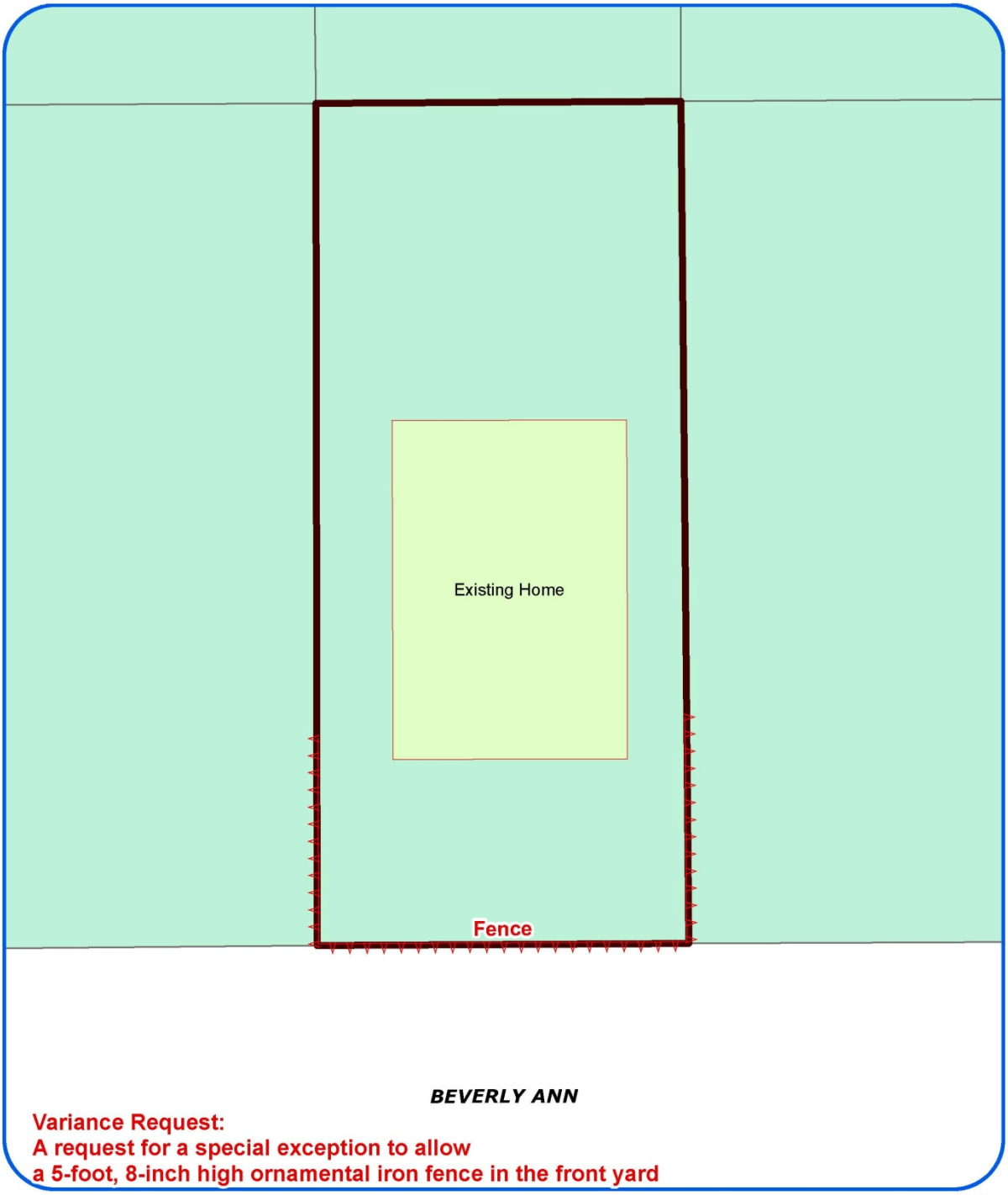
Attachment 1
Notification Plan



Attachment 1 (Continued)
Notification Plan



Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-14-041

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"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 4

1:240
1535 Beverly Ann

Development Services Department
City of San Antonio

Attachment 2 (Continued)
Plot Plan

Board of Adjustment
Plot Plan for
Case No A-14-041

N
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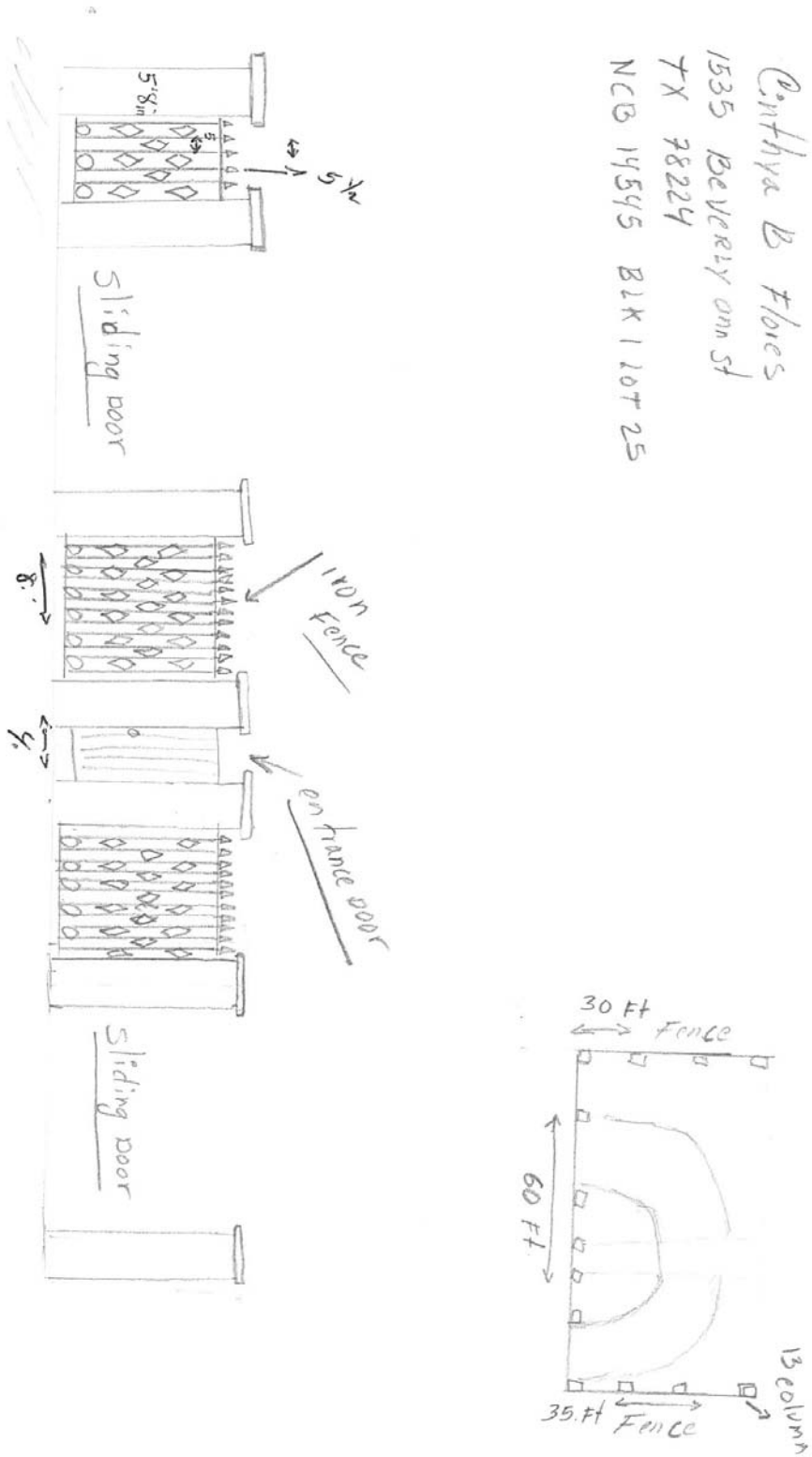
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 4

1:240
1535 Beverly Ann

Development Services Department
City of San Antonio

Attachment 3
Proposed Fence Plan



Attachment 4
Site Photos

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-14-043
Date:	April 7, 2014
Applicant:	Veronica Valdez
Owner:	KB Home
Location:	Generally located at 9819 Walhalla Avenue.
Legal Description:	Block 1, Lots 28-37; Block 2, Lots 1-12 and Lots 14-24; Block 3, Lots 1-11 and Lots 17-27; Block 4, Lots 1-12 and Lots 17-27; Block 5, Lot 16; Block 6, Lots 1-4 and Lots 13-15; Block 8, Lots 1, 8, & 9; NCB 12509
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By:	Margaret Pahl, AICP Senior Planner

Request

A request for a 7-foot variance from the minimum 20-foot setback to allow a 13-foot rear yard setback on up to 45 of the 166 lots within the Pleasanton Farms Subdivision.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on March 21, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 21, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 4, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located just north of Loop 410 east of Pleasanton Road. It was subdivided into 166 residential lots in 2007 under the R-4 zoning designation. This district requires a minimum of 4000 square feet of lot area and at least 35 feet of lot width. Each of these lots meets or exceeds these standards and most measure 40 feet by 100 feet. The applicant KB HOME, purchased the property in July of 2013 with the intention of building out the community. Their website shows the selection of homes and floor plans established for this neighborhood, ranging in price from $120,000 to $170,000.

The project and the proposed variance were considered by the Board of Adjustment in February of 2014. At that time, the applicant was requesting approval to reduce the rear setback to 13 feet on up to 90 single family homes. The Board expressed concerns about the density of that many homes with a reduced setback. The applicant has now proposed only half that number in an effort to gain Board support. The Board will have to determine if the time limitation of 12 months should be waived based on this new evidence.

Like many production builders, the KB Home business model allows potential buyers to choose the lot, the floor plan and the finishes of their home. Even though they have sold only a handful of homes in the project, they have found the single-story floor plans to be the most popular. These homes are approximately 70 feet deep and therefore could only be built on 21 of the lots within the project. According to their application materials, if the variance were granted, this would increase the availability to 66 lots or 40%. It should be noted that the applicant will be required to obtain at least one building permit within 6 months.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay	Vacant Residential Subdivision

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay	Residential Single-Family
South	"UD AHOD" Urban Development Airport Hazard Overlay District	Police Training Center
East	"MF-33 AHOD" Multi-Family Residential	Vacant
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay	Residential Single Family

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Stinson Airport Vicinity Plan, adopted by the City Council in April of 2009. The future land use plan designated this property as appropriate for community commercial uses. The subject property is not located within the boundary of a registered neighborhood association.

Criteria for Review

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 at large. **The subdivision is surrounded on three sides by streets; only their northern boundary is shared with other residential lots. No variance is requested on these 25 lots, eliminating the impact on neighboring properties. Therefore the variance is in the public interest.**

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

The applicant states that literal enforcement of the 20-foot rear setback would limit the single-story homes in the project to only 21 of the 166 lots. Given the popularity of single story homes, the Board will have to determine if the literal enforcement of the ordinance results in an unnecessary hardship.

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

For each requested variance, the Board must determine the "spirit" of the ordinance as contrasted with the "strict letter" of the requirement**. In this case, the two-story homes will satisfy the minimum 20-foot setback, but the single-story homes with the proposed variance would be 7 feet closer to the shared property line. Given that the majority of residential districts (8 of 14) allow a 10-foot rear setback, the spirit of the ordinance may be observed by allowing the proposed 13-foot rear setback.**

4. *Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-4 AHOD" zoning district.

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 smaller setbacks will be interior to the community and likely not have a negative impact on surrounding conforming homes. All of the other required setbacks will be satisfied.

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.*

The applicant purchased the subdivision already platted and did not design the lot sizes. **The lots are a reasonable depth at 100 feet but the minimum garage setback is forcing the homes further back than the 10-foot front setback. Balancing the competing setbacks, the applicant is requesting a modification of the rear setback**.

<u>Alternatives to Applicant's Request</u>

The applicant could limit the buyer choice on many lots to the two-story option.

Staff Recommendation

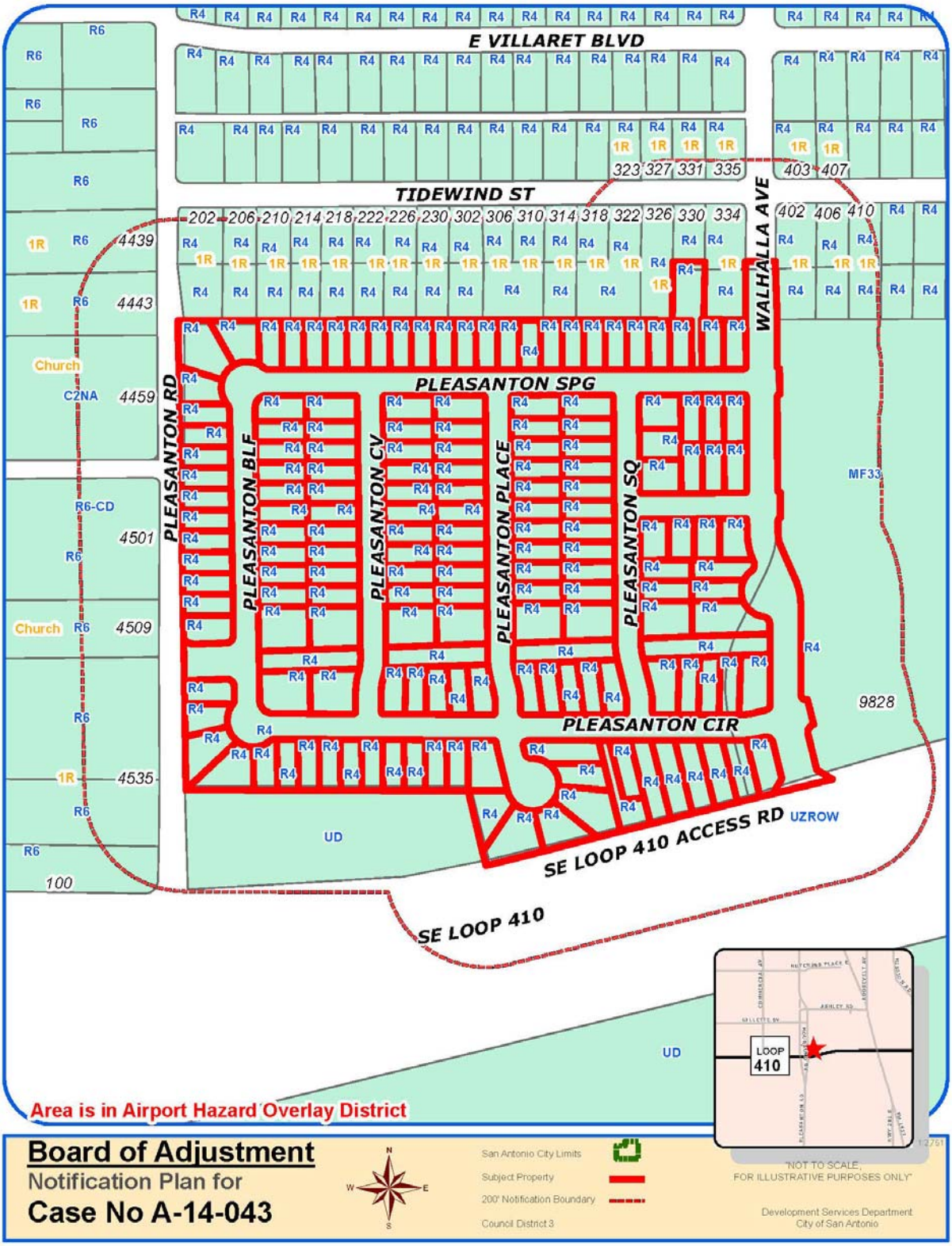
Staff recommends **approval** based on the following finding:

1. The requested reduction in rear setback will not be discernable from the public way and will be limited to single-story homes which already have a reduced impact on neighboring uses.

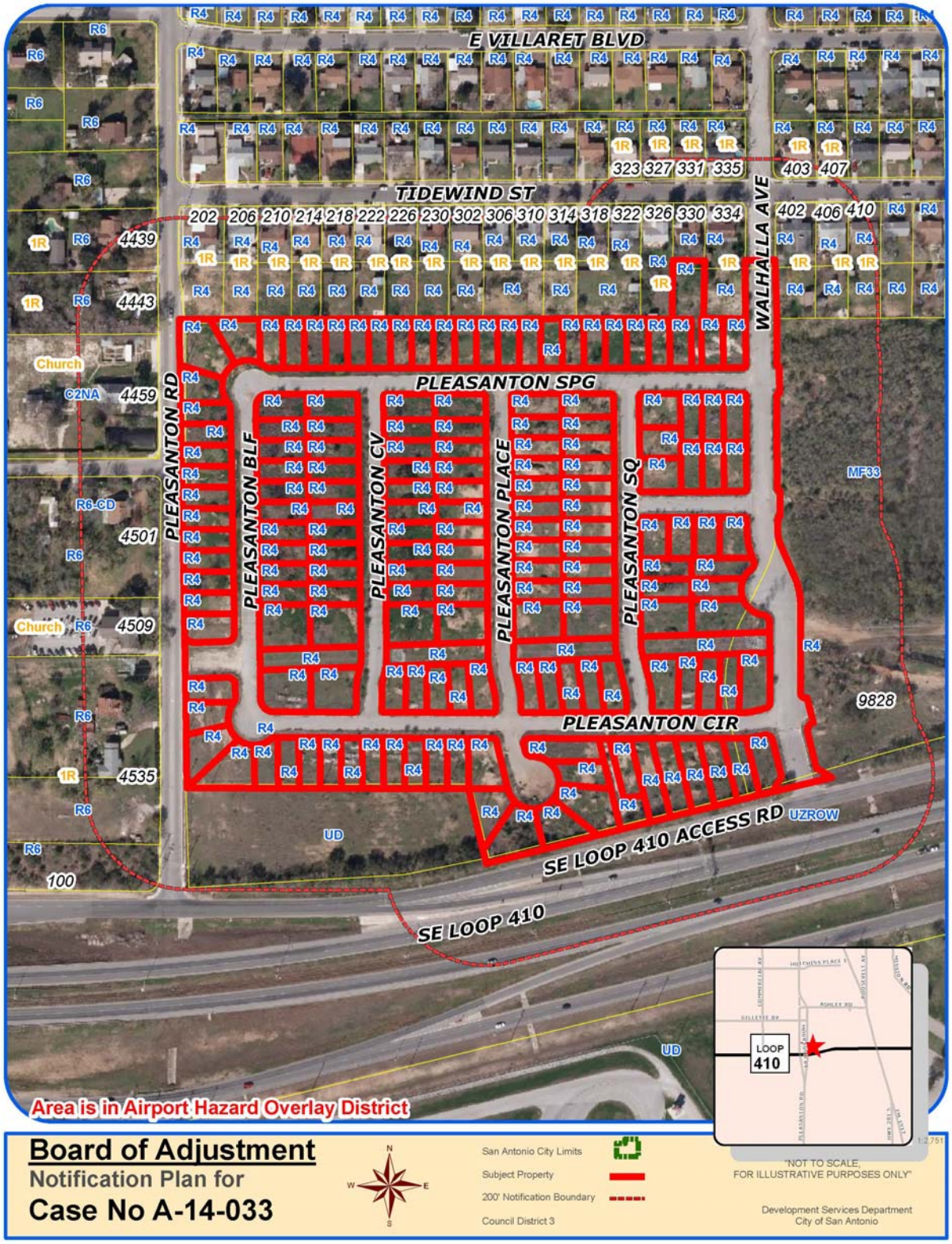
Attachments

Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 – Applicant's Site Plan
Attachment 4 – Site Photos

Attachment 1
Notification Plan



Attachment 1
Notification Plan (continued)



Attachment 2
Plot Plan

Board of Adjustment
Plot Plan for
Case No A-14-043

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"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 3

Pleasanton Farms

Development Services Department
City of San Antonio

Attachment 2
Plot Plan (continued)

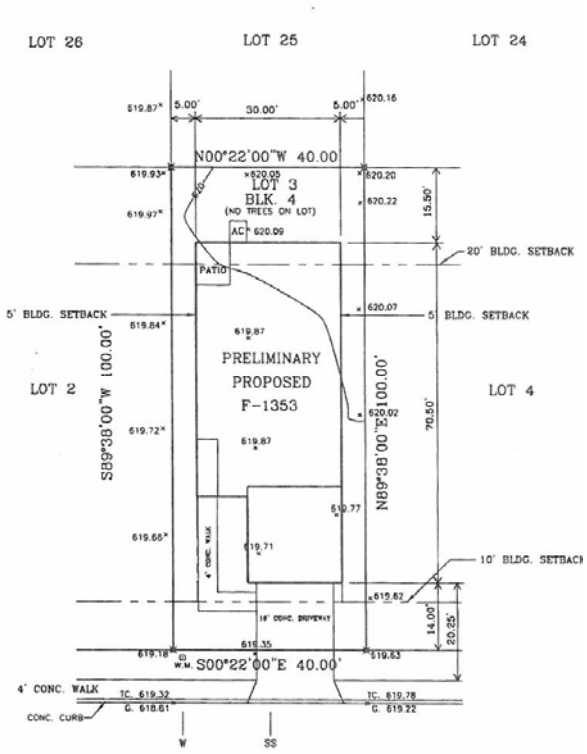
Board of Adjustment
Plot Plan for
Case No A-14-043

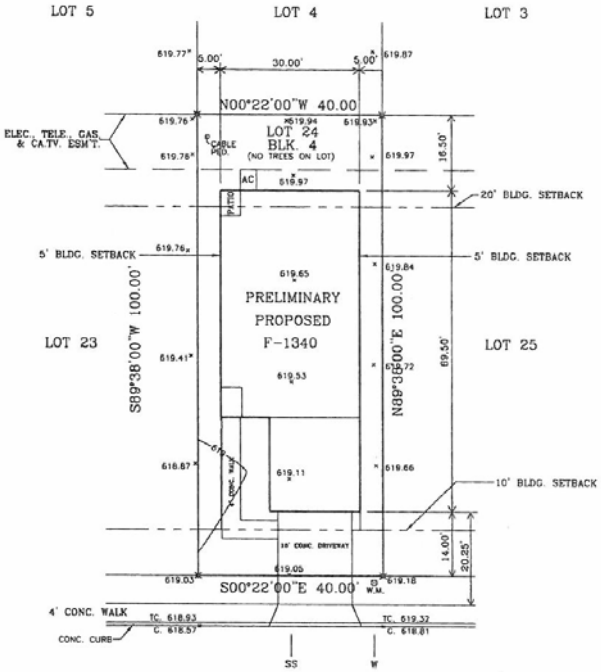
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 3

Pleasanton Farms

Development Services Department
City of San Antonio

Attachment 3
Applicant's Site Plan





Attachment 4
Site Photos

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-14-046
Date:	April 7, 2014
Applicant:	Phil Bakke
Owner:	KVSBAK, Ltd.
Location:	3819 Harry Wurzbach
Legal Description:	Lots 14 & 15, Block 10, NCB 11851
Zoning:	"O-2 MC-3 AHOD" Office Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay Districts
Prepared By:	Margaret Pahl, AICP Senior Planner

Request

A request for a 4-foot 9-inch variance from the maximum 40-foot building height, as described in UDC 35-339.01 (b) 2, to allow 44-foot 9-inch tall buildings.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on March 21, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on March 21, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 4, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 5.84 acre parcel that has been developed as multi-family housing for a long period of time. It was rezoned to the "E" zoning district in 1959 and eventually developed as the site of El Chapparal Apartment Complex, built around 1965. The complex had become obsolete and dilapidated. Before demolition, the owner received "Development Preservation Rights" which preserved the allowed multi-family use at 47 dwelling units per acre. The project under construction now, with 232 units, is approximately 40 units per acre.

The variance is from a height limit that was imposed on the project as of March 15, 2012 with the adoption of the Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay District.

The proposed height is permitted by both the old "E" zoning district and the current "O-2" zoning district.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"O-2 MC-3 AHOD" Office Metropolitan Corridor Airport Hazard Overlay District	Apartments under construction

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	" IDZ MC-3 AHOD" Commercial & Multi-Family Airport Hazard Overlay District	Vacant
South	"R-5 AHOD" Airport Hazard Overlay District	Single-Family Homes
West	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Homes
East	"RM-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Northeast Inner Loop Neighborhood Plan Update, adopted by the City Council in May 2008. The future land use plan designates this property as High Density Residential, with "MF-50" Multi Family District, allowing up to 50 units per acre, listed as a consistent zoning district. The subject property is also located within the boundary of Oak Park/Northwood Neighborhood Association, a registered neighborhood association. As such, they were notified and asked to comment.

Criteria for Review

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's interest is defined as the general health, safety and welfare of the public at large. In the case, the applicant is requesting a variance of 4-feet 9-inches to the maximum allowed height of 40 feet. **A solar study was conducted by the applicant during summer and fall to determine if shadows would impact neighboring properties. At 4:00p.m. in each season, the shadow did not leave the property boundary. This is likely because the buildings are setback 70 feet from each of the property boundaries. The minimum setback in this zoning district is 30 feet. The additional height will likely not be discernable to the casual observer. Therefore, the variance would not be contrary to the public interest.**

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

The applicant has stated that the timing of the City's interpretation that the project was subject to the recently adopted corridor overlay zone creates an unnecessary hardship. The applicant purchased the land in 2007 and applied for development preservation rights the following year. The demolition permit for the previous apartment complex was issued in 2009 and the demolition was completed in 2010 and planning for the replacement project began in earnest. Applicant confirmed the statutory rights for the project with an effective date of March 8, 2012, prior to the adoption of the corridor overlay. The applicant submitted plans to the permit review staff for the project on June 28, 2013. The City recognized the development preservation rights and the rights vested prior to the adoption of the corridor in communication with the applicant on July 25, 2013. A few weeks later, the City determined that vesting is pertinent to density and landscaping but not height. A partial permit was issued in September, pending resolution of the height issue.

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

The applicant states that the project has complied with the requirements of the corridor overlay provisions despite not being required to do so by virtue of vested rights. The overlay district requires interior parking lot landscaping at a ratio of 16.2 square feet per stall for a total of 5,200 square feet; the applicant is installing over three times that amount for a total of 17,300 square feet. The neighbors expressed concerns about adequate parking, connecting the request for additional height to an increase in numbers of units. The site plan shows a total of 322 parking stalls, 90 above the minimum number required. Therefore, the spirit of the ordinance is being observed.

4. *Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the Development Preservation Rights or the list of reserved uses defined by ordinance.

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 redevelopment of the site will contribute to the essential character of the district. The old apartment complex had fallen into disrepair and was an eyesore. The meandering sidewalk within a 35-foot wide landscaped area along Harry Wurzbach will establish a beautiful addition to the streetscape. With the buildings setback a minimum of 70 feet from the property lines, the additional height of 4 feet 9 inches will not be noticeable to a pedestrian.

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.*

The applicant has elected to construct the complex with 232 housing units in two four-story buildings that total 44-feet 9-inches. This decision was one of many that established the design of the 5.84 acre site. With an additional 12,000 square feet of interior parking lot landscaping and an additional 90 parking stalls above the minimum, these items combined equal space for a third building without the need for a variance. The applicant however is proposing to lessen the impact to adjacent property owners by setting the buildings back further instead of building to the minimum setback of 30 feet.

Alternatives to Applicant's Request

The applicant can eliminate the 4th floor and 60 of the residential dwelling units for a reduction in density of approximately 10 units per acre.

Staff Recommendation

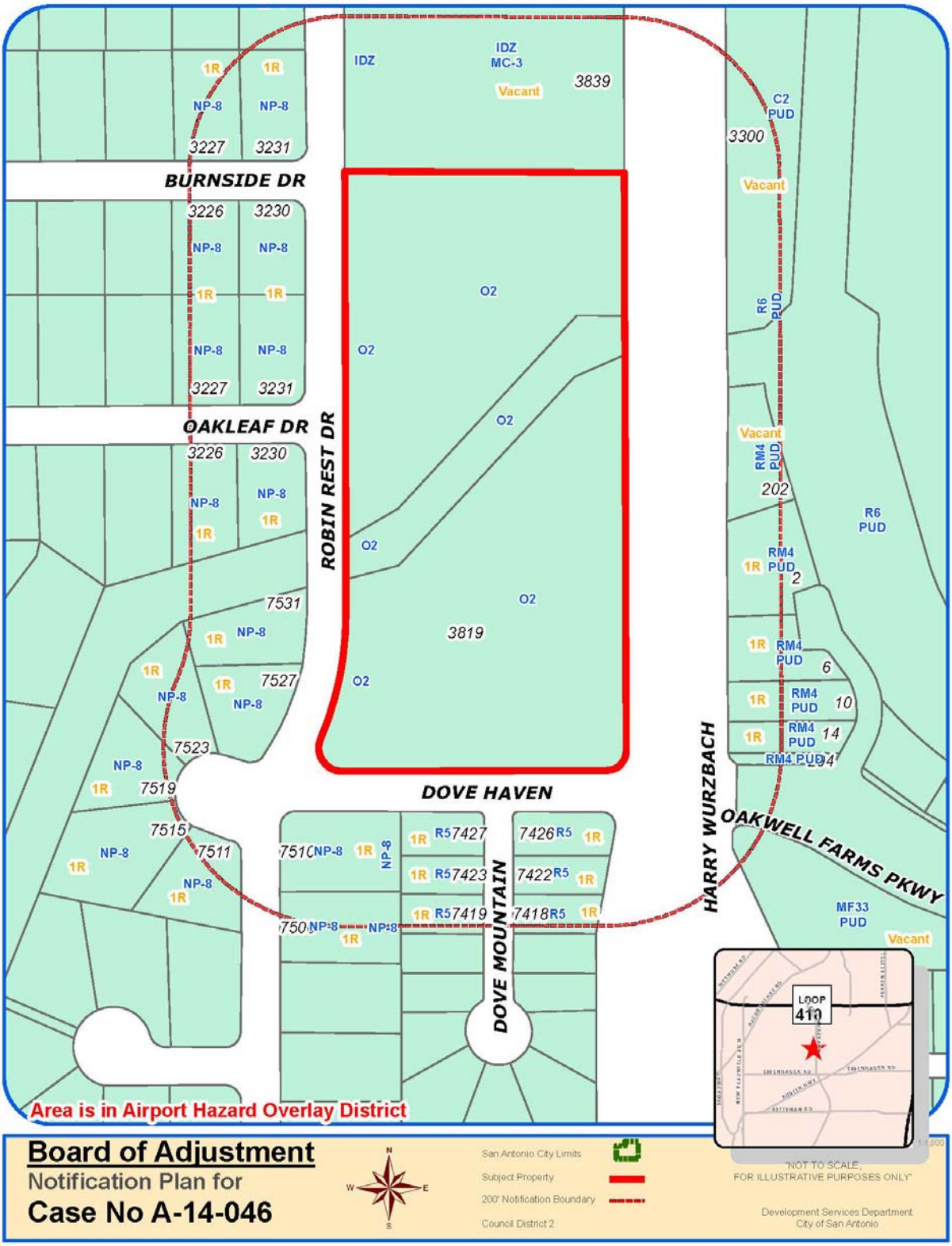
Staff recommends **approval** based on the following findings:

1. The additional height is a preferred option to less landscaping, less overflow parking, and building to the minimum setback;
2. The project has a variety of vested and reserved rights that were used to plan and fund the construction project.

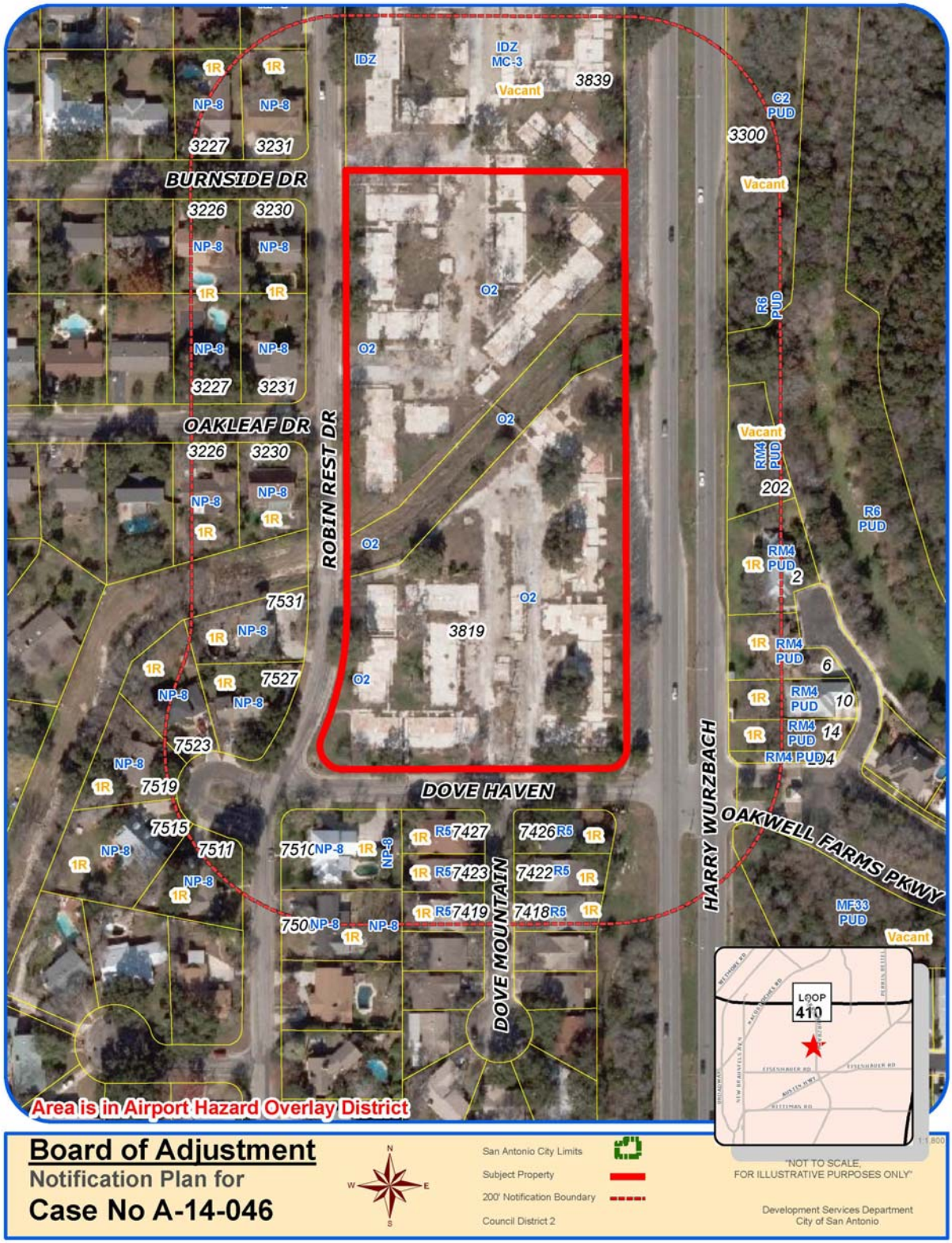
Attachments

Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 – Applicant's Height Cross Section
Attachment 4 – Site Photos

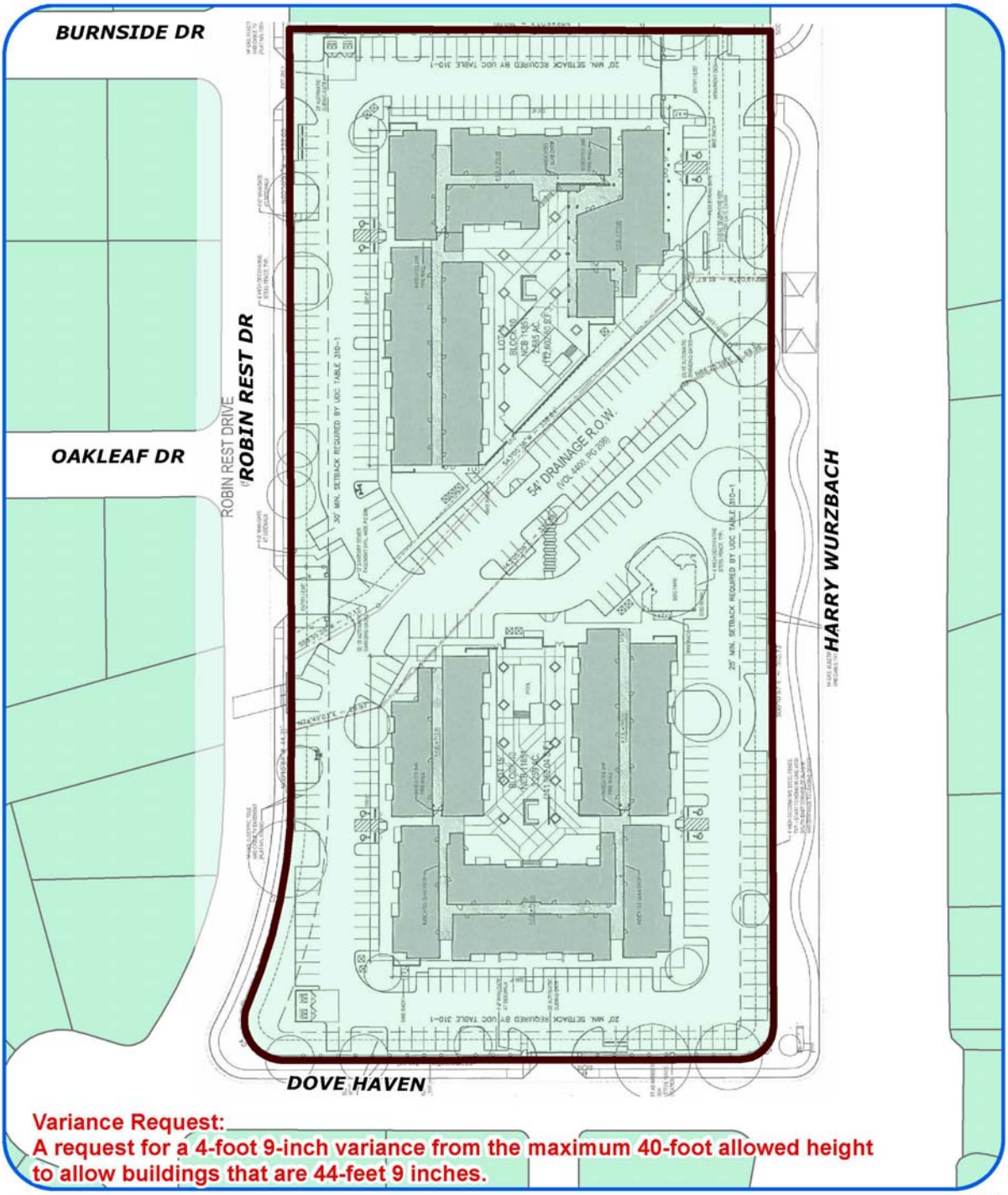
Attachment 1
Notification Plan



Attachment 1
Notification Plan (continued)



Attachment 2
Plot Plan



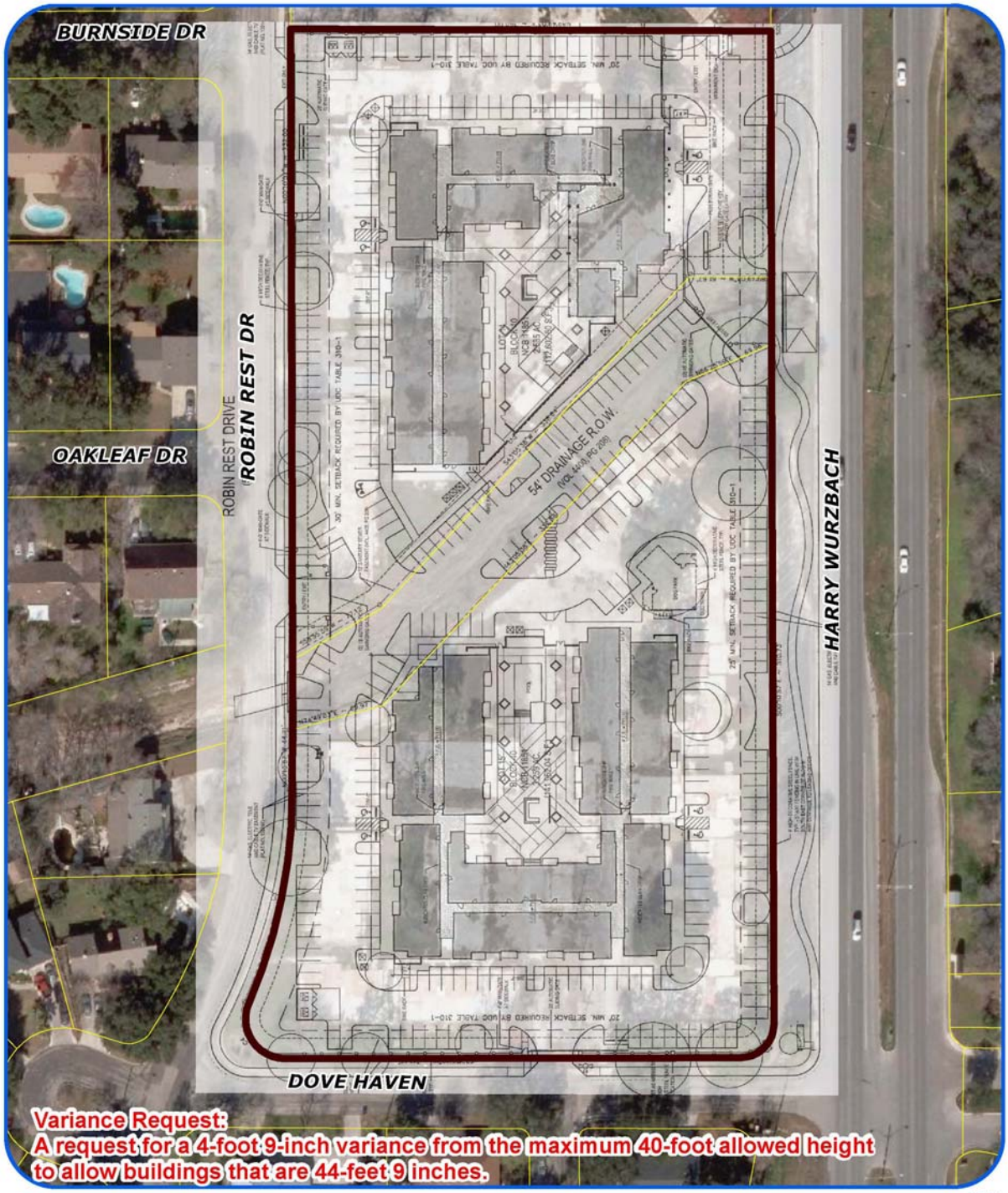
Board of Adjustment
Plot Plan for
Case No A-14-046

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 10

3819 Harry Wurzbach

Development Services Department
City of San Antonio

Attachment 2
Plot Plan (continued)



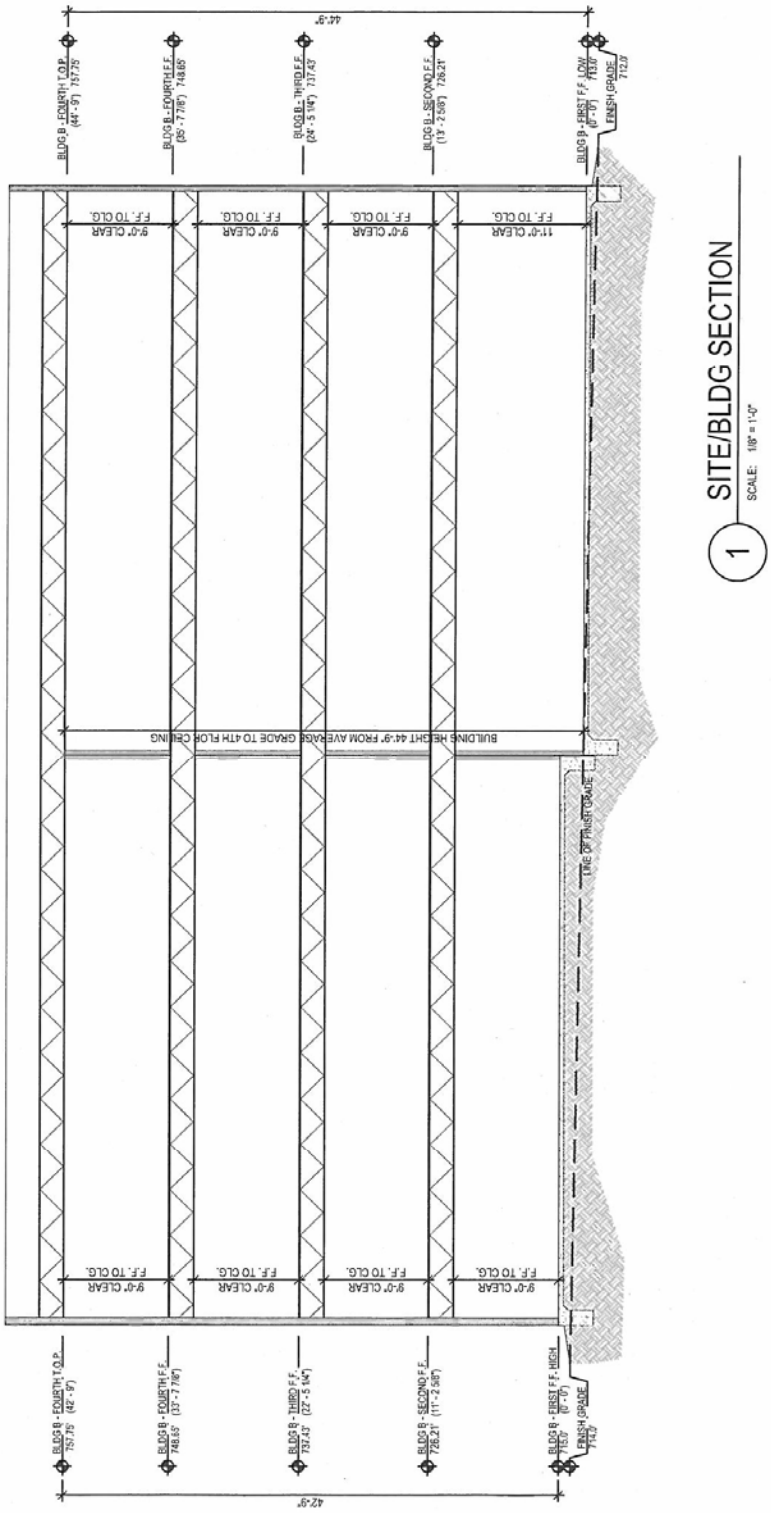
Board of Adjustment
Plot Plan for
Case No A-14-046

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 10

3819 Harry Wurzbach

Development Services Department
City of San Antonio

Attachment 3
Height Cross Section



1 SITE/BLDG SECTION
SCALE: 1/8" = 1'-0"

Attachment 4
Site Photos

Looking south on Robin Rest

Looking east on Dove Haven