

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, August 16, 2010

1:00 P.M.

Cliff Morton Development and Business Services Center, Board Room

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 Planning and 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 compliance with the Texas Open Meetings Act.

1. Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-10-059:** The request of Juan Avila, for **1)** a 3-foot 5-inch variance from the 5-foot side setback requirement of the “R-4” zoning district, to keep a carport 1-foot 7-inches from the west side property line and **2)** a 1-foot 8-inch variance from the requirement that predominantly open front yard fences not exceed 4 feet in height, to keep an existing front yard fence at a height of 5-feet 8-inches, 1935 Duluth Drive.
5. **A-10-060:** The request of Spanish Grove Academy, for a 2-foot variance from the requirement that front yard fences in commercial districts not exceed a height of 4 feet, to allow a 6-foot tall fence in the front yard, 22215 Wilderness Oak.
6. **A-10-061:** The request of Barrett Motor Cars, for a 50-foot variance from the 200-foot spacing requirement for on-premises signs in the “GC-1” overlay district, to allow 150 feet of spacing between on-premises signs, 15423 IH 10 West.
7. **A-10-062:** The request of Alam Sign Solutions, LLC, for a 20-foot variance from the 30-foot maximum height requirement for on-premises signs in the “IH-1” overlay district, to keep an existing on-premises sign at a height of 50 feet and **2)** a 52-foot variance from the 150 square foot maximum sign face area requirement for single tenant on-premises signs in the “IH-1” overlay district, to allow a single tenant on-premises sign with an area of 202 square feet, 11550 IH 35 North.
8. Approval of the minutes - August 2, 2010.
9. Adjournment.

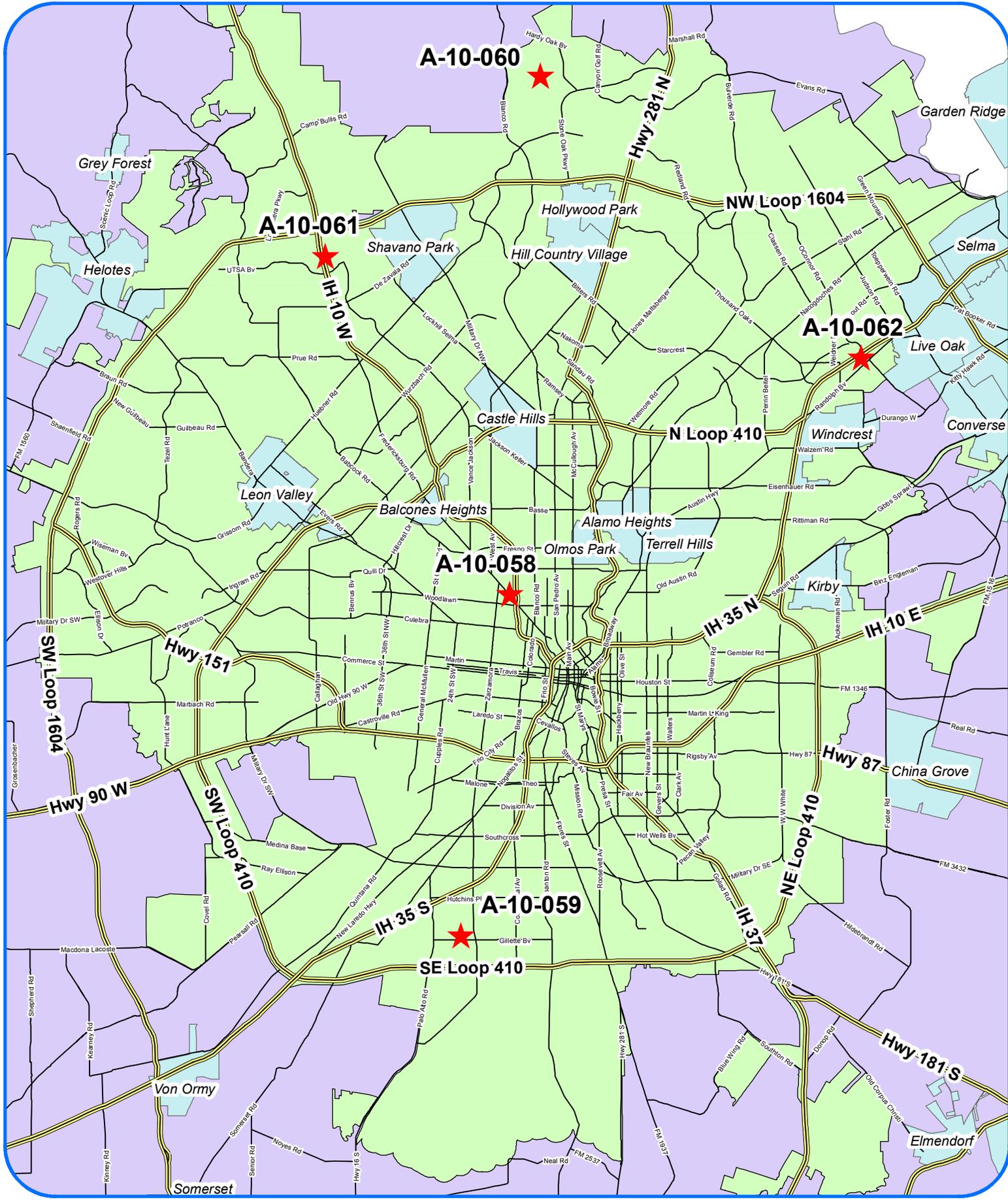
ACCESSIBILITY STATEMENT - This meeting site is accessible to persons with disabilities. Parking is available. Auxiliary Aids and Services are available upon request (Interpreters for the Deaf must be requested forty-eight [48] hours prior to the meeting). For Assistance, Call (210) 207-7245 Voice/TTY.

Board of Adjustment Membership

Michael Gallagher, Chair *Andrew M. Ozuna, Vice Chair*
Geroge L. Britton • Gene Camargo • Helen K. Dutmer • Edward H. Hardemon • Mary Rogers
Liz M. Victor • David M. Villiard • Jesse Zuniga • Vacancy

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Harold O. Atkinson • Maria D. Cruz • Paul E. Klein • Marian M. Moffat • Henry Rodriguez • Steve G. Walkup



Board of Adjustment
Subject Property Locations
Cases for August 16, 2010





Board of Adjustment
Notification Plan for
Case A-10-059



- Legend**
- Subject Property
 - 200' Notification Boundary
 - Scale: 1" approx. = 100'
 - Council District 4



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-10-059
Date: August 16, 2010
Applicant: Juan Avila
Owner: Juan & Amelia Avila
Location: 1935 Duluth Drive
Legal Description: Lot 23, Block 3, NCB 13461
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Subject: Side Setback and Front Yard Fence Height Variances
Prepared By: Jacob Floyd, Planner

Summary

The applicant is requesting 1) a 3-foot 5-inch variance from the 5-foot side setback requirement of the "R-4" zoning district, to keep a carport 1-foot 7-inches inches from the west side property line and 2) a 1-foot 8-inch variance from the requirement that predominantly open front yard fences not exceed 4 feet in height, to keep an existing front yard fence at a height of 5-feet 8-inches.

Procedural Requirements

The request was publicly noticed in accordance with Section 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 July 29. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on July 30. Additionally, notice of this meeting was posted at city hall and on the city's internet website on August 13, in accordance with Section 551.043(a) of the Texas Government Code.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-4 AHOD (Single Family)	Single Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-4 AHOD (Single Family)	Single Family Residences
South	R-4 AHOD (Single Family)	Single Family Residences
East	R-4 AHOD (Single Family)	Single Family Residences
West	R-4 AHOD (Single Family)	Single Family Residences

Project Description

The variances requested are to allow the applicant to keep an existing 18-foot by 23-foot carport 1-foot, 7-inches from the west side lot line, encroaching 3 feet, 5 inches into the required side setback, and an existing open front yard fence 5 feet, 8 inches tall. The applicant states that the location of the carport is necessary because the driveway is located only 2 feet from the lot line and the carport must be located on the available concrete surface. The applicant further states the 5-foot, 8 inch tall fence is intended to protect the property from theft and burglary.

In describing why the variance should be granted, the applicant explains that, in his opinion, there is no “reasonable cause for change” and the public interest is not involved or affected. Additionally, the applicant writes that enforcement of the ordinance would cause financial hardship and “deprive owner from protecting the property”.

Both the carport and fence were constructed without permits being sought. Additionally, there are a number of similarly situated carports in the surrounding area, notably the properties abutting to the east and west. These appear to have been built without permits as well.

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a neighborhood or community plan, nor is it within a neighborhood association.

Criteria for Review

According to Section 482(e) of the Unified Development Code, 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 granting of the variances would be contrary to the public interest, as the setback requirements of the zoning ordinance are intended to promote the public health, safety, and general welfare through the provision of open space, light and air, the separation of

buildings to secure from fire and other dangers, the prevention of the overcrowding of land. The fence height regulations are intended to serve the public interest in maintaining adequate visibility between private property and public rights-of-way and maintaining openness in front yards.

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

The subject property does not possess any special conditions that would result in an unnecessary hardship through the literal enforcement of the ordinance. It is of a size and shape typical of the district and is not characterized by exceptional topography. Additionally, the subject property possesses sufficient front yard area in which a structure may be located in conformance with the setback requirements.

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

The granting of the variances would not be in keeping with the spirit of the ordinance, nor would it do justice to the purpose of setback and fence height standards. Denial of the requested variances will not deny the reasonable use of the property nor will their denial prevent the subject property from being used on the same basis as other properties in the "R-4" zoning district. The location of a carport 19 inches from the property line and the possession of a fence 5 feet, 8 inches tall are not essential to the use of the property as a single-family residence.

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 granting of these variances will not authorize a use other than those specifically authorized 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 granting of the variances will not substantially injure the appropriate use of the adjacent conforming property as the use will remain residential single family. Neither will the granting of the variances alter the essential character of the district as a single family residential 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.

The plight of the property owner is not due to unique circumstances existing on the property. Were building permits sought prior to the construction of the fence and carport, the applicant would have been made aware of the need to maintain the required setback and of the restrictions on fence height in the front yard, enabling him to plan the improvements accordingly.

Staff Recommendation

Staff recommends **denial** of **A-10-059, 1935 Duluth Drive**, because the findings of fact have not been satisfied as presented above. The applicant has not provided sufficient evidence of the existence of special conditions that would create unnecessary hardship in the reasonable use of the property as a single-family residence. The subject property possesses sufficient space on which to locate a carport in conformance with the setback requirements.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 –Submitted Plot Plan Drawing

NCB 13461
Block 3
Lot 23

Shed

5' side setback

Existing
Residence

23'

18'

Variance #2
3'-7" encroachment into
side setback

20'

Front Fence
68" Tall



Duluth Dr.

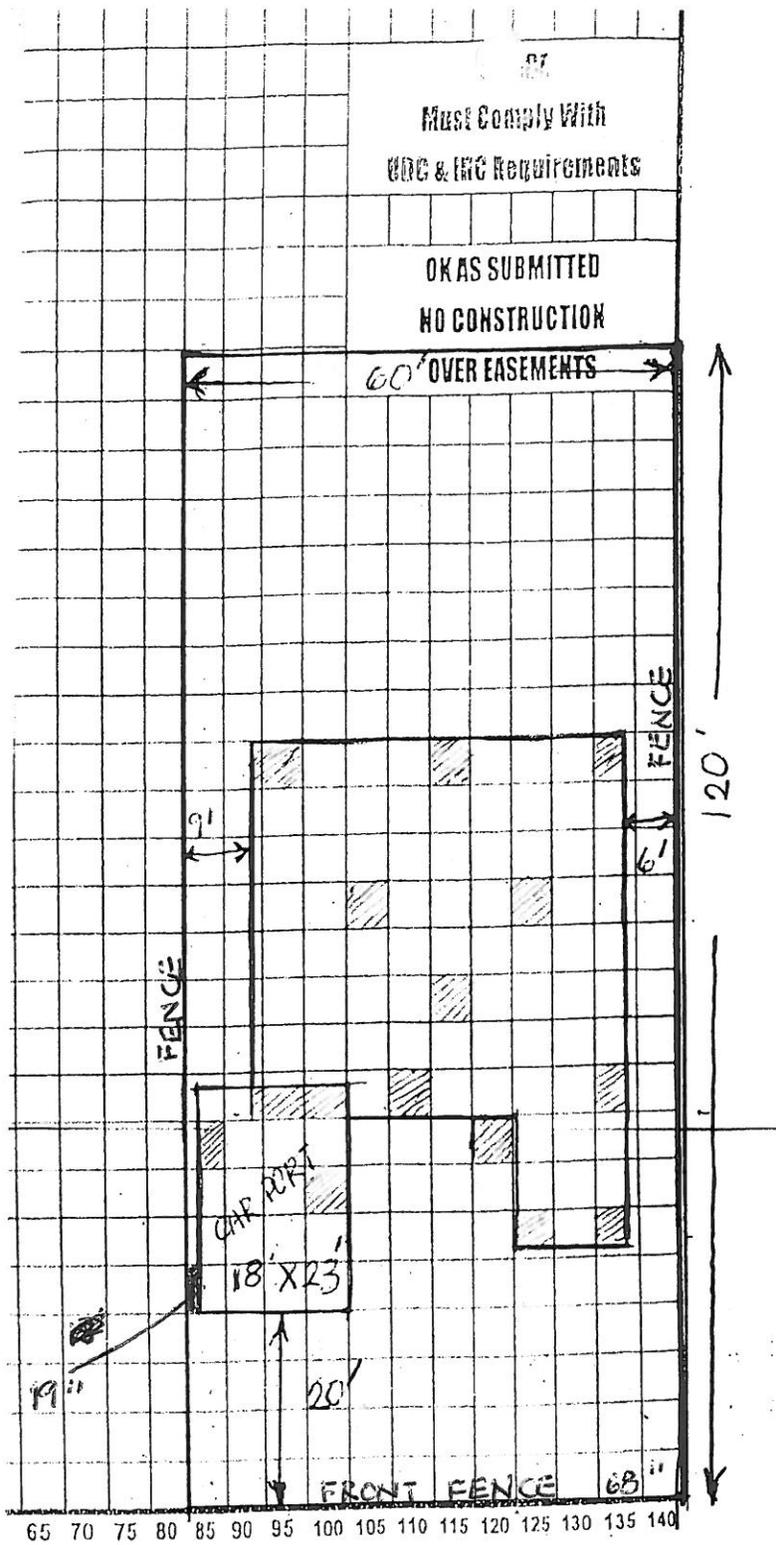
Board of Adjustment
Plot Plan for
Case A-10-059



Scale: 1" approx. = 20'
Council District 4

1935 Duluth Dr.

Planning and Development Services Dept
City of San Antonio
(7/18/2010)



FRONT

shows all improvements on this property

1935 DULUTH DR LOT 23 BLOCK 3 NCB 13461



Impound Area for Regional Stormwater Detention Dam

Day Care/School

Open Space Drainage Esmt

Location Map



Board of Adjustment
Notification Plan for
Case A-10-060



Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 150'
- Council District 9



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-10-060
Date: August 16, 2010
Applicant: Spanish Grove Academy
Owner: Montacar Education & Advisors, LLC
Location: 22215 Wilderness Oak
Legal Description: Lot 2, Block 2, NCB 19216
Zoning: "C-1 ERZD MLOD-1" Light Commercial Edwards Aquifer Recharge Zone Military Lighting Overlay District
Subject: Front Yard Fence Height Variances
Prepared By: Jacob Floyd, Planner

Summary

The applicant requests a 2-foot variance from the requirement that front yard fences in commercial districts not exceed a height of 4 feet, to allow a 6-foot tall fence in the front yard.

Procedural Requirements

The request was publicly noticed in accordance with Section 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 July 29. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on July 30. Additionally, notice of this meeting was posted at city hall and on the city's internet website on August 13, in accordance with Section 551.043(a) of the Texas Government Code.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-1ERZD MLOD-1 (Commercial)	Day Care Center

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	PUD R-6 ERZD MLOD-1 (Single Family)	Single Family Residences
South	PUD R-6 ERZD MLOD-1 (Single Family)	Single Family Residences
East	PUD R-6 ERZD MLOD-1 (Single Family)	Single Family Residences
West	R-6 ERZD MLOD-1 (Single Family)	Open Space, Vacant

Project Description

The variance is requested to keep the existing 6-foot tall iron fence in the front yard, along the right-of-way of Wilderness Oak. The application states that the fence was installed in response to several incidents of trespassing and vandalism, resulting in the damage and destruction of building components (windows, exterior lights, internal wiring) and landscaping. No permits were sought prior to the installation of the fence.

The applicant describes the granting of the variance as serving the public interest by discouraging vandalism not only of the subject property, but of the area as a whole. Additionally, the applicant identifies the cost of vandalism, in terms of repairs and insurance cost, as unnecessary hardship derived from the literal enforcement of the fence height standards.

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a neighborhood or community plan, nor is it within a neighborhood association.

Criteria for Review

According to Section 482(e) of the Unified Development Code, 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 granting of the variance would not be contrary to the public interest, as the increased security and greater control of property access will deter the vandalism of the property and discourage crime in the area.

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

The literal enforcement of the fence height standards results in unnecessary hardship due to the proximity of subject property to open space and storm water drainage facilities which cannot be secured. The inability to control access to these areas exposes the subject property to vandalism and other criminal mischief.

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

The granting of the variance would be in keeping with the spirit of the ordinance to allow private property to be secured in a reasonable manner and would do substantial justice in allowing the day care to protect its assets and students.

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 granting of the variance will not authorize a use other than those specifically authorized in the "C-1 ERZD MLOD-1" 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 granting of the variance will not substantially injure the appropriate use of the adjacent conforming property as the subject property is surrounded by established residential uses and zoning. Neither will the granting of the variance alter the essential character of the district as the residential subdivisions in the area possess perimeter fences 6 feet in height and make up the frontage of Wilderness Oak.

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 plight of the property owner is due to unique circumstances existing on the property that are not a result of the general conditions of the area, but rather are due to the inability to restrict access to the subject property caused by the adjacent open space.

Staff Recommendation

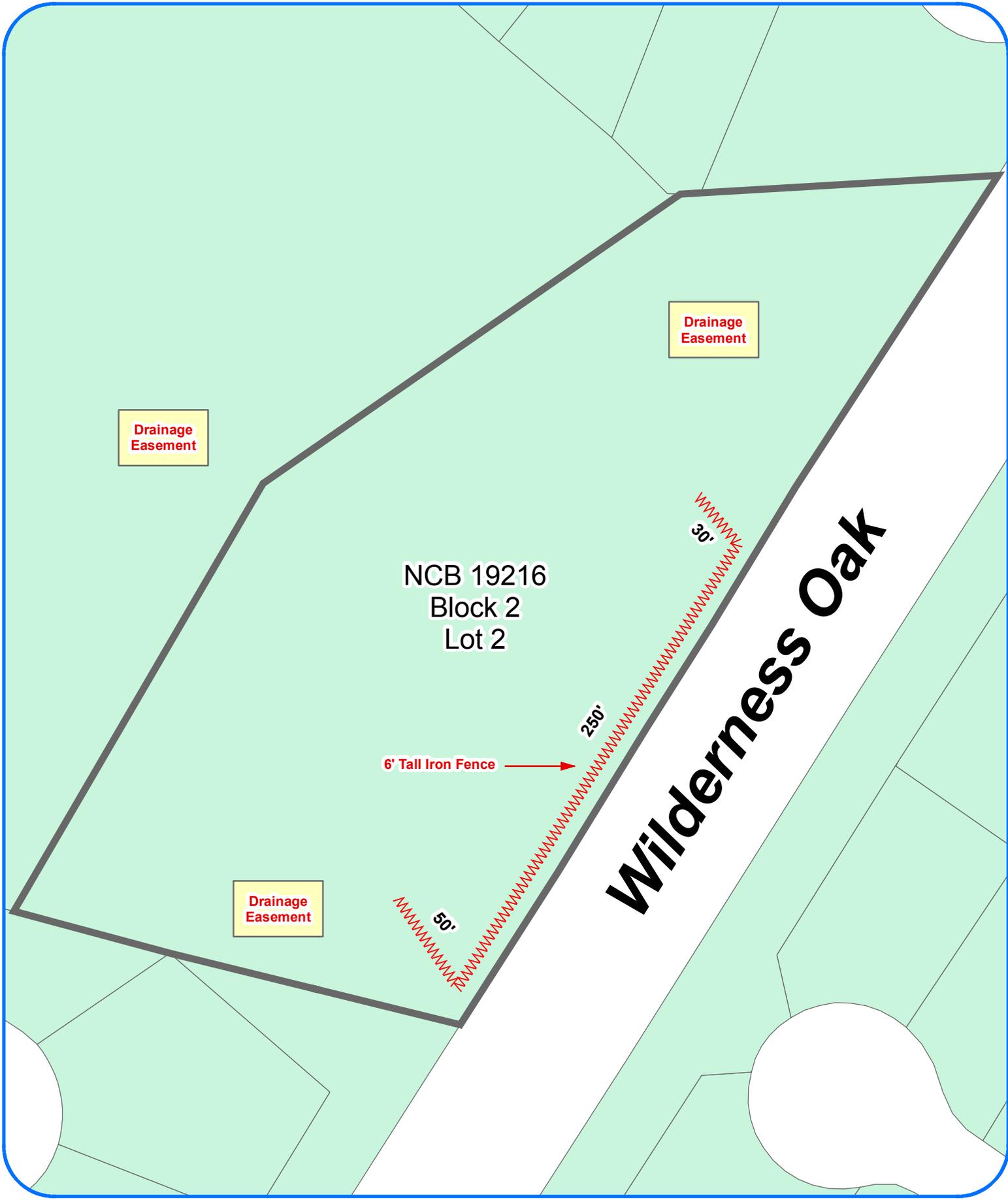
Staff recommends **approval** of **A-10-060, 22215 Wilderness Oak**, because the findings of fact have been satisfied as presented above. The existing fence provides the day care with the security necessary to prevent further vandalism, as evidenced by the cessation of vandalism since its installation. The existing fence is also in keeping with the intent of the fence height standards to allow property to be secured in a manner appropriate for the use occupying the property. As the use of the subject property as a day care center is materially similar to a school, which is permitted to have front-yard fences of 6 feet, fencing of the scale permitted for schools would be appropriate in this instance.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 –Submitted Site Plan



Board of Adjustment
 Plot Plan for
Case A-10-060



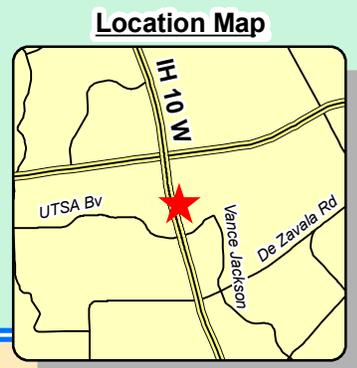
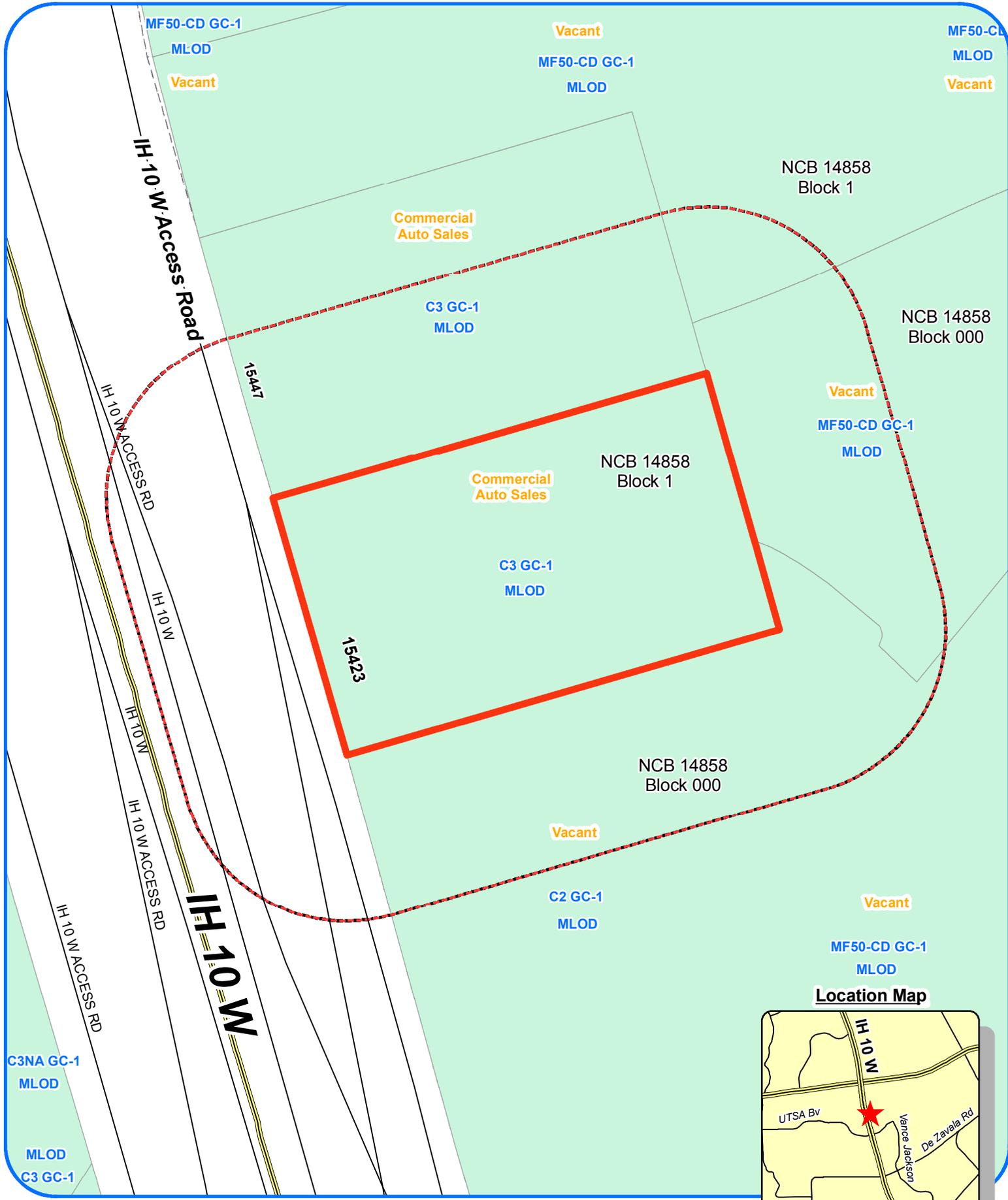
~~~~~ Fence location

**22215 Wilderness Oak**

Scale: 1" approx. = 60'  
 Council District 9

Planning and Development Services Dept  
 City of San Antonio  
 (7/18/2010)





**Board of Adjustment**  
**Notification Plan for**  
**Case A-10-061**



- Legend**
- Subject Property
  - 200' Notification Boundary
  - Scale: 1" approx. = 150'
  - Council District 8



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# City of San Antonio

## Planning & Development Services Department

### Staff Report

To: Board of Adjustment  
Case No.: A-10-061  
Date: August 16, 2010  
Applicant: Barrett Motor Cars  
Owner: NP Real Estate Holdings, LTD  
Location: 15423 IH 10 West  
Legal Description: Lot 4, Block 1, NCB 14858 (North Point West Subdivision)  
Zoning: "C-3 GC-1 MLOD-1" General Commercial Hill Country Gateway  
Corridor Military Lighting Overlay District  
Subject: Sign Spacing Variance  
Prepared By: Jacob Floyd, Planner

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#### **Summary**

A 50-foot variance from the 200-foot spacing requirement for on-premises signs in the "GC-1" overlay district, to allow 150 feet of spacing between on-premises signs.

#### **Procedural Requirements**

The request was publicly noticed in accordance with Section 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 July 29. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on July 30. Additionally, notice of this meeting was posted at city hall and on the city's internet website on August 13, in accordance with Section 551.043(a) of the Texas Government Code.

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

| Existing Zoning                       | Existing Use     |
|---------------------------------------|------------------|
| C-3 GC-1 MLOD-1 (Commercial District) | Automobile Sales |

## Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s)                                                     | Existing Use             |
|-------------|---------------------------------------------------------------------------------|--------------------------|
| North       | C-3 GC-1 MLOD-1 (Commercial District), MF-50 GC-1 MLOD-1 (Multifamily District) | Automobile Sales, Vacant |
| South       | C-2 GC-1 MLOD-1 (Commercial District)                                           | Vacant                   |
| East        | MF-50 GC-1 MLOD-1 (Multifamily District)                                        | Vacant                   |
| West        | C-3NA GC-1 MLOD-1, C-2 GC-1 MLOD-1 (Commercial Districts)                       | Commercial, Vacant       |

## Project Description

The applicant proposes to install a new multiple tenant sign, 40 feet tall with an area of 213 square feet, 150 feet from an existing freestanding sign. The subject property possesses 325 feet of frontage along IH 10.

The applicant indicates that the variance is necessary due to the obscured visibility of the property to north-bound drivers caused by the elevated entrance ramp of IH 10. Additionally, the applicant states that denial of the variance will deny Barrett Motor Cars the opportunity to provide adequate advertisements for the 4 car dealerships, resulting in "immeasurable" financial impact.

## Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a Neighborhood or Community Plan. The subject property is not located within the boundaries of a neighborhood association.

## 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**

*It does not appear that the strict enforcement of the sign regulations prohibits the reasonable provision of adequate signs on the site. The subject property is not characterized by unique or exceptional features, but rather is typical of the area in terms of topography. Additionally, the subject property possesses adequate frontage length to install the proposed sign in an alternative location that would meet the 200 foot spacing requirement.*

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

*A denial of the variances would not cause a cessation of the longstanding use of the subject property as a car dealership.*

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 granting of the variance would provide the applicant with a privilege not enjoyed by other properties similarly situated within the "GC-1" Hill Country Gateway Corridor, as the variance would allow two signs to be located nearer than is permitted in this corridor district. The instance of signage cited by the applicant as not meeting the 200 foot separation requirement is not located within the "GC-1" corridor.*

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

*It does not appear that the granting of the variance will have a substantially adverse impact on neighboring properties, as the proposed sign not affect the ability to install on-premises signage on these lots.*

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

*The granting of the variance will substantially conflict with the stated purposes of this article, as there is sufficient frontage length on which to locate the proposed sign without the need for a variance.*

### **Staff Recommendation**

Staff recommends **denial of A-10-061, 15243 IH 10 West**, because the findings of fact have not been satisfied as presented above. The subject property possesses sufficient frontage as to locate the proposed freestanding multiple tenant sign in a location meeting the requirement for 200 feet of separation between two on-premises freestanding signs. The applicant has not provided sufficient evidence of the existence of the conditions necessary for granting a variance.

### **Attachments**

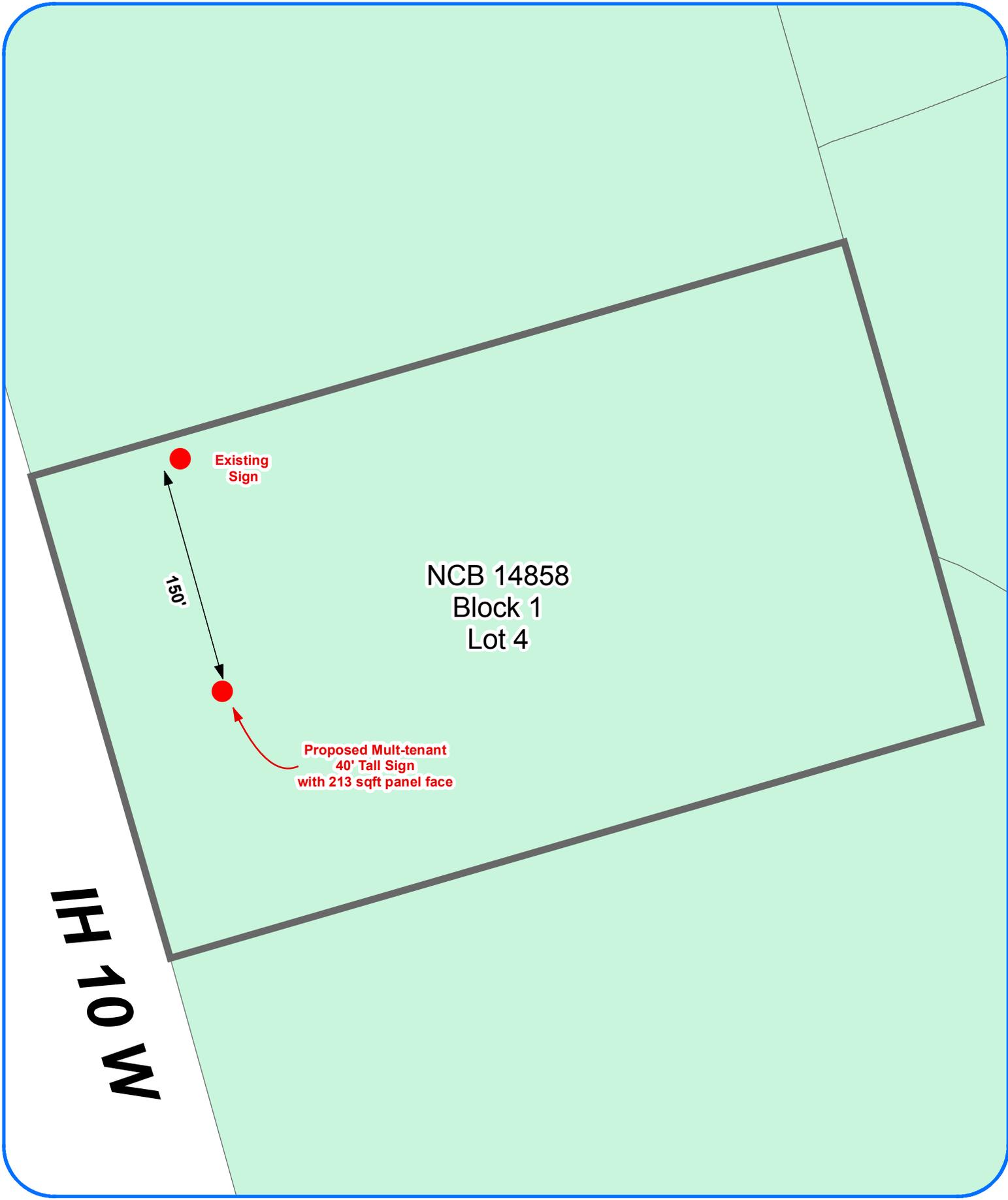
Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Drawings

Attachment 4 – Submitted Survey

Attachment 5 – North Point West Subdivision Plat



**Board of Adjustment**  
Plot Plan for  
**Case A-10-061**



● Sign location

Scale: 1" approx. = 80'  
Council District 8

**15423 IH 10 W**

Planning and Development Services Dept  
City of San Antonio  
(7/18/2010)

213 SQ. FEET

20'-0" (MAIN ID)

16'-0" (DECOR)

NOTE: PRELIMINARY DRAWING  
AN ACCURATE FIELD SURVEY IS  
REQUIRED PRIOR TO PRODUCTION

**SOUTHWESTSIGNS**  
www.southwestsigns.com  
(210) 648-3221 / 800-927-3221

**PRESENTATION DRAWING**

Client:

Barrett Motorcars

Client's Location:

15423 West IH-10

San Antonio, TX 78249

Sales Rep: Ann B.

Project Manager: Brenda B.

PM Approval:

Date: 3.29.10

Drawn By: Reese S.

Revision:  
R1/narrow down options, N, as per AG 3.31.10-RS  
R2/ADD POLE CWR OPTION 3.31.10-RS  
R3/RY FONT fr. business card/copy/letter (copy) 4.22.10-RS  
R4/DEL OPTION 1 & 23.10-RS  
Revised printing 5.28.10-RS

Scale: 1/8" = 1'-0"

Work Order # 23940-001 of 2

Sign Description:

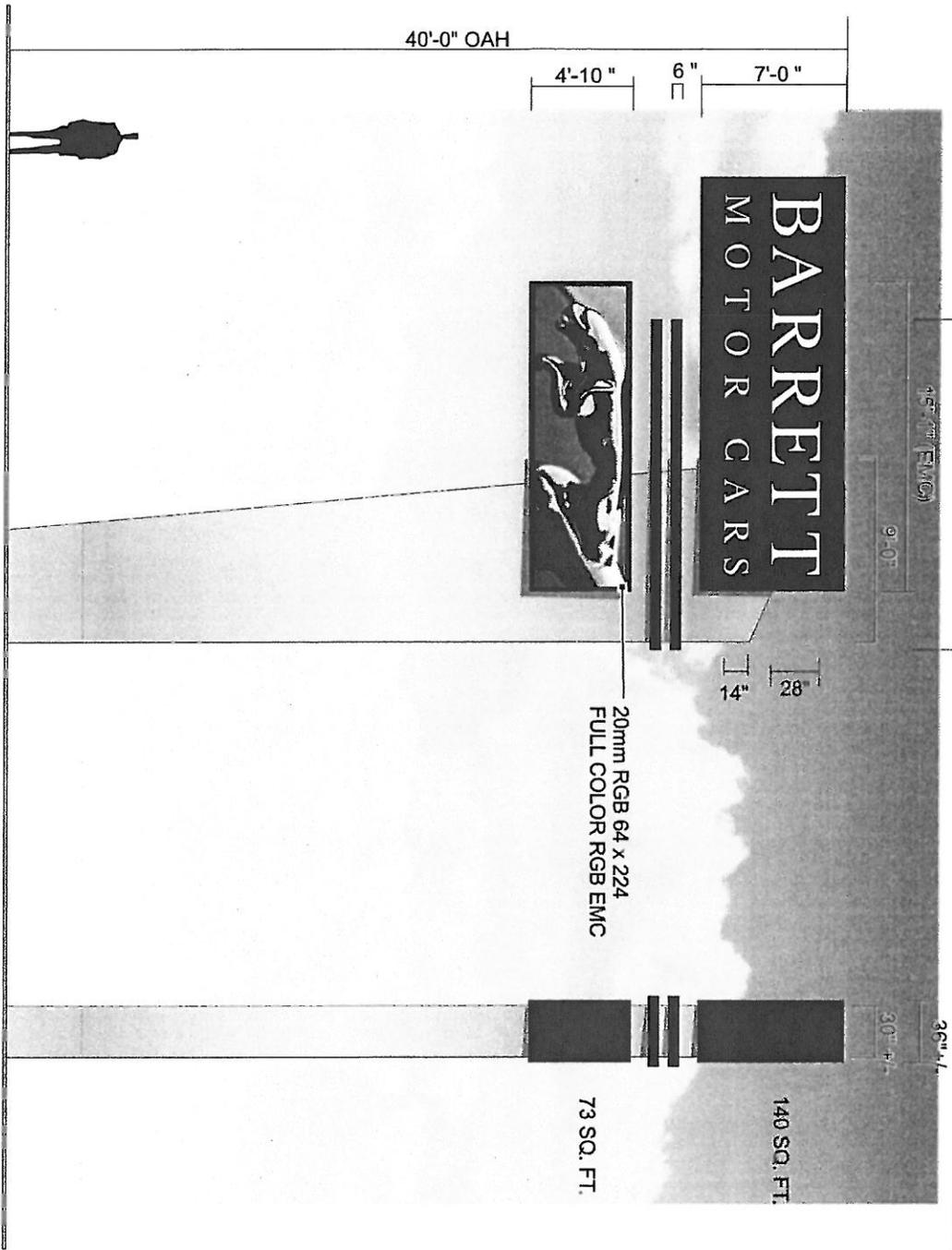
Mfg. and Install (1) ONE D/F  
Main ID pylon, Int. Illum. ROST  
(rout out show thru) w/ full color  
D/F EMC cabinet, Painted Alum.  
pole cover & alum. decor.

Underwriters  
Laboratories Inc. 

Primary wires provided by customer.  
Sign voltage based upon 120v.

THIS IS AN ORIGINAL UN-PUBLISHED  
DRAWING CREATED BY SWS SIGNS. IT  
IS SUBMITTED FOR YOUR PERSONAL  
USE IN CONJUNCTION WITH A PROJECT  
BEING PLANNED FOR YOU BY SWS SIGNS.  
IT IS NOT TO BE SHOWN TO ANYONE  
OUTSIDE YOUR ORGANIZATION NOR IT IS  
TO BE USED, REPRODUCED, COPIED OR  
EXHIBITED IN ANY FASHION.

Customer Approval:



COLORS SPECS  
SM -171S "BRUSHED ALUM"  
SM-123S "BLACK"  
WHITE ACRYLIC

FRONT ELEVATION

5'-6"

SIDE ELEV.



