City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, August 19, 2013

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-13-064:** The request of Jeff Davis for 1) a 90-foot setback variance from the 100-foot setback requirement from Heritage Street in order to allow a multiple-tenant expressway sign 10 feet from the right-of-way; and 2) an 86-foot setback variance from the 100-foot setback requirement from Desert Sands Drive in order to allow a multiple-tenant expressway sign 14 feet from the right-of-way, located at 10500 Heritage Street. (Council District 9)

5. **A-13-066:** The request of David Adelman for a 4-foot variance from the minimum 10-foot recess required for stories above the 4th to allow a 6-foot setback on the 5th story of a new building, located at 418 McCullough Avenue. (Council District 1)

6. **A-13-067:** The request of Ali Mazaheri for 1) a 5-foot variance from the 5-foot required setback to allow an accessory structure on the west side property line; 2) a 5-foot variance from the 5-foot required setback to allow an accessory structure on the east side property line; and 3) a 423.79 square-foot variance from the 1,488.21 square foot allowable side and rear yard lot coverage to allow accessory structures totaling 1,912 square feet in area, located at 314 Lovera Boulevard. (Council District 1)

7. **A-13-068:** The request of Robert & Diana Ortega for 1) a 24-foot variance from the minimum 30-foot side yard setback to allow 2 structures 6-feet from the west property line; 2) a 10-foot variance from the minimum 30-foot side yard setback to allow a structure 20-feet from the east side property line; 3) a 16-foot variance from the minimum 30-foot front yard setback to allow a structure 14-feet from the front property line, located at 2326 Crosby Street. (Council District 2)

8. Approval of the minutes – August 5, 2013

9. Discuss expired appointments and application process through the City Clerk's Office

10. Adjournment

Board of Adjustment Membership

Michael Gallagher, Distict 10, Chair *Andrew Ozuna, District 8, Vice Chair*

Frank Quijano, District 1 ● Edward Hardemon, District 2 ● Helen Dutmer, District 3 ● George Britton, District 4

Brian Smith, District 5 ● Jesse Zuniga, District 6 ● Mary Rogers, District 7 ● John Kuderer, District 9 ● Gene Camargo, Mayor

Alternate Members

Harold O. Atkinson ● Maria D. Cruz ● Paul E. Klein ● Henry Rodriguez ● Steve G. Walkup

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) 207-7245 or 711 (Texas Relay Service for the Deaf).

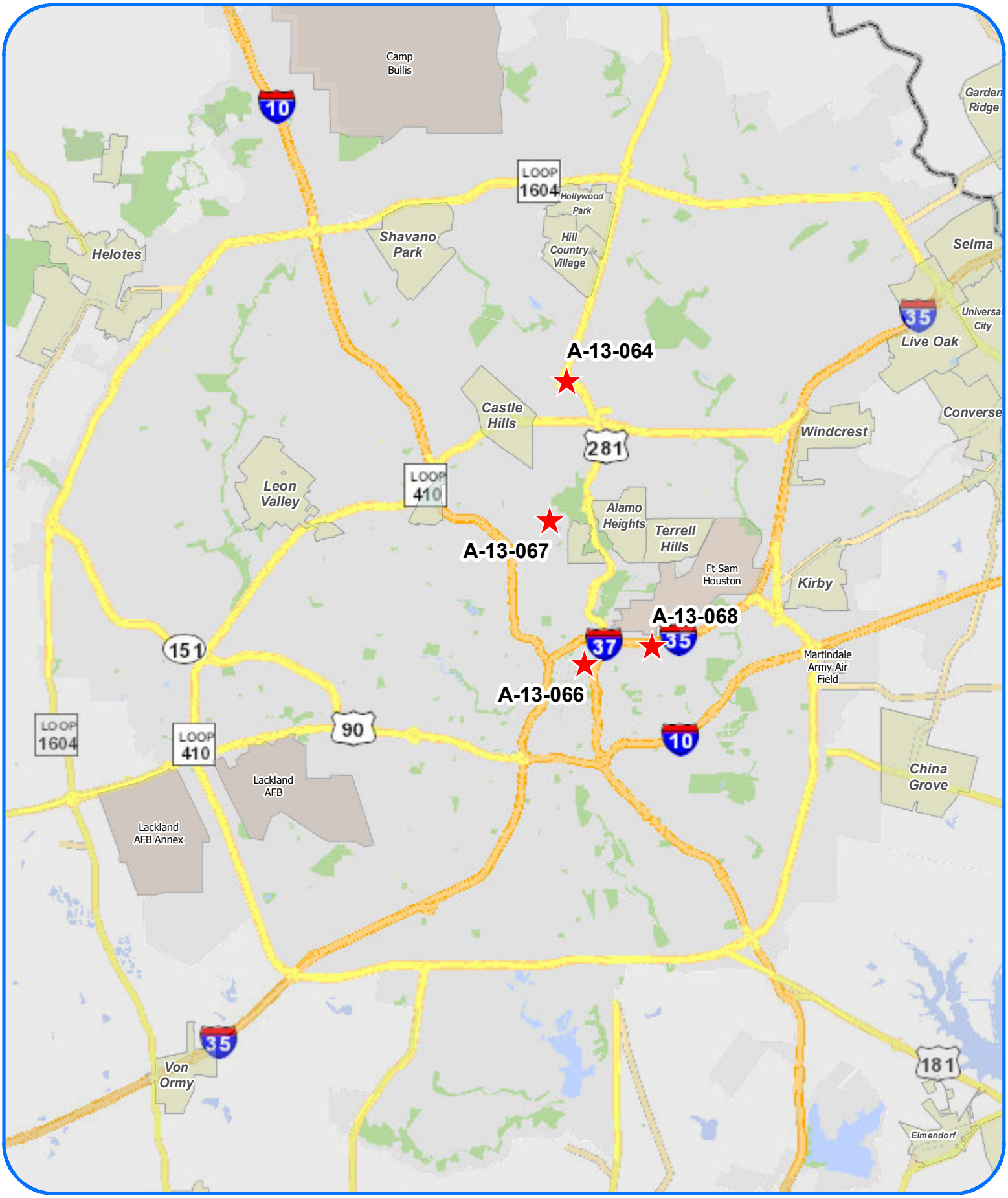
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al lareunión. Para asistencia llamar a (210) 207-7245 o al 711 (servicio de transmitir para sordos).

Board of Adjustment Membership

Michael Gallagher, Distict 10, Chair Andrew Ozuna, District 8, Vice Chair
Frank Quijano, District 1 ● Edward Hardemon, District 2 ● Helen Dutmer, District 3 ● George Britton, District 4
Brian Smith, District 5 ● Jesse Zuniga, District 6 ● Mary Rogers, District 7 ● John Kuderer, District 9 ● Gene Camargo, Mayor

Alternate Members

Harold O. Atkinson ● Maria D. Cruz ● Paul E. Klein ● Henry Rodriguez ● Steve G. Walkup



Board of Adjustment

Subject Property Locations
Cases for 19th August 2013

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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-13-064
Date:	August 19, 2013
Applicant:	Jeff Davis
Owner:	Northpoint Atrium Ltd.
Location:	10500 Heritage Street
Legal Description:	Lot 3, Block 4, NCB 16377
Zoning:	"C-3 AHOD" General Commercial Airport Hazard Overlay District
Prepared By:	Tony Felts, Planner

Request

A request for a variance from Section 28-239(e) of the Sign Code for 1) a 90-foot setback variance from the 100-foot setback requirement from Heritage Street in order to allow a multiple-tenant expressway sign 10 feet from the right-of-way; and 2) an 86-foot setback variance from the 100-foot setback requirement from Desert Sands Drive in order to allow a multiple-tenant expressway sign 14 feet from the right-of-way.

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 August 1, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 2, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before August 16, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the western corner of Heritage Street and Desert Sands Drive, both local streets. Additionally, the site is located within 500 feet of U.S. Highway 281, an expressway. The site is separated from the expressway by Heritage Street, and staff observation indicates that Heritage Street is visually indistinct from service roads that are normally

associated with expressways. The property is currently developed as a multi-tenant professional office building.

Section 28-239(e) of the sign code allows properties situated within 500 feet of an expressway, without frontage on the expressway, to have signs on the property that meet expressway size and height standards, so long as the signs meet a required setback of 100 feet from the street right-of-way and 200 feet from a residential zone.

The applicant is proposing to erect a multi-tenant expressway-grade sign in the eastern corner of the property near where Heritage Street and Desert Sands Drive meet. The proposed location of the sign is 10 feet from the Heritage Street right-of-way and 14 feet from the Desert Sands right-of-way.

US Highway 281 in this location is significantly lower in this location than the subject property, and locations on the subject property that would accommodate the proposed sign by right are obscured by elevation differences and mature trees.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-3 AHOD (General Commercial)	Professional Office Building

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	Right-of-way	U.S. Highway 281 and San Pedro Avenue Interchange
South	C-3 AHOD (General Commercial)	Professional Office Building
East	C-2 AHOD (Commercial)	Post Office
West	C-3 AHOD (General Commercial)	Professional Office Building

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the San Antonio International Airport Vicinity Land Use Plan (designated as Business Park), and within the North Sector Plan (designated as Specialized Center). The subject property is not located within the boundaries of a registered 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***

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

   The location and orientation of the property is unique in that it is located within 500 feet of US Highway 281, an expressway, but does not have any direct frontage on the highway or an accompanying service road. Rather, the property has frontage on Heritage Street, which is essentially indistinguishable from a service road. Additionally, there are topographical differences between the site and the expressway.

   Due to the site's layout, and the fact that it abuts rights-of-way on three sides, the only area of the site that could meet code is situated in the rear parking lot, approximately 300 feet away from the actual travel lanes of US Highway 281, behind mature trees. Additionally, the rear parking lot slopes down from the crest of Heritage Street, which would have the affect of reducing the visual height of the sign.

   Because of the unique situational, landscaping, and topographical issues, the variance is necessary for the sign to be seen by the intended viewers.

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 that is within 500 feet of an expressway is allowed an expressway-grade sign.

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

      The area surrounding the site is characterized by the U.S. Highway 281 expressway and its corresponding interchange with San Pedro Avenue to the north. The area is primarily commercial, and expressway-grade signs are common in 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.

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

The alternative to the applicant's request is to place the requested sign in the rear of the property which may be inadequate for visibility along U.S. Highway 281.

Staff Recommendation

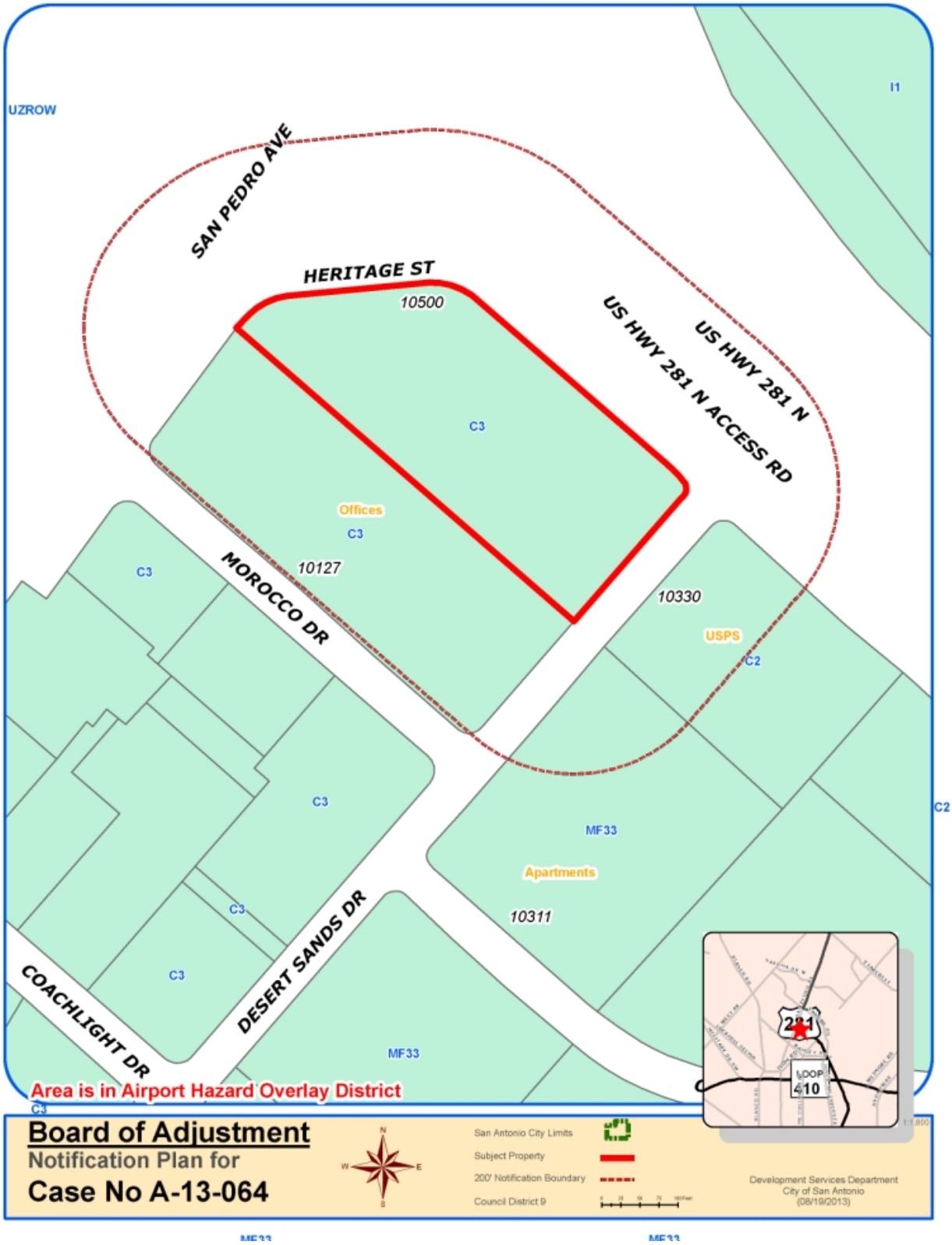
Staff recommends **approval of the requested variances,** due to the following reasons:

1. The setbacks required by Section 28-239(e) will severely limit the visibility of the proposed sign.

Attachments

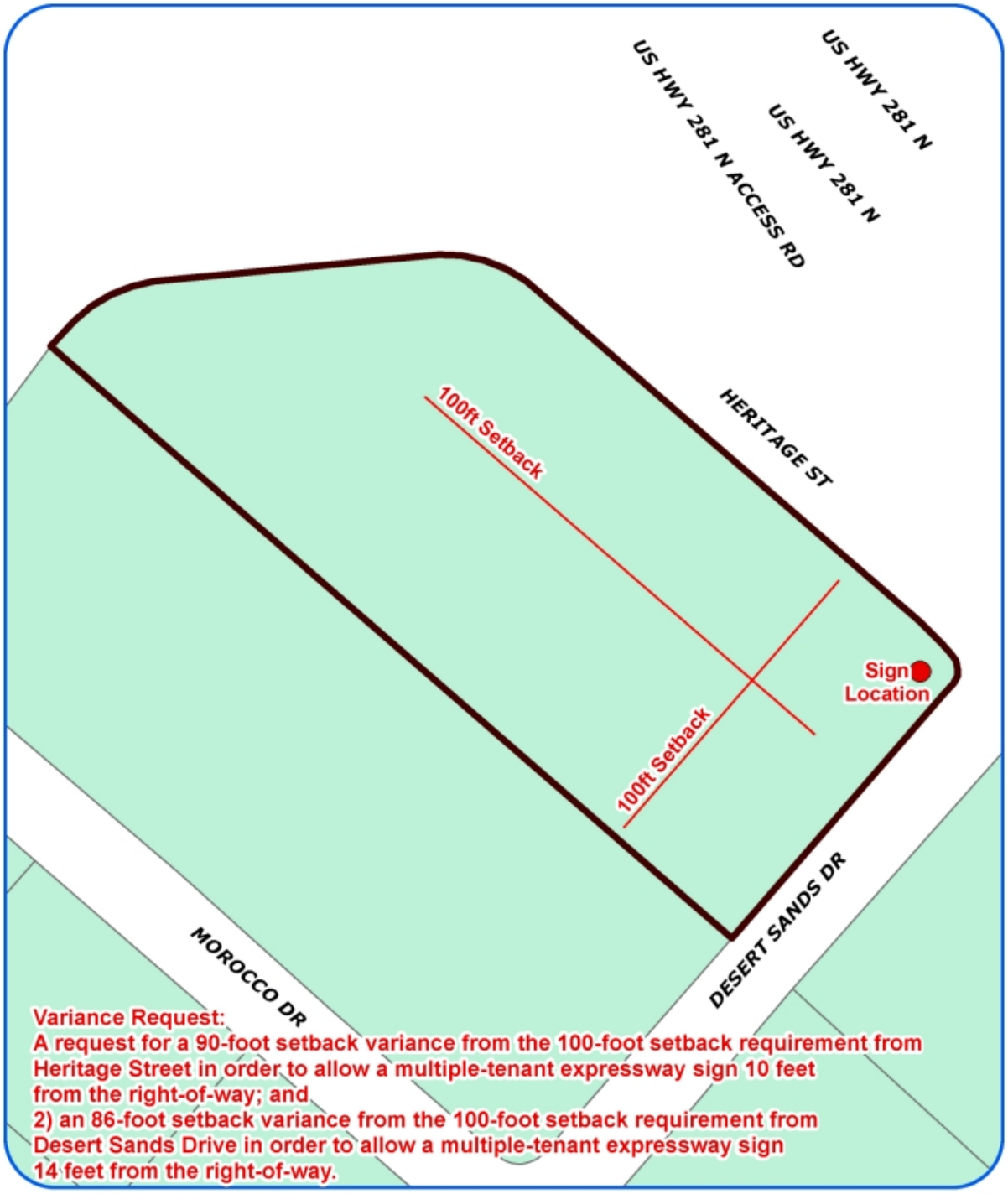
Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 – Expressway Sign Setbacks on the Property
Attachment 4 – Site photos
Attachment 5 – Proposed Sign
Attachment 6 – Applicant's Site Plan

Attachment 1
Notification Plan



Attachment 1 (Continued)
Notification Plan

Attachment 2
Plot Plan



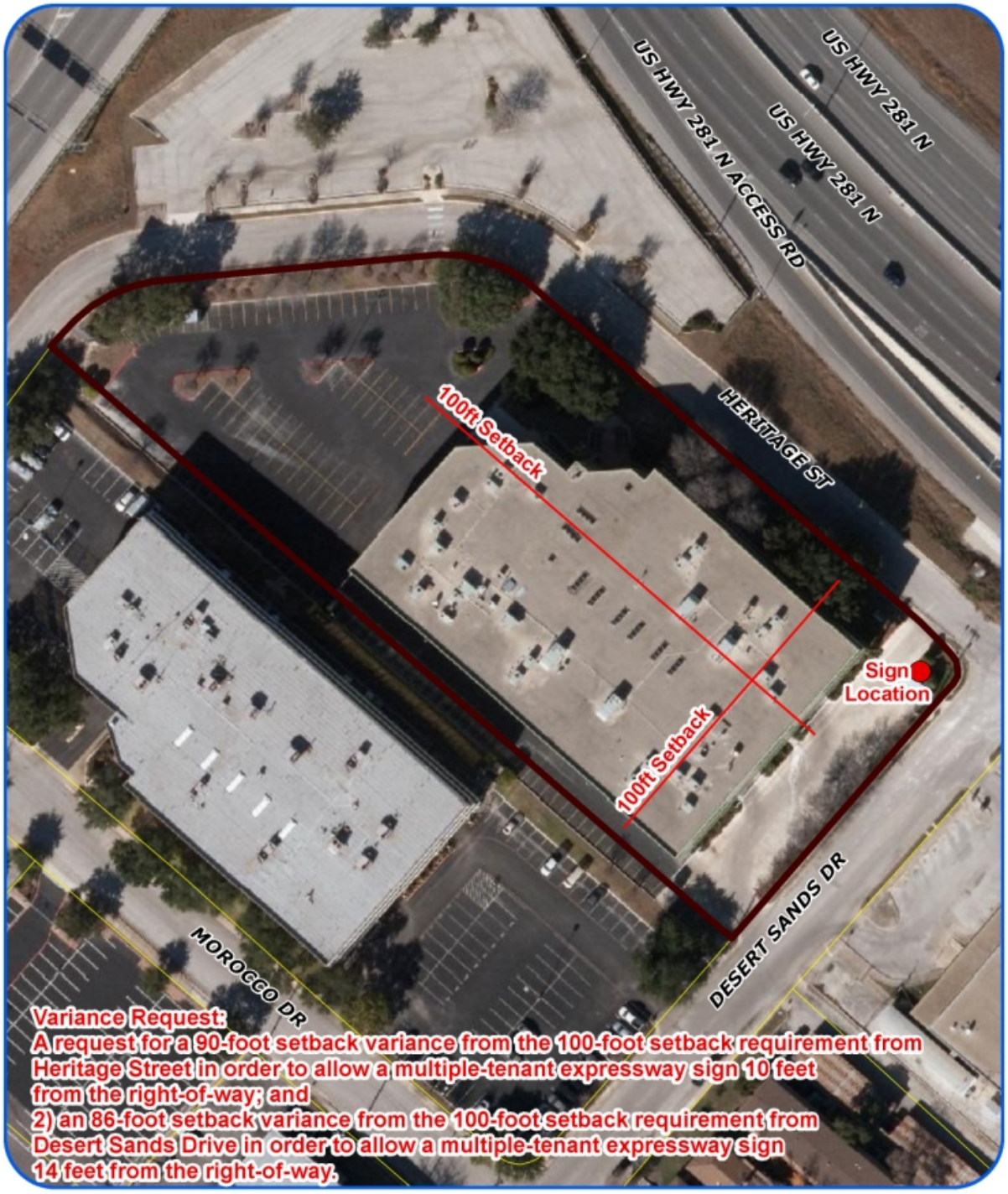
Board of Adjustment
Plot Plan for
Case No A-13-064

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 9

10500 Heritage Street

Development Services Department
City of San Antonio
(08/19/2013)

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-064

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 9

10500 Heritage Street

Development Services Department
City of San Antonio
(08/19/2013)

Attachment 3
Expressway Sign Setbacks on the Property

Board of Adjustment
Additional Exhibit for
Case No A-13-064

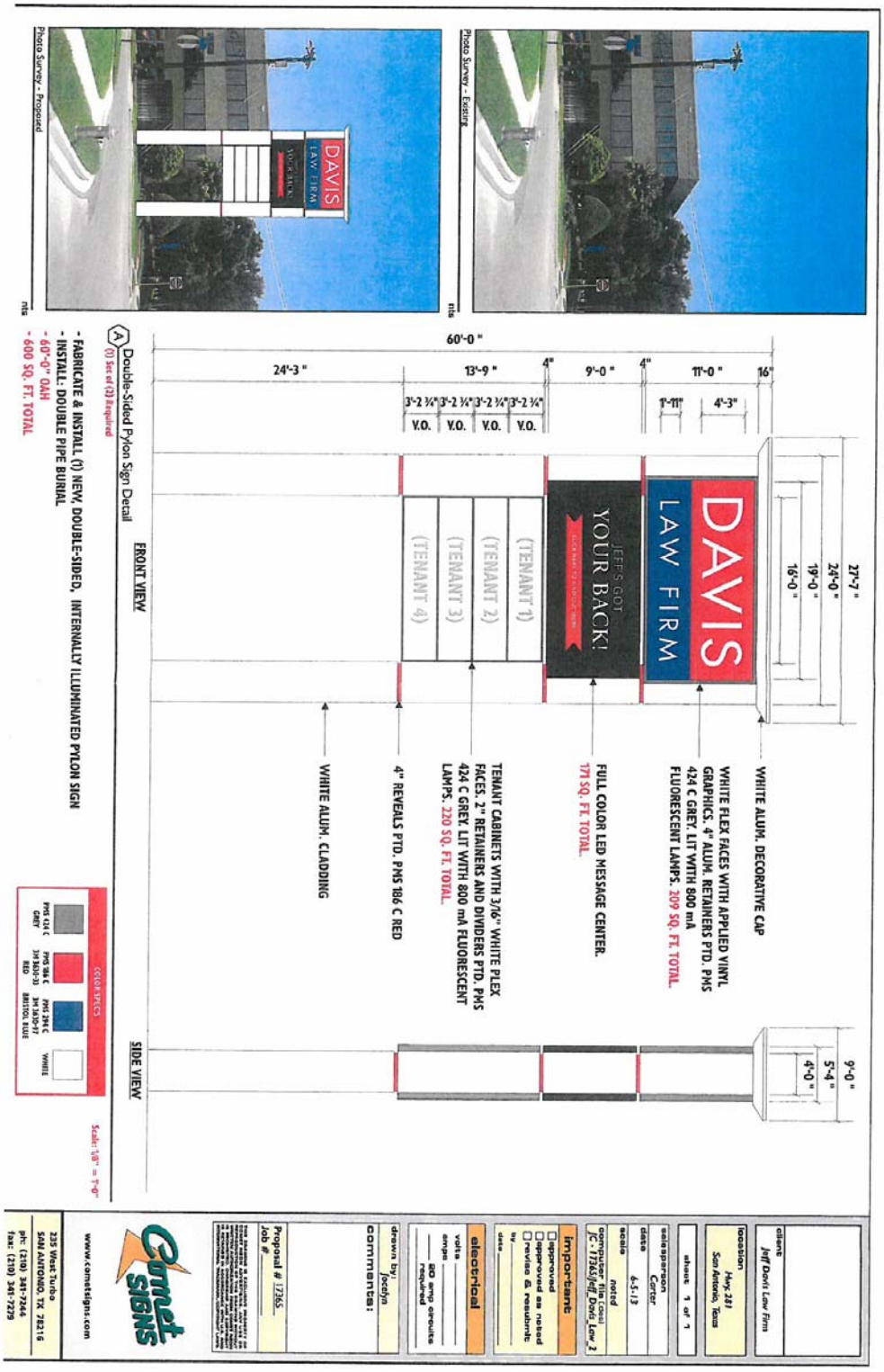
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 9

10500 Heritage Street

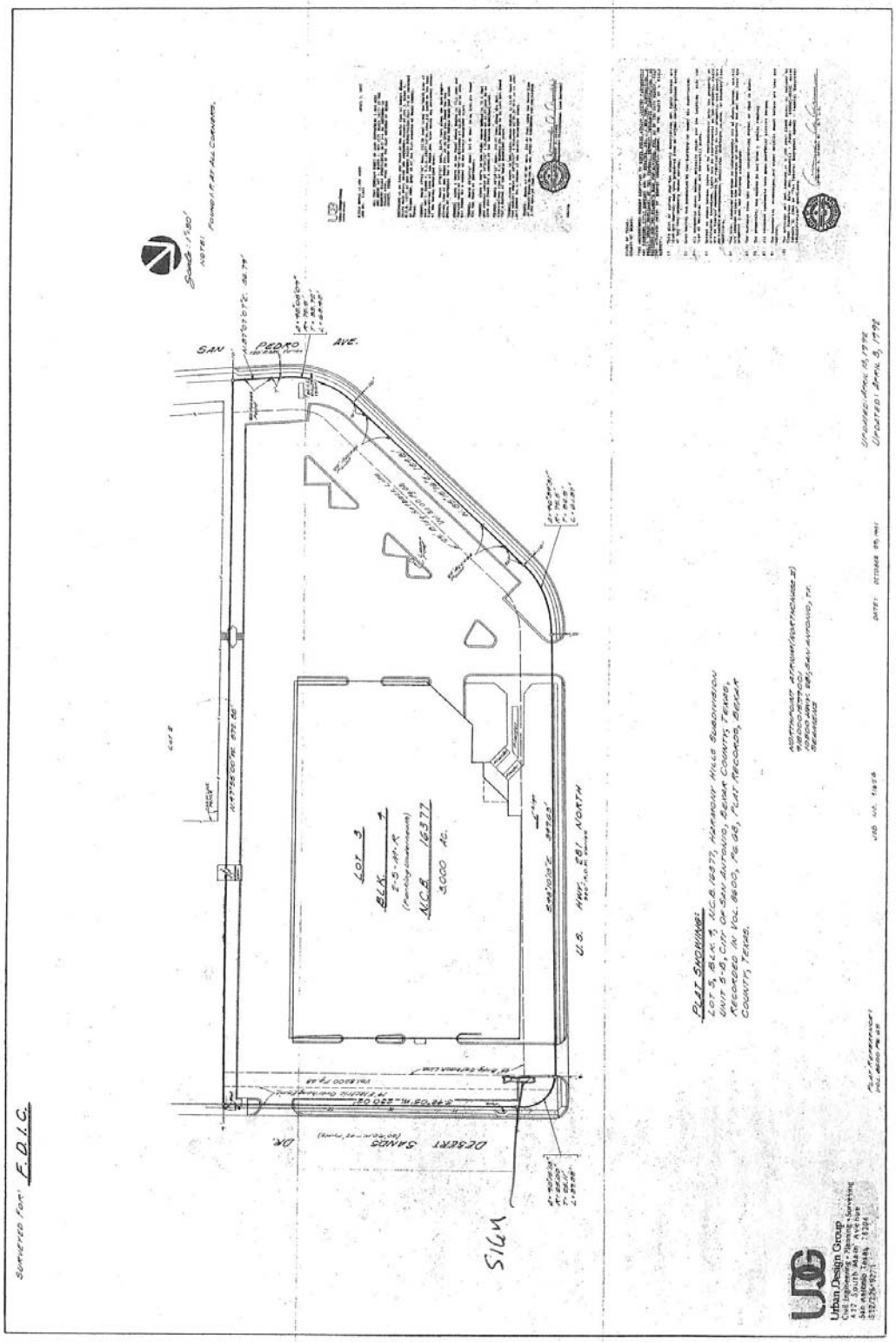
Development Services Department
City of San Antonio
(08/19/2013)

Attachment 4
Site Photos

Attachment 5
Proposed Sign



Attachment 6
Applicant's Site Plan



City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-13-066
Date:	August 19, 2013
Applicant:	David Adelman
Owner:	606 Avenue B, LP
Location:	418 McCullough Avenue
Legal Description:	Lots 8, 10, & 12, ARB 10A & 10AB, Block 10, NCB 438
Zoning:	"FBZ T-6-1, RIO-2, AHOD" Form-Based Zone River North Transect River Improvement Overlay Airport Hazard Overlay District
Prepared By:	Margaret Pahl, AICP Senior Planner

Request

A request for a 4-foot variance from the minimum 10-foot recess required in Section 35-209 (c)(10) Exhibit B: River North Calibration, for stories above the 4th to allow a 6-foot recess from the property line on the 5th story.

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 August 1, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 2, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before August 16, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

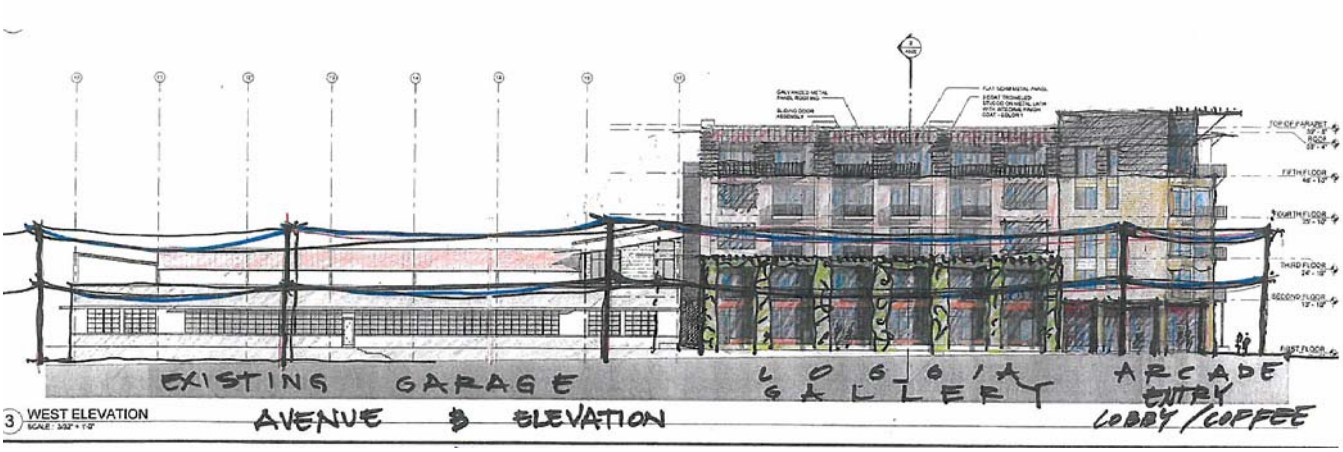
Executive Summary

The subject property contains approximately 22,000 square feet and is located on the corner of McCullough and Avenue B in the River North part of the City. The existing building is built to the property line and the public way includes wide sidewalks and overhead power lines. The applicant plans to demolish the existing building and construct a five-story 109-unit apartment complex. The ground floor units are designed to function as "live-work" spaces with glass storefront windows facing each of the streets. A landscaped courtyard with a small pool is tucked behind the units. The apartments will range in size between 300 and 900 square feet.

Parking will be provided in an existing parking garage immediately adjacent to the site on Avenue B.

The applicant has hired a team of architects to design the project, with input from both Lake/ Flato and Alamo Architects. These firms were heavily involved in the details of the form based code, currently regulating the subject property. The FBZ dictates "private frontage designs" on the lower floors, five that are allowed in this transect. Stoops and awnings are two of these, but the applicant has selected a more substantial type called a *gallery*. The code requires that these be at least 10 feet wide and overlap the sidewalk. There are several examples of this type of feature along Houston Street in downtown. Their design includes a two story gallery extending along the entire Avenue B façade. Within the 10 foot width, only 4 feet will be over the public right of way.

Other provisions of the FBZ, Section 35-209(c)(10), require a building taller than 4 stories to set the 5th story back at least 10-feet from the lower façade. The overhead power lines are actually forcing the upper 3 stories of the building to be set back 6-feet from the property line to maintain a safe distance. This recess is a full 10 feet from the outer edge of the gallery. Because the upper three stories must be setback from the power lines, the applicant is hoping that this recess on these three stories will satisfy the spirit of the ordinance. They assert in their application that a 2-story gallery, 10 feet in width along Avenue B, along with 6-foot wide balconies on the upper stories, visually extend the façade outward toward the property line. They believe that these architectural design components satisfy the intent of the code and minimize the vertical massing, consistent with the purpose of the required recess.



Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"FBZ T-6-1, RIO-2, AHOD" Form-Based Zone River North Transect River Improvement Overlay Airport Hazard Overlay District	vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"FBZ T-6-1, RIO-2, AHOD" Form-Based Zone River North Transect River Improvement Overlay Airport Hazard Overlay District	Garage
South	"FBZ T-6-1, RIO-2, AHOD" Form-Based Zone River North Transect River Improvement Overlay Airport Hazard Overlay District	Parking
East	"FBZ T-6-1, RIO-2, AHOD" Form-Based Zone River North Transect River Improvement Overlay Airport Hazard Overlay District	Broadcast Offices
West	"FBZ T-6-1, RIO-2, AHOD" Form-Based Zone River North Transect River Improvement Overlay Airport Hazard Overlay District	Parking

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the River North District Master Plan, adopted by the City Council in March of 2009. It was this vision that resulted in the creation of the provisions of the Form Based Zone. The subject property is also located within the boundaries of the Downtown Residents Neighborhood Association. As such, they were notified of the request 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 interest is defined as the general health, safety and welfare of the public at large. The public interest in this case is represented by the specific guidelines designed to create the urban form envisioned for River North. The architects have proposed a design which addresses the constraints of the site and the goals of the code. As such, the public interest would be served by granting the variance.

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

The applicant claims that the overhead power lines create a property-related hardship by requiring that the top three stories of their building be set back at least 6 feet from the property line in order to maintain a safe distance. Architectural design components have been proposed which vary the façade, including the two story gallery at ground level and balconies on the 4th and 5th floors. Without the power lines along the sidewalk, the 3rd and 4th floors could have more

square footage, enabling the 5th floor to be recessed as required. A literal enforcement of the ordinance would force this 5th floor to be 16 feet from the property line, an unnecessary hardship.

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

Various zoning court cases have provided guidance as to the "spirit" of the ordinance as contrasted with the "strict letter" of the law. In observing the spirit, the Board is directed to weigh the competing interests of the property owner and the community. With the 10-foot width of the gallery structure on the lower two floors, the spirit of the ordinance will be observed, starting at the 3rd floor rather than the 5th floor.

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 "FBZ T-6-1, RIO-2, 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 character of this district is still in its infancy. The adoption of the River North components were just approved in 2010 and several recent development projects have requested variances where their project could not conform. This is typical in such strictly regulated zones. The addition of this high-density housing project with live/work units on the ground floor and structured parking is implementing the vision originally expressed by the adoption of the form based zoning district. In addition, the façade will be setback 10 feet, starting on the 3rd floor, rather than the 5th.

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 requested variance is due to the unique circumstance of power lines along the sidewalk close to the applicant's property line. This proximity is reducing the developable area of the parcel. The applicant is requesting a reduction in a different setback to reduce the impact and has proposed architectural mitigation to achieve the stated purpose of the required setback.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reduce the size of apartments on the 5th floor and add a 10-foot recess from the façade, resulting in a 20-foot recess from the gallery.

Staff Recommendation

Staff recommends **approval of A-13-066** based on the following findings:

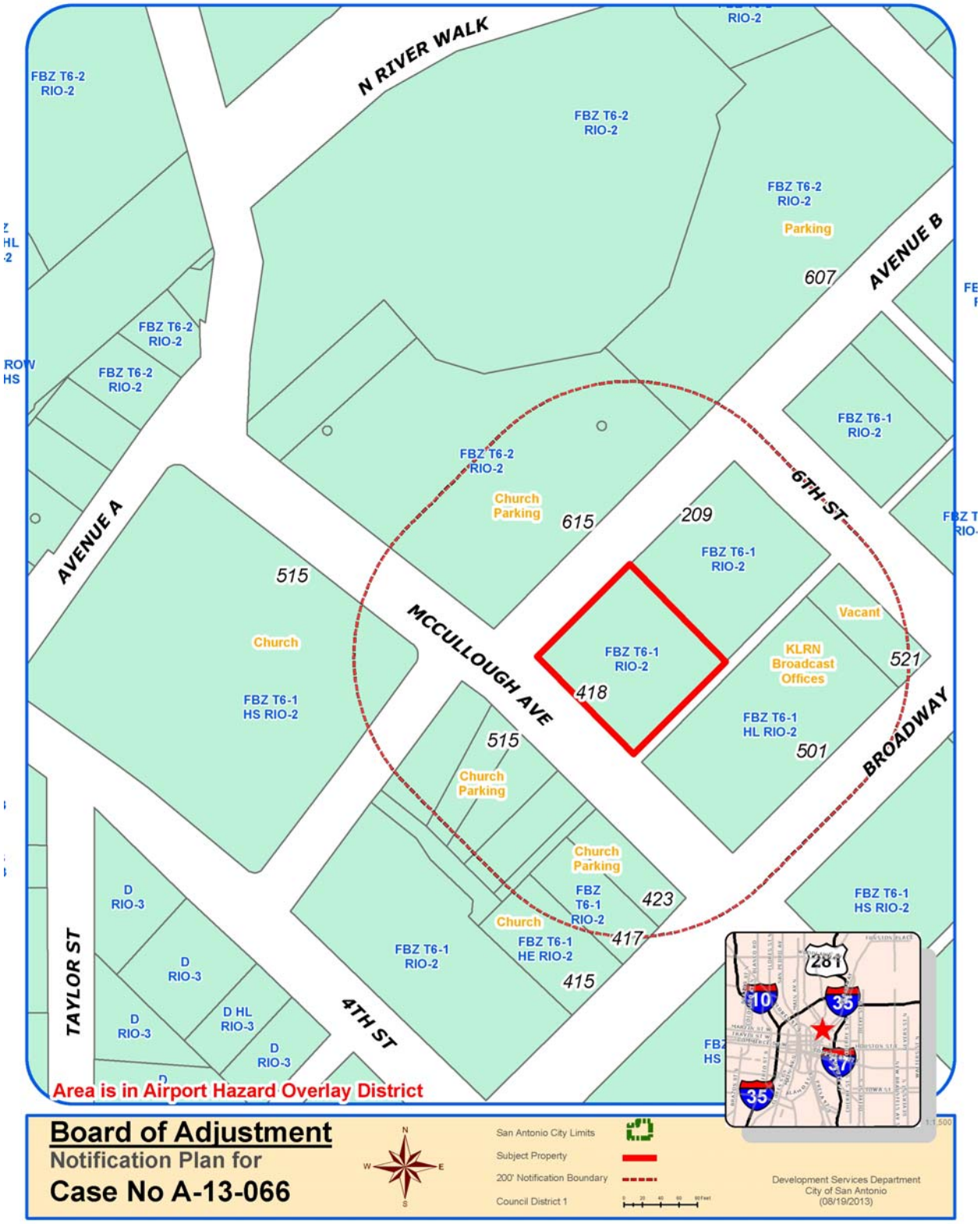
1. The applicant is requesting a 4-foot reduction in a required 10-foot setback for the 5th story because the building will already be setback 10 feet for the upper three stories because of overhead power lines.

2. Additional façade detailing has been added to provide horizontal variation.

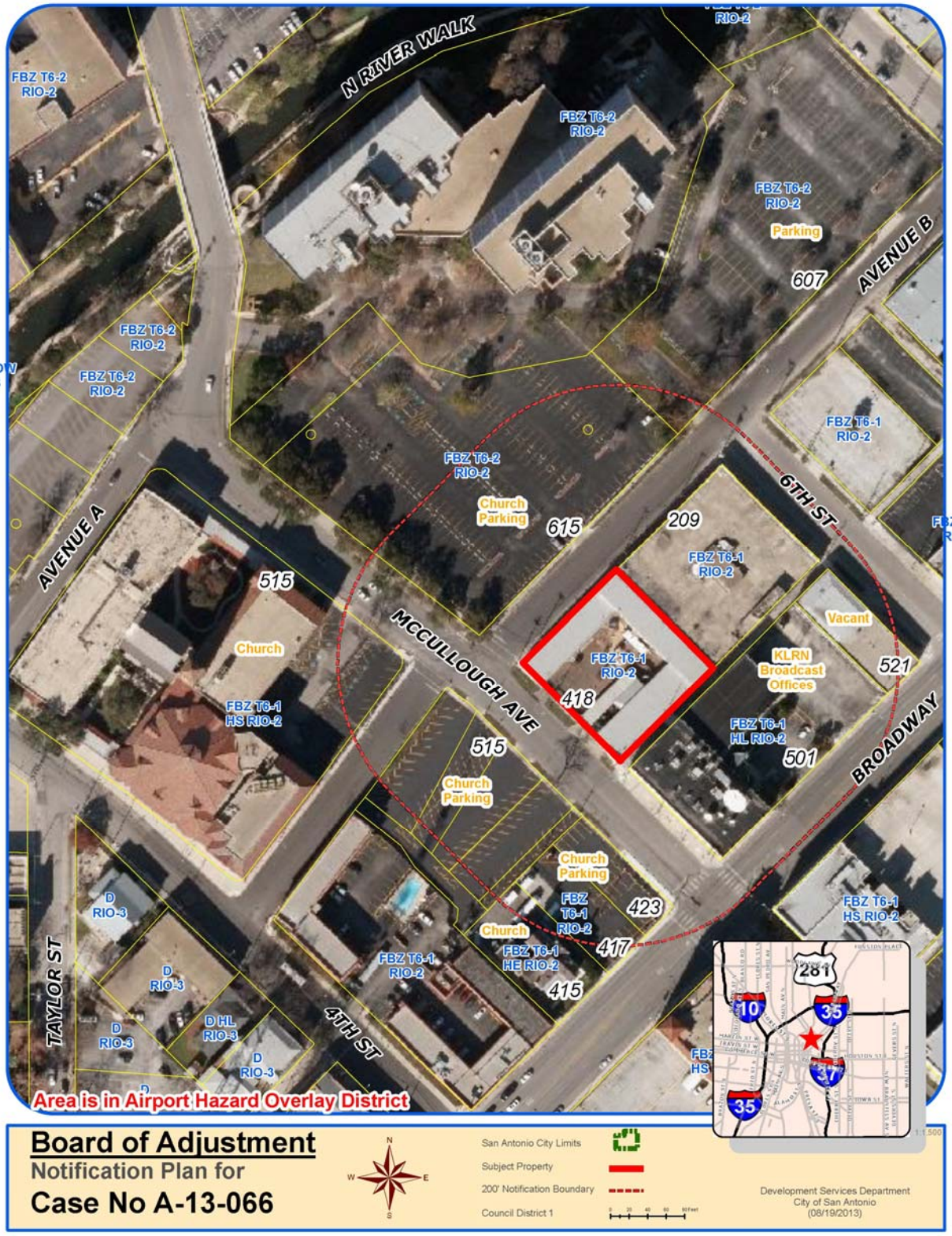
Attachments

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)

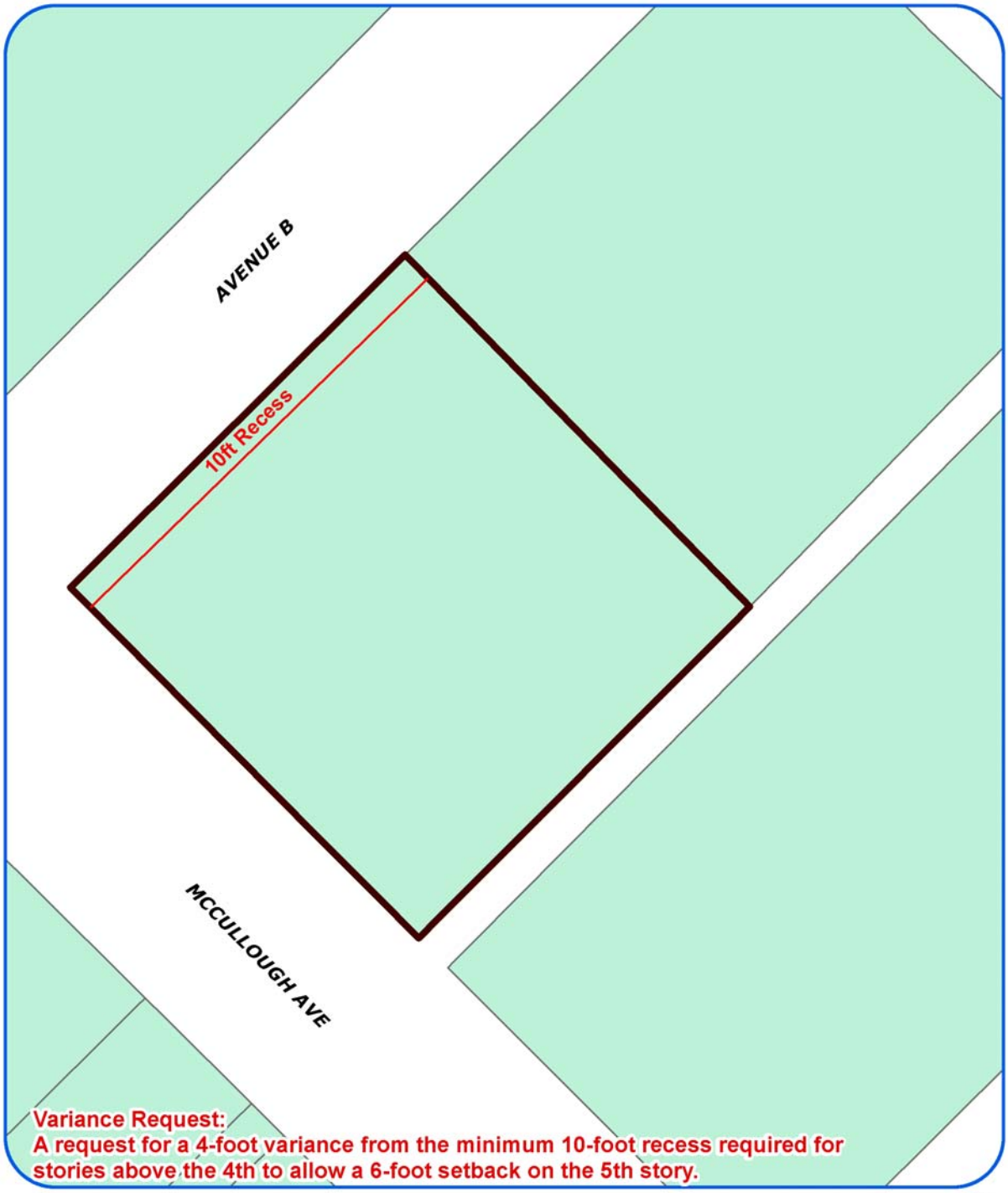


Board of Adjustment
Notification Plan for
Case No A-13-066

San Antonio City Limits
Subject Property
200' Notification Boundary
Council District 1

Development Services Department
City of San Antonio
(08/19/2013)

Attachment 2
Plot Plan



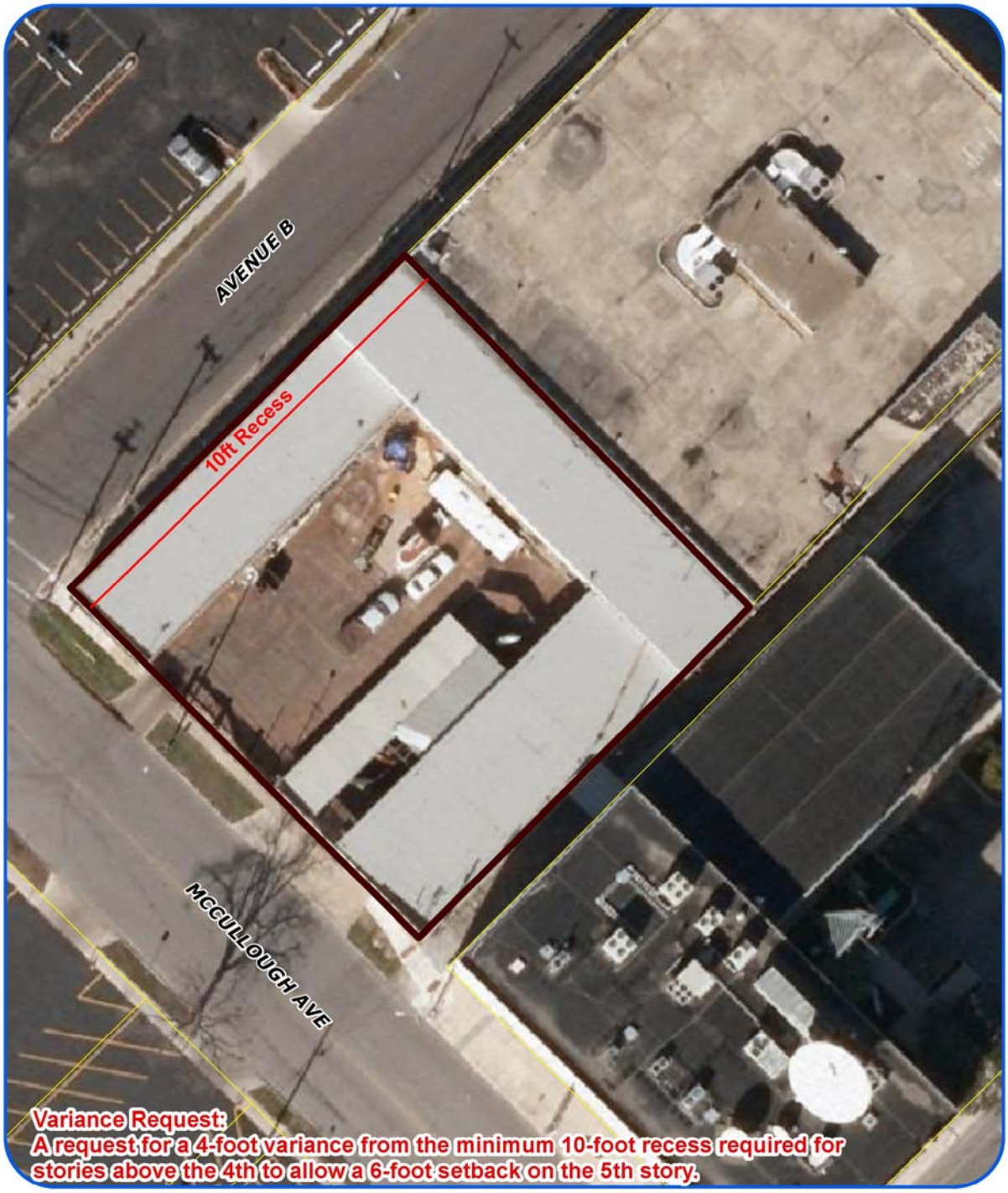
Board of Adjustment
Plot Plan for
Case No A-13-066

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 1

418 McCullough

Development Services Department
City of San Antonio
(08/19/2013)

Attachment 2
Plot Plan (continued)



Board of Adjustment
Plot Plan for
Case No A-13-066

"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 1

418 McCullough

Development Services Department
City of San Antonio
(08/19/2013)

Attachment 3
Applicant's Site Plan

Attachment 4
Site Photos

Avenue B Frontage

McCullough Frontage

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-13-067
Date:	August 19, 2013
Applicant:	Ali Mazaheri
Owner:	Donia Enterprises, LLC
Location:	314 Lovera Boulevard
Legal Description:	Lots 13 & 14, Block 15, NCB 7258
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By:	Tony Felts, Planner

Request

A request for 1) a 5-foot variance from the 5-foot required setback listed in Table 310-1 of the UDC to allow an accessory structure on the west side property line; 2) a 5-foot variance from the 5-foot required setback listed in Table 310-1 of the UDC to allow an accessory structure on the east side property line; and 3) a 423.79 square-foot variance from the 1,488.21 square foot allowable side and rear yard lot coverage in Section 35-370(b)(3) of the UDC to allow accessory structures totaling 1,912 square feet in area.

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 August 1, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 2, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before August 16, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of Lovera Boulevard, approximately 150 feet west of San Pedro Avenue. The site is currently developed as a single-family residence with a carport and three accessory buildings. Additionally, the site is adjacent to a used car lot, which is owned by the applicant, and there is an access way from the car lot into the rear yard. The rear yard has been entirely covered in concrete.

There are no permits on file for the carport and accessory buildings, and the applicant has been cited by code compliance. Additionally, the rear structures are constructed within the required rear and side yard setbacks, and also violate the restriction of no more than 50% of a the total area of the rear and side yard be covered with accessory structures.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-4 AHOD (Residential Single-Family)	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-4 AHOD (Residential Single-Family)	Single-Family Dwelling
South	R-4 AHOD (Residential Single-Family)	Single Family Dwelling
East	C-2 AHOD (Commercial)	Vehicle Sales
West	R-4 AHOD (Residential Single-Family)	Single Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Central Community Plan (designated as Low Density Residential). The subject property is also located within the boundaries of the Northmoor Neighborhood Association, and 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:*

   Building setbacks are designed to maintain orderly and safe development by ensuring adequate fire separation and preventing storm water from flowing onto adjacent properties as well as to ensure access to air and light. Likewise, restrictions on rear and side yard lot coverage are designed to maintain open space essential for these stated goals. In this case, the applicant has completely covered the entire rear yard with concrete and constructed buildings that cover nearly 65% of the entire rear and side yard. The constructed buildings also are constructed with no setbacks from the adjacent property, and have no protections for fire separation or storm water runoff. As such, granting of the variance would be contrary to the public interest.

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

The lot is typical of residential lots elsewhere in the city with the exception that it abuts a commercially zoned lot where use car sales take place. There are no unique topographical or vegetative conditions on the property to warrant the granting of a variance.

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

   As there are no special conditions readily apparent, the spirit of the ordinance will not be observed. Additionally, the amount of square footage of accessory structures on the lot is over 53% greater than the square footage of the primary structure. The 40-foot by 43-foot shed by itself is 38% over the primary structure. As such, by granting a variance to allow these structures to remain, the spirit of the ordinance will not be 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 "R-4" Residential Single-Family district; however, the applicant has constructed an access way from the adjacent commercially-zoned lot where he sells cars to the rear yard of the subject property. There is a concern that commercial activity is occurring on this residential lot.

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.*

   There is a strong likelihood that granting of the variance will result in substantial injury to the appropriate use of adjacent conforming properties. The buildings have been erected without regard to building codes and may lead to fire separation and stormwater issues. Additionally, the lot coverage is vastly out of character for the neighborhood. Lastly, as stated previously, there is a concern that commercial activity is occurring on this residential lot.

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.*

   There are no unique circumstances readily apparent to justify the issuance of a variance, and the circumstances of the application coming to the board are that the applicant has been cited by the code compliance for constructing structures without any types of approvals or permits.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reduce the area covered by the buildings and to maintain all required building setbacks.

Staff Recommendation

Staff recommends **denial of the requested variances** because of the following reasons:

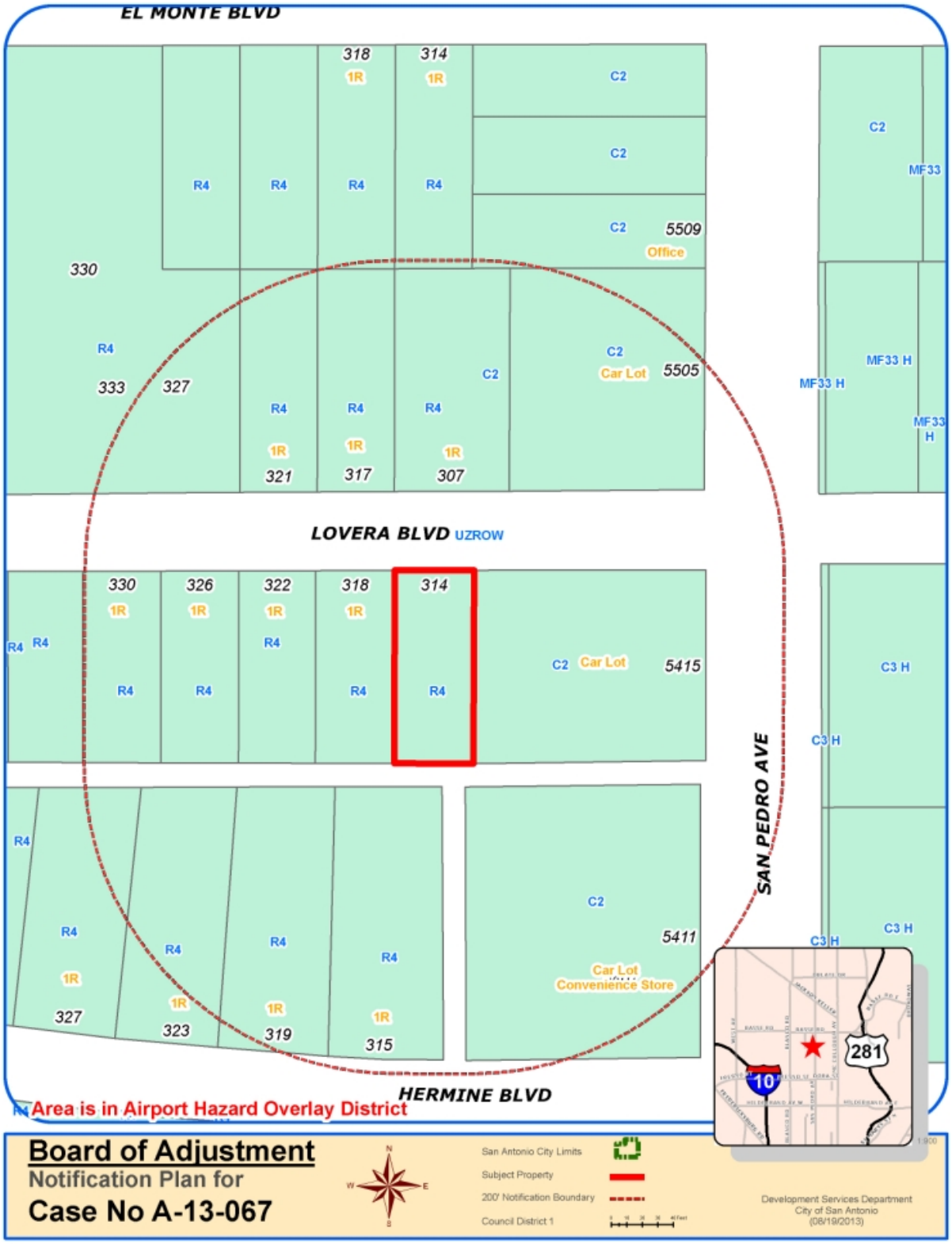
- There are no special conditions readily apparent on the property to warrant granting a variance

- Granting of the variance may have the effect of substantially injuring adjacent conforming properties and changing the character of the neighborhood.

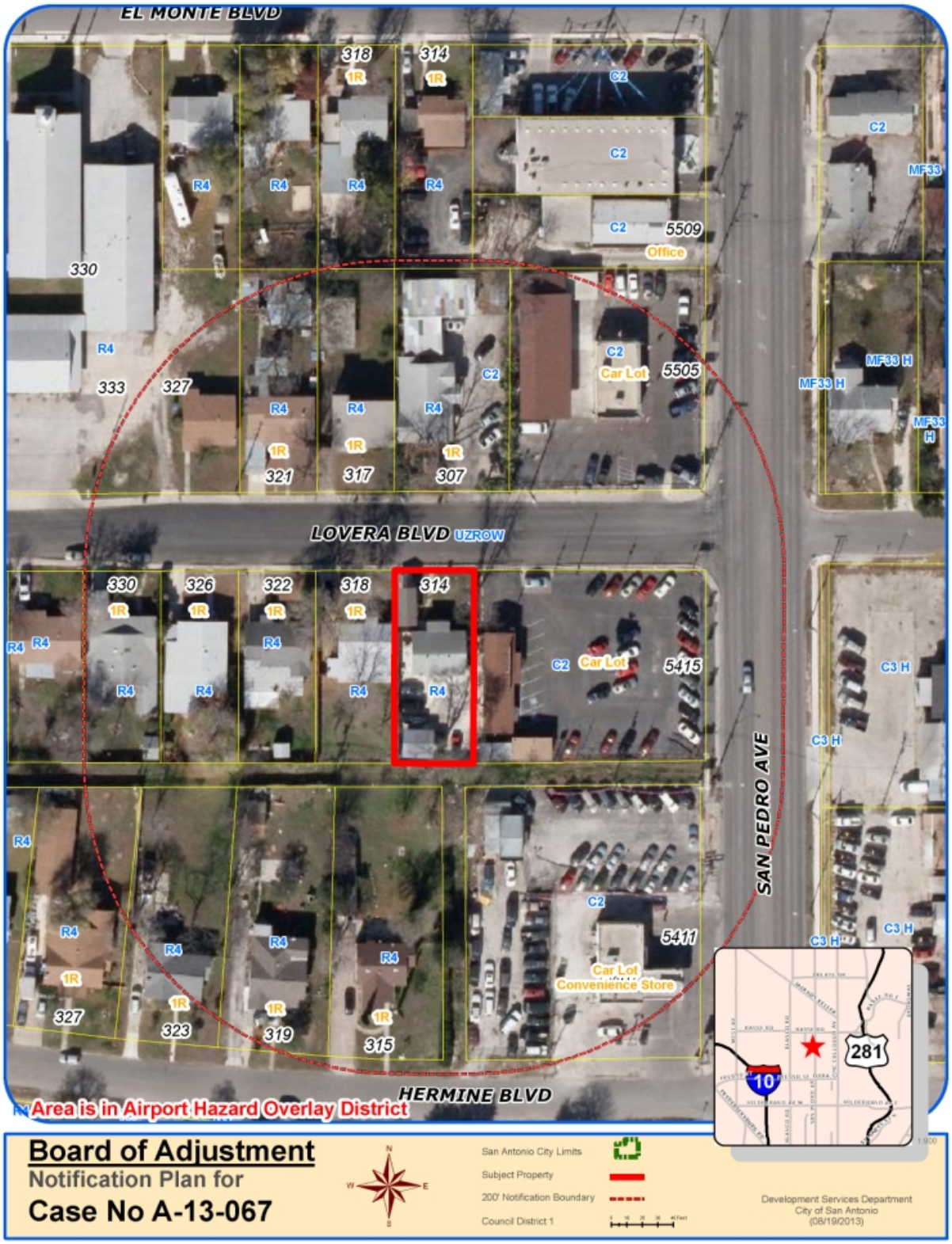
Attachments

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

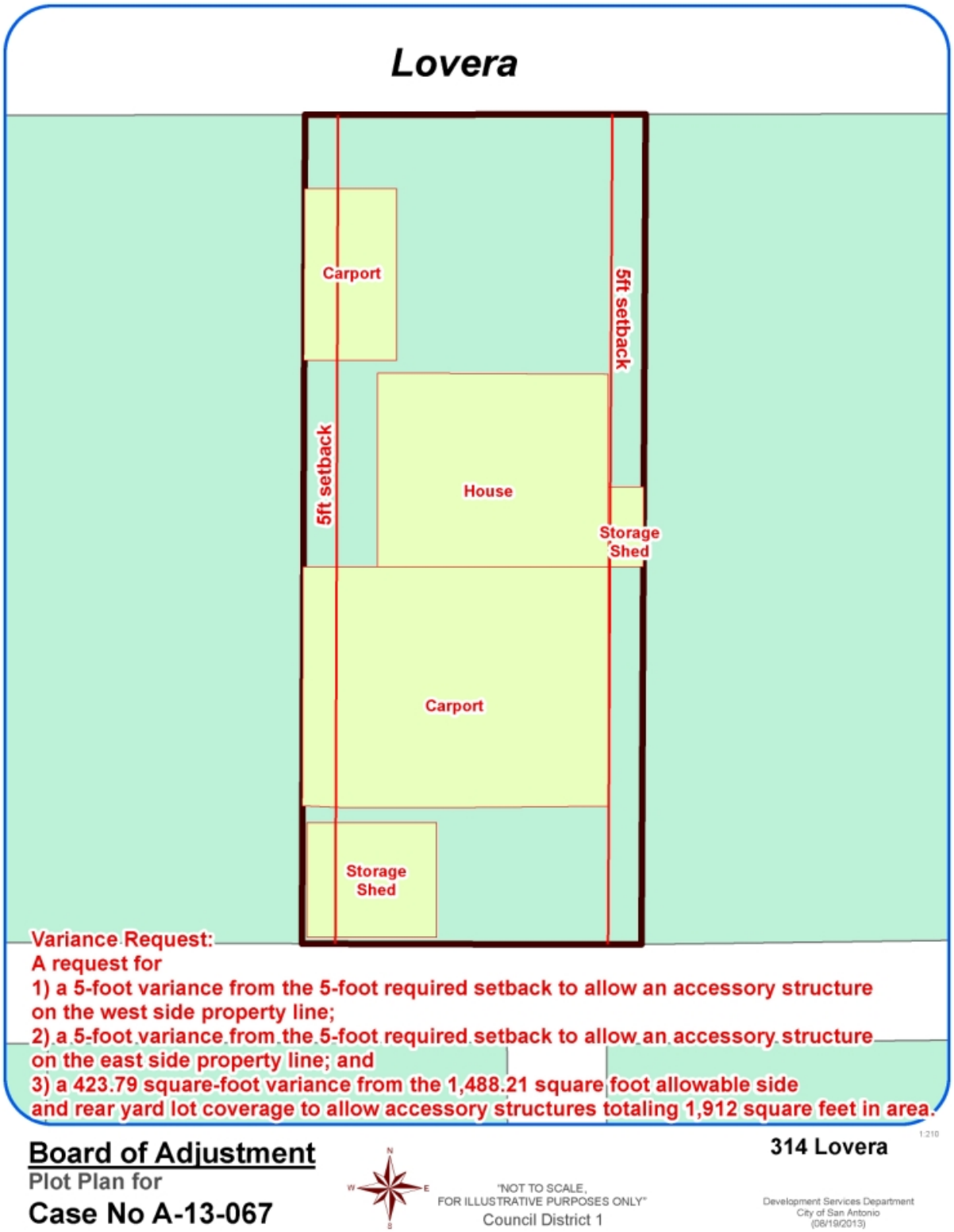
Notification Plan
Attachment 1



Attachment 1 (Continued)
Notification Plan



Attachment 2
Plot Plan



Attachment 2 (Continued)
Plot Plan

Board of Adjustment
Plot Plan for
Case No A-13-067

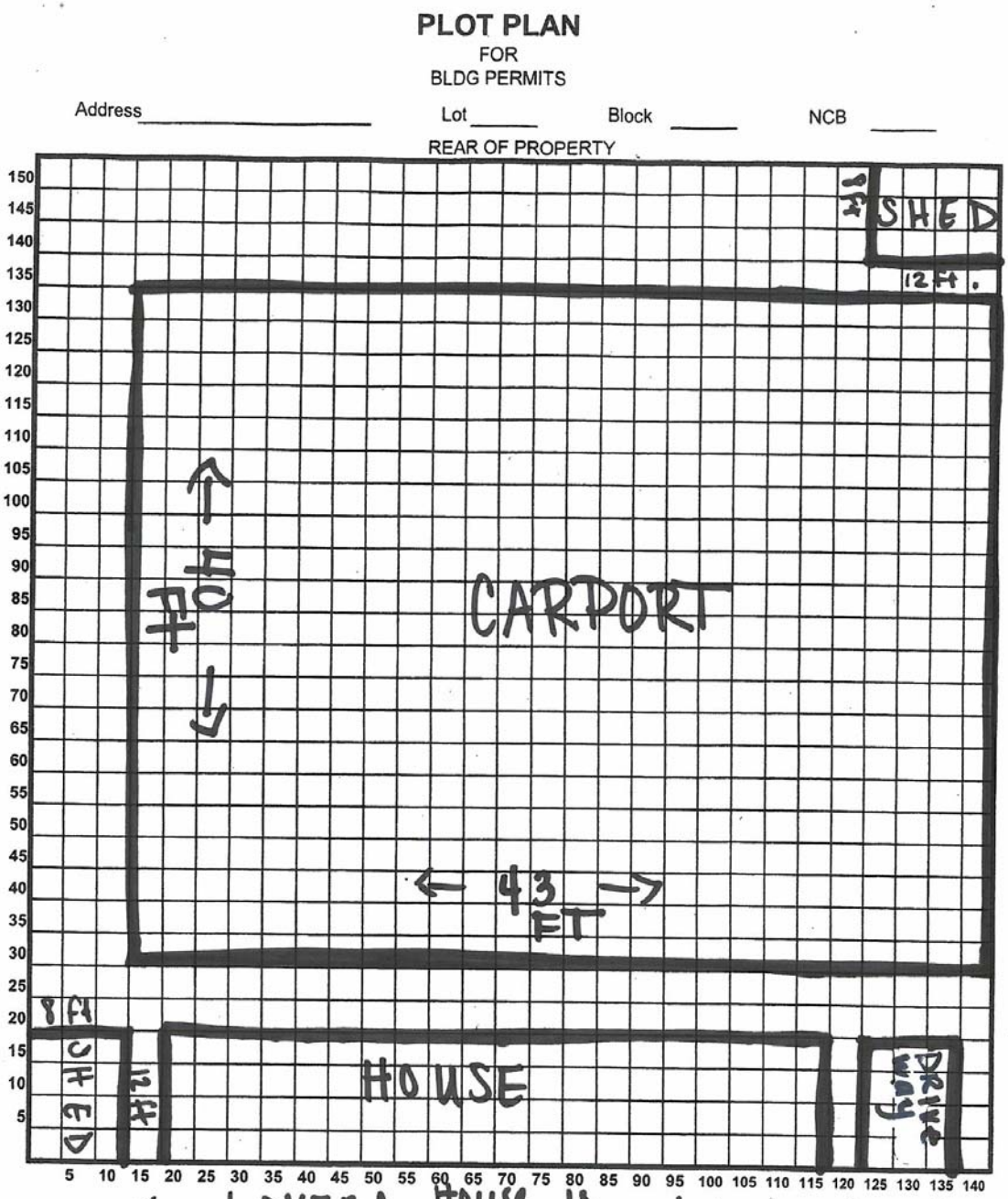
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 1

314 Lovera

Development Services Department
City of San Antonio
(08/19/2013)

Attachment 3
Site Photos

Attachment 4
Applicant's Site Plan



I certify that the above plot plan shows all improvements on this property and that there will be no construction over easements. I also certify that I will build in compliance with the UDC and the 2009 IRC

Date

Signature of Applicant

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-13-068
Date:	August 19, 2013
Applicant:	Diana Ortega
Owner:	Robert & Diana Ortega
Location:	2326 Crosby Street
Legal Description:	Lot 6, Block 9, NCB 3141
Zoning:	"I-1 EP-1 AHOD" General Industrial, Facility Parking/Traffic Control, Airport Hazard Overlay District
Prepared By:	Margaret Pahl, AICP Senior Planner

Request

A request for 1) a 24-foot variance from the minimum 30-foot side yard setback, as required in Table 310-1 of the UDC, to allow 2 structures 6-feet from the west property line; 2) a 10-foot variance from the minimum 30-foot side yard setback, as required in Table 310-1 of the UDC, to allow a structure 20-feet from the east side property line; and 3) a 16-foot variance from the minimum 30-foot front yard setback, as required in Table 310-1 of the UDC, to allow a structure 14-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 within two hundred (200) feet of the subject property on August 1, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 2, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before August 16, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The applicant has owned and operated a limousine/transportation service since 1990 and purchased the subject property last year to relocate the business to a location convenient to the freeway. The applicant is seeking the requested variances to allow improvements, installed without permits, to remain. A Code Enforcement Case was created last December for demolition

of the existing home and installation of a modular office building without proper permits. A recreational vehicle is also parked on the property and being used as a caretaker's residence. After receiving the notice of violation, the applicant prepared documents for permitting. A demolition permit was issued, however the site development permits, which were inconsistent with zoning setback regulations, could not be secured. Though the entire block is zoned for industrial uses, because the neighboring properties are residential uses, a 30-foot side yard setback is required.

The applicant has installed the modular office building and the recreational vehicle 6 feet from the west property line. A variance of 24 feet has been requested, to reduce the required side yard setback from 30 feet to 6 feet. The modular office building has also been installed 14 feet from the front property line, violating the required 30-foot front yard setback. A 16-foot variance has been requested to reduce this setback to 14 feet, consistent with the current installation. Lastly, because the office is 30 feet wide, a 10-foot variance is required to reduce the side yard setback triggered by the home to the east.

The lot itself is 50 feet wide so the 30-foot side yard setback, when measured from each side, eliminates all useable area. The residential use on the east side however is built on a lot that is only 40 feet deep, leaving approximately 75 linear feet on the east side where the setback does not apply. Along this shared property line, another industrial use is already in place. The modular office, approximately 30 feet wide with the two attached decks, could be relocated to this portion of the lot with a reduced variance.

Though Section 35-526-3b of the UDC does not require any off-street parking for a limousine service, on the site visit staff noticed that the applicant is parking the unassigned vehicles on Texas Department of Transportation's (TXDOT) right-of-way. The applicant states that they have contacted TXDOT but no formal agreement has been secured.

The recreational vehicle is not regulated by the zoning ordinance, but rather the International Residential Code (IRC). The Plan Review Division has noted several provisions in the IRC which prevent a recreational vehicle from being classified as a residence.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"I-1 EP-1 AHOD" General Industrial, Facility Parking/Traffic Control, Airport Hazard Overlay Districts	Limousine Service

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"UZROW" Un-zoned right-of-way	TXDOT property
South	"I-1 EP-1 AHOD" General Industrial, Facility Parking/Traffic Control, Airport Hazard Overlay Districts	Trucking/Storage
East	"I-1 EP-1 AHOD" General Industrial, Facility Parking/Traffic Control, Airport	Single Family Dwelling

	Hazard Overlay Districts	
West	"I-1 EP-1 AHOD" General Industrial, Facility Parking/Traffic Control, Airport Hazard Overlay Districts	Single Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Government Hill Neighborhood Plan, adopted by the City Council in October of 2010. The future land use plan designated this block for medium density residential land use. The subject property is also located within the boundaries of the Government Hill Alliance Neighborhood Association. As such, they were notified of the request 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 interest is defined as the general health, safety and welfare of the public at large. The public interest in this case is represented by minimum setbacks established to ensure a separation of incompatible uses. Given the list of intense uses allowed in a general industrial zone, this 30-foot separation would be essential to the continued enjoyment of a home. In this case, the applicant is asking to reduce that distance to a setback similar to typical residential neighborhoods. It should be noted however that the home abutting the subject parcel to the west fronts on Seguin, making the office building in its current location closer to the rear yard. Nevertheless, a setback larger than that of a neighboring home would provide more assurance for the public interest.

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

The applicant argues that the setbacks "suggest that no structure could be constructed on the 50' property and satisfy the side setback requirements." In fact, the setback is not applicable on the south eastern 75 feet by 20 feet of the parcel, because this section of the lot does not abut a residential use. Literal enforcement would require that the applicant relocate the modular office to this corner of the property. The applicant selected the current location because this is where the previous home and the existing utilities were located. The Board will have to determine if the office relocation results in an unnecessary hardship.

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

Various zoning court cases have provided guidance as to the "spirit" of the ordinance as contrasted with the "strict letter" of the law. In observing the spirit, the Board is directed to weigh the competing interests of the property owner and the community. The spirit of the ordinance is observed by achieving the smallest variance of setbacks as is feasible.

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 "I-1 EP-1 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 character of the district is in transition. It is zoned industrial but homes constructed in the 1940's are prevalent. Each of the lots is 50 feet wide, limiting the potential for industrial uses to succeed. The housing located on this block is currently non-conforming but still contributes to the character of the district. The variances would allow the modular office building to remain where the single family house had been, which may seem to be reasonable. However, the variance is granted to the property and changes the required setback regardless of the current use or building type. For this reason, the requested reduced setback between the two uses could be injurious.

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.*

There are no unique circumstances existing on the 6,150 square foot rectangular lot. The applicant created the hardship by changing the use of the property without proper permitting. Staff consultation of code implications could have prevented or reduced this variance.

Alternatives to Applicant's Request

The alternative to the applicant's request is to relocate the modular office building to the southeastern corner of the parcel and use the remainder of the parcel for vehicle parking and storage.

Staff Recommendation

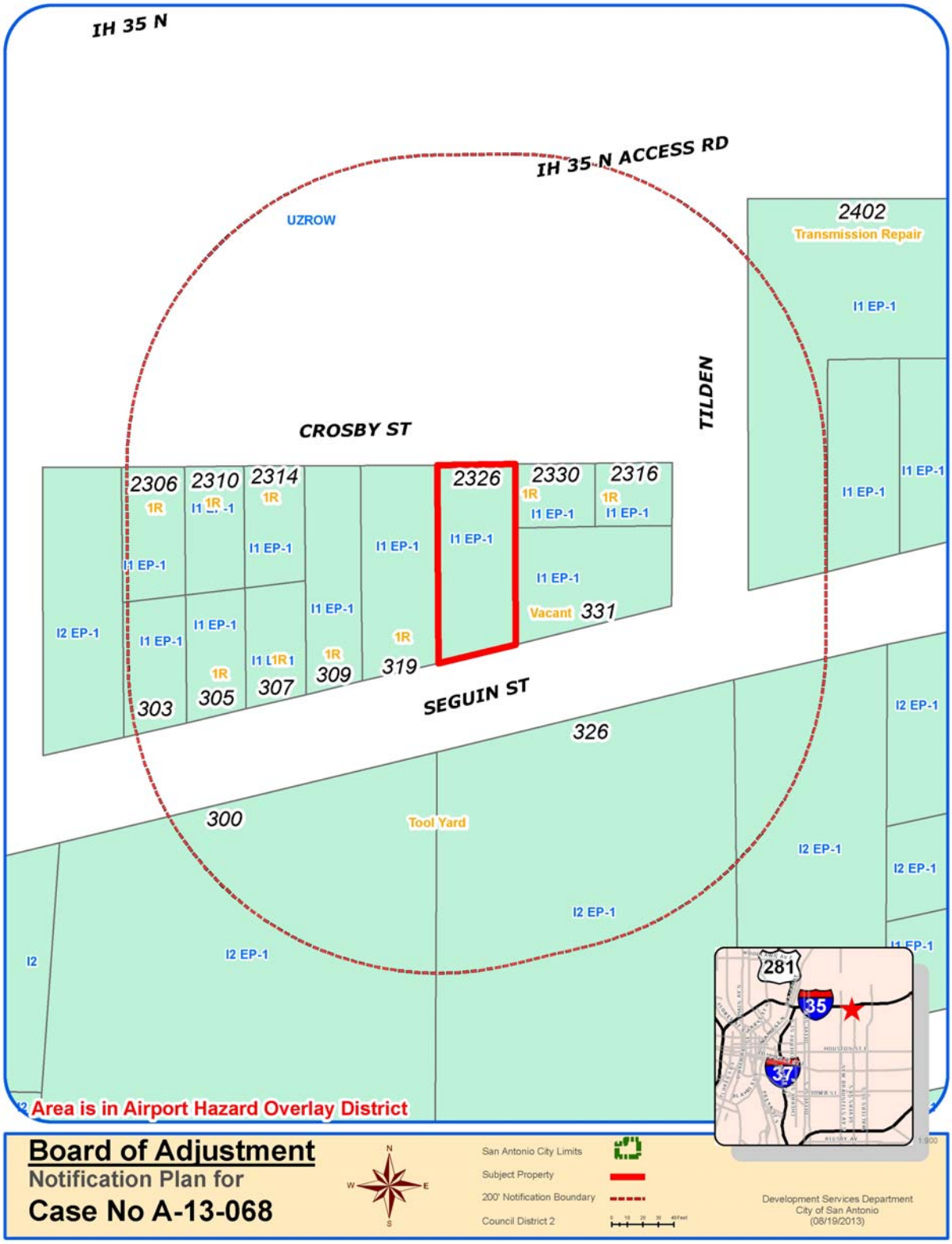
Staff recommends **denial of A-13-068** based on the following findings:

1. The setback was established to mitigate potential impacts between incompatible uses.
2. The reduced setback is a vested right of the property, regardless of future I-1 uses.
3. The IRC does not permit recreational vehicles to be used as housing.

Attachments

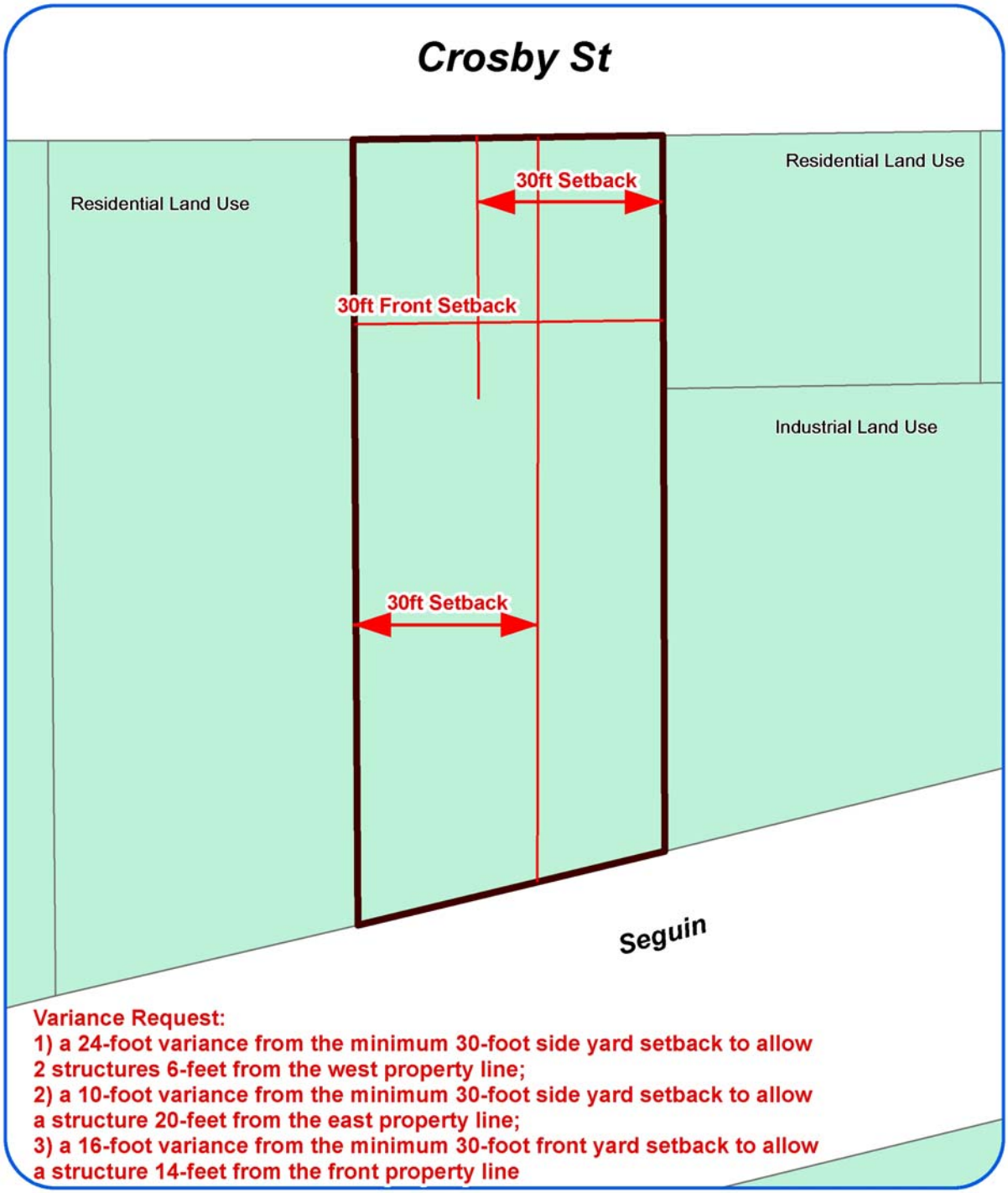
Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan
Attachment 3 – Applicant's Site Plan
Attachment 4 – Site Photos

Attachment 1
Notification Plan



Attachment 1
Notification Plan (continued)

Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-068

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

2326 Crosby

Development Services Department
City of San Antonio
(08/19/2013)

Attachment 2
Plot Plan (continued)

Board of Adjustment
Plot Plan for
Case No A-13-068

N W E S

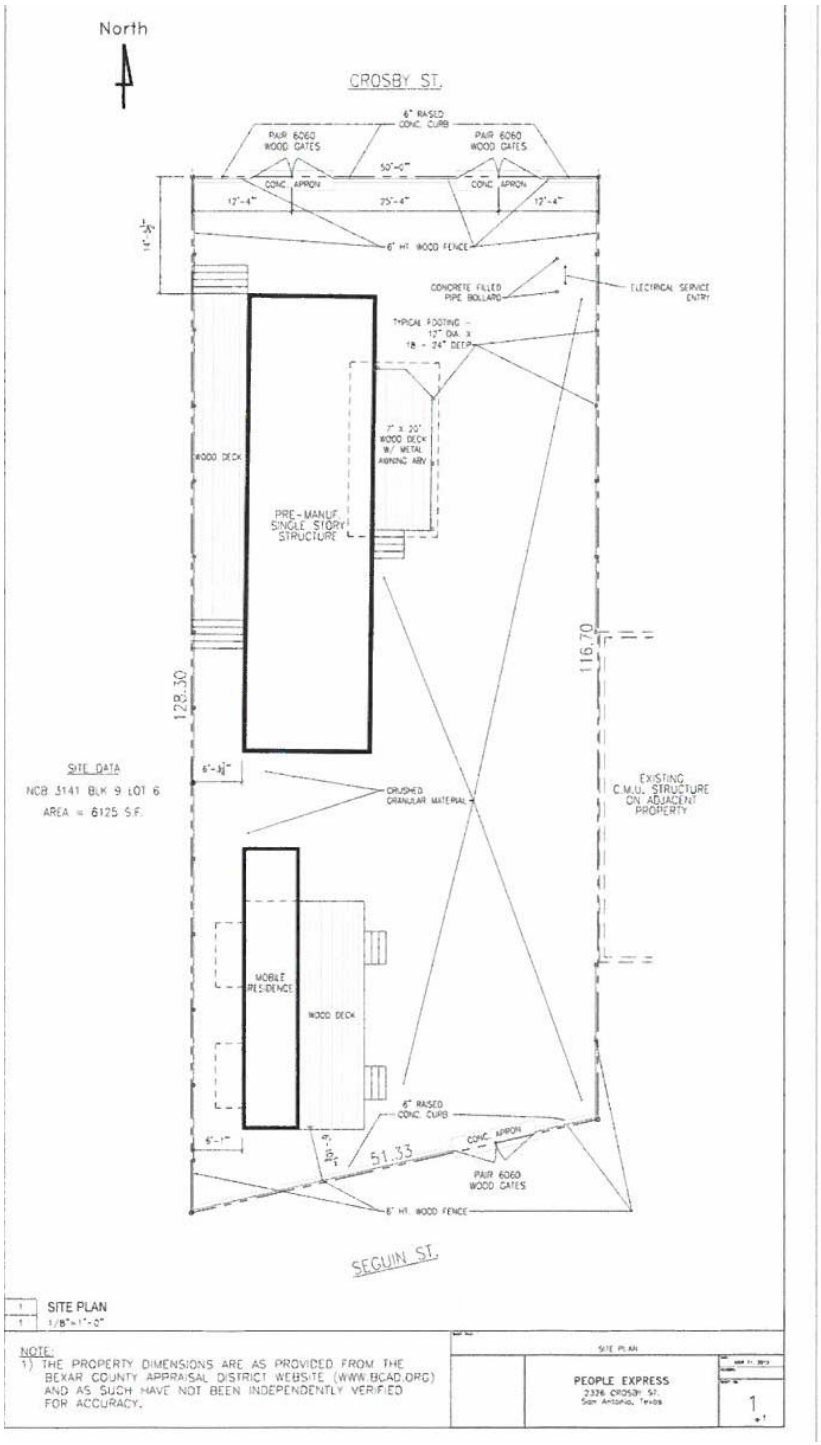
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 2

1:240

2326 Crosby

Development Services Department
City of San Antonio
(08/19/2013)

Attachment 3
Applicant's Site Plan



Attachment 4
Site Photos