City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, August 27, 2012

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 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-12-063:** The request of Linda Rutherford to appeal an administrative decision by the Historic Preservation Officer, HDRC Case 2012-091, to deny a request for a Certificate of Appropriateness for a proposed addition, 302 Adams Street. (Council District 1)

5. **A-12-082:** The request of Fernando Aguilar for a 10-foot, 10-inch rear yard setback variance from the 30-foot required rear yard setback, to allow an addition to a commercial building 19 feet, 2 inches from the rear property line, 1901 S. New Braunfels Avenue. (Council District 3)

6. **A-12-083:** The request of Isabel Noyola for a 7-foot front yard setback variance from the 10-foot required front yard setback, to allow a carport 3 feet from the front property line, 2802 Wilson Blvd. (Council District 1)

7. **A-12-084:** The request of Teresa Coles-Davila for **1)** a 20-foot 2-inch variance from the 30-foot rear yard setback, **2)** a 5-foot 2-inch variance from the 15-foot buffer yard, **3)** a 10-foot variance from the 20 foot side yard setback requirement to allow a building addition within 9-feet 10-inches of the west property line and 10-feet from the north side property line, 4819 San Pedro Avenue. (Council District 1)

8. Approval of the minutes – August 6, 2012

9. Nomination and approval of a Board member to serve as an alternate member on the Planning Commission's Technical Advisory Committee.

10. 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) 207-7245 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 la reunión. Para asistencia llamar a (210) 207-7245 o al 711 (servicio de transmitir para sordos).

Board of Adjustment Membership

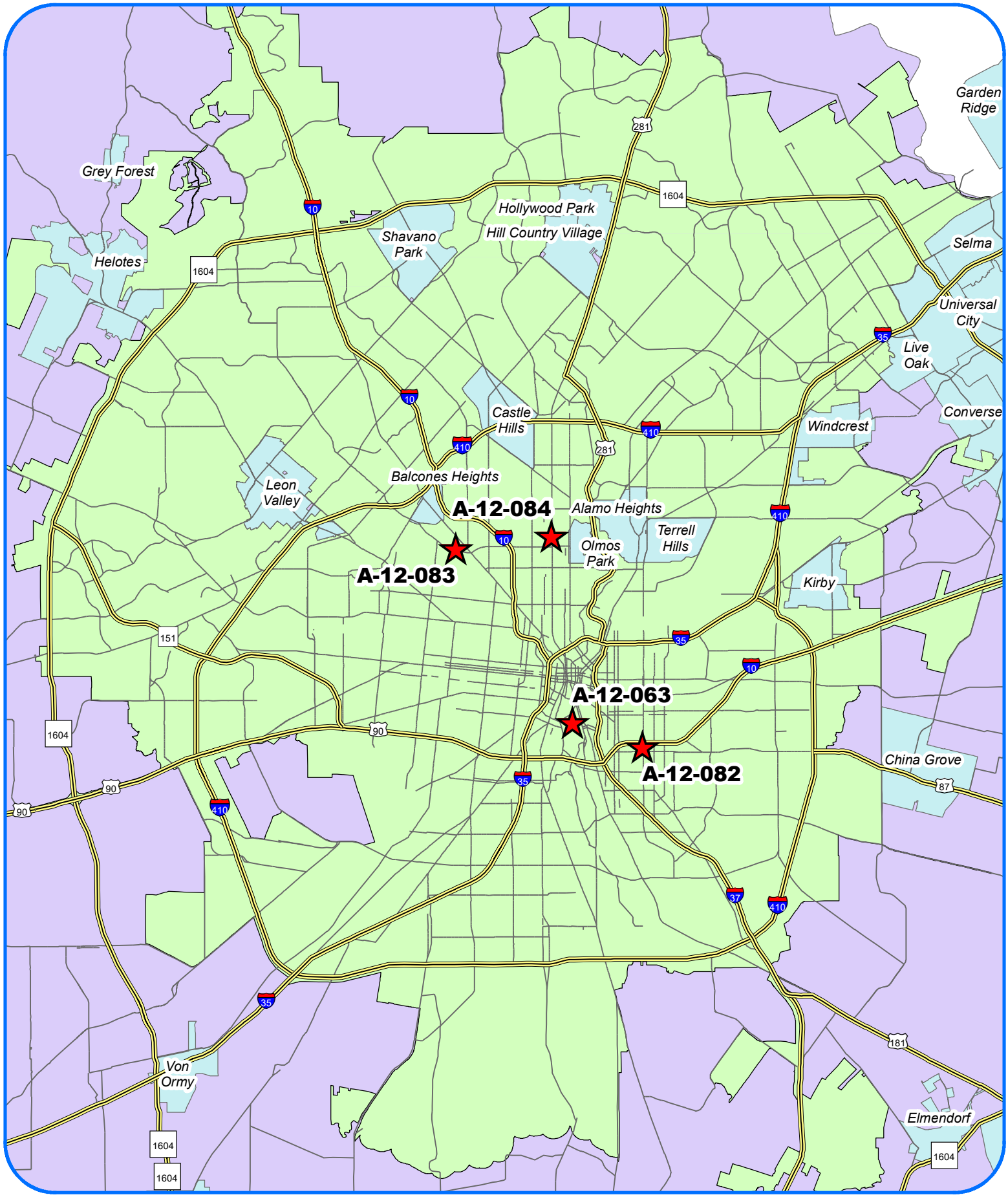
Michael Gallagher Distict 10, Chair *Andrew Ozuna District 8, Vice Chair*

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

Vacancy, District 5 ● Jesse Zuniga, District 6 ● Mary Rogers, District 7 ● David Villyard, District 9 ● Gene Camargo, Mayor

Alternate Members

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 27th August 2012

N
W E
S

Development Services Dept.
City of San Antonio
27th August 2012

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-12-063
Date:	August 27, 2012
Applicant:	Dan and Linda Rutherford
Owner:	Linda Rutherford
Location:	302 Adams St.
Legal Description:	Lot 10, Lot 11, exc SW TRI 15.9 ft and NE TRI 12.3 ft of Lot 12, Block 2, NCB 946
Zoning:	"RM-4 H HS AHOD" Residential Mixed Use Historic with a historically significant structure & Airport Hazard Overlay District
Prepared By:	Margaret Pahl, AICP, Senior Planner

Request

The applicant is requesting that the Board of Adjustment reverse the Historic Preservation Officer's (HPO) decision to deny the Certificate of Appropriateness (COA) for a proposed addition, Historic & Design Review Commission (HDRC) Case 2012-091. The appellant claims that the HPO "failed to follow the Secretary of the Interior's Standards for Rehabilitation, numbers 2, 9 and 10."

Procedural Requirements

The Board of Adjustment is charged with responsibility to consider appeals of administrative decisions. Under this authority, the Board is to review the materials used during the evaluation, along with the guidelines for review and decide if the decision were correct and should be upheld, if it were flawed and should be modified, or if it were incorrect and should be reversed.

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 August 9, 2012. The application was published in Daily Commercial Recorder, an official newspaper of general circulation on August 10, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on August 23, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

History of the Property

The subject property is located within the King William Historic District, San Antonio's first local historic district, designated in 1968. This was quite an accomplishment, given that the National Historic Preservation Act had only been signed into law in October of 1966. In 1972, the King William Neighborhood was listed as a National Register Historic District, a prestigious recognition of its historical significance. The subject house, designated as historically significant, is reputed to be the oldest house on Adams Street, built in approximately 1888. Given its 125 year history, the house has changed ownership relatively few times and maintained much of its historical integrity.

Historical integrity is often measured by the number and quality of alterations. In some cases, alterations can completely remove the historical significance of a structure. For this reason, proposed exterior changes are reviewed by historic preservation professionals to determine their appropriateness and anticipated impact on the historical integrity of the structure. In the last 7 years, this property has been altered a number of times. In 2005, a certificate of appropriateness was issued for constructing a new 2-story garage in the rear yard, along with an addition to an existing deck. The garage was later converted to living space, and given an address of 310 Stieren.

While this additional residential structure on the lot is not historical, it is not as detrimental to the integrity of the property as the currently planned addition to the building. The current addition was the subject of an investigation into construction without a permit. Substantial work had begun on the construction of a raised storage addition, measuring 7-feet wide and 16-feet long on the south side of the home. In response to a Stop Work Order, the applicant submitted a request for a Certificate of Appropriateness to the City's Office of Historic Preservation, identifying the addition as a free-standing storage room though it is clearly attached to the principal structure.

Office of Historic Preservation Review

Prior to review of a formal application, preservation staff and members of the Design Review Committee met with the owners to review the process and explain submittal requirements. Notes of this March 12, 2012 meeting represent the following statements:

1. There were no drawings for the proposed addition.
2. The house has other additions that are not sympathetic.
3. The house has no closets and living in older home is challenging.
4. A more appropriate location should be found.
5. There is no other place on the property to put the storage.
6. The window will not be used; access will be from the back yard.
7. Section and elevation drawings are needed.
8. A site visit would be helpful.

A few days later, the applicant submitted an application, showing the proposed site plan with the location of the addition, an elevation of the proposed structure, the anticipated materials and photographs of the building. The construction was planned as lap siding with a standing seam roof and proposed over an existing window. No exterior entrance was shown on the submitted drawings. The application was scheduled for consideration by the full HDRC on April 18, 2012.

Prior to this meeting, members of the Design Review Committee and staff met with the owners and the contractor on the property to discuss the application, clarify some issues and investigate alternatives. Notes of this meeting represent the following statements:

1. Q: Why is the addition elevated? A: It provides 2 levels of storage.
2. Q: Would brick siding be better? A: No brick would be inappropriate.
3. The straight brick exterior wall & the tall windows are defining features of the house.
4. The addition should not be visible from the street.
5. A long shallow free-standing storage building could be hidden elsewhere on property.
6. The committee decided to recommend denial.

The following day at the HDRC meeting, staff described the proposed addition, the materials, that it would have no windows and cover one of the original windows. The applicant was not present and the Commission moved to recommend denial. The HPO affirmed the HDRC recommendation and denied the request**, finding that the unobstructed brick exterior of the south elevation was a character defining feature of the home and should not be altered.** The Officer went on to assert **that the addition would be readily visible from the public right-of-way and would diminish the architectural integrity and historic character of this landmark property.**

<u>Evaluation of the Administrative Decision</u>

The UDC Section 35-610 outlines requirements for the review and approval of proposed alterations and additions to structures within historic districts. This section refers to technical recommendations of the U.S. Department of the Interior, and specific guidelines, still in draft form and expected to be adopted by the City Council in the fall of 2012. The Secretary of the Interior established standards and guidelines for rehabilitation for the treatment of historic properties. It is these standards that the appellant assert were not followed during the denial.

The standards are not meant to prevent change-instead they represent a sophisticated and nuanced framework for managing change. The standards do not require that every feature of a historic property be preserved, but do seek to preserve the most significant, character-defining features of a historic site. The standards also give important guidance on how to design and construct new additions in a manner that does not detract from a property's historic character.

#2. The historic character of a property shall be retained or preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

#9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

#10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

These standards, even though they include the word shall, are open to interpretation thus many cities have adopted design guidelines to provide more predictable guidance for architects and

owners of historic properties. In addition, the National Park Service has drafted Technical Reports to add detail. Assistance for the novice can be found in these documents. The report regarding new additions to mid-size historic buildings states that:

A new addition will usually meet the Standards if:

(1) it is located at the rear, or on another secondary or inconspicuous elevation of the building;
(2) its size and scale are limited and appropriate for the historic building;
(3) the new addition does not obscure character-defining features of the historic building; and
(4) the new addition is designed in such a way that clearly differentiates the new from the old.

The discussions described in the meeting notes from both the internal meeting and the during the site visit reflect the criteria and guidance provided by the Secretary of the Interior and the National Park Service for evaluating additions to historic properties. It should be noted that the guidance for the standards are written to be inclusive and do not indicate satisfaction by meeting only one of the four factors. One may argue that the proposed addition is clearly differentiated from the original structure or that it is small. The addition is conspicuous, and detrimental to the historical character of the district. The evaluation conducted by the historic preservation professionals and the design review committee appointed to assist them was unanimous, the addition failed to satisfy the standards.

Alternatives

The Board of Adjustment is charged with evaluating the record and determining if the administrative decision was the correct conclusion. If their review instead results in a conclusion that the decision was flawed or incorrect, the Board may modify or reverse the decision.

Staff Recommendation

Staff recommends that the Board of Adjustment uphold the decision by the Historic Preservation Officer to deny the request for a Certificate of Appropriateness, based on the findings that the evaluation and the decision reflect the criteria and standards established by the Secretary of the Interior for rehabilitation for the treatment of historic properties

Attachments

Attachment 1 – Location Map
Attachment 2 – Plot Plan
Attachment 3 – Original Application Materials
Attachment 4 – Office of Historic Preservation File
Attachment 5 – Secretary of Interior Guidance Documents
Attachment 6 – The Rutherford Appeal

Attachment 1
Location Plan

Attachment 2
Plot Plan

Board of Adjustment
Plot Plan for
Case A-12-063

Proposed Storage

Council District 1

302 Adams

Development Services Dept
City of San Antonio
(08/27/2012)

Attachment 3

302 Adams
Original Application

HISTORIC & DESIGN REVIEW COMMISSION APPLICATION FORM

Print Form

CITY OF SAN ANTONIO
PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
2012 MAR 16 PM 12: 24
DATE RECEIVED

CITY OF SAN ANTONIO

OFFICE OF HISTORIC PRESERVATION
1901 S. ALAMO, SAN ANTONIO, TEXAS 78204
P: 210.215.9274 E: OHP@SANANTONIO.GOV

Date Complete: 3/16
Staffs Initials: gm
Date of Scheduled HDRC Meeting: 4/4/12
60 Day Review:

Property Address: 302 ADAMS

Historic District: King William

Landmark Name:

☐ River Improvement Overlay ☑ Public Property ☐ Other

Parcel ID: NCB 946 Block 2 Lot 11 + 12 + 10 Zoning

Name of Property Owner: DAN RUTHERFORD

Mailing Address: 302 ADAMS S.A. Tx. Zip Code 78210

Phone Number: 210 222 2303 H, 210 225 4200 W, 210 859 6828 Cell

Email Address: drutherford@rutherfordand rutherford.com

Name of Applicant/Authorized Representative:

Mailing Address: Zip Code

Phone Number: Email Address:

BELOW PROVIDE A DETAILED DESCRIPTION OF THE PROJECT (USE AN ADDITIONAL PAGE IF NECESSARY)

☐ Conceptual Approval ☐ Final Approval Original HDRC Hearing Date:

FREE STANDING STORAGE ROOM

SEE THE FOLLOWING PAGE FOR REQUIRED EXHIBITS. NO CASE WILL BE SCHEDULED FOR A HEARING UNTIL ALL SUPPORTING MATERIALS ARE RECEIVED.

This completed form and attachments are to be submitted in person to 1901 S. Alamo.

REQUIRED ATTACHMENTS: (No[illegible]e will be scheduled for a hearing until [illegible]upporting materials are received.)

- ☐ **ONE ORIGINAL PRINTED COPY OF ALL MATERIALS LISTED BELOW**
- ☐ **COPY OF ALL EXHIBITS, DRAWINGS, AND PHOTOS ON A COMPACT DISC IN PDF OR JPEG FORMAT**
- ☒ Completed HDRC Application
- ☒ Photos of all sides of the structure and site (color photos no smaller than 4" X 6")
- ☒ Written narrative explaining the proposed work
- ☒ Site plan
- ☒ Elevation drawings and floorplans of planned addition or alterations (8 1/2" X 11" reproducible sheets)
- ☐ Specifications of materials to be used
- ☐ Samples of all materials, finishes, and/or fabrics
- ☐ Signage mock-up
- ☐ FEES: Commercial Projects: $100; Sign Applications: $100

TIP: Submit sufficient materials and information so that someone would be able to understand your project without speaking with you.

LETTER OF AUTHORIZATION

IF THE PROPERTY OWNER DOES NOT APPEAR PERSONALLY BEFORE THE COMMISSION, A LETTER OR SIGNATURE OF AUTHORIZATION MUST BE PRESENTED TO THE HISTORIC PRESERVATION OFFICER OR THE CASE WILL NOT BE HEARD.

I hearby authorize _____ of _____
(Name of Representative) (company or agency)

_____ to represent me in the matters pertaining to this case.
(Address)

PLEASE BE ADVISED THAT THE COMMISSION HAS A POLICY OF ONLY HEARING A CASE WHEN THE OWNER OR THE OWNER'S REPRESENTATIVE IS PRESENT TO PRESENT THE CASE.

A STAFF MEMBER FROM THE OFFICE OF HISTORIC PRESERVATION MAY VIDEO TAPE OR PHOTOGRAPH YOUR PROPERTY FOR THE HISTORIC AND DESIGN REVIEW COMMISSION MEETING AND PLACE A NOTICE SIGN ON THE PROPERTY.

Applicant understands the following:

1. If the Commission fails to approve any portion of a request and recommends that changes be made in the plans and specifications, the applicant will have (5) days in which to inform the Historic Preservation Officer as to whether the applicant agrees to recommended changes.
2. Following each meeting, the City Manager or designee is notified of the Commission's action. Within ten (10) days from receipt of the recommendation, the City Manager or designee shall notify the applicant as to whether their request has been approved, conditionally approved, or denied.
3. If the applicant does not concur with the Commission's recommendation, appeal to the Zoning Board of Adjustment may be made within thirty (30) days after receipt of notification.

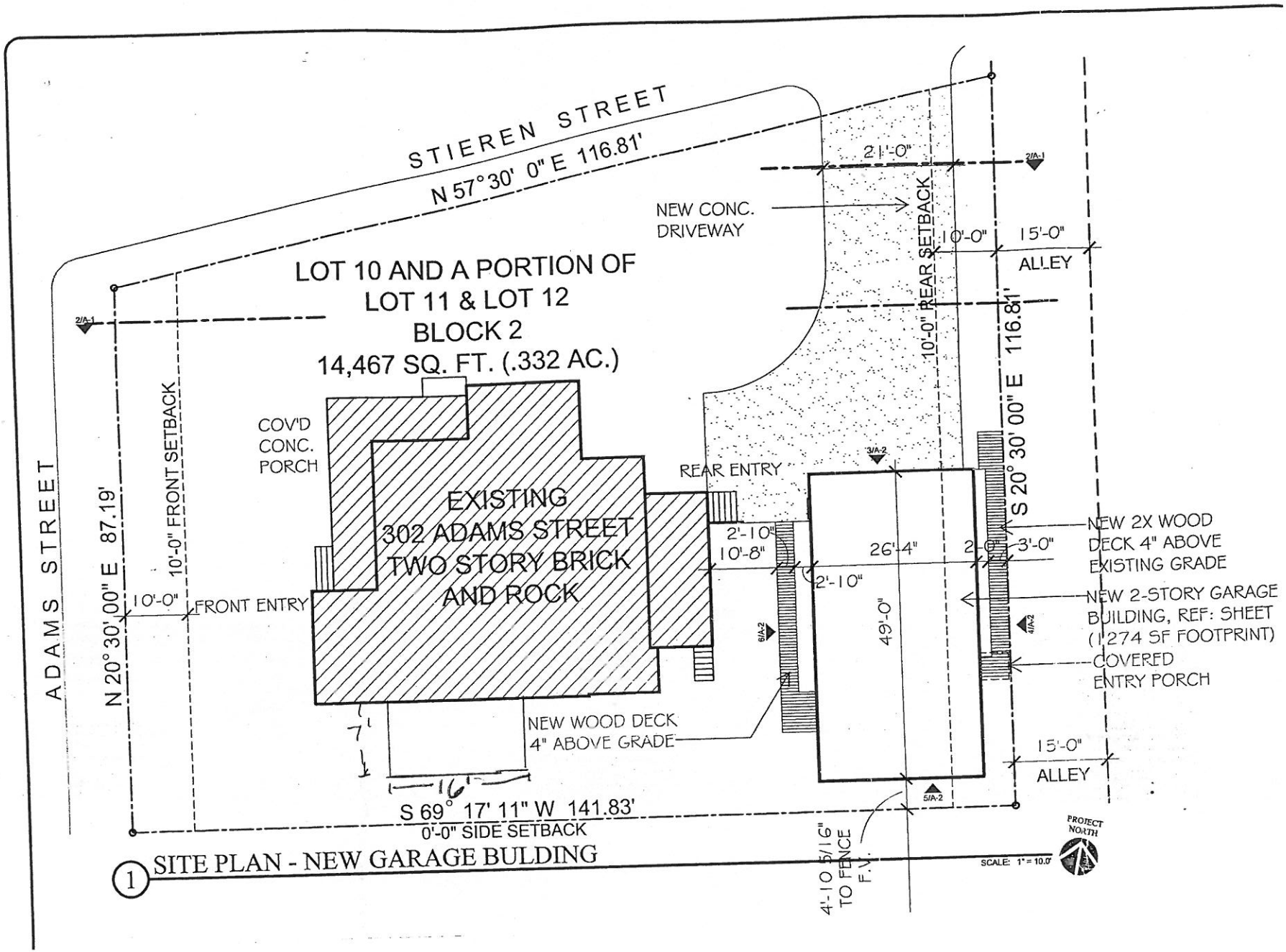
APPROVAL BY THE COMMISSION DOES NOT TAKE THE PLACE OF A BUILDING PERMIT. PERMITS MUST BE OBTAINED FROM THE CITY OF SAN ANTONIO, DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES, 1901 S. ALAMO, AFTER COMMISSION APPROVAL.

I HAVE READ AND UNDERSTAND THE ABOVE INFORMATION AND I CERTIFY TO THE BEST OF MY KNOWLEDGE THAT ALL INFORMATION PROVIDED IN THIS APPLICATION AND ATTACHMENTS IS CORRECT.

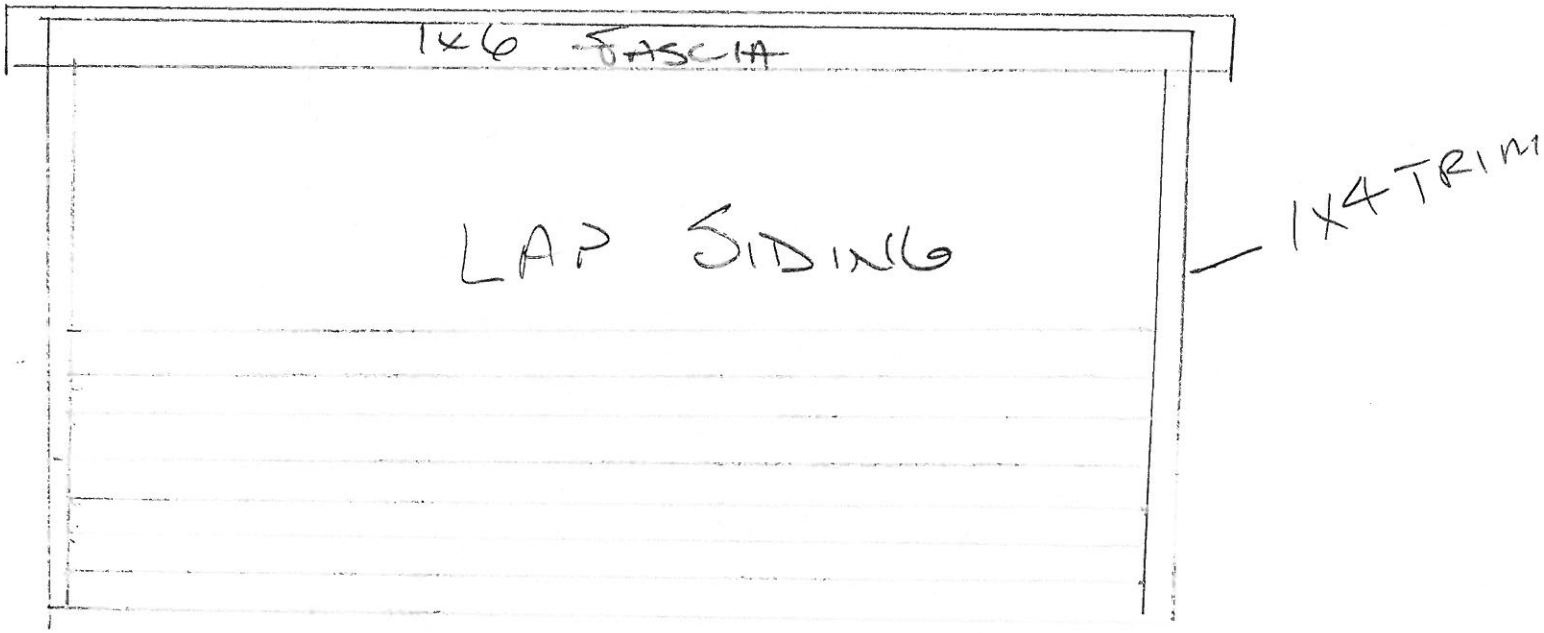
_____ _____

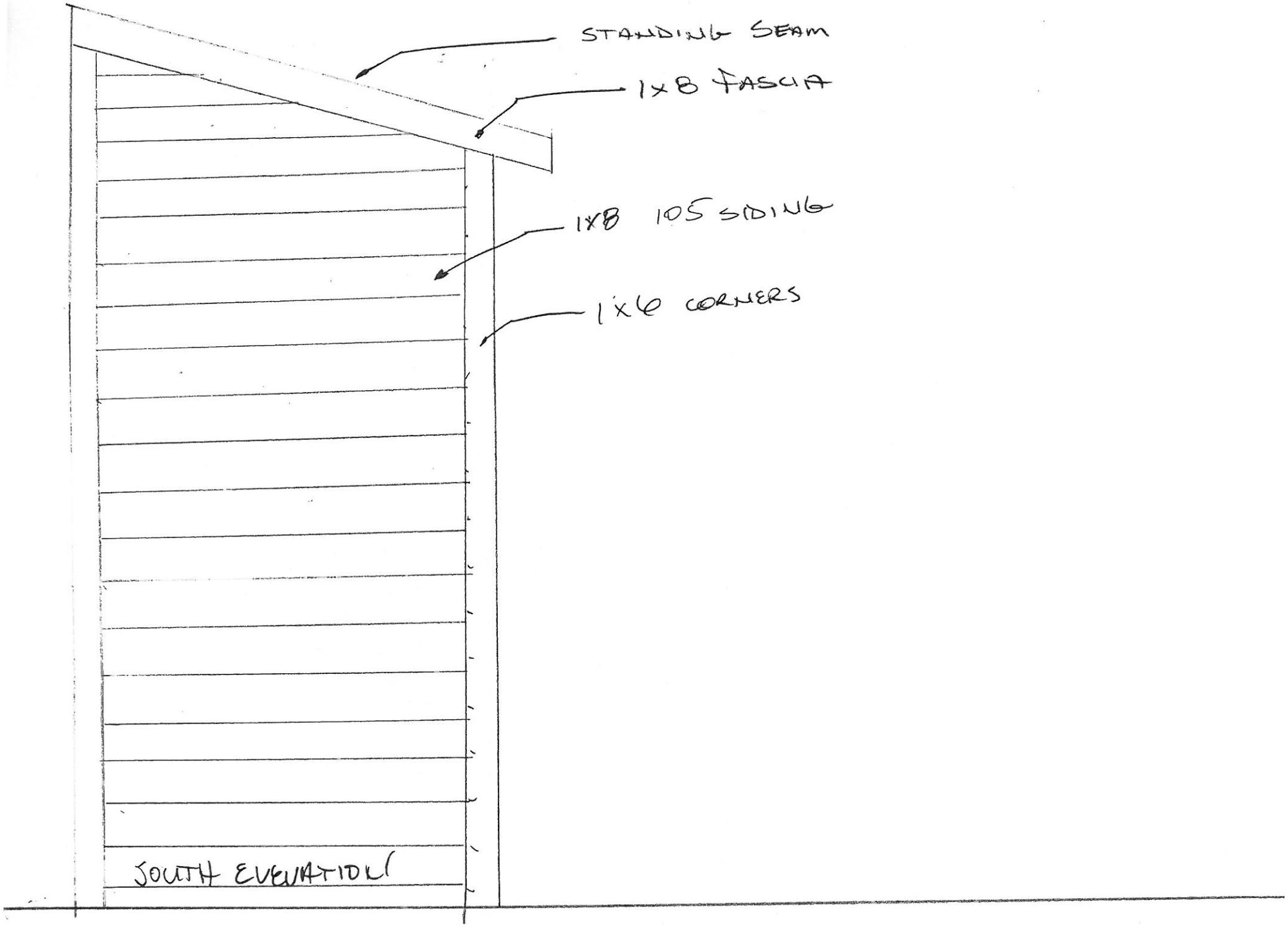
SIGNATURE OF PROPERTY OWNER **DATE**

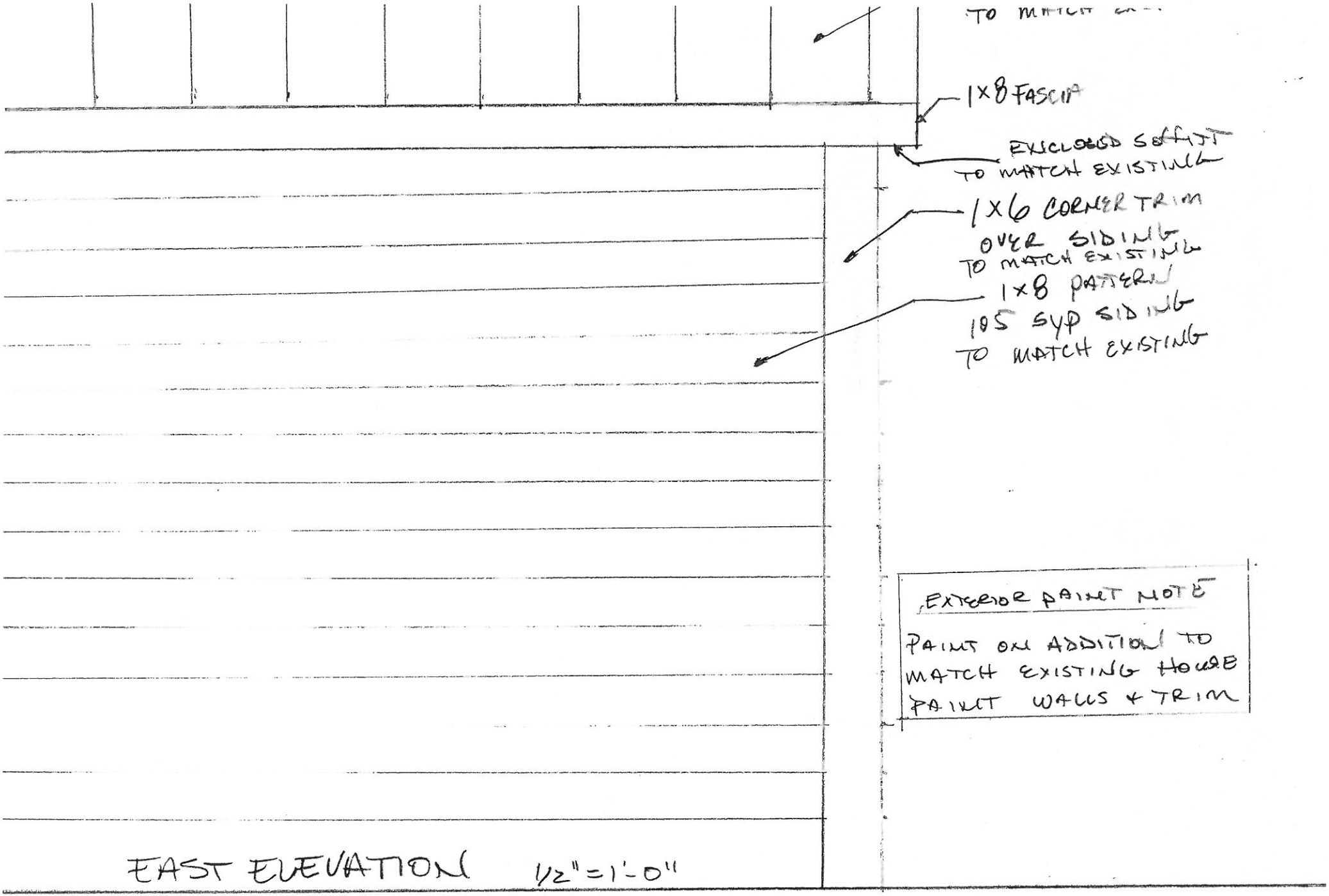
ELEVATION DRAWING ON BACK...



1 SITE PLAN - NEW GARAGE BULDING


1x6 FASCIA
LAP SIDING
1X4 TRIM

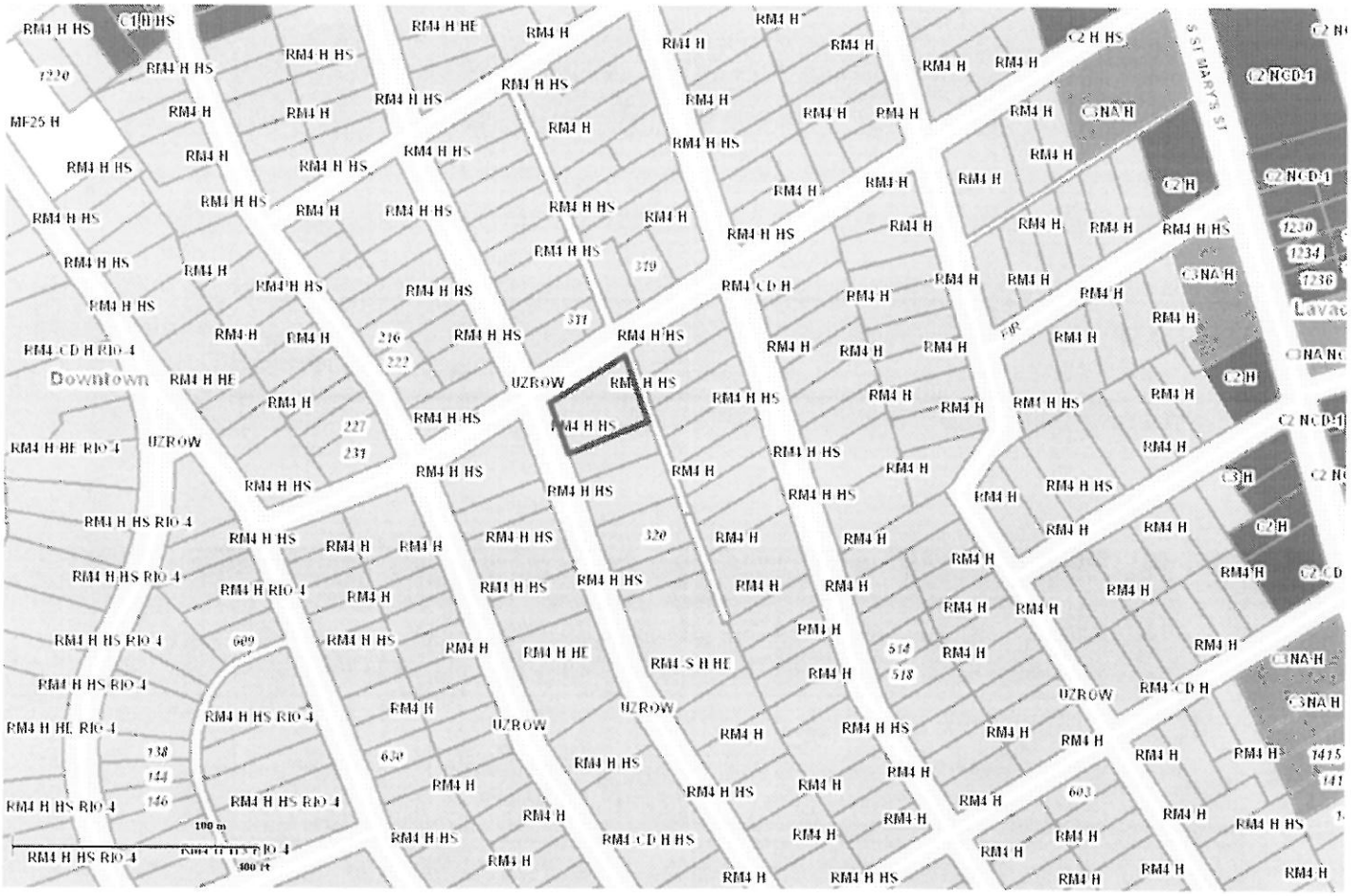

STANDING SEAM
1x8 FASCIA
1x8 105 SIDING
1x6 CORNERS
SOUTH ELEVATION



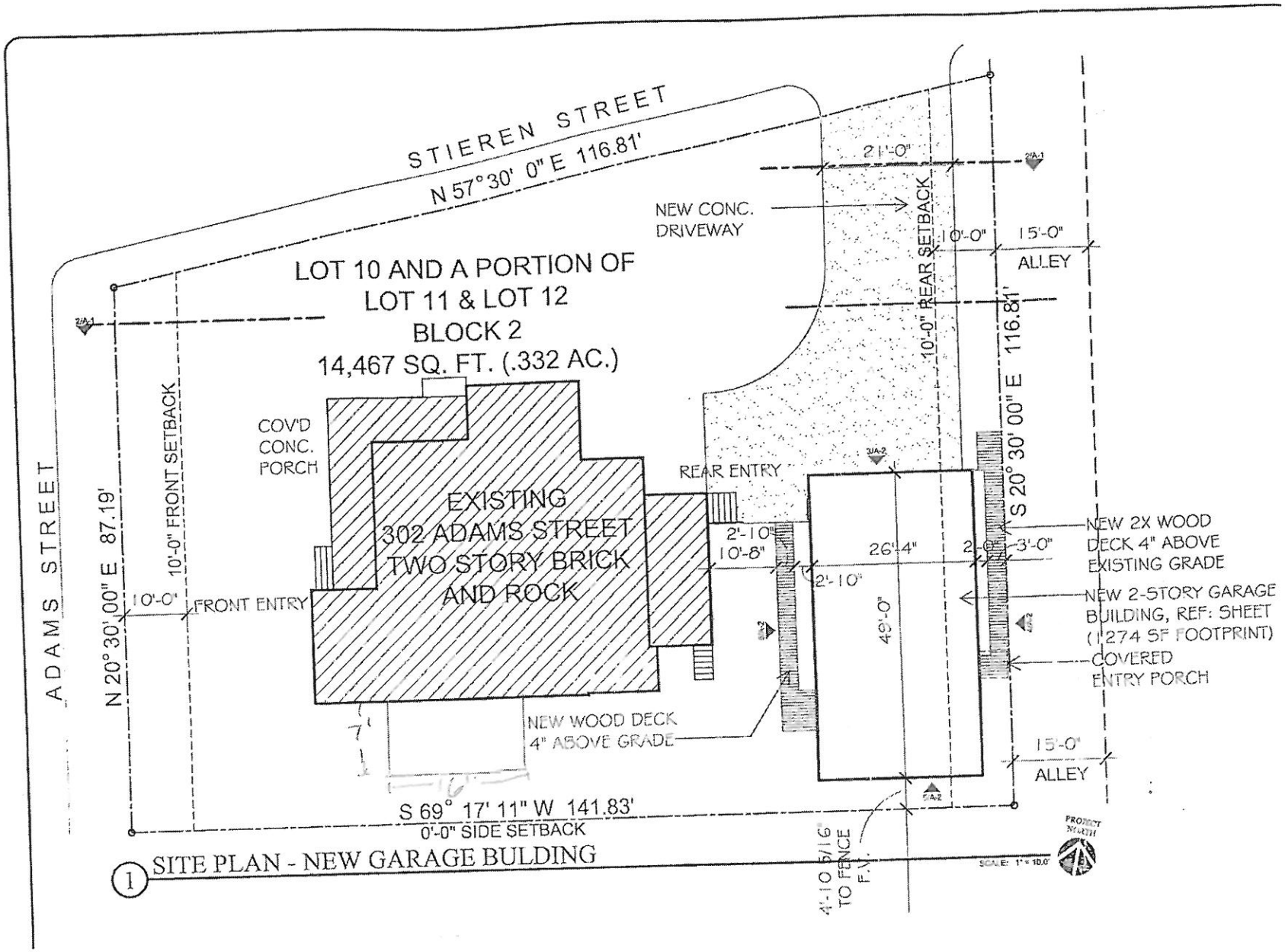
EAST ELEVATION 1/2"=1'-0"

302 ADAMS STORAGE ADDITION

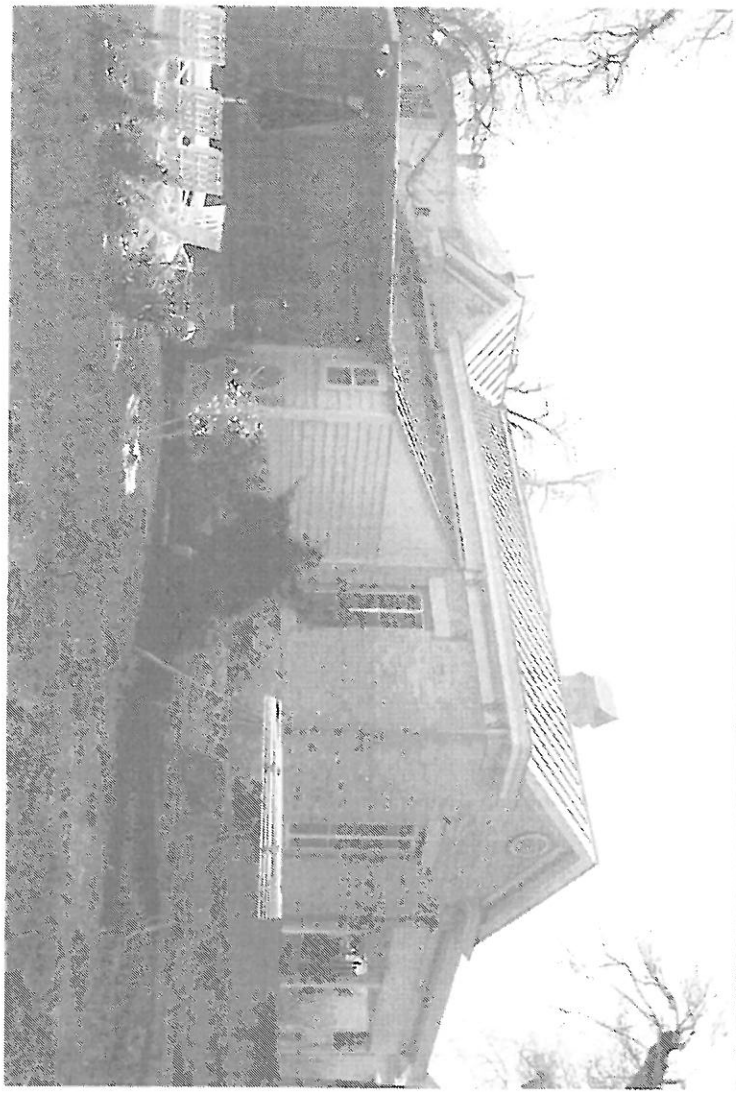
Flex Viewer
Powered by ArcGIS Server

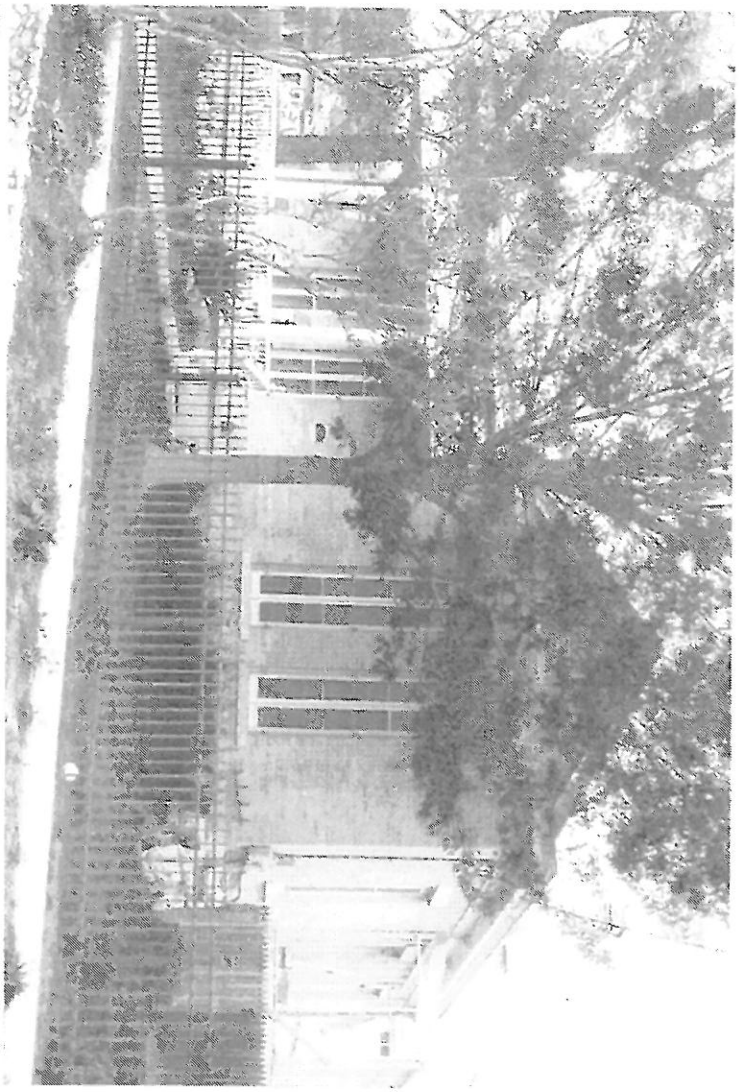


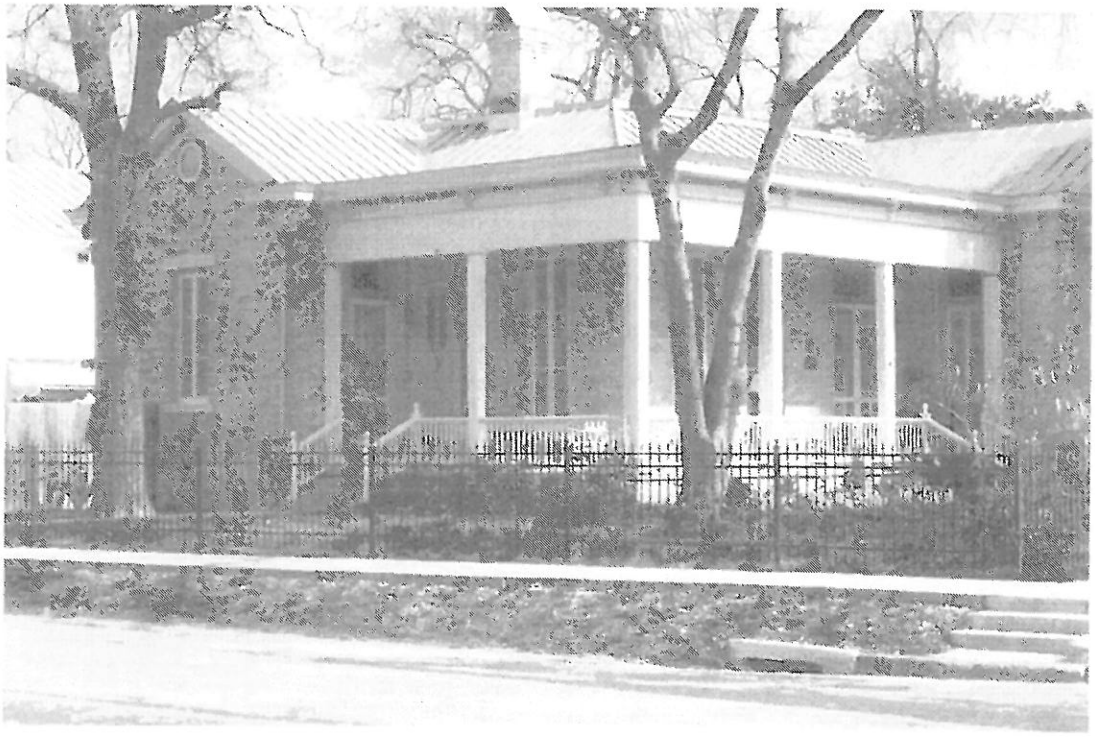
ELEVATION DRAWING ON BACK

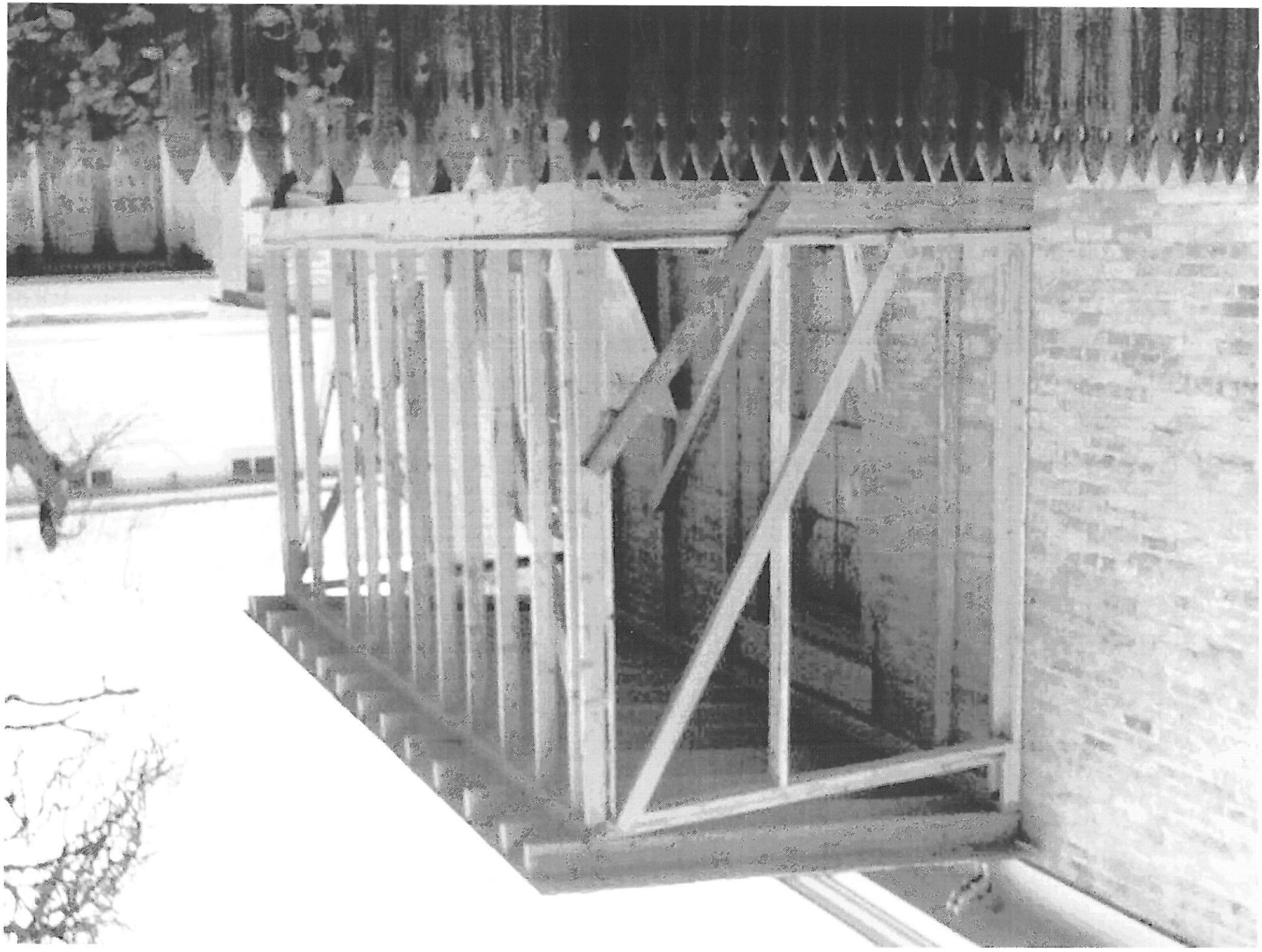


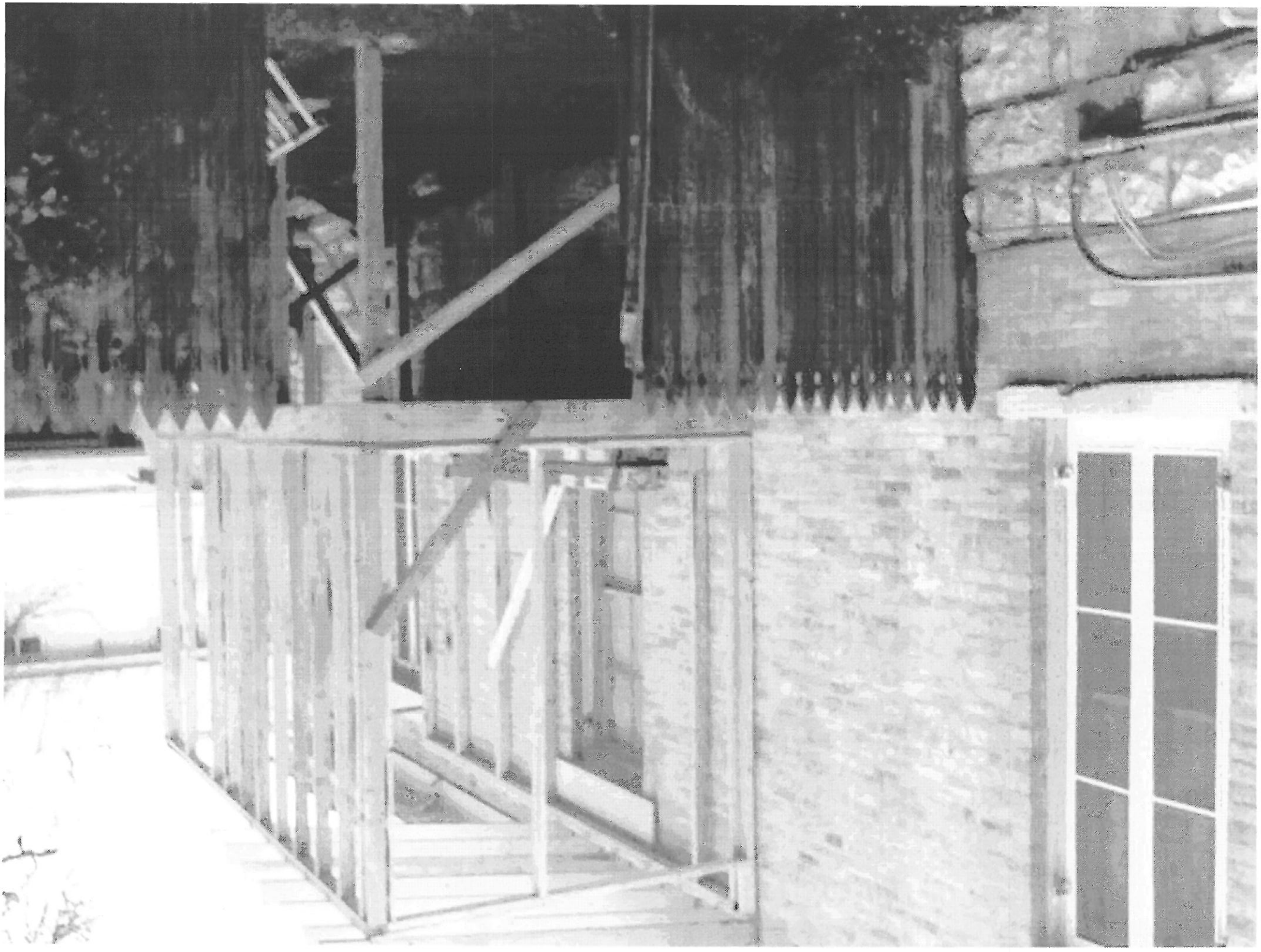
1 SITE PLAN - NEW GARAGE BULDING











Attachment 4

Office of Historic Preservation File Materials

OFFICE OF HISTORIC PRESERVATION san antonio

Historic and Design Review Commission
Design Review Committee
Report & Recommendation

DATE: 3/12/12 HDRC Case#

ADDRESS: 302 Adams Meeting Location: Cone Star

APPLICANT:

DRC Members present: Scott, Jacob

Staff present:

Others present:

REQUEST: Addition for storage

COMMENTS/CONCERNS:

Any Plans Drawn for what's being built? - No
When were Rear additions built - 2004 (1930)
House is being surrounded by additions
that aren't sympathetic. Back of house
already has several Additions.
House is in a Hist Dist - there is a challenge
w/ living in older house - want to make sure

COMMITTEE RECOMMENDATION: **APPROVE [ ] DISAPPROVE [ ]**
APPROVE WITH COMMENTS/STIPULATIONS:

Committee Chair Signature (or representative)

Date

- that addition is sympathetic to existing building.

Recs: site visit.
section & elevation Dwgs

- comments (scott)
  - no one doubts sincerity of wanting to do the right things.
  - Procedure for doing these things to help streamline project
  - Dont want to inhibit change/growth/development, but to help the process + facilitate it.
  - Best thing is to find out what your intent is — we need to see drawings!
  - site vist may be helpful.
  - More appropriate location should be found.

Applicant has $75,000 worth of guns & no place to put them.

House has no closets!

Window will not be changed — will stay a window access will be from backyard, back of addition

- No other place on the property to put it.

Trials "free standing" than it made all touch to house

OFFICE OF HISTORIC PRESERVATION san antonio

Historic and Design Review Commission
Design Review Committee
Report & Recommendation

DATE: 4/17/12 HDRC Case#

ADDRESS: 302 Adams Meeting Location: On-Site, 302 Adams

APPLICANT: Mr. + Mrs. Daniel Rutherford

DRC Members present: Michael G, Michael C, Scott C.

Staff present: Anna Glover, Wallis McMillin

Others present: Tom Caldbeck

REQUEST: Addition

COMMENTS/CONCERNS: Q: why is addition so high? A: provides 2 levels of storage: at floor height + below.
Q: would brick to match the rest of the house be better? A: No, brick would be inappropriate
Finding: the straight, brick exterior wall = character defining feature of house. Addition should not be visible from the street. Possible solution: to have single height storage in that location.

COMMITTEE RECOMMENDATION: **APPROVE [ ] DISAPPROVE [X]**
APPROVE WITH COMMENTS/STIPULATIONS:

Committee Chair Signature (or representative) Date

→

and another storage bldg elsewhere on the property.

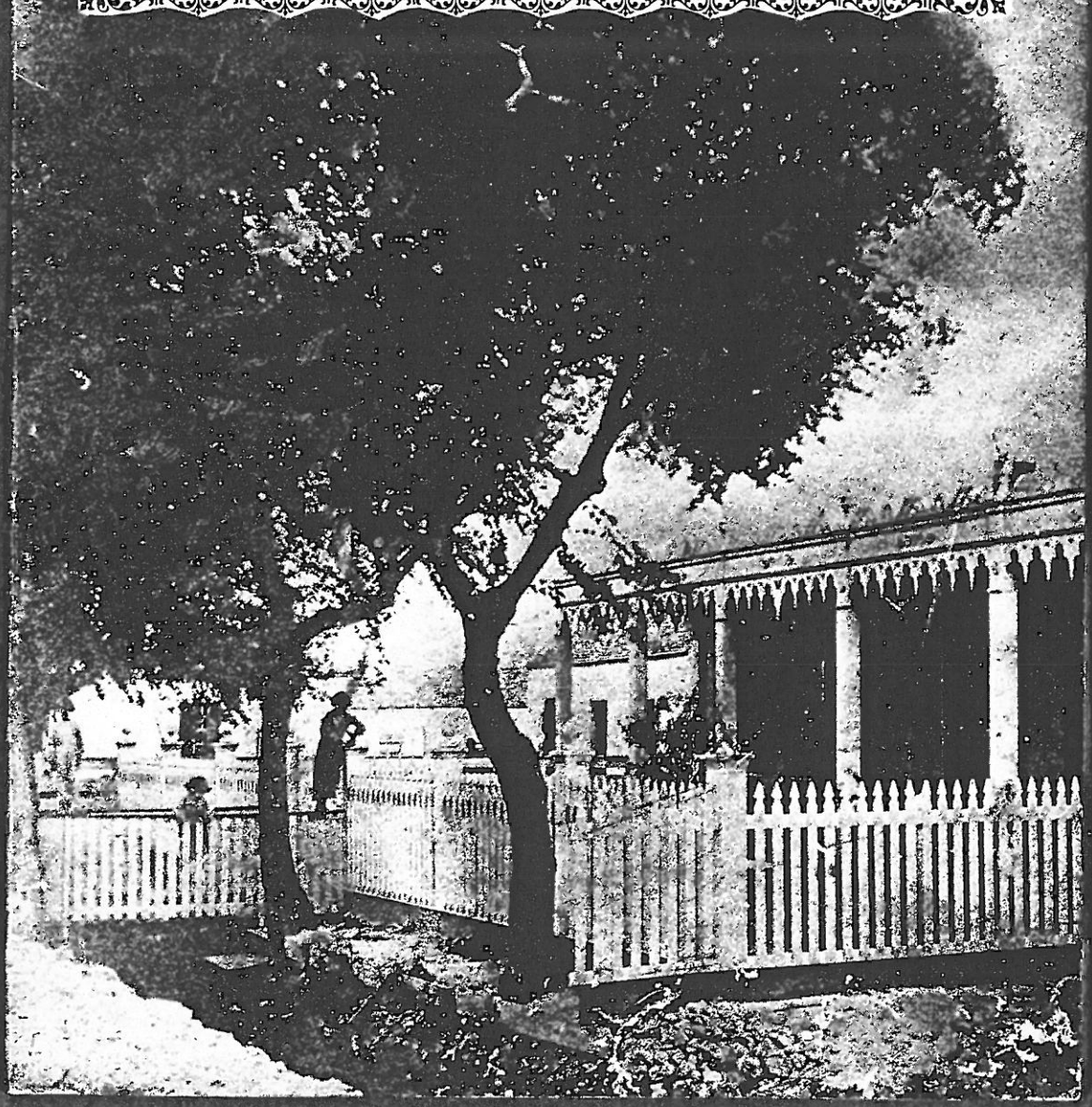
concern: site may already be "maxed out" large 2story garage/appartment, and addition on Rear were approved in 2005.

Another solution would be to locate a narrow, truly free-standing storage bldg elsewhere onto property. could be long and shallow.

DOWN THE ACEQUIA MADRE

In the King William Historic District

Mary V. Burkholder



DOWN THE ACEQUIA MADRE

In the King William Historic District

Mary V. Burkholder

SAN ANTONIO, TEXAS

Privately printed

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Printed in the United States of America.

302 Adams Street

Otto Schulze built the house at 231 in 1902, and it was the family home until he died in 1926 and his wife followed him in 1941. In 1943 the heirs sold the property to Mrs. Katherine Kleck, the present resident.

230 ADAMS F. L. and Monte Wilder had this house built in 1895. He was a postal clerk. The Wilders lived there until 1901 when they sold the property. In 1902 James A. McDonald bought the house and he and his wife Helen lived in it until about 1922. They rented it after that, but Mrs. McDonald lived there shortly before 1930. Subsequent owners have been James H. Hartsell; William and Helen Goodyear; Arthur and Nora Thigpen, residents from 1947 to 1968;

Frank E. Hartman; and present joint owners of the apartments, Kenneth Cobb, Jack A. Meyer, and James D. Shepherd.

At first this was a one story frame house. Sometime after 1907 or 1908 it became a two story stuccoed structure.

302 ADAMS THE PAUL MEERSCHEIDT/DAVIS HOUSE This is reputed to be the oldest house on Adams Street. It was built about 1888-89 for Paul Meerscheidt soon after his brother Axel had purchased the 15 acre tract that became known as the Meerscheidt Subdivision. Besides Paul's wife Bertha (*nee* Frede) and his eight children, this was a home for a time after 1896 for his mother Amanda Carolina Meerscheidt, as well as his brothers Max and Otto and his sister Martha. The elder Mrs. Meerscheidt, who was a member of the well known von Rosenberg family, had come to the United States from Germany in 1849. She married Arthur Meerscheidt the next year at Nassau Farm near La Grange, Texas. It was after her husband died that she moved to San Antonio.

Paul Meerscheidt was born at Nassau Farm in 1856. He was educated in Germany, studied law in La Grange, and graduated from Vanderbilt University. In 1889 he joined his brother Axel in the real estate business.

Axel Meerscheidt was born at Nassau Farm in 1853 and at the age of 13 went to Germany to live with relatives. He studied architecture in Germany and Paris. He returned to La Grange in 1877. He became a lawyer, moved to San Antonio, and entered into real estate. His second wife, Olga Remer of New Braunfels, was only 17 when she married him in 1881. Around 1907 Axel and his family moved to Seattle, Washington, where he died in 1921.

In 1906 Paul Meerschedit sold his home on Adams Street to G. A. Davis, railroad conductor, and his wife Nellie. This was their home most probably for the rest of their lives. Their children sold the property in 1954 to Al and Ervie Baumgarten. By 1958 Juan and Herlinda Martinez were the owners, and by 1969 it had been sold to Daniel and Amalia Vidaurri, who live there now.

303 ADAMS THE LASSNER/GALLAGHER HOUSE Mrs. Adolphine Lassner, widow of Edward Lassner, bought these two lots in 1893 and had the house built as a home for herself and her children. Her husband, an accomplished pianist, had come to this country in 1865 from Stuttgart, Germany,

HISTORIC AND DESIGN REVIEW COMMISSION

April 04, 2012

Agenda Item No:

HDRC CASE NO:	**2012**
IDENTIFIER:	
ADDRESS:	302 Adams
LEGAL DESCRIPTION:	NCB 946 BLK 2 LOT 10,11 EXC SW TRI 15.90 FT & NE TRI 12.3 FT OF 12
ZONING:	RM4 H HS
CITY COUNCIL DIST.:	1
PUBLIC PROPERTY:	No
DISTRICT:	King William Historic District
LANDMARK:	Yes
APPLICANT:	Daniel Rutherford
OWNER:	Daniel Rutherford
TYPE OF WORK:	Addition

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to:

Construct an addition on the south side of the property. The proposed new addition will measure 7' wide x 16' deep It will be constructed out of wood with a standing seam metal roof, and will have a no windows.

The accompanying exhibits provide additional information.

RECOMMENDATION:

Staff does not recommend approval as submitted. The proposed addition will be readily visible from the public right of way, and will damage the architectural integrity and historic character of this landmark property. If an addition to the home is necessary, staff recommends that it be located in the rear of the home so that it is not visible from the street.

This recommendation is consistent with the Secretary of the Interiors Standards for Rehabilitation numbers 2, 9, and 10.

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

CASE COMMENTS:

The applicant began work without approval. The appropriate fees have been paid.

PLANNER: Wallis McMillin

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Daniel Rutherford
302 Adams
San Antonio, Tx 78210

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by (*Printed Name*) DAN Rutherford
C. Date of Delivery 5-11-12

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (*Extra Fee*) ☐ Yes

2. Article Numl (*Transfer fro*) 7003 2260 0004 0767 8369

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

SAN ANTONIO HISTORIC AND DESIGN REVIEW COMMISSION
OFFICIAL MINUTES
APRIL 18, 2012

- The Historic and Design Review Commission of the City of San Antonio met in session at 3:00 p.m., in the Board Room, Development and Business Services Center, 1901 S. Alamo

- The meeting was called to order by Commissioner Cone, Chair, and the roll was called by the Secretary.

PRESENT: Cone, Carpenter, Barrera, Guarino, Valenzuela, Shafer, Rodriguez, Connor
ABSENT: Tak, Salas, Zuniga

- Chairman's Statement
- Citizens to be heard
- Committee Appointments

Design Review Committee:
1. Scott Carpenter
2. Michael Connor
3. Michael Guarino
4. Jesse Zuniga
5. Norm Barrera

Alternate- Tim Cone

Demolition/Designation Committee:
1. Harry Shafer
2. Kathy Rodriguez
3. Scott Tak
4. Jacob Valenzuela

Alternate- Tim Cone

17. HDRC NO. 2012-091

Applicant: Daniel Rutherford
Address: 302 Adams

The applicant is requesting a Certificate of Appropriateness for approval to construct an addition on the south side of the property immediately adjacent to the existing house. The proposed new addition will measure 7' wide and 16' deep.

It will be constructed out of wood with a standing seam metal roof and will have no windows. The proposed addition will enclose one of the home's exterior windows.

Applicant/owner was not present.

COMMISSION ACTION:

The motion was made by Commissioner Connor and seconded by Commissioner Rodriguez to grant denial of the owners request for an addition.

AYES: Cone, Carpenter, Barrera, Guarino, Valenzuela, Shafer, Rodriguez, Connor
NAYS: None

THE MOTION CARRIED.

OFFICE OF
HISTORIC
PRESERVATION
san antonio

HISTORIC AND DESIGN REVIEW COMMISSION
COMMISSION ACTION

This is not a Certificate of Appropriateness and can not be used to acquire permits.

April 18, 2012

HDRC CASE NO:	**2012-091**
ADDRESS:	302 Adams
LEGAL DESCRIPTION:	NCB 946 BLK 2 LOT 10,11 EXC SW TRI 15.90 FT & NE TRI 12.3 FT OF 12
HISTORIC DISTRICT:	King William Historic District
LANDMARK DISTRICT:	Yes
APPLICANT:	Daniel Rutherford 302 Adams
OWNER:	Daniel Rutherford
TYPE OF WORK:	Addition

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to:

Construct an addition on the south side of the property immediately adjacent to the existing house. The proposed new addition will measure 7' wide and 16' deep. It will be constructed out of wood with a standing seam metal roof and will have no windows. The proposed addition will enclose one of the home's exterior windows.

RECOMMENDATION:

This application was reviewed by the DRC on April 12, 2012. At that meeting, the committee found that a site visit and proper architectural drawings would be necessary before making a decision.

At a site visit on April 17, 2012, the DRC found the location of the addition to be inappropriate. The committee found that the unobstructed brick exterior of the building's south elevation is a character defining feature of the home and should not be altered. If additional storage space is needed, the committee recommended that it be reconfigured in order to fit in a different location on the property.

Staff does not recommend approval as submitted. This residence is an individually designated landmark within the King William Historic District and is reputed to be the oldest house on Adams Street, built c. 1888. The proposed addition will be readily visible from the public right-of-way and will diminish the architectural integrity and historic character of this landmark property.

If the applicant requires more on-site storage, staff recommends that a free-standing structure be located elsewhere on the property.

This recommendation is consistent with the Secretary of the Interior's Standards for Rehabilitation numbers 2, 9, and 10.

COMMISSION ACTION:

Denial of applicant's request.

Anna Glover

for Shanon Peterson
Historic Preservation Officer

Attachment 5

Secretary of Interior Guidance Documents

The Secretary of the Interior's Standards and Guidelines

The Secretary of the Interior's Standards for Rehabilitation, also known as The Standards, are part of the United States Department of the Interior – National Park Service – Secretary of the Interior's Standards for the Treatment of Historic Properties.

The Standards are a nationally recognized tool for the preservation, maintenance and rehabilitation of our nation's heritage. These Standards have become the accepted benchmark at all levels of government – national, state, and local – for evaluating the acceptability of proposed changes to historic properties. The City of Los Angeles utilizes the Standards in reviewing proposed alterations to City Historic-Cultural Monuments and in its Historic Preservation Overlay Zones (HPOZs).

The Standards are not meant to prevent change – instead, they represent a sophisticated and nuanced framework for managing change. The Standards do not require that every feature of a historic property be preserved, but do seek to preserve the most significant, character-defining features of a historic site. The Standards also give important guidance on how to design and construct new additions in a manner that does not detract from a property's historic character.

The National Park Service has also published detailed Guidelines that further explain and illustrate the Standards and their practical application. In addition, many applicants retain historic preservation consultants on more complex projects to assist them in interpreting and applying the Standards.

Secretary of the Interior's Standards and Guidelines www.cr.nps.gov The Secretary of the Interior's Standards for Rehabilitation are:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Office of Historic Resources, Department of City Planning
200 N. Spring Street, Room 620, Los Angeles, CA 90012
Phone (213) 978-1200 Fax (213) 978-0017

National Park Service
U.S. Department of the Interior

Technical Preservation Services
National Center for Cultural Resources

ITS Number 3

Interpreting The Secretary of the Interior's Standards for Rehabilitation

Subject: New Additions to Mid-size Historic Buildings

Applicable Standards:

2. Retention of Historic Character
9. Compatible New Additions/Alterations
10. Reversibility of New Additions/Alterations

Issue: Sometimes it may be necessary to add extra space to a historic building when it is being rehabilitated to satisfy new use requirements. The best adaptive use is always one that requires the least amount of change to the historic building, which includes being able to fit the new use into the existing structure. But even comparatively large historic buildings may need more space to house certain practical functions that were not part of the historic use, such as mechanical equipment, an elevator shaft, or a stair tower, or just to provide more rentable or occupiable space to make the project economically viable.

The Secretary of the Interior's Standards for Rehabilitation permit new additions to historic buildings if the new addition is compatible with the historic building and its historic character. A new addition will usually meet the Standards if: (1) it is located at the rear, or on another secondary and inconspicuous elevation of the building; (2) its size and scale are limited and appropriate for the historic building; (3) the new addition does not obscure character-defining features of the historic building; and (4) the new addition is designed in such a way that clearly differentiates the new from the old.

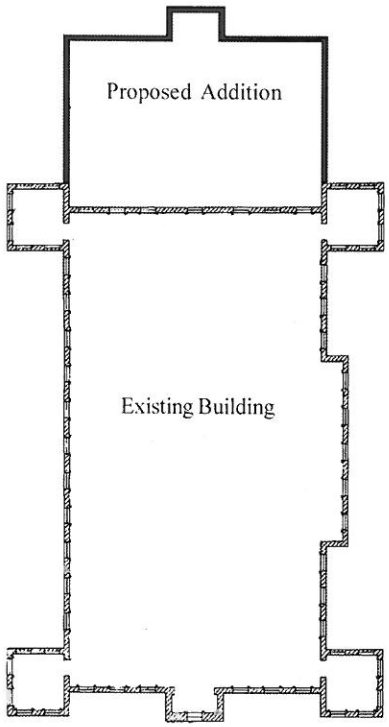
Application 1 (*Compatible addition*): Rehabilitated into apartments, this two and one-half story brick structure was originally constructed in 1887 as an orphanage, but most recently had been used for offices. This building, L-shaped in plan, extends along a major street for most of a city block, and it is anchored by a three-story double-towered entrance at one end and a smaller simpler tower at the other end. The developer determined that more room was needed to ensure the financial success of the conversion of this building into residential apartments. Accordingly, a new two-story addition was planned at the rear and side of the former orphanage. Constructed of brick, and painted to help blend with the historic building that is also painted, the addition is simply designed, and features flat-arched windows with two-over-two sash that contrast with the rounded arches of the historic windows. This new addition meets the Standards. It is clearly differentiated from the historic building, and it is compatible in materials, design, size, and scale. A row of townhouses in front of the new addition further minimizes its visibility from the street.

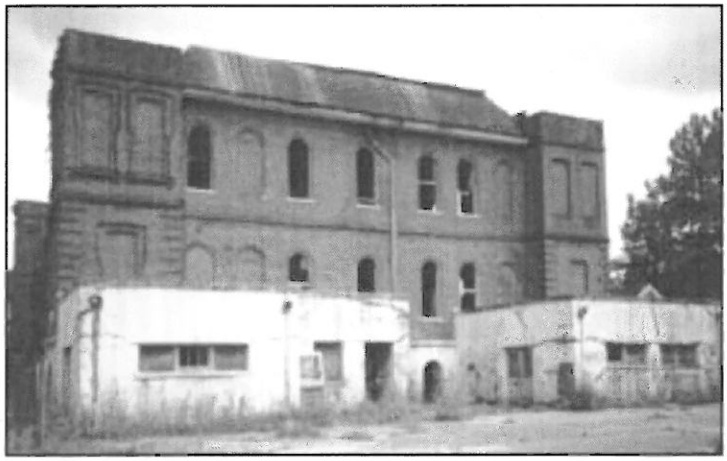
The main front entrance of the orphange after its conversion to residential apartments.

The side wing that extends behind the main entrance to the building prior to rehabilitation, and construction of the new addition.

The new addition at the rear of the side wing is unobtrusive, and compatible with the building's historic character. Townhouses (on the right) in front of the addition further limit its visibility.

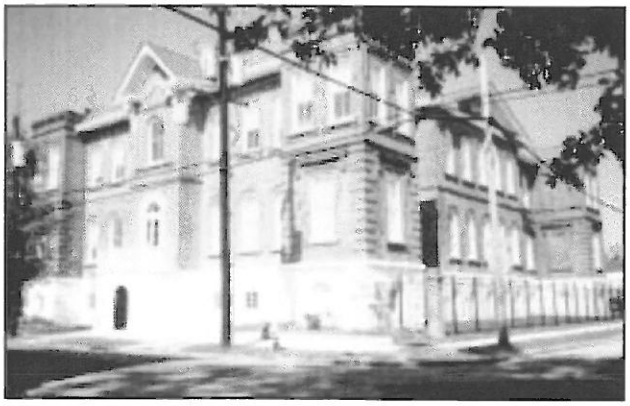
Application 2 (*Compatible addition*): A historic three-story, 1879 brick school building, long abandoned, was rehabilitated for use as a women's and children's center. The school is a square, Italianate building with decorative towers at each corner, now flat-roofed since the loss many years ago of their Romanesque-arched open bell towers. Although the existing building was not small, it lacked sufficient space to fulfill the center's needs for private and communal living and dining areas for the residents, as well as for administration and staff offices. To provide additional space, two small non-significant additions were removed and a three-story brick addition was constructed at the rear of the school. The new brick is harmonious with the historic brick and the design of the addition is very simple. To further differentiate the addition from the historic building, the windows in the new addition have flat arches and are very plain and unadorned in contrast to the more decorative window openings and stone sills on the original schoolhouse. The new addition is compatible in size, scale, materials and location with the historic building and, thus, meets the Standards.





The rear elevation of the school building before the removal of the two later, non-significant additions.

The simple design of the new addition at the rear of the building is completely compatible with the historic character.



The school, which is prominently situated on a corner, is shown after rehabilitation. The new addition at the back (right) cannot be seen from the corner.

Anne Grimmer, Technical Preservation Services, National Park Service

These bulletins are issued to explain preservation project decisions made by the U.S. Department of the Interior. The resulting determinations, based on the **Secretary of the Interior's Standards for Rehabilitation,** are not necessarily applicable beyond the unique facts and circumstances of each particular case.

Attachment 6

302 Adams
The Rutherford Appeal

Case No. A-12-063

Case Manager _____

APPEAL
To the
BOARD OF ADJUSTMENT

CITY OF SAN ANTONIO	§	**COUNTY OF BEXAR**
	§	
STATE OF TEXAS	§	

TO THE HONORABLE BOARD OF ADJUSTMENT:

Property description (Attach field notes if necessary):

Lot no. 10, 11 Exc SW TRI 15.90 Ft & NE TRI 12.3 Ft. of 12

Block No. 2

NCB 946

Property Address: 302 Adams st - 78210

Zoning _____

The Applicant, Lind & Dan Rutherford of Bexar County, alleges that the following error in an order, requirement, decision or determination has been made by an administrative officer in the enforcement of the City of San Antonio's Zoning ordinances:*

The HDRC erred in Refusing a Certificate of Appropriateness, in that they failed to follow the Secretary of the Interior's Standards for Rehabilition Numbers 2, 9 and 10.

*Note: Local Government Code § 211.010 (b) and San Antonio City Code § 35-481 (b)(1) require that the applicant give notice of the specific grounds for the appeal. Failure to state the reasons for the alleged error and applicable code sections will result in the return of your application. Please attach additional pages if necessary.

I have completed the following requirements:

1. Paid the filing fee of $600.00, checks made payable to "City of San Antonio"

2. Submitted three (3) copies of the plot plan, plus one additional 8½-inch by 11-inch copy, all drawn to scale (if applicable)

3. Submitted other supporting documentation, e.g. HDRC decision, etc.

Respectfully submitted:

Applicant's name: Linda & Dan Rutherford

Status: Owner (✓) Agent ( )

Mailing address: 302 Adams St. San Antonio, Tx 78210

Telephone: (Home) 210 222 2303 (Work) 210 225 4200

Other phone: _____ Email: drutherford@rutherfordandrutherford.com

Applicant's signature _____ Date _____

Representative's name: _____

Mailing address: _____

Telephone: (Home) _____ (Work) _____

Other phone: _____ Email: _____

Name of Property Owner: Same As Above

Mailing address: _____

Telephone: (Home) _____ (Work) _____

Other phone: _____ Email: _____

I, _____ the owner of the subject property, authorize _____ to submit this application. I also authorize _____ to represent me in this appeal before the Board of Adjustment.

Property owner's signature _____ Date _____

FILING OF THE APPEAL STOPS ALL AFFECTED CONSTRUCTION ACTIVITY.

NO APPLICATION MAY BE ACCEPTED BY MAIL, MESSENGER, OR FAX. APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON.

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-12-082
Date:	August 27, 2012
Applicant:	Fernando Aguilar, AIA
Owner:	Sigmor Number 119, Inc.
Location:	1901 South New Braunfels Avenue
Legal Description:	Lot 25, Block 24, NCB 3292
Zoning:	"C-2 AHOD" Commercial Airport Hazard Overlay District
Prepared By:	Tony Felts, Planner

Request

A request for a 10-foot, 10-inch rear yard setback variance from the 30-foot required rear yard setback, to allow an addition to a commercial building 19 feet, 2 inches from the rear property line.

Procedural Requirements

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 August 9, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 10, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on August 24, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is 152.5 feet wide by 150 feet deep, or about 0.5 acre. The primary frontage is on South New Braunfels Avenue. The lot also abuts Drexel Avenue, a local residential street, to the north, and a platted 20-foot wide alley to the south. The site is currently developed with an existing 1,650 square-foot convenience store with gasoline pumps.

The applicant is proposing to construct a 500 square-foot addition to the convenience store building. The applicant states in the application that the proposed use of the addition is for new coolers and storage. Currently, the building is non-conforming with a 19-foot, 2-inch setback. The proposal is for the building to be extended in-line with the setback, and maintain the existing distance from the property line. The required minimum rear setback for the district is 30 feet.

The site also includes a driveway behind the existing building within the setback area, which is proposed to be removed and landscaped as part of this project. It should be noted that although this project does not meet the UDC threshold for provision of a buffer, the proposed setback and landscaping area would meet the 15-foot width requirement for a "Type B" Bufferyard.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-2 AHOD (Commercial)	Convenience Store with Gas Pumps

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	C-2 AHOD (Commercial)	Restaurant (under construction)
South	R-4 AHOD (Residential Single-Family)	Single-Family Residences
East	C-2 AHOD (Commercial)	Single-Family Residences
West	R-4 AHOD (Residential Single-Family)	Single-Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Highland Park Neighborhood Plan. The subject property is also located within the boundaries of the Highlands 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:*

   Yard setbacks are designed to maintain orderly development by separating incompatible land uses and ensuring access, light, and air availability. In this case, the existing building is already out of compliance with the current regulations. The proposed addition will add approximately 15 linear feet to the back building façade. The increase in non-conformity will be mitigated by the elimination of the existing driveway to the rear of the building. The existing fencing and heavy vegetation between the site and the adjacent residential property will further mitigate the variance. As such, the variance will not be contrary to the public interest.

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

   The placement of the existing non-conforming structure on the lot is a special condition that would result in an unnecessary hardship. Because the addition does not extend further toward the property line than the existing building, and with the mitigation measures proposed, a variance is warranted.

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

   As stated above, the required setbacks are designed, in part, to separate incompatible land uses. By preserving the existing non-conforming setback and eliminating the existing driveway and replacing it with landscaping, an effective buffer will be maintained between the site and the adjacent residential use. This preserves the spirit of the ordinance and ensures substantial justice.

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 "C-2 AHOD" (Commercial) 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 variance will not substantially injure the appropriate use of adjacent conforming property due to the proposed landscape buffer and the existing privacy fence. The variance will also not alter the essential character of the district as the proposed setback for the addition is the same as the non-conforming setback on the existing structure.

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 owner is based on unique circumstances existing on the property, namely, the existing non-conformity of the structure. The applicant has taken care to ensure proper buffering by the addition of landscaping area, which can add cost to a project, therefore, the plight is not based upon financial concerns.

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct the addition to meet the current 30-foot rear yard setback which may not be feasible due to the proposed use of the addition.

Staff Recommendation

Staff recommends **approval of A-12-082,** due to the following reasons:

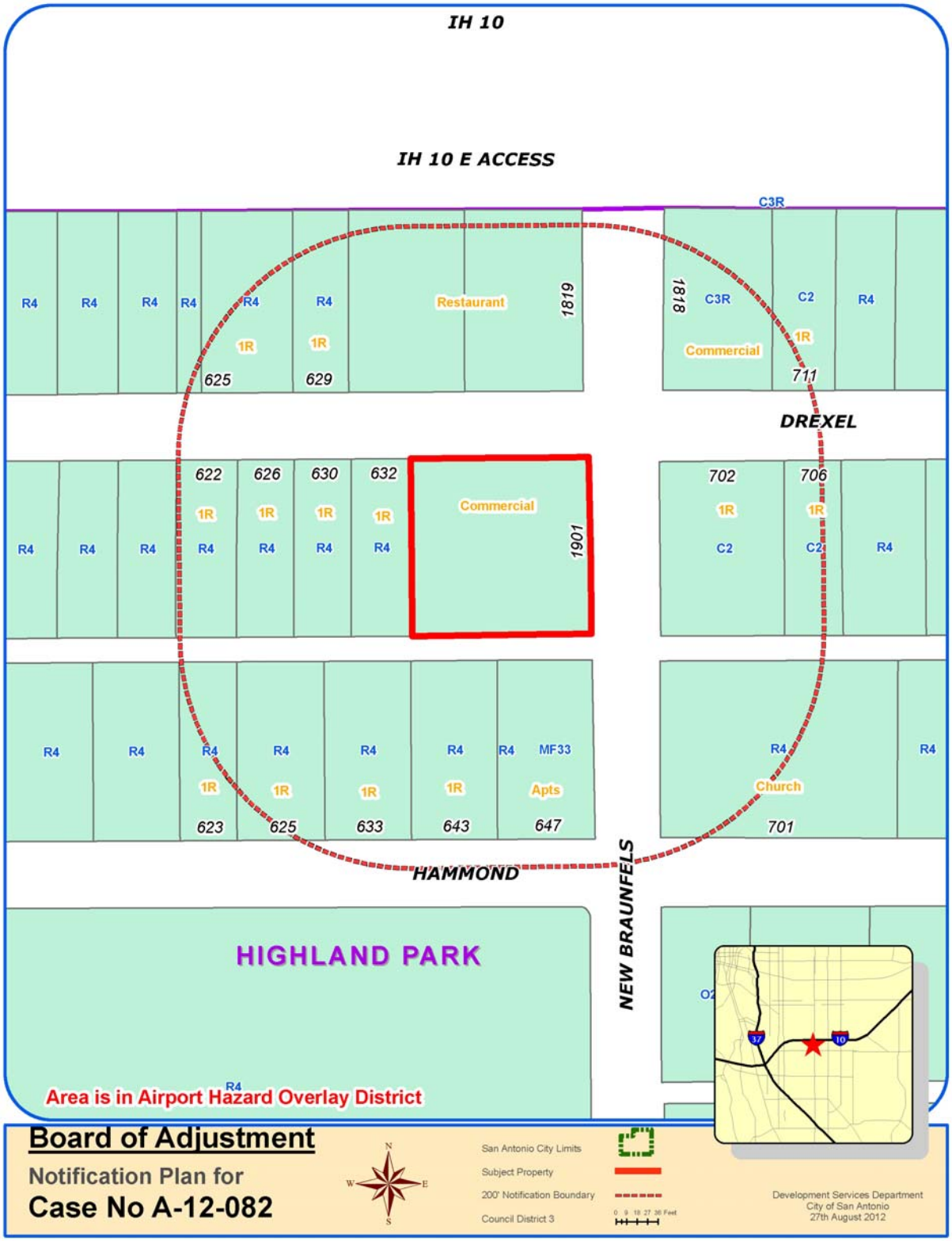
1. There are special conditions that warrant the granting of a variance.
2. The variance will not alter the essential character of the district.
3. The applicant has taken measures to mitigate the impact of the variance on adjacent residential properties, and thus maintains the spirit of the ordinance.

Attachments

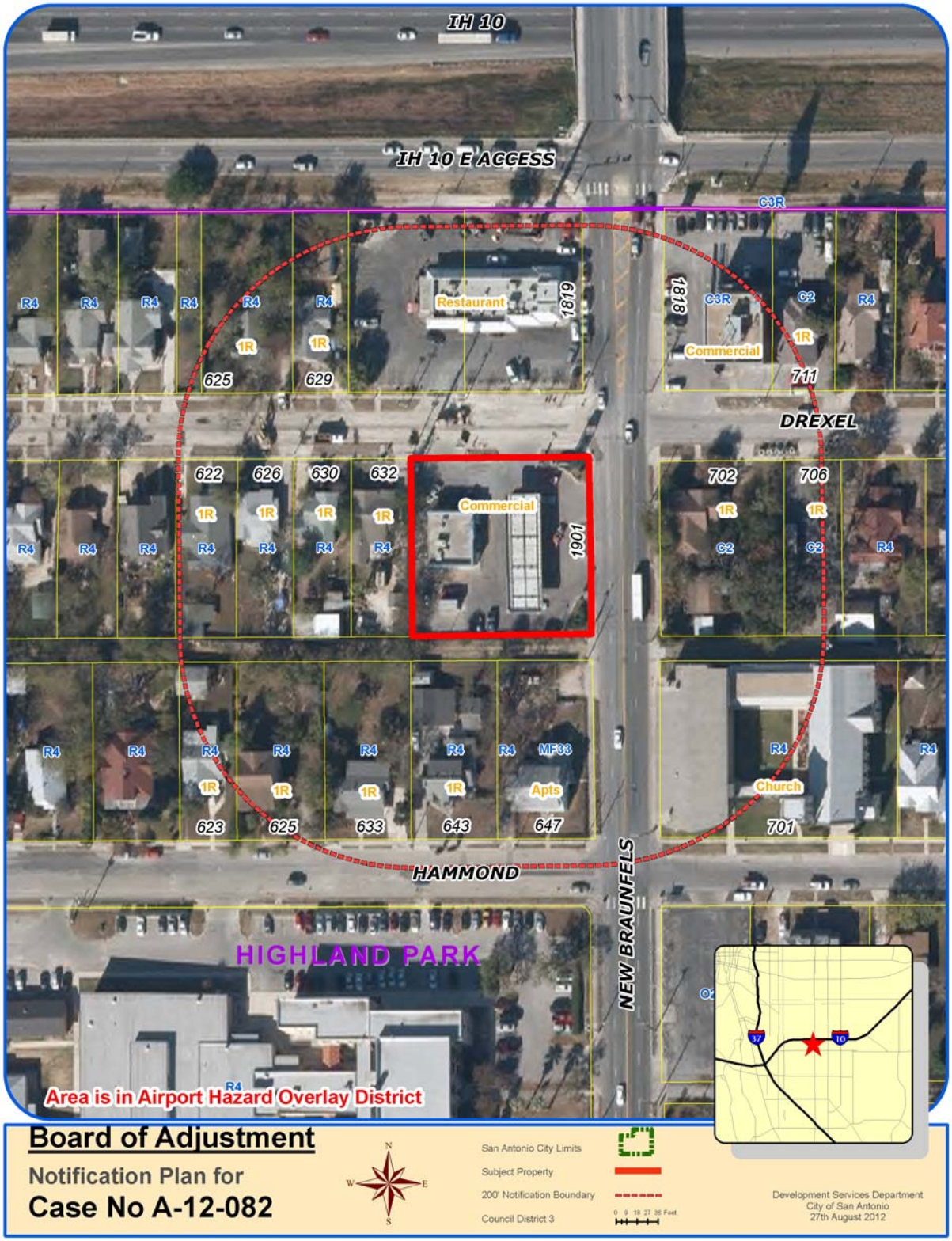
Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan

Attachment 3 – Existing Site Plan
Attachment 4 – Proposed Site Plan

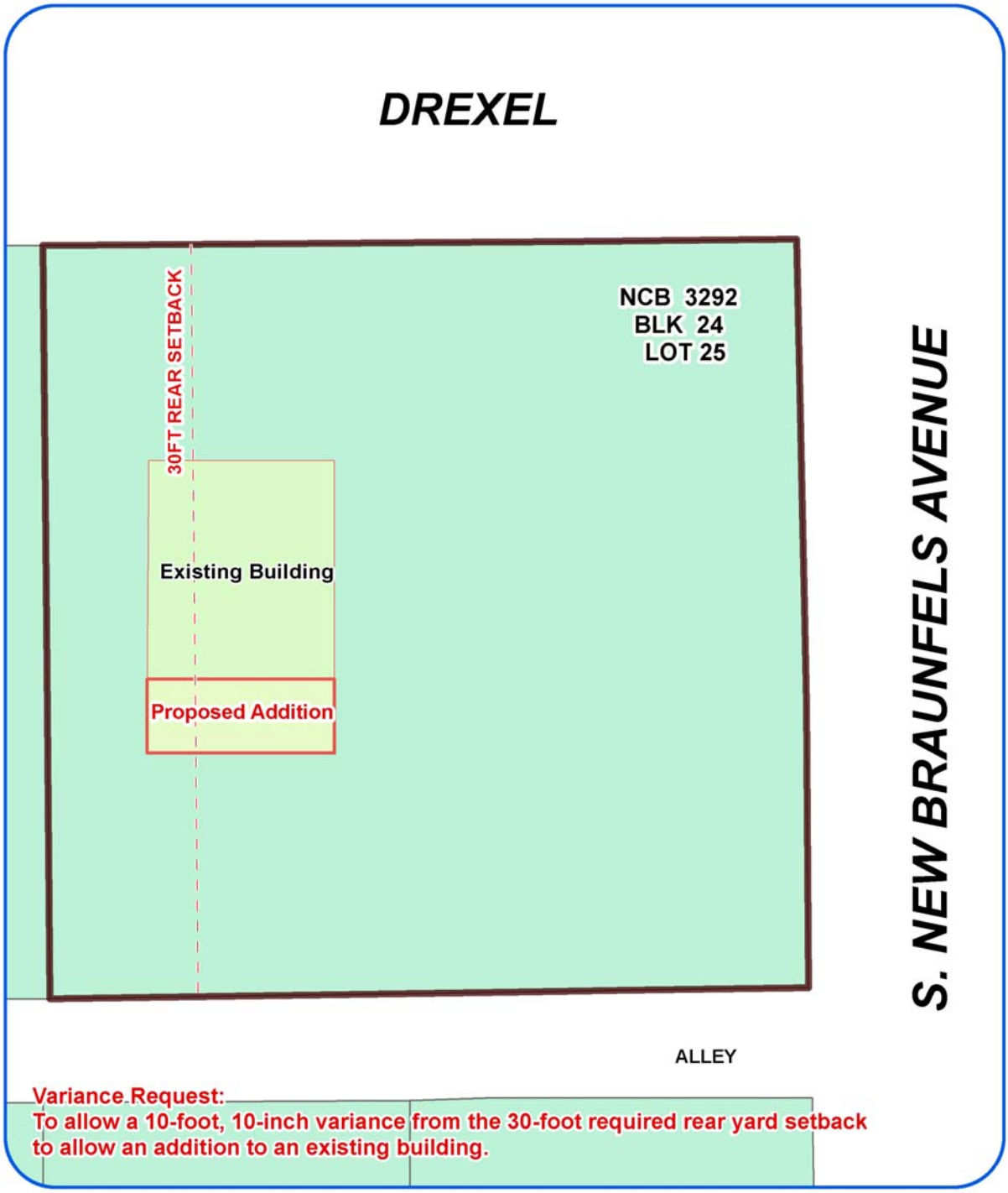
Attachment 1
Notification Plan



Attachment 1 (Continued)
Notification Plan



Attachment 2
Plot Plan



Board of Adjustment

Plot Plan for

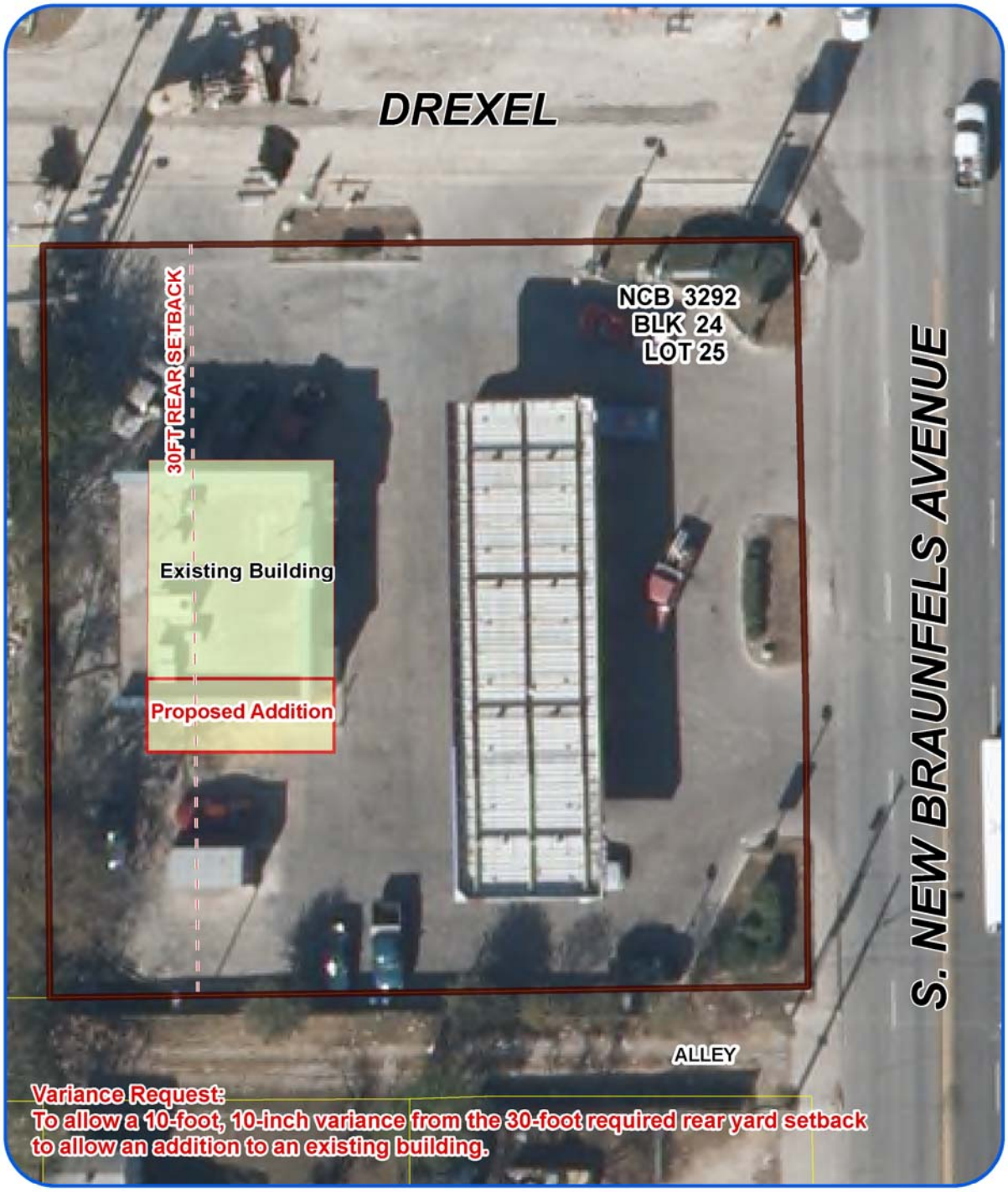
Case No A-12-082

1901 S. New Braunfels Ave.

Council District 3

Development Services Department
City of San Antonio
27th August 2012

Attachment 2 (Continued)
Plot Plan



Board of Adjustment

Plot Plan for

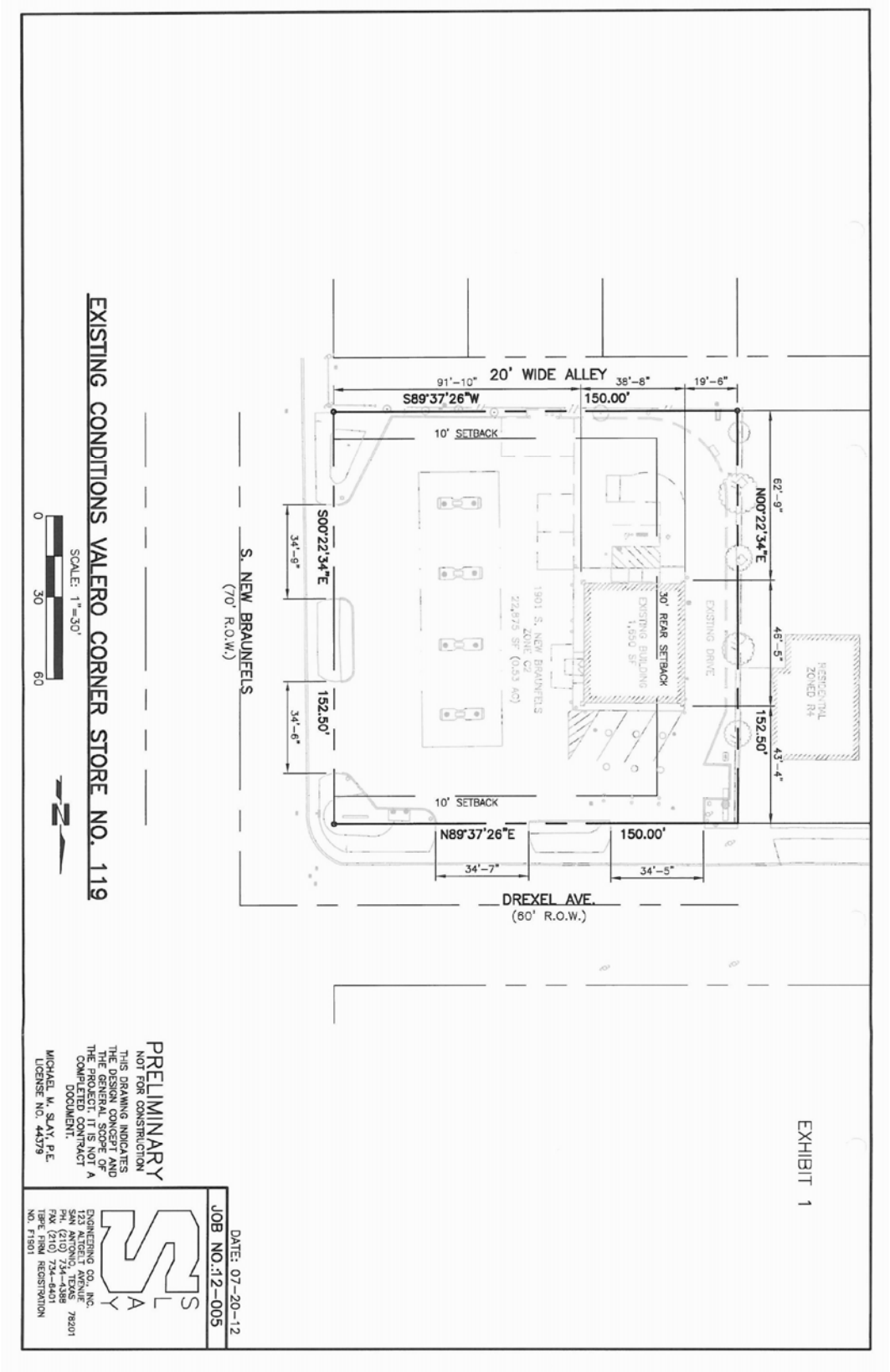
Case No A-12-082

1901 S. New Braunfels Ave.

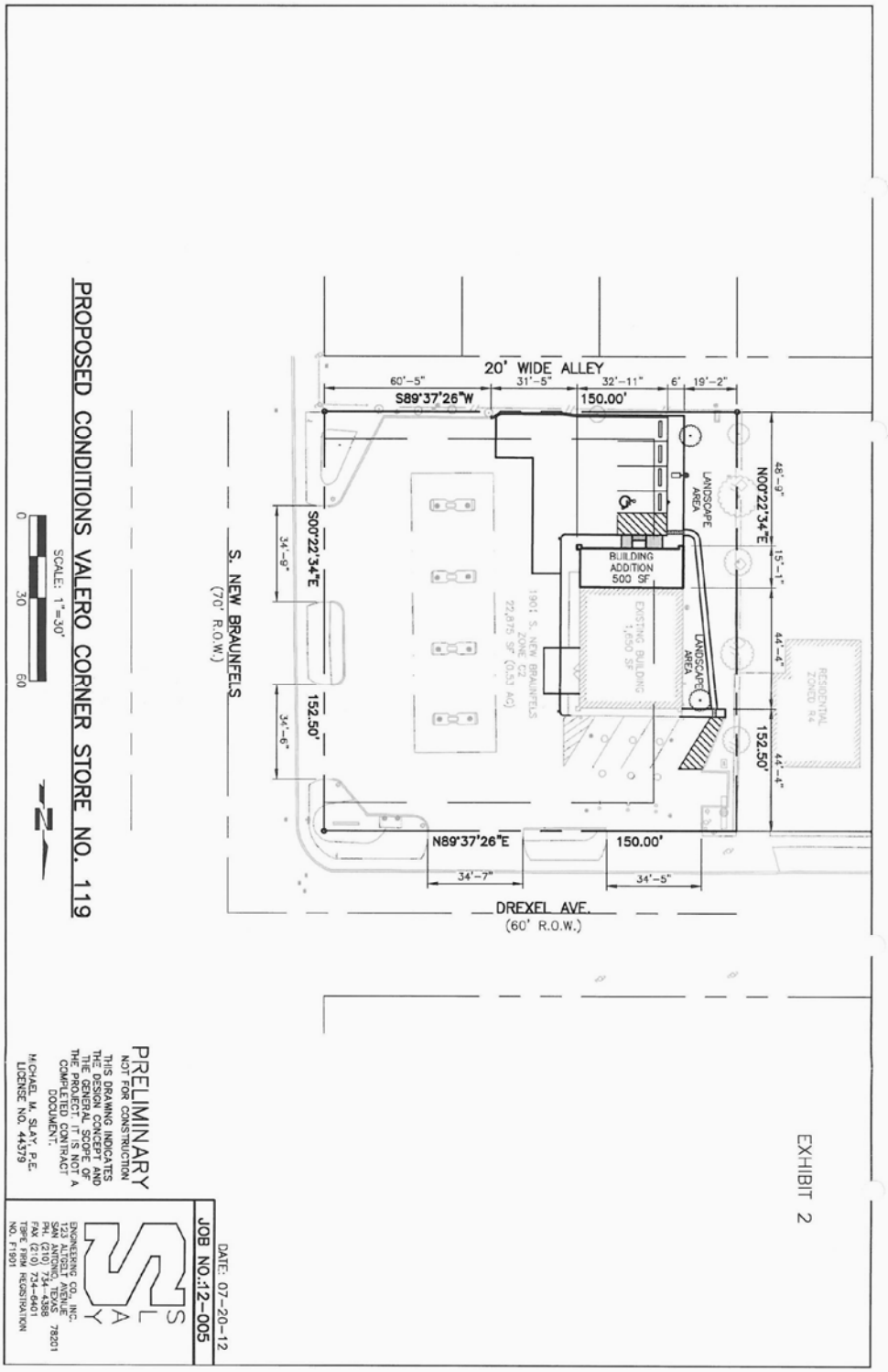
Council District 3

Development Services Department
City of San Antonio
27th August 2012

Attachment 3
Existing Site Plan



Attachment 4
Proposed Site Plan



City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-12-083
Date:	August 27, 2012
Applicant:	Isabel P. Noyola
Owner:	Isabel P. Noyola
Location:	2802 Wilson Blvd
Legal Description:	Lot 25, Block 3, NCB 8573
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By:	Tony Felts, Planner

Request

A request for a 7-foot front yard setback variance from the 10-foot required front yard setback to allow a carport 3 feet from the front property line.

Procedural Requirements

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 August 9, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 10, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on August 24, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is 60 feet wide by 112 feet deep, or about 0.15 acre. The site is located on Wilson Boulevard, approximately 255 feet northwest of Overdale Street, and is currently developed as a single-family residence. The lot abuts an unimproved alley to the rear and on the southeast side.

The applicant has constructed an 18-foot by 35-foot open carport within the front building setback without a permit. The carport's front edge (closest structural support) is three feet from the front property line; a ten-foot front setback is required. The applicant was cited by code compliance for construction without a permit. There are no other carports along this portion of Wilson Boulevard.

Section 35-516(g) of the UDC requires that lots with open carports maintain at least 20 feet of open parking area from the property line. At 35 feet in depth, the carport meets this requirement. The UDC, in Section 35-516(j) also gives property owners some leeway with front setbacks for open carports. This section allows for the "ordinary projection of sills, belt courses, cornices, buttresses, eaves, and similar architectural features." The provision further specifies that the projections can be no more than five feet into any required yard, nor closer than three feet to any property line. With the allowances in Section 35-516(j), the carport, if structurally sound, could have been constructed in such a manner as to be compliant with the code and achieve that applicant's desired effect.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Near Northwest Neighborhood Plan. The subject property is also located within the boundaries of the Maverick 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:*

   Yard setbacks are designed to maintain orderly development by separating incompatible land uses and ensuring access, light, and air availability. The public interest in this case lies with maintaining the visual regularity of the streetscape. This carport is the only one on this portion of Wilson Boulevard, and is a visual distraction in the neighborhood, and therefore contrary to the public interest.

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

   A literal enforcement of the ordinance would not result in an unnecessary hardship. As stated above, the carport meets the minimum parking area depth as required in Section 35-516(g) of the UDC, and with the allowances for projections of architectural features in

Section 35-516(j), the carport could possibly have been constructed with the same or very nearly the same amount of horizontal space as it currently has. Had the applicant applied for a permit, this could have been explained, and the plans could have been modified accordingly.

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

   Granting a variance based on the applicant not obtaining a building permit does not preserve the spirit of the ordinance.

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" (Residential) 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 carport is the only one on this portion of Wilson Boulevard. No other structure in the immediate vicinity projects closer to the street than this one, and therefore, there is the potential to alter the essential character of the district.

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 owner is not based on unique circumstances existing on the property. The carport could potentially be altered in such a way as to make it compliant, and serve the same purpose as desired by the applicant.

Alternatives to Applicant's Request

The two alternatives to the applicant's request are to 1) alter the carport, with proper building permits, to make it compliant; or 2) improve the alley and construct a carport off the side or rear property line.

Staff Recommendation

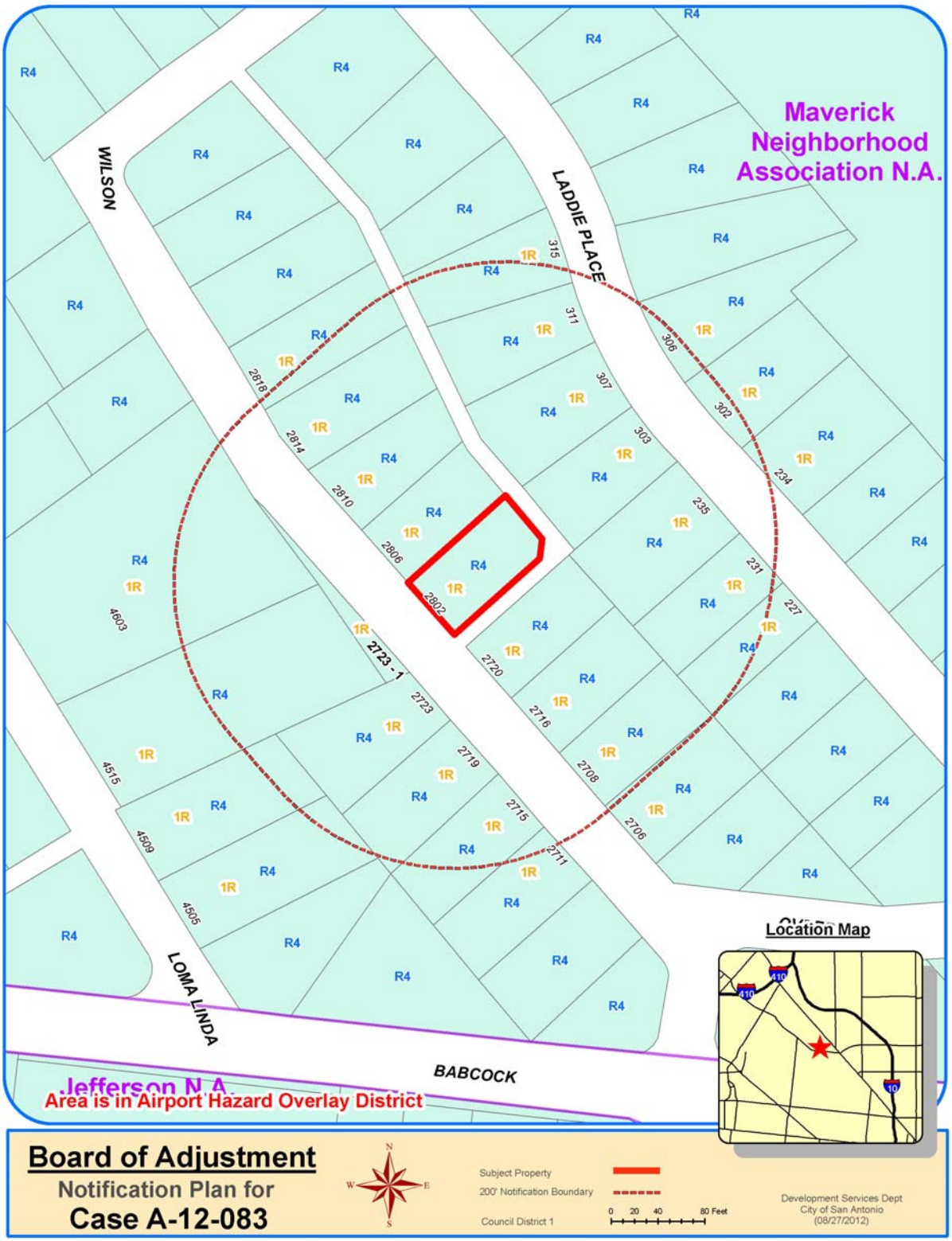
Staff recommends **denial of A-12-083,** due to the following reasons:

1. There are special conditions that warrant the granting of a variance.
2. The variance is being requested because the applicant did not obtain a building permit, and thus did not construct the carport in compliance with the regulations.
3. The applicant can potentially alter the carport to make the structure compliant.

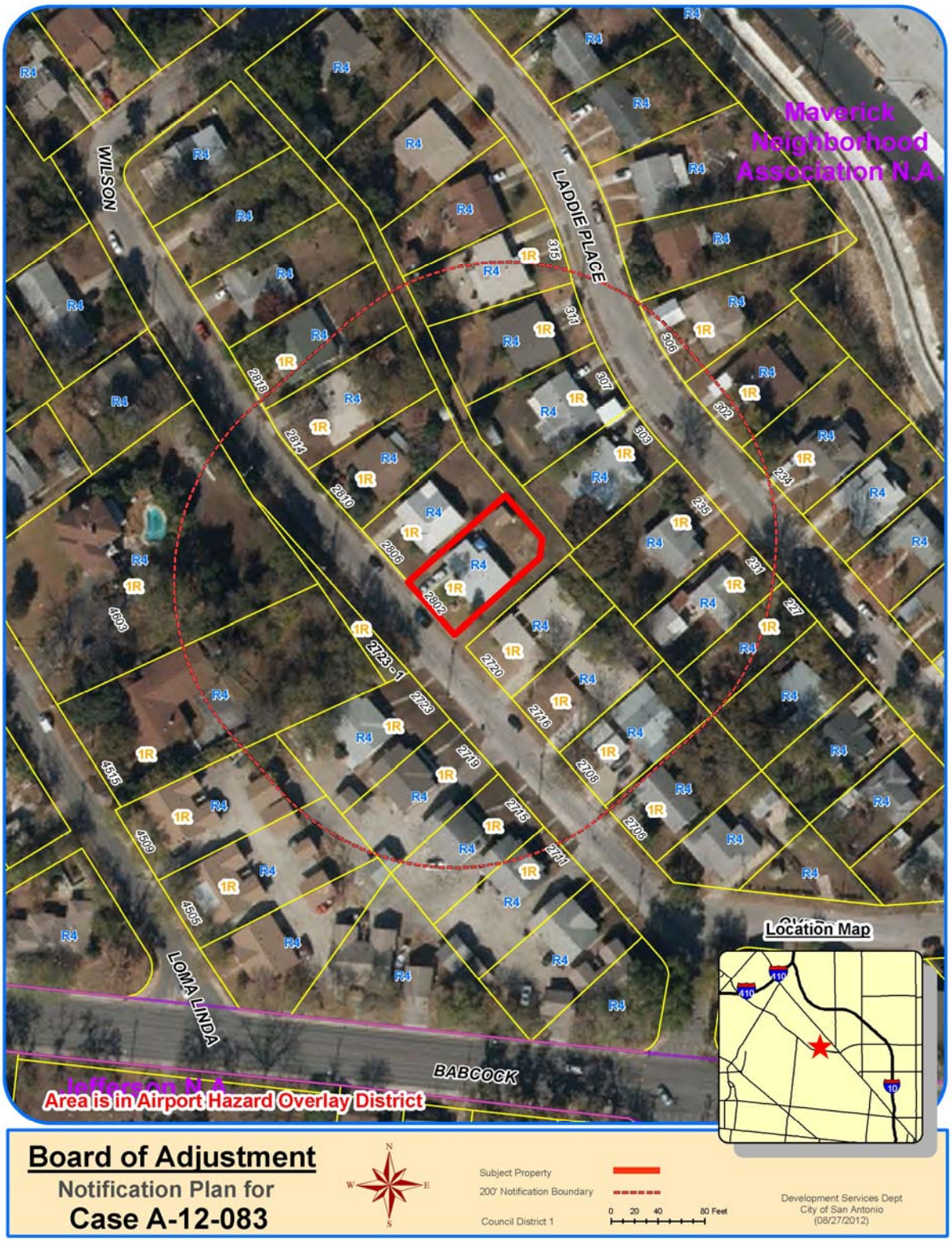
Attachments

Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan

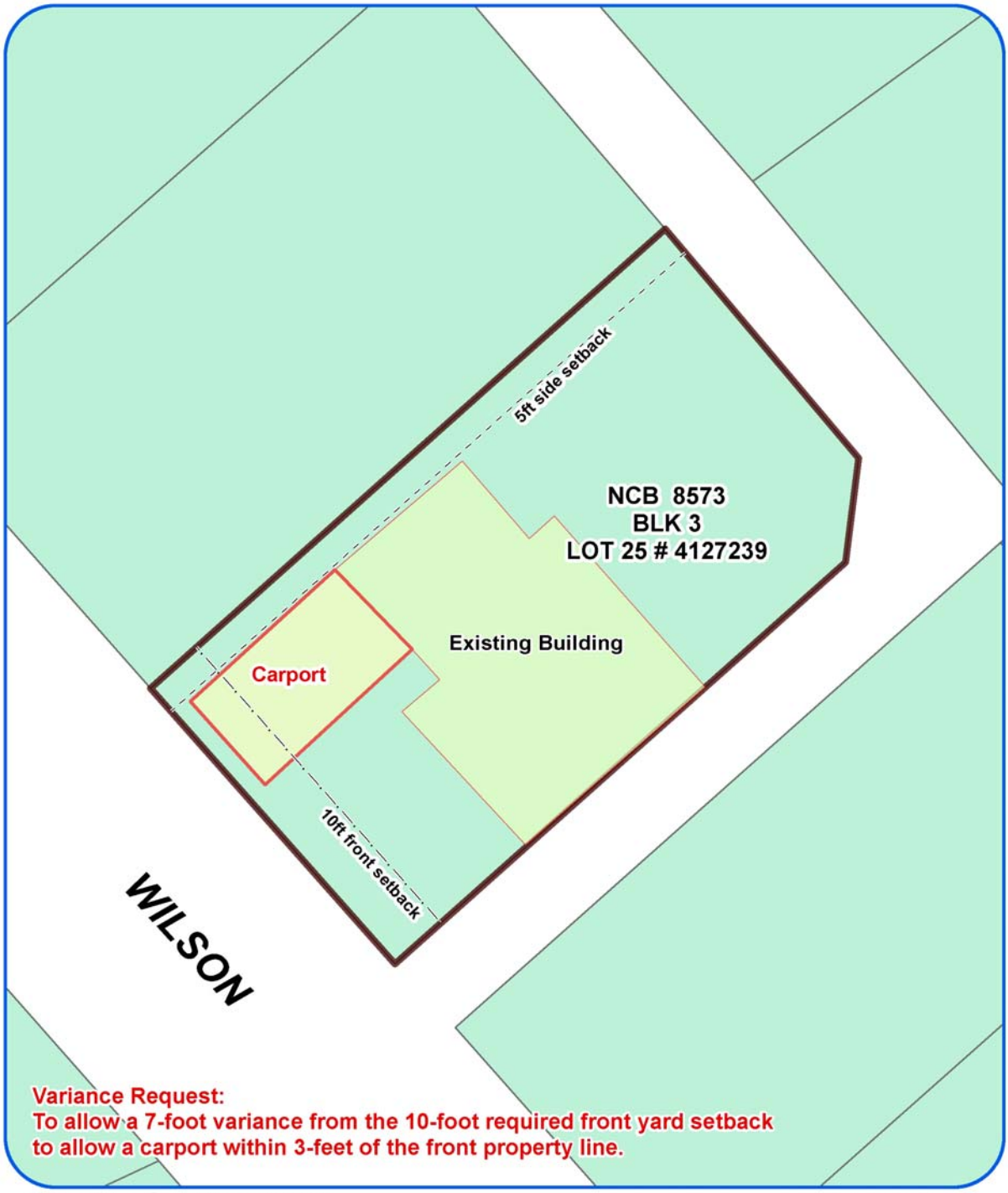
Attachment 1
Notification Plan



Attachment 1 (Continued)
Notification Plan



Attachment 2
Plot Plan



Board of Adjustment

Plot Plan for

Case No A-12-083

2802 Wilson

Council District 1

Development Services Department
City of San Antonio
27th August 2012

Attachment 2 (Continued)
Plot Plan

Board of Adjustment

Plot Plan for

Case No A-12-083

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Council District 1

2802 Wilson

Development Services Department
City of San Antonio
27th August 2012

City of San Antonio
Development Services Department
Staff Report

To:	Board of Adjustment
Case No.:	A-12-084
Date:	August 27, 2012
Applicant:	Teresa Coles-Davila
Owner:	Teresa Coles-Davila
Location:	4819 San Pedro
Legal Description:	Lot 20 Block 6 NCB 9194
Zoning:	"O-1 AHOD" General Office Airport Hazard Overlay District
Prepared By:	Margaret Pahl, AICP Senior Planner

Request

The applicant requests a **1)** 20-foot 2-inch variance from the 30-foot rear yard setback, **2)** a 5-foot 2-inch variance from the 15-foot buffer yard, **3)** a 10-foot variance from the 20 foot side yard setback requirement to allow a building addition within 9-feet 10-inches of the rear property line and 10-feet from the north 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. Notices were sent to property owners within two hundred (200) feet of the subject property on August 9, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 10, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on August 23, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Property History

The subject property is 0.20 acre site (8,886 square feet), lot 20 of the San Pedro Place Subdivision. The residential subdivision was recorded in 1946 with a landscaped boulevard, and park space. The lots were large, with 35-foot front and rear platted setbacks. The site was built and used as a single family home from its construction in 1958 until approximately 2003.

In 2003, the owners applied for a zoning map amendment to C-2 in order to operate an import retail store. At that time, they also owned the house immediately west of the subject property. The neighborhood was very vocal in its opposition and the Zoning Commission recommended denial to the City Council. Several nearby property owners spoke against the requested change at the City Council meeting and the Council continued the case to a future meeting. Between the two dates, the applicants changed their request to a conditional zoning district, which retained residential zoning, but allowed a specific use with several additional restrictions to preserve the residential character of the property. Later that same year, they changed the address from Hermosa to San Pedro.

In 2009, the current owner purchased the property and applied to amend the North Central Neighborhood Community Master Plan land use designation from low density residential to neighborhood commercial and to rezone the property to O-1 Office. Both changes were approved with far less opposition than the original request in 2003. In the staff recommendation for approval, the design limitations in the O-1 district and the required buffers were noted as protective factors that would "make it an appropriate transition."

Executive Summary

This application is requesting a variance from the required setbacks and buffers to allow the building to more than double in size. The existing building is 1,136 square feet in size and the applicant is proposing an addition of 1,392 square feet. The existing building has a setback to the west of 9 feet, consistent with its original construction as a home with a residential side setback. With its existing use as commercial however, and long frontage on San Pedro, this property line is now designated as a rear yard. The original 35-foot front setback along Hermosa is now considered a side yard.

As a method of mitigating the transition between commercial and residential uses, building setbacks and landscaped buffer yards are required in the Unified Development Code (UDC) Table 310-1 and Table 510-1. These requirements apply a 30-foot building setback along the west property line, with a 15-foot buffer yard. The buffer yard standard requires that at least 15-feet of the setback area must include shrubs and trees. The applicant is requesting a variance of nearly 21-feet from the setback to allow the building addition in line with the existing building within 9-feet from this property line.

Similarly, the applicant is proposing to enlarge the building to within 10-feet of the northern property line on Hermosa, requiring a reduction of 10-feet from the minimum 20-foot side yard setback established in the UDC. The existing building is currently 36-feet from this property line, consistent with the platted front yard setback of the original subdivision. The applicant recently recorded a replat which removed the platted setbacks.

The O-1 office zoning district also includes building design specifications, requiring pedestrian orientation, ground level fenestration and transparency. Specifically, it requires that not less than 50% of the surface area of the front façade elevation be public entrance and windows. An evaluation of the proposed addition has determined that the new building addition will satisfy this requirement along each street-facing elevation.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"O-1 AHOD" Office Airport Hazard	Law Office

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Airport Hazard	Residential structure
South	"R-5 AHOD" Residential Airport Hazard	Residential structure
East	R-4 H AHOD Residential Historic Airport	Residential structure
West	"R-5 AHOD" Residential Airport Hazard	Residential structure

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Central Neighborhoods Community Plan, adopted on February 14, 2002. This plan outlined the goals of a hopeful future and cooperative co-existence of the commercial and residential uses here:

- Create an inviting streetscape along San Pedro Avenue and Blanco Road that is pedestrian-friendly.
- Encourage the establishment of neighborhood-friendly businesses along the commercial corridors that promote pedestrian accessibility.
- Ensure a transition between residential and commercial areas that is aesthetically pleasing while discouraging encroachment into residential areas.

The existing business, a local law office, certainly contributes to these goals in its current configuration. The building is located within the Edison neighborhood association, and within 200 feet of the Olmos Park Terrace neighborhood association which were both notified of this application. Neither of these associations is currently registered.

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*:

Public interest refers to general welfare and common well-being of the population as a whole. As evidence in response to this factor, the applicant asserts that *"the new addition will not be anymore detrimental than the existing structure from a setback standpoint."* In fact, the existing building is a non-conforming structure, with a conforming use. Section 35-707 of the UDC allows

enlargement of a non-conforming structure if the enlargement can be made in compliance with all of the provisions of the Code. The variance, if approved, would modify the requirements of the Code to allow this compliance. However, the setbacks and buffer yard are essential components of zoning and were some of the original factors used to protect the public interest. Additionally, they were specifically cited as protective measures during the rezoning to O-1. In this case, they are needed to soften the land use transition from commercial to residential.

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

The applicant claims that the literal enforcement of the ordinance would prevent the addition to the existing building, but that is not the case. The setbacks reconfigure the buildable area, but a different design could easily address these constraints. A 16-foot wide "L"-shaped building addition wrapping around the existing building and focused on San Pedro could have provided an enhanced pedestrian entrance with a commercial orientation to the San Pedro corridor, along with the additional square footage desired.

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

The spirit of the ordinance is represented by its ability to mitigate the transition between differing land uses. This is the purpose and benefit of a setback and a buffer yard. In this case, the applicant has not offered any mitigation to replace the lost benefit of the reduced setbacks and buffer. Therefore, the spirit of the ordinance would be compromised if the requested variance were approved.

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.*

There is no use variation proposed from the O-1 AHOD 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 essential character of this district was altered in 2003 when the conditional use was approved to allow the home to be used for retail purposes. This triggered the installation of the parking lot to the south. The property was then rezoned to O-1 for office use, a preferable alternative to retail in terms of the impact on the nearby homes. Nevertheless, the building retained the same front setback and residential façade which preserved the residential streetscape on Hermosa. The current application proposes a residential appearance to the new façade facing Hermosa, with windows and a door, but neglects the potential impact of the changed setback and the increased activity of a larger office building with access from the residential street. Customers accessing offices on the north side will likely park on Hermosa, given the proposed entrance and sidewalk to this elevation. Therefore, this variance will impact the residential use of adjacent homes and the character of the district.

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 features or circumstances unique to this parcel. It is rectangular in shape with an approved access onto a commercial corridor. Most of the lots fronting on San Pedro abut residentially zoned property behind them and would be required to provide the setback during expansion. Staff has evaluated the buildable area on the lot outside of the required setbacks and determined that a similar size addition could be designed and constructed without a variance.

Alternatives to Applicant's Request

The applicant could redesign the addition within the required setbacks and provide the landscaped buffer yard.

Staff Recommendation

Staff recommends **denial of the variance as proposed in application A-12-084** based on the following findings:

1. The variance is not in the public interest. Setbacks and buffers are required to mitigate the conflicts between commercial and residential uses and no alternative mitigation was proposed.
2. A literal enforcement of the ordinance is not an unnecessary hardship; it would force the applicant to redesign the proposed addition within the established buildable area of the lot.
3. The spirit of the ordinance is compromised by granting the variance and waiving the requirement to buffer the neighboring residential use.
4. The proposal to provide an entrance to the office building from Hermosa will encourage on-street parking, changing the character of the residential street.

Attachments

Attachment #1: Notification Map

Attachment #2: Plot Plan

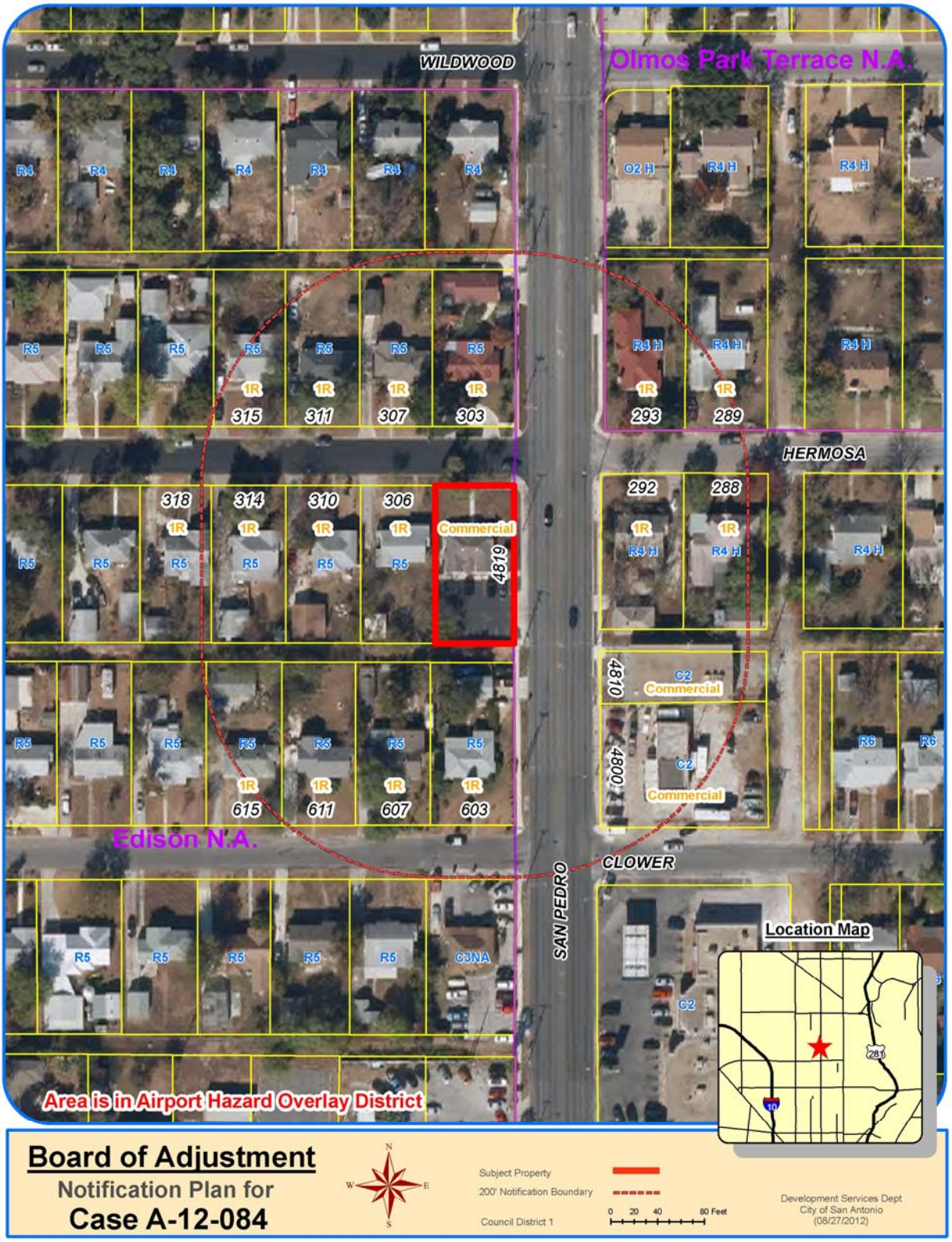
Attachment #3: Applicant's Site Plan

Attachment #4: Architectural Drawings

Attachment #5: Compliant Addition

Attachment #6: Site Photos

Attachment #1
Notification Map



Attachment #2

Board of Adjustment

Plot Plan for

Case No A-12-084

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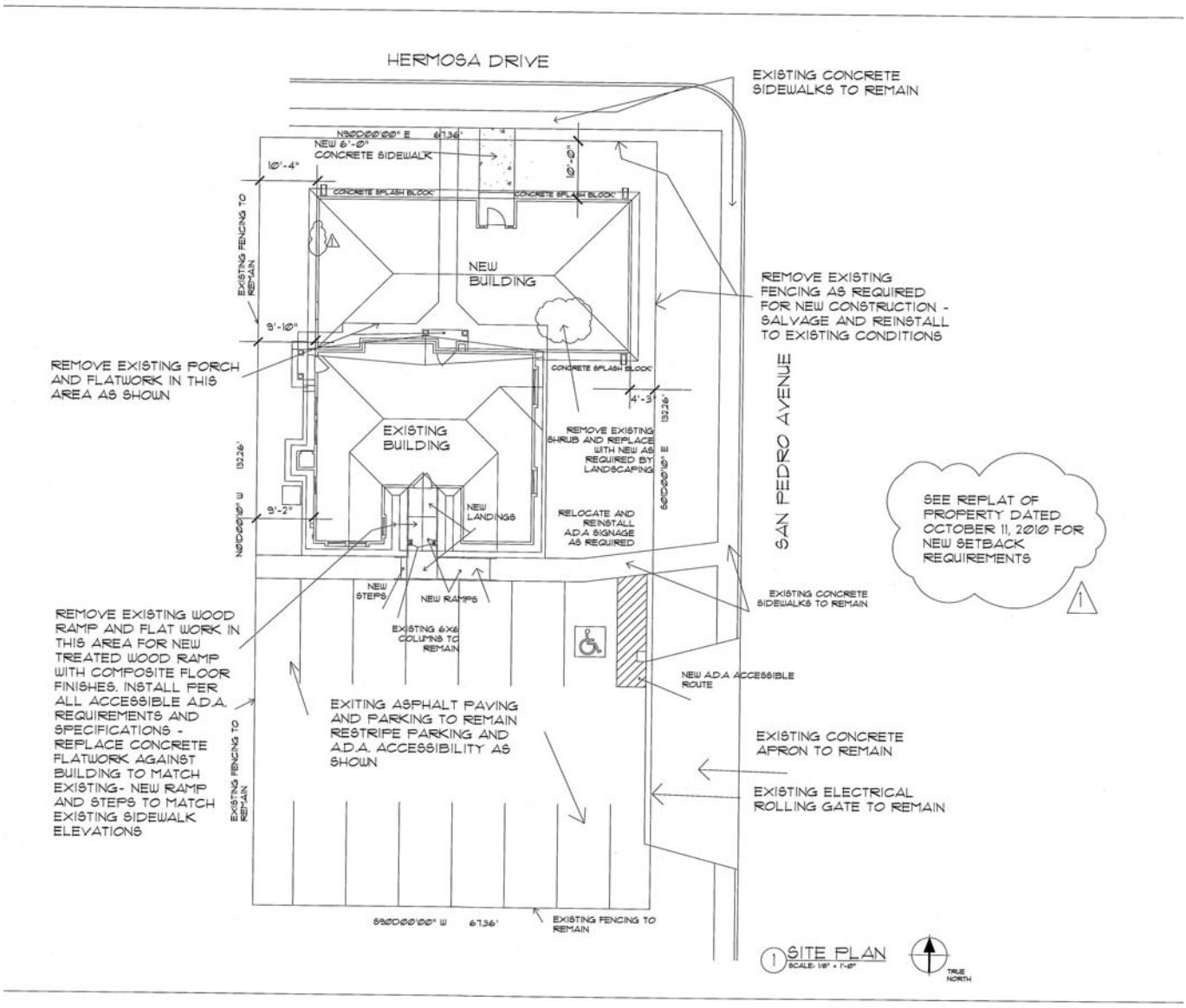
Council District 1

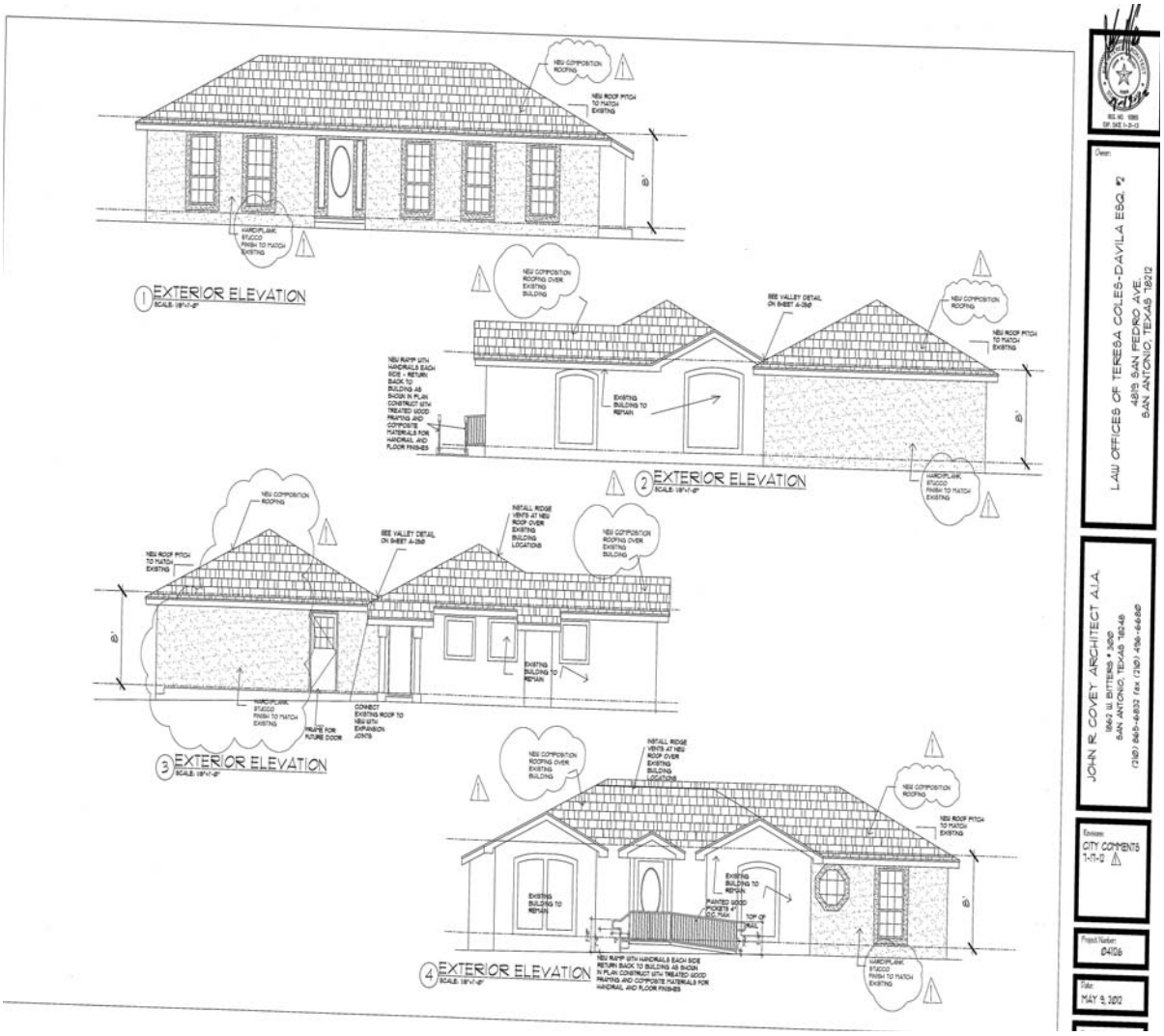
4819 San Pedro

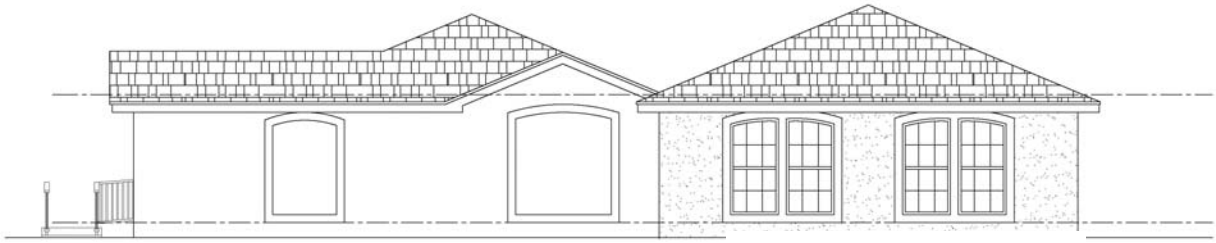
Development Services Department
City of San Antonio
27th August 2012

Attachment #3
Applicant's Site Plan



Attachment #4
Architectural Drawings





SAN PEDRO ELEVATION

San Pedro elevation revised

Attachment #5
Compliant Addition

Board of Adjustment

Plot Plan for

Case No A-12-084

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Council District 1

4819 San Pedro

Development Services Department
City of San Antonio
27th August 2012

Attachment #6
Site Photos