

CITY OF SAN ANTONIO
Board of Adjustment
Regular Public Hearing Agenda

Cliff Morton Development and Business Services Center
1901 South Alamo Street
Board Room

Monday, April 5, 2010
1:00 PM

BOARD OF ADJUSTMENT MEMBERS

Liz Victor – District 1	Jesse Zuniga – District 6
Edward Hardemon – District 2	Mary Rogers – District 7
Helen Dutmer – District 3	Andrew Ozuna – District 8
George Britton, Jr. – District 4	Mike Villyard – District 9
Vacant – District 5	Gene Camargo – District Mayor
Michael Gallagher – District 10 Chairman	
Maria Cruz	Paul Klein
Henry Rodriguez	Mimi Moffat
Harold Atkinson	Steve Walkup

1. 1:00 PM – Public Hearing Call to Order.
2. Roll Call.
3. Pledges of Allegiance.
4. **CASE NO. A-10-022:** The request of Anthony Qwik, for 1) A 2-foot 10-inch variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to keep a 6-foot 10-inch tall fence on the east property line and 2) a 2-foot 10-inch variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to keep a 6-foot 10-inch tall fence on the north property line from the northeast corner to a point 53 feet west of the northeast corner, 10803 Perrin Beitel.
5. **CASE NO. A-10-023:** The request of BVP Avalon Place, LLC, for 1) a 5-foot variance from the requirement that front-yard solid screen fences not exceed 3 feet in height, in order to erect an 8-foot tall solid screen front-yard fence and 2) a 2-foot variance from the requirement that side and rear-yard solid screen fences not exceed 6 feet in height, in order to erect an 8-foot tall solid screen side and rear-yard fence, 6676 UTSA Boulevard.

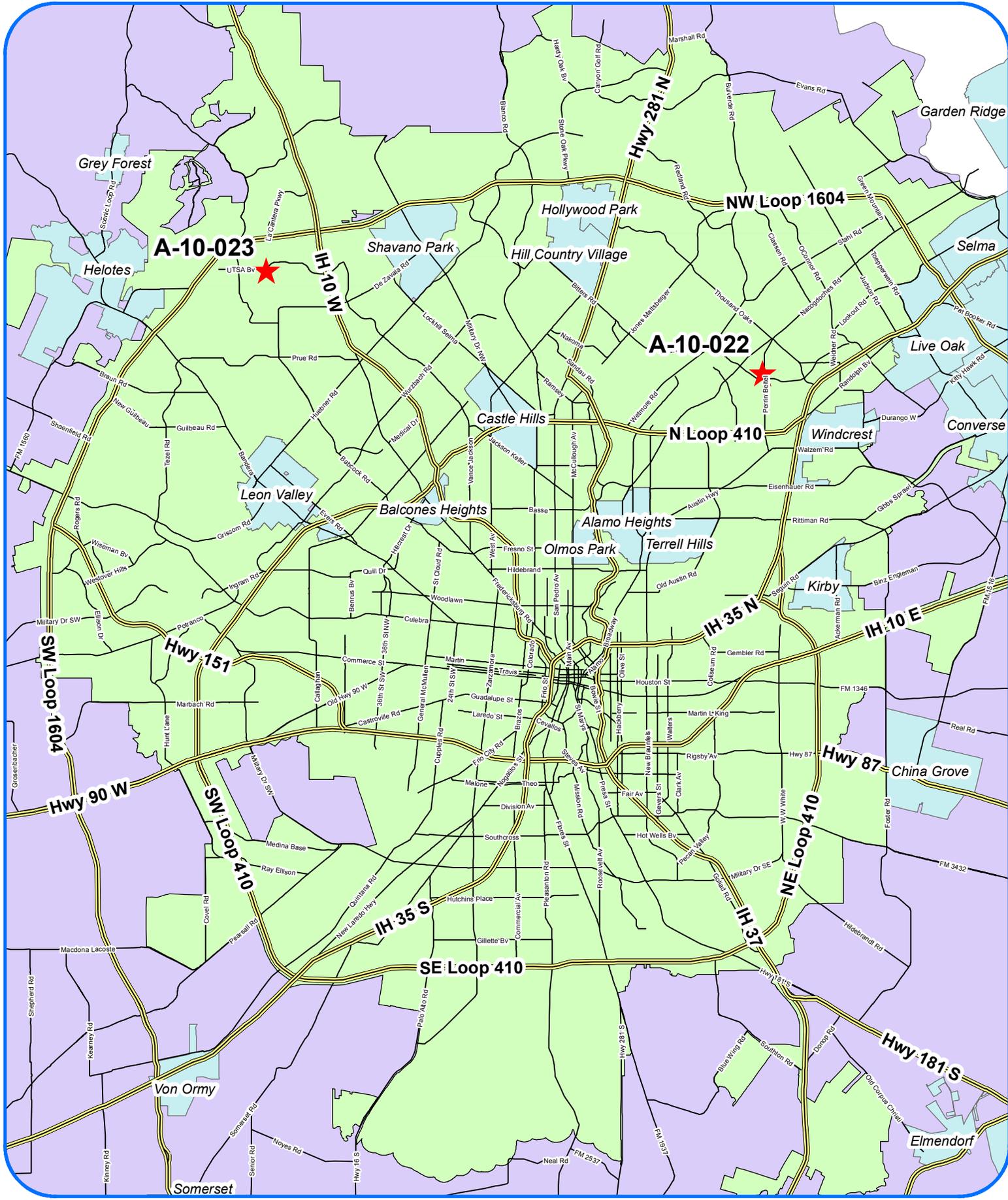
6. Consideration of **Sign Master Plan No. 10-007**, Terrell Plaza, located at 1201 Austin Hwy..
7. Consideration of **Sign Master Plan No. 10-008**, Haven for Hope, located at 1 Haven for Hope Way.
8. Approval of the minutes from the regular meeting on March 1, 2010.
9. Director's Report: ***Update regarding case A-10-016***
10. Executive Session: consultation on attorney-client matters (real estate, litigation, personnel and security matters) as well as any of the above agenda items may be discussed.
11. **Adjournment**

Note: The City of San Antonio Board of Adjustment Agenda can be found on the Internet at: www.sanantonio.gov/dsd

At any time prior to the meeting, you may contact a case manager at 207-0170 to check the status of a case.

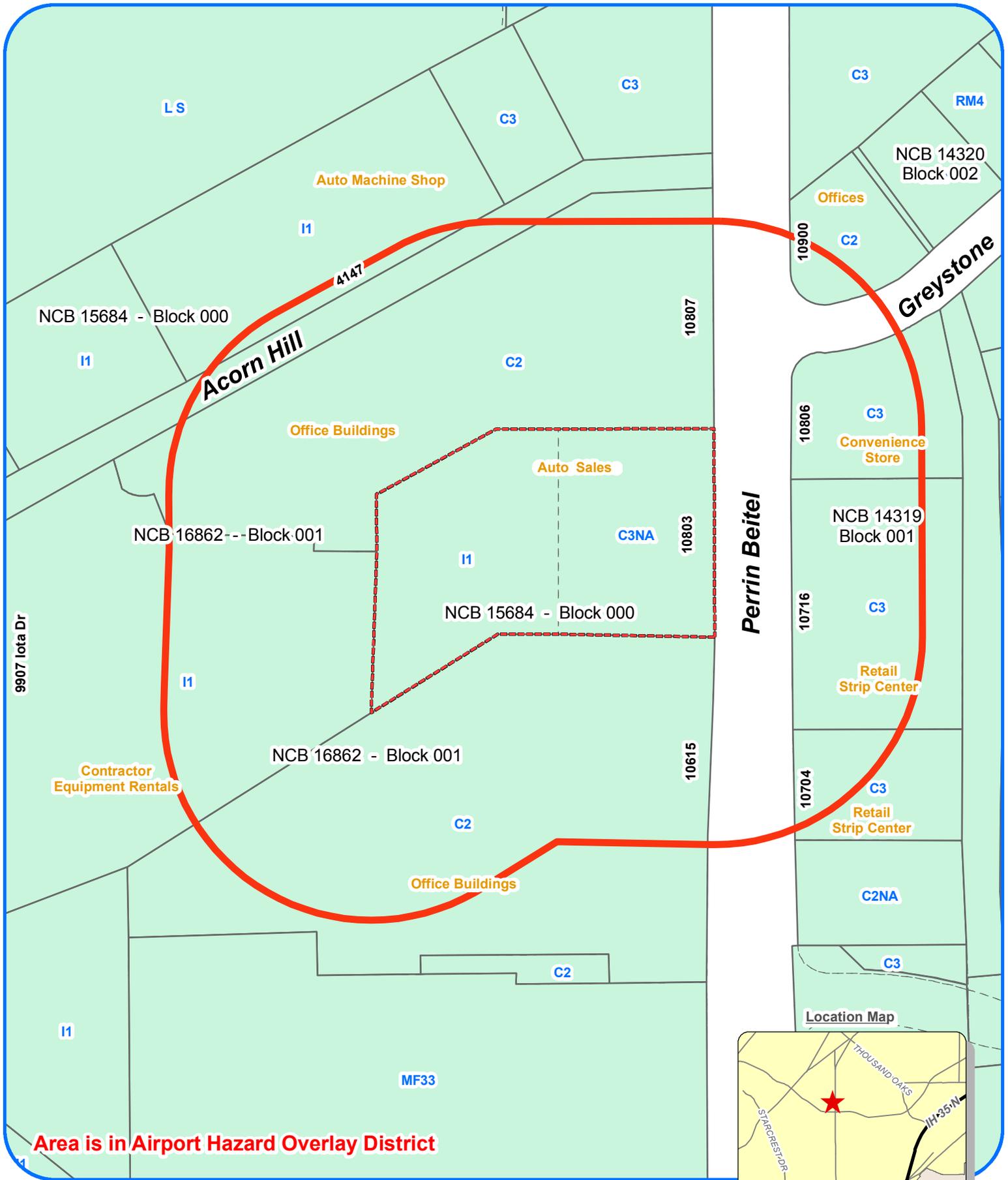
ACCESSIBILITY STATEMENT

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



Board of Adjustment
Subject Property Locations
Cases for April 5, 2010





Area is in Airport Hazard Overlay District



Board of Adjustment
Notification Plan for
Case A-10-022



Legend
 Subject Property -----
 200' Notification Buffer —————
 Scale: 1" approx. = 120'
 Council District(s) = 10



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-10-022
Date: April 5, 2010
Applicant: Anthony Qwik
Owner: Anthony Qwik
Location: 10803 Perrin Beitel
Legal Description: The east 50 feet of the south 198 feet of Lot P-28, the east 198 feet of Lots P-28A and P-29B, NCB 15684
Zoning: "C-3 NA AHOD" General Commercial Non-Alcoholic Sales Airport Hazard Overlay District and "I-1 AHOD" General Industrial Airport Hazard Overlay District
Subject: Front Yard Fence Height Variance

Request Summary

The applicant requests: 1) A 2-foot 10-inch variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to keep a 6-foot 10-inch tall fence on the east property line and 2) a 2-foot 10-inch variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to keep a 6-foot 10-inch tall fence on the north property line from the northeast corner to a point 53 feet west of the northeast corner.

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on March 18. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on March 19. Additionally, notice of this meeting was posted at city hall and on the city's internet website on April 2, in accordance with Section 551.043(a) of the Texas Government Code.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
General Commercial, Nonalcoholic Sales (C-3 NA) and General Industrial (I-1) Districts. Area is in Airport Hazard Overlay District (AHOD).	Motor Vehicle Sales

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	Commercial (C-2, C-3) and Industrial (I-1) Districts	Offices, Auto/Light Truck Repair
South	Commercial (C-2) and Multifamily (MF-33) Districts	Offices, Apartments
East	Commercial (C-2, C-3) Districts	Offices, Retail
West	Industrial (I-1) District	Equipment Rental

Project Description

These variances are requested to provide relief from the front-yard fence height restriction for an existing fence with a height of 6 feet, 10 inches. The applicant previously requested variances for this front-yard fence on March 2, 2010. These variances were denied by the Board of Adjustment. Since that time, the applicant has brought a portion of the fence into compliance, but has failed to fully comply with the UDC. The applicant indicates the fence is intended to prevent thieves from accessing the property and that prior to the installation of the fence several items were stolen and some of the vehicles on the lot were damaged. A permit was not sought prior to the construction of the fence nor has the applicant requested a permit since their last BOA hearing.

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within the boundaries of a neighborhood association or a neighborhood/community plan. The Hills of Park North Neighborhood Association is within 200 feet of the site.

Criteria for Review

According to Section 482(e) of the Unified Development Code, in order for a variance to be granted, the applicant must demonstrate all of the following:
(Staff commentary in Italics)

1. The variance is not contrary to the public interest:

The granting of these variances would be contrary to the public interest as the existing fence amounts to a visual blight for this portion of Perrin Beitel and would continue to have a negative visual impact on the predominantly open streetscape of this area.

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

The literal enforcement of the ordinance would not result in unnecessary hardship to the applicant as the property does not possess special physical conditions that would deny the applicant the reasonable use of the property, without the granting of the variances.

~~Additionally, the applicant does not identify any special physical condition of the property that would result in unnecessary hardship. Instead, the applicant identifies vulnerability to theft as the condition creating a hardship. This is not the result of a physical characteristic of the property itself and thus is not sufficient basis to grant the variances.~~

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

The granting of the variances would not observe the spirit of the ordinance. The property may be reasonably used on an equal basis as other properties in the "C-3 NA" zoning district without the granting of the variances.

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

The granting of the variances will not authorize the operation of a use other than those uses specifically authorized for the district in which the property is located.

5. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.

The granting of the requested variances will not substantially injure the appropriate use of adjacent conforming properties, but will alter the essential character of the district. Properties with frontage along this portion of Perrin Beitel do not possess fences of excessive height. This portion of the road maintains a mostly open streetscape.

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 applicant is self-created and financial in nature, not due to unique circumstances existing on the property. The area is generally uniform in topography and the subject property itself cannot be said to possess any unique physical condition or feature. The statement by the applicant in the variance request application that modification of the fence would be "costly and detrimental at the new business" illustrates the mostly financial nature of the applicant's claimed hardship and fails to provide a justifiable cause for the variance to be granted.

Staff Recommendation

Staff recommends that **A-10-022, be denied** because the findings of fact have not been satisfied as presented above. The subject property does not possess any unique or exceptional physical condition that distinguishes it from similar properties nor would the literal enforcement of the fence height standards result in unnecessary hardship. The applicant has provided no evidence of a hardship that is not merely of a personal or financial nature. Additionally, as the applicant previously requested these variances, and took no action to correct the violations when they were denied; granting this request based

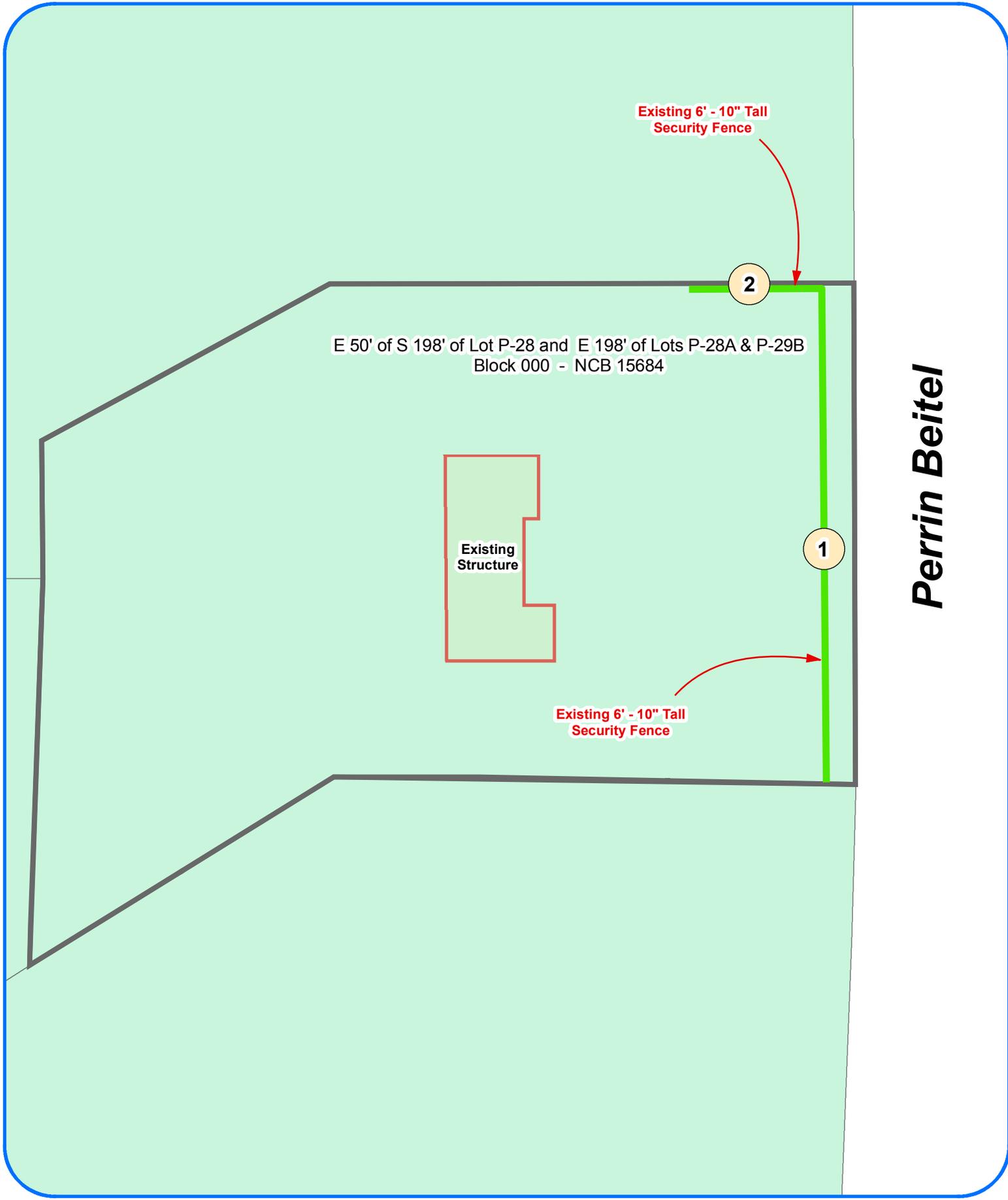
on the apparent financial hardship to the applicant would be contradictory to the purpose of a variance.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Site Plan



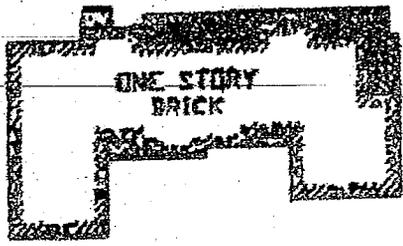
Board of Adjustment
 Plot Plan for
Case A-10-022



Scale: 1" approx. = 50'
 Council District 10

10803 Perrin Beitel

Planning and Development Services Dept
 City of San Antonio
 (3/8/2010 - P Trinkle)



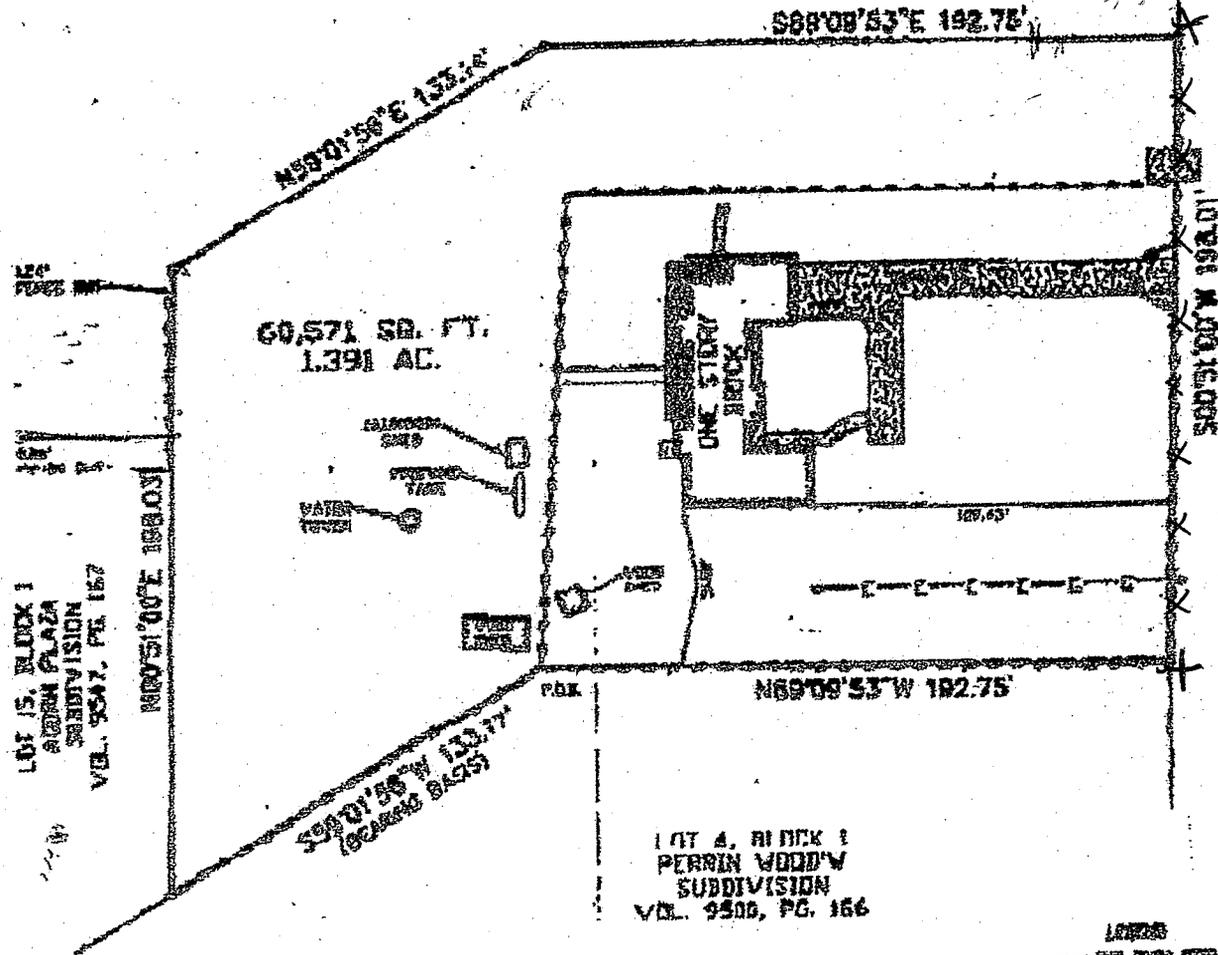
DETAIL

LOT 11, BLOCK 1
ACORN HILL OFFICE
PLAZA
VOL. 9584, PG. 60

SCALE: 1"=40'

19

PERRIN BEITEL ROAD
CIVIL ENGINEER



LOT 15, BLOCK 1
ACORN PLAZA
SUBDIVISION
VOL. 9587, PG. 157

LOT 4, BLOCK 1
PERRIN WOOD W
SUBDIVISION
VOL. 9500, PG. 166

- LEGEND
- FINE LINE USED
 - SET BACK LINE
 - WALL THICKNESS
 - EXISTING LOT CORNER
 - EXISTING WALK
 - ELECTRICITY LINE

NOTE: EXISTING WALK, EXISTING ELECTRICITY LINE, EXISTING LOT CORNER

THIS PLAN IS A SPECIAL FIELD SURVEY. IT IS NOT TO BE USED FOR ANY OTHER PURPOSE.

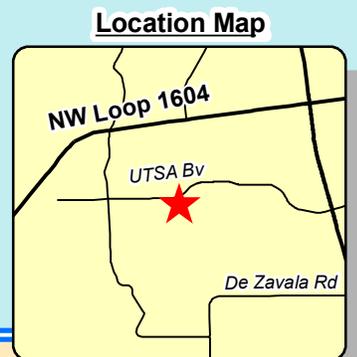
Wester
ALBERT
LAND SURVEYORS, INC.
POST OFFICE BOX 2286
MELROSE, TEXAS 75854-1056
G. F. NEL, REGISTERED
DATE: MAY 15, 2004 APPROVED 6/01/04
MAY 1 2004



Reference is made to the plat of the Acorn Hill Office Plaza, Block 1, Lot 11, located in Tarrant County, Texas, and which was a part of a 2.5 acre tract of land described as above contained in Volume 9584, Page 60, of the Public Records of Tarrant County, Texas, a Survey of a 2.5 acre tract of land described as above contained in Volume 9587, Page 157 of the Public Records of Tarrant County, Texas, and of the 2.5 acre tract of land described as above contained in Volume 9500, Page 166 of the Public Records of Tarrant County, Texas, before after reference to the 2.5 acre larger tract and being corner points and bearings observed in place and shown descriptions attached.

I, WILL PERRIN, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above plat represents an actual survey made on the ground on this day under my personal supervision and that the same is correct and true to the best of my knowledge and belief.

Will Perrin
Will Perrin
Registered Professional Land Surveyor
Texas Registration No. 6543



Board of Adjustment
Notification Plan for
Case A-10-023



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

Planning and Development Services Dept
 City of San Antonio
 (3/8/2010)



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-10-023
Date: April 5, 2010
Applicant: BVP Avalon Place, LLC
Owner: BVP Avalon Place, LLC
Location: 6676 UTSA Boulevard
Legal Description: Lot 2, Block 4, NCB 14743
Zoning: "MF-33 MLOD-1" Multi-Family Military Lighting Overlay District
Subject: Front, Side and Rear-Yard Fence Height Variances
Prepared By: Mike Farber, Planner

Summary

The applicant requests **1)** a 5-foot variance from the requirement that front-yard solid screen fences not exceed 3 feet in height, in order to erect an 8-foot tall solid screen front-yard fence and **2)** a 2-foot variance from the requirement that side and rear-yard solid screen fences not exceed 6 feet in height, in order to erect an 8-foot tall solid screen side and rear-yard fence.

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on March 18. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on March 19. Additionally, notice of this meeting was posted at city hall and on the city's internet website on April 2, in accordance with Section 551.043(a) of the Texas Government Code.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
MF-33 MLOD-1, Multi-Family District	Vacant/Future Apartment Complex Site

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-6 MLOD-1 Residential Single Family Districts	Apartments
South	R-6 MLOD-1 Residential Single Family Districts	Single-Family Residences
East	PUD MLOD-1 Planned Unit Development Zoning Districts	Single-Family Residences
West	MF-33 MLOD-1 Multi-Family Districts	Apartments

Project Description

The applicant is requesting variances from the front, side and rear-yard fence height standards in order to erect an 8-foot tall solid screen masonry fence. The majority of this fence would be erected along the eastern property line, adjacent to the existing residential neighborhood to the east. The applicant states that the proposed masonry fence is necessary because several neighbors in the existing residences to the east requested it to be built.

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within the boundaries of a neighborhood association or a neighborhood/community plan.

Criteria for Review

According to Section 482(e) of the Unified Development Code, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. The variance is not contrary to the public interest:

It does not appear that the granting of the variances will be contrary to the public interest. It does not appear that the proposed fence would create a visual obstruction to the neighboring properties. In fact, as attested by the applicant, the neighbors requested that it be built. Therefore, it would appear that the granting of these variance requests would not be contrary to the public interest.

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

It does not appear that the literal enforcement of the ordinance would result in unnecessary hardship. The property does not possess any unique topographic characteristics that would necessitate a fence of excessive height.

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

It does not appear that the granting of the variances would observe the spirit of the ordinance. The applicant will not be denied the reasonable use of the property without the granting of these variances.

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

The granting of these variances would not authorize a use other than those specifically permitted in the "MF-33" 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.

It does not appear that the granting of these variances would injure the appropriate use of adjacent conforming property. However, the granting of these variances may alter the character of the district in that tall masonry fences in front, side and rear-yards are not common features of the surrounding properties.

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 do not appear to be any unique circumstances existing on the property which would result in undue hardship through the literal enforcement of the ordinance. A denial of the request would not cause a cessation of the residential use for the property owner. The applicant's rationale of requesting the variance on behalf of the neighbors' request to do so is not sufficient to warrant the granting of a variance. Creative vegetative plantings along the front, side and rear property lines may serve a similar purpose and would not require a variance, while concurrently conciliating the neighbors' request for a tall buffer between them and the future apartment complex.

Staff Recommendation

Staff recommends that **A-10-023, be denied** because the findings of fact have not been satisfied as presented above. The subject property does not appear to have any unique characteristics that would create an undue hardship due to literal enforcement of the front yard fence height standards. Furthermore, the applicant has not demonstrated that a physical or topographic hardship exists which would warrant the existence of the proposed fence.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Proposed Site Plan

UTSA Blvd.

Proposed 8' - 0" Tall Security Fence

NCB 14743
Block 4
Lot 2

Proposed Buildings

Board of Adjustment
Plot Plan for
Case A-10-023



Scale: 1" approx. = 120'
Council District 8

6676 UTSA Blvd

Planning and Development Services Dept
City of San Antonio
(3/8/2010 - P Trinkle)

