

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, December 10, 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 compliance with the Texas Open Meetings Act.

1. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-13-004:** The request of Alfonso Moreno for a 4-foot 3-inch variance from the maximum 3-foot height for a solid fence in the front yard to allow a 7-foot 3-inch fence that is less 70% open in the front yard located at 3803 Longridge Drive. (Council District 7)
5. **A-13-005:** The request of Ameen Jivani for **1)** a 26-foot variance from the 30-foot required rear yard setback to allow a building within 4 feet of a rear property line abutting a residentially zoned district and **2)** an 11-foot variance from the 15-foot required “Type B” bufferyard requirement to allow a building within 4 feet of the rear property line located at 1923 Blanco Road. (Council District 1)
6. **A-13-006:** The request of Haven for Hope of Bexar County for a 2-foot variance from the 6-foot maximum height allowance for a predominantly open wrought iron fence to allow an 8-foot predominantly open wrought iron fence around a proposed basketball court complex located at 804 North San Marcos Street. (Council District 5)
7. **A-13-007:** The request of Brown & Ortiz, PC for **1)** a variance from the prohibition against metal as an accent building material or approved screening material around a dumpster and **2)** a variance from a requirement that all building materials are earth-tone colors to allow metal as an accent and screening material for Starbucks located at 2414 Harry Wurzbach Road. (Council District 2)
8. **A-13-008:** The request of Rosa Escobedo for a special exception to allow a one operator beauty or barber shop in a residential zoning district located at 1700 El Paso Street. (Council District 5)
9. Approval of the minutes – October 29, 2012

Board of Adjustment Membership

Michael Gallagher District 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*

10. 5:00 P.M. or following the adjournment of the Board of Adjustment meeting. The Board of Adjustment will attend a Christmas celebration at 218 Produce Way, Mi Tierra Restaurant. The Board members will not take any official action nor will any official Board of Adjustment business be considered.

11. 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).

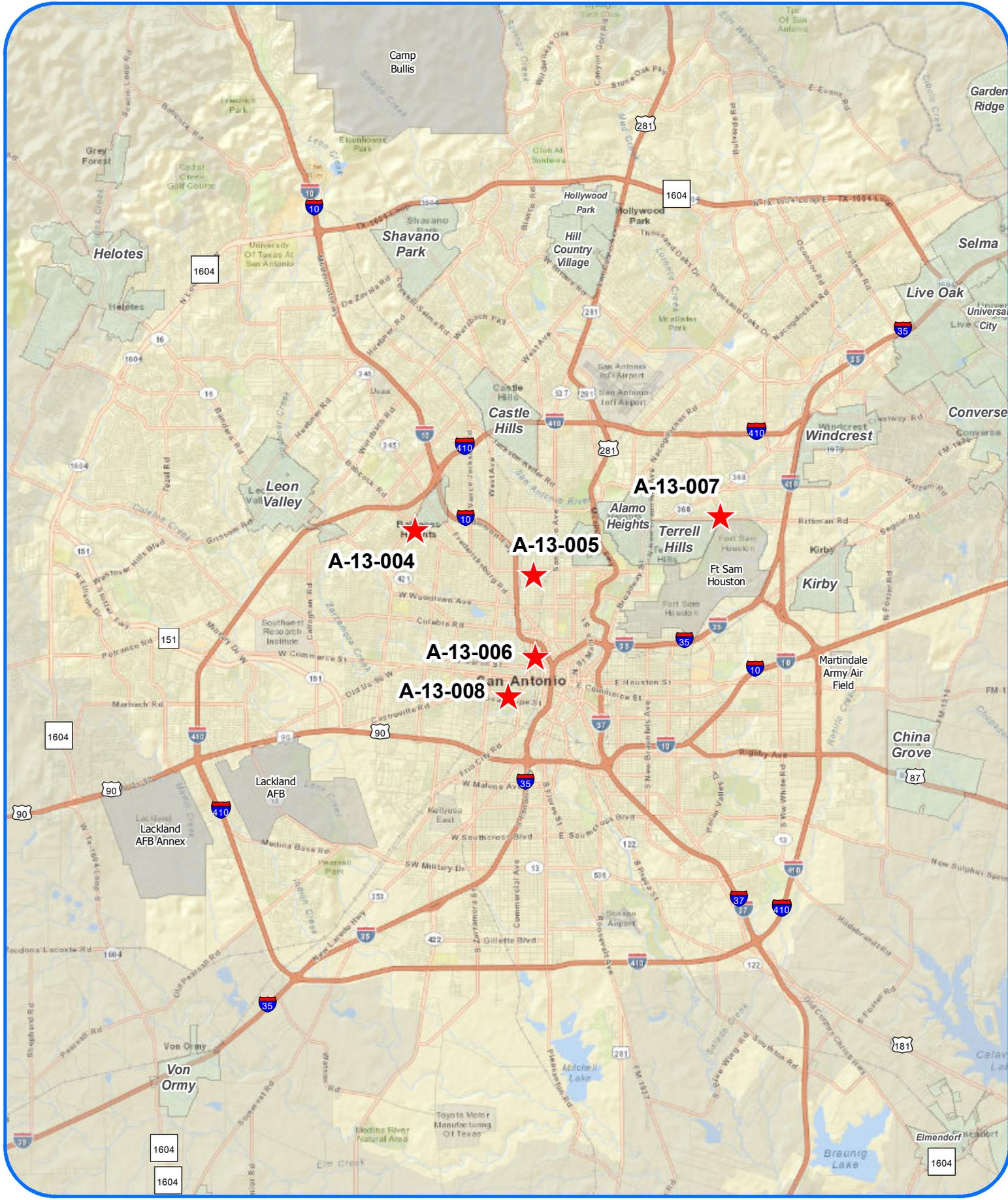
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210) 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 10th December 2012





**City of San Antonio
Development Services Department
Staff Report**

To: Board of Adjustment
Case No.: A-13-004
Date: December 10, 2012
Applicant: Alfonso Moreno
Owner: Alfonso Moreno
Location: 3803 Longridge Drive
Legal Description: Lot 20, Block 3, NCB 13165
Zoning: "R-5 AHOD" Residential Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant is requesting a 4-foot 3-inch variance from the 3-foot maximum height allowed for a fence that is less than 70% open to allow a 7-foot 3-inch fence in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on November 21, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on December 7, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 10,451 square foot lot within the Hillcrest Park Subdivision, recorded in 1959. The applicant purchased the house in May of 2011 and recently began construction of a combination fence along the front property line without a building permit. Code Compliance responded to a complaint and stopped construction until the proper permitting had been finalized. The permit application however could not be approved. According to the UDC, the solid portion of a combination fence in the front yard cannot exceed 3-feet in height, nor be taller than 4-feet total. The applicant was seeking approval of a combined wall/ornamental iron fencing height of at least 6-feet. The current solid fence varies in height as the property slopes down six feet from west to east. Therefore, as the land slopes downward, the fence gets taller, preserving a level top.

The owner is planning to maintain a straight line with the installation of the iron rods. A portion of the wall is already taller than 3-feet. With the ornamental iron rods installed, this section of fence will measure 7-foot 3-inches in height. The variance is based on the tallest point on the fencing, a height that will only be reached at the eastern property line. As the fence progresses away from this spot, the height will decrease.

Fencing height is measured as *the vertical distance measured from the lowest adjacent ground level to the top of the tallest element of the fence material, excluding decorative features affixed to the top of any column, pillar or post. The height of any existing retaining walls, either an integral part of a fence or upon which a fence may be erected, shall be calculated in the height of the fence.* Grade differences on either side of a wall have to be at least 4-feet before any averaging is incorporated into the height determination.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-5 AHOD Residential Airport Hazard	Single-Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-5 AHOD Residential Airport Hazard	Single-Family Residential
South	R-5 AHOD Residential Airport Hazard	Single-Family Residential
East	R-5 AHOD Residential Airport Hazard	Single-Family Residential
West	R-5 AHOD Residential Airport Hazard	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Near Northwest Planning Area and identified for low-density residential land uses. The Sunshine Estates Neighborhood Association was notified of the request and asked to comment. Notice coincided with their regularly scheduled monthly meeting where the request was discussed. The applicant was not in attendance, but those who were familiar with the area were not in favor of the variance. They noted that there are no other front yard fences in the surrounding neighborhood.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

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

The public interest is defined as the general health, safety and welfare of the public at large. The public in this situation likely includes all of the surrounding single family homes in the neighborhood, none of which has front yard fencing. The lack of other front yard fencing is a significant feature that defines the character of the neighborhood. Staff located restrictive

covenants recorded in 1959 which prohibited front yard fencing; the applicant was not aware of this document. Several other phases of the Hillcrest Subdivision also include a restriction against front yard fencing. The City is not a party in these agreements and does not enforce private covenants. Nevertheless, disregarding them when so many others have complied would be contrary to the public interest.

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

The owner first applied for a special exception to allow a six foot ornamental iron fence in the front yard. He thought the wall and fence could be in compliance with the standards, but the solid portion was already constructed and taller than 3-feet. The application had to be modified to reflect the request as a variance rather than a special exception, triggering an entirely different analysis, one that is difficult to satisfy. There are no unique, property-related conditions which warrant modification of the standard ordinance allowances. A literal enforcement of the ordinance would require that the applicant remove that section of wall over 3-feet in height, and keep the fencing 4-feet or less.

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 equal application to all citizens. The regulations specific to fence height are complex, with a variety of changing provisions for special uses such as pools and sport courts, industrial areas, and large estate lots. In typical residential neighborhoods, privacy fencing is limited to the side and rear yards. Front yard fencing is allowed, but at a reduced height to preserve visibility from the house onto the street. The spirit of the ordinance would not be observed by allowing the fence, less open than 70%, to be 7-foot 3-inches tall in the front yard.

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

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

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

The property is part of the Hillcrest Development, a multi-phase subdivision recorded throughout the 1950s. Mid-century subdivisions often included covenants regulating design components, such as front yard fencing, in the absence of detailed zoning regulations. In this case, where an overwhelming majority of the homes have no front yard fencing at all, the variance would alter an 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 applicant is requesting a variance to allow additional fence height in the front yard. Unfortunately, the work was begun without a permit. The fencing installed to date did not qualify for a special exception as was originally requested; the wall is taller than 3-feet and the

total height is taller than 6-feet. Fencing is more difficult to justify as a variance than the special exception process; there has to be a property-related feature that distinguishes it from others in the area. In this case, no unique characteristic has been identified. Instead, the applicant has invested in construction of wall that extends above the maximum allowed height of 3-feet, a self-imposed hardship.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reduce the height of the wall to 3-feet to maintain front yard fencing consistent with what is allowed by right. This should be pursued with caution however, and full knowledge that private covenants and restrictions prohibiting all front yard fencing encumbers this property.

Staff Recommendation

Staff recommends **denial of A-13-004**, based on the following findings:

1. There are no unique features or characteristics which differentiate this lot from others in the subdivision to warrant alteration of the ordinance provisions;
2. A restrictive covenant recorded in 1959 has prevented the installation of front yard fencing in the subdivision for over 50 years, and as such has established a defining feature of the neighborhood; and
3. The applicant has a self-imposed hardship, constructing a wall without a permit and in excess of the maximum allowed height.

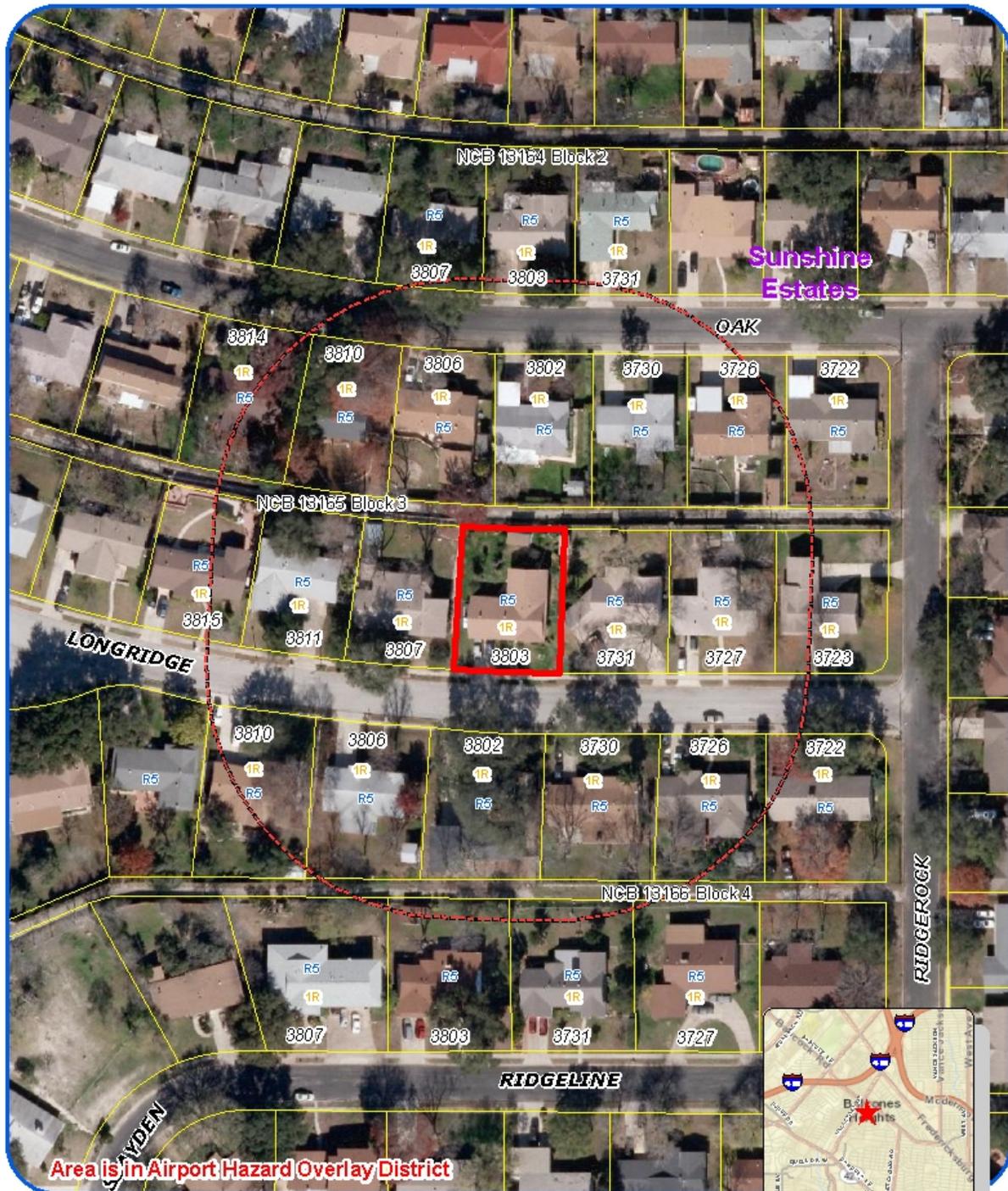
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Photos

Attachment 1 Notification Plan



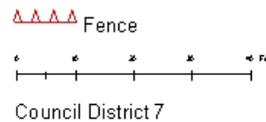
<p>Board of Adjustment</p> <p>Notification Plan for</p> <p>Case No A-13-004</p>		<p>San Antonio City Limits</p> <p>Subject Property</p> <p>200' Notification Boundary</p> <p>Council District</p>		<p>Development Services Department City of San Antonio (210)2012</p>
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Attachment 2
Plot Plan



Board of Adjustment

Plot Plan for
Case No A-13-004



3803 Longridge Drive

Development Services Department
City of San Antonio
10th December 2012

**Attachment 3
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-005
Date: December 10, 2012
Applicant: Ameen Jivani
Owner: Jivani Basse Ventures LLC
Location: 1923 Blanco Road
Legal Description: Lot 49, Block 4, NCB 3105
Zoning: "C-2 NCD-5 AHOD" Commercial Beacon Hill Neighborhood
Conservation Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for 1) a 26-foot variance from the 30-foot required rear yard setback to allow a building within 4 feet of a rear property line abutting a residentially zoned district; and 2) an 11-foot variance from the 15-foot required "Type B" bufferyard requirement to allow a building within 4 feet of 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 November 20, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on December 7, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the southeast corner of Blanco Road and West Rosewood Avenue. Currently, the site is vacant except for an existing gasoline canopy structure. The site had been developed with a nonconforming convenience store, but that building was destroyed by fire in 2011. Whenever a nonconforming structure is damaged or destroyed by more than 50% of the replacement cost, nonconforming rights cease.

The applicant is requesting a permit to rebuild a new convenience store on top of the existing building slab. The slab, based on the construction drawings submitted, is within four feet of the

rear property line. The subject property abuts a residentially zoned property to the rear, and, as such, requires a 30-foot rear yard setback. Additionally, a “Type B” bufferyard is also required between the subject property and the adjacent residential property. A “Type B” bufferyard is a minimum of 15 feet in width and must be appropriately landscaped.

The subject is property is also located within the Beacon Hill Neighborhood Conservation District. Although several deficiencies have been identified in regards to the NCD-5 standards, the applicant does not wish to request any variances regarding those standards.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-2 NCD-5 AHOD (Commercial)	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	C-2 NCD-5 AHOD (Commercial)	Vacant
South	C-2 NCD-5 AHOD (Commercial)	Parking Lot
East	R-6 NCD-5 AHOD (Residential)	Single-Family Residence
West	C-2 NCD-5 AHOD (Commercial)	Restaurant

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Midtown Neighborhoods Neighborhood Plan. The subject property is also located within the boundaries of the Beacon Hill 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:

- The variance is not contrary to the public interest:*

The requirement for a rear yard and a buffer between commercially zoned properties and residentially zoned properties is designed to separate incompatible land uses. It is recognized that sometimes heavier commercial uses, such as high-volume retail and 24-hour operations, can negatively impact a residential environment because of noise, light, and trash. The rear yards and required buffers are meant to alleviate these issues. Additionally, rear yards are meant to provide proper building separation in the event of a fire; in fact, fire damage to the adjacent residential structure is still apparent from the fire event that destroyed the convenience store. Reducing these yards and buffers is not within the public interest.

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

There is no special condition readily apparent that warrants the granting of a variance as there is adequate space on the site to construct a compliant structure and there are no special topographical features apparent on the site.

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

The spirit of the ordinance will not be observed as granting the variance will not provide adequate buffering for the residential property adjacent to the subject commercial property.

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 NCD-5 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.*

Granting of the variance may have the effect of injuring the appropriate use of the adjacent residential property because granting the variance will not adequately protect the residential property from the adverse effects of commercial development, which could lead to a decline in quality of life of the residents and a decline in property value.

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 owners is based upon a previous non-conforming structure which was completely destroyed by fire, not any special conditions unique to the property.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to build a structure that is compliant with the required rear yard and buffer.

Staff Recommendation

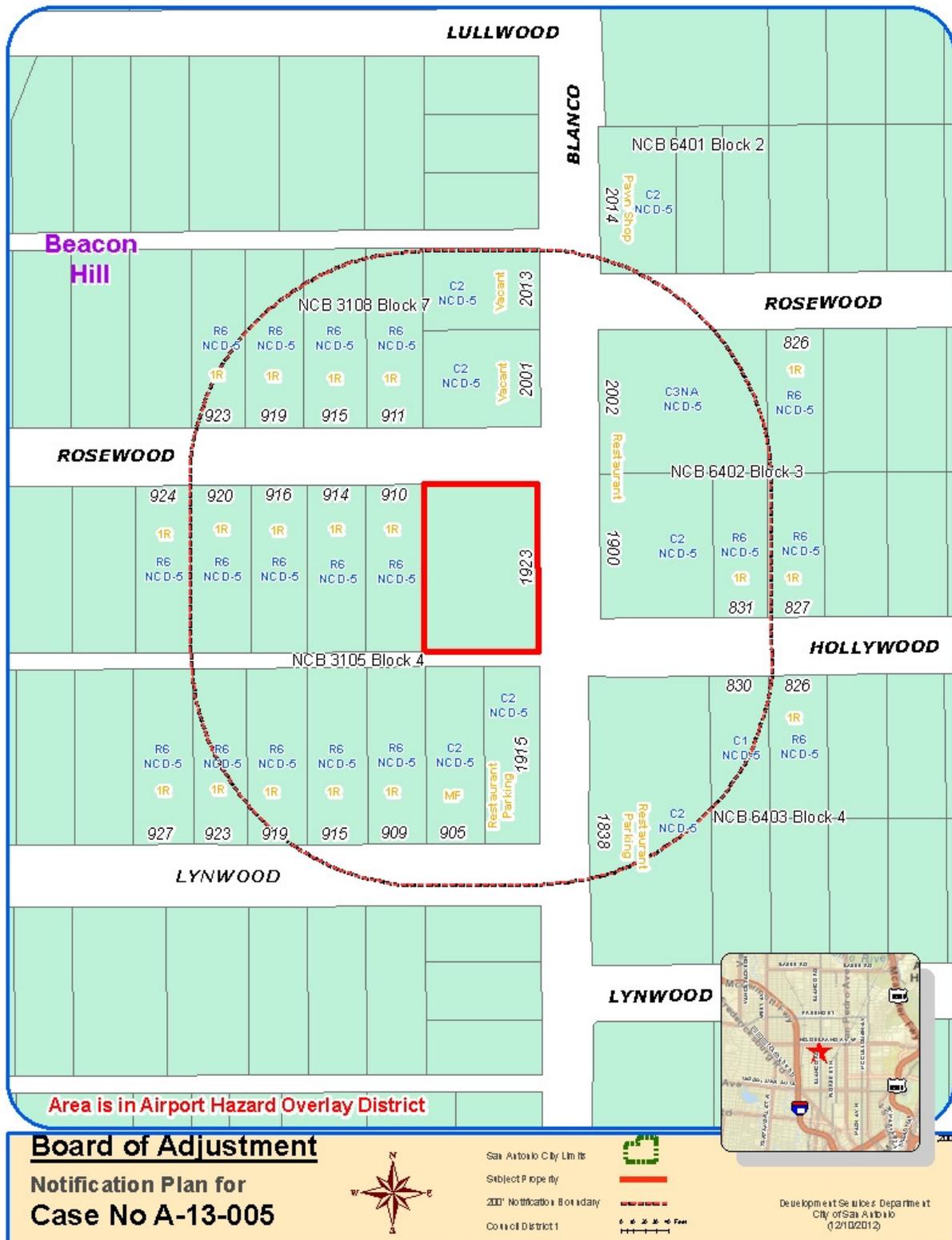
Staff recommends **denial of A-13-005**, as the request only meets one of the required six criteria for granting a variance.

Attachments

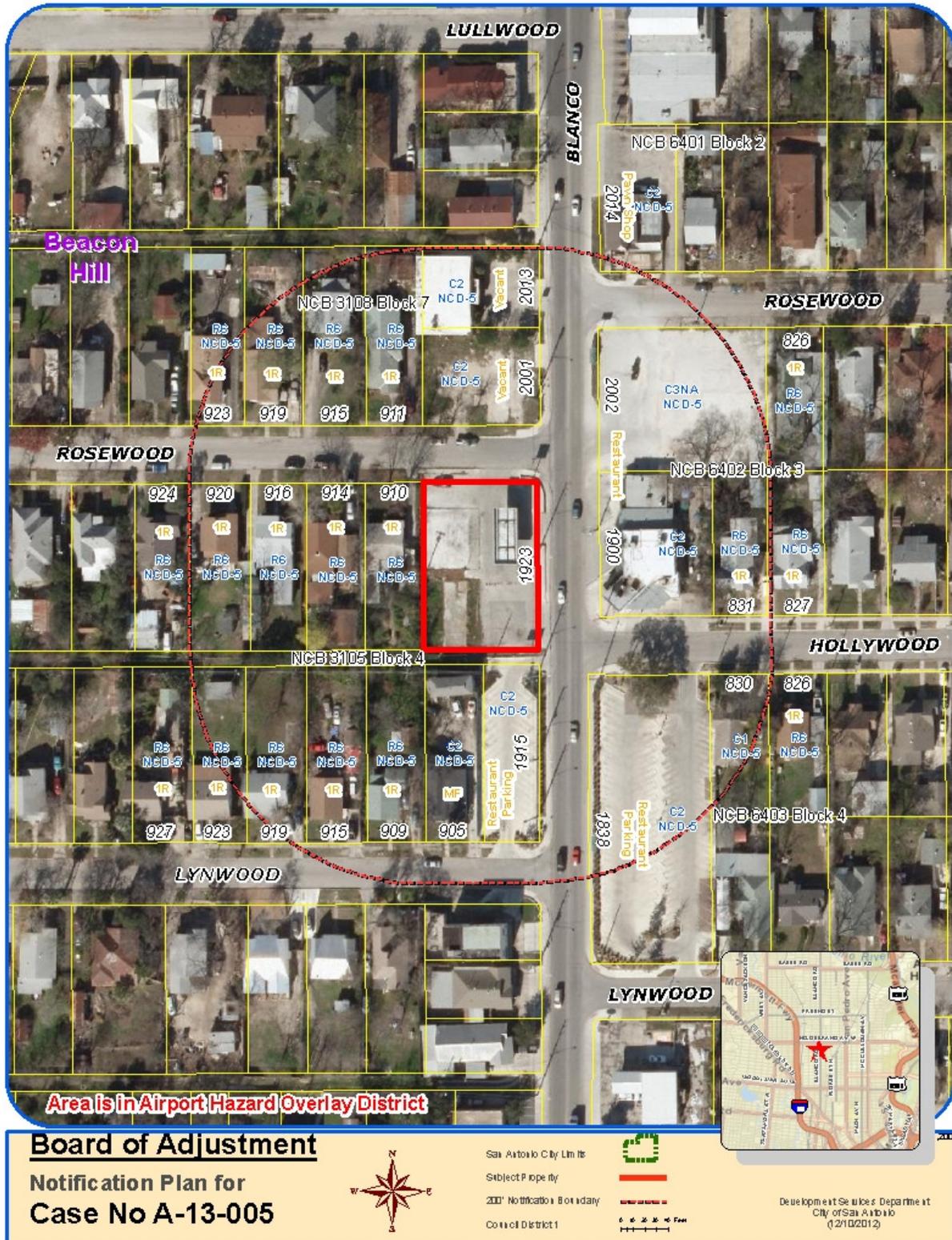
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

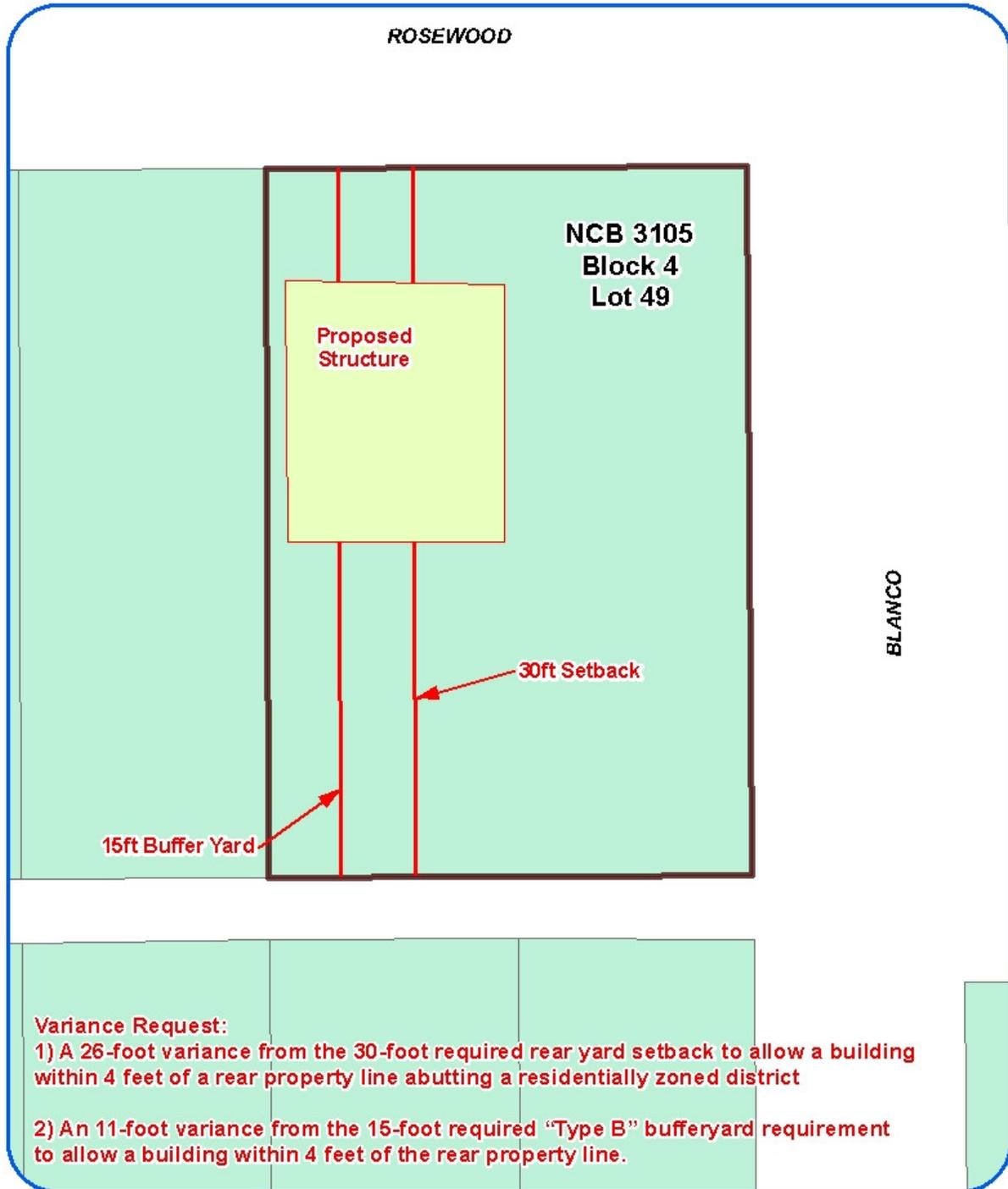
Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



**Attachment 2
Plot Plan**

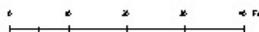


Variance Request:

- 1) A 26-foot variance from the 30-foot required rear yard setback to allow a building within 4 feet of a rear property line abutting a residentially zoned district
- 2) An 11-foot variance from the 15-foot required "Type B" bufferyard requirement to allow a building within 4 feet of the rear property line.

Board of Adjustment

**Plot Plan for
Case No A-13-005**



Council District 1

1923 Blanco Road

Development Services Department
City of San Antonio
IDN December 2012

Attachment 2 (Continued)
Plot Plan



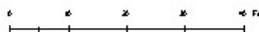
Variance Request:

1) A 26-foot variance from the 30-foot required rear yard setback to allow a building within 4 feet of a rear property line abutting a residentially zoned district

2) An 11-foot variance from the 15-foot required "Type B" bufferyard requirement to allow a building within 4 feet of the rear property line.

Board of Adjustment

Plot Plan for
Case No A-13-005



Council District 1

1923 Blanco Road

Development Services Department
City of San Antonio
10/11 December 2012



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-006
Date: December 10, 2012
Applicant: Haven for Hope of Bexar County
Owner: City of San Antonio
Location: 804 North San Marcos Street
Legal Description: Lot 16, Block 51, NCB 199
Zoning: "C-3 NA AHOD" General Commercial Non-Alcoholic Sales Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a 2-foot variance from the 6-foot maximum height allowance for a predominantly open wrought iron fence in order to allow an 8-foot high predominantly open wrought iron fence around a proposed basketball court complex.

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 November 20, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on December 7, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the northeast corner of North San Marcos Street and Leal Street. The property is a part of the larger Haven for Hope campus, and the property serves as a recreational area for residents and clients of Haven for Hope. The applicant has constructed improvements on the property, and has also constructed the fence for which the variance is being sought. The fence does not qualify for a special exception.

The property is developed as a recreational area with ball courts and a plaza. The area's access is restricted to residents and clients via a card access system. The applicant's primary concern is security of the complex, as well as safety of their clients.

The property has street right-of-way on the north, west, and south side and railroad right-of-way on the east side. The applicant states that the fencing will have an added benefit of keeping patrons and passersby safe from wayward sport balls.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-3 NA AHOD (Commercial)	Recreational plaza/park

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	I-1 AHOD (Industrial)	Vacant
South	C-3 NA AHOD (Commercial)	YMCA
East	I-1 AHOD (Industrial)	Industrial
West	RM-4 AHOD (Residential), I-1 AHOD (Industrial), I-2 AHOD (Industrial)	Residential and Parking Lot

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Downtown Neighborhood Plan. The subject property is also located within the boundaries of the Gardendale 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:

- The variance is not contrary to the public interest:*

Fence height regulations are designed to promote orderly development, reduce visual distraction, and create a sense of community. The UDC, however, contemplates that sometimes higher fences are necessary in order to allow for adequate protection of users and security. In this case, the allowed fence height of 6 feet could be considered inadequate because of the potential for vandalism to the sporting equipment present, unauthorized access, as well as the potential from injuries resulting from wayward sporting balls. As such, the variance is not contrary to the public interest.

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

Because of the sport court’s proximity to street and railroad rights-of-way, a lower fence than that requested could result in an unnecessary hardship because of the potential for accidents.

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

The UDC contemplates higher fences for sport courts in rear and side yards, but not in front yards. Because this property functions as a recreational and exercise area, allowing the increased height will observe 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 “C-3 NA 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.*

Granting of the variance will not have an adverse effect on adjacent property. No properties directly abut the subject property, and most of the nearby properties are affiliated with the applicant.

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 owners is based upon security and safety concerns and is not merely financial or due general conditions within the area.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to lower the fence to six feet in height in accordance with Section 35-514 or to only fence the sport courts themselves in accordance with Section 35-514(b)(1) of the UDC.

Staff Recommendation

Staff recommends **approval of A-13-006**, due to the following reasons:

1. The request maintains the spirit of the ordinance by promoting public safety because of the risk of injury from wayward sport balls and the nearby rights-of-ways.

Attachments

- Attachment 1 – Notification Plan (Location Map)
- Attachment 2 – Plot Plan
- Attachment 3 – Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-13-006</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>College Districts </p>	<p style="text-align: right;">Development Services Department City of San Antonio (210)201-2</p>
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**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment</p> <p>Notification Plan for</p> <p>Case No A-13-006</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Color of Districts </p>	<p>Development Services Department City of San Antonio (12/10/2012)</p>
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Attachment 2
Plot Plan



Board of Adjustment

**Plot Plan for
Case No A-13-006**



△△△△ Fence

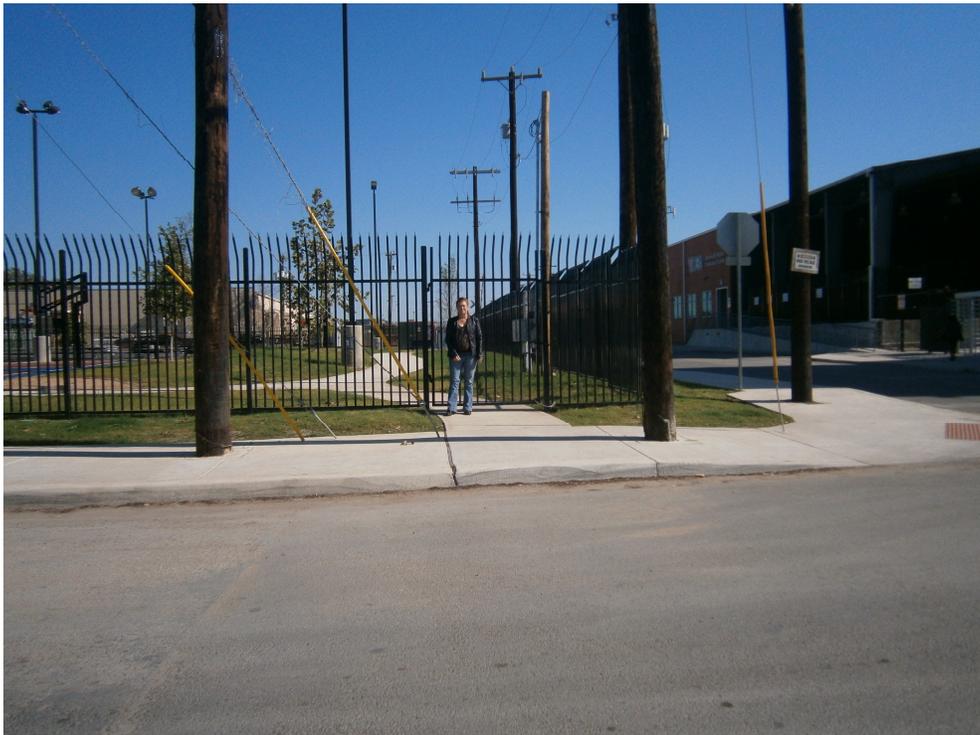
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Council District 5

804 N. San Marcos

Development Services Department
City of San Antonio
10/11 December 2012

Attachment 3
Photos





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-007
Date: December 10, 2012
Applicant: Brown & Ortiz, PC
Owner: Bakke Development Corporation
Location: 2414 Harry Wurzbach Road
Legal Description: Lot 9, Block 4, NCB 11003
Zoning: "C-3 MC-3 AHOD" Commercial Austin Highway/Harry Wurzbach
Metropolitan Corridor Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests 1) a variance from the prohibition against metal as an accent building material or approved screening material around a dumpster and 2) a variance from a requirement that all building materials are earth-tone colors to allow metal as an accent and screening material for Starbucks.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on November 21, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on December 7, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 0.94 acre parcel only recently subdivided with the recording of the Harry Wurzbach Bakke Subdivision in August, 2012. For the last year, the property has been used as a construction staging area for a City street widening project. The site is an "out-parcel" of the Sam Houston Center and is being designed for the construction of a Starbucks, with drive-through service. The 1960's Sam Houston Center, located directly north of Fort Sam Houston, was completely remodeled in 2010 with a retro military theme. Metal is a repeating accent

material used throughout the center and establishes its distinctive look. Red is the main accent color and is visible on all of the light fixtures and potted planters. Several of the tenant spaces were also refurbished and re-leased. Many of the new tenants are military oriented, such as a recruiting office, and a uniform/gear supplier.

The design materials and colors used in the shopping center are not allowed under the recently adopted guidelines in the Austin Highway/Harry Wurzbach Metropolitan Corridor overlay district. These were approved in March 2012 and impact over 600 acres located within 300 feet of these two referenced arterial streets. The district was intended to:

- Encourage continued redevelopment of the area;
- Assist the base realignment and closure related efforts to revitalize and manage growth at Fort Sam Houston and the surrounding communities;
- Protect federal investment being made at Fort Sam Houston; and
- Advance the efforts of the Austin Highway Revitalization Project.

The Sam Houston Center remodel was completed prior to the overlay district’s adoption and thus not impacted by the requirements. The district guidelines provide a list of permitted building materials allowed for use as an accent material, but metal is not included. The applicant is seeking a variance to allow the addition of metal as an accent and screening material, consistent with the center’s design theme. A variance is also requested for approval of a color that may not be earth-tone, though the use of red is not contemplated. The color variance is being sought for the metal accent as well.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-3 MC-3 AHOD Commercial Austin Hwy/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	C-3R MC-3 AHOD Commercial Restrictive Austin Hwy/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay	Convenience Store/Gas
South	MR Military Reservation Airport Hazard	Military Housing Fort Sam Houston
East	C-2 MC-3 AHOD Commercial Austin Hwy/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay	Commercial Strip Multi-tenant
West	C-3 AHOD Commercial Airport Hazard	Commercial Center

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the San Antonio International Airport Planning Area and identified for community commercial land uses. The Wilshire Neighborhood Association was notified of the request and asked to comment. No concerns were reported.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

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

The public interest is defined as the general health, safety and welfare of the public at large. The public interest in this situation is protected by design guidelines which reinforce a higher level of design quality. The metropolitan corridor district's list of approved building materials, required façade fenestration, and landscape buffering are proven features of a form-based code. The basis for these requirements is that good design creates enhanced economic activity and radiating reinvestment. Conversely, metal is considered a cheap building material alternative that detracts from quality design. Its limited use however can add interest, and in this case is necessary to tie the pad-site to the primary shopping center. Therefore, its use as an accent material for Starbucks is in 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 require that the applicant incorporate design materials that while attractive would not be cohesive with the shopping center's design theme. This requirement creates an unnecessary hardship. Allowing metal to be used as an accent material in this location is a beneficial design decision.

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 equal application to all citizens. In some cases, unique property-related characteristics warrant flexibility to the regulations. In this case, allowing the same accent material that has been used throughout the shopping center may represent substantial justice. The proposed elevations submitted by the applicant exhibit good design and their use of metal does not detract from the goals of the corridor district overlay.

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-3 MC-3 AHOD zoning district.

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

The property is part of the Sam Houston Center, which incorporated metal as a prominent, accent design feature. The variance would allow Starbucks to use the same accent design feature, thereby complementing the essential character of the center.

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 property in question has never been developed. In the last year or so, the City has reconstructed the intersection, adding additional turning lanes, using the parcel for material stockpiling and construction staging. The applicant asserts that this delayed construction of Starbucks, and made the property subject to the recent design guidelines. The desire to use metal as an accent material is not financial in nature, but rather a desire to be recognized as a part of the shopping center.

Alternatives to Applicant's Request

The alternative to the applicant's request is to use an approved building material, such as cultured stone, as an architectural accent.

Staff Recommendation

Staff recommends **approval of A-13-007** based on the following findings:

1. The requested use of metal as an accent material complements the overall design theme of the shopping center.
2. The metal, as shown on the submitted building elevations, does not detract from the design appeal of the building.
3. The project was delayed by the construction staging which benefited the overall public interest.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Proposed elevations

Attachment 4 – Site Photos

Attachment 1 Notification Plan



Board of Adjustment
Notification Plan for
Case No A-13-007

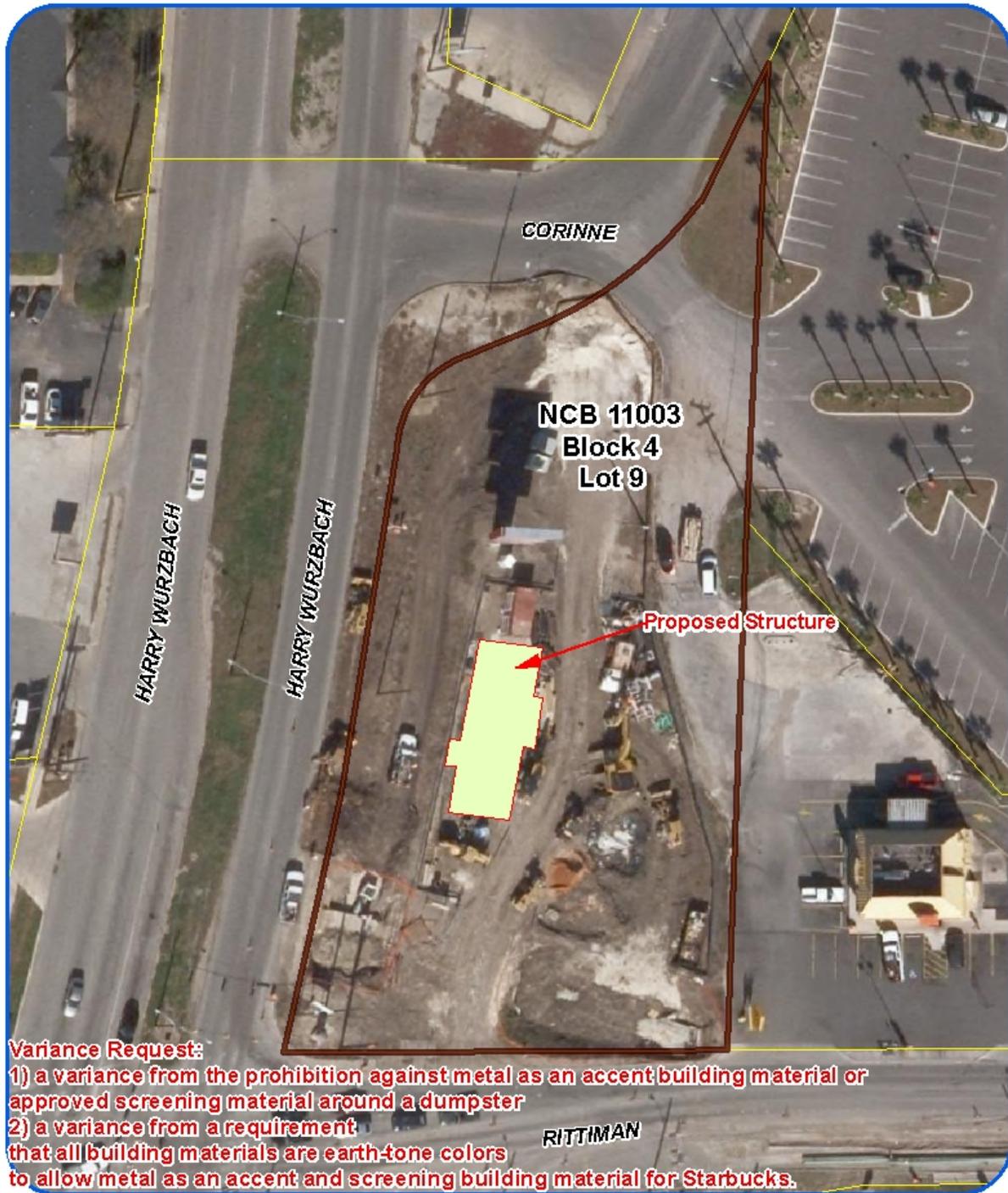


San Antonio City Limits
 Subject Property
 200' Notification Boundary
 Council District 2



Development Services Department
 City of San Antonio
 (2/10/2012)

Attachment 2
Plot Plan

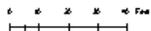


Variance Request:

- 1) a variance from the prohibition against metal as an accent building material or approved screening material around a dumpster
- 2) a variance from a requirement that all building materials are earth-tone colors to allow metal as an accent and screening building material for Starbucks.

Board of Adjustment

Plot Plan for
Case No A-13-007



Council District 2

2414 Harry Wurzbach

Development Services Department
City of San Antonio
10th December 2012

**Attachment 3
Proposed elevations**



Attachment 4
Site Photos





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-008
Date: December 10, 2012
Applicant: Rosa E. Escobedo
Owner: Lauro M. and Rosa E. Escobedo
Location: 1700 El Paso Street
Legal Description: Lots 1 and 2, Block E, NCB 6022
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a special exception to allow a one-operator beauty or barber shop.

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 November 20, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on December 7, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the southwest corner of Trinity Street and El Paso Street. The applicant has constructed a new home on the site, with the Certificate of Occupancy being issued October 5, 2012. The applicant will live in the home and proposes to operate a small beauty salon in a front room of the house.

The house was designed with this specific purpose in mind. The room is closed off from the rest of the living quarters of the dwelling, except for a doorway leading to the kitchen and the living quarters. The beauty salon area will have a separate restroom. Based on the site plan submitted and a visit to the subject property by staff, the salon area is well under the 25% allowed floor area for the salon. The outward appearance of the structure would not indicate that a beauty salon is in operation at the structure.

The applicant has proposed hours of operation as Thursdays, Fridays, and Saturdays, 8:30am until 6:00pm. The total weekly proposed hours are 28.5. The applicant will be the only cosmetologist at the location.

It has been the Board’s policy that when considering initial special exception applications for one operator beauty salons to time limit any approval to two years. As such, if approval is contemplated by the Board, it should be for a time limit of two years.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Guadalupe Westside Neighborhood Plan. The subject property is also located within the boundaries of the Avenida Guadalupe Neighborhood Association.

Criteria for Review

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

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

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

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

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

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

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

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

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

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

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

Staff Recommendation

Staff recommends **approval of A-13-008 for a period of 24 months with hours of operation not to exceed 35 hours per week**, due to the following reasons:

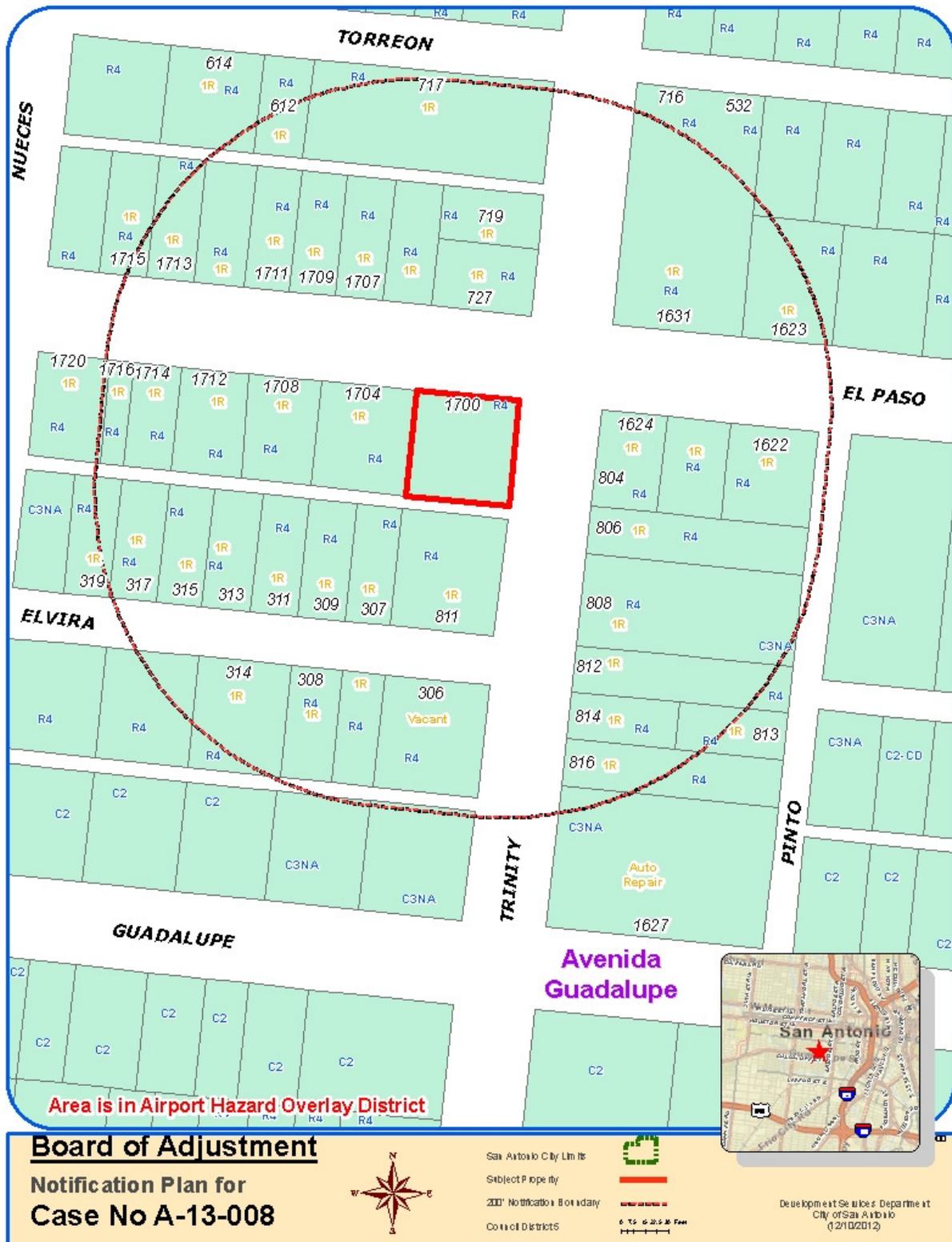
- 1.** The request meets all of the criteria for granting a special exception request

Attachments

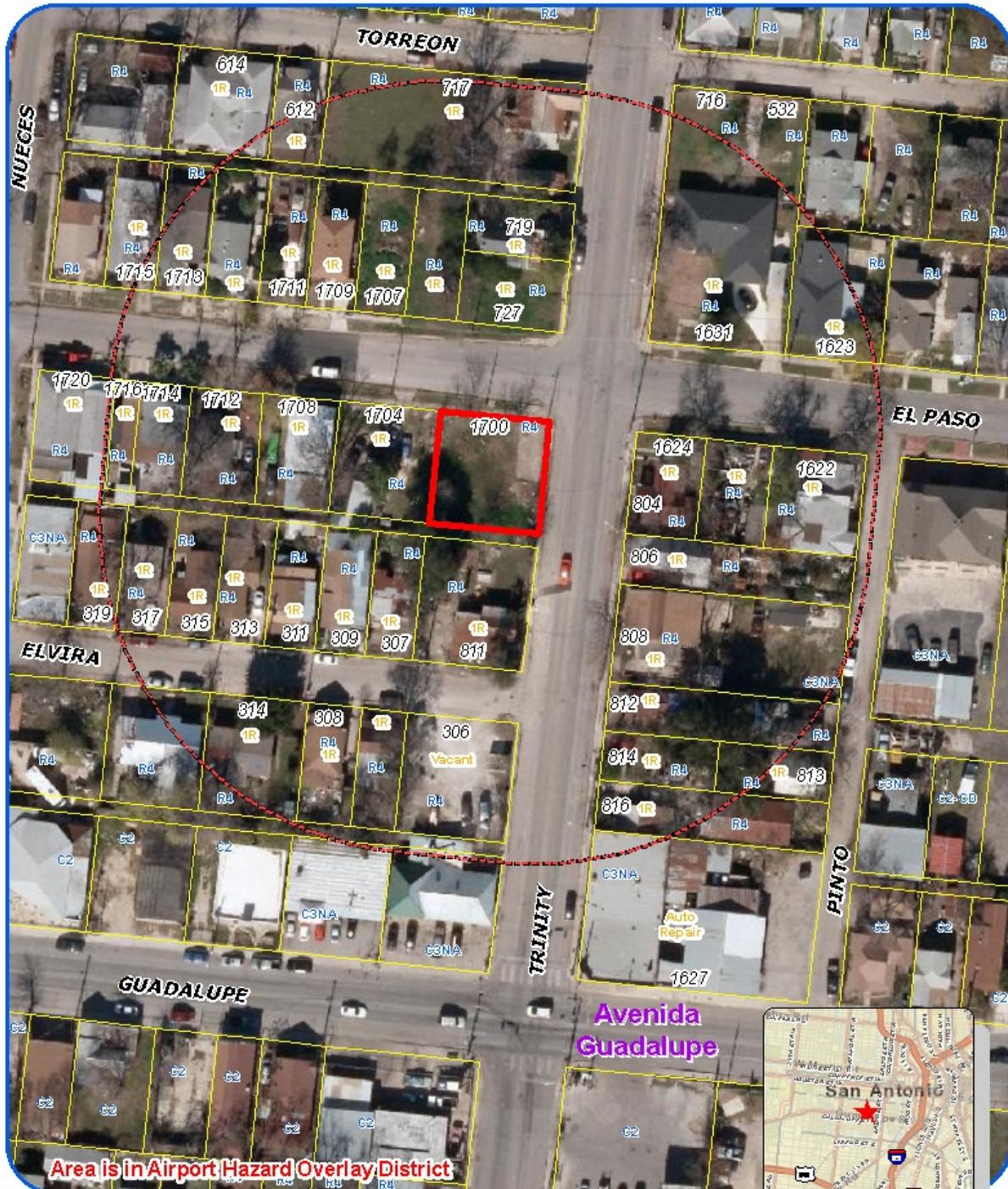
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



Board of Adjustment
Notification Plan for
Case No A-13-008

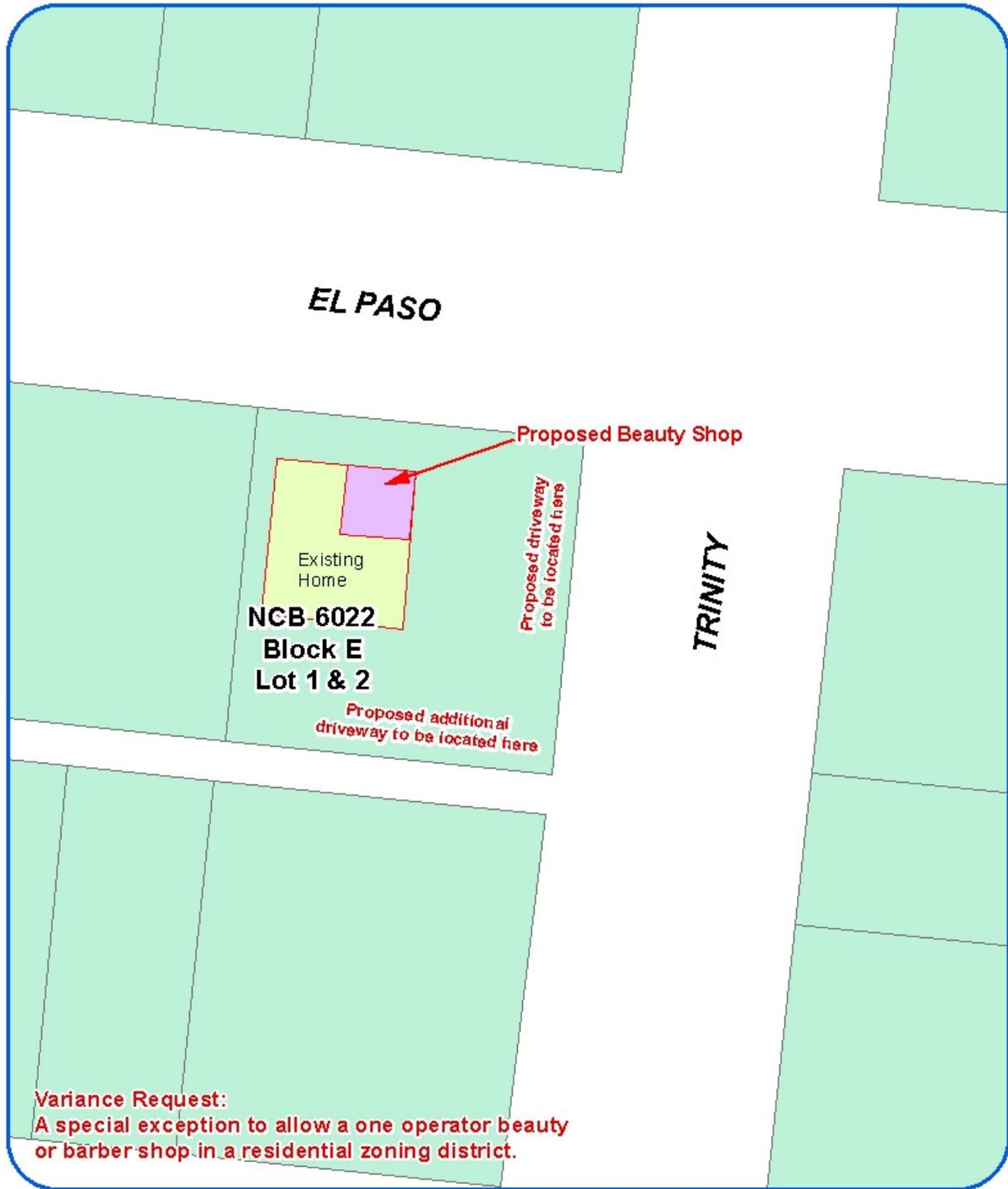


- San Antonio City Limits 
- Subject Property 
- 200' Notification Boundary 
- Color of Districts 



Development Services Department
City of San Antonio
(210)201-2

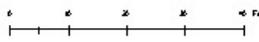
**Attachment 2
Plot Plan**



Variance Request:
A special exception to allow a one operator beauty or barber shop in a residential zoning district.

Board of Adjustment

**Plot Plan for
Case No A-13-008**

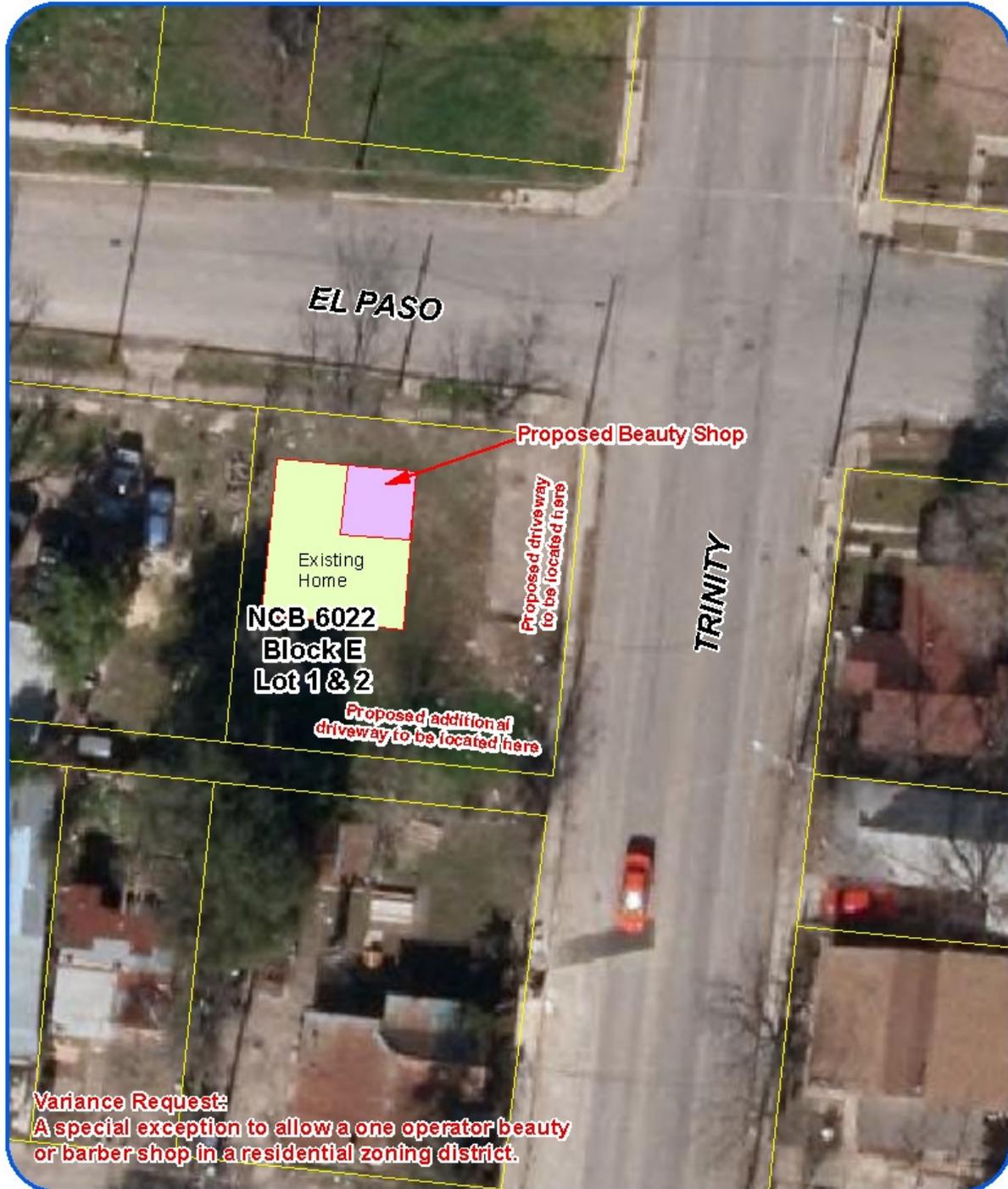


Council District 5

1700 El Paso

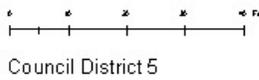
Development Services Department
City of San Antonio
IDN December 2012

Attachment 2 (Continued)
Plot Plan



Board of Adjustment

Plot Plan for
Case No A-13-008



1700 El Paso

Development Services Department
City of San Antonio
IDN December 2012