

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, December 16, 2013

1:00 P.M.

Board Room, Cliff Morton Development and Business Services Center

Anytime during the public hearing, the Board of Adjustment may meet in Executive Session to consult on attorney-client matters (real estate, litigation, personnel and security matters), as well as to discuss any of the agenda items. This notice was posted on the Development Services Department website (www.sanantonio.gov/dsd), and the City Hall kiosk, at least seventy-two (72) hours prior to this public hearing, in 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-13-052:** The request of Dominica A. Castillo for 1) a 23.5-foot variance from the 30-foot side yard setback requirement to allow a structure 6.5 feet from the property line; 2) an 18.5 foot variance from the 25-foot bufferyard requirement to allow a structure within 6.5 feet of the property line; 3) a 0.96-foot variance from the 30 foot side yard setback requirement to allow a structure 29.04 feet from the property line, located at 721 West Cypress Street. (Council District 1)
5. **A-14-009:** The request of Brian Wiggins for 1) a variance to eliminate the required 25-foot buffer yard on the east property line. 2) A 10-foot variance on the east property line from the required 30-foot side yard setback to allow building addition 20-feet from the property line and a 25-foot fire lane in the required buffer yard, located at 5807 Randolph Boulevard. (Council District 10)
6. **A-14-010:** The request of Francisco E. Castillo for a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height within the front yard, located at 5410 Marconi Drive. (Council District 7)
7. **A-14-011:** The request of Cesar & Marylou Cervantes for a 1) a 2.5-foot variance from the minimum 10-foot front yard setback and 2) a 4-foot variance from the minimum 5-foot side yard setback to allow an existing carport, located at 118 Englewood Drive. (Council District 1)
8. **A-14-013:** The request of Robert Courchesne for a 15-foot variance from the minimum 50-foot front setback to allow a building addition within 35 feet of the front property line, located at 4207 W. Horseshoe Bend. (Council District 7)
9. **A-14-014:** The request of Brown & Ortiz for a 1) a 10 foot variance from the minimum 12-foot rear yard setback; and 2) a 4 foot variance from the minimum 5-foot side yard setback to allow a building addition 2-feet from the rear yard and 1 foot from the west side yard, located at 308 W. Summit Avenue. (Council District 1)

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
Maria Cruz, District 5 • Jesse Zuniga, District 6 • Mary Rogers, District 7 • John Kuderer, District 9 • Gene Camargo, Mayor

Alternate Members

Harold O. Atkinson • Paul E. Klein • Henry Rodriguez

10. **A-14-015:** The request of Natividad Torrez for a special exception to allow a one operator beauty/barber shop in a single-family residence, located at 345 Longview Drive. (Council District 2)
11. **A-14-016:** The request of Oscar Flores for 1) a 12-foot variance from the minimum 25-foot front yard setback to allow a building addition 13 feet from the east property line; 2) a 15-foot variance from the minimum 15-foot front & rear buffer yards to allow a building addition and parking up to the east and west property lines, located at 5230 San Pedro Avenue. (Council District 1)
12. **A-13-078:** The request of Michael Hayes for an appeal of the Development Services Department Director's administrative decision to grant two building permits for construction on the above referenced property, located at 151 Algerita. (Council District 9)
13. Approval of the minutes – December 2, 2013
14. Announcements and Adjournment
15. The Board of Adjustment may gather together after their meeting in celebration of the holiday season.

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).*

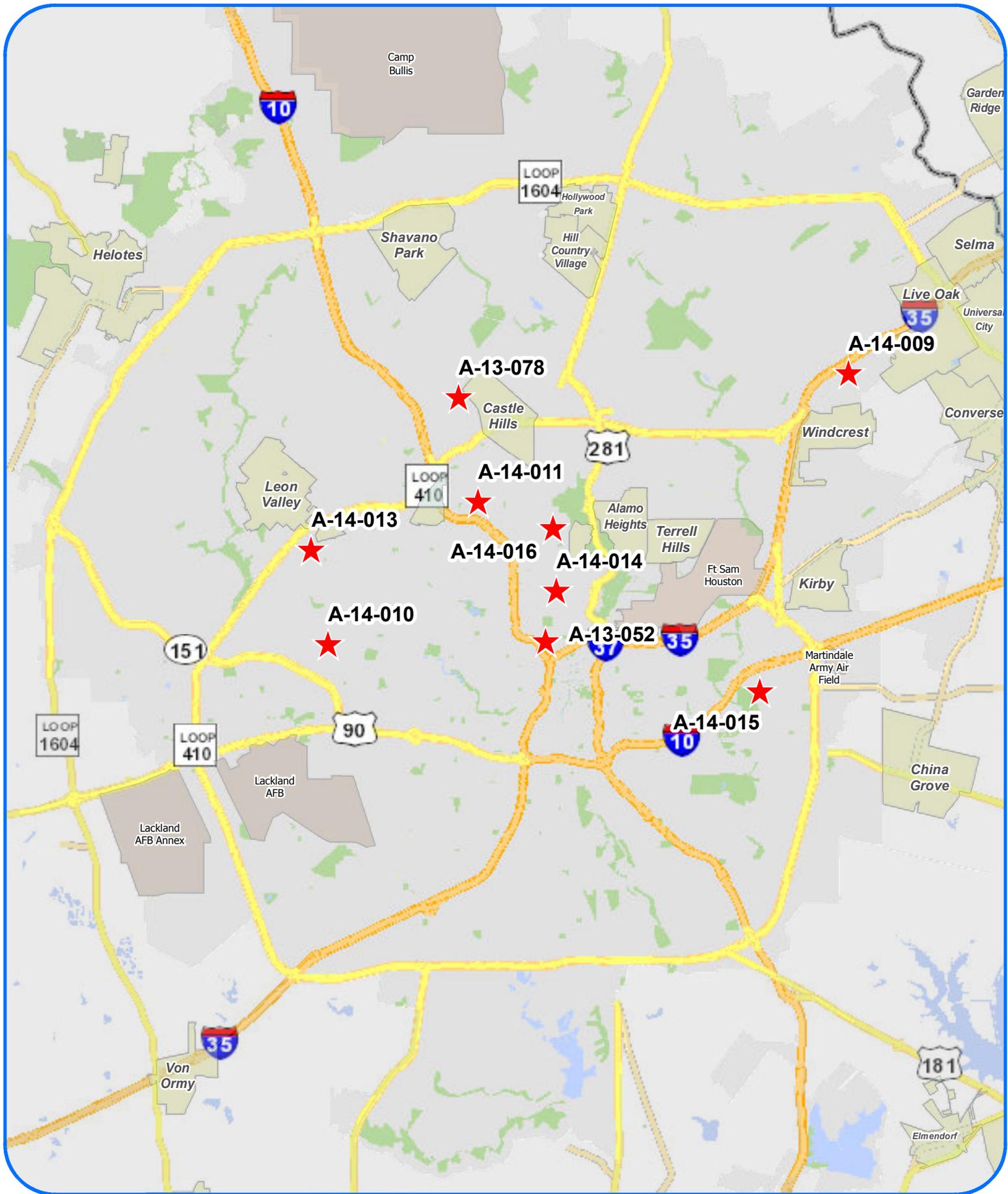
DECLARACIÓN DE ACCESIBILIDAD – *Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210)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

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Board of Adjustment

**Subject Property Locations
Cases for 16th December 2013**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-052
Date: December 16, 2013 (Continued from July 1, 2013)
Applicant: Dominica A. Castillo
Owner: Juan Jose and Dominica A. Castillo
Location: 721 West Cypress Street
Legal Description: Lot 1, NCB 751
Zoning: "I-1 AHOD" General Industrial Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for 1) a 23.5-foot variance from the requirement in Table 310-1 of the UDC for a 30-foot side yard setback requirement to allow a structure 6.5 feet from the property line; 2) an 18.5 foot variance from the requirement in Table 510-1 of the UDC for a 25-foot bufferyard requirement to allow a structure within 6.5 feet of the property line; and 3) a 0.96-foot variance from the requirement in Table 310-1 of the UDC for a 30 foot side yard setback requirement to allow a structure 29.04 feet from the property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before November 26, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 27, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before December 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of West Cypress Street, approximately 265 feet east of North Flores Street. The subject property is currently vacant, and the applicant is proposing to construct an open carport 12 feet in width and 58 feet long on the lot for automobile storage. The proposed height of the structure is 9 feet high.

The lot, as it is currently configured, is 49.75 feet in width. On the east and west side of the lot are properties with a base zoning district of “R-4”. Table 310-1 of the UDC requires a side yard setback of 30 feet where an “I-1” zoned lot abuts a residentially zoned or residentially utilized lot. With a setback requirement of 30 feet on both the east and west side of the lot, the lot would be rendered unbuildable. Further, Table 510-1 of the UDC requires a bufferyard of 25 feet between “I-1” zoned lots and “R-4” zoned lots. Again, given the width of the lot, this requirement would render the lot unbuildable.

The applicant is requesting to construct an open carport structure for vehicle and equipment storage, an allowed use in the “I-1” base zoning district.

It should be noted that, while the applicant is requesting a variance for a reduction in the width of the required bufferyard along the eastern side property line, the required planting materials for the “Type D” bufferyard would still be required to be placed in the reduced bufferyard area, should the variance be approved. The “Type D” bufferyard (with fence option) requires a fence or wall at least six feet in height, and a minimum of the following plant materials: two canopy trees, four understory trees, nine large shrubs, and eight medium shrubs. Additionally, a variance request for the bufferyard requirement along the western side property line was not required due to the adjacent lot being under common ownership with the subject property.

This case was continued by the Board of July 1, 2013, to allow the applicant to explore other options for placement of the proposed structure, and to meet with staff and neighbors. Staff met with the applicant in July to discuss options for placement. It should be noted that at the meeting in July, the Board stated that their preference that the proposed structure be placed closer to the applicant’s home on the adjacent property to the west; however, the applicant has not made any changes to the proposed request. As such, staff’s recommendation of approval has not changed.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“I-1 AHOD” General Industrial Airport Hazard Overlay District	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“I-1 AHOD” General Industrial Airport Hazard Overlay District	Office/Warehouse
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residences
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residences
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Five Points Neighborhood Plan (designated as Low Density Residential). The subject property is also located within the boundaries of Five Points Owners Neighborhood Association; as such, the neighborhood association was notified and asked to comment.

Criteria for Review

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

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

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. Additionally, setbacks, in combination with required bufferyards, are also used, to separate different intensity land uses. In this case, imposition of a 30-foot side setback and a 25-foot bufferyard from both the east and west sides of the lot would cause the lot to be unbuildable. As such, a reduction in the required setbacks and bufferyards is necessary and not contrary to the public interest.

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

Imposition of the building setbacks and bufferyards as required by the UDC would render the lot unbuildable and could be considered an unnecessary hardship.

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

The ordinance is designed to protect separate incompatible land uses with setbacks and bufferyards. The ordinance is not designed to deny a property owner the right to construct a building or have a conforming use on their property. **As the setbacks and bufferyards would render the lot unbuildable, granting the variance will observe the spirit of the ordinance and substantial justice will be done.**

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "I-1" 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, as presented, would not substantially injure the appropriate use of adjacent conforming properties **as the applicant's proposed structure is light in intensity, and essentially will function as a carport. Additionally, the shared boundary with the**

residential uses is the rear yard of those uses, and the UDC requires a setback of 20 feet for the rear yards of the adjacent 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.*

The circumstances existing on the property are unique and were not created by the owner as the circumstances are a function of the lot's size and configuration.

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct the building with the required setbacks, which is not possible due to the size and configuration of the lot.

Staff Recommendation

Staff recommends **approval of A-13-052** because of the following reasons:

- The lot's size and configuration render the lot unbuildable with the current required setbacks and bufferyards.
- The proposed use of the lot is light in intensity.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan and Proposed Elevations

Attachment 1 Notification Plan

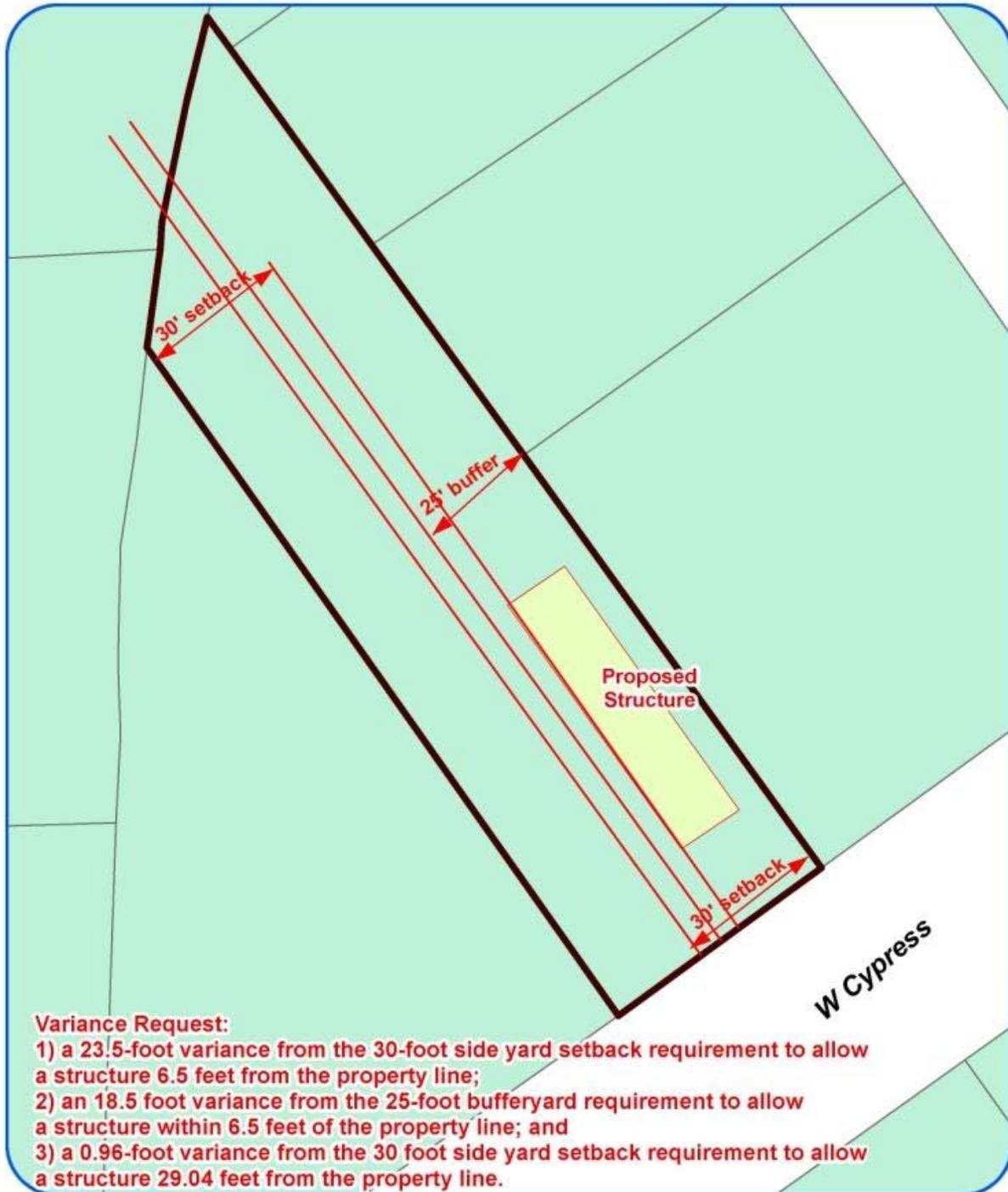


**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-13-052</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 1 </p>	<p>Development Services Department City of San Antonio (07/01/2013)</p>	

Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-052



NOT TO SCALE
FOR ILLUSTRATIVE PURPOSES ONLY
Council District 1

721 W Cypress

Development Services Department
City of San Antonio
(06/17/2013)

Attachment 2 (Continued)
Plot Plan



Variance Request:
1) a 23.5-foot variance from the 30-foot side yard setback requirement to allow a structure 6.5 feet from the property line;
2) an 18.5 foot variance from the 25-foot bufferyard requirement to allow a structure within 6.5 feet of the property line; and
3) a 0.96-foot variance from the 30 foot side yard setback requirement to allow a structure 29.04 feet from the property line.

Board of Adjustment
Plot Plan for
Case No A-13-052

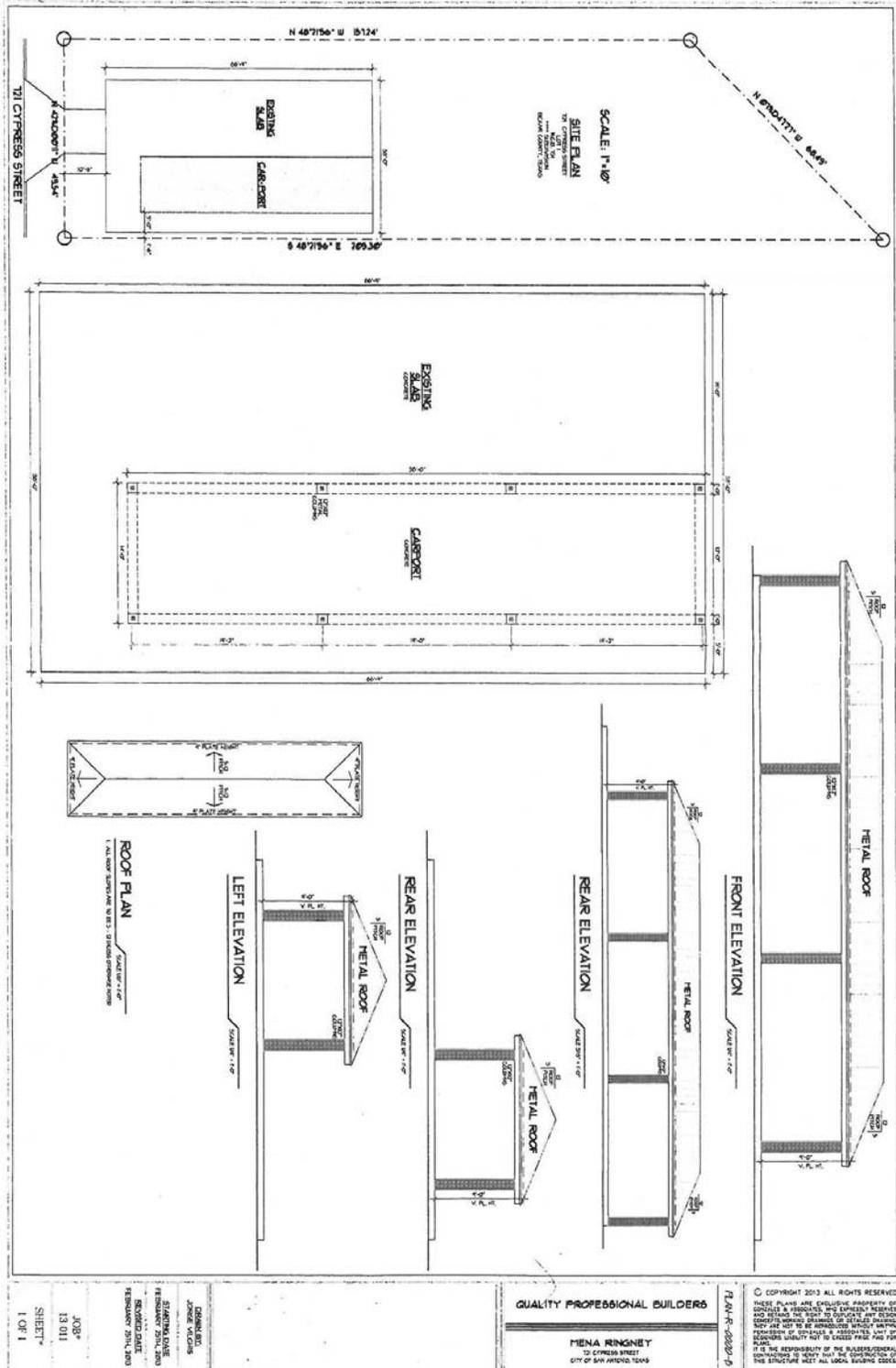


NOT TO SCALE
FOR ILLUSTRATIVE PURPOSES ONLY
Council District 1

721 W Cypress

Development Services Department
City of San Antonio
(06/17/2013)

Attachment 3 Applicant's Site Plan and Elevations





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-009
Date: December 16, 2013
Applicant: Brian Wiggins
Owner: Hutzler Properties
Location: 5807 Randolph Boulevard
Legal Description: Lot 38, Block 01, NCB 14952
Zoning: "I-1 AHOD" General Industrial Airport Hazard Overlay District and "C-2 AHOD" Commercial Airport Hazard Overlay Airport Hazard Overlay District
Prepared By: Osniel Leon, Planner

Request

The applicant is requesting for 1) a variance to eliminate the required 25-foot buffer yard on the east property line. 2) A 10-foot variance on the east property line from the required 30-foot side yard setback to allow building addition 20-feet from the property line and a 25-foot fire lane in the required buffer 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 27, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 27, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on December 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The approximately 3.02-acre property consists of an 11,700-square foot building used as storage warehouse and manufacturing. The current property owner plans to build an approximately 28,653-square foot addition for a warehouse facility. The applicant is proposing to build the new building as an extension to the south of the existing building, 20-feet from the east property line.

The UDC includes setback and buffer requirements to protect single-family residential uses from the more intensive commercial uses.

Pursuant to Table 310-1 of the UDC, buildings in the “I-1” zoning district shall be set back a minimum of thirty (30) feet from the side and rear property lines when abutting a residential use or zoning district. A portion of the subject property on the east lot line abuts an “R-6” Residential Single-Family zoning district. Consequently, the applicant is requesting a 10-foot variance from the minimum side yard setback requirement, and to eliminate the required 25-foot buffer yard to allow a fire lane. The applicant’s site plan shows the removal of 4,404 square footage of buffer on the east property line and adding 5,472 square feet of buffer along Randolph Boulevard. According to fire code, based on the size of the proposed addition, a fire lane is required along the east property line. This however, does not waive the UDC buffer requirements.

The applicant submitted a letter from the adjacent property owner to the east of the subject property. However, ownership may transition in the future and future residents will be unduly burdened by the proximity to an intense commercial and industrial uses that will result from granting of the requested variance.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“I-1 AHOD” General Industrial Airport Hazard Overlay District and “C-2 AHOD” Commercial Airport Hazard Overlay Airport Hazard Overlay District	Storage Warehouse and Manufacturing

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“I-1” AHOD”, “R-6 AHOD”	Warehouse
South	“RM-4 AHOD”, “R-6 AHOD”	Single-Family Residential
East	“R-6 AHOD”, “C-3R” AHOD”, “I-1” AHOD”	Single-Family Residential, Tool Yard
West	“R-6 AHOD”, “C-3NA AHOD”	Single-Family Residential, Beauty Shop

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a Neighborhood or Sector Plan. The property does not have a neighborhood association within two hundred (200) feet.

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 requested variances are contrary to the public interest as, if approved, they will allow the placement of a building of an intense industrial zoning district that abuts a single-family residential zoning district. Setbacks and buffers from residential zoning districts are required to lessen the impact and create a buffer between commercial and residential uses. Allowing a building to be placed near the property line, which also serves as the zoning district boundary line, eliminates the separation and buffer required between these two (2) uses.

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

The subject property is not subjected to special conditions that create unnecessary hardship through the literal enforcement of the setback and buffer requirements. The site plan shows that the subject property is not uniquely influenced by oppressive conditions that would prevent the reasonable use of the property without the variances requested, and that commercial development subjected to the requirements of the UDC is practical on the subject property.

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

The variances are neither in keeping with the spirit of the ordinance nor would they do substantial justice. The intent of the side setback when abutting a residential use or zoning district is to provide a buffer and protect single-family residential uses from commercial uses. The requested variances go against this intent by allowing a commercial use to impinge upon a single-family residential district.

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "I-1" and "C-2" districts.

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 injure the appropriate use of the adjacent conforming residential property as they will no longer enjoy reasonable separation from industrial and commercial uses provided by the setback and buffer requirements. While the adjacent property owner is in favor of the request, ownership may transition in the future and future residents will be unduly burdened by the proximity to an intense commercial and industrial uses that will result from granting of the requested variance.

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.

No unique conditions or circumstances exist on the property that prevents the applicant from using the property as intended and complying with the minimum requirements of the UDC.

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct the building so as to meet all applicable setbacks and buffers.

Staff Recommendation

Staff recommends **denial of A-14-009**, based on the following findings:

1. The requested variances go against the UDC requirements intended to provide a buffer and protect single-family residential uses from commercial uses by allowing a commercial use to impinge upon a single-family residential district.

Attachments

Attachment 1 – Notification Plan (Location Map)

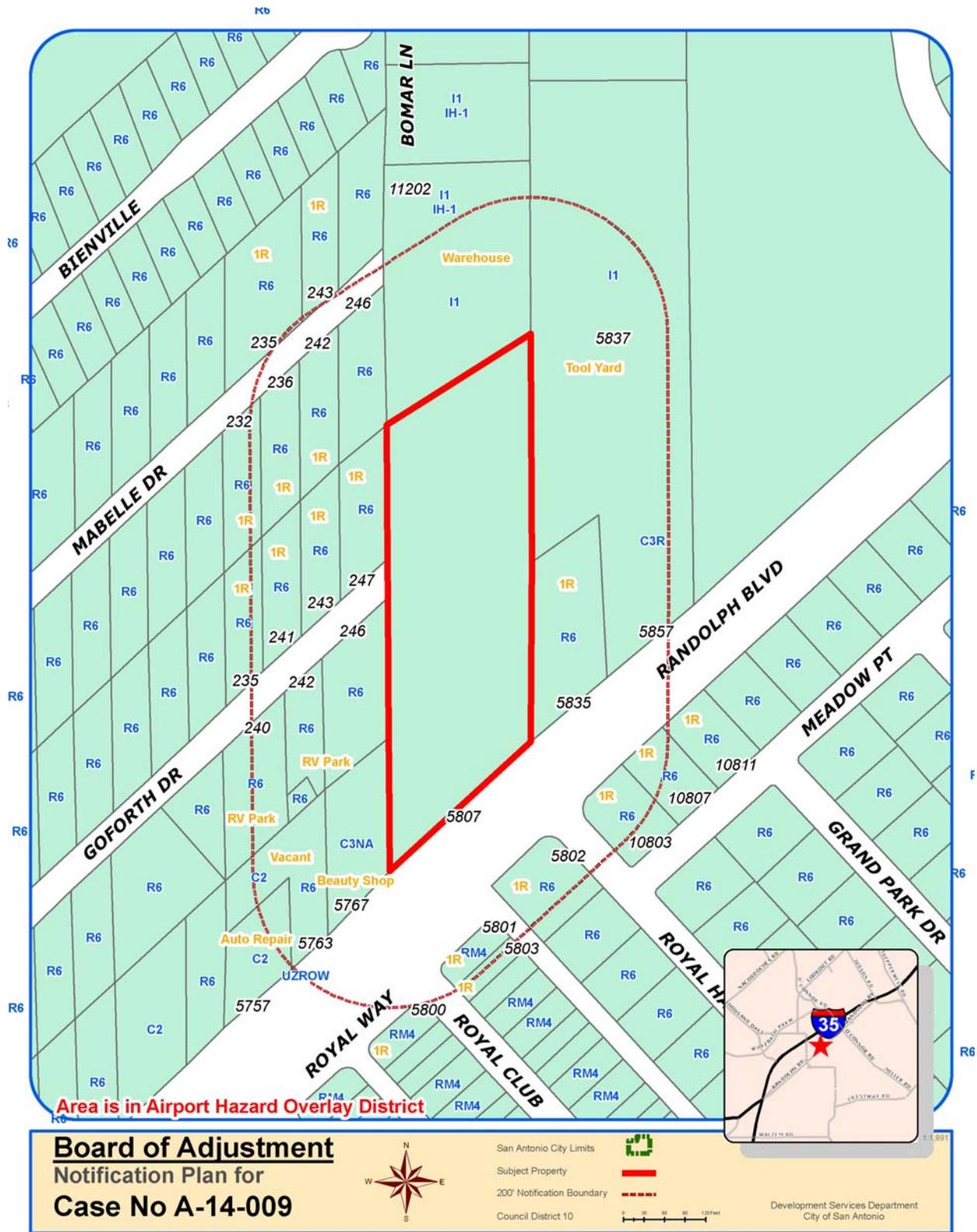
Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan

Attachment 4 – Photos

Attachment 5 – Letter from adjacent property owner

Attachment 1 Notification Plan



Attachment 2
Plot Plan



Variance Request:
A request for 1) a variance to eliminate the required 25-foot buffer yard on the east property line.
2) A 5-foot variance from the required 30-foot side yard setback to allow a building addition 25-foot from the property line and a 25-foot fire lane in the required buffer yard.

Board of Adjustment
Plot Plan for
Case No A-14-009

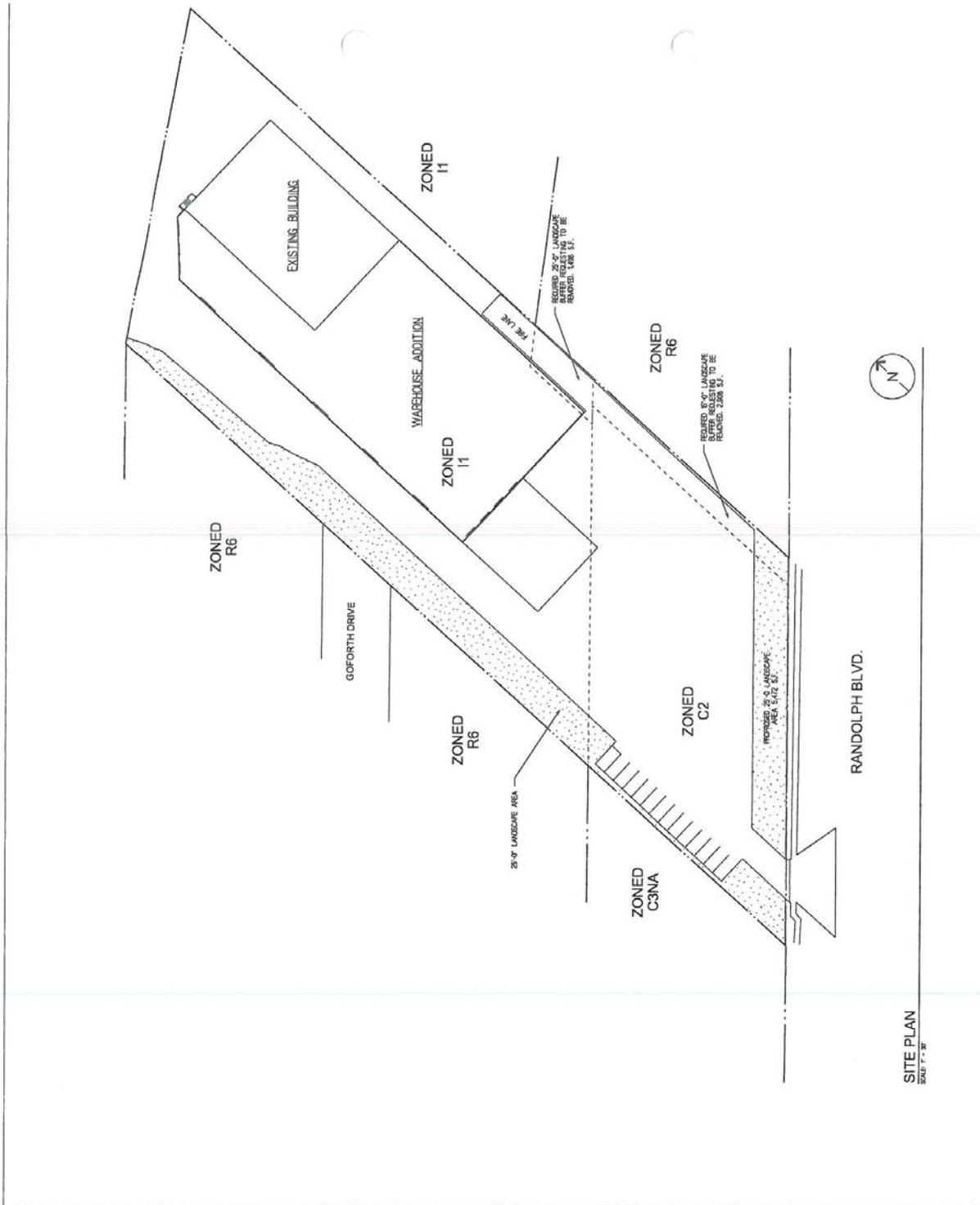


"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 10

5807 Randolph Blvd

Development Services Department
City of San Antonio

Attachment 3 Applicant's Site Plan



**Attachment 4
Site Photos**



Attachment 5
Letter from adjacent property owner

October 8, 2013

Office of the Director
Development Services
1901 S. Alamo
San Antonio, Texas 78283

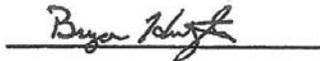
Dear Director of Development Services,

My name is Yukiko Moser and I am the owner of an R-6 residential zoned property located at 5835 Randolph Blvd, San Antonio, TX. It has been brought to my attention that my neighbor, TexDoor, Ltd along my West property line at 11202 Bomar Lane, San Antonio, TX will be developing their I-1/C2 zoned property with a Warehouse building addition. I have been made aware of the San Antonio UDC Section 35-510(c)(1) which requires my neighbor to provide a twenty-five foot (25') wide, Type 'D' Landscape Buffer and fifteen foot (15') wide, Type 'B' Landscape Buffer between our two properties, on their side of the property line. In addition to the width, the buffers require shrub and tree planting, and a six foot privacy fence. I am in agreement with my neighbor, and do not see it necessary that a buffer be installed between our two adjoining properties. Furthermore, pursuant to the San Antonio UDC 35-510(a)(4)(B), I am respectfully requesting that said buffer be eliminated in the area directly between both aforementioned properties. Thank you for your consideration.

Sincerely,



Yukiko Moser
5835 Randolph Blvd
San Antonio, TX 78233



TexDoor, LTD
11202 Bomar Lane
San Antonio, TX 78233



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-010
Date: December 16, 2013
Applicant: Francisco E. Castillo
Owner: Francisco and Juanita Castillo
Location: 5410 Marconi Drive
Legal Description: Lot 5, Block 5, NCB 14513
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request from Section 35-514(d) for a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height 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 and registered neighborhood associations within two hundred (200) feet of the subject property on or before November 26, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 27, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before December 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of Marconi Drive, approximately 245 feet east of Dulce Street.

The site is currently developed as a single-family residence. The applicant has installed a wrought-iron fence and a chain link fence in the front yard, 5 feet in height without a permit. Staff visited the site and determined that the subject fence did not qualify for a special exception because the fence did not conform to the design requirements as listed in Section 35-399.04 of the UDC. Specifically, the UDC required a minimum spacing of 5 ½ inches between the vertical

bars, this fence had a spacing measurement of 4 ½ inches. Additionally, a portion of the fence within the front yard is constructed of chain link. As such, a variance for height is required.

The applicant has stated that there has been crime in the neighborhood and trespassing onto their property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 AHOD” (Residential Single-Family Airport Hazard Overlay District)	Single-family residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” (Residential Single-Family Airport Hazard Overlay District)	Drainage Structure
South	“C-3 AHOD” (General Commerical Airport Hazard Overlay District)	Single-Family Residence
East	“R-6 AHOD” (Residential Single-Family Airport Hazard Overlay District)	Single-Family Residence
West	“R-6 AHOD” (Residential Single-Family Airport Hazard Overlay District)	Single Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). The subject property is not located within the boundaries of a registered 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:*

Usually, fence height restrictions are put into place in order to provide orderly development and encourage a sense of community. **Front yard fences of varying materials are common in this area. In fact, in September and October, the Board approved five similar variance requests in this neighborhood. The differences between the applicant’s fence and the required design specifications required for a special exception, which is a lower burden of proof than a variance, are minute for the portion of the fence that is composed of wrought iron, and likely indiscernible to passersby. The chain link portion of the fence is no higher than the wrought iron portion. As such, the variance is not contrary to the public interest.**

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

A review of the City of San Antonio's online crime tracking tool does reveal that there have been instances of burglary, theft, and assault in the area of the subject property. Though the applicant did not submit copies of any police reports for the property, not allowing the extra fence height could be considered an unnecessary hardship.

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

The UDC contemplates that higher fences are sometimes required to protect properties. The city's online crime tracking tool reveals that there have been crime issues in the immediate vicinity. Additionally, **the fence is predominantly open, allowing for clear vision and free flow of air and light.** Because of this, the spirit of the ordinance will be observed and substantial justice done.

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 Residential Single-Family base zoning districts.

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 variance, if approved, will not injure the appropriate use of adjacent conforming properties but rather the variance **would likely have the effect of enhancing the quality of life for the applicants and deterring crime.**

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 unique circumstances existing on the property were not caused by the applicant, but rather the circumstances result from crime in the area.

Alternatives to Applicant's Request

The alternative to the applicant's request is to modify the fence to 4 feet in height uniformly, which may be insufficient to accomplish the applicant's goal of protecting the property.

Staff Recommendation

Staff recommends **approval of A-14-010** because of the following reasons:

- The proposed fence design utilizes an open material which will not impede visibility or free-flow of air.
- The proposed fence will serve to protect the property from crime in the area.

Attachments

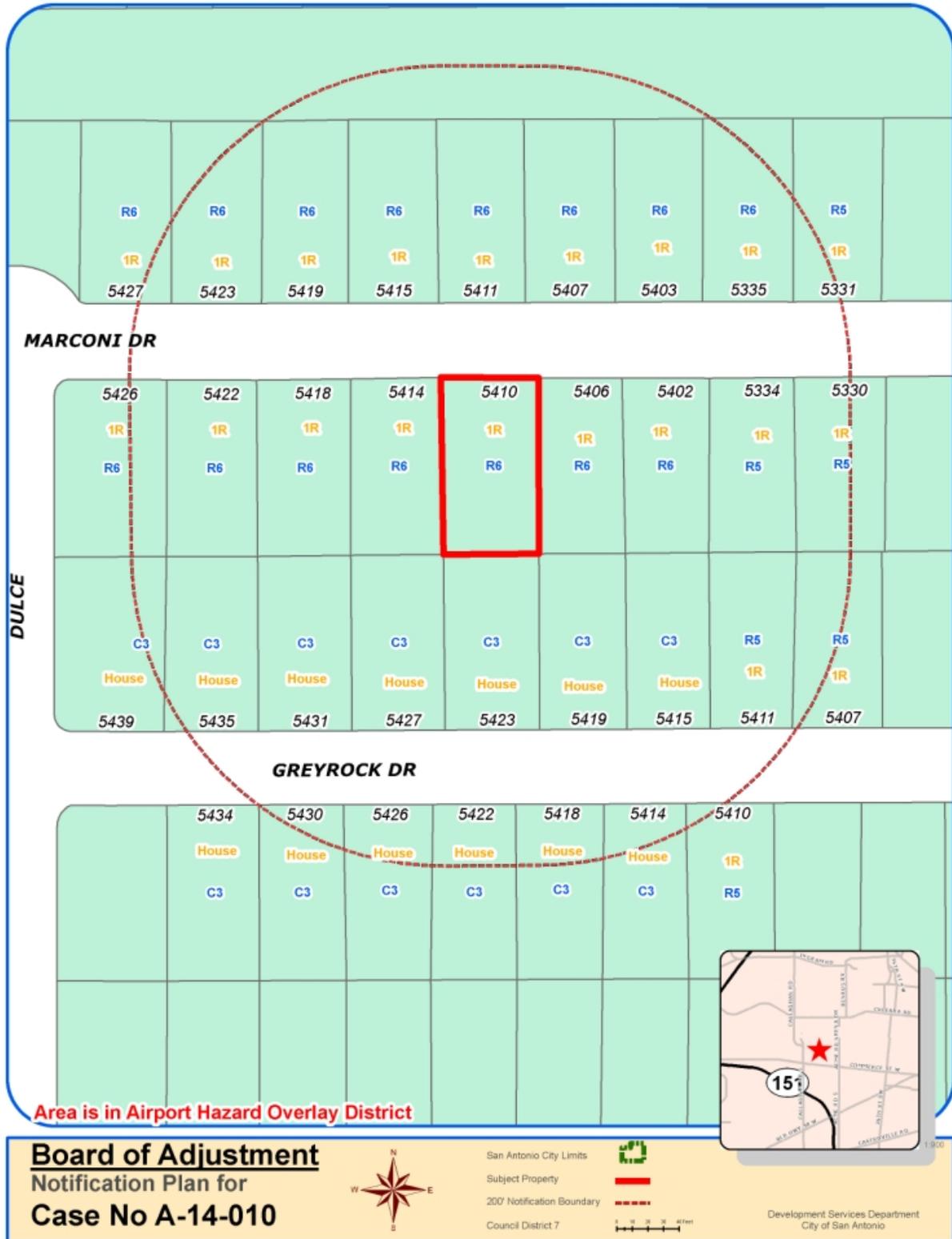
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

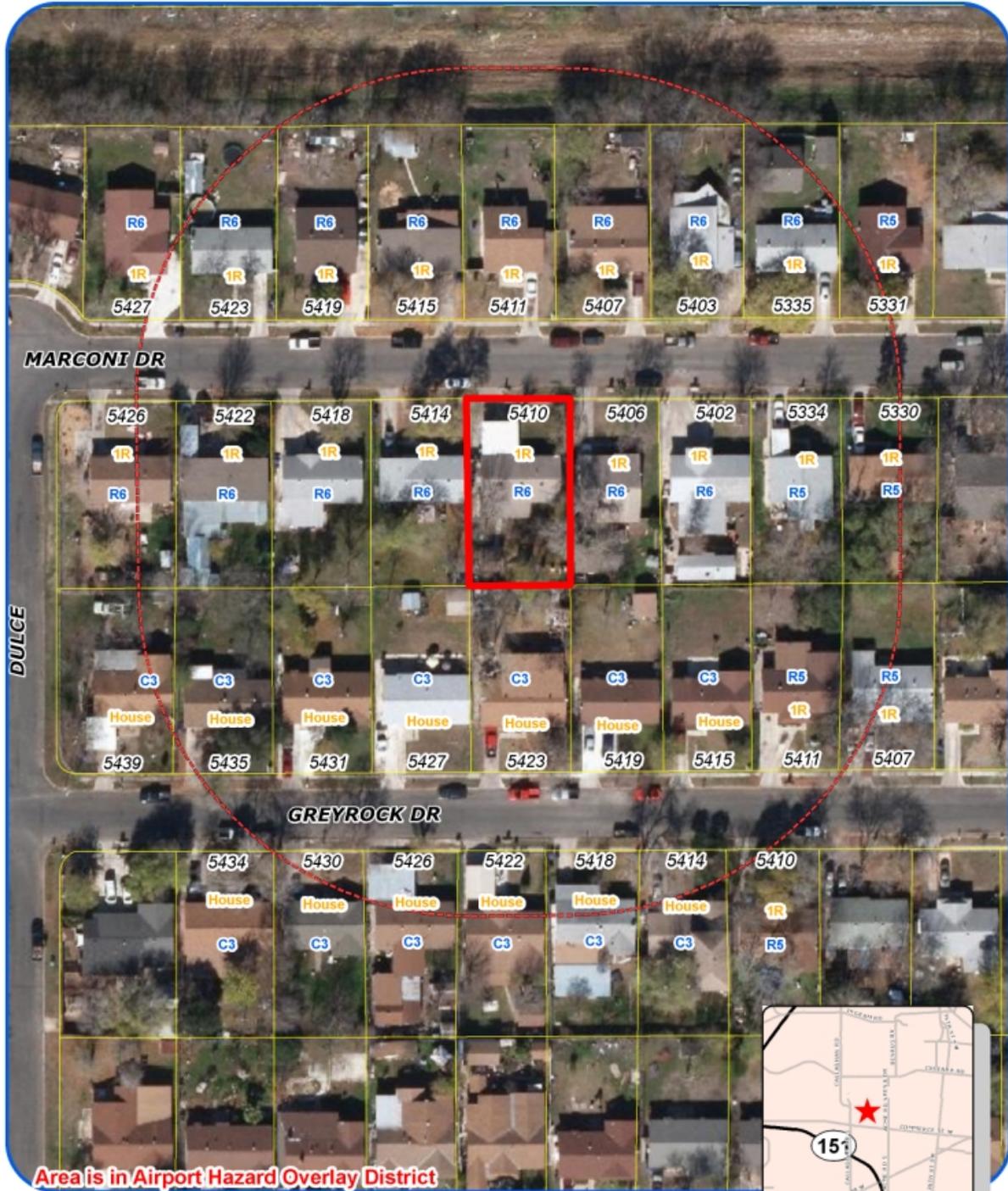
Attachment 3 – Applicant’s Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**

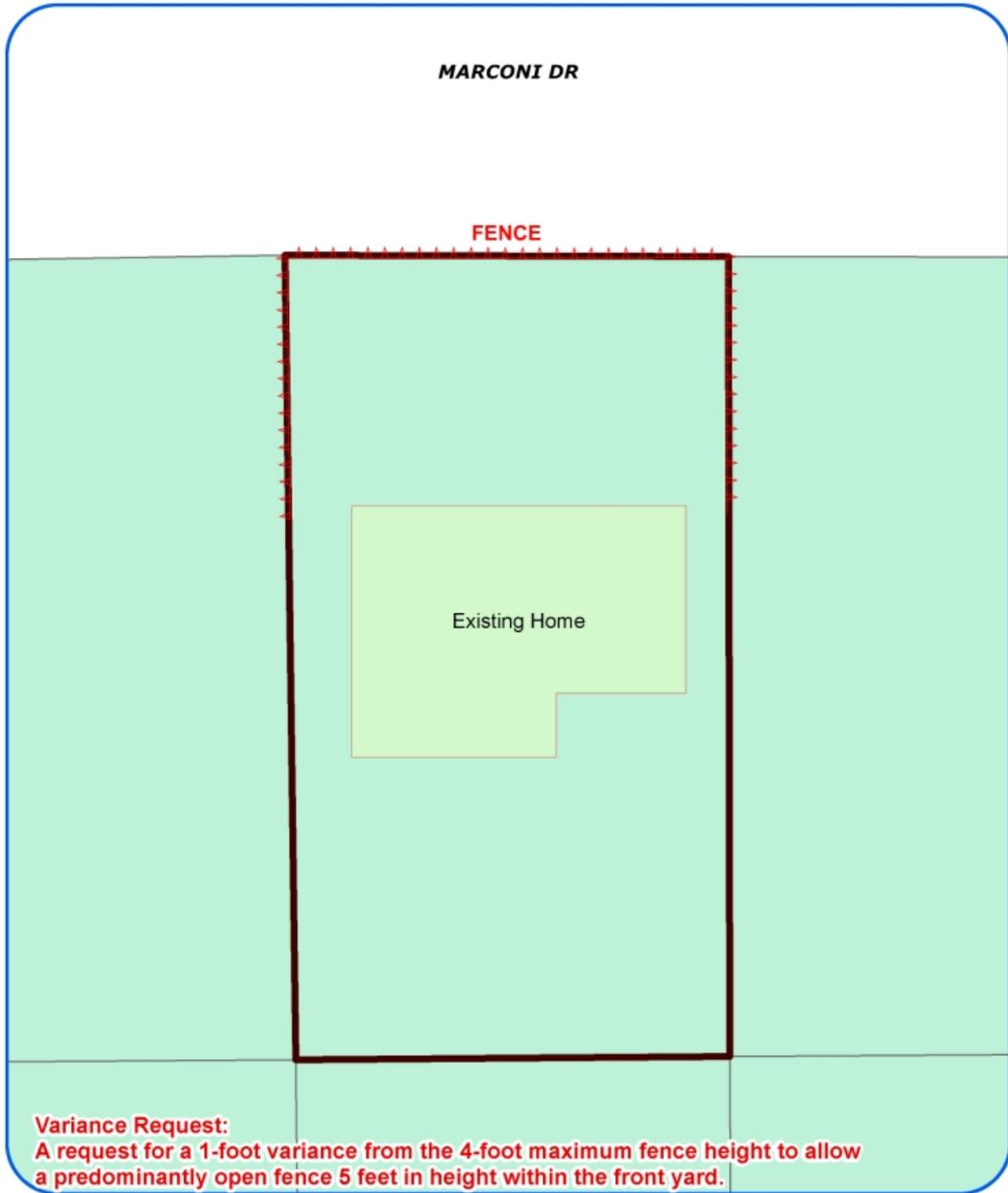


**Board of Adjustment
Notification Plan for
Case No A-14-010**

San Antonio City Limits 
 Subject Property 
 200' Notification Boundary 
 Council District 7 

Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-14-010



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5410 Marconi

1210

Development Services Department
City of San Antonio

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-14-010



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5410 Marconi

1.210

Development Services Department
City of San Antonio

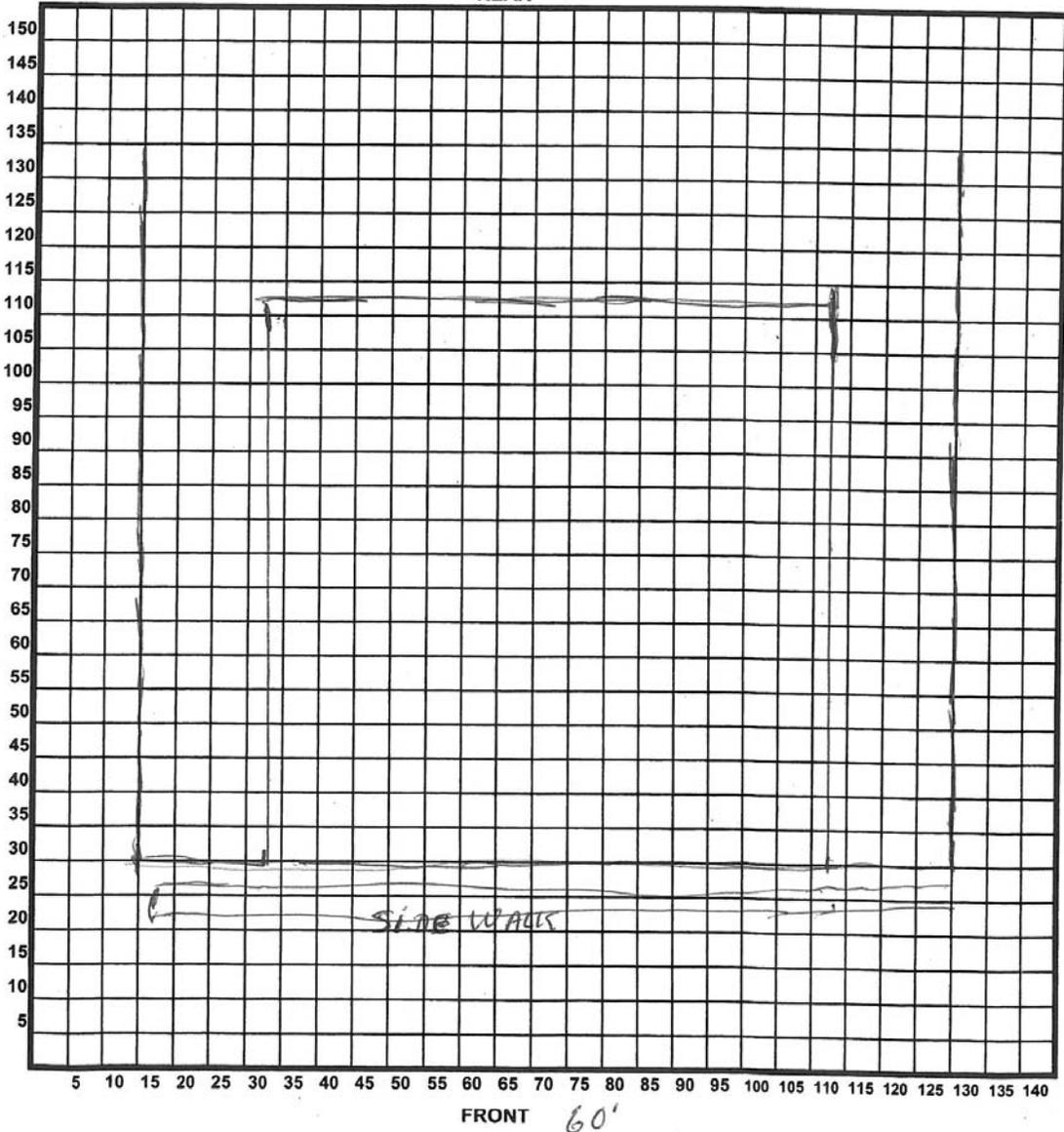
Attachment 3
Applicant's Site Plan

PLOT PLAN

FOR
BLDG PERMITS

Address 5410-MARCONI Lot _____ Block _____ NCB _____

REAR



4 1/2

I certify that the above plot plan shows all improvements on this property and that there will be no construction over easements. I also certify that I will build in compliance with the UDC and the 2012 IRC

Date

Amunio E. Pastore
Signature of Applicant

Attachment 4
Site Photos





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

To: Board of Adjustment
Case No.: A-14-011
Date: December 16, 2013
Applicant: Cesar & Marylou Cervantes
Owner: Cesar & Marylou Cervantes
Location: 118 Englewood Drive
Legal Description: Lot 9, Block 6, NCB 9700
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Osniel Leon, Planner

Request

A request for 1) a 2.5-foot variance from the minimum 10-foot front yard setback and 2) a 4-foot variance from the minimum 5-foot side yard setback to allow an existing carport.

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 27, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 27, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on December 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of Englewood Drive, between Wonder Parkway and Scales Street. The property is currently developed as single-family residence measuring approximately 1,500 square feet, constructed in 1952 per BCAD records. The applicant constructed a carport in the front yard without permits. The carport was built over the existing driveway. The applicant's main intent is to provide cover for family vehicles.

The UDC regulates carports and garages under the identical provisions, calling them accessory structures. Accordingly, Section 35-370 (b) identifies the provisions including the required 5-

foot setback from both side and rear property lines. Without any eaves or similar projections, the setback may be reduced to 3 feet.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Greater Dellview Area Community Plan. The property is also located within the boundaries of the Dellview Area neighborhood association, and, as such, they were notified and asked to comment.

Criteria for Review

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

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

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. The UDC does not contemplate any situations where the front setback is covered by a structure. The public interest in this case is represented by minimum setbacks established to ensure activities on individual properties do not impact the rights of a neighboring property owner. Setbacks also allow property maintenance.

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

The subject property is not subjected to special conditions that create unnecessary hardship through the literal enforcement of the setback requirements. The current nonconforming carport is an extension to a previous conforming carport.

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

The variances are neither in keeping with the spirit of the ordinance nor would they do substantial justice. The UDC does not contemplate any situation where structures would be allowed to be placed within the front setback.

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-4” base 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 variance, if approved, may injure adjacent properties and alter the character of the district. By granting this variance, it will set a precedent to more construction of this type in the neighborhood. There are multiple conforming carports in the area.

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.*

No unique conditions or circumstances exist on the property that prevents the applicant from using the property as intended and complying with the minimum requirements of the UDC.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to comply with the UDC setback requirements, or remove the carport, which was constructed without permits.

Staff Recommendation

Staff recommends **denial of A-14-011**, based on the following findings:

1. There are no special conditions or circumstances on the property that warrant the granting of the requested variance.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant’s Site Plan

Attachment 4 – Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-14-011</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 1</p>	<p>Development Services Department City of San Antonio</p>
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Attachment 2
Plot Plan



Variance Request:
A request for 1) a 2.5-foot variance from the minimum 10-foot front yard setback,
2) a 4-foot variance from the minimum 5-foot side yard setback to allow an existing carport.

Board of Adjustment
Plot Plan for
Case No A-14-011

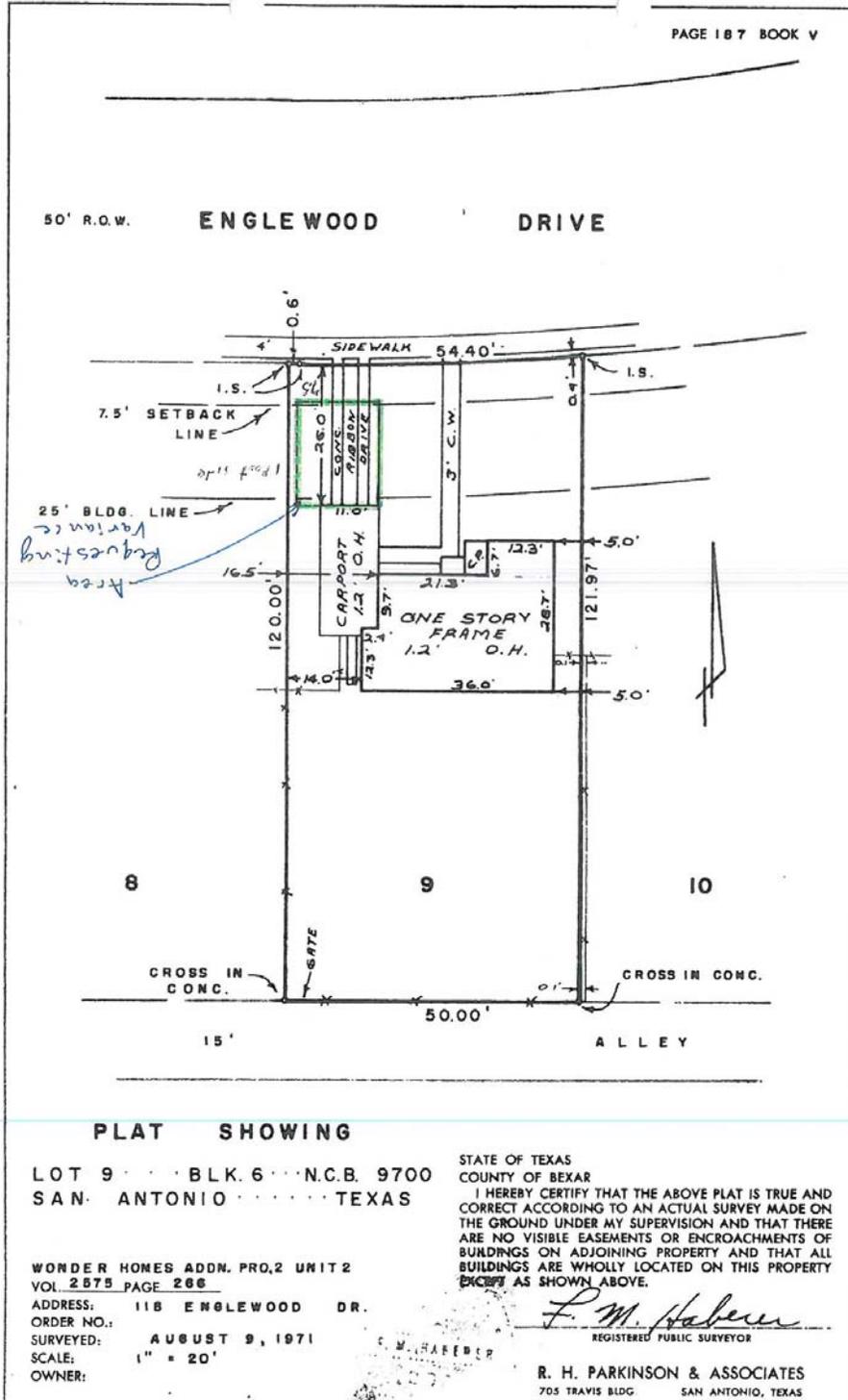


"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 1

118 Englewood ^{1/210}

Development Services Department
City of San Antonio

Attachment 3 Applicant's Site Plan



**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-013
Date: December 16, 2013
Applicant: Robert Courchesne
Owner: James & Joanne Callaway
Location: 4207 W. Horseshoe Bend
Legal Description: Lots 307 & 310, Block E, NCB 11552
Zoning: "R-20 NCD-3 AHOD" Residential Single-Family, Ingram Hills
Neighborhood Conservation District, Airport Hazard Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for a 15-foot variance from the minimum 50-foot front yard setback, as detailed in Table 35-335, to allow a building addition 35 feet from the front property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on November 27, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 27, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before December 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 65,850 square foot parcel, Lots 307 and 310 of the Woodlawn Hills subdivision, recorded in 1929. According to Bexar County Appraisal District records, the 1,500 square foot house was constructed in 1940. The neighborhood was rezoned in 2004 with a Neighborhood Conservation District (NCD), Ingram Hills. This was adopted by the Council in recognition of the unique characteristics of the particular area. At least half of the area within the NCD is characterized by large lots and rural streetscape. Even though the lots are large, there is no consistent pattern of lot width or setback, within this "older" part of the area. The other half

of the Ingram Hills neighborhood was developed in the 1970s as a more typical suburban production neighborhood.

Because of this broad range of diversity in style and pattern, the NCD includes varied setback requirements depending on base zone. As such, the “R-4 through RM-6” designations require a 25-foot front setback, the “NP” designations a maximum 40-foot and the “R-20 and RE” a minimum 50 feet.

The applicant is proposing to increase the size of the home by 540 square feet. The proposed addition protrudes approximately 9 feet closer to the front property line. The addition is being proposed to the front of the house rather than the rear because of two reasons; the lot slopes upward toward the rear and the rear wall contains most of the plumbing for both the kitchen and the utility room.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-20 NCD-3 AHOD” Residential Single-Family, Neighborhood Conservation, Airport Hazard Overlay Districts	Single-family dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2 NCD-3 AHOD” Commercial Neighborhood Conservation, Airport Hazard Overlay Districts	Residential
South	“R-20 NCD-3 AHOD” Residential Single-Family, Neighborhood Conservation, Airport Hazard Overlay Districts	Residential
East	“C-1 NCD-3 AHOD” Light Commercial Neighborhood Conservation, Airport Hazard Overlay Districts	Vacant
West	“R-20 NCD-3 AHOD” Residential Single-Family, Neighborhood Conservation, Airport Hazard Overlay Districts	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Ingram Hills Neighborhood Plan, adopted by the City Council in May of 2009. The future land use plan designated this area for low-density residential land use. The subject property is located within the boundaries of Ingram Hills, a registered neighborhood association. As such, they were notified and asked to comment. The Neighborhood Association indicated that they are in support of the requested variance, and that the proposed addition will be an improvement to that area.

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 applicant is requesting that the minimum front setback be reduced from 50 feet to 35 feet. The setbacks in the NCD range from 25 feet to 50 feet creating a pattern of diversity.** The Board may determine as the neighborhood association did, that **the proposed addition is in the public interest.**

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

The special condition affecting this property is that the existing home is already non-conforming in the front setback, currently located 45 feet. **Literal enforcement would require the applicant to construct the addition to the rear, a more awkward expansion due to topography.** The Board will evaluate the requested variance and determine if literal enforcement of the ordinance is an unnecessary hardship.

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

The Board must determine the “spirit” of the ordinance as contrasted with the “strict letter” of the law for each unique case. In this case, the applicant asserts that the spirit of the ordinance would be followed because **several other homes in the area have smaller front setbacks. The neighborhood association supported the request, noting that the house abuts commercially zoned property on the edge of the neighborhood.**

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-20 NCD-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 applicant is hoping to build an addition to the front of the home 9 feet in width. **The addition to the front of the house will improve the curb appeal of the mid-century rambler, contributing to the character of the district.** The Board may determine that the variance in this case will not injure the adjacent property.

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 due to the following conditions: the existing location of the house, 45 feet from the front property line, the large size of the lot, 1.5 acres, and the

sloping topography toward the rear. The variance, if granted will allow a new front façade on the house, while retaining a 35 foot front setback.

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct the addition on the rear of the home.

Staff Recommendation

Staff recommends **approval of A-14-013** based on the following findings:

1. The property is on the edge of the neighborhood abutting commercial zoning on Callaghan;
2. The large lot slopes upward in the rear, making an addition back there problematic; and
3. The proposed front façade will significantly improve the property.

Attachments

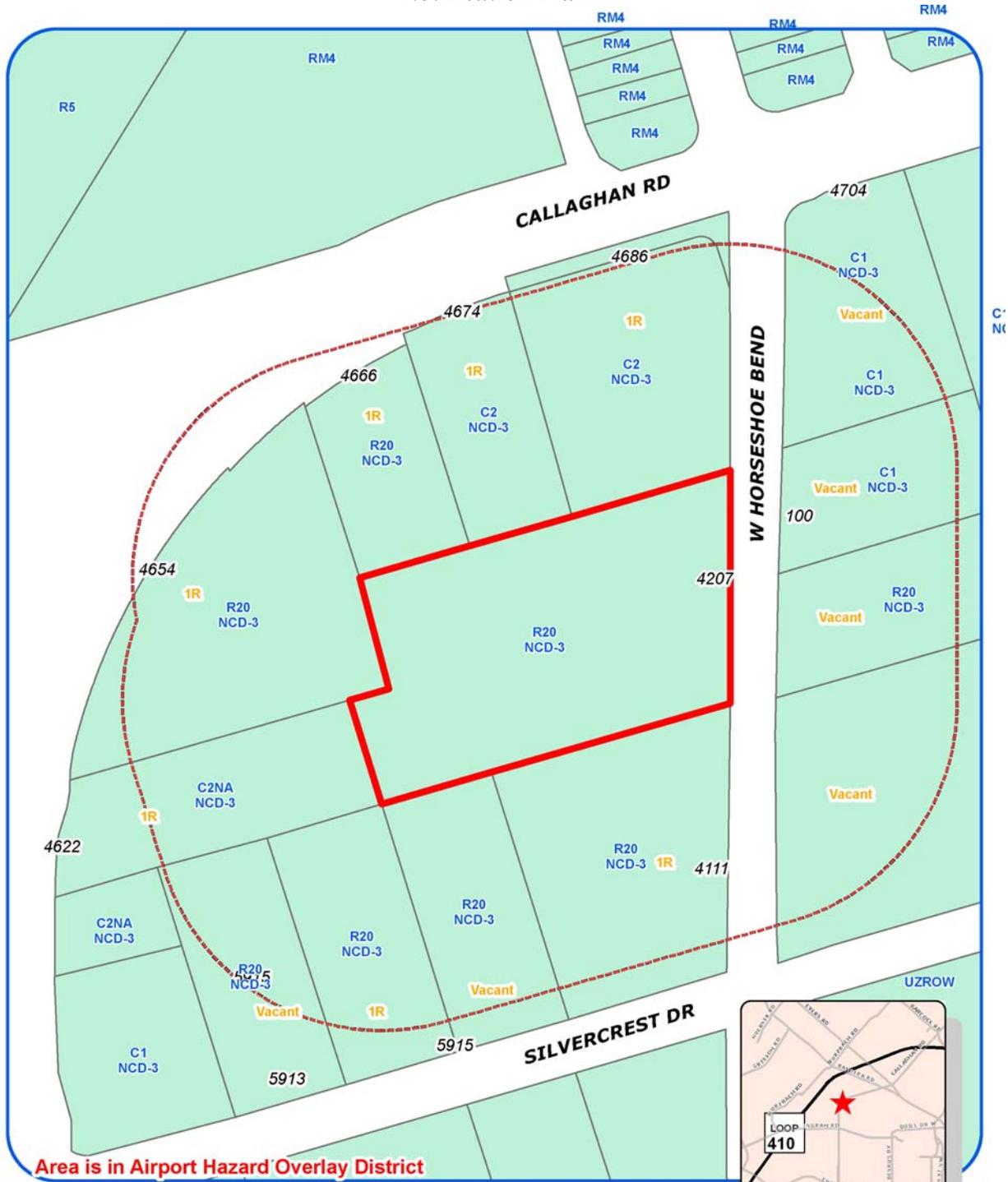
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



<p>Board of Adjustment Notification Plan for Case No A-14-013</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7</p>	<p style="text-align: right;">Development Services Department City of San Antonio</p>
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C1

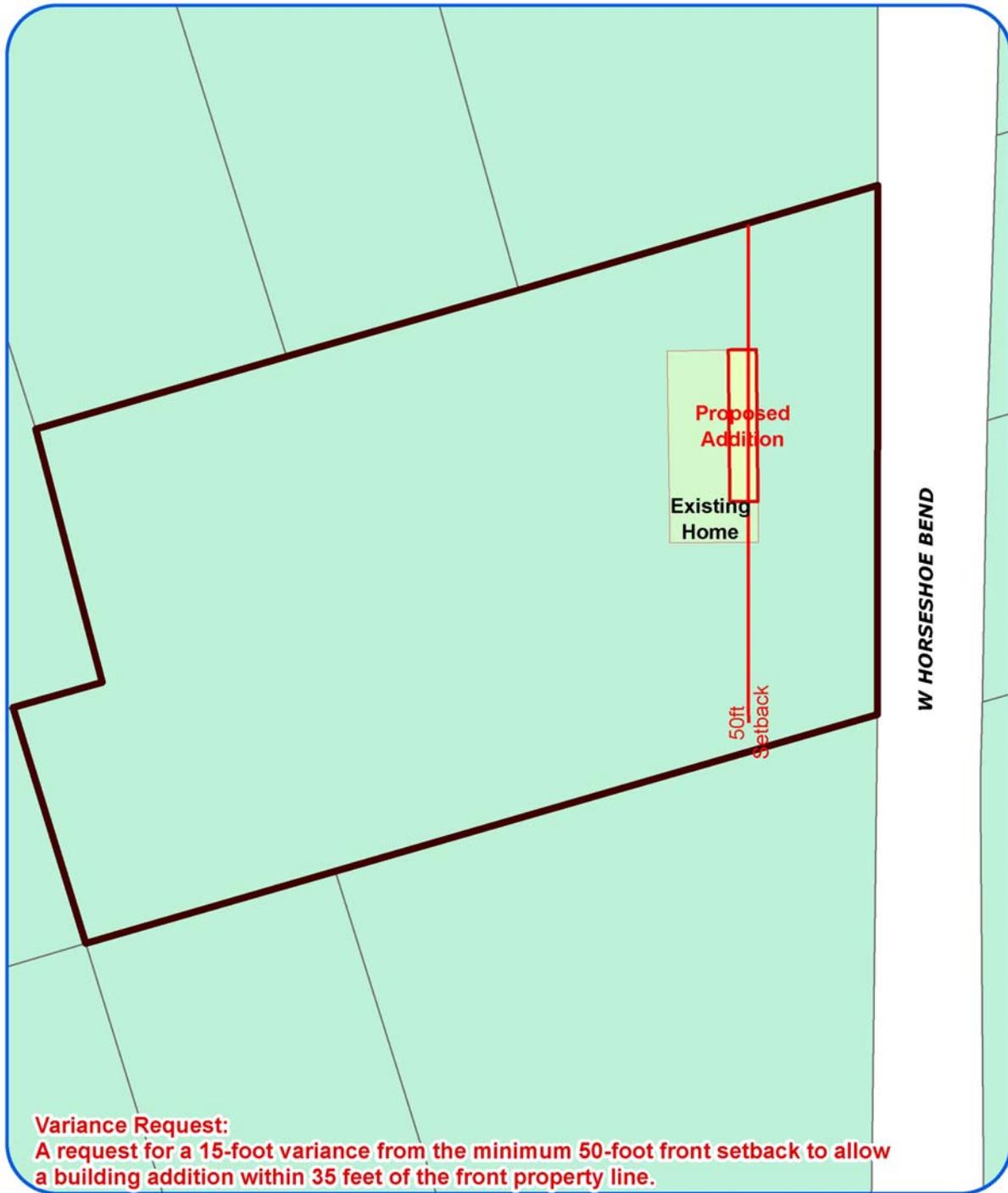
Attachment 1 Notification Plan (continued)



<p>Board of Adjustment Notification Plan for Case No A-14-013</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7 </p>	<p style="text-align: right;">Development Services Department City of San Antonio</p>
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C1

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-14-013



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

4207 W Horseshoe Bend ^{1/577}

Development Services Department
City of San Antonio

**Attachment 2
Plot Plan (continued)**



Board of Adjustment
Plot Plan for
Case No A-14-013

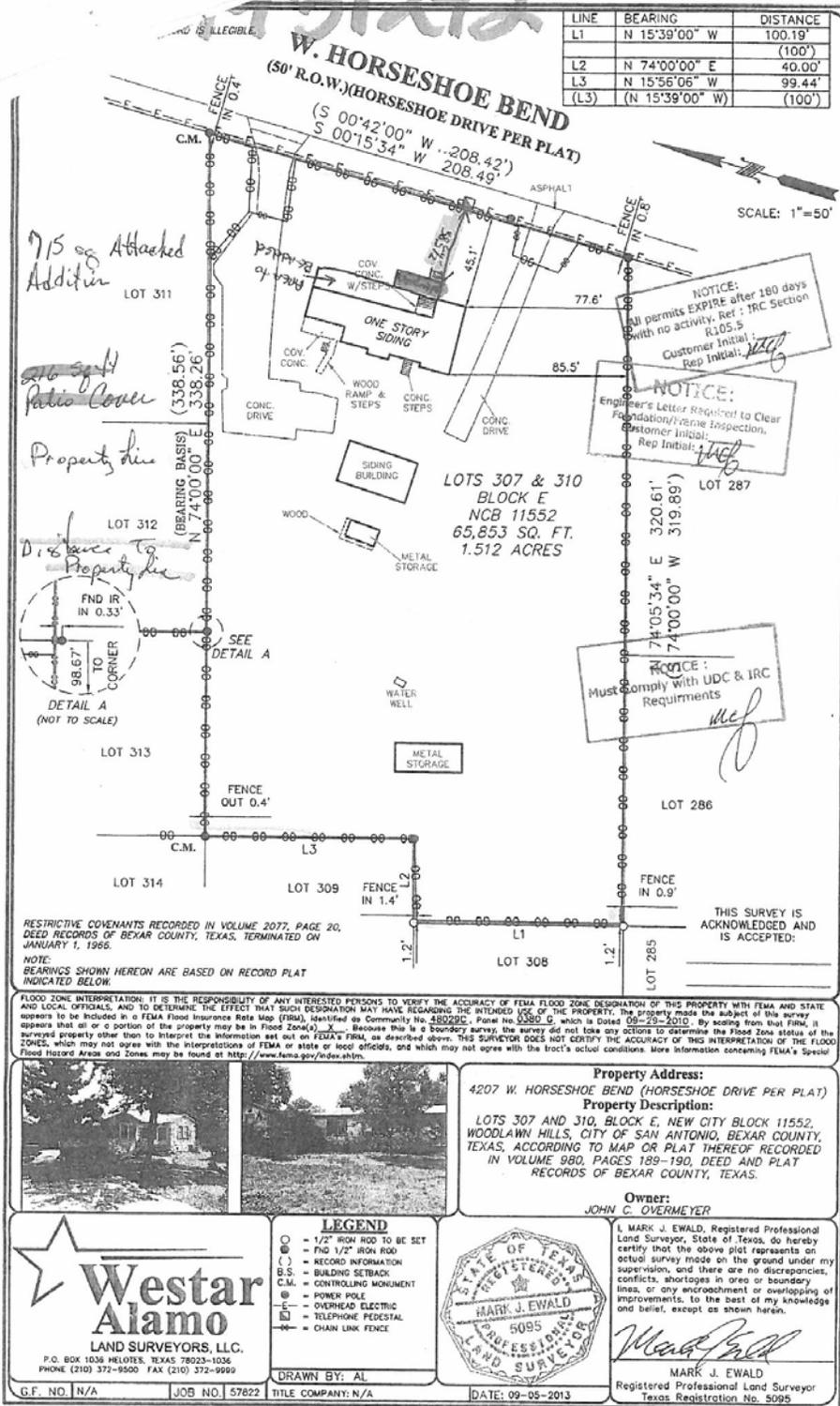


"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

4207 W Horseshoe Bend

Development Services Department
City of San Antonio

Attachment 3 Applicant's Site Plan



Attachment 4
Site Photos





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-014
Date: December 16, 2013
Applicant: Brown & Ortiz, P.C.
Owner: Daniel Markson
Location: 308 W. Summit Avenue
Legal Description: Lot 6, Block 8, NCB 3264
Zoning: "R-5 H AHOD" Residential Single-Family, Historic, Airport Hazard Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for a 1) a 10 foot variance from the minimum 12-foot rear yard setback; and 2) a 4 foot variance from the minimum 5-foot side yard setback to allow a building addition 2-feet from the rear yard and 1 foot from the west side 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 27, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 27, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before December 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a historic house on a 12,000 square foot lot located in the Monte Vista Historic District. The Historic District was approved by the City Council in 1975. The home and carriage house were constructed in 1920, in the classic spanish eclectic style. The carriage house is located approximately 2 feet from the rear alley and is detached from the main house. The carriage house has parking for two cars with a small garage apartment above. The applicant is planning to expand the current footprint of the carriage house. This addition would be built on an existing patio slab to the east. Also, the applicant is hoping to expand the garage

apartment to the west as well, providing an additional covered parking stall by building an open carport, with stairs to the second floor encroaching into the side setback. A side setback variance is requested to allow this second-story garage apartment entrance within 1-foot of the west property line.

A 10-foot rear yard setback variance is also requested to allow the addition within 2 feet of the rear property line. According to section 35-516 (c), a lot which abuts an alley is allowed to count half of the alley width as satisfying the required rear yard setback. In this case, the 16-foot wide alley provides 8-feet of the required setback. The two-story addition would be allowed without the need for a rear setback variance if the applicant were not seeking approval to connect the carriage house to the main house. By connecting the two, the carriage house loses its reduced accessory structure setback and becomes part of the main structure, requiring the typical rear yard setback of 20 feet. This connection is of critical importance to the applicant; the applicant is hoping to incorporate the new living space into the main home’s functional space.

From a technical perspective, the width of the entire project is almost exactly half the width of the rear yard, indicating compliance with the maximum coverage limitation of 50% of both the rear and the side. An accessory dwelling unit is limited to a single bedroom and no larger than 800 square feet. The applicant currently has a one bedroom accessory dwelling unit with 460 square feet, and with the addition this dwelling unit will not increase in size or number of bedrooms.

Since the property is located within a historic district, a certificate of appropriateness is required for all construction. As such, the design has received conceptual approval by the Historic Design and Review Commission and the Historic Preservation Officer, contingent upon the variance.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 H AHOD” Residential Single-Family, Historic, Airport Hazard Overlay Districts	Single-family dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 H AHOD” Residential Single-Family, Historic, , Airport Hazard Overlay Districts	Residential
South	“R-4 H AHOD” Residential Single-Family, Historic, Airport Hazard Overlay Districts	Residential
East	“R-4 H AHOD” Residential Single-Family, Historic, Airport Hazard Overlay Districts	Residential
West	“R-4 H AHOD” Residential Single-Family, Historic, Airport Hazard Overlay Districts	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Monte Vista Neighborhood Plan, adopted by the City Council in June of 1988. The future goals for the area were to reinforce the single family housing and preserve the character of the neighborhood. The subject property is located within the boundaries of Monte Vista, a registered neighborhood association. As such, they were notified and asked to comment.

Criteria for Review

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

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

The public interest is defined as the general health, safety and welfare of the public at large. Setbacks are established to ensure adequate light and air, allow property maintenance and reduce fire hazard. The applicant states that **the 16-foot wide public alley provides the necessary separation typically achieved by setbacks**. The applicant also asserts that **the addition will be hidden from public view, and is planned with the least disruption to existing mature vegetation**. The Board may determine that the proposed setback variances, given the particular situation, still provide protection for the public interest.

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

The applicant states that the historic district designation limits the options for additions and improvements. Literal enforcement would deny the connection between the main house and the accessory structure. The applicant states that **this connection is interior and virtually invisible to the public**. The Board must evaluate the requested variance and determine if literal enforcement of the ordinance is an unnecessary hardship.

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

The Board must determine the “spirit” of the ordinance as contrasted with the “strict letter” of the law for each unique case. In this case, the applicant asserts that **the spirit of the ordinance would be followed by virtue of the separation provided by the alley. According to the applicant, the vegetation is mature and dense all around the property, blocking the off-site view of the proposed addition.**

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 H 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 very well-maintained and certainly contributes to the character of the historic district. **The selected design approach minimizes the off-site impacts; it is virtually invisible**

from the street. A staff site visit found that the neighboring alley had several accessory structures immediately adjacent; this was the typical location during the early 20th century. However, with the additions, it will be abnormally large from the alley perspective. The Board will have to evaluate whether the building location 2 feet from the alley will alter the character.

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 asserts **that the unique circumstances are that the lot is heavily landscaped, and located within a historic district. All additions within a historic district are reviewed for a certificate of appropriateness and encouraged to be hidden from view.** The City of San Antonio Historic District Design Guidelines recommends as follows: *residential additions at the side or rear of the building whenever possible to minimize views of the addition from the public right-of-way. An addition to the front of a building would be inappropriate.*

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct the addition to the rear of the home with a 12 foot setback from the alley and not connected to the garage.

Staff Recommendation

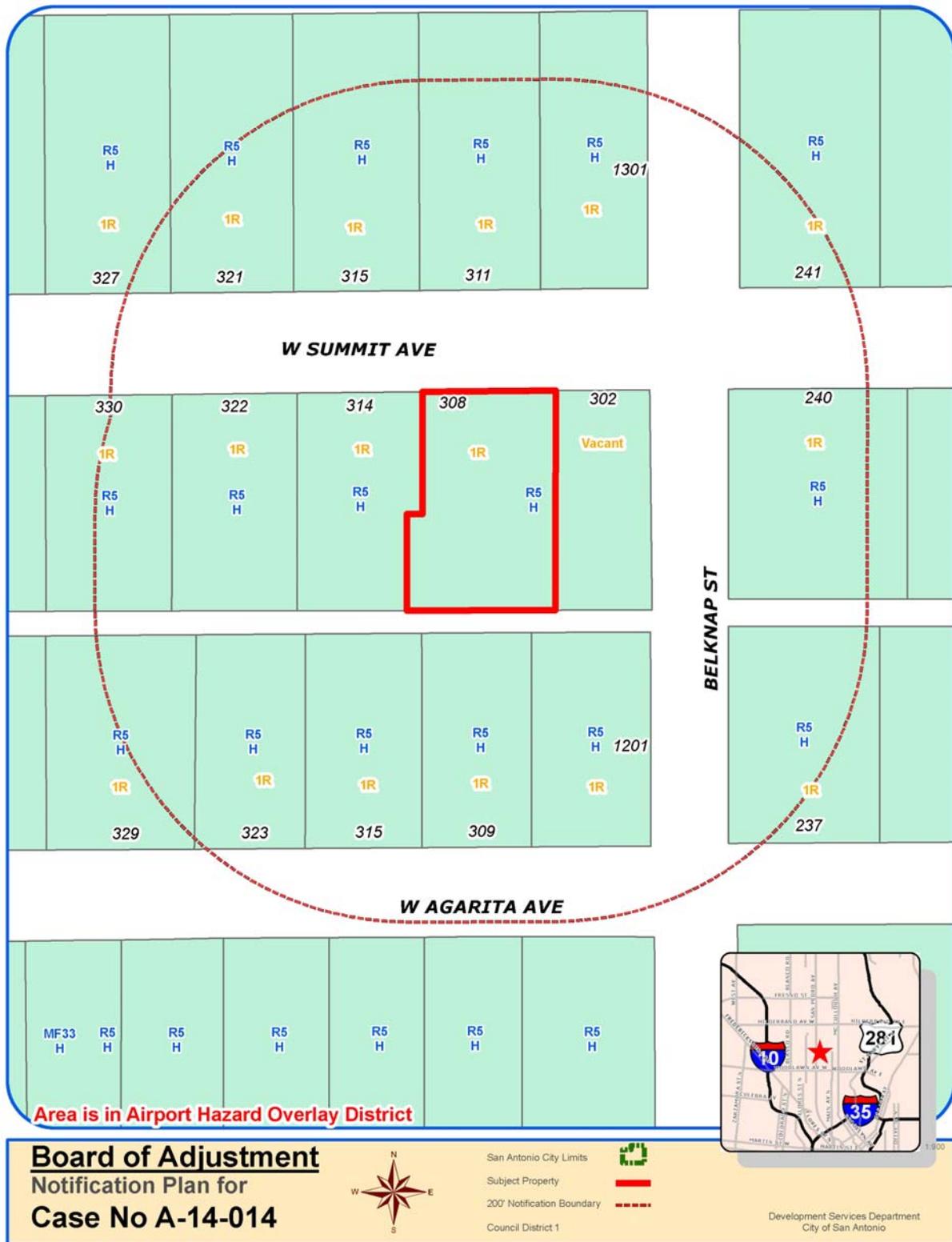
Staff recommends **approval of A-14-014** based on the following findings:

1. The proposed addition is located in the rear of the historic home site and could be permitted without a variance if not connected to the main structure.

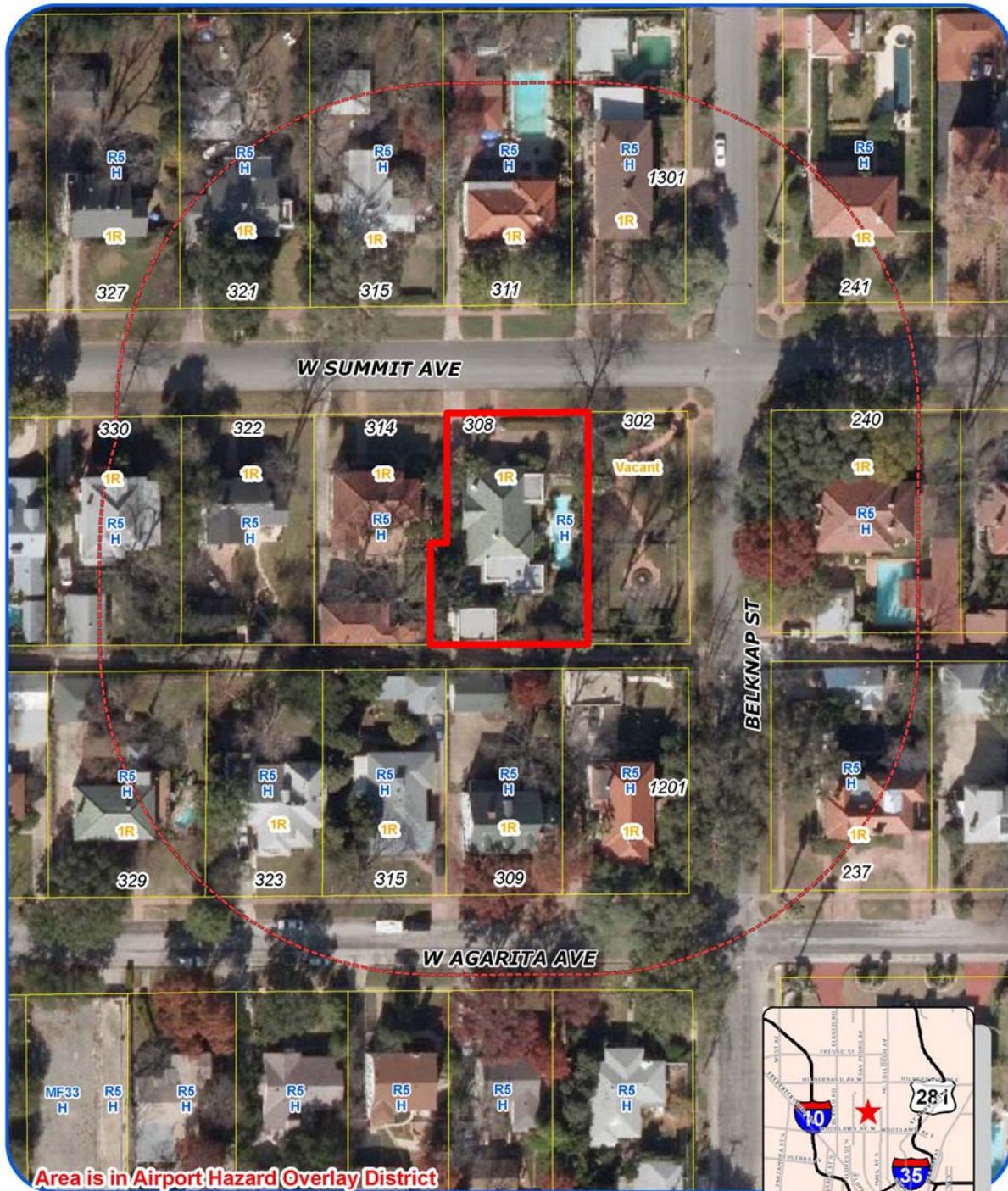
Attachments

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

Attachment 1 Notification Plan



**Attachment 1
Notification Plan (continued)**



Area is in Airport Hazard Overlay District

**Board of Adjustment
Notification Plan for
Case No A-14-014**

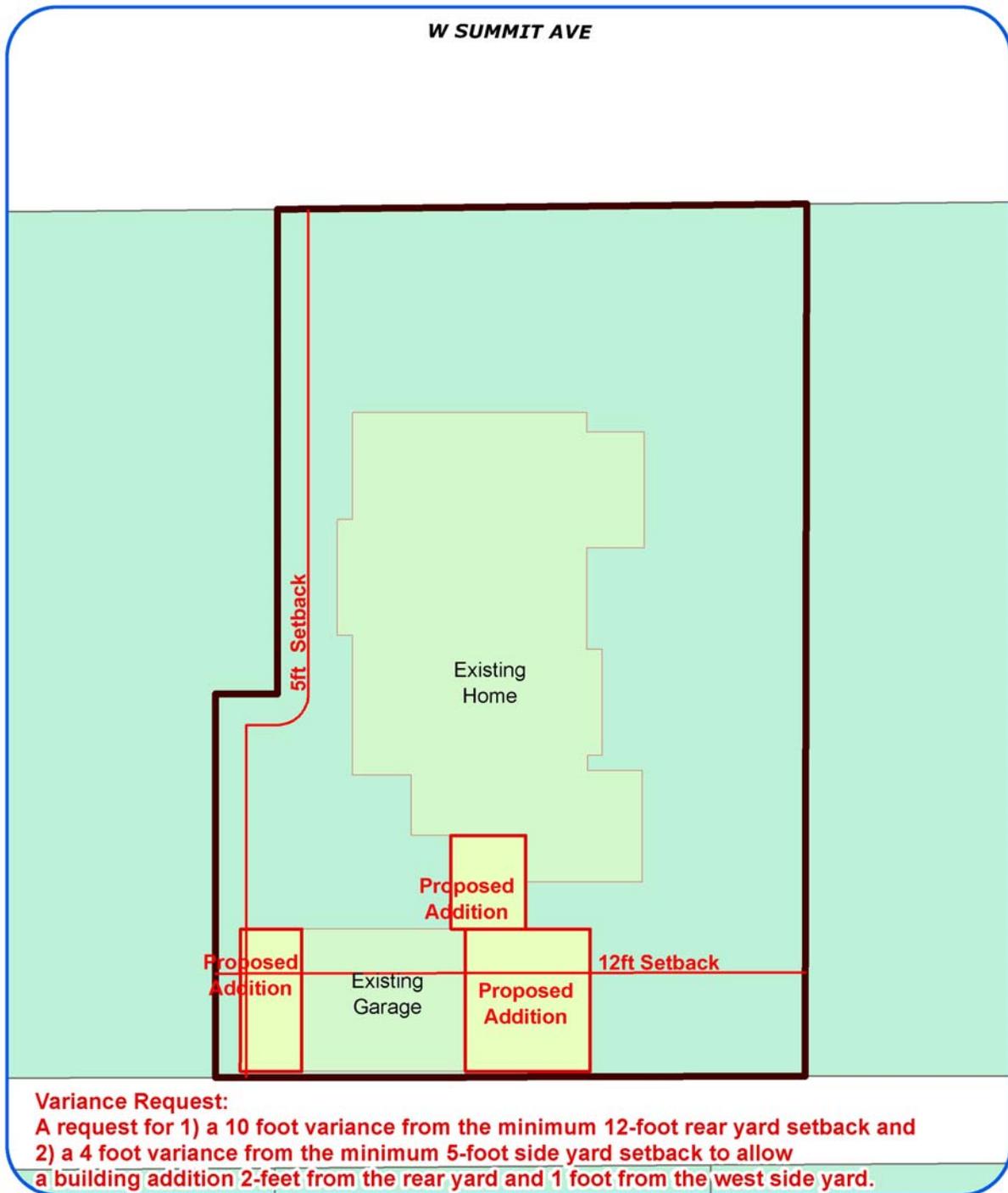


- San Antonio City Limits 
- Subject Property 
- 200' Notification Boundary 
- Council District 1



Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



Variance Request:
A request for 1) a 10 foot variance from the minimum 12-foot rear yard setback and 2) a 4 foot variance from the minimum 5-foot side yard setback to allow a building addition 2-feet from the rear yard and 1 foot from the west side yard.

Board of Adjustment
Plot Plan for
Case No A-14-014



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

308 W Summit

Development Services Department
City of San Antonio

**Attachment 2
Plot Plan (continued)**



Board of Adjustment
Plot Plan for
Case No A-14-014



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

308 W Summit

Development Services Department
City of San Antonio

1/240

Attachment 3 Applicant's Site Plan

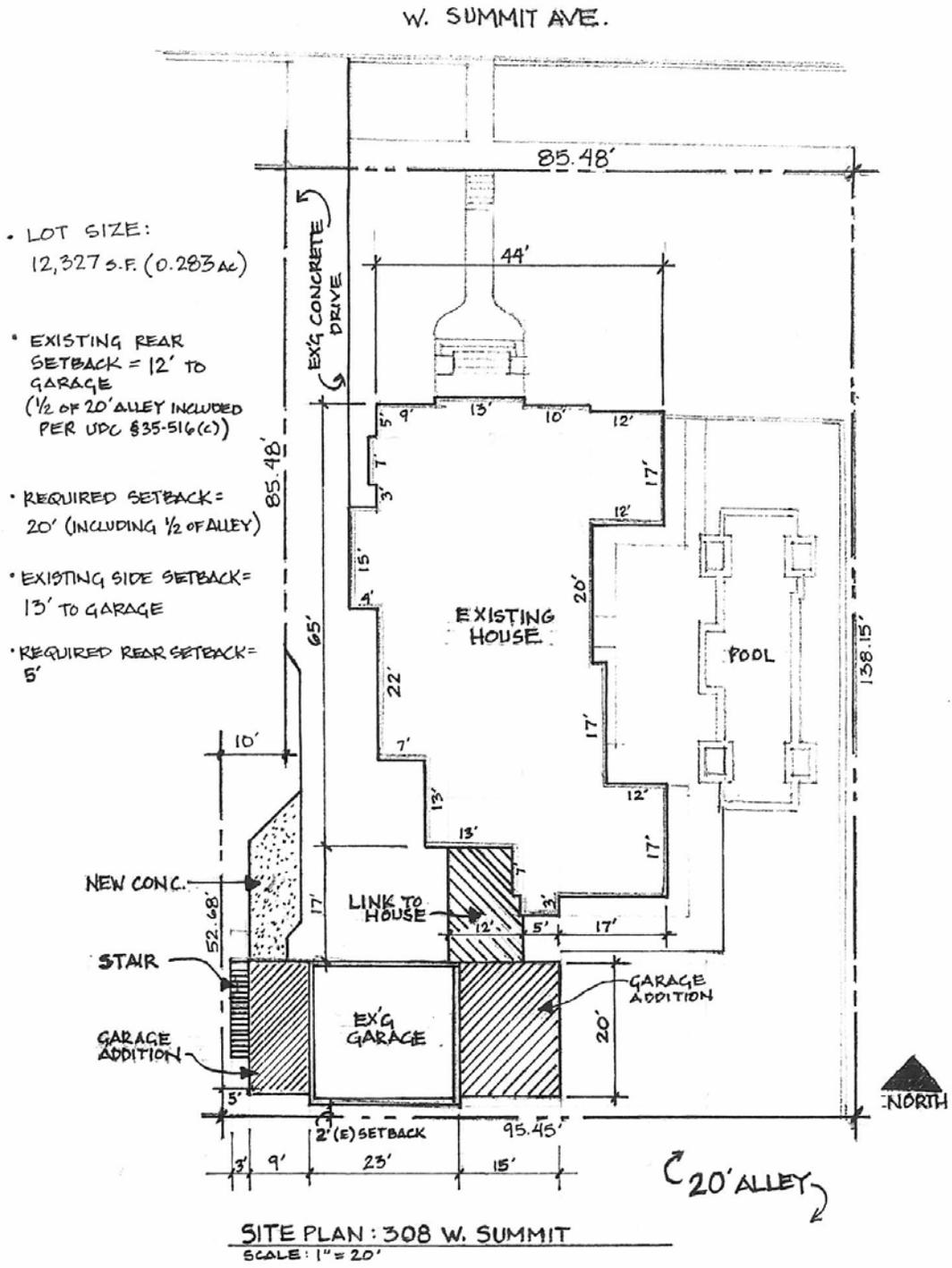


EXHIBIT
2

**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-015
Date: December 16, 2013
Applicant: Natividad D. Torrez
Owner: Natividad D. Torrez
Location: 345 Longview Drive
Legal Description: Lot 29, Block 3, NCB 10637
Zoning: "R-5" Residential Single-Family District
Prepared By: Tony Felts, Planner

Request

A request for a special exception per Section 35-399.01 of the UDC to allow a one-operator beauty shop in a single family home.

Procedural Requirements

A special exception is a decision vested with the Board of Adjustment, and includes uses which may be authorized under certain circumstances. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before November 26, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 27, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before December 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of Longview Drive, approximately 615 feet east of Upland Drive. The site is currently developed with an existing single-family residence. The applicant wishes to construct and operate a one-operator beauty shop within the residence.

This is the initial request for this special exception before the Board of Adjustment. Section 35-399.01(i) of the UDC allows the Board to approve the requested special exception for a period not to exceed four years; however, it has been the policy of the Board to make initial approvals valid for two years in order to assess the effect of the activity on the surrounding properties. As

such, if approved, it should be for a period not to exceed 24 months. If approved for two years, the current special exception request would expire December 16, 2015.

The applicant has proposed hours of operation as Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, 9:00am until 7:00pm, and Saturdays, 7:00am until 9:00pm. The proposed hours of operation total 64 hours per week. Staff believes that the hours of operation on Saturday may be excessive, and recommends to the Board that hours of operation on Saturday be limited to 9:00am until 7:00 pm, for a total of 60 hours per week. The applicant will be the only cosmetologist at the location.

The beauty shop has not yet been constructed, but the accompanying site plan, as well as a site visit, indicates that the proposed one operator beauty/barber shop would meet the criteria for a special exception to be granted.

It should be noted that the applicant will be required to obtain proper building permits and a Certificate of Occupancy for the one operator beauty shop, if the request is approved by the Board.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5” Residential Single-Family District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5” Residential Single-Family District	Single-Family Dwelling
South	“R-5” Residential Single-Family District	Single-Family Dwelling
East	“R-5” Residential Single-Family District	Single-Family Dwelling
West	“R-5” Residential Single-Family District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Eastern Triangle Community Plan (designated as Low Density Residential). The subject property is also located within the boundaries of the Eastwood Village Neighborhood Association, a registered neighborhood association, and, as such, they were notified and asked to comment.

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 with the hours of operation recommended by staff 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 the regulations established for this district.**

Staff Recommendation

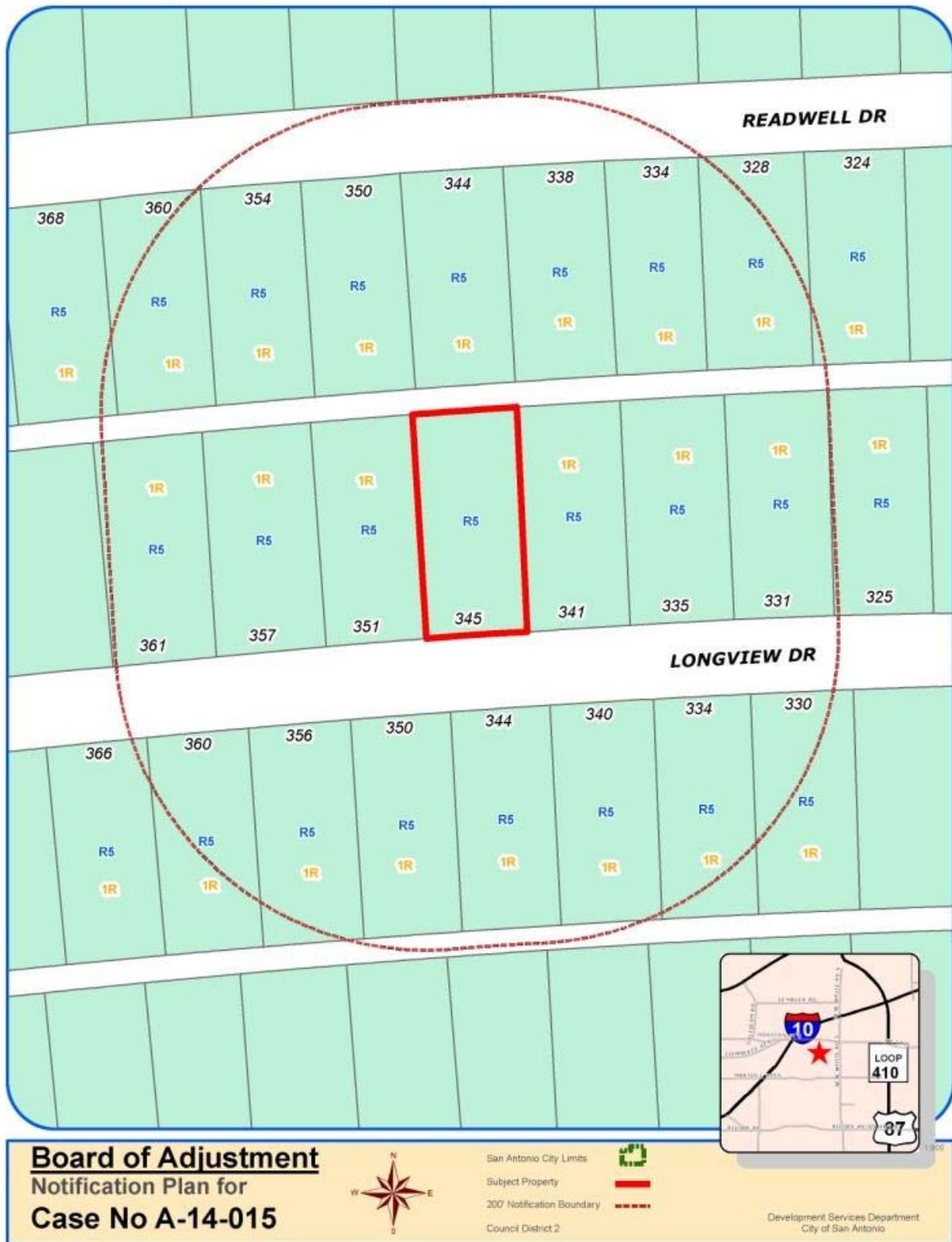
Staff recommends **approval of A-14-015 for a period of 24 months with hours of operation not to exceed 60 hours per week (Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays 9:00am until 7:00pm),** due to the following reasons:

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

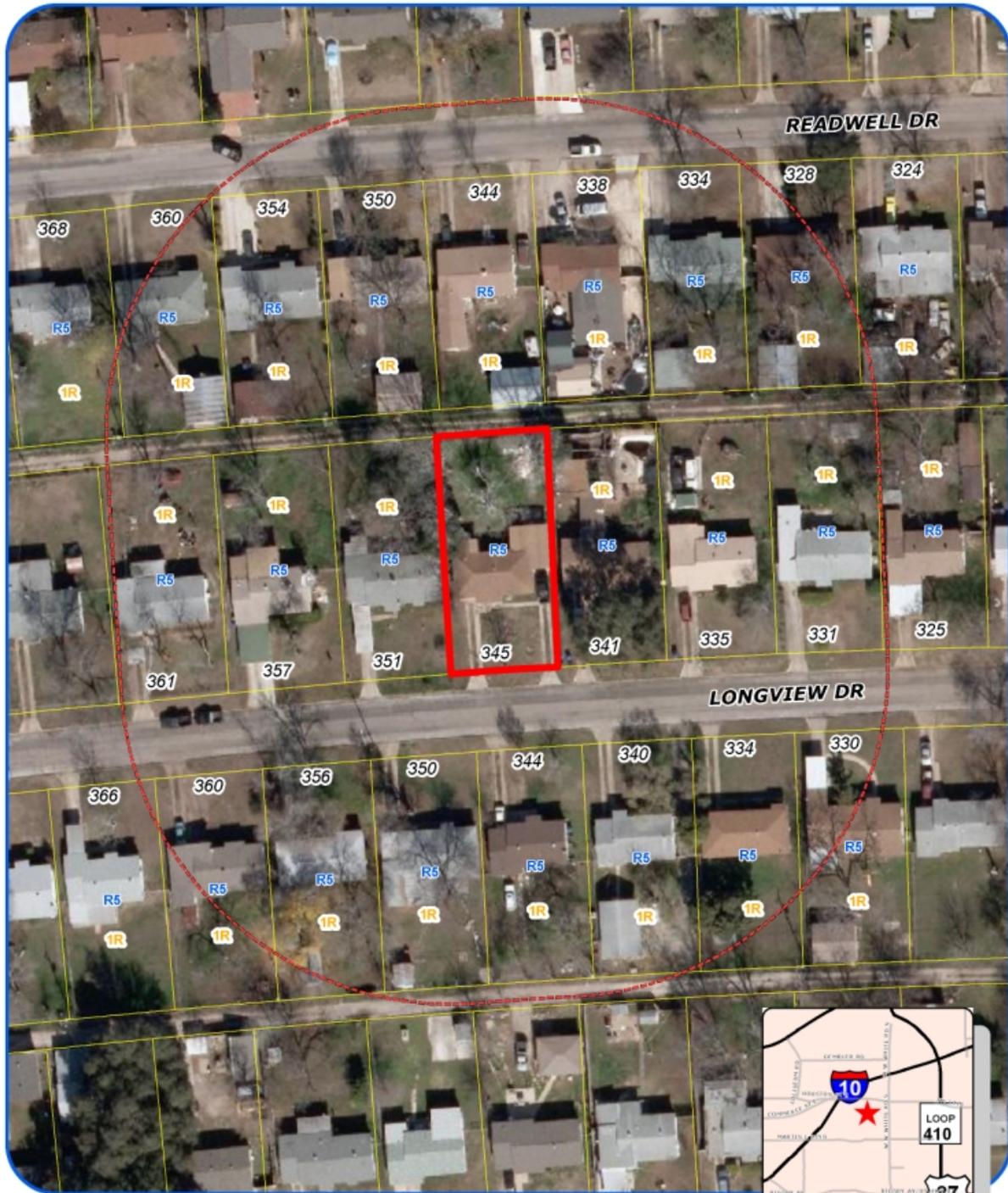
Attachments

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

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-14-015</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 2</p>	<p>Development Services Department City of San Antonio</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-14-015



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

345 Longview

1,240

Development Services Department
City of San Antonio

**Attachment 2 (Continued)
Plot Plan**



Variance Request:
**A request for a special exception to allow
a one operator beauty/barber shop in a single-family residence.**

Board of Adjustment
Plot Plan for
Case No A-14-015



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

345 Longview

1:240

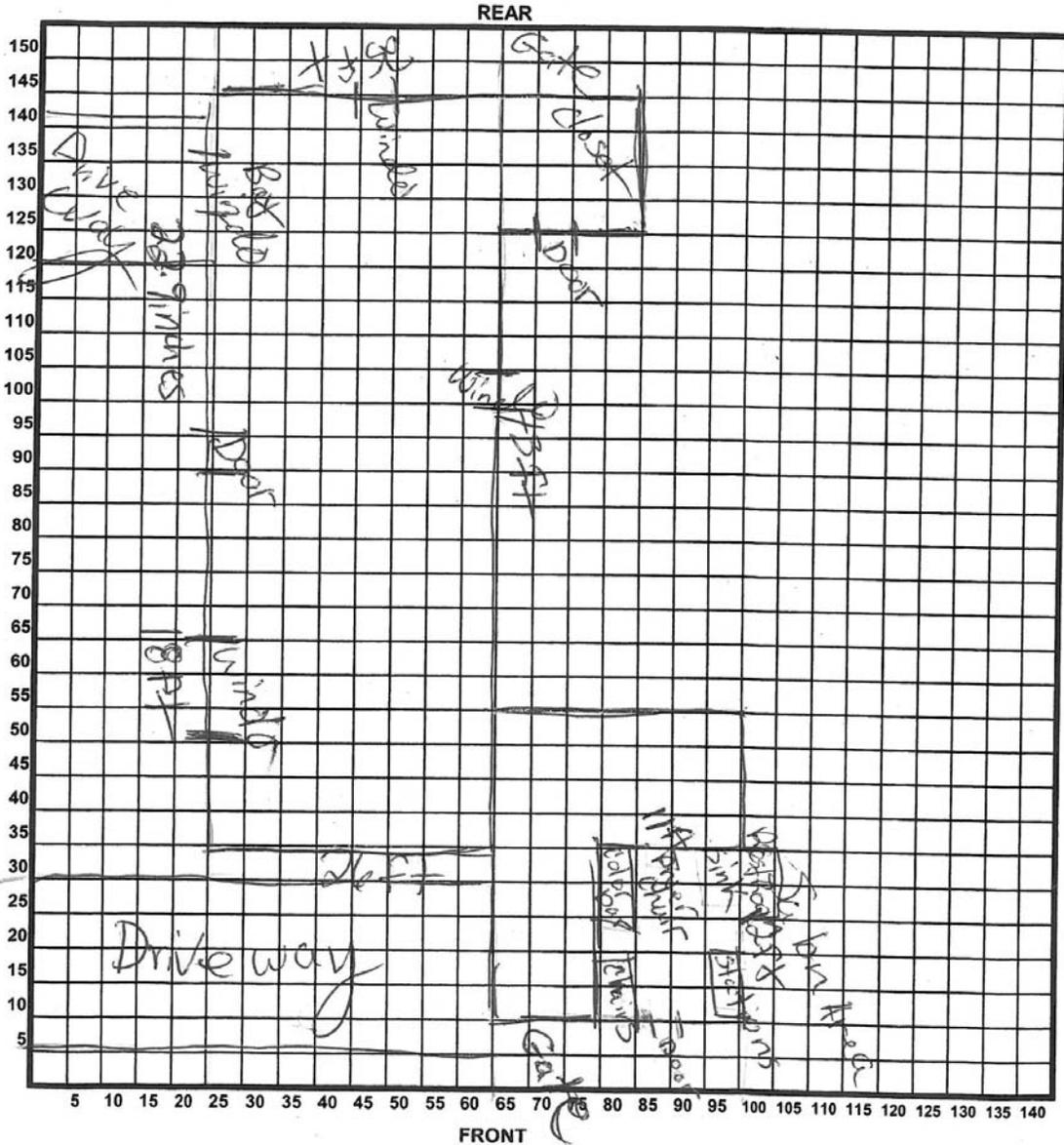
Development Services Department
City of San Antonio

Attachment 3 Applicant's Site Plan

PLOT PLAN

FOR
BLDG PERMITS

Address 345 Longview Dr Lot 29 Block 3 NCB 10637



I certify that the above plot plan shows all improvements on this property and that there will be no construction over easements. I also certify that I will build in compliance with the UDC and the 2012 IRC

11/15/13
Date

[Signature]
Signature of Applicant

**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-016
Date: December 16, 2013
Applicant: Oscar Flores
Owner: Oscar Flores
Location: 5230 San Pedro Avenue
Legal Description: Lot 87, Block 5, NCB 9009
Zoning: "O-2 H AHOD" Office, Historic, Airport Hazard Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for 1) a 12-foot variance from the minimum 25-foot front yard setback to allow a building addition 13 feet from the east property line; 2) a 15-foot variance from the minimum 15-foot front & rear buffer yards to allow a building addition and parking up to the east and west property lines.

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 27, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 27, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before December 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a single-story 1,600 square foot strip commercial center that includes 4 individual suites. The lot contains 12,600 square feet and was part of the original Olmos Park Terrace Subdivision, recorded in 1931. It is located on the corner of San Pedro and Mandalay Drive. The owner is hoping to add a new single story addition which would roughly double the size of the building for a total area of 3,300 square feet. The building has struggled to find stable tenants and rarely uses much of the existing parking stalls. Even with the addition, the owner can provide the required number of parking stalls. In addition, the owner surveyed the setbacks

of the adjacent 9 buildings along the San Pedro frontage and found an average setback of only 13 feet. The applicant is requesting a variance to allow this same setback.

The property is also subject to a platted building setback line of 25 feet. The Board cannot alter this setback, but if the variance is granted, the applicant will be required to re-plat to eliminate this setback. This process is expedited and administrative.

The property had been zoned “B” in the 1938 zoning ordinance, but in 1974 was rezoned to “O-1” after several failed attempts at other commercial zoning designations. This office district converted to “O-2” in 2001 in the adoption of the Unified Development Code. The “O-2” zone is described as a high-rise office district, allowing unlimited height. Smaller parcels such as this would be more appropriately zoned “O-1”, which limits height to 25 feet and is a better interface district for neighboring residential areas. The required 25-foot front yard setback is likely more related to the potential height than is reflected along the frontage of San Pedro Avenue. The “O-1” district has no required front setback requirements and has directed much of the small commercial office conversions along San Pedro Avenue.

In addition, even though the current interface with the neighborhood is not being changed, the applicant is requesting a variance from the required buffer yard to allow the existing parking to remain where it is located, both along the front and rear property lines.

Staff advises applicants with properties within Historic Districts to solicit input from either the HDRC or their Design Subcommittee prior to seeking a variance. The applicant has decided not to apply for a certificate of appropriateness until the variance has been determined. The design may change significantly without the variance and as such, he chose to wait.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“O-2 H AHOD” Office, Historic, Airport Hazard Overlay Districts	Office

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“O-2, H, AHOD” Airport Hazard Overlay Districts	Art and Design Shop
South	“O-2, H, AHOD” Office, Historic, Airport Hazard Overlay Districts	Jewelry
East	“R-4 H AHOD” Residential Single-Family, Historic, Airport Hazard Overlay Districts	Single-Family
West	“R-4 CD AHOD” Residential Single-Family, Conditional Use for Office, Airport Hazard Overlay Districts	Law Office

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Central Neighborhood Plan, adopted by the City Council in February of 2002. The future land use plan designated this area is Neighborhood Commercial, ideal for offices. The subject property is located within the boundaries of Olmos Park Terrace, a registered neighborhood association. It is also within 200 feet of the Northmoor Neighborhood Association. As such, they were both notified and asked to comment.

Criteria for Review

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

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

The public interest is defined as the general health, safety and welfare of the public at large. The applicant is requesting that the minimum front setback be reduced from 25 feet to 13 feet. The applicant asserts that **the variance would bring the building addition in line with the setbacks of the adjacent 9 buildings along the frontage.** The Board may determine that the proposed reduction in setback is in the public interest. There is currently no parking lot landscaping, but **the applicant is proposing to install at least 600 square feet of new landscaping, which should make a significant contribution to the streetscape.**

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

The special condition affecting this property **according to the applicant is the difficulty in being noticed by the passing motorist. The building is currently tucked up to the rear of the parcel, with a front setback of almost 70 feet.** A front addition is proposed to resolve this poor commercial image; however the **applicant states that the required setback of 25 feet will still place his building at a disadvantage.** The Board will evaluate the requested variance and determine if literal enforcement of the ordinance is an unnecessary hardship.

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

The Board must determine the “spirit” of the ordinance as contrasted with the “strict letter” of the law for each unique case. In this case, the applicant asserts that the spirit of the ordinance would be followed because **the proposed building will be setback at a similar location as other businesses along this section of San Pedro Avenue.**

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 “O-2 H 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 applicant is hoping to build an addition to the front of the non-descript commercial center. **This desire is to increase its market image. An improvement of this outdated commercial building will very likely contribute to the character of the adjacent 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 states **that the plight of the owner is caused by the location of the adjacent commercial properties and their proximity to the street. It is likely more related to the zoning district conversion which somehow placed small neighborhood office uses into a high rise zoning district designed for large office buildings at interstate interchanges.**

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct the addition up to the 25-foot setback.

Staff Recommendation

Staff recommends **approval of A-14-016** based on the following findings:

1. The adjacent buildings and businesses are also 13 feet from the front property line; and
2. The proposed addition will significantly improve the property.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



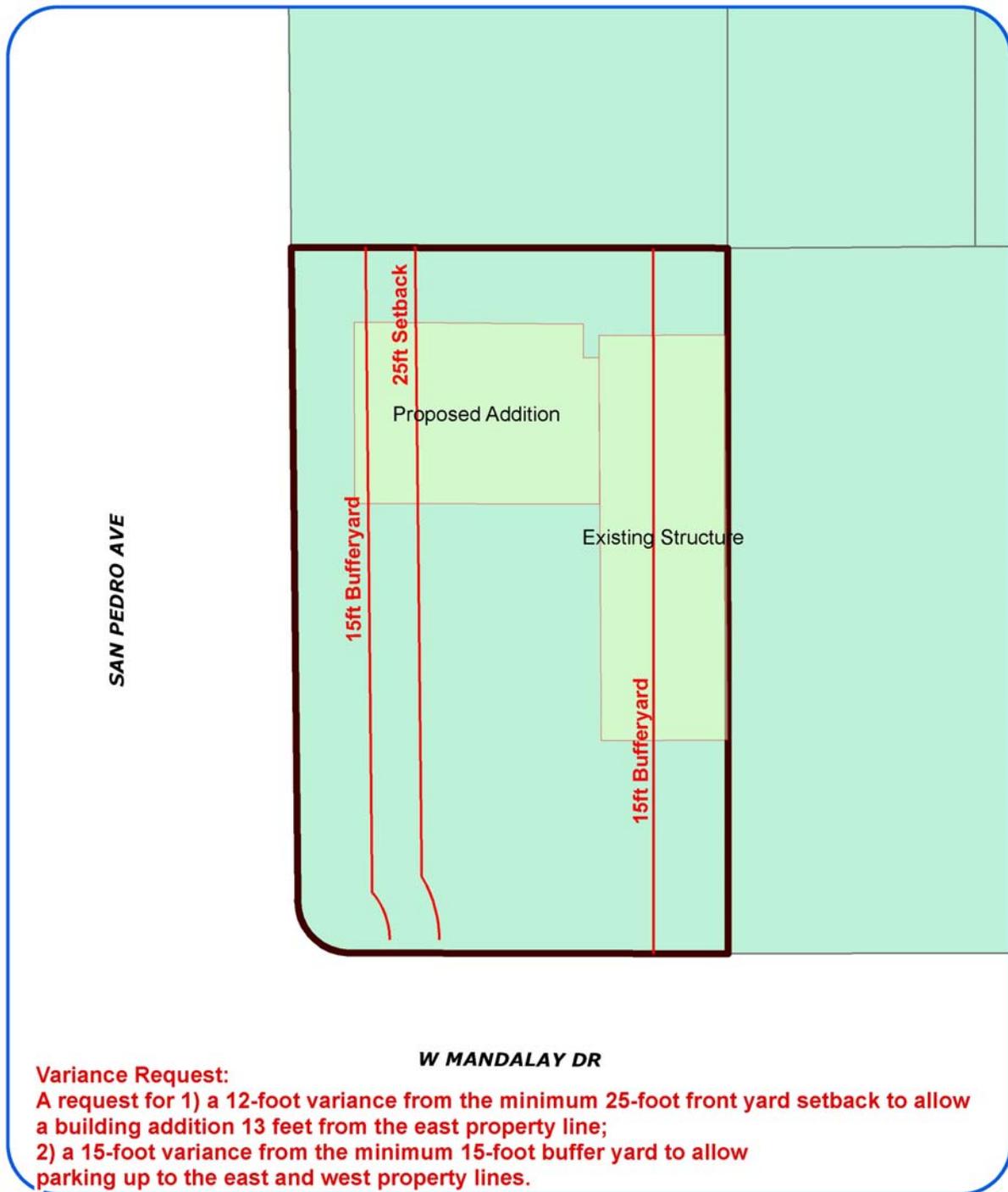
**Attachment 1
Notification Plan (continued)**



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-14-016</p>		<p>San Antonio City Limits </p>	
	<p>Subject Property </p>	<p>200' Notification Boundary </p>	
	<p>Council District 1 </p>	<p>Development Services Department City of San Antonio</p>	
	<p>11/15/2009</p>		

**Attachment 2
Plot Plan**



Variance Request:
A request for 1) a 12-foot variance from the minimum 25-foot front yard setback to allow a building addition 13 feet from the east property line;
2) a 15-foot variance from the minimum 15-foot buffer yard to allow parking up to the east and west property lines.

Board of Adjustment
Plot Plan for
Case No A-14-016



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

5230 San Pedro ^{1:300}

Development Services Department
City of San Antonio

**Attachment 2
Plot Plan (continued)**



Board of Adjustment
Plot Plan for
Case No A-14-016

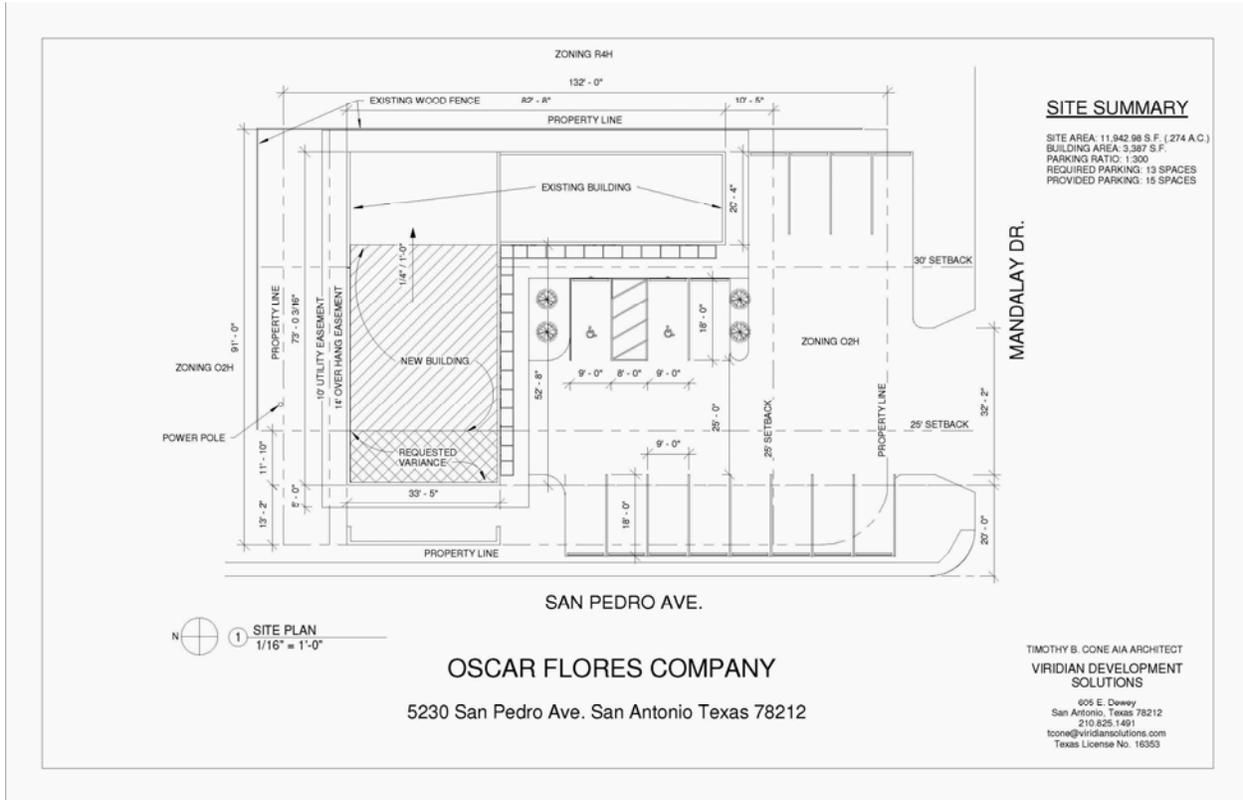


"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 1

5230 San Pedro ^{1:300}

Development Services Department
City of San Antonio

Attachment 3 Applicant's Site Plan



**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No: A-13-078
Date: December 16, 2013
Applicant: Michael Hayes
Owner: Michele R. Pauli Torres
Location: 151 Algerita Drive
Legal Description: Lot 5, Block A, NCB 11649
Zoning District: "R-5" Residential Single-Family District
Prepared By: Matthew Taylor, Senior Planner

Request

An appeal of the following Director's decisions:

- 1.) Railing is not a fence as defined in the *Unified Development Code* or a sport court fence subject to the minimum 20-foot setback requirement of *Section 35-514(b)(1)* of the *Unified Development Code* [see permit AP #1908870]; and,
- 2.) A non-permanent netting barrier system is not a fence as defined in the *Unified Development Code* or a sport court fence subject to the minimum twenty (20) foot setback requirement of *Section 35-514(b)(1)* of the *Unified Development Code* [see permit AP #1876879].

The appellant also incorporated references to Chapter 10 (*Building-Related Codes*) of the City Code in the appeal application. The *Board of Adjustment's* authority to rule on this appeal is limited to the provisions and definitions found in Chapter 35 (*Unified Development Code*) of the City Code. The *Building-Related and Fire Codes Appeals and Advisory Board* heard the Chapter 10-related portions of the appeal on September 30, 2013. The results of this hearing are discussed later in this report.

Procedural Requirements

Pursuant to *Section 35-481* of the *Unified Development Code (UDC)*, the *Board of Adjustment* is empowered to hear and consider appeals of decisions made by an administrative official. The *Board* must consider the appeal at a quasi-judicial public hearing pursuant to *Section 35-404*. The *Board* has the authority to affirm, modify or reverse the administrative official's order, requirement, decision or determination from which the appeal is taken and make the correct order, requirement, decision or determination, with a concurring vote of 75% of its members.

This appeal was publicly noticed in accordance with *Section 35-403* of the *UDC*. Notices were sent to property owners within two hundred (200) feet of the subject property on November 27, 2013, and the application details were published in *The Daily Commercial Recorder*, an official newspaper of general circulation, on November 27, 2013. Notice of this meeting was posted at City Hall and on the City of San Antonio internet website on or before December 13, 2013, in accordance with *Section 551.043(a)* of the *Texas Government Code*.

Executive Summary

The subject property is slightly less than one acre in size and is located within the Algerita Park subdivision. According to Bexar County records, the existing dwelling was constructed as of 1977. Since the property was acquired by the current owner, numerous improvements have occurred such as additions to the existing residence, patio features, a pool house with deck and a multi-purpose retaining wall/slab system that is usable as a sport court. Existing and proposed improvements directly relating to the retaining wall/slab system are the subject of this appeal, and the property owners are presently engaged in a civil action involving these same improvements.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5” (Residential Single-Family District)	Single-Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	PUD “R-6” (Planned Unit Development Residential Single-Family District)	Single-Family Residential
South	“R-5” (Residential Single-Family District)	Single-Family Residential
East	“R-5” (Residential Single-Family District)	Single-Family Residential
West	“R-5” (Residential Single-Family District)	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the boundary of the *North Sector Plan*. The property is also located within the boundary of the *Vance Jackson Neighborhood Inc.* association and within 200 feet of the *Parman Place HOA* boundary.

Project Timeline

The following summarizes the events directly relating to the retaining wall/slab system, which is generally the subject of this appeal:

2011

October 18, 2011 - Electrical permit issued for the lighting system (AP #1751493)

November 9, 2011 – Fence permit issued for six foot chain link fence (AP #1756843).

December 19, 2011 – Complaint regarding property improvements results in creation of code enforcement actions (Cases #107797 and #109367).

2012

February – March, 2012 – City staff meets with property owners to discuss project. The property owners are advised to apply for a Variance for an existing sport court fence, which sits atop the existing slab and ranges between six (6) and ten (10) feet.

February 27, 2012 – Permit issued post-construction for retaining wall/slab system as designed and inspected by professional engineer (AP #1777630).

March 14, 2012 – Code enforcement cases closed after issuance of permit but pending Variance application.

March 23, 2012 – Property owners apply for a sport court fence Variance, seeking relief from the minimum twenty (20) foot setback requirement identified in *Section 35-514(b)(1)* of the *UDC*.

April 12, 2012 – Staff visits 151 Algerita Drive property (Variance case A-12-041).

[Note: The Variance application was eventually withdrawn upon removal of the sport court fence. The application was never heard or considered by the Board.]

2013

April 18, 2013 – Property owners submit permit application for a netting system (AP #1876879).

August 26, 2013 – Department determines the proposed railing is not a fence or a sport court fence subject to the 20-foot setback requirement, issuing a general repair permit for the proposed rail as a guard/fall protection system (AP #1908870); the Department also determines the proposed non-permanent netting system is not fence or a sport court fence subject to the 20-foot setback requirement, voiding permit AP #1876879.

[Note: These fence-related decisions about railing and netting systems are the decisions the Board may consider, as they meet the 30 day filing criteria for appeals identified in *Section 35-481(b)(3)*.]

September 6, 2013 – Appeal application submitted.

September 30, 2013 – *Building-Related and Fire Codes Appeals and Advisory Board* hears appeals of permit-related decisions made on August 26, 2013, making the following rulings related to Chapter 10 (*Building-Related Codes*) of the City Code:

- 1.) Pursuant to *Section R312* of the *International Residential Code*, the issuance of a permit for railing as a guard/protection system was UPHELD.
- 2.) The determination a non-permanent netting system did not require a permit was RESCINDED pending further information from the property owners.

The *Building-Related and Fire Codes Appeals and Advisory Board* does not have jurisdiction over Chapter 35 (*UDC*) of the City Code; therefore, that *Board* did not base its findings on any provisions or language found within Chapter 35.

October 4, 2013 – Applicant requests postponement of the appeal to December 16, 2013.

Appeals Discussion

APPEAL ITEM #1: The determination that railing is not a fence or a sport court fence subject to the 20-foot setback requirement. [Re: permit AP #1908870].

[Note: The *Building-Related and Fire Codes Appeal and Advisory Board* ruled separately on the issuance of this permit per Chapter 10 (*Building-Related Codes*).]

The Department of Development Services annually issues thousands of over-the-counter fence permits. The majority of these permits are to construct fences of varying heights and materials on or in close proximity to property line boundaries. The *Board* is well aware of the common questions and issues surrounding the fence provisions found in the *UDC*, particularly as they relate to location and height.

Per *Appendix A* of the *UDC*, a fence is defined as:

“A tangible enclosure or barrier, constructed of any material allowable by this chapter, but not including hedges, shrubs, trees, or other natural growth, erected for the purpose of providing a boundary, separation of areas, means of protection, to prevent uncontrolled access, decorative purposes, or concealment. Retaining walls shall not be considered fences.”

This definition is broad and, by using select words or combinations of words, virtually any improvement that creates a barrier, identifies a boundary, offers aesthetic appeal or controls access to or from a property could generally be referred to as a fence or a fence-like improvement. The Department found the railing requested by the property owners serves only one provision of this definition – means of protection.

The proposed railing does not control ingress or egress to the subject property, nor does it fully restrict access to any portion of the property. Further, it is not proposed for decorative or concealment purposes. The property owners requested a permit for a railing system along those portions of the existing retaining wall/ slab system where the fall distance is greatest, roughly along the easterly and northerly areas of the slab.

The slab is located and designed in such a manner as to be a multi-purpose improvement, serving as court for sporting activities or a patio/deck structure for non-sporting activities. Since the City’s adopted codes are first and foremost to promote health and safety, the Department determined the proposed 40-inch railing system is not a fence by definition but is instead a guard/fall protection device, issuing AP #1908870 as a general repair permit to allow the railing system.

Appendix A of the *UDC* does not define sport court fencing. However, *Section 35-514(b)(1)* of the *UDC* provides a general description and placement criteria for sport court fences:

“Fencing, screening and or back stops for sport courts such as basketball, tennis, batters cages, etc. shall be constructed only in the side or rear yard and shall be located no closer than 20 feet to a side or rear property line of an adjacent single family use or residential zoning district and/or a public or private street. The maximum height for sport court fencing shall be limited to 12 feet in height in accordance with section 6-2 of the building code.”

Railing with a maximum height of just 40-inches will not effectively serve as a sport court fence. Further, the proposed railing system may have openings up to 4-inches (new tennis balls have a diameter of about 2 ½-inches). Generally, sport court fences are intended to prevent the creation of nuisances to adjacent property owners or distractions to passing pedestrians, cyclists or motorists. The proposed railing is not of a height or design that accomplishes this; therefore, the

Department determined the proposed 40-inch railing system is not a sport court fence subject to a 20-foot setback.

APPEAL ITEM #2: The determination that a non-permanent netting barrier system is not a fence or sport court fence subject to the 20-foot setback requirement [Re: permit AP #1876879].

[**Note: The *Building-Related and Fire Codes Appeal and Advisory Board* ruled separately on the issuance of this permit per Chapter 10 (*Building-Related Codes*).]**

On September 30, 2013, the *Building-Related and Fire Codes Appeal and Advisory Board* rescinded the Department's determination that the netting system does not require a permit; however, the *Board of Adjustment* still has the authority to render its own decision as to whether a netting system constitutes a fence or sport court fence as this was a factor in the permit decision made on August 26, 2013.

Similar to the railing discussion above, the Department's determination a "non-permanent netting system" is not fencing is also based on the definitions and descriptions found in *Appendix A* and *Section 35-514(b)(1)*. The Department determined the proposed netting was not a fence as defined in the *UDC*; therefore, a building or fence permit was not required. The Department does not require the issuance of permits for similar netting of this type, such as those used at golf driving ranges, for backyard trampolines or netting systems found on soccer fields.

Temporary or portable netting may in fact serve the same *purpose* of sport court fencing. However, the stationary nature or intermittent deployment of a netting system does not render such systems a *constructed* fence or sport court fence. Since the "non-permanent netting system" does not exist, the *Board* may choose to refrain from making a definitive finding as to whether a temporary or portable netting system is or is not constructed fencing.

Section 35-370(b)(1) of the UDC – Accessory Use and Structure Regulations

The appellant also claims the decisions involving the solid masonry fence and the slab were made in error. Since the permit for the retaining wall/slab system was issued on February 27, 2012, and well outside the 30 day filing period for appeals, the *Board of Adjustment* may not render a decision on the retaining wall or as to whether the concrete slab is an accessory structure subject to the setback requirements identified in *Section 35-370* of the *UDC*.

Board Action

When hearing appeals, the *Board of Adjustment* has the authority to review and consider the appeal before it, investigate facts, weigh evidence and draw conclusions. The *Board* may reverse or affirm, in whole or in part, the administrative decisions brought forward by the appellant and discussed in this report.

Therefore, the *Board* may consider the following Director decisions pursuant to *Section 35-481* of the *UDC*:

1. Railing is not a fence as defined in the *Unified Development Code*; and,
Railing is not a sport court fence subject to the minimum 20-foot setback requirement of *Section 35-514(b)(1)* of the *Unified Development Code*.
2. A non-permanent netting barrier system is not a fence as defined in the *Unified Development Code*; and,

A non-permanent netting barrier system is not a sport court fence subject to the minimum twenty (20) foot setback requirement of *Section 35-514(b)(1)* of the *Unified Development Code*.

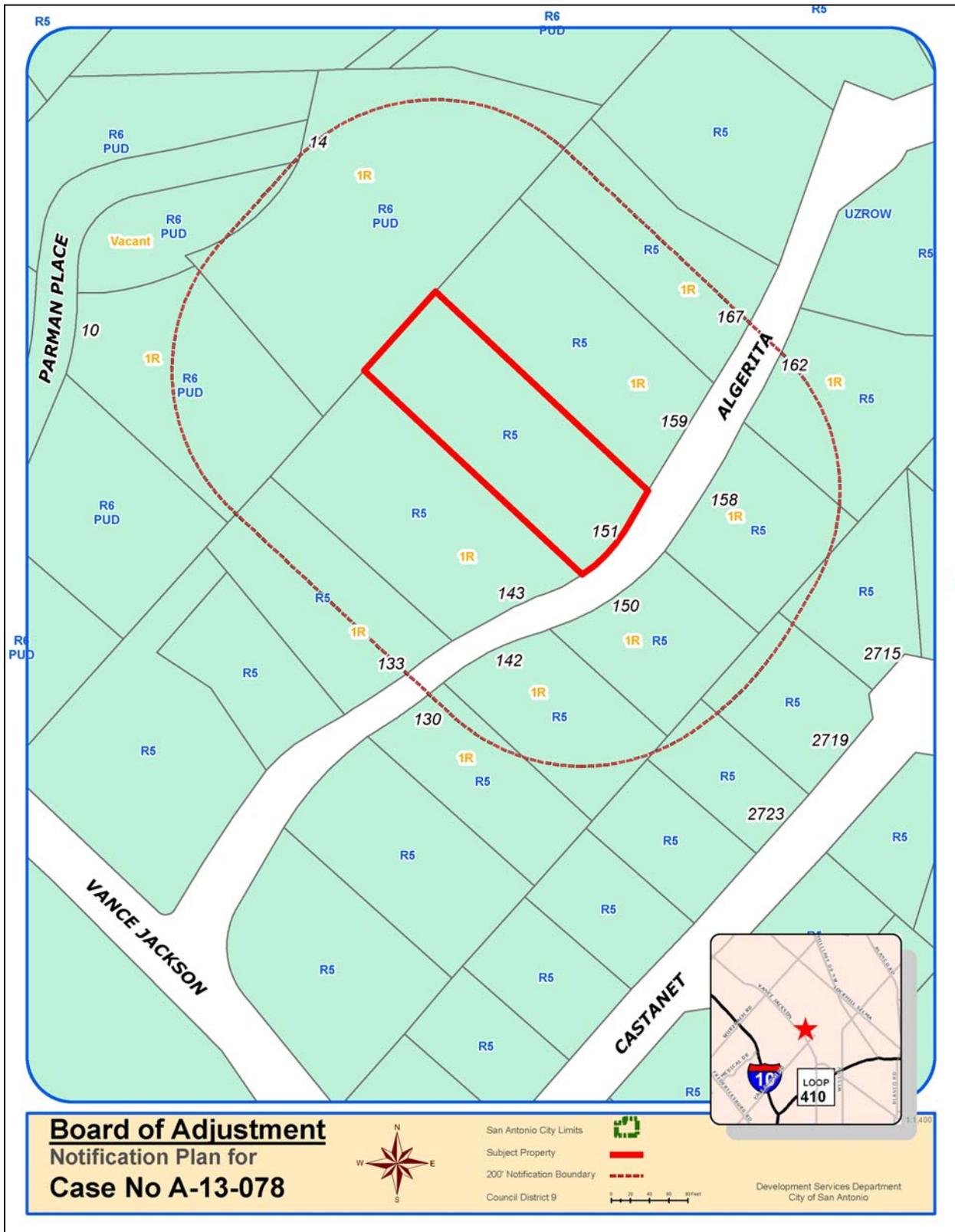
Attachments

Attachment 1 – Notification Plan

Attachment 2 – Appeal Application

Attachment 3 – Aerial

Attachment 1 Notification Plan



**Attachment 2
Appeal Application**

Print Form

Case No. A-13-078

Case Manager _____

**APPEAL
To the
BOARD OF ADJUSTMENT**

CITY OF SAN ANTONIO
STATE OF TEXAS

§
§
§

COUNTY OF BEXAR

TO THE HONORABLE BOARD OF ADJUSTMENT:

Property description (Attach field notes if necessary):

Lot no. 5

Block No. A

NCB 11649

Zoning R6

Property Address: 151 Algarita, San Antonio

The Applicant, Michael Hayes, 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:*
Regarding A/P #51876879 & 1908870

Applicant alleges that the Building Official, Roderick Sanchez, erred in allowing the erection and/or construction of railing, screening, and/or fencing for a Sports Court at the above property. Specifically, Mr. Sanchez's allowing of the construction of structures without permits is in violation of the code and in violation of the Applicant's legal rights, and will cause damage to the Applicant. In his decision to allow the construction of these structures/improvements, Mr. Sanchez will be allowing a: (1) solid masonry block fence; (2) railing; and (3) screening systems for a Sports Court located closer than twenty feet from the adjoining property in a residential district in violation of UDC Section 35-514(b)(1). The decision also allows fencing with a height greater than six feet for the Sports Court in violation of UDC Section 6-2(a). Mr. Sanchez committed further error in allowing the use of a slab with a height greater than thirty inches as a footing for the rail, fence, and/or screening system without requiring the slab be engineered and permitted; and allowing the slab to be constructed closer than five feet to an adjoining property line in violation of City Codes Section 10-6(a) and 10-6(a)(14) and UDC Section 35-370(b)(1).

*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.

**Attachment 3
Aerial Exhibit**



Board of Adjustment
Additional Exhibit for
Case No A-13-078



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

151 Algerita

1:281

Development Services Department
City of San Antonio