

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, February 7, 2011

1:00 P.M.

Cliff Morton Development and Business Services Center, Board Room

Anytime during the public hearing, the Board of Adjustment may meet in Executive Session to consult on attorney-client matters (real estate, litigation, personnel and security matters), as well as to discuss any of the agenda items. This notice was posted on the Planning and Development Services Department website (www.sanantonio.gov/dsd), and the City Hall kiosk, at least seventy-two (72) hours prior to this public hearing, in compliance with the Texas Open Meetings Act.

1. Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-11-017:** The request of the Lucia D. Oyervides, for a Special Exception to allow a one operator beauty/barber shop, 5102 Hemphill Drive. (Council District 7)
5. **A-11-018:** The request Harry Jewett, for a 10-foot variance from 20-foot perimeter setback requirement for residential uses in a Planned Unit Development, in order to allow a 10-foot rear setback, 19522 Brooke Place. (Council District 9)
6. **A-11-019:** The request of Robert and Barbara Collins, for an 18-foot variance from the 30-foot rear setback requirement of the “C-3 R” district when abutting a residential use or zoning district, in order to allow a 12-foot rear setback from the east property line, 1312 South Hackberry Street. (Council District 2)
7. Approval of the minutes – January 10, 2011.
8. Adjournment.

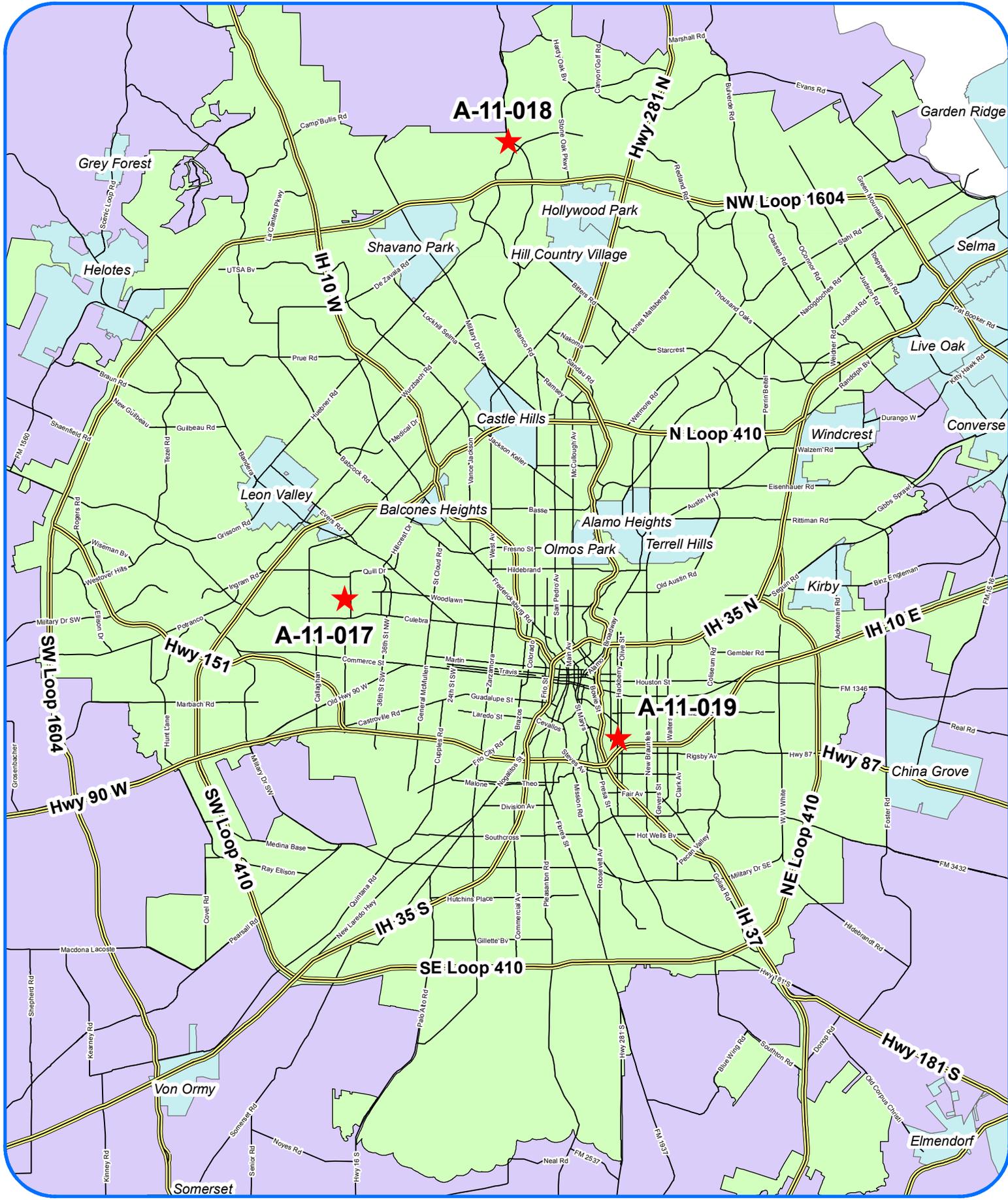
ACCESSIBILITY STATEMENT - This meeting site is accessible to persons with disabilities. Parking is available. Auxiliary Aids and Services are available upon request (Interpreters for the Deaf must be requested forty-eight [48] hours prior to the meeting). For Assistance, Call (210) 207-7245 Voice/TTY.

Board of Adjustment Membership

Michael Gallagher, Chair Andrew M. Ozuna, Vice Chair
Geroge L. Britton • Gene Camargo • Helen K. Dutmer • Edward H. Hardemon • Mary Rogers
Liz M. Victor • David M. Villyard • Jesse Zuniga • Vacancy

Alternate Members

Harold O. Atkinson • Maria D. Cruz • Paul E. Klein • Marian M. Moffat • Henry Rodriguez • Steve G. Walkup



Board of Adjustment
Subject Property Locations
Cases for February 7, 2011





City of San Antonio Planning & Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-11-017
Date: February 7, 2011
Applicant: Lucia D. Oyervides
Owner: Lucia D. Oyervides
Location: 5102 Hemphill Drive
Legal Description: Lot 1, Block 18, NCB 11458
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Subject: One Operator Beauty/Barber Shop
Prepared By: Victor Caesar, Planning Intern and Jacob Floyd, Senior Planner

Request

The applicant requests a special exception to allow a one-operator beauty or barber shop in a portion of a single-family residence.

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on January 21. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on January 21. Additionally, notice of this meeting was posted at city hall and on the city's internet website on February 4, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The applicant requests this special exception to operate a one operator barber or beauty shop in a portion of a single-family residence, utilizing approximately 256 square feet of the 1415 square foot residence or approximately 18 percent. This special exception request may be approved for a two-year period or less, as this is the first time the applicant has sought the special exception.

The applicant has proposed hours of operation to be 9:00 a.m. to 5:00 p.m. Tuesday through Saturday, totaling no more than 40 hours weekly.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-5 AHOD (Residential Single-Family District)	Single-Family Residence

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a Community or Neighborhood Plan. The property is located within the boundaries of Culebra Park Neighborhood Association.

Criteria for Review

According to Section 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 is in harmony with the spirit and purpose of this chapter in that the proposed one-operator beauty/barbershop 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:

The requested special exception will further serve the public welfare in that this beauty/barbershop will operate within the parameters set forth by Section 35-399.01 and will serve as a public convenience within a residential area.

3. The neighboring property will not be substantially injured by such proposed use:

The granting of the special exception will not alter the use of the property for which the special exception is sought. The primary use of the subject property will remain a single-family residence.

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:

It does not appear that the granting of the special exception will alter the essential character of the district in which the subject property is located in that the beauty/barbershop will remain confined to 25% or less of the gross floor area of the primary residence.

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 district is to promote the public health, safety, morals, or general welfare. The granting of this special exception will not weaken this purpose, nor will it weaken the regulations established for this district.

Staff Recommendation

The applicant has indicated she will meet all of the limitations, conditions and restrictions set forth in Section 35-399.01 of the UDC (a copy of the application indicating this is attached with this packet). The special exception will allow the use of a portion of this property as a beauty shop without altering the residential character of the neighborhood.

Staff recommends **approval of A-11-017, 5102 Hemphill, for a two-year period** with hours of operation not to exceed 40 hours weekly.

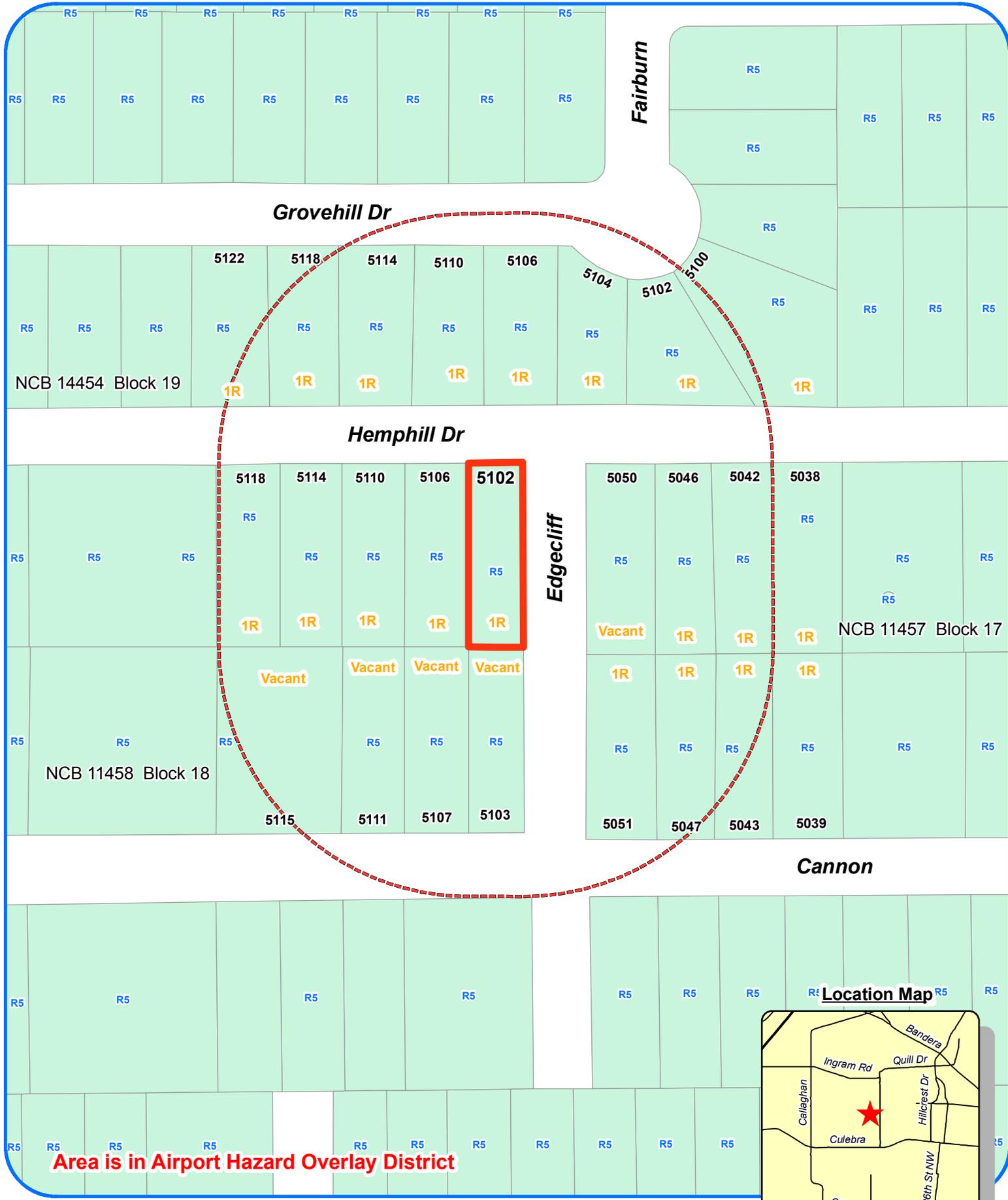
Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Floor Plan

Attachment 4 – Copy of Application



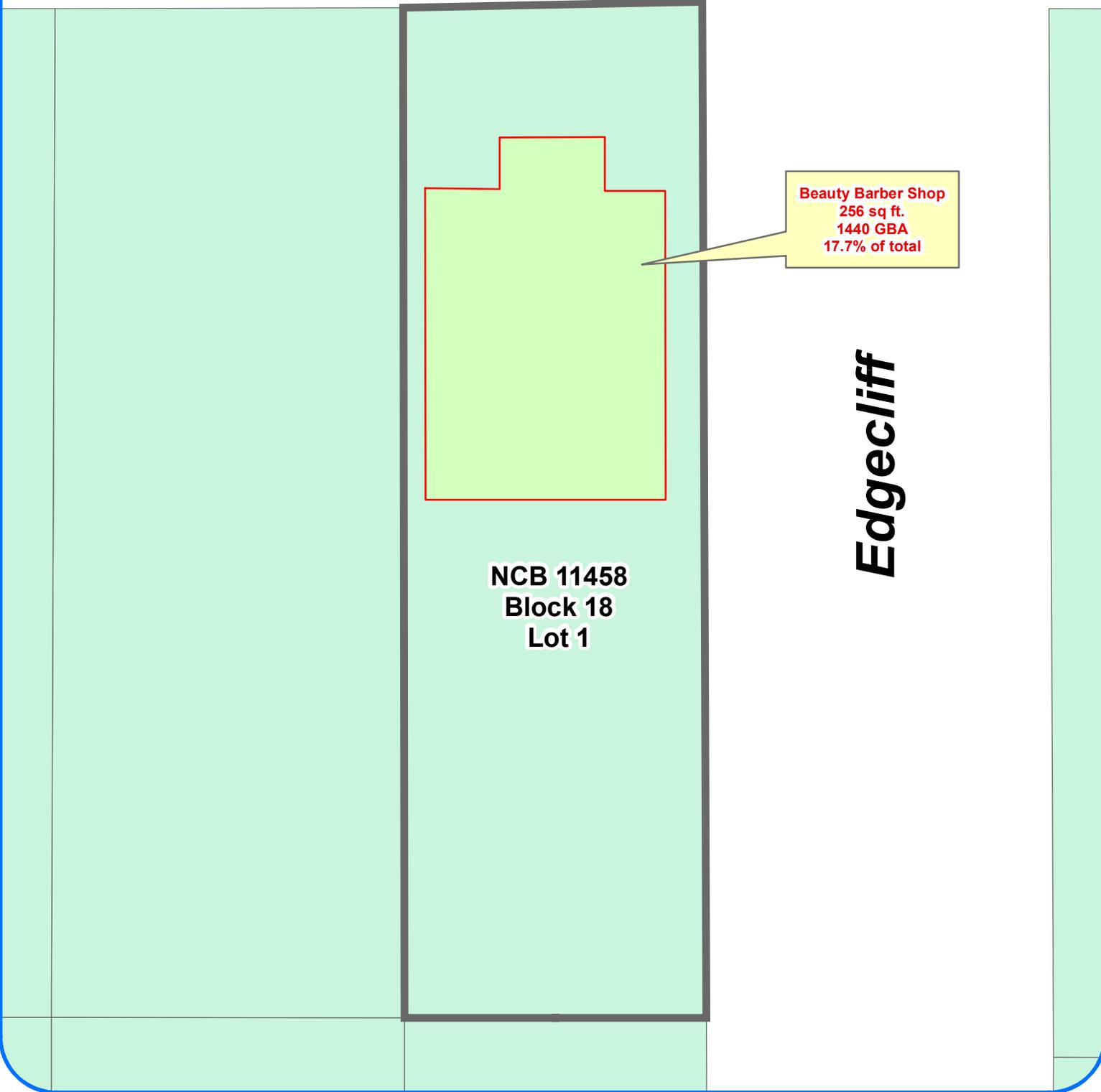
Board of Adjustment
Notification Plan for
Case A-11-017



Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 100'
- Council District 7

Hemphill



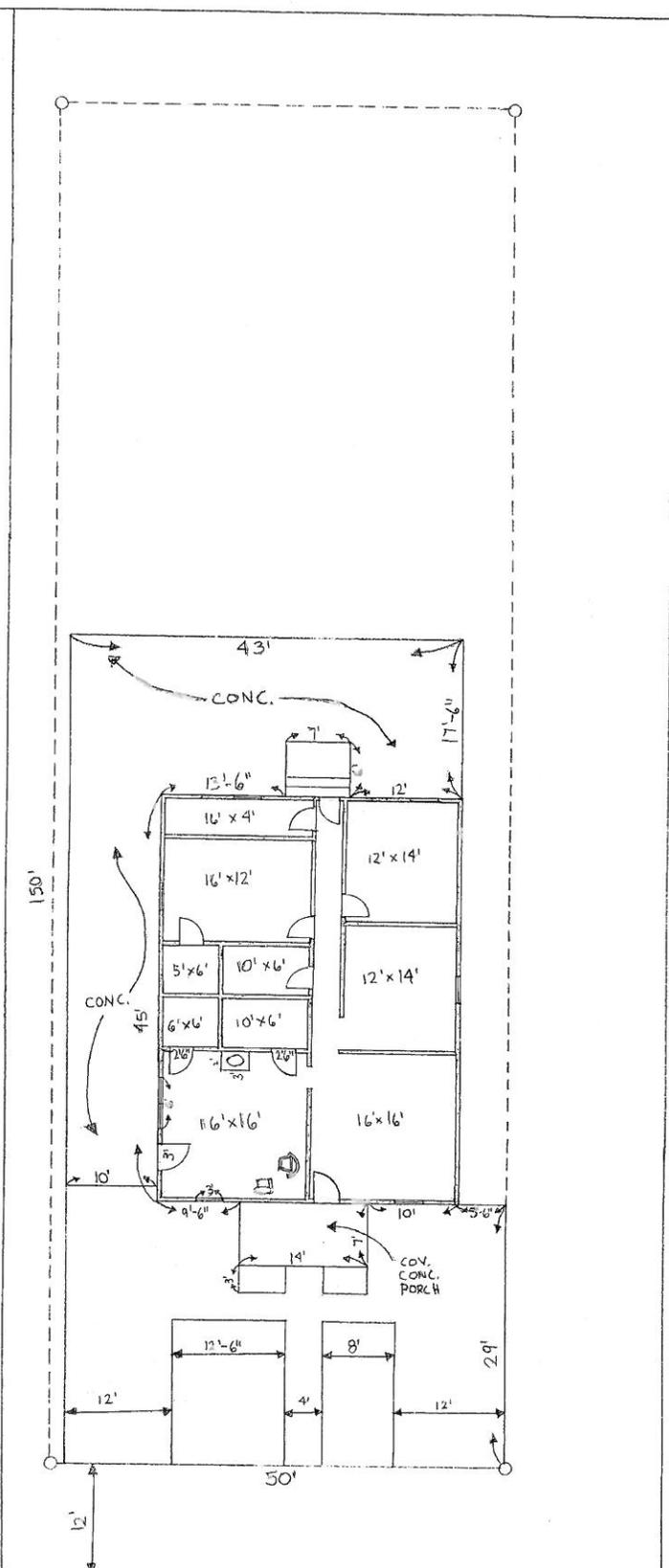
Beauty Barber Shop
256 sq ft.
1440 GBA
17.7% of total

NCB 11458
Block 18
Lot 1

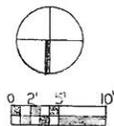
Edgecliff



EDGECLIFF



HEMPHILL





REQUEST FOR A SPECIAL EXCEPTION
to the
SAN ANTONIO BOARD OF ADJUSTMENT
for a
ONE OPERATOR BEAUTY/BARBER SHOP

CITY OF SAN ANTONIO
COUNTY OF BEXAR
STATE OF TEXAS

TO THE HONORABLE BOARD OF ADJUSTMENT:

Property Description:

Lot 26 Lot 1 SA
Block 18
NCB 11458 Magnolia Fig Gardens

Property Address: 5102 Hemphill
Zoning R-5

The Applicant, Lucia D. Quevedo, of Bexar, Can County, requests the San Antonio Board of Adjustment consider a special exception to allow the operation of a one operator beauty shop or a one operator barber shop at the property identified above, pursuant to Section 35-399.01 of the Unified Development Code (UDC).

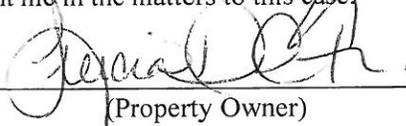
Section 35-399.01 Barber Shops and Beauty Shops may be permitted in all residential zones established by this chapter subject to the following limitations, conditions, and restriction (please initial):

- 1. A site plan shall be submitted indicating the size and location of all structures on the property. In addition, photographs of the structure in which the barbershop or beauty shop is to be located shall be submitted.
2. The residential architectural appearance of the structure shall not be changed to that of commercial, although a separate entry for the barber shop or beauty shop shall be permitted.
3. Signs advertising the barbershop and beauty shop are not permitted, but a name plate not to exceed one (1) square foot is permitted, when attached flat to the main structure.
4. The barber shop or beauty shop shall be located within the main structure of the lot and not utilize more than 25% of the gross floor area of the first floor. In case of a barber shop or beauty shop in a duplex, the 25% gross floor area shall be calculated on one (1) living unit of the duplex. In the case of a barber shop or beauty shop in an apartment unit, the Board of Adjustment shall determine the area to be used for said operations.
5. The barbershop or beauty shop shall be limited to one (1) operator shop.
6. No person not residing in the premises may be employed in the operation of the barber shop or beauty shop.
7. Hours of operation shall be regulated by the Board and shall be specified in the minutes of the case.
8. The Barber/Beauty Shop shall not be contrary to the public interest.
9. Granting of the permit for a barber shop or beauty shop in conjunction with a residential use is to be for a definite period of time not to exceed two (2) years for the initial application, and not to exceed (4) years for any subsequent application, and only after notice and hearings as provided in this chapter for appeals to the Board of Adjustment. To qualify as a subsequent application, the permit must be applied for prior to the expiration of the previous permit.

Proposed hours of operation: Tuesday - Saturday 9:Am. - 5:p.m.

Comments: -1) Soy propietaria de la casa
2) Solamente abriré una estación de estilista (una persona)

I, the applicant, hereby authorize _____ of _____
to represent me in the matters to this case.

Signed: 
(Property Owner)

Date: 12.21.2010

Respectfully submitted:

Applicants Name: LUCIA D. OYERVIDES

Mailing Address: 5102 Hemphill S.A. TX. 78228

Telephone: 210) 990-0132 Email: _____

Please submit:

Filing Fee - \$400.00

Check made payable to: **City of San Antonio**

Plot Plan

Photographs of the structure to be used

Proposed hours of operation

Floor plan of proposed beauty shop or barber shop operation

AN APPLICATION CAN ONLY BE ACCEPTED BY MAIL IF COMPLETE. INCOMPLETE APPLICATIONS, ALONG WITH THE REQUIRED FEES, WILL BE MAILED BACK TO THE APPLICANT IN ACCORDANCE WITH CITY CASH HANDLING POLICIES.



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-11-018
Date: February 7, 2011
Applicant: Harry Jewitt
Owner: McNair Custom Homes, L.P.
Location: 19522 Brooke Place
Legal Description: Lot 30, Block 74, NCB 16334
Zoning: "PUD R-6 ERZD MLOD" Residential Single-Family Planned Unit
Development Edwards Recharge Zone Military Lighting Overlay District
Prepared By: Jacob Floyd, Senior Planner

Request

The applicant requests a 10-foot variance from the 20-foot perimeter setback requirement for residential uses in a Planned Unit Development, in order to allow a 10-foot rear setback.

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on January 21. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on January 21. Additionally, notice of this meeting was posted at city hall and on the city's internet website on February 4, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The variance is requested to reduce the perimeter setback required for residential uses in a Planned Unit Development from 20 feet to 10 feet. The subject property is located within the Blanco Crossing, Unit 3 PUD and is situated on the perimeter of the PUD, abutting the right-of-way of Blanco Road (F.M. 2696). Additionally, the subject property is one of nine lots within the development that are subject to the 20-foot perimeter setback requirement.

The applicant indicates that the requirement of a 20-foot perimeter setback would result in unnecessary hardship as it would result in a rear yard that would be subjected to traffic noise from Blanco Road. The granting of the variance would allow the residence to be designed to accommodate a side yard that would be screened from traffic noise.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
PUD R-6 ERZD MLOD (Residential)	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	PUD R-6 ERZD MLOD	Residential
South	PUD R-6 ERZD MLOD	Residential, Vacant
East	PUD R-6 ERZD MLOD	Residential, Vacant
West	PUD R-6 ERZD MLOD	Residential, Vacant

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan. The subject property is not within a registered neighborhood association.

Criteria for Review

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

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

The variance is contrary to the public interest as it will reduce the open space and yard area created by this setback requirement. The requirement for this perimeter setback was in existence at the time of the PUD plan approval.

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

The literal enforcement of the perimeter setback requirement will not result in unnecessary hardship as it was a requirement at the time of the PUD plan approval and as such is a necessary hardship inherent to the establishment of a PUD plan. Additionally, compliance with the perimeter setback requirement will not prohibit reasonable development of the subject property in accordance with the approved PUD plan as the subject property is not subject to unique topographic conditions which would create unnecessary hardship.

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

The variance will not do justice as the perimeter setback requirement is a necessary restriction fundamental to the establishment of the PUD plan. It is in keeping with the spirit of the ordinance to preserve a reasonable amount of open space within residential developments.

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 variance will not authorize the operation of a use other than those specifically authorized in the "PUD R-6 ERZD MLOD" 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 appropriate use of adjacent conforming property will not be injured nor will the essential character of the district be altered as the interior residential lots of a PUD may have reduced rear setbacks.

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 of the subject property is not due to unique circumstances existing on the property, but rather is due to the burden of compliance with a requirement in effect at the time of the PUD's approval. The requirement of a 20-foot perimeter setback is a general condition of the establishment of a PUD plan.

Staff Recommendation

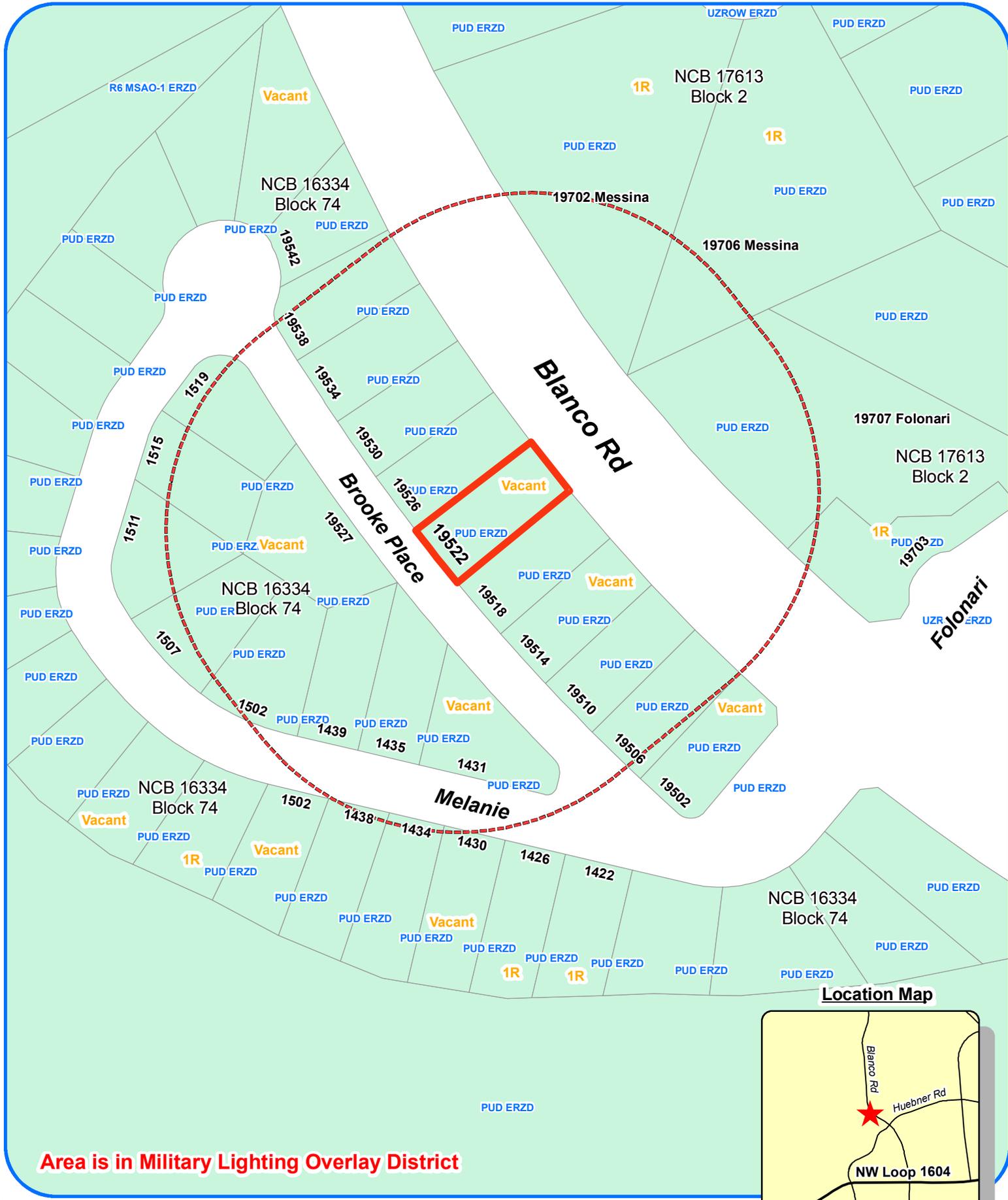
Staff recommends **denial of A-11-018** because the required findings of fact have not been satisfied as presented above. The circumstance from which the difficulty arises is not unique to the subject property, but rather are general conditions of a PUD plan's creation. Additionally, this condition is not unique to the subject property as the adjacent nine lots within the PUD are also subject to this requirement. Should the applicant find compliance with this requirement overly burdensome, the most appropriate action would be amendment of the PUD to approve a lesser perimeter setback.

Attachments

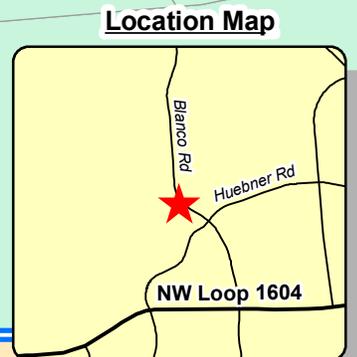
Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Submitted Site Plan



Area is in Military Lighting Overlay District



Board of Adjustment
Notification Plan for
Case A-11-018



- Legend**
- Subject Property
 - 200' Notification Boundary
 - Scale: 1" approx. = 100'
 - Council District 9

Blanco Rd

*Requesting variance from
20' rear set back requirement*

**NCB 16334
Block 74
Lot 30**

Brooke Place

Board of Adjustment
Plot Plan for
Case A-11-018



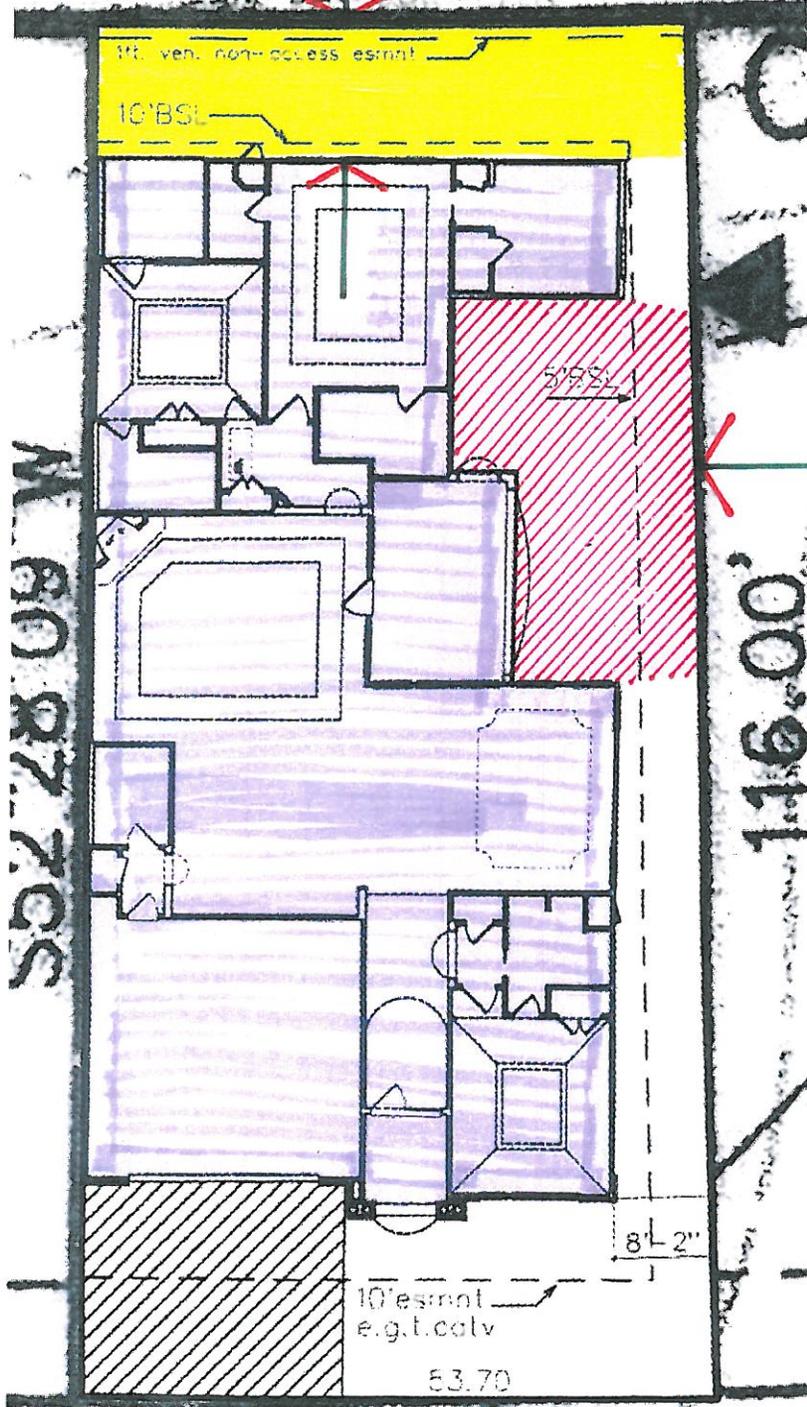
Scale: 1" approx. = 20'
Council District 9

19522 Brooke Place

Development Services Dept
City of San Antonio
(1/6/2011)

C1

10 FOOT YARD



M 60 27 7CS

SIDE YARD / COURTYARD

C11



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-11-019
Date: February 7, 2011
Applicant: Robert and Barbara Collins
Owner: Robert and Barbara Collins
Location: 1313 South Hackberry Street
Legal Description: Lot 18, Block 54, NCB 1629
Zoning: "C-3 R AHOD" Restrictive Commercial Airport Hazard Overlay District
Prepared By: Jacob Floyd, Senior Planner

Request

The applicant requests an 18-foot variance from the 30-foot rear setback requirement of the "C-3 R" district when abutting a residential use or zoning district, in order to allow a 12-foot rear setback from the east property line.

Procedural Requirements

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on January 21. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on January 21. Additionally, notice of this meeting was posted at city hall and on the city's internet website on February 4, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The variance is requested to reduce the setback required on lot 18, abutting lot 19 to the east and zoned "RM-4" Residential Mixed District, in order to accommodate a proposed structure 12 feet from east lot line of lot 18 and approximately 1-foot 8-inches from lot 17 to the west. The building footprint of the proposed structure is approximately 200 square feet, measuring 8 feet 4 inches wide by 24 feet long. As the minimum setback requirement in the "C-3 R" district when abutting a residential zoning district is 30 feet and the width of lot 18 is 25 feet, lot 18 is unsuited for commercial use as a separate, distinct lot. However, the combined width of lot 18 and lot 17 (also owned by the applicant) is 58.30 feet and could accommodate reasonable commercial development were the shared lot line removed by an amending plat. Additionally, were the structure placed entirely on lot 17 no setbacks would be required.

The applicant indicates that the requirement of a 30-foot setback results in unnecessary hardship because greater than 51 percent of the total area of lots 17 and 18 is undevelopable for commercial

purposes. Additionally, the applicant states that the variance is necessary to ensure that the property can be utilized in the same manner as others of similar configuration and zoning classification.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-3 R AHOD (Commercial)	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	C-3 R AHOD, RM-4 AHOD	Commercial, Residential
South	C-3 R AHOD, RM-4 AHOD	Vacant, Residential
East	RM-4 AHOD	Residential
West	C-3 R AHOD, RM-4 AHOD	Commercial, Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Arena District Community Plan. The subject property is not within the Denver Heights Neighborhood Association.

Criteria for Review

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

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

The variance is contrary to the public interest in that the purpose of a zoning setback is to provide reasonable separation between incompatible land uses, such as those permitted in “C-3 R” and those of the “RM-4” district. Additionally, the subject property is unsuitable for commercial use as it is currently configured and may be less burdened by zoning requirements were the applicant to seek an amending plat to remove the common lot line between lots 17 and 18, which is also owned by the applicant.

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 requirement. The property is unsuitable for commercial use under any commercial zoning classification as it is currently configured.

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

The variance will not be in keeping with the spirit of the ordinance as the width of lot 18 is insufficient to accommodate any improvement in compliance with the setback requirement.

Additionally, no substantial justice may be done by granting this variance as the subject property is dimensionally inadequate to be occupied by uses permitted by the "C-3 R" zoning 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 variance will not authorize the operation of a use other than those specifically authorized in the "C-3 R" zoning district. However, as the uses authorized in the "C-3 R" district are recognized as more intensive commercial uses, dimensional standards such as this setback requirement are appropriate to foster compatibility between otherwise incompatible land uses and 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 variance will injure the appropriate use of the adjacent conforming residential properties as they will no longer enjoy the reasonable separation from commercial uses provided by the setback requirement. While the applicant currently owns the residential lots abutting to the east, ownership may transition in the future and future residents will be unduly burdened by the proximity to an intense commercial use that will result from the 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.

The plight of the owner of the subject property is not due to unique circumstances existing on the property, but rather is due to the unsuitability of the subject property for reasonable commercial use due to its current platted configuration, which may be corrected through an amending plat. The requirement of a 30-foot setback is a general condition of the "C-3 R" district and is not unique to the subject property.

Staff Recommendation

Staff recommends **denial of A-11-019** because the findings of fact have not been satisfied as presented above. The subject property is inappropriately zoned and unsuitable for reasonable commercial development of a use permitted by the "C-3 R" zoning district due to its size and dimensions. As the uses permitted in the "C-3 R" district are recognized as more intensive commercial uses, development standards such as this setback requirement are appropriate to foster compatibility between otherwise incompatible land uses and zoning districts. Moreover, development standards such as setback requirements are a decisive factor in the uses being permitted by right in the "C-3 R" zoning district and not permitted in a less intense commercial zoning district. Were the variance granted, it would not be limited in applicability to the proposed structure but would apply to any use permitted in the "C-3 R" district.

As the minimum setback requirement in the "C-3 R" district when abutting a residential zoning district is 30 feet and the width of lot 18 is 25 feet, lot 18 is unsuited for commercial use as a separate, distinct lot. However, the combined width of lot 18 and lot 17 (also owned by the applicant) is 58.30 feet and could accommodate reasonable commercial development were the common lot line removed by an amending plat. Additionally, were the structure placed entirely on lot 17 no setbacks would be required.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Submitted Site Plan



Area is in Airport Hazard Overlay District

Board of Adjustment
Notification Plan for
Case A-11-019

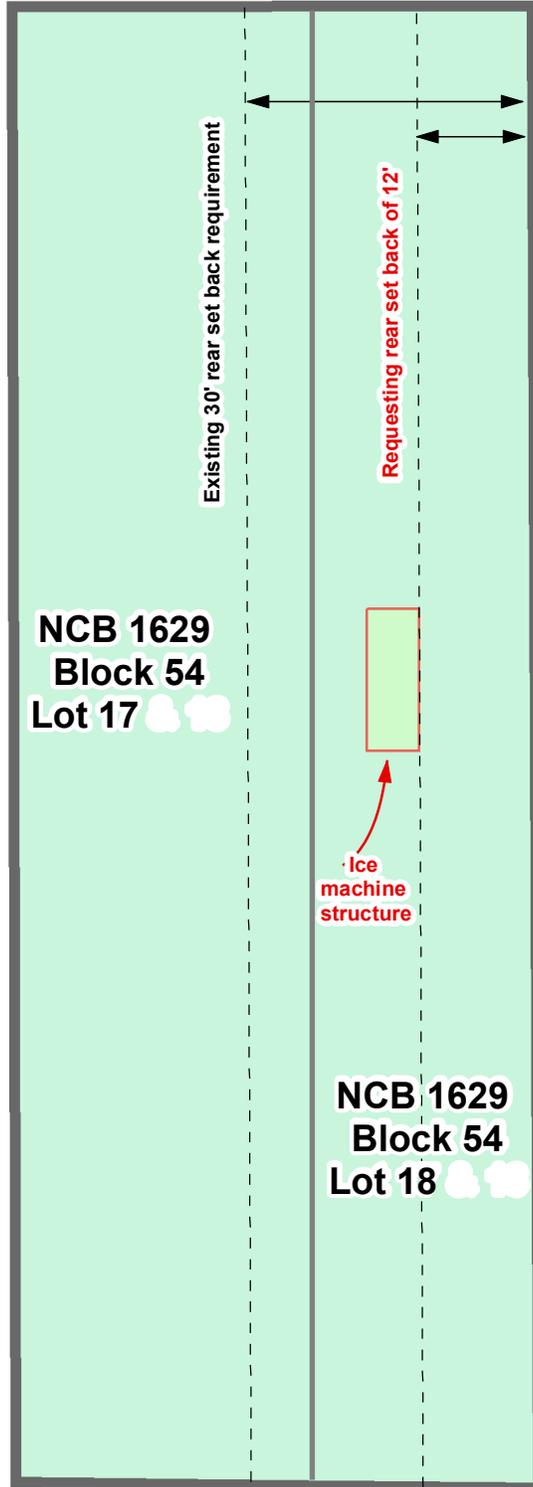


Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 100'
- Council District 9

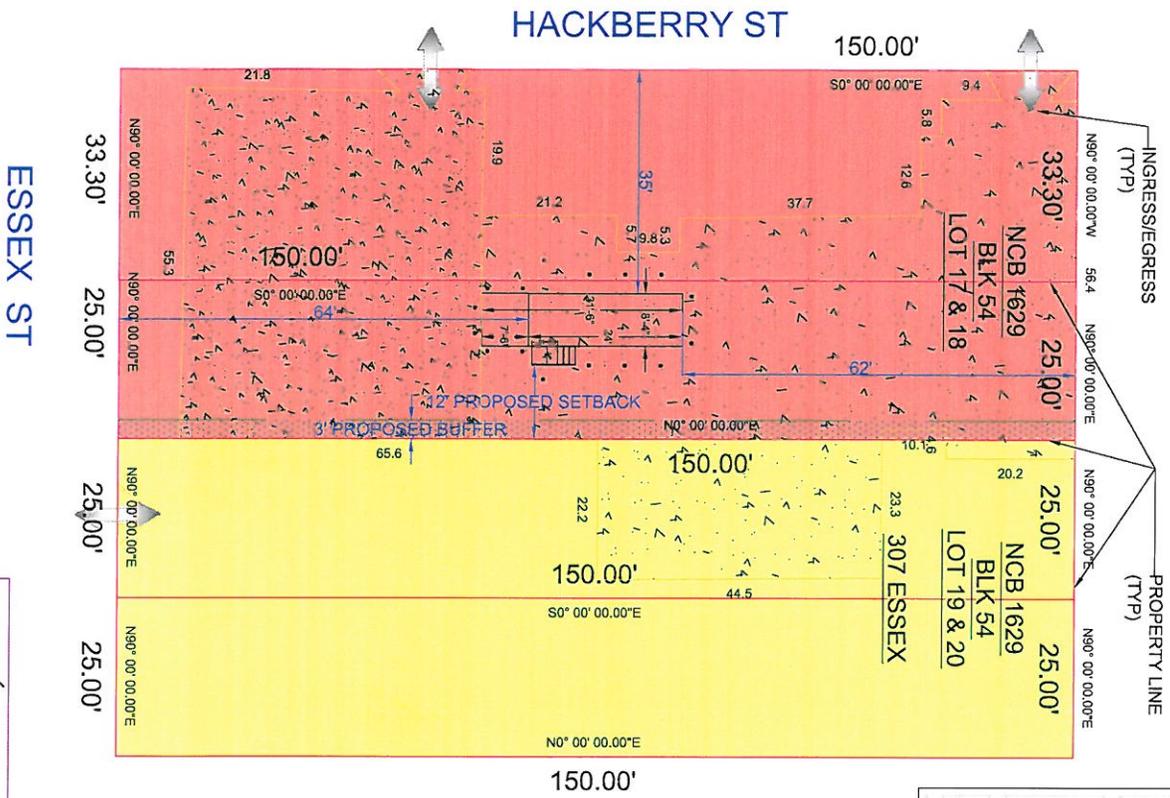
Planning and Development Services Dept
 City of San Antonio
 (1/14/2011)

S Hackberry



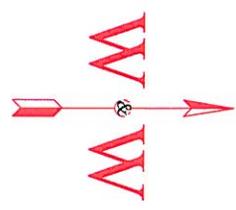
Essex





LOCATION MAP

(NTS)



GENERAL NOTES

1. ZONING INFORMATION OBTAINED FROM THE CITY OF SAN ANTONIO GIS.
2. USE FOR C3R IS INDUSTRIAL.
3. LOT LINES ARE DIMENSIONED UTILIZING PLAT APPROVED ON DECEMBER 8TH 1890.
4. LOTS 17, 18, 19 & 20 ARE UNDER COMMON OWNERSHIP AND ALL LOTS ARE VACANT.
5. PROPOSED SETBACK IS 12' FROM LOT 18/19 PROPERTY LINE. PROPOSED BUFFER IS 3' FROM 18/19 PROPERTY LINE.
6. REQUIRED SETBACK IS SIDE YARD SETBACK 30'

LEGEND

- C3R - LOTS 17 & 18 (8,745 SF)
- RM4 - LOTS 19 & 20 (7,500 SF)
- FOUNDATION - 4,725 SF
- PARKING/DRIVE - 2,618 SF

ESSEX ST

HACKBERRY ST

David M. Witte
DAVID M. WITTE, PE

PROJECT NO.: HACKBERRY IH
D.B.: DMW
CH.:
SCALE: 1"= 30'
DATE: 2010-11-4

FIGURE 1
1312 HACKBERRY ST
NCB BLK 54 LOT 17 & 18
HACKBERRY IH
SAN ANTONIO, TX

Your Vision | Our Focus

W Enterprises, LLC

Supporting Commercial, Industrial & Energy Development Projects

Planning, Site Engineering & Environmental Consulting