# City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, January 14, 2013

1:00 P.M.

Cliff Morton Development and Business Services Center, Board Room

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

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1. **1:00 PM** - Public Hearing – Call to Order

2. Roll Call

3. Pledges of Allegiance

4. **A-13-009:** The request of Laura McKinney for a 2-foot variance from the maximum 6-foot fence height to allow an 8-foot fence along the rear property line located at 2955 & 2969 Nacogdoches Road. (Council District 10)

5. **A-13-010:** The request of Michel Alexis Courtines for a 2-foot variance from the maximum 6-foot fence height to allow an 8-foot screening fence 58 feet in length along a corner side yard located at 1111 Marchesi. (Council District 9)

6. **A-13-011:** The request of Hilda DeHoyos for a special exception to allow a one-operator beauty shop located at 1910 W. Gramercy Place. (Council District 7)

7. **A-13-012:** The request of Pura Zavala for a special exception to allow a four-year renewal of a previous special exception for a one-operator beauty shop located at 2031 W. Pyron Avenue. (Council District 4)

8. **A-13-013:** The request of Iron Horse Apartments 1, Ltd. for a 305-foot variance from the 90-foot maximum front setback to allow an existing building 395-feet back from the front property line located at 2439 & 2441 NE Loop 410 Access Road. (Council District 10)

9. **A-13-014:** The request of Kaufman & Killen, Inc. for a 2-foot variance from the maximum 6-foot fence height to allow an 8-foot fence along the rear property line located at 14811 Huebner Road.(Council District 8)

10. Approval of the minutes – November 19, 2012 and December 10, 2012

11. Annual report. 2012: the year in review

12. Adjournment

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**Board of Adjustment Membership**

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

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

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

**Alternate Members**

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

***ACCESSIBILITY STATEMENT - This meeting site is accessible to persons with disabilities. Parking is available. Auxiliary aids and services, including Deaf interpreters, must be requested forty-eight [48] hours prior to the meeting. For assistance, call (210) 207-7245 or 711 (Texas Relay Service for the Deaf).***

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


**Board of Adjustment Membership**

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*Frank Quijano, District 1 ● Edward Hardemon, District 2 ● Helen Dutmer District 3 ● George Britton, District 4*
*Vacancy, District 5 ● Jesse Zuniga, District 6 ● Mary Rogers, District 7 ● David Villyard, District 9 ● Gene Camargo, Mayor*

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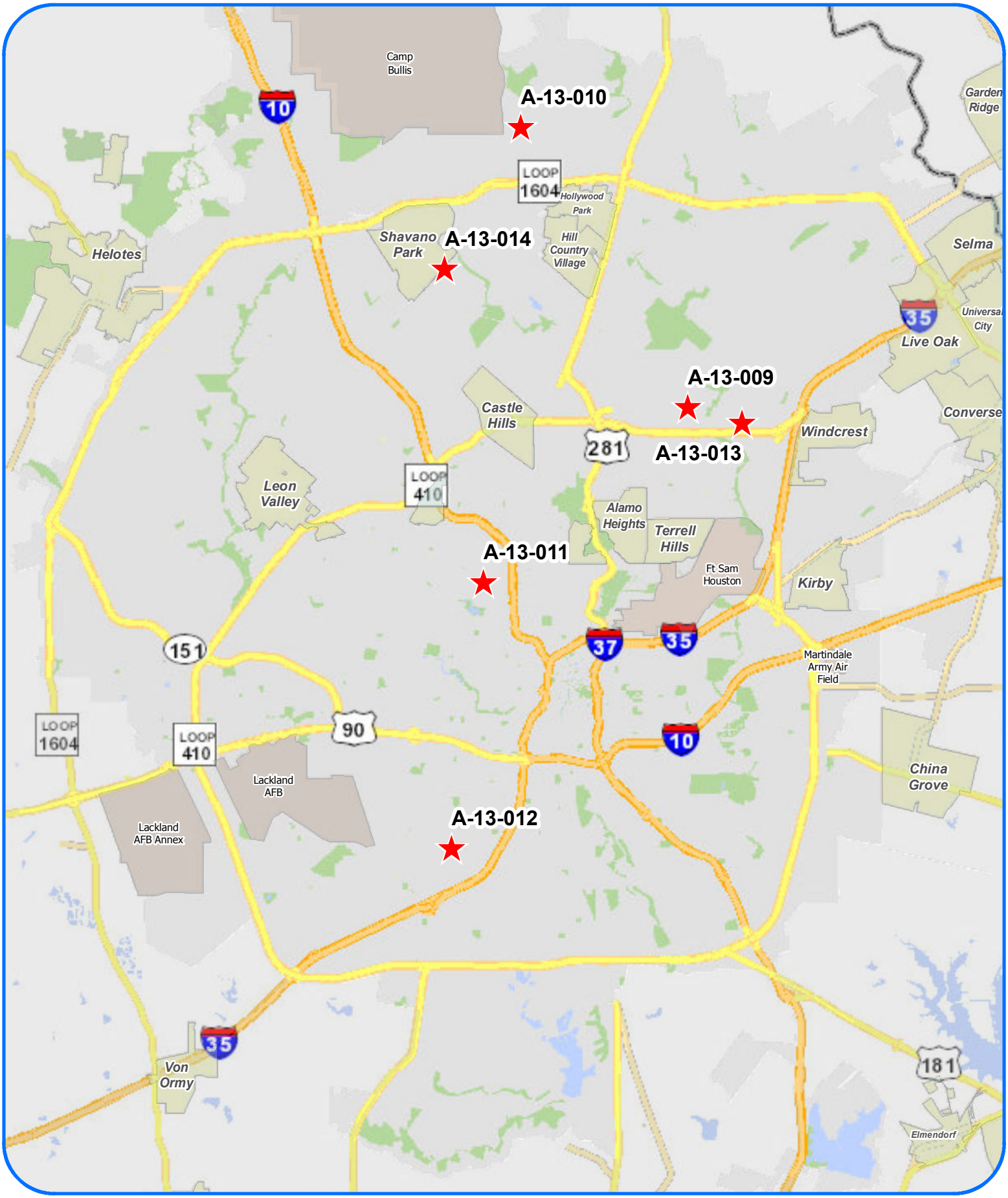


# Board of Adjustment

**Subject Property Locations**
**Cases for 14th January 2013**

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Development Services Dept.
City of San Antonio
14th January 2013

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

| | |
|---|---|
| To: | Board of Adjustment |
| Case No.: | A-13-009 |
| Date: | January 14, 2013 |
| Applicant: | Laurie McKinney |
| Owner: | Gates Realty, LLC |
| Location: | 2955 and 2969 Nacogdoches Road |
| Legal Description: | Lot 17, Block 1, NCB 13146 |
| Zoning: | "O-2 AHOD" High-Rise Office Airport Hazard Overlay District and "C-2 AHOD" Commercial Airport Hazard Overlay District |
| Prepared By: | Tony Felts, Planner |

**Request**

A request for a 2-foot variance from the maximum 6-foot fence height to allow a fence 8 feet in height along a rear property line.

**Procedural Requirements**

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on December 20, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on January 11, 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 Nacogdoches Road, approximately 415 feet west of MacArthur View. The subject property is currently split zoned; with the eastern portion of the lot zoned "C-2 AHOD" Commercial Airport Hazard Overlay District and the western portion of the lot zoned "O-2 AHOD" High-Rise Office Airport Hazard Overlay District.

The applicant is proposing to construct a new office building on the subject property. As part of the new construction, an 8-foot high wire and pipe "no climb" fence is proposed on the rear of the property. The applicant states in the application that the fence height is being requested due to debris, loitering, and damage to the property.

The property to the rear of the subject property is zoned residentially; however the land is used as the grounds of Northeast Baptist Church and the San Antonio Korean Baptist Church. Further, the property and the useable area of the church are separated from each other by an 80-foot wide drainage ditch and easement.

**Subject Property Zoning/Land Use**

| Existing Zoning | Existing Use |
|---|---|
| O-2 AHOD (Office) and C-2 AHOD (Commercial) | Vacant (Office building under construction) |

**Surrounding Zoning/Land Use**

| Orientation | Existing Zoning District(s) | Existing Use |
|---|---|---|
| North | R-6 AHOD (Residential) | Church |
| South | R-6 AHOD (Residential) | Single-Family Residences |
| East | C-2 AHOD (Commercial) | Offices |
| West | MF-33 AHOD (Residential) | Condominiums |

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Downtown Neighborhood Plan. The subject property is not located within the boundaries of a registered neighborhood association; however, the Forest Oak Neighborhood Association is within 200 feet (directly across Nacogdoches Road).

**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:*

   Fence height regulations are designed to promote orderly development, reduce visual distraction, and create a sense of community. The applicant states that there has been trespassing and vandalism on the site, but provided no documentation of such. Additionally, the San Antonio crime tracking website, raidsonline.com, did not indicate any criminal activity in the area.

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

   The applicant has not demonstrated that any special conditions exist on the site to warrant a variance being granted. There are no special buffering requirements warranted and there are no unique topographical features readily apparent.

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

   The spirit of the ordinance will not be observed as there are no special conditions readily apparent to warrant the granting of the requested variance.

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 AHOD (Office) and C-2 AHOD (Commercial) zoning district.

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

   Granting of the variance will not have an adverse effect on adjacent property. The most affected property, the church property to the rear, is separated from the subject property (and the proposed fence) by a large drainage ditch.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

   There are no special or unique circumstances readily apparent to warrant the granting of the requested variance.

**Alternatives to Applicant's Request**

The alternative to the applicant's request is to build the fence at the maximum height allowed – six feet.

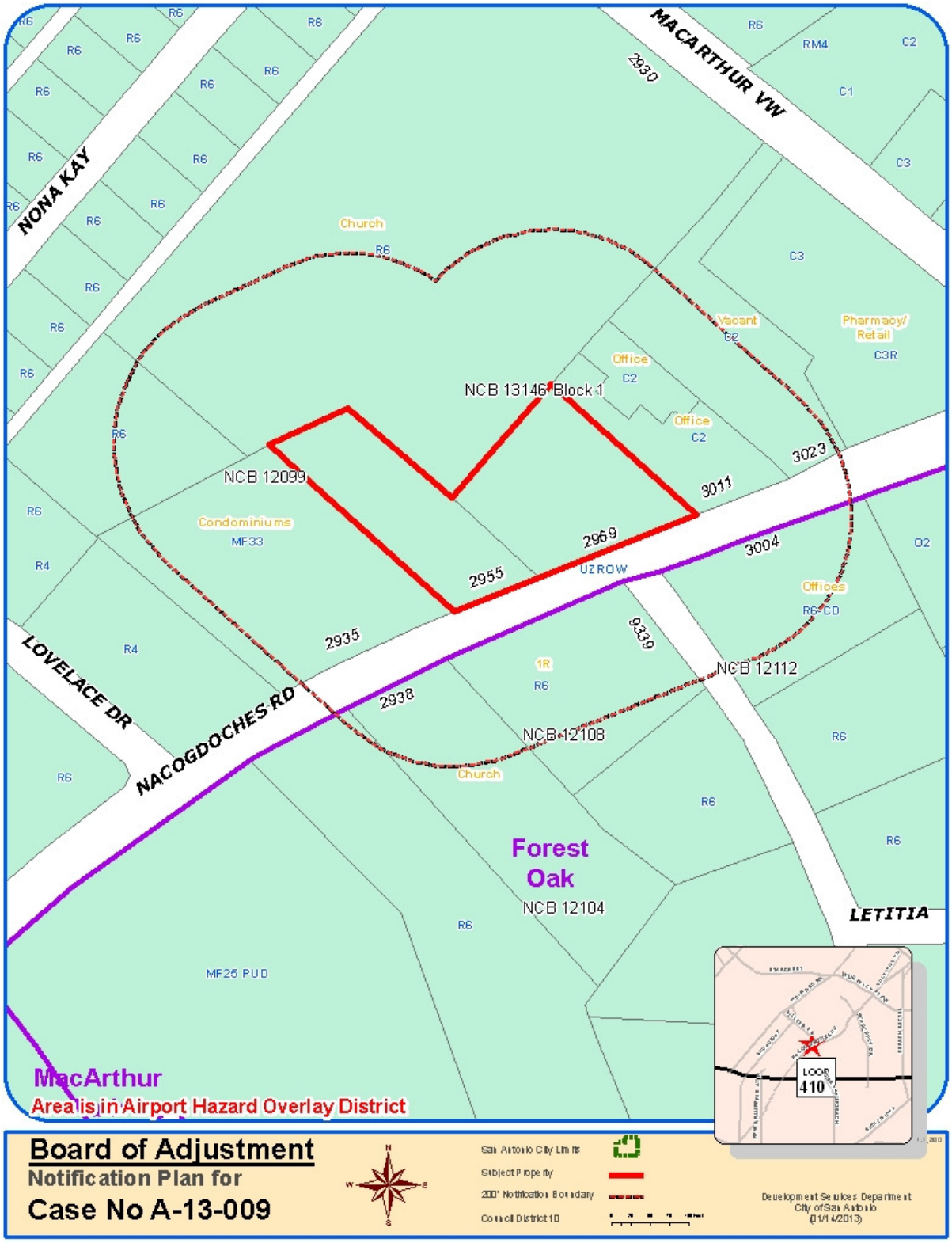
**Staff Recommendation**

Staff recommends **denial of A-13-009** because the applicant has failed to satisfy all of the requirements and conditions for a variance to be granted.

**Attachments**

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

**Attachment 1**
**Notification Plan**



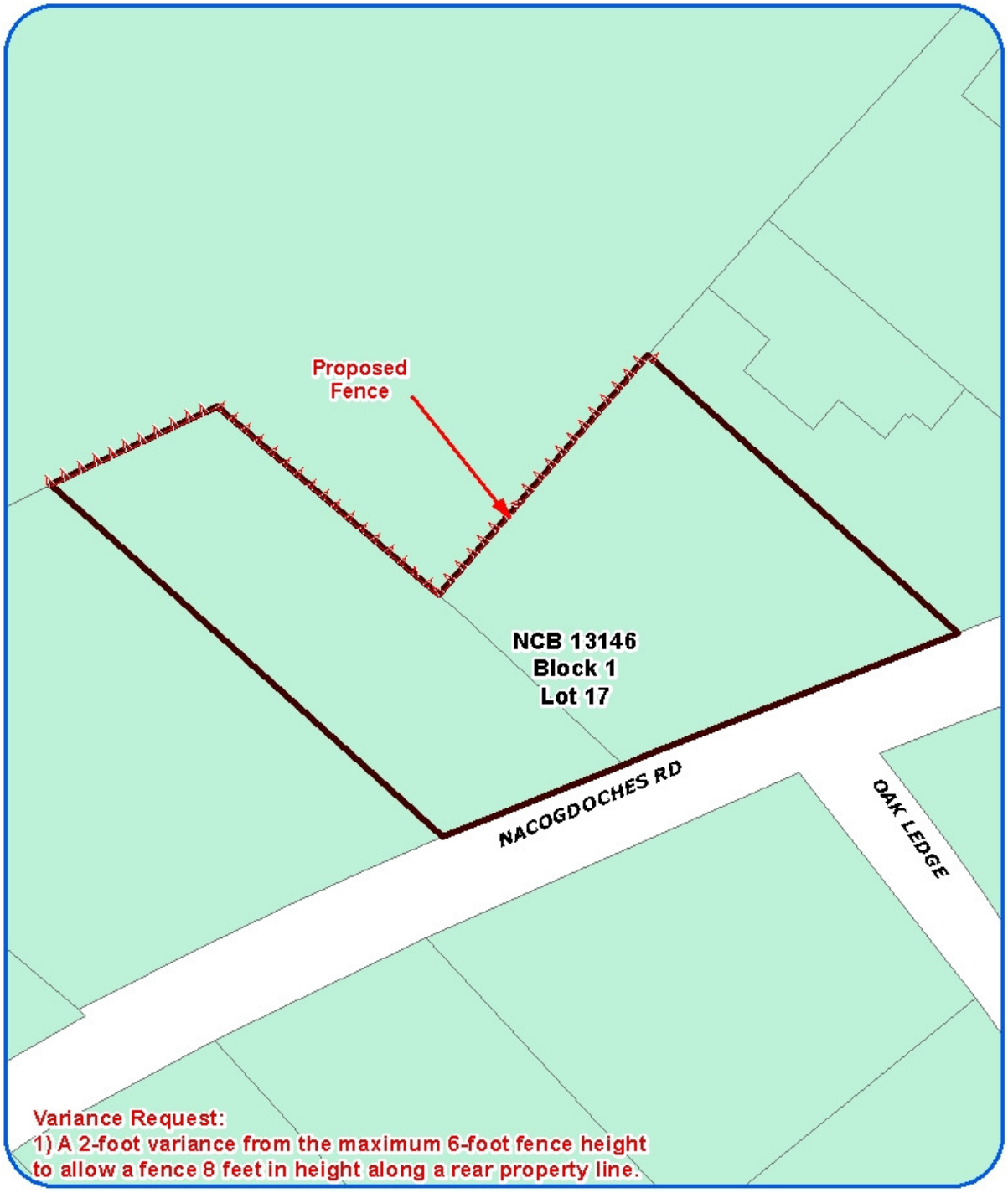
**Attachment 1 (Continued)**
**Notification Plan**

**Board of Adjustment**
**Notification Plan for**
**Case No A-13-009**

San Antonio City Limits
Subject Property
200' Notification Boundary
Council District 10

Development Services Department
City of San Antonio
(01/14/2013)

**Attachment 2**
**Plot Plan**




**Board of Adjustment**
**Plot Plan for**
**Case No A-13-009**

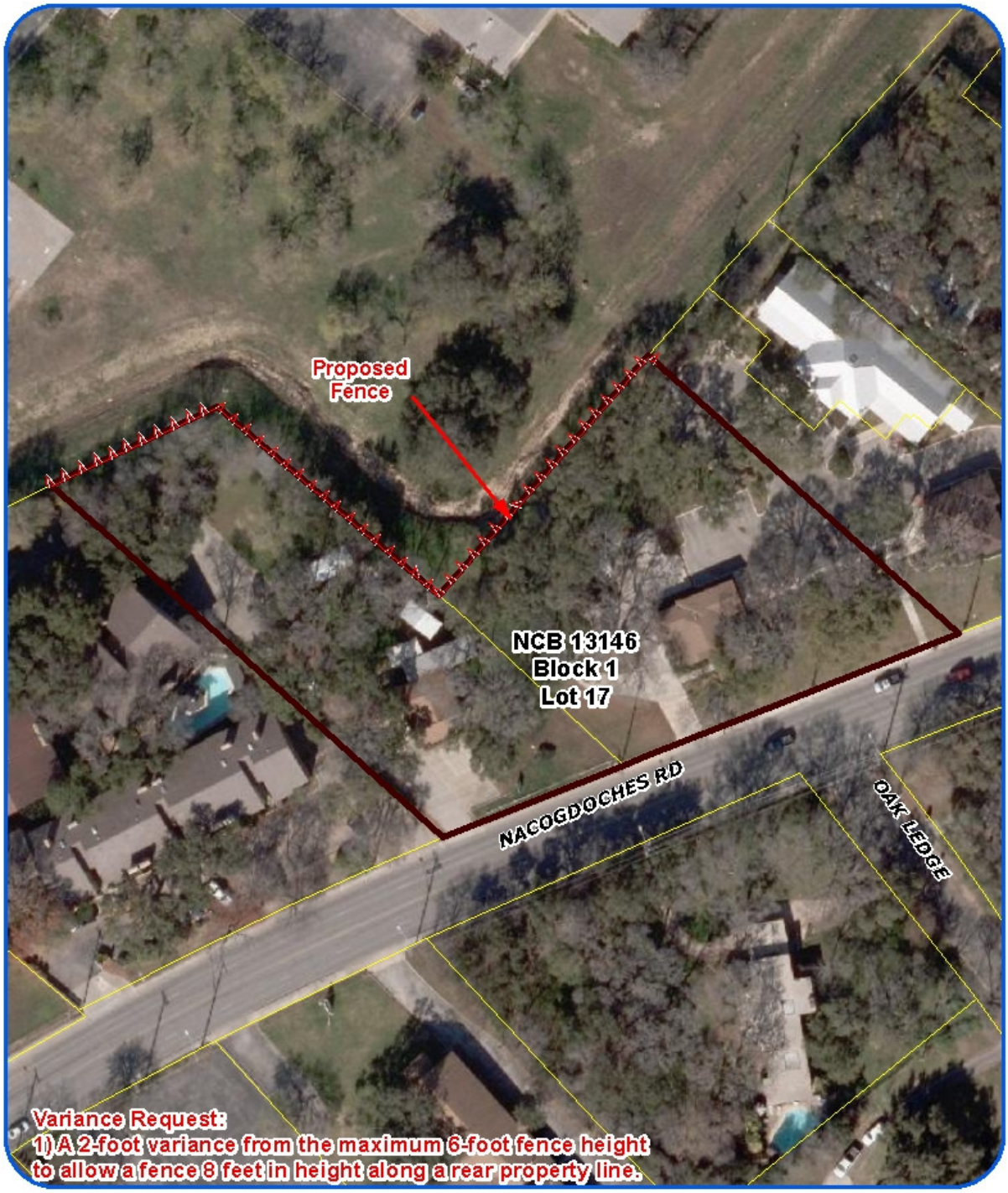
Fence

Council District 10

**2955 and 2969 Nacogdoches**

Development Services Department
City of San Antonio
(01/14/2013)

**Attachment 2 (Continued)**
**Plot Plan**




**Board of Adjustment**
**Plot Plan for**
**Case No A-13-009**

Fence

Council District 10

**2955 and 2969 Nacogdoches**

Development Services Department
City of San Antonio
(01/14/2013)

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

| | |
|---|---|
| To: | Board of Adjustment |
| Case No.: | A-13-010 |
| Date: | January 14, 2012 |
| Applicant: | Michel Alexis Courtines |
| Owner: | Michel & Erin Courtines |
| Location: | 1111 Marchesi |
| Legal Description: | Lot 108, Block 2, NCB 17613 |
| Zoning: | "R-6 PUD ERZD MLOD" Residential Planned Unit Development Edwards Recharge Military Lighting Overlay Districts |
| Prepared By: | Margaret Pahl, AICP Senior Planner |

**Request**

The applicant is requesting a 2-foot variance from the 6-foot maximum fence height to allow construction of an 8-foot screening fence for a length of 58-feet along a corner 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 December 21, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on January 11, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

**Executive Summary**

The subject property is a vacant lot in the Pinnacle PUD Subdivision, approved in 1995. The 112-acre subdivision included 127 lots, varying in size from 16,000 square feet to over 3 acres. Very few vacant lots remain. The subject lot is surrounded on three sides by roads, the only lot in the subdivision with this constraint. The entire subdivision was platted on property with steep slopes. The roads surrounding this lot slope uphill on Campanile and downhill on Marchesi. There is a 12-foot elevation difference between property corners along the property line abutting Campanile. A 40-foot building setback required here offered the designer adequate area to address this slope and retain existing shrub oak for screening. Along Marchesi however, a

smaller 10-foot building setback reduces options. The buildable area of the lot is 7-feet below the street elevation along this property line, significantly reducing the privacy of the residents inside the home. In response to this challenge, the owner is requesting a variance to allow installation of an 8-foot screening fence (rock wall) along this property line for a length of 58 linear feet. As the fence extends beyond the front façade of the home, the height is reduced to 3-feet, consistent with the height allowed in the UDC. The proposed fence extends only 9.5-feet beyond the front façade, leaving over 40-feet for clear vision area.

**Subject Property Zoning/Land Use**

| Existing Zoning | Existing Use |
|---|---|
| "R-6 PUD ERZD MLOD" Residential Planned Unit Development Edward Recharge Military Lighting Overlay District | Vacant lot |

**Surrounding Zoning/Land Use**

| Orientation | Existing Zoning District(s) | Existing Use |
|---|---|---|
| North | "R-6 PUD ERZD MLOD" Residential Planned Unit Development Edward Recharge Military Lighting Overlay District | Single-Family Residential |
| South | "R-6 PUD ERZD MLOD" Residential Planned Unit Development Edward Recharge Military Lighting Overlay District | Home under construction |
| East | "R-6 PUD ERZD MLOD" Residential Planned Unit Development Edward Recharge Military Lighting Overlay District | Single-Family Residential |
| West | "R-6 PUD ERZD MLOD" Residential Planned Unit Development Edward Recharge Military Lighting Overlay District | Single-Family Residential |

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the North Sector Planning Area, and designated for future land use of rural estate. The half-acre parcel is consistent with these goals. No neighborhood association has been registered in this area, but the Pinnacle Homeowner's 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.*

The public interest is defined as the general health, safety and welfare of the public at large. The public in this case is the people who live on this section of Marchesi and daily drive along

this property line. The Institute of Traffic Engineers (ITE) recommends a 30-foot sight triangle for intersections. The applicant has provided a minimum of 50-feet between the intersection and the start of the screening fence to ensure adequate sight distance. In addition, the property is within a gated community served by private streets. Only nine single family homes gain access from this cul-de-sac. Therefore, the variance would not be contrary to the public interest.

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

A literal enforcement of the ordinance would allow a 6 foot screening fence in the side yard, but with the house constructed at 7-feet below the street level, the second-story windows are very close to the street level. A level of privacy afforded to most homes in the area is not available to this property owner because of this elevation difference. Having unfettered visibility into the bedrooms of the home creates an unnecessary hardship.

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

The spirit of the ordinance is represented by its equal application to all citizens. In certain instances however, a unique property characteristic warrants flexibility from a provision. For this lot, several characteristics limit design options. The lot is surrounded on three sides by streets, a situation only rarely created. Sloping land likely resulted in the lot having streets around it to navigate the slope to a street-edge level enough for a driveway. In addition, a large amount of dirt seems to have been removed from the lot to create a large level area for the home construction. As a result, the lot is below two of the surrounding streets.

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-6 PUD 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.*

Several rock fences have been constructed along property lines in this planned unit development. A repeated, cohesive design would indicate some architectural controls by the Home Owners' Association. The HOA has approved the proposed screening fence.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

The applicant is requesting a variance from a fence height limitation along a property line where the street is elevated 7-feet above the finished floor elevation of the proposed house. In addition, the lot has streets along three of its property lines. The elevation difference is allowing views from the street into the bedrooms on the second story. The owner did not create this situation and it is a unique circumstance in the district.

## Alternatives to Applicant's Request

The alternative to the applicant's request is to construct a 6-foot screening fence as allowed in the ordinance.

## Staff Recommendation

Staff recommends **approval of A-13-010,** based on the following findings:

1. The parcel is surrounded on three sides by local streets, two of which are elevated above the building pad site;
2. The additional fence height is required to provide a similar level of privacy as a six-foot fence on a flat lot.

## Attachments

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

**Attachment 1**
**Notification Plan**

**Attachment 2**
**Plot Plan**

**Board of Adjustment**
**Plot Plan for**
**Case No A-13-010**

Fence

Council District 9

**1111 Marchesi**

Development Services Department
City of San Antonio
(01/14/2013)

**Attachment 3**
**Site Photos**

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

| | |
|---|---|
| To: | Board of Adjustment |
| Case No.: | A-13-011 |
| Date: | January 14, 2013 |
| Applicant: | Hilda De Hoyos |
| Owner: | Hilda De Hoyos |
| Location: | 1910 W. Gramercy Place |
| Legal Description: | Lot 25, Block 32, NCB 1934 |
| Zoning: | "R-6 H AHOD" Residential Historic Airport Hazard Overlay District |
| Prepared By: | Margaret Pahl, AICP Senior Planner |

**Request**

The applicant is requesting a special exception for a one-operator beauty shop.

**Procedural Requirements**

A special exception is a decision vested with the Board of Adjustment and includes performance standards specific to each type of exception. 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 December 20, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on January 11, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

**Executive Summary**

The subject property is a single-family home, located on an 8,000 square foot lot in the Monticello Park Historic District. The home was constructed in 1940 and contains approximately 2,100 feet of gross living area. The owner has been a licensed cosmetologist for over 30 years and is seeking approval for a one-operator beauty shop within the home. The UDC includes standards, detailed in Section 35-399.01, for the review of a one-operator beauty shop and delegates the authority to the Board of Adjustment through a special exception process.

- One of the standards limits the maximum percentage of floor area within the home dedicated to the proposed use as 25%; the application complies with this provision, with the designation of 162 square feet proposed for use as the beauty shop. This totals 7.7% of the gross floor area.

- Another standard requires the hours of operation to be specified and approved by the Board. The applicant is requesting approval to operate the shop from Tuesday through Saturday between 9:00 am and 6:00 pm. Services will be available with an appointment only.
- The UDC also states that a person not residing on the premises may not be employed in the operation of the shop. The owner will not have any employees.
- Signs advertising the beauty shop are not permitted, but a name plate not exceeding one square foot is allowed when attached flat to the main structure. The applicant has agreed to this limitation.
- The UDC also specifies that the duration of the special exception is a component of the process and decided by the Board; the applicant is requesting approval of the maximum allowed duration of four years.

**Subject Property Zoning/Land Use**

| Existing Zoning | Existing Use |
|---|---|
| R-6 H AHOD Residential Airport Hazard | Single-Family Residential |

**Surrounding Zoning/Land Use**

| Orientation | Existing Zoning District(s) | Existing Use |
|---|---|---|
| North | R-6 H AHOD Residential Airport Hazard | Single-Family Residential |
| South | R-6 H AHOD Residential Airport Hazard | Single-Family Residential |
| East | R-6 H AHOD Residential Airport Hazard | Single-Family Residential |
| West | R-6 H AHOD Residential Airport Hazard | Single-Family Residential |

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Near Northwest Planning Area and identified for low-density residential land uses. It is also within the boundaries of both the Jefferson and Woodlawn Lake Neighborhood Associations. As such, the associations were notified and asked to comment.

**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 UDC has established performance measures which, when followed, eliminate the anticipated impacts from the home occupation. The requested special exception is in harmony with the spirit

and purpose of this chapter in that the proposed one-operator beauty shop will follow the specified criteria established in Section 35-399.01 of the UDC.

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

The requested special exception will further serve the public welfare in that this beauty shop 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. Under the standards for the special exception, there should be no obvious indication that a business is in operation. Only a small sign, 1-square foot in size, is allowed. In addition, the special exception is only valid for a specific time frame. Complaints and concerns voiced by neighbors can be cause for a future decision to revoke the special exception in accordance with Section 35-406 or not approve a renewal request.

*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 zoning district in which the subject property is located; the proposed beauty shop will remain confined to under 10% of the gross floor area of the primary residence. In addition, adequate space is available on site to park the anticipated customer. On-street parking is also available.

*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 health, safety, and general welfare of the public at large. It has been determined that a home-owner can conduct certain businesses without a negative impact on neighboring properties. This one-operator beauty shop will not impact the public at large, nor will it weaken the regulations established for this district.

## Staff Recommendation

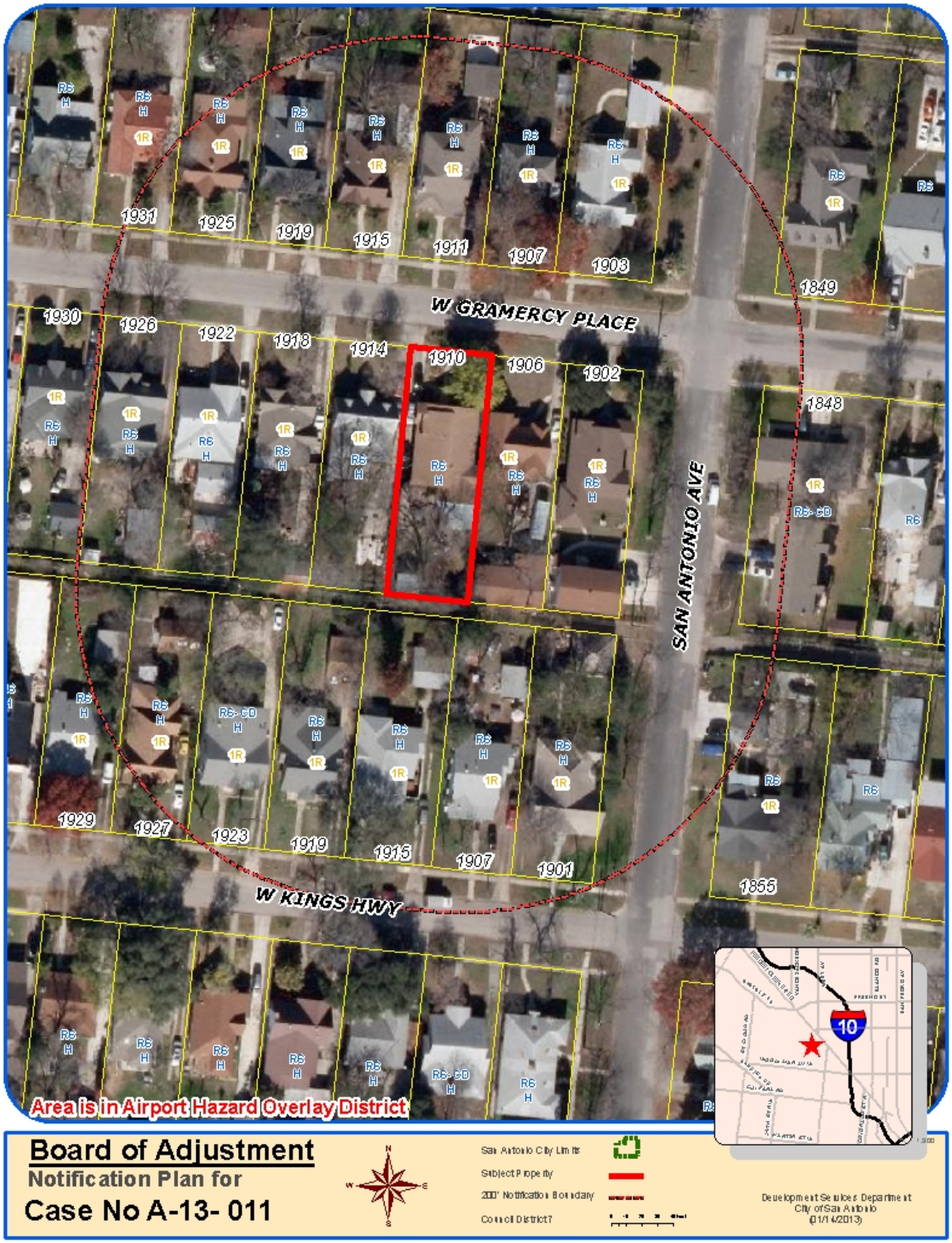
Staff recommends **approval of A-13-011,** based on the following findings:

1. The applicant has agreed to conduct the business in accordance with the required provisions outlined in Section 35-399.01;
2. There will be not alteration to the exterior of the home as a result of the business being conducted inside; and
3. The applicant has an established clientele who will visit by appointment during the hours of operation specified by the Board.

**Attachments**

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

**Attachment 1**
**Notification Plan**



**Attachment 2**
**Plot Plan**

**Board of Adjustment**
**Plot Plan for**
**Case No A-13-011**

Council District 7

**1910 W Gramercy Pl**

Development Services Department
City of San Antonio
(01/14/2013)

**Attachment 3**
**Site Photos**

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

| | |
|---|---|
| To: | Board of Adjustment |
| Case No.: | A-13-012 |
| Date: | January 14, 2013 |
| Applicant: | Pura Zavala |
| Owner: | Pura Zavala |
| Location: | 2031 West Pyron Avenue |
| Legal Description: | Lots 46 and 47, Block 30, NCB 8523 |
| Zoning: | "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District |
| Prepared By: | Tony Felts, Planner |

**Request**

A request for a special exception to allow a four-year renewal of a special exception granted February 23, 2009, for a one-operator beauty or barber shop.

**Procedural Requirements**

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on December 20, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on January 11, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

**Executive Summary**

The subject property is located at the northwest corner of West Pyron Avenue and Otto Street and is currently developed with an existing single-family residence which has contained within a one operator beauty shop.

The Board of Adjustment has granted approvals for special exceptions to operate this one operator beauty shop on the following dates: July 15, 1996; December 7, 1998; December 4, 2000; January 6, 2003; January 3, 2005; March 5, 2007; and February 23, 2009. 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.

The applicant has proposed hours of operation as Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, 9:00am until 5:00pm. The proposed hours of operation total 40, and these hours

of operation are the same as were previously approved. The applicant will be the only cosmetologist at the location.

It has been the Board's policy that when considering renewals to a granted special exception application for one operator beauty salons to time limit any approval to four years after an initial two-year period. As such, if approval is contemplated by the Board, it should be for a time limit of four years (48 months).

**Subject Property Zoning/Land Use**

| Existing Zoning | Existing Use |
|---|---|
| R-6 AHOD (Residential) | Single-Family Dwelling with a one-operator beauty salon |

**Surrounding Zoning/Land Use**

| Orientation | Existing Zoning District(s) | Existing Use |
|---|---|---|
| North | I-1 AHOD (Industrial) | Single-Family Dwelling |
| South | R-6 AHOD (Residential) | Church |
| East | R-6 AHOD (Residential) | Single-Family Dwelling |
| West | R-6 AHOD (Residential) | Single-Family Dwelling |

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Kelly/South San PUEBLO Neighborhood Plan. The subject property is not located within the boundaries of a registered Neighborhood Association.

**Criteria for Review**

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

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

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

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

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

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

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

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

   The requested special exception will not alter the essential character of the district as the use will likely by 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

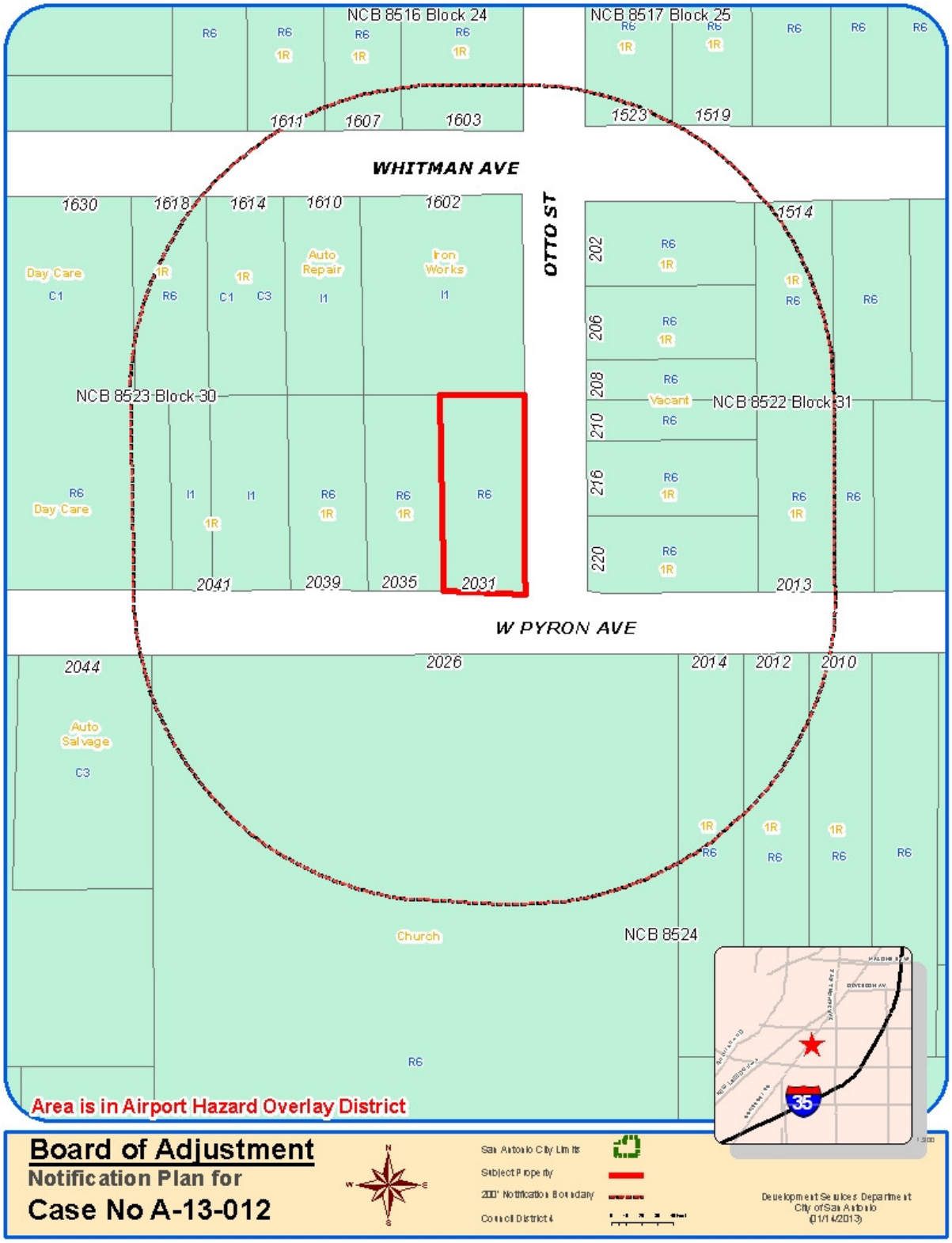
Staff recommends **approval of A-13-012 for a period of 48 months with hours of operation not to exceed 40 hours per week (Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, 9:00am until 5:00pm),** due to the following reasons:

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

## Attachments

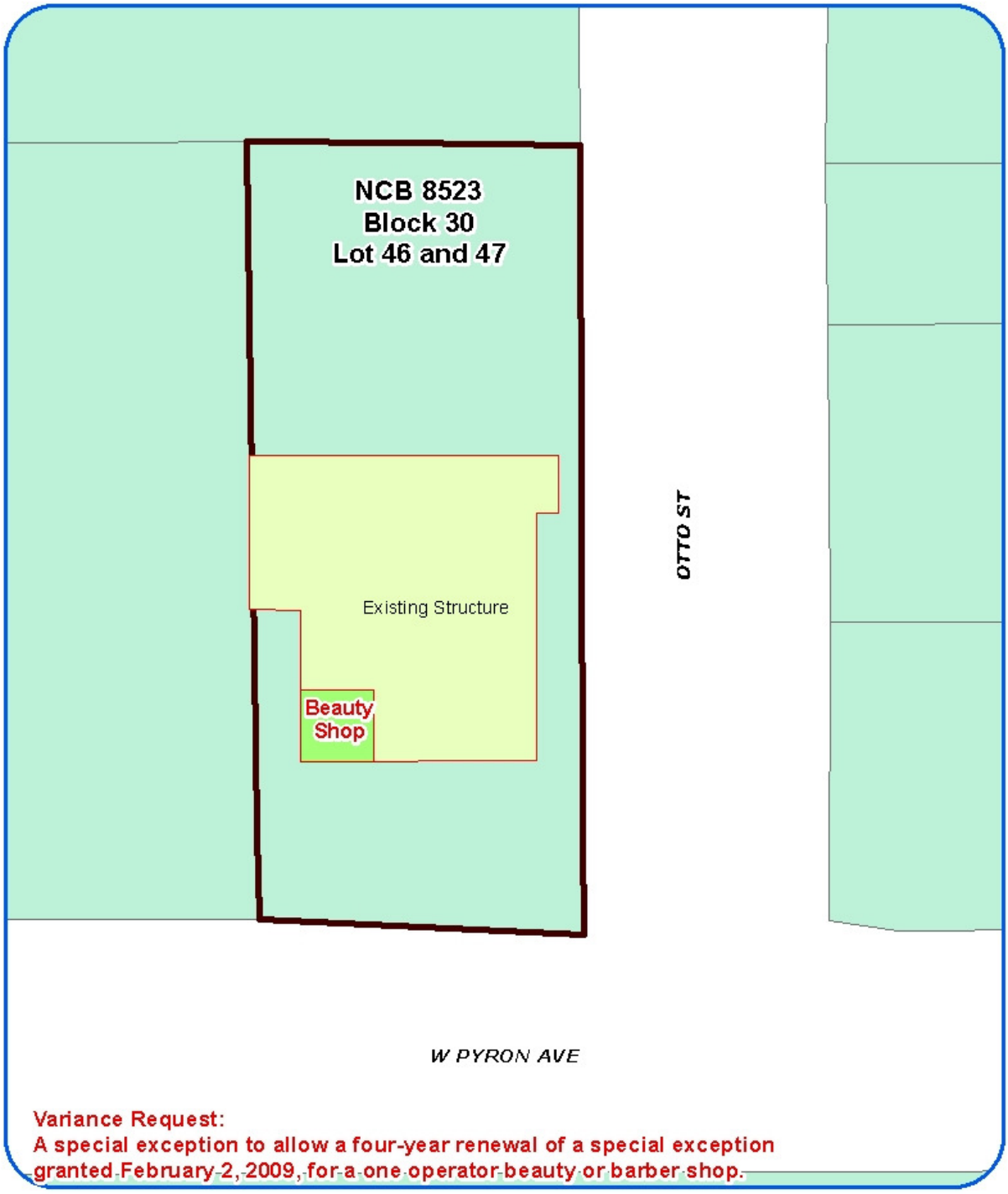
Attachment 1 – Notification Plan (Location Map)
Attachment 2 – Plot Plan

**Attachment 1**
**Notification Plan**



**Attachment 1 (Continued)**
**Notification Plan**

**Attachment 2**
**Plot Plan**



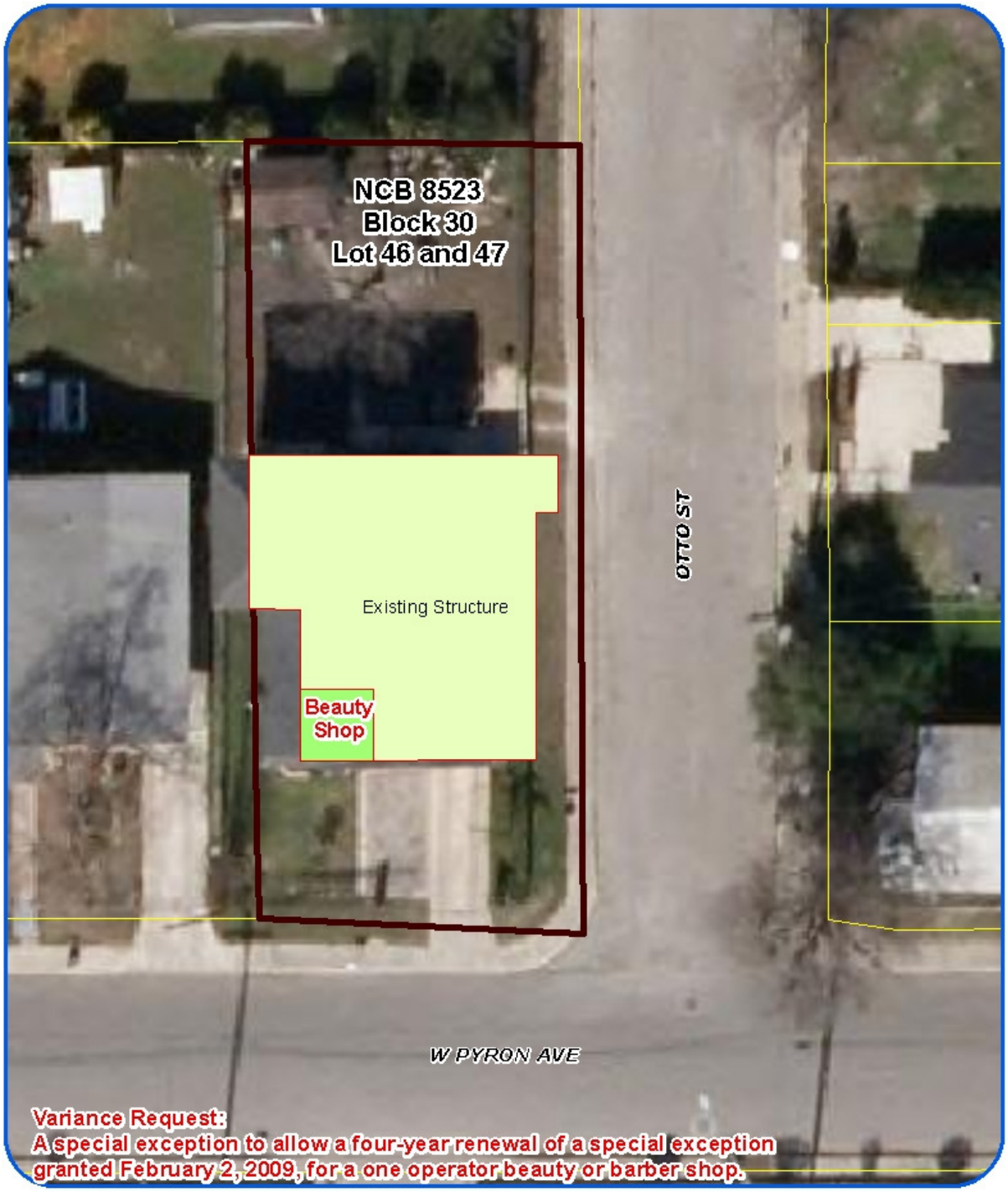

**Board of Adjustment**
**Plot Plan for**
**Case No A-13-012**

**2031 W. Pyron Ave.**

Council District 4

Development Services Department
City of San Antonio
(01/14/2013)

**Attachment 2 (Continued)**
**Plot Plan**




**Board of Adjustment**
**Plot Plan for**
**Case No A-13-012**

Council District 4

**2031 W. Pyron Ave.**

Development Services Department
City of San Antonio
(01/14/2013)

**Attachment 3**
**Site Photo**

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

| | |
|---|---|
| To: | Board of Adjustment |
| Case No.: | A-13-013 |
| Date: | January 14, 2012 |
| Applicant: | Iron Horse Apartments 1, LTD. |
| Owner: | Iron Horse Apartments 1, LTD. |
| Location: | 2439 and 2441 NE Loop 410 |
| Legal Description: | Lot 7 and a portion of Lot 6, NCB 13868 |
| Zoning: | "C-2 & MF33 AHOD" Commercial & Multi-family Residential Airport Hazard Overlay District |
| Prepared By: | Margaret Pahl, AICP Senior Planner |

**Request**

The applicant is requesting a 305-foot variance from the maximum 90-foot front yard setback in order to allow an existing building 395-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 December 21, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on January 11, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

**Executive Summary**

The subject property is an 18 acre site, developed in the 1970s with 464 apartments in several buildings for an overall density of 25 units per acre. The property is shaped somewhat like a flag lot, with a long driveway entrance parcel that widens out in the rear. This section of the property is 120-feet wide, creating a landscaped entrance into the complex. A security gate has been constructed approximately 200-feet inside the property. This narrow portion of the lot is encumbered by a 50-foot wide electric & gas easement along its east property line. A pipeline easement, also 50-feet in width, encumbers the front portion of the lot along the street. Building #1 is located 395-feet back from the front property line, a feature that makes this building non-

conforming and threatens its ability to be rebuilt in the same location. According to Table 310-1, buildings in the MF-33 district, on a parcel at least 100-feet wide are subject to a maximum front setback of 90-feet. The owner is seeking a variance from this ordinance provision, which if granted, would authorize this setback and designate this building as conforming.

**Subject Property Zoning/Land Use**

| Existing Zoning | Existing Use |
|---|---|
| "C-2 & MF-33 AHOD" Commercial/ Multi-Family Residential Airport Hazard Overlay | Multi-family Residential |

**Surrounding Zoning/Land Use**

| Orientation | Existing Zoning District(s) | Existing Use |
|---|---|---|
| North | RM-4 AHOD Residential Airport Hazard | Multi-Family Residential |
| South | R-5 AHOD Residential Airport Hazard | Single-Family Residential |
| East | R-6 AHOD Residential Airport Hazard | Drainage Channel |
| West | C-3 AHOD Residential Airport Hazard | Office/Warehouse |

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the San Antonio International Airport Vicinity Plan area and is designated as appropriate for high-density housing. It is also within the boundaries of the Greater Marymont Neighborhood Association. As such, they were notified of the application 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. A maximum setback is generally established to create a streetscape of buildings in a consistent location along a block face. Building proximity also adds natural surveillance, thought to discourage criminal activity. The visual impact of maximum setbacks can be dramatic in a residential neighborhood or a neighborhood commercial district. There is far less potential visual impact from a large maximum setback, particularly in an area like the subject property. The property fronts on a freeway access road, with an office/warehouse use next door. The large landscaped setback does not detract from the public interest.

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

The existing distant setback allows for a long driveway which in this situation is very beneficial. The complex includes 464 dwelling units and two points of ingress and egress. The Institute of Traffic Engineers estimates that over 200 vehicles will use this driveway during the

morning peak hour. The driveway can currently stack approximately 15 vehicles at one time, providing a safe way to exit the project. Constructing a building with its necessary parking within this area, while avoiding the easements, would reduce the stacking potential and result in an unnecessary hardship.

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

The spirit of the ordinance is represented by its equal application to all citizens. In certain instances however, a unique property characteristic warrants flexibility from a provision. This parcel is 120-feet wide, but it has an easement reducing its useable area to 70-feet. Within the remaining area, access is provided for 464 dwelling units which generate over 3,000 vehicle trips each day. The competing public interests will be served by authorizing a greater setback in this apartment complex.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the C-2 & MF-33 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 existing 395-foot setback, in place since 1975, has established the character in this block. Mature trees grow along the access driveways. The frontage is zoned for commercial uses and is developed nearby with a technology business park, office buildings and a hotel.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

The applicant is requesting a variance from a maximum front setback requirement which currently makes one building non-conforming. The ordinance was changed after the building was constructed, so the building is permitted to remain in place unless and until it is destroyed by more than 50% of its replacement value. Non-conforming status can impact a project's financial status, but the issue is larger than a non-conforming rating. It is the disruption caused to the access of the remaining units should the setback requirement force a building to be reconstructed on the narrow portion of the parcel. The International Fire Code requires a minimum of two points of access into an apartment complex with more than 100 units. It would be unsafe if one of these access points were blocked, even temporarily. Therefore, the width of the parcel, the 50-foot easement, and the existing site design providing access to the dwelling units create a unique circumstance which warrants the requested variance.

## Alternatives to Applicant's Request

The alternative to the applicant's request is to allow the building to continue with non-conforming status and apply for the requested variance if and when the building is destroyed.

## Staff Recommendation

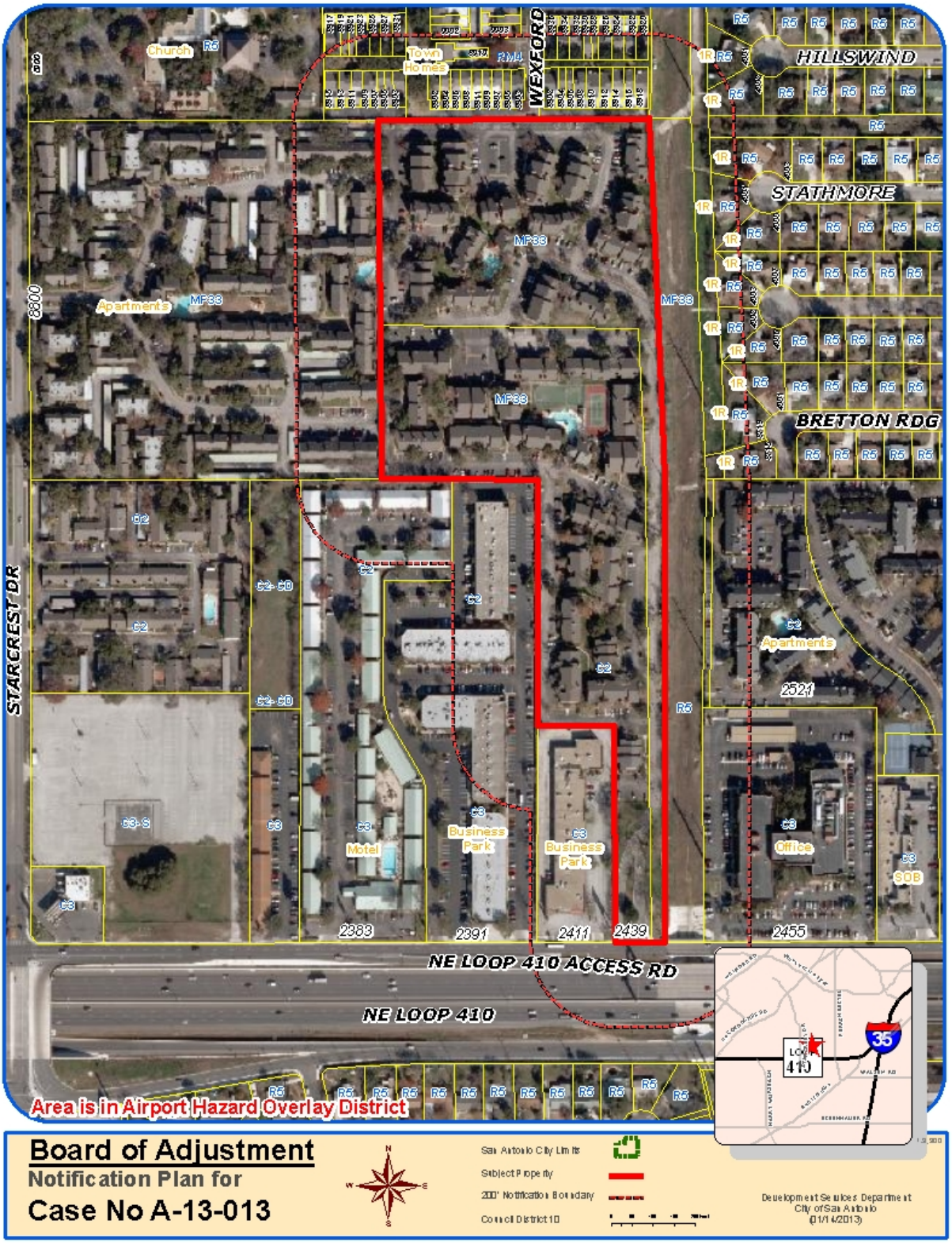
Staff recommends **approval of A-13-013,** based on the following findings:

1. The parcel is encumbered by a 50-foot easement, reducing its useable width to 70-feet.
2. Access is provided through the parcel for 464 dwelling units, which requires a long stacking area during peak hours.
3. International Fire Code requires two points of access for a complex with more than 100 units.

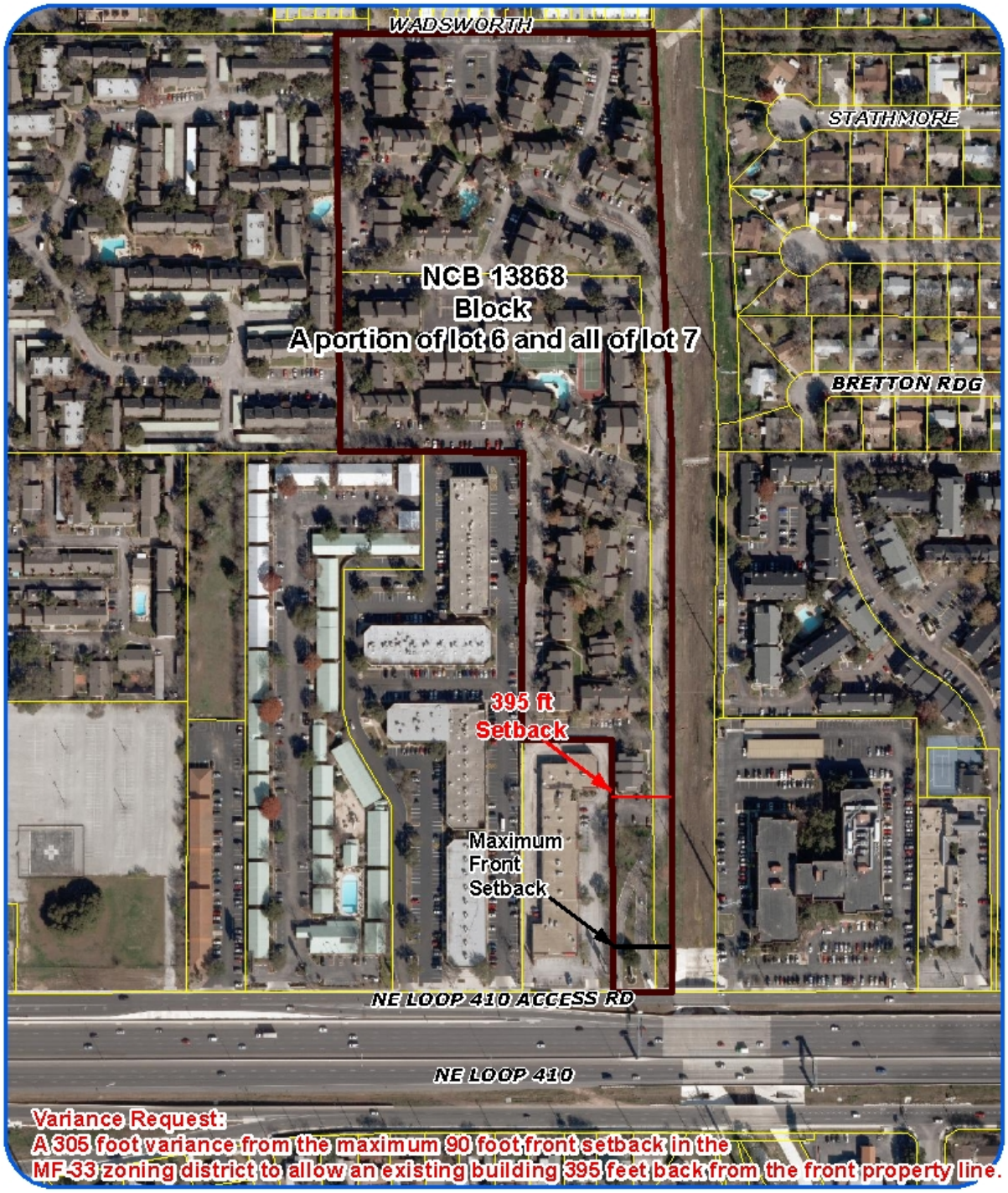
**Attachments**

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

**Attachment 1**
**Notification Plan**



**Attachment 2**
**Plot Plan**




**Board of Adjustment**
Plot Plan for
Case No A-13-013

2439 & 2441 NE Loop 410

Council District 10

Development Services Department
City of San Antonio
(01/14/2013)

**Attachment 3**
**Site Photos**

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

| | |
|---|---|
| To: | Board of Adjustment |
| Case No.: | A-13-014 |
| Date: | January 14, 2013 |
| Applicant: | Kaufman and Killen, Inc. |
| Owner: | Shavano Oak Delta OHWC, LLC |
| Location: | 14811 Huebner Road |
| Legal Description: | Lot 14, Block 4, NCB 17851 |
| Zoning: | "C-2 AHOD MLOD ERZD" Commercial Airport Hazard Overlay Camp Bullis Military Lighting Overlay Edwards Recharge Zone District and "MF-25 AHOD MLOD ERZD" Multi-Family Airport Hazard Overlay Camp Bullis Military Lighting Overlay Edwards Recharge Zone District |
| Prepared By: | Tony Felts, Planner |

**Request**

A request for a 2-foot variance from the maximum 6-foot fence height to allow a fence 8 feet in height along a rear property line.

**Procedural Requirements**

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on December 20, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on January 11, 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 Huebner Road, just east of Northwest Military Highway. The northern boundary of the property is coterminous with the boundary between the City of San Antonio and the City of Shavano Park.

The property is currently being developed as a 350-unit multi-family community. Additionally, two commercial outparcels are located along Northwest Military Highway and are associated with the community's development.

The applicant is request a 2-foot variance from the 6-foot maximum fence height allowance in order to construct an 8-foot high privacy along the northern boundary of the site. The applicant states that the additional height is necessary due to the modestly higher elevation of the adjoining property and to adequately separate to the proposed multi-family land use from the single-family land use of the properties adjacent and to the north of the subject property.

Additionally, the City of Shavano Park's Zoning Ordinance [Section 36-36(f)(3)a] allows fences in side and rear yards up to eight feet in height, provided the fences meet certain construction requirements.

**Subject Property Zoning/Land Use**

| Existing Zoning | Existing Use |
|---|---|
| C-2 AHOD MLOD ERZD (Commercial) and MF-25 AHOD MLOD ERZD (Multi-family) | Vacant / Apartment complex under construction |

**Surrounding Zoning/Land Use**

| Orientation | Existing Zoning District(s) | Existing Use |
|---|---|---|
| North | City of Shavano Park | Single Family Residences |
| South | R-6 AHOD MLOD ERZD (Single Family) | Single Family Residences |
| East | C-2 AHOD MLOD ERZD (Commercial) | Vacant |
| West | C-2 AHOD MLOD ERZD (Commercial) and C-3 AHOD MLOD ERZD (Commercial) | Bank and Retail |

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the North Sector Plan and the San Antonio International Airport Vicinity Land Use Plan. 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:

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

   Fence height regulations are designed to promote orderly development, reduce visual distraction, and create a sense of community. The UDC, however, contemplates that

sometimes higher fences are necessary in order to allow for adequate protection of users and security. In this case, the allowed fence height of 6 feet could be considered inadequate because of the scale of the project on the subject property and the single-family land use of the abutting properties to the north.

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

   A literal enforcement of the ordinance may not be a hardship for the applicant, but may be for the abutting properties to the north. Because of the scale of the project, the single-family uses to the north in Shavano Park should be afforded some buffer protection. While the fence height is allowed by Shavano Park's code, the applicant is attempting to be a good neighbor by erecting and maintaining the fence.

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

   The UDC contemplates higher fences between different intensity land uses are sometimes necessary. Further, Shavano Park's code also allows for the higher fence. Because of these allowances, 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 "C-2 AHOD MLOD ERZD" (Commercial) zoning district and "MF-25 AHOD MLOD ERZD" (Multi-family) zoning district.

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

   Granting of the variance will not have an adverse effect on adjacent property; rather, the higher fence will likely enhance the adjacent properties by adding a more substantial buffer.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

   The plight of the owners is based upon separation of different intensity land uses and the desire of the applicant to be a good neighbor to the affected citizens of the City of Shavano Park, and was not created by the owner or merely financial.

**<u>Alternatives to Applicant's Request</u>**

The alternative to the applicant's request is to lower the fence to six feet in height in accordance with Section 35-514 of the UDC; or to have each individual affected property owner in the City of Shavano Park construct and maintain a fence.

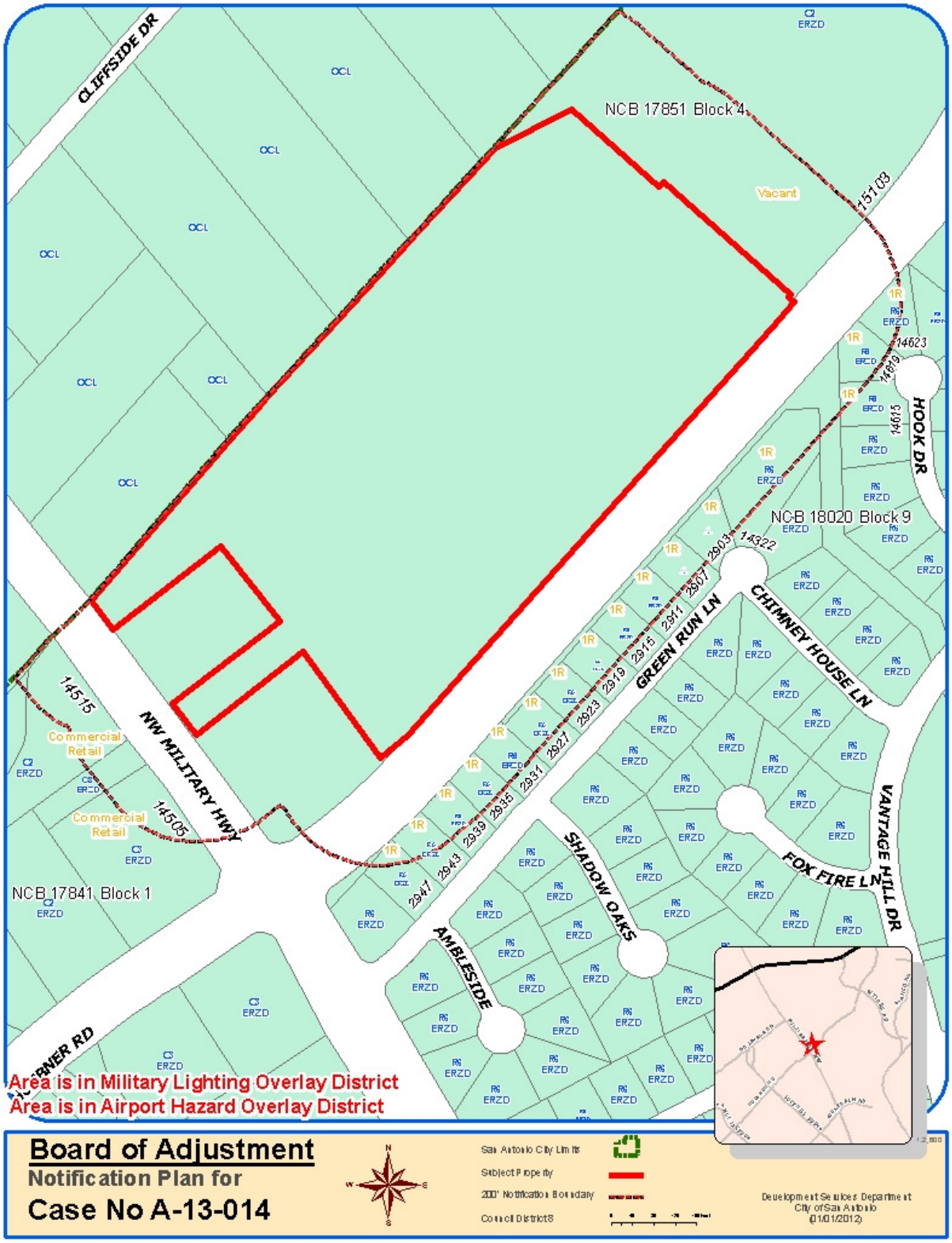
## Staff Recommendation

For the above stated reasons, staff recommends **approval of A-13-014.**

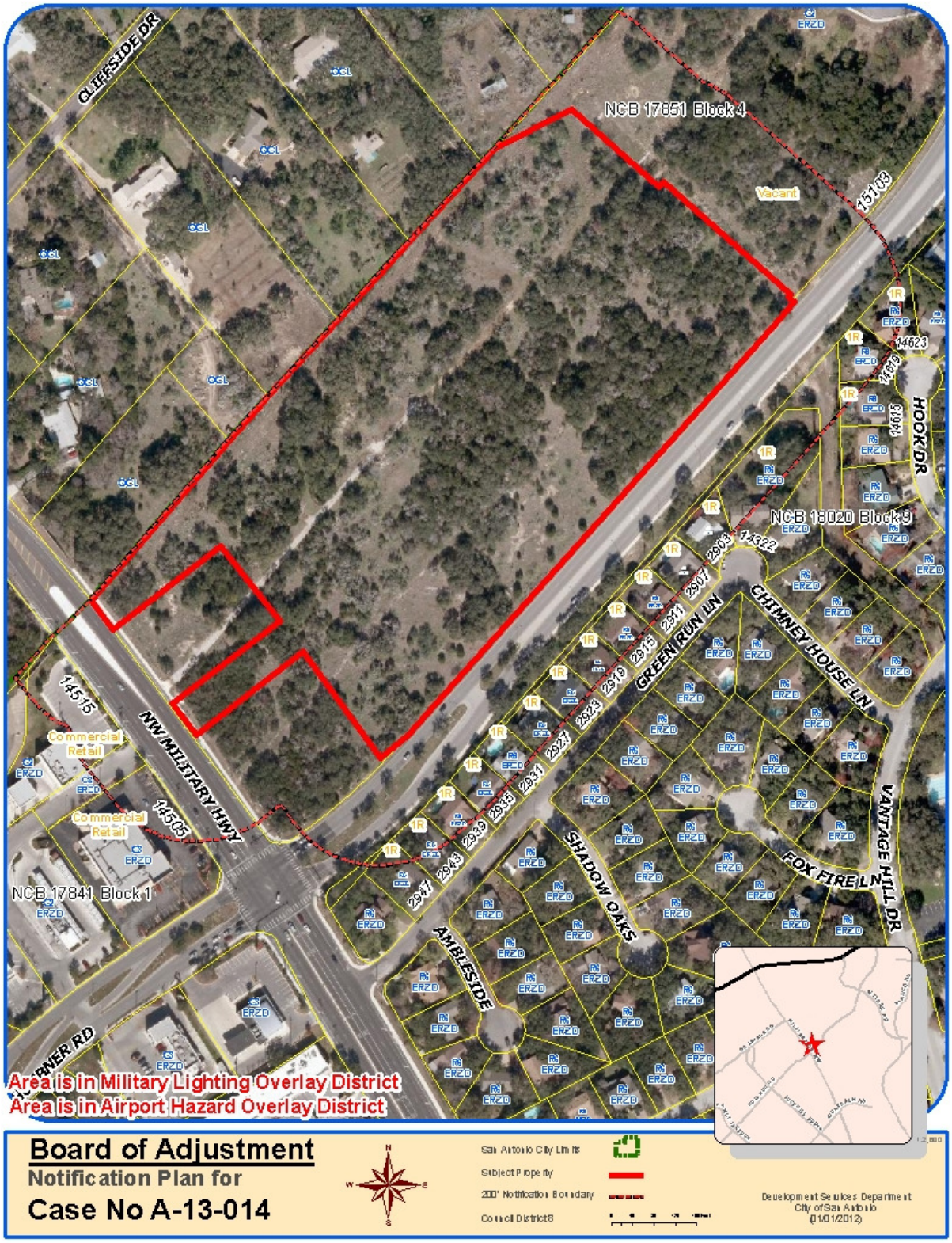
## Attachments

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

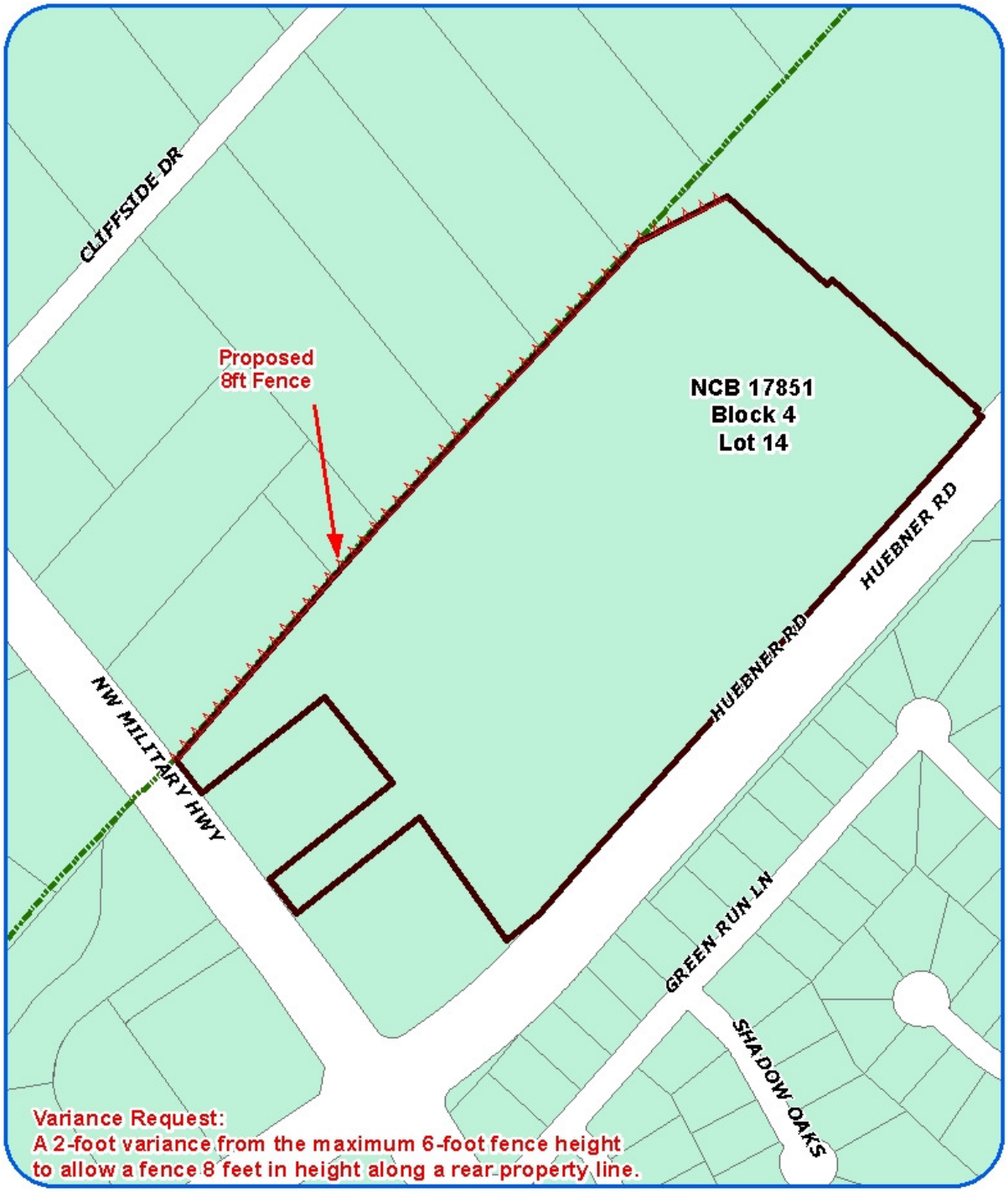
**Attachment 1**
**Notification Plan**



**Attachment 1 (Continued)**
**Notification Plan**



**Attachment 2**
**Plot Plan**




**Board of Adjustment**
**Plot Plan for**
**Case No A-13-014**

Fence

Council District 8

14811 Huebner Road

Development Services Department
City of San Antonio
(01/14/2013)

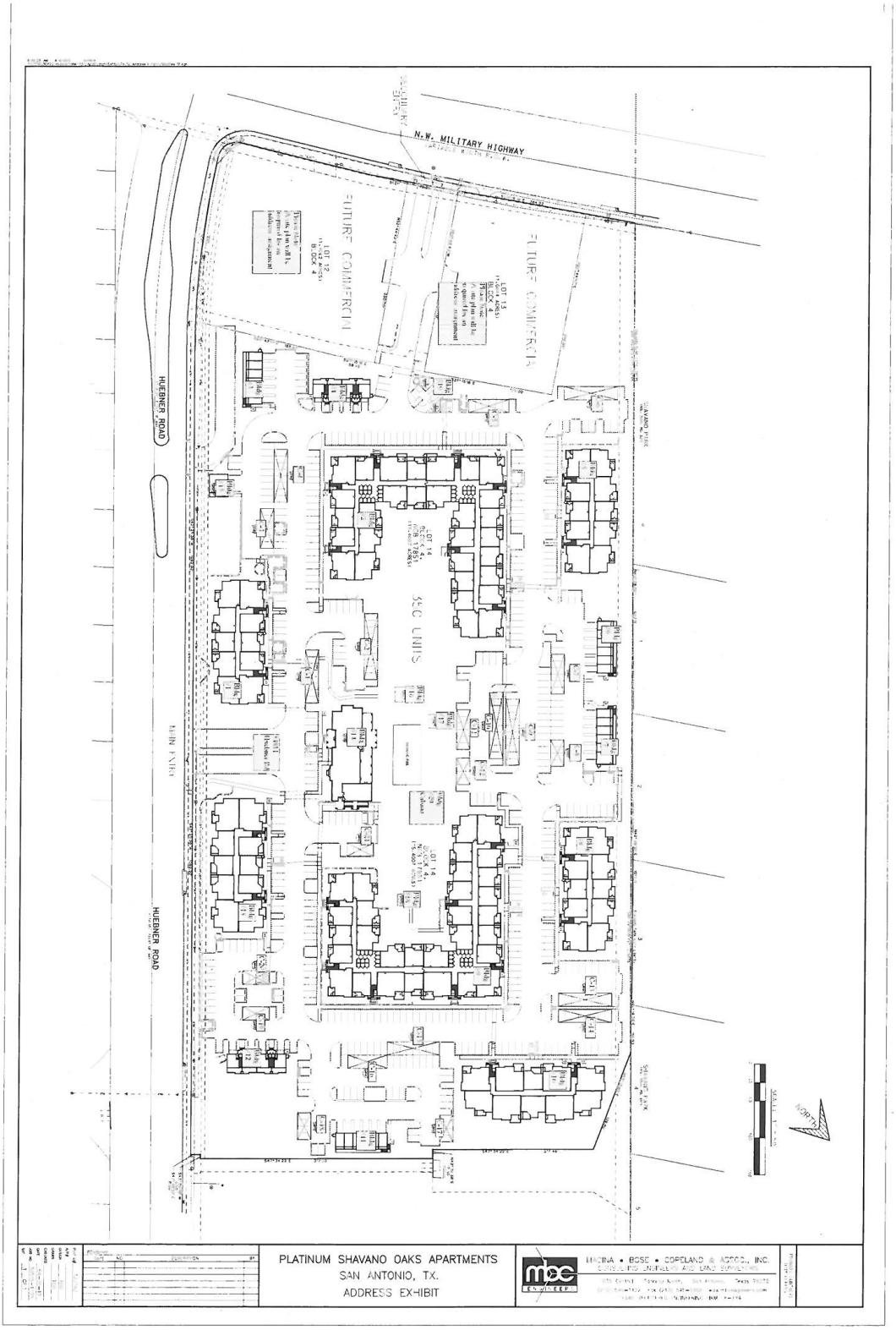
**Attachment 2 (Continued)**
**Plot Plan**

**Board of Adjustment**
**Plot Plan for**
**Case No A-13-014**

Fence

Council District 8

14811 Huebner Road

Development Services Department
City of San Antonio
(01/14/2013)

**Attachment 3**
**Proposed Site Plan**