

# City of San Antonio Board of Adjustment

## Regular Public Hearing Agenda

Monday, July 16, 2012

1:00 P.M.

Cliff Morton Development and Business Services Center, Board Room

Anytime during the public hearing, the Board of Adjustment may meet in Executive Session to consult on attorney-client matters (real estate, litigation, personnel and security matters), as well as to discuss any of the agenda items. This notice was posted on the Planning and Development Services Department website ([www.sanantonio.gov/dsd](http://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.

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1. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-12-055A:** The request of Hunter's Pond LP, for a variance from a requirement that at least 70% of the single family housing units along a block face provide a front porch of at least 8 feet in depth along at least 50% of the front façade of the house in order to allow **1)** front porches at a depth of four feet and **2)** a reduction in the minimum porch width to a linear distance equal to 18% of the front facade, located on 51 vacant lots fronting on Goose Way from 10318 to 10734. (Council District 3)
5. **A-12-064:** The request of Nick Harris, for a 100 foot variance from the minimum 200 foot spacing for free-standing signs to allow relocation of an existing monument sign located 100 feet from another free-standing sign, 18503 IH-10 West. (Council District 8)
6. **A-12-066:** The request of George Flores III, for **1)** a 3 foot, 10 inch east side yard setback variance from the minimum 15 foot sideyard setback in order to allow an 11 foot, 2 inch east side yard setback, and **2)** a 9 foot, 10 inch west side yard setback variance from the minimum 15 foot side yard setback in order to allow a 4 foot 2 inch west side yard setback, 437 Oak Knoll Drive. (Council District 7)
7. **A-12-067:** The request of Maria Arcinega, for a 1 foot 2 inch variance from the maximum four foot fence height restriction in the front yard, to allow an existing 5 foot 2 inch wrought iron fence, 354 Wayside Drive. (Council District 1)
8. **A-12-068:** The request of Jim Poteet, for **1)** a 5-foot southwest side yard setback variance at 322 Washington, to allow a carport to abut the property line, **2)** a 5-foot northeast side yard setback variance at 326 Washington, to allow a carport to abut the property line, and **3)** a 3-foot side yard wall height variance between 322 and 326 Washington, to allow a 9-foot tall fire separation wall on the shared property line, 322 and 326 Washington Street. (Council District 1)

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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*

9. **A-12-071:** The request of Dora A. Reyes, for **1)** a 5 foot north side yard setback variance from the minimum 5 foot side yard setback to allow a primary structure on the side property line, and **2)** an 8 foot, 3 inch rear yard setback variance from the minimum 20 foot rear yard setback to allow a primary structure 1 foot, 9 inches from the rear property line, 219 St. John Street. (Council District 2)
10. **A-12-072:** The request of Mike Kelleher, for a 32 square foot variance from the 4,000 square foot minimum lot area requirement to allow two 3,968 square foot lots at 233 Leigh Street. (Council District 1)
11. Approval of the minutes – June 25, 2012
12. Adjournment.

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

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

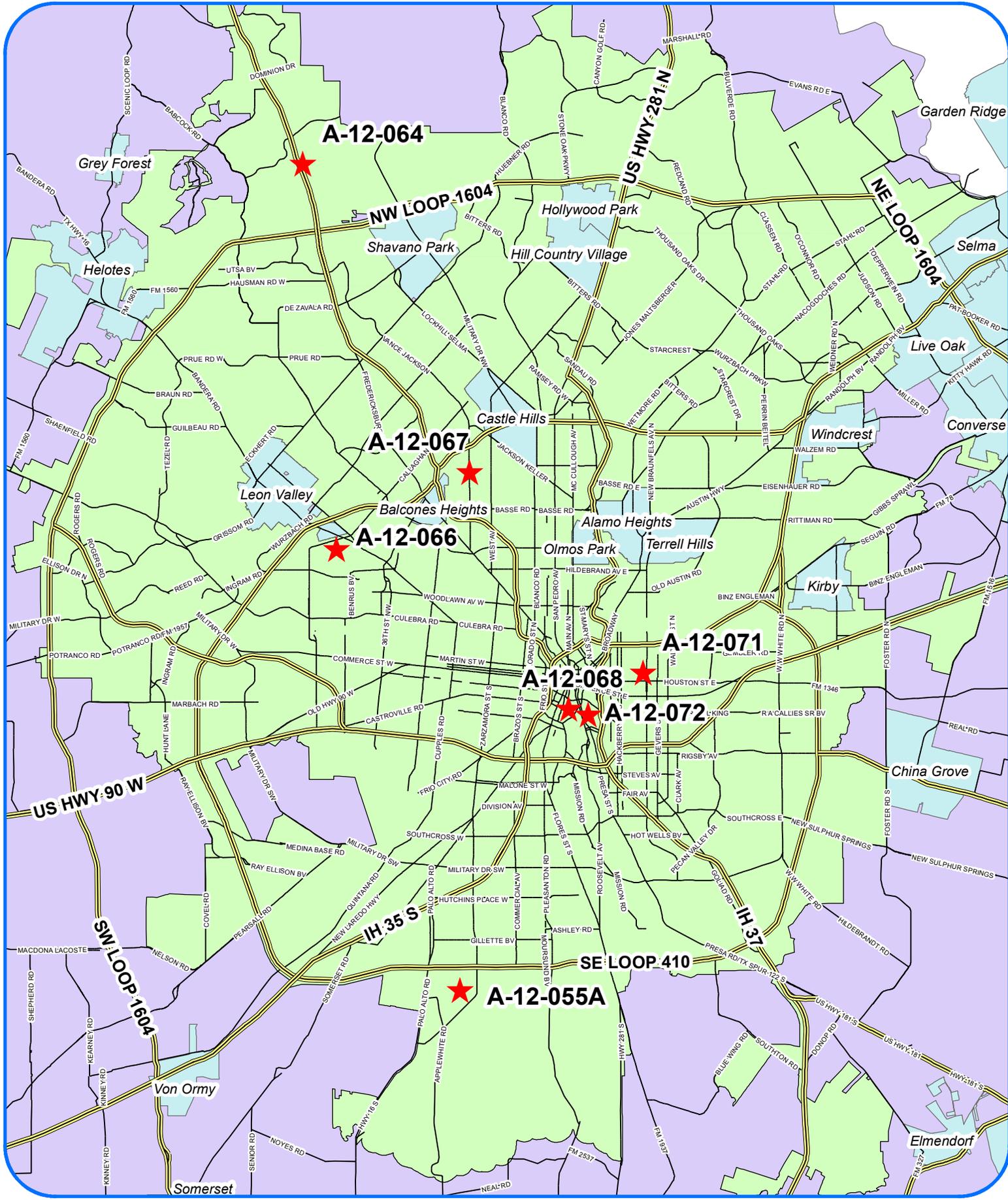
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**Alternate Members**

*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 July 16th 2012





# City of San Antonio

## Development Services Department

### Staff Report

To: Board of Adjustment  
Case No.: A-12-055A  
Date: July 16, 2012  
Applicant: Hunter's Pond, LLP  
Owner: Hunter's Pond, LLP  
Location: 51 vacant lots between 10318 & 10734 Goose Way  
Legal Description: NCB 18098  
Zoning: "UDAHOD" Urban Development Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

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#### **Request**

The applicant requests 1) a four foot variance from the eight foot minimum porch depth required and 2) a variance from the required length of 50% of the front façade on 70% of the homes to allow a variation in porch lengths, the smallest of which covers 18% of the front façade, on 100% of the homes. The request applies to 51 vacant lots on Goose Way in the Hunter's Pond Subdivision.

#### **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 June 28, 2012. Very few existing property owners in the subdivision were notified of this request; the two hundred foot radius did not reach these homes. There is however, a newly recognized neighborhood association which has taken an interest in the request. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on June 29, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 12, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

#### **Executive Summary**

Hunter's Pond, a subdivision of almost 400 lots, is within the "UD" Urban Development District and has been approved as a Tax Increment Reinvestment Zone. This designation entitles the developer to certain tax reimbursement for the taxable increase in value added to the land as a result of investment. San Antonio only approves these reinvestment agreements under certain specialized zoning districts, including the "UD" District. This district entails enhanced design

standards not applicable in other zoning districts. One of these design standards is a requirement that 70% of the homes on any given “block face” have a front porch. A block face is defined as each side of the street between cross streets. The requirement continues by specifying the width of the porch at eight feet and that it must cover half of the front façade length. The Unified Development Code (UDC) specifies: *At least seventy (70) percent of the single-family housing units along a single block face shall front the street and have front porches of at least eight (8) feet in depth along at least fifty (50) percent of the entire front facade of the house, including the garage width.*

The ordinance also defines porches as *a roofed area attached to or part of and with direct access to or from a structure and usually located on the front or side of the structure.* In the years since the project was approved, approximately one hundred ten (110) homes have been built, most incorporating the required porch detail. Since the economic downturn, construction in the project has slowed from an average of thirty homes each year to five homes in each of the last two years.

A new developer has entered into a contract to purchase these 51 vacant lots from the applicant, pending approval of the requested variance. On their behalf, the applicant is requesting approval to reduce the required depth of the porches from eight feet to four feet and shorten the coverage across the front facade from 50% of the façade to a minimum of 18%. There are twelve different home designs offered within this project, each having a narrow porch. Three of the twelve designs have porches covering less than 20% of the façade length. Nine of twelve designs (75%) cover less than the 50% requirement. Only three of the proposed designs (25%) meet or exceed the minimum requirement of more than 50% of the front façade. On some of these longer porch designs shown, it is unclear if the entire area is covered and therefore may not be classified a porch according to the Code definition. If all of these designs remain in the selection pool, the market will determine how many of each of these design choices will be constructed. For this reason, the variance requested is for the smallest of these options.

The subdivision design is also regulated with traditional neighborhood design components emphasized, such as maximum block sizes and connectivity. Alleys were not necessarily required, but this subdivision included alleys behind all but the perimeter lots. Thirty two of the lots in this application back up to the perimeter property line and thus are not served by an alley. The remaining 19 lots have alley access. None of the proposed home designs submitted by the builder for this property include a garage. The builder instead plans to install a twenty foot wide parking pad in front of the house. This is the maximum width allowed in the UDC.

The Hunter’s Pond project is also a subdivision where Universal Design is required. The term "universal design" was coined by the architect Ronald L. Mace to describe the concept of designing all products and the built environment to be aesthetic and usable to the greatest extent possible by everyone, regardless of their age, ability, or status in life. Included are small changes, like lever door knobs, wider hallways, flat switch plates that assist persons with less strength or reduced abilities. In 2003, the City of San Antonio adopted a policy stating that if a project were awarded financial assistance, this universal design standard must be followed.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
UD-AHOD Urban Development-Airport Hazard Overlay District	Vacant, developed lots platted within the Hunter’s Pond Subdivision

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“UD-AHOD” Urban Development	Existing homes & lots within the Hunter’s Pond project
South	“MI-1 AHOD” Mixed Light Industrial	Car Salvage Yard/ Pick & Pull
East	“FBZD” Form Based Zoning District	Vacant
West	“UD-AHOD” Urban Development	Existing homes & lots within

**Comprehensive Plan Consistency/Neighborhood Association**

Hunter’s Pond Subdivision is included within the Heritage South Sector Plan area. The plan was recently prepared and adopted in September of 2010. With anticipated growth and population increases, this sector of San Antonio is expected to experience increased growth and development. The plan included a photograph of existing Hunter’s Pond housing and described one housing goal as:

- *Encourage a mix of housing types, including multi-family homes, custom homes, garden homes, and single-family detached homes to provide “life cycle” housing options within the area.*

Additional housing construction in Hunter’s Pond is consistent with the goals and objectives of the Sector Plan.

There is a recently registered Neighborhood Association over this area which received notice of the application. The President has visited a similar project where the same developer is offering the same housing design choices, and is discussing the request with property owners in the project and will provide comments to the Board.

**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:*

Public interest is a central theme used to justify government regulations; it refers to general welfare and common well-being of the population as a whole. While the size of a porch may seem unrelated to the overall well-being of the community, an argument can be made that since most other homes within the subdivision were built in compliance with this requirement, a variance would be unfair. Equal treatment under the law must be a key component of the public

interest. The applicant asserts that *the variance will allow the applicant to develop its lots consistent with all other requirements of a “UD” district, provide for development of the subdivision, and will add to the sense of community to homes already existing in the subdivision.* The existing homes, many of which were constructed in 2007 and 2008, will enjoy seeing new homes built in their community and gain marginal property values from revitalized construction activity. Therefore, there is a public interest may be served by the new construction, with or without the compliant porches.

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

The applicant explains *that the hardship was caused by the property itself as the lots on the property are exceptional sizes and shapes.* Some of the lots within the 400-lot subdivision are indeed awkward, but the 51 lots that are the subject of this application are all rectangular in shape and measure 45-feet by 109-feet. Each has over 4,000 square feet of lot area. Most of the 110 lots already built upon have this same measurement and have incorporated the porch as required. Construction of an eight foot deep porch across half of the façade width is a requirement attached to the vacant parcels and therefore part of the cost of building a home in this zoning district.

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

The applicant represents *“that the spirit of the ordinance will be observed and substantial justice done as all single-family homes will have porches promoting the sense of community within the development, which is a percentage greater than that currently required by the UDC”.*

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.*

There is no use variation proposed; only residential uses are planned for construction on the subject properties.

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.*

Staff observations of the developed portion of the neighborhood found a variety of beautiful single family homes with attention to detail. Builders have added rock and stone around the porch columns with emphasis on the entrance. Attached garages have architectural doors, also a design requirement in the district. Most homes have outdoor furniture on their porches, embracing the community goals hoped would result from the requirement. These wide porches with decorative columns have contributed significantly to the essential character of the district and therefore the requested variance to depart from the porch requirement in such large numbers would negatively alter this 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.*

There are no unique characteristics to these 51 lots; their shape and size are identical to most of the existing occupied 110 lots within the subdivision. The “UD” zoning district which specifies the porch design requirement is the only single family district that has no minimum lot size and

encourages compact design with certain restrictions. However, three of the other single family residential zoning districts, “R-3”, “R-4” and “R-5” allow lots that are less than or equal to 45-foot wide. The size of the lot, if considered narrow, simply shortens the length of the required porch, thereby easing the suggested hardship.

The applicant asserts that one of the factors influencing this request is the requirement to make the homes comply with Universal Design. They assert that *due to the requirements that single family homes meet the physical needs of present and future populations and provide a full range of housing choices, granting the variance will allow a home-builder to comply with all other requirements of the UD district.* These design modifications have little to no impact on the size of the porch beyond requiring a 4-foot by 4-foot landing outside of the door, and again are required of every home built within the project.

### **Alternatives to Applicant’s Request**

The builder could eliminate the smaller porch models and offer other design options with larger porches, thereby complying with the particular requirements of the zone.

### **Staff Recommendation**

Staff recommends **denial of the variance as proposed in application A-12-55A**, based on the following findings:

1. The variance would be contrary to the public interest by providing an unfair advantage to the applicant not enjoyed by other builders within the Hunter’s Pond Subdivision.
2. A literal enforcement of the ordinance does not create an unnecessary hardship; it is applied to all similarly situated properties in this UD zoning district.
3. The spirit of the ordinance is only observed by remaining in compliance with the provisions of the Code and building the 8-foot wide porch across 50% of the façade length.
4. The request is not due to unique property related circumstances, but rather the builder’s existing design portfolio. Therefore, the hardship is self-imposed and financial in nature.

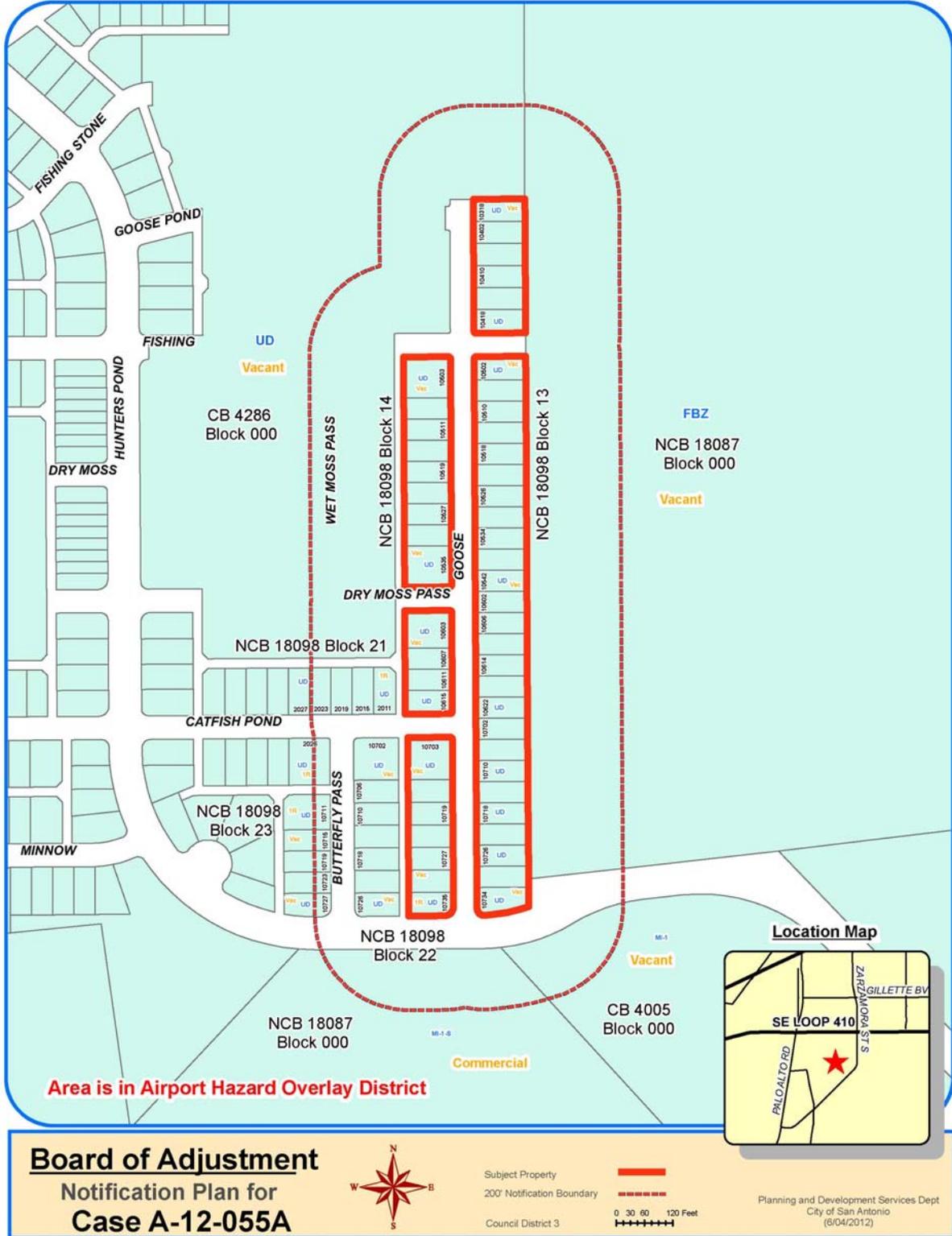
### **Attachments**

Attachment #1 Notification Plan

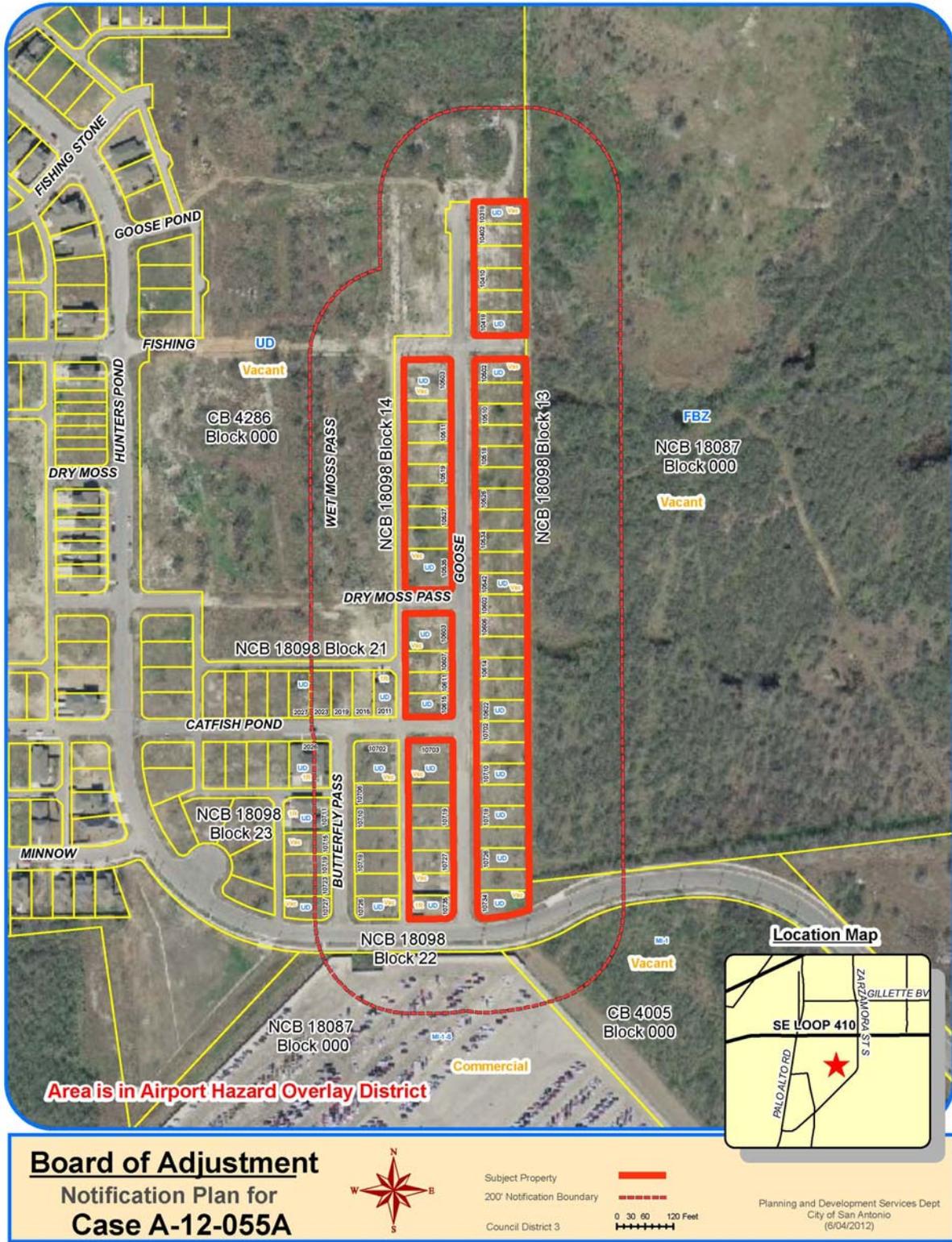
Attachment #2 Developed portion of Hunter’s Pond

Attachment #3 Proposed Porch

# Attachment #1



Attachment #1 (continued)



Attachment #2



**Board of Adjustment**  
Notification Plan for  
**Case A-12-055A**



Subject Property  
200' Notification Boundary  
Council District 3



0 50 100 200 Feet

**2011 Aerial**  
Planning and Development Services Dept  
City of San Antonio  
(6/04/2012)

The Cash A Elevation 4' by 5' (18%)





# City of San Antonio

## Development Services Department

### Staff Report

To: Board of Adjustment

Case No.: A-12-064

Date: July 16, 2012

Applicant: Nick Harris, Facility Solutions Group

Owner: McDonald's Real Estate Company

Location: 18503 IH 10W

Legal Description: Lot 12 Block 1 NCB 14747

Zoning: "MPCD GC-1 MSAO-1 MLOD" Master Planned Community, Gateway Corridor, Military Sound Attenuation and Military Light Overlay Districts

Prepared By: Margaret Pahl, AICP Senior Planner

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#### **Request**

The applicant requests a 100-foot variance from the 200-foot minimum sign spacing standards as described on Table 339.01 of the Unified Development Code.

#### **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. Notices were sent to property owners within two hundred (200) feet of the subject property on June 28, 2012. The registered neighborhood association, Forest Crest, was also notified and invited to provide comment. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 29, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 12, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

#### **Executive Summary**

The property is part of The Rim development, generally located north of the intersection of West Interstate Highway 10 and Loop 1604. In 2011, the City and Fourth Quarter LXIII L.P. signed a Sign Master Plan ("SMP") development agreement for The Rim development, which approved one (1) freestanding sign on the subject property and each lot of record within the project. This SMP was first approved by the Board of Adjustment on March 6, 2006, and amended on January 28, 2011. The amended SMP restricts signage in the Rim to far less than would otherwise be

allowed. For McDonald’s and other similar businesses, free-standing signage is reduced from 200 square feet and 35 feet in height to 90 square feet and 11 feet in height. In addition, all signage within the SMP area is further required to comply with the provisions of Article IX of the Sign Regulations, Chapter 28 and the Unified Development Code (UDC), which specifies the minimum separation requirement between freestanding signs within the Hill Country Gateway Corridor District.

In 2003, the City established the “GC-1” Hill Country Gateway Corridor District along Interstate Highway 10, a primary entryway into the City. The “GC-1” Hill Country Gateway Corridor District extends to all property within one thousand (1,000) feet of the Interstate Highway 10 right-of-way between UTSA Boulevard and the north city limits. The subject property is located within the “GC-1” Hill Country Gateway Corridor District.

Pursuant to the “GC-1” Hill Country Gateway Corridor District Plan, freestanding signs shall be separated by a minimum distance of two hundred (200) feet. The McDonald’s sign was originally constructed in a location which satisfied the spacing requirement in both directions, to the north and the south. Recently however, the neighbor to the south constructed a dumpster enclosure near the shared property line. The applicant asserts that this masonry structure blocks the visibility of the McDonald’s sign for traffic approaching from the east. As a result, the applicant is requesting approval to relocate the existing monument sign about 100 feet to the north. This move will increase the distance from the sign to the east, but reduce the distance from the sign to the west. The proposed new location is approximately 100 feet from the existing multi-tenant pole sign at one of the main entrances to the Rim.

A shorter distance would likely replace the sign’s previous visibility, but a 28 foot drainage and utility easement crosses this edge of the property. The drive-through lane turning radius is built right up to the easement edge, pushing the possible relocation site further to the west.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“MPCO GC-1 MSAO-1 MLOD” Master Planned Community, Gateway Corridor, Military Sound Attenuation and Military Light Overlay Districts	McDonald’s Restaurant

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
East	“MPCO GC-1 MSAO-1 MLOD AHOD” Master Planned Community, Gateway Corridor, Military Sound Attenuation, Military Light and Airport Hazard Overlay Districts	Lowe’s
West	“O2 ERZD GC-1 MSAO-1 MLOD AHOD” Office, Edwards Aquifer	Vacant

	Recharge, Gateway Corridor, Military Sound Attenuation, Military Light and Airport Hazard Overlay Districts	
South	“MPCO GC-1 MSAO-1 MLOD AHOD” Master Planned Community, Gateway Corridor, Military Sound Attenuation, Military Light and Airport Hazard Overlay Districts	Restaurant
North	“MPCO GC-1 MSAO-1 MLOD AHOD” Master Planned Community, Gateway Corridor, Military Sound Attenuation, Military Light and Airport Hazard Overlay Districts	Office Building

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the North Sector Plan, adopted on August 5, 2010. The Rim project was identified as a Regional Commercial Center in the Plan. This designation is ideal for “power centers” such as the Rim, where patrons come from all over the region. Signage is important in regional centers where some customers may only shop there a few times a year.

The site is within the Forest Creek Neighborhood Association and as such, a notice was mailed to their President. No concerns were reported.

**Criteria for Review**

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

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

Public interest is a central theme used to justify government regulations; it refers to general welfare and common well-being of the population as a whole and the role of government in protecting that general welfare. While most local jurisdictions regulate signage in the interest of reducing visual clutter, confusion and distraction, it is also important to allow enough signage to help patrons locate each business. Therefore, a sign which cannot be seen is not in the public interest. A variance to allow visibility of the sign serves the public interest.

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

Literal enforcement of the ordinance would prevent the relocation of the sign, leaving it partially obstructed by the dumpster enclosure. As properties are improved incrementally, it cannot always be anticipated where and how the improvements might impact a neighboring business. In this case, each business has frontage on the IH 10 and the internal Rim Drive. There is no obvious rear yard, nor an ideal spot to locate the dumpster. The applicant explained that McDonald’s offered to finance relocation of the dumpster, but the restaurant refused. McDonald’s sought other viable solutions prior to applying for the variance but their efforts failed.

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

The UDC and the approved Sign Master Plan allow each business to have one free-standing sign. It is the additional requirements of the Gateway Corridor Overlay that specify the minimum distance between signs. According to the UDC, the purposes of the overlay district include:

- To preserve, protect and enhance areas of high tourist and visitor visibility;
- To enhance the appearance and economic viability of corridors within established neighborhoods;
- To reduce visual chaos and limit distractions along public roadways;

The variance would allow the monument-type sign to be closer to the multi-tenant sign representing the Center, a different type of sign. This difference reduces the potential for a visual clutter impact resulting from the reduction in spacing between the signs. Therefore, the goals and spirit of the ordinance could be observed while still allowing the sign relocation.

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 “MPCD” Master Planned Community 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.*

New businesses locating within the Gateway Corridor Overlay have for the most part abided by the spacing requirement; only a few have requested a variance. In the most recent case, the Board of Adjustment approved a 22-foot reduction in spacing for the restaurant immediately to the south of the subject 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 applicant tried to find an alternative solution to the proposed reduction in spacing requested prior to filing the application. The 28-foot drainage and utility easement precluded moving the sign toward the roadway or a shorter distance toward the multi-tenant sign. This easement is a unique circumstance that eliminates other alternative solutions which would not have required a variance.

### **Alternatives to Applicant’s Request**

The applicant could leave the sign where it is currently installed; understanding that as the vehicle approaches the McDonald’s restaurant, the sign eventually comes into view.

### **Staff Recommendation**

Staff recommends **approval of the variance as proposed in application A-12-64** based on the following findings:

1. The variance would allow the relocation of the sign to a site with better visibility, thereby helping the public locate the restaurant.
2. A literal enforcement of the ordinance creates an unnecessary hardship by preventing the owner from gaining the visibility of the traveling public.
3. The spirit of the ordinance is observed by allowing one free-standing sign per lot.
4. The request is due to unique property related circumstances; the property is encumbered by a 28 foot drainage and utility easement along its western boundary which eliminates the alternative sign location which would maintain the 200 foot separation requirement.

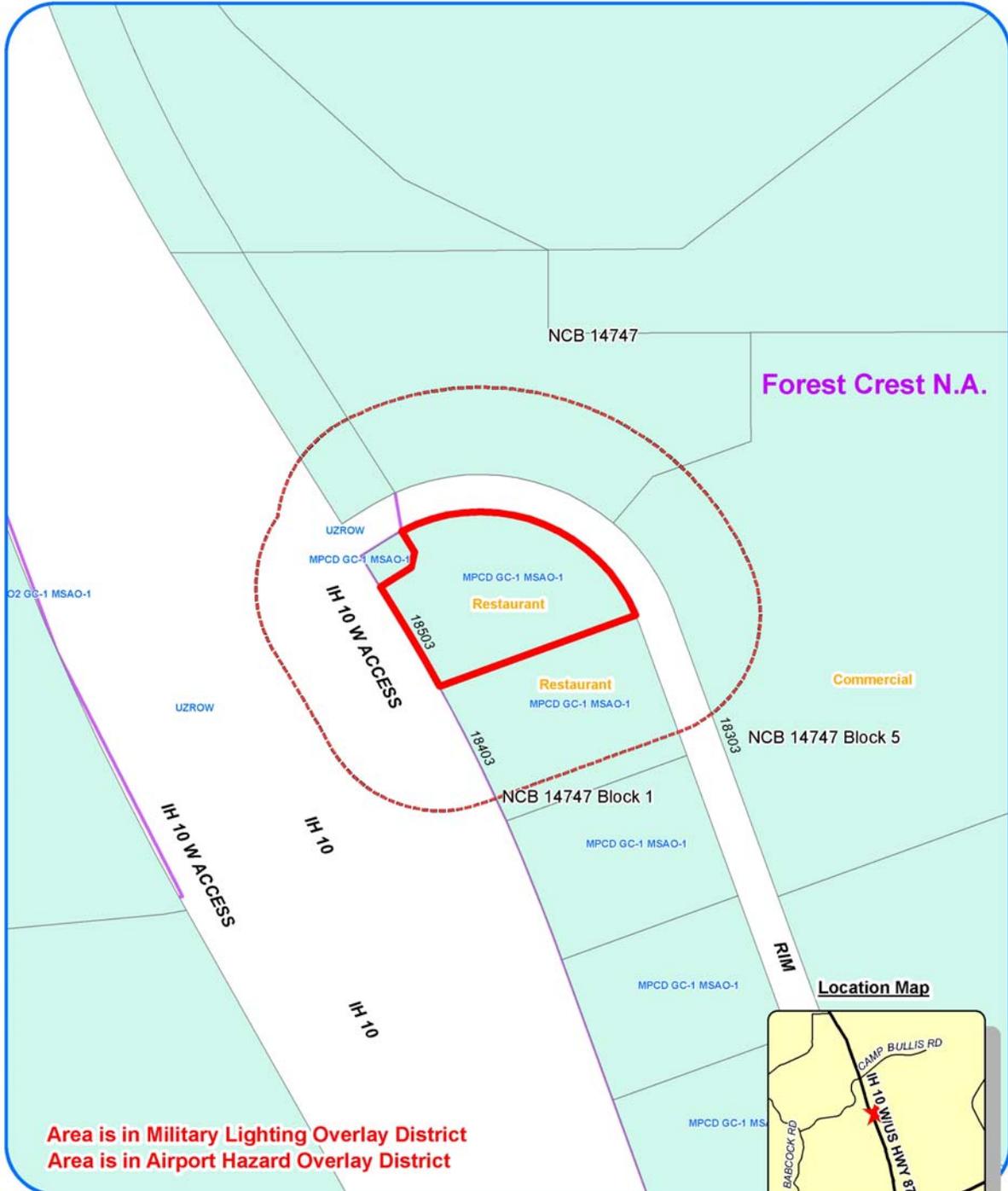
### **Attachments**

Attachment #1 Notification Plan

Attachment #2 Plot Plans

Attachment #3 Photographs

Attachment #1



Area is in Military Lighting Overlay District  
 Area is in Airport Hazard Overlay District



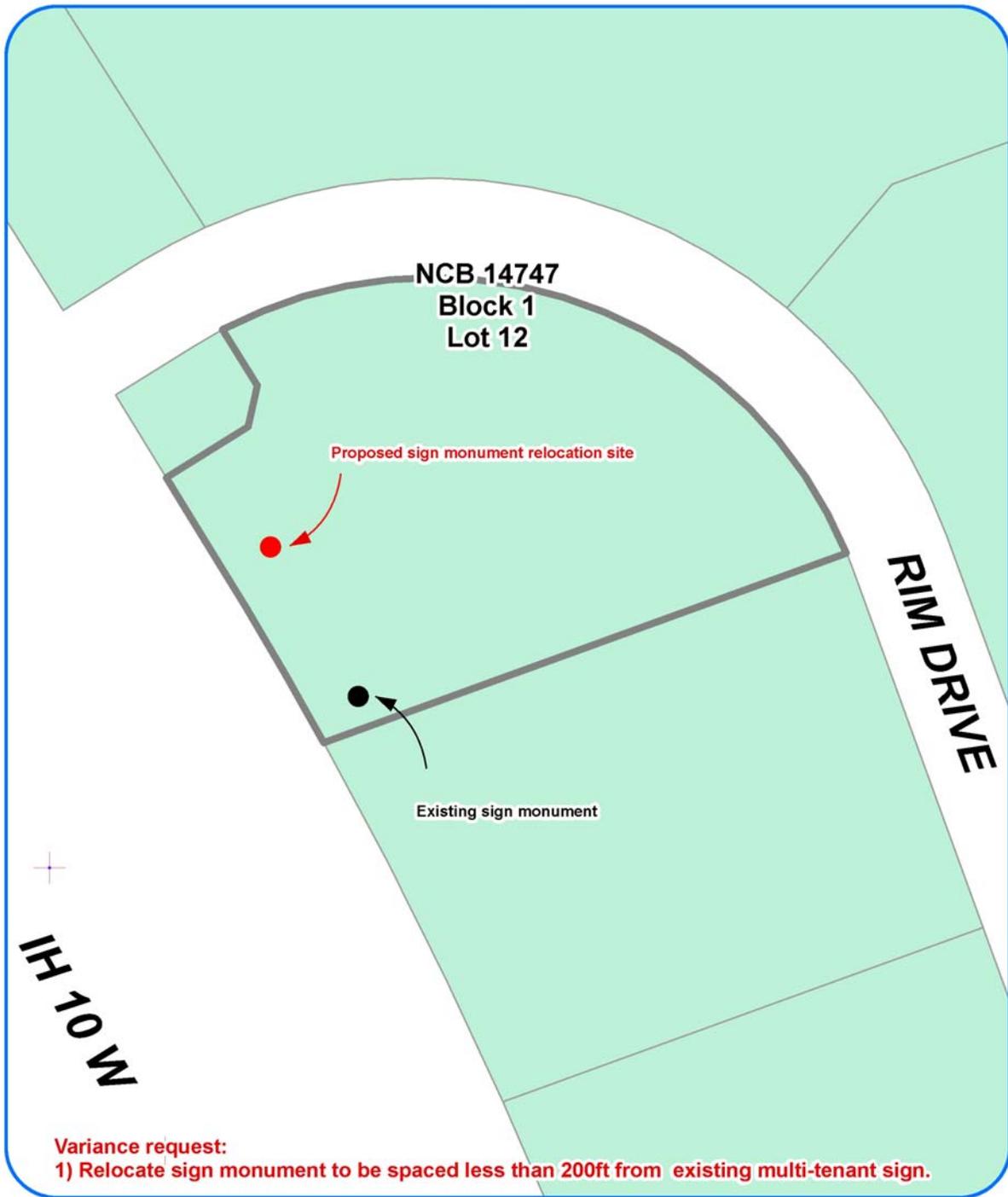
**Board of Adjustment**  
 Notification Plan for  
**Case A-12-064**

Subject Property  
 200' Notification Boundary  
 Council District 8

0 40 80 160 Feet

Development Services Dept  
 City of San Antonio  
 (7/18/2012)

Attachment #2



**Board of Adjustment**  
Plot Plan for  
**Case A-12-064**



- Existing sign monument
  - Proposed sign monument relocation site
- 0 10 20 30 40 Feet
- Council District 8

**18503 IH10 W**

Development Services Dept  
City of San Antonio  
(7/16/2012)

Attachment #2 (continued)



**Board of Adjustment**  
Plot Plan for  
Case A-12-064



- Existing sign monument
  - Proposed sign monument relocation site
- 0 10 20 30 40 Feet
- 
- Council District 8

**18503 IH10 W**

Development Services Dept  
City of San Antonio  
(7/16/2012)

Attachment #3





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## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-12-066  
Date: July 16, 2012  
Applicant: George Flores, III  
Owner: George Flores, III  
Location: 437 Oak Knoll Dr  
Legal Description: Lot 116, Block E, NCB 11543  
Zoning: "R-20 NCD-3 AHOD" Residential Single-Family Ingram Hills  
Neighborhood Conservation Airport Hazard Overlay District  
Prepared By: Tony Felts, Planner

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### **Request**

The applicant requests 1) a 3-foot, 10-inch east side yard setback variance and 2) a 9-foot, 10-inch west side yard setback variance to allow construction of a new dwelling.

### **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 June 28, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 29, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 13, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The approximately 0.41 acre property is located on the north side of Oak Knoll Drive, approximately 550 feet east of Parkway Drive. The lot size is about 60 feet wide by 299 feet deep, and is currently developed with a single-family residence, constructed in 1931. The applicant wishes to demolish the existing residence and construct a new residence.

The site is within the Ingram Hills Neighborhood, which was the subject of a Neighborhood Plan in 1992, and an extensive update to the plan in 2009. The Ingram Hills Neighborhood Conservation District (NCD) was approved in 2004. Goal 2 of the Ingram Hills Neighborhood Plan is to "[m]aintain the large lot character of the neighborhood, keep existing medium and

*high density residential uses to provide a housing mix, and discourage incompatible development.”*

Per Section 35-335 of the UDC, the purpose of Neighborhood Conservation Districts is to protect neighborhoods worthy of preservation and protection. Some of the stated goals include “protecting and strengthening desirable and unique physical features, design characteristics, and recognized identity and charm” and “reducing conflict and preventing blighting caused by incompatible and insensitive development.” In the case of NCD-3, the intent, though not specifically stated, appears to be an attempt to limit more dense development and maintain large lot character by providing large required yards and reducing impervious coverage and driveways.

The subject property was initially zoned “A” Single-Family Residence District under the 1938 Use Regulations in 1957. The 1938 regulations required a minimum lot size of 5,000 square feet and a minimum frontage of 50 feet. Consistent with these regulations, the property was replatted by division of an existing lot in 1996. The resultant lot was smaller than lots in the immediate area and was generally not compatible with the existing development patterns of Oak Knoll Drive.

With the adoption of the 2001 UDC, the zoning converted from “A” to “R-5” Residential Single-Family. The zoning was changed to “R-20” Residential Single-Family in 2002 with the adoption of zoning changes recommended as part of the 1992 plan. The NCD was adopted in 2004.

The NCD requires a minimum side yard setback of 15 feet for properties with a base zoning district of “R-20” and 10 feet in “R-4”, “R-5”, and “R-6” base zoning districts. The subject property, with a frontage of approximately 60 feet and a size of approximately 17,900 square feet, is more consistent with an “R-6” lot than an “R-20” lot. “R-20” lots require a minimum frontage of 65 feet and 20,000 square-foot lot size whereas “R-6” lots require a minimum frontage of 50 feet and 6,000 square-foot lot size.

In this case, the applicant is requesting a 5-foot, 2-inch setback on the west property line, which is inconsistent with the allowable setbacks in either “R-20” zone or “R-6” zones. The requested 11-foot, 2-inch setback on the east property line, though not consistent with an “R-20” lot, is consistent with an “R-6” lot.

The applicant states that the 15-foot setback requirement on both sides would severely limit the allowable width of the newly constructed home, leaving a net buildable area of thirty feet in width.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
R-20 NCD-3 (Residential Single-Family)	Single-Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	C-3R (General Commercial, Restricted Alcohol Sales)	Vacant

South	R-20 NCD-3 (Residential Single-Family)	Single-Family Residence
East	R-20 NCD-3 (Residential Single-Family)	Single-Family Residence
West	R-20 NCD-3 (Residential Single-Family)	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Ingram Hills Neighborhood Plan area, and within the West/Southwest Sector Plan. The subject property is also located within the boundaries of the Ingram Hills 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:*

The Ingram Hills Neighborhood NCD Design Standards are intended to maintain the character of the neighborhood in order to preserve existing development patterns, namely the large lot, rural estate character of the area. The Design Standards provide a common framework of regulations in order to maintain the unique and defining features of the district. These standards were based on maintaining the continuity and character of the district. Increased required yard sizes limit dense development and contribute to private open space. Reducing the west side yard by 65% of the requirement does not serve the public interest of preserving the neighborhood; therefore, the variance is contrary to the public interest. It should be noted, however, that allowing a reduction of setback on the west side to 10 feet, would be in character with lots having similar frontage and would be in the public interest.

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

The subject property is smaller and has less frontage than most of the other “R-20” properties in the NCD, due mainly to the fact that it was platted under the 1938 regulations as an “A” district. The “R-20” lots in this district are wide, deep lots, and lend themselves to the increased setbacks required by the NCD. In this case, there are special conditions inherent to the property that would make a literal enforcement of the ordinance result in an unnecessary hardship under the “R-20” standards; however, given that the lot is more consistent with an “R-6” lot, the variance should be no more than that allowed for an “R-6” lot, which is a 10-foot minimum side yard setback.

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

By allowing 65% decrease in the allowable side yard setback in this district, the layout of the buildings and the character of the neighborhood will be negatively impacted. However, the integrity of this portion of the district was damaged in 1996 when the subject property was allowed to be platted, albeit legally. A variance of the side yard setback is warranted in this case, but not to the extent requested by the applicant. A 10-foot minimum setback for this

lot, which represents a decrease of 33%, would allow the applicant more space to build the dwelling while maintaining the spirit of the ordinance and providing substantial justice.

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 (Residential Single-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.*

The requested variance will substantially alter the essential character of the district. The requested setbacks are not in conformity with other “R-20” districts, nor are they in conformity with the other residential zoning districts in Ingram Hills which only require 10-foot side yard setbacks. The neighborhood is characterized by wide, deep lots with extensive yards provided. By reducing the side yard size, the integrity of the district is damaged, therefore altering its essential character. The lesser side yard variance to allow a side yard of 10 feet would not alter the character of the district any more than the existing non-conforming lot already does.

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 circumstances unique to the property that would necessitate the allowance of the smaller setback – namely the fact that the lot is of substandard width and size to comply with “R-20” regulations in the NCD. The unique circumstances, however, are not such that a variance to the extent requested by the applicant is warranted.

### **Alternatives to Applicant’s Request**

The alternative to the applicant’s request is to construct a new dwelling to “R-6 NCD-3” standards which calls for a 10-foot side yard setback instead of the 15-foot side yard setback required by properties zoned “R-20 NCD-3.”

### **Staff Recommendation**

Staff recommends **approval of A-12-066 with an alternative to 10-foot side yard setbacks** based on the following findings:

1. The suggested variance is due to the substandard width, frontage, and size of the lot, which was platted in 1996, prior to rezoning to “R-20.”
2. The suggested variance is not contrary to the public interest, and the spirit of the ordinance will be maintained by applying “R-6 NCD-3” standards to a lot which meets “R-6” standards.
3. A literal enforcement of the ordinance will create an unnecessary hardship.

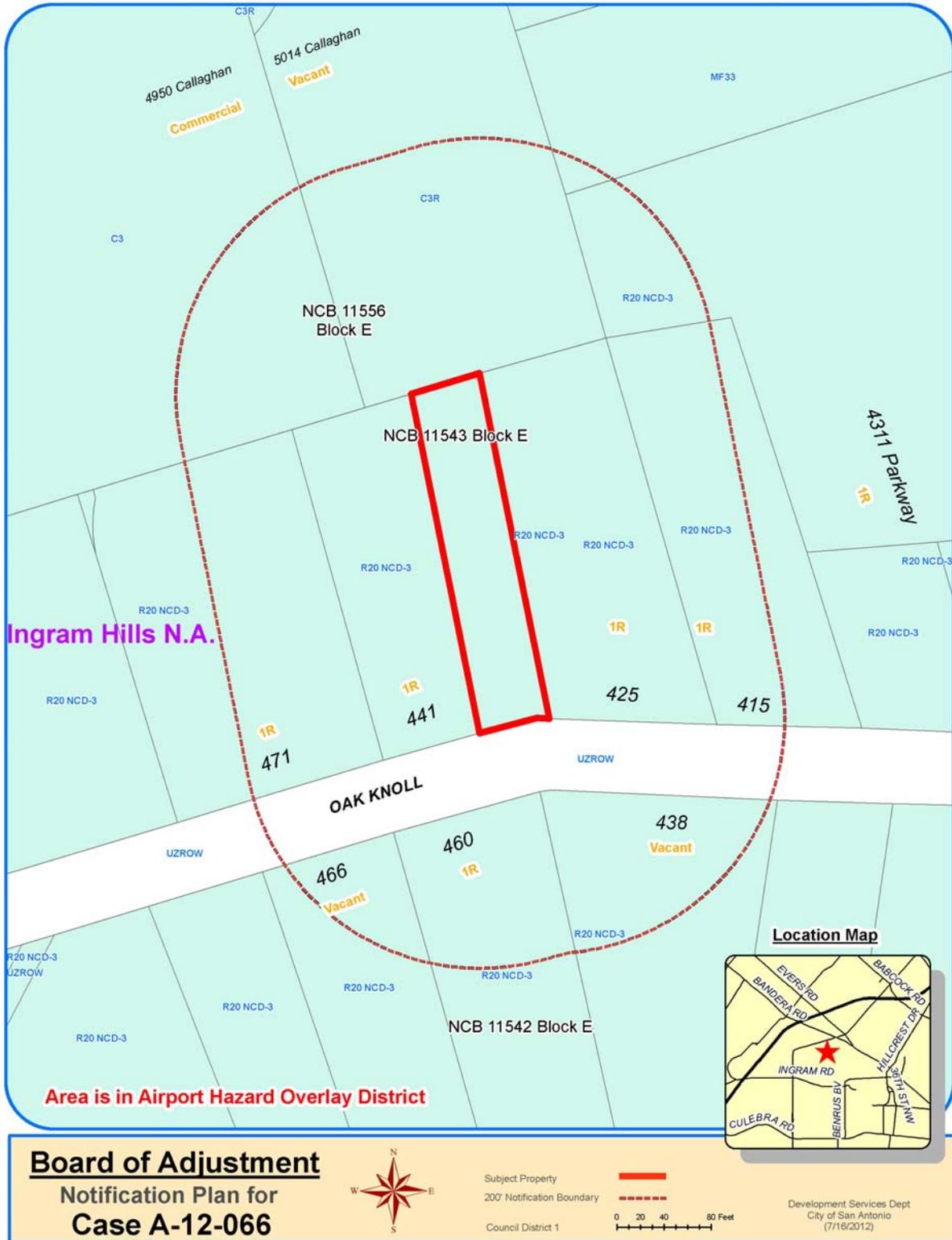
## **Attachments**

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Site Plan

# Attachment 1 Notification Plan



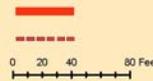
**Attachment 1 (Continued)  
Notification Plan**



**Board of Adjustment  
Notification Plan for  
Case A-12-066**

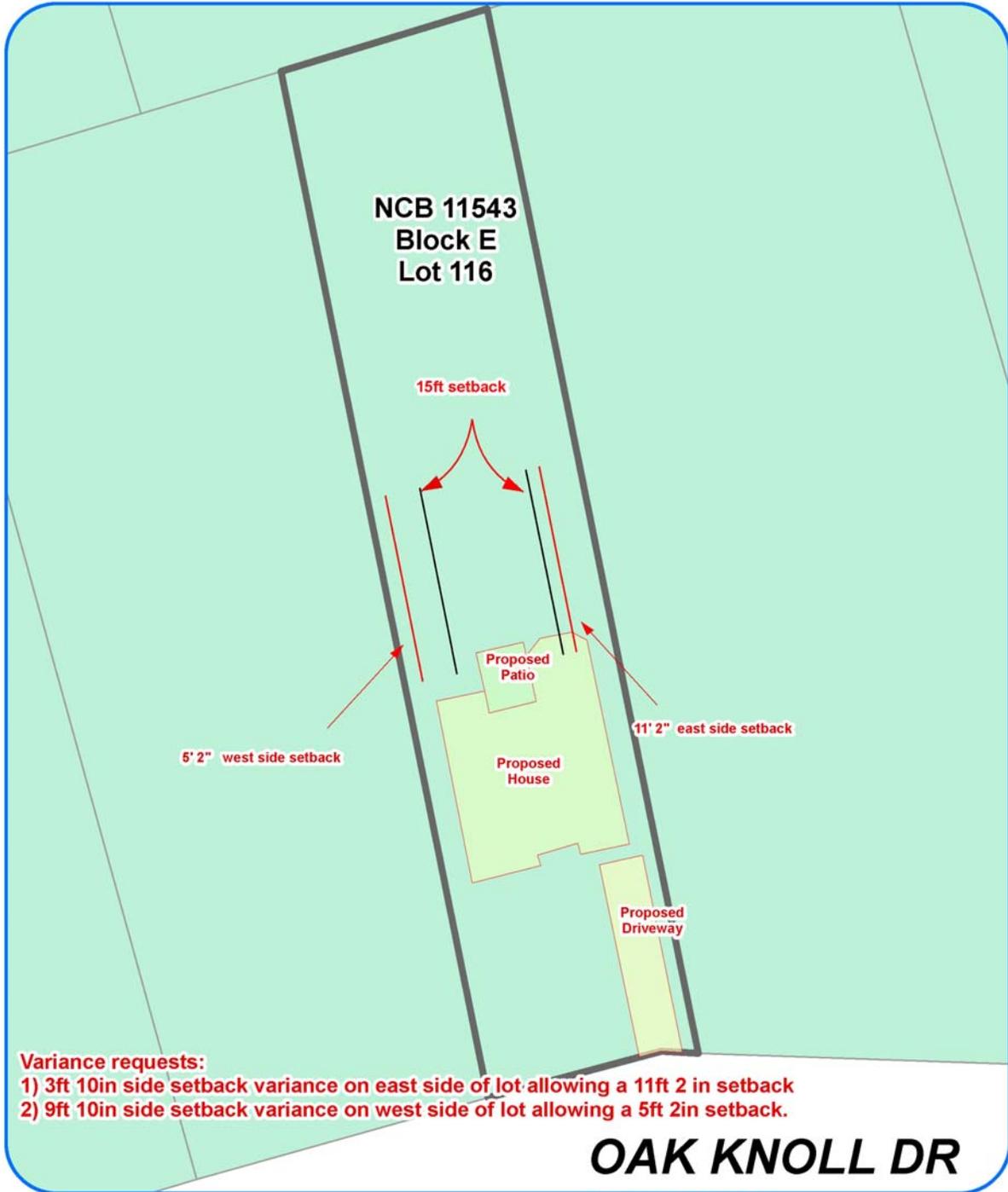


Subject Property  
200' Notification Boundary  
Council District 1

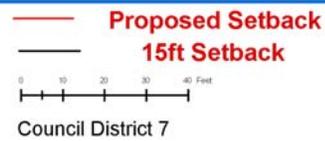


Development Services Dept  
City of San Antonio  
(7/16/2012)

Attachment 2  
Plot Plan



**Board of Adjustment**  
Plot Plan for  
**Case A-12-066**

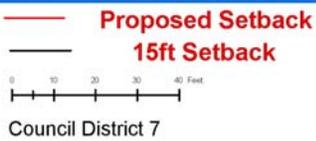


**437 Oak Knoll**  
Development Services Dept  
City of San Antonio  
(7/16/2012)

**Attachment 2 (Continued)  
Plot Plan**



**Board of Adjustment**  
 Plot Plan for  
**Case A-12-066**



**437 Oak Knoll**  
 Development Services Dept  
 City of San Antonio  
 (7/16/2012)





## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-12-067  
Date: July 16, 2012  
Applicant: Maria Arciniega  
Owner: Maria & Margarita Arciniega  
Location: 354 Wayside Drive  
Legal Description: Lot 16 Block 12 NCB 10175  
Zoning: "R-4 AHOD" Single-family Residential Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

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### **Request**

The applicant requests a variance from the front yard fencing height limitations as set forth in Section 35-514 of the Unified Development Code (UDC), in order to authorize an existing 5 foot, 2 inch wrought iron fence in the front yard. The special exception process could not be used because the contractor installed the slats too close to each other to qualify.

### **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. Notices were sent to property owners within two hundred (200) feet of the subject property on June 28, 2012. The registered neighborhood association, Dellview, was also notified and invited to provide comment. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 29, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 12, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The home is located at the southeast corner of Wayside and Vance Jackson, with driveway access to each street. According to a police report, a vehicle crashed through a previous wooden fence along the Vance Jackson side of the house. Vance Jackson is classified as a minor arterial street and, in this location, carries approximately 12,500 cars each day. There is no shoulder and the right of way is narrow. The applicant hired a fencing contractor, Serrato Burglar Bars &

Fencing, to install a 5 foot 2 inch tall wrought iron fence along Vance Jackson and around the frontage on Wayside. The applicant was recently cited by Code Enforcement for a front yard fence installed without a permit. The applicant applied for a special exception but it was determined by staff that the request did not qualify for a special exception since the contractor placed the vertical bars with only 3 ¼ inches clearance, instead of the 5 ½ inch spacing requirement. For this reason, the request must be considered as a variance.

In a 2005 code revision, the current spacing requirement was suggested as a precaution in case all gates were locked and the fire hose needed to be thread between the bars. According to Division Chief Randy Jenkins, the Fire Code does not reference spacing in exterior fencing for single family homes. The Chief also said that the San Antonio Fire Marshal’s Office has no position on this.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 AHOD” Residential Airport Hazard	Residential structure

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Greater Dellview Area Community Plan, adopted in September of 2005. The plan listed goals of residential property maintenance and beautification and enhanced streetscapes along its major roadways. The subject site is well-maintained and contributes favorably to the positive image of the neighborhood. A notice of this application was sent to the Dellview Neighborhood Association. No concerns were submitted to the Board.

**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:*

Public interest is a central theme used to justify government regulations; it refers to general welfare and common well-being of the population as a whole. Traffic controls are one of the regulations established in the public interest and attempt to protect general welfare. The applicant installed the fence in an effort to improve the safety of her residence located on a busy arterial street. Though traffic counts measure 12,500 cars on an average weekday, the road is designed to carry 20,000 cars, so traffic may increase in the future due to growth on the City's northwest side.

However, the non-compliant portion of the fence is around the front of the house on Wayside Drive and the eastern property line; much of the installed fencing on Vance Jackson is permitted and can remain. Fairness in the equal application of the Code is essential in serving the public interest. Granting a variance in this case is not in the public's interest.

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

Literal enforcement of the ordinance would allow an open four-foot tall fence along the frontage on Wayside and around the corner on Vance Jackson for a distance of 30 feet up to the front facade of the home. Behind the front façade on Vance Jackson, the existing fence height is allowed. The applicant fears that four foot front yard fencing would not stop an errant vehicle. Staff observations of the similarly situated homes on Vance Jackson found no other homes with non-compliant fences. Instead, each home had fencing that stepped up to six feet behind the front façade of the homes. The previous accident does not constitute a unique circumstance justifying a hardship, and does not warrant fencing on Wayside Drive.

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

The Code recognizes the need for additional fencing along major streets; an eight foot tall fence is allowed along a thoroughfare in a rear or side yard if it is installed and maintained as a part of cohesive subdivision improvements. However, this type of fencing is used along thoroughfares with few intersecting local streets, a scenario very different from the subject property. The ordinance establishes guidelines to allow open front yard fencing through the special exception process. This process represents the spirit of the Code.

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.*

There is no use variation proposed.

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.*

Between IH-10 West and Loop 410, none of the single-family homes are oriented toward Vance Jackson. Fencing to a height of six feet is allowed along the side yard from the front facade of the home to the rear property line. Many of these homes have installed fencing on Vance Jackson in compliance with this requirement. In addition, no other non-compliant wrought iron front yard fences were found in the neighborhood.

- 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 owner asserts that the fence was installed for safety, security and peace of mind due to concerns of their proximity to a busy thoroughfare. The Vance Jackson corridor is unique by the absence of a shoulder or landscape buffer from the fast-moving traffic. Without this refuge area, a driver has reduced options to avoid a crash. However, every other home along Vance Jackson is similarly situated and this is the general condition in the district.

Staff consulted City Engineering to determine the efficiency of the existing fence in the event of a vehicular accident. Engineering dismissed the concept that the fence would protect the home, saying that the existing trees would be far more effective. In addition, the accident protection assertion is invalid around the remaining portions of the front yard fencing along Wayside Drive and the eastern property line.

### **Alternatives to Applicant's Request**

The applicant could remove the non-compliant portion of the wrought iron fence and install a fence that could comply with the vertical bar separation requirements for a special exception.

### **Staff Recommendation**

Staff recommends **denial of the variance as proposed in application A-12-67** based on the following findings:

1. The variance would give the applicant an unfair advantage, interfering with the public interest.
2. A literal enforcement of the ordinance would not create an unnecessary hardship; all other fencing in the area is in compliance with the Code.
3. The spirit of the ordinance is not observed by granting a variance when modification of the fence could warrant a special exception.
4. The request is not due to unique circumstances; many homes are located on the corners of a local street and Vance Jackson with four foot tall front yard fencing.

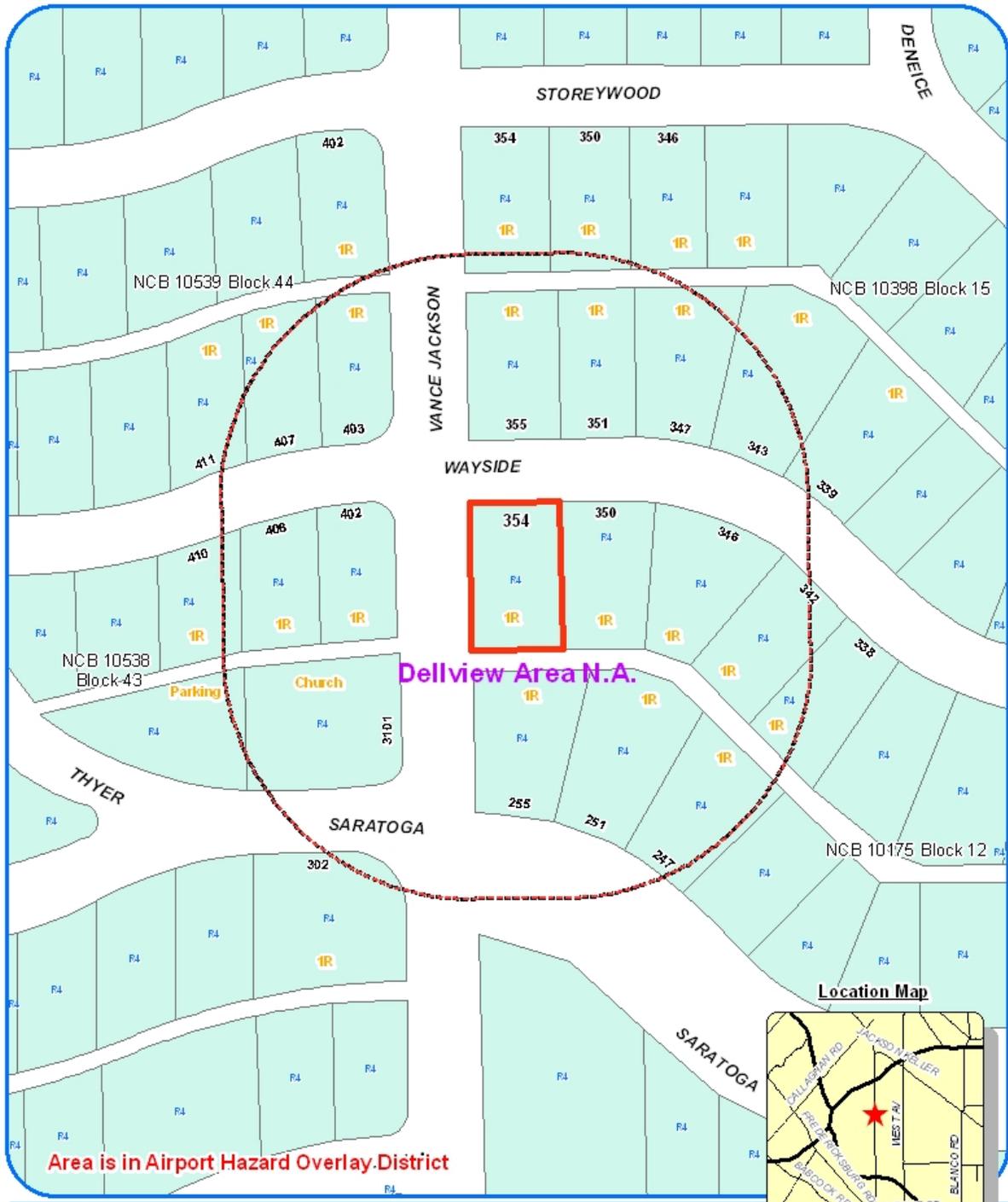
### **Attachments**

Attachment #1: Notification Map

Attachment #2: Plot Plans

Attachment #3: Photographs

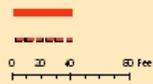
# Attachment #1



## Board of Adjustment Notification Plan for Case A-12-067

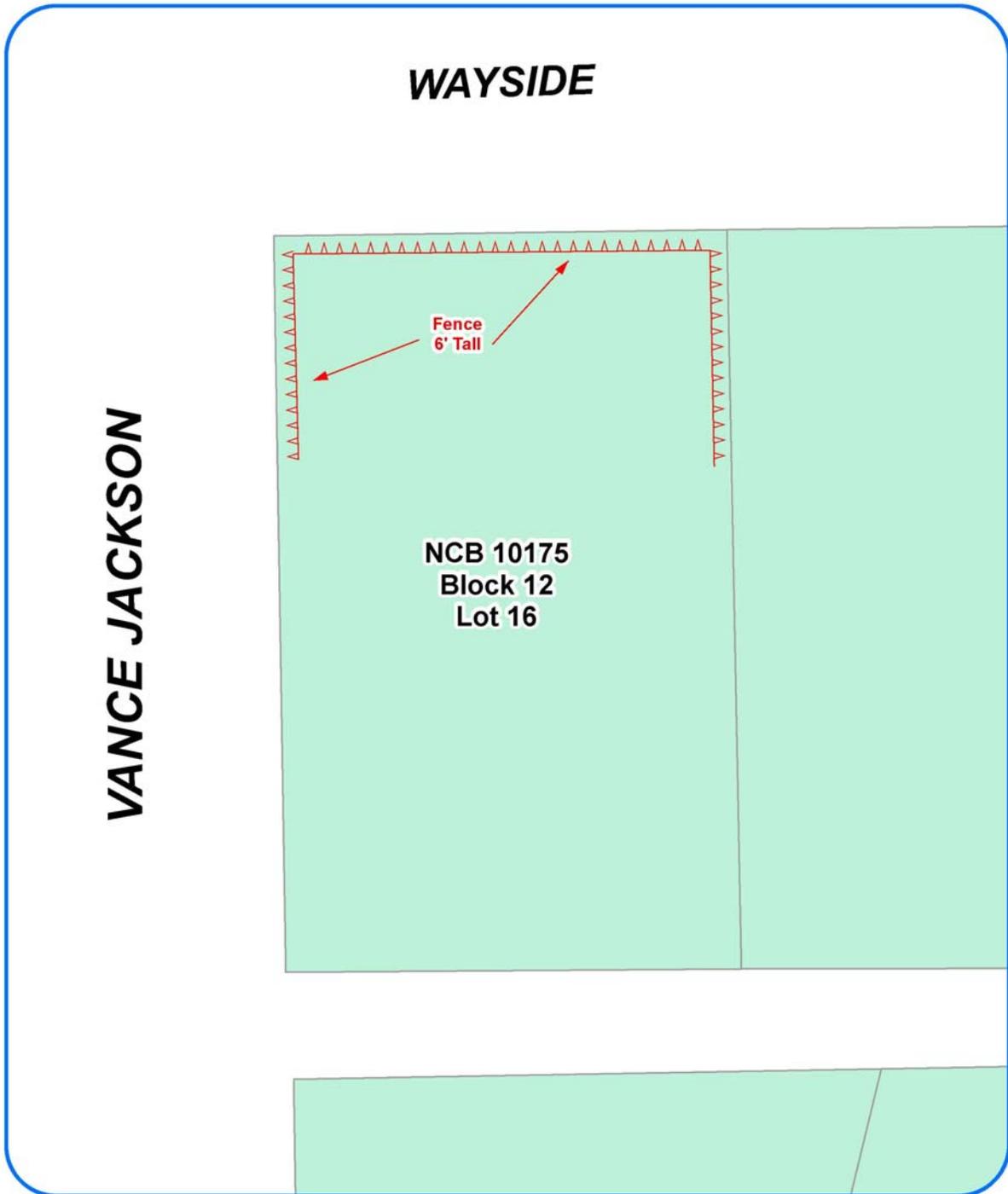


Subject Property  
200' Notification Boundary  
Council District I



Development Services Dept  
City of San Antonio  
7/16/2012

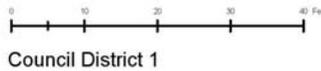
Attachment #2



**Board of Adjustment**  
Plot Plan for  
**Case A-12-067**



**Fence**    ▲▲▲▲



**354 WAYSIDE**

Development Services Dept  
City of San Antonio  
(7/16/2012)

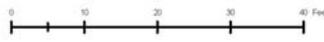
Attachment #2 (continued)



**Board of Adjustment**  
Plot Plan for  
**Case A-12-067**



**Fence**    ▲▲▲▲

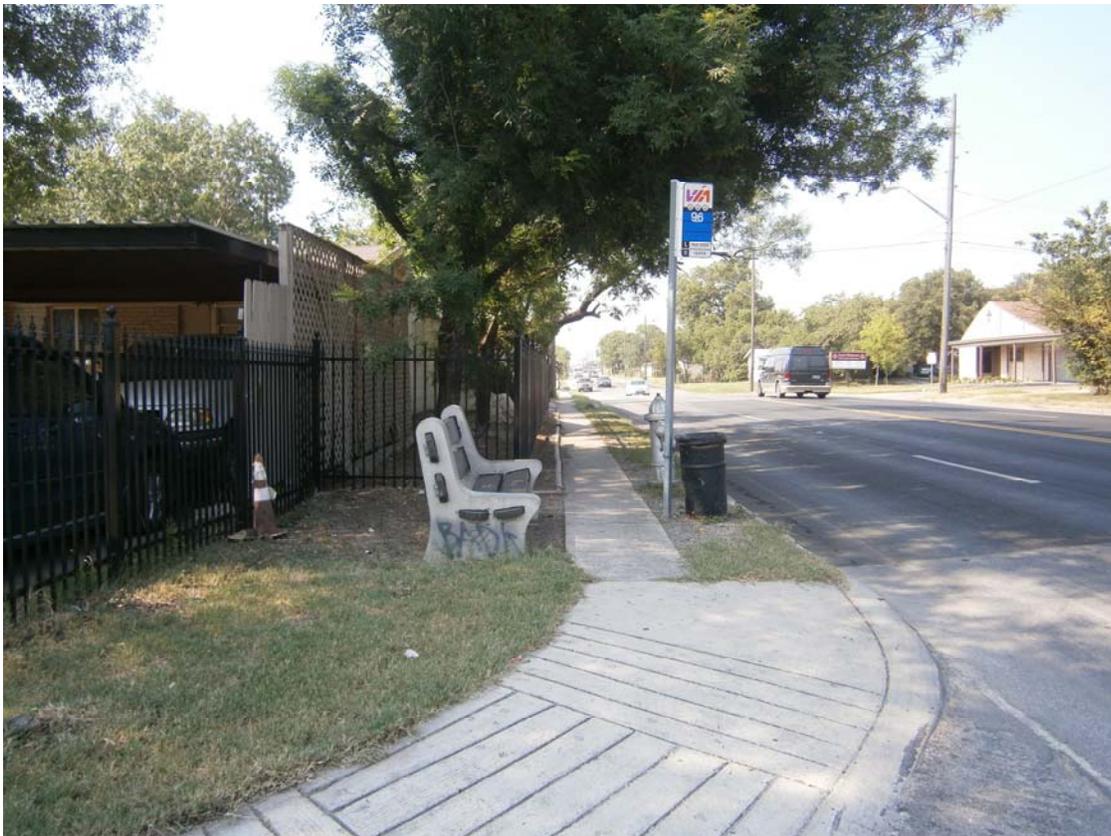


Council District 1

**354 WAYSIDE**

Development Services Dept  
City of San Antonio  
(7/16/2012)

**Attachment #3**





## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-12-068  
Date: July 16, 2012  
Applicant: Jim Poteet  
Owner: Charles C. Butt and Patrick Condon  
Location: 322 and 326 Washington Street  
Legal Description: NW ½ of Lot 9 and Lot 14, Block 1, NCB 742  
Zoning: "RM-4 H RIO-4 AHOD" Mixed Residential Historic River Improvement Overlay Airport Hazard Overlay District  
Prepared By: Tony Felts, Planner

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### **Request**

The applicant requests 1) a 5-foot southwest side yard setback at 322 Washington, 2) a 5-foot northeast side yard setback variance at 326 Washington, and 3) a 3-foot side-yard wall height variance between 322 and 326 Washington to allow the construction of a covered carport to the property line on both properties, with a nine-foot masonry wall separating the two structures.

### **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 June 28, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 29, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 13, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject properties consist of two lots: 322 and 326 Washington. The two properties are located at the southwestern terminus of Washington, approximately 100 feet southwest of Arsenal. The property located at 322 Washington is approximately 50 feet wide by 145 feet deep, or about 7,200 square feet. The property located at 326 Washington, directly adjacent to 322 Washington, is irregularly shaped and configured approximately 50 feet wide and 174 feet deep, containing approximately 9,000 square feet. Both properties are currently developed with single family residences. Both of the properties are located within the King William Historic District; however, neither property is considered "contributing." The applicant has also

submitted the plans to the Historic and Design Review Commission, which approved the plans on July 6, 2012.

The purpose of the application is to allow a carport on each lot to be constructed to the common lot line, to be separated by an existing masonry wall, which the applicant proposes to raise to nine feet. The wall will also serve as a firewall and is only proposed to be raised where the carports abut the property line.

It should also be noted that the current six-foot high masonry wall is not constructed along the common property line. After a property survey, it was determined that the wall was constructed several feet apart from the common property line. This error by the owners is proposed to be remedied by replatting the properties if the variance requests are approved.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
RM-4 H RIO-4 AHOD (Residential Single-Family)	Single-Family Residences

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	RM-4 H RIO-4 AHOD (Residential Single-Family)	Single-Family Residences
South	RM-4 H RIO-4 AHOD (Residential Single-Family)	Single-Family Residences
East	RM-4 H RIO-4 AHOD (Residential Single-Family)	Single-Family Residences
West	San Antonio River	Riverwalk Park

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Downtown Neighborhood Plan area. The subject property is also located within the boundaries of the King William 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:*

Yard setbacks and wall height limitations are required in order to maintain orderly development and ensure access, light, and air availability. The main public interest in these

types of cases usually rest with protecting adjacent property owners. The case is unique in that both property owners are requesting the variance to create zero lot line structures for two adjoining properties up to a common wall. Further, Washington Street terminates in this block, and the only property owners on the block are the owners of the subject properties. While there is an element of the public interest that resides with uniformity of regulations, in this case there are sufficient mitigating circumstances to determine that the public interest is not substantially diminished and, therefore, the requested variance is not in conflict.

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

The misconfiguration of the properties, combined with their relative remoteness, creates a special condition warranting consideration of a variance from a literal enforcement of the ordinance.

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

As stated above, setbacks and wall heights regulations are required in order to maintain orderly development and ensure access, light, and air availability. Setbacks also have an added public safety function, preserving fire separation distances. The UDC does not contemplate the use of a common firewall for a carport structure. As such, the firewall is treated as a fence for regulatory purposes. The wall must be of a sufficient height in order to ensure usefulness of the carports and adequate fire separation. Additionally, the applicant, according to the renderings submitted, has taken care to ensure that the stormwater drains will not adversely affect either property. With the protections proposed for the structure, the spirit of the ordinance will be observed 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 R-4 AHOD (Residential Single-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.*

The two adjoining properties share the requested variance. A zero-lot line setback variance and a wall height variance will most directly affect the adjacent property where the relief is requested. Since the request is shared from the two adjoining properties, the variance will not substantially injure the use of adjacent conforming properties. Additionally, since both properties are located within a recognized historic district, they are subjected to an increased level of review – by the Historic and Design Review Commission (HDRC). The staff report for the HDRC states that “it is typical in the King William Historic District to find buildings constructed on the property line” and “raising the portion of the wall...will not significantly alter the appearance of the property from the street.” Given the level of design scrutiny placed on the properties by the HDRC, and the fact that the most affected property owners are each a party to this application, staff does not believe that the essential character of the district will be altered.

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.*

As stated above, it is common in the King William Historic District to find zero lot line structures. Criteria for establishing a historic district includes preserving a sense of community identity and continuity for site planning issues, including setbacks; as such, the request is consistent with this goal, and could be considered a unique circumstance. The International Building Code requires a fire wall for structures within a certain distance of a property line; usually the minimum distance is five feet. Because both applicants propose to construct structures to the property line, the common wall must be a fire rated wall. The UDC does not contemplate common walls of structures in this manner, and treats the wall as a fence. A 6-foot high wall is not sufficient for the intended use, and therefore, this could also be considered a unique circumstance. Lastly, the property line encroachment issue already exists, and correction of the property line encroachment and platting of the properties is preferable to having residences on non-platted lots due to the benefits of accurate public records, tax collection activities, and to prevent confusion in future land transactions.

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to maintain the non-compliant existing condition of the property, or to construct the carport at a compliant location on the property.

### **Staff Recommendation**

Staff recommends **approval of A-12-068**, due to the following reasons:

1. The variance is not contrary to the public interest because both affected property owners are requesting the same variance and the properties are located at a street terminus.
2. The current misconfiguration and remoteness of the property creates a special condition that would create an unnecessary hardship.
3. The essential character of the district will not be altered as zero lot line structures are common within the King William Historic District and the projects have received design approval from the HDRC.

### **Attachments**

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – 322 Washington Section Elevation

Attachment 4 – 326 Washington Section Elevation

# Attachment 1 Notification Plan



## Board of Adjustment Notification Plan for Case A-12-068

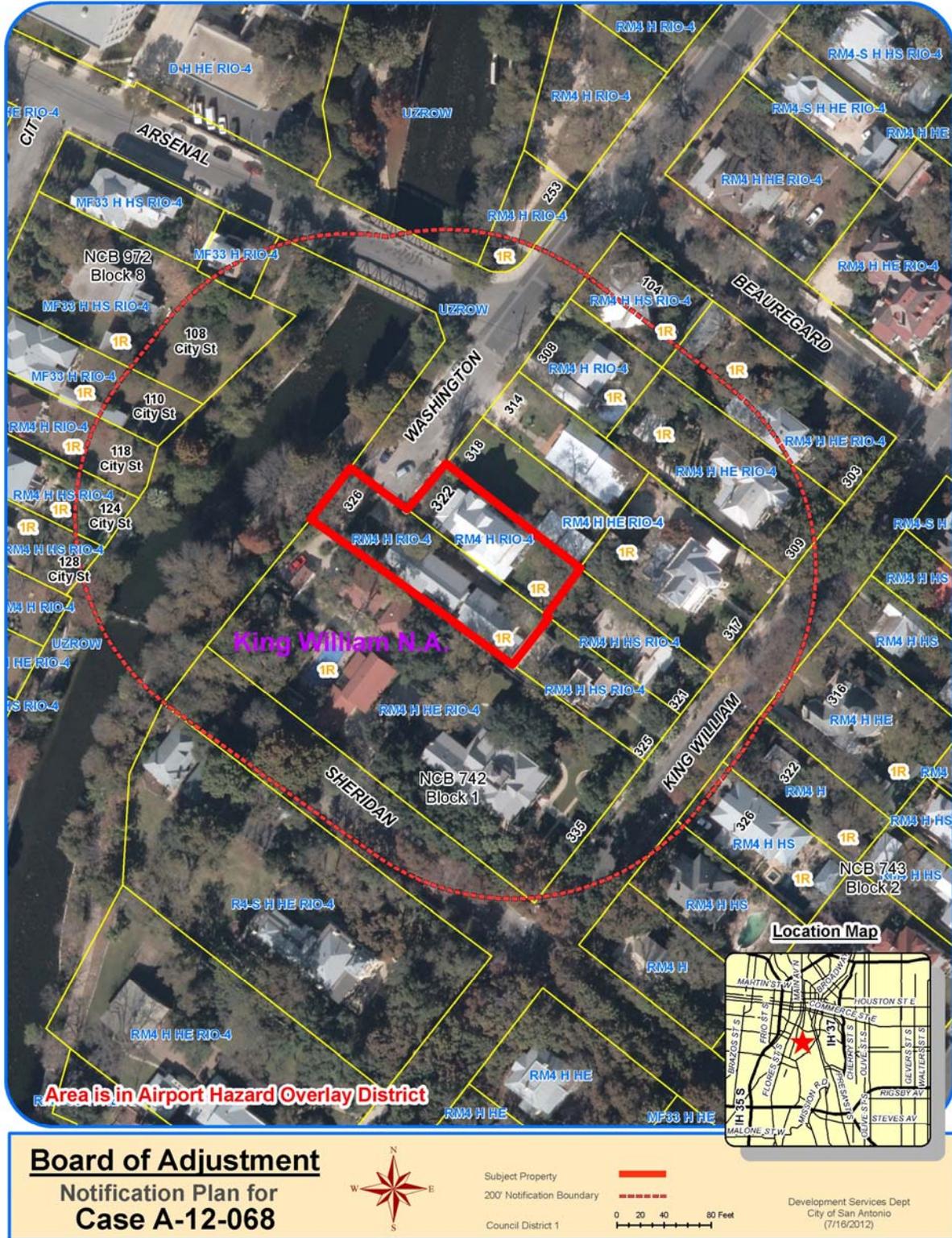


Subject Property  
200' Notification Boundary  
Council District 1

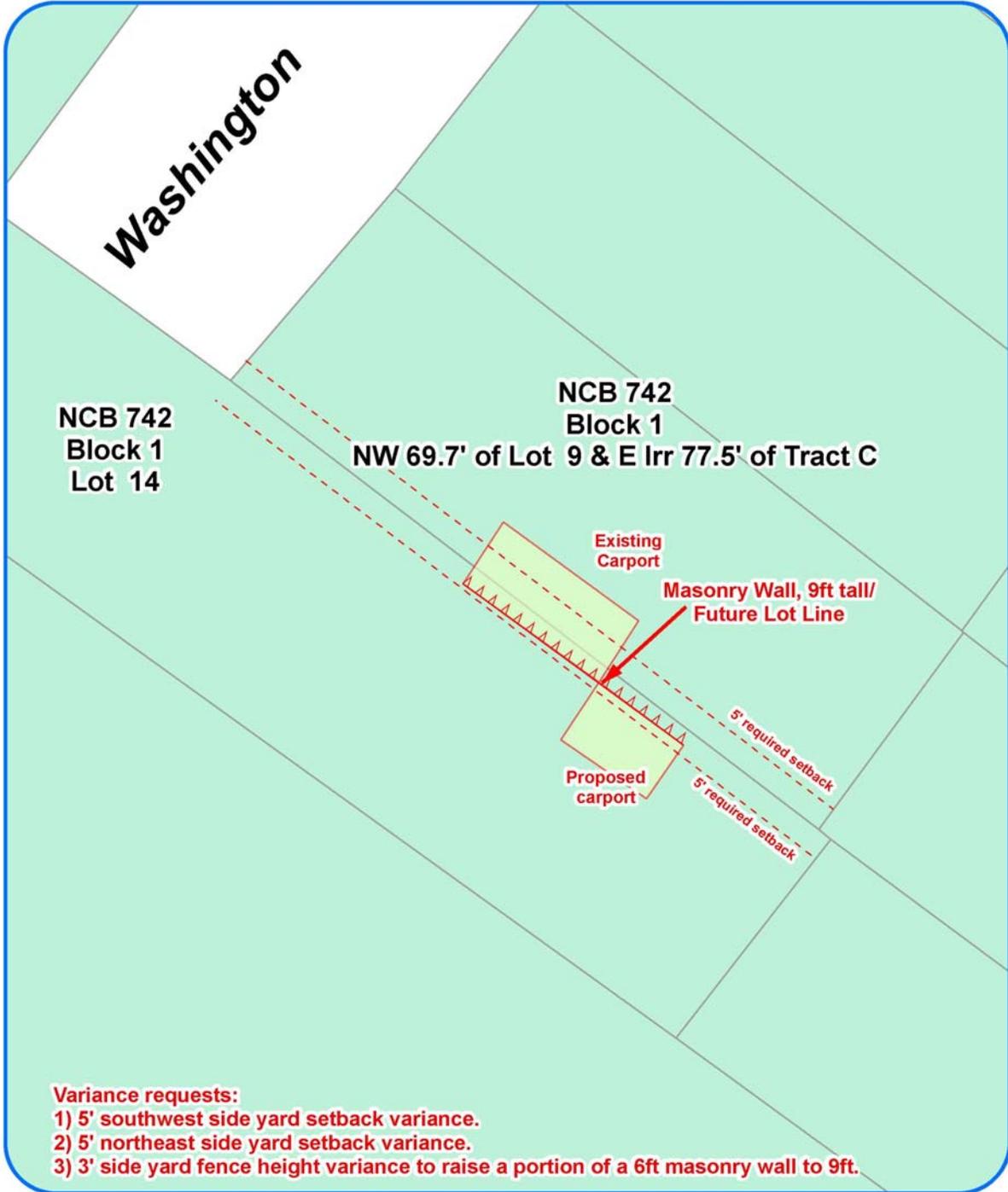


Development Services Dept  
City of San Antonio  
(7/16/2012)

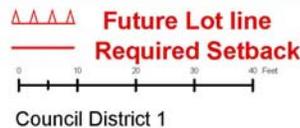
**Attachment 1 (Continued)  
Notification Plan**



**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case A-12-068**



**322 WASHINGTON**  
**326 WASHINGTON**

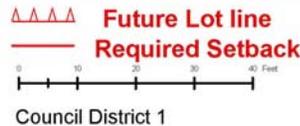
Development Services Dept  
City of San Antonio  
(7/16/2012)

**Attachment 2 (Continued)  
Plot Plan**



**Variance requests:**  
 1) 5' southwest side yard setback variance.  
 2) 5' northeast side yard setback variance.  
 3) 3' side yard fence height variance to raise a portion of a 6ft masonry wall to 9ft.

**Board of Adjustment**  
 Plot Plan for  
**Case A-12-068**

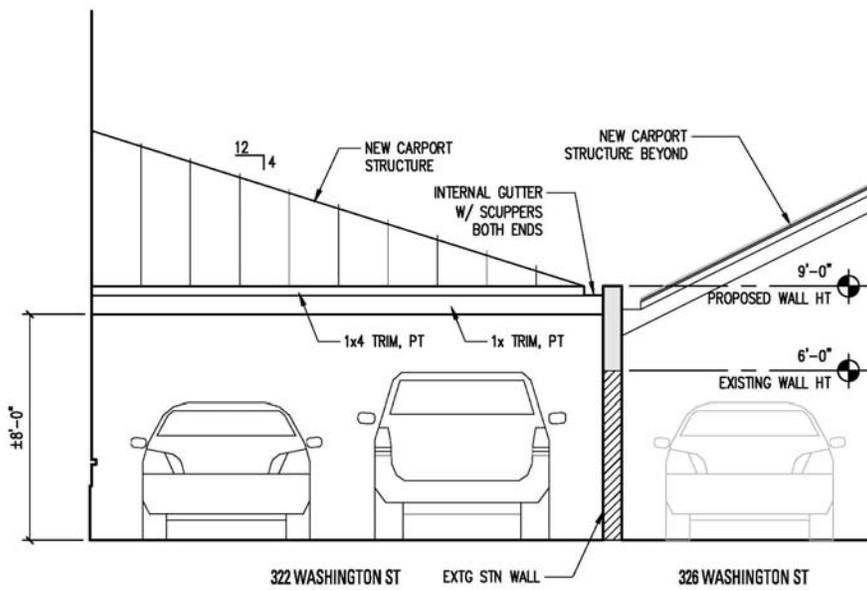


**322 WASHINGTON  
326 WASHINGTON**

Development Services Dept  
 City of San Antonio  
 (7/16/2012)

# Attachment 3

## 322 Washington Section Elevation

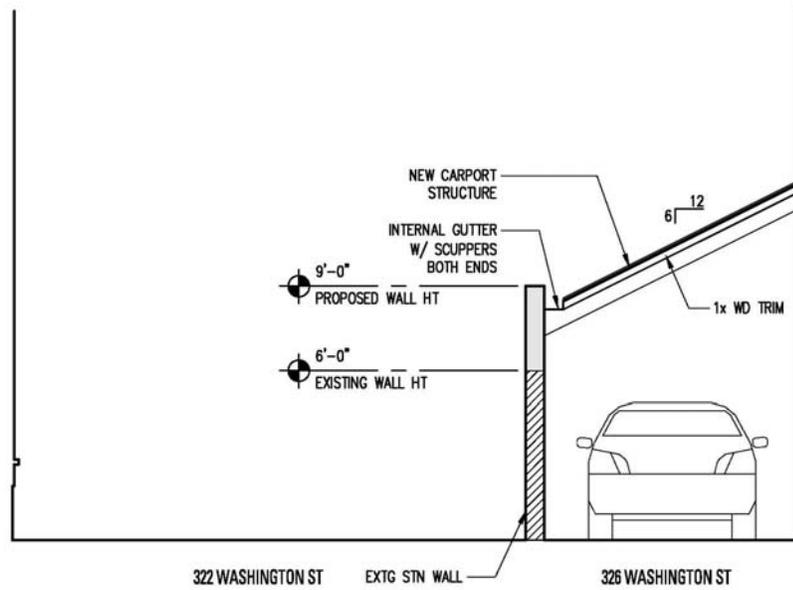


**SECTION:** 322 WASHINGTON CARPORT  
 SCALE: 1/4" = 1'-0"

322 WASHINGTON	
DATE: JUNE 14, 2011	
POTEET ARCHITECTS	

# Attachment 4

## 326 Washington Section Elevation



**SECTION:** 326 WASHINGTON CARPORT  
 SCALE: 1/4" = 1'-0"

326 WASHINGTON	
DATE: JUNE 14, 2011	
POTEET ARCHITECTS	



## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-12-071  
Date: July 16, 2012  
Applicant: Dora A. Reyes  
Owner: Dora A. Reyes  
Location: 219 St John Street  
Legal Description: Lot 7, Block 3, NCB 6002  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Tony Felts, Planner

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### **Request**

The applicant requests 1) a 5 foot north side yard setback variance, and 2) an 8 foot, 3 inch rear yard setback variance.

### **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 June 28, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 29, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 13, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The approximately 5600 square-foot property is located on the west side of St. John Street, approximately 160 feet north of Nolan Street. The lot is 40 feet wide by 140 feet deep, and is currently developed with a garage apartment structure. It should also be noted that the applicant also owns the south five (5) feet of the adjacent lot to the North; however, this land is not platted, and therefore cannot be counted for building setbacks. The lot had previously contained a single-family residence along with the garage apartment; however the residence was destroyed by fire in December, 2010. The applicant wishes to now retain the garage apartment as the primary structure on the lot.

The existing structure functioned as an accessory dwelling unit, although it is unknown when this use began or when conversion to a garage apartment took place. Bexar CAD records indicate that structure was built in 1985; however, the building appears to be substantially older. The applicant/owner and their representative state that the apartment was already developed as such when they acquired the property in 1985. According to the applicant, gas and electric utilities were originally connected to those from the main house. It should be noted that building setbacks for accessory structures are five feet from both side and rear property lines.

The structure does not meet the north side setback or rear yard setback. The north side yard setback require is five feet and the rear yard setback required is twenty feet. Section 35-516(c) of the UDC allows have the distance of an abutting public alley to be counted toward the building setback; however, even with these public alley setback allowances the structure still does not meet rear yard setbacks. The north side yard setback variance is required because the structure is constructed on the lot line of Lot 7, effectively leaving a zero setback. It should be noted that the owner owns the south five feet of the adjacent lot, however it cannot be counted toward the required building setback as it is not part of the owner’s platted lot. The purpose of this application is to allow utilities to be reconnected to the building as a “stand-alone” structure.

**Subject Property Zoning/Land Use**

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

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Dignowity Hill Neighborhood Plan area. The subject property is also located within the boundaries of the Dignowity Hill Neighborhood Association.

**Criteria for Review**

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

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

Yard setbacks are required in order to maintain orderly development and ensure access, light, and air availability. In this case, the structure is existing and has been previously used as an accessory dwelling. The northern side yard setback variance of five feet is mitigated by the

fact that the applicant owns the south five feet of the adjacent lot. Though not platted, this five feet essentially functions as a side yard. Were the five feet and the lot to be replatted, this north side yard setback variance would be unnecessary. Regarding the rear yard setback variance, the existing 20-foot open alley to the rear of the structure provides a necessary separation from the property to the rear of the subject property. In fact, Section 35-516(c) of the UDC allows the applicant to be credited half of the alley width for setback purposes, or ten feet. Given the width of the alley and the fact that the structure is existing, the public interest will not be impacted by granting the rear yard setback variance.

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

There are no special conditions associated with the property that make it different from other properties in the area. The lots in the area are fairly uniform in their layout. The north side yard variance can be remedied by replatting the lot and the south five feet of the adjacent lot that the applicant already owns. The rear yard setback variance is required because of the location of the existing structure. Were the structure to remain an accessory detached dwelling unit (this would require the construction of a new, primary structure on the lot), a rear yard setback variance would be unnecessary.

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 by granting the north side yard variance, because there is a viable and preferable alternative – replatting the lot to combine all of the applicant’s property into one lot. Complying with the ordinance is preferable to granting an exception to a rule. Regarding the rear yard setback variance request, granting the variance would not conflict with the spirit of the ordinance because the platted alley serves as a proper buffer between the structure and the neighboring property.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the R-4 AHOD (Residential Single-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.*

Neither variance request will substantially injure adjacent conforming properties. While allowing significantly reduced setbacks on both properties, each request has mitigating factors that protect the surrounding properties. The side yard variance request is mitigated by the presence of the five-foot strip of Lot 8 owned by the applicant which provides a buffer equal to what the setback would have required, while the rear yard variance request is mitigated by the presence of the twenty-foot platted, open alley.

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.*

Lots in the area are fairly uniform, and the subject property is not unique except that it now contains an accessory structure where no primary structure exists. As stated above, the applicant is aware that replatting the lot would alleviate the side yard variance request; however the applicant is concerned with the cost of such replatting. This is merely a financial situation which is not a justifiable basis for granting a variance. The rear yard setback request could be considered a unique situation due to the existing structure's placement and the mitigating alley width.

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to replat the lot to include the southern five feet of Lot 8 that the applicant already owns, and for the Board to grant the rear yard setback variance.

### **Staff Recommendation**

Staff recommends **partial approval of A-12-071**, as follows:

1. Approval of the rear yard setback variance request due to the existing location of the structure and the existing 20-foot wide platted alley.
2. Denial of the north side yard setback variance request because the lot should be replatted as the applicant already owns the South five feet of the adjacent lot.

### **Attachments**

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Survey Site Plan

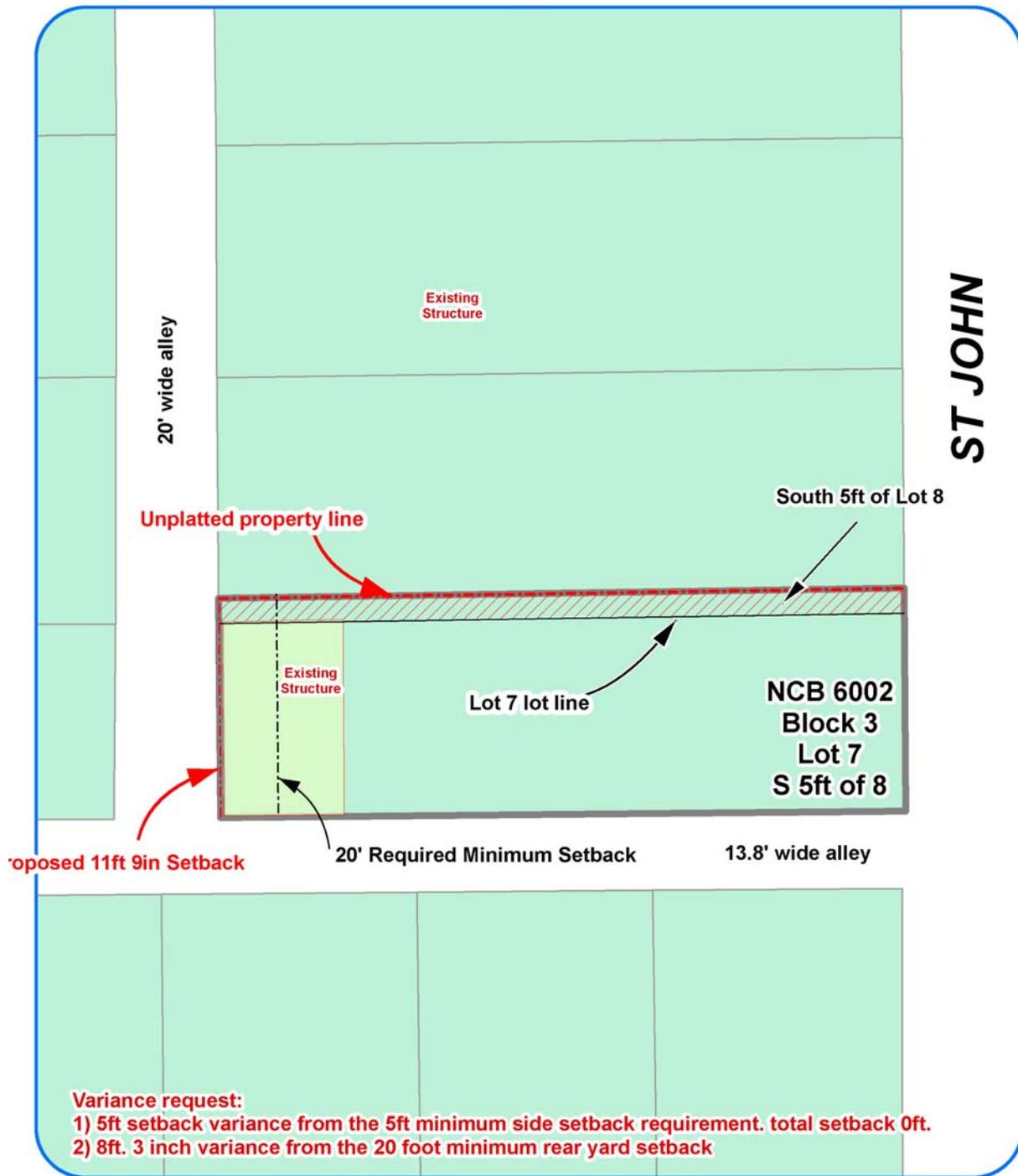
# Attachment 1 Notification Plan



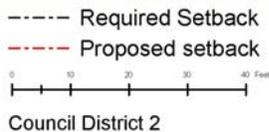
**Attachment 1 (Continued)  
Notification Plan**



**Attachment 2  
Plot Plan**



**Board of Adjustment**  
 Plot Plan for  
**Case A-12-071**



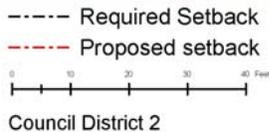
**219 ST JOHN**

Development Services Dept  
 City of San Antonio  
 (7/16/2012)

**Attachment 2 (Continued)  
Plot Plan**



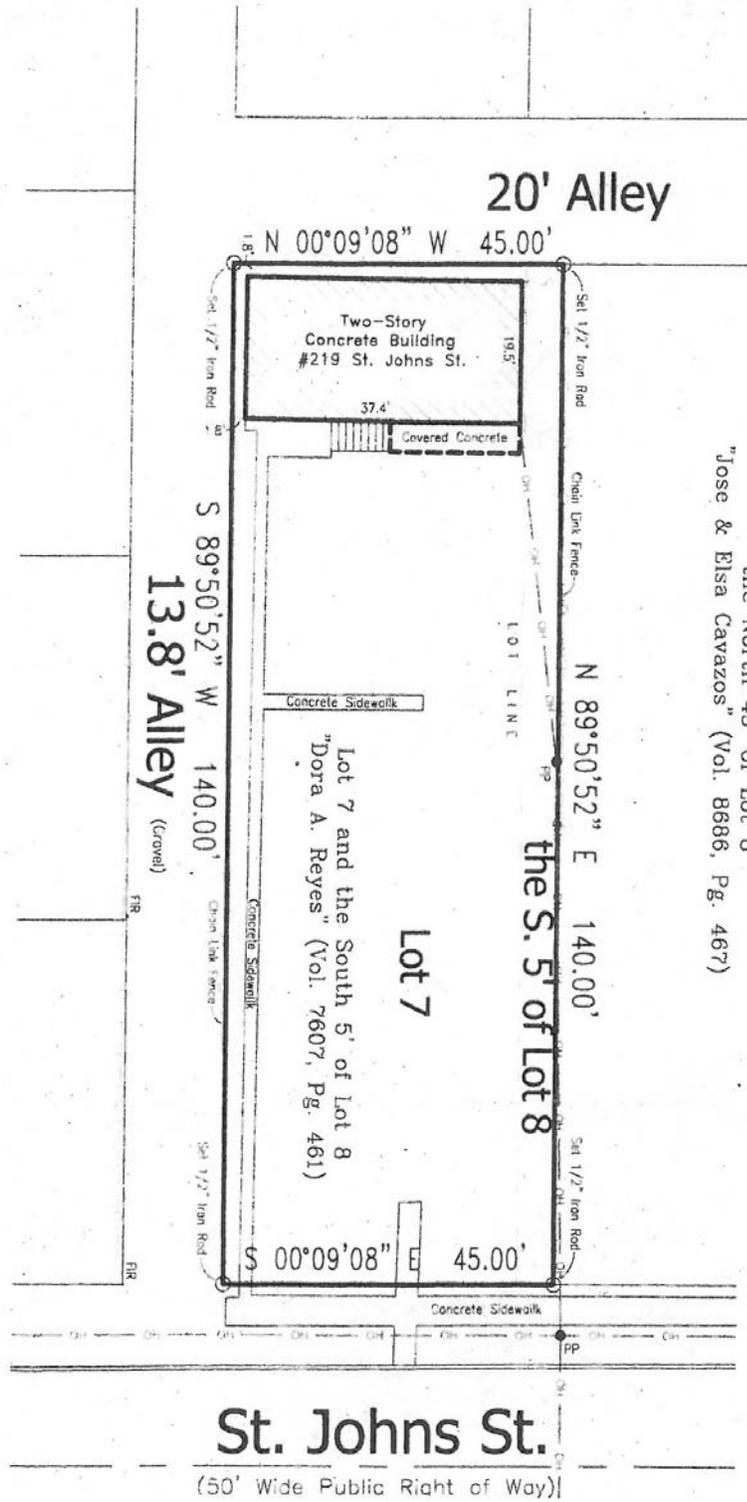
**Board of Adjustment**  
 Plot Plan for  
**Case A-12-071**



**219 ST JOHN**

Development Services Dept  
 City of San Antonio  
 (7/16/2012)

**Attachment 3  
Survey Site Plan**



the North 45' of Lot 8  
"Jose & Elsa Cavazos" (Vol. 8886, Pg. 467)



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

To: Board of Adjustment  
Case No.: A-12-072  
Date: July 16, 2012  
Applicant: Mike Kelleher  
Owner: Gruene Fund, LP  
Location: 233 Leigh Street  
Legal Description: Lot 8 Block 2 NCB 720  
Zoning: "RM-4 H" Mixed Residential Historic District  
Prepared By: Margaret Pahl, AICP Senior Planner

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### **Request**

The applicant requests a thirty-two square foot variance from the 4,000 square foot minimum lot size for each of the two parcels, located in the "RM-4 H" zoning district.

### **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. Notices were sent to property owners within two hundred (200) feet of the subject property on June 28, 2012. The registered neighborhood association, Lavaca, was also notified and invited to provide comment. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 29, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on July 12, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The applicant recently purchased the property with the intent to subdivide the large rear portion of the parcel to create a new building lot. A proposed two lot subdivision plat was prepared and submitted for review. Each of the proposed lots satisfied the 4,000 square foot minimum. One of the staff's requested changes was the inclusion of new right of way dedication to provide a rounded curb return at each intersection. A curb return is a rounded edge of curbing at an intersection; it allows a vehicle to turn the corner with a slow, smooth movement. Without the curved curb return, streets would intersect at a sharp angle and vehicles would have to proceed

further into the intersection before making the turn movement, risking a head-on collision with traffic on the opposing street. The required dedication was slight, but enough to reduce the lot size below the required minimum. Without the variance, the subdivision would be impossible under the current “RM-4” zoning and the large rear parcel would remain with the house on Leigh Street.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“RM-4 H” Mixed Residential Historic District	One residential structure on large lot

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 H” Mixed Residential Historic District	Residential structure
South	“RM-4 H” Mixed Residential Historic District	Residential structure
East	“RM-4 H” Mixed Residential Historic District	Residential structure
West	“RM-4 H” Mixed Residential Historic District	Residential structure

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Lavaca Historic District and the Lavaca neighborhood planning area. The Lavaca Neighborhood Plan was prepared during 2000 and adopted by the City Council on September 27, 2001. The Plan includes a goal supported by this application:

- *Maintain the existing character of the historic residential buildings and encourage compatible infill housing within the neighborhood.*

The proposed lot and new home would face the Herff Elementary School on Callaghan Street. Design of the new home will require review and approval from the Historic & Design Review commission (HDRC) and the Historic Preservation Officer. This process ensures that the new structure will be compatible with the scale and characteristics of the neighborhood.

A notice of this application was sent to the Lavaca Neighborhood Association. No concerns were submitted.

**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:*

Public interest is a central theme used to justify government regulations; it refers to general welfare and common well-being of the population as a whole. In this case, the public interest is first represented by the City's Engineering Division asking for a rounded curb return. This rounded edge has long been a standard component of street design and reduces tire damage and improves intersection safety. A subdivision is an application where street dedication can be justified, and in older neighborhoods, is a rare opportunity to correct.

Public interest is also represented by the benefit of having a house on this corner facing the school property. A new house in a small neighborhood is generally seen as an improvement. The proposed lot is similar in size to many other lots in the neighborhood and the slight reduction in lot area will not be perceptible. A review of similar lot sizes shows a wide variation between 3,800 and 4,900 square feet. Therefore, the variance in lot size to allow a new building lot would be in the public interest.

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

Literal enforcement of the ordinance would deny the proposed subdivision and the creation of a new building lot. The existing large lot is uncharacteristic of the lots between Leigh Street and Callaghan. It is also inconsistent with lifestyle choices of reducing yard maintenance in favor of water conservation and community gardening.

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

Minimum lot sizes are usually round numbers in the thousands; a minimum lot size of a random 3,863 square feet will never be found in an ordinance. But an actual lot with 3,863 square feet may be found in a district with a rounded minimum lot size. These standards are more often used when subdividing large open tracts of land and result in creating homogenous neighborhoods of identical lot sizes, setbacks and houses. In "in-fill" development, flexibility is often needed to create investment opportunities. As evidenced by the map showing the diversity of lot sizes in the surrounding area, these two lots would be consistent with the established lots in the area. Therefore, allowing the new building lot to be created will observe the spirit of the Code.

- 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.*

There is no use variation proposed.

- 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 lots nearby have less than 4,000 square feet in lot area and there are no two lots in the immediate vicinity with the exact same lot area. The character of the neighborhood is a variety of small lots on this block and a variety of larger lots on the block to the south. A new lot, if approved, will likely result in the construction of a new home. The home will have to be reviewed and approved by the HDRC and Historic Preservation Officer prior to construction, guaranteeing its compatibility with the historic district. Therefore, the variance to allow the subdivision will not injure adjacent property or detract from the essential character of the neighborhood.

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 subject property is similar to other lots in the area which have been subdivided. None of these smaller residential lots show the curb radius dedication as requested here. The school parcel however does show the rounded corner, evidence of the similar curb dedication. The situation is somewhat unique as an in-fill scenario and was not created by the owner.

### **Alternatives to Applicant's Request**

The applicant could protest the right-of-way dedication as excessive compared to the relative impact of one new residential lot and ask the Planning Commission to reduce the requirement.

### **Staff Recommendation**

Staff recommends **approval of the variance as proposed in application A-12-72** based on the following findings:

1. The variance would allow the applicant to create a new building lot in a popular downtown residential neighborhood, allowing investment and revitalization.
2. A literal enforcement of the ordinance may create an unnecessary hardship by preventing the owner from being able to subdivide, leaving an out-of-place large lot.
3. The spirit of the ordinance is observed by allowing creation of an in-fill parcel, similar in size with others on the same block face.
4. Any new construction will be subject to review and approval of the Office of Historic Preservation.

### **Attachments**

Attachment #1 Notification Map

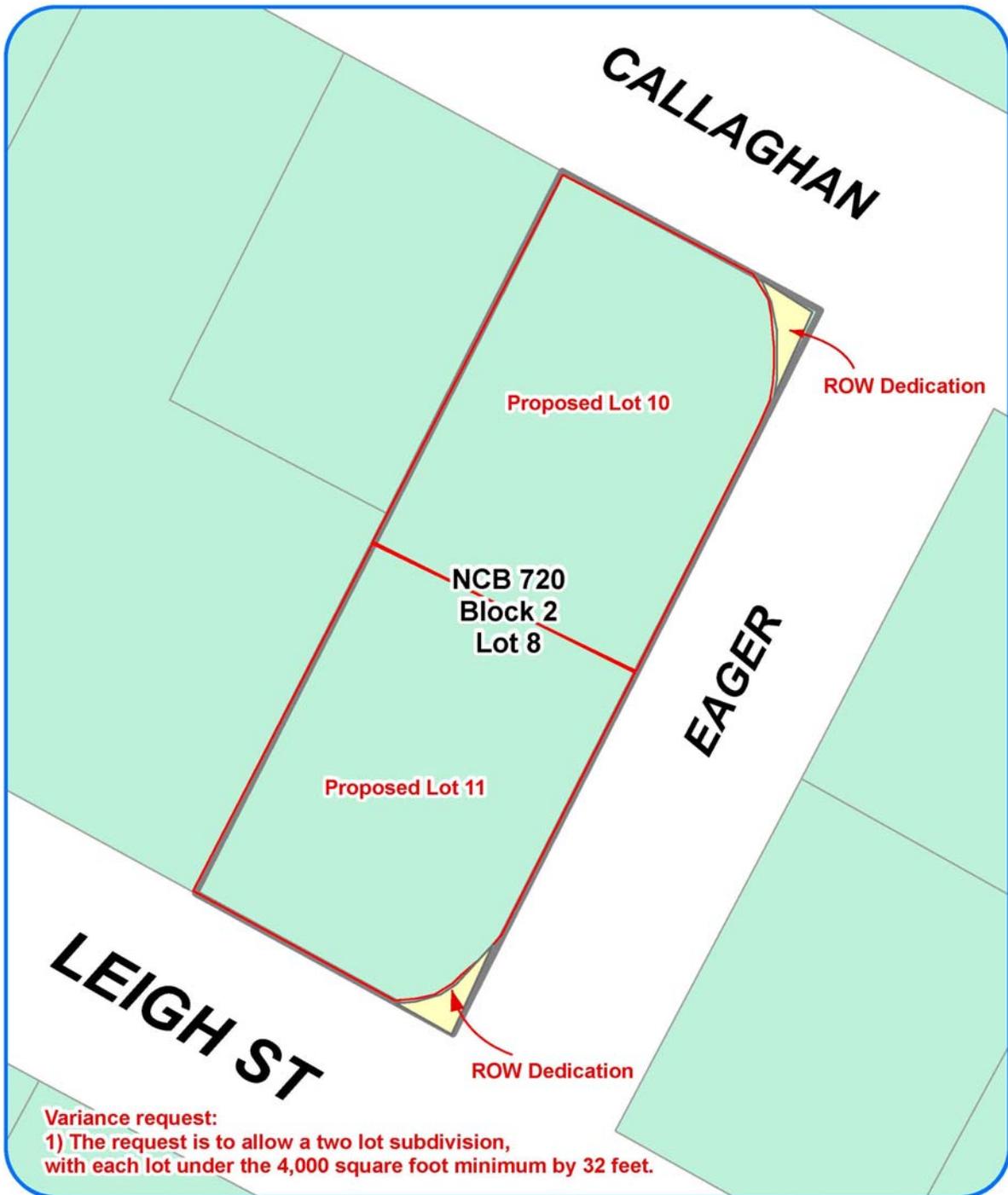
Attachment #2 Plot Plan

Attachment #3 Lot Sizes

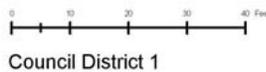
# Attachment #1



Attachment #2



**Board of Adjustment**  
Plot Plan for  
**Case A-12-072**



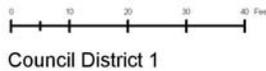
**233 LEIGH ST**

Development Services Dept  
City of San Antonio  
(7/16/2012)

Attachment #2 (continued)



**Board of Adjustment**  
Plot Plan for  
**Case A-12-072**



**233 LEIGH ST**

Development Services Dept  
City of San Antonio  
(7/16/2012)

Attachment #3

