

CITY OF SAN ANTONIO
Board of Adjustment
Regular Public Hearing Agenda

Cliff Morton Development and Business Services Center
1901 South Alamo Street
Board Room, First Floor

Monday, July 20, 2009
1:00 PM

BOARD OF ADJUSTMENT MEMBERS

Liz Victor – District 1	Rolando Briones – District 6
Edward Hardemon – District 2	Mary Rogers – District 7
Helen Dutmer – District 3	Andrew Ozuna – District 8
George Britton, Jr. – District 4	Mike Villyard – District 9
Vacant – District 5	Gene Camargo – District Mayor
Michael Gallagher – District 10 Chairman	
Maria Cruz	Mimi Moffat
Henry Rodriguez	Pete Vallone
Rollette Schreckenghost	Narciso Cano

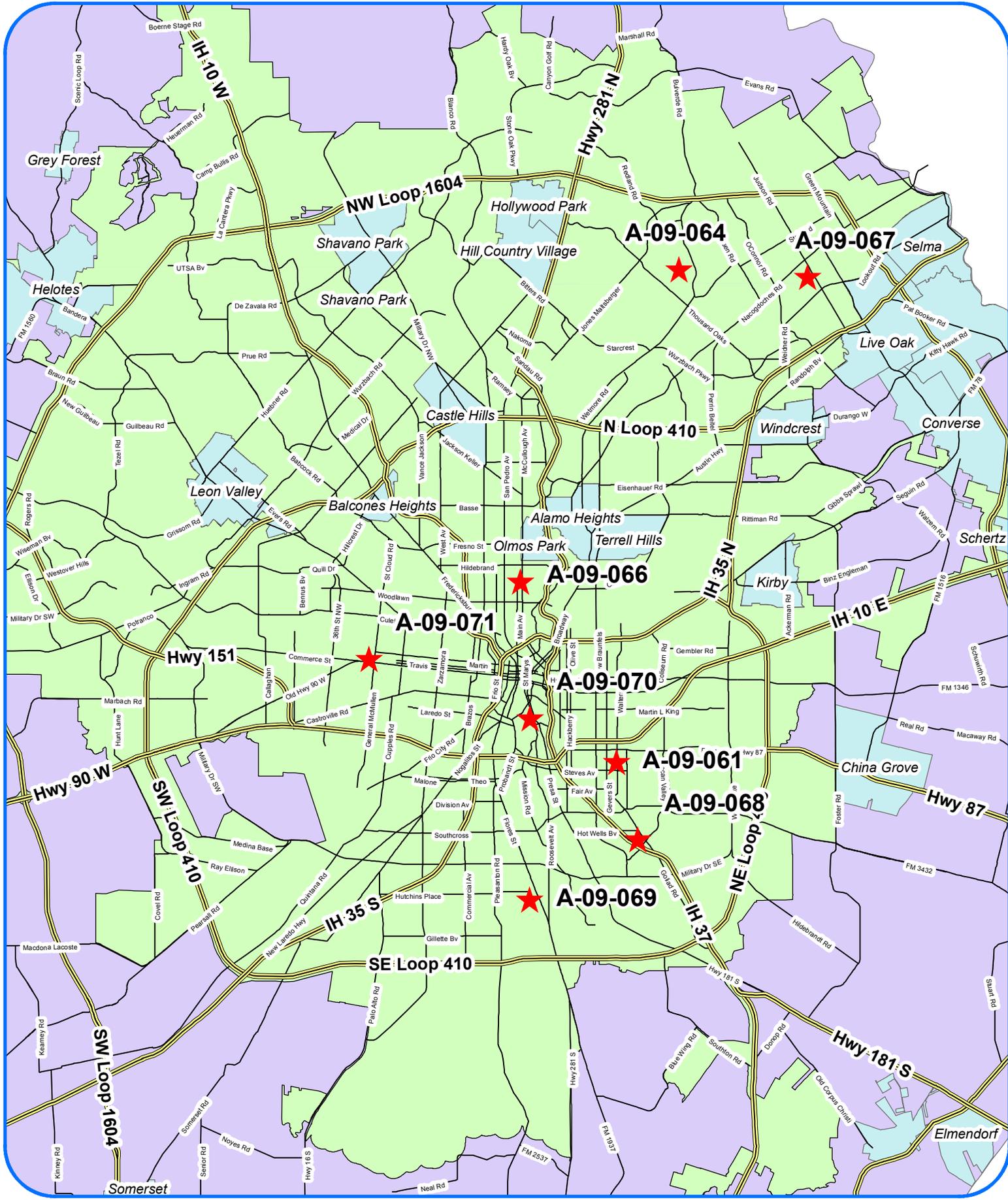
1. 1:00 PM – Public Hearing Call to Order.
2. Roll Call.
3. Pledges of Allegiance.
4. **CASE NO. A-09-061:** The request of Cynthia Munoz, for **1)** a special exception for an ornamental-iron front yard fence, to keep an existing 5-foot tall ornamental-iron front yard fence and **2)** a 1-foot variance from the requirement that side and rear-yard fences not exceed 6 feet in height, in order to keep an existing 7-foot tall fence in the side and rear yard from the southeast corner to a point 18 feet 6 inches going north along the east side property line, 1044 Bailey Avenue.
5. **CASE NO. A-09-064:** The request of Max Landingham, for **1)** a 4-foot variance from the requirement that fences in side and rear yards not exceed 6 feet in height, in order to keep an existing fence at a height of 10 feet in the north side-yard and **2)** a 2-foot variance from the requirement that fences in side and rear yards not exceed 6 feet in height, in order to keep an existing 8-foot tall fence in the side and rear yards, 3302 Butterleigh Drive.
6. **CASE NO. A-09-066:** The request of Rodolfo Molina, for a 2-foot variance from the requirement that side and rear-yard fences not exceed 6 feet in height, in order to erect an 8-foot tall fence on the side and rear property lines, 125 East Kings Highway.

7. **CASE NO. A-09-067:** The request of Joe & Margie Conatser, for a 1-foot variance from the requirement that accessory structures exceeding thirty inches in height be located a minimum distance of 3 feet from side and rear property lines when that structure has no sills, belt courses, cornices, buttresses, eaves, or similar projecting architectural features, in order to keep an existing accessory structure 2 feet from the rear property line, 5822 Champions Hill Drive.
8. **CASE NO. A-09-068:** The request of Martin G. Valladolid, for a 4-foot variance from the requirement that a minimum 5-foot side setback be maintained, in order to keep an existing carport 1 foot from the west side property line, 235 Michael Avenue.
9. **CASE NO. A-09-069:** The request of Frances Cisneros, for a special exception to allow a one operator beauty/barber shop, 507 Creath Place.
10. **CASE NO. A-09-070:** The request of Jeff & Mary Grace Ketner, for a 2-foot, 10-inch variance from the requirement that a minimum 5-foot side setback be maintained, in order to erect an accessory structure 2 feet 2 inches from the west side property line, 109 Fir Street.
11. **CASE NO. A-09-071:** The request of Ed Hernandez, for **1)** a 62-foot variance from the requirement that on-premise signs be at least 150 feet apart, in order to keep an on-premise sign 88 feet from the nearest on-premise sign; **2)** a 60-foot variance from the requirement that on-premise signs be at least 150 feet apart, in order to keep an on-premise sign 90 feet from the nearest on-premise sign; **3)** a 7-foot 7-inch variance from the standard that any secondary sign along a street classified as an Arterial Type A shall not exceed 75% of the allowable height, in order to keep an existing 37 foot, 7 inch tall sign and **4)** a 5-foot variance from the standard that any secondary sign along a street classified as an Arterial Type A shall not exceed 75% of the allowable height, in order to keep an existing 35 foot tall sign, 4807 West Commerce Street.
12. Approval of the minutes from the regular meeting on June 15, 2009.
13. Executive Session: consultation on attorney-client matters (real estate, litigation, personnel and security matters) as well as any of the above agenda items may be discussed.
14. **Adjournment**

Note: The City of San Antonio Board of Adjustment Agenda can be found on the Internet at: www.sanantonio.gov/dsd
At any time prior to the meeting, you may contact a case manager at 207-0170 to check the status of a case.

ACCESSIBILITY STATEMENT

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



Board of Adjustment
Subject Property Locations
Cases for July 20, 2009





Board of Adjustment
Notification Plan for
Case A-09-061



Legend

- Subject Property -----
- 200' Notification Boundary —————

Scale: 1" approx. = 150'
 Council District 3



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-09-061
Hearing Date: July 20, 2009
Applicant: Cynthia Munoz
Owner: Cynthia Munoz
Location: 1044 Bailey Avenue
Legal Description: Lot F, Block 100, NCB 3368
Subject: 1) A special exception for an ornamental-iron front yard fence.
2) Side and rear yard fence height variance.
Prepared By: Jacob Floyd, Planner

Executive Summary

The applicant requests:

- 1) a special exception for an ornamental-iron front-yard fence, in order to keep an existing 5-foot tall ornamental iron front-yard fence, and
- 2) a 1-foot variance from the requirement of Section 514 that fences in side and rear yards not exceed 6 feet in height, in order to keep an existing fence at a height of 7 feet in the side and rear yards.

The subject property is zoned "R-4" Residential Single-Family District.

If the special exception is not granted, the applicant must comply with requirement that predominantly open fences in front yards not exceed a height of 4 feet. If the variance is not granted the applicant must comply with the requirement that fences in side and rear yards not exceed a height of 6 feet.

Public Notice

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 and the application was noticed in The Daily Commercial Recorder, an official newspaper of general circulation. This was completed on June 2, in accordance with the public noticing requirements of the Section above. Notice of this meeting was posted at city hall and on

the city's internet website on July 17, in accordance with Section 551.043(a) of the Texas Government Code.

Project Description

The applicant is requesting the special exception and variance from the maximum allowable fence height standards in order to keep an existing fence at a height of 5 feet in the front yard and to keep with the existing 7-foot tall gate posts in the side and rear yards. The fence is of a predominantly open design consisting of metal posts and balusters. Construction of the fence began without the proper permits being obtained. While in the process of erecting the fence, Planning and Development Services Department (PDSD) Investigators informed the applicant that a permit is required. A permit for a 4-foot fence was sought.

The applicant indicates that the 7-foot tall gate posts are necessary for the proper function of the gate, as it is supported by cables mounted to the posts. Further, the application stated that this design was needed because of the lack of pavement on which the gate would need to roll.

The applicant also indicates that the design of the front yard fence meets the requirements to be considered under the provisions of this special exception.

Surrounding Zoning/Land Use

North	R-4	Single-Family Residential
South	R-4	Single-Family Residential
East	R-4	Single-Family Residential
West	R-4	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Highlands Community Plan. The Neighborhood Planning and Urban Design Section review (Attachment 6) states that though the plan does not specifically address fences, one objective is "to enhance and improve the distinctive character of the Highlands neighborhood."

Additionally, the property is located within the boundaries of the Highland Park Neighborhood Association. As of July 13th, staff has not received a reply from the neighborhood association.

Criteria for Review

According to Section 482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets all of the following criteria (in addition to the requirements of Section 399.04):

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

The requested special exception is in harmony with the spirit and purpose of this chapter in that the existing front yard fence follows the specified design criteria established in Section 399.04 of the UDC.

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

It does not appear that the public welfare and convenience will be affected.

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 single-family residential, though a rezoning request is currently being considered by the zoning commission.

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 appear that the granting of the special exception will alter the essential character of the district in which the subject property is located in that the height of the front yard fence (5 feet) is not in character with the surrounding neighborhood. Front yard fences, when present, are typically of a height of 4 feet or less and not along this particular block face. The majority of the surrounding properties do not exhibit front yard fences.

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

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

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

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

The subject property is permitted by-right to erect a 6-foot tall fence in the side and rear yards. The majority of the fence is built to a height of 5 feet, with the two gate posts being 7 feet in height. It does not appear that the granting of this variance would be contrary to the public interest.

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

It does not appear that the literal enforcement of the ordinance would result in an unnecessary hardship. A fence of allowable height can be erected to accommodate a vehicle gate and still provide adequate structural integrity.

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

It appears that the applicant would be allowed to make reasonable use of the property while complying with fence height standards.

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 granting of this variance would not authorize a use other than those specifically permitted in "R-4" 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.

It does not appear that the granting of this variance would influence the appropriate use of adjacent conforming property. However, it does appear that the granting of this variance would alter the essential character of the district in which the subject property is located in that the height of the existing side and rear yard fence is not consistent with local conditions.

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 do not appear to be any unique circumstances existing on the subject property. The fence was built without regard for the fence height regulations.

Staff Recommendation

The height of the existing front-yard fence (for which the special exception is sought) is not consistent with the character of the district in general, though the design of the fence does meet the requirements specified in Section 399.04(a). The fence was erected prior to a permit for such work was sought by the applicant, though a permit for a 4-foot tall front yard fence was later issued. There do not appear to be any unique conditions existing on the subject property that would necessitate a fence of excessive height. Staff recommends **denial** of both the special exception and the requested variance.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Survey

Attachment 5 – Neighborhood and Urban Design Division Case Review

Bailey

Requested Special Exception
for Existing Ornamental Iron Fence

NCB 3368
Block 100
Lot F

Curb Line

S Walters St.

Existing
Residence

18'-6"

Requesting Variance for
7' Gate Post

Requesting Variance for
7' Gate Post

Board of Adjustment
Plot Plan for
Case A-09-061



Legend

Scale: 1" approx. = 20'
Council District 3

1044 Bailey

Planning and Development Services Dept
City of San Antonio
(06/19/2009 - P. Trinkle)

**NEIGHBORHOOD AND URBAN DESIGN SECTION
BOARD OF ADJUSTMENT CASE REVIEW FORM**

CASE INFORMATION

Case #: **A-09-061**

Property Address: 1044 Bailey

Zoning: R4

Hearing Date: 7/20/2009

Type / Scope of BOA Request:

The applicant requests 1) a special exception for an ornamental-iron front yard fence to keep an existing 5-foot tall ornamental fence, and 2) a 1-foot variance from the requirement of Section 35-514 that fences in the side and rear yards not exceed 6-feet in height to keep an existing fence at a height of 7-feet in the side and rear yard.

PLANNING PROGRAM / PROJECT OVERLAP

Neighborhood Association(s): Highland Park Neighborhood Association

Neighborhood or Community Plan: Highlands Community Plan

Neighborhood Conservation District: n/a

Corridor Overlay District (name or n/a): n/a

ANALYSIS STATEMENT

The future land use for the subject property is designated low density residential in the Highlands Community Plan. The low density residential land use category includes single-family houses on individual lots. All off-street parking and vehicle use areas adjacent to residential uses require buffer landscaping, and lighting and signage controls. Certain non-residential activities, such as schools, places of worship and parks, are appropriate within these areas and should be centrally located to provide easy accessibility.

The community plan does not specifically address front yard fences. However, Objective 4.1 of the plan does speak "to enhance and improve the distinctive character of the Highlands neighborhood" (p. 36). An ornamental front yard fence is not common in the neighboring vicinity of the subject property. The two properties in which an ornamental front yard fence does exist do not appear to be greater than 4-feet high which would not require a variance. The two ornamental front yard fences are located on an adjacent street. No front yard fences exist on Bailey, the street where the subject property is located. The 5-foot and 7-foot height of the ornamental front yard fence does not match nor enhance the distinct character of the Highland Park neighborhood.

The current situation may have been avoided had the applicant sought a building permit prior to fence design and construction. There does not appear to be any unnecessary hardship due to any special conditions by the literal enforcement of the ordinance.

RECOMMENDATION

Recommendation Pending Additional Analysis / Information

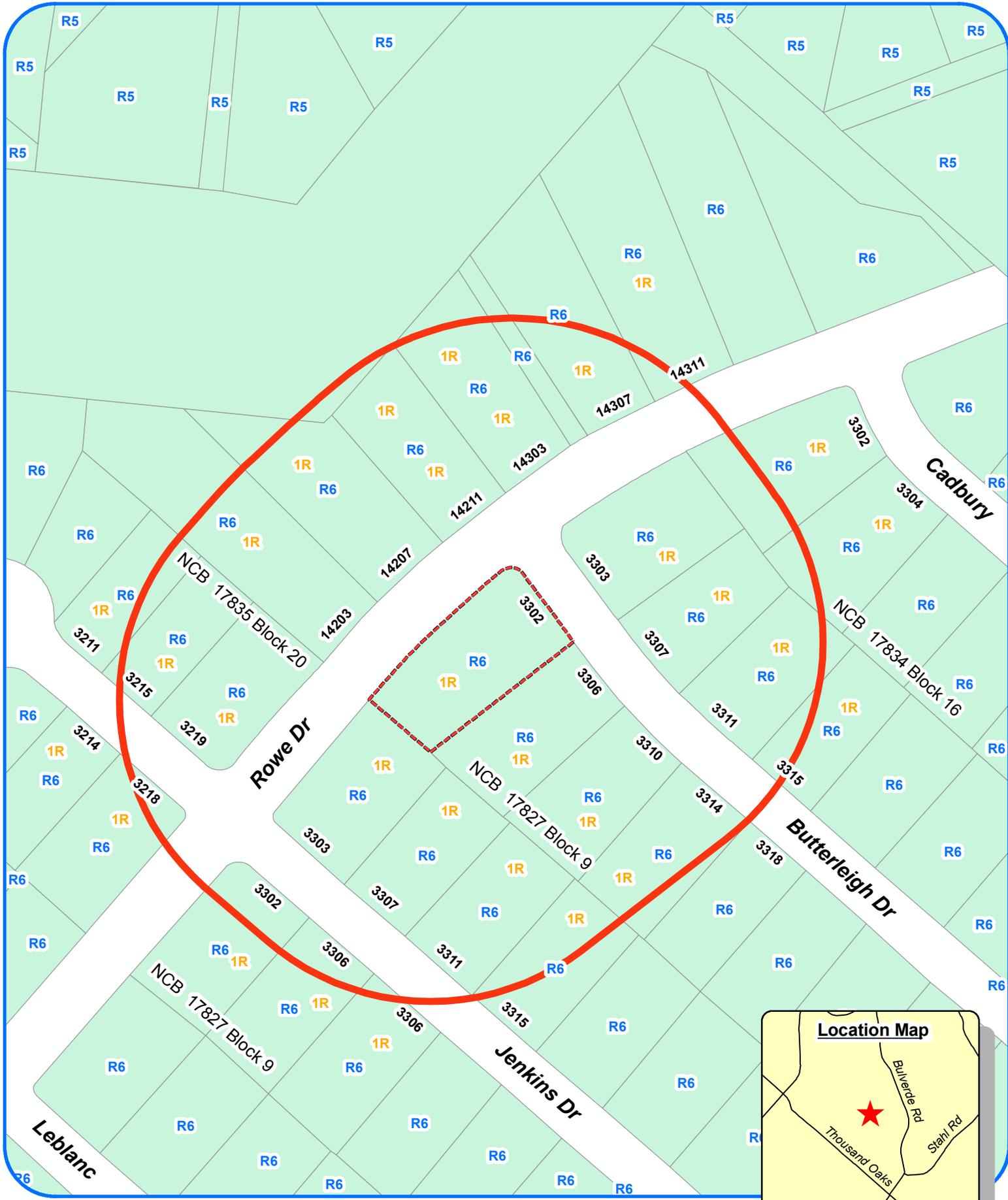
Support Request

Deny Request X

REVIEWER INFORMATION

Neighborhood Planner Reviewing: Rebecca Paskos, Sr. Planner

Date Review Completed: July 7, 2009



Board of Adjustment
Notification Plan for
Case A-09-064



Legend
 Subject Property -----
 200' Notification Boundary —————
 Scale: 1" approx. = 100'
 Council District 10



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-09-064
Hearing Date: July 20, 2009
Applicant: Max Landingham
Owner: Maxwell D. Landingham
Location: 3302 Butterleigh Drive
Legal Description: Lot 47, Block 9, NCB 17827
Subject: 1) Side yard fence height variance.
2) Side and rear yard fence height variance.
Prepared By: Jacob Floyd, Planner

Executive Summary

The applicant requests a 4-foot variance from the requirement of Section 514 that fences in side and rear yards not exceed 6 feet in height in order to keep an existing fence at a height of 10 feet in the north side yard. The applicant also requests a 2-foot variance from the requirement of the same section that fences in side and rear yards not exceed 6 feet in height, to keep an existing fence at a height of 8 feet in the rear and south side yards. The subject property is zoned "R-6" Residential Single-Family District.

Public Notice

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property and the application was noticed in The Daily Commercial Recorder, an official newspaper of general circulation. This was completed on June 2, in accordance with the public noticing requirements of the Section above. Notice of this meeting was posted at city hall and on the city's internet website on July 17, in accordance with Section 551.043(a) of the Texas Government Code.

Project Description

The applicant is requesting these variances from the fence height standards to keep an existing fence at a height of 8 feet in the side and rear yards and 10 feet along a portion of the north side yard. The portion of the fence that is at a height of 10 feet consists of a metal gate facing the front of the property.

The applicant indicates that the additional fence height is necessary due to an approximate 2.5 to 3-foot difference in elevation between the swimming pool and the street. According to the applicant, this elevation difference necessitates a fence height of 8 feet to provide reasonable privacy and create a buffer between the residence and Rowe Drive. This case was initiated by the applicant after receiving a notice of violation from a Planning and Development Services Investigator for a fence in excess of the allowable height. A permit for repair and replacement of an existing fence 6 feet in height was obtained November 4, 2008. The notice of violation was issued May 5, 2009.

Surrounding Zoning/Land Use

North	R-6	Single-Family Residential
South	R-6	Single-Family Residential
East	R-6	Single-Family Residential
West	R-6	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a neighborhood/community plan.

The property is located with the boundaries of the Eden Neighborhood Association. As of the date this report, staff has not received a reply from the neighborhood association.

Criteria For Review

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

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

It appears that the granting of these variances would be contrary to the public interest in that the height of the fence diminishes the uniformity of the neighborhood and the visual clearance of nearby properties.

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

It does not appear that the literal enforcement of the ordinance would result in unnecessary hardship. A fence of permitted height would provide adequate screening of the subject property.

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

The applicant will not be denied reasonable use of the subject property through the denial of the requested variances.

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 granting of these variances would not authorize a use other than those specifically permitted in "R-6" 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.

It does not appear that the granting of these variances would influence the appropriate use of adjacent conforming properties. However, it does appear that they would alter the character of the district in that the height of the existing side and rear yard fence is not consistent with local conditions.

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 do not appear to be any unique circumstances existing on the subject property. The fence was built without regard for the fence height regulations.

Staff Recommendation

The height of the existing side and rear yard fence is not consistent with the character of the district in general. The property does not qualify for a variance based on the above stated requirements. Staff recommends **denial** of the requested variances.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Survey

Rowe

Butterleigh

**NCB 17827
Block 9
Lot 47**

**Existing
Residence**

Existing 10' tall Fence

Existing 8' tall Fence

Board of Adjustment
Plot Plan for
Case A-09-064



Legend

Scale: 1" approx. = 20'
Council District 10

3302 Butterleigh

Planning and Development Services Dept
City of San Antonio
(06/26/2009 - P. Trinkle)

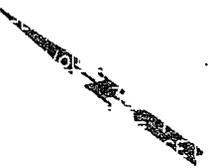
LEGEND	● = FND IRON ROD	△ = CALCULATED POINT	⊕ = POWER POLE	B.S. = BUILDING SETBACK
	○ = SET IRON ROD	☐ = TELEPHONE PEDESTAL	—○— = OVERHEAD ELECTRIC	U.E. = UTILITY EASEMENT
	X = "X" ON CONCRETE	⊙ = CABLE TELEVISION	—*— = WIRE FENCE	T.E. = TELEPHONE EASEMENT
	□ = FENCE POST	⊕ = WATER METER	— — = WOOD FENCE	E.E. = ELECTRIC EASEMENT
	▲ = PK NAIL	() = RECORD INFORMATION	— — = CHAIN LINK FENCE	M.E. = MAINTENANCE EASEMENT

As scaled from FEMA's FLOOD INSURANCE RATE MAP, Community No. 480045, Panel No. 0283 E Panel Dated 01-04-02, this tract is in Zone(s) X and is not in a special flood hazard zone. This flood zone information is to be used for informational purposes only. This surveyor does not certify to any information provided by FEMA.

BUTTERLEIGH DRIVE

(50' R.O.W.)

S 37°14'26" E 71.70'
(S 37°17'01" E 71.71')



SCALE: 1"=20'

R=5.00'
L=8.17'
C=8.04'

65.86'

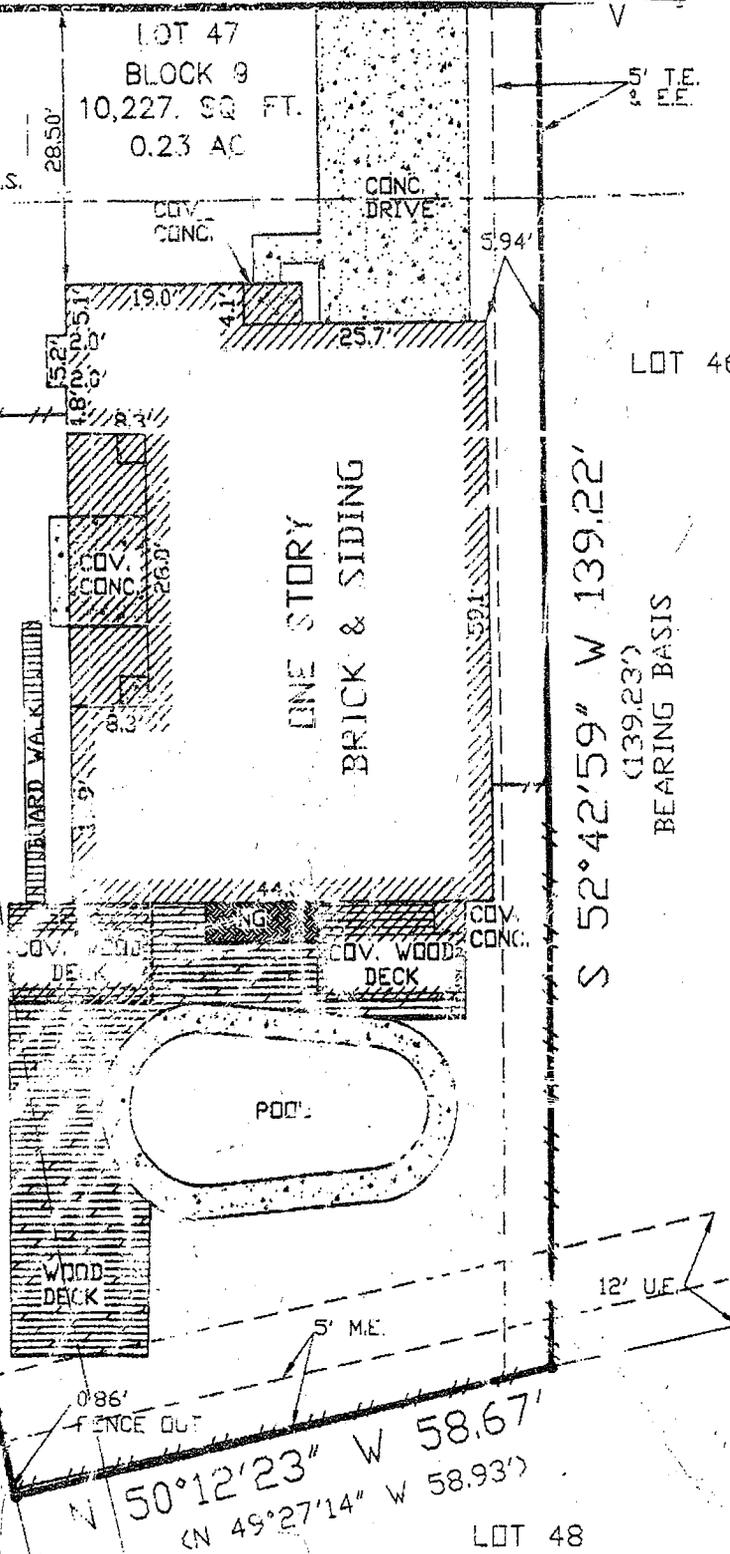
LOT 47
BLOCK 9
10,227. SQ. FT.
0.23 AC

LOT 46

S 52°42'59" W 139.22'
(139.23')
BEARING BASIS

CLUB VIEW DRIVE
(60' R.O.W.)

ONE STORY
BRICK & SIDING



Mary Barber
Helen Aronson

N 28°31'13" E 8.83'
(N 20°33'05" E 8.25')

N 50°12'23" W 58.67'
(N 49°27'14" W 58.93')

LOT 48



Board of Adjustment
Notification Plan for
Case A-09-066



- Legend**
- Subject Property
 - 200' Notification Boundary
 - Scale: 1" approx. = 150'
 - Council District 1





City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-09-066
Hearing Date: July 20, 2009
Applicant: Rodolfo Molina
Owner: Rodolfo Molina
Location: 125 East Kings Highway
Legal Description: Lot 10, Block 1, NCB 3257
Subject: Rear-yard fence height variance
Prepared By: Mike Farber, Planner

Executive Summary

The applicant is requesting a variance from the allowable maximum fence height standards, as stated in Section 514 of the Unified Development Code (UDC). Specifically, the request is for a 2-foot variance in order to erect an 8-foot tall fence along a portion of the rear and east side property lines. The maximum allowable height for side and rear yard fences shall not exceed 6 feet in height. The property is currently zoned "H R-5".

Public Notice

The request was publicly noticed in accordance with Section 403 of the UDC. Notices were mailed to property owners and registered neighborhood associations within two hundred (200) feet of the subject property and the application was noticed in The Daily Commercial Recorder, an official newspaper of general circulation. This was completed on July 2, in accordance with the public noticing requirements of the section above. Notice of this meeting was posted at city hall and on the city's internet website on July 17, in accordance with Section 551.043(a) of the Texas Government Code.

Project Description

The subject property contains a single-family residence and is located within the Monte Vista Neighborhood, which is north of the central business district. The purpose of the variance request is to erect an 8-foot tall fence in the rear yard of the subject property, which would include portions of both the rear and east side-yard property lines that are

along an unimproved alley. Currently, the applicant has a 6-foot tall fence in place. The applicant's submitted application cites the existence of similarly constructed fences in the immediate vicinity as rationale for the request. The applicant has submitted an application for consideration by the Historic Design and Review Commission (HDRC) to allow a 10-foot fence on the side and rear property lines. The HDRC approved the proposed fencing to be a total of 8 feet tall.

As observed during the staff site inspection, there are a number of similar fences in the immediate area. For example, the property to the immediate north has a fence 8 feet, 6 inches tall. The property to the immediate east has a fence that is 10 feet tall. Staff review found that these fences were not in compliance with city code. It does not appear that permits were obtained for these fences.

Surrounding Zoning/Land Use

North	H R-5 Historic	Single-Family Residence
South	H R-5 Historic	Single-Family Residence
East	H R-5 Historic	Single-Family Residence
West	H R-5 Historic	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Monte Vista Neighborhood Plan. The Neighborhood Planning and Urban Design Section review (Attachment 6), states that "there does not appear to be any unnecessary hardship that would result by the literal enforcement of the code." Additionally, the property located with the Monte Vista Historic District.

The property is located with the boundaries of the Monte Vista Neighborhood Association. As of the July 13th, staff has not received a reply from the neighborhood association.

Criteria for Review

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

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

*There are several fences in the immediate vicinity of the subject property that have fences that exceed the maximum allowable side and rear fence height by 2 or more feet; thus, staff does not believe that the construction of this fence would create disharmony to the aesthetic significance of the neighborhood. Additionally, the request does not appear to cause any public safety concerns. It **does not** appear that the granting of this variance will be contrary to the public interest.*

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

*It **does not** appear that the literal enforcement of the ordinance would result in unnecessary hardship. There does not appear to be a physical or topographic feature*

existing on the property that would warrant the erection of an 8-foot tall fence. There is less than 2 feet of deviation in the topographic slope of the rear portion of the subject property.

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

It appears that the maximum allowable fence height standards for side and rear-yard fences would allow that applicant to erect a fence of reasonable height.

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 granting of this variance **would not** authorize a use other than those specifically permitted in "R-5" 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.

*It **does not** appear that the granting of this variance would negatively alter the 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.

*There **do not** appear to be any unique circumstances existing on the property. The applicant cites only security concerns and the existence of neighboring fences as the rationale for their request.*

Staff Recommendation

The subject property does not appear to have any unique characteristics that would create an undue hardship due to literal enforcement of the side and rear-yard fence height standards. The applicant has not provided sufficient evidence that the need for the variance is due to the unique conditions on the subject property. Staff recommends **denial** of the requested variance.

Attachments

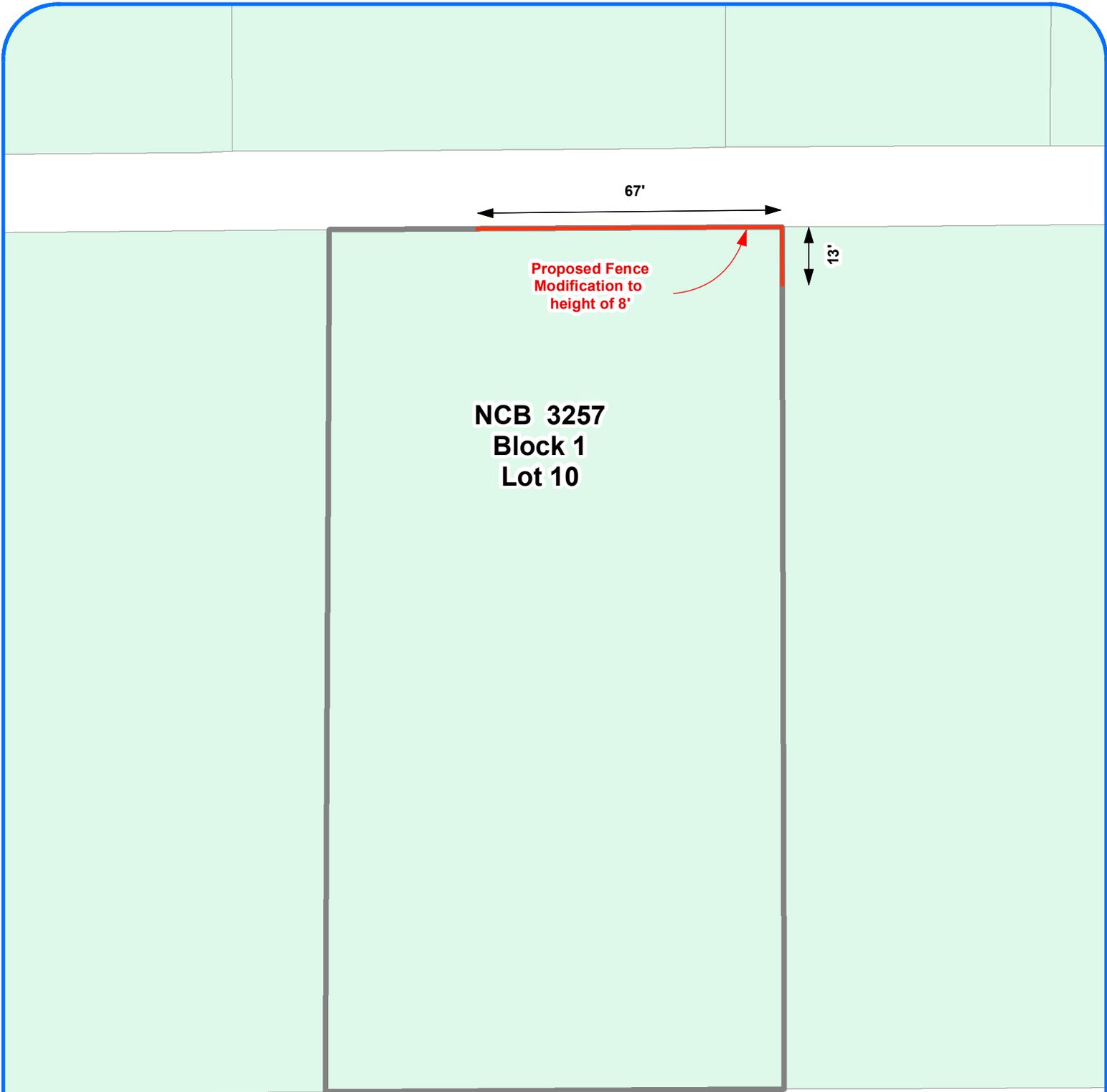
Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Site Plan

Attachment 4 – Applicant's Drawing of Proposed Addition

Attachment 5 – Neighborhood and Urban Design Division Case Review



E Kings Hwy

Board of Adjustment
Plot Plan for
Case A-09-066



Legend

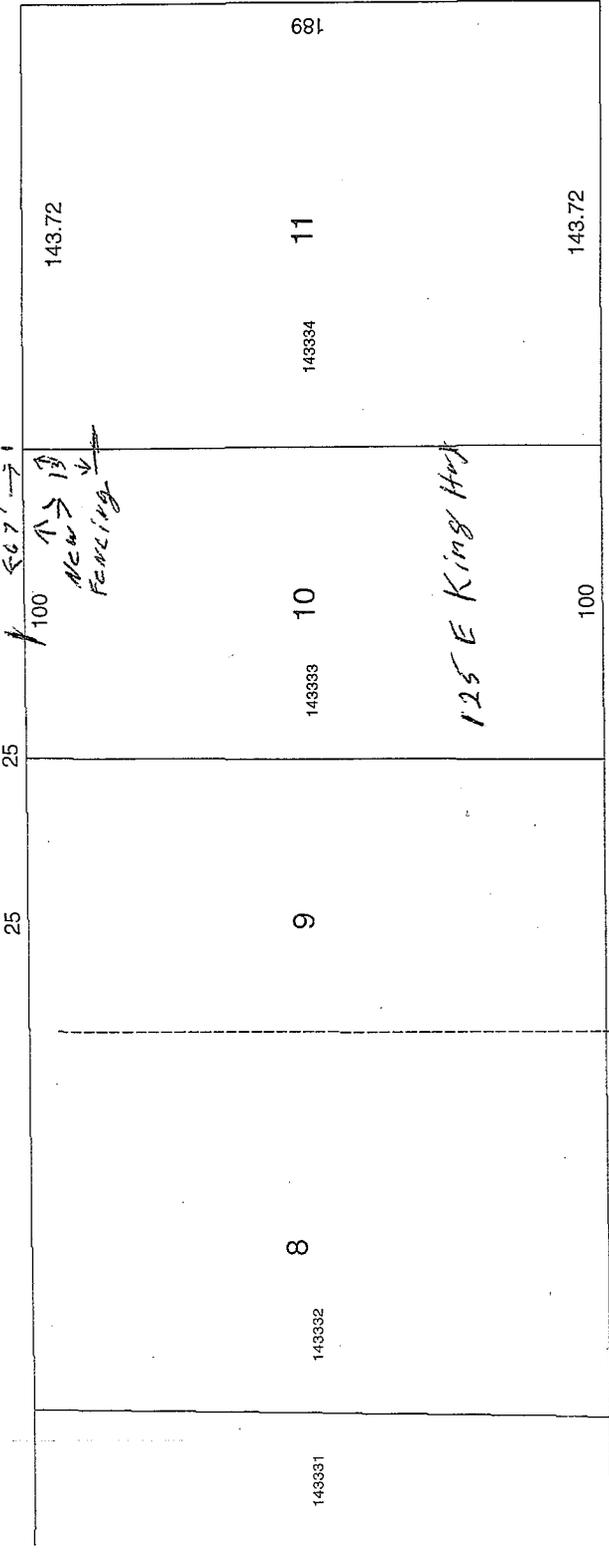
Scale: 1" approx. = 30'
Council District 1

125 E Kings Hwy

Planning and Development Services Dept
City of San Antonio
(05/12/2009 - P. Trinkle)

KINGS HWY

375856	375857	375858	51	01	25	25	375859	375860	375861	25	29.2
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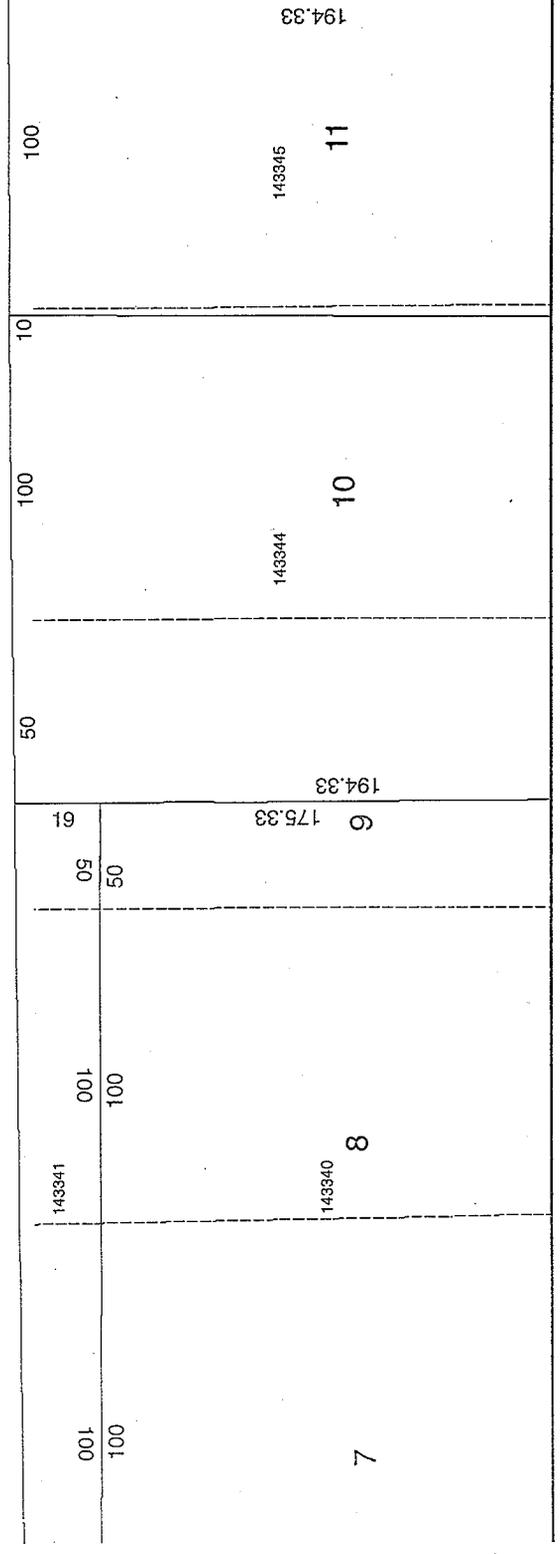
KINGS HWY

432.1

100777

384962

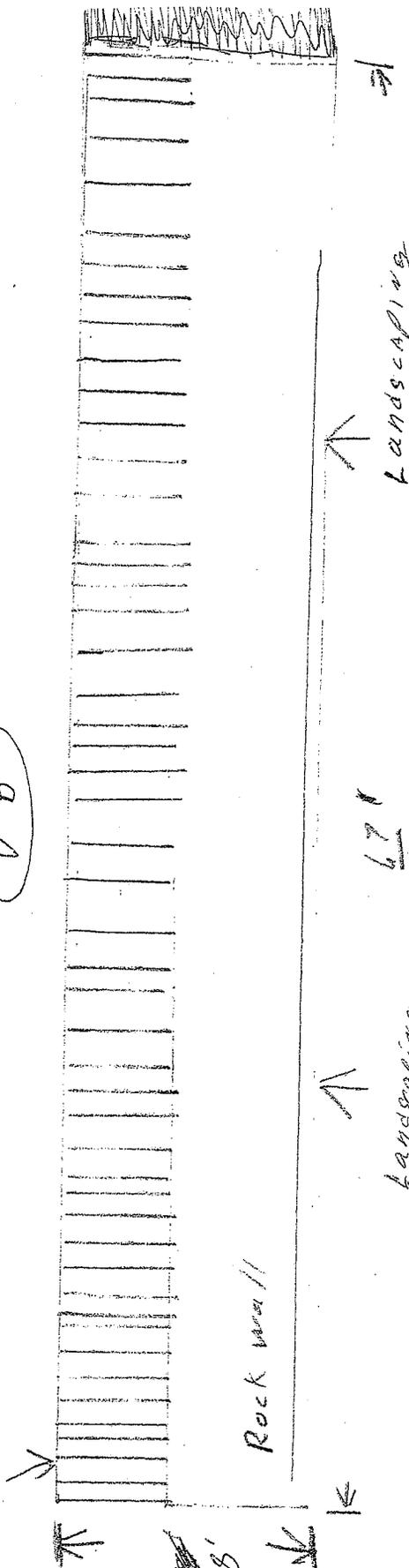
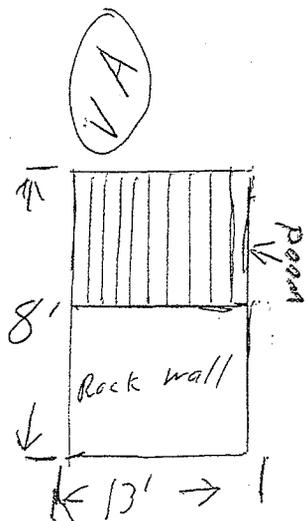
MCCULLOUGH



molina

125 Kings Hwy

V B



67'

13'



**NEIGHBORHOOD PLANNING AND URBAN DESIGN SECTION
BOARD OF ADJUSTMENT CASE REVIEW FORM**

CASE INFORMATION

Case #: **A-09-066**

Property Address: 125 E Kings Highway

Zoning: R5 H

Hearing Date: 7/20/2009

Type / Scope of BOA Request:

Applicant requests a 2-foot variance from the requirement of Section 35-514 that side and rear yard fences shall not exceed 6-feet in height in order to erect an 8-foot tall fence along a portion of the rear and east side property lines.

PLANNING PROGRAM / PROJECT OVERLAP

Neighborhood Association(s): Monte Vista Historical Association

Neighborhood or Community Plan: Monte Vista Neighborhood Plan

Neighborhood Conservation District: n/a

Corridor Overlay District (name or n/a): n/a

ANALYSIS STATEMENT

The Monte Vista Neighborhood Plan was adopted on July 7, 1988. It does not contain a future land use plan. The neighborhood plan does not specifically address rear or side yard fences. Because the property lies within the Monte Vista Historic Neighborhood, the applicant was required to present the design for the fence to the Historic and Design Review Commission. The Historic and Design Review Commission has granted the applicant a Certificate of Appropriateness for the fence design pending the approval of the variance for the eight (8) foot height. Neighboring properties have rear yard fences that range in height from 8-feet to 10-feet. Although it does not appear the granting of this variance would alter the character of the district or otherwise cause injury to neighboring properties, there does not appear to be any unnecessary hardship that would result by the literal enforcement of the code.

RECOMMENDATION

Recommendation Pending Additional Analysis / Information

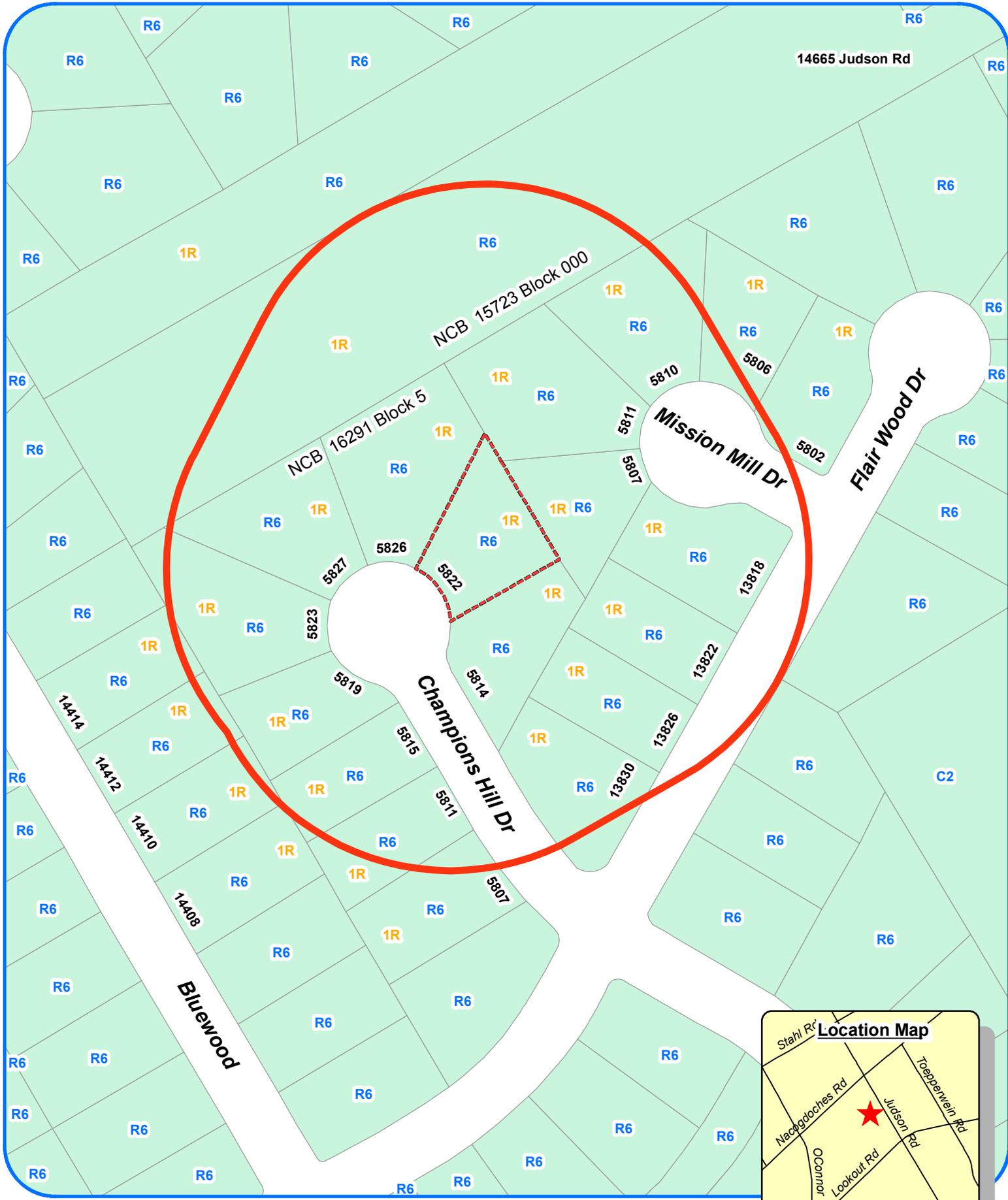
Support Request

Deny Request X

REVIEWER INFORMATION

Neighborhood Planner Reviewing: Rebecca Paskos, Sr. Planner

Date Review Completed: July 7, 2009



Board of Adjustment
Notification Plan for
Case A-09-067



Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 100'
- Council District 10

Planning and Development Services Dept
 City of San Antonio
 (05/21/2009 - P. Trinkle)



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-09-067
Date: July 20, 2009
Applicant: Joe & Margie Conatser
Owner: Joe & Margie Conatser
Location: 5822 Champions Hill Drive
Legal Description: Lot 52, Block 5, NCB 16291
Subject: Rear setback variance for accessory structure.
Prepared By: Jacob Floyd, Planner

Executive Summary

The applicant requests a 1-foot variance from the requirement of Section 370 that accessory structures exceeding thirty (30) inches in height be located a minimum distance of 3 feet from any side or rear property line when that structure has no sills, belt courses, cornices, buttresses, eaves, or similar projecting architectural features, in order to keep an existing accessory structure 2 feet from the rear property line. The subject property is zoned "R-6" Residential Single-Family District.

If the variance is not granted the applicant must comply with the requirement that accessory structures exceeding thirty inches in height be located a minimum of 3 feet from any side or rear property line.

Public Notice

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property and the application was noticed in The Daily Commercial Recorder, an official newspaper of general circulation. This was completed on June 2, in accordance with the public noticing requirements of the Section above. Notice of this meeting was posted at city hall and on the city's internet website on July 17, in accordance with Section 551.043(a) of the Texas Government Code.

Project Description

The applicant is requesting this variance to keep an existing accessory structure 2 feet from the rear property line. The accessory structure measures 16 feet by 12 feet, or 192 square feet.

The applicant indicates that the topography of the lot, specifically the substantial slope of the property, creates a unique situation that would result in unnecessary hardship through the literal enforcement of the ordinance.

Surrounding Zoning/Land Use

North	R-6	Single-Family Residential
South	R-6	Single-Family Residential
East	R-6	Single-Family Residential
West	R-6	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a neighborhood/community plan.

The property is located with the boundaries of the Woodstone Home Owners Association. As of July 13th, staff has not received a reply from the neighborhood association.

Criteria for Review

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

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

It does not appear that the granting of this variance will be contrary to the public interest. The location of the structure does not appear to pose a safety hazard nor cause disharmony to the character of the neighborhood.

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

It does appear that literal enforcement of the ordinance would result in unnecessary hardship in that the property is characterized by a slope that limits the placement of structures on the lot. Likewise, the unique shape of the lot creates a rear yard area that is shallower than typical of lots in this district. Further, there are a number of large trees on this lot that negate the placement of an accessory structure in a location that may be compliant with the UDC.

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

It appears that the granting this variance will be in harmony with the spirit of the ordinance given that the slope is significant enough to deny the applicant a reasonable use of the rear yard.

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

The granting of this variance would not authorize a use other than those specifically permitted in "R-6" 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.

It does not appear that the granting of this variance would influence the appropriate use of adjacent conforming properties, nor would the essential character of the district 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.

The circumstances existing on the property do appear to be unique and not self-created or merely of a financial nature. The slope of the land, though commonly experienced by abutting properties, uniquely affects the subject property when combined with its irregular shape.

Staff Recommendation

Due to the slope of the land and the irregular shape of the lot, it does appear that the literal enforcement of the ordinance would result in undue hardship. Additionally, several large trees are present in the rear yard as well, further limiting the space available for an accessory structure. Staff recommends **approval** of the requested variance.

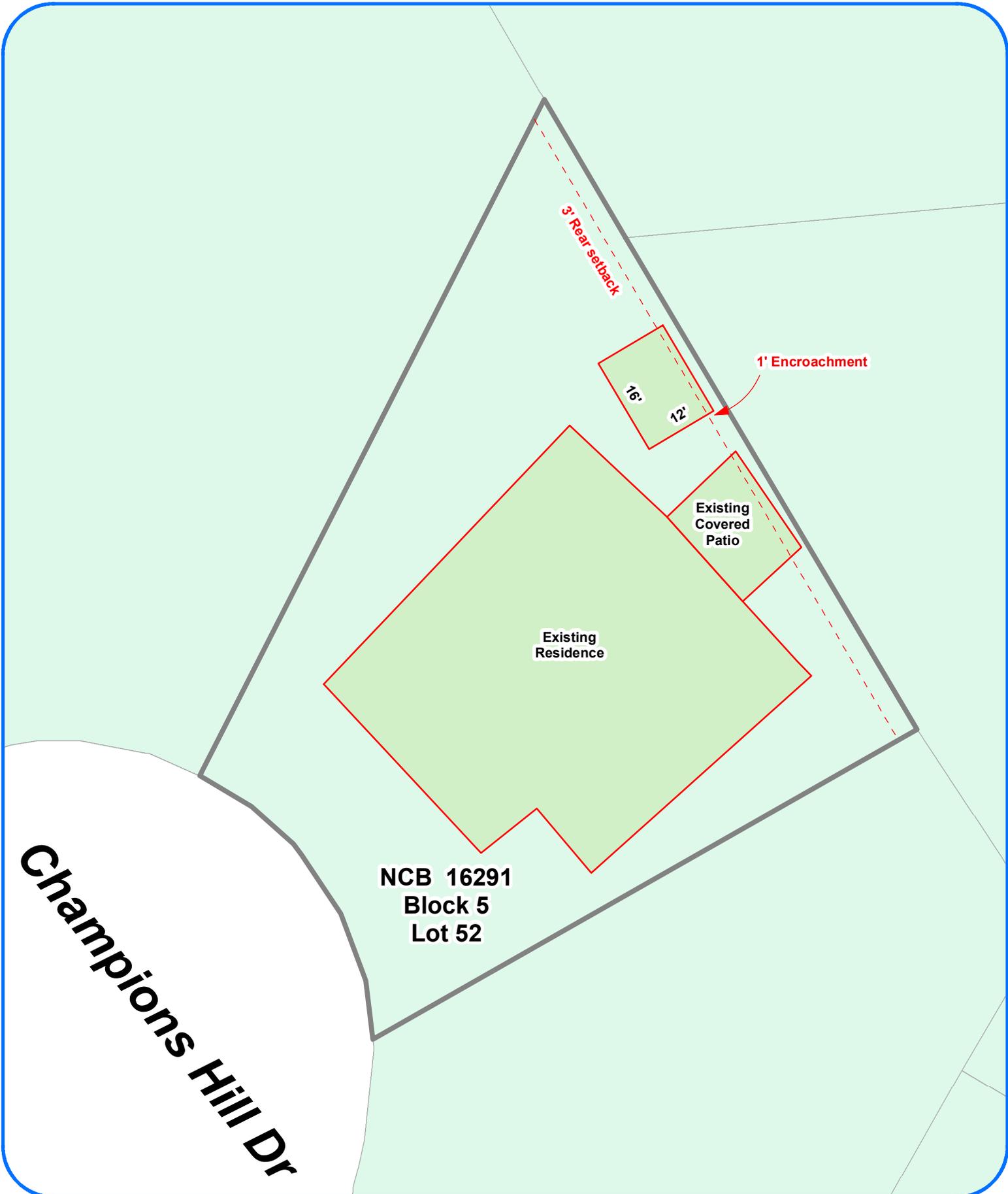
Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Plot Plan

Attachment 5 – 2-Foot Contour Elevation Map



Board of Adjustment
Plot Plan for
Case A-09-067



Legend

Scale: 1" approx. = 20'
Council District 10

5822 Champions Hill Dr

Planning and Development Services Dept
City of San Antonio
(07/1/2009 - P. Trinkle)

PLOT PLAN

FOR
BLDG PERMITS

Address 5822 Champions

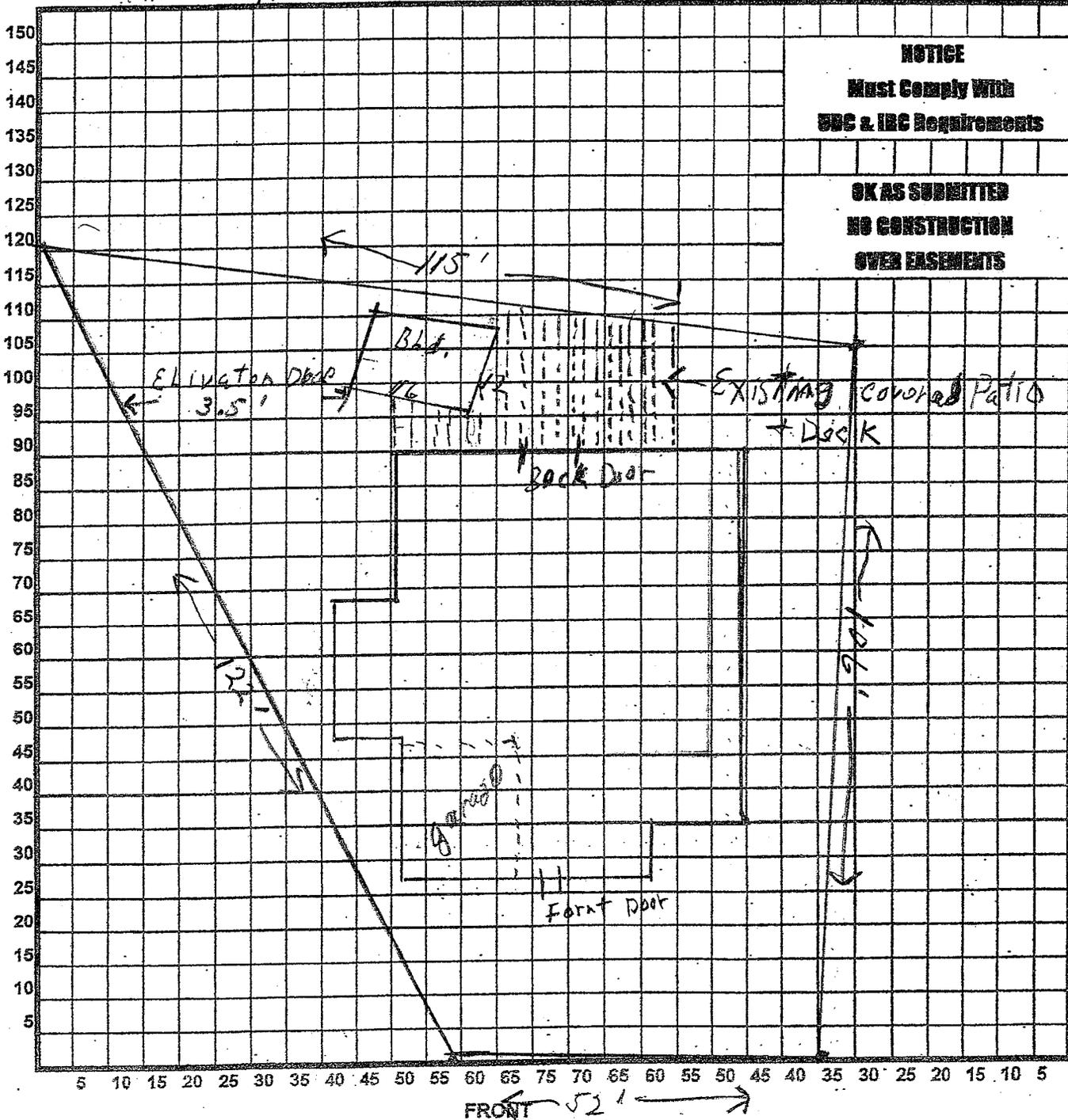
Lot 52

Block 5

NCB 16291

Hill Drive
SAN ANTONIO, TX 78233

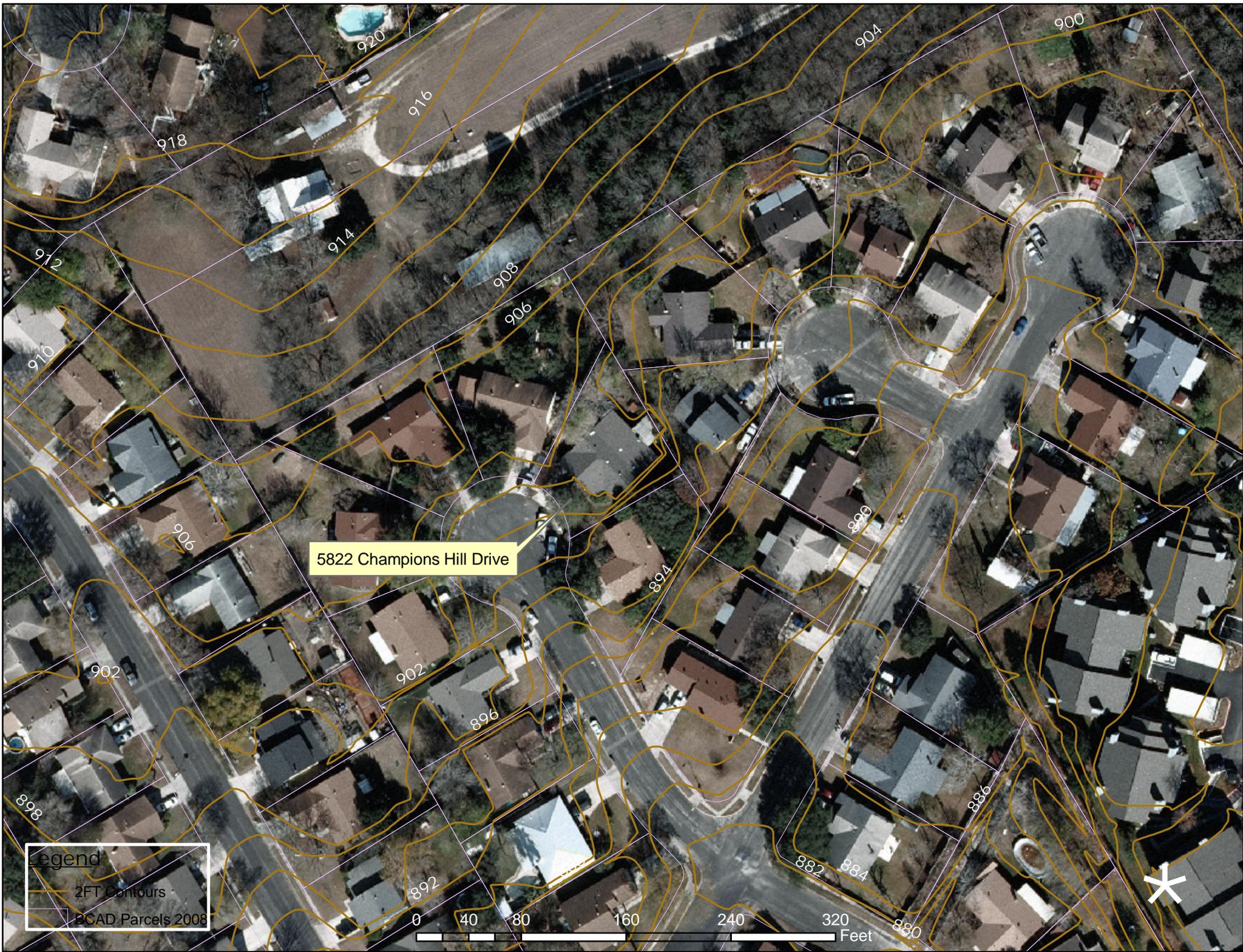
REAR



I certify that the above plot plan shows all improvements on this property

5/20/2009
Date

Margie Coratelli
Signature of Applicant

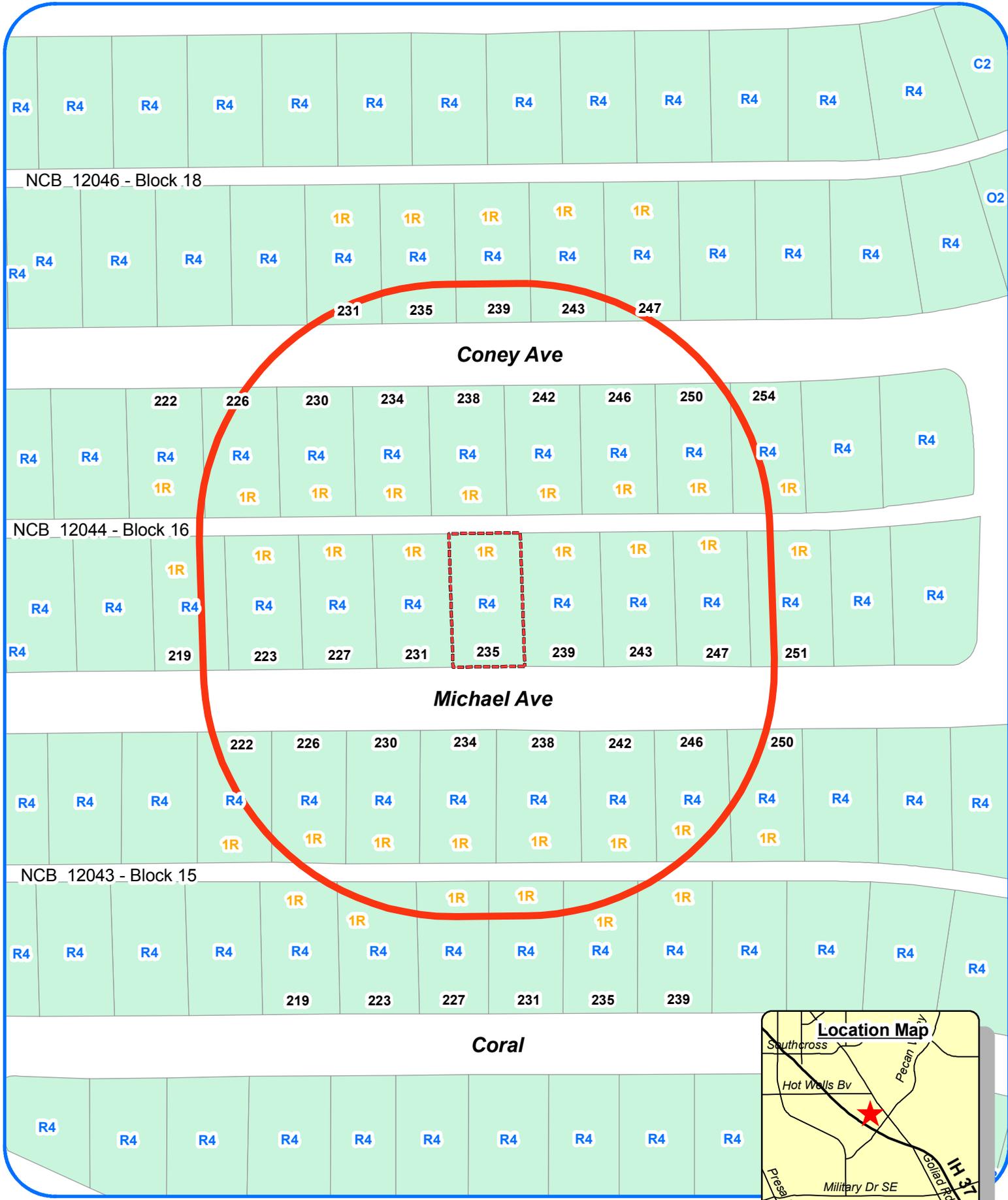


5822 Champions Hill Drive

Legend

- 2FT Contours
- ▭ BCAD Parcels 2008



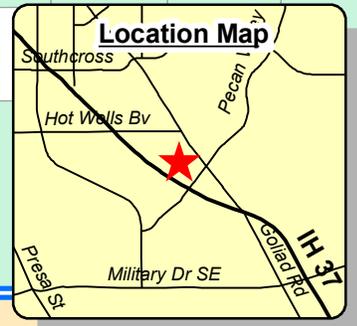


Board of Adjustment
Notification Plan for
Case A-09-068



Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 100'
- Council District 10





City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-09-068
Hearing Date: July 20, 2009
Applicant: Martin G. Valladolid
Owner: Martin G. Valladolid
Location: 235 Michael
Legal Description: Lot 22, Block 16, NCB 12044
Subject: Side Setback Variance
Prepared By: Mike Farber, Planner

Executive Summary

The applicant requests a 4-foot variance from the requirement of Section 310 that a minimum 5-foot side setback be maintained, to keep an existing carport 1-foot from the west side property line. The subject property is zoned "R-4" Residential Single-Family District.

If the variance is not granted, the applicant must comply with the required minimum side setback of 5 feet.

Public Notice

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property and the application was noticed in The Daily Commercial Recorder, an official newspaper of general circulation. This was completed on July 2, in accordance with the public noticing requirements of the Section above. Notice of this meeting was posted at city hall and on the city's internet website on July 17, in accordance with Section 551.043(a) of the Texas Government Code.

Project Description

The applicant is requesting a variance to reduce the minimum allowable setback to a distance of one (1) foot. If this variance is approved, the applicant intends to keep the

existing carport that encroaches into the west side-yard setback. The carport in question was erected by the applicant without building permits. The applicant cites the prevalence of other non-conforming carports in the vicinity of the subject property as rationale for the request. During the staff site inspection, a number of similarly situated carports were observed. The legality of these structures is also in question. Staff has forwarded several structures to the Planning and Development Services Investigations Division.

Additionally, the applicant has been made aware of the necessity of the construction of a firewall along the length of the structure. This is a requirement as per International Residential Code for One- and Two-Family Dwellings – Section R302.1: Exterior Walls (Table R302.1).

Surrounding Zoning/Land Use

North	R-4	Single-Family Residence
South	R-4	Single-Family Residence
East	R-4	Single-Family Residence
West	R-4	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Highlands Neighborhood Plan. The Neighborhood Planning and Urban Design Section review (Attachment 6), states that "The placement of the structure within the side setback does not meet the intent of the side setback requirement or the goals and objectives of the Highlands Community Plan."

Additionally, the property is located with the boundaries of the Highland Hills Neighborhood Association. As of July 13th, staff has not received a reply from the neighborhood association.

Criteria For Review

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

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

There are several properties in the immediate vicinity of the subject property that have carports that appear to encroach upon the required side-yard setback. However, it does not appear that permits were obtained for the construction of the carports. The assumed illegality of the carport in question and the surrounding properties' carports, coupled with the lack of firewalls on these structures, would seem to be contrary to the public interest.

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

It does not appear that the literal enforcement of the ordinance would result in unnecessary hardship. There does not appear to be a physical or topographic condition

existing on the property that would warrant the existing carport, as it is, currently situated on the property.

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

It appears that alternatives exist that would allow the applicant to make reasonable use of the property while still meeting setback requirements.

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 granting of this variance would not authorize a use other than those specifically permitted in "R-4" 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.

While the granting of the requested variance would not seem to alter the overall characteristics of the neighborhood, it does appear that it may pose a safety hazard for the neighbor to the west.

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 do not appear to be any unique circumstances existing on the property. The applicant cites the existence of similar carports and that the carport does not negatively impact the neighbors to the west as primary hardships. These justifications are not sufficient grounds on which to request a variance.

Staff Recommendation

The subject property does not appear to have any unique characteristics that would create an undue hardship due to literal enforcement of the side setback requirements. The applicant has not provided sufficient evidence to warrant a variance based on the criterion stated above. The applicant's request is not due to the unique circumstances of the property. Staff recommends **denial** of the requested variance.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Drawing of Existing Carport

Attachment 4 – Neighborhood and Urban Design Division Case Review



Variance Request for Existing Car Port
1' from Property Line
4' encroachment into setback

5' Side setback

24'
Existing Car Port
12'

Existing House

NCB 12044
Block 16
Lot 22

Michael Ave

Board of Adjustment
Plot Plan for
Case A-09-068



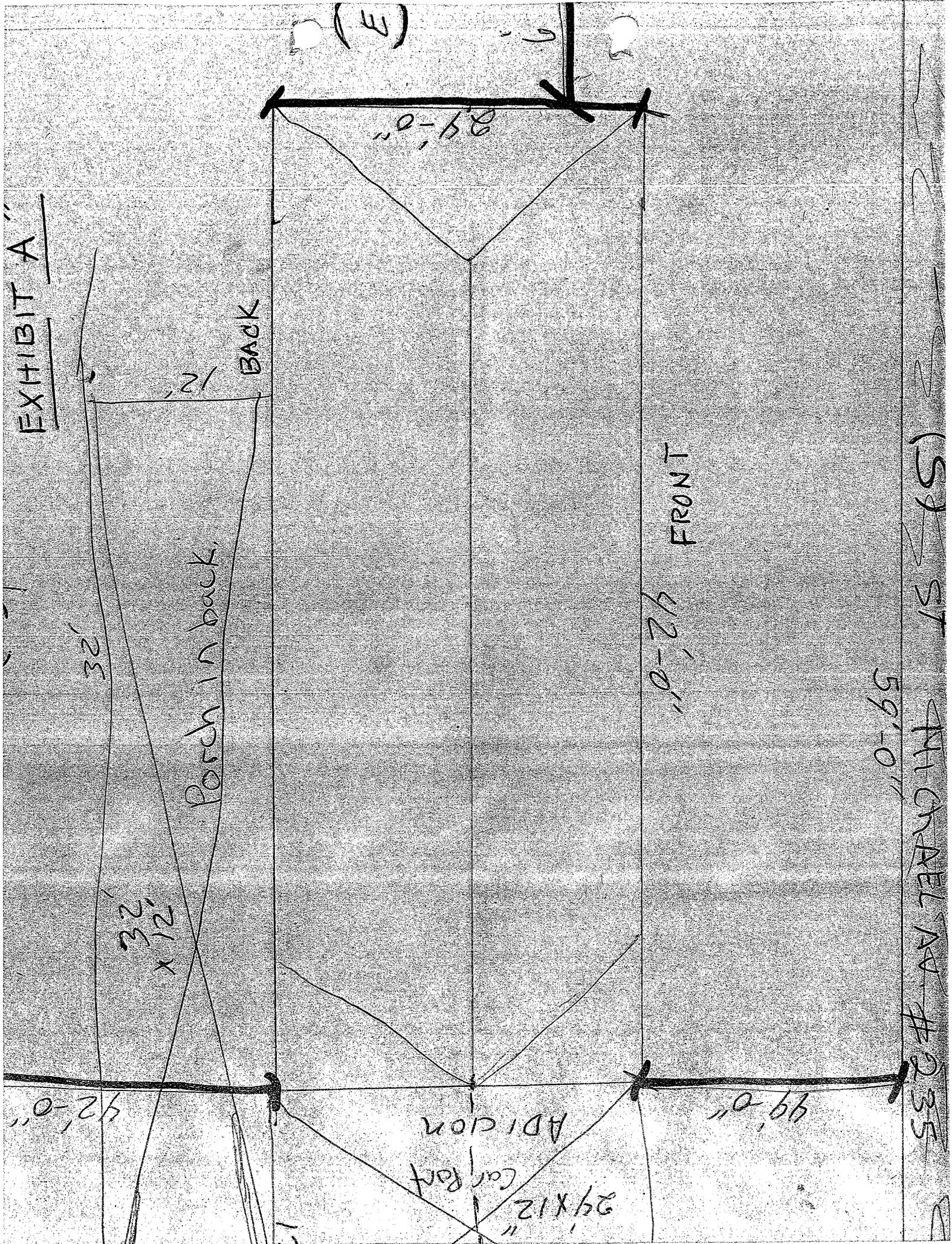
Legend

Scale: 1" approx. = 20'
Council District 5

235 Michael Ave

Planning and Development Services Dept
City of San Antonio
(06/26/2009 - P. Trinkle)

EXHIBIT A



(5) ST MICHAEL AV #235

59'-0"

42'-0" FRONT

49'-0"

BACK

Porch in back

32' x 12'

ADDITION

Car Port

24' x 12'

49'-0"

42'-0"

**NEIGHBORHOOD AND URBAN DESIGN SECTION
BOARD OF ADJUSTMENT CASE REVIEW FORM**

CASE INFORMATION

Case #: **A-09-068**

Property Address: 235 Michael

Zoning: R4

Hearing Date: 7/20/2009

Type / Scope of BOA Request:

The applicant requests a 4-foot variance from the requirement of Section 35-310 that a minimum 5-foot setback be maintained, to keep an existing carport 1-foot from the west side property line

PLANNING PROGRAM / PROJECT OVERLAP

Neighborhood Association(s): Highland Hills Neighborhood Association

Neighborhood or Community Plan: Highlands Community Plan

Neighborhood Conservation District: n/a

Corridor Overlay District (name or n/a): n/a

ANALYSIS STATEMENT

The future land use for the subject property is designated low density residential in the Highlands Community Plan. The low density residential land use category includes single-family houses on individual lots. Certain non-residential activities, such as schools, places of worship and parks, are appropriate within these areas and should be centrally located to provide easy accessibility.

The plan clearly states, "All off-street parking and vehicle use areas adjacent to residential uses require buffer landscaping, and lighting and signage controls" (p. 42). The placement of the carport for off-street parking within the side setback is not in accordance with the goals of the future land use plan in the Highlands Community Plan. The plan also states in Objective 2.2., Code Compliance and Safety, "Promote a clean and livable environment that enhances the appearance and safety of the Highlands neighborhoods" (p. 28). The intent of the side setback requirement is to allow for the movement of air, light penetration, neighborhood uniformity, prevention of lot overcrowding, and adequate space for fire protection.

The placement of the structure within the side setback does not meet the intent of the side setback requirement or the goals and objectives of the Highlands Community Plan. There does not appear to be any unnecessary hardship due to any special conditions by the literal enforcement of the ordinance.

RECOMMENDATION

Recommendation Pending Additional Analysis / Information

Support Request

Deny Request X

REVIEWER INFORMATION

Neighborhood Planner Reviewing: Rebecca Paskos, Sr. Planner

Date Review Completed: July 7, 2009



Board of Adjustment
Notification Plan for
Case A-09-069



Legend

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



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-09-069
Hearing Date: July 20, 2009
Applicant: Frances Cisneros
Owner: Frances Cisneros
Location: 507 Creath Place
Legal Description: Lot 14, Block 31, NCB 11757
Subject: Special Exception for a one-operator beauty/barbershop
Prepared By: Mike Farber, Planner

Executive Summary

The applicant requests a Special Exception to allow a one-operator beauty/barber shop. The subject property is zoned "R-4" Residential Single-Family District.

If the Special Exception request is not granted, the applicant must cease use of the existing beauty/barbershop, which was authorized by the Board.

Public Notice

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property and the application was noticed in The Daily Commercial Recorder, an official newspaper of general circulation. This was completed on July 2, in accordance with the public noticing requirements of the Section above. Notice of this meeting was posted at city hall and on the city's internet website on July 17, in accordance with Section 551.043(a) of the Texas Government Code.

Project Description

The applicant is requesting a Special Exception to allow a one-operator beauty/barbershop at the above referenced location.

The applicant last applied for, and was granted, a Special Exception to operate a one-operator beauty/barbershop on July 2, 2007. If approved, the Special Exception would expire on July 20, 2013. The applicant's proposed hours of operation are Tuesday through Saturday, 9:00 AM to 4:00 PM.

Surrounding Zoning/Land Use

North	R-4	Single-Family Residence
South	R-4	Single-Family Residence
East	R-4	Single-Family Residence
West	R-4	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Stinson Airport Vicinity Neighborhood Plan. The Neighborhood Planning and Urban Design Section review (Attachment 6), is in support of the request. The property is not located within the boundaries of a registered neighborhood association.

Criteria for Review

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

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

The requested special exception is in harmony with the spirit and purpose of this chapter in that the existing one-operator beauty/barbershop follows the specified criteria established in Section 35-399.01 of the Unified Development Code.

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

The requested special exception will further serve the public welfare in that this beauty/barbershop has continuously operated within the parameters set forth by Section 35-399.01 and serve 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 single-family residential.

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

It does not appear that the granting of the special exception will alter the essential character of the district in which the subject property is located in that the existing

beauty/barbershop has and will remain confined to 25% or less of the gross floor area of the primary residence.

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

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

Staff Recommendation

The applicant has indicated she will meet all of the limitations, conditions and restrictions set forth in Section 35-399.01 of the UDC (a copy of the application indicating this is attached with this packet). It appears that granting this Special Exception will allow the use of a portion of this property as a beauty shop without altering the residential character of the neighborhood. There have been no reports of code violation for this property. Staff recommends **approval** of the requested special exception for a maximum allowable **four-year period** of operation with hours of operation not to exceed forty (40) per week.

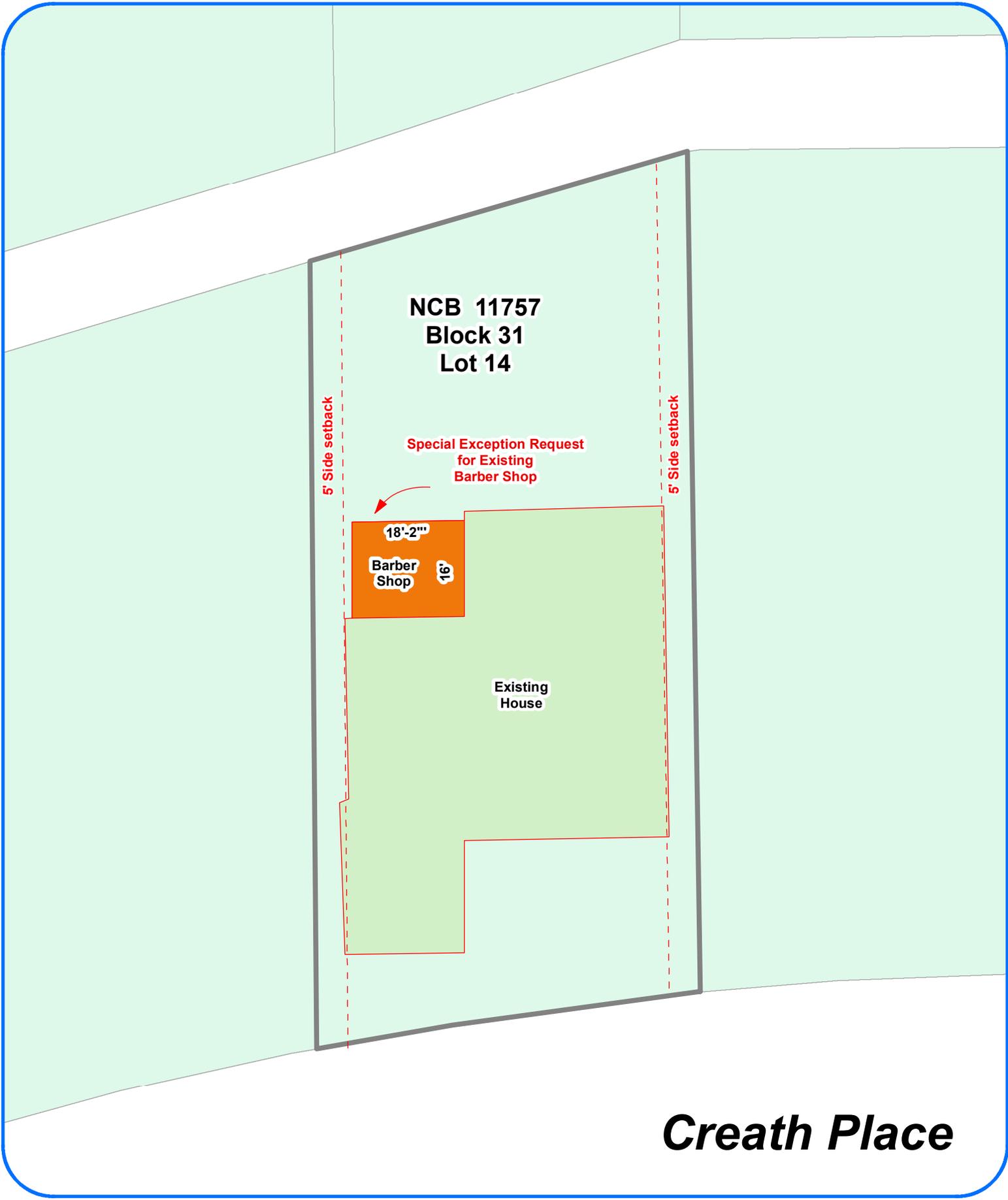
Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Site Plan

Attachment 4 – Neighborhood and Urban Design Division Case Review



Creath Place

Board of Adjustment
Plot Plan for
Case A-09-069



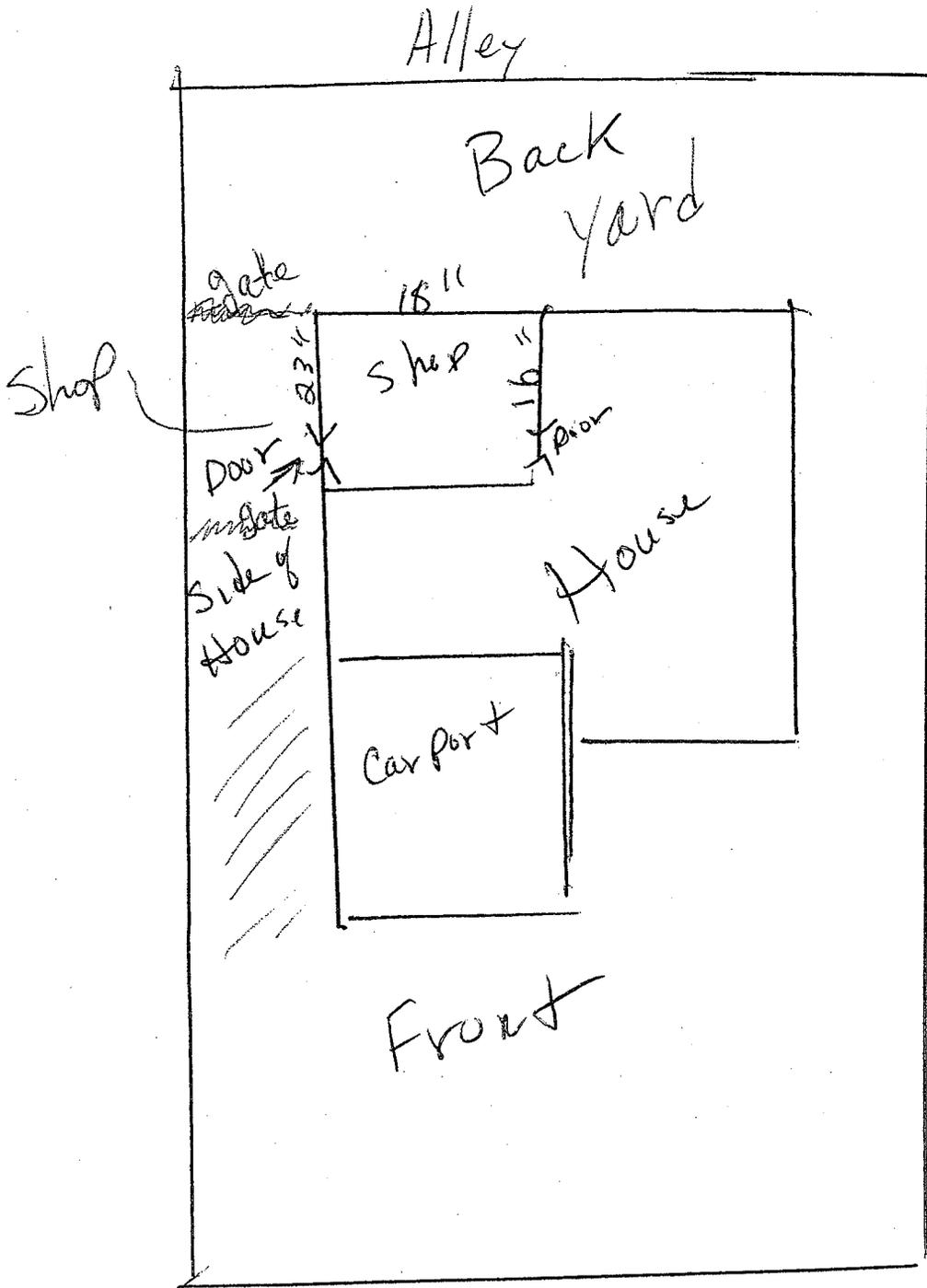
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Scale: 1" approx. = 20'
Council District 7

507 Creath Place

Planning and Development Services Dept
City of San Antonio
(06/16/2009 - P. Trinkle)

Stances Cisneros
507 Creath
San Antonio TX 78221



Street
507 Creath

Lot 14
NCB 11757
Block 031

**NEIGHBORHOOD AND URBAN DESIGN DIVISION
BOARD OF ADJUSTMENT CASE REVIEW FORM**

CASE INFORMATION

Case #: **A-09-069**

Property Address: 507 Creath

Zoning: R4

Hearing Date: 7/20/2009

Type / Scope of BOA Request:

Special Exception to allow the operation of one operator beauty/barber shop in a residential area.

PLANNING PROGRAM / PROJECT OVERLAP

Neighborhood Association(s): n/a

Neighborhood or Community Plan: Stinson Airport Vicinity Land Use Plan

Neighborhood Conservation District: n/a

Corridor Overlay District (name or n/a): n/a

ANALYSIS STATEMENT

The subject parcel is designated Low Density Residential land use in the Stinson Airport Vicinity Land Use Plan, which includes single-family houses on individual lots. Accessory dwelling units are allowed as well as certain lower impact community oriented uses such as schools, churches, parks or community center are appropriate.

There are no goals and objectives that specifically address the applicant's request. If the applicant meets all requirements for a special exception and the request is granted, any negative impact on the adjacent residential neighborhood including but not limited to; extended hours of operation, increased traffic, and increased noise, should be considered upon any future special exemption request.

RECOMMENDATION

Recommendation Pending Additional Analysis / Information _____

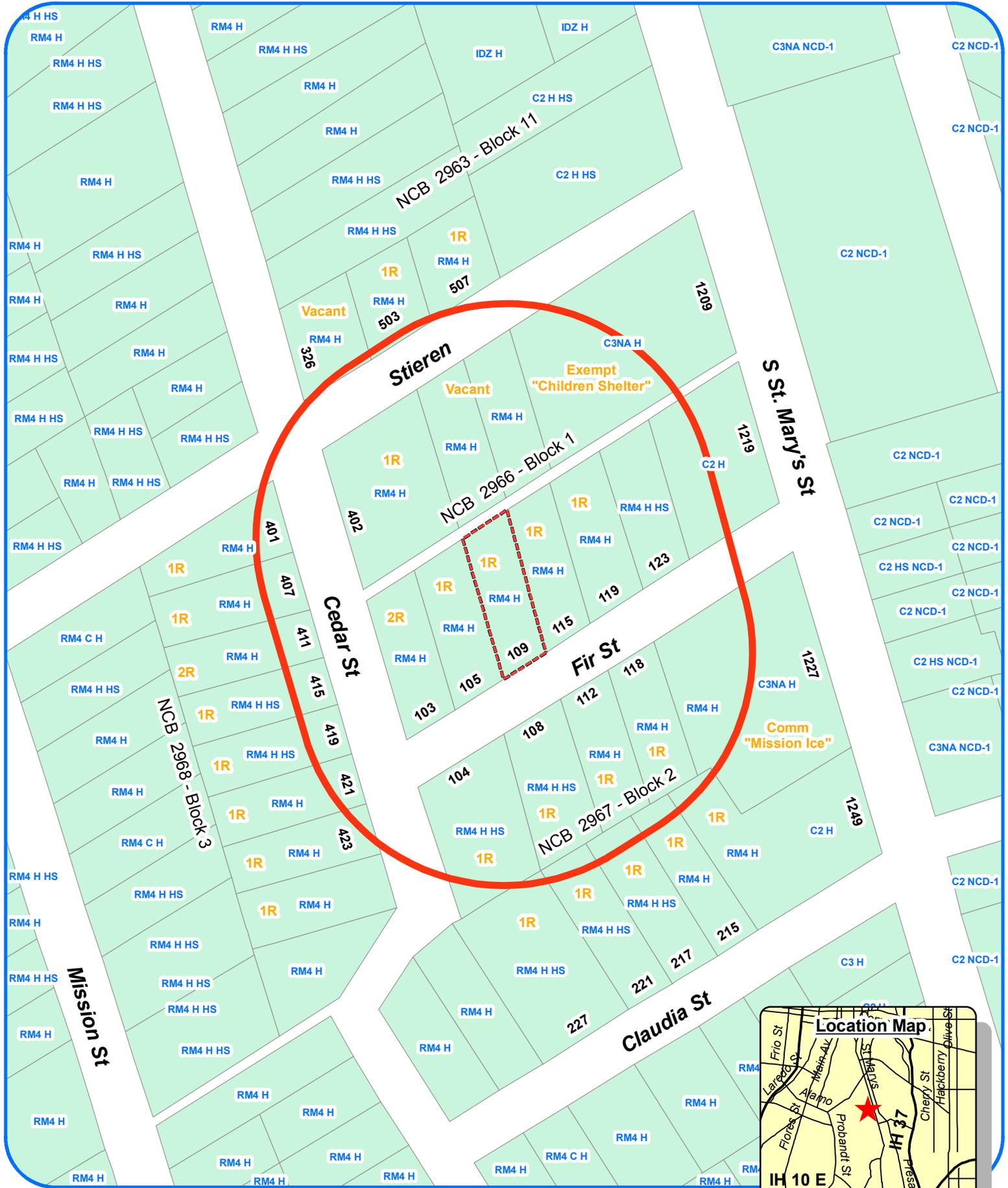
Support Request X

Deny Request _____

REVIEWER INFORMATION

Neighborhood Planner Reviewing: Rebecca Paskos, Sr. Planner

Date Review Completed: July 7, 2009



Board of Adjustment
Notification Plan for
Case A-09-070



Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 120'
- Council District 1



City of San Antonio Planning & Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-09-070
Date: July 20, 2009
Applicant: Jeff & Mary Grace Ketner
Owner: Jennings F. & Mary Grace Ketner
Location: 109 Fir Street
Legal Description: The East 50 Feet of Lot 11, Block 1, NCB 2966
Subject: Side setback variance for accessory structure.
Prepared By: Jacob Floyd, Planner

Executive Summary

The applicant requests a 2-foot 10-inch variance from the requirements of Section 370, that accessory structures exceeding thirty inches in height be located a minimum distance of 5 feet from any side or rear property line, in order to build an accessory structure 2 feet 2 inches from the west side property line. The subject property is zoned "H RM-4" Residential Mixed King William Historic District.

If the variances are not granted the applicant must comply with the requirement that accessory structures exceeding thirty inches in height be located a minimum of five feet from any side or rear property line.

Public Notice

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property and the application was noticed in The Daily Commercial Recorder, an official newspaper of general circulation. This was completed on June 2, in accordance with the public noticing requirements of the Section above. Notice of this meeting was posted at city hall and on the city's internet website on July 17, in accordance with Section 551.043(a) of the Texas Government Code.

Project Description

The applicant is requesting these variances to replace an existing detached garage with a new building on the same building footprint. The existing detached garage is located 6 inches from the rear property line and 2 feet 2 inches from the west side property line. If these variances are approved, the applicant intends to rebuild a one-car detached garage in the same footprint as the existing, damaged structure.

According to the applicant, the current structure was destroyed when a tree fell on it on May 1, 2009. Being that the structure was non-conforming, due to its placement along the side property line, it may not be rebuilt on its current footprint.

The applicant indicates that, due to the narrowness of the lot, a detached garage built to meet the required setbacks would be difficult to access, as a car would be unable to maneuver at the angles required for a complying structure. The applicant further states that the granting of the requested variances would allow the garage to be rebuilt in keeping with the character of the properties in the area.

The Historic Design and Review Commission (HDRC) will consider this case on July 15, 2009, after the submission of this report to the Board (Staff will report the outcome of the public hearing).

Surrounding Zoning/Land Use

North	H RM-4, H C-3NA	Single-Family Residential, Children's Shelter, Vacant
South	H RM-4 & H HS RM-4	Single-Family Residential
East	H RM-4, H C-2, & H C-3NA	Single-Family Residential, Commercial
West	H RM-4 & H HS RM-4	Single-Family & Multi-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Downtown Neighborhood Plan. The Neighborhood Planning and Urban Design Section review (Attachment 6), states that "it does not seem that there are any extenuating topographical constraints or similar issues related to the subject parcel for which the literal enforcement of the ordinance would result in unnecessary hardship." Additionally, the property located is located within the King William Historic District.

The property is located within the boundaries of the King William Neighborhood Association. As of July 13th, staff has not received a reply from the neighborhood association.

Criteria for Review

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

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

It does not appear that the granting of this variance would be contrary to the public interest.

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

It does not appear that the literal enforcement of the ordinance would result in unnecessary hardship. The rear-yard could accommodate a detached garage of the proposed size while maintaining the required setbacks.

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

It appears that alternatives exist that would allow the applicants to make reasonable use of the property while adhering to the current development standards.

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 granting of this variance would not authorize the operation of a use other than those specifically permitted in "H RM-4" 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.

It does not appear that the granting of this variance would influence the appropriate use of the adjacent conforming properties, nor would it alter the essential character of the district in which the subject property is located. Detached garages are prevalent throughout the district, with several appearing to not conform to modern development standards.

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 do not appear to be any unique circumstances existing on the property. There is adequate space on the lot to build an accessory structure outside of the side setback.

Staff Recommendation

Alternatives exist that would allow the applicant to make reasonable use of the subject property without requiring a variance. While the existing structure was non-conforming, the right to operate and maintain this non-conforming structure was terminated through its destruction and any repair or replacement must comply with current standards. Staff recommends **denial** of the requested variance.

Should the Board grant the applicant's request for a variance, the applicant would be required to construct a firewall along the side of the structure, parallel to the affected lot

line. This is a requirement as per International Residential Code for One- and Two-Family Dwellings – Section R302.1: Exterior Walls (Table R302.1).

Attachments

Attachment 1 – Location Map

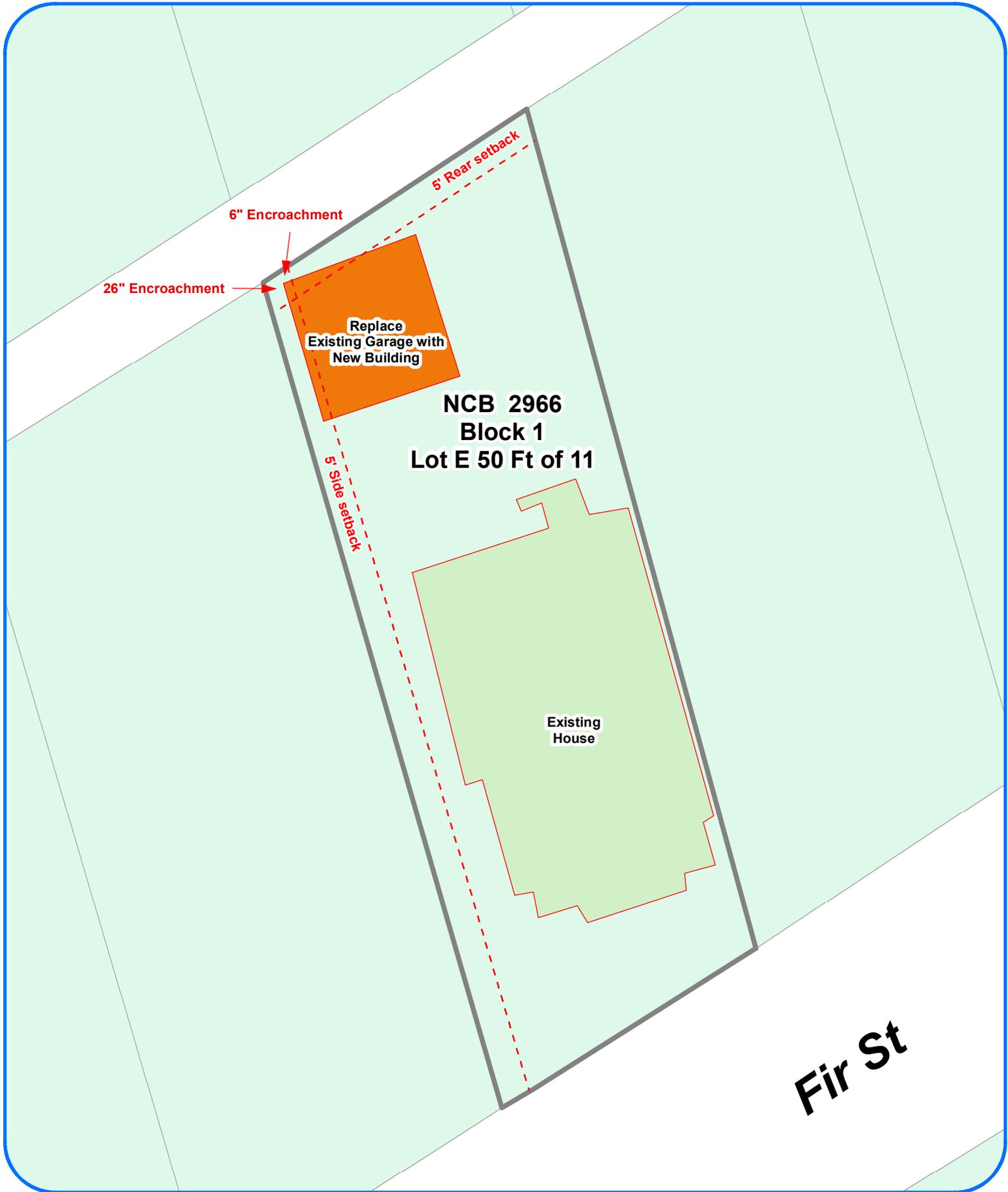
Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Survey

Attachment 5 – Applicant's Proposed Site Plan

Attachment 6 – Sanborn Fire Insurance Map (1952)

Attachment 6 – Neighborhood and Urban Design Division Case Review



Board of Adjustment
Plot Plan for
Case A-09-070



Legend

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

109 Fir St.

Planning and Development Services Dept
City of San Antonio
(06/22/2009 - P. Trinkle)

65.00'

TITLE INFORMATION

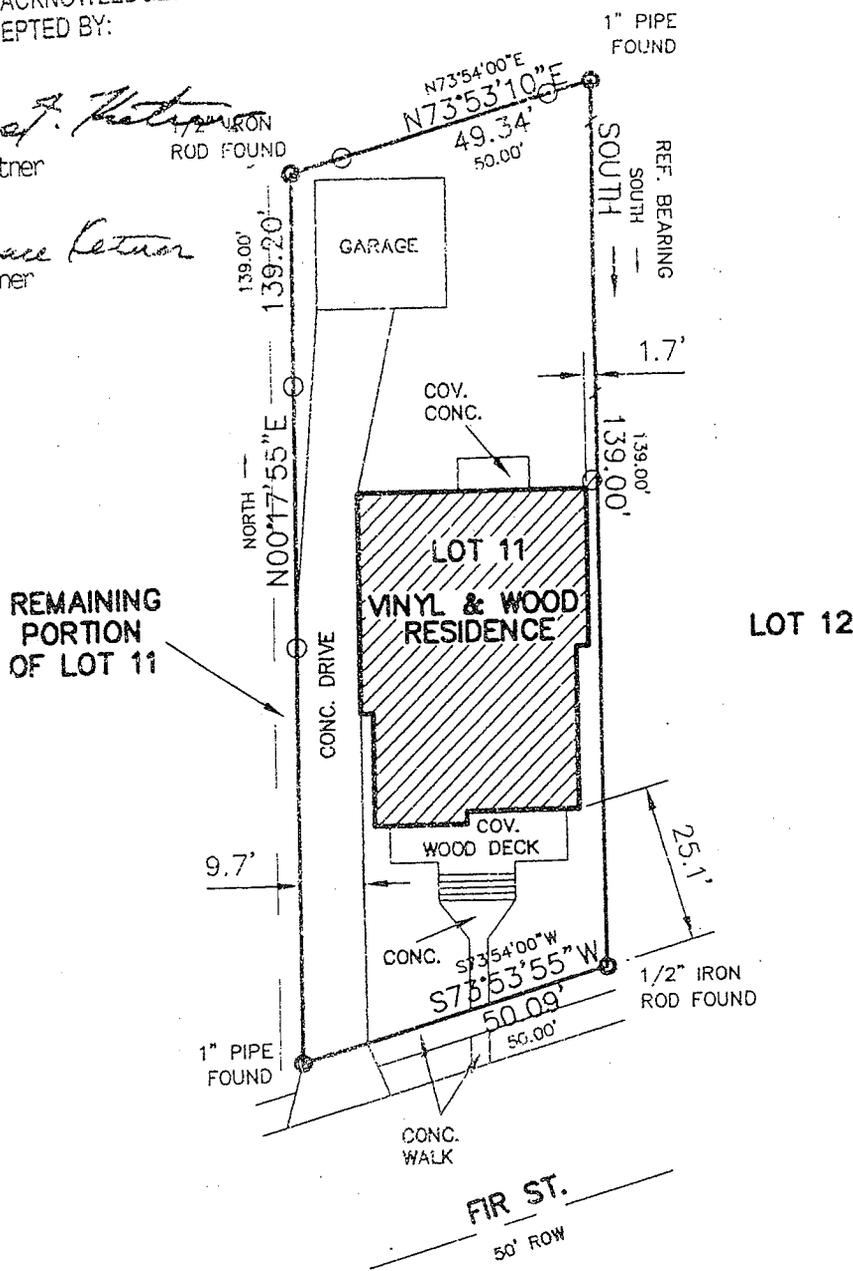
S33°29'20"W AS MEASURED IN FIELD
161.24'

10' ALLEY

THIS SURVEY IS ACKNOWLEDGED
AND ACCEPTED BY:

Jennings F. Ketner
Jennings F. Ketner
1/2" IRON ROD FOUND

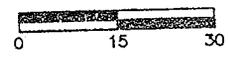
Mary Grace Ketner
Mary Grace Ketner



REMAINING
PORTION
OF LOT 11

LOT 12

FIR ST.
50' ROW

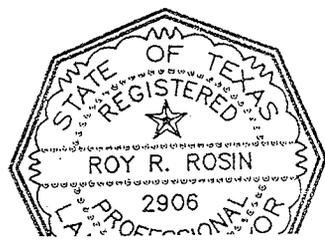


*EAST 50 FEET OF LOT 11

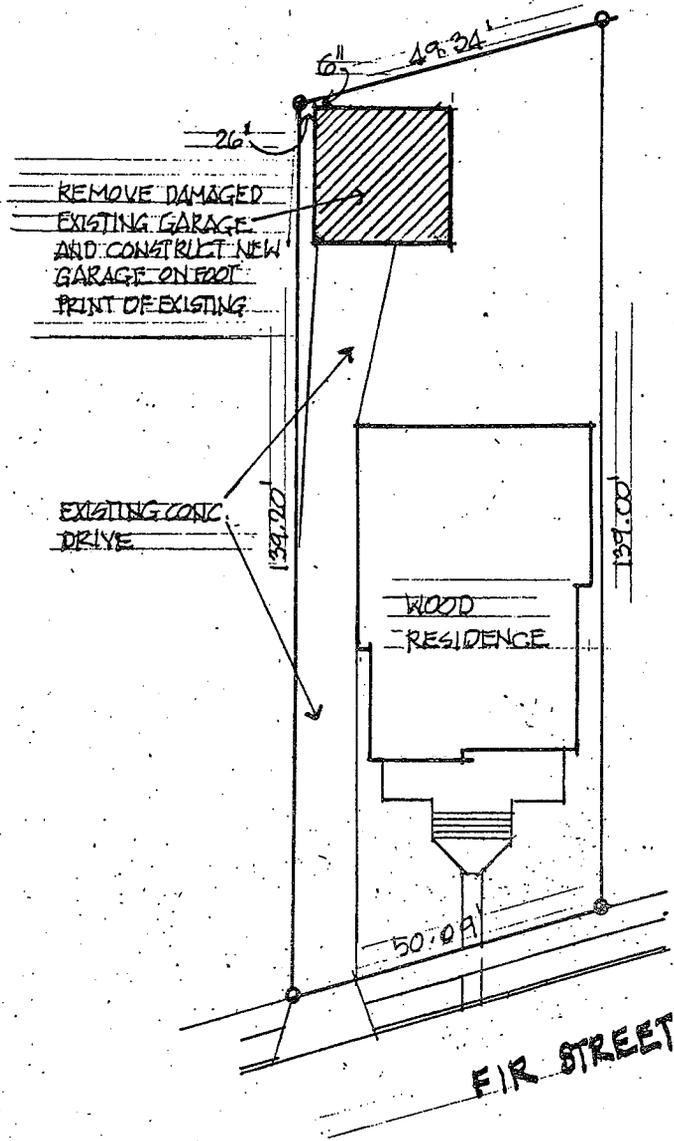
LOT(S) _____ BLOCK 1 N.C.B. _____
 KATE L. SPRING'S SUBDIVISION VOLUME 105 PAGE 73
 OF THE DEED AND PLAT RECORDS OF BEXAR COUNTY, TEXAS.
 WITNESS MY HAND AND SEAL THIS 8 DAY OF OCTOBER, 19 98
 BUYER JENNINGS F. KETNER AND WIFE MARY GRACE KETNER
 ADDRESS 109 FIR ST. GF NO. 9805418804
 ROSIN-COOK, INC. JOB NO. 397-226-000 DRAWN BY: AFG DISK: CAD/4

ACCORDING TO THE FEDERAL
 EMERGENCY MANAGEMENT AGENCY
 FLOOD INSURANCE RATE MAP,
 PANEL 48029C0461 E
 DATED FEBRUARY 16, 1996
 THIS PROPERTY IS IN FLOOD ZONE
 " X "

I, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS DO HEREBY CERTIFY THAT THE ABOVE PLAT IS TRUE AND CORRECT ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION, OF THE PROPERTY DESCRIBED HEREON. I FURTHER CERTIFY THAT ENCROACHMENTS, EASEMENTS AND RIGHT-OF-WAYS VISIBLE ON SITE ARE SHOWN HEREON.



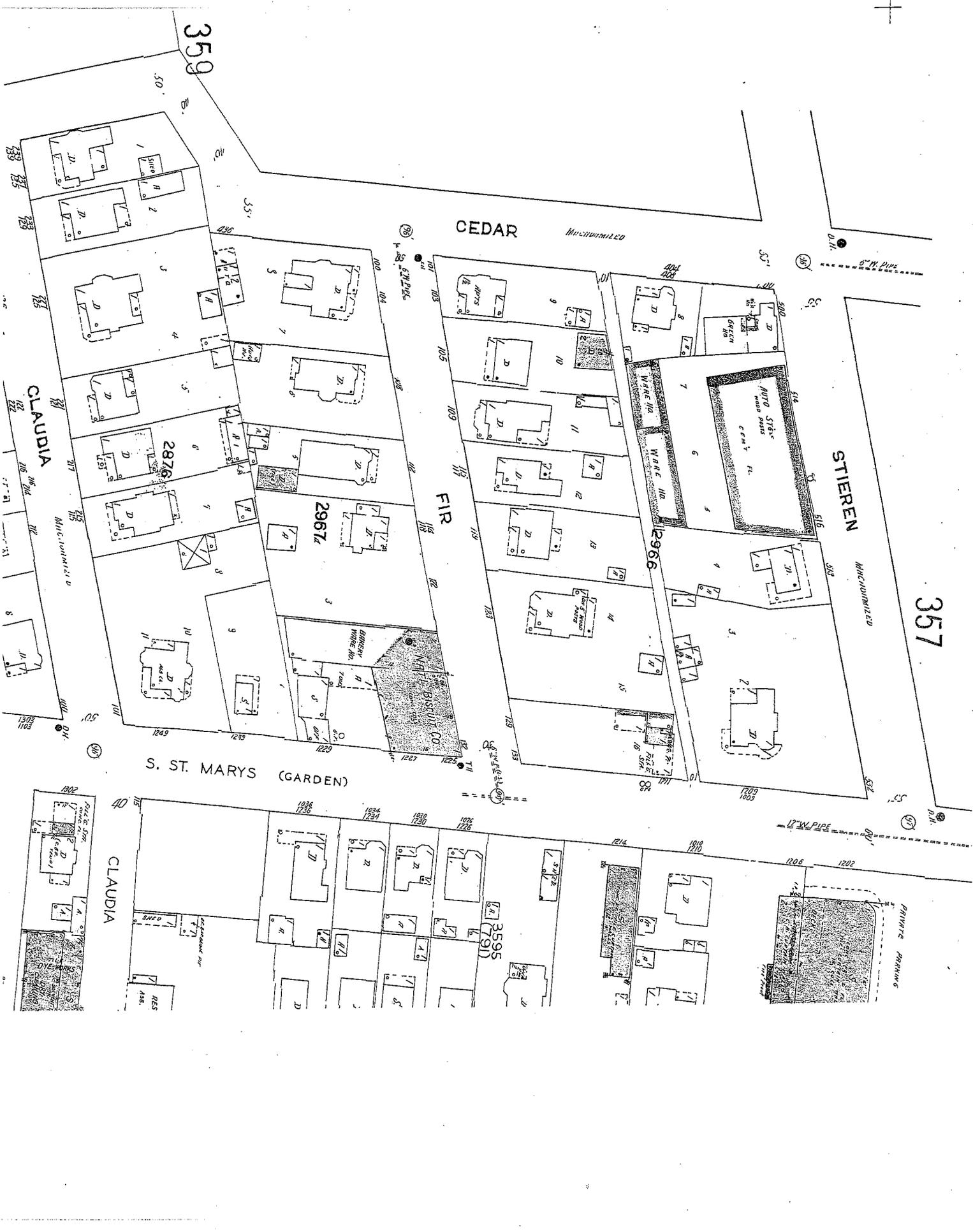
(Note: 10' Easement behind lot - keep)



SITE PLAN 1" = 30'-0"



CHARLES SCHUBERT ARCHITECT
1102 S. ALAMO
SAN ANTONIO, TEXAS 78210



359

CEDAR

STIEREN

357

CLAUDIA

S. ST. MARYS (GARDEN)

CLAUDIA

3595
(791)

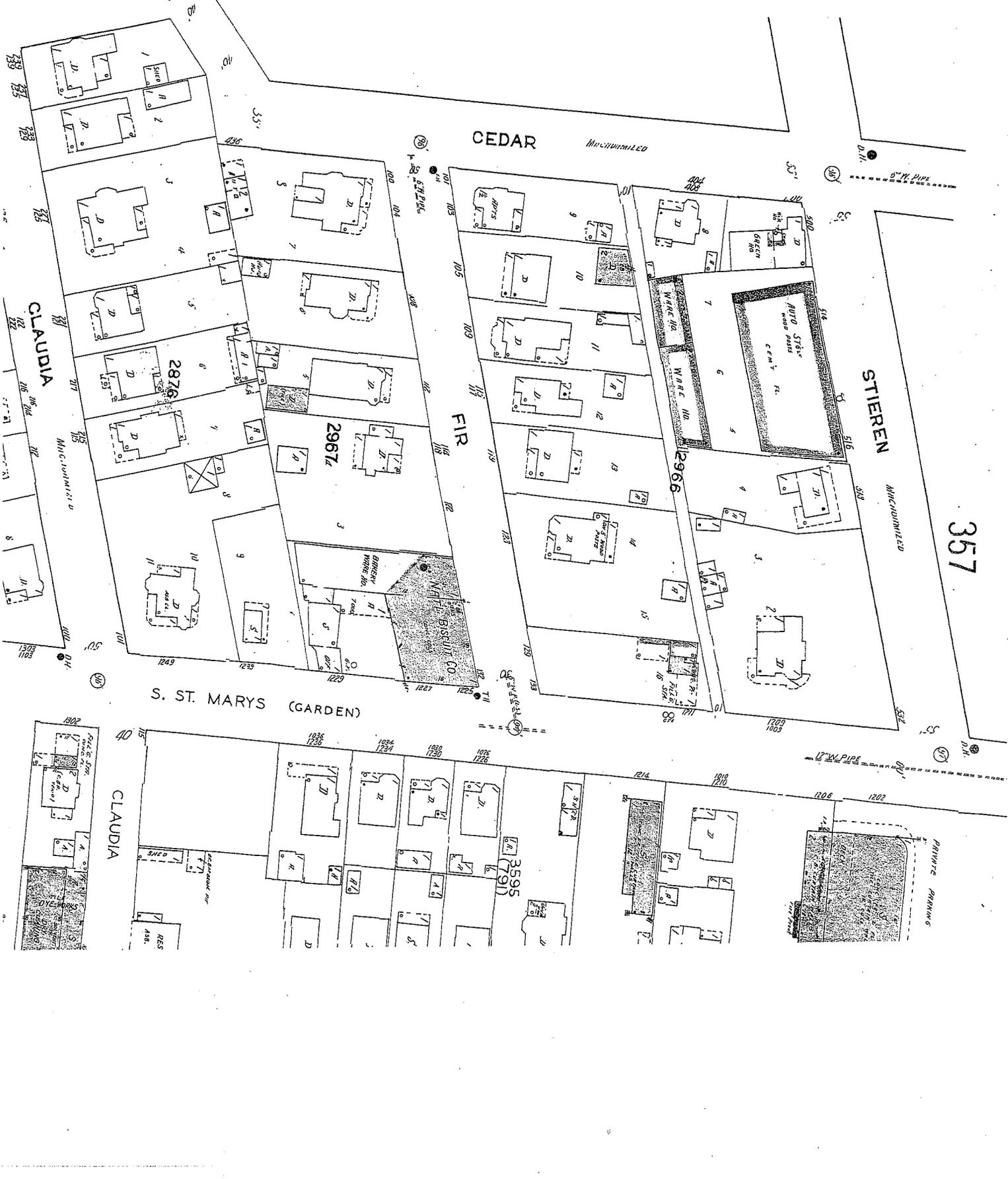
2967

2966

2876

PRIVATE PARKING

RES 488



**NEIGHBORHOOD AND URBAN DESIGN SECTION
BOARD OF ADJUSTMENT CASE REVIEW FORM**

CASE INFORMATION

Case #: **A-09-070**

Property Address: 109 Fir Street

Zoning: RM4 H

Hearing Date: 7/20/2009

Type / Scope of BOA Request:

The applicant requests a 2-foot 10-inch variance from the requirements of Section 35-370 that accessory structures exceeding thirty inches in height be located a minimum distance of 5-feet from any side property line to build an accessory structure 2-feet 2-inches from the west side property line.

PLANNING PROGRAM / PROJECT OVERLAP

Neighborhood Association(s): King William Neighborhood Association

Neighborhood or Community Plan: Downtown Neighborhood Plan

Neighborhood Conservation District: n/a

Corridor Overlay District (name or n/a): n/a

ANALYSIS STATEMENT

The future land use for the subject property is designated residential within the King William District (K). This district is defined as single family and duplex housing at a maximum density of 12 units per gross acre that encourages preservation within the historic district. The subject property is also located within the Southern Neighborhood which includes the goal to "maintain the residential and historic character of neighborhoods and conserve housing structures for residential uses" (p. 26).

The intent of the side setback requirement is to allow for the movement of air, light penetration, neighborhood uniformity, prevention of lot overcrowding, and adequate space for fire protection. Although the applicant proposes to rebuild an accessory structure on the same building footprint as the pre-existing nonconforming structure, the nonconforming structure upon reconstruction should come into compliance with the current building codes. UDC Sec 35-707(d)(1) states, "The right to operate and maintain any nonconforming structure shall terminate and shall cease to exist whenever the nonconforming structure is damaged in any manner and from any cause whatsoever and the cost of repairing such damage exceeds fifty (50) percent of the replacement cost of such structure on the date of such damage."

There is adequate space on the lot to build an accessory structure outside of the side setback. Enforcement of the ordinance will not distract from the historic character of the neighborhood nor be contrary to the Downtown Neighborhood Plan goals. Additionally, it does not seem that there are any extenuating topographical constraints or similar issues related to the subject parcel for which the literal enforcement of the ordinance would result in unnecessary hardship.

RECOMMENDATION

Recommendation Pending Additional Analysis / Information

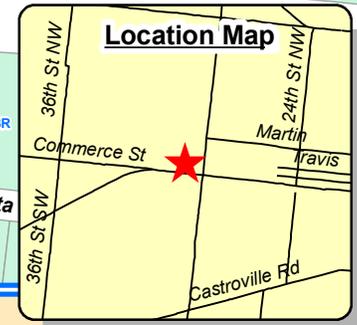
Support Request

Deny Request X

REVIEWER INFORMATION

Neighborhood Planner Reviewing: Rebecca Paskos, Sr. Planner

Date Review Completed: July 7, 2009



Board of Adjustment
Notification Plan for
Case A-09-071



Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 250'
- Council District 5



City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-09-071
Hearing Date: July 20, 2009
Applicant: Ed Hernandez
Owner: NBY Properties, LLC
Location: 4807 West Commerce Street
Legal Description: Lot 4A, Block 12, NCB 9024 and Lot 25, Block 1, NCB 9024
Subject: Sign Variance
Prepared By: Mike Farber, Planner

Executive Summary

The applicant is requesting:

- 1) A 62-foot variance from the requirement that on-premise signs be at least 150 feet apart, in order to keep an on-premise sign 88 feet from the nearest on-premise sign;
- 2) a 60-foot variance from the requirement that on-premise signs be at least 150 feet apart, in order to keep an on-premise sign 90 feet from the nearest on-premise sign;
- 3) a 7-foot 7-inch variance from the standard that any secondary sign along a street classified as an Arterial Type A shall not exceed 75% of the allowable height, in order to keep an existing 37 foot, 7 inch tall sign; and,
- 4) a 5-foot variance from the standard that any secondary sign along a street classified as an Arterial Type A shall not exceed 75% of the allowable height, in order to keep an existing 35 foot tall sign. The subject property is zoned "C-3 R" General Commercial Restricted Alcoholic Sales District, "C-2" Commercial District and "C-2 NA" Commercial Non-Alcoholic Sales District.

If the requested variances are not granted, the applicant must adhere to the sign spacing and height requirements set forth in Chapter 28, Section 239 (c)(1) and (2).

Public Notice

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property and the application was noticed in The Daily Commercial Recorder, an official newspaper of general circulation. This was completed on July 2, in accordance with the public noticing requirements of the Section above. Notice of this meeting was posted at city hall and on

the city's internet website on July 17, in accordance with Section 551.043(a) of the Texas Government Code.

Project Description

The purpose of the proposed variances is to allow one new 50-foot tall multi-tenant pylon sign along West Commerce Street (placed between two signs that are already existing) to be placed less than the required 150 feet apart. Also, the applicant requests that two existing signs, that are in excess of 30 feet in height, be allowed to remain as they currently reside on the subject property, in order for two 50-foot tall pylons (one along West Commerce Street and one along General McMullen) to be erected. The applicant cites the benefits of the overall renovation effort of the existing shopping center and its positive impact on the surrounding neighborhood as rationale for these requests.

According to the applicant, this project has been undertaken in order to revitalize the existing condition of the shopping center, which will include new parking lot lights and storefront facades. Additionally, several signs have already been removed from the property, and the applicant has expressed that new tenants will be advertised on the new multi-tenant pylons.

Surrounding Zoning/Land Use

North	R-5	Single-Family Residences
South	C-3 R	Commercial Uses
East	R-4, C-2, C-2 S, I-1	Single-Family Residences, Commercial Uses
West	R-5, C-2	Single-Family Residences, Commercial Uses, Motel

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a Neighborhood/Community Plan.

The property is located with the boundaries of the Prospect Hill Neighborhood Association. As of July 13th, staff has not received a reply from the neighborhood association.

Criteria for Review

According to Section 247 of the Chapter 28: Signs and Billboards, in order for a variance to be granted, the applicant must demonstrate:

2. A denial of the variances would probably cause a cessation of legitimate, long-standing active commercial use of the property

The property was purchased by the current owners in 2007, with the signs situated at their current locations and having the same height and spacing. It would appear that removing the signs, and/or decreasing the height of said signs, may create a hardship for the future retail tenants of the shopping center.

Additionally, as depicted in the site plan (Attachment 3), several unsightly pole signs have already been removed from the subject property. Significant efforts have been made to improve the dispersal of signs on this shopping center.

A. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

Similar signs are currently situated on other commercial lots in the area, thus the granting of the variances for height allowance would not appear to afford the applicant with any special privileges.

Also, there are no other large shopping centers in the immediate vicinity, therefore the allowance of the spacing variances would not be a special privilege in that the multiple sign situation is unique to this property in this area.

B. Granting the variances will not have a substantially adverse impact on neighboring properties.

The current sign placement has been a condition that has existed for a number of years on this property and does not appear to have had a negative impact on neighboring properties. It appears that the allowance of the requested variances will not significantly impact neighboring properties as they have been accustomed to the current conditions at this shopping center.

Further, the applicants have removed several unsightly pole signs, thus, significantly reducing the visual clutter along this portion of the thoroughfare.

C. Granting these variances will not substantially conflict with the stated purpose of this article.

The granting of the requested variances will not detract from the intent of the sign height and spacing regulations in that the existing signs have been at their current height for a number of years, and it appears that the preservation of a minimal number of signs would not detract from the neighborhood.

Also, visual obstruction does not appear to be an issue in terms of spacing of the signs.

Staff Recommendation

The intent of the sign spacing requirements is to prevent the obstruction of access and view, preserve and enhance the attractiveness of the city for the citizens and visitors, to reduce motorist distraction, and to enhance motorists' ability to see pedestrians or other vehicles. It does not appear that the granting of variance requests 1 and 2 will compromise motorist visibility along this portion of West Commerce Street. Additionally, with regard to variance requests 3 and 4, it does not appear that allowing the freestanding signs in question to remain at their current heights will detract from the aesthetics of the immediate neighborhood. Staff therefore recommends **approval** of the requested sign variances.

Attachments

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Submitted Site Plan

NCB 9024
Block 000
Lot 4A
&
NCB 9024
Block 1
Lot 25

N General McMullen

Proposed 50' tall sign

Existing Sign Proposed
to remain : 35' tall sign

Existing Sign
Height 24'

Proposed 50' tall sign

Existing Sign
Height 37'-7"

W Commerce St

Board of Adjustment
Plot Plan for
Case A-09-071



Legend



Existing Sign

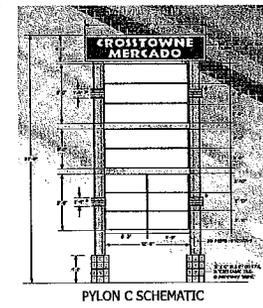
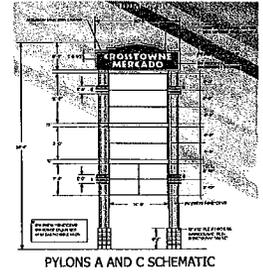
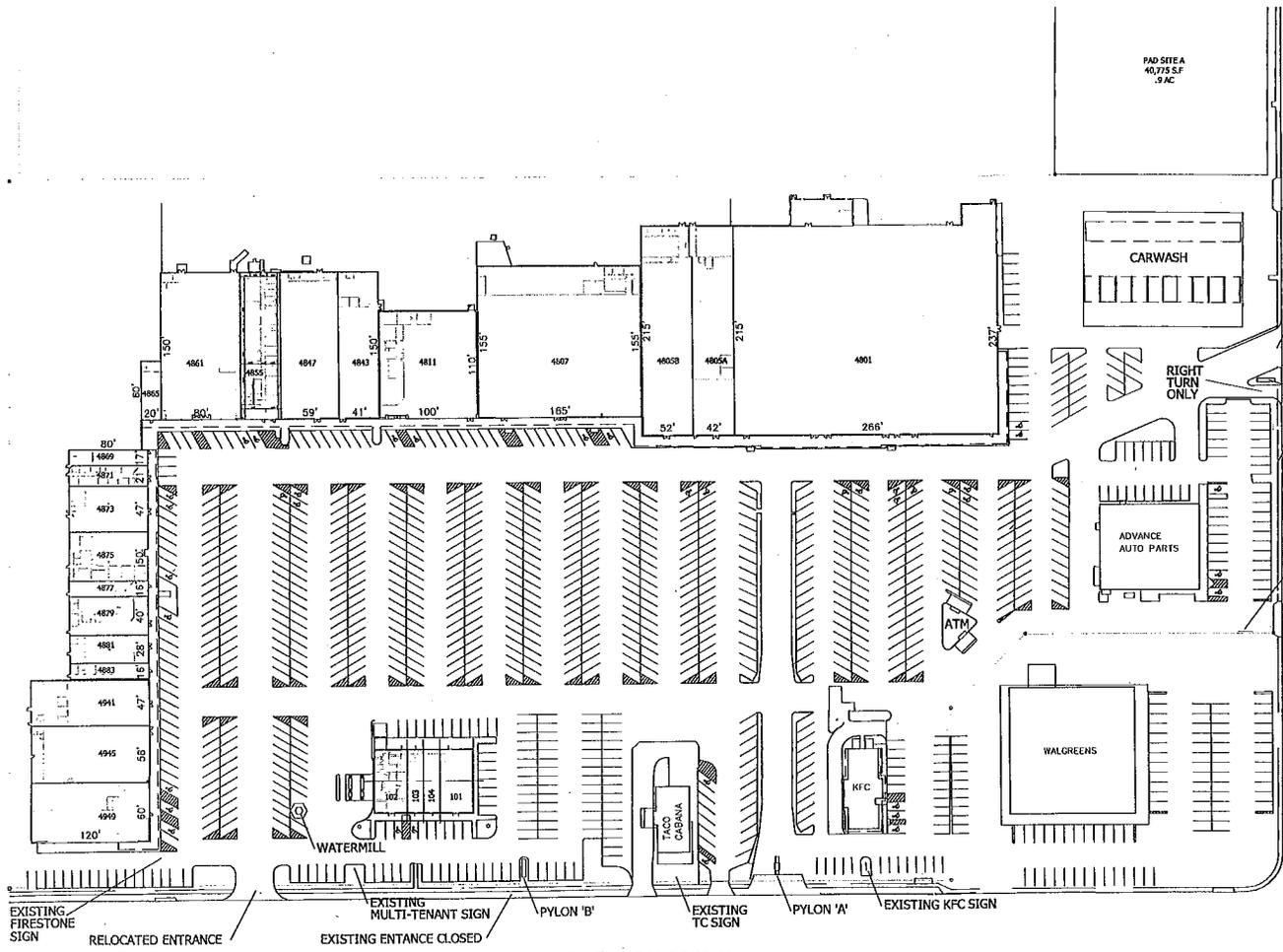


Proposed Sign

Scale: 1" approx. = 150'
Council District 5

4807 W Commerce St

Planning and Development Services Dept
City of San Antonio
(07/1/2009 - P. Trinkle)



CROSTOWNE MERCADO - PROPOSED SITE ENTRANCES AND PYLON SIGNS

4800 W. Commerce Street, San Antonio, Texas 78237

NBY 4518 Macro Drive
 San Antonio, Texas 78218-5420
 Properties, LLC. 210.662.7140
 210.247.0067 fax