

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, June 1, 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
George Alejos – 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. Presentation of award to Mr. Paul Klein.
5. **Nominations, consideration, and possible election of officer for the office of Vice Chair.**
6. **A-09-043 cont.:** The request of Esther Ponce, for a special exception to allow a one operator beauty/barber shop, 4027 Fawnridge Drive.
7. **A-09-056 cont:** The request of Maria Alicia Alvarez, for a 14-foot, 7-inch variance from the requirement that a minimum 20-foot rear setback be maintained in “R-4” zoning districts, in order to keep the existing principal structure 5 feet, 5 inches from the rear property line, 930 Madrid.
8. **A-09-040 cont:** The request of Joel Cavazos, to appeal of the decision of the Planning and Development Services Director to enforce Section 491(c)(3)C of *Chapter 35: Unified Development Code*, requiring that if demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years, 122 North Cherry Street.

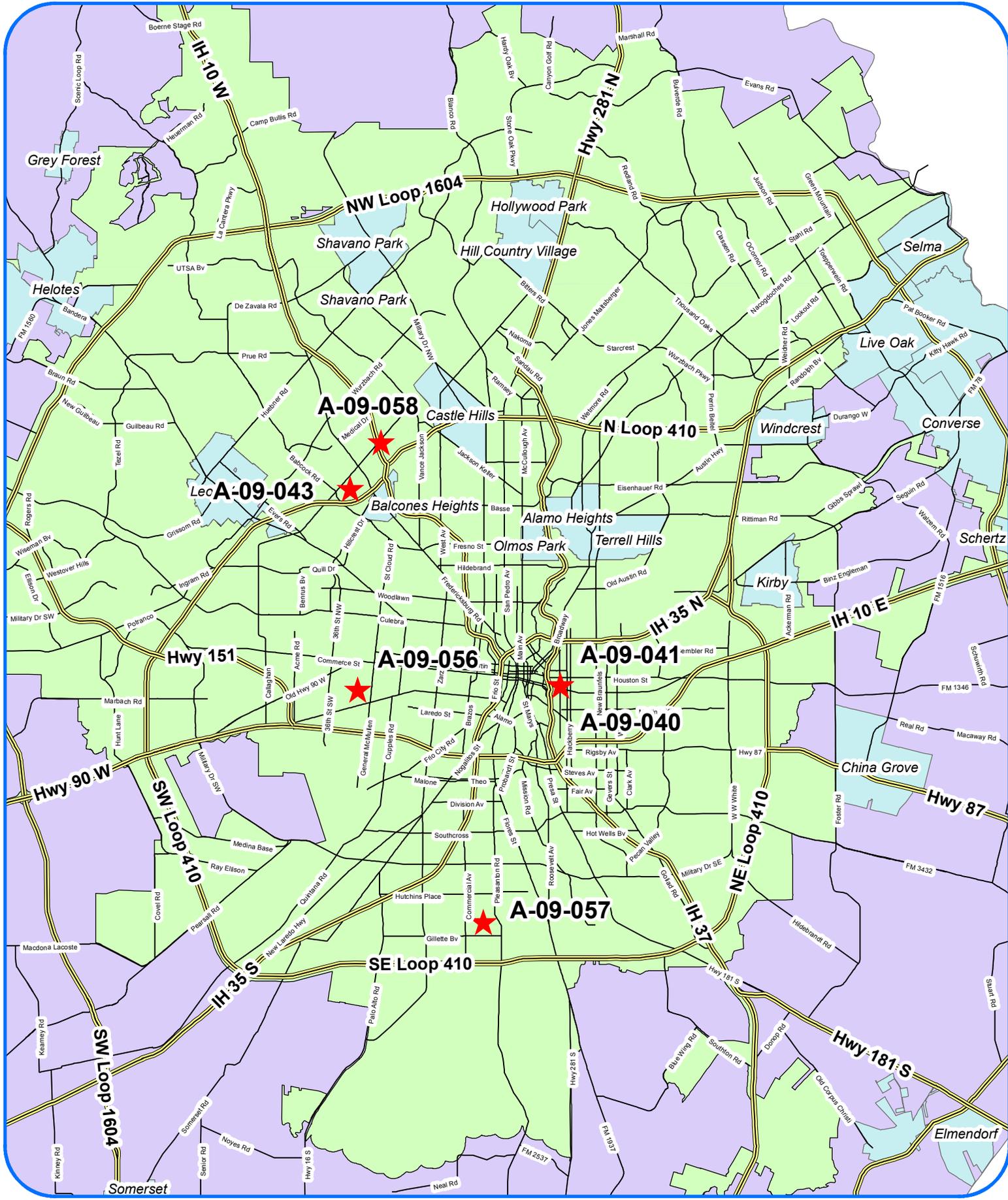
9. **A-09-041 cont:** The request of St. Paul Area Development Corporation, to appeal of the decision of the Planning and Development Services Director to enforce Section 491(c)(3)C of *Chapter 35: Unified Development Code*, requiring that if demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years, 126 North Cherry Street.
10. **A-09-057:** The request of Aida Cruz, for a special exception to keep a 6-foot ornamental-iron front-yard fence, 221 Dorsey Drive.
11. **A-09-058:** The request of Paul Anthony & Associates, LLC, for **1)** a 3-foot variance from the requirement that predominantly open fences in front yards not exceed 4 feet in height, in order to erect a 7-foot tall predominantly open front-yard fence and **2)** a 1-foot variance from the requirement that fences in side and rear yards not exceed 6 feet in height, in order to erect a 7-foot tall fence in the side and rear yards, 8131 Pinebrook Drive.
12. Approval of the minutes from the regular meeting on May 18, 2009 and the special meeting on May 26, 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

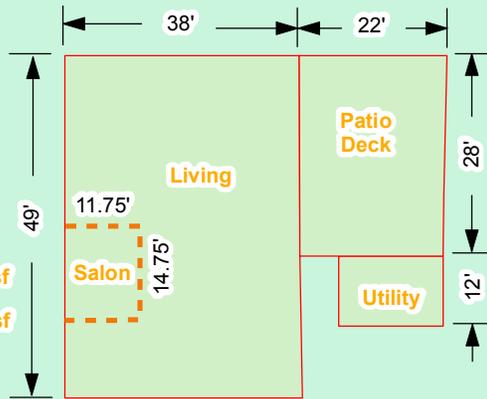
This meeting site is accessible to persons with disabilities. Parking is available. **Auxiliary Aids and Services are available upon request (Interpreters for the Deaf must be requested forty-eight [48] hours prior to the meeting).** For Assistance, Call (210) 207-7245 Voice/TTY.



Board of Adjustment
Subject Property Locations
Cases for June 1, 2009



Lakeridge



Living Area = 1862 sf
Salon Area = 173.3 sf

NCB 12485
Block 15
Lot 24

Fawnridge Dr

Board of Adjustment
Plot Plan for
Case A-09-043



Legend

Proposed Salon

Scale: 1" approx. = 30'
Council District 7



4027 Fawnridge Dr

Planning and Development Services Dept
City of San Antonio
(03/23/2009 - P. Trinkle)

CASE NO: A-09-043 cont.

Board of Adjustment – June 1, 2009

Applicant: Esther Ponce

Owner: Ponce Property Management Trust

Request(s): A special exception to allow a one operator beauty/barber shop.

Legal Description: Lot 24, Block 15, NCB 12485

Address: 4027 Fawnridge Drive

Zoning: “R-5” Residential Single-Family District

Existing Use: Single-Family Residence

Neigh. Assoc: Oak Hills Citizens Association

Neigh. Plan: None

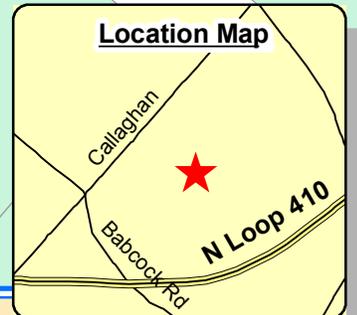
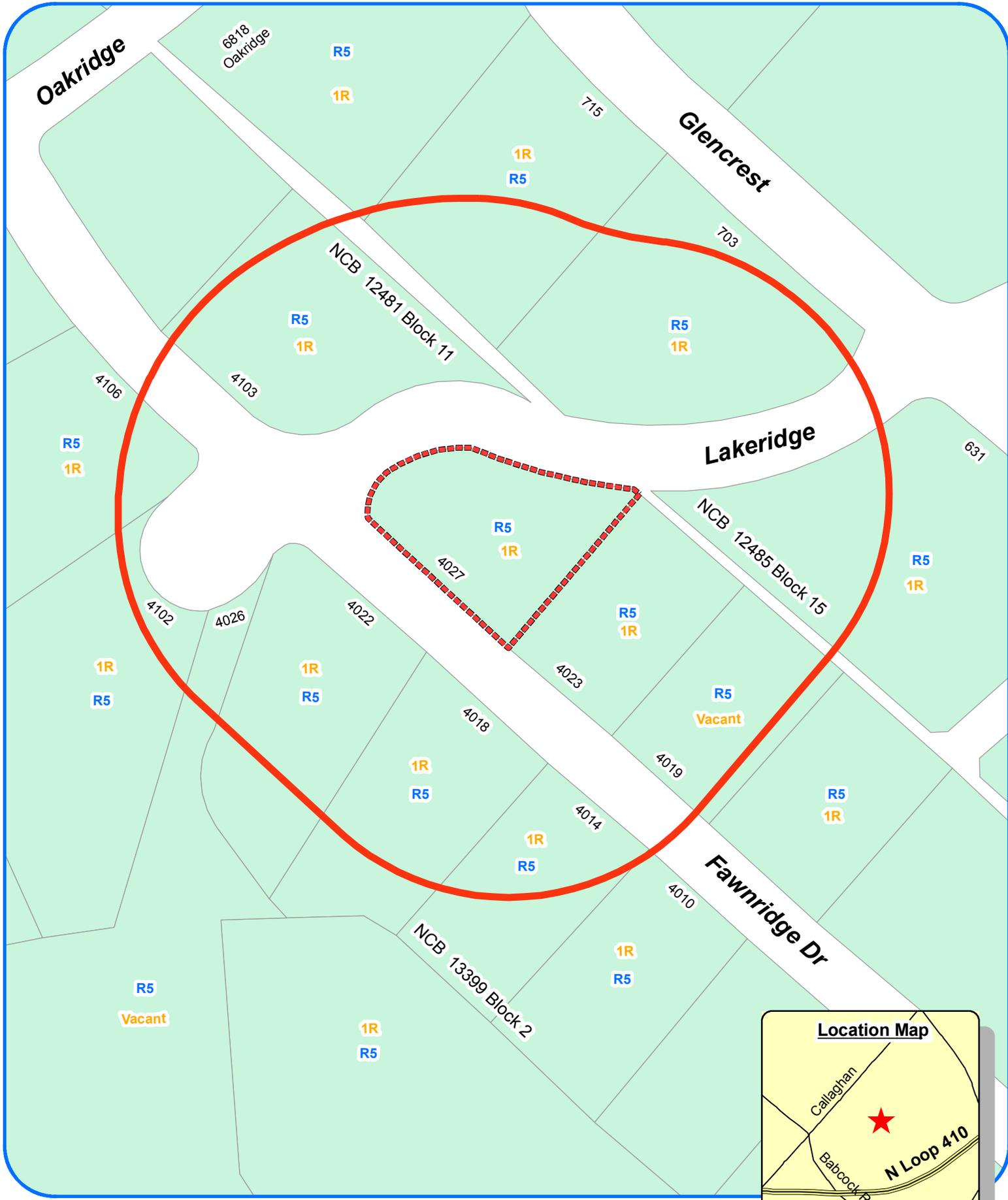
Section of the City Code from which this special exception is requested:

35-399.01 One Operator Beauty Shops and Barber Shops: Granting of a permit for a beauty shop or barber shop in conjunction with a residential use is to be for a definite period of time not to exceed two (2) years for the initial application, and not to exceed four (4) years for any subsequent application, and only after notice and hearings as provided in this chapter for appeals to the Board of Adjustment. To qualify as a subsequent application, the permit must be applied for prior to the expiration of the previous permit.

Background: The subject property is located in a single-family neighborhood east of the intersection of Callaghan and Babcock Roads, just north of Loop 410. Single-family residential uses and zoning surround the property. This is the first application for a special exception at this location, though the applicant has operated a beauty shop at the location for some time prior to receiving notice from a Code Compliance inspector on February 21, informing her of the need to comply with the zoning ordinance. The applicant’s proposed hours of operation are 7:00 a.m. to 8:00 p.m., Monday through Saturday, with approximately 10 customers per week and varying total hours of operation. The applicant has stated that per week, she would work at most 20 hours.

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. The applicant has stated that the intent of the requested hours of operation is to allow flexibility for her customers, while still allowing her to provide full time care for her mother. Staff recommends **approval** of the requested special exception for a maximum allowable **two year period of operation** with hours of operation not to exceed 40 hours per week. A 4-year period of operation is not allowable at this time due to the provisions set forth in UDC 35-399.01(i).

Case Manager: Jacob Floyd, Planner (210) 207-8318



Board of Adjustment
Notification Plan for
Case A-09-043



Legend

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

Planning and Development Services Dept
 City of San Antonio
 (03/23/2009 - P. Trinkle)

Board of Adjustment - Case No. A-09-043

April 20, 2009

The Board of Adjustment will hold a Public Hearing at 1:00 PM on **Monday, April 20, 2009** in the Board Room on the 1st floor of the Cliff Morton Development & Business Services Center, 1901 South Alamo Street, to consider the following application:

Applicant – Esther Ponce
Lot 24, Block 15, NCB 12485
4027 Fawnridge Drive
Zoned: “R-5” Residential Single-Family District

The applicant is requesting a special exception to allow a one operator beauty/barber shop at the property identified above.

The City of San Antonio, Texas desires that you as an interested property owner be advised as to the action being considered in reference to this application and invites you to attend this public hearing to express your opinion on this issue. You may contact Case Manager Jacob Floyd at 207-8318 regarding the status of this case. If you plan to make a presentation and would like to utilize audio/video capabilities, the Planning and Development Services Department must receive all materials at least 24 hours prior to the public hearing.

Construction relative to any variances granted by the Board must be started within six (6) months of the public hearing.

The Cliff Morton Development and Business Services Center is wheelchair accessible. Accessible parking spaces are located on the north and south sides of the building.

Whether or not you attend this public hearing, please complete and return the cut-out portion below to the Development Services Department, 1901 South Alamo Street, San Antonio, Texas 78204. Thank you.

If you wish to comment, please complete, clip out and return this portion of the notice prior to the date of the public hearing.

Si usted desea hacer un comentario, por favor devuelva esta tarjeta antes de la audiencia publica.

Name/Nombre: _____ Telephone/Telefono: _____

Address/Direccion: _____

Lot/Lote: _____ Block/Cuadra: _____ NCB: _____

() In Favor/A Favor () In Opposition/En Oposicion

Comments/Comentarios: _____

A-09-043

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

CITY OF SAN ANTONIO
COUNTY OF BEXAR
STATE OF TEXAS

TO THE HONORABLE BOARD OF ADJUSTMENT:

Property Description:

Lot 24
Block 15
NCB 18485
Zoning R5

Property Address: 4027 Fawnridge DR

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

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

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

Proposed hours of operation:

Comments:

my proposed hours would be 7:00 AM - 8:00 PM
Considering I only do an average of 10 clients
per week, I try to be flexible for them.
I take care of my mom full-time in our home.

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

Signed: Esther Ponce
(Property Owner)

Date: 3-10-09

Respectfully submitted:

Applicants Name: Esther Ponce
Mailing Address: 4027 Fawnridge
S.A.TX. 78229
Telephone: 210-836-5059

Please submit:

- Filing Fee - \$400.00
- Check made payable to: City of San Antonio
- Plot Plan,
- Photographs of the structure to be used,
- Proposed hours of operation,
- Floor plan of proposed beauty shop or barber shop operation.

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

R5

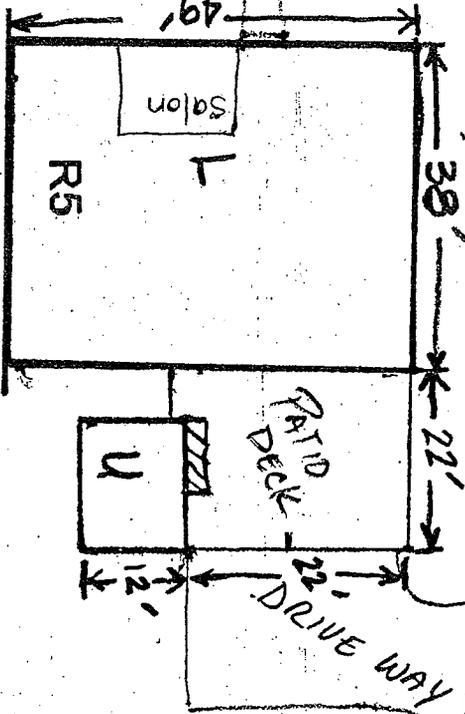
R5

LAKERIDGE

FAWNRIIDGE DR

R5

SIDE WALK ENTRANCE



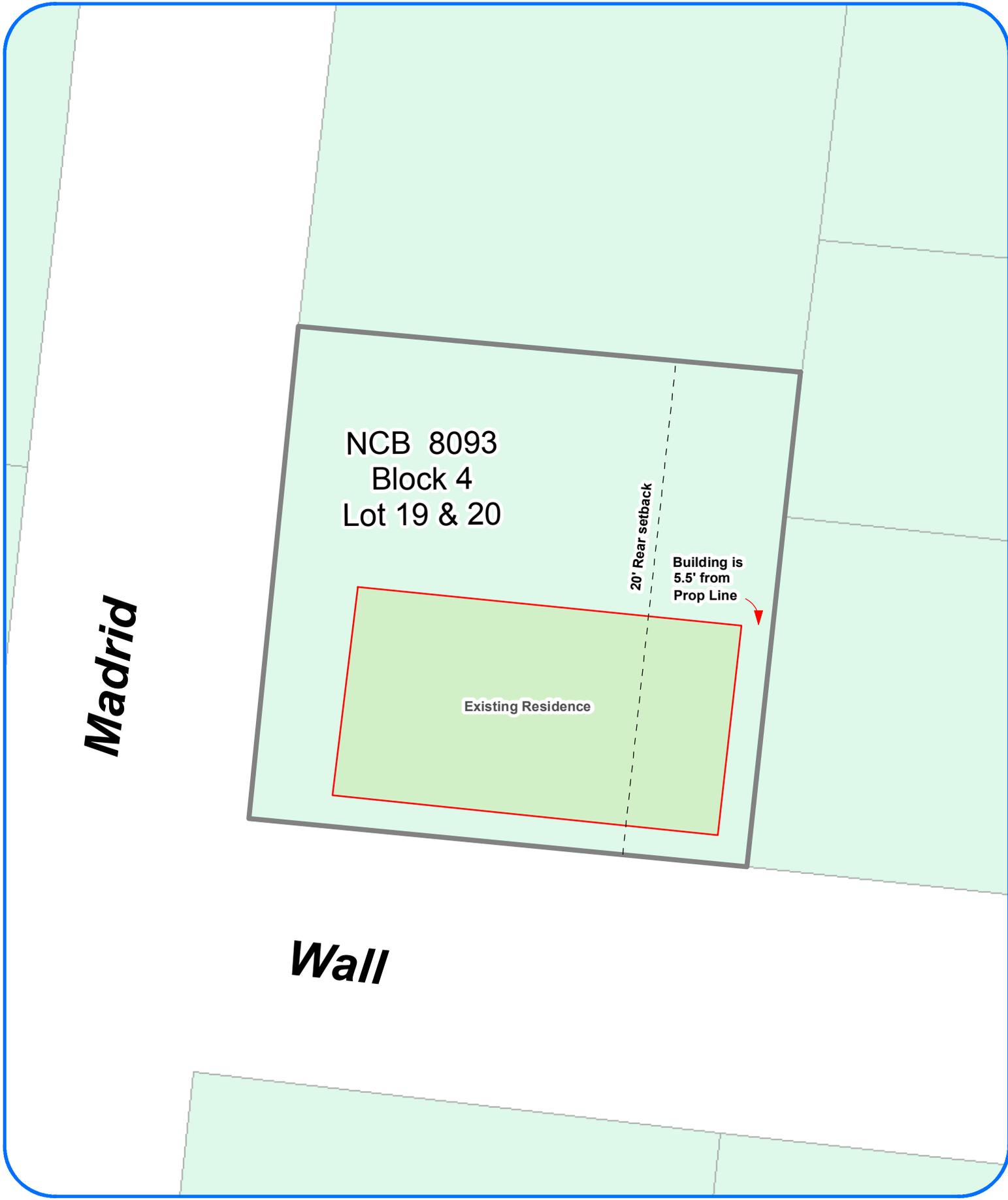
off 32" one side

by 12' 32"

11' 8" by

14' 8"

F



Board of Adjustment
Plot Plan for
Case A-09-056



Legend

Scale: 1" approx. = 20'
Council District 6

930 Madrid

Planning and Development Services Dept
City of San Antonio
(04/20/2009 - P. Trinkle)

CASE NO: A-09-056 cont.

Board of Adjustment – June 1, 2009

- Applicant:** Maria Alicia Alvarez
- Owner:** Maria Alicia Alvarez
- Request(s):** A 14-foot, 7-inch variance from the requirement that a minimum 20-foot rear setback be maintained in “R-4” zoning districts, in order to keep the existing principal structure 5 feet, 5 inches from the rear property line.
- Legal Description:** Lots 19 and 20, Block 4, NCB 8093
- Address:** 930 Madrid
- Zoning:** “R-4” Residential Single-Family District
- Existing Use:** Single-Family Residence
- Neigh. Assoc:** None
- Neigh. Plan:** None

Section of the City Code from which this variance is requested:

35-310 Zoning District Purpose Statements and Design Regulations: A minimum 20-foot rear setback shall be maintained in “R-4” zoning districts.

Background: The subject property is located on the northeast corner of the intersection of Wall Street and Madrid Street, north of Castroville Road. Single-family residential uses and zoning surround the subject property. The applicant is requesting a variance in order to keep an addition that encroaches 14 feet, 7 inches into the rear setback. The addition in question was constructed as an extension of the principal structure. As no permits were obtained for the construction of the addition, it is unclear when the addition itself was constructed. The structure appears to be appropriately scaled in harmony with the residences in the surrounding neighborhood. This case was initiated by a citizen complaint.

Recommendation: The intent of the rear setback requirement is to allow for air flow, light penetration, neighborhood uniformity, to prevent the overcrowding of lots, and to maintain a reasonable amount of open space that is desired in single-family residential neighborhoods. It does not appear that there are either physical or topographic hardships present on the property which would preclude adherence to the standards set forth in the UDC. Furthermore, the applicant has not provided evidence in the application that indicates the presence of a physical or topographic hardship. Staff believes that the cited hardship (care of a family member) is insufficient for justifying the granting of the requested variance. Furthermore, no permits were obtained for the construction of the addition to the principal structure and had permits been obtained, the applicant would have been advised of the development standards. Staff therefore recommends **denial** of the requested variance.

Case Manager: Mike Farber, Planner (210) 207-3074



Board of Adjustment
Notification Plan for
Case A-09-056



Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 80'
- Council District 6

Board of Adjustment - Case No. A-09-056

May 18, 2009

The Board of Adjustment will hold a Public Hearing at 1:00 PM on **Monday, May 18, 2009** in the Board Room on the 1st floor of the Cliff Morton Development & Business Services Center, 1901 South Alamo Street, to consider the following application:

Applicant – Maria Alicia Alvarez
Lots 19 and 20, Block 4, NCB 8093
930 Madrid
Zoned: “R-4” Residential Single-Family District

A 14-foot, 7-inch variance from the requirement that a minimum 20-foot rear setback be maintained in “R-4” zoning districts, in order to keep the existing principal structure 5 feet, 5 inches from the rear property line.

The City of San Antonio, Texas desires that you as an interested property owner be advised as to the action being considered in reference to this application and invites you to attend this public hearing to express your opinion on this issue. You may contact Case Manager Mike Farber at 207-3074 regarding the status of this case. If you plan to make a presentation and would like to utilize audio/video capabilities, the Planning and Development Services Department must receive all materials at least 24 hours prior to the public hearing.

Construction relative to any variances granted by the Board must be started within six (6) months of the public hearing.

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Whether or not you attend this public hearing, please complete and return the cut-out portion below to the Development Services Department, 1901 South Alamo Street, San Antonio, Texas 78204. Thank you.

If you wish to comment, please complete, clip out and return this portion of the notice prior to the date of the public hearing.

Si usted desea hacer un comentario, por favor devuelva esta tarjeta antes de la audiencia publica.

Name/Nombre: _____ Telephone/Telefono: _____

Address/Direccion: _____

Lot/Lote: _____ Block/Cuadra: _____ NCB: _____

() In Favor/A Favor

() In Opposition/En Oposicion

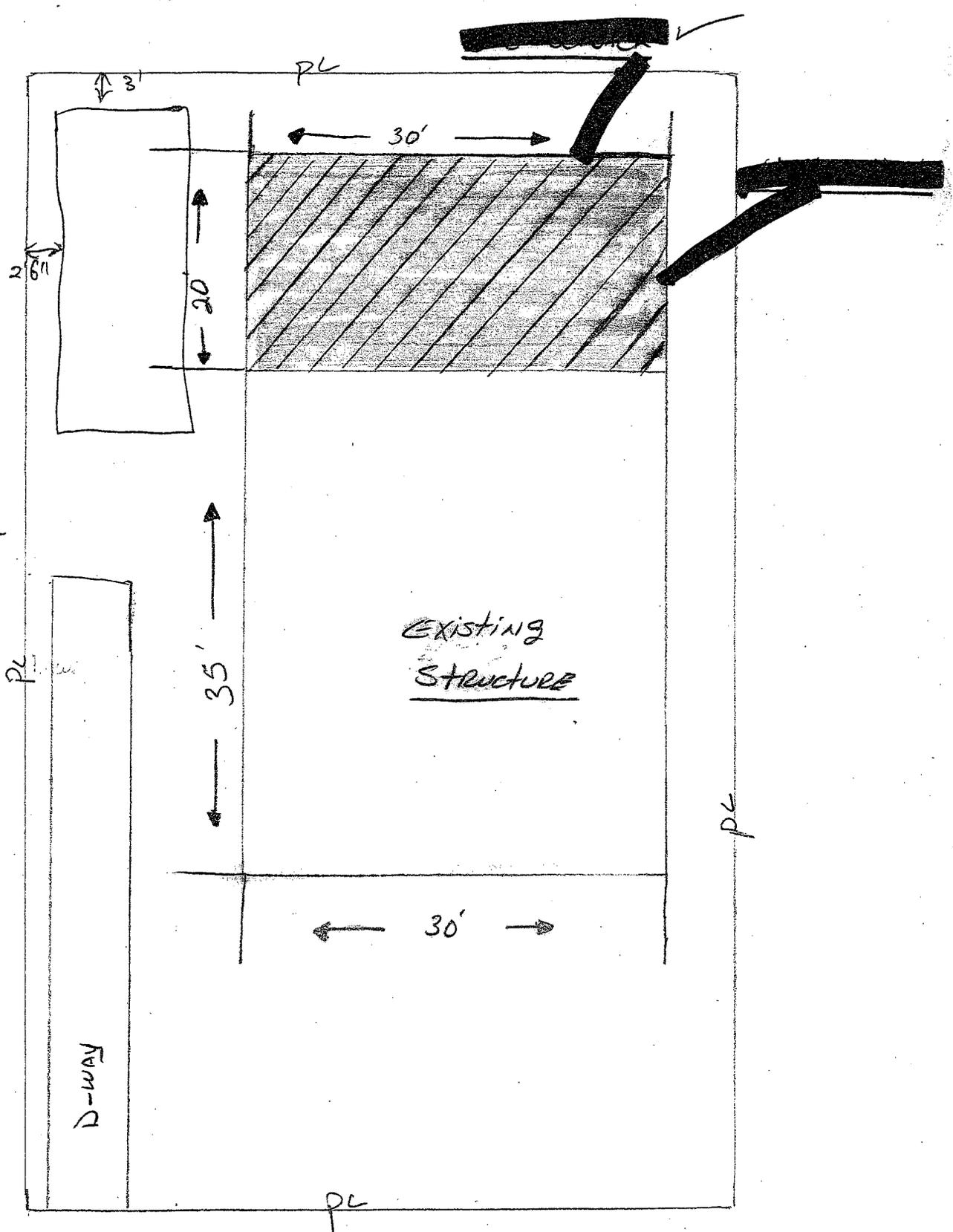
Comments/Comentarios: _____

A-09-056

600' sq. ft. ADDITION. Rear

1st Attached Addition to Rear.

Distance to Property Line



938 MADRID
FRONT

CASE NO: A-09-040 cont.

Board of Adjustment – June 1, 2009

- Applicant:** Joel Cavazos
- Owner:** Joel Cavazos
- Request(s):** An appeal of the decision of the Planning and Development Services Director to enforce Section 491(c)(3)C of Chapter 35: *Unified Development Code*, requiring that if demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years.
- Legal Description:** The north 32.5 feet of the south 65 feet of Lots 1 and 2, Block 3, NCB 590
- Address:** 122 North Cherry Street
- Zoning:** "H C-3" General Commercial Dignowity Hill Historic District
- Existing Use:** Vacant
- Neigh. Assoc:** Dignowity Hill Neighborhood Association
- Neigh. Plan:** Downtown Neighborhood Plan

Section of the City Code of which this appeal is sought:

35-491(c)(3)C: If demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years.

Background: The subject property is located east of downtown, in the Dignowity Hill Historic District, which is north of East Commerce Street. C-3, D, RM-4, and AE-1 zoning districts surround the subject property, with the majority uses being vacant and commercial. The applicant was issued a notice of violation by the Neighborhood Services Department on November 24, 2008, giving notice that the subject property had been determined to be a public nuisance and identified the structure as "requiring demolition". The applicant proceeded to obtain bids from demolition companies, including the bid of American S.C. Demolition Company, for demolition of the subject structure on December 16, 2008, which included demolition, removal, and "all residential permits." A notarized letter from the applicant authorizing the demolition was sent to American S.C. Demolition Company on December 17.

On December 19, 2008 an application for a demolition permit was submitted by Ms. Enriqueta Garza, of American S.C. Demolition Company, on behalf of the applicant. At that time, Ms. Garza was informed that the property was in the Dignowity Hill Historic District and that the proposed demolitions would need to be considered by the Historic and Design Review Commission and be granted a Certificate of Appropriateness in order for the demolition to take place. On approximately December 24th, Mr. Emilio Garza, also of American S.C. Demolition Company, proceeded with demolition of the structures without obtaining the appropriate permits/certificates; in violation of Section 491 of the Unified Development Code (UDC). On December 26, 2008, written violation notice was given to Mr.

Garza for the aforementioned demolition, specifically citing lack of approval from the Historic Preservation Office and the Historic Design and Review Commission. Investigation staff of the Planning and Development Services Department later contacted Mr. Garza by phone to notify him to stop all further demolition and debris removal, as the Historic Preservation Office had interest in the debris. Investigation staff conducted a follow up investigation on December 29, at which point it was observed that the demolition work had continued, thus requiring a stop work order to be issued.

On January 12, 2009, a Contractor License Hearing was conducted to review evidence regarding the demolitions by Mr. Garza. The applicant was sent an official correspondence from the Director of the Planning and Development Services Department (Building Official) informing him of the penalties imposed in accordance with Section 35-491(c)(3)C of the Unified Development Code.

The applicant is now appealing the decision of the Director to impose said penalties.

Recommendation: Section 211.009(a)(1) of the Texas Local Government Code grants the Board of Adjustment the authority to hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of the City Code. Pursuant to Section 211.009(b) of the Texas Local Government Code, the Board may reverse or affirm, in whole or in part, or modify the Director's decision. In this instance, the Director has imposed penalties *required* by the UDC, thus enforcing the development regulations and did not exercise a form of discretionary authority. Furthermore, there is no evidence that the Director erred in enforcing the regulations as outlined in the UDC.

Staff recommends that the Board of Adjustment **uphold** the decision of the Director of Planning and Development Services Department to impose the penalties as outlined in Section 35-491(c)(3)C of the Unified Development Code.

Case Manager: Jacob Floyd, Planner (210) 207-8318

Board of Adjustment - Case No. A-09-040

May 18, 2009

The Board of Adjustment will hold a Public Hearing at 1:00 PM on **Monday, May 18, 2009** in the Board Room on the 1st floor of the Cliff Morton Development & Business Services Center, 1901 South Alamo Street, to consider the following application:

Applicant – Joel Cavazos

The north 32.5 feet of the south 65 feet of Lots 1 and 2, Block 3, NCB 590

122 North Cherry Street

Zoned: “H C-3” General Commercial Dignowity Hill Historic District

An appeal of the decision of the Planning and Development Services Director to enforce Section 491(c)(3)C of *Chapter 35: Unified Development Code*, requiring that if demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years.

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Si usted desea hacer un comentario, por favor devuelva esta tarjeta antes de la audiencia publica.

Name/Nombre: _____ Telephone/Telefono: _____

Address/Direccion: _____

Lot/Lote: _____ Block/Cuadra: _____ NCB: _____

() In Favor/A Favor

() In Opposition/En Oposicion

Comments/Comentarios: _____

A-09-040

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

CASE INFORMATION

Case #: A-09-040

Property Address: 122 N Cherry

Zoning: H C-3

Hearing Date: 05/18/2009

Type / Scope of BOA Request:

Applicant is requesting an appeal of the decision of the Planning and Development Services Director to enforce UDC Section 491(c)(3)C requiring that if demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or certificate of appropriateness, then any permis on subject property will be denied for a period of three years.

PLANNING PROGRAM / PROJECT OVERLAP

Neighborhood Association(s): Dignowity Hill 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 subject parcel is designated in the Downtown Neighborhood Plan Land Use Plan as within the Dignowity Hill (E) District. The Dignowity Hill consists of existing historic district of single family and duplexes at a maximum density of 10 units per gross acre. Infill and housing rehabilitation to maintain neighborhood character is encouraged. In the land use plan map, the subject property is designated as mixed use.

The subject parcel also lies within the East Neighborhood Plan of the Downtown Neighborhood Plan. The long term vision for the East Neighborhood is to, "develop and rehabilitate housing, parks, and businesses in existing neighborhoods" (p. 24).

Goal 1 of the City's 1997 Master Plan states, "Preserve, protect and enhance the integrity, economic viability, and livability of San Antonio's neighborhoods" by way of creating "guidelines for neighborhood preservation which would promote the rehabilitation of structures and minimize demolition" (p. 24).

The demolition permit for the subject property was not obtained in accordance with UDC Section 35-455 therefore it is recommended that the decision of the Planning and Development Services Director to enforce UDC Section 491(c)(3)C be upheld. The City's Master Plan and the Downtown Neighborhood Plan both recommend rehabilitation to maintain and preserve neighborhood character.

RECOMMENDATION

Recommendation Pending Additional Analysis / Information

Support Request

Deny Request X

REVIEWER INFORMATION

Neighborhood Planner Reviewing: Rebecca Paskos, Sr. Planner

Date Review Completed: April 29, 2009

Unauthorized Demolition of 120, 122, and 126 N. Cherry St.

Dignowity Hill Historic District

Chronological time line beginning December 19, 2008

Date	Event/Action
Friday December 19, 2008	Demolition application submitted by Ms. Enriqueta Garza of American S.C. for 120, 122, 126 N. Cherry St. Ms. Garza was informed that properties were in Dignowity Hill Historic District and require Historic and Design Review Commission (HDRC) process and hearing which is allowed 30 days and could be heard 1/21/2009/.
Monday December 22, 2008	The Historic Preservation Office (HPO) staff confirmed with Housing and Neighborhood Services that the properties in question were not emergency demolition as stated by American S.C.
Friday December 26, 2008	<ul style="list-style-type: none"> • Confirmed with HPO staff that the properties had not received approval by the HDRC and Certificate of Appropriateness was not issued nor had a demolition permit been issued by Planning and Development Services (PDS). • A written notice was issued to Mr. Emilio Garza Jr, license holder for American S.C. on site for demolition without a permit and without an HPO Certificate of Appropriateness. • A follow up telephone call by PDS investigation staff to inform Mr. Garza not to proceed any further and not to remove any debris. As HPO had interest in the debris.
Monday December 29, 2008	<ul style="list-style-type: none"> • Follow up investigation, photos taken showed work had continued • Another call to HPO was received, alleged that more work was taking place. • Another investigation confirmed that Mr. Emilio Garza Jr. had continued to work and clear the lot. • Mr. Emilio Garza refused to stop work; San Antonio Police was called for security purposes.
Monday December 29, 2008	<ul style="list-style-type: none"> • Six Municipal court cases were filed on Mr. Emilio Garza; two for each address for failure to obtain demolition permit and failure to obtain HPO certificate of appropriateness • All three addresses have been noted in the Hansen system not to release any permits or allow any curb cuts per UDC 35-491(c) pending the outcome of this license hearing.
Wednesday December 31, 2008	<ul style="list-style-type: none"> • Notice of license hearing was hand delivered to and received by Mr. Emilio Garza • Certified mail was sent to licensee as stated in City Code 6-649c.

Cherry Street Demolitions Timeline

<p>December 19, 2008</p>	<p>Demolition applications were submitted for three properties (120,122, 126 Cherry Street) by a Mrs. Enriqueta Garza of American S.C. At that time the applicant was informed by staff that the properties were located within the Dignowity Hill Historic District and the proposed demolitions must go before the Historic and Design Review Commission (HDRC). The applicant was also told, by staff, that our office is given 30 days to review all demolitions. Mrs. Garza then stated that the demolitions were emergency demolitions and staff stated that our office would look into this and give Mrs. Garza a call if they were.</p>
<p>December 22, 2008</p>	<p>Mrs. Garza contacted staff in regards to the three demolitions and again stated that they were emergency demolitions. Staff stated that our office has not received any information from Housing and Neighborhood Services in reference to any emergency demolitions and that the demolitions would have to go to the Historic and Design Review Commission in January for a hearing. Twenty minutes later, a Mr. Emilio Garza with Amercian S.C. contacted staff and the same information was relayed to Mr. Garza.</p> <p>Staff contacted Housing and Neighborhood Services to see if the properties in question were emergency demolitions. They were not emergency demolitions</p>
<p>December 26, 2008</p>	<p>Sylvia Cortez contacted staff to question if the Cherry Street properties had received approval from Historic. Staff stated that they had not received approval and that they must be approved by the HDRC. Sylvia stated that the properties had been demolished by the contractor on Christmas Eve.</p>

Yvette Thomas
 Planner
 Historic Preservation



CITY OF

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

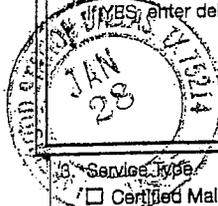
- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Joel CAVAZOS
5603 SWISS Ave.
DALLAS, TX
75214

ORDI

A. Signature X		<input type="checkbox"/> Agent
B. Received by (Printed Name) JOEL CAVAZOS		<input type="checkbox"/> Addressee
C. Date of Delivery 1-28-09		
D. Is delivery address different from item 1? <input type="checkbox"/> Yes		<input type="checkbox"/> No
E. (IMBS) After delivery address below:		
F. Service Type		
<input type="checkbox"/> Certified Mail	<input type="checkbox"/> Express Mail	
<input type="checkbox"/> Registered	<input type="checkbox"/> Return Receipt for Merchandise	
<input type="checkbox"/> Insured Mail	<input type="checkbox"/> C.O.D.	
4. Restricted Delivery? (Extra Fee)		<input type="checkbox"/> Yes



2. Article Number
(Transfer from service label)

7007 0220 0003 3455 6727

January 20, 2009

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Joel Cavazos
5603 Swiss Avenue
Dallas, TX 75214-4636

Re: 122 N. Cherry St., Demolition of Residential Structure in Historic District

Dear Property Owner:

The Bexar County Appraisal District lists you as the owner of the above-referenced property located at 122 N. Cherry St., San Antonio, Texas. This written order of the Building Official is the result of a hearing conducted January 12, 2009 to review evidence that Mr. Emilio Garza Jr., DC#916813 DBA American S.C., demolished the residential structure located at 122 N. Cherry St., on or about December 26, 2008, without the required demolition permits from the Planning and Development Services Department and certificates of appropriateness from the Historic Preservation Office as required by the International Residential Code section R105.1, City Code section 6-650 and the Unified Development Code section 35-450(a).

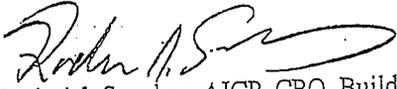
After hearing staff presentation of the stated City Code violations and allowing Mr. Garza to defend his actions, it was determined that Mr. Garza violated City Code of the above noted sections. The hearing was held in accordance with the provisions of City Code section 6-649 and the penalty for demolition of the referenced structures without proper approvals or permits, as stated above, is outlined in section 35-491(c)(3)C and 35-491(c)(3)D. Section 35-491(c)(3)C has penalties imposed on the property address of 122 N. Cherry St. and is stated below.

35-491(c)(3)C. If demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years. In addition, the applicant shall not be entitled to have issued to him by any city office a permit allowing any curb cuts on subject property for a period of three (3) years from and after the date of such demolition.

As Mr. Garza was found to have violated the City Code by demolishing the structure at 122 N. Cherry St., the above section provides that no permits may be issued for this property for a period of three years from the date of this order. You may appeal my decision as the Building Official to the Board of Adjustment by submitting your appeal in writing within 30 days of the date of this order and paying the appropriate

appeal fee. Appeals to the Board of Adjustment may be filed at 1901 South Alamo, San Antonio, Texas on Monday through Friday during regular business hours. Questions regarding the Board of Adjustment appeals process may be directed to Rudy Nino, Senior Planner, at 210-207-8389. Any other questions regarding this order may be directed to Patrick Poloskey, Development Services Manager, at 210-207-0148. If you are no longer the owner of the referenced property, please contact this office with the effective date of the land transfer to the new owner.

Sincerely,



Roderick Sanchez, AICP, CBO, Building Official
Director, Planning and Development Services

CITY OF SAN ANTONIO
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

Subject: UDC 35-450a Prosecutor: _____
Action/Case # 79084b Accepted _____ Rejected: _____

AFFIDAVIT

STATE OF TEXAS §
COUNTY OF BEXAR §

RECEIVED
PROSECUTION

DEC 29 2008

I, Edward Perez affiant, a Planning and Development Services Building Inspector with the City of San Antonio, Bexar County, Texas, being over eighteen (18) years of age, of sound mind, capable of making this affidavit and duly sworn upon oath, state that I have good reason to believe and do believe the following:

Offense committed by: Emilio Garza Jr. TDL 09486233

Repeat Offender? Yes No If yes, please explain _____

Residence Address: 624 Delgado Residence Telephone: 797-3323

Business Address _____ Business Telephone: _____

Defendant's ID: DOB 8/12/69 Race: H Sex: M Owner Occupant (Check One)

Location of Offense: 122 N. Cherry St Zone C3H

Bexar County, Texas, NCB 590 Block 3 LOT N. 32.5 Ft of S 65 of 1 & 2 Lot _____

Date of Offense: 12/29/08 Section Violated: 35-450 a

Nature of Offense: Demolished a structure in a historic district before obtaining a certificate of appropriateness

Specific details of violation: Front Rear Side Yard Violator demolished a structure

in a historic district without first obtaining a certificate of appropriateness.

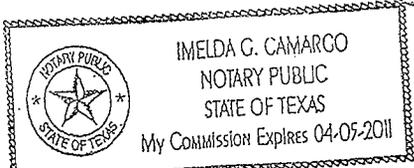
Notice Date 12/26/08 In person By mail Notice Expired 12/26/08 Re-inspection Date: 12/29/08

Witness: _____ Address: _____

Edward Perez
Edward Perez # 120, 210-827-9247
Planning and Development Services
Senior Building Inspector

Sworn to and subscribed before me this 29th Day of December, 2008

Imelda G. Camargo Notary Public, State of Texas



CITY OF SAN ANTONIO
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

Subject: IRC R105.1 Prosecutor: _____
Action/Case # 79084-A Accepted _____ Rejected: _____

AFFIDAVIT

RECEIVED
PROSECUTION
DEC 29 2008

STATE OF TEXAS §
COUNTY OF BEXAR §

I, Edward Perez affiant, a Development Services Building Inspector with the City of San Antonio, Bexar County, Texas, being over eighteen (18) years of age, of sound mind, capable of making this affidavit and duly sworn upon oath, state that I have good reason to believe and do believe the following:

Offense committed by: Emilo Garza Jr. TDL# 09486233

Repeat Offender? Yes No If yes, please explain _____

Residence Address: 624 Delgado Residence Telephone: 797-3323

Business Address _____ Business Telephone: _____

Defendant's ID: DOB 8/12/69 Race: H Sex: M Owner Occupant (Check One)

Location of Offense: 122 N. Cherry St Zone C3H

Bexar County, Texas, NCB 590 Block 3 Lot N. 32.5 Ft of S 65 of 1 & 2 Lot _____

Date of Offense: 12/29/08 Section Violated: IRC R105.1

Nature of Offense: Demolished a structure without a permit

Specific details of violation: Front Rear Side Yard Violator demolished a structure
without first obtaining a permit.

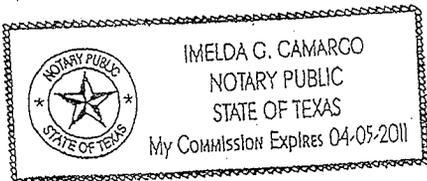
Notice Date 12/26/08 In person By mail Notice Expired 12/26/08 Re-inspection Date: 12/29/08

Witness: _____ Address: _____

Edward Perez
Edward Perez # 120 210-827-9247
Planning and Development Services
Senior Building Inspector

Sworn to and subscribed before me this 29th Day of December, 2008

Imelda G. Camargo
Notary Public, State of Texas



CITY OF SAN ANTONIO
P.O. BOX 839966
SAN ANTONIO, TEXAS 78283-3966

DATE: 11/24/2008
NOTICE NO. 21297514

PROPERTY AT: 122 CHERRY ST N
LEGAL DESCRIPTION: NCB 590 BLK 3 LOT N 32.5 FT OF S 65 FT OF 1 &

CONTACT ENFORCEMENT OFFICER: DAVID DE LEON PHONE: (210) 416-5968

NOTICE OF VIOLATION

NEIGHBORHOOD SERVICES DEPT. OF SAN ANTONIO IS RESPONSIBLE FOR ENFORCING THE CITY CODES PROVISIONS FOR HEALTH AND SAFETY RELATING TO VACANT AND/OR UNSECURED STRUCTURES. THIS IS A NOTICE THAT THE PROPERTY DESCRIBED ABOVE HAS BEEN DETERMINED TO BE A PUBLIC NUISANCE AS DEFINED IN THE CITY CODE. NEIGHBORHOOD SERVICES DEPT. HAS IDENTIFIED THE PREMISES/STRUCTURE TO BE:

- STRUCTURALLY UNSOUND/UNSAFE (X) REQUIRING DEMOLITION () IN NEED OF REPAIRS
- DEMOLISH ACCESSORY BLDG () REPAIR ACCESSORY BLDG
- REMOVE JUNK VEHICLE () UNSECURED
- OVERGROWN W/ PLANTS AND/OR CONTAINING RUBBISH, GARBAGE, DEBRIS, OR REFUSE

CONDITION OF THE PROPERTY COULD POSE A SERIOUS THREAT TO PUBLIC HEALTH AND SAFETY. THE PROPERTY OWNER IS RESPONSIBLE FOR CLEANING THE PROPERTY OF ALL RUBBISH/DEBRIS, WEEDS, GRASS, AND/OR BRUSH MUST BE CUT LOWER THAN TWELVE (12) FEET WITHIN ONE HUNDRED FIFTY (150) FEET OF ANY BUILDING, ADJACENT CURB OR STREET, OR ANY SCHOOL PROPERTY LINE ON ANY LOT THREE ACRES OR LARGER; AND ON THE ENTIRETY OF ANY LOT SMALLER THAN THREE ACRES. THE PROPERTY OWNER IS ALSO RESPONSIBLE FOR SECURING ALL STRUCTURE(S) TO COMPLY WITH THE CITY CODE. NECESSARY CLEAN-UP WORK AND REPAIRS MUST BE COMPLETED WITHIN TEN (10) DAYS AFTER RECEIPT OF THIS NOTICE.

FAILURE TO COMPLY WITH THE CITY CODE REQUIREMENTS WILL RESULT IN THE CITY OF SAN ANTONIO'S PURSUIT OF FURTHER LEGAL ACTION TO CORRECT ANY VIOLATIONS. THIS ACTION COULD RESULT IN CRIMINAL AND/OR CIVIL FINES AND PENALTIES, INCLUDING COURT COSTS TO CORRECT THE CONDITION. CURRENTLY, THE CITY DOES NOT WISH TO TAKE NECESSARY LEGAL ACTION SUCH AS SEIZURE OF THE PROPERTY; HOWEVER, IT WILL HAVE NO CHOICE BUT TO SEEK ALL LEGAL REMEDIES ALLOWED BY LAW SHOULD THERE BE A FAILURE TO COMPLY WITH THIS NOTICE.

PLEASE COMPLETE AND MAIL THE BOTTOM PORTION ON THIS NOTICE WITHIN TEN (10) DAYS. OR CONTACT THE CODE ENFORCEMENT OFFICER NAMED ABOVE REGARDING THIS VIOLATION. THE ENFORCEMENT OFFICER MAY BE REACHED BETWEEN THE HOURS OF 8:00 AM AND 4:30 PM, MONDAY THROUGH FRIDAY. PLEASE HAVE THIS VIOLATION NOTICE AVAILABLE WHENEVER CONTACTING THE ENFORCEMENT OFFICER.

DAVID D. GARZA
NEIGHBORHOOD SERVICES DEPT. DIRECTOR

CONTACT ENFORCEMENT OFFICER: DAVID DE LEON NOTICE #: 21297514

PROPERTY LOCATION: 122 CHERRY ST N

1. I DO NOT OWN THIS PROPERTY AND NEVER HAVE.
 2. I SOLD THIS PROPERTY TO: NAME: _____
ADDRESS: _____
DATE SOLD: _____
 3. I NEED MORE TIME TO COMPLY AND WILL COMPLY BY THIS DATE: _____
 4. I HAVE COMPLETED ALL NECESSARY WORK ON: _____
 5. OTHER SITUATIONS (MUST SPECIFY ON BACK OF FORM)
- OWNER NAME: _____ TODAYS DATE: _____
ADDRESS: _____ PHONE: _____
NATURE: _____

CITY OF SAN ANTONIO
NEIGHBORHOOD SERVICES DEPARTMENT

INVESTIGATION REPORT

COMPLAINT # : 21262222
CATEGORY : M04
COMPLAINT STATUS : PD
LOCATION ADDRESS : 122 CHERRY ST N
OWNER : CAVAZOS JOEL
OWNER ADDRESS : 5603 SWISS AVE DALLAS TX 75214-4636
DATE OF INVESTIGATION : SEP 16, 2008
INVESTIGATION RESULT : FAILED
PAIR DATE : SEP 27, 2008

INVESTIGATOR NAME : ASIA JONES BADGE: 621 PHONE #: (210) 416-4583
COMPLAINT NUMBER : 21262222
DATE OF INVESTIGATION : SEP 16, 2008

INVESTIGATION RESULTS
ITEMS FAILED

EXTERIOR-REPAIR/REPLACE:FRONT WINDOWS/DOORS - SCREEN
EXTERIOR-REPAIR/REPLACE:FRONT WINDOWS/DOORS - FRAME
EXTERIOR-REPAIR/REPLACE:FRONT WINDOWS/DOORS - SILL
EXTERIOR-REPAIR/REPLACE:FRONT WINDOWS/DOORS - PAINT
EXTERIOR-REPAIR/REPLACE:FRONT ROOF/EAVES - RAFTERS
EXTERIOR-REPAIR/REPLACE:FRONT ROOF/EAVES - FASCIA
EXTERIOR-REPAIR/REPLACE:FRONT WALLS/SIDING - SIDING
EXTERIOR-REPAIR/REPLACE:FRONT ROOF/EAVES - PAINT
EXTERIOR-REPAIR/REPLACE:BACK WINDOWS/DOORS - SCREEN
EXTERIOR-REPAIR/REPLACE:BACK WINDOWS/DOORS - FRAME
EXTERIOR-REPAIR/REPLACE:BACK WINDOWS/DOORS - SILL
EXTERIOR-REPAIR/REPLACE:BACK WINDOWS/DOORS - PAINT
EXTERIOR-REPAIR/REPLACE:BACK ROOF/EAVES - RAFTERS
EXTERIOR-REPAIR/REPLACE:BACK ROOF/EAVES - FASCIA
EXTERIOR-REPAIR/REPLACE:BACK WALLS/SIDING - SIDING
EXTERIOR-REPAIR/REPLACE:BACK WALLS/SIDING - PAINT
EXTERIOR REPAIR/REPLACE:LEFT SIDE WINDOWS/DOORS - FRAME
EXTERIOR REPAIR/REPLACE:LEFT SIDE WINDOWS/DOORS - SILL
EXTERIOR REPAIR/REPLACE:LEFT SIDE WINDOWS/DOORS - PAINT
EXTERIOR REPAIR/REPLACE:LEFT SIDE ROOF/EAVES - RAFTERS
EXTERIOR REPAIR/REPLACE:LEFT SIDE ROOF/EAVES - FASCIA
EXTERIOR REPAIR/REPLACE:LEFT SIDE WALLS/SIDING - SIDING
EXTERIOR REPAIR/REPLACE:LEFT SIDE WALLS/SIDING - PAINT

EASE MAKE EXTERIOR REPAIRS TO PROPERTY. PAINT ALL EXPOSED
WOOD SURFACES AND REPLACE DAMAGED WOOD. PROPERTY MUST BE
MAINTAINED AT ALL TIMES

AMERICAN S.C. DEMOLITION
624 DELGADO
SAN ANTONIO, TEXAS 78207
PH:210-797-3323

DATE: 12/16/08

THANK YOU FOR THE OPPURTUNITY TO SUBMIT A BID PROPOSAL FOR THE DEMOLITION OF THE 3 HOMES ON CHERRY ST TO MR. JOEL CAVAZOS .

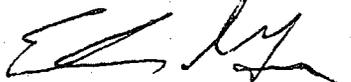
THE BID INCLUDES THE DEMOLITION OF THREE RESIDENTIAL STRUCTURES AND COMPLETE REMOVAL ALONG WITH ALL RESIDENTIAL PERMITS.

THE BID PRICE IS \$11700.00 WICH WILL BE BROKEN DOWN IN TWO DRAWS THE FIRST DRAW OF \$5850.00 COMMENCING THE DEMOLITION PROCESS. FINAL DRAW OF \$5850.00 UPON COMPLETION OF DEMOLITION PROCESS.

WE LOOK FORWARD IN WORKING ALONG WITH JOEL CAVAZOS AND FUTURE ENDEAVORS

THANK YOU FOR THE OPPORTUNITY

IF YOU HAVE ANY QUESTIONS PLEASE CALL ME 210-797-3323

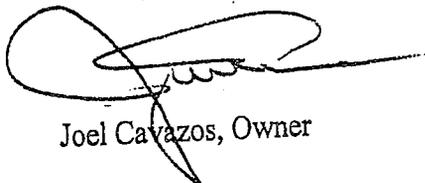

EMILIO GARZA

December 17, 2008

Mr. Emilio Garza

This letter is to authorize American S.C. Demolition to demolish the two houses located at 120 N Cherry and 122 N Cherry, San Antonio, Texas.

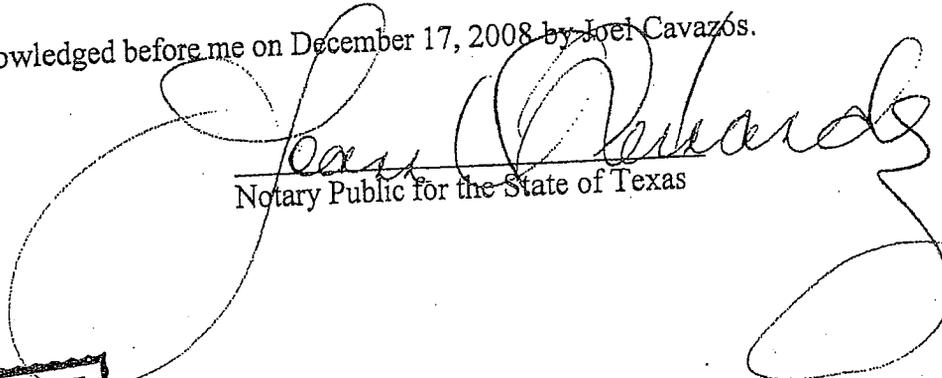
Thank you,



Joel Cavazos, Owner

State of Texas
County of Bexar

This instrument was acknowledged before me on December 17, 2008 by Joel Cavazos.



Notary Public for the State of Texas



CASE NO: A-09-041 cont.

Board of Adjustment – June 1, 2009

- Applicant:** St. Paul Area Development Corporation
- Owner:** St. Paul Area Development Corporation
- Request(s):** An appeal of the decision of the Planning and Development Services Director to enforce Section 491(c)(3)C of Chapter 35: *Unified Development Code*, requiring that if demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years.
- Legal Description:** The south 47.52 feet of the north 87.52 feet of Lots 1 and 2 ARB A16, Block 3, NCB 590
- Address:** 126 North Cherry Street
- Zoning:** "H C-3" General Commercial Dignowity Hill Historic District
- Existing Use:** Vacant
- Neigh. Assoc:** Dignowity Hill Neighborhood Association
- Neigh. Plan:** Downtown Neighborhood Plan

Section of the City Code of which this appeal is sought:

35-491(c)(3)C: If demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years.

Background: The subject property is located east of downtown, in the Dignowity Hill Historic District, which is north of East Commerce Street. C-3, D, RM-4, and AE-1 zoning districts surround the subject property, with the majority uses being vacant and commercial. The applicant was issued a notice of violation by the Neighborhood Services Department on November 24, 2008, giving notice that the subject property had been determined to be a public nuisance and identified the structure as "requiring demolition". The applicant proceeded to obtain bids from demolition companies, including the bid of American S.C. Demolition Company, for demolition of the subject structure on December 16, 2008, which included demolition, removal, and "all residential permits." A letter from the applicant authorizing the demolition was sent to American S.C. Demolition Company on December 17.

On December 19, 2008 an application for a demolition permit was submitted by Ms. Enriqueta Garza, of American S.C. Demolition Company, on behalf of the applicant. At that time, Ms. Garza was informed that the property was in the Dignowity Hill Historic District and that the proposed demolitions would need to be considered by the Historic and Design Review Commission and be granted a Certificate of Appropriateness in order for the demolition to take place. On approximately December 24th, Mr. Emilio Garza, also of American S.C. Demolition Company, proceeded with demolition of the structures without obtaining the appropriate permits/certificates; in violation of Section 491 of the

Unified Development Code (UDC). On December 26, 2008, written violation notice was given to Mr. Garza for the aforementioned demolition, specifically citing lack of approval from the Historic Preservation Office and the Historic Design and Review Commission. Investigation staff of the Planning and Development Services Department later contacted Mr. Garza by phone to notify him to stop all further demolition and debris removal, as the Historic Preservation Office had interest in the debris. Investigation staff conducted a follow up investigation on December 29, at which point it was observed that the demolition work had continued, thus requiring a stop work order to be issued.

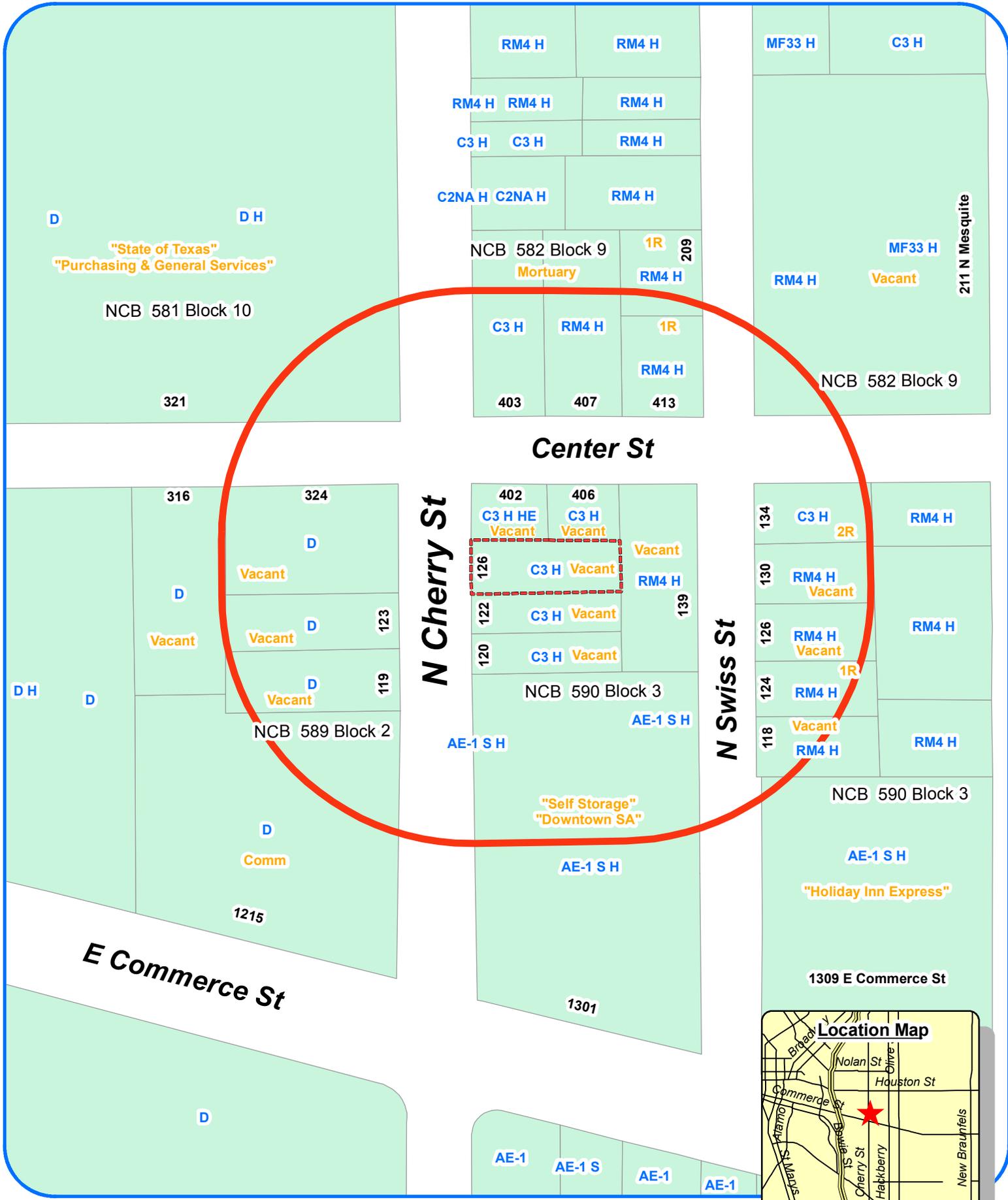
On January 12, 2009, a Contractor License Hearing was conducted to review evidence regarding the demolitions by Mr. Garza. The applicant was sent an official correspondence from the Director of the Planning and Development Services Department (Building Official) informing him of the penalties imposed in accordance with Section 35-491(c)(3)C of the Unified Development Code.

The applicant is now appealing the decision of the Director to impose said penalties.

Recommendation: Section 211.009(a)(1) of the Texas Local Government Code grants the Board of Adjustment the authority to hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of the City Code. Pursuant to Section 211.009(b) of the Texas Local Government Code, the Board may reverse or affirm, in whole or in part, or modify the Director's decision. In this instance, the Director has imposed penalties *required* by the UDC, thus enforcing the development regulations and did not exercise a form of discretionary authority. Furthermore, there is no evidence that the Director erred in enforcing the regulations as outlined in the UDC.

Staff recommends that the Board of Adjustment **uphold** the decision of the Director of Planning and Development Services Department to impose the penalties as outlined in Section 35-491(c)(3)C of the Unified Development Code.

Case Manager: Jacob Floyd, Planner (210) 207-8318

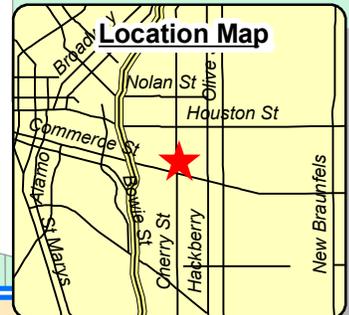


Board of Adjustment
Notification Plan for
Case A-09-041



Legend

- Subject Property -----
- 200' Notification Boundary —————
- Scale: 1" approx. = 100'
- Council District 2



Board of Adjustment - Case No. A-09-041

May 18, 2009

The Board of Adjustment will hold a Public Hearing at 1:00 PM on **Monday, May 18, 2009** in the Board Room on the 1st floor of the Cliff Morton Development & Business Services Center, 1901 South Alamo Street, to consider the following application:

Applicant – St. Paul Area Development Corporation

The south 47.52 feet of the north 87.52 feet of Lots 1 and 2 ARB A16, Block 3, NCB 590
126 North Cherry Street

Zoned: “H C-3” General Commercial Dignowity Hill Historic District

An appeal of the decision of the Planning and Development Services Director to enforce Section 491(c)(3)C of *Chapter 35: Unified Development Code*, requiring that if demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years.

The City of San Antonio, Texas desires that you as an interested property owner be advised as to the action being considered in reference to this application and invites you to attend this public hearing to express your opinion on this issue. You may contact Case Manager Jacob Floyd at 207-8318 regarding the status of this case. If you plan to make a presentation and would like to utilize audio/video capabilities, the Planning and Development Services Department must receive all materials at least 24 hours prior to the public hearing.

Construction relative to any variances granted by the Board must be started within six (6) months of the public hearing.

The Cliff Morton Development and Business Services Center is wheelchair accessible. Accessible parking spaces are located on the north and south sides of the building.

Whether or not you attend this public hearing, please complete and return the cut-out portion below to the Development Services Department, 1901 South Alamo Street, San Antonio, Texas 78204. Thank you.

If you wish to comment, please complete, clip out and return this portion of the notice prior to the date of the public hearing.

Si usted desea hacer un comentario, por favor devuelva esta tarjeta antes de la audiencia publica.

Name/Nombre: _____ Telephone/Telefono: _____

Address/Direccion: _____

Lot/Lote: _____ Block/Cuadra: _____ NCB: _____

() In Favor/A Favor

() In Opposition/En Oposicion

Comments/Comentarios: _____

A-09-041

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

CASE INFORMATION

Case #: A-09-041

Property Address: 126 N Cherry

Zoning: H C-3

Hearing Date: 05/18/2009

Type / Scope of BOA Request:

Applicant is requesting an appeal of the decision of the Planning and Development Services Director to enforce UDC Section 491(c)(3)C requiring that if demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or certificate of appropriateness, then any permis on subject property will be denied for a period of three years.

PLANNING PROGRAM / PROJECT OVERLAP

Neighborhood Association(s): Dignowity Hill 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 subject parcel is designated in the Downtown Neighborhood Plan Land Use Plan as within the Dignowity Hill (E) District. The Dignowity Hill consists of existing historic district of single family and duplexes at a maximum density of 10 units per gross acre. Infill and housing rehabilitation to maintain neighborhood character is encouraged. In the land use plan map, the subject property is designated as mixed use.

The subject parcel also lies within the East Neighborhood Plan of the Downtown Neighborhood Plan. The long term vision for the East Neighborhood is to, "develop and rehabilitate housing, parks, and businesses in existing neighborhoods" (p. 24).

Goal 1 of the City's 1997 Master Plan states, "Preserve, protect and enhance the integrity, economic viability, and livability of San Antonio's neighborhoods" by way of creating "guidelines for neighborhood preservation which would promote the rehabilitation of structures and minimize demolition" (p. 24).

The demolition permit for the subject property was not obtained in accordance with UDC Section 35-455 therefore it is recommended that the decision of the Planning and Development Services Director to enforce UDC Section 491(c)(3)C be upheld. The City's Master Plan and the Downtown Neighborhood Plan both recommend rehabilitation to maintain and preserve neighborhood character.

RECOMMENDATION

Recommendation Pending Additional Analysis / Information

Support Request

Deny Request X

REVIEWER INFORMATION

Neighborhood Planner Reviewing: Rebecca Paskos, Sr. Planner

Date Review Completed: April 29, 2009

Unauthorized Demolition of 120, 122, and 126 N. Cherry St.

Dignowity Hill Historic District

Chronological time line beginning December 19, 2008

Date	Event/Action
Friday December 19, 2008	Demolition application submitted by Ms. Enriqueta Garza of American S.C. for 120, 122, 126 N. Cherry St. Ms. Garza was informed that properties were in Dignowity Hill Historic District and require Historic and Design Review Commission (HDRC) process and hearing which is allowed 30 days and could be heard 1/21/2009/.
Monday December 22, 2008	The Historic Preservation Office (HPO) staff confirmed with Housing and Neighborhood Services that the properties in question were not emergency demolition as stated by American S.C.
Friday December 26, 2008	<ul style="list-style-type: none"> • Confirmed with HPO staff that the properties had not received approval by the HDRC and Certificate of Appropriateness was not issued nor had a demolition permit been issued by Planning and Development Services (PDS). • A written notice was issued to Mr. Emilio Garza Jr, license holder for American S.C. on site for demolition without a permit and without an HPO Certificate of Appropriateness. • A follow up telephone call by PDS investigation staff to inform Mr. Garza not to proceed any further and not to remove any debris. As HPO had interest in the debris.
Monday December 29, 2008	<ul style="list-style-type: none"> • Follow up investigation, photos taken showed work had continued • Another call to HPO was received, alleged that more work was taking place. • Another investigation confirmed that Mr. Emilio Garza Jr. had continued to work and clear the lot. • Mr. Emilio Garza refused to stop work; San Antonio Police was called for security purposes.
Monday December 29, 2008	<ul style="list-style-type: none"> • Six Municipal court cases were filed on Mr. Emilio Garza; two for each address for failure to obtain demolition permit and failure to obtain HPO certificate of appropriateness • All three addresses have been noted in the Hansen system not to release any permits or allow any curb cuts per UDC 35-491(c) pending the outcome of this license hearing.
Wednesday December 31, 2008	<ul style="list-style-type: none"> • Notice of license hearing was hand delivered to and received by Mr. Emilio Garza • Certified mail was sent to licensee as stated in City Code 6-649c.

Cherry Street Demolitions Timeline

December 19, 2008	Demolition applications were submitted for three properties (120,122, 126 Cherry Street) by a Mrs. Enriqueta Garza of American S.C. At that time the applicant was informed by staff that the properties were located within the Dignowity Hill Historic District and the proposed demolitions must go before the Historic and Design Review Commission (HDRC). The applicant was also told, by staff, that our office is given 30 days to review all demolitions. Mrs. Garza then stated that the demolitions were emergency demolitions and staff stated that our office would look into this and give Mrs. Garza a call if they were.
December 22, 2008	<p>Mrs. Garza contacted staff in regards to the three demolitions and again stated that they were emergency demolitions. Staff stated that our office has not received any information from Housing and Neighborhood Services in reference to any emergency demolitions and that the demolitions would have to go to the Historic and Design Review Commission in January for a hearing. Twenty minutes later, a Mr. Emilio Garza with Amercian S.C. contacted staff and the same information was relayed to Mr. Garza.</p> <p>Staff contacted Housing and Neighborhood Services to see if the properties in question were emergency demolitions. They were not emergency demolitions</p>
December 26, 2008	Sylvia Cortez contacted staff to question if the Cherry Street properties hade received approval from Historic. Staff stated that they had not received approval and that they must be approved by the HDRC. Sylvia stated that the properties had been demolished by the contractor on Christmas Eve.

Yvette Thomas
Planner
Historic Preservation



CITY OF

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 St. Paul Development Corp.
 7507 Legend Rock
 San Antonio, Tx
 78244

A. Signature Agent Addressee
 B. Received by (Printed Name) C. Date of Delivery
 Gloria A. Lopez 2/24/09
 D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.
 4. Restricted Delivery? (Extra Fee) Yes

2. Article Number: 7007 0220 0003 3455 6734
 (Trans. in service label)

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-154

January 20, 2009

ORDE

St. Paul Area Development Corporation
 7507 Legend Rock
 San Antonio, Texas 78244-2414

Re: 126 N. Cherry St., Demolition of Residential Structure in Historic District

Dear Property Owner:

The Bexar County Appraisal District lists you as the owner of the above-referenced property located at 126 N. Cherry St., San Antonio, Texas. This written order of the Building Official is the result of a hearing conducted January 12, 2009 to review evidence that Mr. Emilio Garza Jr., DC#916813 DBA American S.C., demolished the residential structure located at 126 N. Cherry St., on or about December 26, 2008, without the required demolition permits from the Planning and Development Services Department and certificates of appropriateness from the Historic Preservation Office as required by the International Residential Code section R105.1, City Code section 6-650 and the Unified Development Code section 35-450(a).

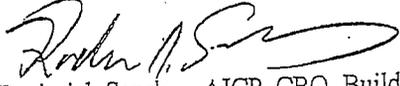
After hearing staff presentation of the stated City Code violations and allowing Mr. Garza to defend his actions, it was determined that Mr. Garza violated City Code of the above noted sections. The hearing was held in accordance with the provisions of City Code section 6-649 and the penalty for demolition of the referenced structures without proper approvals or permits, as stated above, is outlined in section 35-491(c)(3)C and 35-491(c)(3)D. Section 35-491(c)(3)C has penalties imposed on the property address of 126 N. Cherry St. and is stated below.

35-491(c)(3)C. If demolition of a landmark or of any building, object, site or structure found to have significance or located in a historic district, or located in the river improvement overlay districts, or located on the publicly-owned property, or on a public right-of-way occurs without a permit or a certificate of appropriateness, then any permits on subject property will be denied for a period of three (3) years. In addition, the applicant shall not be entitled to have issued to him by any city office a permit allowing any curb cuts on subject property for a period of three (3) years from and after the date of such demolition.

As Mr. Garza was found to have violated the City Code by demolishing the structure at 126 N. Cherry St., the above section provides that no permits may be issued for this property for a period of three years from the date of this order. You may appeal my decision as the Building Official to the Board of Adjustment by submitting your appeal in writing within 30 days of the date of this order and paying the appropriate

appeal fee. Appeals to the Board of Adjustment may be filed at 1901 South Alamo, San Antonio, Texas on Monday through Friday during regular business hours. Questions regarding the Board of Adjustment appeals process may be directed to Rudy Nino, Senior Planner, at 210-207-8389. Any other questions regarding this order may be directed to Patrick Poloskey, Development Services Manager, at 210-207-0148. If you are no longer the owner of the referenced property, please contact this office with the effective date of the land transfer to the new owner.

Sincerely,

A handwritten signature in black ink, appearing to read "Roderick Sanchez", with a stylized flourish at the end.

Roderick Sanchez, AICP, CBO, Building Official
Director, Planning and Development Services

CITY OF SAN ANTONIO
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

Subject: IRC R105.1
Action/Case # 79085-A

Prosecutor: _____
Accepted _____ Rejected: _____

RECEIVED
PROSECUTION

DEC 29 2008

AFFIDAVIT

STATE OF TEXAS §
COUNTY OF BEXAR §

I, Edward Perez affiant, a Development Services Building Inspector with the City of San Antonio, Bexar County, Texas, being over eighteen (18) years of age, of sound mind, capable of making this affidavit and duly sworn upon oath, state that I have good reason to believe and do believe the following:

Offense committed by: Emilo Garza Jr. TDL# 09486233

Repeat Offender? Yes No If yes, please explain _____

Residence Address: 624 Delgado Residence Telephone: 797-3323

Business Address _____ Business Telephone: _____

Defendant's ID: DOB 8/12/69 Race: H Sex: M Owner Occupant (Check One)

Location of Offense: 126 N. Cherry St Zone C3H

Bexar County, Texas, NCB 590 Block 3 Lot S 47.52 ft of N 87.52 ft Lot
of 1&2 ARB 16

Date of Offense: 12/29/08 Section Violated: IRC R105.1

Nature of Offense: Demolished a structure without a permit

Specific details of violation: Front Rear Side Yard Violator demolished a structure
without first obtaining a permit.

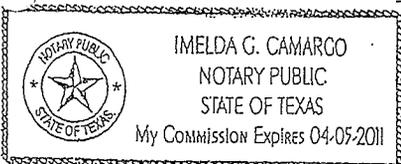
Notice Date 12/26/08 In person By mail Notice Expired 12/26/08 Re-inspection Date: 12/29/08

Witness: _____ Address: _____

Edward Perez
Edward Perez # 120 210-827-9247
Planning and Development Services
Senior Building Inspector

Sworn to and subscribed before me this 29th Day of December, 2008

Imelda G. Camargo Notary Public, State of Texas



CITY OF SAN ANTONIO
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

Subject: UDC 35-450a Prosecutor: _____
Action/Case # 79085b Accepted _____ Rejected: _____

AFFIDAVIT

RECEIVED
PROSECUTION

DEC 29 2008

STATE OF TEXAS §
COUNTY OF BEXAR §

I, Edward Perez affiant, a Planning and Development Services Building Inspector with the City of San Antonio, Bexar County, Texas, being over eighteen (18) years of age, of sound mind, capable of making this affidavit and duly sworn upon oath, state that I have good reason to believe and do believe the following:

Offense committed by: Emilio Garza Jr. TDL 09486233

Repeat Offender? Yes No If yes, please explain _____

Residence Address: 624 Delgado Residence Telephone: 797-3323

Business Address _____ Business Telephone: _____

Defendant's ID: DOB 8/12/69 Race: H Sex: M Owner Occupant (Check One)

Location of Offense: 126 N. Cherry St Zone C3H

Bexar County, Texas, NCB 590 Bk 3 Lot S 47.52 ft of N 87.52 ft Lot _____
of 1&2 ARB 16

Date of Offense: 12/29/08 Section Violated: 35-450 a

Nature of Offense: Demolished a structure in a historic district before obtaining a certificate of appropriateness

Specific details of violation: Front Rear Side Yard Violator demolished a structure in a historic district without first obtaining a certificate of appropriateness.

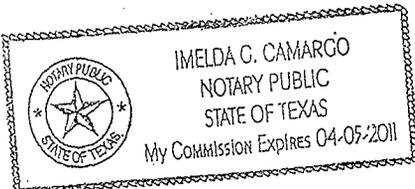
Notice Date 12/26/08 In person By mail Notice Expired 12/26/08 Re-inspection Date: 12/29/08

Witness: _____ Address: _____

Edward Perez
Edward Perez # 120, 210-827-9247
Planning and Development Services
Senior Building Inspector

Sworn to and subscribed before me this 29th Day of December, 2008

[Signature] Notary Public, State of Texas





St. Paul Area
Development Corporation

517 N. Center Street
San Antonio, Texas 78202

210-212-7462

210-661-8837 FAX

Board of Directors:

February 18, 2009

Don Moye
Board Chairman

Guillermo Benavides,
Executive Director

Loretta Moten
Secretary

Calvin Allen
Support Council Director

Helen Austin
Board Member

Col. Roy W. Burley
Board Member

Robert E. Felder, II
Support Council Director

Dr. Darlene Gilcrest
Support Council Member

John Gilcrest
Support Council Director

Betty Green
Board Member

Dr. Robert L.M. Hilliard
Board Member

Mary Lance
Support Council Member

Gratches Propps
Support Council Director

Gloria L. Ray
Board Member

Sandra Sapenter
Director of Information Resources

Rick Sinkfield
Support Council Director

Carolyn Towles
Support Council Member

Peggy L. Mills
Consultant

Mr. Bernie Fishman, Attorney at Law

Mr. Fishman:

The St. Paul Area Development Corporation, in a duly called meeting of the Board of Directors, unanimously voted to convey ownership of our property located at 126 N. Cherry to Mr. Joel Cavazos in consideration for other properties owned by Mr. Cavazos. To this end, we delegate authority to Mr. Cavazos to protest and appeal the city of San Antonio's decision to deny the issuance of permits for a period of three years on said property.

Sincerely,

Gloria L. Ray
Executive Director

"Sharing the gifts of God through the people of God."

CITY OF SAN ANTONIO
P.O. BOX 83966
SAN ANTONIO, TEXAS 78283-3966

DATE: 11/24/2008
NOTICE NO. 21297513

RE: PROPERTY AT: 126 CHERRY ST N
LEGAL DESCRIPTION: NCB 590 BLK 3 LOT 5 47.52 FT OF N 87.52 FT OF 1

CONTACT ENFORCEMENT OFFICER: DAVID DE LEON PHONE: (210)416-5968

NOTICE OF VIOLATION

THE NEIGHBORHOOD SERVICES DEPT. OF SAN ANTONIO IS RESPONSIBLE FOR ENFORCING THE CITY CODES PROVISIONS FOR HEALTH AND SAFETY RELATING TO VACANT AND/OR UNSECURED STRUCTURES. THIS IS A NOTICE THAT THE PROPERTY DESCRIBED ABOVE HAS BEEN DETERMINED TO BE A PUBLIC NUISANCE AS DEFINED IN THE CITY CODE. THE NEIGHBORHOOD SERVICES DEPT. HAS IDENTIFIED THE PREMISES/STRUCTURE TO BE:

- STRUCTURALLY UNSOUND/UNSAFE REQUIRING DEMOLITION IN NEED OF REPAIRS
- DEMOLISH ACCESSORY BLDG REPAIR ACCESSORY BLDG
- REMOVE JUNK VEHICLE UNSECURED
- OVERTGROWN W/ PLANTS AND/OR CONTAINING RUBBISH, GARBAGE, DEBRIS, OR REFUSE

THE CONDITION OF THE PROPERTY COULD POSE A SERIOUS THREAT TO PUBLIC HEALTH AND SAFETY. THE PROPERTY OWNER IS RESPONSIBLE FOR CLEANING THE PROPERTY OF ALL TRASH/DEBRIS, WEEDS, GRASS, AND/OR BRUSH MUST BE CUT LOWER THAN TWELVE (12) INCHES WITHIN ONE HUNDRED FIFTY (150) FEET OF ANY BUILDING, ADJACENT CURB OR STREET, OR ANY SCHOOL PROPERTY LINE ON ANY LOT THREE ACRES OR LARGER; AND ON THE ENTIRETY OF ANY LOT SMALLER THAN THREE ACRES. THE PROPERTY OWNER IS ALSO RESPONSIBLE FOR SECURING ALL STRUCTURE(S) TO COMPLY WITH THE CITY CODE. NECESSARY CLEAN-UP WORK AND REPAIRS MUST BE COMPLETED WITHIN TEN (10) DAYS AFTER THE RECEIPT OF THIS NOTICE.

FAILURE TO COMPLY WITH THE CITY CODE REQUIREMENTS WILL RESULT IN THE CITY OF SAN ANTONIO'S PURSUIT OF FURTHER LEGAL ACTION TO CORRECT ANY VIOLATIONS. THIS COULD RESULT IN CRIMINAL AND/OR CIVIL FINES AND PENALTIES, INCLUDING ALL COSTS TO CORRECT THE CONDITION. CURRENTLY, THE CITY DOES NOT WISH TO IMPLEMENT SUCH SERIOUS STEPS; HOWEVER, IT WILL HAVE NO CHOICE BUT TO SEEK ALL REMEDIES ALLOWED BY LAW SHOULD THERE BE A FAILURE TO COMPLY WITH THIS NOTICE.

PLEASE COMPLETE AND MAIL THE BOTTOM PORTION ON THIS NOTICE WITHIN TEN (10) DAYS OR CONTACT THE CODE ENFORCEMENT OFFICER NAMED ABOVE REGARDING THIS SITUATION. THE ENFORCEMENT OFFICER MAY BE REACHED BETWEEN THE HOURS OF 7:45 AM AND 4:30 PM, MONDAY THROUGH FRIDAY. PLEASE HAVE THIS VIOLATION NOTICE AVAILABLE WHENEVER CONTACTING THE ENFORCEMENT OFFICER.

DAVID D. GARZA
NEIGHBORHOOD SERVICES DEPT. DIRECTOR

CONTACT ENFORCEMENT OFFICER: DAVID DE LEON NOTICE #: 21297513

PROPERTY LOCATION: 126 CHERRY ST N

1. I DO NOT OWN THIS PROPERTY AND NEVER HAVE.

2. I SOLD THIS PROPERTY TO: NAME: _____
ADDRESS _____
DATE SOLD: _____

3. I NEED MORE TIME TO COMPLY AND WILL COMPLY BY THIS DATE: _____

4. I COMPLETED ALL NECESSARY WORK ON: _____

5. OTHER SITUATIONS (MUST SPECIFY ON BACK OF FORM) _____

PRINT NAME: _____ TODAYS DATE: _____

ADDRESS: _____ PHONE: _____

SIGNATURE: _____

December 17, 2008

Mr. Emilio Garza

This letter is to authorize American S.C. Demolition to demolish the house located at 126 N. Cherry.

Gloria Ray, Executive Director
St. Paul Development Corporation

AMERICAN S.C. DEMOLITION
624 DELGADO
SAN ANTONIO, TEXAS 78207
PH:210-797-3323

DATE: 12/16/08

THANK YOU FOR THE OPPURTUNITY TO SUBMIT A BID PROPOSAL FOR THE DEMOLTION OF THE 3 HOMES ON CHERRY ST TO MR. JOEL CAVAZOS .

THE BID INCLUDES THE DEMOLITION OF THREE RESIDENTIAL STRUCTURES AND COMPLETE REMOVAL ALONG WITH ALL RESIDENTIAL PERMITS.

THE BID PRICE IS \$11700.00 WICH WILL BE BROKEN DOWN IN TWO DRAWS THE FIRST DRAW OF \$5850.00 COMMENCING THE DEMOLITION PROCESS. FINAL DRAW OF \$5850.00 UPON COMPLETION OF DEMOLITION PROCESS.

WE LOOK FORWARD IN WORKING ALONG WITH JOEL CAVAZOS AND FUTURE ENDEAVORS

THANK YOU FOR THE OPPORTUNITY

IF YOU HAVE ANY QUESTIONS PLEASE CALL ME 210-797-3323


EMILIO GARZA

NCB 11101
Block 8
Lot 94



Existing
Residence

Existing 6' tall
Wrought Iron Fence



Dorsey

Board of Adjustment
Plot Plan for
Case A-09-057



Legend

Scale: 1" approx. = 60'
Council District 6

221 Dorsey

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

CASE NO: A-09-057

Board of Adjustment – June 1, 2009

Applicant: Aida Cruz
Owner: Aida Cruz
Request(s): A special exception to allow a 6-foot tall ornamental-iron front-yard fence.
Legal Description: Lot 94, Block 8, NCB 11101
Address: 221 Dorsey Drive
Zoning: "R-6" Residential Single-Family
Existing Use: Single-Family Residence
Neigh. Assoc: None
Neigh. Plan: None

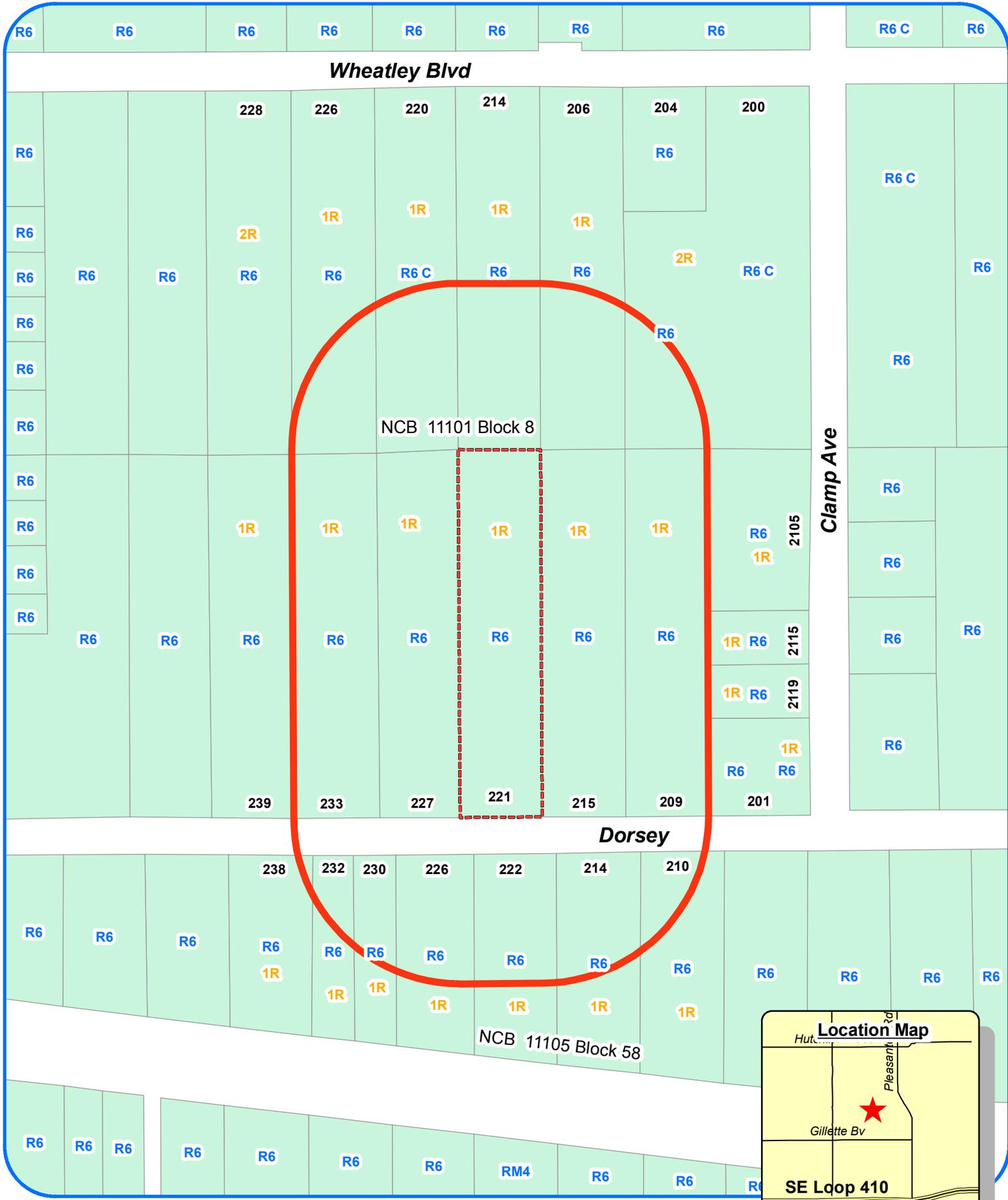
Section of the City Code from which this special exception is requested:

35-399.04 Ornamental-Iron Front Yard Fences: Ornamental-iron fences between four (4) and six (6) feet in height may be allowed in front yards of residential lots, but only after consideration and approval of a Special Exception by the Board of Adjustment.

Background: The subject property is located mid-block on Dorsey Drive, bound by Garnett Avenue to the west and Moursund Boulevard to the east; just north of Southwest Loop 410. Single-family residences and R-6 zoning surround the subject property. It appears that the existing fence meets all of the criteria required for the special exception. Furthermore, being as there are a number of similar fences that can be found throughout the immediate neighborhood, the continued existence of the fence in question would not detract with the character of the area. This fence was constructed without the proper permits being obtained, and the applicant has been made aware that if this request for a special exception is approved, permits would need to be obtained. This case was initiated by the Investigations Section of the Planning and Development Services Department.

Recommendation: It does not appear that the granting of this special exception would alter the character of the neighborhood, as several fences of this type can be found within a short distance, nor would it impose a hardship to neighboring properties. The fence appears to meet all of the limitations, conditions and restrictions set forth in Section 35-399.04 of the UDC. (A copy of the application indicating this is attached with this packet). Staff recommends **approval** of the requested special exception.

Case Manager: Mike Farber, Planner (210) 207-3074



Board of Adjustment
Notification Plan for
Case A-09-057



Legend
 Subject Property
 200' Notification Boundary
 Scale: 1" approx. = 150'
 Council District 6

Board of Adjustment - Case No. A-09-057

June 1, 2009

The Board of Adjustment will hold a Public Hearing at 1:00 PM on **Monday, June 1, 2009** in the Board Room on the 1st floor of the Cliff Morton Development & Business Services Center, 1901 South Alamo Street, to consider the following application:

Applicant – Aida Cruz
Lot 94, Block 8, NCB 11101
221 Dorsey Drive
Zoned: “R-6” Residential Single-Family District

The applicant is requesting a special exception to keep a 6-foot tall ornamental-iron front-yard fence.

The City of San Antonio, Texas desires that you as an interested property owner be advised as to the action being considered in reference to this application and invites you to attend this public hearing to express your opinion on this issue. You may contact Case Manager Mike Farber at 207-3074 regarding the status of this case. If you plan to make a presentation and would like to utilize audio/video capabilities, the Planning and Development Services Department must receive all materials at least 24 hours prior to the public hearing.

Construction relative to any variances granted by the Board must be started within six (6) months of the public hearing.

The Cliff Morton Development and Business Services Center is wheelchair accessible. Accessible parking spaces are located on the north and south sides of the building.

Whether or not you attend this public hearing, please complete and return the cut-out portion below to the Development Services Department, 1901 South Alamo Street, San Antonio, Texas 78204. Thank you.



If you wish to comment, please complete, clip out and return this portion of the notice prior to the date of the public hearing.

Si usted desea hacer un comentario, por favor devuelva esta tarjeta antes de la audiencia publica.

Name/Nombre: _____ Telephone/Telefono: _____

Address/Direccion: _____

Lot/Lote: _____ Block/Cuadra: _____ NCB: _____

() In Favor/A Favor

() In Opposition/En Oposicion

Comments/Comentarios: _____

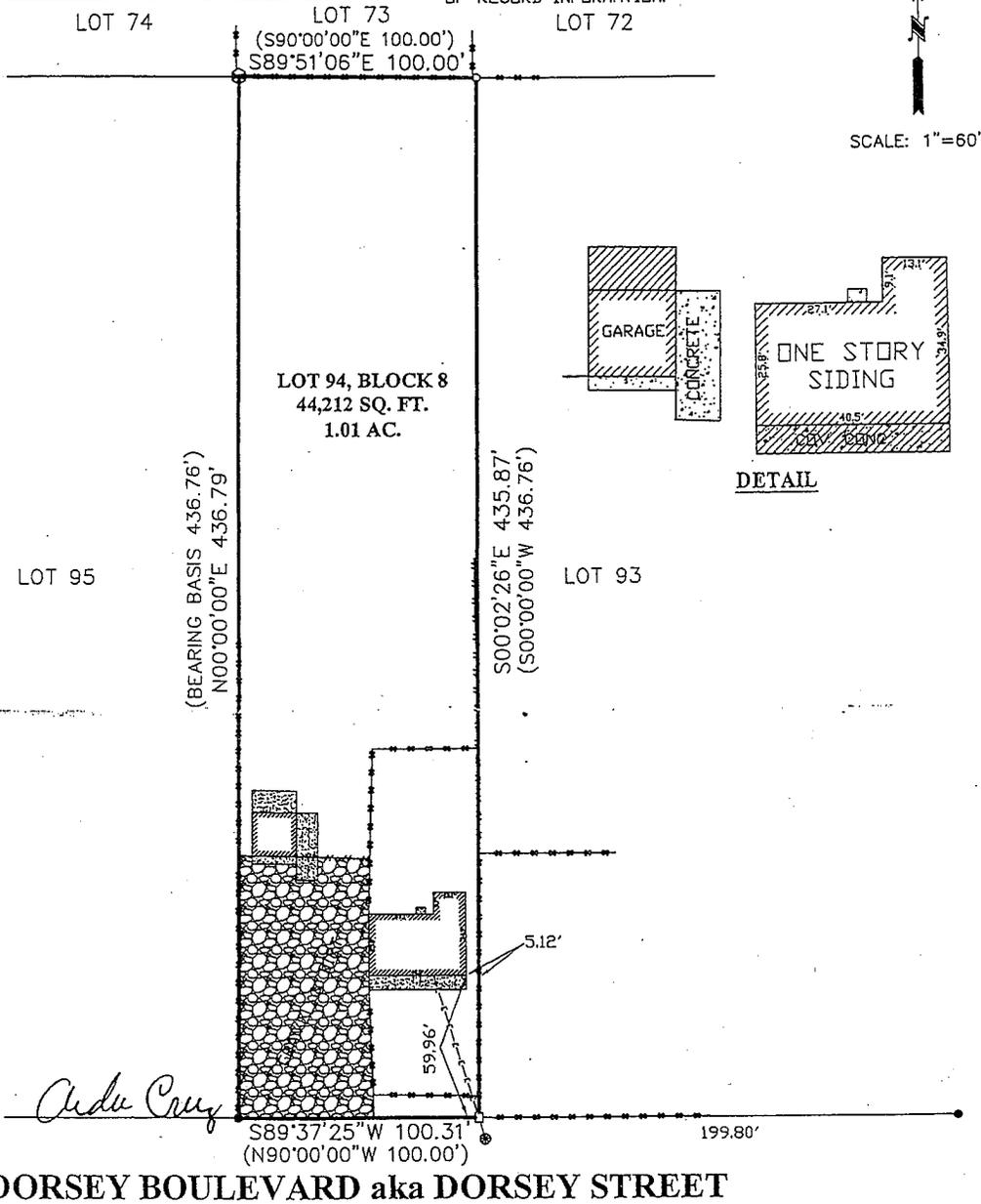
A-09-057

PLAT IS SUBJECT TO RESTRICTIVE COVENANTS, EASEMENTS, AGREEMENTS, AND/OR SETBACK LINES (IF ANY) AS FOLLOWS:
 Volume 2213, Page 182, Volume 4975, Page 590, Deed Records.

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	⊞ = FND PIPE	-x- = WIRE FENCE	D.E. = DRAINAGE EASEMENT
	⊞ = FENCE POST	(W) = WATER METER	-w- = WOOD FENCE	E.E. = ELECTRIC EASEMENT
	▲ = PK NAIL	() = RECORD INFORMATION	-cl- = CHAIN LINK FENCE	M.E. = MAINTENANCE EASEMENT

As scaled from FEMA's FLOOD INSURANCE RATE MAP, Community No. 480045, Panel No. 0609 E Panel Dated 02-16-86, 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.

NOTE:
 THE ORIGINAL PLAT OF RECORD IS ILLEGIBLE. THIS IS REPRESENTATION OF THIS SURVEYORS BEST INTERPRETATION OF RECORD INFORMATION.

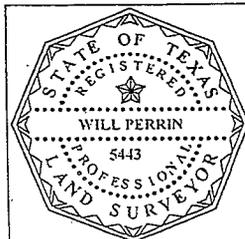


PROPERTY ADDRESS
 221 DORSEY BOULEVARD aka DORSEY STREET

BORROWER
 AIDA CRUZ

PROPERTY DESCRIPTION
 Lot 94, Block 8, New City Block 11101, HARLANDALE ACRES NO. EIGHT 8, San Antonio, Bexar County, Texas, as shown on plat recorded in Volume 980, Page 30, Deed and Plat Records, Bexar County, Texas.

Westar
 Alamo
 LAND SURVEYORS, INC.
 P.O. BOX 1036 HELOTES, TEXAS 78023-1036
 PHONE (210) 372-9500 FAX (210) 372-9999

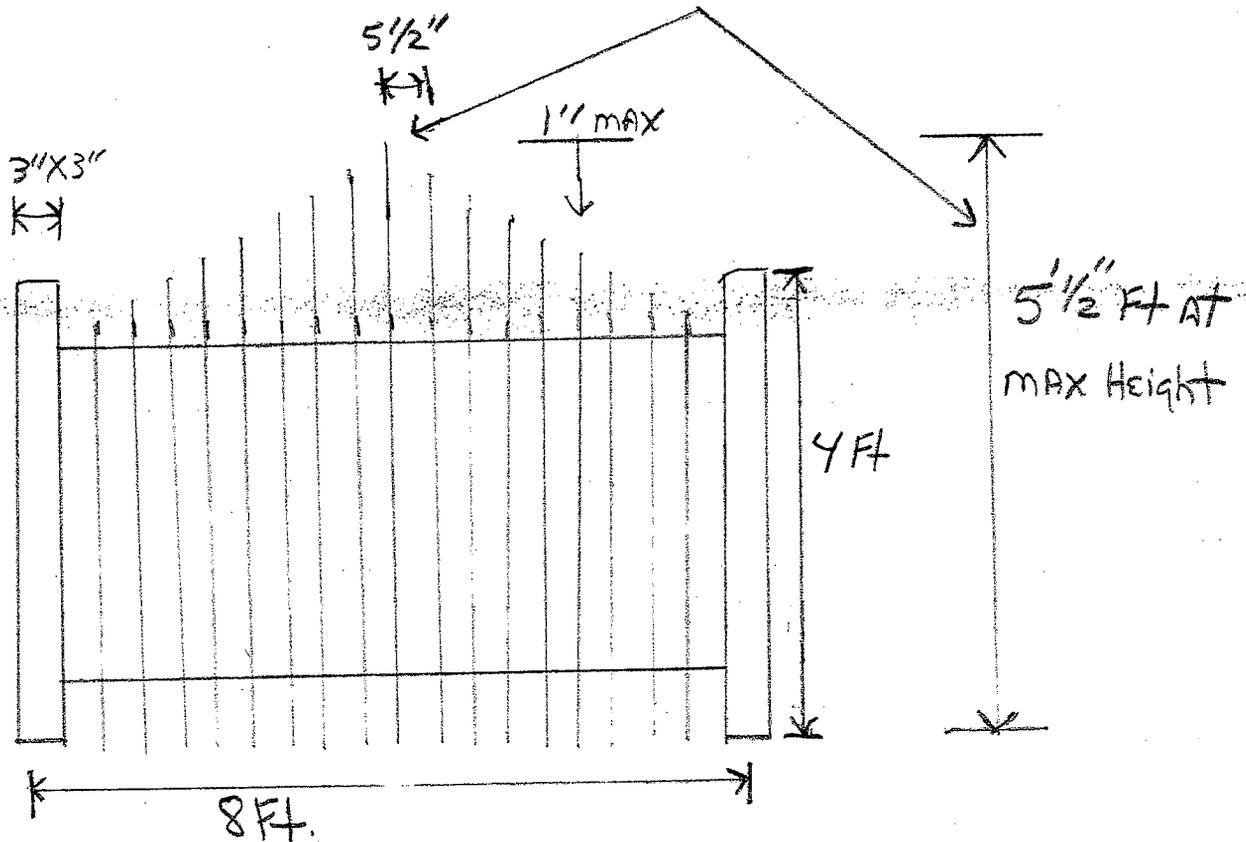


I, WILL PERRIN, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above plat represents an actual survey made on the ground under my supervision, and there are no discrepancies, conflicts, shortages in area or boundary lines, or any encroachment or overlapping of improvements, to the best of my knowledge and belief, except as shown herein.

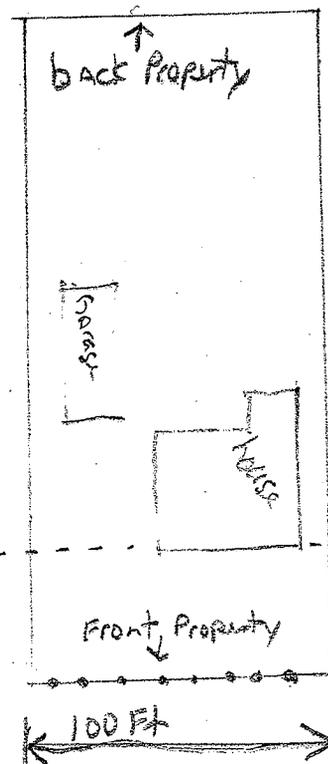
Will Perrin
 WILL PERRIN
 Registered Professional Land Surveyor
 Texas Registration No. 5443

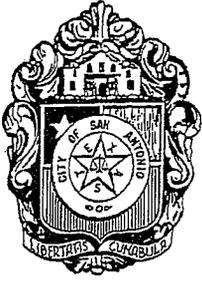
G.F. NO. 0500812-03 JOB NO. 12950

DATE: April 8, 2005
 Amended April 18, 2005



- Post - 4 Feet height
- Post - 3X3 inch wide
- Post - 8 Ft apart
- Vertical bars - 1 inch max
- Vertical bars - space out at 5 1/2 inches





REQUEST FOR A SPECIAL EXCEPTION
to the
SAN ANTONIO BOARD OF ADJUSTMENT
for an
ORNAMENTAL-IRON FRONT YARD FENCE

CITY OF SAN ANTONIO
COUNTY OF BEXAR
STATE OF TEXAS

TO THE HONORABLE BOARD OF ADJUSTMENT:

Property description (Attach field notes if necessary):

Lot no. 94
Block No. 8
NCB 11101
Zoning RG

Property Address: 221 DORSEY

The Applicant, Aida Cruz, of BEXAR County, requests the San Antonio Board of Adjustment consider a special exception to allow an ornamental-iron front yard fence, at the property identified above, pursuant to Section 35-399.04 of the Unified Development Code (UDC).

In order to be considered as a special exception rather than a variance, the following criteria, outlined in the UDC, must be met (please initial acknowledging adherence):

AC (1) Application for a Special Exception for an ornamental-iron front yard fence over four (4) feet in height shall be filed by the owner or authorized agent with the Planning and Development Services Department.

AC (2) A site plan drawn to scale shall be submitted with the application indicating the size, design, construction materials and location of the fence on the property.

AC (3) On a corner lot, or near a drive-way junction with a street, the fence shall be erected in back of the area designated by this chapter for clear vision area/intersection sight distance.

AC (4) The tallest element of the fence shall not exceed six (6) feet in height, as measured from the grade on the outside of the fence. For the purposes of this condition, the tallest element shall include the top of any column, pillar or post, but shall not include any fixtures or other decorative features attached to the top of any columns, pillars or posts.

AC (5) Any portion of the fence over three (3) feet in height shall be constructed of ornamental-iron bars, or other forged-iron bars. ~~If vertical bars/ballisters are part of the design, each shall be no wider than one (1) inch, and the design shall provide a minimum of five and one-half (5½) inches of spacing between vertical bars/ballisters.~~ The overall design of that area of the fence above three (3) feet in height shall be a minimum of seventy percent (70%) open.

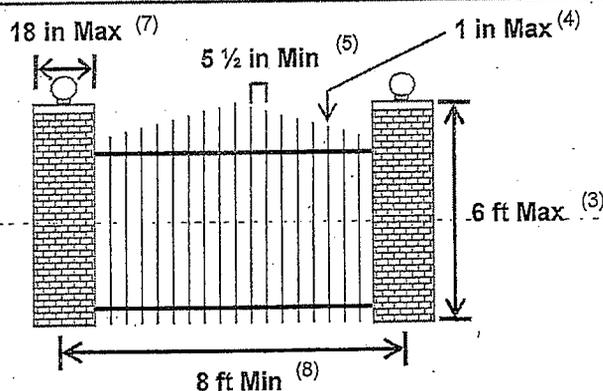
AC (6) Columns, pillars or posts at a maximum width of eighteen (18) inches each and spaced a minimum of eight (8) feet apart, measured from center-of-post to center-of-post, are permitted. The distance between columns/pillars/posts may be less than eight (8) feet if necessary for structural soundness or to accommodate a gate. However, columns/pillars/posts shall be at least three (3) feet apart where accommodating a pedestrian gate, and at least eight (8) feet apart where accommodating a vehicle gate, both measured from the inside edges of the two columns/pillars/posts. Regardless of the space between columns/pillars/posts, the seventy percent (70%) openness criteria and the clear vision area requirements shall be maintained.

AC (7) The applicant shall comply with all other applicable codes and ordinances.

AC (8) Submit filing fee of \$400.00, checks made payable to "City of San Antonio".

Ornamental-Iron Front Yard Fence Special Exception

	General Requirements	Conditions Met? (circle)
1.	Must <u>not</u> be zoned Historic, designated as a Historic Landmark, or located within a Historic District	<input checked="" type="radio"/> Yes / No / NA
2.	Must <u>not</u> be located within an Overlay District which includes design standards that limit the height and design of front yard fences	Yes / <input checked="" type="radio"/> No / NA
3.	Tallest element of the fence shall not exceed 6 feet in height <ul style="list-style-type: none"> • Measured from the grade on the outside of the fence • Fixtures attached to the top of any column, pillar or post are not factored into height 	<input checked="" type="radio"/> Yes / No / NA
4.	Vertical bars/balusters shall be no wider than 1 inch	<input checked="" type="radio"/> Yes / No / NA
5.	There shall be a minimum of 5 ½ inches of spacing between vertical bars/balusters	<input checked="" type="radio"/> Yes / No / NA
6.	The overall design of that area of the fence above 3 feet in height shall be a minimum of 70% open	<input checked="" type="radio"/> Yes / No / NA
7.	Columns, pillars, or posts shall be no wider than 18 inches each	<input checked="" type="radio"/> Yes / No / NA
8.	Columns, pillars, or posts shall be spaced a minimum of 8 feet apart <ul style="list-style-type: none"> • Measured from center-of-post to center-of-post • The distance between columns/pillars/posts may be less than 8 feet if necessary for structure soundness or to accommodate a gate (see item 9 for gate requirements) 	<input checked="" type="radio"/> Yes / No / NA
9.	Columns/pillars/posts shall be at least 3 feet apart where accommodating a pedestrian gate and at least 8 feet apart where accommodating a vehicle gate <ul style="list-style-type: none"> • Measured from the inside edges of the two columns/pillars/posts 	<input checked="" type="radio"/> Yes / No / NA



By signing below you acknowledge that the information provided above is true and accurate, and that the fence in question does, in fact, meet the requirements to be considered under this special exception.

Aida Cruz
Property Owner's Signature

4-28-09
Date

Please also note:

- * In granting a Special Exception for a front yard ornamental iron fence over four (4) feet in height, the Board of Adjustment may require the fence conform to such other conditions as the Board may deem necessary to protect the character of the zoning district and neighborhood in which the lot is located.
- * In granting a Special Exception for a front yard ornamental iron fence over four (4) feet in height, the Board of Adjustment shall take into account the size and scale of the fence as it would relate to the scale of the neighborhood.
- * To be granted a request for a Special Exception, the request must meet the conditions set forth in Section 35-482 (h) of the UDC.
- * If a Special Exception for a front yard ornamental iron fence over (4) feet in height is approved by the Board of Adjustment, the applicant/property owner shall secure all necessary permits prior to erecting the fence.

Respectfully submitted:

Applicant's name: Aida Cruz

Status: Owner Agent

Mailing address: 221 Dorsey SA TX

Telephone: (Home) _____ (Work) _____

Other phone: 210-310-9042 Email: _____

Applicant's signature _____ Date _____

Representative's name: Juan Carlos Villa

Mailing address: 7622 Maxwell S.A. TX 78214

Telephone: (Home) _____ (Work) _____

Other phone: 210-286-8713 Email: Border-Cowboys@yahoo.com

Name of Property Owner: Aida Cruz

Mailing address: 221 Dorsey SA TX

Telephone: (Home) _____ (Work) _____

Other phone: 210-310-9042 Email: _____

I, Aida Cruz the owner of the subject property, authorize

Juan Carlos Villa to submit this application. I also authorize

Juan Carlos Villa to represent me in this request before the

Board of Adjustment.

Aida Cruz
Property owner's signature

4-28-09
Date

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

Callaghan Rd

Pinebrook Dr

Request for
7' tall fence
All around
Property

**NCB 13627
Block 23
Lot 3G & NE IRR 178.34 FT OF 5**

Existing Structure

Vantage

Board of Adjustment
Plot Plan for
Case A-09-058



Legend

Request Variance



Scale: 1" approx. = 60'
Council District 8

8131 Pinebrook Dr

Planning and Development Services Dept
City of San Antonio
(05/11/2009 - P. Trinkle)

CASE NO: A-09-058

Board of Adjustment – June 1, 2009

- Applicant:** Paul Anthony & Associates, LLC
- Owner:** University Health System
- Request(s):** 1) A 3-foot variance from the requirement that predominantly open fences in front yards not exceed 4 feet in height, in order to erect a 7-foot tall predominantly open front-yard fence and 2) a 1 foot variance from the requirement that fences in side and rear-yards not exceed 6 feet in height, in order to erect a 7-foot tall fence in the side and rear-yards.
- Legal Description:** Lot 3G and the North East Irregular 178.34 Feet of Lot 5, Block 23, NCB 13627
- Address:** 8131 Pinebrook Drive
- Zoning:** "C-3" General Commercial District
- Existing Use:** Data Center
- Neigh. Assoc:** None
- Neigh. Plan:** None

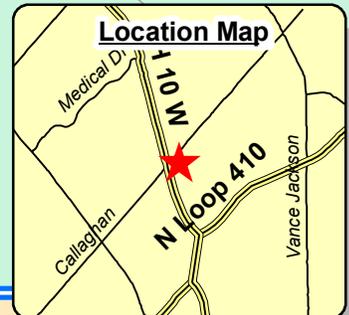
Section of the City Code from which these variances are requested:

35-514 Fences: 1) Predominantly open fences in front yards shall not exceed 4 feet in height. 2) Predominantly open fences in side and rear-yards shall not exceed 6 feet in height.

Background: The subject property is located on the corner of Pinebrook Drive and Callaghan Road, just east of IH-10. Commercial, office, and multi-family uses surround the site with nearby zoning being C-3, C-2, and MF-33. Currently the site is occupied by an office/data center serving the University Health System. The applicant is proposing to erect a 7-foot tall predominantly open fence around the entire property, with vehicle gates opening onto Pinebrook Drive and Vantage Drive.

Recommendation: The intent of the maximum fence height requirement is to allow for openness, air flow, light penetration, and neighborhood uniformity. The subject property does not appear to be characterized by any physical features that would constitute a hardship, nor does the topography of the area create a hardship exclusively experienced by the subject property. The applicant cites the high degree of security required by facilities of this type and the trespassing and vandalism that already occurs as explanation for requiring this variance. However, staff does not believe that these reasons are sufficient to justify the construction of a fence exceeding the maximum allowable fence height. Staff recommends **denial** of the requested variances.

Case Manager: Jacob Floyd, Planner (210) 207-8318



Board of Adjustment
Notification Plan for
Case A-09-058



Legend

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 120'
- Council District 8

Board of Adjustment - Case No. A-09-058

June 1, 2009

The Board of Adjustment will hold a Public Hearing at 1:00 PM on **Monday, June 1, 2009** in the Board Room on the 1st floor of the Cliff Morton Development & Business Services Center, 1901 South Alamo Street, to consider the following application:

Applicant-Paul Anthony & Associates, LLC
Lot 3G and the North East Irregular 178.34 Feet of Lot 5, Block 23, NCB 13627
8131 Pinebrook Drive
Zoned: "C-3" General Commercial District

The applicant is requesting 1) a 3-foot variance from the requirement that predominantly open fences in front yards not exceed 4 feet in height, in order to erect a 7-foot tall predominantly open front-yard fence and 2) a 1-foot variance from the requirement that fences in side and rear yards not exceed 6 feet in height, in order to erect a 7-foot tall fence in the side and rear yards.

The City of San Antonio, Texas desires that you as an interested property owner be advised as to the action being considered in reference to this application and invites you to attend this public hearing to express your opinion on this issue. You may contact Case Manager Jacob Floyd at 207-8318 regarding the status of this case. If you plan to make a presentation and would like to utilize audio/video capabilities, the Planning and Development Services Department must receive all materials at least 24 hours prior to the public hearing.

Construction relative to any variances granted by the Board must be started within six (6) months of the public hearing.

The Cliff Morton Development and Business Services Center is wheelchair accessible. Accessible parking spaces are located on the north and south sides of the building.

Whether or not you attend this public hearing, please complete and return the cut-out portion below to the Development Services Department, 1901 South Alamo Street, San Antonio, Texas 78204. Thank you.



If you wish to comment, please complete, clip out and return this portion of the notice prior to the date of the public hearing.

Si usted desea hacer un comentario, por favor devuelva esta tarjeta antes de la audiencia publica.

Name/Nombre: _____ Telephone/Telefono: _____

Address/Direccion: _____

Lot/Lote: _____ Block/Cuadra: _____ NCB: _____

() In Favor/A Favor () In Opposition/En Oposicion

Comments/Comentarios: _____

A-09-058

