

# City of San Antonio Board of Adjustment

## Regular Public Hearing Agenda

Monday, June 25, 2012

1:00 P.M.

Cliff Morton Development and Business Services Center, Board Room

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

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1. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-12-042 (CONTINUED FROM APRIL 23, 2012 and May 14, 2012):** The request of Keller Signs, for **1)** A request for a 144-square foot variance from the 300-square foot maximum sign area requirement for multiple-tenant signs of the “GC-1” Hill Country Gateway Corridor District, in order to allow a 444-square foot multiple-tenant sign and **2)** a 10-foot variance from the 40-foot maximum sign height requirement for multiple-tenant signs of the “GC-1” Hill Country Gateway Corridor District, in order to allow a 50-foot tall multiple tenant sign, 23535 West IH-10. (Council District 8)
5. **A-12-059:** The request of Joseph M. Gonzales, Jr., for **1)** an 8.6-foot driveway width variance and **2)** a variance to waive the requirement of a front walk, 311 Carnahan Street. (Council District 9)
6. **A-12-062:** The request of Raul G Villarreal, for a Special Exception to allow a 5-foot Ornamental-Iron Front Yard Fence, 7223 Westfield Boulevard. (Council District 6)
7. **A-12-065:** The request of Peter Zanoni, for a variance to allow an additional four feet of fence height for an eight foot fence along the side property line in the front yard for a length of approximately 40 feet, 215 Royal Oaks Drive. (Council District 10)
8. Approval of the minutes – June 4, 2012
9. Adjournment.

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

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

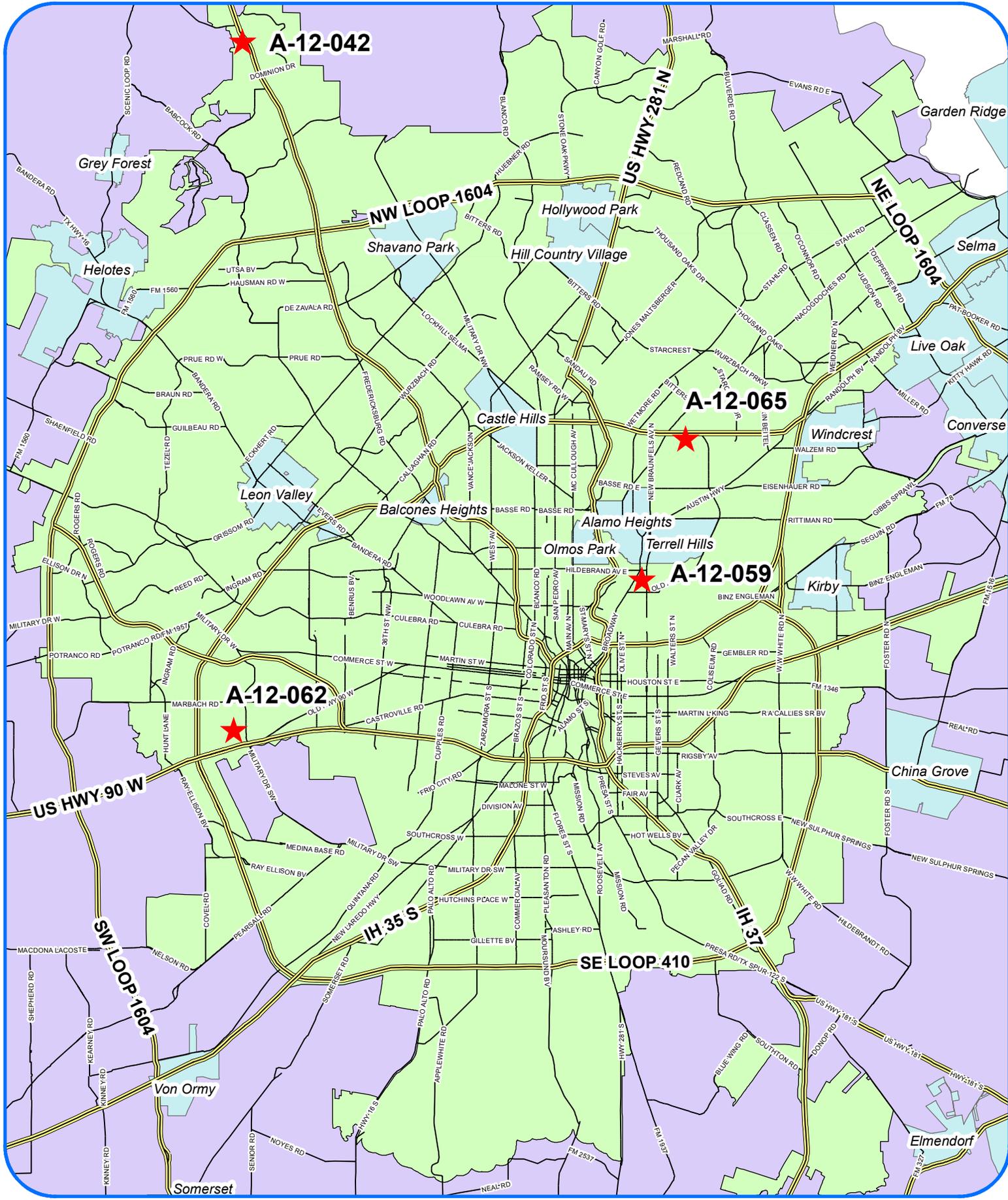
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### Board of Adjustment Membership

Michael Gallagher District 10, Chair      Andrew Ozuna District 8, Vice Chair  
Frank Quijano, District 1 • Edward Hardemon, District 2 • Helen Dutmer District 3 • George Britton, District 4  
Vacancy, District 5 • Jesse Zuniga, District 6 • Mary Rogers, District 7 • David Villyard, District 9 • Gene Camargo, Mayor

### Alternate Members

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



**Board of Adjustment**  
**Subject Property Locations**  
**Cases for June 25th 2012**





# City of San Antonio

## Development Services Department

### Staff Report

To: Board of Adjustment  
Case No.: A-12-042  
Date: June 25, 2012  
Applicant: Keller Signs  
Owner: LS Boardwalk, LLC/ The San Antonio Boardwalk LLC  
Location: 23535 W. IH 10  
Legal Description: Lots 6, Block 1, NCB 16391  
Zoning: "C-3 GC-1 MLOD-1" General Commercial Hill Country Gateway Corridor Military Lighting Overlay District  
Prepared By: Trenton Robertson, Planner

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#### **Request**

1) A request for a 144-square foot variance from the 300-square foot maximum sign area requirement for multiple-tenant signs of the "GC-1" Hill Country Gateway Corridor District, in order to allow a 444-square feet multiple-tenant sign; and 2) a 10-foot variance from the 40-foot maximum sign height requirement for multiple-tenant signs of the "GC-1" Hill Country Gateway Corridor District, in order to maintain a 50-foot tall multiple tenant sign.

#### **Procedural Requirements**

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on April 4, 2012. The application was published in The San Antonio Express-News, an official newspaper of general circulation on April 6, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on June 20, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

#### **Executive Summary**

The approximately 3.83-acre property is located on the west side of Interstate Highway 10 (IH-10). It consists of a small shopping center with variety of different businesses. There is an existing on-premise multiple tenant free standing sign on the subject property that the applicant wishes to add another sign cabinet to, increasing the total area of the sign. The proposed sign will maintain fifty (50) feet in height, and will have a sign area of approximately four hundred forty four (444) square feet.

In accordance to the Hill Country Gateway Corridor District, the on-premise multiple tenant free standing sign on this property is adjacent to an Expressway. Pursuant to Ordinance 97656 of the Hill Country Gateway Corridor District, the maximum height and area allowed for multiple-tenant signs on properties adjacent to an Expressway is forty (40) feet for maximum height and three hundred (300) square feet for total area. Consequently, the applicant is requesting two (2) variances from these standards.

According to the submitted application, the variances are needed to 1) maintain the existing fifty (50) feet height, 2) maintain the current area of the sign, three hundred ninety five (395) square feet, and add an additional forty nine (49) square feet to allow the addition of another cabinet on the bottom of the sign. The requested variances would permit a new business to the center, Double Dave’s, to have signage on the sign which currently can not be enlarged since it is nonconforming in size. If granted, the variance would first make the existing sign conforming and second authorize the additional cabinet for the new tenant.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
C-3 GC-1 MLOD-1 (Commercial)	Retail, Services

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	C-3 GC-1 MLOD-1 (Commercial)	Medical Facility
South	R-6 GC-1 MLOD-1 (Single-Family Residential)	Vacant
East	UZROW	Interstate Highway 10 (IH-10)
West	O-2 GC-1 MLOD-1 (Office)	Vacant

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Hill Country Gateway Corridor District Plan. The subject property is located within two hundred (200) feet of the Cielo Vista neighborhood association, an association registered with the City. The neighborhood association was notified of the request, but no concerns were submitted.

**Criteria for Review**

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

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

Granting the variance is contrary to the public interests. The Hill Country Gateway Corridor serves as a gateway to the city and is considered an asset of great value to the city, its inhabitants and its economy. The City Council aims to preserve, enhance, and perpetuate the

value of these roadway corridors and authorized the establishment of corridor overlay zoning districts in accordance with Section 35-339.01 of the UDC. In implementing these goals, Ordinance Number 97656 allows free standing multiple-tenant signs adjacent to an expressway to have a maximum sign area of three hundred (300) square feet and be at a height of no greater than forty (40) feet tall. The existing sign exceeds the maximum height and square footage allowed in this district and should not be enlarged as requested by the applicant. The increase of sign area would erode goals and objectives of the Hill Country Gateway Corridor.

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

The subject property sits on the west side of IH-10. The sign sits above the grade of both IH-10 and its frontage road. The topography of the subject property does not prevent or limit the applicant from having adequate signs on the site. In accordance to Ordinance 97656, free standing multiple tenant signs located within the Hill Country Gateway Corridor adjacent to an expressway are permitted to have a maximum sign area of three hundred (300) square feet and be at a height of no greater than forty (40) feet tall. Currently, the area of the sign is three hundred ninety five (395) square feet and is fifty (50) feet tall exceeding the development standards set forth in Ordinance 97656. By denying the variance and not allowing for the area of the sign to increase by forty nine (49) square feet, it would not cause an unnecessary hardship. The owner of the property can find other methods to allow the applicant to have signage on the property by refacing the non-conforming sign.

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

The City's Sign Regulations establishes specific requirements for different sign types depending on the property's zoning district, number of tenants, location and street classification. The applicant is proposing to maintain and add to a sign that is approximately twenty five percent (25%) taller and forty eight percent (48%) bigger than what is permitted in the Hill Country Gateway Corridor. Due to the increase in area that is being proposed the request would conflict with the stated purposes of Section 35-482(e) of the Unified Development code as well as Ordinance 97656 which adopted site development standards for the Hill Country Gateway Corridor District Plan. Therefore the spirit of the ordinance would not be upheld through granting the applicant's request for a variance.

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

Granting this variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The variance is requesting to enlarge the sign by increasing the area and height of the sign. This request will not alter any use on the subject property for which it is currently zoned for.

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

Granting the variance will significantly alter the character of the district. The goal of the Hill Country Corridor District plan regarding signage is to enhance San Antonio's image as a progressive, scenic, and livable community in accordance with Section 35-339.01 of the

UDC. The standards adopted to further this goal include limiting height to forty (40) feet and area to three hundred (300) square feet. The goal of the District is to have all signs come into conformance over time, reinforcing the character of the District.

Granting the variance would also injure adjacent conforming properties with businesses whose signs are limited to forty (40) feet in height and three hundred (300) square feet and potentially give an unfair advantage to competition within the surrounding area.

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

There are no existing unique circumstances on the property that would cause an unnecessary hardship. The subject property is located on the frontage road for IH-10 and sits at a higher grade than the Interstate Highway which increases visibility of the sign. Additionally, the hardship the applicant is presenting is self inflicted. The owner of the sign can request other tenants to decrease their sign cabinets in order to allow additional tenants to have space on the sign to advertise their business.

### **Staff Recommendation**

Staff recommends **denial of A-12-042 of increasing the area of the sign by one hundred forty four (144) square feet with an alternative recommendation for the sign height and sign area variances.** The requested variances do not comply with the required approval criteria for granting a variance as presented above, based on the following findings:

1. The applicant did not present evidence that the requested variances would provide relief from a hardship caused by a literal enforcement of the sign standards for properties located on an Expressway in the Hill Country Gateway Corridor District Plan. The hardship has been self imposed and does not fall under the requirements of being granted a sign variance in accordance with Section 28-246(b) of the UDC.
2. The variance will substantially injure the appropriate use of adjacent conforming property by offering the applicant an unfair advantage over those businesses whose signs comply with the Code.
3. The additional square footage added to the existing sign alters the essential character of the Gateway Corridor district in which the property is located.
4. The spirit of the Ordinance would not be served by allowing the applicant to create unique standards that apply just to this property. It is similar to all other commercial centers in the area and does not warrant special consideration.

### **Alternative to Applicant's Request**

The alternative recommendation from staff would be to **retain the nonconforming sign as it currently exists.** The current sign is fifty (50) feet tall, which is ten (10) feet taller than the maximum standard allotted in the Hill Country Gateway Corridor District Plan (Ordinance 97656). In addition, the current area of the sign at three hundred ninety five (395) square feet, is ninety five (95) square feet greater than allotted in the Hill Country Gateway Corridor District (Ordinance 97656).

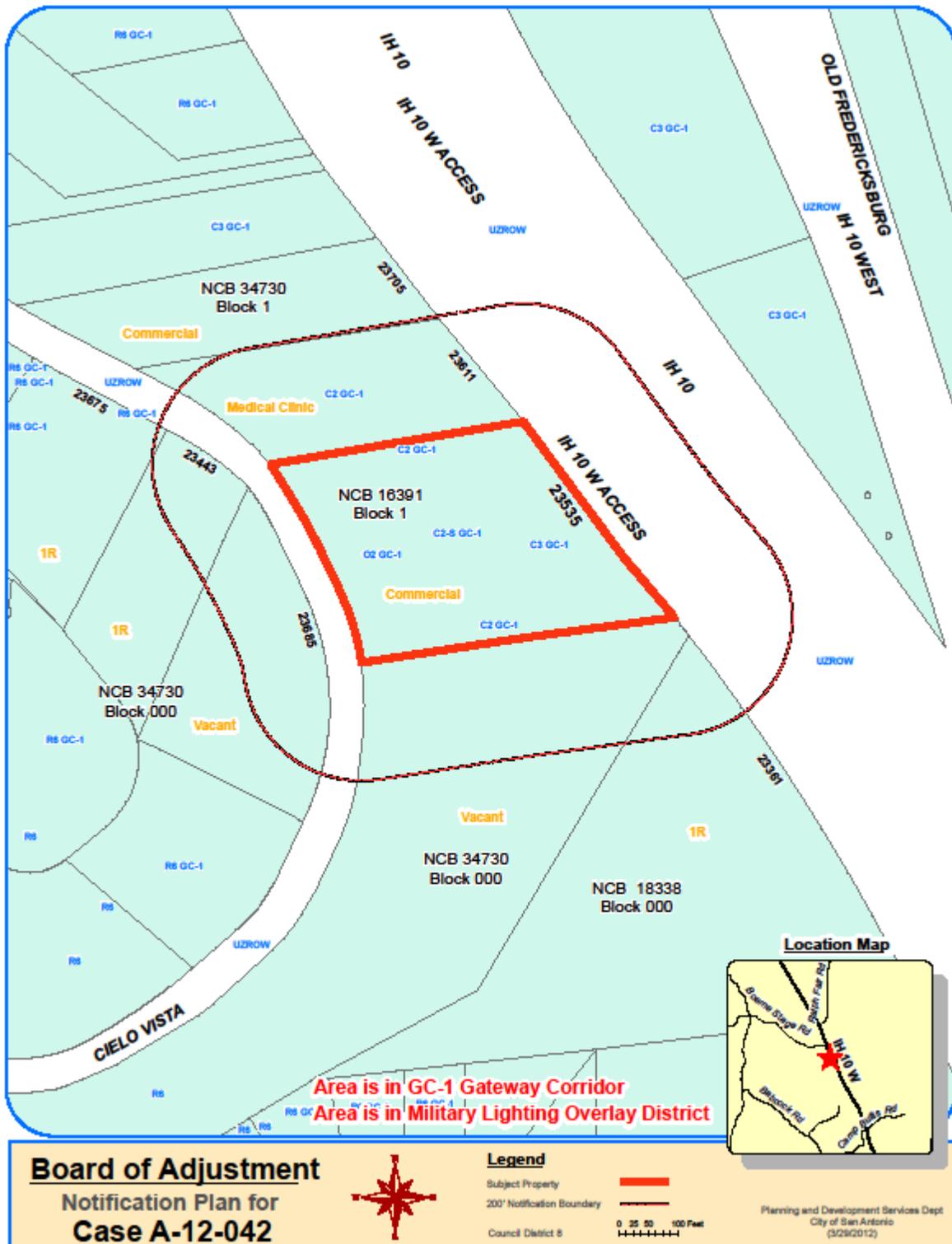
## **Attachments**

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Proposed Sign

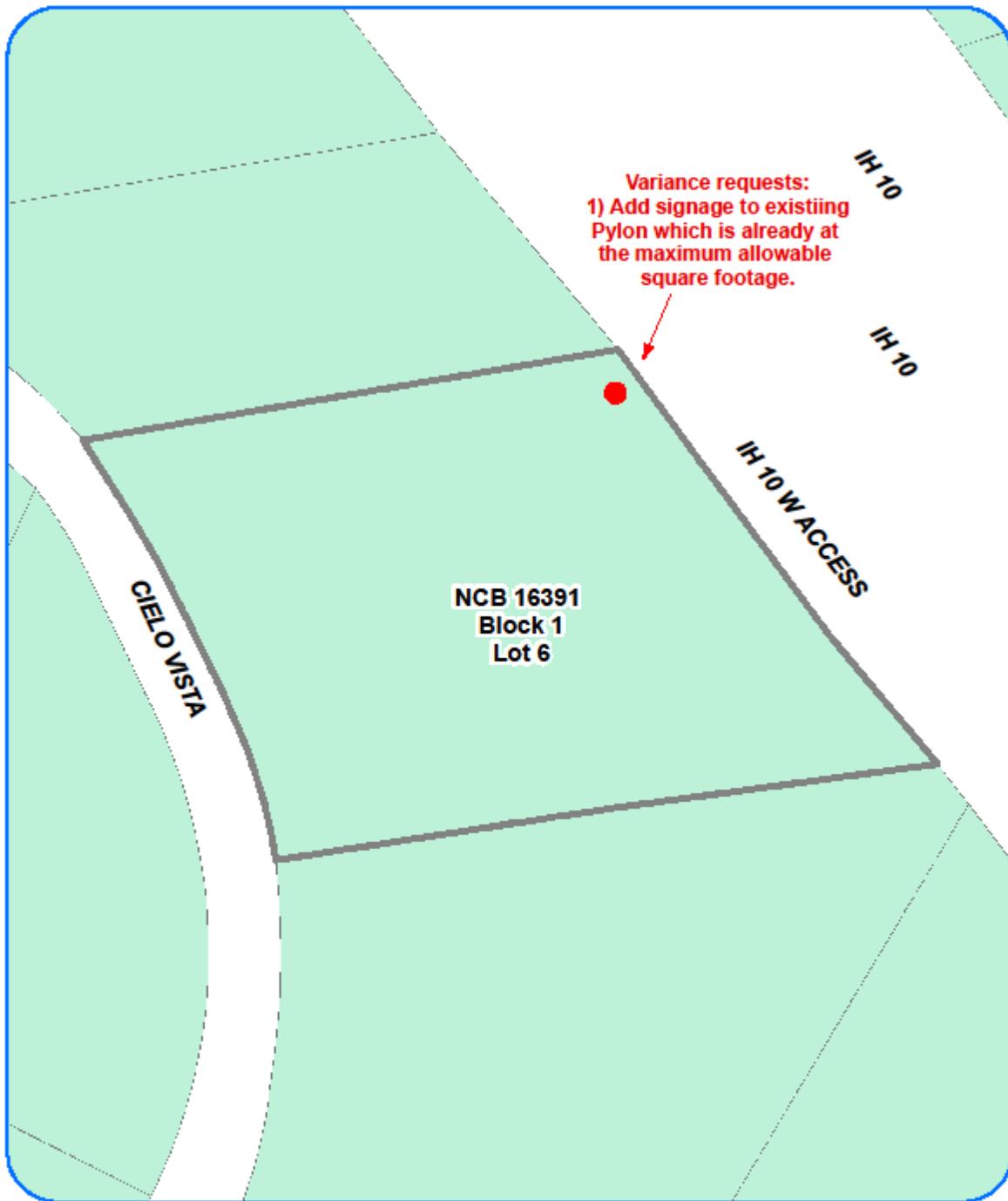
# Attachment 1 Notification Plan



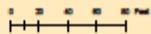
**Attachment 1 (Continued)  
Notification Plan**



**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case A-12-042**

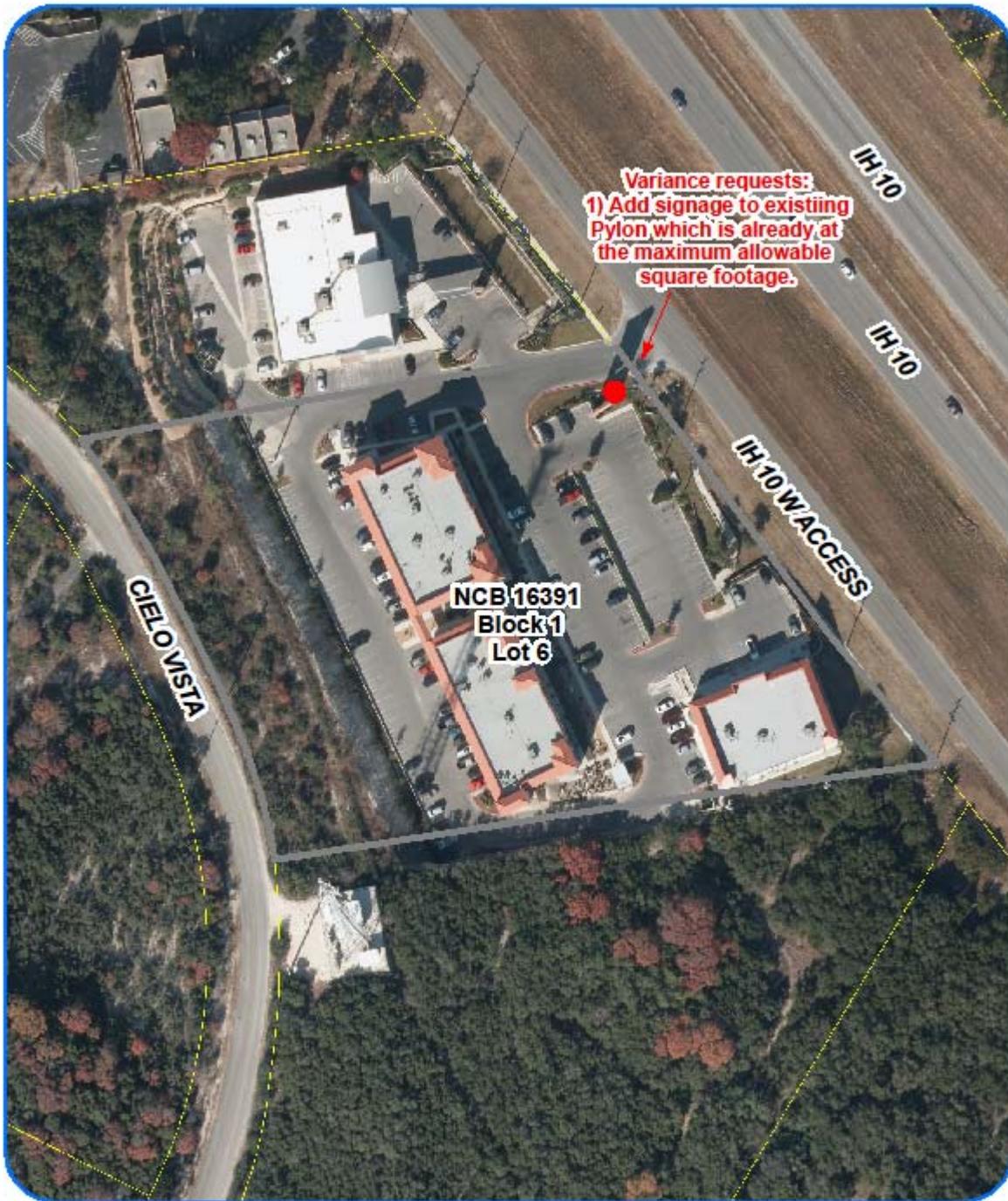


Council District 8

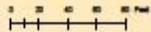
**23535 W IH 10**

Development Services Dept  
City of San Antonio  
(3/19/2012)

Attachment 2 (Continued)  
Plot Plan



**Board of Adjustment**  
Plot Plan for  
**Case A-12-042**



Council District 8

**23535 W IH 10**

Development Services Dept  
City of San Antonio  
(3/19/2012)







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## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-12-059  
Date: June 25, 2012  
Applicant: Joseph M. Gonzalez, Jr.  
Owner: Joseph M. Gonzales, Jr.  
Location: 311 Carnahan Street  
Legal Description: Lot 17, NCB 6561  
Zoning: "R-4 NCD-6" Residential Single-Family Neighborhood Conservation District  
Prepared By: Tony Felts, Planner

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### **Request**

The applicant requests 1) a variance to allow a driveway 8 feet, 7 inches wider than the allowed 12-foot maximum and 2) a waiver of the required front walk.

### **Procedural Requirements**

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on June 7, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 8, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on June 20, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The approximately 7000 square-foot property is located on the north side of Carnahan Street, approximately 118 feet east of Avenel Avenue. The lot is 50 feet wide by 140 feet deep, and is developed with a single-family residence, constructed in 1925.

The site is within the Mahncke Park Neighborhood, which was the subject of a Neighborhood Plan in 2001. Objective 2.1 of the Mahncke Park Neighborhood Plan was the implementation of a Neighborhood Conservation District to "establish appropriate design standards for both commercial and residential development." Additionally, Goal 4.2 of the Plan concerning Streetscapes (the appearance or view of a street) was to "maintain and promote Mahncke Park's traditional neighborhood development style." In response to these and other objectives of the

Plan, the Mahncke Park Neighborhood Conservation District was established by Ordinance 2008-01-17-0050 on January 17, 2008.

Per Section 35-335 of the UDC, the purpose of Neighborhood Conservation Districts is to protect neighborhoods worthy of preservation and protection. Some of the stated goals include “protecting and strengthening desirable and unique physical features, design characteristics, and recognized identity and charm” and “reducing conflict and preventing blighting caused by incompatible and insensitive development.”

Accordingly, the District’s guiding document recognizes these principals in the Executive Summary. Of note, the document states “...the design standards found in this plan are not designed to enforce architectural style, but are crafted to perpetuate historical arrangements of buildings, scale, massing of building volumes, celebrate the original character of buildings, de-emphasize and conceal spaces designed for the automobile, increase the number and quality of spaces designed for interaction between neighbors and improve the visual appeal of the entire area.”

The applicant is requesting an 8 feet, 7-inch driveway width variance to allow a 20-foot, 7-inch driveway as well as a variance to eliminate the requirement for a front walk.

Section 2.5.2. of the Mahncke Park Neighborhood Conservation District Design Standards limits driveways to a maximum of twelve (12) feet in width. Section 2.6.3. requires a front walkway to connect the front entry of the primary structure and the back of the curb; additionally, the front walkway must be separated from the driveway by a minimum of four (4) feet. In this case the applicant has constructed a 20 feet, 7-inch wide driveway and removed an existing front walkway. Code Enforcement was notified, and has cited the applicant for the violations.

The applicant states that these standards limit the use of the driveway and do not allow him to park all of his vehicles in the driveway.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
R-4 NCD-6 (Residential Single-Family)	Single-Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	R-4 NCD-6 (Residential Single-Family)	Single-Family Residence
South	R-4 NCD-6 (Residential Single-Family)	Single-Family Residence
East	R-4 NCD-6 (Residential Single-Family)	Single-Family Residence
West	R-4 NCD-6 (Residential Single-Family)	Single-Family Residence

## **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Mahncke Park Neighborhood Plan area. The subject property is also located within the boundaries of the Mahncke Park Neighborhood Association.

### **Criteria for Review**

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

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

The Mahncke Park Neighborhood Design Standards are intended to maintain the character of the neighborhood in order to preserve the existing development pattern. The Design Standards provide a common framework of regulations in order to maintain the unique and defining features of the district. These standards were based on maintaining the continuity and character of the district. Limited driveway size and required front walkways have been identified as defining features in Mahncke Park. By allowing a 71.6% increase in the allowable driveway size and eliminating the required front walk, the public interest of the preserving the neighborhood will not be served, and therefore, the variance is contrary to the public interest.

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

The subject property is similar to the majority of other residential properties in the Mahncke Park neighborhood. The district is defined by small, narrow lots, craftsman-style homes, and a pedestrian-friendly atmosphere. There is no special condition inherent to this particular property that would make a literal enforcement of the ordinance result in an unnecessary hardship.

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

One of the goals of the Mahncke Park Neighborhood Conservation District is to “de-emphasize and conceal spaces designed for the automobile.” Additionally, building arrangements and scale of development are also goals of the Plan. By allowing an automobile space to cover more than 40% of the frontage, heavy emphasis is placed on the automobile parking spaces. This causes disruption of the unique layout of the buildings and the character of the neighborhood is negatively impacted. As such, this variance request does not comply with the spirit and intent of the ordinance.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the R-4 NCD-6 (Residential Single-Family) zoning district.

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

This variance will substantially alter the essential character of the district. It is important to note that this 20 feet, 7 inch driveway is a change to the original condition of the lot. The previous driveway was an approximately 7-foot wide ribbon driveway, which is in character with other properties in the Mahncke Park district. Staff observation of the neighborhood reveals that ribbon driveways and narrow solid driveways are commonplace. The property also had an existing front walkway that the applicant has removed and does not wish to replace. The new driveway and lack of the front walkway substantially shifts the focus at this property from a pedestrian-oriented traditional neighborhood to a focus on the automobile. The Mahncke Park District was created with one of the specific goals of de-emphasizing and concealing the automobile. Allowing this shift will substantially injure the integrity of the district, and therefore other properties.

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

There are no circumstances unique to the property that would necessitate the allowance of the larger driveway and the absence of a front walk. The Mahncke Park district is uniform in character, which contributes to its uniqueness. All properties in the district are small, narrow lots; and staff observation of the surrounding area indicates that the residents of the district have taken great care to preserve its feel and character. Allowing this variance is detrimental to the integrity of the neighborhood fabric.

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

The alternative to the applicant's request is to construct a conforming driveway and front walk, and utilize ample on-street parking, or to improve the rear alley for a driveway located in the rear yard.

### **Staff Recommendation**

Staff recommends **denial of A-12-059** based on the following findings:

1. The requested variance is not due to a circumstance unique to the property.
2. The request is contrary to the public interest and to the spirit of the ordinance because it creates an exception in a district that is noted as worthy of preservation and undermines the fundamental goals of the Mahncke Park Neighborhood Conservation District.
3. A literal enforcement of the ordinance does not create an unnecessary hardship as there are viable alternatives to the request.

### **Attachments**

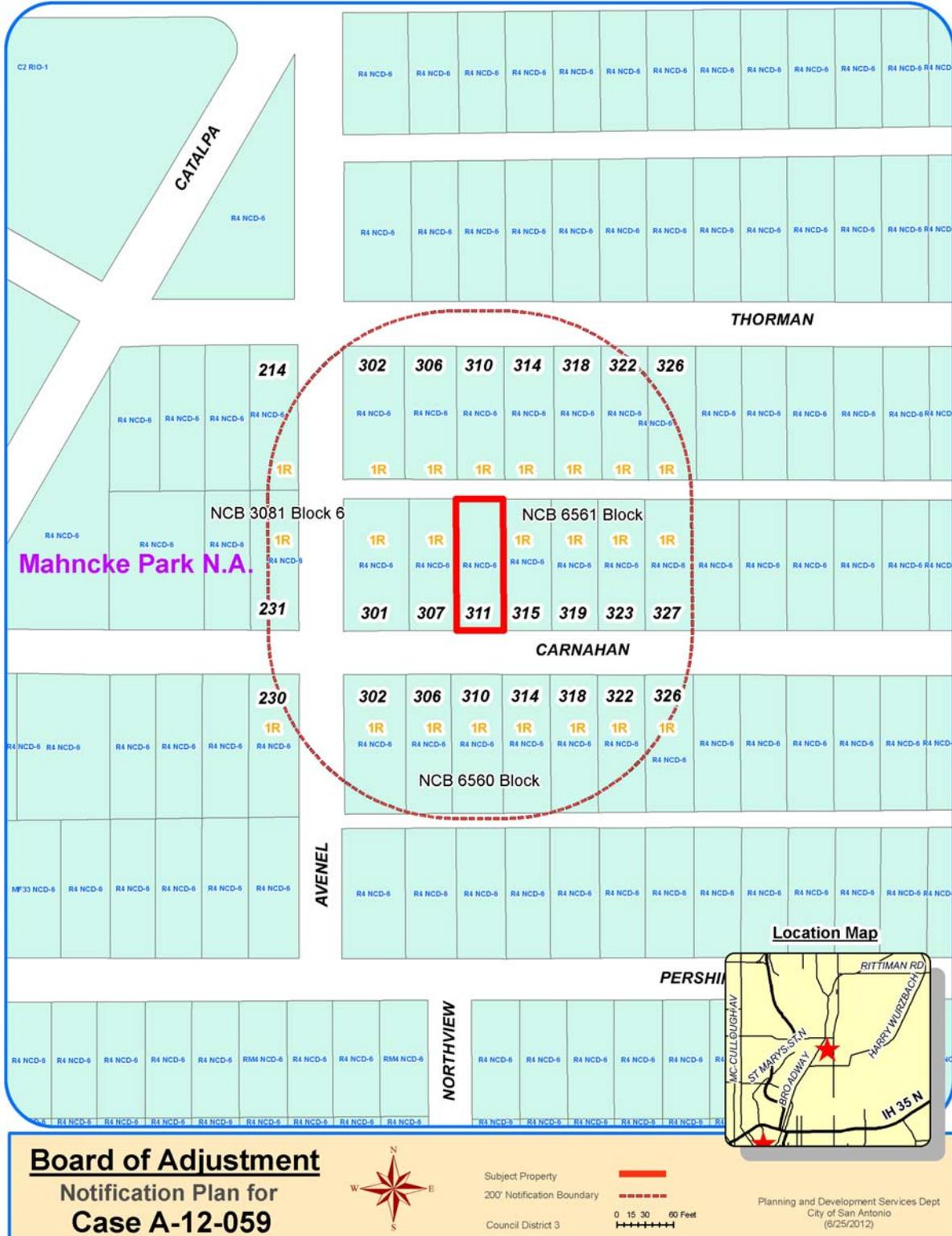
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

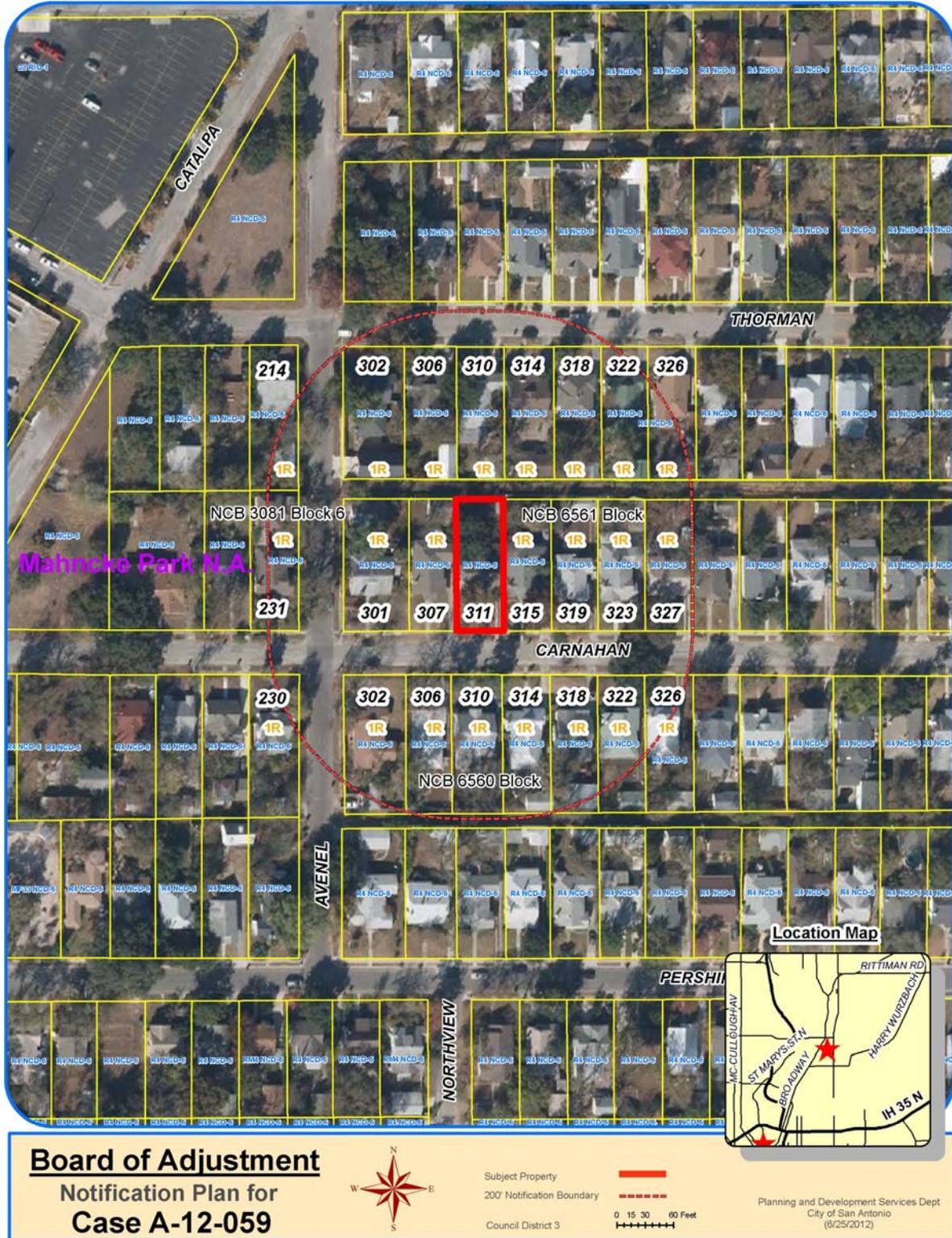
Attachment 3 – Site Plan

Attachment 4 – Survey Site Plan

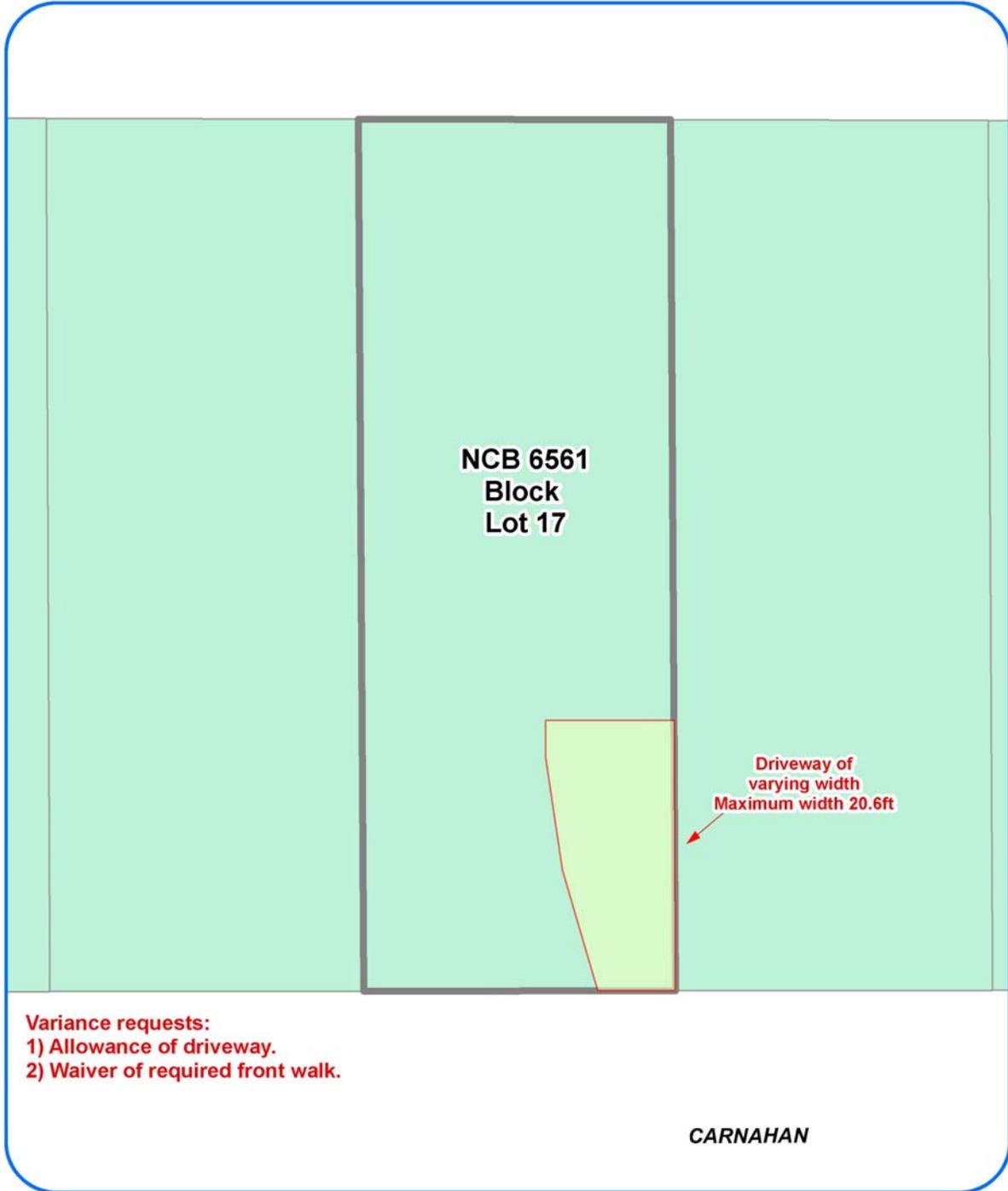
# Attachment 1 Notification Plan



**Attachment 1 (Continued)  
Notification Plan**



**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case A-12-059**



Proposed Driveway   
0 10 20 30 40 Feet  
Council District 9

**311 CARNAHAN**

Development Services Dept  
City of San Antonio  
(8/25/2012)

Attachment 2 (Continued)  
Plot Plan



**Board of Adjustment**  
Plot Plan for  
**Case A-12-059**



Proposed  
Driveway   
  
Council District 9

**311 CARNAHAN**

Development Services Dept  
City of San Antonio  
(8/25/2012)

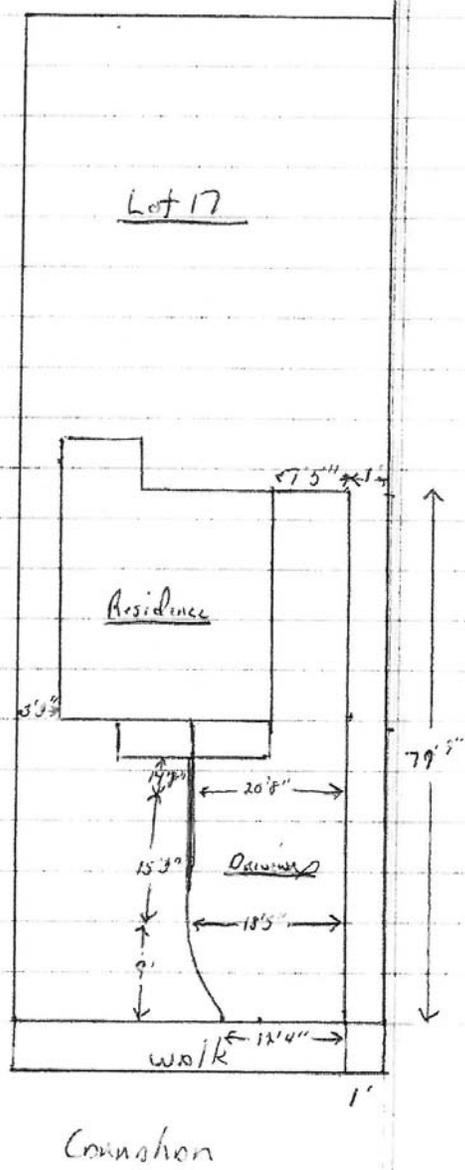
Attachment 3  
Site Plan

311 Connon  
City 78109

Lot 17 Blk 6561

11-4

Scale 1" = 40'







## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-12-062  
Date: June 25, 2012  
Applicant: Raul G Villarreal  
Owner: Raul G Villarreal  
Location: 7223 Westfield Boulevard  
Legal Description: Lot 15, Block 8, NCB 15608  
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Trenton Robertson, Planner

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### **Request**

A request for a special exception to allow a 5-foot Ornamental-Iron Front Yard Fence

### **Procedural Requirements**

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on June 7, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on June 8, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on June 20, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The approximately 0.24-acre subject property is located along the north side of Westfield Boulevard. The applicant has applied to build an Ornamental-Iron Front Yard Fence that exceeds the height limitations of four (4) feet stated in Section 35-514 of the UDC. Due to the proposed height of the fence, the applicant is requesting a special exception for an Ornamental-Iron Front Yard Fence not to exceed five (5) feet in height in accordance to Section 35-399.04 of the UDC.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
R-6 AHOD (Single-Family Residence)	Single-Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	R-6 AHOD (Single-Family Residence)	Single-Family Residence
South	R-6 AHOD (Single-Family Residence)	Single-Family Residence
East	R-6 AHOD (Single-Family Residence)	Single-Family Residence
West	R-6 AHOD (Single-Family Residence)	Single-Family Residence

**General Fence Design Criteria (Section 35.399.04)**

	Requirement	Proposed/Actual	Requirement Met?
Height of fence	Maximum of <b>6 feet</b> (excluding decorative features attached to the top of fence)	Five (5) feet	Yes
Width of vertical bars/balusters	Maximum of <b>1 inch</b>	3/4 inch	Yes
Spacing between vertical bars/balusters	Minimum of <b>5 ½ inches</b>	5 ½ inches	Yes
Width of columns/pillars/posts width	Maximum of <b>18 inches</b>	4 inches	Yes
Spacing between pillars or posts	Minimum of <b>8 feet</b> (it may be less than 8 feet if necessary for structure soundness or to accommodate a gate)	8 feet panels	Yes
Spacing between columns/pillars/posts (Pedestrian Gate)	Minimum of <b>3 feet</b>	Not Applicable	Yes
Spacing between columns/pillars/posts (Vehicle Gate)	Minimum of <b>8 feet</b>	Gate one: 23 feet Gate two: 12 feet 6 inches	Yes

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the West/Southwest Sector Plan. The subject property is located within two (200) hundred feet of the Lackland Terrace Neighborhood Association.

## **Criteria for Review**

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five (5) following conditions:

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

The special exception will be in harmony with the spirit and purpose of Chapter 35, UDC. The proposed fence meets the height, width, design and all other requirements established in Section 35-399.04(a) of the UDC.

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

The public welfare and convenience will be substantially granted by allowing the applicant to securely protect their property.

*C. The neighboring property will not be substantially injured by such proposed use.*

The neighboring properties will not be substantially injured by granting the special exception. The design of the fence will not encroach on the neighboring properties or cause any undo hardship.

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

There are various properties throughout the neighborhood with similar ornamental-iron front yard fences. By granting the applicant's request for a special exception, the proposed fence and the encompassing property will maintain the harmony and character of the surrounding neighborhood.

*E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The requested special exception will not weaken the general purpose of the "R-6" Residential Single-Family zoning district. The fence, as proposed, will comply with the additional standards set forth in Section 35-399.04(a) of the UDC.

## **Staff Recommendation**

Staff recommends **approval of A-12-062**. The request complies with all required criteria for a special exception as established in Section 35-482(h) of the UDC. The design of the fence submitted by the applicant is in accordance with the design criteria specified in Section 35-399.04(a) of the UDC.

## **Attachments**

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Site Plan

Attachment 4 – Fence Elevation

# Attachment 1 Notification Plan



Attachment 1 (Continued)  
Notification Plan



**Board of Adjustment**  
Notification Plan for  
**Case A-12-062**

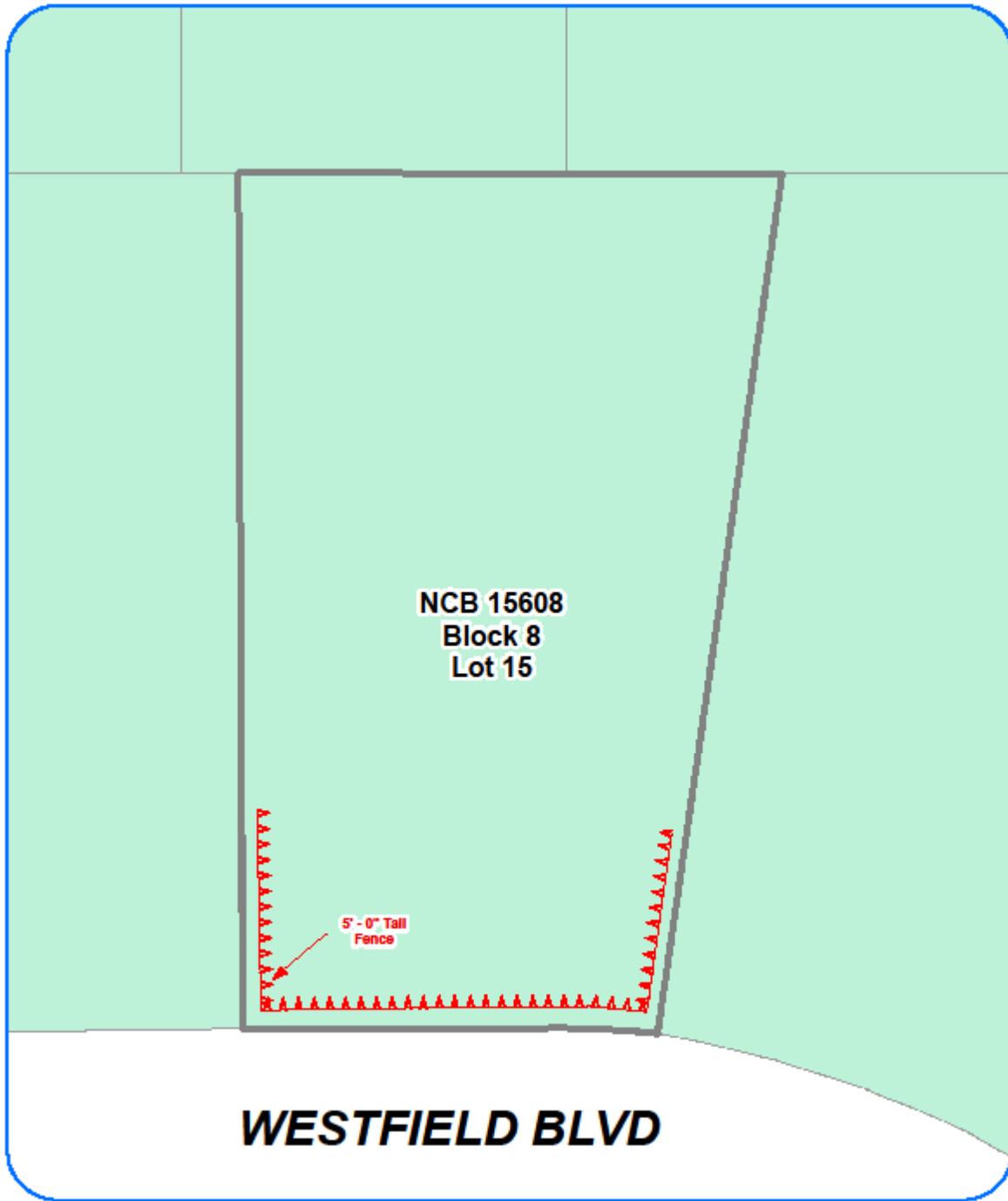


Subject Property  
200' Notification Boundary  
Council District 3



Planning and Development Services Dept  
City of San Antonio  
(8/25/2012)

Attachment 2  
Plot Plan



**Board of Adjustment**  
Plot Plan for  
**Case A-12-062**



**7223 WESTFIELD BLVD**

Development Services Dept  
City of San Antonio  
(825/2012)

Attachment 2 (Continued)  
Plot Plan



**Board of Adjustment**  
Plot Plan for  
**Case A-12-062**



**Fence** ▲▲▲▲

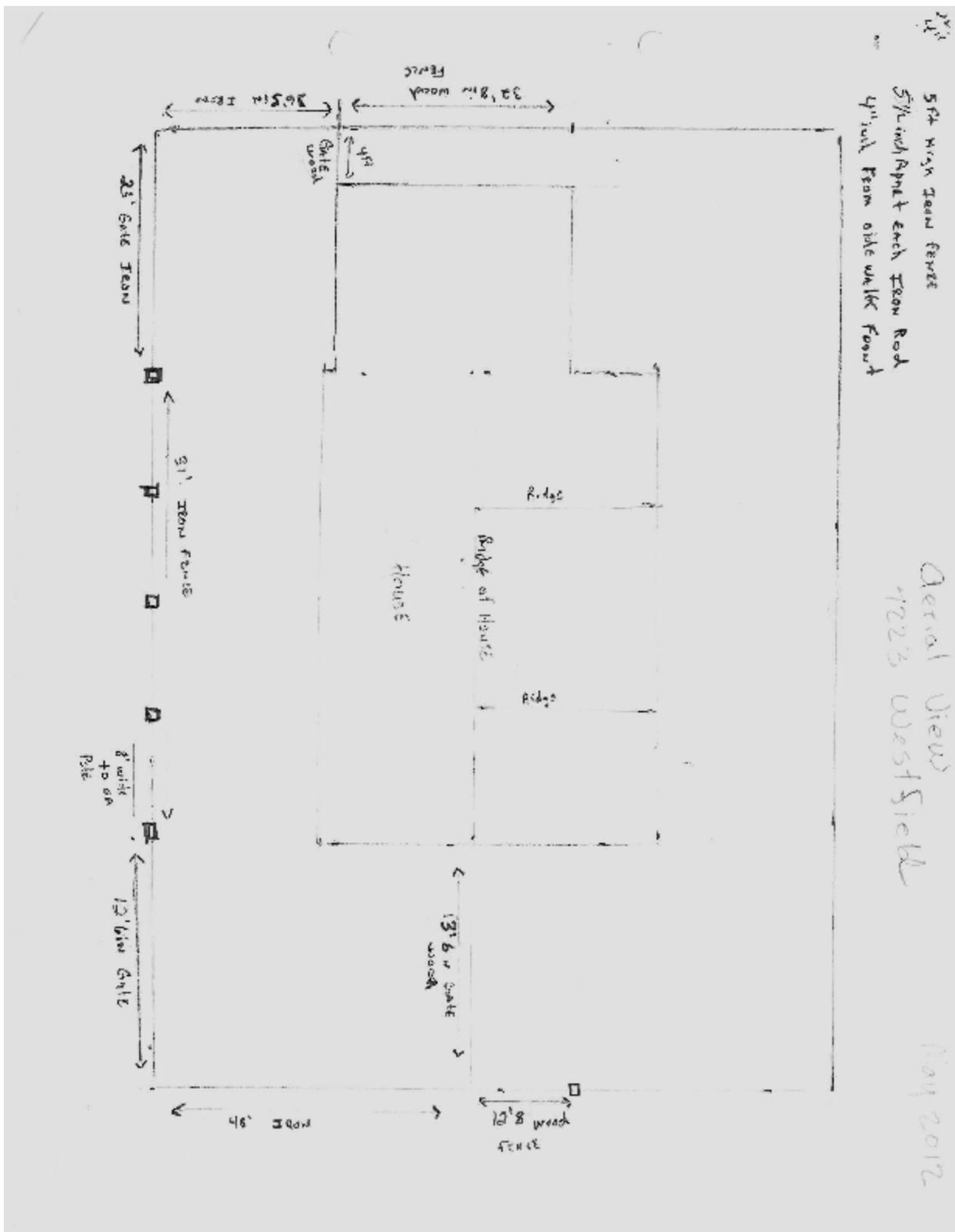


Council District 6

**7223 WESTFIELD BLVD**

Development Services Dept  
City of San Antonio  
(825/2012)

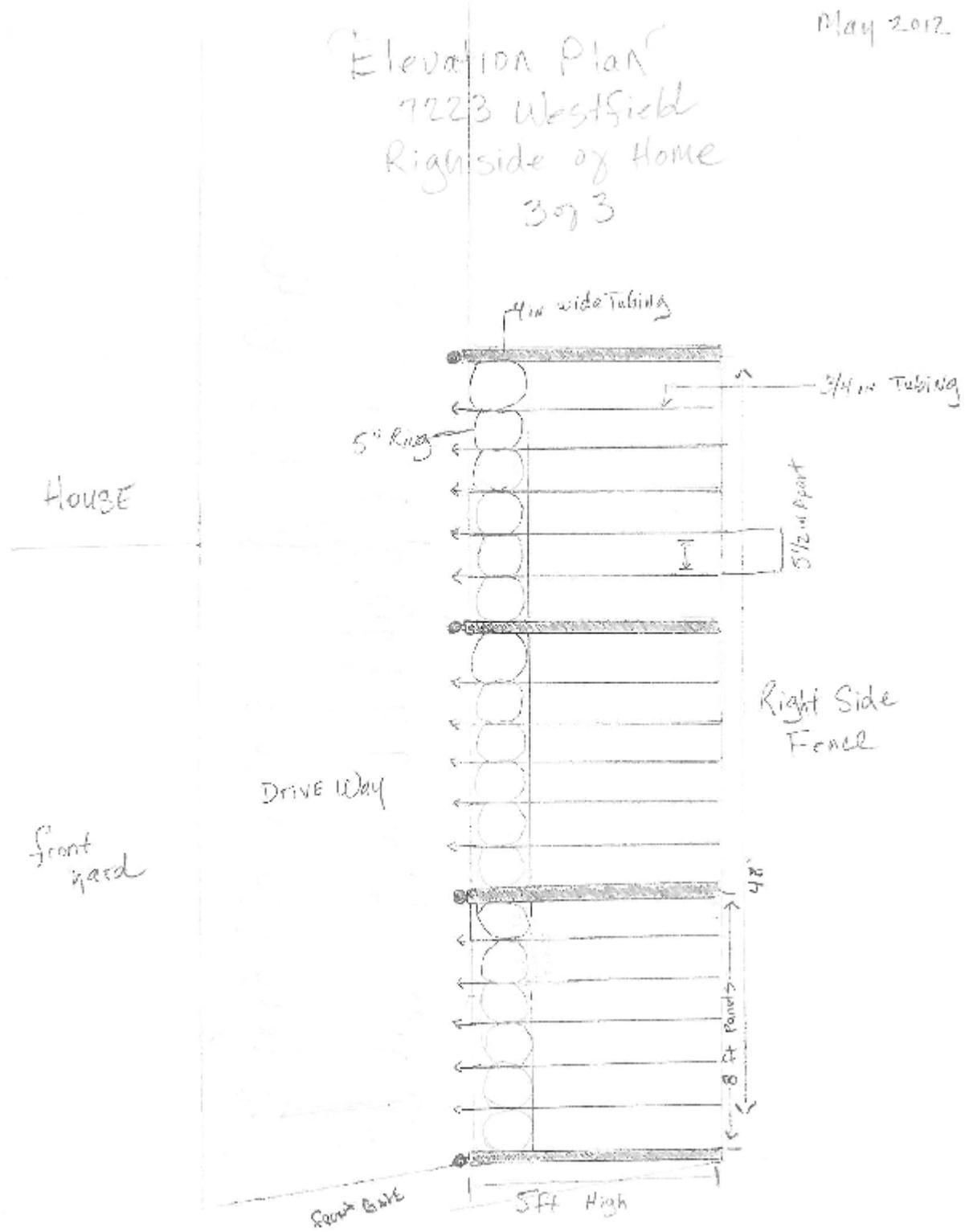
### Attachment 3 Site Plan





**Attachment 4  
Fence Elevation (Continued)**

May 2012







## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-12-065  
Date: June 25, 2012  
Applicant: Peter Zanoni  
Owner: Peter Zanoni & Lujana Hill  
Location: 215 Royal Oaks Drive  
Legal Description: Lot 28 Block 33 NCB 11833  
Zoning: "NP-10-AHOD" Neighborhood Preservation-Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

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### **Request**

The applicant requests 1) a four-foot variance from the four-foot maximum allowed height in a front yard as described in Section 35-514 of the Unified Development Code ("UDC"). If granted, the variance would permit an eight-foot high open fence for a length of approximately forty feet along the east property line. Because the house is setback fifty-five feet from the front property line, the fence is still setback approximately twenty-five feet from the curbing.

### **Procedural Requirements**

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code. Notices were sent to property owners within two hundred (200) feet of the subject property on June 7, 2012. The registered neighborhood association, Oak Park-Northwood, was also notified and invited to provide comment. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on June 8, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on June 20, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The applicant has existing, mature shrubs along the east property line that serve as a privacy screen between two residential lots. The shrubs vary in height from four feet to ten feet for a distance of roughly twenty-five feet. Based on staff observations of the site, it appears that the

shrubs had grown over the property line and were trimmed. The applicant states that on two separate occasions, the neighbor trimmed the shrubs and acknowledged trimming the shrubs. The applicant built a predominately open fence, eight feet in height, along this shared property line and is requesting a variance to allow the fence to remain in place. Only the lower three feet of the fence is solid, with the upper five feet made of horizontal copper tubing. The applicant has stated the intent to grow flowering vines along the tubing. The tubing was designed to secure the vines, both from encroaching onto the neighboring property and from being trimmed by the neighboring property owner. The applicant's desire is that the result will provide the same green screening without the bulk of the shrubs. The UDC defines fence broadly stating "*a tangible enclosure or barrier, constructed of any material allowable by this chapter, but not including hedges, shrubs, trees, or other natural growth, erected for the purpose of providing a boundary, separation of areas, means of protection, to prevent uncontrolled access, decorative purposes, or concealment.*" An administrative interpretation determined that the top portion of the structure, though very open, still qualified as a fence according to this definition.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"NP-10 AHOD" Neighborhood Preservation - Airport Hazard Overlay District	Single Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"C-2 AHOD" Commercial Airport Hazard Overlay District	Multi-family Apartment Complex
South	"NP-10 AHOD" Neighborhood Preservation -Airport Hazard Overlay District	Single Family Dwelling
East	"NP-10 AHOD" Neighborhood Preservation -Airport Hazard Overlay District	Single Family Dwelling
West	"NP-10 AHOD" Neighborhood Preservation -Airport Hazard Overlay District	Single Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the neighborhood planning area called Northeast Inner Loop. A small area plan was adopted in March 2001 and updated in August of 2008. The most pertinent goal described in the plan was to preserve the tree-lined streets and stabilize the neighborhoods. Presumably, the nearby trees were not damaged in the installation of the fence. The Oak Park-Northwood Neighborhood Association was notified and is opposed to the request.

## **Criteria for Review**

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

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

Public interest is a central theme used to justify government regulations; it refers to general welfare and common well-being of the population as a whole. In this case, the public interest can be focused on the neighboring property owners. They enjoy the primarily open front yards with generous landscaping along the cul-de-sac. The fence, if it serves the intended purpose of a support for flowering vines, should not interfere with the prevailing character and atmosphere created by the large yards and deep front-yard setbacks.

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

Literal enforcement of the ordinance would allow a property owner to grow a flowering vine on a support up to four feet in height or a shrub to an unlimited height. Staff has failed to identify any unique property-related conditions that warrant special consideration or deem enforcement of the standard fence height restriction unnecessary. In support of the request, the applicant has stated that his neighbor's trespass is the special condition and therefore the applicant designed a system to make the screening more difficult to trim in the future.

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

The UDC does not regulate the height of landscape vegetation, nor does the ordinance consider hedges a fence. Therefore, there were no zoning concerns about the tall shrubs located along the property boundary. The structure designed by the applicant was reviewed by staff prior to the determination that it qualified as a fence. The applicant defines the tubing as a decorative feature above the compliant three foot solid fence. Indeed, the planned use of the tubing is as a lattice to hold vines, but it also functions as a barrier as detailed in the fence definition. Assuming the vines grow to cover and obscure the fence as anticipated, the spirit of the ordinance will be observed.

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

There is no use variation proposed.

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

Five neighbors have responded to the Notice of Public Hearing in support of the applicant's request. A few of the responders were concerned that the upper portion remain open, but their concerns were allayed after realizing the plan was for only vines. The wooden fence is uncharacteristic of the neighborhood, but lush greenery is a consistent component. Therefore, the plan at maturity will not alter the essential character of the area.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by*

*the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

The subject property is very similar to other homes and lots along the street. It is a large lot with over 14,000 square feet of lot area located within the Northwood Estates Subdivision. The subdivision plat imposed a 35 foot front setback along these 100 foot wide lots, resulting in expansive, open front yards. The unique circumstance, as stated in the application, is the neighbor's decision to trim the hedges without permission. The applicant states that he has suffered from repetitive trespass and as a result designed this support system to deter future trespass.

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

The applicant could plant additional shrubs, which do not require any City approval.

### **Staff Recommendation**

Staff recommends **approval of the variance as proposed in application A-12-65, subject to the fence remaining as constructed**, based on the following findings:

1. The variance would allow the applicant to retain a landscape feature installed for flowering vines, a system that is not contrary to the public interest.
2. A literal enforcement of the ordinance may create an unnecessary hardship by preventing the owner from being able to use flowering vines as a green buffer as desired. Any similar method available to secure vines taller than four feet would require special exception or variance.
3. The spirit of the ordinance is observed by allowing a vine rather than an unregulated hedge; the ordinance contemplates unlimited vegetation height.
4. The request may be due to unique property related circumstances; the neighboring property owner has twice trimmed the applicant's shrubs without permission. This situation is specific to this property line.



Area is in Airport Hazard Overlay District



**Board of Adjustment**  
**Notification Plan for**  
**Case A-12-065**



Subject Property  
 200' Notification Boundary  
 Council District 10

0 15 30 60 Feet

Planning and Development Services Dept  
 City of San Antonio  
 (8/25/2012)



Area is in Airport Hazard Overlay District

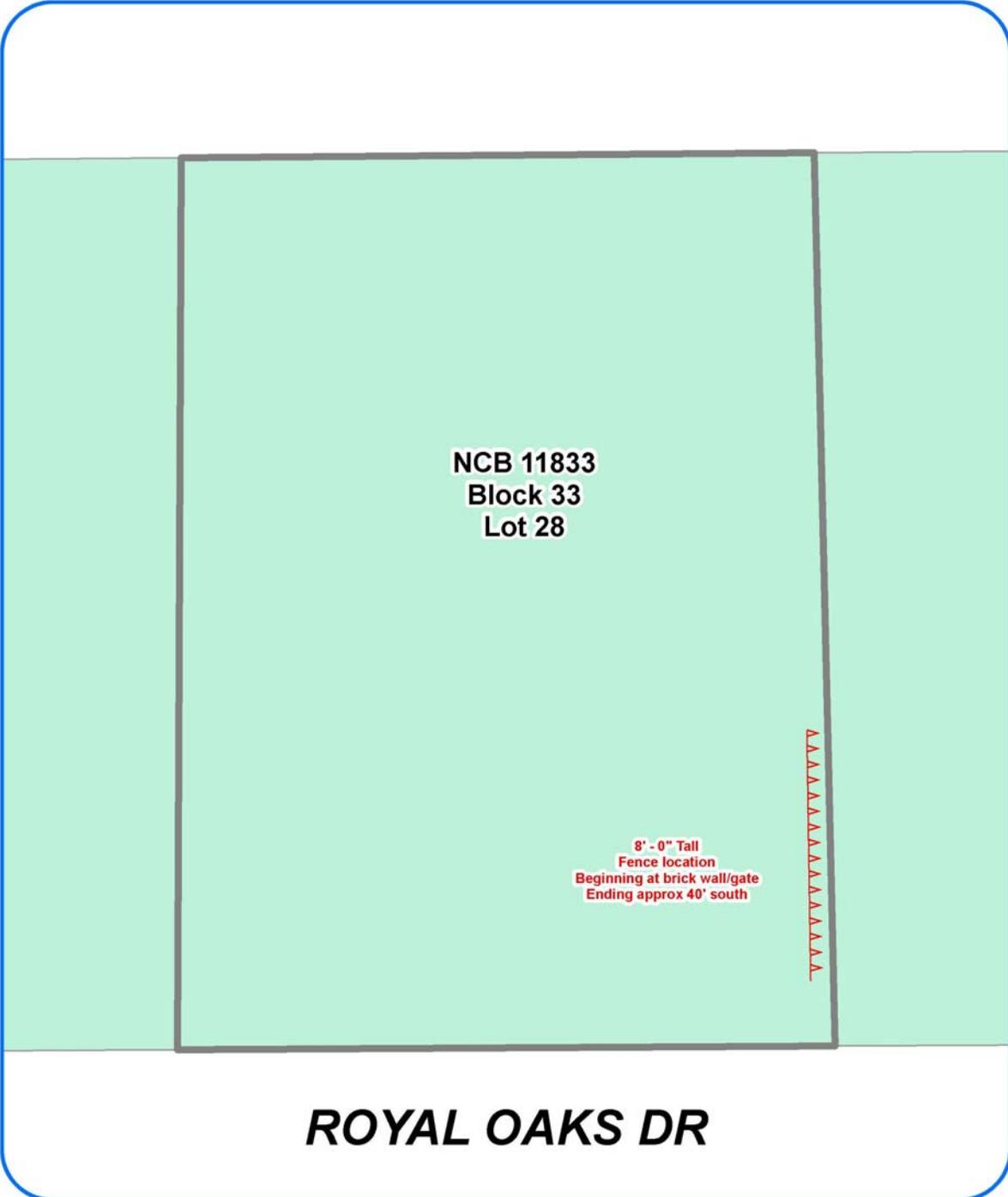
**Board of Adjustment**  
**Notification Plan for**  
**Case A-12-065**



Subject Property  
 200' Notification Boundary  
 Council District 10  
 0 15 30 60 Feet

Planning and Development Services Dept  
 City of San Antonio  
 (8/25/2012)





**Board of Adjustment**  
 Plot Plan for  
**Case A-12-065**



**Fence** ▲▲▲▲



Council District 10

**215 ROYAL OAKS DR**

Development Services Dept  
 City of San Antonio  
 (6/23/2012)