

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, June 4, 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), and the City Hall kiosk, at least seventy-two (72) hours prior to this public hearing, in compliance with the Texas Open Meetings Act.

1. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-12-039:** (CONTINUED FROM APRIL 23, 2012) The request of Thomas W. Troll, for a 2-foot variance from the 6-foot maximum fence height standard in the rear yard, in order to allow an 8-foot tall fence in the rear yard in the “R-6 ERZD MLOD” Residential Single-Family Edwards Recharge Zone Military Lighting Overlay District, 1901 Encino Rio. (Council District 9)
5. **A-12-047:** (CONTINUED FROM MAY 14, 2012): The request of Site Enhancement Services, for **1)** A 10-foot variance from the required 10-foot front setback to allow a 0-foot front setback for an on-premise pylon sign and **2)** an 11-foot, 10-inch variance from the 50-foot maximum height to allow a 61-foot, 10-inch on-premise pylon sign in the “C-3 AHOD” General Commercial Airport Hazard Overlay District, 1381 Southwest Loop 410. (Council District 6)
6. **A-12-044:** The request of Carlos and Sylvia Dominguez, for a request for a Special Exception to allow a 6-foot Ornamental-Iron Front Yard Fence in the “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District, 347 Tesla Drive. (Council District 5)
7. **A-12-045:** The request of Brown and Ortiz, PC, for a variance from the required 25-foot Type D Bufferyard in the “C-3 AHOD” General Commercial Airport Hazard Overlay District, 7800 Block of IH-35 South. (Council District 4)
8. **A-12-051:** The request of James Hogarth, for a Special Exception to allow a 6-foot Ornamental-Iron Front Yard Fence in the “RM-4 AHOD” Mixed Residential Airport Hazard Overlay District, 506 Dakota Street (Council District 2)

Board of Adjustment Membership

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

Alternate Members

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

9. **A-12-053:** The request of Rene Patton, for a Special Exception to allow a 6-foot Ornamental-Iron Front Yard Fence in the “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District, 4035 Fire Sun. (Council District 2)

10. Approval of the minutes – May 14, 2012

11. 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).

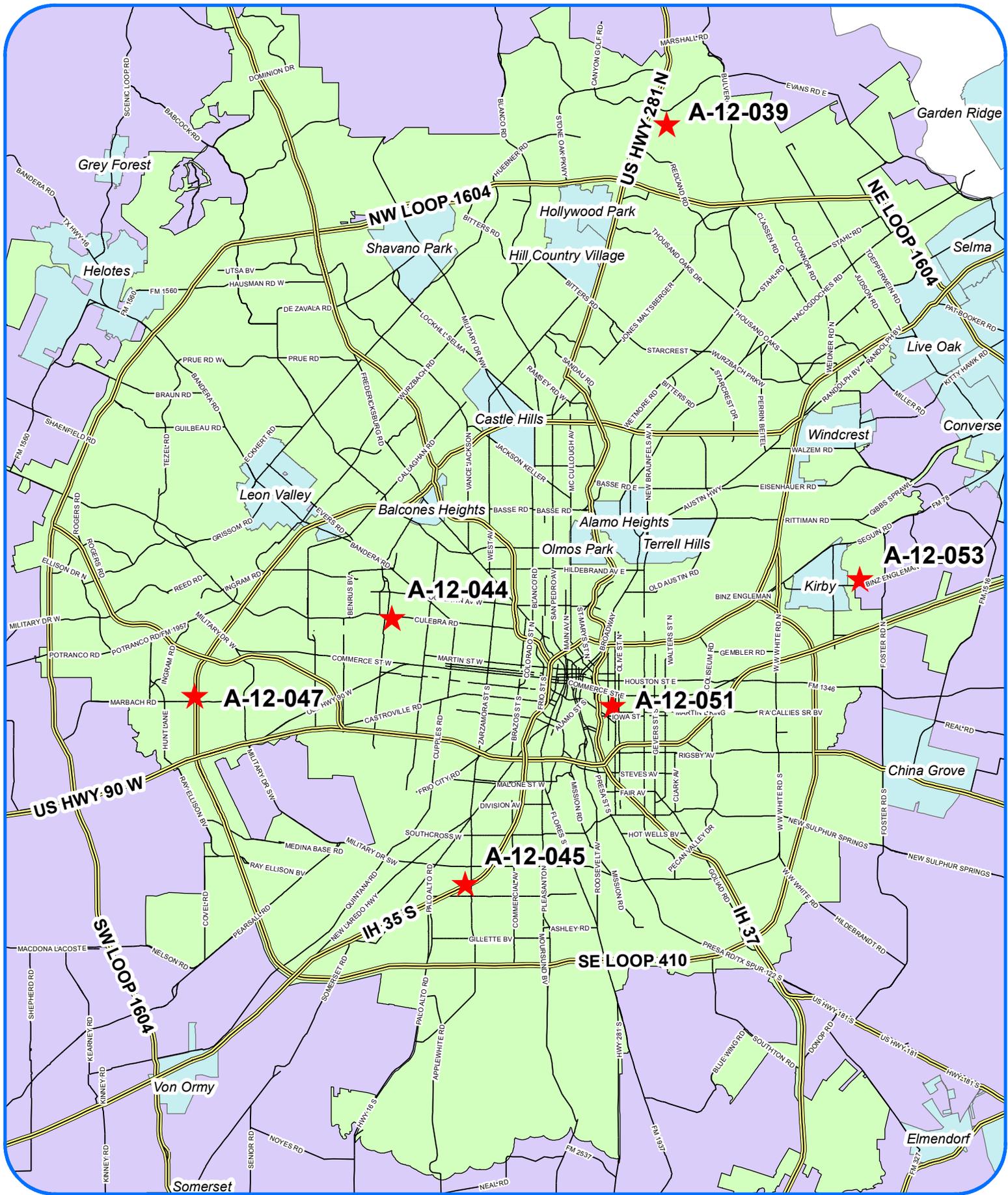
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210)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

Board of Adjustment Membership

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

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Board of Adjustment

Subject Property Locations
Cases for June 4, 2012





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-039
Date: June 4, 2012
Applicant: Thomas W. Troll
Owner: Encino Park HOA
Location: 1901 Encino Rio
Legal Description: Lot P-1A, Block, NCB 17600
Zoning: "R-6 ERZD MLOD" Residential Single-Family Edwards Recharge Zone
Military Lighting Overlay District
Prepared By: Trenton Robertson, Planner

Request

A 2-foot variance from the 6-foot maximum fence height standard in the rear yard, in order to allow an 8-foot tall fence in the rear yard.

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 5, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on April 20, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The approximately 5.13-acre property is located on the north side of Encino Rio, west of Creek Country. Currently, the property is a community recreation area for the Encino Park neighborhood consisting of a swimming pool, park, playground, tennis and basketball courts. The property is surrounded by single-family residential to the north, south east and west.

There is an existing 6-foot tall wood fence along the rear boundary extending seven hundred thirty six (736) feet across the north side of the subject property. Pursuant to Section 35-514 of the Unified Development code (UDC), rear yard fences are permissible up to six (6) feet in height on properties zoned single-family residential. The applicant is requesting an additional two (2) foot height variance for the fence adjacent to the pool for a distance of two hundred

ninety (290) feet. This section of the fence is located on the northwest portion of the property (**Attachment 2**). The applicant stated on the application the variance is needed for extra protection, keep trespassers out, reduce vandalism and increase privacy for homeowners whose properties are abutting the back of the pool area.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-6 ERZD MLOD (Single-family)	Community Recreation Area

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Neighborhood Plan. The subject property is located within the Encino 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 requested fence height variance will not adversely impact the well-being of the general public as it will not obstruct visibility for impending traffic.

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

A literal enforcement of the maximum fence height standard will require the applicant to maintain the height of six (6) feet for the northwest two hundred ninety (290) feet of fence line. The subject property is not uniquely influenced by special conditions of the pool. Although, the fence variance for an additional two (2) feet of height would act as an added protection needed to safeguard the applicant from trespass and vandalism, a six (6) foot fence would provide the same protection. These conditions would not result in the need of an 8-foot tall fence within this portion of the property. By granting the variance and not adhering to Section 35-514 of the UDC, it would give the subject property privileges not enjoyed by other properties with swimming pools who have adhered to the required conditions set forth in the UDC.

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

The requested fence height variance will not be in keeping with the spirit of the ordinance as the proposed fence height doesn't comply with the intent of the maximum fence height standards. Swimming pools are permitted to have a fence height up to six (6) feet on all sides of the property in accordance to Section 35-514 of the UDC.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6" Single- Family Residence.

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

The requested fence height variance will not adversely impact the adjacent conforming properties. The subject property is surrounded by single-family residences. The recreation area is designated for the benefit of those properties within the Encino Park HOA. The properties in the surrounding area will be able to continue to use their property for single-family residential. The requested variance will not substantially injure the appropriate use of the adjacent conforming 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.*

The requested variance is due to trespassing, vandalism and privacy issues. These conditions are not a result of the general conditions of the zoning district or due to financial hardship. However, the unique circumstances were created by the owners. The pool was built with the intent to further the enjoyment of those members in the Encino Park HOA. The pool does not qualify as a unique circumstance on the property. In order to be a unique circumstance there needs to be exceptional physical characteristics of the property that are unique to the subject property and distinct from those of nearby properties and the district in general. There was no physical feature of the subject property which would fall under these criteria.

Staff Recommendation

Staff recommends **Denial of A-12-039**. The requested variance complies with only two of the six approval criteria needed for granting a variance. The applicant did not provide sufficient evidence proving an unnecessary hardship to authorize a variance in accordance to Section 35-482(h). A pool is permitted to have a fence on all sides of the property not exceeding six (6) feet in height pursuant to Section 35-514 of the UDC. The conditions of the subject property does not warrant granting a variance due to the subject property lacking exceptional physical characteristics of the property that are unique to the subject property and distinct from those of nearby properties and the district in general.

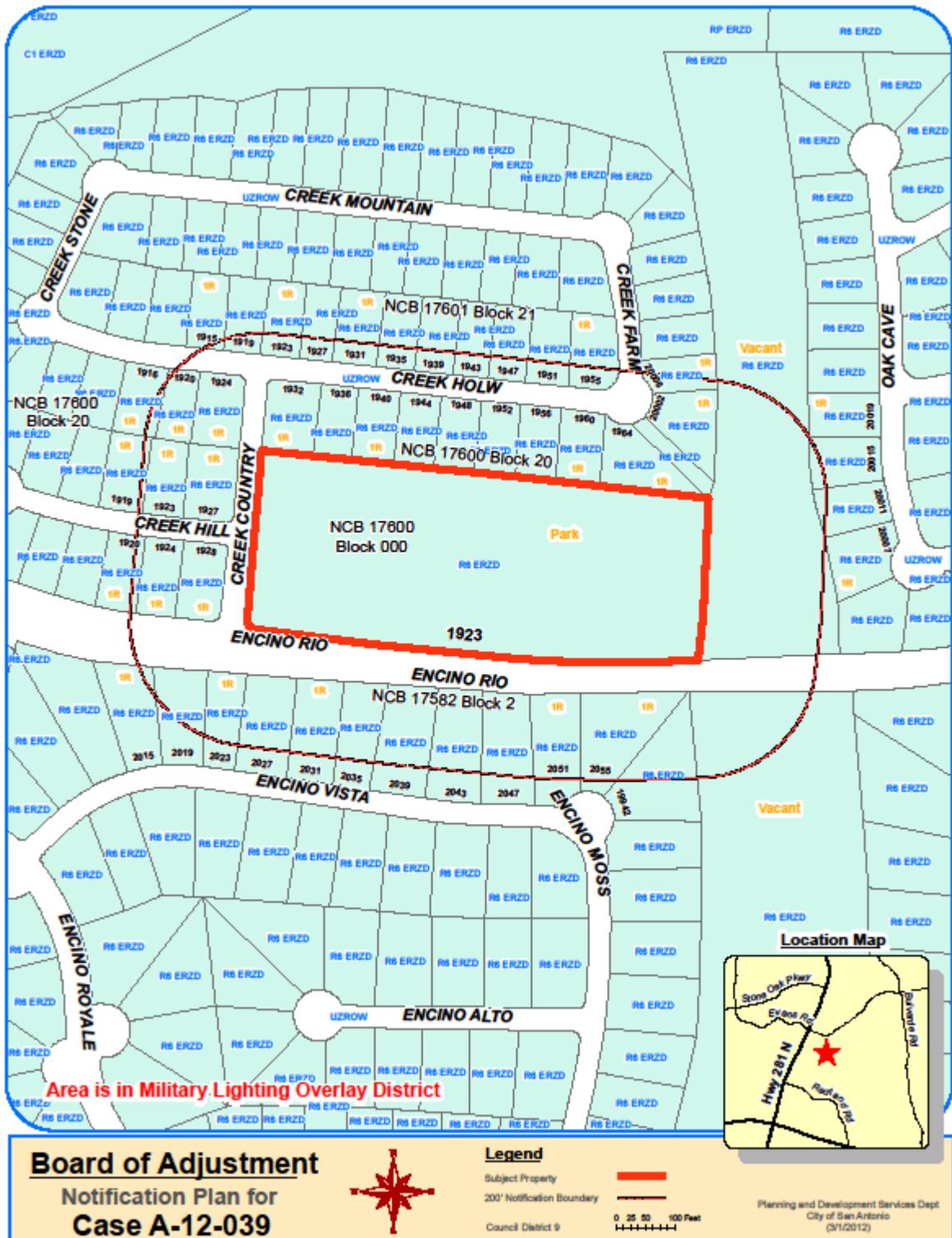
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Site Plan

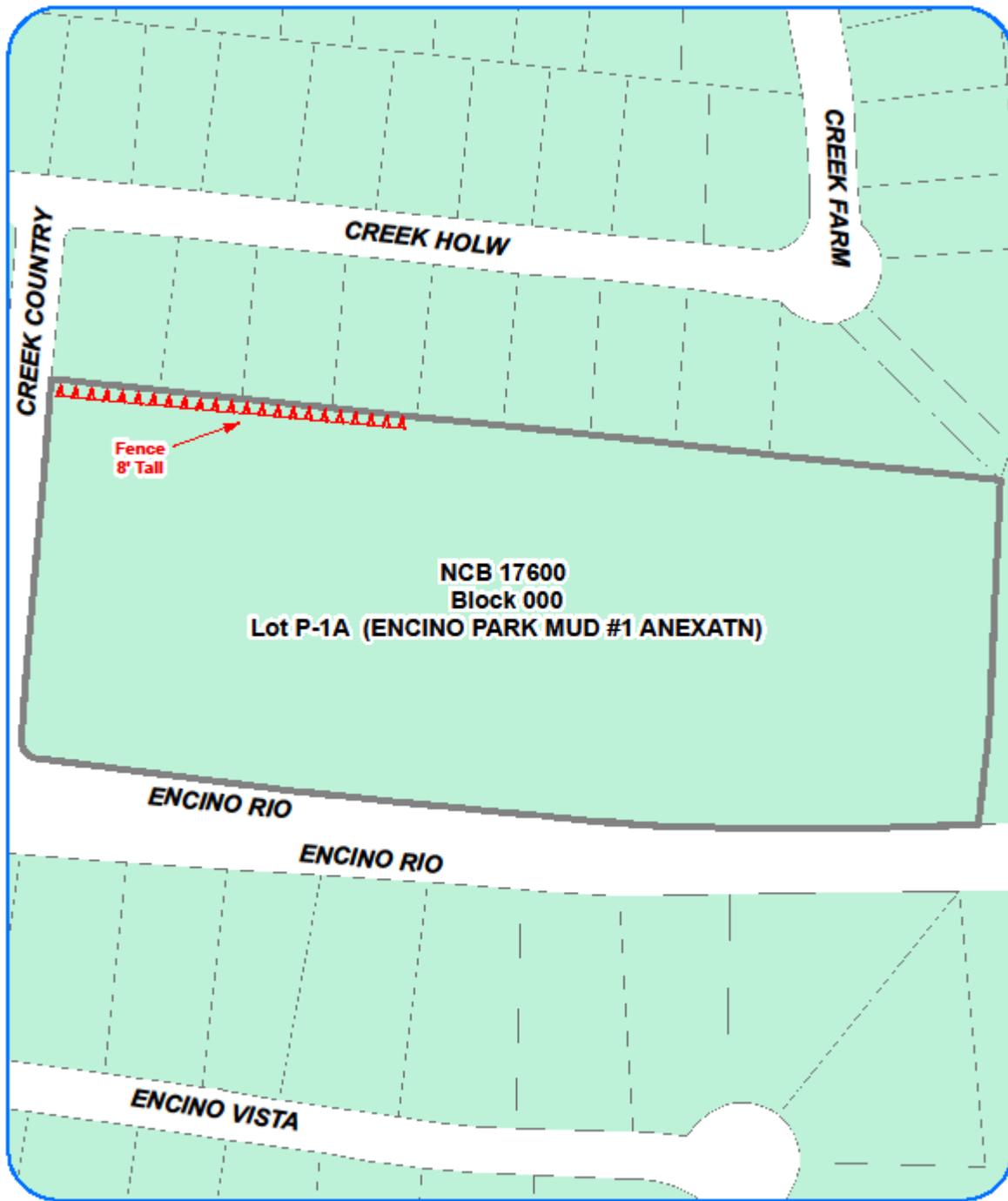
Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case A-12-039

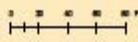


Fence **A.A.A.A.**
0 20 40 60 Feet
Council District 9

1923 ENCINO RIO
Development Services Dept
City of San Antonio
(3/19/2012)

Attachment 2 (Continued)
Plot Plan



Board of Adjustment Plot Plan for Case A-12-039		Fence AAAA  Council District 9	1923 ENCINO RIO <small>Development Services Dept City of San Antonio (3/19/2012)</small>
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Attachment 3 Site Plan





City of San Antonio

Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-12-047
Date: May 14, 2012
Applicant: Site Enhancement Services
Owner: GMRI, Inc.
Location: 1381 Southwest Loop 410
Legal Description: Lot 8, Block 1, NCB 17172
Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District
Prepared By: Matthew Taylor, Senior Planner

Request

The applicant requests 1) A 10-foot variance from the required 10-foot front setback to allow a 0-foot front setback for an on-premise pylon sign, and 2) An 11-foot, 10-inch variance from the 50-foot maximum expressway height standard to allow a 61-foot, 10-inch on-premise pylon 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 25, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on April 26, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's Internet website on May 10, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property totals about three-fourths of one-acre and has an existing restaurant. The restaurant building is approximately 8,000 square feet in size and has a construction date of 1984 per the Bexar County Appraisal District. In addition to the freestanding on-premise pylon sign, the restaurant building has existing wall signage.

The property is located just north of the intersection of Southwest Loop 410 and Marbach Road. Numerous existing businesses are present in this area and range from restaurants and convenience stores to banks and grocery stores. Many of these businesses, including the restaurant on the subject property, were established during the mid-1980's. Since the explicit standards for height, area and setbacks were not codified for on-premise signs until December of 1994, some of the older, existing signs in this area do not conform to one or more of the

standards established in Chapter 28 (*Signs and Billboards*) of the City Code. For example, the existing pylon sign on the subject property meets the allowable square footage; however, it is presently nonconforming as it exceeds the maximum height allowance for signs along expressways and does not meet the minimum front setback requirement. The sign was installed following the opening of the restaurant and was re-faced at least once, in 1998, per City permitting records. A nonconforming sign may be re-faced indefinitely. The replacement of a sign cabinet causes a loss of nonconforming status pursuant to Section 28-245, requiring full compliance with the current standards of Chapter 28.

The existing pylon sign cabinet measures 375-feet in area, has a height of 66-feet above ground level and is setback from the front property line about 1-foot, 9-inches. Although the existing sign does not exceed the maximum square footage (375-feet), it exceeds the maximum height standard (50-feet) and encroaches into the minimum required front setback (10-feet). Therefore, the applicant is requesting to *decrease* the level of nonconformity for height by 4-feet, 2-inches but is requesting to *increase* the nonconforming setback by 8-feet, 3-inches. Of the three standards in play, the applicant is requesting a variance from two of these standards, height and setback.

To clarify the height allowance for both the existing and proposed pylon sign, Table 2 in Section 28-239 of the City Code identifies a maximum height along expressways of 50-feet; however, the Table also notes:

Not to exceed fifty (50 feet in height above the adjacent street grade, not to exceed a maximum of sixty (60) feet above ground level.

Since street grades may physically exceed the heights of properties that front them, especially along expressways, the Code allows an additional 10-feet for freestanding signs provided the overall height of the sign does not exceed 60-feet above the property’s actual grade. In this case, city sign inspectors have identified a grade difference of 5-feet, 6-inches as the grade of Loop 410 increases along the frontage of the subject property due to the presence of the overpass at Marbach Road. This allowance enables the applicant to modify the sign to an actual height of 55-feet, 6-inches above ground level without requiring a variance; however, the proposed sign is 61-feet, 10-inches, which is 6-feet, 4-inches more than is allowed without a variance.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-3 (Commercial)	Restaurant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	C-3 (Commercial)	Automobile Repair
South	C-3 (Commercial)	Bank and Convenience Store
East	None	Expressway
West	C-3 (Commercial)	Grocery Store, Retail

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West Sector Area Plan and designated for Regional Center land uses; however, the property is not located within the boundary or within 200 feet of a neighborhood association registered with the City.

Criteria for Review

Pursuant to Section 28-247 of Chapter 28 of the City Code, in order for a variance to be granted, the applicant must demonstrate:

1. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; OR*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and*

The subject property is located along a well-established major commercial corridor. Several other businesses are located in the vicinity, most having excellent visibility from Southwest Loop 410. Other than the change in grade that occurs due to the Marbach Road overpass, there are no apparent conditions unique to the subject property or to the area in general that warrant relief from the applicable sign regulations. Further, it is improbable that a denial of the requested variance would prove fatal to the long-standing restaurant use in place. Staff believes that neither of these two criteria can be adequately demonstrated or proven by the applicant.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the board finds that:*
 - A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*

At present, the applicant does enjoy a special privilege – a nonconforming sign privilege that allows indefinite re-facing. However, this same privilege extends to many other existing signs in this general area. Overall, the degree of nonconformity will be largely unchanged if the requested variances are granted.

- B. *Granting the variance will not have a substantially adverse impact on neighboring properties.*

Granting the requested variance will not adversely impact neighboring properties. The subject property is just one of several properties along Southwest Loop 410 in the vicinity of Marbach Road with existing businesses and freestanding signage. Although some of these businesses have had modifications done to their signage, several existing signs were originally constructed prior to the effective date of the City's on-premise sign regulations and possess various degrees of nonconformity.

- C. *Granting the variance will not substantially conflict with the stated purposes of this article.*

Staff recognizes the importance of advertising to the business community and that prominent on-premise advertising can assist in securing the long term viability of any given business. Part of this consideration is also to recognize that copyrighted and/or trademarked images change over time, creating circumstances that require alterations to or the outright replacement of existing signage. In accordance with Section 28-245 (Nonconforming Sign Abatement), the existing sign may remain in its current state or undergo modifications to the sign face, as has happened in the past. The most substantial portion of the applicant's request is to increase the nonconformity of the front setback because of the increased width of the new sign cabinet.

Chapter 28 of the City Code is explicit in its purpose and function. Generally, the sign regulations are intended to promote safety and efficiency by ensuring safe construction and placement, limiting confusion or distraction due to proliferation and enhancing the aesthetic and economic attributes the City currently possesses. Staff's position is that, whether the requested variance is granted or whether the sign remains in its current state, the overall intent of the City's sign regulations is compromised.

Alternatives to Applicant Request

The applicant is willing to reduce the height of the sign and conceivably can reduce the height further to ensure the sign does not exceed the maximum height allowed (50-feet plus a grade allowance of 5-feet, 6-inches). Further, the existing pylon is about 14-feet from the edge of right-of-way. A new cabinet can be structurally offset in a manner that prevents any portion of the sign from projecting into the required 10-foot setback if not outright reduced in width. While the reduction in square footage of the cabinet assembly is not unnoticed by Staff, this trade-off in conditions does not replace the findings necessary to support the applicant's request.

Staff Recommendation

Staff recommends **denial of A-12-047** based on the following findings:

1. Since the variance is for modifications to an existing sign, strict enforcement of Chapter 28 is not prohibiting a use or imposing more restrictive standards than those otherwise allowed by the zoning district or because of the property's location along an expressway. Additionally, the property has no unique features and the difference in grade between the property and Southwest Loop 410 is compensated for by the additional height allowance (up to 10-feet above ground level) identified in Section 28-239 of the City Code.
2. The existing use of the subject property is long-standing and is not proposed to change. The existing sign is highly visible from the adjacent expressway in its current form and a denial of the variance will not place the survival of the existing use in jeopardy. The sign may be brought into full conformance with Chapter 28 and still retain excellent visibility from the expressway.
3. The requested variances will not have adverse impact on neighboring properties though the variances are by nature in conflict with the stated purposes of Chapter 28. Specifically, variances for height and setback do provide the applicant with privileges not enjoyed by others in the vicinity. Several signs in the area are pre-ordinance legal nonconforming for height, setback or square footage or some combination of these standards but this nonconformity restricts modifications to sign re-facing only, prohibiting any increase in existing nonconformities.

Attachments

Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

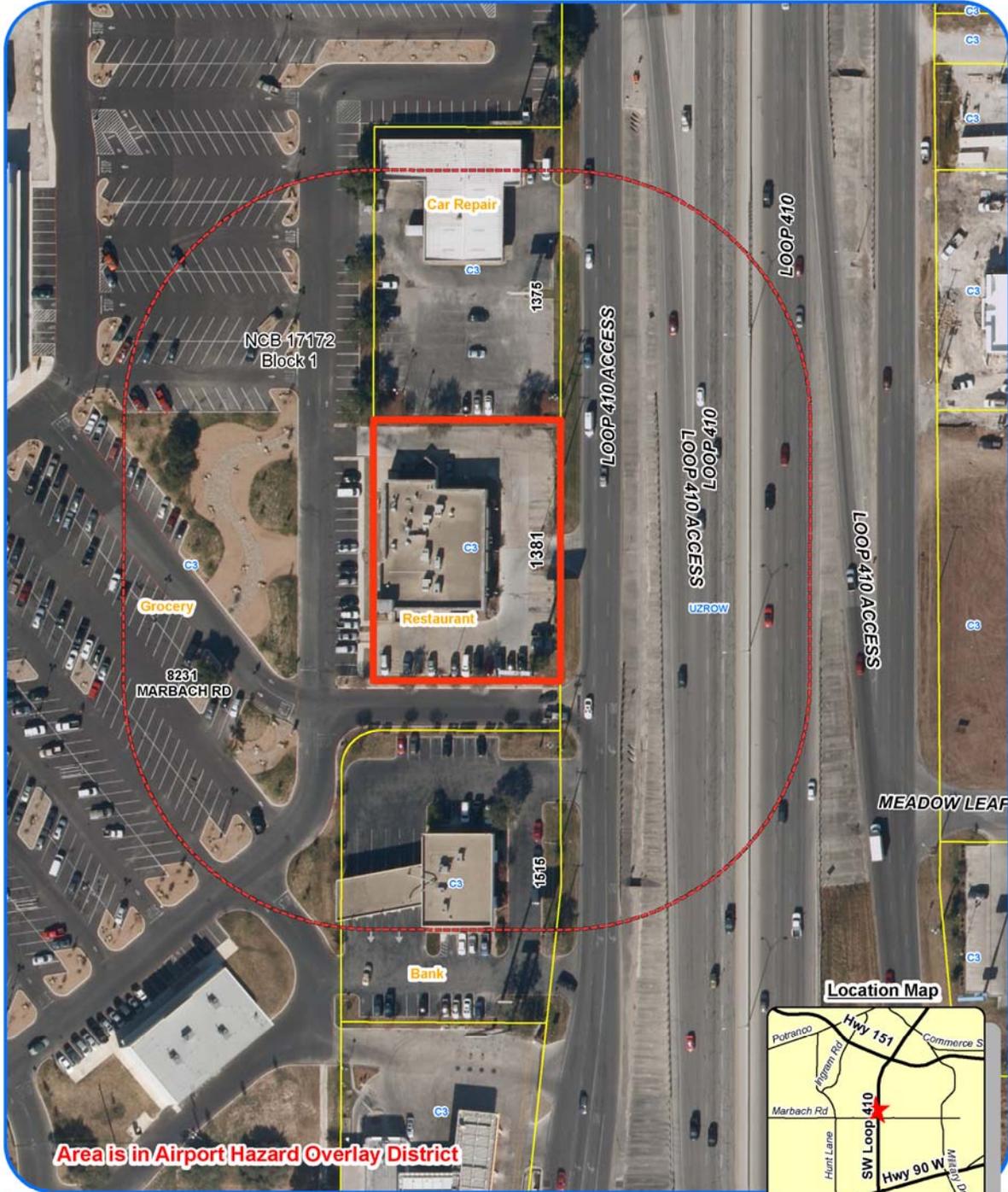
Attachment 3 – Applicant Site Plan

Attachment 4 – Elevation of Proposed Sign (Applicant Rendering)

Attachment 5 – Comparison of Existing and Proposed Signs (Applicant Rendering)

Attachment 6 – Detail of Proposed Sign Cabinet (Applicant Rendering)

Attachment 1 Notification Plan (Aerial Map)



Area is in Airport Hazard Overlay District

Board of Adjustment
Notification Plan for
Case A-12-047



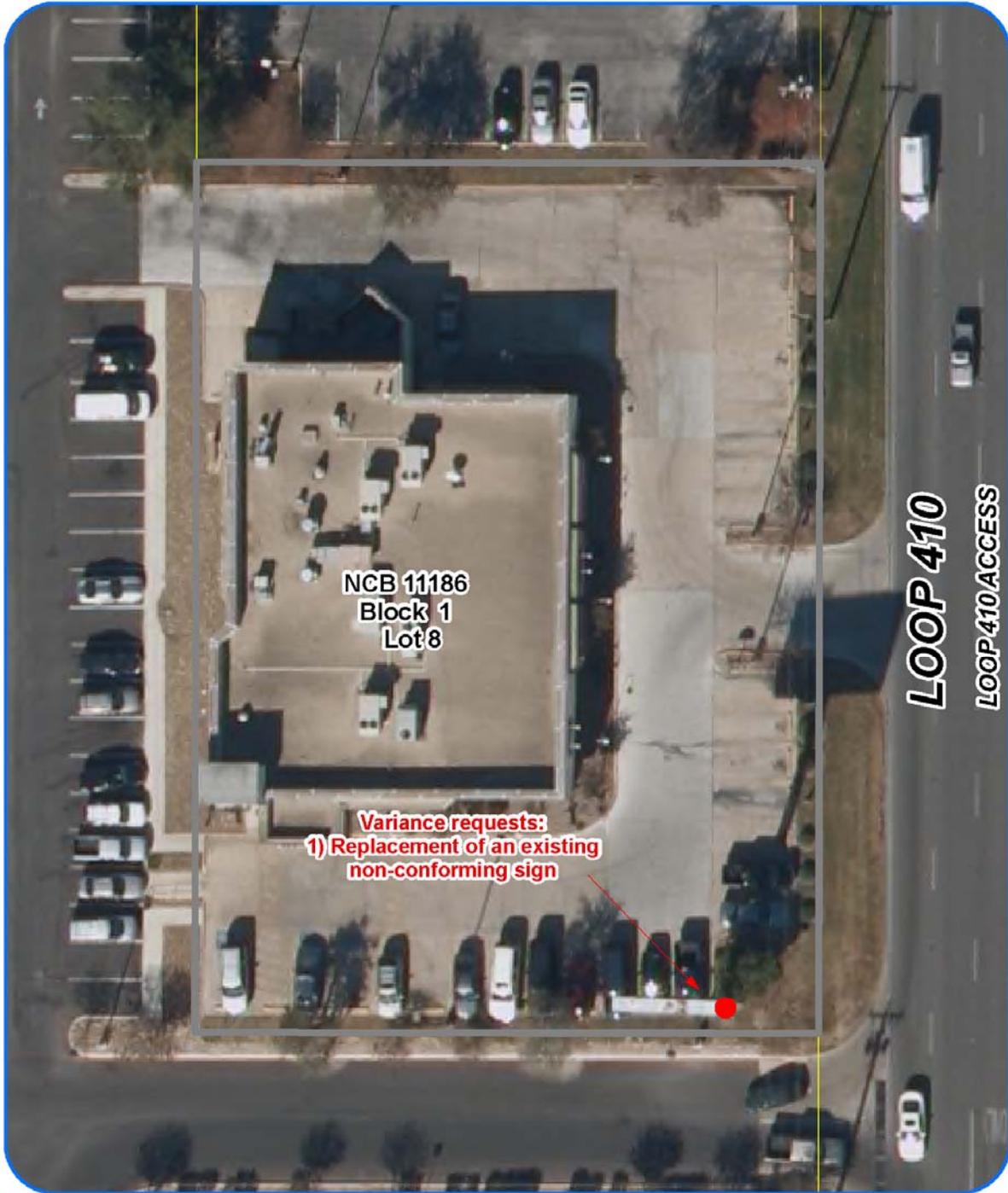
Legend

- Subject Property
- 200' Notification Boundary
- Council District 6



Planning and Development Services Dept
City of San Antonio
(5/1/2012)

Attachment 2
Plot Plan (Aerial Map)



Variance requests:
1) Replacement of an existing non-conforming sign

Board of Adjustment
Plot Plan for
Case A-12-047



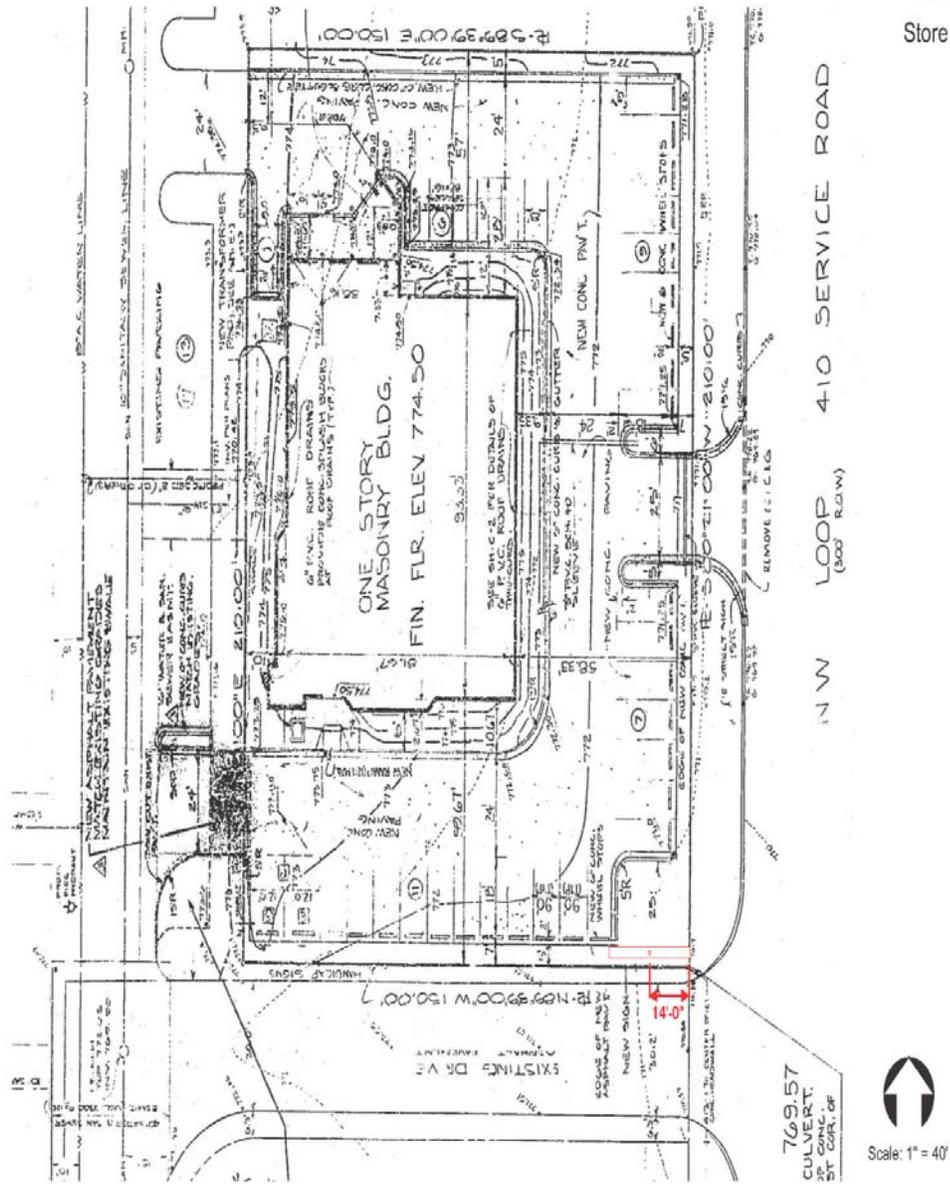
Sign Location ●
0 10 20 30 40 Feet
Council District 6

1381 SW LOOP 410

Development Services Dept
City of San Antonio
(4/19/2012)

Attachment 3 Applicant Site Plan

Site Plan
Store #0386



Attachment 5 Comparison of Existing and Proposed Signs

Pylon Overlay
Store #0386

Existing: 15'-0" x 25'-0" Pylon at 66'-0" OAH: 375 SF



Proposed: 10'-10 7/8" x 28'-7" Pylon at 61'-10" OAH: 311.74 SF
Proposed pylon is 63.26 SF smaller and 4'-2" shorter than existing pylon



Attachment 6 Detail of Proposed Sign Cabinet

RL-SIG-P300-PPCL-LED

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City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-12-044
Date: June 4, 2012
Applicant: Carlos & Sylvia Dominguez
Owner: Carlos & Sylvia Dominguez
Location: 347 Tesla Drive
Legal Description: Lot N 47' of E 75' of 4, Block 3, NCB 8637
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Trenton Robertson, Planner

Request

A request for a special exception to allow a 6-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 May 17, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on May 18, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on May 31, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The approximately 0.08-acre subject property is located along the west side of Tesla Drive. The property is surrounded by single-family residential to the north, south, east and west. The applicant has already constructed an ornamental-iron fence in the front yard 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 six (6) 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	MF-33 AHOD (Multi-Family)	Single-Family Residence
South	R-6 AHOD (Single-Family)	Single-Family Residence
East	R-6 AHOD (Single-Family)	Single-Family Residence
West	MF-33 AHOD (Multi-Family)	Single-Family Residence

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 the Memorial Heights 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.

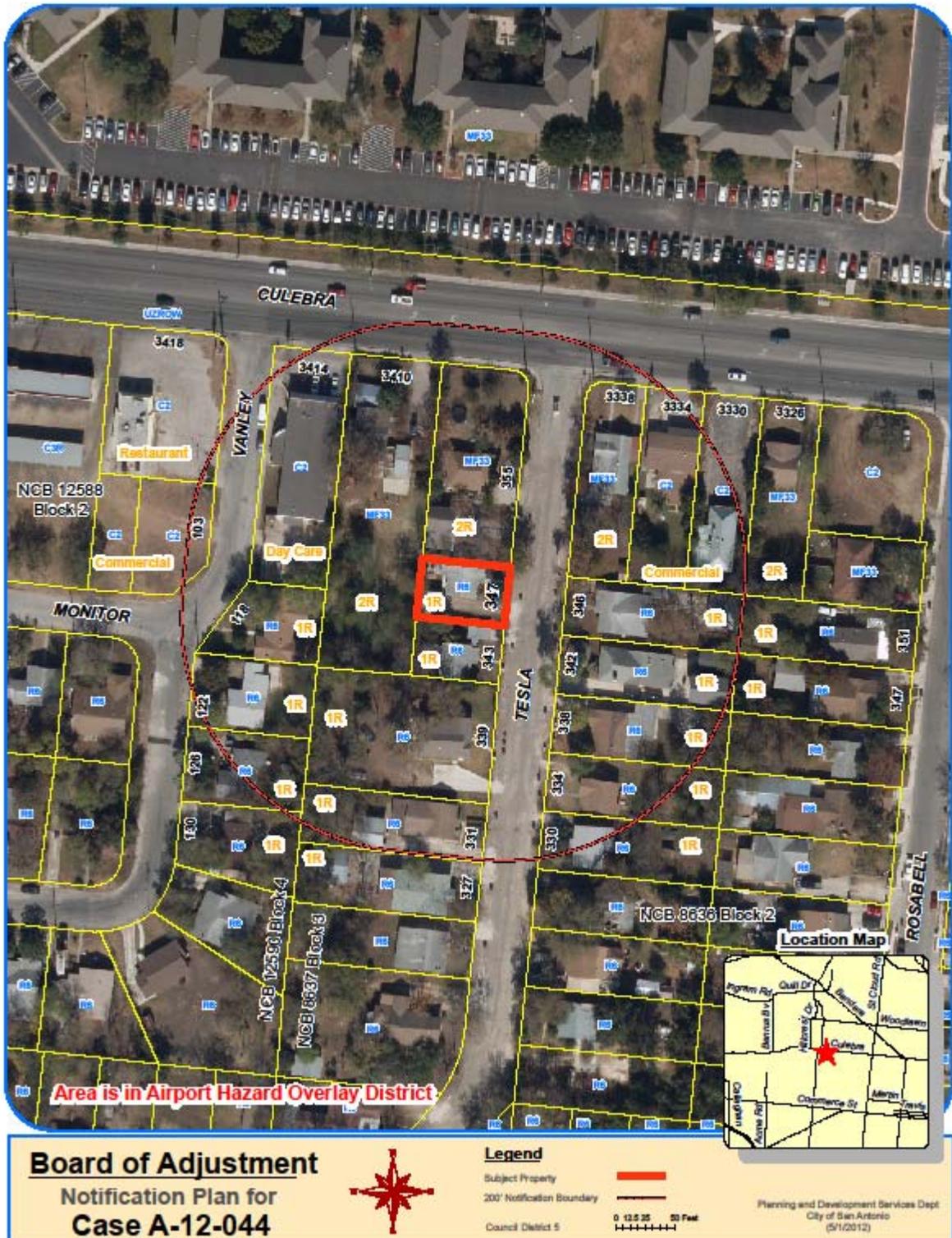
Staff Recommendation

Staff recommends **approval of A-12-044**. 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

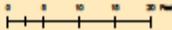
- Attachment 1 – Notification Plan (Location Map)
- Attachment 2 – Plot Plan
- Attachment 3 – Site Plan
- Attachment 4 – Fence Elevation

**Attachment 1 (Continued)
Notification Plan**



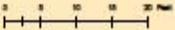
Attachment 2
Plot Plan



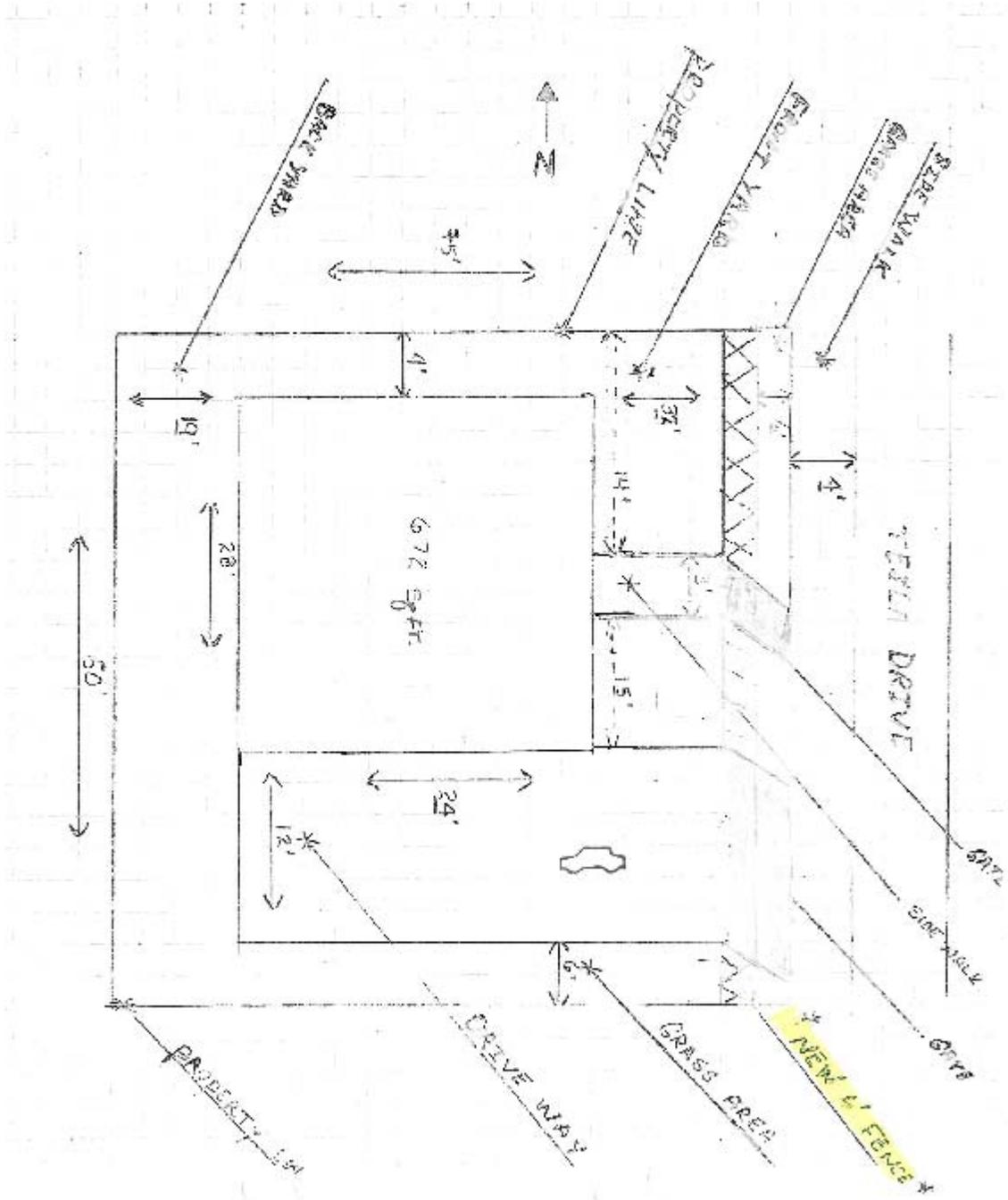
Board of Adjustment Plot Plan for Case A-12-044		Fence   Council District 5	347 TESLA DR <small>Development Services Dept City of San Antonio (4/19/2012)</small>
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Attachment 2 (Continued)
Plot Plan

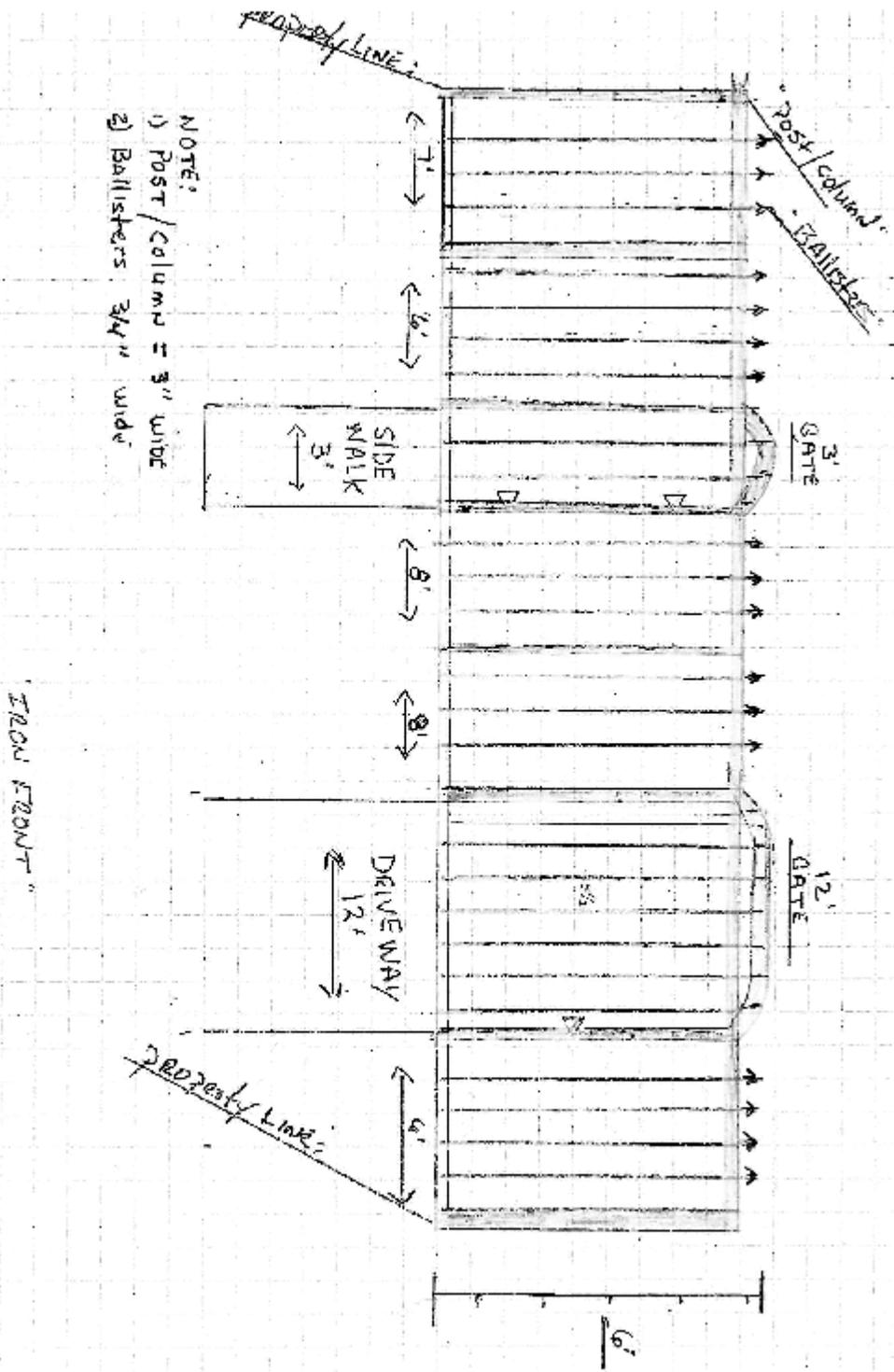


<p>Board of Adjustment Plot Plan for Case A-12-044</p>		<p>Fence   Council District 5</p>	<p>347 TESLA DR <small>Development Services Dept City of San Antonio (4/19/2012)</small></p>
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Attachment 3
Site Plan



Attachment 4
Fence Elevation



NOTE:
1) POST/COLUMN = 3" wide
2) Ballisters: 3/4" wide



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-045
Date: June 4, 2012
Applicant: Brown and Ortiz, PC
Owner: MTB Properties, Ltd. (undivided ½ interest) and WOB Properties, Ltd. (undivided ½ interest)
Location: 7800 block of IH-35 South
Legal Description: 1.78 acres out of NCB 11186
Zoning: "C-3 AHOD" Commercial Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

The applicant requests a variance from the required 25-foot Type D Bufferyard between the subject property and a neighboring property zoned "I-2 AHOD" Heavy Industrial Airport Hazard Overlay District in order to construct a medical office with parking within the required buffer.

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 May 16, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on May 18, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on May 31, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The approximately 1.78-acre property is located on the northwest side of IH-35 South, approximately 875 feet west of South Zarzamora Street. The parcel is currently unplatted, but is proposed to be approximately 236 feet wide by 385 feet deep. The parcel is vacant, and the applicant has stated that a medical clinic is the proposed use.

The applicant is requesting a waiver of the Type D Bufferyard as required in Section 35-510(c) of the UDC. The Type D Bufferyard is required whenever properties within the "C-3" and "I-2" base zoning districts abut. A Type D Bufferyard must be a minimum of 25 feet in width, and must be landscaped; additionally, the buffer requires a solid, six-foot high fence or wall. Further,

Section 35-310(f) restricts uses allowed within the bufferyard area, specifically prohibiting parking.

The proposed use of the property is a 20,000 square-foot medical clinic. The bufferyard area, according to the submitted site plan, is anticipated to be used for parking. As stated above, parking is not allowed within the required bufferyard. A 20,000 square-foot medical clinic requires a minimum of 50 parking spaces (1 space per 400 square feet of gross floor area), and allows a maximum of 200 parking spaces (1 space per 100 square feet of gross floor area) per Section 35-526(b) of the UDC. The site plan depicts 138 proposed parking spaces, with 35 of those spaces located within the required bufferyard.

It should be noted that the current land use (automobile sales) of the abutting “I-2” district is consistent with a “C-3” or “L” use, which would not require a buffer. “I-2” base zoning districts do not allow automobile sales by right, however, the current land use was established under the 1938 “MM” Second Manufacturing District which allowed automobile sales, and therefore is considered non-conforming. “MM” base zoning districts converted to “I-2” base zoning districts upon adoption of the UDC in 2001. The applicant’s position is that the bufferyard requirement should not apply because the existing land use is less intense than most allowed “I-2” uses,. The applicant further contends that, if the automobile sales use was discontinued and redevelopment of the site occurred, then the abutting property owner or developer would be required to provide the bufferyard. However, the UDC does not make this distinction, and the requirement of the bufferyard rests solely with the developer requesting the current building permit.

Another fact is that the current “C-3” base zoning of the subject property was only approved in 2007 (Ordinance 2007-05-17-0584, dated May 17, 2007) and was at the request of the owner of the property. The previous base zoning district was “I-2.” The rezoning created the need for the bufferyard well after the development of the adjacent “I-2” base zoning district as an automobile dealership, which occurred in approximately 1965, as per Bexar CAD records.

The applicant argues that the buffer does not or should not apply because the land use established in the “I-2” district is a less intense use.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-3 AHOD (Commercial)	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	C-3 AHOD (Commercial)	Vacant
South	Unzoned right-of-way	Interstate 35
East	C-3 AHOD (Commercial)	Restaurant
West	I-2 AHOD (Heavy Industrial)	Automobile Sales

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan area. The subject property is not located within the boundaries of a 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 requested variance would waive the requirement of a Type D Bufferyard. Buffers are intended to shield less intense land uses from heavier land uses by reducing visual clutter and distraction. Buffers allow for increased enjoyment of open air, space, and light of adjacent properties and serve to break-up vast areas of impervious cover, curtail urban heat island, and reduce stormwater impacts. The applicant correctly states that the current adjacent land use as full-service automobile sales is compatible with the proposed medical clinic use, as both uses are allowed in “C-3” base zoning districts; however, the underlying zoning district is “I-2” Heavy Industrial which allows the most intense land uses available. If the current use as automobile sales were to be abandoned, any number of intense manufacturing, processing, or storage uses would be allowed to occupy the site. It is because of these allowed land uses that the requested variance would adversely affect the public interest.

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

The subject property is an unplatted 236 feet wide by 385 feet deep parcel. The proposed site plan depicts a 20,000 square-foot medical clinic which requires a minimum of 50 parking spaces (1 space per 400 square feet of gross floor area), and allows a maximum of 200 parking spaces (1 space per 100 square feet of gross floor area). The site plan depicts 138 proposed parking spaces, with 35 of those spaces located within the required bufferyard. No portion of the actual building is proposed to be within the bufferyard area. If the parking were to be removed from the bufferyard area, the site would still allow 103 parking spaces, with room for additional parking spaces elsewhere on the property. Additionally, the driveway around the building is not located within the bufferyard area; therefore, the anticipated internal circulation patterns of the site would not be affected. A literal enforcement of the ordinance would not result in an unnecessary hardship.

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

Justice and the spirit of the ordinance typically focus on the equal application of the rules to all property owners facing the same type of situation. This bufferyard requirement is a legitimate attempt at mitigating land use incompatibility. All “I-2” properties abutting “C-3” properties require a buffer. Reducing this requirement for only one of these parcels without substantial property-related evidence to warrant the reduction provides an unfair advantage to this owner and disregards the spirit 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 “C-3” General Commercial base zoning district.

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

The bufferyard requirement is geared toward both protecting the current owner and the future owners as well as providing an effective boundary between intense and less intense land uses. Given that the automobile dealership could cease operations at any time, and any number of very intense heavy industrial uses could occupy the adjacent “I-2” site in the future, there is the potential for the character of this area, which has seen new development in the form of retail and restaurants recently, to be significantly negatively altered.

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

There are no circumstances unique to the property that would preclude the inclusion of the buffer. The property is, in fact, vacant land. The land was rezoned at the request of the property owner in 2007 from an “I-2” base zoning district to the current “C-3” base zoning district, thus creating the need for the required bufferyard. Any hardship that may exist is self-imposed due to the owner’s request for rezoning to “C-3” at this location.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to develop the property with the required bufferyard. The alternative would require the elimination of 35 parking spaces, some of which could be replaced elsewhere on the site. Additionally, the site could be redesigned to accommodate additional parking by constructing a taller building with a smaller footprint, while still incorporating the required 25-foot wide buffer.

Staff Recommendation

Staff recommends **denial of A-12-045** based on the following findings.

1. The requested variance of the Type D Bufferyard complies with only one of the six required criteria for granting a variance.
2. The request is contrary to the public interest and to the spirit of the ordinance because the potential uses in the “I-2” base zoning district necessitate a Type D Bufferyard so as to provide an effective buffer between the subject property and the abutting “I-2” property.
3. A literal enforcement of the ordinance would not create an unnecessary hardship as there are viable alternatives which include the construction of the buffer that would allow the site to be developed in compliance with the code.

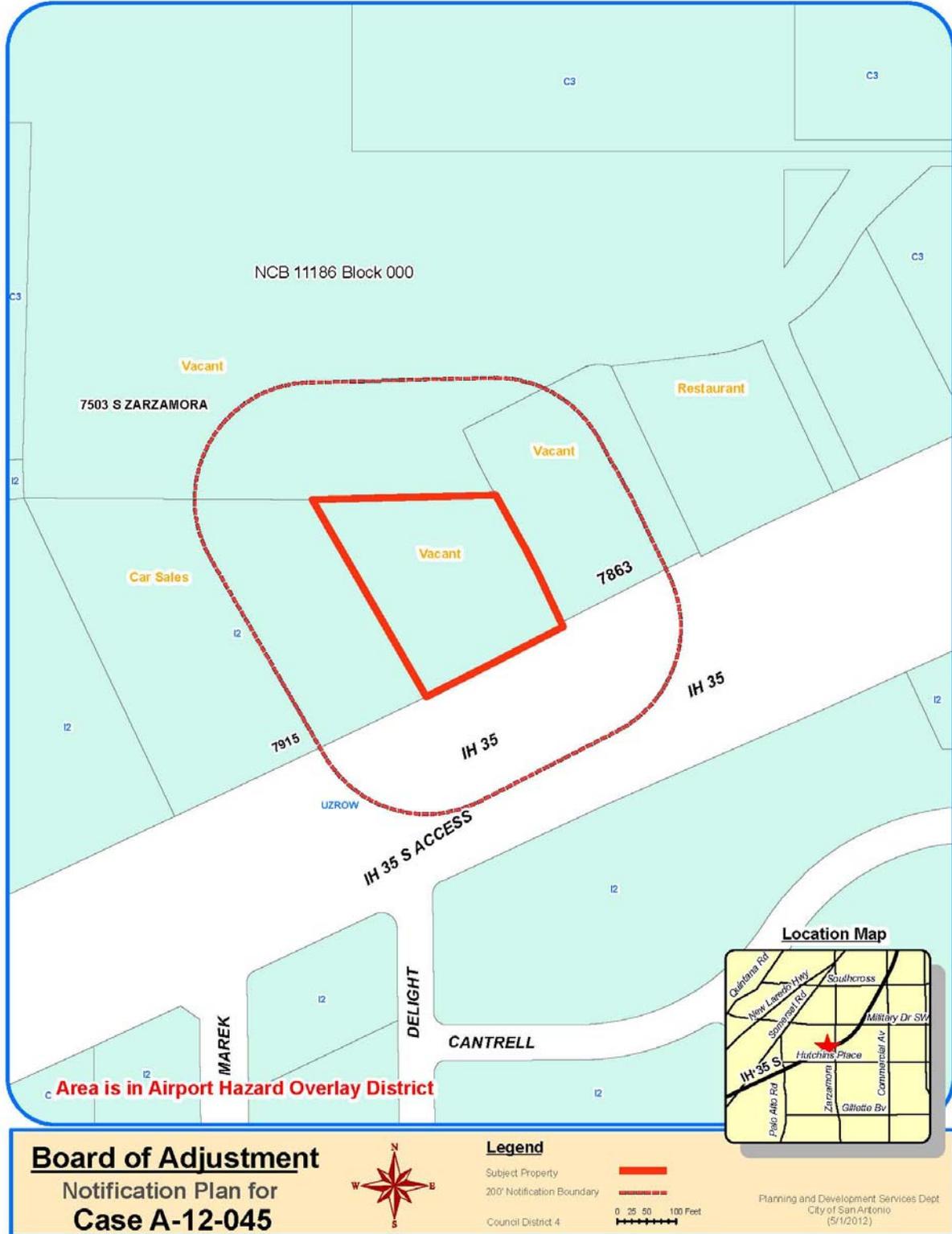
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Site Plan

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



Board of Adjustment
Notification Plan for
Case A-12-045

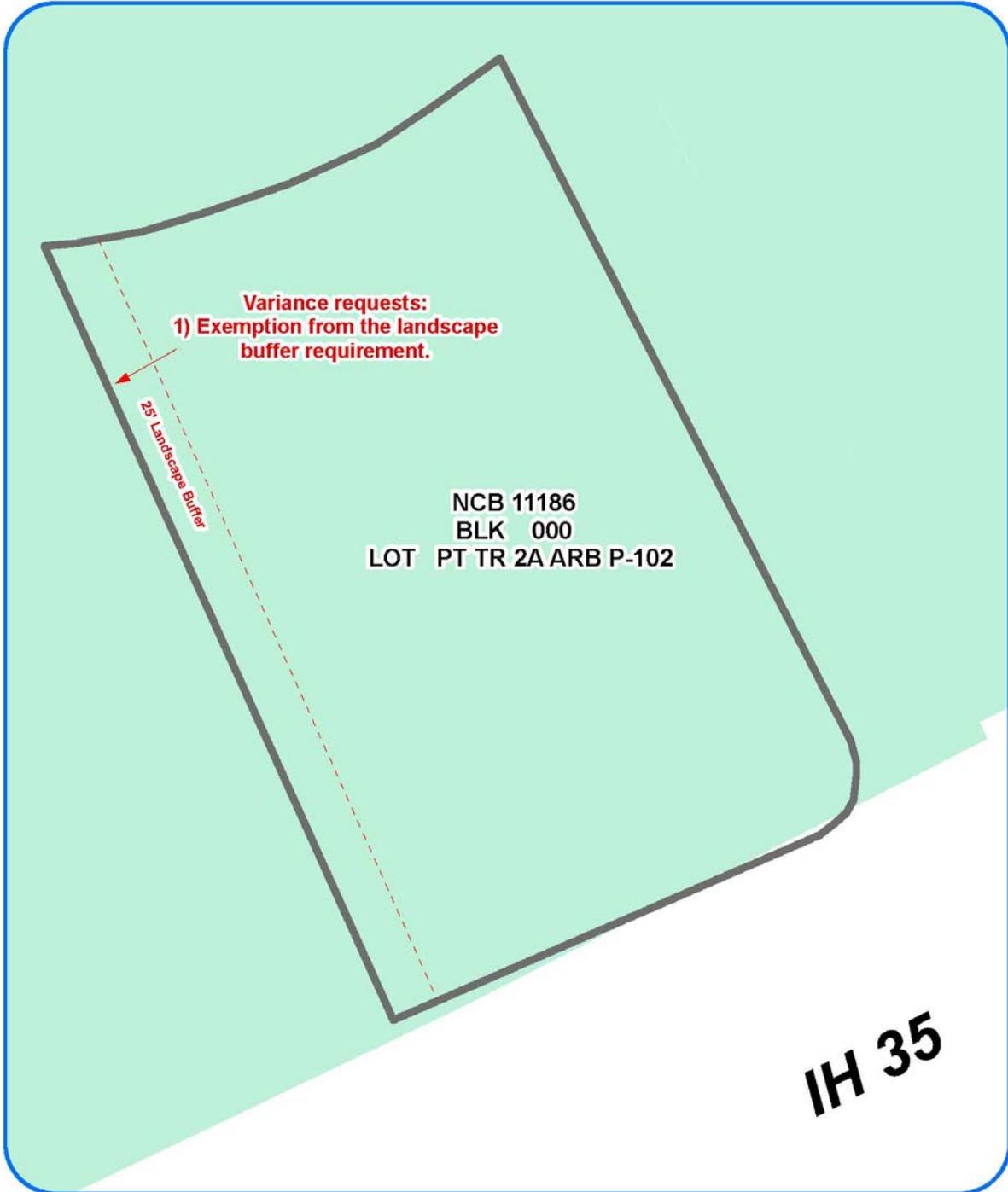


Legend

- Subject Property
 - 200' Notification Boundary
 - Council District 4
- 0 25 50 100 Feet

Planning and Development Services Dept
City of San Antonio
(5/1/2012)

**Attachment 2
Plot Plan**



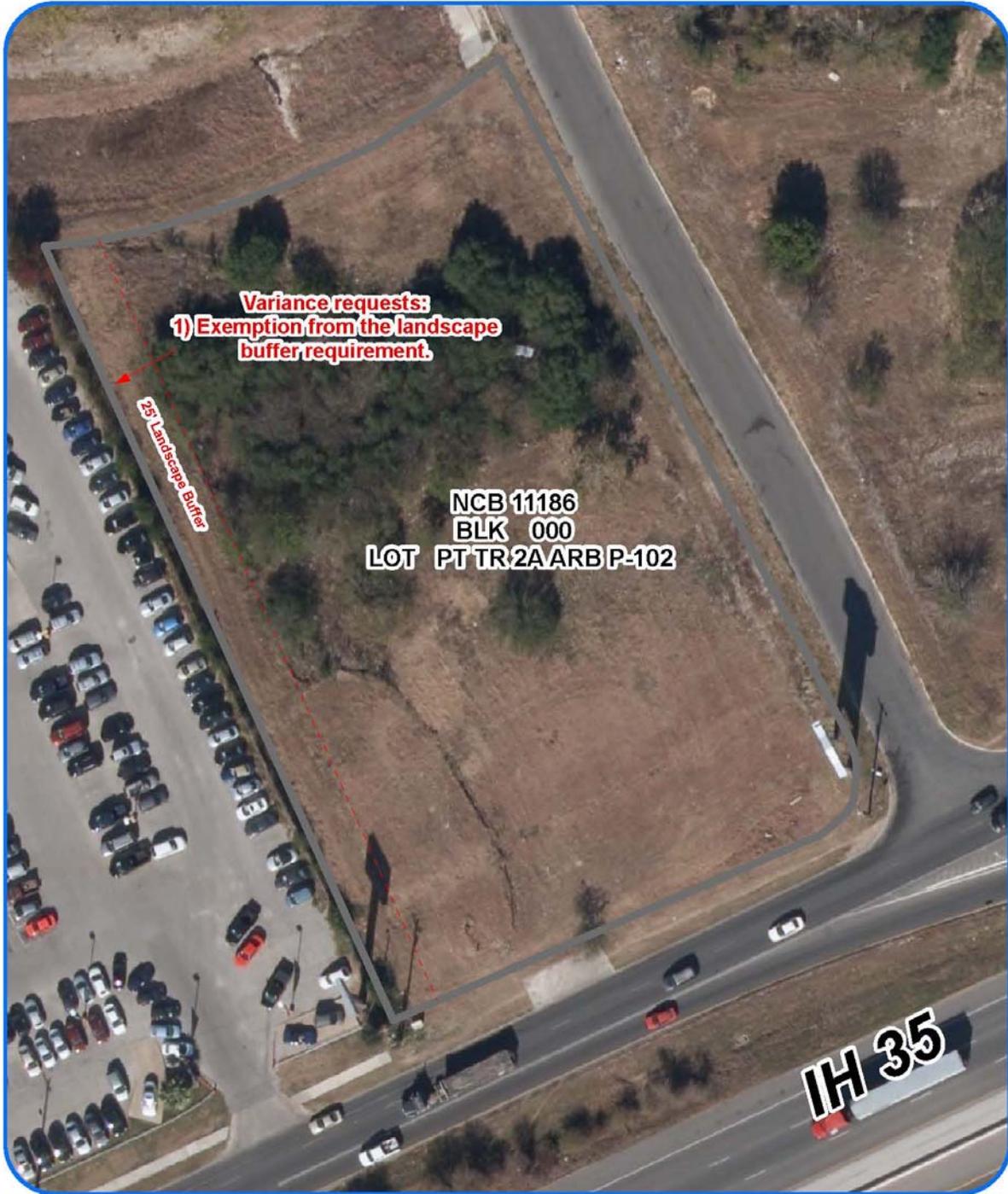
Board of Adjustment
Plot Plan for
Case A-12-045



Council District 4

Development Services Dept
City of San Antonio
(4/19/2012)

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case A-12-045



0 20 40 60 80 Feet
Council District 4

Development Services Dept
City of San Antonio
(4/19/2012)



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-051
Date: June 4, 2012
Applicant: James Hogarth
Owner: James and Theresa Hogarth, Laura Williams, Greg Williams
Location: 506 Dakota Street
Legal Description: Lot 2, Block A, NCB 624
Zoning: "RM-4 AHOD" Mixed Residential Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a special exception to erect a 6-foot Ornamental-Iron Front Yard fence in the "RM-4 AHOD" Mixed Residential Airport Hazard Overlay District.

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 May 16, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on May 18, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on May 31, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The approximately 5,500 square-foot subject property is located on the south side of Dakota Street, approximately 60 feet east of South Mesquite Street. The parcel is currently zoned "RM-4 AHOD" Mixed Residential Airport Hazard Overlay District. The property is surrounded by single-family residential to the north, south, east and west.

Currently, the property and the neighboring property to the east are in a derelict condition, and have been previously cited by Code Enforcement. The applicant has presented plans to renovate the structure, and this requested fence is the first step in that planned renovation. Additionally, the fence will serve to protect the property from vandalism. The fence is proposed to be six feet in height and constructed of ornamental iron and concrete bricks. Per Sections 35-514(b)(4) and 35-399.04 of the UDC, ornamental iron fences are allowed within the front yard area that exceed

the height limitation of four (4) feet, up to a maximum of six (6) feet, with a Special Exception granted by the Board of Adjustment.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
RM-4 AHOD (Mixed Residential)	Single Family Residence (derelict)

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Downtown Neighborhood Plan Area. The subject property is located within the boundaries of the Alamodome Gardens Neighborhood Association. The Alamodome Gardens Neighborhood Association was sent a notice regarding this request, however no response was received.

Criteria for Review

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

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

The requested plan, meeting all of the design requirements established in Section 35-399.04 of the UDC, is in harmony with the spirit and purpose of the chapter.

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

The public welfare and convenience will be substantially served by allowing the applicant to securely protect the property from vandalism, trespassing, and further neglect. Additionally, any redevelopment would likely be beneficial for the neighborhood as a whole.

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. The abutting property to the east is in a state of disrepair, while the

abutting property to the west is a newer home constructed in 2010. As stated in section “B”, any redevelopment would likely be beneficial for the greater neighborhood above.

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 no properties within the immediate vicinity of the subject property which have an ornamental-iron front yard fence. However, there are several examples of ornamental-iron front yard fences, of varying heights, within the surrounding neighborhood. Additionally, there is a 6-foot iron fence at the eastern terminus of Dakota Street, approximately 450 feet from the subject property and within view, that runs the length of Cherry Street in the Alamadome vicinity. By granting the applicant’s request for a special exception, the proposed fence will maintain the harmony and character of the district.

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 “RM-4” Mixed Residential zoning district. The fence would not infringe upon density or housing choice options, and would help to preserve a single-family home which is in disrepair.

Staff Recommendation

Staff recommends **approval of A-12-051**. The request complies with all of the five required criteria for a special exception as established in Section 35-482(h) of the UDC, based on the following findings:

- 1) The proposed ornamental-iron fence plan complies with all of the design requirements established in 35-399.04 of the UDC.
- 2) The proposed ornamental-iron fence will serve to protect the subject property from vandalism and further disrepair.
- 3) The proposed ornamental-iron fence will benefit the surrounding properties and the neighborhood as a whole by discouraging vandals and protecting the structure.

Alternatives to Applicant’s Request

There are two alternatives to the applicant’s request: (1) build an ornamental-iron fence of four (4) feet in height, or (2) build no fence at all. Either of these two options would likely not succeed in preventing further vandalism or deterioration of the property.

Attachments

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

Notification Plan Attachment 1

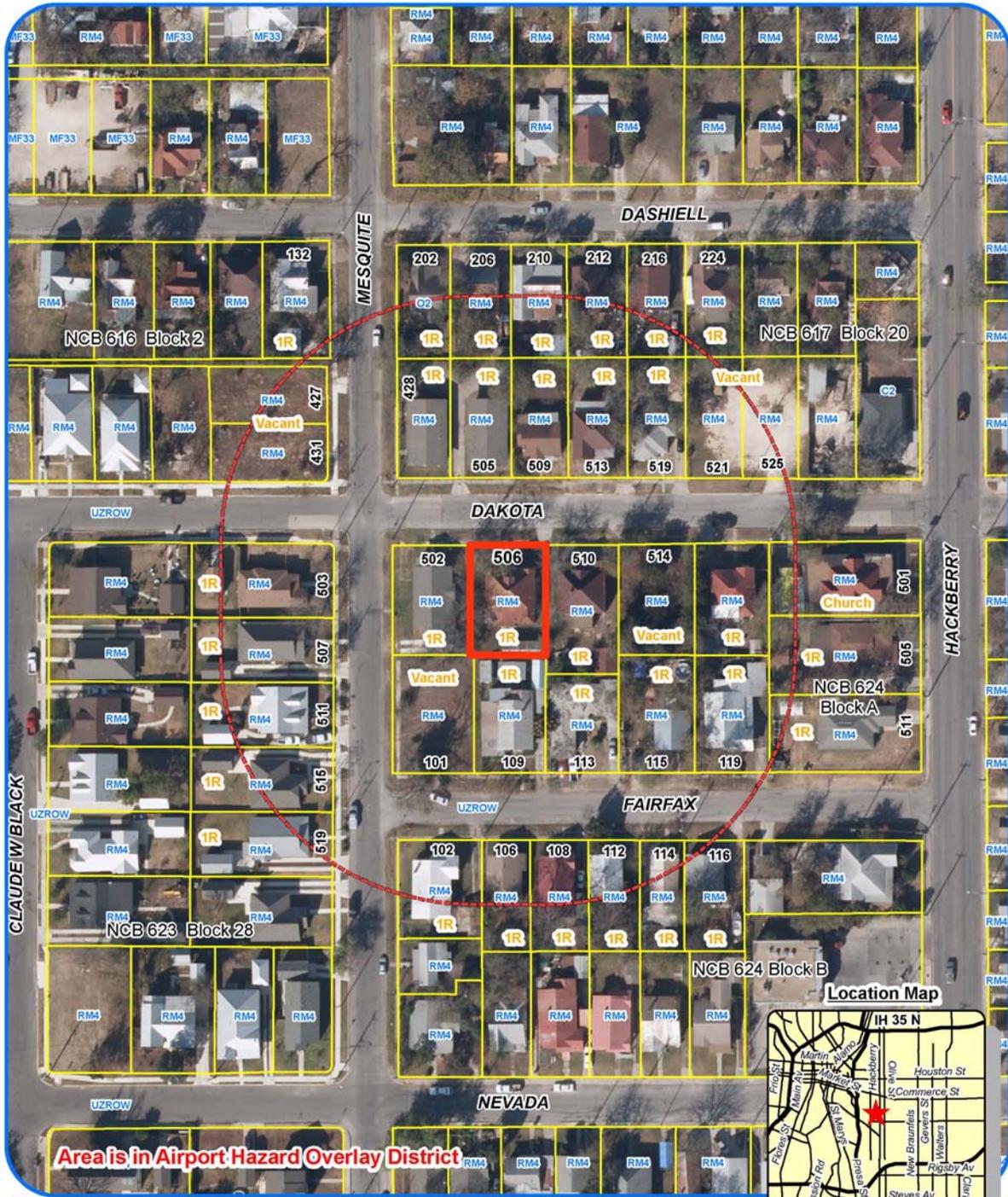


Area is in Airport Hazard Overlay District



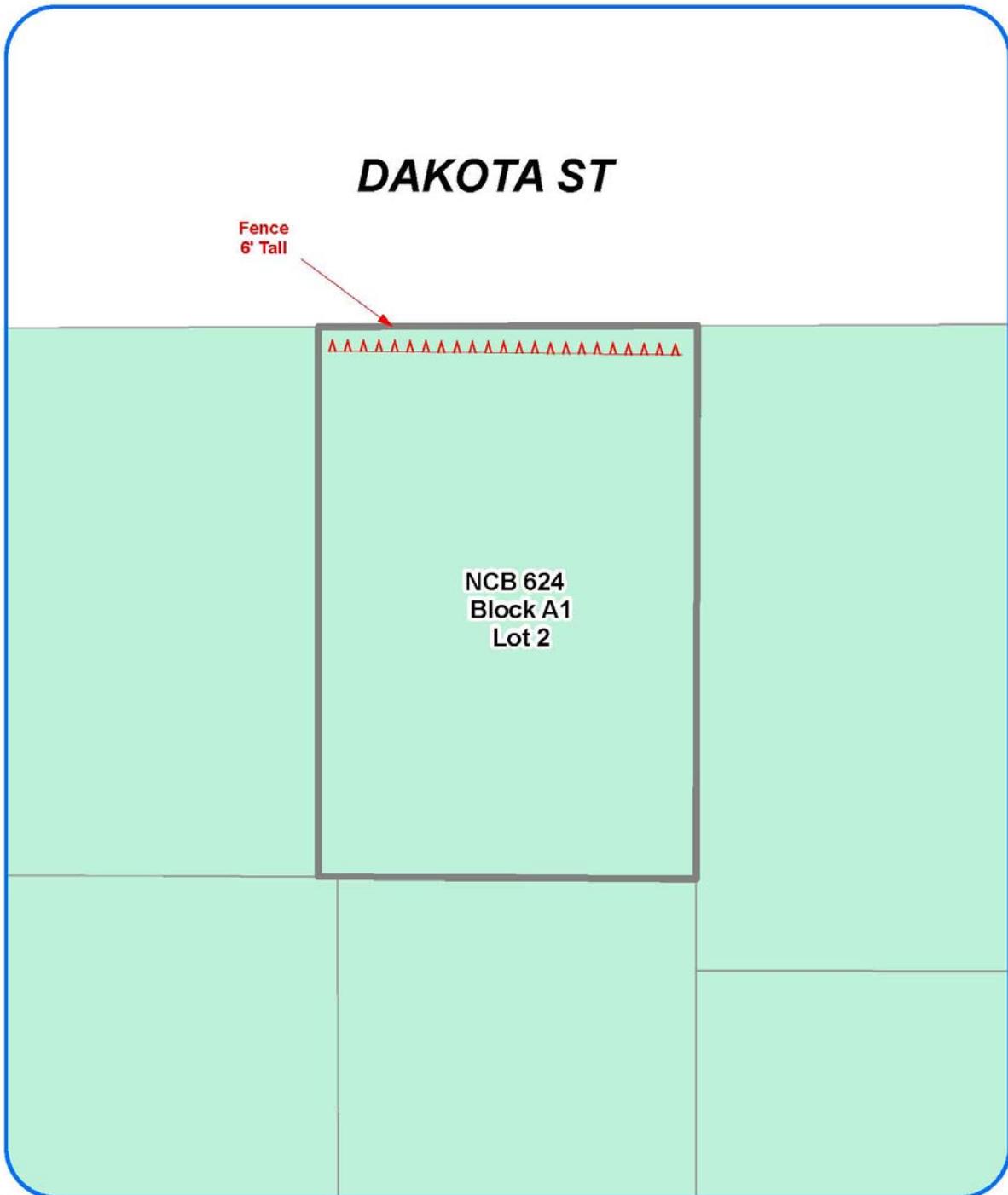
<p>Board of Adjustment Notification Plan for Case A-12-051</p>		<p>Legend</p> <ul style="list-style-type: none"> Subject Property 200' Notification Boundary Council District 2 	<p>0 15 30 60 Feet</p>
Planning and Development Services Dept City of San Antonio (5/1/2012)			

Attachment 1 (Continued) Notification Plan



<p>Board of Adjustment Notification Plan for Case A-12-051</p>		<p>Legend</p> <ul style="list-style-type: none"> Subject Property █ 200' Notification Boundary - - - - - Council District 2 ▬▬▬▬▬ 	<p style="text-align: right;">Planning and Development Services Dept City of San Antonio (5/1/2012)</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case A-12-051

Fence ▲▲▲▲

0 10 20 30 40 feet

506 DAKOTA ST

Development Services Dept
City of San Antonio
(5/19/2012)

Council District 2

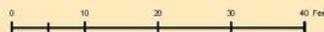
Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case A-12-051



Fence ▲▲▲▲



Council District 2

506 DAKOTA ST

Development Services Dept
City of San Antonio
(5/19/2012)

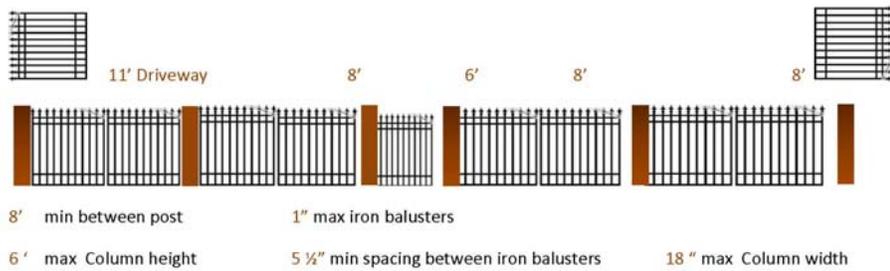
Attachment 3 Proposed Fence Plan



Distance between center of gate to end of property line on each side is 30.045 ft.

Columns are 1' sq concrete bricks. Black Iron Panels between columns will be 8' except to accommodate gates.

Two 8' panels will be on each side of front side lot.





City of San Antonio

Planning & Development Services Department

Staff Report

To: Board of Adjustment
Case No.: A-12-053
Date: June 4, 2012
Applicant: Rene Patton
Owner: Rene Patton
Location: 4035 Fire Sun
Legal Description: Lot 26, Block 2, NCB 16612
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Trenton Robertson, Planner

Request

A request for a special exception to allow a 6-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 May 17, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on May 18, 2012. Additionally, notice of this meeting was posted at city hall and on the city's internet website on May 31, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The approximately 0.14-acre subject property is located along the west side of Fire Sun. The property is surrounded by single-family residential to the north, south, east and west. The applicant wants to construct a six (6) foot ornamental-iron front yard fence in accordance to Section 35-399.04 of the UDC.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-5 AHOD (Single-Family Residence)	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-5 AHOD (Single-Family)	Single-Family Residence
South	R-5 AHOD (Single-Family)	Single-Family Residence
East	R-5 AHOD (Single-Family)	Single-Family Residence
West	R-5 AHOD (Single-Family)	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the IH-10 East Corridor Perimeter Plan. The subject property is located within two (200) hundred feet of the Sunrise 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 will meet 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 themselves and 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-5” 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.

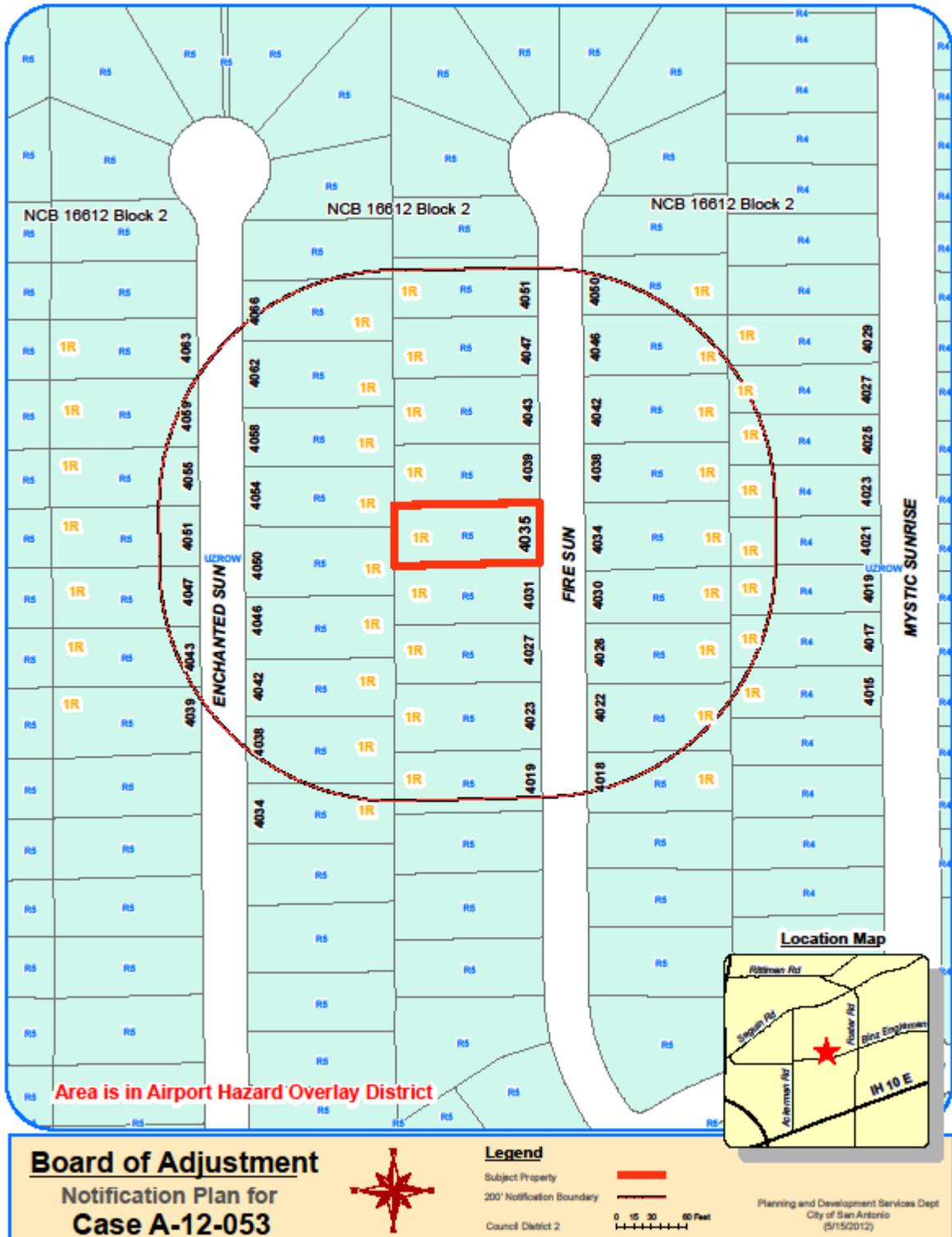
Staff Recommendation

Staff recommends **approval of A-12-053**. 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

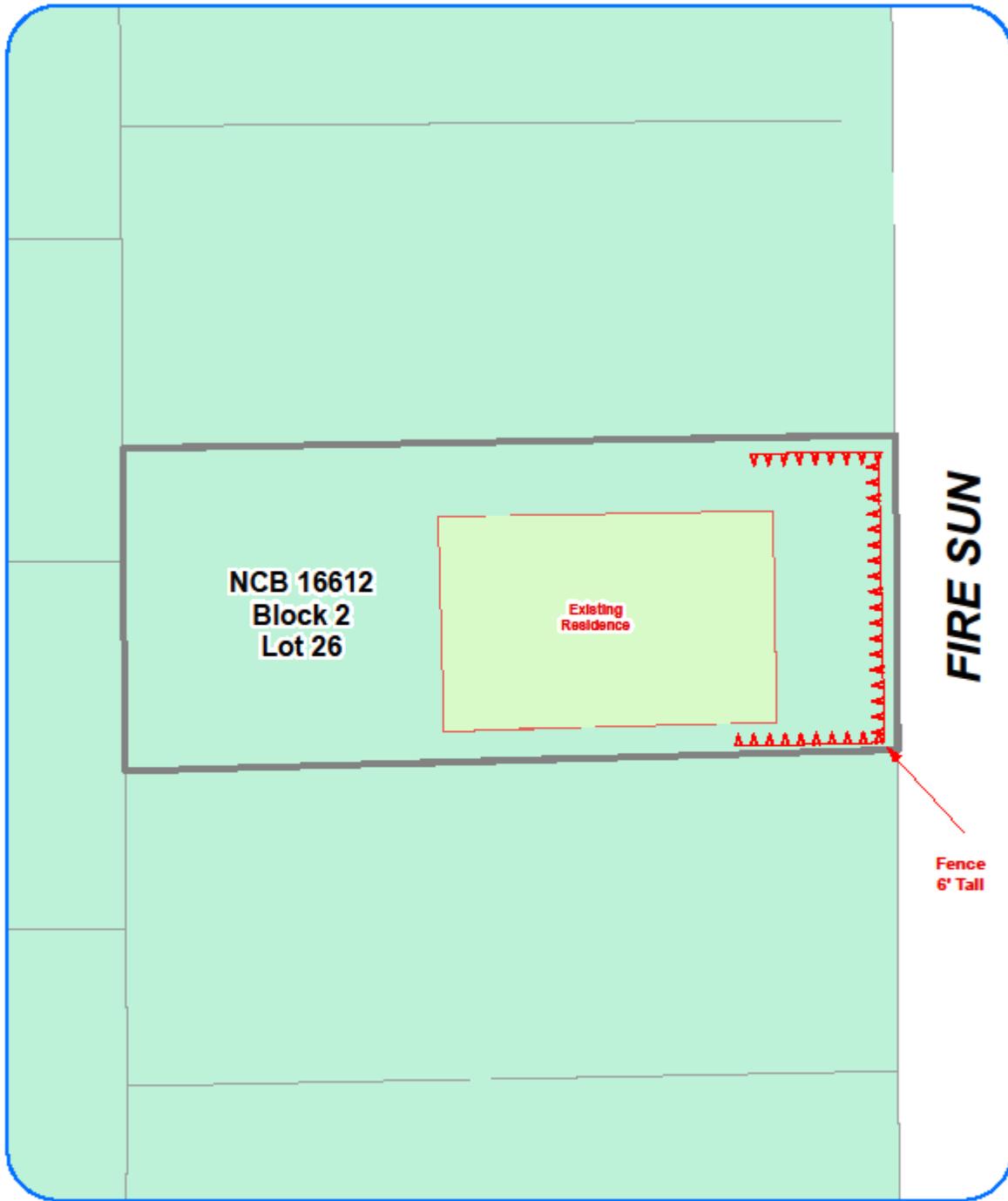
Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



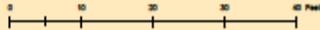
Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case A-12-053



Fence ▲▲▲▲



0 10 20 30 40 Feet

4035 FIRE SUN

Development Services Dept
City of San Antonio
(5/19/2012)

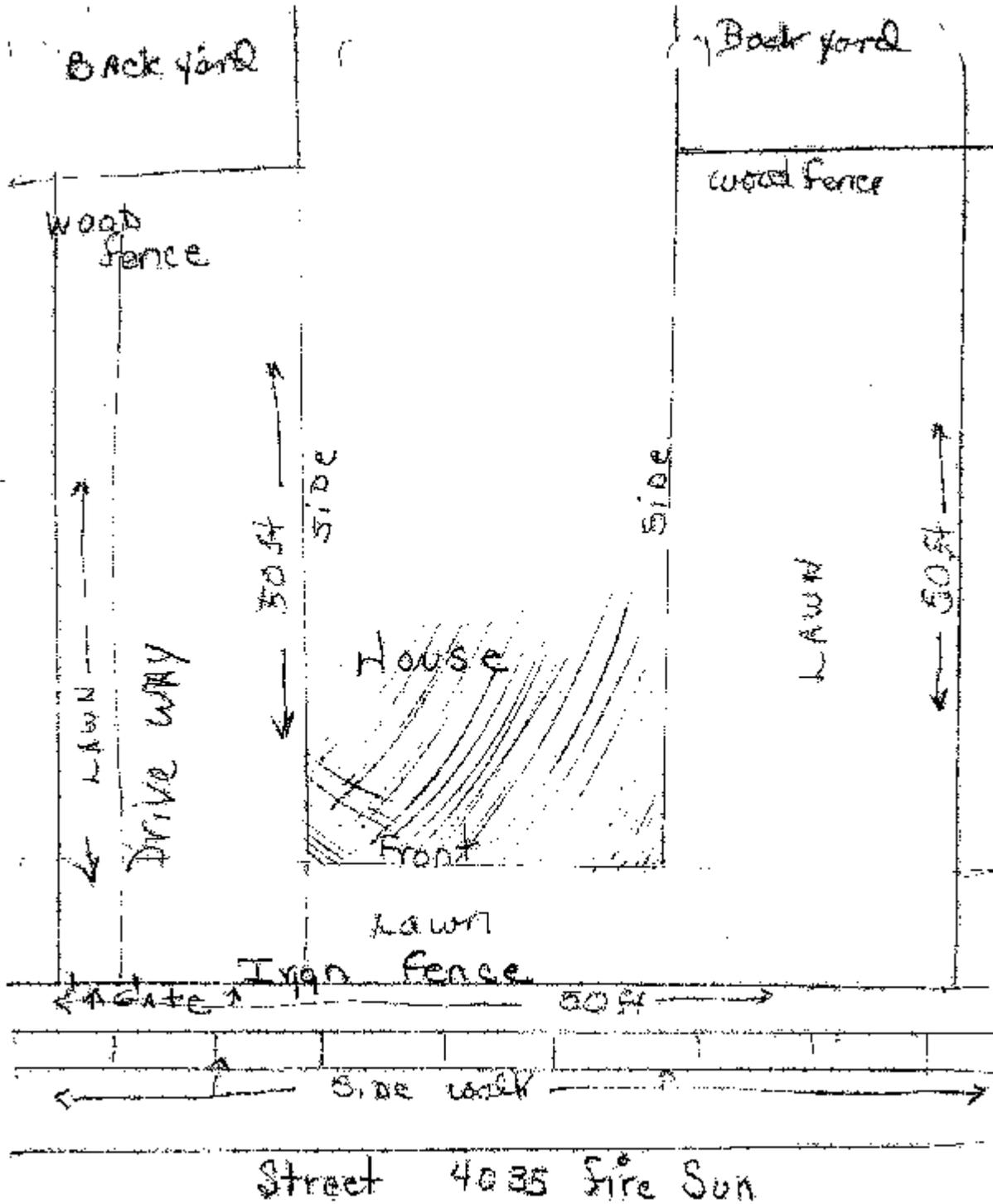
Council District 2

Attachment 2 (Continued)
Plot Plan



Board of Adjustment Plot Plan for Case A-12-053		Fence 	4035 FIRE SUN
			Development Services Dept City of San Antonio (5/19/2012)
		Council District 2	

Attachment 3
Site Plan



Attachment 4
Fence Elevation

