

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, March 4, 2013

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 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-13-004: (Continued from December 10, 2012)** The request of Alfonso Moreno for a 4-foot 3-inch variance from the maximum 3-foot height for a solid fence in the front yard to allow a 7-foot 3-inch fence that is less 70% open in the front yard located at 3803 Longridge Drive. (Council District 7)
5. **A-13-019:** The request of Lucia D. Oyervides for a special exception to allow a four-year renewal of a special exception for a one-operator beauty shop in a single family home located at 5102 Hemphill Street. (Council District 7)
6. **A-13-022:** The request of Lucia D. Oyervides for a 4-foot, 8-inch setback variance to allow a carport within 4 inches of the side property line located at 5102 Hemphill Street. (Council District 7)
7. **A-13-020:** The request of Martin Cantero for a special exception to allow a 6-foot ornamental wrought iron fence in the front yard located at 3122 Buena Vista Street.(Council District 5)
8. **A-13-021:** The request of Summit Hospitality V, LLC for 1) a 90-foot variance from the 100-foot minimum setback for a freestanding sign within 500 feet of an expressway and 2) a 10-foot variance from the maximum 50 foot sign height to allow an existing freestanding sign that is 60 feet tall, with 300 square feet of sign area to be relocated from the right of way onto private property with a 10-foot setback located at 8505 Broadway. (Council District 10)
9. **A-13-023:** The request of for 1) a variance from a prohibition of parking in the first and second lot layer to allow parking between the building and the property line; 2) a variance from the requirement to mask parking by a street screen to allow parking which is visible from the public way and 3) a 6.5-foot variance from the required 12.5-foot sidewalk width to allow a new 6-foot sidewalk on Brooklyn Avenue located at 723 Brooklyn Avenue.(Council District 1)

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
Brian Smith, District 5 • Jesse Zuniga, District 6 • Mary Rogers, District 7 • Vacant, District 9 • Gene Camargo, Mayor

Alternate Members

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

10. **A-13-024:** The request of Drury Southwest Inc. for 1) a 3-foot variance from the 50-foot maximum height allowance for a free-standing freeway sign to allow the existing 53-foot Drury Hotel sign; 2) a 14-foot variance from the maximum 37.5 foot maximum height allowance for additional signs to allow the existing 51-foot Ruby Tuesday sign; and 3) a 5-foot variance from the maximum 37.5 maximum height for additional signs to allow the existing 42-foot free-standing sign to be refaced for Best Western located at 9411 Wurzbach Road.(Council District 8)

11. Approval of the minutes – February 4, 2013

12. Adjournment

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

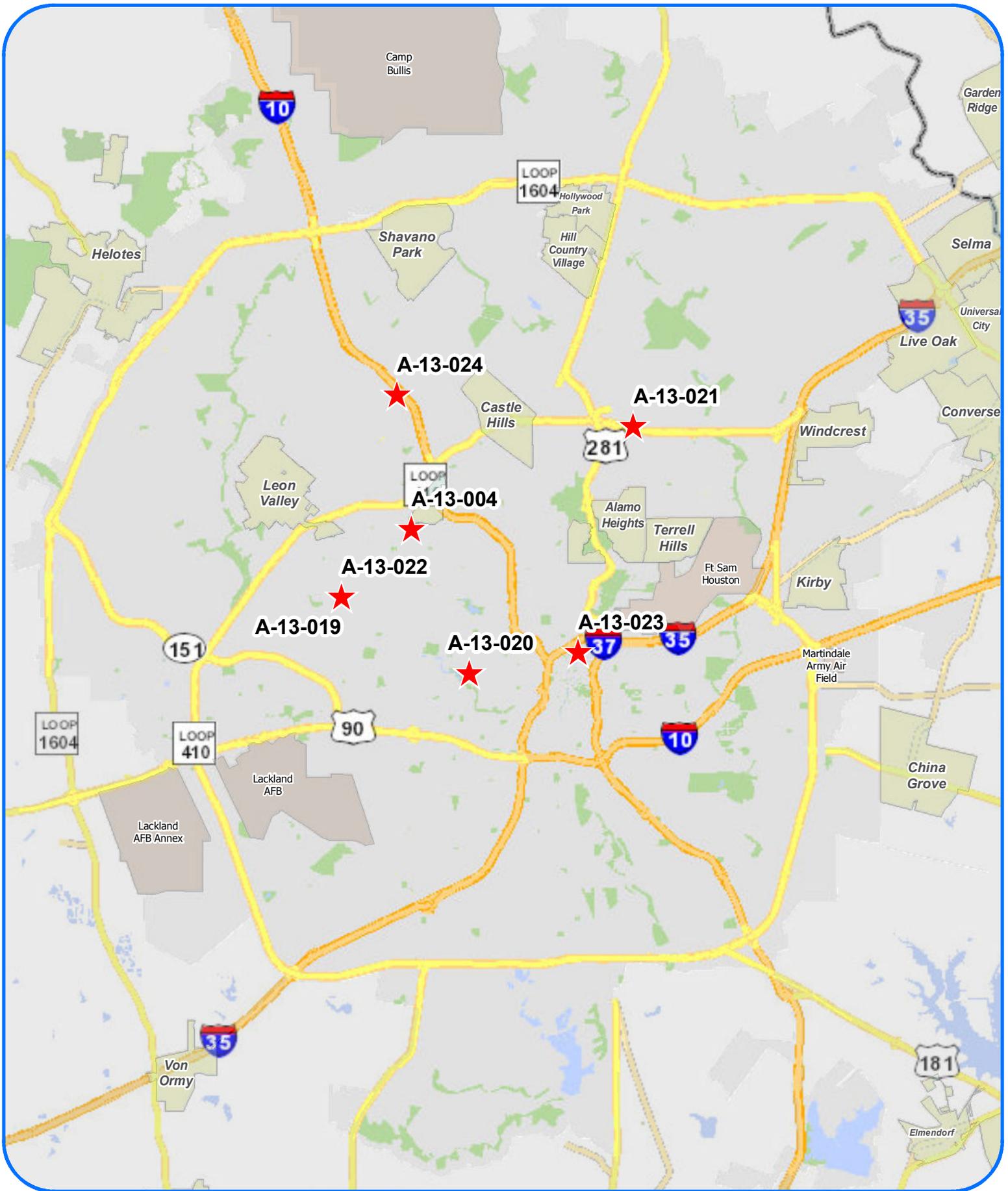
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210)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

Board of Adjustment Membership

*Michael Gallagher, Distict 10, Chair Andrew Ozuna, District 8, Vice Chair
Frank Quijano, District 1 ● Edward Hardemon, District 2 ● Helen Dutmer, District 3 ● George Britton, District 4
Brian Smith, District 5 ● Jesse Zuniga, District 6 ● Mary Rogers, District 7 ● Vacant, 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 4th March 2013**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-004
Date: March 4, 2013 (continued from 12-10-12)
Applicant: Alfonso Moreno
Owner: Alfonso Moreno
Location: 3803 Longridge Drive
Legal Description: Lot 20, Block 3, NCB 13165
Zoning: "R-5 AHOD" Residential Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant is requesting a 4-foot 3-inch variance from the 3-foot maximum height allowed for a fence that is less than 70% open to allow a 7-foot 3-inch fence in the front yard.

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 ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on November 21, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 21, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on December 7, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 10,451 square foot lot within the Hillcrest Park Subdivision, recorded in 1959. The applicant purchased the house in May of 2011 and recently began construction of a combination fence along the front property line without a building permit. Code Compliance responded to a complaint and stopped construction until the proper permitting had been finalized. The permit application however could not be approved. According to the UDC, the solid portion of a combination fence in the front yard cannot exceed 3-feet in height, nor be taller than 4-feet total. The applicant was seeking approval of a combined wall/ornamental iron fencing height of at least 6-feet. The current solid fence varies in height as the property slopes down six feet from west to east. Therefore, as the land slopes downward, the fence gets taller, preserving a level top.

The owner is planning to maintain a straight line with the installation of the iron rods. A portion of the wall is already taller than 3-feet. With the ornamental iron rods installed, this section of fence will measure 7-foot 3-inches in height. The variance is based on the tallest point on the fencing, a height that will only be reached at the eastern property line. As the fence progresses away from this spot, the height will decrease.

Fencing height is measured as *the vertical distance measured from the lowest adjacent ground level to the top of the tallest element of the fence material, excluding decorative features affixed to the top of any column, pillar or post. The height of any existing retaining walls, either an integral part of a fence or upon which a fence may be erected, shall be calculated in the height of the fence.* Grade differences on either side of a wall have to be at least 4-feet before any averaging is incorporated into the height determination.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-5 AHOD Residential Airport Hazard	Single-Family Residential

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Near Northwest Planning Area and identified for low-density residential land uses. The Sunshine Estates Neighborhood Association was notified of the request and asked to comment. Notice coincided with their regularly scheduled monthly meeting where the request was discussed. The applicant was not in attendance, but those who were familiar with the area were not in favor of the variance. They noted that there are no other front yard fences in the surrounding neighborhood.

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 public interest is defined as the general health, safety and welfare of the public at large. The public in this situation likely includes all of the surrounding single family homes in the neighborhood, none of which has front yard fencing. The lack of other front yard fencing is a significant feature that defines the character of the neighborhood. Staff located restrictive

covenants recorded in 1959 which prohibited front yard fencing; the applicant was not aware of this document. Several other phases of the Hillcrest Subdivision also include a restriction against front yard fencing. The City is not a party in these agreements and does not enforce private covenants. Nevertheless, disregarding them when so many others have complied would be contrary to the public interest.

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

The owner first applied for a special exception to allow a six foot ornamental iron fence in the front yard. He thought the wall and fence could be in compliance with the standards, but the solid portion was already constructed and taller than 3-feet. The application had to be modified to reflect the request as a variance rather than a special exception, triggering an entirely different analysis, one that is difficult to satisfy. There are no unique, property-related conditions which warrant modification of the standard ordinance allowances. A literal enforcement of the ordinance would require that the applicant remove that section of wall over 3-feet in height, and keep the fencing 4-feet or less.

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

The spirit of the ordinance is represented by its equal application to all citizens. The regulations specific to fence height are complex, with a variety of changing provisions for special uses such as pools and sport courts, industrial areas, and large estate lots. In typical residential neighborhoods, privacy fencing is limited to the side and rear yards. Front yard fencing is allowed, but at a reduced height to preserve visibility from the house onto the street. The spirit of the ordinance would not be observed by allowing the fence, less open than 70%, to be 7-foot 3-inches tall in the front yard.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the R-5 AHOD 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 property is part of the Hillcrest Development, a multi-phase subdivision recorded throughout the 1950s. Mid-century subdivisions often included covenants regulating design components, such as front yard fencing, in the absence of detailed zoning regulations. In this case, where an overwhelming majority of the homes have no front yard fencing at all, the variance would alter an essential character of the district.

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

The applicant is requesting a variance to allow additional fence height in the front yard. Unfortunately, the work was begun without a permit. The fencing installed to date did not qualify for a special exception as was originally requested; the wall is taller than 3-feet and the

total height is taller than 6-feet. Fencing is more difficult to justify as a variance than the special exception process; there has to be a property-related feature that distinguishes it from others in the area. In this case, no unique characteristic has been identified. Instead, the applicant has invested in construction of wall that extends above the maximum allowed height of 3-feet, a self-imposed hardship.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reduce the height of the wall to 3-feet to maintain front yard fencing consistent with what is allowed by right. This should be pursued with caution however, and full knowledge that private covenants and restrictions prohibiting all front yard fencing encumbers this property.

Staff Recommendation

Staff recommends **denial of A-13-004**, based on the following findings:

1. There are no unique features or characteristics which differentiate this lot from others in the subdivision to warrant alteration of the ordinance provisions;
2. A restrictive covenant recorded in 1959 has prevented the installation of front yard fencing in the subdivision for over 50 years, and as such has established a defining feature of the neighborhood; and
3. The applicant has a self-imposed hardship, constructing a wall without a permit and in excess of the maximum allowed height.

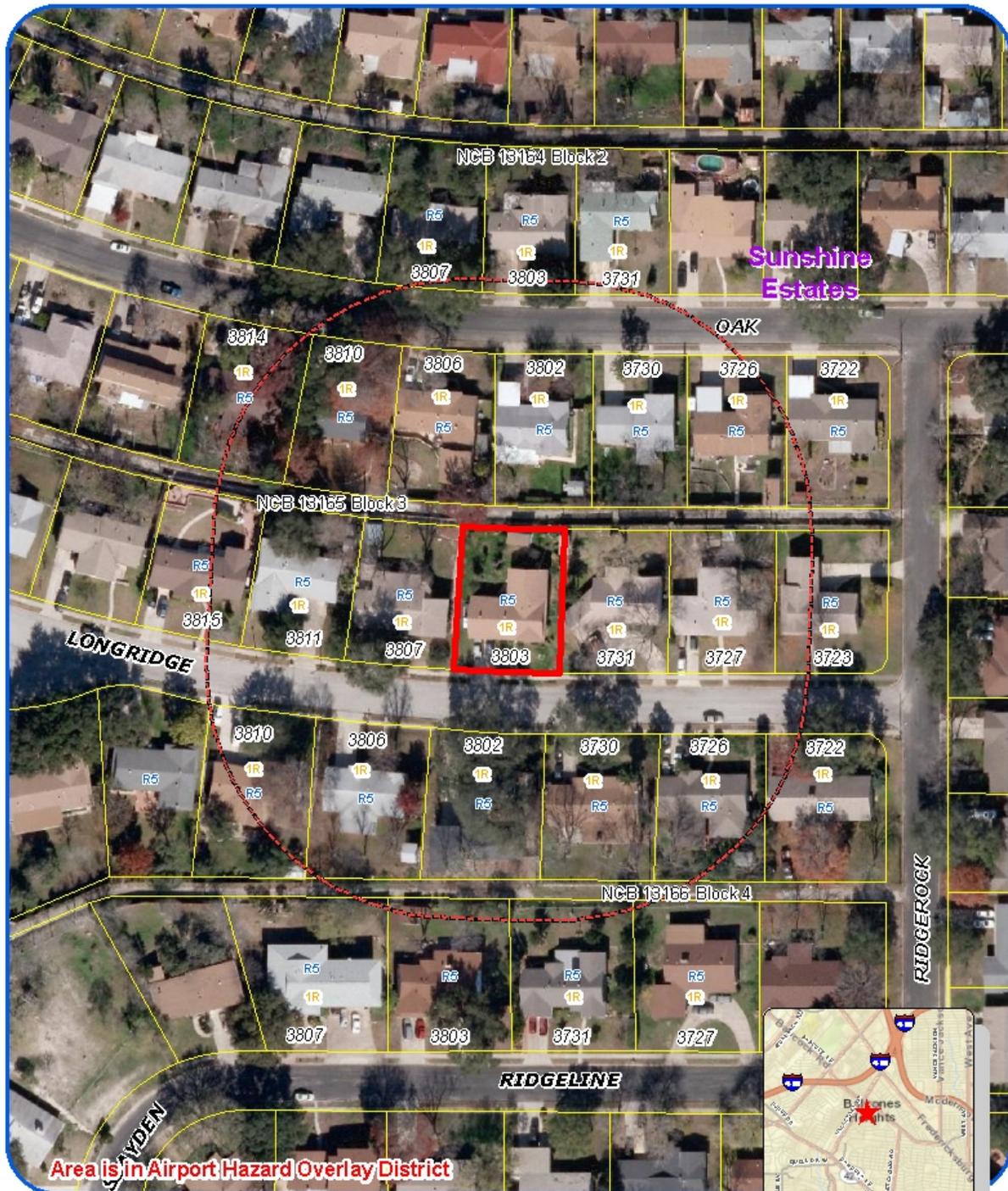
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Photos

Attachment 1 Notification Plan



<p>Board of Adjustment</p> <p>Notification Plan for</p> <p>Case No A-13-004</p>		<p>San Antonio City Limits</p> <p>Subject Property</p> <p>200' Notification Boundary</p> <p>Council District</p>		<p>Development Services Department City of San Antonio (210)2012</p>
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Attachment 2
Plot Plan

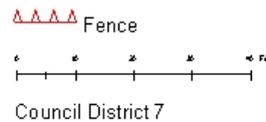


Variance Request:

- 1) A 3-foot 3-inch variance from the 4-foot maximum fence height to allow a fence in the front yard that is 7-foot 3-inches at the tallest spot.
- 2) A 1-foot 6-inch variance from the maximum 3 foot wall height to allow a 4-foot 6 inch wall in the front yard.

Board of Adjustment

Plot Plan for
Case No A-13-004



3803 Longridge Drive

Development Services Department
City of San Antonio
10th December 2012

**Attachment 3
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-019
Date: March 4, 2013
Applicant: Lucia D. Oyervides
Owner: Lucia D. Oyervides
Location: 5102 Hemphill Street
Legal Description: Lot 1, Block 18, NCB 11458
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a special exception to allow a four-year renewal of a special exception for a one-operator beauty shop in a single family home

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 February 14, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on February 15, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 1, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the southwest corner of Hemphill Street and Edgecliff and is currently developed with an existing single-family residence which has contained within a one operator beauty shop.

The Board of Adjustment first granted approval for this one operator beauty salon on February 7, 2011. Section 35-399.01(i) of the UDC allows the Board to approve the requested special exception for a period not to exceed four years.

The applicant has proposed hours of operation as Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, 9:00am until 5:00pm. The proposed hours of operation total 40, and these hours of operation are the same as were previously approved. The applicant will be the only cosmetologist at the location.

It should be noted that a staff visit to the site revealed that the site was not in compliance with Section 35-399.01 (c) of the UDC regarding signage. The section states:

(c) Signs advertising the beauty shop or barber shop are not permitted, but a name plate not exceeding one (1) square foot is permitted when attached flat to the main structure.

During the site visit, a small, approximately one to two square-foot blade-style sign attached to the fence was noted. If approval is granted, it should be conditioned upon removal of this sign.

It has been the Board’s policy that when considering renewals to a granted special exception application for one operator beauty salons to time limit any approval to four years after an initial two-year period. As such, if approval is contemplated by the Board, it should be for a time limit of four years (48 months).

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-5 AHOD (Residential)	Single-Family Dwelling with a one-operator beauty salon

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan. The subject property is also located within the boundaries of the Culebra Park Neighborhood Association.

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 following conditions (in addition to the requirements of Section 35-399.01):

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

The requested special exception will be in harmony with the spirit and purpose of the chapter in that the proposed one-operator beauty salon will follow the specified criteria established in Section 35-399.01 of the Unified Development Code.

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

Public welfare and convenience will be served with the granting of this request as it will provide a valuable and needed public service to the residents of the neighborhood and it will not negatively impact surrounding properties.

3. *The neighboring properties will not be substantially injured by such proposed use.*

The subject property will be primarily used as a single-family residence. The beauty shop will occupy only a small part of the structure, and the fact that a beauty shop is being operated from the home will likely be indiscernible to passersby. As such, neighboring properties will not be substantially injured.

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

The requested special exception will not alter the essential character of the district as the use will likely be indiscernible to passersby.

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

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

Staff Recommendation

Staff recommends **approval of A-13-019 for a period of 48 months with hours of operation not to exceed 40 hours per week (Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays, 9:00am until 5:00pm)**, due to the following reasons:

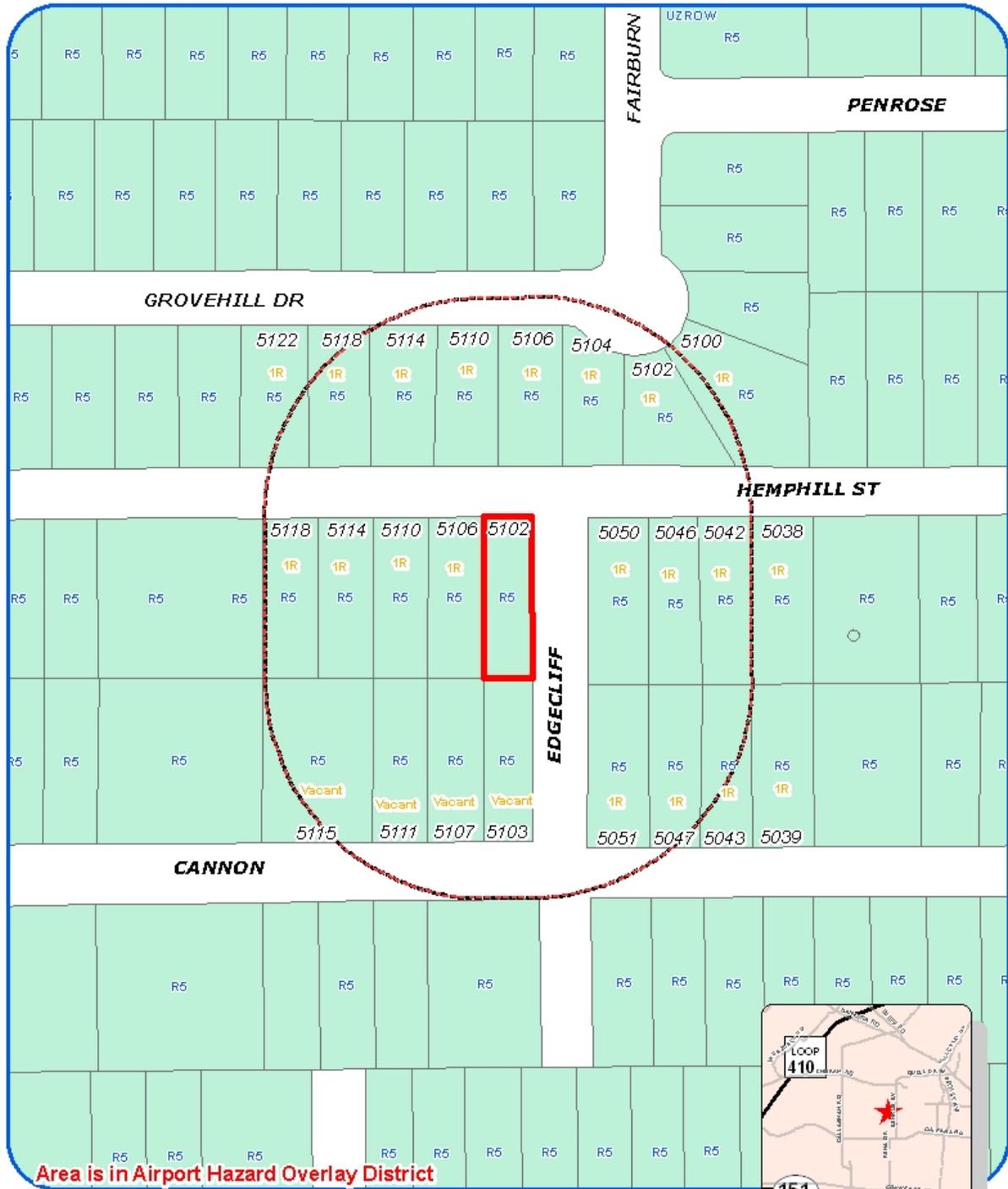
1. The request meets all of the criteria for granting a special exception request except 399.01(c); however, compliance with the section would only require the removal of a small sign.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

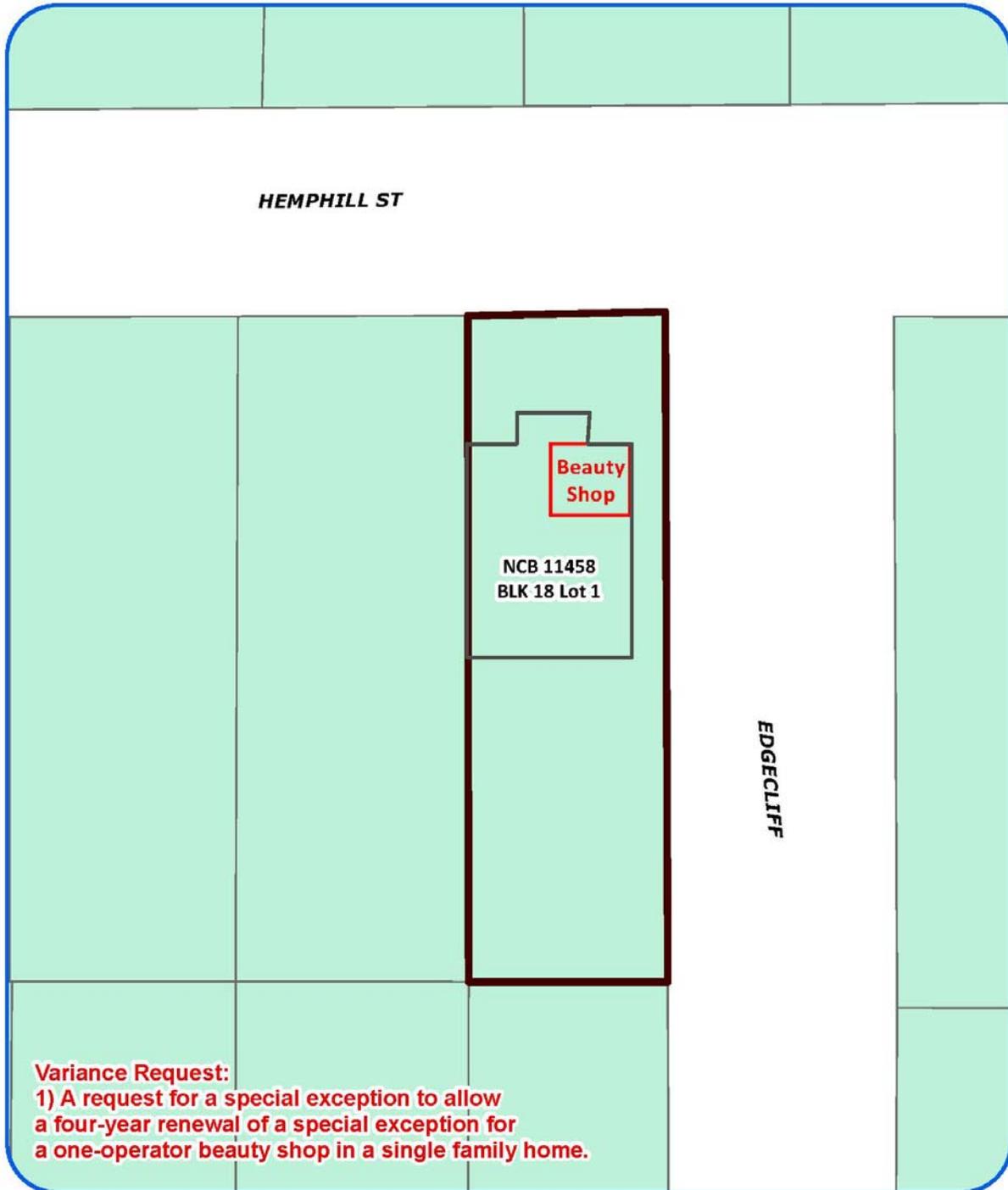
<p>Board of Adjustment Notification Plan for Case No A-13-019</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Color of District? </p>			<p>Development Services Department City of San Antonio (334)2013</p>
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**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-13-019</p>		<p>San Antonio City Limits </p>
		<p>Subject Property </p>
		<p>200' Notification Boundary </p>
		<p>Color of District? </p>
		<p>Department Services Department City of San Antonio (304) 221-1313</p>

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-019



Beauty Shop 

Council District 7

5102 Hemphill St. ^{1.328}

Development Services Department
City of San Antonio
(02/11/2013)

**Attachment 2 (Continued)
Plot Plan**



Board of Adjustment
 Plot Plan for
Case No A-13-019



Beauty Shop □

 Council District 7

5102 Hemphill St. ¹³²⁸

Development Services Department
 City of San Antonio
 (02/11/2013)

Attachment 3
Site Photo





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-022
Date: March 4, 2013
Applicant: Lucia D. Oyervides
Owner: Lucia D. Oyervides
Location: 5102 Hemphill Street
Legal Description: Lot 1, Block 18, NCB 11458
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a 4-foot, 8-inch setback variance to allow a carport within 4 inches of the side property line.

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 February 14, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on February 15, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 1, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the southwest corner of Hemphill Street and Edgecliff and is currently developed with an existing single-family residence which has contained within a one operator beauty shop.

The applicant is currently seeking approval from the Board for a special exception for one operator beauty shop. In the course of processing the special exception application, it was determined that the applicant had constructed a carport addition within the side yard setback. As such, the applicant is requesting after-the-fact approval for the carport addition.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-5 AHOD (Residential)	Single-Family Dwelling with a one-operator beauty salon

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan. The subject property is also located within the boundaries of the Culebra 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:*

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. In this case, the new addition is within 4 inches of the property line, and there is no justification or hardship readily apparent to warrant granting of the variance; as such, the application is contrary to the public interest.

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

There are no special conditions readily apparent to warrant the granting of the variance. There is ample space in the rear yard to construct a carport.

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

The spirit of the ordinance will not be observed by granting this variance as there is ample room elsewhere on the property to construct the carport, and there is no hardship readily apparent.

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-5 AHOD (Residential) zoning district.

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

The requested variance, if approved, is not anticipated to substantially injure the appropriate use of adjacent conforming properties except that it may set a precedent in the community.

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 special or unique circumstances apparent on the property to warrant to granting of the requested variance.

Alternatives to Applicant's Request

The alternative to the applicant's request is to remove the addition which was constructed without permits and approvals and construct a carport in a conforming location.

Staff Recommendation

Staff recommends **denial of A-13-022** because of the following reasons:

- There are no special conditions or circumstances on the property that warrant the granting of the requested variance.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-13- 022</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Color of District? </p>	<p style="text-align: right;">Development Services Department City of San Antonio (361) 420-13</p>
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**Attachment 1 (Continued)
Notification Plan**



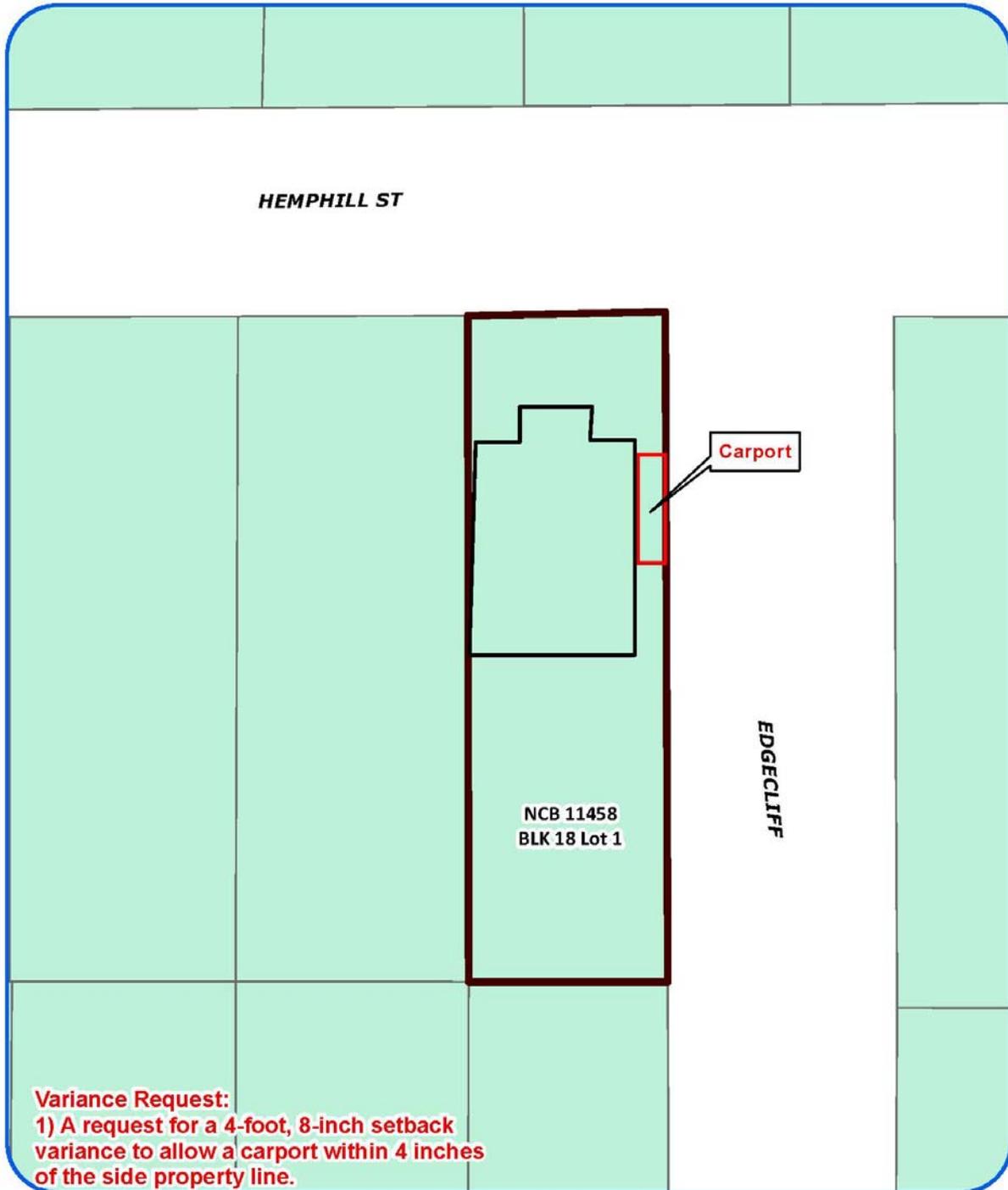
**Board of Adjustment
Notification Plan for
Case No A-13- 022**



- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Color of District?

Department Services Department
City of San Antonio
(304) 201-3

**Attachment 2
Plot Plan**



Variance Request:
1) A request for a 4-foot, 8-inch setback variance to allow a carport within 4 inches of the side property line.

Board of Adjustment
Plot Plan for
Case No A-13-022



Carport Addition 

Council District 7

5102 Hemphill St. ^{1.328}

Development Services Department
City of San Antonio
(02/11/2013)

Attachment 2 (Continued)
Plot Plan



Variance Request:
1) A request for a 4-foot, 8-inch setback variance to allow a carport within 4 inches of the side property line.

Board of Adjustment
Plot Plan for
Case No A-13-022



Carport Addition 

Council District 7

5102 Hemphill St. ¹³²⁸

Development Services Department
City of San Antonio
(02/11/2013)



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

To: Board of Adjustment
Case No.: A-13-020
Date: March 4, 2013
Applicant: Martin Cantero
Owner: Martin Cantero
Location: 3122 Buena Vista Street
Legal Description: Lots 11 & 12, Block 6, NCB 3042
Zoning: "MF-33 AHOD" Multi-Family 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.

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 February 14, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on February 15, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 1, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the southeast corner of SW 18th Street and Buena Vista Street. The applicant is proposing to construct a 6-foot high wrought iron fence in the front yard.

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. The submitted plan meets all the requirements for granting a special exception.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
MF-33 AHOD (Multi-Family)	Single Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	MF-33 AHOD (Multi-Family)	Single Family Residence
South	MF-33 AHOD (Multi-Family)	Single Family Residence
East	MF-33 AHOD (Multi-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 Guadalupe Westside Neighborhood Plan Area. The subject property is located within the boundaries of the Prospect Hill Neighborhood Association.

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.

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. Other properties in the vicinity of the subject property already have front yard wrought iron fences.

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 several examples of ornamental-iron front yard fences, of varying heights, within the surrounding neighborhood. 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 "MF-33" Multi-Family Residential zoning district.

Staff Recommendation

Staff recommends **approval of A-13-020**. 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.

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.

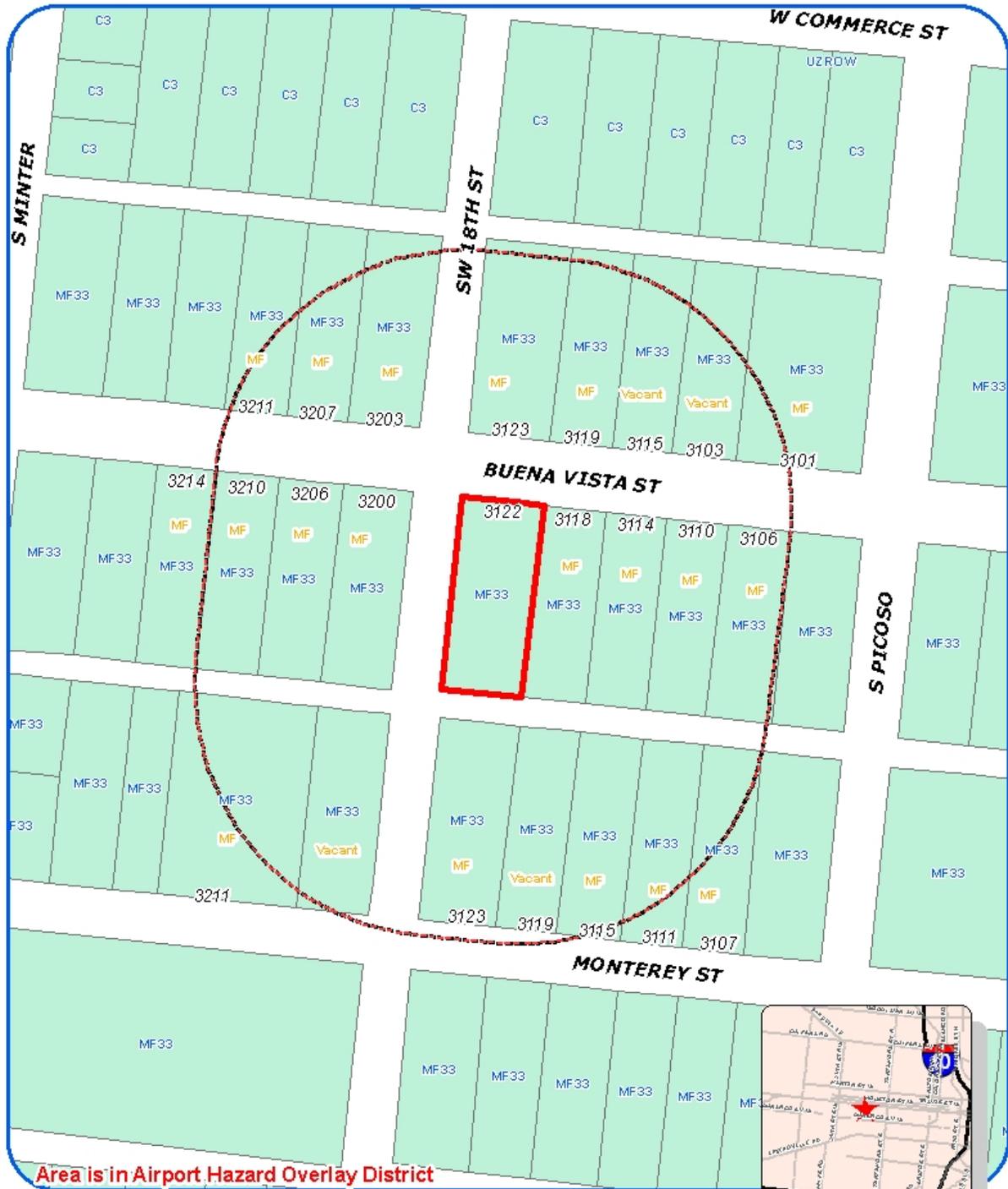
Attachments

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 No A-13-020</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Color of Districts </p>	<p style="text-align: right;">Development Services Department City of San Antonio (361) 420-13</p>
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**Attachment 1 (Continued)
Notification Plan**



Areas in Airport Hazard Overlay District

**Board of Adjustment
Notification Plan for
Case No A-13-020**



- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Color of Districts



Development Services Department
City of San Antonio
(304) 201-3

**Attachment 2
Plot Plan**



Variance Request:
1) A request for a special exception to allow a 6-foot ornamental wrought iron fence in the front yard.

Board of Adjustment
Plot Plan for
Case No A-13-020



Fence 



Council District 5

3122 Buena Vista

Development Services Department
City of San Antonio
(02/11/2013)

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-020



Fence 

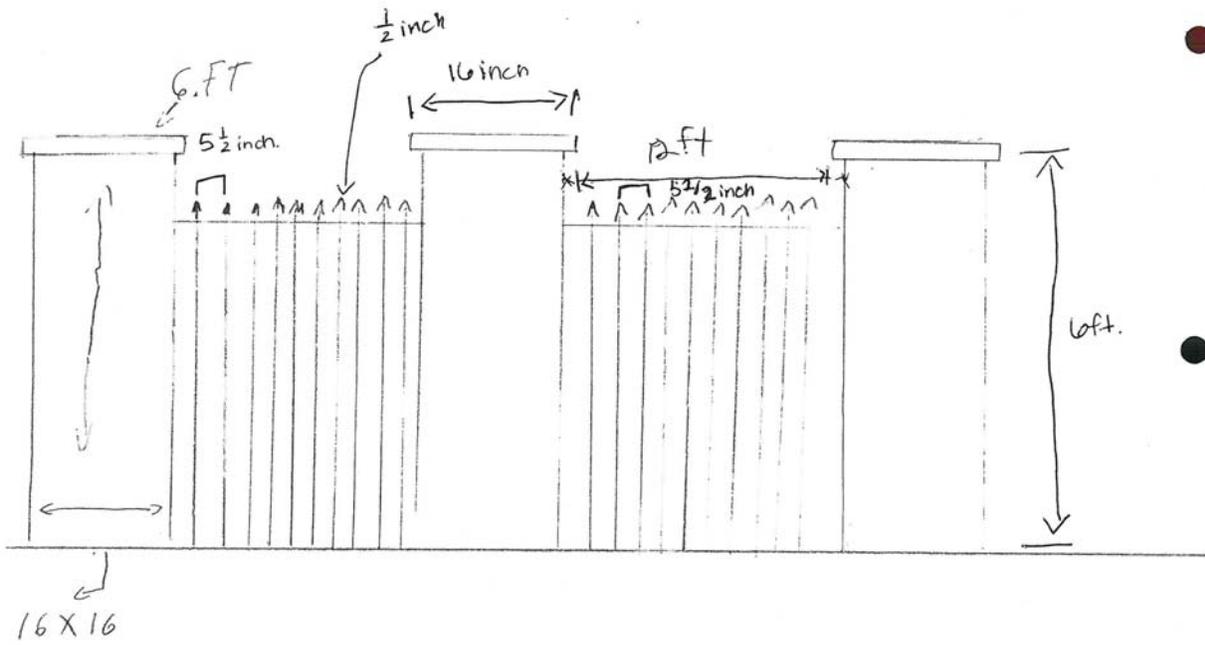


Council District 5

3122 Buena Vista ¹⁴⁴⁷

Development Services Department
City of San Antonio
(02/11/2013)

**Attachment 3
Proposed Fence Plan**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-021
Date: March 4, 2013
Applicant: Summit Hospitality V, LLC
Owner: Summit Hospitality V, LLC
Location: 8505 Broadway
Legal Description: Lots #36 & 37, NCB 12100
Zoning: "C-3 AHOD" Commercial Airport Hazard Overlay
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests **1)** a 90-foot variance from the 100-foot minimum setback for a freestanding sign within 500 feet of an expressway and **2)** a 10-foot variance from the maximum 50 foot sign height to allow an existing freestanding sign that is 60 feet tall, with 300 square feet of sign area to be relocated from the right of way onto private property with a 10-foot setback.

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 ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on February 14, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on February 15, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 1, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

Previous to the hotel's purchase of the subject property, a large building with approximately 120,000 square feet occupied the 8.5 acre site. The building was setback 450-feet with nearly 1,500 parking stalls in front. It was addressed as 8505 Broadway. In 2007, the Summit Hotel Properties purchased the property. They applied for and were granted a permit to demolish the existing building and construct the hotel in the same location with the existing address of 8505 Broadway. The site had an existing pole sign on the frontage on Broadway. Since that time, this sign has had its face replaced for the two hotel operators. The hotel has never needed or used the huge field of parking.

Also in 2007, a plat was recorded, dividing the 8.5 acre parcel into four lots, including the “excess” parking as two equal size parcels on Broadway. Now, as the hotel owners contemplate the sale of the two lots along the frontage, the hotel has realized that this subdivision severed the existing sign from their site. A plan was formulated to resubdivide, creating an ownership connection from the hotel in the rear to the Broadway frontage and the sign. Another problem was discovered; a survey identified the sign as within the road right of way. Because the existing sign is classified as non-conforming for height and setback, a variance is required to allow the existing sign to be moved onto private property without significant alteration. Free-standing signs within 500 feet of an expressway are allowed to be 50-feet in height, but require a 100-foot setback. Variances are requested to allow the existing 60-foot sign to be relocated with only a 10-foot setback.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-3 AHOD” Residential Airport Hazard Overlay	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3 AHOD” Commercial Airport Hazard	Bank
South	“C-3 AHOD” Commercial Airport Hazard	Service-Retail Center
East	“C-2 AHOD” Commercial Airport Hazard	Office
West	“C-3 AHOD” Commercial Airport Hazard	Hotel

Comprehensive Plan Consistency/Neighborhood Association

The property is within the San Antonio International Airport Vicinity Plan area, with a future land use designation as *regional commercial*. No neighborhood associations have been registered near here.

Criteria for Review

Pursuant to Section 28-247 of *Chapter 28: Signs and Billboards* 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*

According to the submitted application and discussions with the applicant, the variance is necessary because strict enforcement prohibits the future sale of the 3-acre parcel along Broadway. Preserving the existing sign height and approximate location are of utmost importance to the hotel, much more important than selling the vacant parcels. The applicant had no knowledge that the existing sign was within the right of way, nor knowledge that the subdivision had jeopardized the status of the sign. The right of way includes approximately 30-feet of land behind the curb, with the sign set back 15-feet. Preservation of non-conforming rights requires that everything remain the same, which in some cases

may not be the best option for the public interest. The City does however have a licensing process to allow encroachments to remain in the right of way, a tool available to address the current location of the sign should moving it not be feasible.

Two critical components of a hotel's success are visibility to the "out-of-town" traveler and an address on a major street. As a result, many hotels are located adjacent to freeway exits. Oftentimes, an existing non-conforming sign can be the number one marketing feature of a commercial property. In this case, the option is for the hotel to change its address to Gulfmart Drive, a local side street, and install a sign limited to 16 feet in height and 75 square feet in sign area, a 75% reduction in both height and area. The applicant asserts that this alternative is not reasonable given the needs of the traveling public.

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.*

The applicant states that the variance does not provide a special privilege because the sign has been there and is being relocated. In fact, much of the City's signage is non-conforming. A sign structure such as this one is very costly but also very sturdy; installed properly it will last more than 75 years, according to experienced sign contractors.

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

Granting the variance will not adversely impact the neighboring properties. The neighboring sign for Capital One Bank is outside of the 500 foot proximity to the expressway and thus was built to a height of 30 feet, according to its 2007 permit. Therefore, should this sign be relocated, the bottom of the cabinet is above the height of the neighboring sign and will not obstruct it.

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

The legislative purposes of the adopted sign regulations are to provide minimum standards to protect the general public by regulating the design, construction, location, use and maintenance of out-door advertising signs. Relocation of the free-standing pole sign will improve the clear vision goals by moving the sign back from the traffic another 20 feet.

Alternative to Applicant's Request

The applicant can license the main sign as an improvement in the public way and retain its non-conforming rights.

Staff Recommendation

Staff recommends **approval of A-13-021** based on the following findings of fact:

1. The hotel is constructed 450 feet from the front property line and needs the signage to identify its location.
2. The existing sign was likely installed on private property but subsequent right of way dedications to provide adequate future street expansion caused the location to become publicly owned.

Attachments

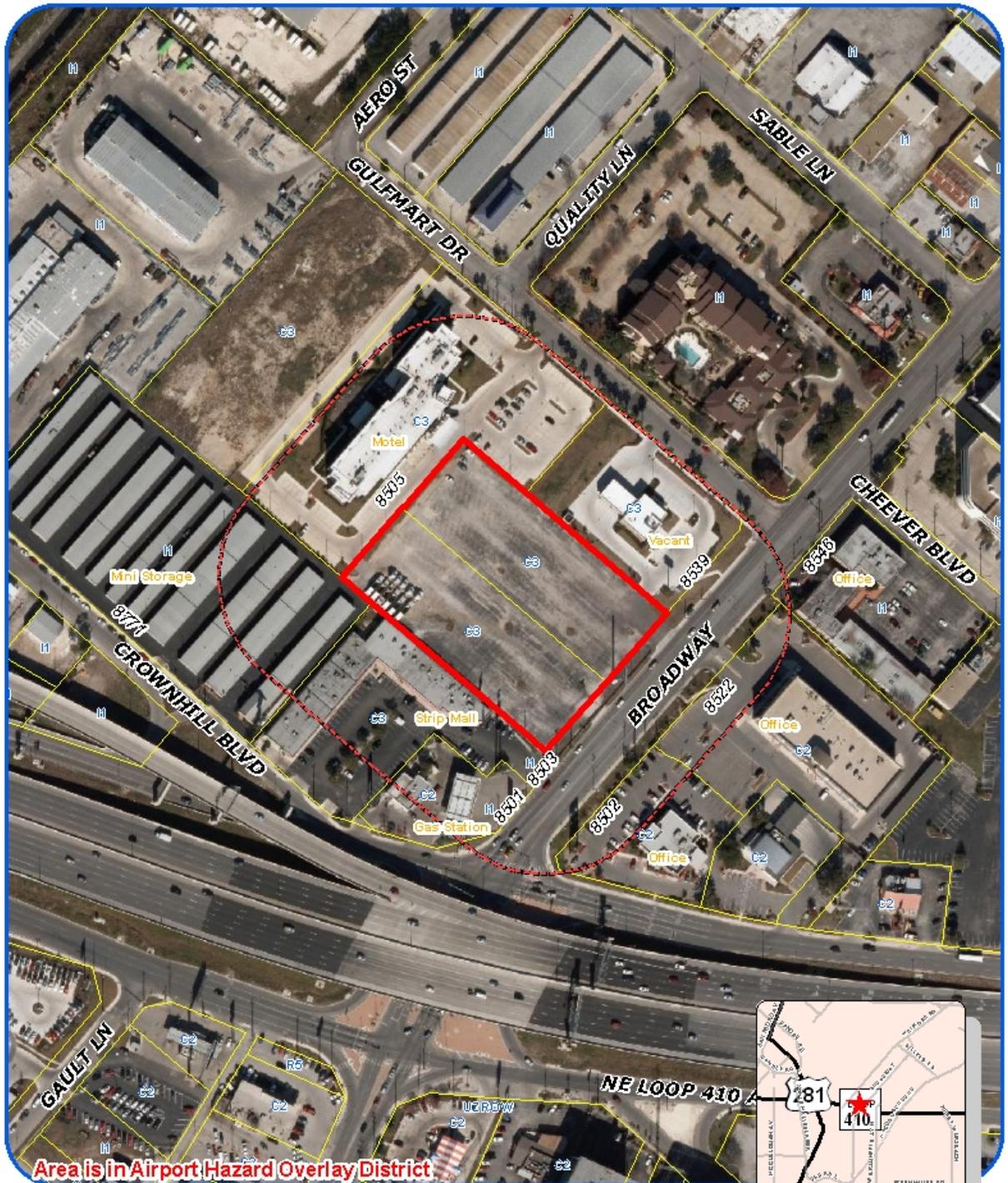
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

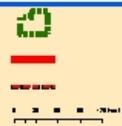
Attachment 1 Notification Plan



**Board of Adjustment
Notification Plan for
Case No A-13-021**



- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Color of District ID



Development Services Department
City of San Antonio
(378) 42013

**Attachment 2
Plot Plan**



Board of Adjustment
 Plot Plan for
Case No A-13-021



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

Broadway at NE Loop 410

Development Services Department
 City of San Antonio
 (02/13/2013)

Attachment 3 Sign Elevations

Location No.: CISO389
Location Name: Country Inn & Suites San Antonio
Address: 8505 Broadway
San Antonio, TX 78217
Project: Carlson

DSS
digital survey system



REFACE ONLY

THE InSite Group
solutions for your signage needs

**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-023
Date: March 4, 2013
Applicant: Pape-Dawson Engineers
Owner: Junior League of San Antonio
Location: 723 Brooklyn Avenue
Legal Description: Lots 5, 6, 7, A-B-8, A-8, A-9, Block 25, NCB 821
Zoning: "FBZ T5-1 RIO-2 AHOD" Form Based Zone Transect 5-1, River Improvement Overlay, Airport Hazard Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests **1)** a variance from the prohibition against parking in the first and second lot layer to allow parking between the buildings and the property line; **2)** a variance from the requirement to mask parking by a street screen to allow parking which is visible from the public way; and **3)** a 6.5-foot variance from the required 12.5-foot sidewalk width to allow a new 6-foot sidewalk on Brooklyn Avenue.

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 ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on February 14, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on February 15, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 1, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The Junior League of San Antonio owns the entire block in the River North portion of downtown, home to two historic structures, the Nesbitt Home and the Claudius King Home, both of which are Historic Landmarks. The Nesbitt House is currently used as office space and the King residence is used as a restaurant/reception center. The property is encumbered by several specific and unique zoning designations. It is within the boundaries of the River Improvement Overlay Zone (RIO-2), the Form-Based Zone (FBZ) and the Office of Historic Preservation jurisdiction as Landmark sites (HS & HE). These zoning regulations and authorities form a complicated and sometimes conflicting set of standards. The applicant is requesting approval of

two requested variances from the provisions of the Form Based Code in order to allow them to rebuild the existing parking areas, and install cohesive perimeter landscaping around the entire block. In addition, they are requesting a variance from one of the required sidewalk widths in order to reconstruct the curb, gutter and sidewalk on each of the four frontages.

River North

The 2.6 acre site is located on the north edge of downtown in an area identified as River North. This neighborhood has experienced some reinvestment and revitalization over the last decade. Recent initiatives include the adoption of the River North Master Plan, the creation of a Tax Increment Reinvestment Zone, the 1.3 mile San Antonio Riverwalk expansion to the museum, and the designation of the area with “FBZ” form based zoning.

The River North Master Plan established a vision to build on the existing assets in the area, preserving and re-purposing the historic structures and encouraging compatible new development on under-utilized intermittent industrial sites. The form-based zone was adopted in early 2009 as a tool to guide that redevelopment into traditional shapes and sizes that would complement the existing buildings. The concept of form based zoning is relatively new, but the development pattern it requires is evident in the established areas of every city and town. Some of the provisions of the district regulate building placement on the site, the building’s relationship to the street, and the location and visibility of parking stalls. These requirements are meant to reduce the potential contrast of more recent commercial site design trends of a building set back 50 feet from the street by a large parking area.

Form-Based Code

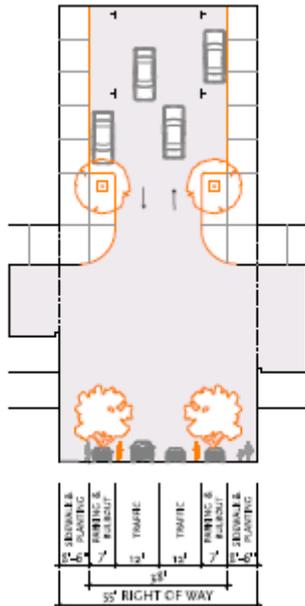
Section 35-209 of the UDC details the City’s form-based code provisions. Section 35-209 (e) 5D addresses parking standards in the T-5 zones. According to the applicant, two requirements are posing an unnecessary hardship. The first of these requires that parking be located behind the first lot layer, defined by the building’s front wall plane. Because the buildings are setback between 35 and 50 feet, this eliminates a row of parking around the entire block perimeter, for a loss of more than 45 parking stalls. One of their arguments is that these parking stalls are existing and should be granted non-conforming status and allowed to continue. A survey of older aerial photography supports this assertion for most of the parking areas.

This section also requires that if parking is proposed in this “lot layer”, it must be hidden behind a street screen. The UDC defines these walls as: *a freestanding wall built along the frontage line, or parallel to a frontage line, often for the purpose of masking a parking lot from the thoroughfare. Streetscreens should be between three and one-half (3.5) and eight (8) feet in height and constructed of a material matching the adjacent building facade. Streetscreens shall have openings no larger than is necessary to allow automobile and pedestrian access.* The subject property actually has an existing street screen wall along a portion of its frontage on McCullough, which the applicant hopes to demolish. Instead, the applicant hopes to install a 10-foot wide planter bed around the perimeter. The RIO design requirements detailed in 35-672 (b) require a 15-foot type B bufferyard to screen parking, but the UDC specifies that the FBZ requirements supersede the RIO where parking lot screening is concerned. The second requested variance is from the requirement to install a street screen, in favor of the proposed reduced width perimeter landscaping. The applicant states that the HDRC approval “specified that no new parking, walls or other structures be constructed along the frontage that would detract from the historic character of the existing buildings.” A review of the three HDRC reports finds that their focus was on those sections of the parking plan with proximity to the historic homes, where the applicant removed at least 12 stalls to comply with their stipulations. The majority of their other

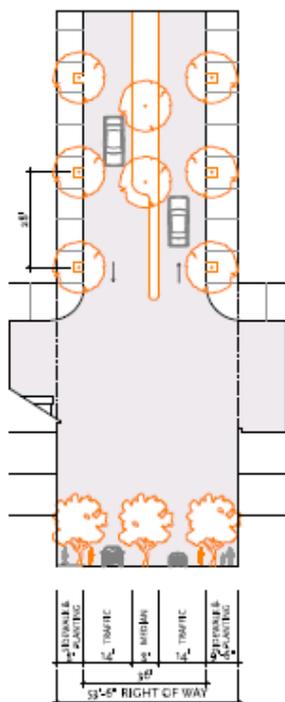
comments advised of the applicable FBZ Code requirements and encouraged compliance. A street screen is only required where parking is located in the first lot layer, certainly not applicable around the Nesbitt home.

Public Way Improvements

The applicant has elected to reconstruct the curb, gutter and sidewalk around the entire block as a component of their site improvement investments. Section 35-209 (c) 8 E. establishes the requirement to conform public frontages to the adopted design standards. The River North Master Plan included a Transportation Design Plan (Pape-Dawson Engineers) which detailed the specific sidewalk and planting widths for each street right of way. These designs were chosen based on the existing right of way available and were not reliant on future street dedication.



Within the more urban transect zones (T4 through T6) pedestrian comfort shall be a primary consideration of the thoroughfare. Design conflict between vehicular and pedestrian movement shall be decided in favor of the pedestrian. Augusta was determined to be a street which could accommodate on street parking defined by “bulb-outs” at the intersections, reducing the width of the crosswalk. This provides a great opportunity for the Bright Shawl Reception Center to have a dedicated loading zone for limousines during special events. These curb and sidewalk improvements can all be installed within the existing dedicated right of way. Crape Myrtle and Chinquapin are the tree species listed in the River North Master Plan for Augusta with trees planted in wells in the bulb-outs only. The sidewalk is designed at 8.5 feet wide.



McCullough is proposed to have a center median, however this type of improvement is assumed to be the City’s responsibility. The applicant will be expected to install an 8-foot wide sidewalk with tree wells every 28-feet as shown on the exhibit. The street trees listed along McCullough are the Crape Myrtle and the Western Soapberry. Decorative street lighting is also expected to be installed along the frontages. Both McCullough and Augusta require the 14-foot tall candlestick style lighting installed every 50 feet. Combined together, these street improvements can elevate the prestige of a site, making it a catalyst for investment throughout the entire neighborhood.

Figure 9 in the Transportation Design Plan details the 55.6 foot right of way for Dallas. It too assumes on street parking is allowed within that area, but does not require bulb-outs. A 9.5 foot sidewalk/ planting combination is specified, but there is no exhibit to clarify how the two should be installed. The street trees for Dallas are Lacey Oak or Rusty Blackhaw. Figure 9 also details the cross-section for Brooklyn, outlining a required 12.5-foot sidewalk. The applicant has requested a 6.5 foot variance from this sidewalk standard, asserting that the required width encroaches onto private

property and reduces available landscape area. As stated above, these street cross-sections were designed within the available right of way. The engineered site plan submitted shows the land is available.

Subject Zoning/Land Use

Existing Zoning	Existing Use
Form-Based Zone-Transect 5-1, River Improvement Overlay-2, Airport Hazard	Office Restaurant/Reception Hall

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	Form-Based Zone-Transect 5-1, River Improvement Overlay-2, Airport Hazard	Medical Offices
South	Form-Based Zone-Transect 5-1, River Improvement Overlay-2, Airport Hazard	Office
East	Form-Based Zone-Transect 5-1, River Improvement Overlay-2, Airport Hazard	Central Catholic Band Hall/Athletic
West	Form-Based Zone-Transect 5-1, River Improvement Overlay-2, Airport Hazard	Convenience Store Service Station/parking

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the River North Master Planning area. An enhanced streetscape is included in the master plan and as a requirement in the FBZ. The owner will be required to both widen the sidewalks and add street trees 30-feet on center along each frontage.

The property is also located within the “RIO” overlay district, which requires review by the Historic & Design Review Commission. The Commission granted approval for the parking areas in 2010, with a stipulated setback from the historic homes on the property.

The Downtown Residents Neighborhood Association was notified of this application and asked to comment.

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:

- The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety and welfare of the public at large. The design overlay standards adopted for this neighborhood are geared toward improving the overall property values and atmosphere of the district. The City has invested public funds to assist in this transformation by extending the Riverwalk, and building the central library here to name a few. Clearly the investment proposed by the Junior League will enhance the neighborhood.

Providing improved parking in support of the established uses which fund the preservation of these two landmarks is serving the public interest and does warrant consideration of the requested variance.

The applicant states that the street screen detracts from the historic character of the site and decreases green space. While this may be true on some of the frontages, it is not necessarily true on each of the frontages. The Board of Adjustment will have to determine if modifying the requirement for a street screen is in the public interest.

The applicant asserts that the proposed 6.5-foot variance is in the public interest because a 6-foot sidewalk will be provided. The public however already owns the land for the right of way improvements on each of the frontages and presumably the adopted Transportation Design Plan represents the public's interest. If the network of sidewalks is to be cohesive from block to block, each and every property owner must participate with consistency. For this reason, a variance from the right of way design standards would be contrary to the public's interest.

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

The existing historic landmarks on the site are the essential starting point to any site design decisions. Preserving these structures in their original surroundings does introduce an element of property-related hardships. The HDRC did specify in their analysis that the views of these original structures from the public way should be preserved. The site plan shows parking has been minimized in the first lot layer on the Brooklyn Avenue frontage, virtually eliminating the need for a street screen here and honoring the preservation guidelines for landmark sites.

This same visibility goal may hold true for the Augusta Avenue frontage. The Claudius King House has historic visibility, even though it is a view from parking lots. Mature trees frame the view and will be preserved. A street screen would harm the root system here and would represent an unnecessary hardship.

The same cannot be said for the public way improvements. Once installed, sidewalks can be expected to last nearly 50 years. If these improvements are not installed according to the adopted cross section at this point in time, the next opportunity will be decades away. Given that the right of way is available, the improvements should be located as designed.

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

The spirit of the ordinance is represented by its equal application to all citizens. In some cases, unique property-related characteristics warrant flexibility to the regulations. The applicant states that since the site has had parking between the buildings and the streets, the spirit is observed by allowing it to be reconstructed in place. Choosing landscaping at the expense of the required street screen can only be attributed to those frontages with historic landmarks' views. Authorizing the street screen variance for those frontages with views of the preserved portions of the historic buildings observes the spirit of the ordinance. On McCullough Avenue where a street screen currently exists, leaving it in place and extending it west toward Dallas would be observing the spirit of the ordinance.

The same cannot be said for the sidewalk width or widths. The City owned right of way is available and the applicant is reconstructing all of the curb gutter and sidewalk around the entire site. A variance from the adopted streetscape standards would be an injustice to the public that would last 50 years.

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the FBZ T5-1, RIO-2, AHOD 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.*

As in any established neighborhood on a downtown fringe, there are a variety of land uses, assorted buildings styles, and several properties in transition. The applicant's investment will have a positive influence on the area and likely encourage investment in the immediate vicinity. Installation of the adopted streetscape standards will establish the correct street/sidewalk alignment for the next 50 years, implementing the design standards adopted for this neighborhood. In the case of the sidewalk width, a variance would injure the character of the district.

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

The applicant is requesting variances from the form-based code to allow reconstruction of the site parking. Parking in the first and second lot layers can be attributed to the building placement of the two historic landmarks on the site. A variance from the street screen requirement could also be attributed to these structures, at least on two of the frontages. Justification is much more elusive for the requested sidewalk variance or consideration that the other frontages wouldn't be improved according to the adopted design plan.

Alternatives to Applicant's Request

The alternative to the applicant's request is to redesign the parking improvement plan.

Staff Recommendation

Staff recommends **approval of some of the requested variances within A-13-023**, based on the following findings:

1. The two buildings on the site are designated historic landmarks worthy of preservation and are surrounded on three sides by parking. The property is used as an office, and a reception center/restaurant which need a considerable amount of parking.
2. The Office of Historic Preservation, along with the guidelines for preservation, published by the Secretary of the Interior, considers the historic context and the view of the buildings from the public way as essential components of preservation goals.

Attachments

- Attachment 1 – Notification Plan (Location Map)
- Attachment 2 – Plot Plan
- Attachment 3 – Applicant's Site Plan
- Attachment 4 – Site Photos

Attachment 1 Notification Plan



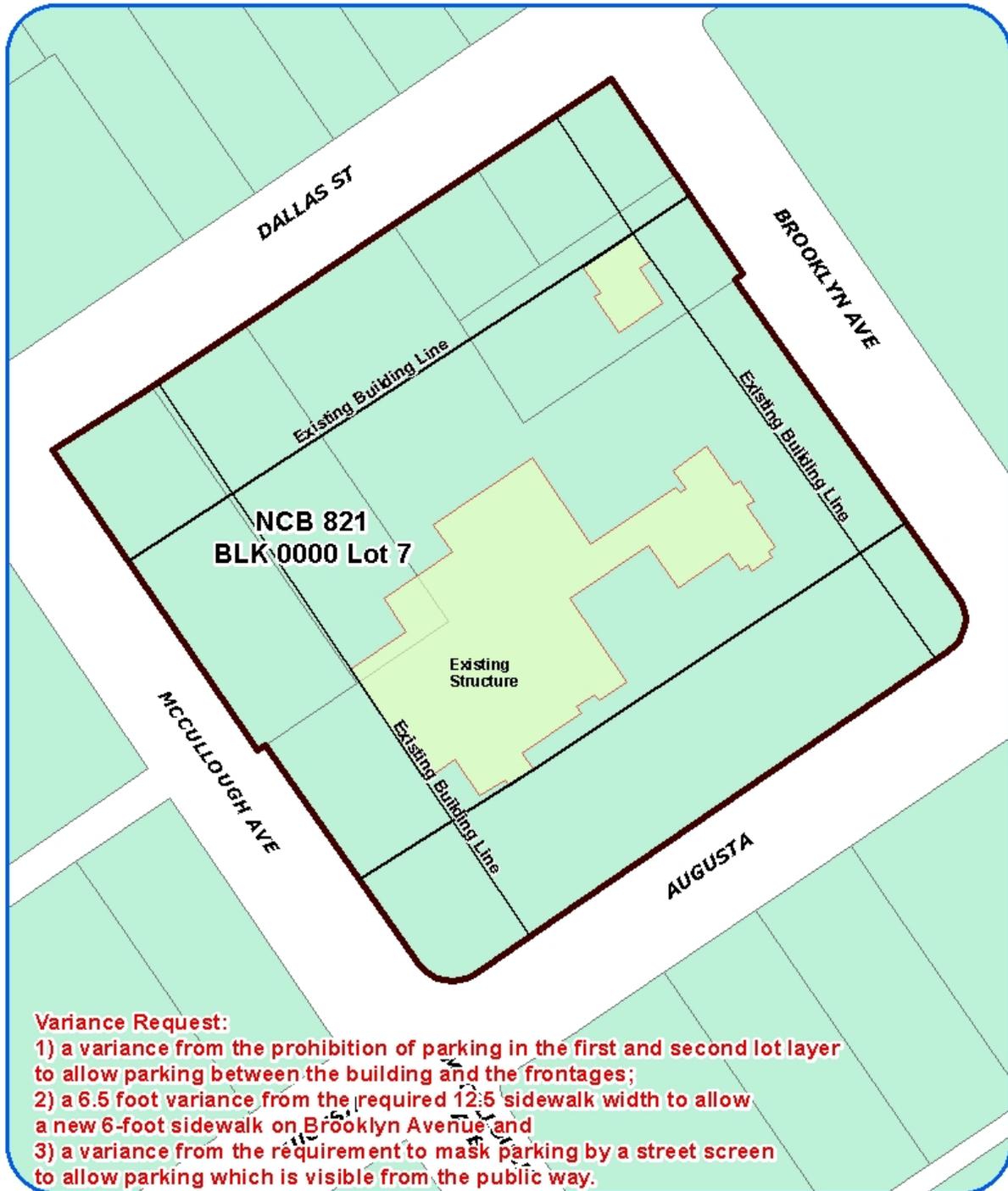
Board of Adjustment
Notification Plan for
Case No A-13-023



- San Antonio City Limits 
- Subject Property 
- 200' Notification Boundary 
- Council District 1 

Development Services Department
 City of San Antonio
 (361) 420-1313

Attachment 2
Plot Plan



Variance Request:

- 1) a variance from the prohibition of parking in the first and second lot layer to allow parking between the building and the frontages;
- 2) a 6.5 foot variance from the required 12.5 sidewalk width to allow a new 6-foot sidewalk on Brooklyn Avenue and
- 3) a variance from the requirement to mask parking by a street screen to allow parking which is visible from the public way.

Board of Adjustment
Plot Plan for
Case No A-13-023



Council District 1

Existing Building Line —

819 Augusta

Development Services Department
City of San Antonio
(330) 420-13

**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-024
Date: March 4, 2013
Applicant: DSW Investors 1, LLC
Owner: DSW Investors 1, LLC
Location: 9806 IH 10 W and 9411 Wurzbach
Legal Description: Lots 20 & 21, NCB 14939
Zoning: "C-2" Commercial
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests **1)** a 3-foot variance from the 50-foot maximum height allowance for a free-standing freeway sign to allow the existing 53-foot Drury Hotel sign; **2)** a 14-foot variance from the maximum 37.5 foot maximum height allowance for additional signs to allow the existing 51-foot Ruby Tuesday sign; and **3)** a 5-foot variance from the maximum 37.5 maximum height for additional signs to allow the existing 42-foot free-standing sign to be refaced for Best Western.

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 ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on February 14, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on February 15, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on March 1, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is approximately 5.5 acres and has been improved with two hotels and a restaurant. The first hotel was built in 1993 as a Holiday Inn Express, but is now a Best Western. It is fairly typical for hotels to change hotel affiliation. In 2001, a subdivision replat was recorded, consolidating a few lots and creating a large lot, Lot #20, with 4.5 acres and a small lot, Lot #21, with 0.99 acres. The small lot was just large enough for the Best Western Hotel and landscaping. That same year, the Drury Hotel was constructed on the large parcel. In 2006, the restaurant was added to

the site on the same lot as the Drury. A cross access easement allows customer parking for any of the businesses throughout the block and the ownership boundaries are indiscernible.

This application was submitted a few years ago, but withdrawn at the request of staff. At that time, there was a concern about one of the signs being off premise. This variance, if approved, will remove the last obstacle to applying for a sign master plan. In order for staff to consider a sign master plan, all of the signs must be considered *conforming*. The status of the empty pole sign as “off-premise” has prevented it from being refaced. A sign master plan will eliminate the distinction of the lots and classify the entire area as one site, with a specific sign allowance, less than what could be installed if the lots were reviewed individually.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-2” Commercial	Hotels & Restaurants

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2” Commercial	Restaurant
South	“I-1” Industrial	Hotel
East	“C-2” Commercial	Convenience Store Gas
West	“C-2” Commercial	Restaurant

Comprehensive Plan Consistency/Neighborhood Association

The property is within the North Sector planning area, and identified for community commercial uses. It is located within the Laurel Hills neighborhood association and as such, they were notified of the request and asked for comments.

Criteria for Review

Pursuant to Section 28-247 of *Chapter 28: Signs and Billboards* 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*

Each of the existing signs is legal non-conforming. Section 28-245 of the City’s Municipal Code outlines the privileges associated with non-conforming signs, which include refacing the cabinets. A commentary in the code states that *it is the intent of this section for non-conforming signs to continue in existence for the usable life span of the sign*. Because of the original construction methods and materials, this life span is expected to be many decades. It was the application for a permit to reface the sign which alerted the owner that the subdivision in 2001 had severed the hotel (Best Western) from its sign. There are a couple of different approaches to resolve the issue. The applicant’s preferred

solution is to permit the signage through a sign master plan agreement (SMP). Section 28-244 outlines the purpose as follows:

allows flexibility in signage location in exchange for a cumulative reduction in both total sign area and sign height within the master plan area.

The applicant is proposing the sign master plan approach because the site could qualify for much more signage under the Code, making it an ideal site to achieve the SMP goals. The applicant has submitted an exhibit showing a quantifiable 49% reduction in combined allowed height if the SMP is allowed. An additional 60% reduction in potential sign area could also be achieved. Indeed six additional free-standing pole signs could be installed oriented toward each of the surrounding frontages. The applicant is willing to abandon these for the opportunity to address the primary market-the freeway.

While the applicant is requesting three variances, it is the Best Western for whom the variance is essential to its business. The building is low-profile in contrast to the Drury, so the wall signage is underwhelming and barely visible from the freeway. A hotel must have visibility from the freeway to capture the unfamiliar traveler, and this sign is essential to that market demand.

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.*

The applicant is one of many businesses in San Antonio who spent ten of thousands of dollars investing in a sturdy free-standing pole sign. These signs have been permitted since at least 1940, when the requirements were geared toward protecting the public. Installation licensing and annual inspections were key components in the early Codes. The maximum height was actually not specified, but rather left to the judgment of the Building Inspector. *The total height of such signs or billboards above the ground shall be governed by the opinion of the Building Inspector, taking into consideration the conditions existing at the locations where such signs or billboards are to be placed, but in every case there shall be an open space of at least three feet in height maintained between the bottom of such signs and the ground.* (Ordinance No. 1233, adopted January 11, 1940) It was also very difficult to accurately measure height when many of these signs were installed. The 1984 sign code allowed freeway signage to be 60 feet above the height of the freeway, but no taller than 80 feet above the existing ground. The sign parameters have not changed that much over the years; forty and fifty foot signs are commonplace along the freeways. Therefore the variances, if approved, do not offer a special privilege.

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

Granting the variance will not adversely impact the neighboring properties. Attracting more overnight guests will add economic activity to the surrounding restaurants and service stations. In addition, the signs are existing.

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

The decided legislative purpose of the adopted sign regulations is “to protect the safety and efficiency of the City’s transportation network by reducing confusion or distractions to motorists and enhancing motorists’ ability to see pedestrians, obstacles, other vehicles and official traffic signs by eliminating a proliferation of messages for the reader.” As stated above, the proposed

Sign Master Plan will reduce the potential allowed signage by 6 signs and 49% of the allowed height. Therefore, allowing this agreement to move forward will not conflict with the purposes.

Alternative to Applicant's Request

The applicant can install a new pole sign on the Best Western parcel at a height of 30 feet with 200 feet of sign area.

Staff Recommendation

Staff recommends **approval of A-13-024** based on the following findings of fact:

1. The variances will allow the proposed Sign Master Plan agreement to move forward, resulting in a 49% reduction in allowed height and a 60% reduction in potential sign area;
2. The useable life span of non-conforming signs is greater than 75 years; and
3. Freeway visibility is essential to the viability of a hotel.

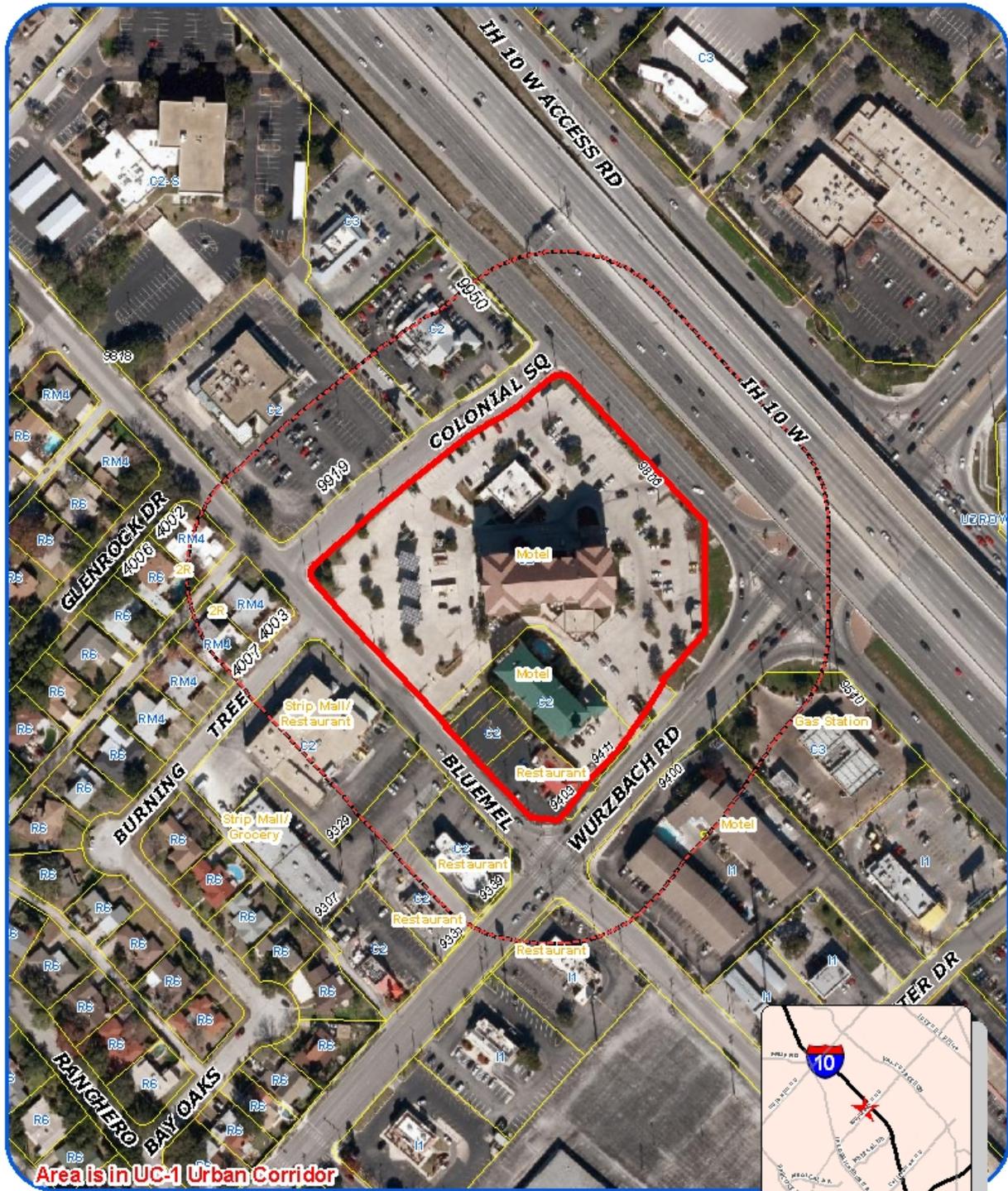
Attachments

Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Site Photos

Attachment 1 Notification Plan

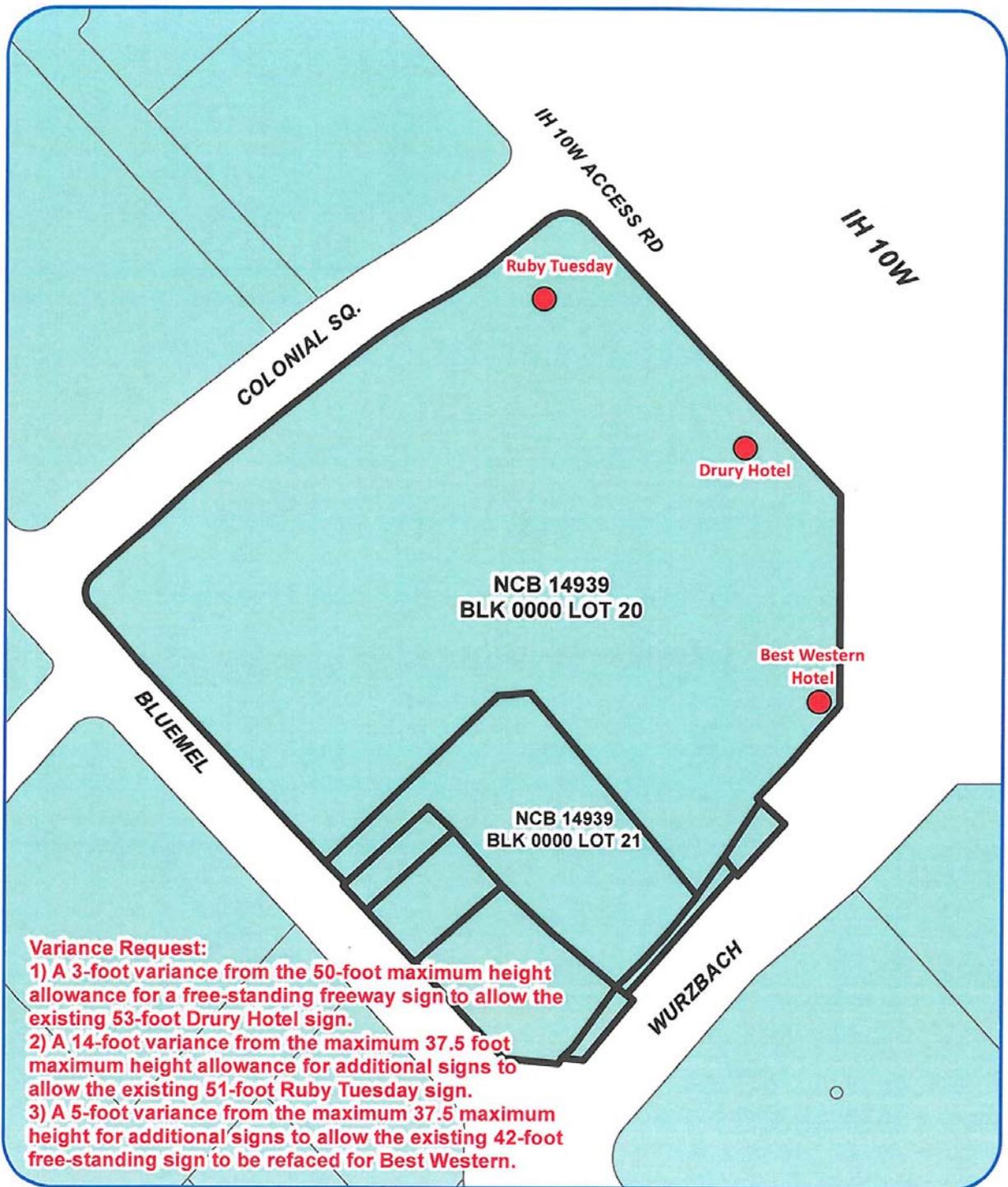


Area is in UC-1 Urban Corridor



<p>Board of Adjustment Notification Plan for Case No A-13-024</p>		<p>San Antonio City Limits Subject Property Notification Boundary Council Districts</p>			<p>Development Services Department City of San Antonio (361) 420-1313</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-024



Sign Locations ●
0 25 50 Feet
Council District 8

11.250
**9806 IH 10 W &
9411 Wurzbach Rd**

Development Services Department
City of San Antonio
(02/13/2013)

**Attachment 3
Site Photos**

