

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, May 20, 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-13-038:** The request of Joel G. Tonche for a special exception to allow a 6-foot high ornamental-iron front yard fence, located at 8752 Seven Seas Drive. (Council District 4)
5. **A-13-039:** The request of Guy Floyd for a 2,700 foot variance from the 2,500 square foot maximum floor area allowed for an accessory structure to allow a fully enclosed sport court with 5,200 square feet of floor area, located at 8 Villers St. Paul. (Council District 8)
6. **A-13-041:** The request of Facility Solutions Group for a 40-foot variance from the maximum sign height of 60 feet for signage along a freeway to allow a 100-foot tall sign, located at 1330 South Laredo. (Council District 1)
7. **A-13-042:** The request of Chandler Signs for 1) a 15-foot sign height variance to allow a freestanding sign 39 feet in height along an Arterial Type B Street; and 2) a 47 square-foot area variance to allow a 197 square-foot freestanding sign along an Arterial Type B Street, located at 516 West Cypress Street. (Council District 1)
8. Approval of the minutes – May 6, 2013
9. Adjournment

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

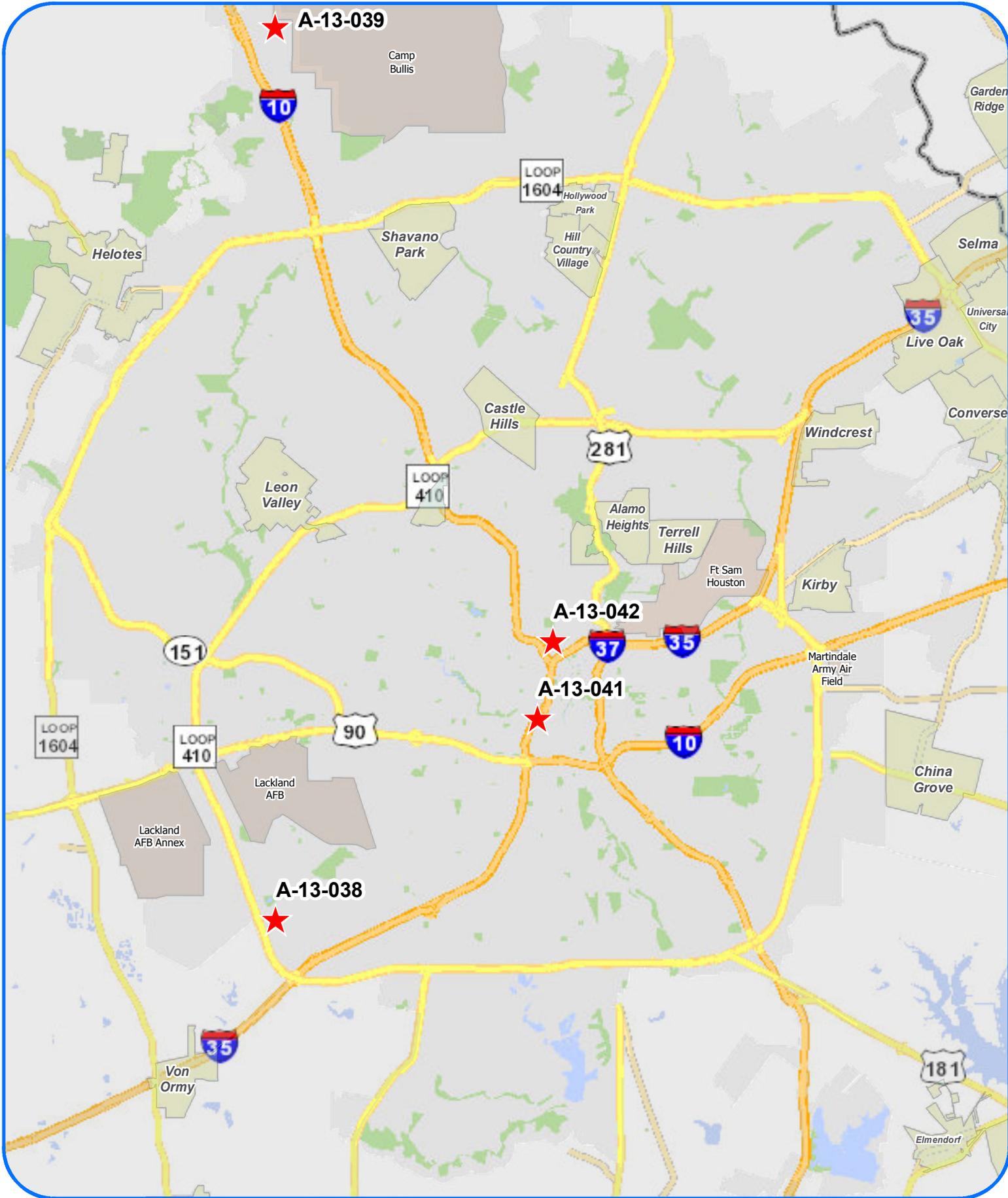
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210)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

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 • John Kuderer, District 9 • Gene Camargo, Mayor

Alternate Members

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



Board of Adjustment

Subject Property Locations
Cases for 20th May 2013





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

To: Board of Adjustment
Case No.: A-13-038
Date: May 20, 2013
Applicant: Joel G. Tonche
Owner: Joel G. Tonche
Location: 8752 Seven Seas Drive
Legal Description: Lot 33, Block 32, NCB 17512
Zoning: "R-6 AHOD" Residential Single-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 or before May 2, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on May 3, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before May 17, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the east side of Seven Seas Drive, approximately 350 feet north of Fishers Bend Drive. The applicant is proposing to construct a 6-foot high ornamental-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
R-6 AHOD (Single-Family Residential)	Single Family Residence

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the United Southwest Communities Plans (designated as Low Density Residential) and the West/Southwest Sector Plan (designated Suburban Tier). The subject property is also located within the boundaries of the Southwest Community 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 neither encroach on the neighboring properties, nor 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 "R-6" Residential Single-Family zoning district.

Staff Recommendation

Staff recommends **approval of A-13-038**. 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.

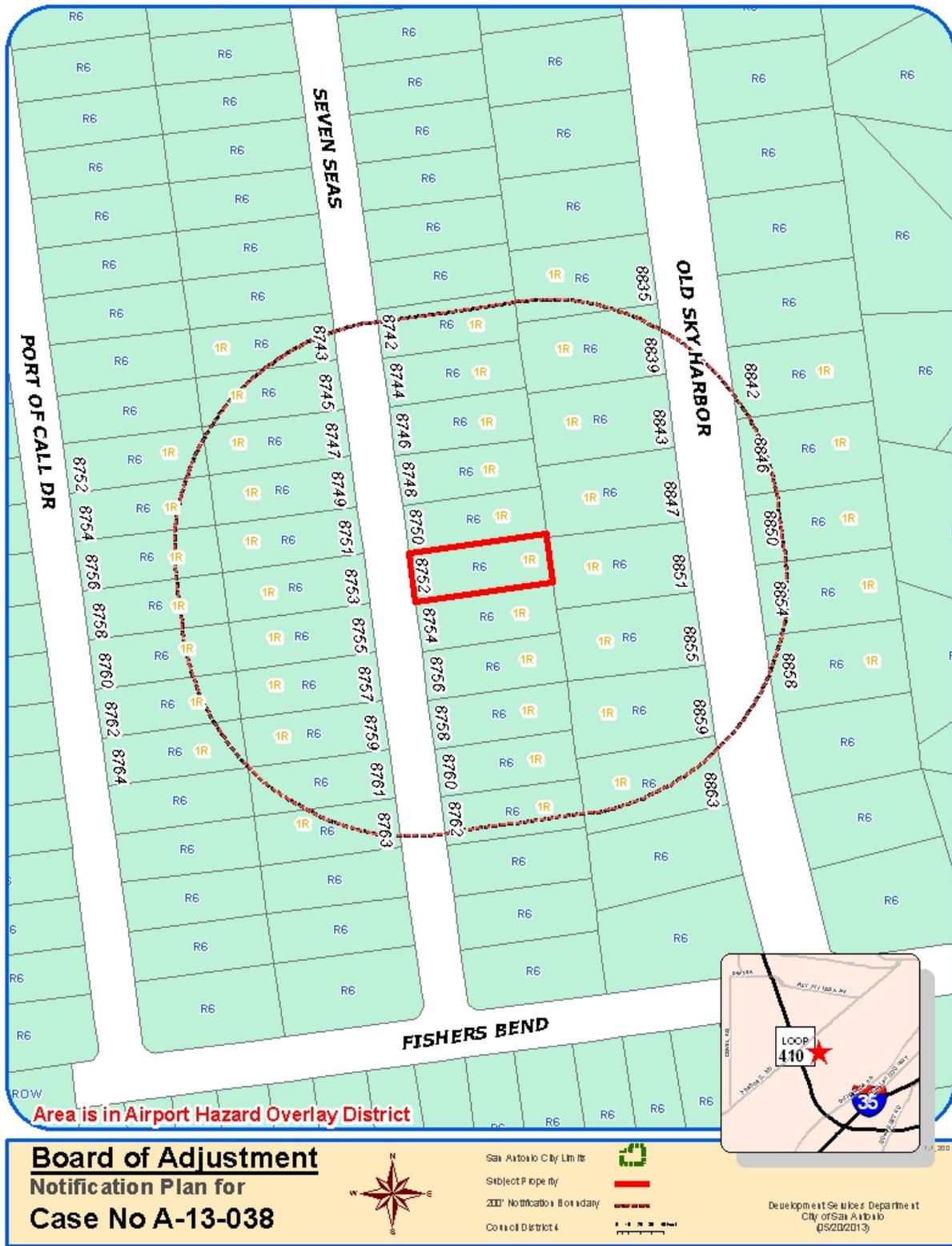
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Fence Plan

Notification Plan Attachment 1

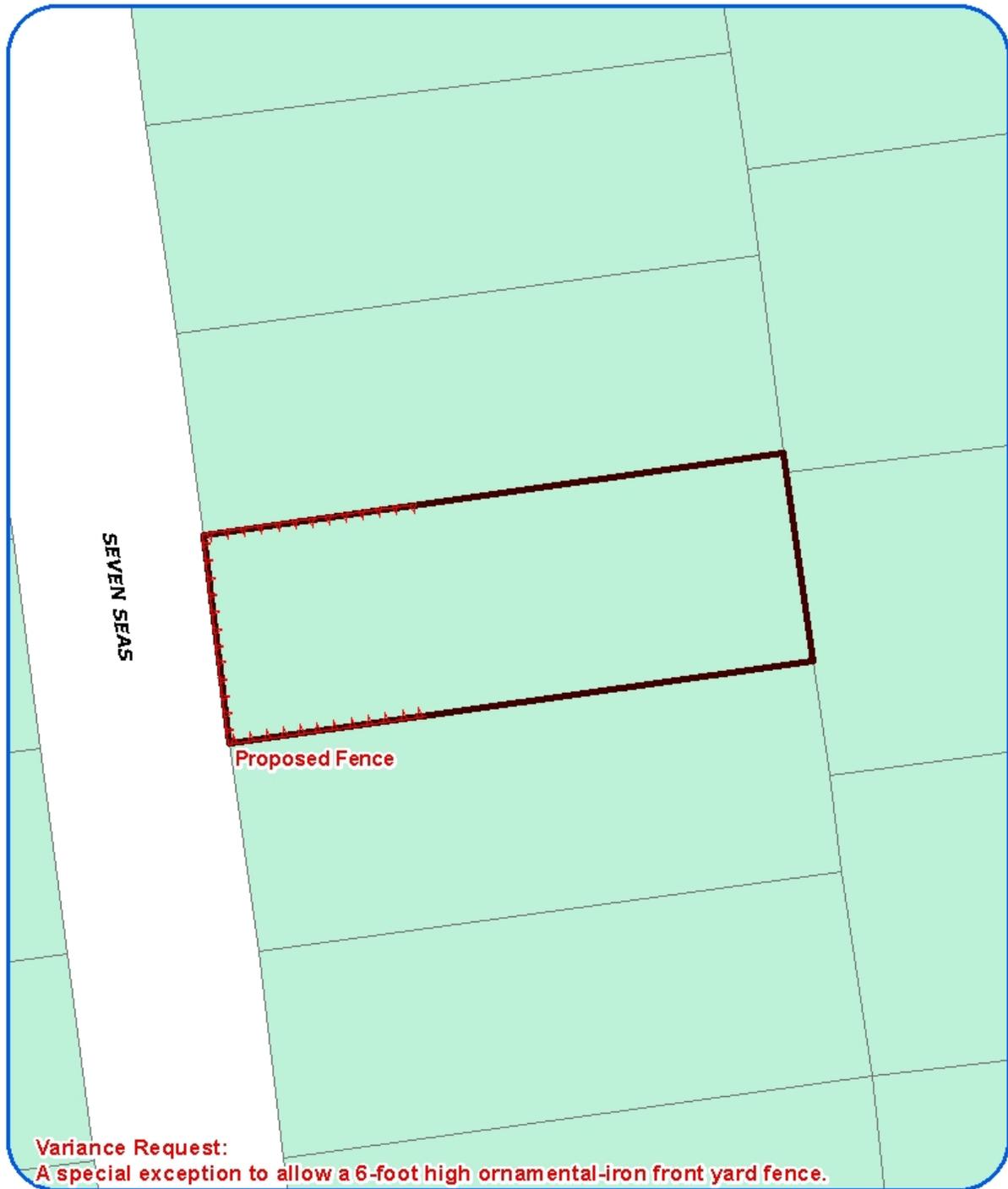


**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-13-038</p>	<p>San Antonio City Limits </p>
	<p>Subject Property </p>
	<p>200' Notification Boundary </p>
	<p>Council District 4 </p>
<p align="right">Development Services Department City of San Antonio (5/20/2013)</p>	

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-038



Fence



Council District 4

8752 Seven Seas ⁰⁰⁰

Development Services Department
City of San Antonio
(5/20/2013)

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-038



Fence 

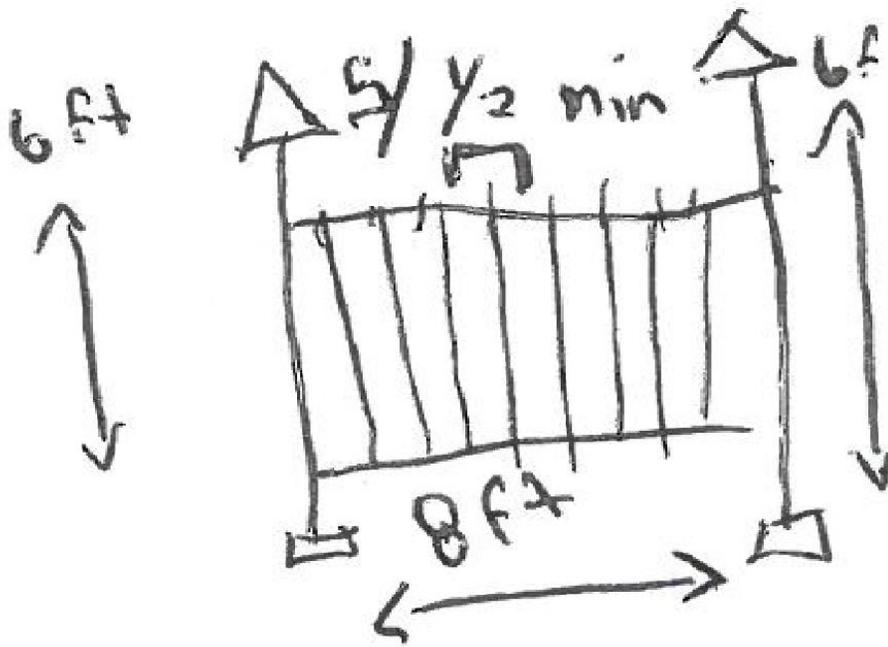


Council District 4

8752 Seven Seas ⁰⁰⁰

Development Services Department
City of San Antonio
(5/20/2013)

Attachment 3
Proposed Fence Plan





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-039
Date: May 20, 2013
Applicant: Guy Floyd
Owner: Steven & Leann Cyr
Location: 8 Villers St. Paul
Legal Description: Lot 48, Block 29, NCB 16386
Zoning: "R-6 PUD MLOD MSAO-1" Residential Planned Unit Development,
Military Lighting and Military Sound Attenuation Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant is requesting a 2,700 square foot variance from the 2,500 square foot maximum floor area allowed for an accessory structure to allow a fully-enclosed sport court with 5,200 square-feet of floor area.

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 May 2, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on May 3, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on May 16, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located within the Chateau at the Dominion Planned Unit Development and contains 35,274 square feet of lot area. The owner is currently in the process of building a custom home on the property. The selected design includes a smaller footprint than many houses in the neighborhood, with only 2,690 square feet. When completed, the two-story home will contain approximately 6,500 square feet total.

The owner is hoping to also construct a separate, fully enclosed sport court on the property. Section 35-370 of the UDC includes a limitation on the cumulative size of accessory structures which prohibits them from being larger than 2,500 square feet. The applicant could have

avoided the need for the variance by attaching the proposed 5,200 square-foot sport court to the home, as many in the neighborhood have done. This would have incorporated the size of the sport court into the footprint of the main building, excluding it as an accessory structure and subject to this limitation. In addition to the size limitation, the UDC also includes a yard area coverage maximum for accessory structures of 50%. If the structure of the code allowed either provision to regulate accessory structure size, the owner would again be able to avoid the variance; the coverage, even adding the footprint of the house, is only 21%.

The owner prefers to separate the two buildings, reducing the overall mass and potential impact of one huge building. In the application, the builder asserts that the building is designed to look like a house, with matching exterior materials and detailing of the main home, including wood windows and arched wrought iron entry doors. The proposed design was reviewed and approved by the Architectural Review Committee for the Dominion Owner’s Association.

The applicant has also submitted details about four of the nearby homes, documenting their size and coverage. These include:

1. 7 Tuscany Court: 15,300 sq.ft. on a 32,234 sq.ft. lot for 47.5% lot coverage
2. 12 Crescent Bluff: 10,145 sq.ft. on a 27,862 sq.ft. lot for 36% lot coverage
3. 17 Crescent Bluff: 12,791 sq.ft. on a 41,067 sq.ft. lot for 31% lot coverage
4. 5 Villers St. Paul: 7,030 sq.ft. on a 25,568 sq.ft. lot for 27% lot coverage

One additional factor was considered in the decision to separate the two buildings, the topography of the lot. The lot actually slopes downward 15-feet from the street corner to the interior corner. The proposed location of the accessory structure is toward the lower end of the parcel. A sport court is not conducive to interior elevation changes; it must be level. Had the owner elected to attach the accessory structure to the home as the natural elevation was dropping, the height of exposed foundation would have been extreme. By locating the structure closer to the lowest corner of the property, it can be 10-feet below the floor elevation of the main building.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 PUD MLOD MSAO-1” Residential Planned Development Military Lighting and Military Sound Attenuation Overlay Districts	Residential Improvements under construction

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 PUD MLOD MSAO-1” Residential Planned Development Military Lighting and Military Sound Attenuation Overlay Districts	Single-Family Residential
South	“R-6 PUD MLOD MSAO-1” Residential	Vacant lot

	Planned Development Military Lighting and Military Sound Attenuation Overlay Districts	
East	“R-6 PUD MLOD MSAO-1” Residential Planned Development Military Lighting and Military Sound Attenuation Overlay Districts	Single-Family Residential
West	“R-6 PUD MLOD MSAO-1” Residential Planned Development Military Lighting and Military Sound Attenuation Overlay Districts	Vacant lot

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Dominion Planned Unit Development, a large gated community served by private streets and characterized by large estates. The Dominion Neighborhood Association, which closely monitors activities within the subdivision, was notified of the requested variance. Camp Bullis was also notified, but responded with no concerns.

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 case would be restricted to those individuals gaining access into the private, gated community. The interests of this group are generally represented by the Architectural Review Committee which has approved the design of all of the improvements proposed for the property. In addition, evidence presented shows 79% of the overall lot area is still uncovered and open to air and light if the variance were to be granted.

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

A literal enforcement of the ordinance would require the applicant to incorporate the accessory uses of tennis and basketball into the main dwelling space of the home. This requirement creates an unnecessary hardship of combining uses that may be somewhat incompatible. Given the overall size of the parcel, the limitation of all accessory structures to 2,500 square feet is equivalent to only 7% of the lot area, far less than the 50% limitation in the UDC. Therefore, the literal enforcement of the ordinance would result in an unnecessary hardship.

- 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 an evaluation of the intent of the standard, rather than its literal, strict interpretation. The applicant claims that the size limitation is primarily for much smaller lots and given the coverage calculation, this assertion seems logical. In addition, a

review of the average size homes within the project shows many expansive designs with only the minimum setbacks remaining open. Therefore, granting the variance to allow the proposed structure is consistent with 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 “R-6 PUD MLOD MSAO-1” zoning districts.

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

The area is characterized by very large custom homes, exquisite landscaping and exotic swimming pools. Most of the properties in the planned unit development are valued over \$1,000,000. The proposed accessory structure is designed to blend into the upscale streetscape by resembling a home. The applicant has incorporated the same building materials, the same roofing materials and the same accent materials to ensure that the building does not detract from the essential character of the neighborhood. Therefore, the variance will not injure the adjacent 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 applicant is requesting a variance from a provision in the UDC which prohibits accessory structures larger than 2,500 square feet. There are no financial incentives associated with the variance; it is less expensive to include the sport court functions into the main structure. The parcel is sloping, with a change in elevation of 15 feet over the length of the property. This topography creates the unique circumstances which generally justify consideration of a variance request. By detaching the accessory structure, the owner can follow the natural topography, lowering the building and reducing its overall impact to surrounding property owners.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to attach the proposed sport court to the main home.

Staff Recommendation

Staff recommends **approval of A-13-039**, based on the following findings:

1. The total lot coverage is only 21%, including the footprint of the main building and the accessory structure, far less than the 50% limitation in the code.
2. The neighborhood is characterized by huge homes, many in excess of 10,000 square feet.
3. The lot slopes 15 feet in elevation from one end to the other.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Site Photos

Attachment 1 Notification Plan



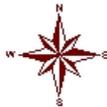
<p>Board of Adjustment Notification Plan for Case No A-13-039</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council Districts </p>	<p style="text-align: right;">Development Services Department City of San Antonio (5/20/2013)</p>
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**Attachment 2
Plot Plan**



Variance Request:
A 2,700 foot variance from the 2,500 square foot maximum floor area allowed for an accessory structure to allow a fully enclosed sport court with 5,200 sqft of floor area.

Board of Adjustment
Plot Plan for
Case No A-13-039



0 10 20 30 feet
Council District 8

8 Villers St Paul

Development Services Department
City of San Antonio
(5/20/2013)

**Attachment 3
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-041
Date: May 20, 2013
Applicant: Facility Solutions Group
Owner: McDonald's Corporation
Location: 1330 S. Laredo
Legal Description: Lot 16, NCB 919
Zoning: "I-2 AHOD" Heavy Industrial Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests a 40-foot variance from the 60-foot maximum sign height for signage along a freeway to allow a 100-foot tall sign.

Procedural Requirements

A variance from the requirements of the sign 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 May 2, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on May 3, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on May 16, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The applicant is requesting approval to relocate an existing non-conforming sign for a McDonald's restaurant. In the application, they explain that there are two free-standing pole signs and it is their intent to remove one and relocate the larger of the two to the rear of the property. Because of the design of the McDonald's logo signage, it is difficult for them to "replace the face" and leave the cabinet. A "face change" is allowed for non-conforming signage, but replacing the entire cabinet is considered outside of the repair and maintenance clause, losing its non-conforming status. The original sign was installed in 1972. The new logo sign cabinet, with 312 square feet, is within the allowed square footage for sign area, so no variance is needed for area. A permit application to install the new cabinet on the old pole would be denied and the height of the pole must be lowered to 60 feet.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“I-2 AHOD” Industrial Airport Hazard Overlay	McDonald’s Restaurant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2 AHOD” Commercial Airport Hazard	Restaurant
South	“I-2 AHOD” Industrial Airport Hazard	Fuel
East	“I-2 AHOD” Industrial Airport Hazard	Wholesale Distribution
West	“I-2 AHOD” Industrial Airport Hazard	Office Warehouse

Comprehensive Plan Consistency/Neighborhood Association

The property is within the South Central San Antonio Community Plan area, with a future land use designation as *community 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*

It is very difficult for the applicant to demonstrate either of these required findings. The site already has two non-conforming signs which are not necessarily in poor condition needing repair or replacement. In fact, one can conclude from their application that their existing signage is excessive; they are proposing to remove one of the two pole signs. Therefore, a denial will likely not cause a cessation of the commercial use of the property.

In trying to understand the true purpose behind this request, one may consider the existing sign clutter around the business. Two service stations, two hotels, two fast food restaurants, and two billboards make this roadside view a cluttered mess. In addition, the franchise is hoping to update the sign face with a more modern version of their logo, which is not permitted under the non-conforming rights to repair and maintain. Nevertheless, the allowed height of 60 feet is adequate.

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 surrounding businesses also have non-conforming signs which exceed the current standards for maximum height. 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. An exhibit submitted by the applicant shows the original permit from 1972, where the support pole extends 20 feet underground. A similar structural support system will be necessary for the new location. The proposed relocation effort will be a significant construction project, establishing the sign for at least the next 50 years.

Allowing the applicant to reconstruct the signage that was originally installed over 40 years ago does provide a special privilege by starting the long lifespan over again. Instead it is the ideal time, when the owner is prepared to invest in a new free-standing sign, to require installation under current provisions. The applicant has no distinguishing property-related hardship that reduces its exposure to the freeway traveler.

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

Granting the variance to allow relocation of one of the pole signs and removal of the other will likely not adversely impact the neighboring properties. Instead, reducing the nearby sign clutter will help each of the other businesses. Each of the surrounding businesses has a free-standing sign and each are similarly situated right off of the freeway exit, intent on capturing traveling customers. In reviewing signage permit history however, it was found that Wendy's installed a new sign in 2009 under current height limitations. Their signage is clearly visible in photos taken from the Interstate Highway. As seen in the Wendy's sign, 60 feet is still a very tall sign.

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. While the code does anticipate a phasing out of non-conforming signs, it does not establish an amortization schedule to eliminate them. The phasing approach takes a very long-term view of gaining compliance with recently reduced height parameters. The subject signage is more than 40 years old and if it is time to replace it, that work should be done under current height limitations of 60 feet. Therefore, allowing the sign to be installed at 100 feet would substantially conflict with the current legislative prerogative.

Alternative to Applicant's Request

The applicant can leave the signs in place, with confidence that they have many decades of useable life.

Staff Recommendation

Staff recommends **denial of A-13-041** based on the following findings of fact:

1. The site has no unique characteristics which differentiate it from other businesses along the freeway.
2. The business is not in danger of losing revenue due to inadequate signage.

3. A nearby business has installed signage under current limitations and retains visibility.

Attachments

Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

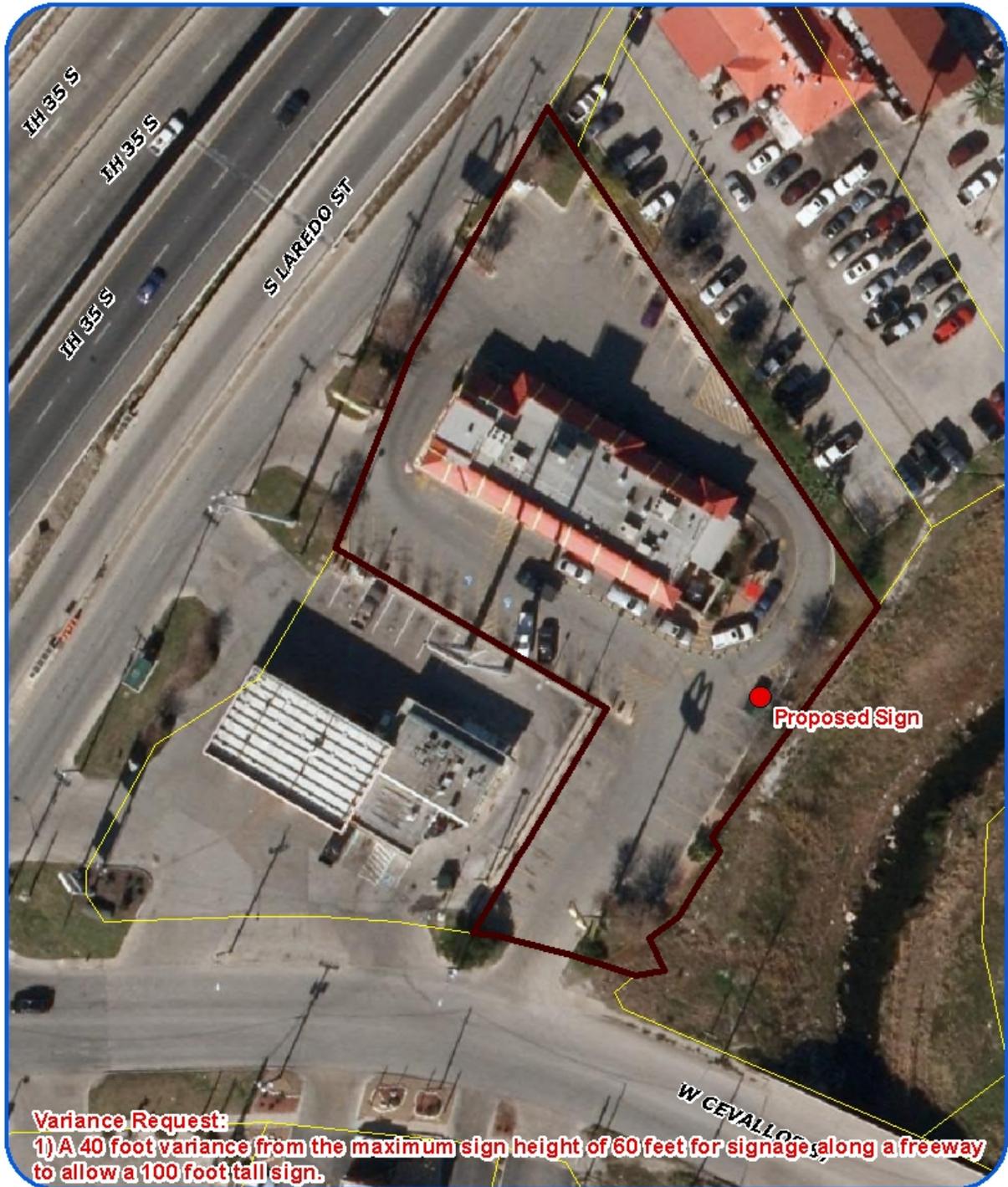
Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-13-041</p>		<p>San Antonio City Limits Subject Property 200' Notification Boundary Council District 1</p>			<p>Development Services Department City of San Antonio (6/20/2013)</p>
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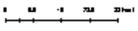
Attachment 2
Plot Plan



Variance Request:
1) A 40 foot variance from the maximum sign height of 60 feet for signage along a freeway to allow a 100 foot tall sign.

Board of Adjustment
Plot Plan for
Case No A-13-041

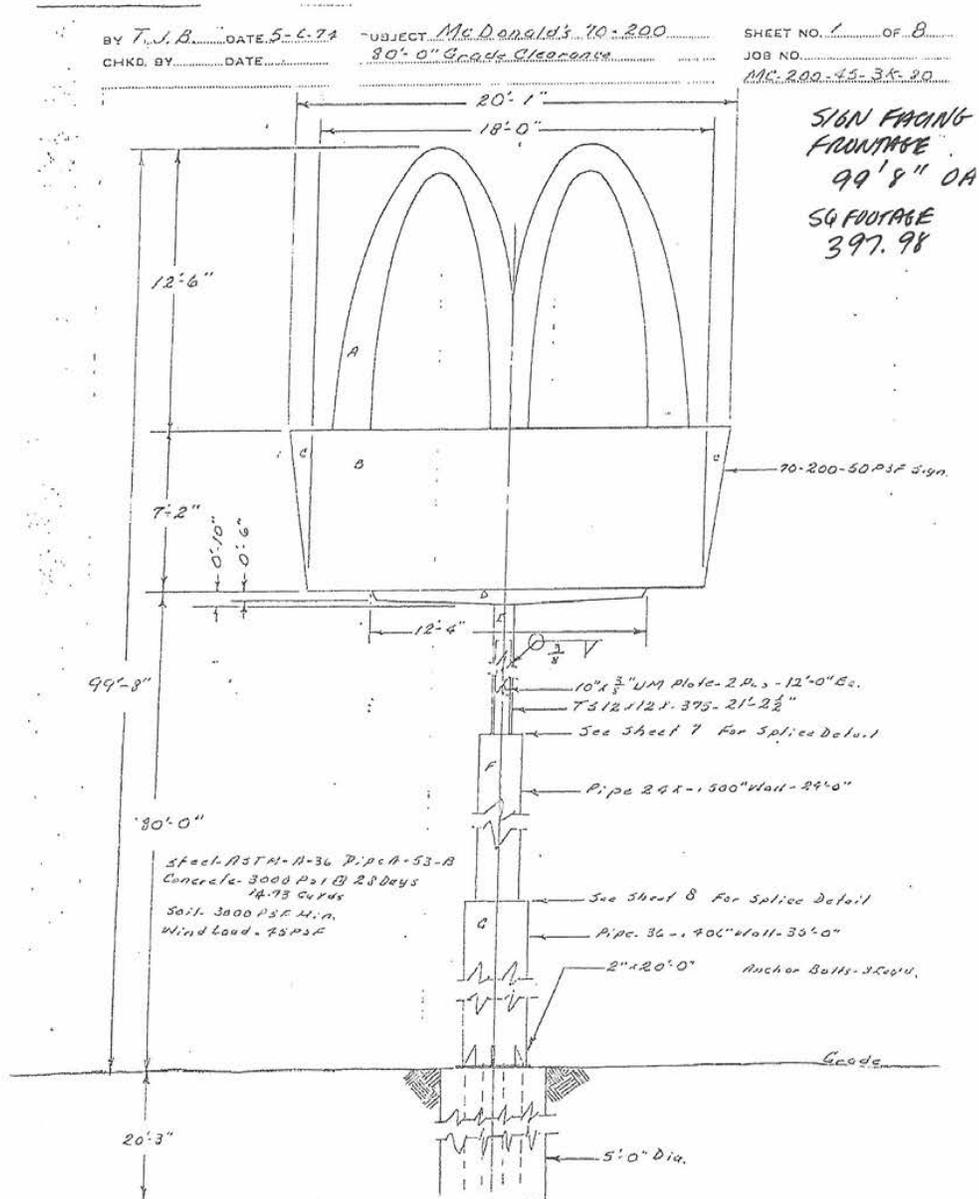


Sign 

Council District 1

1330 Laredo

Development Services Department
City of San Antonio
(512) 202-1313

Attachment 3 Sign Elevations



**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-042
Date: May 20, 2013
Applicant: Chandler Signs
Owner: Cohen Yahiel, LLC
Location: 516 West Cypress Street
Legal Description: Lot 11, Block 47, NCB 357
Zoning: "C-2P AHOD" Commercial Pedestrian Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for 1) a 15-foot sign height variance to allow a freestanding sign 39 feet in height along an Arterial Type B Street; and 2) a 47 square-foot area variance to allow a 197 square-foot freestanding sign along an Arterial Type B Street.

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 or before May 2, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on May 3, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before May 17, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of West Cypress Street, an Arterial Type B Street, approximately 135 feet west of San Pedro Avenue, a Primary Arterial Type B. The site is currently vacant, and is proposed to be redeveloped as a fast-food restaurant.

The applicant is requesting the sign variance in order to allow a taller, larger sign so that it may be more visible from San Pedro Avenue. The applicant states in the application that traffic from San Pedro is essential to the business plan for the proposed restaurant.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-2P AHOD (Commercial Pedestrian)	Vacant (Proposed Restaurant)

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	C-2P AHOD (Commercial Pedestrian)	Restaurant and Small Engine Repair
South	C-1 AHOD (Commercial) and RM-4 AHOD (Residential)	Vacant Land and Single-Family Residences
East	C-2P AHOD (Commercial Pedestrian)	Restaurant and Auto Repair
West	C-2P AHOD (Commercial Pedestrian) and RM-4 AHOD (Residential)	Vacant Land and Single-Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Five Points Neighborhood Plan, and designated as Community Commercial. The subject property is also located within the boundaries of the Five Points Owners Association and within 200 feet of the Tobin Hill Community Association.

Criteria for Review

According to Section 28-247 of Chapter 28: Signs and Billboards, 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 applicant states in the application that enforcement of the code would prohibit sign visibility from San Pedro Avenue. While this assertion is questionable, if it is the case, this factor is not due to unique features on the site, but rather the location of the site 135 feet from San Pedro. If traffic and visibility from San Pedro were essential to the business model for the site, then a more reasonable approach would have been to locate their development on property along San Pedro, and not 135 feet away. The site flat and devoid of obscuring landscaping; the site’s location is the reason why the applicant is requesting the variance. As such, item 1 cannot be considered as justification.

Regarding item 2, the site is not currently occupied by any business activity, and the site is proposed to be redeveloped completely. As no commercial use of the property exists, denial of the variance would not cause “a cessation of legitimate, longstanding active commercial use of the property” as there is no commercial activity to cease.

The request does not meet either item 1 or 2, and as such, the variance request should be denied.

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.*

If the variance were to be granted by the Board, it would provide a special privilege not enjoyed by other businesses similarly or potentially similarly situated on Type B Arterials. In fact, businesses along side streets off of high traffic roads often thrive, without excessive signage.

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

The intersection of San Pedro Avenue and West Cypress Street is already busy and cluttered. Additional excessive signage would only add to this visual distraction, and may potentially adversely affect surrounding properties.

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

Granting of the requested variance will substantially conflict with the stated purposes of the article, specifically Section 28-236(c) and Section 28-3(a)(1).

Section 28-236(c):

“To promote harmony and order in the on-premises signs along the city's streets by recognizing the relationship between the scale and function of a particular street and its on-premises signs, and ensuring that this relationship is sensitive to the surrounding neighborhood.”

Section 28-3(a)(1):

“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, signals, or devices by eliminating a proliferation of messages for the reader.”

Section 28-236(c) regarding relationship of scale and function expressly conflicts with the stated goals of the requested variance. The site is located within a “C-2P” zoning district which is intended to promote pedestrian-oriented and pedestrian-friendly development along specified corridors. The requested variance seeks to attract vehicle traffic off of a thoroughfare and onto a lower classification street to the business, 135 feet

away from the thoroughfare, disrupting scale and undermining the goals of the “C-2P” zoning district.

Section 28-3(a)(1) regarding confusions and distractions to motorists also conflicts with the stated goals of the variance request as it seeks to draw attention from motorists on a surface-level thoroughfare 135 feet away from the site. This activity would create a distraction along San Pedro Avenue.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to place signage within the limits allowed by the Chapter or pursue a sign master plan with an adjacent property owner (or property separated by a right-of-way) with frontage along San Pedro Avenue.

Staff Recommendation

Staff recommends **denial of the requested variance**, due to the following reasons:

1. The requested variance fails to meet any of the criteria established for granting a variance from Chapter 28.
2. The requested variance will create a visual distraction and is out of character for a “C-2P” zoning district.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Site photos

Attachment 4 – Proposed Sign

**Attachment 1 (Continued)
Notification Plan**

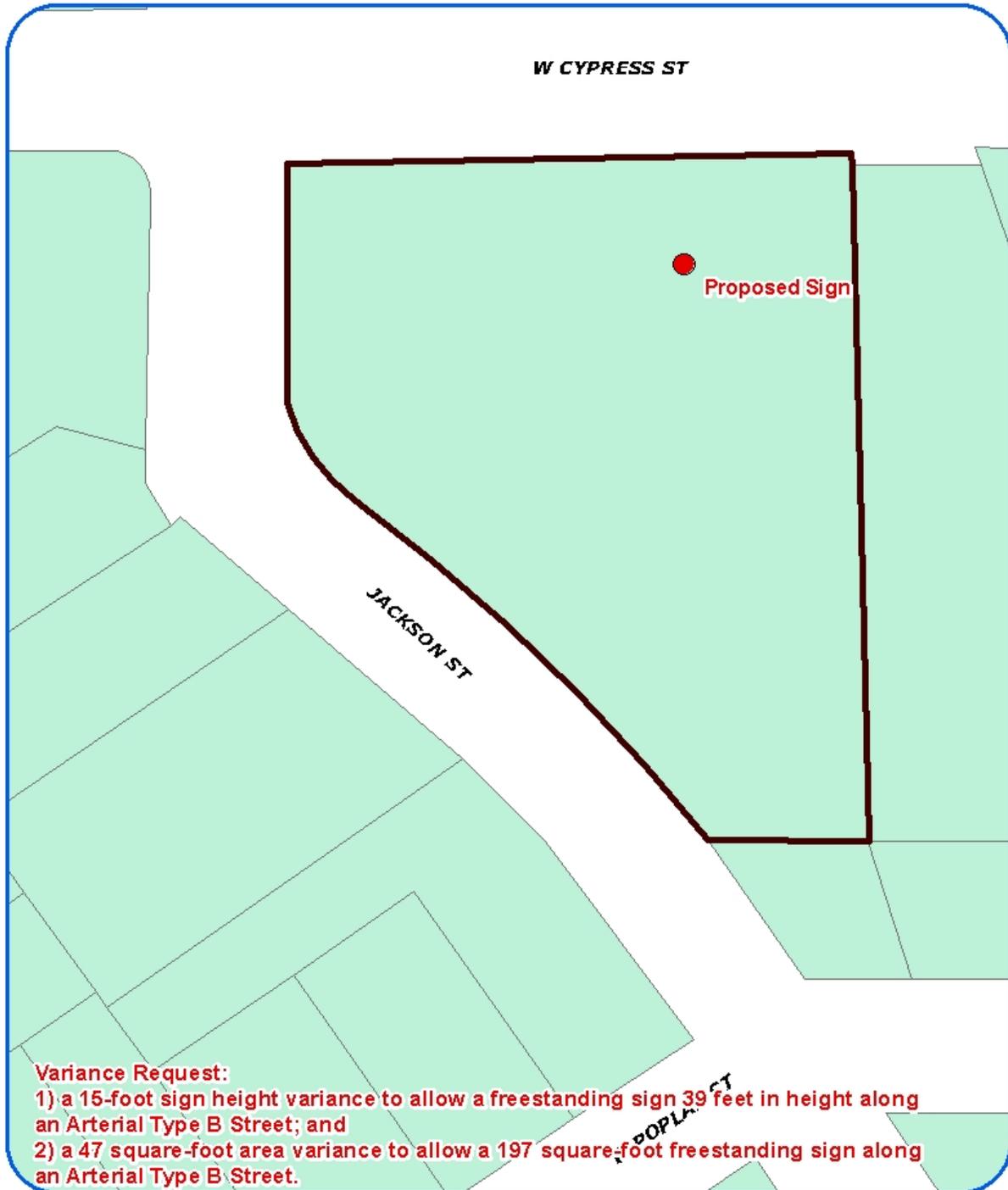


Area is in Airport Hazard Overlay District



<p>Board of Adjustment Notification Plan for Case No A-13-042</p>		<p>San Antonio City Limits </p>
		<p>Subject Property </p>
		<p>200' Notification Boundary </p>
		<p>City of District 1 </p>
		<p align="right">Development Services Department City of San Antonio (5/20/2013)</p>

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-042



Sign ●
0 25 50 75 100
Council District 1

516 W Cypress

Development Services Department
City of San Antonio
(5202013)

Attachment 2 (Continued)
Plot Plan

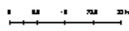


Variance Request:
1) a 15-foot sign height variance to allow a freestanding sign 39 feet in height along an Arterial Type B Street; and
2) a 47 square-foot area variance to allow a 197 square-foot freestanding sign along an Arterial Type B Street.

Board of Adjustment
Plot Plan for
Case No A-13-042



Sign ●



Council District 1

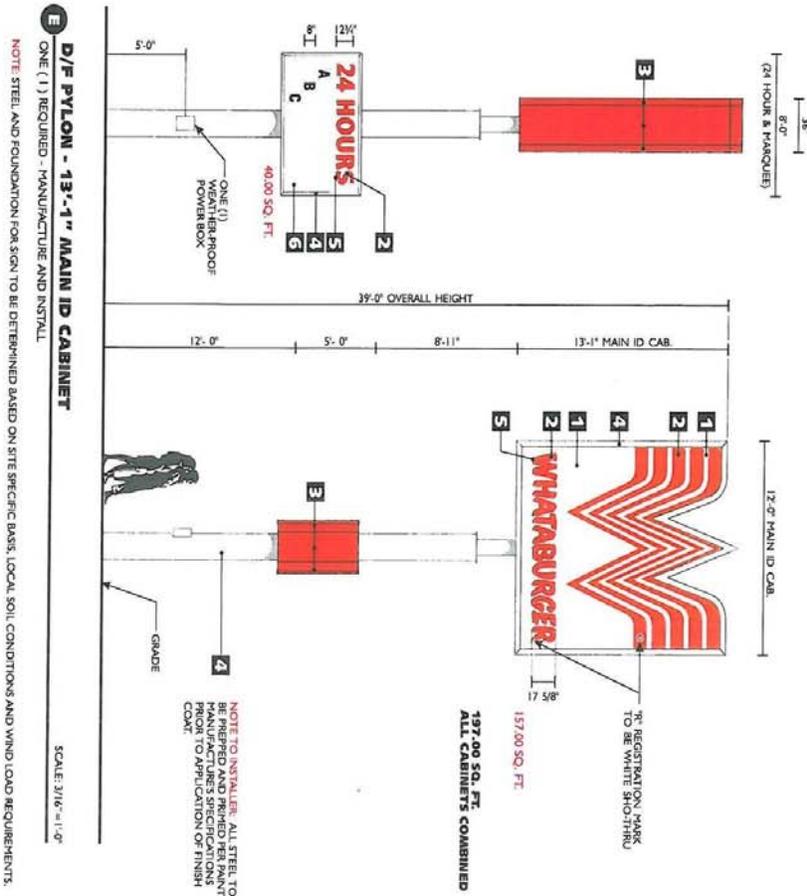
516 W Cypress

Development Services Department
City of San Antonio
(512)20213

**Attachment 3
Site Photos**



Attachment 4 Proposed Sign



NOTE TO CONTRACTOR: ALL STEEL TO BE PREPARED AND FINISHED TO MANUFACTURER'S SPECIFICATIONS PRIOR TO APPLICATION OF FINISH COAT.

COLOR SCHEDULE

1	3M WHITE FLEX FACES
2	3M 3480-41 ORANGE VINYL
3	FTM BK-5, 1685C ORANGE
4	SPRAY AT FIELD MASTER, 8M103 WHITE SATIN (REPORT OR SPRAY/LAT TRAK 1, 8M-1025 SATIN WHITE (80N))
5	3M 3480-51 SILVER GRAY VINYL
6	WHITE V3 WHITE STAIN-TUF PLASTIC FACES

- ONE (1) MAIN ID D/E CABINET**
- FABRICATED 065" ALUMINUM CABINET WITH 4"x4" RETAINERS.
 - FLEX FACES ON ANGLE IRON FRAME WITH 3M CLIPS.
 - 3M TRANSLUCENT VINYL GRAPHICS.
 - INTERNALLY ILLUMINATED.
- TWO (2) S/E CABINETS READING '24 HOURS' & READER BOARD.**
- EXTRUDED 8" DEEP ALUMINUM CABINETS WITH 2"x2" RETAINERS.
 - 065" ALUM. COMMON FILLERS.
 - V3 WHITE STAIN-TUF PLASTIC FACES, CLEAR ZP TRACKS, FOR 3 LINES OF 8" ZP CHANGE LETTERS.
 - V3 WHITE POLYCARBONATE HEADER WITH 3M TRACKS.
 - POLYCARBONATE UNDER BANNER ON TOP (NO TOP TRACK REQUIRED).
 - POLYCARBONATE HEADER TO EXTEND IN LENGTH UNDER SIDE RETAINERS).
 - 150 COLANT 'TROUBNER' 8" BLACK ZP CHANGE LETTER FONT PACKAGE AND STORAGE CABINET.
 - 1" MECHANICAL ZP CHANGE ARM.
 - INTERNALLY ILLUMINATED.

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 Tukwila, WA 98168
 Phone: (206) 835-1111
 Fax: (206) 835-1112
 Website: www.chandler-signs.com

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