

**CITY OF SAN ANTONIO**  
**Board of Adjustment**  
**Regular Public Hearing Agenda**

Cliff Morton Development and Business Services Center  
1901 South Alamo Street  
Board Room, First Floor

**Monday, November 16, 2009**  
**12:00 PM**

**BOARD OF ADJUSTMENT MEMBERS**

Liz Victor – District 1	Vacant – District 6
Edward Hardemon – District 2	Mary Rogers – District 7
Helen Dutmer – District 3	Andrew Ozuna – District 8
George Britton, Jr. – District 4	Mike Villyard – District 9
Vacant – District 5	Gene Camargo – District Mayor
Michael Gallagher – District 10 Chairman	
Maria Cruz	Paul Klein
Henry Rodriguez	Mimi Moffat
Harold Atkinson	Steve Walkup

1. 12:00 PM - Work Session regarding Board of Adjustment Unified Development Code (UDC) and Statutory Authority
2. 1:00 PM – Public Hearing Call to Order.
3. Roll Call.
4. Pledges of Allegiance.
5. **CASE NO. A-10-001:** The request of John and Dianne MacDiarmid, for **1)** a 302 square foot variance from the requirement that the total floor area of an accessory structure in residential zoning districts not exceed two thousand five hundred (2,500) square feet, to increase the total floor area of said structure to 2,802 square feet and **2)** a 2-foot variance from the requirement that fences in rear yards not exceed 6 feet in height, in order to build an 8-foot tall fence in the rear yard. 305 West Kings Highway.
6. Approval of the minutes from the regular meeting on October 19, 2009.
7. Approval of the minutes from the regular meeting on November 2, 2009.

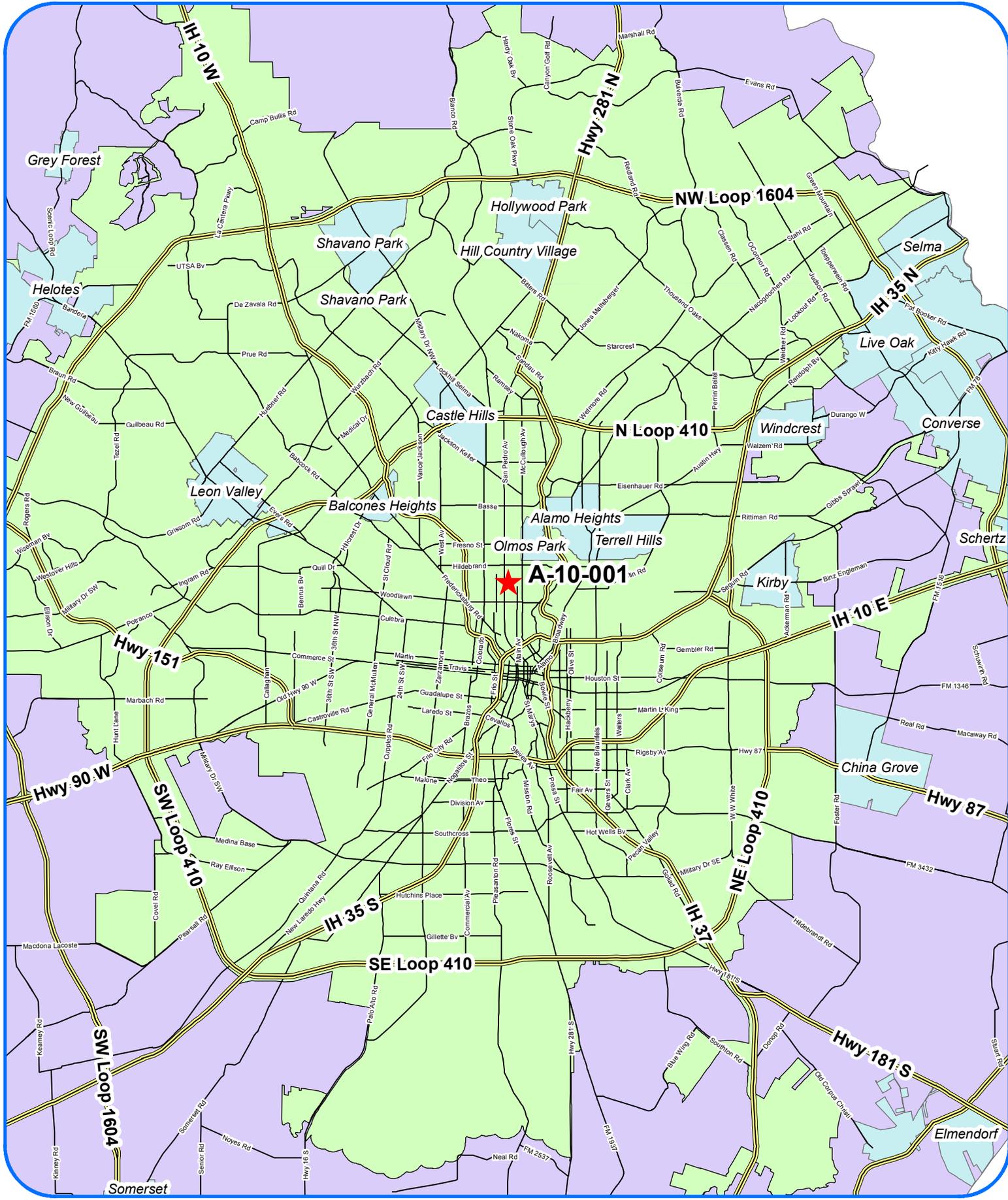
8. Executive Session: consultation on attorney-client matters (real estate, litigation, personnel and security matters) as well as any of the above agenda items may be discussed.
9. **Adjournment**

**Note:** The City of San Antonio Board of Adjustment Agenda can be found on the Internet at: [www.sanantonio.gov/dsd](http://www.sanantonio.gov/dsd)

At any time prior to the meeting, you may contact a case manager at 207-0170 to check the status of a case.

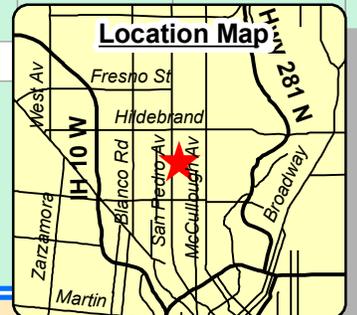
**ACCESSIBILITY STATEMENT**

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



**Board of Adjustment**  
**Subject Property Locations**  
**Cases for November 16, 2009**





**Board of Adjustment**  
**Notification Plan for**  
**Case A-10-001**



**Legend**

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



# City of San Antonio

## Planning & Development Services Department

### Staff Report

To: Board of Adjustment  
Case No.: A-10-001  
Date: November 16, 2009  
Applicant: John & Dianne MacDiarmid  
Owner: John & Dianne MacDiarmid  
Location: 305 West Kings Highway  
Legal Description: Lot 6 and the East 25 Feet of Lot 5, Block 5, NCB 3262  
Zoning: "H R-5" Residential Single-Family Monte Vista Historic District  
Subject: Accessory Structure Size Variance, Fence Height Variance  
Prepared By: Jacob Floyd, Planner

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#### **Summary**

The applicant requests variances from the requirements that 1) the total floor area of accessory structures not exceed two thousand five hundred (2500) square feet, and 2) that fences in rear yards not exceed 6 feet in height.

#### **Procedural Requirements**

The request was publicly noticed in accordance with Section 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 October 29. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on October 30. Additionally, notice of this meeting was posted at city hall and on the city's internet website on November 13, in accordance with Section 551.043(a) of the Texas Government Code.

#### **Surrounding Zoning/Land Use**

North	H R-5	Single-Family Residences
South	H R-5	Single-Family Residences
East	H R-5	Single-Family Residences
West	H R-5	Single-Family Residences

## **Project Description**

The applicant is requesting a 302 square foot variance from the requirement the total floor area of accessory structures in residential zoning districts not exceed two thousand five hundred (2,500) square feet in order to construct an accessory structure with a total floor area of 2,802 square feet. The proposed structure is garage attached to an existing accessory detached dwelling unit and will replace an existing carport and storage structure. The applicant is also requesting a variance from the requirement that fences in rear yards not exceed 6 feet in height, in order to build an 8-foot tall fence in the rear yard.

The applicant received a Certificate of Appropriateness from the Historic Design Review Commission for approval to demolish the existing carport/utility storage and dog run and to erect new structures to serve the same purpose.

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

The subject property is located within the boundaries of the Monte Vista Neighborhood Plan. The subject property is located within the Monte Vista Historical Association. As of November 12, staff has not received a reply from the association.

## **Criteria for Review**

1. The variances are not contrary to the public interest:

*It does not appear that the granting of these variances would be contrary to the public interest. The proposed structure will be located in the approximate footprint of an existing carport and the proposed 8-foot tall fence is to create an area for a dog run. The proposed fence will also be set back from the property line and consistent with the height of similar fences in the district.*

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

*It does appear that the literal enforcement of the ordinance would result in unnecessary hardship as the existing structure is in a substantially deteriorated condition and a structure of lesser size would not provide adequate vehicle storage. Likewise, the existing fence has not proven to be an adequate barrier to control unlawful access to the property, as the applicant has stated that vehicles have been vandalized and personal property stolen.*

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

*The granting of these variances appear to be in keeping with the spirit of the ordinance and would allow the property owner to replace a deteriorating structure with a structure of similar scale.*

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 variances sought will not authorize the operation of a use other than those uses specifically permitted in the "R-5" 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.

*It does not appear that the granting of the requested variances will injure the appropriate use of adjacent property, nor will they alter the essential character of the district, as size and scale of the proposed construction is in keeping with the historic 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 intent of the accessory structure size restrictions are to prevent the overcrowding of lots and maintain a reasonable amount of open space. Given the size of the subject property, approximately 19,500 square feet, the intent of the requirements will not be violated should the variance be granted. The proposed 8-foot tall fence is intended to address a unique security concern, created by the position of a cable box in the alley to the rear of the property. This cable box, as stated by the applicant, provides easy access to the rear yard and has resulted in vandalism of the property.*

### **Staff Recommendation**

Staff recommends that **A-10-001 (variances #1 and #2), be approved** because the findings of fact have been satisfied as stated above. The subject property appears to have unique characteristics that would create an undue hardship due to literal enforcement of the accessory structure size restrictions. Furthermore, the granting of these variances will allow a continuation of the established development pattern of the district in terms of the size and scale of construction.

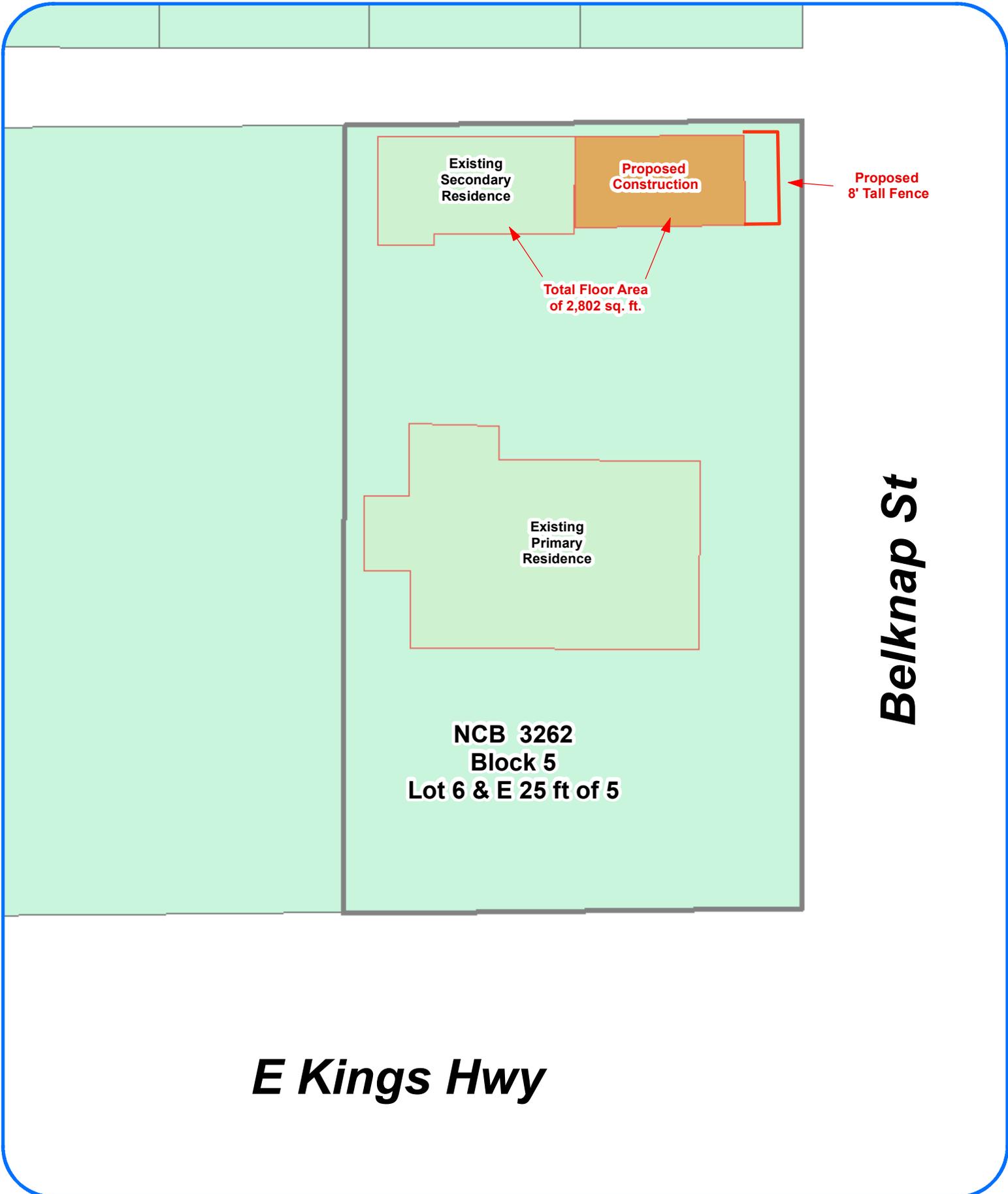
### **Attachments**

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Proposed Designs

Attachment 4 – HDRC Certificate of Appropriateness



**Board of Adjustment**  
Plot Plan for  
**Case A-10-001**

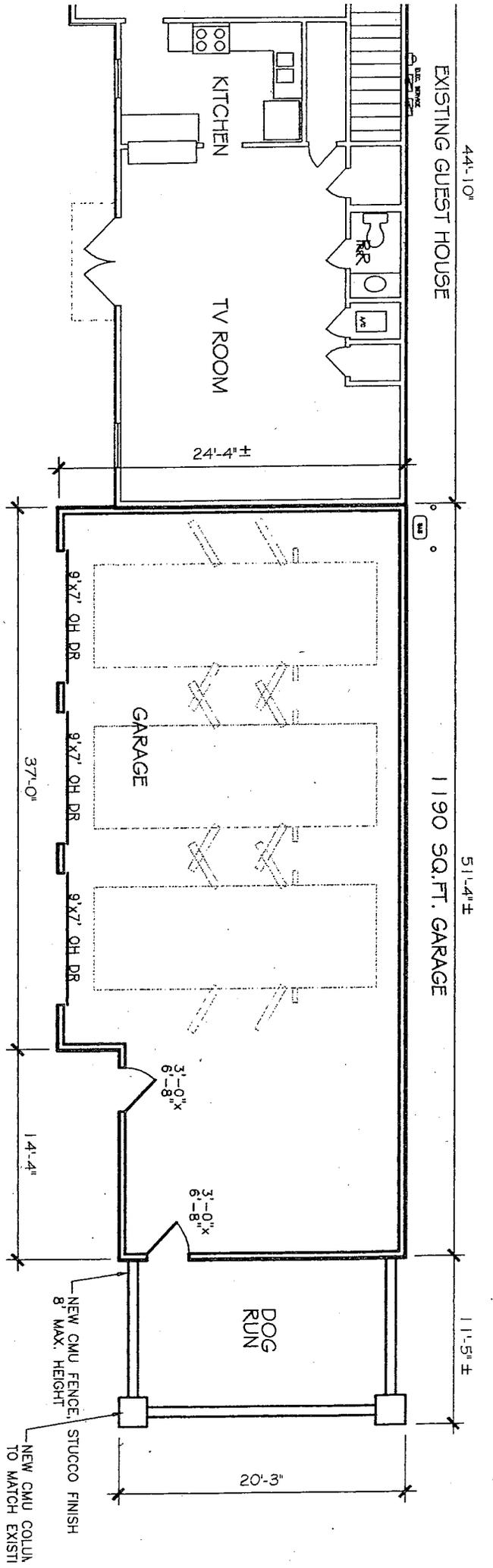


**Legend**

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

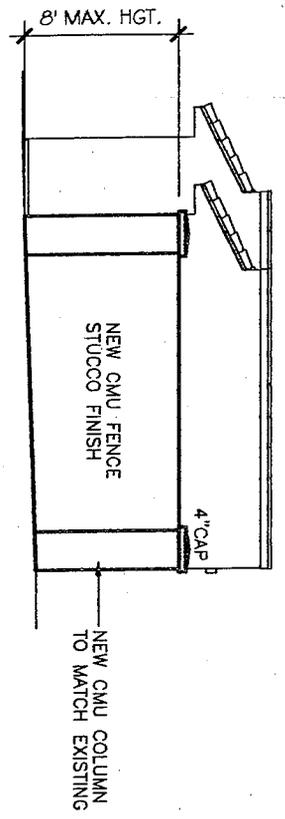
**305 W Kings Hwy**

Planning and Development Services Dept  
City of San Antonio  
(10/20/2009 - P. Trinkle)



**FLOOR PLAN**

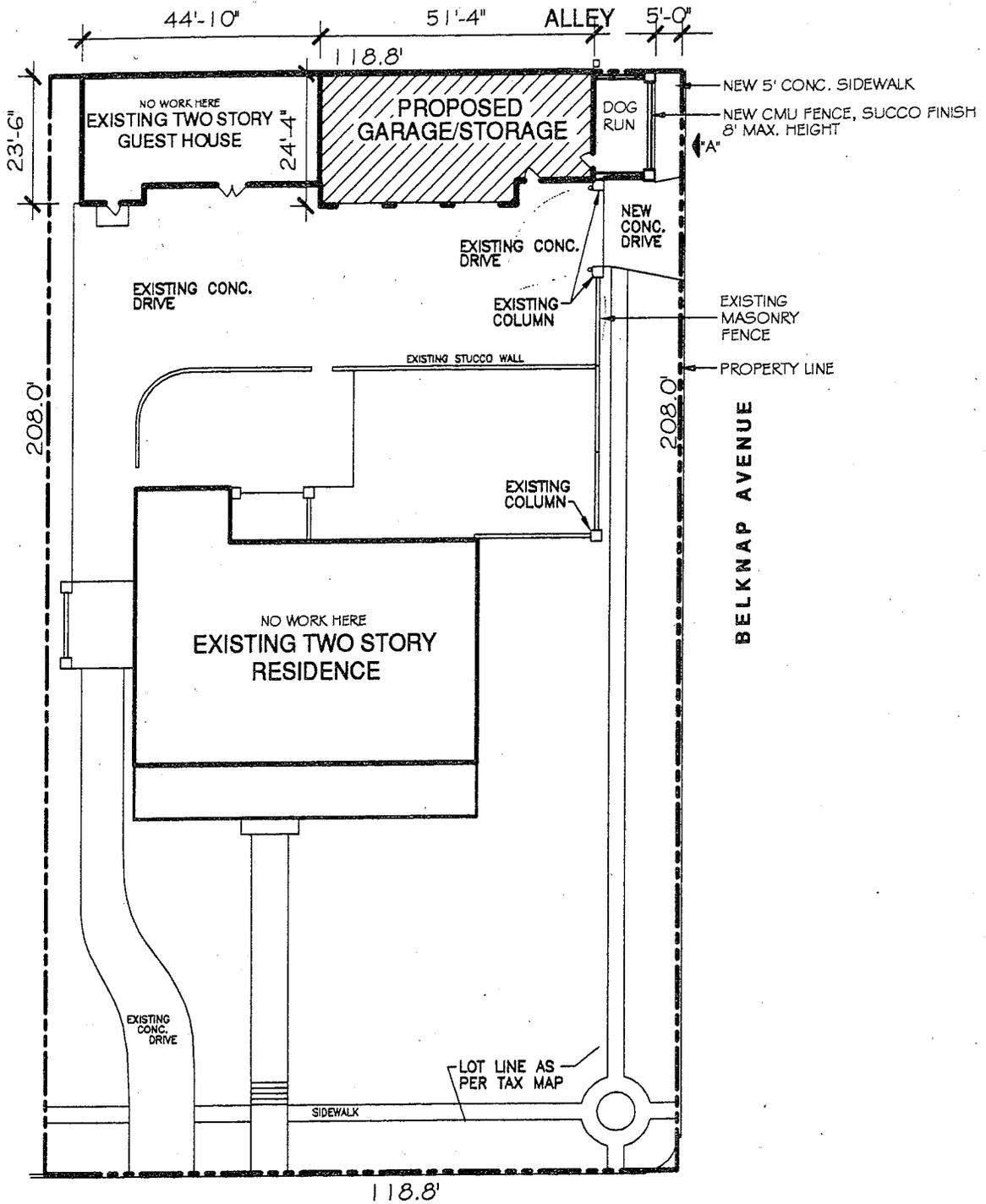
1" = 10'



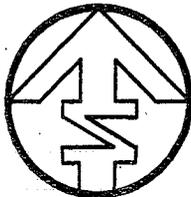
**ELEVATION "A"**  
**DOG RUN FROM STREET**

1" = 10'

**PROPOSED GARAGE REPLACEMENT**  
**305 W. KINGS HIGHWAY**



W. KINGS HIGHWAY

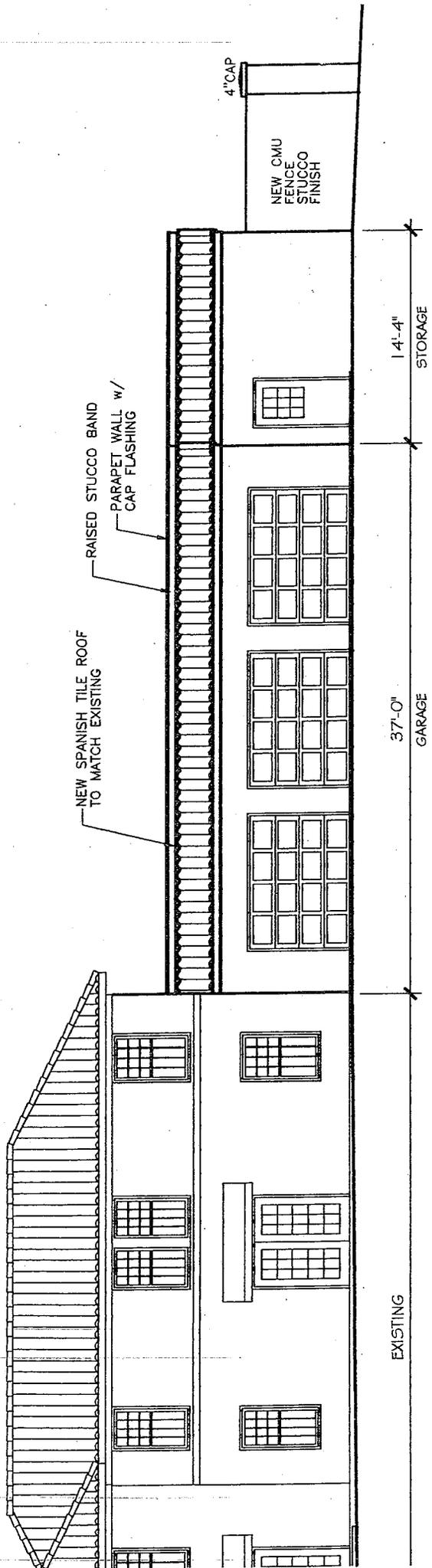


SITE PLAN

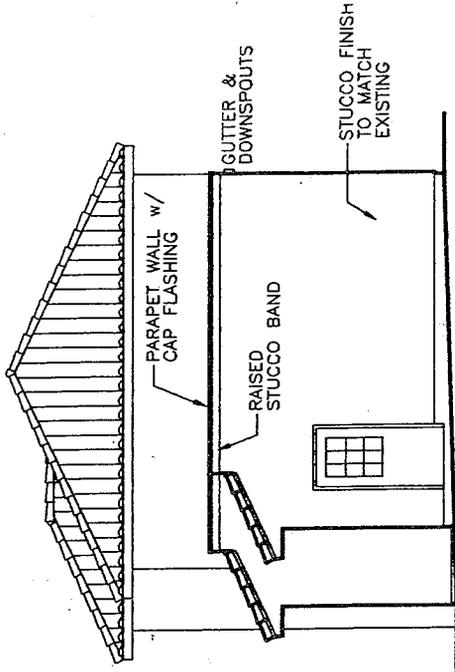
1" = 30'

**PROPOSED GARAGE REPLACEMENT**

305 W. KINGS HIGHWAY

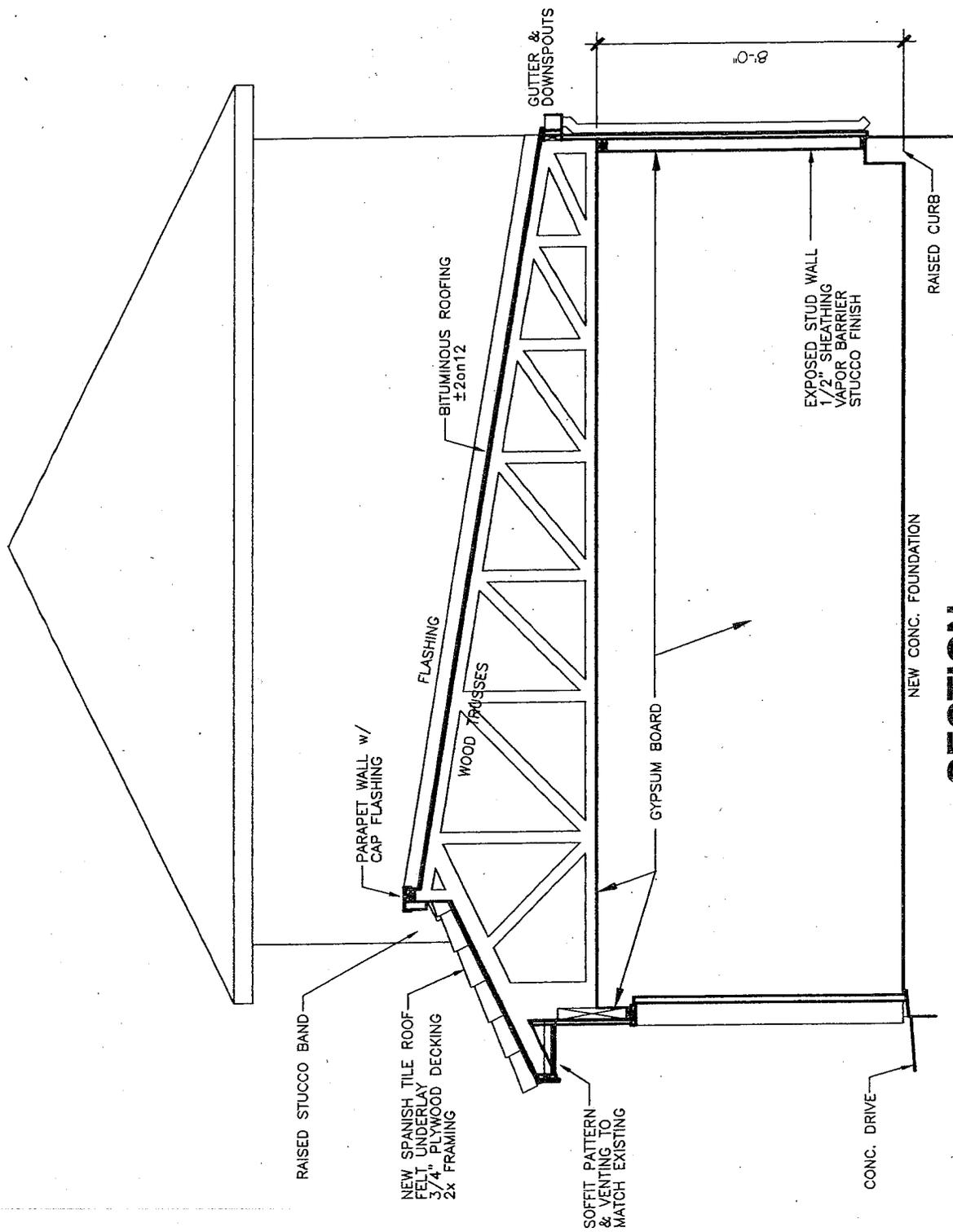


**FRONT ELEVATION** 1" = 10'



**END ELEVATION** 1" = 10'

**PROPOSED GARAGE REPLACEMENT**  
**305 W. KINGS HIGHWAY**



**SECTION**

PROVIDE VENTING PER CODE

1/4" = 1'-0"

**PROPOSED GARAGE REPLACEMENT**  
**305 W. KINGS HIGHWAY**



# CITY OF SAN ANTONIO

## HISTORIC AND DESIGN REVIEW COMMISSION CERTIFICATE OF APPROPRIATENESS

November 04, 2009

**HDCR CASE NO:** 2009-344  
**ADDRESS:** 305 W Kings Hwy  
**LEGAL DESCRIPTION:** NCB 3262 Block 5 Lot 6 + East 25' of 5  
**PUBLIC PROPERTY:**  
**HISTORIC DISTRICT:** Monte Vista Historic District  
**LANDMARK DISTRICT:**  
**APPLICANT:** Marvin Jung 1056 Ivy Lane  
**OWNER:** John & Dianne MacDiarmid  
**TYPE OF WORK:** Partial Demolition & New Construction (Final)

### REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to:

1. demolish existing carport/utility storage and dog run
2. construct new garage and storage
3. construct new dog run

Walls to be stucco to match existing. Trim to be wood to match existing. Garage doors to be metal with raised panel design. Entry door to be metal with nine lught upper raised panels below. Roof to be tile to match existing structures with bituminous roofing on 2 over 12 pitch. Trim and wall paint to match existing colors.

### RECOMMENDATION:

Applicant has presented project at an Architectural Review Committee meeting and an on-site meeting has been held. Staff recommends approval of the project with the stipulation the new construction not extend beyond the existing sidewalk. Along Belknap there are examples of fences protruding beyond the sidewalk, however actual construction should be kept within the perceived property line which will maintain the typical rhythm of development. This recommendation is in keeping with the Secretary of the Interior's Standards for Rehbilitation 9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

### COMMISSION ACTION:

Approved with staff stipulations.

Sharon Peterson Wasielewski  
Historic Preservation Officer