

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, November 18, 2013

1:00 P.M.

Board Room, Cliff Morton Development and Business Services Center

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-13-091:** The request of Sherry Chaudhry for 1) a 3-foot variance from the 3-foot maximum height for a solid screen fence to allow a 6-foot wall in the front yard and 2) a 5-foot variance from the 4-foot maximum height for a predominately open fence to allow a 9-foot high gate in the front yard, located at 200 Bluffknoll. (Council District 9) (CONTINUED from October 21, 2013 meeting)
5. **A-14-004:** The request of Jesus Alvarado a 12-foot variance from the required 15-foot rear yard setback on an irregularly shaped lot to allow a structure 3 feet from the rear property line, located at 13715 Brook Hollow Boulevard. (Council District 9)
6. **A-14-005:** The request of Five Star Development for a 10-foot variance from the required 15-foot Type B Bufferyard along a portion of Wurzbach Parkway to allow a bufferyard of 5 feet in width along a portion of Wurzbach Parkway, located at 13201 Blanco Road. (Council District 8)
7. **A-13-076:** The request of Luis R. Garcia for an appeal of the decision of the Historic Preservation Officer to deny the Certificate of Appropriateness for a retaining wall along the front property line in the Monticello Park Historic District, located at 2142 W. Magnolia Avenue. (Council District 7)
8. **A-13-079:** The request of Jay & Jennifer Jacobson for an appeal of the decision of the Historic Preservation Officer to deny the Certificate of Appropriateness for a retaining wall along the front property line in the Monticello Park Historic District, located at 2210 W. Magnolia Avenue. (Council District 7)
9. Approval of the minutes – November 4, 2013
10. Announcements and 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).

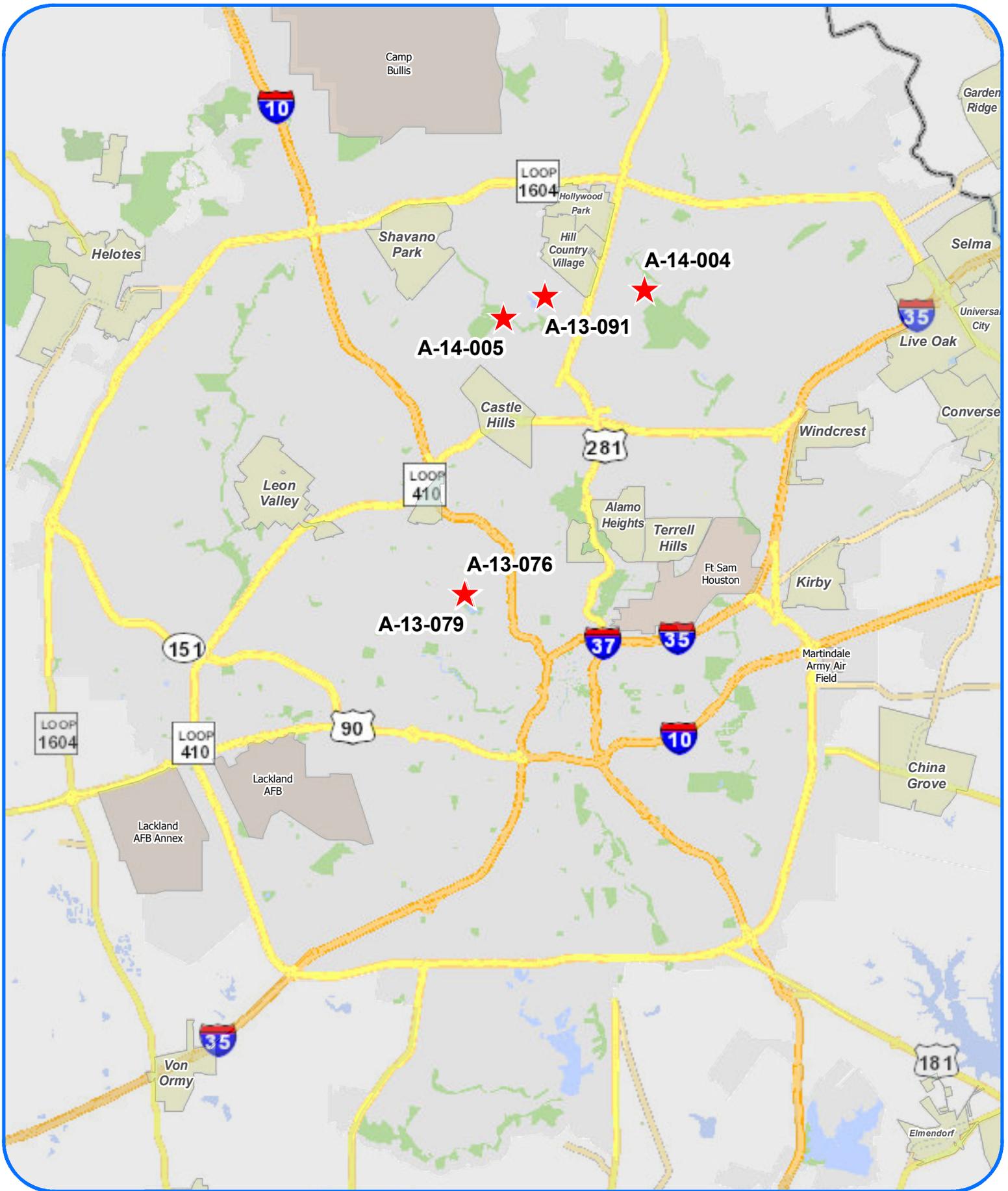
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210) 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
Maria Cruz, District 5 • Jesse Zuniga, District 6 • Mary Rogers, District 7 • John Kuderer, District 9 • Gene Camargo, Mayor

Alternate Members

Harold O. Atkinson • Paul E. Klein • Henry Rodriguez



Board of Adjustment

Subject Property Locations
Cases for 18th November 2013





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-091
Date: October 21, 2013
Applicant: Sherry Chaudhry
Owner: M.T. & Sherry Chaudhry
Location: 200 Bluffknoll
Legal Description: Lot 33, Block 1, NCB 17035
Zoning: "R-6 AHOD MLOD" Residential Single-Family, Airport Hazard Overlay,
Military Lighting Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for 1) a 3-foot variance from the 3-foot maximum height for a solid screen fence to allow a 6-foot wall in the front yard and 2) a 5-foot variance from the 4-foot maximum height for a predominately open fence as described in Section 35-514 (d) to allow a 9-foot high gate 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 October 3, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located in the Bluffview of Camino Real Subdivision, recorded in 1977. The two story Spanish colonial home was constructed in 1985 and has a sunken courtyard entry. The front door is not visible from the street. The applicant is proposing a short stucco wall with a tall arched entry gate to focus visitors on the front door location. The wall and the frame for the wrought iron gate, as proposed, will be stucco to match the primary material of the house.

Because of the grade change between the street level and the sunken entry, the interior façade of the wall will measure 6 feet in height, triggering the need for the variance.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 AHOD MLOD” Residential Single-Family, Airport Hazard Overlay, Military Lighting Overlay Districts	Single-family dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD MLOD” Residential Single-Family, Airport Hazard Overlay, Military Lighting Overlay Districts	Single-family dwelling
South	“R-6 AHOD MLOD” Residential Single-Family, Airport Hazard Overlay, Military Lighting Overlay Districts	Single-family dwelling
East	“R-6 AHOD MLOD” Residential Single-Family, Airport Hazard Overlay, Military Lighting Overlay Districts	Single-family dwelling
West	“R-6 AHOD MLOD” Residential Single-Family, Airport Hazard Overlay, Military Lighting Overlay Districts	Single-family dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the San Antonio International Airport Vicinity Land Use Plan, adopted by the City Council in May of 2010. The future land use plan designated this area for low-density residential land use. The subject property is located within the boundaries of the Bluffview at Camino Real Neighborhood Association, a registered neighborhood association recognized by the City of San Antonio. As such, they were notified and asked to comment. In addition, the applicant submitted the proposed design to the Bluffview of Camino Real Owner’s Association and their Architectural Control Committee. The committee submitted a document approving the design with a gate height of 9-feet.

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. Front yard fencing regulations are adopted to encourage a sense of community, connecting the view between the public street and the interior living space. Because the first floor of the house is partially below grade, the height of this wall does not significantly reduce the shared views. Therefore the variance would not be contrary to the public interest.

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

Section 35-514 (d) 1 states that *the height shall be the vertical distance measured from the lowest adjacent ground level (either inside or outside the fence) to the top of the tallest element of the fence material.* This literal enforcement prevents the applicant from installing any fencing along this sunken courtyard. The Board must determine if literal enforcement of the ordinance results in an unnecessary hardship.

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

The Board must determine the “spirit” of the ordinance as contrasted with the “strict letter” of the law for each unique case. In this case, the applicant asserts the spirit of the ordinance is the height of wall visible to the public, rather than the height measured from inside the gate. In addition, the applicant determined that a dominant entry feature was required to direct a visitor toward the hidden front door. The Board must determine if the proposed wall and gate observe the spirit.

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 AHOD MLOD” 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 proposed architectural solution seems to compliment the character of this district as shown by examples submitted by the applicant. Decorative masonry walls seem to be a repeating theme in this upscale established neighborhood. The variance will not injure the adjacent property or alter the character.

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 unique circumstance existing on the property is the hidden front door accessed from the sunken courtyard. The applicant is seeking relief from specific regulations in order to direct visitors to the front entrance of the home.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to eliminate the proposed entry enhancements.

Staff Recommendation

Staff recommends **approval of A-13-091** based on the following findings:

1. The sunken courtyard and the hidden front door constitute property-related hardships which warrant variances from the strict enforcement of the regulations.
2. Literal enforcement of the ordinance regarding the method of measuring fence height results in an unnecessary hardship.

Attachments

Attachment 1 – Notification Plan (Location Map)

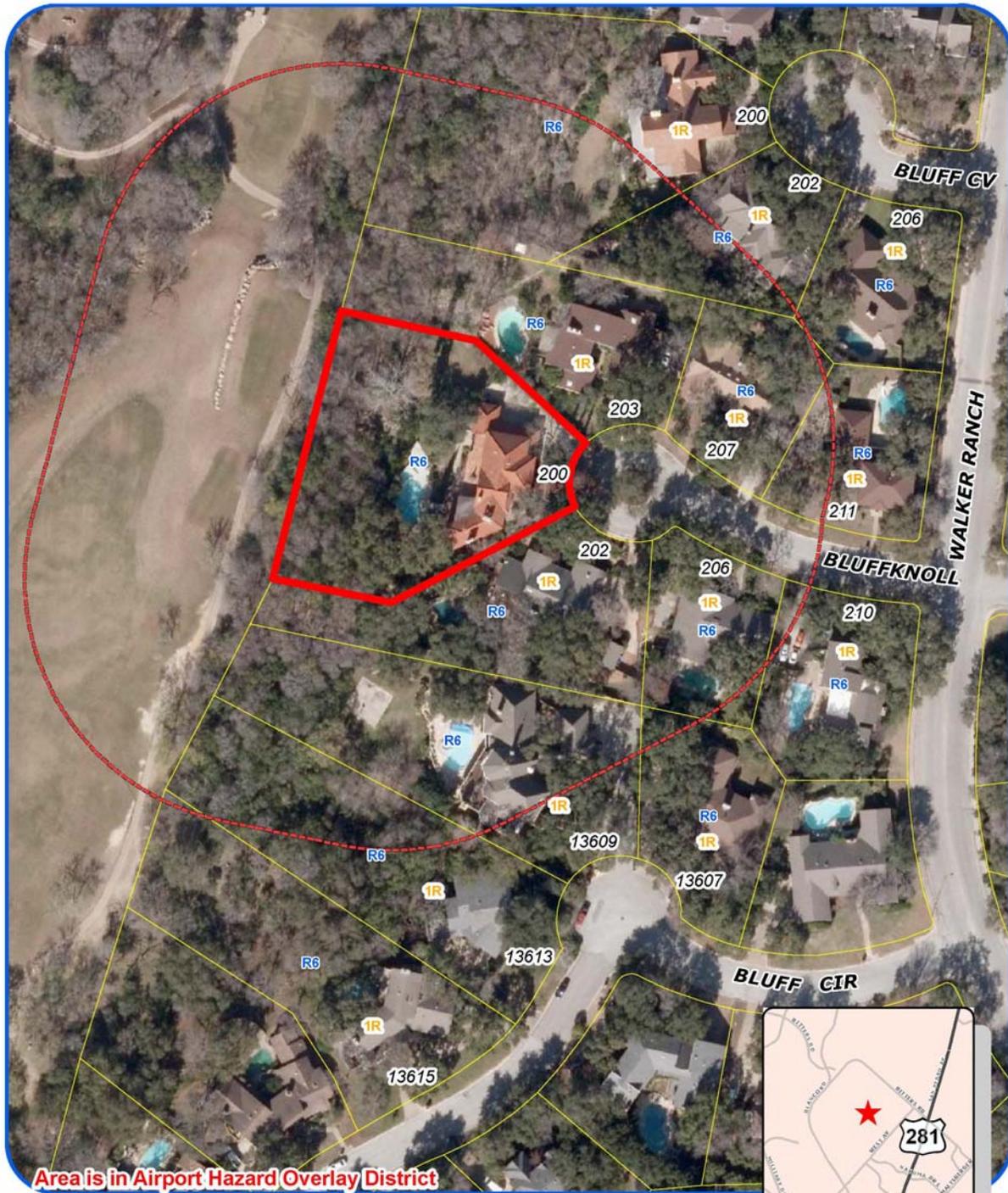
Attachment 2 – Plot Plan

Attachment 3 – Applicant’s Site Plan

Attachment 4 – Applicant’s Gate Design

Attachment 5 – Site Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

Board of Adjustment Notification Plan for Case No A-13-000

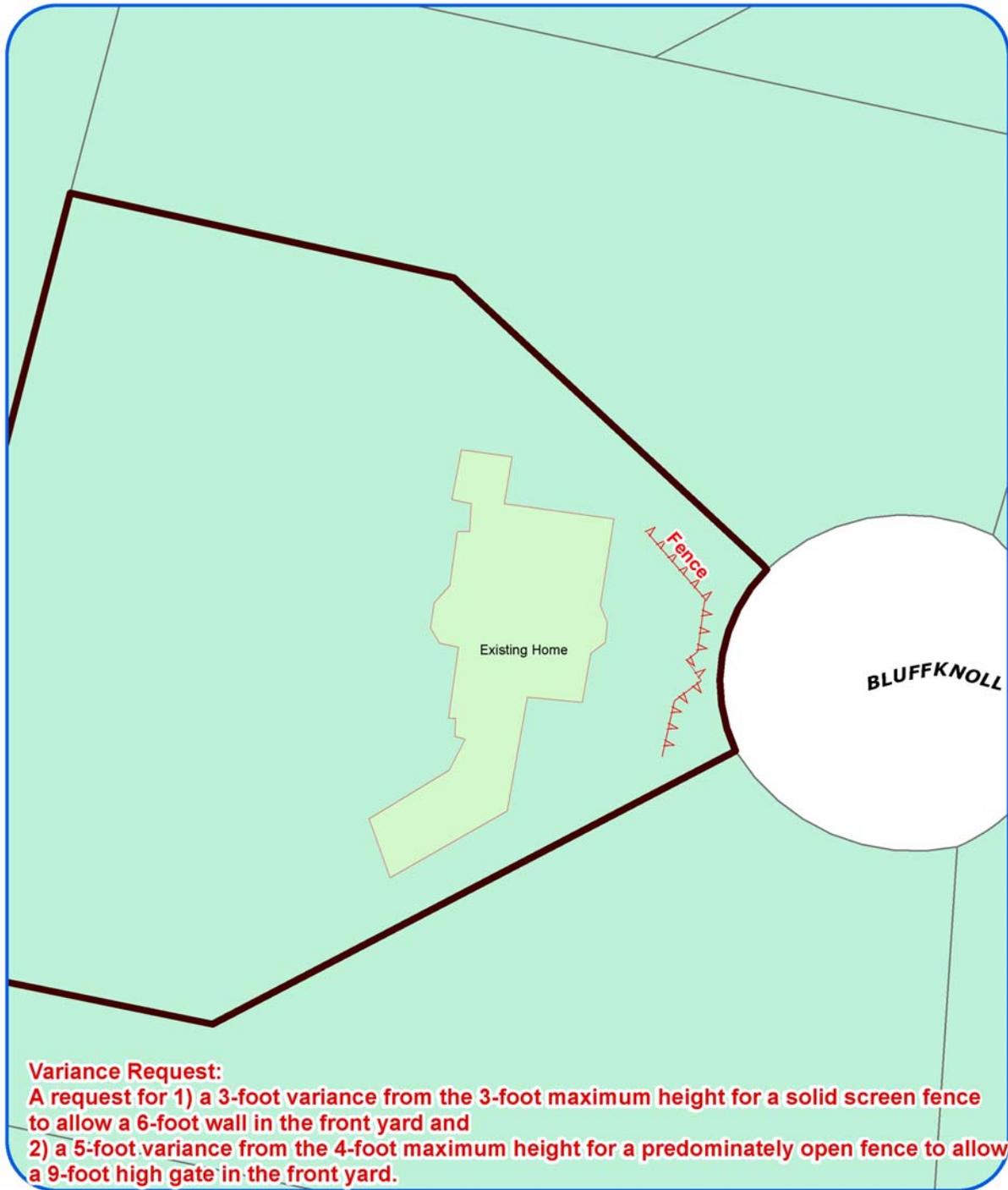


- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 0



Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



Variance Request:
A request for 1) a 3-foot variance from the 3-foot maximum height for a solid screen fence to allow a 6-foot wall in the front yard and
2) a 5-foot variance from the 4-foot maximum height for a predominately open fence to allow a 9-foot high gate in the front yard.

Board of Adjustment
Plot Plan for
Case No A-13-091



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 9

200 Bluffknoll

Development Services Department
City of San Antonio

1:420

**Attachment 2
Plot Plan (continued)**



Board of Adjustment
Plot Plan for
Case No A-13-091



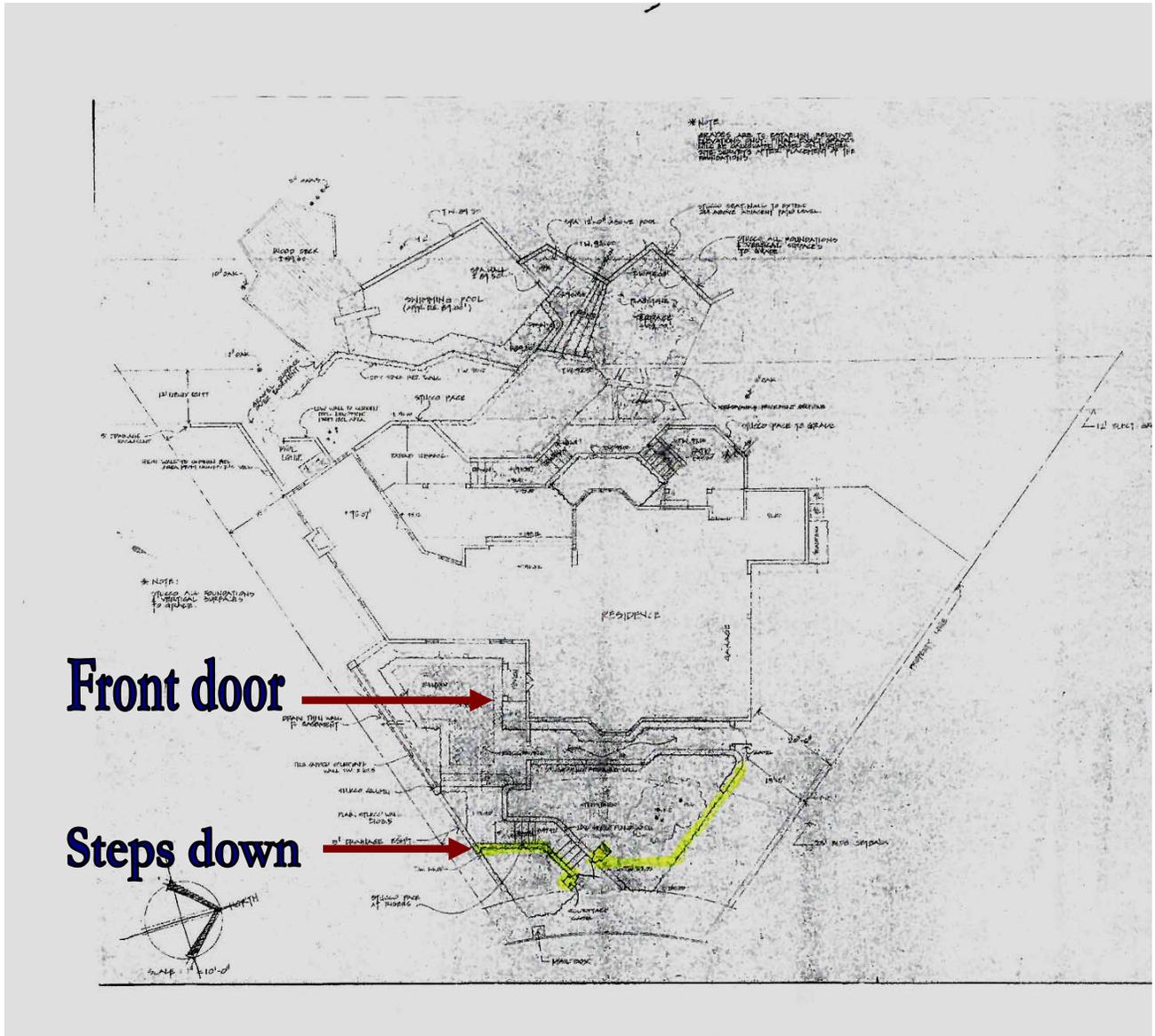
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 9

200 Bluffknoll

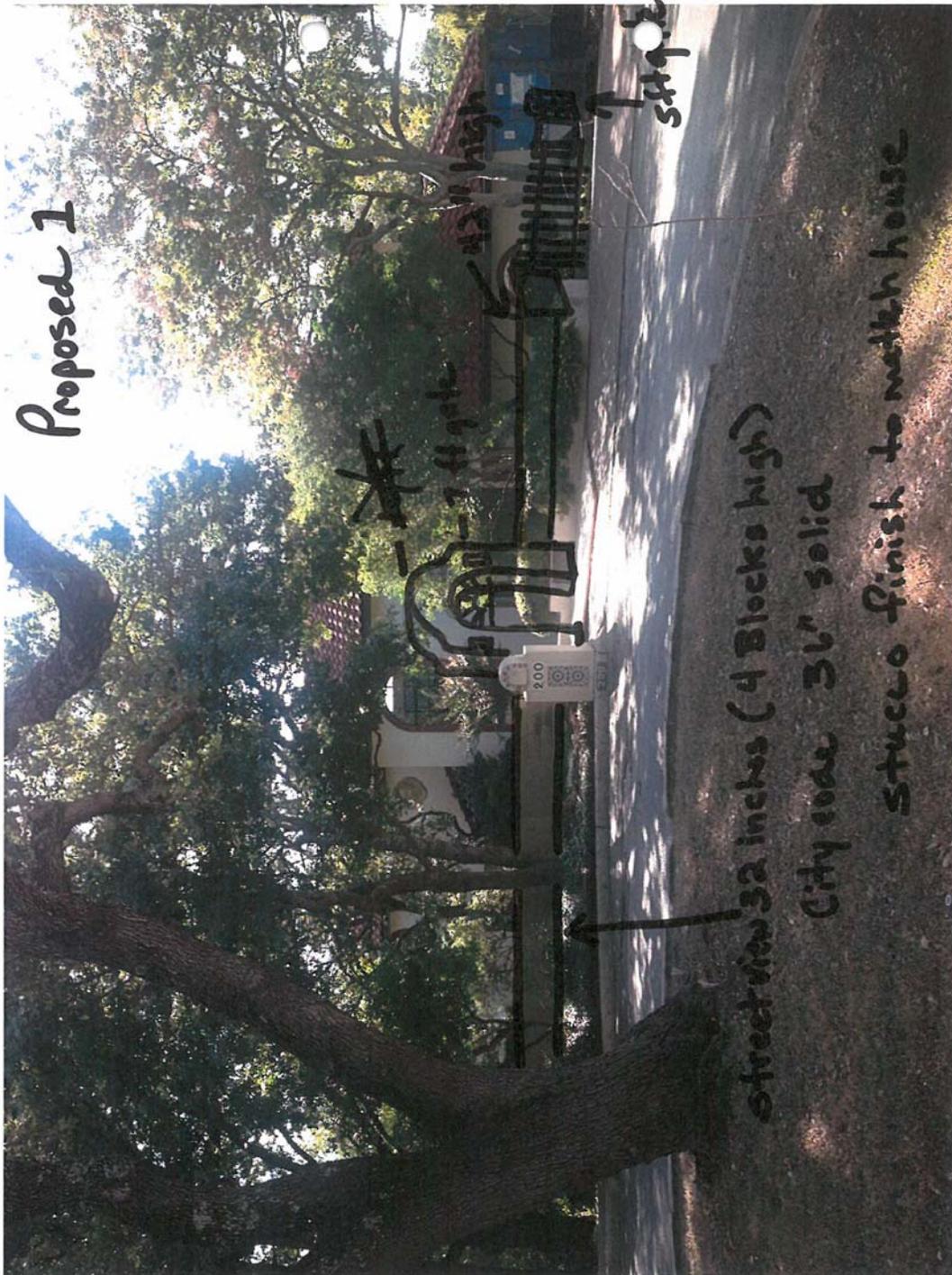
Development Services Department
City of San Antonio

1/4/20

Attachment 3 Applicant's Site Plan



Attachment 4
Applicant's Gate Design



**Attachment 5
Site Photos**



Wall begun without permit





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-004
Date: November 18, 2013
Applicant: Jesus Alvarado
Owner: Jesus Alvarado
Location: 13715 Brook Hollow Boulevard
Legal Description: Lot 25, Block 8, NCB 16059
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request from Table 310-1 and Section 35-516(e) for a 12-foot variance from the required 15-foot rear yard setback on an irregularly shaped lot to allow a structure 3 feet from the rear property line.

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 and registered neighborhood associations within two hundred (200) feet of the subject property on or before October 31, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 1, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before November 15, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the eastern terminus of Brook Hollow Boulevard. The site is currently developed as a single-family residence, which was constructed, according to BCAD records, in 1975.

The UDC requires a minimum 15-foot rear yard setback for structures on irregularly shaped lots within the "R-5" base zoning district. The applicant wishes to construct a covered deck within 3 feet of the rear property line. Additionally, the area where the applicant is proposing the

construct the addition is within a recorded 12-foot wide overhead electric easement and gas and telephone easement. Utilities are present within the easement.

There is adequate area to the side of the structure to provide a covered deck which meets the required setbacks and does not impede the recorded easement.

Lastly, the Plan Review Team has advised that they will require the arbor/cover be of non-combustible materials or fire retardant treated wood up to the 5 feet required fire separation distance measured from the rear property line (about 2’ of the structure). Plan Review will also require a letter from the utility company allowing construction into their easement.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 AHOD” (Residential Single-Family Airport Hazard Overlay District)	Single-Family Residence

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within North Sector Plan (designated as Suburban Tier). The subject property is not located within the boundaries of a registered neighborhood association; however, the subject property is within 200 feet of the North Central Thousand Oaks Neighborhood Association, and, as such, they were notified 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:*

Building setbacks are designed to preserve adequate access, access to light and air, and preserve public safety by ensuring proper separation of buildings. Additionally, building

setbacks also allow space for easements to provide utilities not only to the subject property, but to other properties within the neighborhood. By approving the variance, the recorded utility easement, which has utilities present within it, may be impacted. As such, the variance 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 on the property to warrant the granting of the variance as there is adequate room elsewhere on the property to provide a covered deck and not impact utility easements or setbacks.

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 the variance as there is adequate area elsewhere on the property to construct the covered deck.

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” Residential base zoning district.

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

The requested variance, if approved, may substantially injure the appropriate use of adjacent conforming properties, by reducing the effective building separation area between the structures.

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 unique circumstances readily apparent to warrant the granting of the requested variances.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to construct the requested covered deck on the portion of the property where it will not impact setbacks or utility easements.

Staff Recommendation

Staff recommends **denial of A-14-004** because of the following reasons:

- There are no unique circumstances or special conditions readily apparent on the site.
- There is adequate room elsewhere on the property where the structure could be built.

Attachments

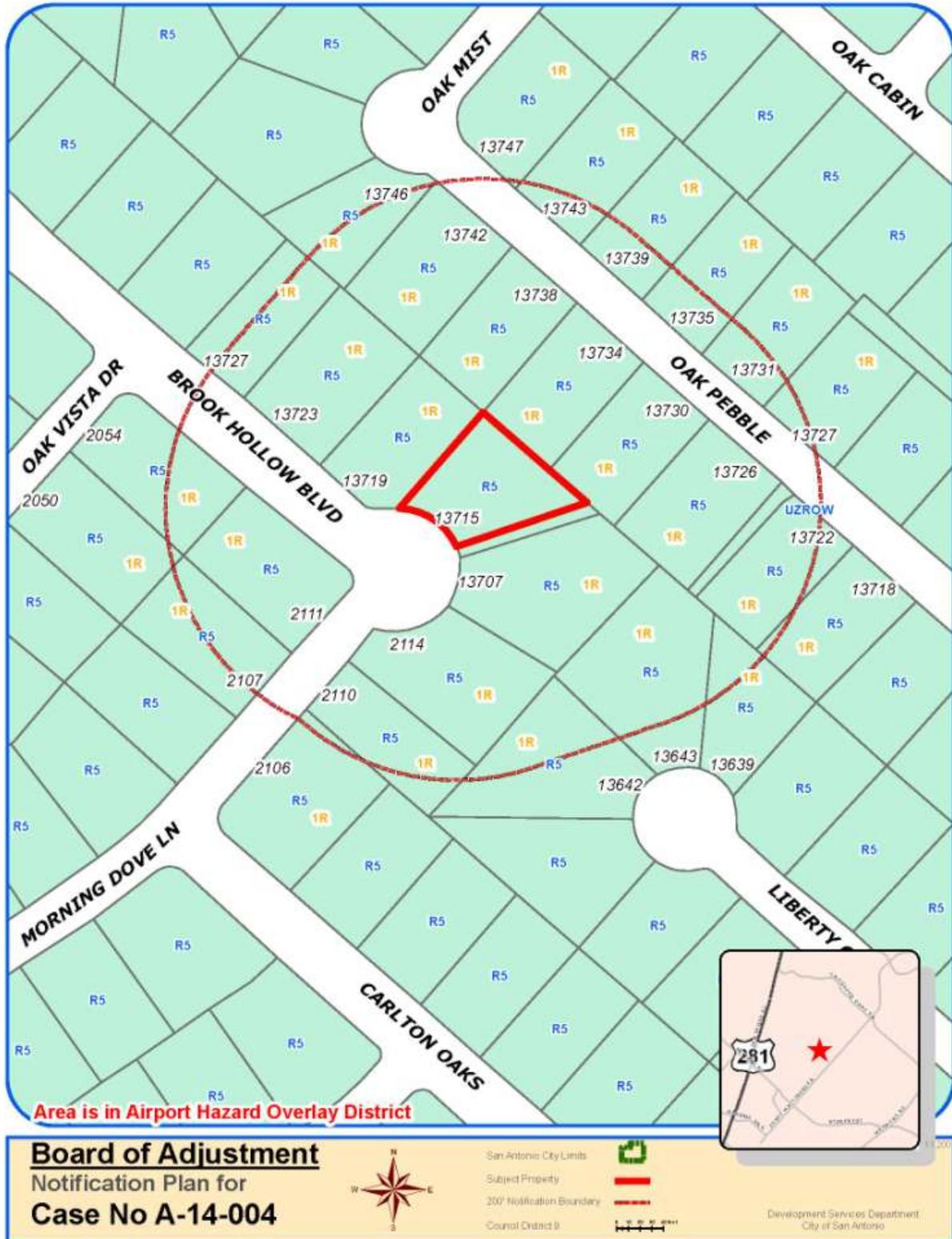
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant’s Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



Area is in Airport Hazard Overlay District

**Board of Adjustment
Notification Plan for
Case No A-14-004**



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



Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



Variance Request:
A request for a 17-foot variance from the required 20-foot rear yard setback to allow a structure 3 feet from the rear property line.

Board of Adjustment
Plot Plan for
Case No A-14-004



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 9

13715 Brook Hollow

Development Services Department
City of San Antonio

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-14-004



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 9

13715 Brook Hollow

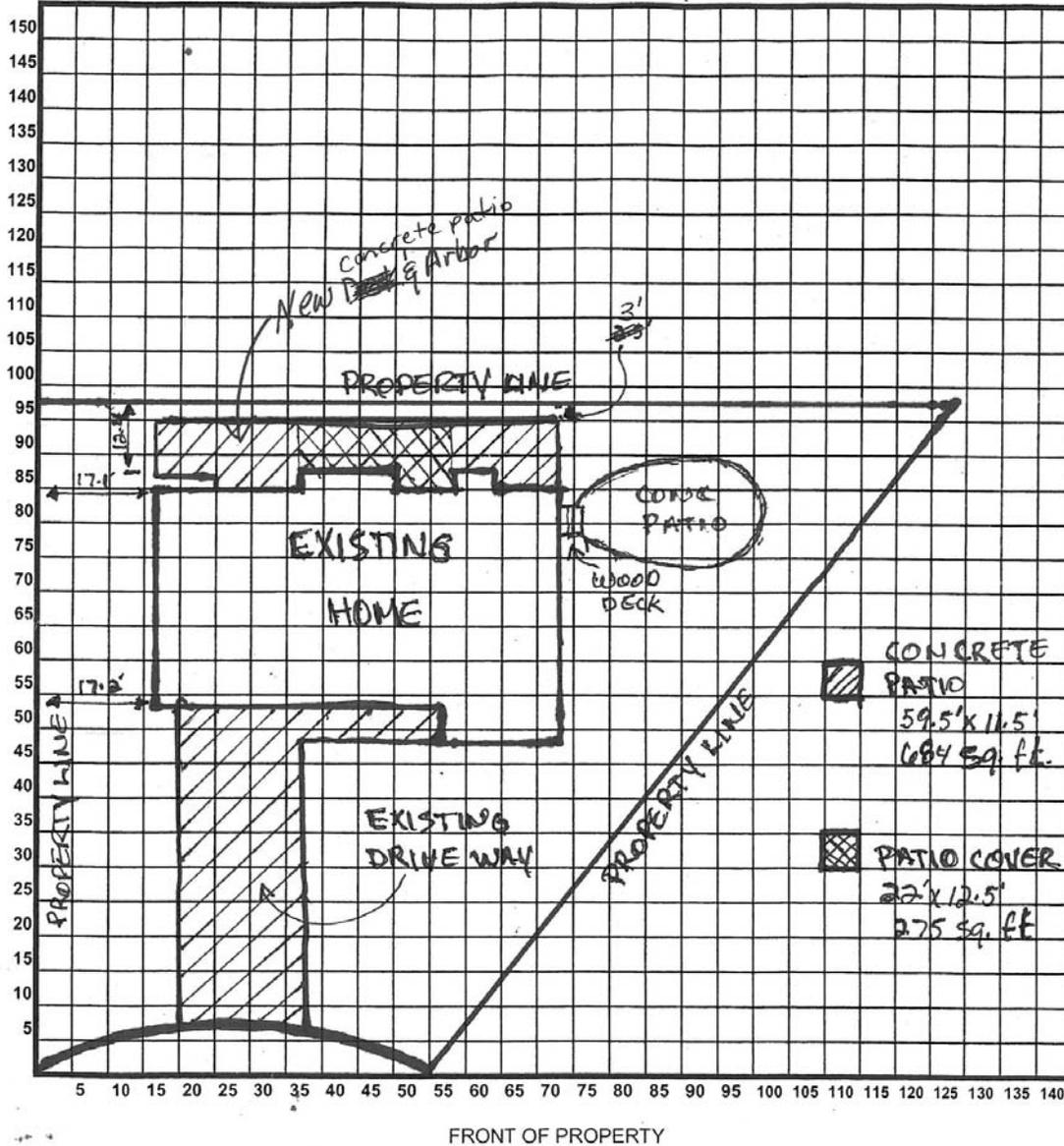
Development Services Department
City of San Antonio

Attachment 3 Applicant's Site Plan

PLOT PLAN

FOR
BLDG PERMITS

Address 13715 Brook Hollow Blvd of 25 Block 8 NCB 16059
REAR OF PROPERTY



I certify that the above plot plan shows all improvements on this property and that there will be no construction over easements. I also certify that I will build in compliance with the UDC and the 2009 IRC

10-18-13
Date


Signature of Applicant

**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-14-005
Date: November 18, 2013
Applicant: Five Star Development
Owner: Henrietta Investment Partners
Location: 13201 Blanco Road
Legal Description: A portion of Lot 1, Block 3, NCB 16161
Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request from Table 510-1 for a 10-foot variance from the 15-foot required "Type B" Bufferyard along a portion of Wurzbach Parkway to allow a bufferyard of 5 feet in width along a portion of Wurzbach Parkway.

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 and registered neighborhood associations within two hundred (200) feet of the subject property on or before October 31, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 1, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before November 15, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located northwest corner of Wurzbach Parkway and Blanco Road. The property is currently undeveloped; however, a 14,600 square-foot retail pharmacy with 72 parking spaces is proposed to be constructed on the site.

The UDC requires that a "Type B" bufferyard of a width of 15 feet be placed where the property abuts the rights of way of a major arterial, in this case, Wurzbach Parkway. The applicant wishes to reduce this required bufferyard in order to accommodate parking and internal

accessways for the proposed development. The requested reduction area is approximately 100 linear feet along Wurzbach Parkway.

Table 526-3b of the UDC requires a minimum parking ratio of 1 parking space per 300 square feet of gross floor area (49 parking spaces) and also sets a maximum parking ratio of 1 parking space per 200 square feet of gross floor area (73 parking spaces). The current development proposal has a parking ratio of 1 space per 202.7 square feet (72 parking spaces), well over the minimum required by the UDC. To comply with the required bufferyard, approximately 11 spaces would need to be removed, leaving the development with a parking ratio of 1 space per 239 square feet of gross floor area (61 parking spaces), which is still more than the required minimum number of 49 parking spaces as per the UDC.

It should also be noted that the UDC allows a reduction of the bufferyard by 20% (with a minimum allowable bufferyard of 10 feet in width), if natural areas with native vegetation are preserved in the bufferyard area, so long as the amount of trees and shrubs preserved meets the minimum number of equivalent plantings units or provides complete screening of the property. This provision could allow a reduction of the yard width, and preservation of some of the requested parking spaces without a variance. If the applicant qualified for this reduction, then, under the current proposal, a variance of 5 feet would still be necessary.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-2 AHOD” (Commercial Airport Hazard Overlay District)	Vacant (Proposed Retail Pharmacy)

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2 AHOD” (Commercial Airport Hazard Overlay District)	Vacant and Hardberger Park
South	Right-of-way	Wurzbach Parkway
East	“C-2 AHOD” (Commercial Airport Hazard Overlay District)	Apartments
West	“C-2 AHOD” (Commercial Airport Hazard Overlay District)	Vacant and Hardberger Park

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within San Antonio International Airport Vicinity Land Use Plan (designated as Neighborhood Commercial) and also within the North Sector Plan (designated as Mixed Use Center). The subject property is not located within the boundaries of a registered 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:*

Bufferyards are intended to mitigate visual clutter and distraction by requiring landscaping and tree plantings between certain uses. In this case, there is adequate parking on the site to exceed the minimum requirements of the UDC for parking and still include the required buffer. As such, the variance 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 on the property to warrant the granting of the variance as the provision of the required bufferyard will still leaving the site with parking that exceeds the minimum requirements of the UDC.

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 the variance as there is adequate area to provide the required buffer.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "C-2" Commercial base zoning district.

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

The requested variance, if approved, will not substantially injure the appropriate use of adjacent conforming properties; however the variance could have the effect of introducing visual clutter and distraction along a major arterial.

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 unique circumstances readily apparent to warrant the granting of the requested variances.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reduce the amount of parking and construct the required buffer, which will still allow the subject property to have more than the minimum required amount of parking.

Staff Recommendation

Staff recommends **denial of A-14-005** because of the following reasons:

- There are no unique circumstances or special conditions readily apparent on the site.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

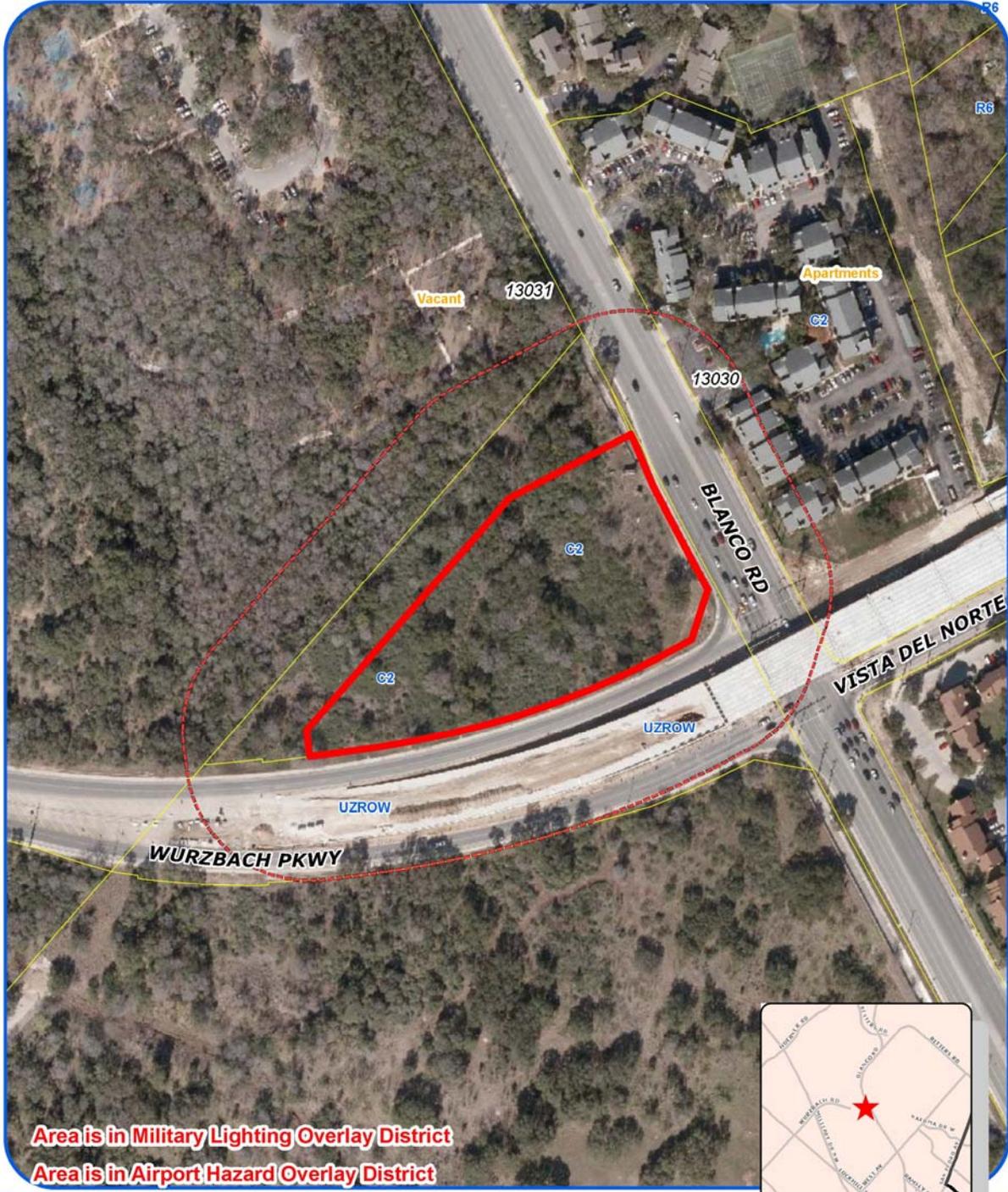
Attachment 3 – Applicant's Site Plan

Attachment 1 Notification Plan



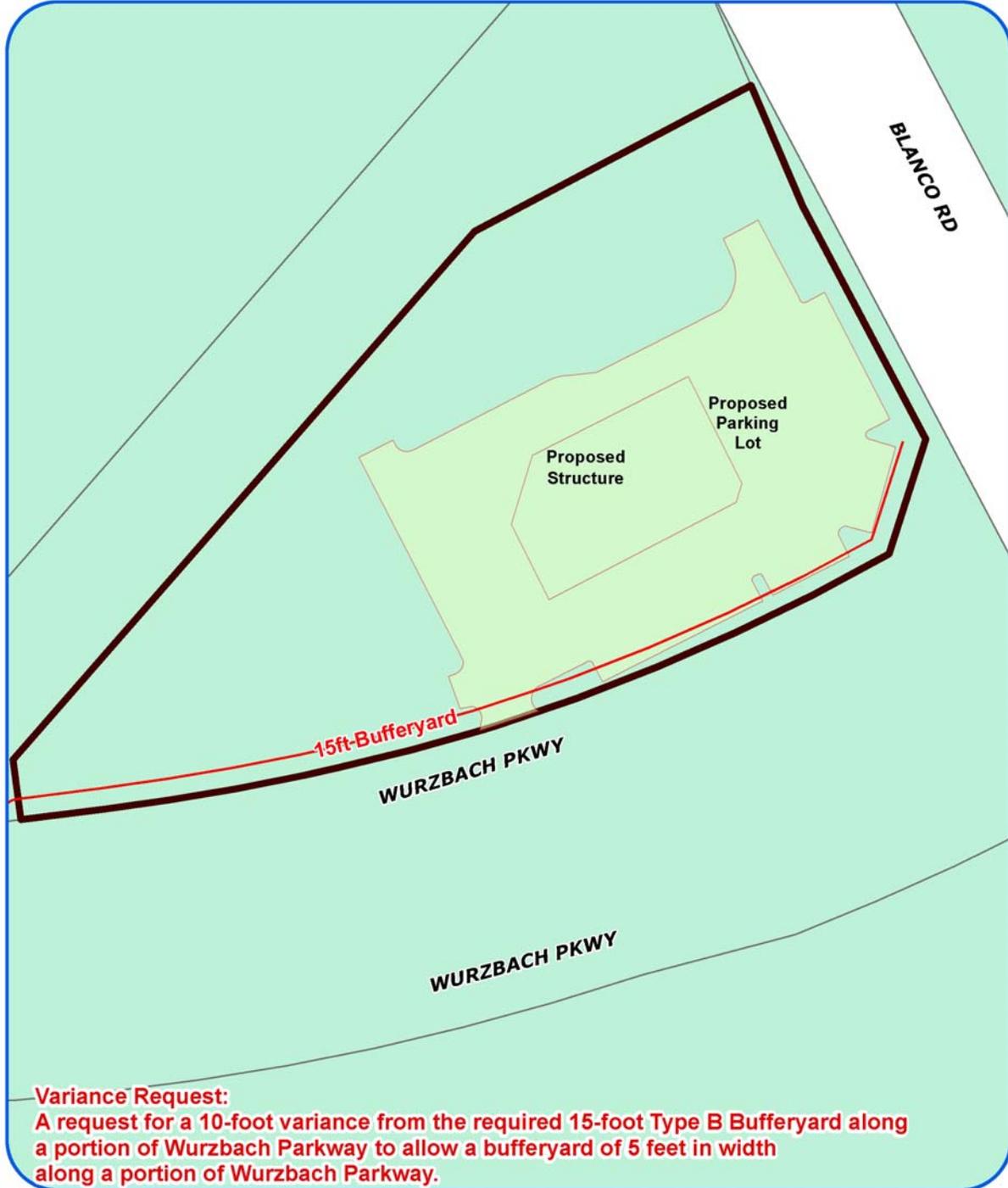
<p>Board of Adjustment Notification Plan for Case No A-14-005</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 8 </p>	
<p>Development Services Department City of San Antonio</p>			

**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-14-005</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 8 </p>	<p></p> <p>Development Services Department City of San Antonio</p>

**Attachment 2
Plot Plan**



Variance Request:
A request for a 10-foot variance from the required 15-foot Type B Bufferyard along a portion of Wurzbach Parkway to allow a bufferyard of 5 feet in width along a portion of Wurzbach Parkway.

Board of Adjustment
Plot Plan for
Case No A-14-005



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 8

13201 Blanco

Development Services Department
City of San Antonio

1:1,056

Attachment 2 (Continued)
Plot Plan



Variance Request:
A request for a 10-foot variance from the required 15-foot Type B Bufferyard along a portion of Wurzbach Parkway to allow a bufferyard of 5 feet in width along a portion of Wurzbach Parkway.

Board of Adjustment
Plot Plan for
Case No A-14-005



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 8

13201 Blanco

1:1,058

Development Services Department
City of San Antonio



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

To: Board of Adjustment
Case No.: A-13-076
Date: November 18, 2013
Applicant: Luis R. Garcia, Jr.
Owner: Luis R. Garcia, Jr
Location: 2142 W. Magnolia
Legal Description: Lot 13 & W. 5 feet of Lot 12, NCB 6829
Zoning: "R-6 H AHOD" Residential Single-Family, Historic, Airport Hazard
Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant is appealing the Historic Preservation Officer's decision to deny his application for a Certificate of Appropriateness for a retaining wall. The retaining wall was partially constructed without a certificate of appropriateness.

Procedural Requirements

According to the Unified Development Code ("UDC"), Section 35-451, the Board of Adjustment ("Board") is empowered to consider an appeal of the denial of a certificate of appropriateness by the Historic Preservation Officer (HPO). The Board must consider the appeal at a quasi-judicial public hearing, pursuant to UDC Section 35-404. Their authority allows the Board to affirm, modify or reverse the HPO's determination from which the appeal is taken and make the correct order, requirement, decision or determination, with the concurring vote of 75% of its members. This appeal was publicly noticed in accordance with Section 35-403 of the UDC. Notices were sent to property owners within two hundred (200) feet of the subject property on October 31, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 1, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before November 15, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Applicable Code References

- (a) UDC 35-608. Certificate of Appropriateness- Generally. In reviewing an application for a certificate of appropriateness, the Historic and Design Review Commission (HDRC) shall consider the current needs of the property owner. The HDRC shall also consider whether the plans will be reasonable for the property owner to carry out. Where the City

Council has adopted specific design guidelines for the district, no application shall be recommended for approval unless the proposed application is consistent with the design guidelines.

- (b) UDC 35-610. Alteration, Restoration, Rehabilitation and New Construction. In considering whether to recommend approval or disapproval of an application for a certificate to add to a site located in a historic district, the HDRC shall be guided by the Secretary of the Interior's Standards and Guidelines for Historic Preservation and the Historic Design guidelines adopted by the City Council
- (c) UDC 35-451. Appeal. An applicant for a certificate may appeal the decision of the city manager or designee (HPO) to the Board of Adjustment within 30 days after receipt of notification of the city manager's action. In determining whether or not to grant the appeal, the Board shall consider the same factors as the commission, the report of the commission and any other matters presented at the hearing on appeal. If the Board approves the application, it shall direct the HPO to issue a certificate for the work covered.

Executive Summary

The property owner purchased the home 2 weeks prior to the rain storm and flooding over the Memorial Day weekend. The street and sidewalk were submerged and the sloped front yard eroded. The applicant stated that the erosion was severe enough to force relocation of the now-exposed sprinkler lines. According to the applicant's testimony, he sought advice from Development Services about permitting and was told that retaining walls less than 4-feet in height do not require a permit. No specific address was presented or requested and the applicant was not directed to the Office of Historic Preservation for further inquiry. A contractor began installing the retaining wall without a certificate of appropriateness. In fact, the wall was nearly completed when the work was stopped by Code Compliance. Only the intended brick façade remains unfinished.

The applicant applied for a Certificate of Appropriateness, including 140 photos of retaining wall examples. The Office of Historic Preservation reviewed the application materials and scheduled the case for consideration on the August 7, 2013 HDRC public hearing.

HDRC Public Hearing August 7, 2013

Staff: The Office presented the proposed application to the HDRC, including the *Topography* standards enumerated in the recently adopted city-wide design guidelines. These guidelines provide far more detailed information than the Secretary of the Interior documents, used prior to their adoption. The staff analysis included 4 findings in support of a recommendation for denial. These included:

1. Work was begun without appropriate permits and approvals.
2. Consistent with the Guidelines for Site elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. "Topographic features, such as sloped front lawns, help define the unique character of each district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district."

3. Lawns or low plantings that are well maintained prevent erosion of sloped front yards.
4. Although the majority of the houses in this block that have a high grade change in the front yard have retaining walls, none of these existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

The staff concluded by recommending denial, suggesting that the Commission allows the applicant to keep the steps and a slight return on each side.

Applicant: Luis Garcia explained that he purchased the subject home just weeks before the spring rains and was surprised by the flooding and erosion. His front yard was eroded and his neighbor advised him that the solution to this erosion was a retaining wall. He spoke about not only the number of existing retaining walls, but also the walls currently under construction. He also expressed his concern about potential foundation issues. Several houses in the immediate vicinity have significant cracks in the foundations and the applicant is concerned that soil erosion and instability are having a direct impact. The applicant stated he has a bachelor and master's degree in architecture and had designed a wall that he felt was compatible with his home and the area. He intended to clad the wall in matching brick. The applicant stated that he drove around the district and found an estimated 60% of the homes with sloping front lawns have retaining walls, including much of Woodlawn Avenue.

In Opposition: Fern Burney, an area resident (0.75mi away) of over 30 years spoke in opposition to the retaining wall. She stated that erosion can be solved with proper landscaping and spoke about the sloping front lawns in the historic district. She referred to "standards that were developed to maintain the character of our neighborhoods and we would absolutely stand by the standards that we worked so hard to develop. We do not have retaining walls except those that were grandfathered in and we do not have front yard fences except those that were there before historic designation." She referred to a "Board" of which she was a member and strongly urged the HDRC to deny the request.

The Commission Deliberation: The HDRC was somewhat confused about the applicant being told that the work did not require a building permit yet not being told about the historic district requirements. One Commissioner spoke about the sloping front lawns throughout the neighborhood, the particular details of the applicant's wall, and the stairs that are incorporated into the constructed wall. The Commission generally did not support the connection the applicant was making between retaining walls and foundation cracks. Another Commissioner spoke about having grown up on the street and that the existing walls have been there for 20-30 years. He further stated that the HDRC "norm" is that they do not approve retaining walls in the Monticello Park Historic District, and made the motion to deny.

The Appeal

In the appeal as submitted, the applicant discusses that the *Monticello Park Historic District (MPHD) guidelines* are inconsistent with the character of their own neighborhood. The drafting committee must have ignored the need and necessity of retaining walls on sloping lawns, he wrote. The staff acknowledged that the majority of homes with sloping lawns have retaining walls, but dismissed their need for the walls and said that the prevalence of walls was immaterial to his application.

The applicant claims that the HDRC ignored the fact that the prevalence of retaining walls along this block indicates a need for them.

The applicant stated that the staff's assertion that well-maintained lawns prevent erosion was proven incorrect on his property during the spring rain. He also stated that the HDRC ignored the dangers of a slippery, muddy sidewalk to pedestrians.

The applicant stated that the MPHD guidelines are arbitrary and more restrictive than other districts where retaining walls are routinely permitted. During his hearing he provided multiple examples of recently constructed retaining walls in the Monte Vista historic district.

Review of the HDRC Recommendation & HPO Denial

A survey of the immediate area, including two blocks on Magnolia and neighboring Mistletoe found a fairly consistent installation of retaining walls where the topography required it. Without surveying the entire historic district, one of the largest in the City, it is easy to understand the applicant's claim that less than half of the sloping yards have no retaining walls. The entire 2000 W. block of Mistletoe recently had a comprehensive sidewalk replacement project which included a short retaining wall along the majority of the north side. A brief discussion with the Capital Improvements Management Services (CIMS) found that they have several additional blocks in the district slated for sidewalk replacement in the next year. They have a standard formula where a retaining wall is installed as a part of the sidewalk project. This formula dictates that when the slope is steeper than 25% or 1 foot height increase for 4 feet in depth, a retaining wall is installed.

Ms. Burney gave the impression to both some HDRC Commissioners and the applicant that the MPHD had its own guidelines when in fact the Office of Historic Preservation has only the general design guidelines that apply to all districts. These are meant to give both direction and provide flexibility. The section used by staff regarding Site Elements also has a page dedicated to fences and walls which could have been used to support the wall. This section states "Where walls do exist, they are important character-defining features that help reinforce the age and style of the principal building and oftentimes the block. Front walls play a large role in defining rhythm and pattern along the street edge." This section continues by providing guidance on retaining wall height (not to exceed the height of the slope it retains) and materials (select materials that are similar to those historically used and compatible with the main structure).

The design guidelines address both the scenario where sloped lawns should be preserved and where retaining walls may be necessary. Unfortunately, the guidelines do not include a calculation of the degree of slope, similar to that used by CIMS, to use as a definitive measurement above which a wall is necessary. Mountainous communities understand the difficulty in irrigating slopes and establishing vegetation; water rolls off so fast that it does not absorb. Some of the slopes in the area are approaching vertical and show the baron results of water runoff.

Since 2000, the Office of Historic Preservation has reviewed only 6 retaining wall applications for Certificates of Appropriateness. Of these, 4 were denied and 2 were approved.

The Board should consider all aspects of the case and discuss the details with OHP staff. They will be available at the hearing.

Attachments

Attachment 1 – The Original Application

Attachment 2 – The HDRC Staff Report

Attachment 3 – The Appeal

Attachment 4 – The Design Guidelines (Topography & Fences and Walls)

Attachment 5 – Map of nearby retaining walls

Attachment 6 – Site Photos

Attachment #1
The original application



HISTORIC & DESIGN REVIEW COMMISSION APPLICATION FORM

CITY OF SAN ANTONIO

OFFICE OF HISTORIC PRESERVATION
1901 S. ALAMO, SAN ANTONIO, TEXAS 78204
P: 210.215.9274 E: OHP@SANANTONIO.GOV

CITY OF SAN ANTONIO
PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT
2013 JUL 12 PM 2:12
DATE RECEIVED

Date Complete: _____
Staffs Initials: AW
Date of Scheduled HDRC Meeting: 8/7/2013 3:00p
60 Day Review: _____

Property Address 2142 W. MAGNOLIA AVE

Historic District WOODLAWN TERRACE Landmark Name _____
~~PARK~~ Monticello

River Improvement Overlay Public Property Other _____

Parcel ID: NCB 6829 Block _____ Lot 13, WS FT OF 12 Zoning _____

Name of Property Owner LUIS RICHARD GARCIA JR

Mailing Address: 2142 W. MAGNOLIA AVE Zip Code 78201

Phone Number: 210.843.8004 Email Address: rlgm007@gmail.com

Name of Applicant/Authorized Representative LUIS RICHARD GARCIA JR

Mailing Address: 2142 W MAGNOLIA AVE Zip Code 78201

Phone Number: 210.843.8004 Email Address: rlgm007@gmail.com

BELOW PROVIDE A DETAILED DESCRIPTION OF THE PROJECT (USE AN ADDITIONAL PAGE IF NECESSARY)

Conceptual Approval Final Approval Original HDRC Hearing Date: _____

Small retaining wall along front yard to prevent soil erosion after each rain. Wall is concrete and will be covered in a matching brick veneer (to match house). 2'-10" to 3'-0"

SEE THE FOLLOWING PAGE FOR REQUIRED EXHIBITS. NO CASE WILL BE SCHEDULED FOR A HEARING UNTIL ALL SUPPORTING MATERIALS ARE RECEIVED.

This completed form and attachments are to be submitted in person to 1901 S. Alamo.

Attachment #2
HDRC Report



HISTORIC AND DESIGN REVIEW COMMISSION
COMMISSION ACTION

This is not a Certificate of Appropriateness and cannot be used to acquire permits.

August 07, 2013

HDRC CASE NO: 2013-217
ADDRESS: 2142 W. Magnolia
LEGAL DESCRIPTION: NCB 6829 BLK LOT 13, W 5 FT OF 12
HISTORIC DISTRICT: Monticello Park Historic District
APPLICANT: Luis Richard Garcia Jr. 2142 W. Magnolia
OWNER: Luis Richard Garcia Jr.
TYPE OF WORK: Retaining wall

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to install a 3' tall retaining wall on the front yard. The proposed wall will be concrete clad in brick to match the house.

FINDINGS:

- a. Work was begun without appropriate permits or approvals.
- b. Consistent with the Guidelines for Site Elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. Topographic features, such as sloped front lawns help define the unique character of the district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.
- c. Lawns or low-plantings that are well maintained prevent erosion of sloped front yards.
- d. Although the majority of the houses in this block of West Magnolia that have a high grade change in the front yard have retaining walls, none of these walls existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

RECOMMENDATIONS:

Staff does not recommend approval as submitted based on the findings above. If erosion is an issue, staff recommends that lawn or low-plantings suitable for the prevention of erosion are used.

COMMISSION ACTION:

Denial of applicants request for a retaining wall. The applicant is allowed to keep the existing sidewalk and walkway to front door, steps, and the return on the side of the steps.

Shanon Shea Miller
Historic Preservation Officer

HISTORIC AND DESIGN REVIEW COMMISSION

August 07, 2013

Agenda Item No:

HDRC CASE NO: 2013-217
ADDRESS: 2142 W. Magnolia
LEGAL DESCRIPTION: NCB 6829 BLK LOT 13, W 5 FT OF 12
ZONING: R6 H
CITY COUNCIL DIST.: 7
DISTRICT: Monticello Park Historic District
APPLICANT: Luis Richard Garcia Jr.
OWNER: Luis Richard Garcia Jr.
TYPE OF WORK: Retaining wall
REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to install a 3' tall retaining wall on the front yard. The proposed wall will be concrete clad in brick to match the house.

APPLICABLE CITATIONS:

Historic Design Guidelines, Chapter 5, Guidelines for Site Elements

1. Topography

A. TOPOGRAPHIC FEATURES

i. *Historic topography*—Avoid significantly altering the topography of a property (i.e., extensive grading). Do not alter character-defining features such as berms or sloped front lawns that help define the character of the public right-of-way. Maintain the established lawn to help prevent erosion. If turf is replaced over time, new plant materials in these areas should be low-growing and suitable for the prevention of erosion.

B. NEW FENCES AND WALLS

i. *Design*—New fences and walls should appear similar to those used historically within the district in terms of their scale, transparency, and character. Design of fence should respond to the design and materials of the house or main structure.

ii. *Location*—Avoid installing a fence or wall in a location where one did not historically exist, particularly within the front yard. The appropriateness of a front yard fence or wall is dependent on conditions within a specific historic district. New front yard fences or wall should not be introduced within historic districts that have not historically had them.

iii. *Height*—Limit the height of new fences and walls within the front yard to a maximum of four feet. The appropriateness of a front yard fence is dependent on conditions within a specific historic district. New front yard fences should not be introduced within historic districts that have not historically had them. If a taller fence or wall existed historically, additional height may be considered. The height of a new retaining wall should not exceed the height of the slope it retains.

v. *Appropriate materials*—Construct new fences or walls of materials similar to fence materials historically used in the district. Select materials that are similar in scale, texture, color, and form as those historically used in the district, and that are compatible with the main structure. Screening incompatible uses—Review alternative fence heights and materials for appropriateness where residential properties are adjacent to commercial or other potentially incompatible uses.

FINDINGS:

- a. Work was begun without appropriate permits or approvals.
- b. Consistent with the Guidelines for Site Elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. Topographic features, such as sloped front lawns help define the unique character of the district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.
- c. Lawns or low-plantings that are well maintained prevent erosion of sloped front yards.
- d. Although the majority of the houses in this block of West Magnolia that have a high grade change in the front yard have retaining walls, none of these walls existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

RECOMMENDATIONS:

Staff does not recommend approval as submitted based on the findings above. If erosion is an issue, staff recommends that lawn or low-plantings suitable for the prevention of erosion are used.

PLANNER:

Adriana Ziga









August 7, 2013

To Whom It May Concern:

As a general note, The Monticello Park Neighborhood Association appreciates neighbors who are interested in improving the appearance of their homes. However, we are very concerned when these improvements are begun without proper permits.

Re: HDRC case no. 2013-217 (retaining wall at 2142 W. Magnolia)

The Monticello Park Neighborhood Association supports the staff recommendation. **If** the Commission chooses to allow the retaining wall, we ask that it be faced with a material such as stone or brick; and that it be no taller than 30". The retaining wall should also be properly engineered so that it will not eventually fail or lean into the sidewalk.

Re: HDRC case no. 2013-216 (retaining wall at 2210 W. Magnolia)

The Monticello Park Neighborhood Association supports the staff recommendation. **If** the Commission chooses to allow the retaining wall, we ask that it be faced with a material such as stone or brick; and that it be no taller than 30". The retaining wall should also be properly engineered so that it will not eventually fail or lean into the sidewalk.

Re: HDRC case no. 2013-227 (window replacement at 224 Quentin)

The Monticello Park Neighborhood Association supports the staff recommendation.

Sincerely,

Robert W. Sipes
President
Monticello Park Neighborhood Association

Attachment #3
The Appeal

Case No. A-13-076

Case Manager _____

APPEAL
To the
BOARD OF ADJUSTMENT

CITY OF SAN ANTONIO

§
§
§

COUNTY OF BEXAR

STATE OF TEXAS

TO THE HONORABLE BOARD OF ADJUSTMENT:

Property description (Attach field notes if necessary):

Lot no. 13, W 5 FT OF 12

Block No. _____

NCB 6829

Property Address: 2142 W. MAGNOLIA AVE

Zoning R-6 H AHOD

The Applicant, LUIS R GARCIA JR, of BEXAR County, alleges that the following error in an order, requirement, decision or determination has been made by an administrative officer in the enforcement of the City of San Antonio's Zoning ordinances:*

see attached statement of issues.

*Note: Local Government Code § 211.010 (b) and San Antonio City Code § 35-481 (b)(1) require that the applicant give notice of the specific grounds for the appeal. Failure to state the reasons for the alleged error and applicable code sections will result in the return of your application. Please attach additional pages if necessary.

I have completed the following requirements:

1. Paid the filing fee of \$600.00, checks made payable to "City of San Antonio"
2. Submitted three (3) copies of the plot plan, plus one additional 8½-inch by 11-inch copy, all drawn to scale (if applicable)
3. Submitted other supporting documentation, e.g. HDRC decision, etc.

Respectfully submitted:

Applicant's name: LUIS RICHARD GARCIA JR

Status: Owner Agent

Mailing address: 2142 W. MAGNOLIA AVE SA TX 78201

Telephone: (Home) 210.843.8004 (Work) _____

Other phone: _____ Email: rlgm007@gmail.com

Applicant's signature [Signature] Date AUG 29 2013

Representative's name: _____

Mailing address: _____

Telephone: (Home) _____ (Work) _____

Other phone: _____ Email: _____

Name of Property Owner: same as above

Mailing address: _____

Telephone: (Home) _____ (Work) _____

Other phone: _____ Email: _____

I, _____ the owner of the subject property, authorize
_____ to submit this application. I also authorize
_____ to represent me in this appeal before the
Board of Adjustment.

Property owner's signature _____ Date _____

FILING OF THE APPEAL STOPS ALL AFFECTED CONSTRUCTION ACTIVITY.

**NO APPLICATION MAY BE ACCEPTED BY MAIL, MESSENGER, OR FAX.
APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON.**

Luis Richard Garcia Jr
2142 W. Magnolia Ave
San Antonio, TX 78201

Issue: The Monticello Park Historic District (MPHD) guidelines are not consistent with the historic character of their own neighborhood.

The MHPD guidelines drafting committee failed to take into account that many homes in the MHPD have retaining walls (see: photos of approximately 100 retaining walls in the MHPD district made part of the record in this case). This committee must have acted with its own interests in mind without taking into account the **NEED and NECESITY** of retaining walls in my non-MPHD neighborhood. (Note: The City of SA's Historic Preservation MPHD web site shows pictures of six homes in the MPHD neighborhood – two of which clearly show retaining walls).

The HDRC brushed aside the fact that almost every property with a sloping lawn on Magnolia Ave and the MHPD has built a retaining wall of some sort with different materials, heights, and finishes (see photos presented). At the same time I built my low retaining wall, two other property owners down the street from my property were building retaining walls as well. The City halted one of these “wall builders” as well. Myself and these other property owners built these walls out of necessity to prevent our property from eroding away.

The MHPD's statement that “although the **majority** (emphasis added) of the houses in this block of West Magnolia ... have retaining walls, none of these walls existed historically...” clearly shows the need for these retaining walls. And, it fails to show proof of these walls' ages or when these walls were built. Many of these walls look very old as if they were built many many years ago.

Note: Why did the MPHD add non-historical street signs that were not historically there and do not go with the character of the rest of my neighborhood – Woodlawn Terrace. My neighborhood's “historical” street signs are BLUE!

Issue: The Monticello Park Historic District (MPHD) guidelines infringe upon the use and enjoyment of properties outside their bounds.

The MHPD randomly and without authority incorporated several streets that belong to the Woodlawn Terrace neighborhood into their district – including my street – West Magnolia Avenue. Woodlawn Terrace is a separate and distinct neighborhood with its own characteristics. Woodlawn Terrace is an OLD neighborhood and most of its residents are lower-middle class to poor. In doing so, the MHPD mistakenly equated old with historic and then selectively “picked and chose” streets in the Woodlawn Terrace neighborhood which they deemed worthy of “historic” status to add to their district without approval or knowledge of most of these Woodlawn Terrace property owners.

If the MPHD wants to incorporate areas outside of their bounds, it should have sought to change the legal descriptions of these properties as well to specifically state and alert the new and existing property owners that their usurped properties now fall under the MPHD rules and regulations. My property's legal description specifically states that my property is located in WOODLAWN TERRACE. My current legal property description fails to give me PROPER NOTICE that my property falls within a "historic" district.

Issue: The City of San Antonio Building Permits does not require a permit for retaining walls less than four feet in height.

The HDRC finding that I began work without appropriate permits is incorrect. The City of San Antonio does not require a permit to construct a retaining wall under four feet in height. My wall is 2.5 feet at its highest point. I applied for a City Permit and Officer Carrillo specifically told me that I did not need a permit to build a low rising wall. (refer to City of San Antonio Building Permit Officer Carrillo's business card made part of the record).

Issue: The HDRC's finding that "Lawns or low-plantings that are well maintained prevent erosion of sloped front yards" is not a reality.

The City of San Antonio has disregarded the Magnolia Street property owner's plea to fix the water drainage problem on the street. With the May 2013 rains, my "well maintained lawn with low-planting" was washed away by a raging river that formed in front of my house. My entire front lawn was inundated and I could not even drive into my carport. The result was a muddy sidewalk hazardous to pedestrians. My retaining wall stops the erosion of the soil and with the latest rains my sidewalk remains free of debris. (NOTE: IF I'M FORCED TO REMOVE MY WALL AND THE SIDEWALKS BECOME MUDDY AND SLIPPERY AGAIN, THE CITY OF SAN ANTONIO IS PLACED ON NOTICE THAT IT WILL BECOME LIABLE FOR ANY SLIPS AND FALLS ON THEIR SIDEWALK).

Issue: The MPHD's arbitrary guidelines are more restrictive than other real historic districts in San Antonio such as Monte Vista.

The HDRC allows wealthy homeowners of truly historic homes in areas such as Monte Vista to drastically change the character of their historic homes while the HDRC forces residents of poor neighborhoods such as Woodlawn Terrace with lesser and non-historic homes to pass hoop after hoop under the "historic" guise to appease outsider groups such as the MPHD who want to gentrify these fringe areas to increase their own property values. This gentrification by the MPHD of bits and pieces of Woodlawn Terrace over burdens the poor residents of my inner urban downtown neighborhood.

A blatant example, made part of the record, of this type of behavior is evidenced by the Mediterranean style Monte Vista home located at the corner of San Pedro Ave. and Lynwood Ave.. Here, the owner of this beautiful home built a huge retaining wall along

San Pedro Ave. which now obstructs the passers by's views of the home. The HDRC even approved the drastic redesign of the drive way from San Pedro to Lynwood and allowed a concrete fence-wall along the front yard.

The HDRC ignored my photos of the new retaining walls constructed in Monte Vista (see; photos made part of the record). These arbitrary HDRC actions give the appearance that MONEY TALKS – if you live in a rich neighborhood with plenty of money, you can change your truly historic home without restrictions, but if you live in a poor neighborhood like Woodlawn Terrace, other aggressive outsider neighborhoods like MPHD can selectively dictate their personal subjective views upon the less fortunate. And thus force, the poor non-compliant residents out. This is further emphasized by the outrageous filing fee of \$600 to appeal these erroneous HDRC advisory decisions which prevent and deter the poor and the elderly of my neighborhood who have also been affected by the MPHD dictatorial subjective rules from appealing the HDRC's arbitrary decisions.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Luis Garcia', is written over a horizontal line.

LUIS RICHARD GARCIA JR.
Applicant



HISTORIC AND DESIGN REVIEW COMMISSION
COMMISSION ACTION

This is not a Certificate of Appropriateness and cannot be used to acquire permits.

August 07, 2013

HDRC CASE NO: 2013-217
ADDRESS: 2142 W. Magnolia
LEGAL DESCRIPTION: NCB 6829 BLK LOT 13, W 5 FT OF 12
HISTORIC DISTRICT: Monticello Park Historic District
APPLICANT: Luis Richard Garcia Jr. 2142 W. Magnolia
OWNER: Luis Richard Garcia Jr.
TYPE OF WORK: Retaining wall

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to install a 3' tall retaining wall on the front yard. The proposed wall will be concrete clad in brick to match the house.

FINDINGS:

- a. Work was begun without appropriate permits or approvals.
- b. Consistent with the Guidelines for Site Elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. Topographic features, such as sloped front lawns help define the unique character of the district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.
- c. Lawns or low-plantings that are well maintained prevent erosion of sloped front yards.
- d. Although the majority of the houses in this block of West Magnolia that have a high grade change in the front yard have retaining walls, none of these walls existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

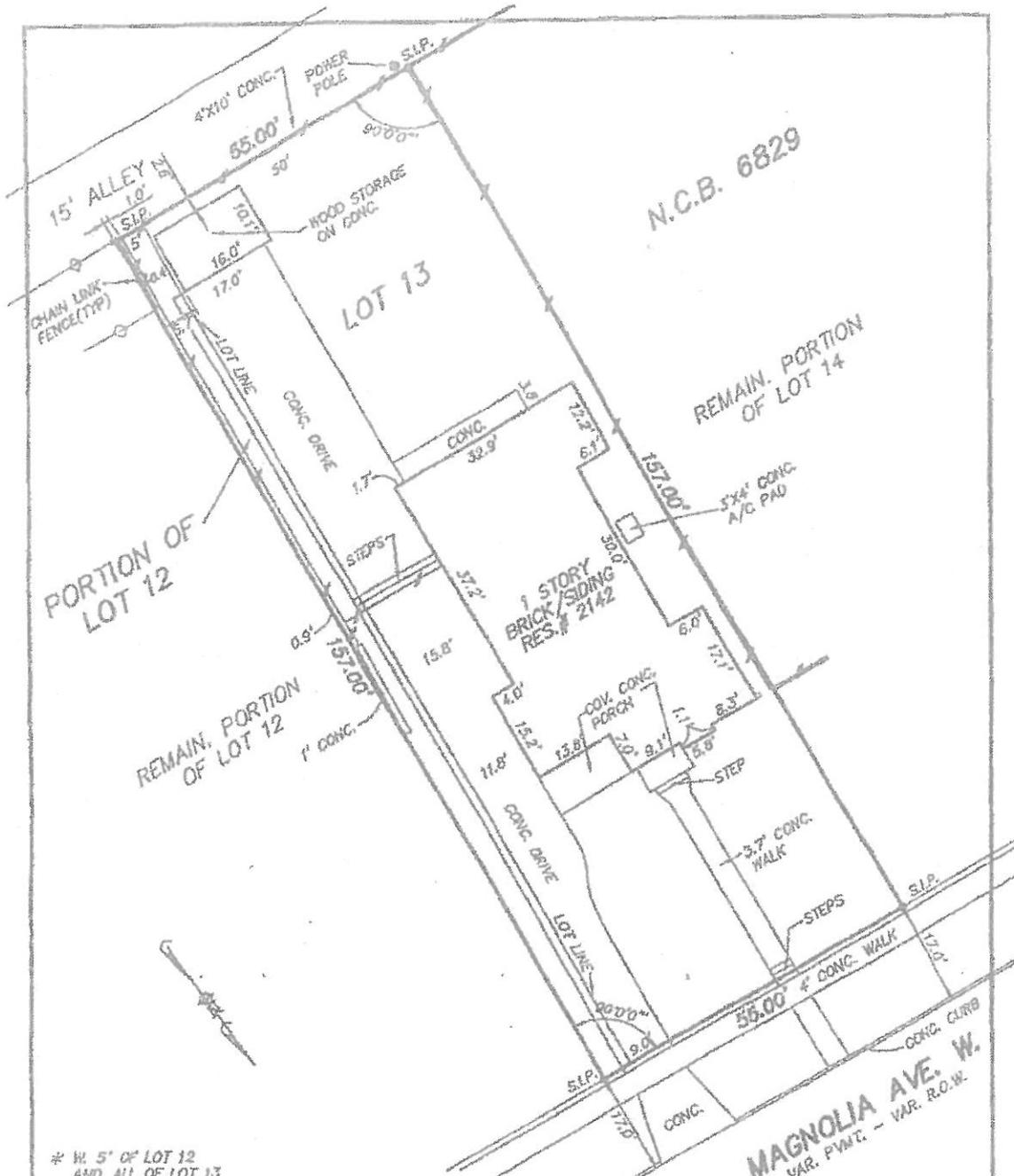
RECOMMENDATIONS:

Staff does not recommend approval as submitted based on the findings above. If erosion is an issue, staff recommends that lawn or low-plantings suitable for the prevention of erosion are used.

COMMISSION ACTION:

Denial of applicants request for a retaining wall. The applicant is allowed to keep the existing sidewalk and walkway to front door, steps, and the return on the side of the steps.

Shanon Shea Miller
Historic Preservation Officer



* W. 5' OF LOT 12
AND ALL OF LOT 13

LOT NO. * BLOCK NO. N.C.B. NO. 6829
 SUBDIVISION WOODLAWN PARK
 UNIT FIRST VOL. 980 PAGE(S) 35
 STREET ADDRESS 2142 MAGNOLIA AVE. W.
 CITY SAN ANTONIO BEXAR COUNTY, TEXAS
 SURVEYED FOR FIRST AMERICAN TITLE CO. G.F. NO. 2104-387239-2450
 BUYER(S) CECILIA CENTENO

NOTES:

1. THE SUBJECT PROPERTY IS NOT SITUATED WITHIN ZONE "A" ACCORDING TO THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER 42029CD433F EFFECTIVE FEBRUARY 16, 1986, DEFINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

2. INTERIOR ANGLES ARE BASED ON THE RECORDED PLAT.

THIS PROPERTY IS SUBJECT TO RESTRICTIVE COVENANTS RECORDED IN:
 VOL. 1473 PG. 222 VOL. 1639 PG. 239
 VOL. 1757 PG. 528 VOL. PG.
 VOL. PG. VOL. PG.

S SOUTH TEXAS ENGINEERING, INC.
 CONSULTING ENGINEERS & LAND SURVEYORS
 4108 COMBURY DR., SUITE 110 (540) AUSTIN, TEXAS 78705-1705 TEL. (512) 736-3040 FAX (512) 736-3260



LEGEND
 P.I.P. : FOUND 1/2" IRON PIN
 S.I.P. : SET 1/2" IRON PIN
 P.I. : POINT OF INTERSECTION
 P.C. : POINT OF CURVE
 P.T. : POINT OF TANGENT
 C.M. : CONTROLLING MONUMENT
 F.C. : FOUND FENCE CORNER
 P.U.D. : PLANNED UNIT DEVELOPMENT

STATE OF TEXAS
 COUNTY OF BEXAR

I HEREBY CERTIFY THAT THE ABOVE PLAT IS TRUE, CORRECT AND AN ACCURATE REPRESENTATION OF THE PROPERTY ACCORDING TO AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND EXCEPT AS SHOWN ABOVE THERE ARE NO VISIBLE DISCREPANCIES, CONFLICTS, PROTRUSIONS OR INTRUSIONS, OVERLAPPING OF IMPROVEMENTS, EASEMENTS, OR RIGHT-OF-WAY.

THIS 27th DAY OF MAY, 2004 A.D.

SURVEY ORDER NO. 20042019
 SCALE: 1"=20' OWN BY: CHK BY:
 REV./UPDATE:

Attachment #4
Design Guidelines

1. Topography

Why is this Important?

Topographic features, such as sloped front lawns, raised lots, and other distinctive site design elements, help define the unique character of each district and of individual streets or blocks within each district. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.



Sloping lawns and raised lots similar to the examples above are typical in some of San Antonio's historic districts.

Guidelines

A. TOPOGRAPHIC FEATURES

- i. **Historic topography**—Avoid significantly altering the topography of a property (i.e., extensive grading). Do not alter character-defining features such as berms or sloped front lawns that help define the character of the public right-of-way. Maintain the established lawn to help prevent erosion. If turf is replaced over time, new plant materials in these areas should be low-growing and suitable for the prevention of erosion.
- ii. **New construction**—Match the historic topography of adjacent lots prevalent along the block face for new construction. Do not excavate raised lots to accommodate additional building height or an additional story for new construction.
- iii. **New elements**—Minimize changes in topography resulting from new elements, like driveways and walkways, through appropriate siting and design. New site elements should work with, rather than change, character-defining topography when possible.

2. Fences and Walls

Why is this Important?

The historic use of fences and low retaining walls to identify front yard boundaries and provide privacy and security varies dramatically from district to district and from block to block within San Antonio's historic districts. The types of fences and walls that are used are similarly eclectic. Where historic fences and walls do exist, they are important character-defining features that help reinforce the age and style of the principal building and often times the block. Front yard fences and walls play a large role in defining rhythm and pattern along the street edge. In some districts, non-historic fence materials, such as chain link, have been introduced over time.



Ornamental, wrought iron fences with an open character and low height are just one of the many styles of historic fences found in San Antonio's historic districts.



Stone walls of varying heights and designs are found in many of San Antonio's historic districts. In some locations (as illustrated above), the walls are used to enclose and screen a yard. In other locations, lower stone walls are used for retention purposes on sloped sites.

Guidelines

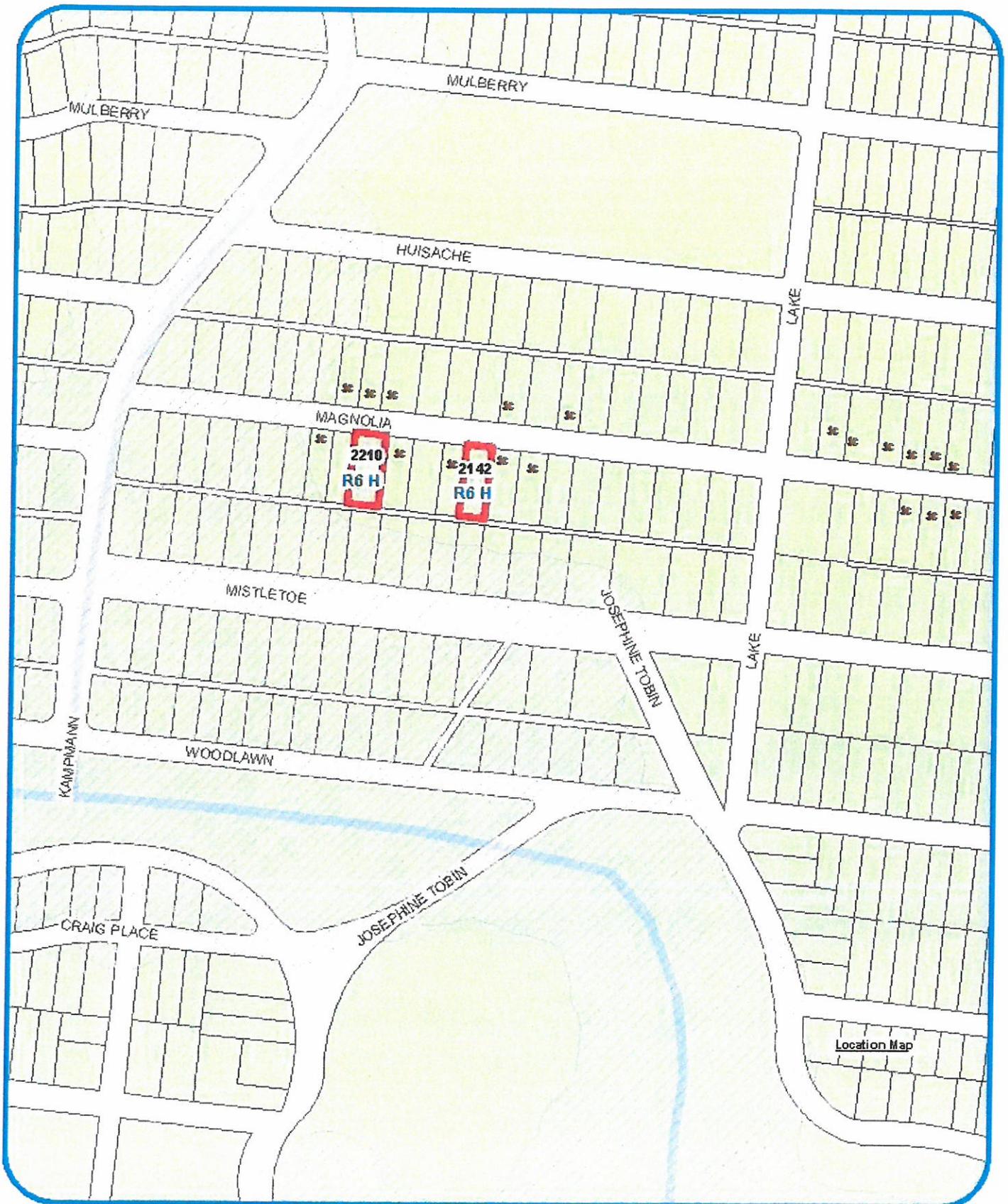
A. HISTORIC FENCES AND WALLS

- i. **Preserve**—Retain historic fences and walls.
- ii. **Repair and replacement**—Replace only deteriorated sections that are beyond repair. Match replacement materials (including mortar) to the color, texture, size, profile, and finish of the original.
- iii. **Application of paint and cementitious coatings**—Do not paint historic masonry walls or cover them with stone facing or stucco or other cementitious coatings.

B. NEW FENCES AND WALLS

- i. **Design**—New fences and walls should appear similar to those used historically within the district in terms of their scale, transparency, and character. Design of fence should respond to the design and materials of the house or main structure.
- ii. **Location**—Avoid installing a fence or wall in a location where one did not historically exist, particularly within the front yard. The appropriateness of a front yard fence or wall is dependent on conditions within a specific historic district. New front yard fences or wall should not be introduced within historic districts that have not historically had them.
- iii. **Height**—Limit the height of new fences and walls within the front yard to a maximum of four feet. The appropriateness of a front yard fence is dependent on conditions within a specific historic district. New front yard fences should not be introduced within historic districts that have not historically had them. If a taller fence or wall existed historically, additional height may be considered. The height of a new retaining wall should not exceed the height of the slope it retains.
- iv. **Prohibited materials**—Do not use exposed concrete masonry units (CMU), Keystone or similar interlocking retaining wall systems, concrete block, vinyl fencing, or chain link fencing.
- v. **Appropriate materials**—Construct new fences or walls of materials similar to fence materials historically used in the district. Select materials that are similar in scale, texture, color, and form as those historically used in the district, and that are compatible with the main structure.
- vi. **Screening incompatible uses**—Review alternative fence heights and materials for appropriateness where residential properties are adjacent to commercial or other potentially incompatible uses.

Attachment #5
Neighboring retaining walls



Board of Adjustment Case

Case A-13-076

Scale: 1" approx. = 290 Feet

Legend

Current Zoning TEXT

100-Year DFIRM Floodplain 

Note: All Current and Requested Zoning includes A HOD (Airport Hazard Overlay District)

Attachment #6
Photo Sheet



Google

To see all the details that are visible on the screen, use the "Print" link next to the map.





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

To: Board of Adjustment
Case No.: A-13-079
Date: November 18, 2013
Applicant: Jay & Jennifer Jacobson
Owner: Jay & Jennifer Jacobson
Location: 2210 W. Magnolia
Legal Description: Lot 18 & W. 20 feet of Lot 17, NCB 6829
Zoning: "R-6 H AHOD" Residential Single-Family, Historic, Airport Hazard
Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant is appealing the Historic Preservation Officer's decision to deny his application for a Certificate of Appropriateness for a retaining wall. The retaining wall was partially constructed without a certificate of appropriateness.

Procedural Requirements

According to the Unified Development Code ("UDC"), Section 35-451, the Board of Adjustment ("Board") is empowered to consider an appeal of the denial of a certificate of appropriateness by the Historic Preservation Officer (HPO). The Board must consider the appeal at a quasi-judicial public hearing, pursuant to UDC Section 35-404. Their authority allows the Board to affirm, modify or reverse the administrative official's order, requirement, decision or determination from which the appeal is taken and make the correct order, requirement, decision or determination, with the concurring vote of 75% of its members. This appeal was publicly noticed in accordance with Section 35-403 of the UDC. Notices were sent to property owners within two hundred (200) feet of the subject property on October 31, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on November 1, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before November 15, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Applicable Code References

- (a) UDC 35-608. Certificate of Appropriateness- Generally. In reviewing an application for a certificate of appropriateness, the Historic and Design Review Commission (HDRC) shall consider the current needs of the property owner. The HDRC shall also consider

whether the plans will be reasonable for the property owner to carry out. Where the City Council has adopted specific design guidelines for the district, no application shall be recommended for approval unless the proposed application is consistent with the design guidelines.

- (b) UDC 35-610. Alteration, Restoration, Rehabilitation and New Construction. In considering whether to recommend approval or disapproval of an application for a certificate to add to a site located in a historic district, the HDRC shall be guided by the Secretary of the Interior's Standards and Guidelines for Historic Preservation and the Historic Design guidelines adopted by the City Council
- (c) UDC 35-451. Appeal. An applicant for a certificate may appeal the decision of the HPO to the Board within 30 days after receipt of notification of the city manager's action. In determining whether or not to grant the appeal, the Board shall consider the same factors as the commission, the report of the commission and any other matters presented at the hearing on appeal. If the Board approves the application, it shall direct the HPO to issue a certificate for the work covered.

Executive Summary

The applicants purchased the home a few years ago, impressed with the diversity of housing stock and sizes. The spring rains eroded the front slope, leaving his sidewalk full of slippery mud. Noticing the many retaining walls along the block and the few under construction, they decided to install a limestone retaining wall along their front walk. They stated they understood the historic district requirements for work on the house, but had no idea that it also included the yard. The work was stopped by Code Compliance for construction without a certificate of appropriateness.

The applicant applied for a Certificate of Appropriateness, including photos of retaining wall examples. The Office of Historic Preservation reviewed the application materials and scheduled the case for consideration on the August 7, 2013 HDRC public hearing.

HDRC Public Hearing August 7, 2013

Staff: The Office presented the proposed application to the HDRC, including the *Topography* standards enumerated in the recently adopted city-wide design guidelines. These guidelines provide far more detailed information than the Secretary of the Interior documents, used prior to their adoption. The staff analysis included 4 findings in support of a recommendation for denial. These included:

1. Work was begun without appropriate permits and approvals.
2. Consistent with the Guidelines for Site elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. "Topographic features, such as sloped front lawns, help define the unique character of each district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district."
3. Lawns or low plantings that are well maintained prevent erosion of sloped front yards.

4. Although the majority of the houses in this block that have a high grade change in the front yard have retaining walls, none of these existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

The staff concluded by recommending denial, suggesting that the Commission allows the applicant to keep the steps and a slight return on each side.

Applicant: The applicant apologized for not coming to the HDRC in advance for approval. He explained how his neighbors came to his support after hearing the staff was recommending denial and many signed a petition. He explained that his slope was probably the steepest on the block, nearly vertical. Every time it rains, more dirt would wash away and onto the sidewalk, clogging up the storm sewer. He stated that he consulted a landscape architect who doubted that any plant could attach to a slope that steep. The applicant stated that his biggest concern is their safety as they are aging and the slope is difficult to maintain. He showed photos of neighboring retaining walls, stating that very few steep slopes didn't already have retaining walls. The applicant explained that they decided to use attractive materials, not concrete block and hope to have a yard they can be proud of.

In Opposition: Fern Burney, an area resident (0.75mi away) of over 30 years spoke in opposition to the retaining wall. She stated that erosion can be solved with proper landscaping and spoke about the sloping front lawns in the historic district. She stated her age and that she can mow grass on a 45 degree steep slope. She stated that the steps and lawns are typical and characteristic of this district. She stated they worked long and hard to put these standards in place. She disputed the percentage of retaining walls. She argued that the selected materials for this application do not match the materials of the house. She strongly urged their denial.

The Commission Deliberation: Some of the HDRC seemed confused about the guidelines, believing they were district specific and prohibited retaining walls. One commissioner acknowledged the petition, but suggested that if that many residents supported retaining walls, they should get together and amend the guidelines. Another Commissioner spoke about a communication problem between the *Monticello Historical Committee* and the residents. This is another similar case of several during the year in this neighborhood, he said. A commissioner suggested that the slope could be re-graded to reduce the slope, making it safer to mow. A motion to deny the wall was made with some flexibility around the steps. The motion passed and the wall was denied.

The Appeal

In the appeal as submitted, the applicant stated that he had been reported to SAWS for watering his front sidewalk, because of the difficulty he experiences trying to water the steep slope. In addition, he stated that neighbors have slipped on the walk in the mud that collects there after every rain.

The applicant also stated that the HDRC was unprofessional and gave several examples.

- Staff sent him a report on an entirely different case, rather than his.
- The applications for the two cases were identical and the homes only a few lots apart, yet the recommendations for denial cited very different reasons, with the same findings.

- The Chair and Vice-chair of the HDRC were not at the meeting, so the meeting was mismanaged with motions needing to be modified or restated.
- The applicant did not receive his denial until 26 days later, just a few days before the appeals period expired.
- The website had no minutes posted since December, 2012.

The applicant stated that the report contradicts itself by first stating *that sloped lawns help define the unique character of the district* but then adding that *the majority of houses in this block of West Magnolia with high grade change have retaining walls*. The report continues with the *retaining wall interrupts the visual continuity of the historic streetscape*. The appellant disagrees; the sweeping view of grass slopes does not exist on this block.

The applicant stated that Ms. Burney spoke with great authority and appeared to direct the commissioners as to what they must conclude, but that her testimony was “rife with questionable statements.” The applicant claims that both he and his neighbor stated that there were many retaining walls and that most yards with steep slopes already had one. She denied that, but the applicant was only able to find one steep lot without a wall.

The applicant also called into question the impression Ms. Burney gave that she was the author of the guidelines and that too much work had gone into them to allow anyone to do anything outside of the guidelines, no matter the reason. He paraphrased the argument that the many retaining walls that already existed didn’t matter because they were in place before the neighborhood was designated historic. The appellant asserted that given the number of walls, it does not make sense to say that the walls themselves are not a historic feature of the neighborhood.

The appellant also stated that Ms. Burney’s statement about mowing lawn on a 45 degree angle misled the Commission into thinking that she also owned a sloping lawn. He submitted a photo of her home, showing it to be flat and at grade with the abutting sidewalk.

Review of the HDRC Recommendation & HPO Denial

A survey of the immediate area, including two blocks on Magnolia and neighboring Mistletoe found a fairly consistent installation of retaining walls where the topography required it. Without surveying the entire historic district, one of the largest in the City, it is easy to understand the applicant’s claim that less than half of the sloping yards have no retaining walls. The entire 2000 W. block of Mistletoe recently had a comprehensive sidewalk replacement project which included a short retaining wall along the majority of the north side. A brief discussion with the Capital Improvements Management Services (CIMS) found that they have several additional blocks in the district slated for sidewalk replacement in the next year. They have a standard formula where a retaining wall is installed as a part of the sidewalk project. This formula dictates that when the slope is steeper than 25% or 1 foot height increase for 4 feet in depth, a retaining wall is installed. According to the measurement submitted by the applicant, his slope is 67%, far in excess of the standard used by the City.

Ms. Burney gave the impression to both some HDRC Commissioners and the applicant that the MPH had its own guidelines when in fact the Office of Historic Preservation has only the general design guidelines that apply to all districts. These are meant to give both direction and provide flexibility. The section used by staff regarding Site Elements also has a page dedicated

to fences and walls which could have been used to support the wall. This section states “Where walls do exist, they are important character-defining features that help reinforce the age and style of the principal building and oftentimes the block. Front walls play a large role in defining rhythm and pattern along the street edge.” This section continues by providing guidance on retaining wall height (not to exceed the height of the slope it retains) and materials (select materials that are similar to those historically used and compatible with the main structure).

The design guidelines address both the scenario where sloped lawns should be preserved and where retaining walls may be necessary. Unfortunately, the guidelines do not include a calculation of the degree of slope, similar to that used by CIMS, as a definitive measurement above which a wall is necessary. Mountainous communities understand the difficulty in irrigating slopes and establishing vegetation; water rolls off so fast that it does not absorb. Some of the slopes in the area are approaching vertical and show the baron results of water runoff.

Since 2000, the Office of Historic Preservation has reviewed only 6 retaining wall applications for Certificates of Appropriateness. Of these, 4 were denied and 2 were approved.

The Board should consider all aspects of the case and discuss the details with OHP staff. They will be available at the hearing.

Attachments

Attachment 1 – The Original Application

Attachment 2 – The HDRC Staff Report

Attachment 3 – The Appeal

Attachment 4 – The Design Guidelines (Topography & Fences and Walls)

Attachment 5 – Map of nearby retaining walls

Attachment 6 – Site Photos

Attachment #1
The original application

Jay and Jennifer Jacobson
2210 W. Magnolia
San Antonio, TX 78201

Office of Historic Preservation
1901 S. Alamo
San Antonio, TX 78204

July 7, 2013

Dear Historic & Design Review Commission:

We live on Magnolia Avenue, in the Monticello Park Historic District. Enclosed please find our application for building a limestone masonry retaining wall at the place where our front yard meets the sidewalk. We have contracted with Henry Garcia to construct the wall so as to rid our property of an unsightly eroding hill. Not only has the hill been difficult and dangerous to mow, it also deposits mud on the sidewalk any time there is significant rain.

We are both teachers, and are therefore unable to appear in person to present this application. Mr. Garcia has agreed to represent us.

Please do not hesitate to contact us at 210-383-6583 if there are any questions or concerns.

Thank you for your consideration.

Sincerely,


Jay A Jacobson Jennifer S. Jacobson



HISTORIC & DESIGN REVIEW COMMISSION APPLICATION FORM

CITY OF SAN ANTONIO

OFFICE OF HISTORIC PRESERVATION
1901 S. ALAMO, SAN ANTONIO, TEXAS 78204
P: 210.215.9274 E: OHP@SANANTONIO.GOV

CITY OF SAN ANTONIO
PLANNING & COMMUNITY
DEVELOPMENT DEPARTMENT

2013 JUL -8 PM 1:57

DATE RECEIVED

Date Complete:
Staffs Initials: *AW*
Date of Scheduled HDRC Meeting: *8/7/2013*
60 Day Review:

Property Address *2210 W. Magnolia Ave*

Historic District *Monticello Park* Landmark Name

River Improvement Overlay Public Property Other

Parcel ID: NCB *6829* Block Lot *18 + W 20 ft of 17* Zoning

Name of Property Owner *Jay A. + Jennifer S. Jacobson*

Mailing Address: *2210 W. Magnolia.* Zip Code

Phone Number: *210-383-6583* Email Address: *jjacobson@smhall.org*

Name of Applicant/Authorized Representative *Henry Garcia*

Mailing Address: *1011 Vance Jackson Apt 1403* Zip Code *78201*

Phone Number: *210 870-3464* Email Address: *enriquegarcia0409@gmail.com*

BELOW PROVIDE A DETAILED DESCRIPTION OF THE PROJECT (USE AN ADDITIONAL PAGE IF NECESSARY)

Conceptual Approval Final Approval Original HDRC Hearing Date:

A rock wall approx. 2' 3 1/2" in ht. and approx. 33' in length was built at 2210 W. Magnolia. Rock in 6"x6" and about 12" some rock stone square were placed end to end some long in 2' and short 6" staggered w/ a foundation 8" to 6" width and concrete poured into 5/8" rebar double side to side tied down in 8" to 9" depth

SEE THE FOLLOWING PAGE FOR REQUIRED EXHIBITS. NO CASE WILL BE SCHEDULED FOR A HEARING UNTIL ALL SUPPORTING MATERIALS ARE RECEIVED.

This completed form and attachments are to be submitted in person to 1901 S. Alamo.

REQUIRED ATTACHMENTS: (No case will be scheduled for a hearing until all supporting materials are received.)

ONE ORIGINAL PRINTED COPY OF ALL MATERIALS LISTED BELOW

COPY OF ALL EXHIBITS, DRAWINGS, AND PHOTOS ON A COMPACT DISC IN PDF OR JPEG FORMAT

Completed HDRC Application

Photos of all sides of the structure and site (color photos no smaller than 4" X 6")

Written narrative explaining the proposed work

Site plan

Elevation drawings and floorplans of planned addition or alterations (8 1/2" X 11" reproducible sheets)

Specifications of materials to be used

Samples of all materials, finishes, and/or fabrics

Signage mock-up

FEES: Commercial Projects: \$100; Sign Applications: \$100

TIP: Submit sufficient materials and information so that someone would be able to understand your project without speaking with you.

LETTER OF AUTHORIZATION

IF THE PROPERTY OWNER DOES NOT APPEAR PERSONALLY BEFORE THE COMMISSION, A LETTER OR SIGNATURE OF AUTHORIZATION MUST BE PRESENTED TO THE HISTORIC PRESERVATION OFFICER OR THE CASE WILL NOT BE HEARD.

I hereby authorize Henry Garcia of Same
(Name of Representative) (company or agency)

1011 Vance Jackson Apt #1403 to represent me in the matters pertaining to this case.
(Address)

PLEASE BE ADVISED THAT THE COMMISSION HAS A POLICY OF ONLY HEARING A CASE WHEN THE OWNER OR THE OWNER'S REPRESENTATIVE IS PRESENT TO PRESENT THE CASE.

A STAFF MEMBER FROM THE OFFICE OF HISTORIC PRESERVATION MAY VIDEO TAPE OR PHOTOGRAPH YOUR PROPERTY FOR THE HISTORIC AND DESIGN REVIEW COMMISSION MEETING AND PLACE A NOTICE SIGN ON THE PROPERTY.

Applicant understands the following:

1. If the Commission fails to approve any portion of a request and recommends that changes be made in the plans and specifications, the applicant will have (5) days in which to inform the Historic Preservation Officer as to whether the applicant agrees to recommended changes.
2. Following each meeting, the City Manager or designee is notified of the Commission's action. Within ten (10) days from receipt of the recommendation, the City Manager or designee shall notify the applicant as to whether their request has been approved, conditionally approved, or denied.
3. If the applicant does not concur with the Commission's recommendation, appeal to the Zoning Board of Adjustment may be made within thirty (30) days after receipt of notification.

APPROVAL BY THE COMMISSION DOES NOT TAKE THE PLACE OF A BUILDING PERMIT. PERMITS MUST BE OBTAINED FROM THE CITY OF SAN ANTONIO, DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES, 1901 S. ALAMO, AFTER COMMISSION APPROVAL.

I HAVE READ AND UNDERSTAND THE ABOVE INFORMATION AND I CERTIFY TO THE BEST OF MY KNOWLEDGE THAT ALL INFORMATION PROVIDED IN THIS APPLICATION AND ATTACHMENTS IS CORRECT.

X Jennifer S. Johnson
SIGNATURE OF PROPERTY OWNER

7 July 2013
DATE

Attachment #2
HDRC Report



HISTORIC AND DESIGN REVIEW COMMISSION
COMMISSION ACTION

This is not a Certificate of Appropriateness and cannot be used to acquire permits.

August 07, 2013

HDCR CASE NO: 2013-216
ADDRESS: 2210 W. Magnolia
LEGAL DESCRIPTION: NCB 6829 BLK LOT 18 & W 20 FT OF 17
HISTORIC DISTRICT: Monticello Park Historic District
APPLICANT: Henry Garcia 1011 Vance Jackson, Apt. 1403
OWNER: Jay A. and Jennifer S. Jacobson
TYPE OF WORK: Retaining wall

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to install a 2'3" tall retaining wall in the front yard. The proposed wall will be 6"x6"x24" square stones.

FINDINGS:

- a. Work was begun without appropriate permits or approvals.
- b. Consistent with the Guidelines for Site Elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. Topographic features, such as sloped front lawns help define the unique character of the district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.
- c. Lawns or low-plantings that are well maintained prevent erosion of sloped front yards.
- d. Although the majority of the houses in this block of West Magnolia that have a high grade change in the front yard have retaining walls, none of these walls existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

RECOMMENDATIONS:

Staff does not recommend approval as submitted based on the findings above. If erosion is an issue, staff recommends that lawn or low-plantings suitable for the prevention of erosion are used.

COMMISSION ACTION:

Denial of applicants request for a retaining wall. The applicant is allowed to keep the existing sidewalk and walkway to front door, steps, and the return on the side of the steps.

Shanon Shea Miller
Historic Preservation Officer

HISTORIC AND DESIGN REVIEW COMMISSION

August 07, 2013

Agenda Item No:

HDRC CASE NO: 2013-216
ADDRESS: 2210 W. Magnolia
LEGAL DESCRIPTION: NCB 6829 BLK LOT 18 & W 20 FT OF 17
ZONING: R6 H
CITY COUNCIL DIST.: 7
DISTRICT: Monticello Park Historic District
APPLICANT: Henry Garcia
OWNER: Jay A. and Jennifer S. Jacobson
TYPE OF WORK: Retaining wall

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to install a 2'3" tall retaining wall in the front yard. The proposed wall will be 6"x6"x24" square stones.

APPLICABLE CITATIONS:

Historic Design Guidelines, Chapter 5, Guidelines for Site Elements

1. Topography

A. TOPOGRAPHIC FEATURES

i. *Historic topography*—Avoid significantly altering the topography of a property (i.e., extensive grading). Do not alter character-defining features such as berms or sloped front lawns that help define the character of the public right-of-way. Maintain the established lawn to help prevent erosion. If turf is replaced over time, new plant materials in these areas should be low-growing and suitable for the prevention of erosion.

B. NEW FENCES AND WALLS

i. *Design*—New fences and walls should appear similar to those used historically within the district in terms of their scale, transparency, and character. Design of fence should respond to the design and materials of the house or main structure.

ii. *Location*—Avoid installing a fence or wall in a location where one did not historically exist, particularly within the front yard. The appropriateness of a front yard fence or wall is dependent on conditions within a specific historic district. New front yard fences or wall should not be introduced within historic districts that have not historically had them.

iii. *Height*—Limit the height of new fences and walls within the front yard to a maximum of four feet. The appropriateness of a front yard fence is dependent on conditions within a specific historic district. New front yard fences should not be introduced within historic districts that have not historically had them. If a taller fence or wall existed historically, additional height may be considered. The height of a new retaining wall should not exceed the height of the slope it retains.

v. *Appropriate materials*—Construct new fences or walls of materials similar to fence materials historically used in the district. Select materials that are similar in scale, texture, color, and form as those historically used in the district, and that are compatible with the main structure. Screening incompatible uses—Review alternative fence heights and materials for appropriateness where residential properties are adjacent to commercial or other potentially incompatible uses.

FINDINGS:

- a. Work was begun without appropriate permits or approvals.
- b. Consistent with the Guidelines for Site Elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. Topographic features, such as sloped front lawns help define the unique character of the district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.
- c. Lawns or low-plantings that are well maintained prevent erosion of sloped front yards.
- d. Although the majority of the houses in this block of West Magnolia that have a high grade change in the front yard have retaining walls, none of these walls existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

RECOMMENDATIONS:

Staff does not recommend approval as submitted based on the findings above. If erosion is an issue, staff recommends that lawn or low-plantings suitable for the prevention of erosion are used.

PLANNER:

Adriana Ziga











August 7, 2013

To Whom It May Concern:

As a general note, The Monticello Park Neighborhood Association appreciates neighbors who are interested in improving the appearance of their homes. However, we are very concerned when these improvements are begun without proper permits.

Re: HDRC case no. 2013-217 (retaining wall at 2142 W. Magnolia)

The Monticello Park Neighborhood Association supports the staff recommendation. **If** the Commission chooses to allow the retaining wall, we ask that it be faced with a material such as stone or brick; and that it be no taller than 30". The retaining wall should also be properly engineered so that it will not eventually fail or lean into the sidewalk.

Re: HDRC case no. 2013-216 (retaining wall at 2210 W. Magnolia)

The Monticello Park Neighborhood Association supports the staff recommendation. **If** the Commission chooses to allow the retaining wall, we ask that it be faced with a material such as stone or brick; and that it be no taller than 30". The retaining wall should also be properly engineered so that it will not eventually fail or lean into the sidewalk.

Re: HDRC case no. 2013-227 (window replacement at 224 Quentin)

The Monticello Park Neighborhood Association supports the staff recommendation.

Sincerely,

Robert W. Sipes
President
Monticello Park Neighborhood Association

Attachment #3
The Appeal

Case No. 2013-216

Case Manager _____

APPEAL
To the
BOARD OF ADJUSTMENT

CITY OF SAN ANTONIO

§
§
§

COUNTY OF BEXAR

STATE OF TEXAS

TO THE HONORABLE BOARD OF ADJUSTMENT:

Property description (Attach field notes if necessary):

Lot no. 18 + W 20th 17

Block No. _____

NCB 6829

Property Address: 2210 W. Magnolia Ave

Zoning _____

The Applicant, Jay A. + Jennifer S. Jacobsen*, of Bexar County, alleges that the following error in an order, requirement, decision or determination has been made by an administrative officer in the enforcement of the City of San Antonio's Zoning ordinances:*

Principally:

- (1) The HDRC itself made several administrative errors, causing its decisions to be in doubt;
- (2) The HDRC decision contradicted itself;
- (3) The HDRC decision was based in part on the false testimony of Ferne Burney and also applied an incorrect standard for the neighborhood, one that denies the historical presence and architectural significance of retaining walls. Please

*Note: Local Government Code § 211.010 (b) and San Antonio City Code § 35-481 (b)(1) *self attached.* require that the applicant give notice of the specific grounds for the appeal. Failure to state the reasons for the alleged error and applicable code sections will result in the return of your application. Please attach additional pages if necessary.

* original application listed our mason, Henry Garcia, as applicant since he had offered to attend the HDRC hearing in our place. We decided that was not a good idea. *jay*

I have completed the following requirements:

1. Paid the filing fee of \$600.00, checks made payable to "City of San Antonio"
2. Submitted three (3) copies of the plot plan, plus one additional 8½-inch by 11-inch copy, all drawn to scale (if applicable)
3. Submitted other supporting documentation, e.g. HDRC decision, etc.

Respectfully submitted:

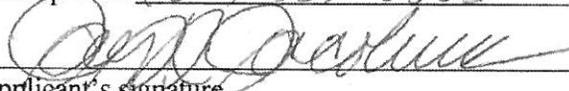
Applicant's name: Jay A. and Jennifer S. Jacobson

Status: Owner () Agent ()

Mailing address: 2210 W. Magnolia Ave, SA TX, 78201

Telephone: (Home) (210) 496-3918 (Work) (210) 483-9190

Other phone: (210) 383-6583 Email: jjacobson@smhall.org

 9/18/13
Applicant's signature Date

Representative's name: _____

Mailing address: _____

Telephone: (Home) _____ (Work) _____

Other phone: _____ Email: _____

Name of Property Owner: _____

Mailing address: _____

Telephone: (Home) _____ (Work) _____

Other phone: _____ Email: _____

I, _____ the owner of the subject property, authorize
_____ to submit this application. I also authorize
_____ to represent me in this appeal before the
Board of Adjustment.

Property owner's signature

Date

FILING OF THE APPEAL STOPS ALL AFFECTED CONSTRUCTION ACTIVITY.

**NO APPLICATION MAY BE ACCEPTED BY MAIL, MESSENGER, OR FAX.
APPLICATIONS CAN ONLY BE ACCEPTED IN PERSON.**

BACKGROUND: On Wednesday, August 7, 2013, I was summoned before the San Antonio Historic and design Review Committee. Ignorant of the fact that I needed their permission to construct a retaining wall in the front of my property like the ones that appear throughout the Monticello Park Historic District, I had begun work on a very nice limestone block wall in early June (see Figure 1 for view in early July).



Figure 1. Wall under construction at 2210 W Magnolia Ave.

The wall was necessary because the front of our property has among the steepest slopes in the neighborhood, which was a problem for us because:

- (1) It was not possible to water grass growing on the near-vertical front of the slope without breaking city watering codes (in fact we had been turned in for this);
- (2) Grass would not grow on the steep slope, and in fact our yard presented an ugly, eroded dirt face to the street. Consultations with a landscape architect revealed no good options for erosion control through appropriate plantings;
- (3) With every rain, the sidewalk would fill with mud washed out from under the pieces of sod clinging to the side of the hill (which was ugly and dangerous, plus we had been told that the San Antonio River Authority was very concerned about landscape dirt washing into its waterways)...plus, neighbors told us they had almost slipped in the mud when going for a morning or evening walk or run; and
- (4) It was very unsafe to maintain -- my wife had nearly slipped over the edge with the lawnmower several times. (My service-connected disability makes it difficult for me to mow.)

We looked around the neighborhood, saw countless lovely retaining walls in place, and hired mason Henry Garcia to design and build the wall. We chose limestone because it's a strong native Texas material, and because so many walls in the neighborhood used it (including two across the street from us...see Figure 2). He was doing a slow and careful job of it, carefully making the wall fit with existing stairs and wrought-iron railing. It slanted slightly back to honor the slope of the yard.



Figure 2. Homes across the street from 2210 W Magnolia, showing limestone retaining walls.

When the wall was about half to two-thirds finished, Henry called us at work to tell us we had been ordered by the HDRC to cease work, and that we needed to submit an application. Given the large numbers of existing walls in the neighborhood, we assumed this would be a formality -- especially given that we were using very high-end materials when compared with other walls that had just gone in nearby made of poured concrete.

A few days before the hearing, I received an email from the HDRC, in which I was told that the staff was recommending the Commission *not* approve our project.

I spent the next few days gathering advice from neighbors, coworkers, and other acquaintances who had dealt with the Commission. I was encouraged that I had a chance to be approved since we had very good reasons for needing a wall, since we were using nice materials, and since every neighbor we met with wanted to sign a support statement (which they did, and I brought the 2 pages of signed petition to the hearing (see Attachment 1))...three households offered to come with us, and one also wrote a letter on our behalf (see Attachment 2). I believed that surely my voice would be heard. I believed that I would possibly be fined for not having filed the necessary papers, which I accepted fully because rules are rules. (You don't spend 20 years in the military without knowing how to follow rules -- I simply didn't know about this one, but indeed I had broken it.)

I attended, and did my best to present my case. I was surprised by the fact that Ms. Ferne Burney (a private citizen whom I had never met) spoke with considerable venom against my application. The verdict was as the staff had predicted: tear down the wall.

MY APPEAL: This decision was, we believe, reached in error. We offer the following as evidence of this fact.

1. The HDRC itself has shown itself to be less than polished at every juncture. Consider these examples:

a) Days before my hearing, the HDRC emailed me the staff's recommendation that the commissioners reject our application. When I emailed a follow-up question, the staff responded that they had actually sent me someone else's recommendation, and sent me a different one.

b) The 2 recommendations I mentioned in (a) were for almost the exact same purpose. Retaining walls needed for essentially the same reason, ordered to halt in construction, located just 2 houses apart from one another. Yet the recommendation (both denials) cited very different reasons.

c) The August 7 hearing started about 20 minutes late. The Chairman was unexpectedly absent and the vice had resigned, so they spent the first 15 minutes or so electing someone to chair the meeting, and then quite a bit more while that person tried to figure out what he was doing. The proceedings started and stopped several times, jumping back and forth between consent agenda and "individual consideration" agenda items, without any explanation of why...it was difficult for anyone to know exactly when his time in the box would come. Several times during the night a commissioner made a motion that one of the staff members had to correct or modify because either it went against the commission's rules or just plain didn't make sense.

d) I was told at the hearing that my request was denied, and that I would receive my official copy of this decision in writing in 10 days. On September 2, 26 days later, I emailed the staff person I had communicated with earlier and asked the status. She sent me a copy of the decision, with a date of August 7, on September 3 (Attachment 3). It's disturbing that the bulk of this judgment is verbatim from the email I received 6 days before the hearing occurred (Attachment 4).

e) In preparing my appeal, I went to the HDRC web site to check some details about my hearing. I was surprised to find that the commission had not posted any meeting minutes since December, 2012.

2. The commission's own judgment contradicts itself. It says that installation of a retaining wall "interrupts the visual continuity of the historic streetscape", where "sloped lawns help define the unique character of the district", but also says "the majority of the houses in the block of West Magnolia that have a high grade change in the front yard have retaining walls." Which begs the obvious question: just what visual continuity is my wall interrupting? By the Commission's own admission, such a sweeping view of grass slopes *does not exist*.

3. During the hearing, Ms. Ferne Burney of 340 Mary Louise, Secretary of the Monticello Park Neighborhood Association, spoke against my application and against my neighbor's application. She spoke with great authority (for a non-elected, private citizen), and indeed appeared to direct the commissioners as to what they must conclude. Her testimony was rife with questionable statements, and since the commission's decision appeared to be based primarily on her false testimony, this is obviously a concern. Please consider the following:

a) Both my neighbor and I stated that there were many, many retaining walls in the neighborhood, and that in fact most yards with *steep* slopes already had one. Ms. Burney flatly denied that most did. However, in a recent trip through the neighborhood, I found only one *steep* lot without a wall. Her statement was clearly false.

b) Ms. Burney claimed that she was an author of our neighborhood's architectural guidelines. (I have searched extensively for such a document, but have not been able to find it.) She stated that too much work had gone into that document to allow anyone to do anything outside of its guidelines, no matter what the reason. This, to me, seemed to

undercut what I understood of my rights to present my arguments for requesting approval for the wall. She clearly implied that the work she and others had put into the document turned its content into something so pure and so perfect that exceptions to it should not even be considered. This does not appear reasonable to me.

c) The neighborhood guideline itself appears to be in error (or at least what she presented to be the standard...but again, I cannot verify what that standard may or may not say). The gist of her remark was this: sloping lawns are *the defining characteristic* of our neighborhood, and retaining walls most certainly are not. Her counter to my neighbor's 150+ photos of retaining walls in the historic district took 2 forms: (1) to deny their existence; and (2) to say that it didn't matter anyway since they were in place before the neighborhood was designated as "historic". I won't bother to comment on response (1), but as for response (2):

It simply doesn't make sense to say walls are not a historic feature of the neighborhood given that there were so many walls in place before historic designation was made! One person's idealized and unfounded idea of what the neighborhood should look like doesn't change the fact that our neighborhood is a neighborhood of retaining walls!

Interestingly, it seems that the HDRC agrees since on its own website, it presents 6 pictures of Monticello Park homes, 2 with very nice retaining walls (the other 4 not needing one)...see Figure 3.



Figure 3. Taken from <http://www.sanantonio.gov/historic/Districts/Monticello.aspx>, the official image of what Monticello Park looks like.

Indeed, some of the retaining walls in the neighborhood look quite old...consider the following page of retaining walls that truly define our neighborhood...



Figure 4. Some retaining walls defining the character of Monticello Park.

d) In response to my concern for my wife's safety when she is mowing our steep yard, Ms. Burney said "I mow my 45 degree angle yard." This remark clearly implied three things: (1) that my yard was 45 degrees in slope; (2) that her yard was also 45 degrees in slope; and (3) that because her ample frame made it possible for her to manhandle a mower, it should necessarily be the case that my petite wife should also be able to. As for point (1), I present as Figure 5 a side view of my yard with the partially constructed wall. Please note that the main part of my yard is nearly 4 feet above sidewalk level. Please note too that most of the decline from that height happens pretty close to the sidewalk.

Finally, please note especially that the very front of the yard -- the portion of the yard that was the entire basis of my request, drops 28 inches over a short 14-inch run. This 2-to-1 ratio equates to a 63.5 degree angle...far greater than the 45 degrees Ms. Burney implied. Again, a grossly false statement that the Commission considered against me.

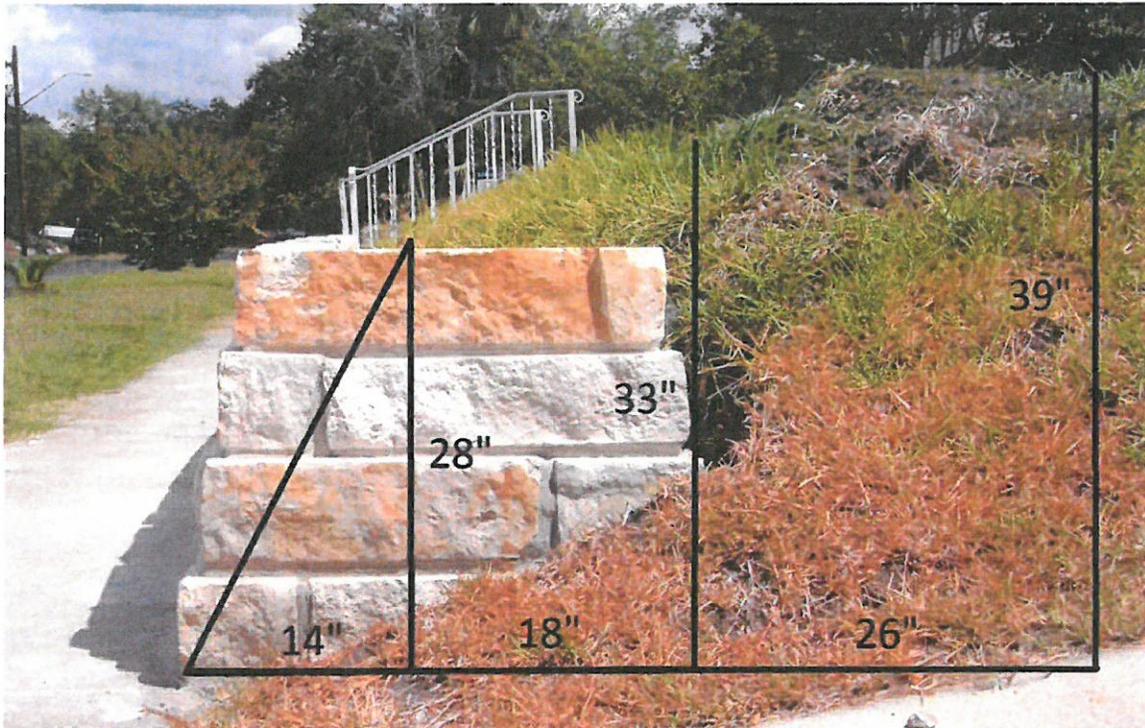


Figure 5. 2210 W Magnolia Ave front yard, showing a very steep 63.5 degree grade.

By contrast, consider Figure 6, a picture of Ms. Burney's home at 340 Mary Louise. I don't know when I've seen a flatter yard. Once again, Ms. Burney had misled the Commission.



Figure 6. 340 Mary Louise, home of Ms. Ferne Burney, without a trace of a slope.

CONCLUSION: My wife and I enjoy living in Monticello Park. As I told the commission that night, we are excited to participate in the process of bringing that neighborhood back to life. I also told them that we are now about \$4000 in the hole on this project, and as 2 high school teachers (in a private school, where salaries fall short of public school rates), this is a significant amount to us. In fact, we both taught a summer class to raise most of the money for this. We have done our best to accomplish what we believe needed to be done, and to do so in a way that mirrors the character of our neighborhood. It would be different if we were trying to put in something shoddy, or obviously modern...but we aren't. In fact, just 3 or 4 houses down from Ms. Burney's house, at the corner of Mary Louise and Lake, is a beautiful home with a wall almost identical in material and style to ours. (See Figure 7.) If this looks familiar, it's because it's also featured on the HDRC website, as I showed above (top-right picture). On the other corner of Lake and Mary Louise, another lovely example of what I believe characterizes our neighborhood (Figure 8).



Figures 7 and 8. The corner of Mary Louise and Lake...in Figure 7 is a wall matching our wall in material and design...except ours steps back to retain the feel of a sloping lawn.

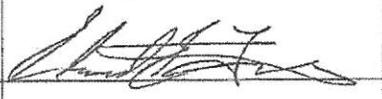
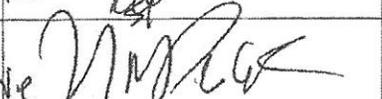
I am struck with the irony of a commission charged with protecting the historical integrity of our San Antonio neighborhoods, which instead appears bizarrely bent on forcing my neighborhood into a one-size-fits-all mold -- at least with respect to retaining walls. From the HDRC website: "The Monticello Park Historic District is composed of an eclectic mix of architectural styles, ranging from Art Moderne to Spanish Eclectic and Tudor Revival." From the Monticello Park Neighborhood Association website, which I imagine Secretary Burney had a hand in writing: "The homes of Monticello Park are an extraordinary collection of architecture; Revival styles, English Tudor, Spanish Colonial, Greek, Italianate, Neoclassical, Mission, Craftsmen, English Stone Bungalow, and Art Moderne. Virtually every house proudly shows the handiwork of individual artisans. The masonry, the plasterwork, Mexican mission tile, arches, built-ins, cartouches, and turrets-- all touches that make these homes truly unique." I hope that we may continue to celebrate the unique character of each individual home in this neighborhood, with a conscientious eye toward aesthetics but also a large measure of common sense.

Respectfully submitted,

We, the undersigned, respectfully ask that the Office of Historic Preservation allow the retaining wall at 2210 W Magnolia Ave to be completed. The wall is attractive, reflects quality materials and craftsmanship, and is similar to others already standing on this block.

Name	Address	Signature
Joseph Wheeler	2206 W. Magnolia Ave San Antonio, TX 78201	Joseph J. Well
C. Madigan	2215 W. Magnolia	C. Madigan
Joe A. Rangel	2217 W. Magnolia	Joe A. Rangel
Trey M. Fischer	2248 W. Magnolia	Trey M. Fischer
DANA Nichols	2234 W. Magnolia	DANA Nichols
ANTHONY HAGENDORF	2226 W. Magnolia	Anthony Hagendorf
SANTA RUI	2218 W. Magnolia	Santa Rui
Diane Rodriguez	2223 W. Magnolia	Diane Rodriguez
MARIO MORI	2151 Magnolia	Mario Mori

We, the undersigned, respectfully ask that the Office of Historic Preservation allow the retaining wall at 2210 W Magnolia Ave to be completed. The wall is attractive, reflects quality materials and craftsmanship, and is similar to others already standing on this block.

Name	Address	Signature
Anita DeLa Rosa	2215 W. Magnolia	Anita DeLa Rosa
Edward E. Fuentes	2155 W. Magnolia	
Felisa Fuentes	2155 W Magnolia	Felisa Fuentes
IRMA MEDRANO	2209 W Magnolia	Irma Medrano
Diana Hernandez	2141 W. Magnolia	
Esmeralda V. Casanova	2137 W. Magnolia Ave	Esmeralda V. Casanova
Tommy Taylor	2133 W Magnolia	Tommy Taylor
Diane D. Dillard	2110 W Magnolia	Diane D. Dillard
Robyn Vee	2105 W. Magnolia	Robyn Vee
L. Richard Garcia	2142 W. Magnolia Ave	
Yvonne DeLaRosa Yvonne DeLaRosa	2219 W Magnolia Ave	Yvonne DeLaRosa

Joseph J. Wheeler
2206 W Magnolia Ave
San Antonio, TX 78201

August 7, 2013

Historic and Design Review Commission
1901 South Alamo
San Antonio, TX 78204

Esteemed members of the Historical and Design Review Commission:

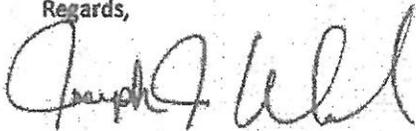
I am writing to express my support for the construction of a retaining wall at 2210 W Magnolia Ave. My residence is immediately to the east of 2210 W Magnolia Ave.

I do not believe a retaining wall will, in any way, detract from the historical integrity of the district. The retaining wall will only enhance the beauty of the property and prevent destructive erosion that occurs on the property each time it rains. The soil from the sloping front yard washes onto the side walk and creates slippery conditions for walkers. I have personally slipped several times in the mushy clay soil that deposits on the sidewalk after even moderate rain fall.

Finally, the lawn is nearly impossible to mow where the yard slopes down to the sidewalk. The high grass and damage to the hill caused by trying to push a mower up and down the slope is an eyesore. Furthermore, mowing on such a steep angle puts the homeowner in a very dangerous situation where he or she may be badly injured by an errant lawn mower.

Thank you for your consideration.

Regards,



Joseph J. Wheeler

Attach 2



HISTORIC AND DESIGN REVIEW COMMISSION
COMMISSION ACTION

This is not a Certificate of Appropriateness and cannot be used to acquire permits.

August 07, 2013

HDRC CASE NO: 2013-216
ADDRESS: 2210 W. Magnolia
LEGAL DESCRIPTION: NCB 6829 BLK LOT 18 & W 20 FT OF 17
HISTORIC DISTRICT: Monticello Park Historic District
APPLICANT: Henry Garcia 1011 Vance Jackson, Apt. 1403
OWNER: Jay A. and Jennifer S. Jacobson
TYPE OF WORK: Retaining wall

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to install a 2'3" tall retaining wall in the front yard. The proposed wall will be 6"x6"x24" square stones.

FINDINGS:

- a. Work was begun without appropriate permits or approvals.
- b. Consistent with the Guidelines for Site Elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. Topographic features, such as sloped front lawns help define the unique character of the district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.
- c. Lawns or low-plantings that are well maintained prevent erosion of sloped front yards.
- d. Although the majority of the houses in this block of West Magnolia that have a high grade change in the front yard have retaining walls, none of these walls existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

RECOMMENDATIONS:

Staff does not recommend approval as submitted based on the findings above. If erosion is an issue, staff recommends that lawn or low-plantings suitable for the prevention of erosion are used.

COMMISSION ACTION:

Denial of applicants request for a retaining wall. The applicant is allowed to keep the existing sidewalk and walkway to front door, steps, and the return on the side of the steps.

A handwritten signature in black ink, appearing to read "Shanon Shea Miller".

Shanon Shea Miller
Historic Preservation Officer

Attn 3

From: Adriana Ziga (OHP) [Adriana.Ziga@sanantonio.gov]
Sent: Thursday, August 01, 2013 4:08 PM
To: Jay Jacobson
Cc: 'enriquegarcia0409@gmail.com'; Jennifer Jacobson
Subject: RE: HDRC - 2210 W. Magnolia

I am sorry, I sent you the wrong recommendation. Here is the right one.

Thank you.

Adriana Ziga

Office of Historic Preservation

Phone: (210) 207-0166

REQUEST:

The applicant is requesting a Certificate of Appropriateness for approval to install a 2'3" tall retaining wall in the front yard. The proposed wall will be 6"x6"x24" square stones.

APPLICABLE CITATIONS:

Historic Design Guidelines, Chapter 5, Guidelines for Site Elements

I. Topography

A. TOPOGRAPHIC FEATURES

i. *Historic topography*—Avoid significantly altering the topography of a property (i.e., extensive grading). Do not alter character-defining features such as berms or sloped front lawns that help define the character of the public right-of-way. Maintain the established lawn to help prevent erosion. If turf is replaced over time, new plant materials in these areas should be low-growing and suitable for the prevention of erosion.

B. NEW FENCES AND WALLS

i. *Design*—New fences and walls should appear similar to those used historically within the district in terms of their scale, transparency, and character. Design of fence should respond to the design and materials of the house or main structure.

Page 4

ii. *Location*—Avoid installing a fence or wall in a location where one did not historically exist, particularly within the front yard. The appropriateness of a front yard fence or wall is dependent on conditions within a specific historic district. New front yard fences or wall should not be introduced within historic districts that have not historically had them.

iii. *Height*—Limit the height of new fences and walls within the front yard to a maximum of four feet. The appropriateness of a front yard fence is dependent on conditions within a specific historic district. New front yard fences should not be introduced within historic districts that have not historically had them. If a taller fence or wall existed historically, additional height may be considered. The height of a new retaining wall should not exceed the height of the slope it retains.

v. *Appropriate materials*—Construct new fences or walls of materials similar to fence materials historically used in the district. Select materials that are similar in scale, texture, color, and form as those historically used in the district, and that are compatible with the main structure. Screening incompatible uses—Review alternative fence heights and materials for appropriateness where residential properties are adjacent to commercial or other potentially incompatible uses.

FINDINGS:

- a. Work was begun without appropriate permits or approvals.
- b. Consistent with the Guidelines for Site Elements, sloped front lawns are a character defining feature of the Monticello Park Historic District that should be preserved. Topographic features, such as sloped front lawns help define the unique character of the district, street and block. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.
- c. Lawns or low-plantings that are well maintained prevent erosion of sloped front yards.
- d. Although the majority of the houses in this block of West Magnolia that have a high grade change in the front yard have retaining walls, none of these walls existed historically or have received approval from the HDRC. Consistent with the Guidelines for Site Elements, walls should not be introduced in the front yard where not historically found.

RECOMMENDATIONS:

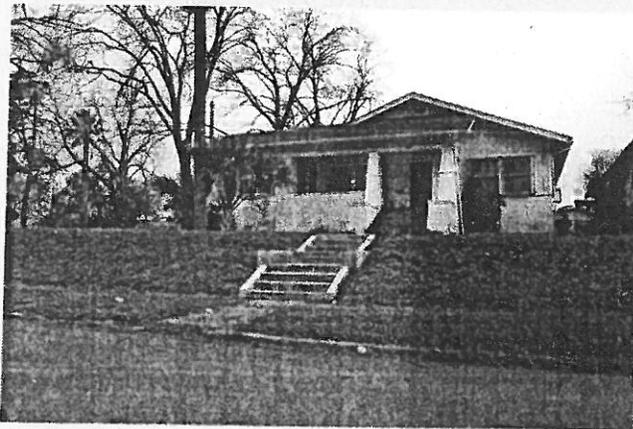
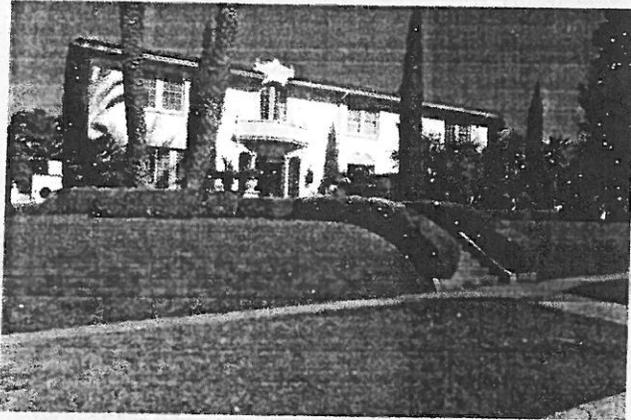
Staff does not recommend approval as submitted based on the findings above. If erosion is an issue, staff recommends that lawn or low-plantings suitable for the prevention of erosion are used.

Attachment #4
Design Guidelines

1. Topography

Why is this Important?

Topographic features, such as sloped front lawns, raised lots, and other distinctive site design elements, help define the unique character of each district and of individual streets or blocks within each district. Altering these features, such as through the installation of a retaining wall, interrupts the visual continuity of the historic streetscape and detracts from the character of the district.



Sloping lawns and raised lots similar to the examples above are typical in some of San Antonio's historic districts.

Guidelines

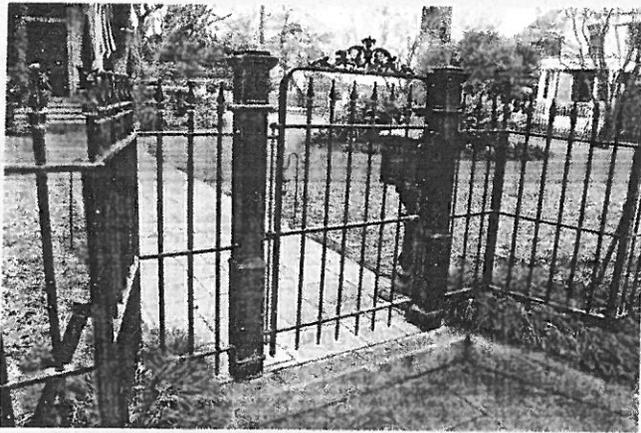
A. TOPOGRAPHIC FEATURES

- i. **Historic topography**—Avoid significantly altering the topography of a property (i.e., extensive grading). Do not alter character-defining features such as berms or sloped front lawns that help define the character of the public right-of-way. Maintain the established lawn to help prevent erosion. If turf is replaced over time, new plant materials in these areas should be low-growing and suitable for the prevention of erosion.
- ii. **New construction**—Match the historic topography of adjacent lots prevalent along the block face for new construction. Do not excavate raised lots to accommodate additional building height or an additional story for new construction.
- iii. **New elements**—Minimize changes in topography resulting from new elements, like driveways and walkways, through appropriate siting and design. New site elements should work with, rather than change, character-defining topography when possible.

2. Fences and Walls

Why is this Important?

The historic use of fences and low retaining walls to identify front yard boundaries and provide privacy and security varies dramatically from district to district and from block to block within San Antonio's historic districts. The types of fences and walls that are used are similarly eclectic. Where historic fences and walls do exist, they are important character-defining features that help reinforce the age and style of the principal building and often times the block. Front yard fences and walls play a large role in defining rhythm and pattern along the street edge. In some districts, non-historic fence materials, such as chain link, have been introduced over time.



Ornamental, wrought iron fences with an open character and low height are just one of the many styles of historic fences found in San Antonio's historic districts.



Stone walls of varying heights and designs are found in many of San Antonio's historic districts. In some locations (as illustrated above), the walls are used to enclose and screen a yard. In other locations, lower stone walls are used for retention purposes on sloped sites.

Guidelines

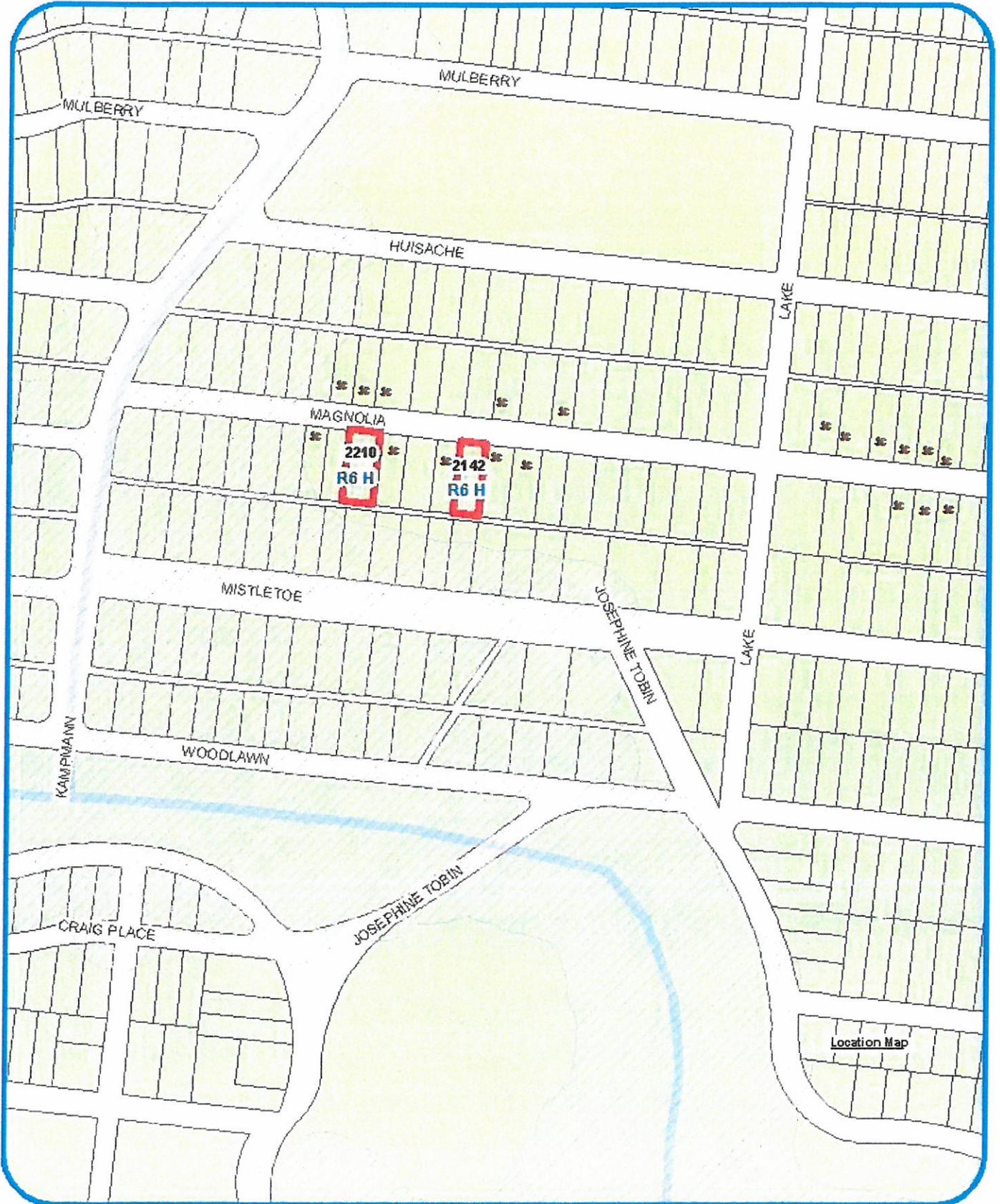
A. HISTORIC FENCES AND WALLS

- i. **Preserve**—Retain historic fences and walls.
- ii. **Repair and replacement**—Replace only deteriorated sections that are beyond repair. Match replacement materials (including mortar) to the color, texture, size, profile, and finish of the original.
- iii. **Application of paint and cementitious coatings**—Do not paint historic masonry walls or cover them with stone facing or stucco or other cementitious coatings.

B. NEW FENCES AND WALLS

- i. **Design**—New fences and walls should appear similar to those used historically within the district in terms of their scale, transparency, and character. Design of fence should respond to the design and materials of the house or main structure.
- ii. **Location**—Avoid installing a fence or wall in a location where one did not historically exist, particularly within the front yard. The appropriateness of a front yard fence or wall is dependent on conditions within a specific historic district. New front yard fences or wall should not be introduced within historic districts that have not historically had them.
- iii. **Height**—Limit the height of new fences and walls within the front yard to a maximum of four feet. The appropriateness of a front yard fence is dependent on conditions within a specific historic district. New front yard fences should not be introduced within historic districts that have not historically had them. If a taller fence or wall existed historically, additional height may be considered. The height of a new retaining wall should not exceed the height of the slope it retains.
- iv. **Prohibited materials**—Do not use exposed concrete masonry units (CMU), Keystone or similar interlocking retaining wall systems, concrete block, vinyl fencing, or chain link fencing.
- v. **Appropriate materials**—Construct new fences or walls of materials similar to fence materials historically used in the district. Select materials that are similar in scale, texture, color, and form as those historically used in the district, and that are compatible with the main structure.
- vi. **Screening incompatible uses**—Review alternative fence heights and materials for appropriateness where residential properties are adjacent to commercial or other potentially incompatible uses.

Attachment #5
Neighboring retaining walls



Board of Adjustment Case

Case A-13-076

Scale: 1" approx. = 290 Feet

Legend

Current Zoning TEXT

100-Year DFIRM Floodplain 

Note: All Current and Requested Zoning Includes AHOD (Airport Hazard Overlay District)

Attachment #6
Photo Sheet



To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

