

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, October 29, 2012

11:30 A.M.

Cliff Morton Development and Business Services Center, Board Room

Anytime during the public hearing, the Board of Adjustment may meet in Executive Session to consult on attorney-client matters (real estate, litigation, personnel and security matters), as well as to discuss any of the agenda items. This notice was posted on the Planning and Development Services Department website (www.sanantonio.gov/dsd), and the City Hall kiosk, at least seventy-two (72) hours prior to this public hearing, in compliance with the Texas Open Meetings Act.

1. **11:30 A.M, Tobin Room** – Work Session – discussion of policies and administrative procedures, and any items for consideration on the agenda for October 29, 2012.
2. **1:00 PM** - Public Hearing – Call to Order
3. Roll Call
4. Pledges of Allegiance
5. **A-12-093:** The request of Pape-Dawson for a 4-foot variance from the 4-foot maximum fence height for a predominantly open fence in a commercial front yard to allow an 8-foot predominantly open fence around a courtyard in the front yard of a Nursing Facility at 20718 Stone Oak Parkway. (Council District 9)
6. **A-12-094:** The request of Trinity University for a 2-foot variance from the 6-foot maximum fence height to allow an 8-foot high solid wood fence in the side yard at 151 Oakmont Court. (Council District 1)
7. **A-12-095:** The request of Lisa Pena for a 2-foot variance from the 6-foot maximum fence height to allow an 8-foot high solid wood fence in the side yard at 456 E. Rosewood Ave. (Council District 1)
8. **A-12-096:** The request of Stephen G. Cook Engineering for 1) a 5-inch variance from the required 5-foot maintenance easement for a zero lot line subdivision to allow an encroachment of 5 inches into the easement, and 2) a 1 foot, 3-inch variance from the required 20-foot front setback for a garage to allow a garage 18 feet, 9 inches from the front property line at 1522 Melanie Circle. (Council District 9)
9. **A-12-097:** The request of Sonia & Paul Venema for an 18-inch variance from the 6-foot maximum fence height to maintain a 7-foot 6-inch fence in the side & rear yards at 4115 Timber Hill Drive. (Council District 6)
10. **A-12-098:** The request of Color Printing & Signs for 1) a 4-foot variance from the 8-foot maximum sign height in a residential district to allow two 12-foot tall free-standing signs and 2) a 12 square-foot variance from the 36 square-foot maximum sign area to allow a 48 square foot free-standing digital sign for a school in a residential district at 3000 Tampico Street. (Council District 5)
11. Approval of the minutes – October 8, 2012
12. Adjournment

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

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

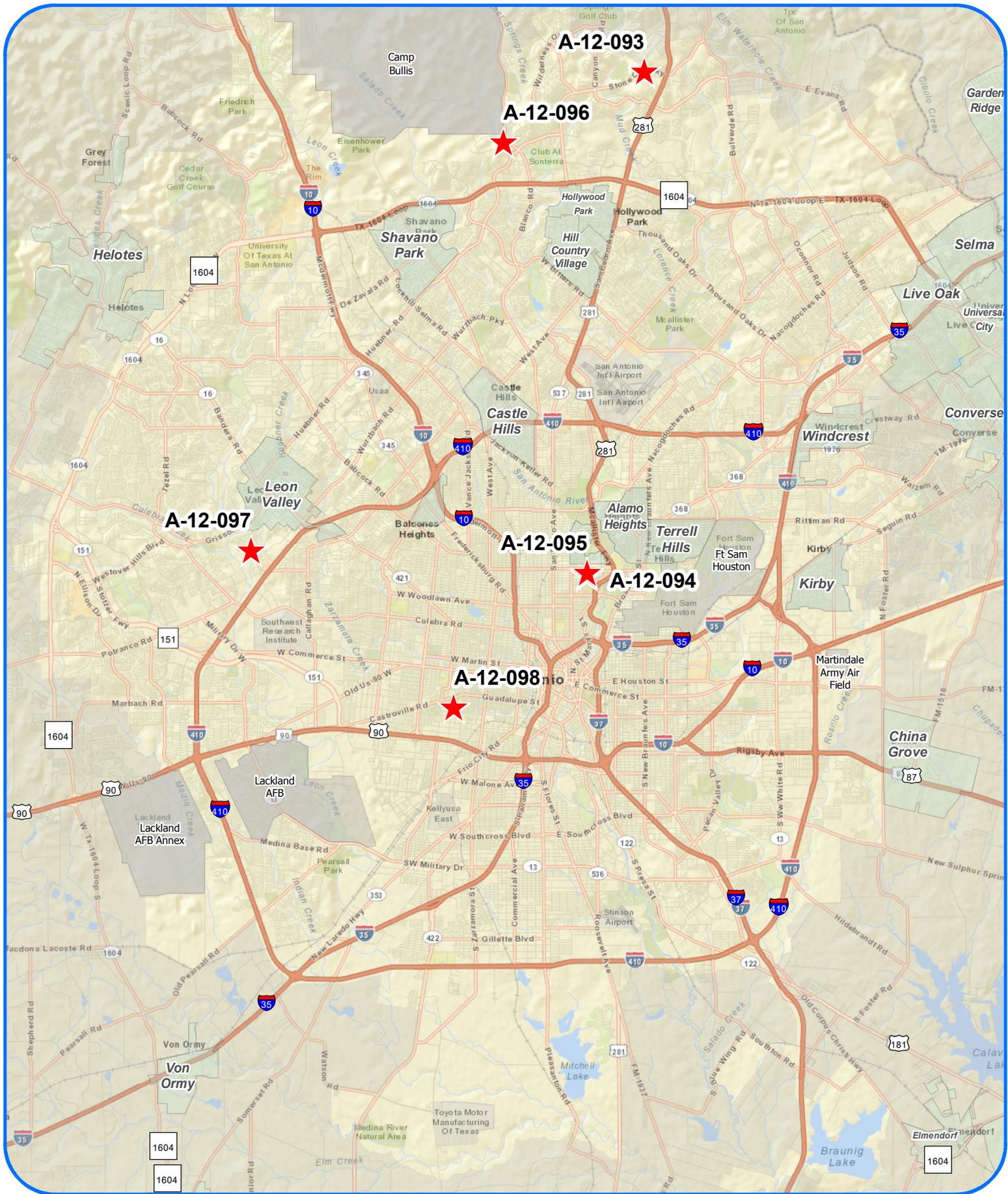
Board of Adjustment Membership

Michael Gallagher 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
Vacancy, District 5 • Jesse Zuniga, District 6 • Mary Rogers, District 7 • David Villyard, District 9 • Gene Camargo, Mayor

Alternate Members

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



Board of Adjustment
Subject Property Locations
Cases for 29th October 2012





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-093
Date: October 29, 2012
Applicant: Pape-Dawson Engineers
Owner: MFT AGC SA2, LLC
Location: 20718 Stone Oak Parkway
Legal Description: Lot 3, Block 33, NCB 19219
Zoning: "C-2 ERZD MLOD" Commercial Edwards Recharge Military Lighting
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests a 4-foot variance from the 4-foot maximum height to allow an 8-foot fence around a courtyard in the front yard of a Nursing Facility.

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 11, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 12, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on October 25, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 36,300 square foot vacant parcel, with a combined 30-foot drainage and utility easement along the rear property line. The property owner purchased the lot for the purpose of building and operating a nursing facility focused on caring for seniors with Alzheimer's. The owner currently operates a similar facility on Blanco near Bitters and several others throughout Texas. Security and safety is a primary concern for operators caring for patients with Alzheimer's. In this case, the applicant is requesting approval to construct an 8-foot fence around a courtyard in the front yard. Their site-specific design proposes the courtyard in the front yard because this is the flat portion of the site and the area has several existing oak trees that can be used for shade. The site slopes downward at a grade of about 7.5% toward the drainage ditch.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
C-2 ERZD MLOD Commercial Edwards Recharge Military Lighting Overlay	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	C-3 ERZD MLOD Commercial Edwards Recharge Military Lighting Overlay	Vacant
South	R-6 PUD ERZD MLOD Residential Edwards Recharge Military Lighting	Single-Family Residential
East	C-2 ERZD MLOD Commercial Edwards Recharge Military Lighting Overlay	Vacant
West	C-2 ERZD MLOD Commercial Edwards Recharge Military Lighting Overlay	Medical Office

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Planning Area and identified for Suburban Tier land uses. This category is described as having commercial uses that serve both the neighborhood and the community, without interfering with the nearby residential uses. The proposed institutional use will be consistent with these goals. There is no registered neighborhood association in the vicinity.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

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

The public interest is defined as the general health, safety and welfare of the public at large. The public in the vicinity of this proposed facility will not be negatively impacted by the requested fence height. Stone Oak Parkway in this section carries approximately 20,000 vehicle trips each day. The fence itself is setback 25-feet from the front property line. It is designed to be predominately open wrought iron with brick columns. Existing trees will be preserved both inside and around the exterior of the proposed courtyard.

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

A literal enforcement of the ordinance would require that the applicant relocate the courtyard toward the rear of the site on a slope surrounded by fencing 6-feet in height. The impact of these changes creates an unnecessary hardship. The safety and security of patients afflicted with this debilitating disease is imperative. Equally important is the goal of creating a peaceful environment for their daily enjoyment. The proposed design sets the building back nearly 100 feet, with the flat wooded portion of the lot improved as the exterior living space. This layout uses the site attributes to their fullest.

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

The spirit of the ordinance is represented by its equal application to all citizens. In some cases, unique property-related characteristics warrant flexibility to the regulations. For this property, the topography necessitates the outdoor living area be located toward the front of the parcel, rather than the rear yard where fencing regulations are more permissive. In addition, the specific target population requires enhanced security precautions.

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 ERZD 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 property is zoned for commercial uses, which typically include a building and surrounding parking areas. In this case, the applicant is requesting approval to construct an 8-foot wrought iron fence with brick columns in the front yard. The fencing is set back 25-feet from the property line and will enclose an area approximately 2,000 square feet. Several trees on the property will be preserved, softening the potential visual impact of the requested additional fence height. The site plan will be different from those of the typical neighboring commercial parcels, but will enhance the character of the area.

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

The applicant is requesting a variance to allow additional fence height surrounding a large outdoor courtyard for patients suffering from Alzheimer's. The courtyard was planned in the front yard where the topography was level and there were a large number of existing trees. The courtyard is an essential component of the facility, adding an additional 25% to the overall useable square footage.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reduce the height of the fence to 6-feet, and relocate the proposed courtyard to the rear of the parcel, or request a special exception for the ornamental iron fencing in the front yard.

Staff Recommendation

Staff recommends **approval of A-12-093**, based on the following findings:

1. The property is fairly level on the front half and slopes downward on the rear half.
2. A secure outdoor area is a critical feature in the lives of these patients.
3. The additional fence height will be partially screened by the preservation of existing oak trees on the parcel.

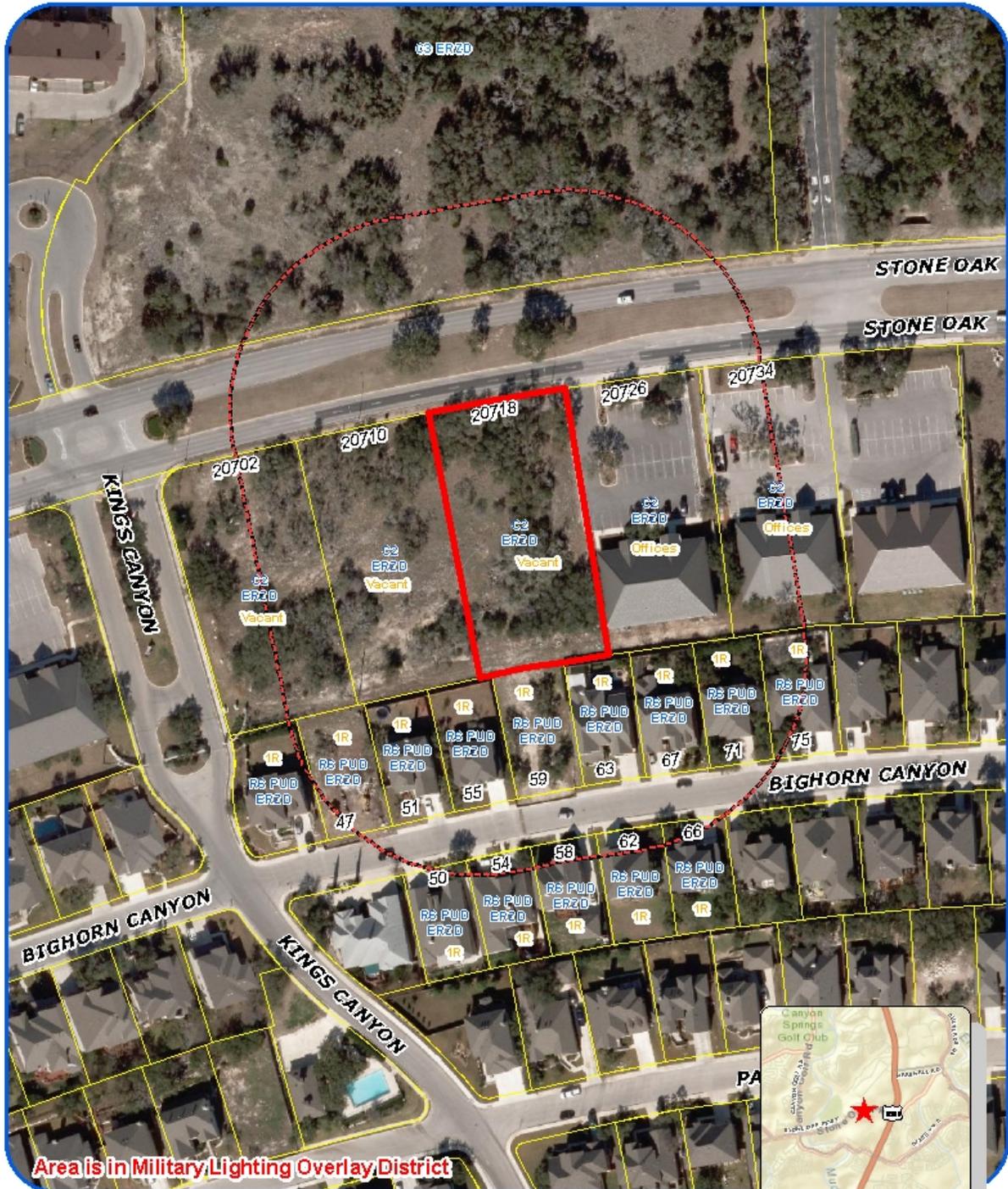
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Photos

Attachment 1 Notification Plan



Area is in Military Lighting Overlay District



Board of Adjustment		San Antonio City Limits	
Notification Plan for Case No A-12-093		Subject Property	
		200' Notification Boundary	
		Council Districts	

Development Services Department
City of San Antonio
(02/2012)

**Attachment 2
Plot Plan**



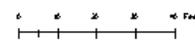
Variance Request:
a 4-foot variance from the 4-foot maximum permitted front yard fence allowed
in a C-2 zoning district to allow an 8-foot tall fence

Board of Adjustment

**Plot Plan for
Case No A-12-093**



▲▲▲▲ Proposed Fence



Council District 9

20718 Stone Oak Pkwy

Development Services Department
City of San Antonio
29th October 2012

**Attachment 3
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-094
Date: October 29, 2012
Applicant: Trinity University
Owner: Trinity University
Location: 151 Oakmont Court
Legal Description: Lot 7 and the East 50 feet of Lot 6, Block 2, NCB 6581
Zoning: "R-5 H AHOD" Residential Single-Family Historic Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a 2-foot variance from the 6-foot maximum fence height restriction to allow an 8-foot privacy fence in the side yard.

Procedural Requirements

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 11, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 12, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on October 26, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of Oakmont Court, where the street terminates into the campus of Trinity University.

The applicant is requesting to construct an 8-foot high solid wood fence along the eastern property line. Although both properties are owned by Trinity University, the subject property is utilized as a residence by the University. The goal of the fence is to separate the campus

function of the university from the residential function of the subject property, allowing for more privacy and enjoyment of the yard area of the dwelling.

The application states that the fence was not previously necessary because there were no instructional or office buildings within proximity of this residential structure. A new classroom building has been constructed closer to the subject property, and the applicant wishes to separate the uses of the buildings.

Section 35-514(c)(2)E of the UDC allows for fences of up to 8 feet in height when the fence is on a side or rear lot line of a residential use, and the property abuts a “C-2”, “C-3” , or more intensive use. As per Table 311-1 of the UDC, Private Universities are allowed as specific uses in certain residential zones, including R-5, therefore, the UDC Section allowing fences of up to 8 feet in height does not apply to this situation.

It should be noted that the Office of Historic Preservation has reviewed the proposed project and granted a Certificate of Appropriateness.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-5 H AHOD (Residential Single-Family)	Single-Family Residences
South	R-5 H AHOD (Residential Single-Family)	Single-Family Residences
East	R-5 AHOD (Residential Single-Family)	University
West	R-5 H AHOD (Residential Single-Family)	Single-Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Monte Vista Neighborhood Plan. The subject property is located within the boundaries of the Monte Vista 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:

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

Fence height regulations are designed to promote orderly development, reduce visual distraction, and create a sense of community, especially in neighborhoods. The UDC contemplates that higher fences are sometimes necessary in order to allow for adequate

buffering of uses. In this case, the allowed fence height of 6 feet could be considered inadequate because of privacy concerns from the adjacent university land use.

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

A literal enforcement of the ordinance may result in an unnecessary hardship because of the absence of any buffering between the residential use of the subject property and the use of the adjacent property as a university.

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

The UDC contemplates that under some specific conditions, higher fences may be necessary in order to preserve privacy and quality of life. In this case, the intense use of a university versus the use as a single-family residence warrants the provision of a higher fence to separate the uses. As such, the spirit of the ordinance will be observed and substantial justice will be done.

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 H AHOD” (Single-Family Residential) zoning district.

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

The requested variance will not substantially injure the adjacent property, but rather the requested variance will potentially enhance both properties.

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

The plight of the owners is based upon the land use of the adjacent property, and was not created by the owner.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to install a 6-foot high fence which would potentially not provide the level of privacy and buffering which is desirable between a university and a single-family residence.

Staff Recommendation

Staff recommends **approval of A-12-094**, due to the following reasons:

1. The fence is necessary to provide adequate privacy for subject property and buffering between the two land uses.
2. Granting of the variance will not be contrary to the public interest and will observe the spirit of the ordinance.

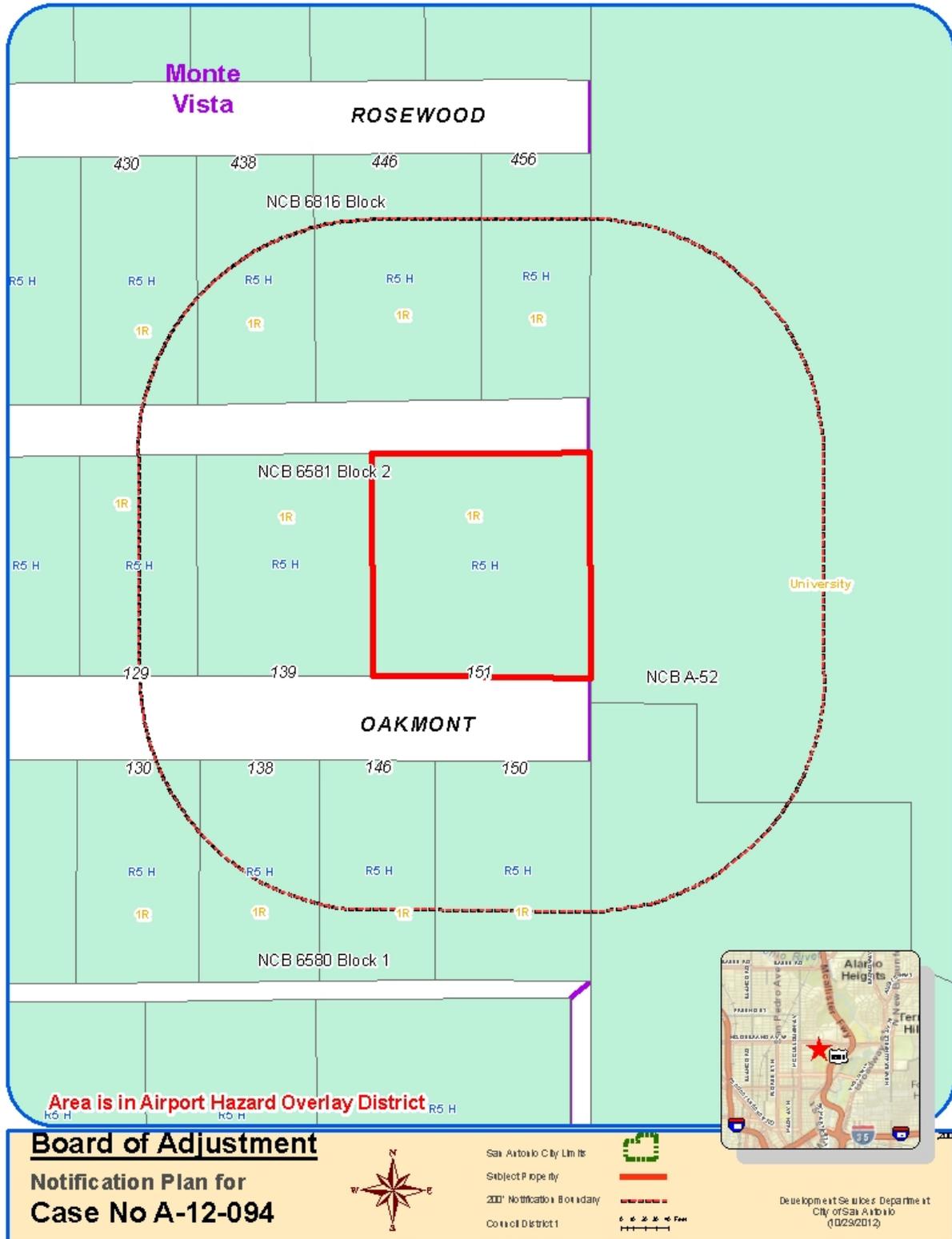
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Fence Plan

Attachment 1 Notification Plan



Board of Adjustment
Notification Plan for
Case No A-12-094

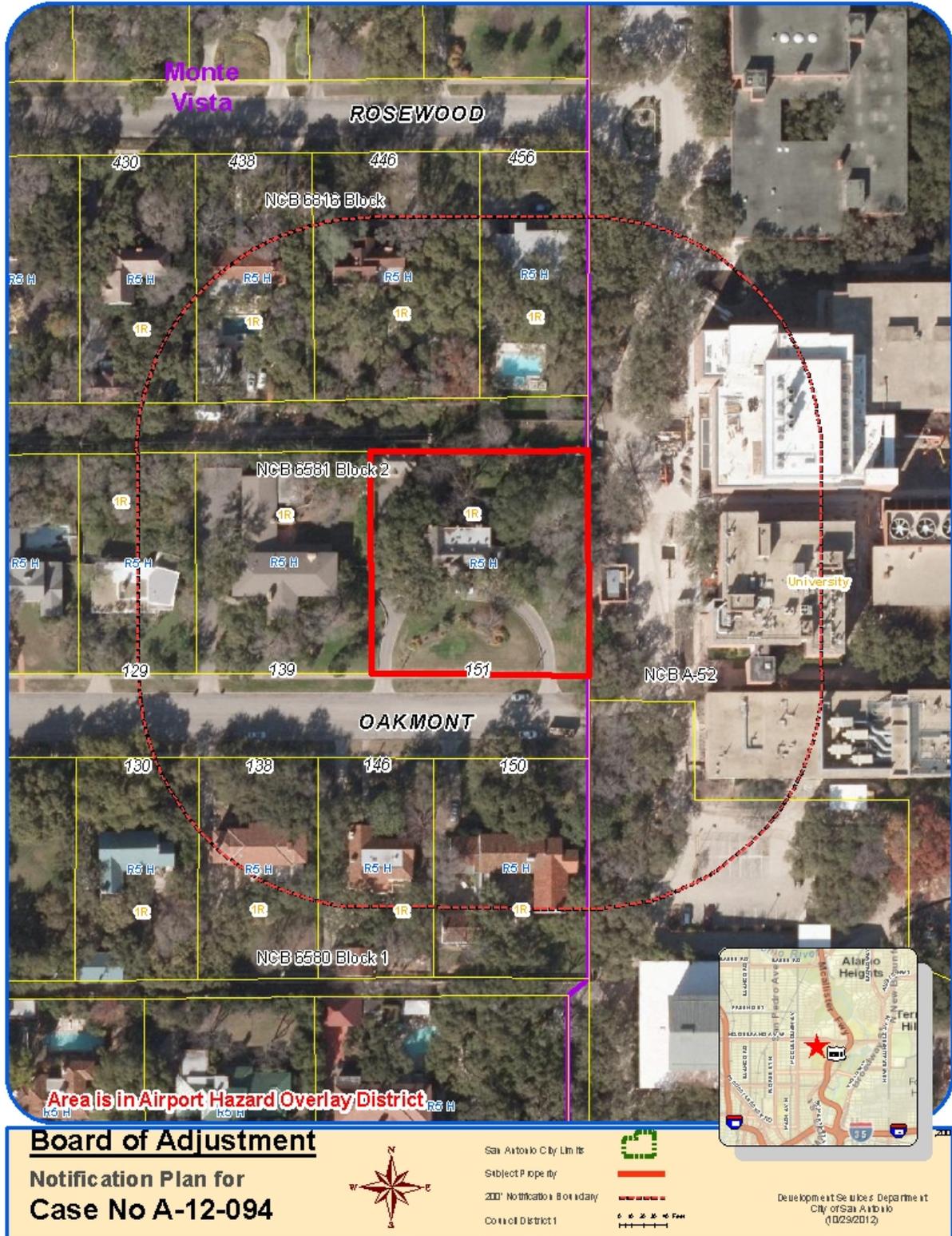


San Antonio City Limits
 Subject Property
 Notification Boundary
 City of District 1

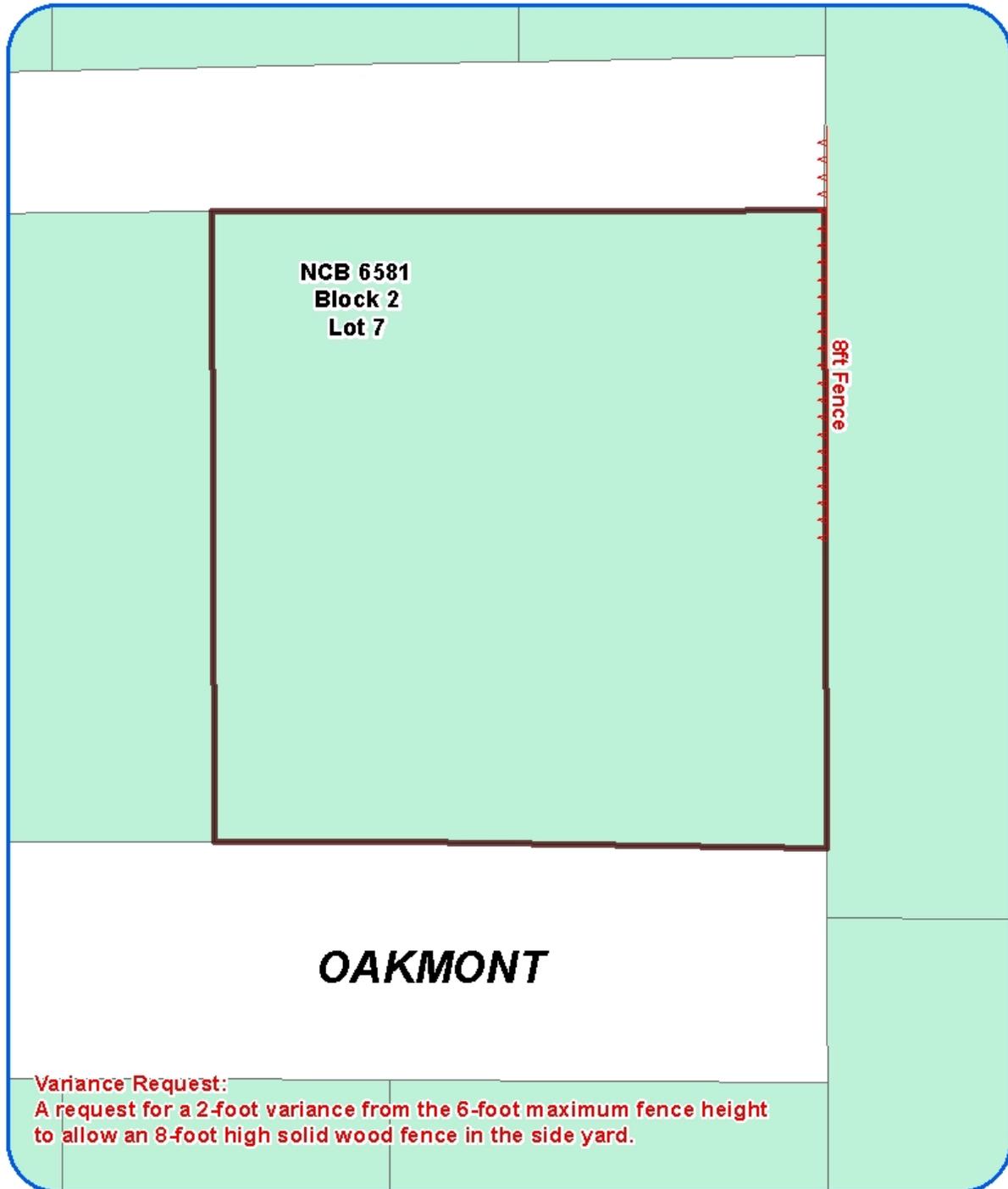


Development Services Department
 City of San Antonio
 (02/2012)

**Attachment 1 (Continued)
Notification Plan**



**Attachment 2
Plot Plan**



Variance Request:

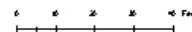
A request for a 2-foot variance from the 6-foot maximum fence height to allow an 8-foot high solid wood fence in the side yard.

Board of Adjustment

**Plot Plan for
Case No A-12-094**



 Fence



Council District 1

151 Oakmont Court

Development Services Department
City of San Antonio
28th October 2012

Attachment 2 (Continued)
Plot Plan



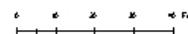
Variance Request:
A request for a 2-foot variance from the 6-foot maximum fence height to allow an 8-foot high solid wood fence in the side yard.

Board of Adjustment

Plot Plan for
Case No A-12-094



△△△△ Fence

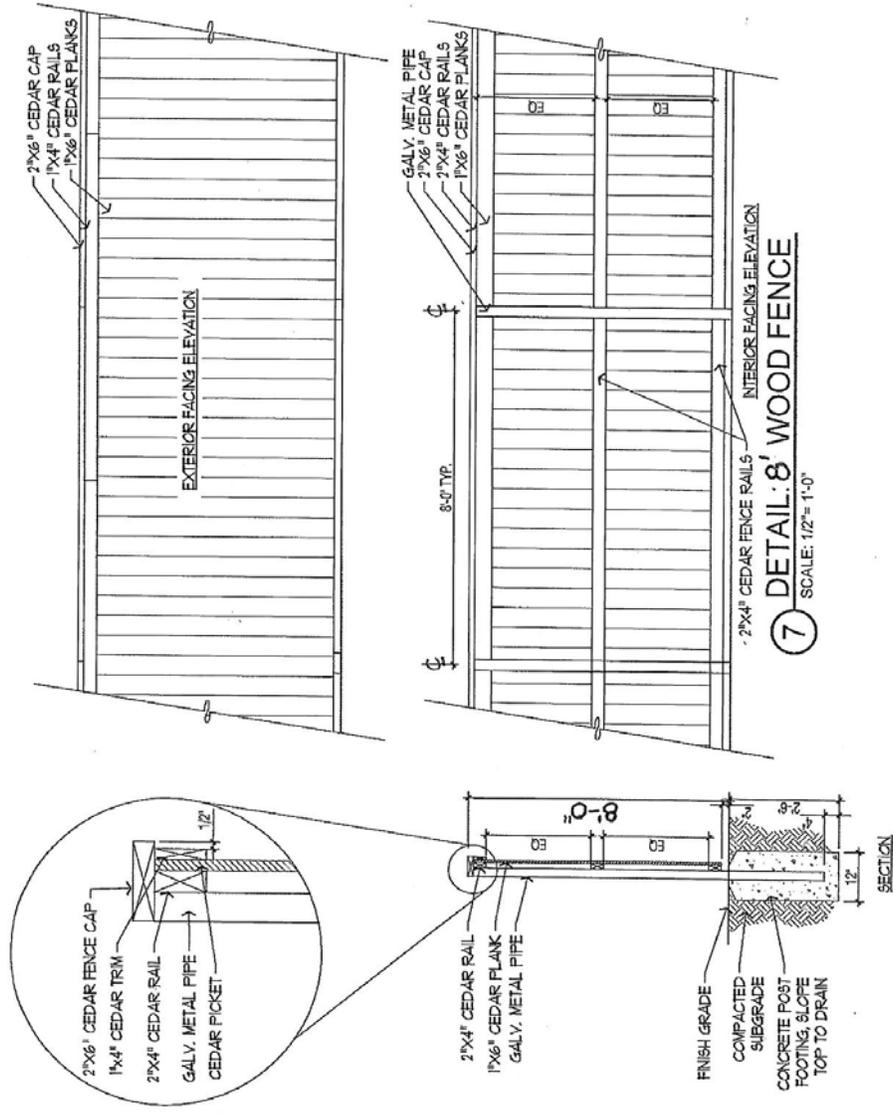


Council District 1

151 Oakmont Court

Development Services Department
City of San Antonio
29th October 2012

Attachment 3 Fence Plan



Attachment "A" Page 2 of 2



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-095
Date: October 29, 2012
Applicant: Lisa Pena
Owner: Carlos and Lisa Pena
Location: 456 East Rosewood Avenue
Legal Description: East 100 feet of Lot 7, Block 3, NCB 6816
Zoning: "R-5 H AHOD" Residential Single-Family Historic Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request for a 2-foot variance from the 6-foot maximum fence height restriction to allow an 8-foot privacy fence in the side yard.

Procedural Requirements

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 11, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 12, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on October 26, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of East Rosewood Avenue, where the street terminates into the campus of Trinity University.

The applicant is requesting to construct an 8-foot high solid wood fence along the eastern property line. The goal of the fence is to separate the campus function of the University from the residential function of the subject property, allowing for more privacy and enjoyment of the yard area of the subject property.

The application states that the fence was not previously necessary because there were no instructional or office buildings within proximity of this residential structure. A new classroom building has been constructed closer to the subject property, and the applicant wishes to separate the uses of the buildings.

Section 35-514(c)(2)E of the UDC allows for fences of up to 8 feet in height when the fence is on a side or rear lot line of a residential use, and the property abuts a “C-2”, “C-3” , or more intensive use. As per Table 311-1 of the UDC, Private Universities are allowed as specific uses in certain residential zones, including R-5, therefore, the UDC Section allowing fences of up to 8 feet in height does not apply to this situation.

It should be noted that the Office of Historic Preservation has reviewed the proposed project and granted a Certificate of Appropriateness.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-5 H AHOD (Residential Single-Family)	Single-Family Residences
South	R-5 H AHOD (Residential Single-Family)	Single-Family Residences
East	R-5 AHOD (Residential Single-Family)	University
West	R-5 H AHOD (Residential Single-Family)	Single-Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Monte Vista Neighborhood Plan. The subject property is located within the boundaries of the Monte Vista 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:

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

Fence height regulations are designed to promote orderly development, reduce visual distraction, and create a sense of community, especially in neighborhoods. The UDC contemplates that higher fences are sometimes necessary in order to allow for adequate buffering of uses. In this case, the allowed fence height of 6 feet could be considered inadequate because of privacy concerns from the adjacent university land use.

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

A literal enforcement of the ordinance may result in an unnecessary hardship because of the absence of any buffering between the residential use of the subject property and the use of the adjacent property as a university.

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

The UDC contemplates that under some specific conditions, higher fences may be necessary in order to preserve privacy and quality of life. In this case, the intense use of a university versus the use as a single-family residence warrants the provision of a higher fence to separate the uses. As such, the spirit of the ordinance will be observed and substantial justice will be done.

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 H AHOD” (Single-Family Residential) zoning district.

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

The requested variance will not substantially injure the adjacent property, but rather the requested variance will potentially enhance both properties.

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

The plight of the owners is based upon the land use of the adjacent property, and was not created by the owner.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to install a 6-foot high fence which would potentially not provide the level of privacy and buffering which is desirable between a university and a single-family residence.

Staff Recommendation

Staff recommends **approval of A-12-095**, due to the following reasons:

1. The fence is necessary to provide adequate privacy for subject property and buffering between the two land uses.

2. Granting of the variance will not be contrary to the public interest and will observe the spirit of the ordinance.

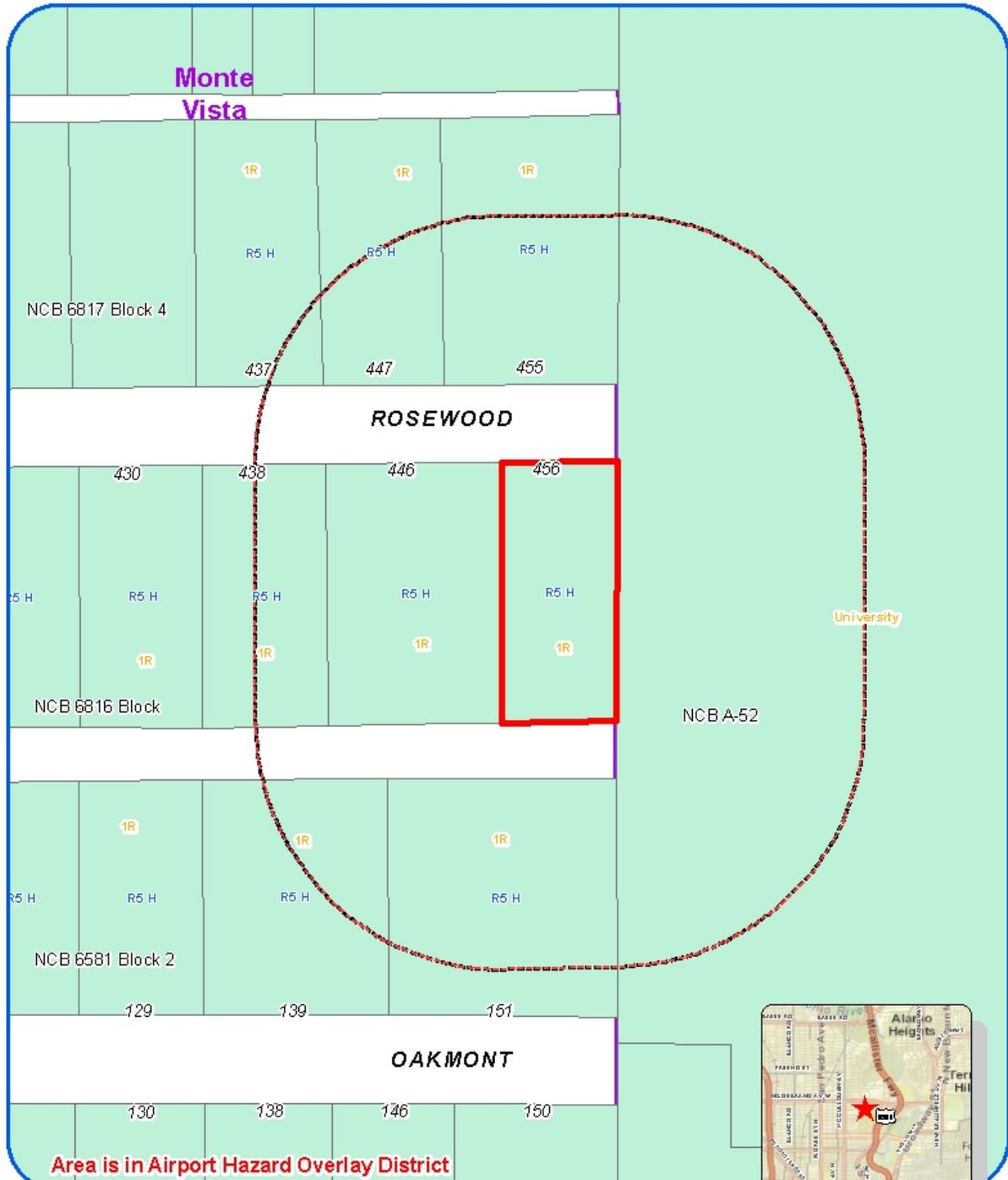
Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Fence Plan

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District



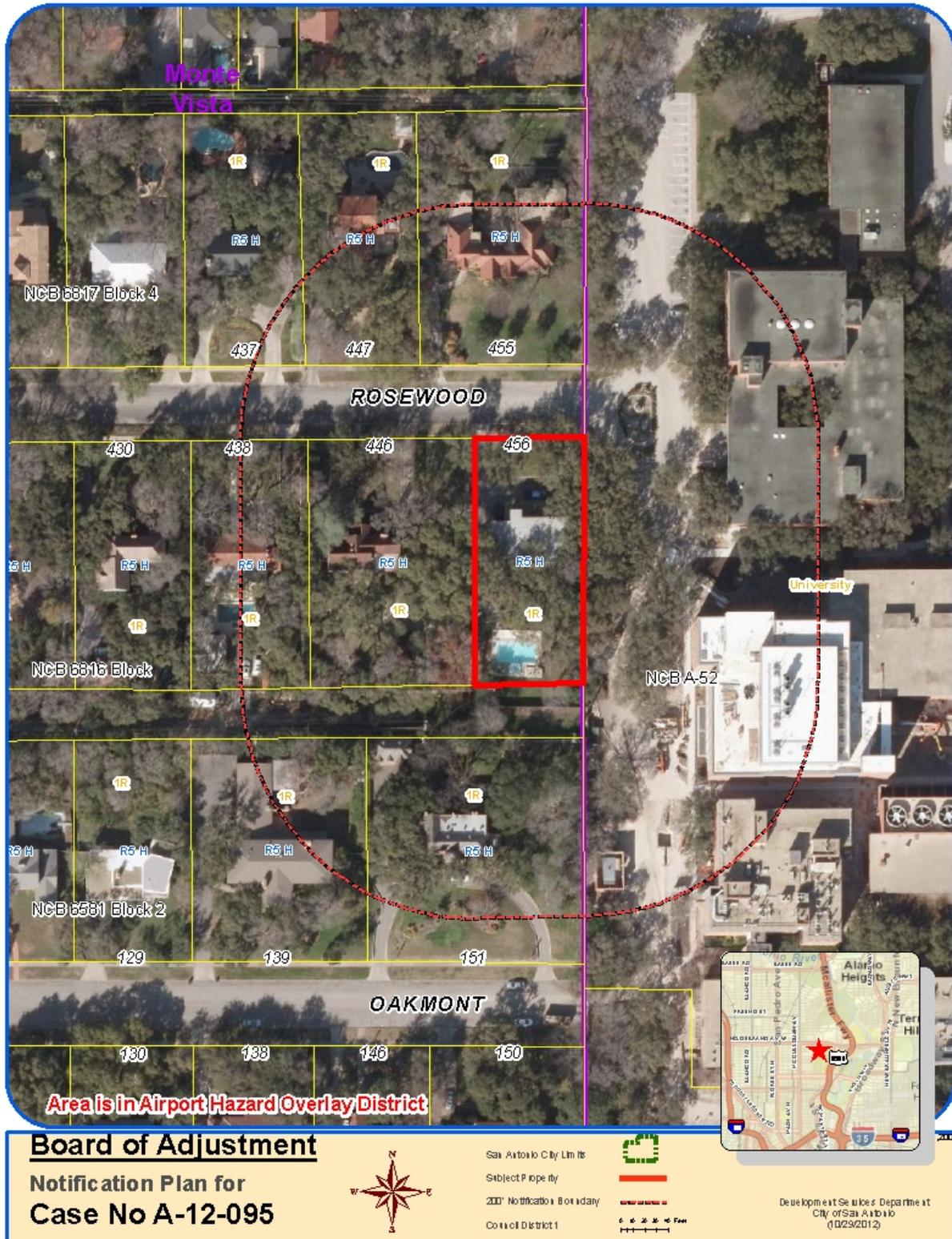
Board of Adjustment
Notification Plan for
Case No A-12-095



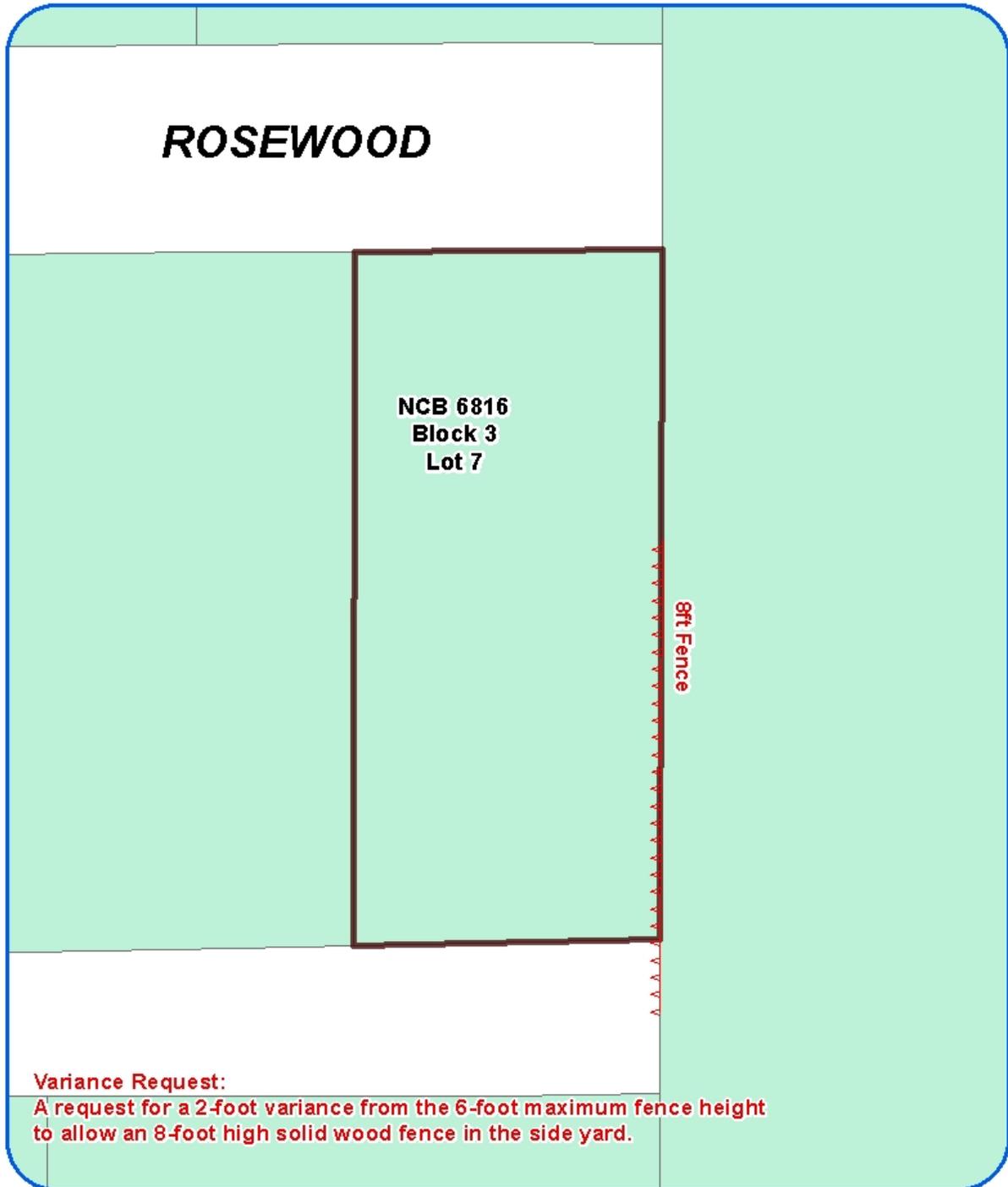
- San Antonio City Limits
 - Subject Property
 - 200' Notification Boundary
 - City of District 1
- Feet

Development Services Department
 City of San Antonio
 (02/2012)

**Attachment 1 (Continued)
Notification Plan**



Attachment 2
Plot Plan



Variance Request:

A request for a 2-foot variance from the 6-foot maximum fence height to allow an 8-foot high solid wood fence in the side yard.

Board of Adjustment

Plot Plan for
Case No A-12-095



△△△△ Fence



Council District 1

456 E. Rosewood Ave

Development Services Department
City of Salt Lake
29th October 2012

Attachment 2 (Continued)
Plot Plan

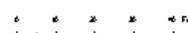


Board of Adjustment

Plot Plan for
Case No A-12-095



△△△△ Fence

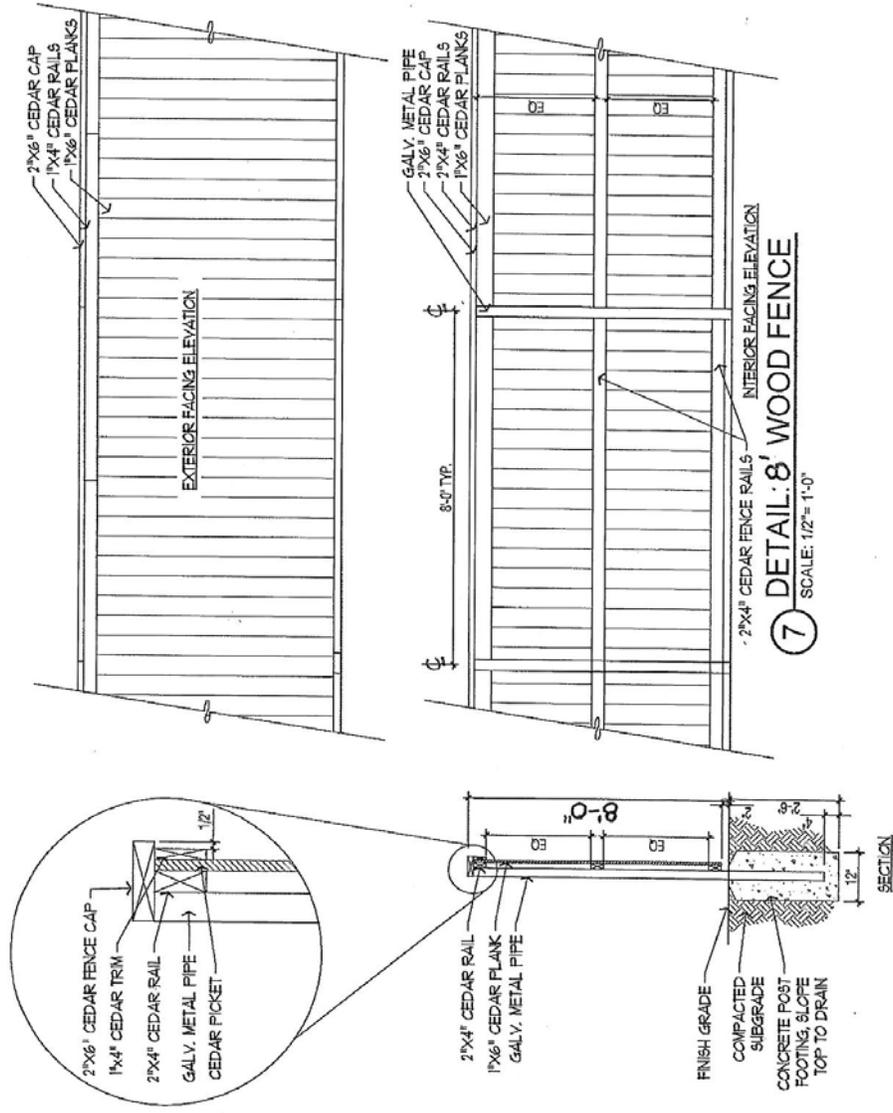


Council District 1

456 E. Rosewood Ave

Development Services Department
City of San Antonio
28th October 2012

Attachment 3 Fence Plan



Attachment "A" Page 2 of 2



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-096
Date: October 29, 2012
Applicant: Stephen G. Cook Engineering
Owner: Sandra Patricia Gomez
Location: 1522 Melanie Circle
Legal Description: Lot 17, Block 74, NCB 16334
Zoning: "PUD ERZD MLOD" Planned Unit Development Edwards Recharge Zone
Military Lighting Overlay District
Prepared By: Tony Felts, Planner

Request

A request for 1) a 5-inch variance from the required 5-foot maintenance easement for a zero lot line subdivision to allow an encroachment of 5 inches into the easement, and 2) a 1 foot, 3-inch variance from the required 20-foot front setback for a garage to allow a garage 18 feet, 9 inches from the front property line.

Procedural Requirements

The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on October 11, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 12, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on October 26, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the west side of Melanie Circle. Melanie Circle is a private street in a gated community located off Blanco Road, north of Huebner Road.

The community consists of zero lot line dwellings constructed under the Planned Unit Development provisions of the UDC. Sections 35-373(c) and 35-515(e) of the UDC require a 5-foot wide maintenance easement to be provided on the lot adjacent to the zero setback. The purpose of this easement requirement is to ensure proper access to side and rear yards for public safety and property maintenance purposes. This minimum required easement is to the benefit of the adjacent property owner, and not necessarily to a public entity. In this case, the recorded

easement is by deed restriction to the adjacent property owner and not to any public utility or entity.

The dwelling on the subject property was constructed in 2011, with passage of the final inspection on November 15, 2011. During construction of a dwelling at 1526 Melanie Circle, which abuts the subject property to the north, a surveying error was discovered that resulted in a five inch encroachment into the minimum easement required by Section 35-515(e). The surveying error was discovered by the homebuilder, who is requesting the variance in order to legitimize the oversight. It should be noted that if the variance is approved, an amending plat is also required.

Additionally, the survey revealed that the garage setback was not in compliance with the PUD plan governing the development regulations for the property. The PUD plan requires a setback of 20 feet from the property line for garages. The survey indicated that the garage is only 18 feet, 9 inches from the front property line, thus necessitating the additional variance request.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
PUD ERZD MLOD (Planned Unit Development)	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	PUD ERZD MLOD (Planned Unit Development)	Single-Family Residence (Under Construction)
South	PUD ERZD MLOD (Planned Unit Development)	Single-Family Residence
East	PUD ERZD MLOD (Planned Unit Development)	Single-Family Residences
West	PUD ERZD MLOD (Planned Unit Development)	Vacant

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan. The subject property is not located within the boundaries of a Neighborhood Association.

Criteria for Review

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest:*

The requirement for a maintenance easement is meant to allow adjacent property owners whose homes are placed on the lot line to access the structures for maintenance, repairs, and

public safety. The five-inch encroachment into the required easement is very minor and was the result of a surveying error. Reduction of the easement by five inches will not impede access to the adjacent dwelling for maintenance or public safety purposes.

The 20-foot setback requirement for garages is designed to keep sidewalks clear of obstructions so that they may be enjoyed without hindrance. Section 35-516(g), states that the 20-foot setback is from the back of a sidewalk or a property line; however, the governing PUD document states that the setback is to be measured from the property line. Were the measurement to be taken from the back of the sidewalk, the required 20 feet would be met; as such, there is less potential for the sidewalk to be blocked, and the request is not contrary to the public interest.

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

As the dwelling has already been constructed and received final city approvals, and the encroachments are relatively minute, a literal enforcement of the ordinance would result in an unnecessary hardship.

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

The spirit of the ordinance will be observed as both encroachments are minute, and the remaining open space is sufficient to accomplish the goals of the ordinance.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “PUD ERZD MLOD” (Planned Unit Development) 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 will not substantially injure the adjacent property as there is still ample room for the adjacent zero lot line dwelling’s owner to access the structure for maintenance purposes and there is sufficient room in the driveway for a parked vehicle without blocking the sidewalk.

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 plight of the owners is based upon a surveying error, and was not created by the owner.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to demolish the encroaching portions of the dwelling to make the structure compliant.

Staff Recommendation

Staff recommends **approval of A-12-096**, due to the following reasons:

1. The encroachment is minor in scale and still allows ample space to accomplish the underlying goals of the ordinance.
2. Granting of the variance will not substantially injure the appropriate use of the adjacent property.

Attachments

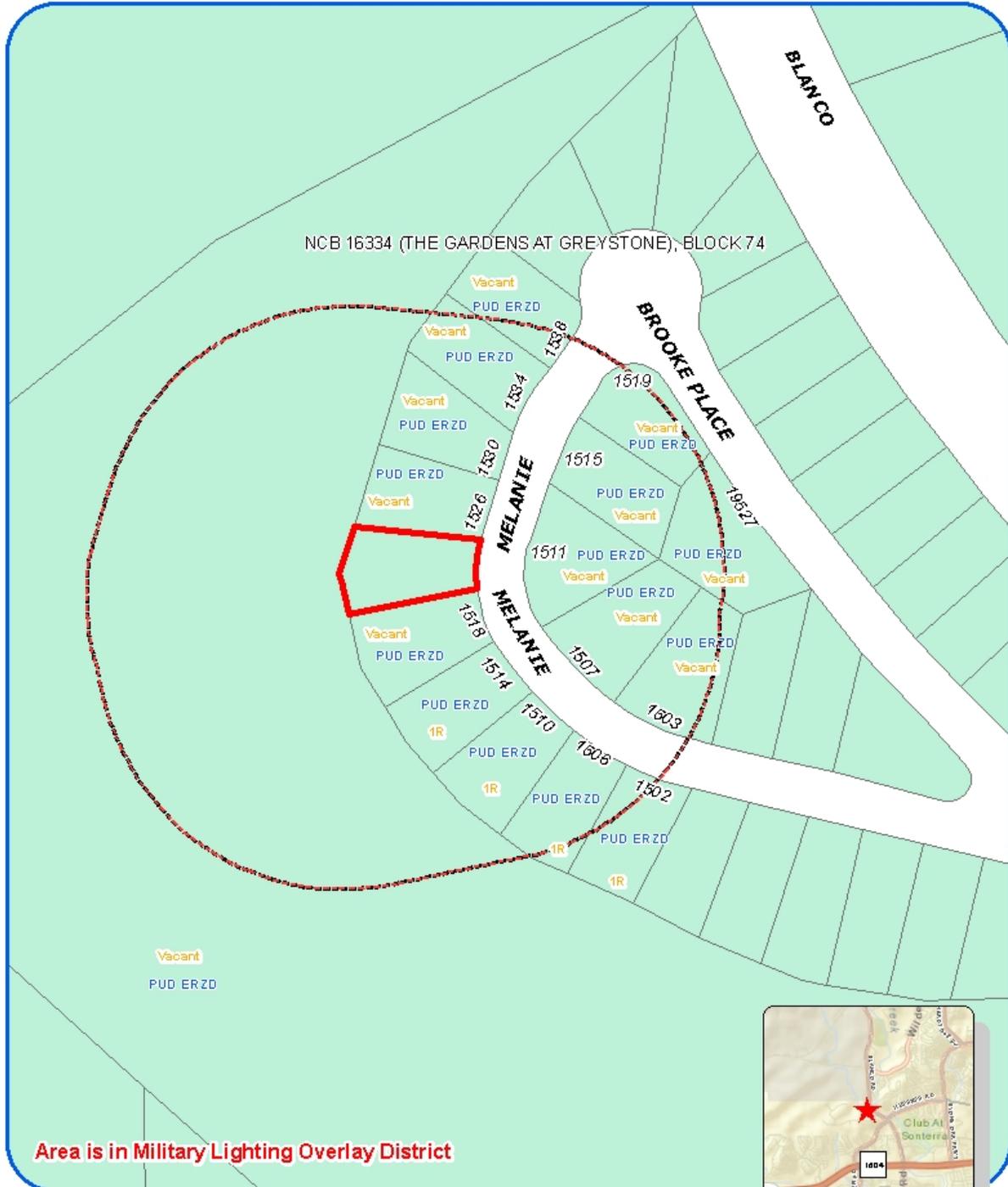
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Site plan survey

Attachment 4 – Governing PUD plan

Attachment 1 Notification Plan



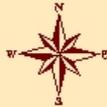
<p>Board of Adjustment Notification Plan for Case No A-12-096</p>		<p>San Antonio City Limits Subject Property 200' Notification Boundary City of Districts</p>	 	<p>Development Services Department City of San Antonio (02/2012)</p>
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**Attachment 1 (Continued)
Notification Plan**



Area is in Military Lighting Overlay District

**Board of Adjustment
Notification Plan for
Case No A-12-096**

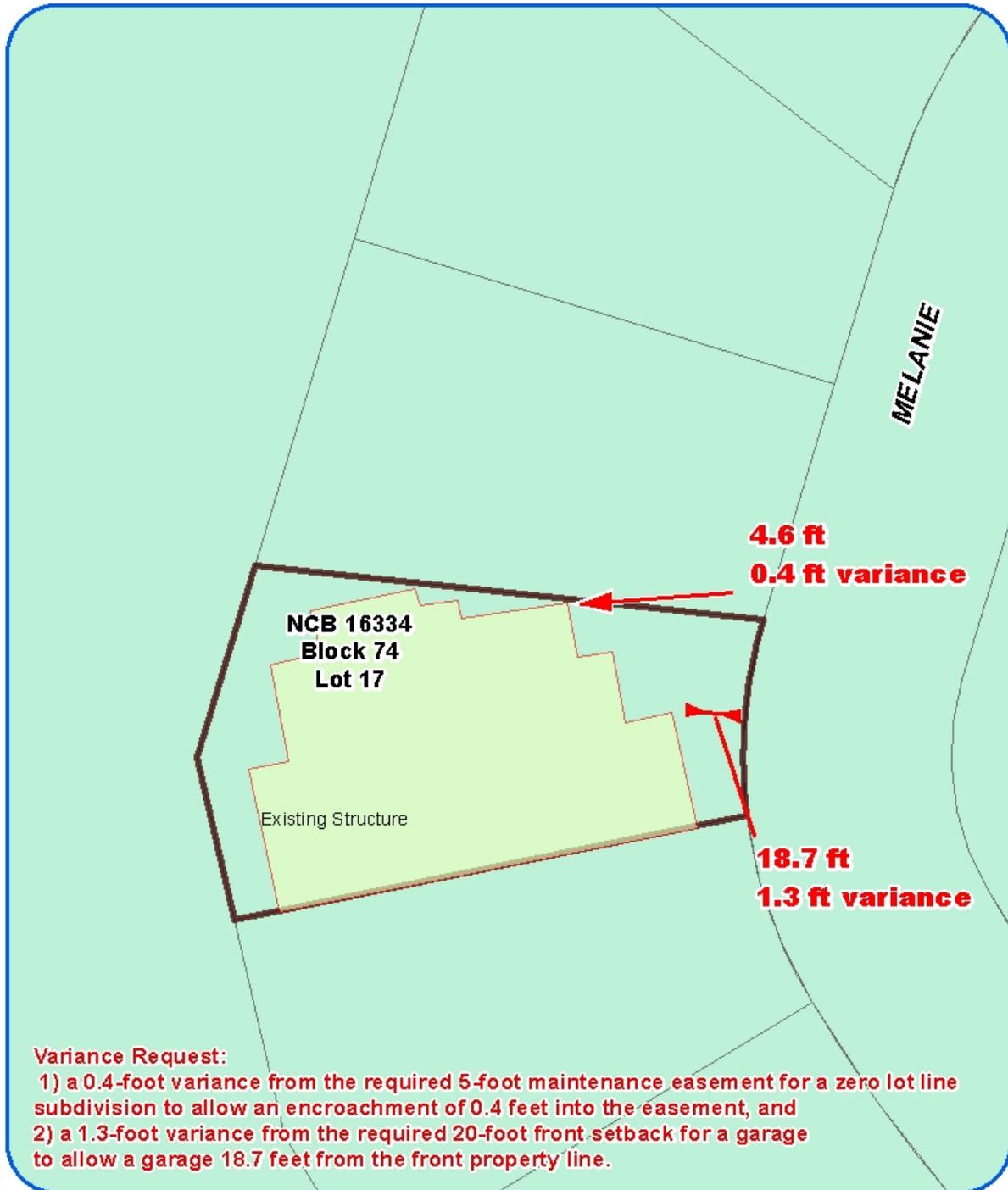


San Antonio City Limits
Subject Property
200' Notification Boundary
Council Districts



Development Services Department
City of San Antonio
(02/23/2012)

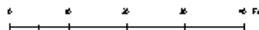
**Attachment 2
Plot Plan**



Variance Request:
1) a 0.4-foot variance from the required 5-foot maintenance easement for a zero lot line subdivision to allow an encroachment of 0.4 feet into the easement, and
2) a 1.3-foot variance from the required 20-foot front setback for a garage to allow a garage 18.7 feet from the front property line.

Board of Adjustment

**Plot Plan for
Case No A-12-096**



Council District 9

1522 Melanie Circle

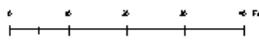
Development Services Department
City of San Antonio
29th October 2012

Attachment 2 (Continued)
Plot Plan



Board of Adjustment

Plot Plan for
Case No A-12-096

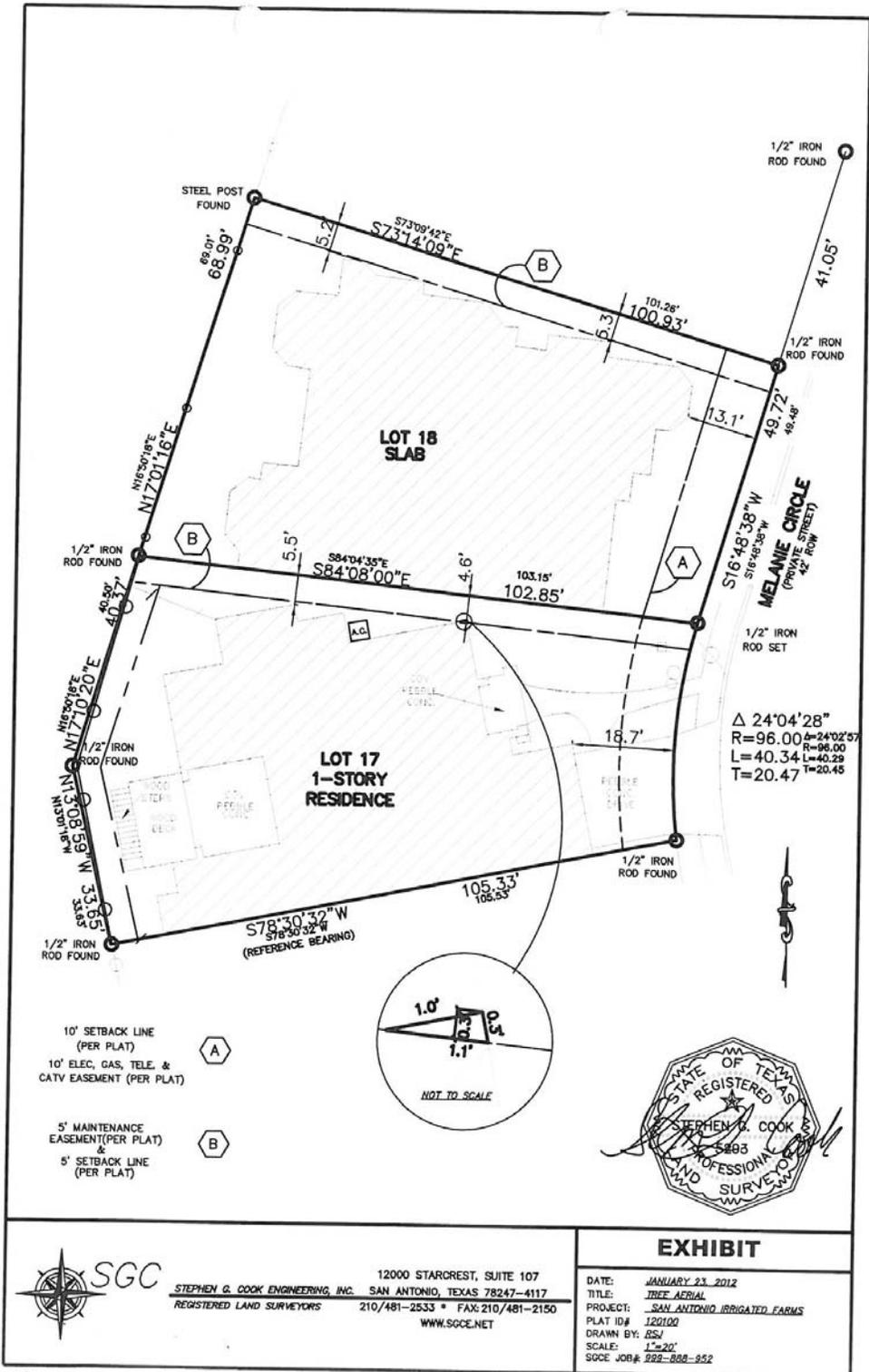


Council District 9

1522 Melanie Circle

Development Services Department
City of San Antonio
2011 October 2012

Attachment 3 Site Plan Survey



12000 STARCREST, SUITE 107
 STEPHEN G. COOK ENGINEERING, INC. SAN ANTONIO, TEXAS 78247-4117
 REGISTERED LAND SURVEYORS 210/481-2533 • FAX: 210/481-2150
 WWW.SGCENET

EXHIBIT

DATE: JANUARY 23, 2012
 TITLE: TREE AERIAL
 PROJECT: SAN ANTONIO IRRIGATED FARMS
 PLAT ID#: 122102
 DRAWN BY: RSJ
 SCALE: 1"=20'
 SGCE JOB#: 222-888-952

W:\Employees Shared Docs\Roger\MELANIE CIRCLE EXHIBIT.dwg 6/8/2012 1:45:18 PM CDT



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

To: Board of Adjustment
Case No.: A-12-097
Date: October 29, 2012
Applicant: Sonia & Paul Venema
Owner: Sonia & Paul Venema
Location: 4115 Timber Hill Drive
Legal Description: Lot 31, Block 11, NCB 18631
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests a 1-foot 6-inch variance from the 6-foot maximum height to allow a 7-foot 6-inch fence around the side and rear yards of their home.

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 11, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 12, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on October 25, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 7,200 square foot parcel developed with a single-family residential home. The applicant has installed a section of 12 to 18-inch wide lattice on top of the 6-foot wooden privacy fence to screen the next door neighbor's view of their outdoor activities. The natural topography is sloping upward here and the neighboring property is elevated approximately 12 inches along their shared property line. The UDC Section 35-514 (d) limits the maximum height of side and rear yard fencing to 6-feet, so the applicant has been cited with a code violation and instructed to remove the lattice. They have instead decided to request a variance to allow the lattice to remain.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-6 AHOD Residential Airport Hazard	Single-Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	R-6 AHOD Residential Airport Hazard	Single-Family Residential
South	R-6 AHOD Residential Airport Hazard	Single-Family Residential
East	MF-33 AHOD Multi-Family Airport Hazard	Multi-Family Residential
West	R-6 AHOD Residential Airport Hazard	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Planning Area and identified for General Urban Tier land uses. This category is described as having small tract detached single-family housing, consistent with the surrounding neighborhood. There is no registered neighborhood association serving this area.

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. In this case, the fence is a fairly isolated feature not visible from the public street. Only the three surrounding property owners have any knowledge or exposure to the addition of lattice on the top of the fence. The rear property line is shared with common area associated with a neighboring multi-family housing project. This area is used for a dumpster, community mail box, a picnic-table and basketball court. The property owner to the west had also installed the lattice but when cited by Code Enforcement elected to remove the lattice. The property owner to the east has submitted a notice in support of the requested variance. The requested lattice is not contrary to the public interest.

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

The applicant asserts that they need the additional height, especially along their west property line, because of the grade change between the two abutting lots. To make the fencing design cohesive, they had the lattice installed around the entire perimeter. The lattice allows light and air flow, reducing the potential adverse impact of the additional height.

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

The spirit of the ordinance is represented by its equal application to all citizens. The ordinance limits personal freedoms and property rights, but with fairness. In some cases, unique property-related characteristics warrant flexibility to the regulations in order to provide a similar level of protection afforded to the general public. In this case, the applicant believes that the 6-foot fence height is too short to provide them the same level of privacy most homeowners achieve with this height.

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 (Residential Single-Family) 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 Board of Adjustment is routinely asked to consider variances to the fence height restriction. In some cases, the requested fence height would create a significant change in the character of the neighborhood. In other cases, the requested fencing has been installed for years. In this case, the fence is hidden from public view between properties with an elevation difference.

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

The requested variance would provide a similar level of privacy between abutting rear yards of identical elevation. This is the typical property-related hardship that warrants consideration for a variance. It is not self-imposed or financial in nature.

Alternatives to Applicant's Request

The alternative to the applicant's request is to reduce the height of the fence to 6-feet, consistent with the allowed maximum height for side and rear yard perimeter fencing.

Staff Recommendation

Staff recommends **approval of A-12-097**, based on the following findings:

1. The property is topographically lower than the neighboring property by approximately 12 inches.
2. The additional fence height is not visible from the public right of way.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Photos

Attachment 1 Notification Plan



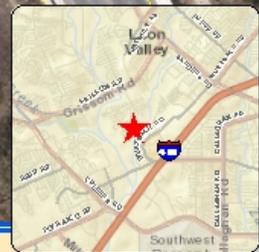
Area is in Airport Hazard Overlay District

Board of Adjustment

Notification Plan for
Case No A-12-097



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



Development Services Department
City of San Antonio
(202)200

Attachment 2
Plot Plan



Board of Adjustment

Plot Plan for
Case No A-12-097



▲▲▲▲ Fence/Lattice



Council District 6

4115 Timberhill Dr.

Development Services Department
City of San Antonio
29th October 2012

**Attachment 3
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-098
Date: October 29, 2012
Applicant: Color Printing & Sign
Owner: San Antonio Independent School District
Location: 3000 Tampico Street
Legal Description: Lot 45, Block 9, NCB 7375
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests 1) a 4-foot variance from the 8-foot maximum sign height in a residential district to allow two 12-foot tall free-standing signs and 2) a 12 square-foot variance from the 36 square-foot maximum sign area to allow a 48 square foot free-standing digital sign for a school in a residential district.

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 11, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 12, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on October 25, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is the current site of the Rhodes Middle School, a technology and media focused charter school. The campus was established in this location in 1946, during the same time period the surrounding neighborhood was under development. The site is approximately 15 acres in size and has frontage on three separate streets. The school has two existing signs, both of which are being refurbished. The smaller sign is on the 21st Street frontage and remained virtually the same with a "face change". A non-conforming freestanding sign may be refaced, so long as the pole is structurally sound. The school's main sign is being changed to a digital message board which requires a new cabinet and therefore does not qualify as a continuation of a non-conforming sign. A variance will be

required to authorize the desired changes to the primary sign. As such, the school district decided to seek a variance for both signs. Each sign is 12-feet tall. The digital sign is 48 square feet in size and the smaller sign is 32 square feet. Signs on residentially zoned property are limited to 8-feet in height and 36 square feet in area.

The Board of Adjustment has previously considered similar requests for various schools this year. A sign code text amendment was adopted by the City Council in March 2012 which authorized digital display provisions for churches, schools and community recreation centers in neighborhoods. The allowed height however was not changed with that text amendment, but has recently been identified as a concern.

The applicant is asking for an additional 4 feet to allow the sign to be 12 feet tall. The applicant asserts that the additional height is needed to protect the sign from vandalism and mischief. In addition, the applicant states that the visibility will be severely reduced at the lower height. Without the requested variance, the lowest portion of the sign, the digital portion, would only be slightly above 2 feet from ground level.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Airport Hazard Overlay	Middle School

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Airport Hazard	Single-family Residential
South	“R-4 AHOD” Residential Airport Hazard	Single-family Residential
East	“R-4 AHOD” Residential Airport Hazard	Single-family Residential
West	“R-4 AHOD” Residential Airport Hazard	Multi-family Residential

Comprehensive Plan Consistency/Neighborhood Association

The property is within the West/Southwest Sector planning area, but is not located within a neighborhood association registered with the City.

Criteria for Review

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

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

According to the submitted application and discussions with the applicant, the variance is necessary because strict enforcement prohibits the school district from safely and confidently constructing the sign. The school population of teenagers, associated with the specific location, increases the chances that the sign will be harmed, perhaps even unintended harm by a prank. In addition, the increase in height is necessary to improve the visibility of the sign. Parents have come to rely on these types of school signs to inform and remind them about school pictures, school holidays, early dismissals and parent/teacher conferences.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*

A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*

The applicant asserts that similar variances were approved for other schools during this past year, each wanting higher than the 8-foot limitation and each with the same concern about vandalism. The frequency of this type of inquiry and application is indicative of a common need rather than a special privilege.

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

Granting the variance will not adversely impact the neighboring properties. The homes within the neighborhood have co-existed with the school since its inception. Property owners living around a school have a series of unique impacts created by a neighborhood school, such as the daily traffic congestion during the morning hour and the afternoon dismissal. The applicant asserts that many nearby residents do not have internet access and rely on the school's sign for information about school and community events. In addition, the applicant has agreed to put the sign on an automatic timer so that it is dark after hours.

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

The decided legislative purpose of the adopted sign regulations is to limit signs in residential neighborhoods to 8-feet in height. The legislative body also limits the list of non-residential uses permitted in residential zones to day care centers, schools, churches, recreation centers, and some types of care facilities. Digital displays are permitted for these uses with design limitations to protect the neighborhood from excessive light. In specific cases, relief from the height provision may be warranted.

Alternative to Applicant's Request

The applicant can re-face the main sign and retain its non-conforming rights for the additional height.

Staff Recommendation

Staff recommends **approval of A-12-098** based on the following findings of fact:

1. The potential for vandalism of the sign constitutes an unnecessary hardship;
2. The neighboring property owners have expressed support for the variance;
3. The digital display will be designed to mitigate potential negative impacts to surrounding residential uses and installed with an automatic timer to discontinue messaging at night.

Attachments

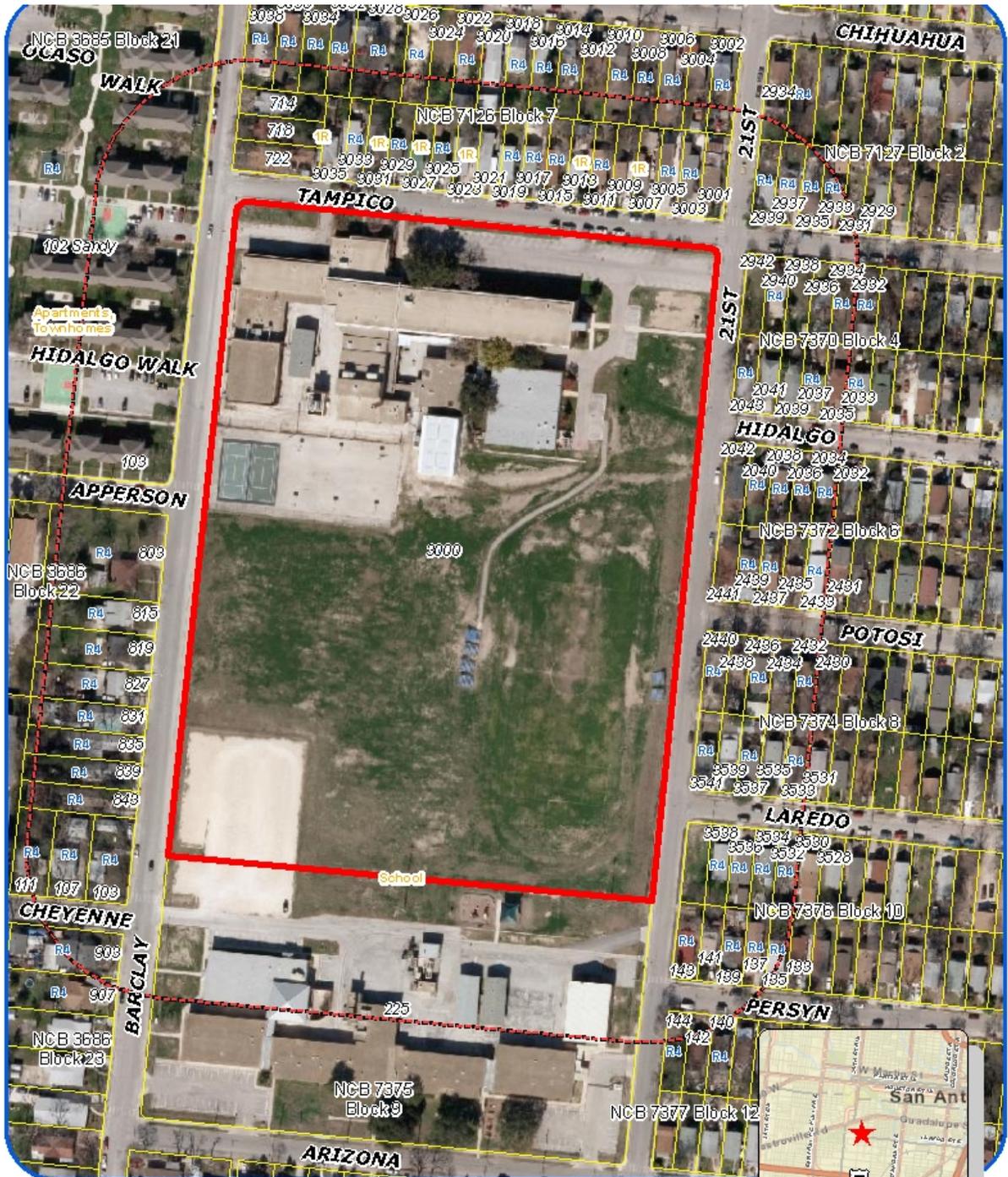
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Proposed Signs

Attachment 4 – Site Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

Board of Adjustment

Notification Plan for
Case No A-12-098



- San Antonio City Limits
- Subject Property
- Notification Boundary
- Consolidated Districts



Development Services Department
City of San Antonio
(02292012)

**Attachment 2
Plot Plan**



Variance Request:
a 4-foot variance from the maximum permitted height of 8 feet
to allow two signs 12-feet in height

Board of Adjustment

**Plot Plan for
Case No A-12-098**



● Sign Location

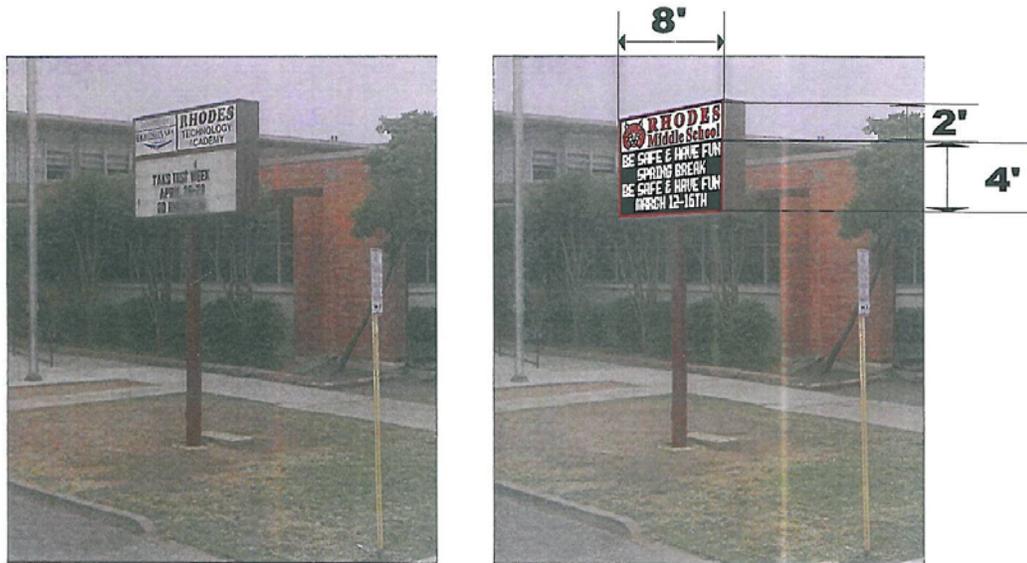


Council District 6

3000 Tampico

Development Services Department
City of San Antonio
29th October 2012

Attachment 3 Sign Elevations



**Attachment 4
Site Photos**

