

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

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

**Monday, October 5, 2009**  
**1:00 PM**

**BOARD OF ADJUSTMENT MEMBERS**

Liz Victor – District 1	Roland Briones – District 6
Edward Hardemon – District 2	Mary Rogers – District 7
Helen Dutmer – District 3	Andrew Ozuna – District 8
George Britton, Jr. – District 4	Mike Villyard – District 9
Vacant – District 5	Gene Camargo – District Mayor
Michael Gallagher – District 10	
Chairman	
Maria Cruz	Mimi Moffat
Henry Rodriguez	Pete Vallone
Rollette Schreckenghost	Narciso Cano

1. 1:00 PM – Public Hearing Call to Order.
2. Roll Call.
3. Pledges of Allegiance.
4. **CASE NO. A-09-085:** The request of Mayo Galindo, for an appeal of the decision of the Planning and Development Services Director to revoke the Certificate of Occupancy (No. 1540521) for A-Z Food Mart, 4003 East Southcross Boulevard.
5. **CASE NO. A-09-090:** The request of Comet Signs, for a 7-foot variance from the requirement that freestanding signs exceeding 25 feet in height along streets classified “Arterial Type A” be set back a minimum of 10 feet from the street right-of-way, in order to keep an existing freestanding sign 3 feet from the street right-of-way, 8523 Blanco Road.
6. **CASE NO. A-09-092:** The request of George Vaughn, for **1)** a 3-foot variance from the requirement that solid fences in front yards not exceed 3 feet in height, in order to erect a 6-foot tall solid fence in the front yard, and **2)** a 2-foot variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to erect a 6-foot tall predominantly open front-yard fence, 325 West Lynwood.

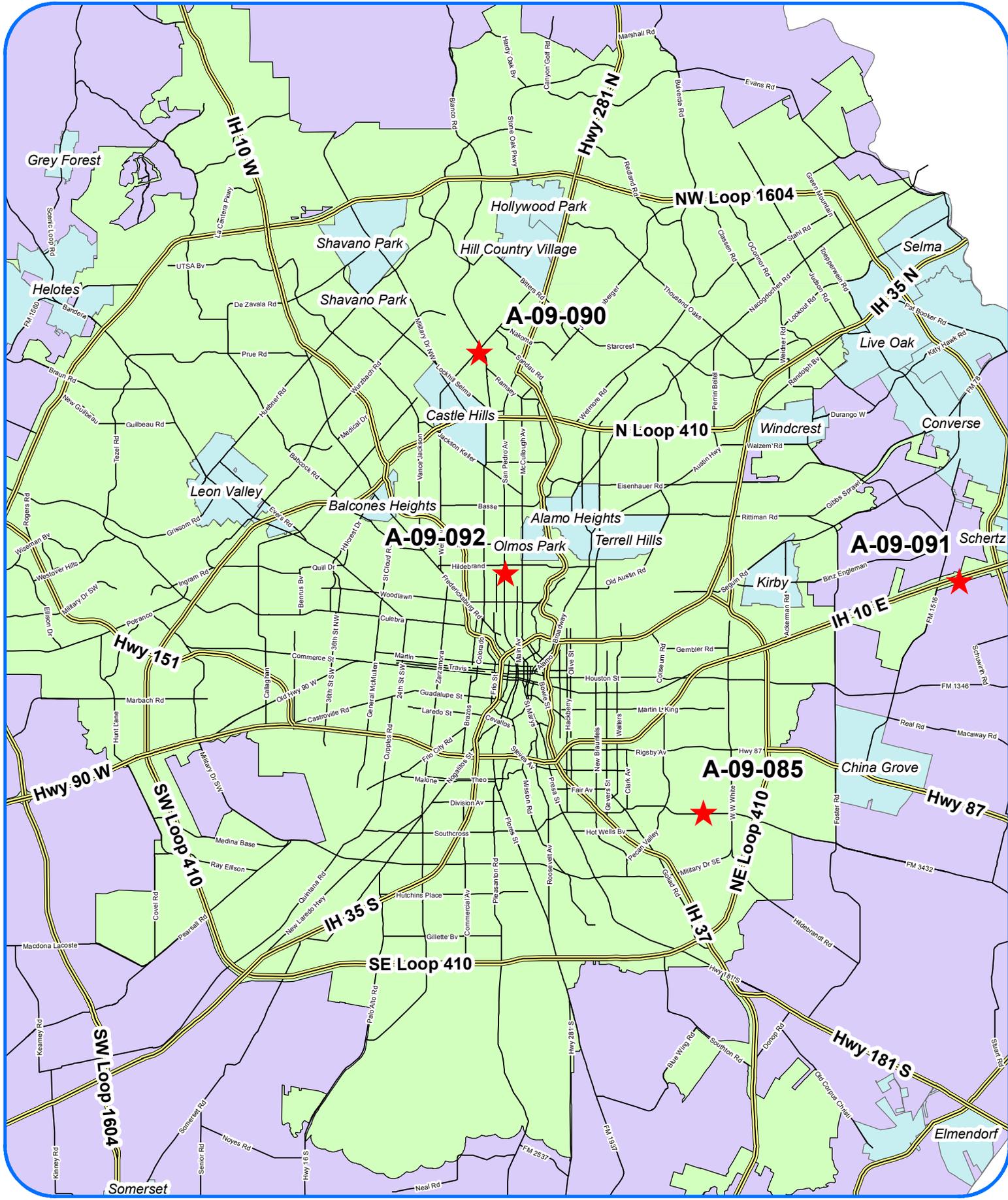
7. Consideration of **Sign Master Plan No. 09-004**, Camelot Center, located at Walzem Road and Midcrown.
8. Briefing on a proposed Unified Development Code amendment related to notification procedures.
9. Approval of the minutes from the regular meeting on September 21, 2009.
10. Executive Session: consultation on attorney-client matters regarding Babylon Club LLC d/b/a Club Babylon v. Board of Adjustment for the City of San Antonio, as well as, any of the above agenda items.
11. **Adjournment**

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

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

**ACCESSIBILITY STATEMENT**

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



# Board of Adjustment

Subject Property Locations  
Cases for October 5, 2009



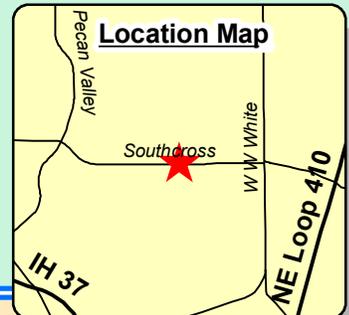


**Board of Adjustment**  
**Notification Plan for**  
**Case A-09-085**



**Legend**

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 100'
- Council District 3





# City of San Antonio

## Planning & Development Services Department

### Staff Report

To: Board of Adjustment  
Case No.: A-09-085  
Date: October 5, 2009  
Applicant: Mayo Galindo  
Owner: Sarosh Management, LLC  
Location: 4003 East Southcross Boulevard  
Legal Description: Lot 34, Block 4, NCB 13575  
Zoning: "C-2" Commercial District  
Subject: Appeal  
Prepared By: Mike Farber, Planner

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#### **Summary**

The applicant is appealing of the decision of the Planning and Development Services Director to revoke the Certificate of Occupancy (No. 1540521) for A-Z Food Mart, per Section 406 of the Unified Development Code.

#### **Procedural Requirements**

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on September 3. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on September 4. Additionally, notice of this meeting was posted at city hall and on the city's internet website on September 18, in accordance with Section 551.043(a) of the Texas Government Code.

#### **Project Description**

The applicant is appealing the decision of the Planning and Development Services Director to revoke the Certificate of Occupancy (herein referred to as CofO) for A-Z Food Mart as described above. On April 30, 2009, The Planning and Development Services Department (herein referred to as PDSD) issued a CofO for a convenience store with the sale of alcoholic beverages for the property at 4003 East Southcross. The applicant had already filled out the necessary Texas Alcoholic Beverage Commission (TABC) paperwork in order to be granted permission by the State to sell alcohol at the convenience store.

However, on August 12, 2009, a letter was issued to the owner that stated that the CofO had been issued in error due to the fact that the property housing the convenience store sits within three-hundred (300) feet of a property occupied by a public school. According to Title 4, Chapter 109, Subchapter B, Sec. 109.33 (3)(b)(1) of the Texas Alcoholic Beverage Code, sales of alcoholic beverages by a dealer whose place of business is within 300 feet of a public or private school as measured in a direct line from the property line of the public or private school to the property line of the place of business is prohibited. The measurement that was taken by the Investigations Division of the PDSO confirms that the distance between the nearest property line of the A-Z Food Mart to the nearest property line of the public school to the south is approximately ninety (90) feet way. The applicant maintains that the distance is at least 300 feet, and is appealing the decision to revoke the CofO for the business on these grounds.

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

North	C-3R	Retail Center
South	MF-33, C-1	Elementary School, Vacant
East	C-3R	Retail Center
West	C-3	Medical Supply Store

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

The subject property is not located within the boundaries of a Neighborhood/Community Plan. The property is located within the boundaries of the Pecan Valley Neighborhood Association. The Pecan Valley Neighborhood Association has indicated that the Association is in support of the Director's decision to revoke the Certificate of Occupancy for the A-Z Food Mart.

### **Criteria for Review**

According to Section 211.009 (a)(1) of the Texas Local Government Code, The Board of Adjustment may hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this subchapter or an ordinance adopted under this subchapter.

*The applicant has not provided any documentation to support the assertion that the Director made an error in the interpretation of the code. The code is clear that the nearest lot line of the property on which this type of business is located shall not be within 300 feet of a school. The applicant has remedies available to them, and of which they are aware, which includes a variance request to City Council waiving the distance requirement.*

### **Staff Recommendation**

According to section 406 of the Unified Development Code and Section 110.4 of the International Building Code, the Director is authorized to suspend or revoke a permit due to a violation of any ordinance or regulation and/or where the permit is issued in error. The A-Z Food Mart has been operating in violation of the aforementioned section of the Texas Alcoholic Beverage Code in that the nearest property line for the business sits less than three-hundred (300) feet from the property line of a public school. That being the case, the sale of alcoholic beverages should not be allowed at the A-Z Food Mart.

Staff recommends that the Board uphold the Director's recommendation and revoke the certificate of occupancy of the A-Z Food Mart.

**Attachments**

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Proposed Site Plan

Attachment 4 – Certificate of Occupancy

**Club View**

Existing Building  
A-Z Food Mart

**NCB 13575  
Block 4  
Lot 34**

Distance between  
School Property Line &  
Convenience Store property line is  
Approximately 90'

Property Line

***E Southcross Blvd***

School  
Property Line

**Board of Adjustment**  
Plot Plan for  
**Case A-09-085**



**Legend**

Scale: 1" approx. = 50'  
Council District 3

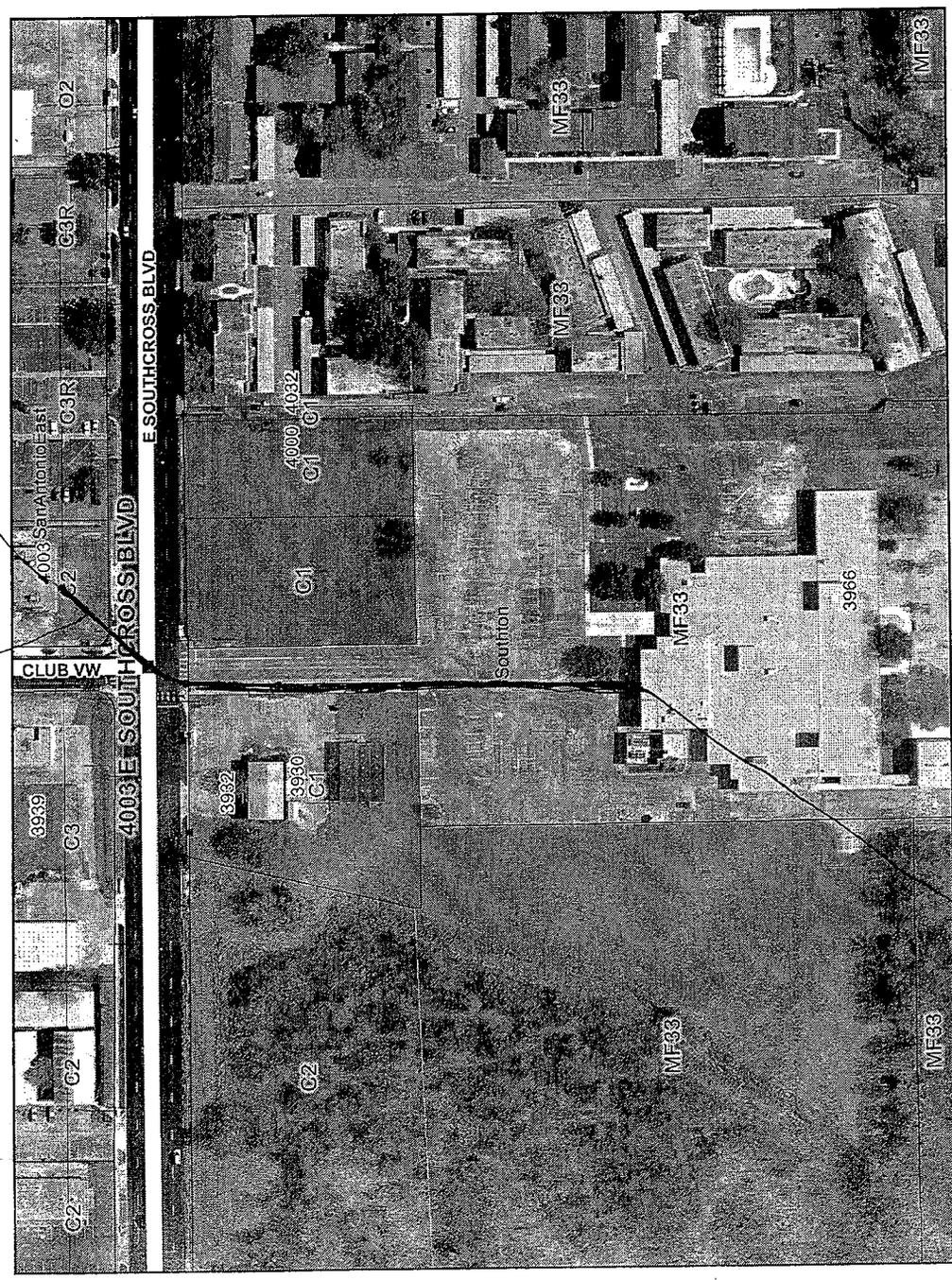
**4003 E Southcross Blvd**

Planning and Development Services Dept  
City of San Antonio  
(08/27/2009 - P. Trinkle)

THIS IS WHERE THE MEASUREMENTS SHOULD HAVE BEEN MADE.

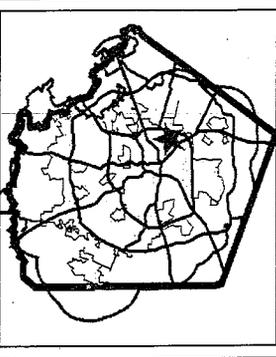
### Internet Mapping Framework

*Flors*



Map center: 2154380, 13683902

This map is a user generated static output from an internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.



### Legend

- Parcels
- Lakes
- Military Bases
- San Antonio City Limits
- Incorporated Towns
- Bexar County
- Bexar Streets
- Parcel Addresses
- Zoning

- B2NA
- C1
- C2
- C2NA
- C3
- C3NA
- C3R
- D
- I1
- I2
- L
- MF25
- MF33
- MF40
- NC
- NP-10
- NP-15
- NP-8
- O1
- O2
- OCL
- R20
- R4
- R5
- R6



Scale: 1:2,173

*Flors Door*

NO. 1540521

DATE: 04/30/2009

CITY OF SAN ANTONIO, TEXAS  
DEVELOPMENT SERVICES DEPARTMENT

**CERTIFICATE OF OCCUPANCY**

THIS IS TO CERTIFY that the building located at:

Address of Location 4003 E SOUTHCROSS

Lot: 34

Block: 4

NCB: 13575

has been inspected and the following occupancy thereof is hereby authorized:

Occupant Group: M

Occupant Load: 45

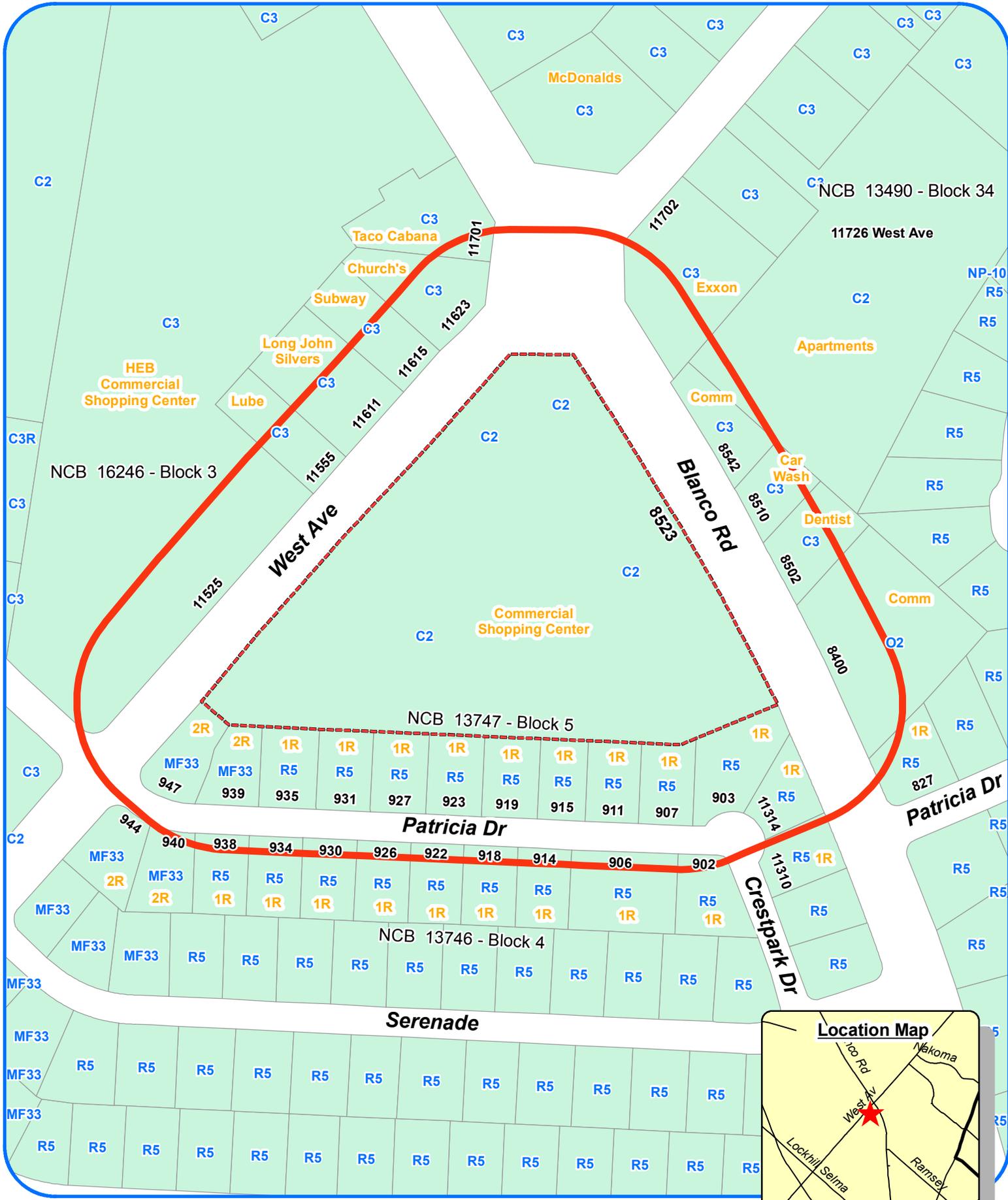
Occupant: ZRS MANAGEMENT LLC

Description of Business: CONVENIENCE STORE W/ALCOHOLIC BEVERAGES SOLD

DBA Name: A-Z FOOD MART



DIRECTOR OF DEVELOPMENT SERVICES



**Board of Adjustment**  
**Notification Plan for**  
**Case A-09-090**



**Legend**

- Subject Property
- 200' Notification Boundary
- Scale: 1" approx. = 200'
- Council District 9



## City of San Antonio Planning & Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-09-090  
Date: October 5, 2009  
Applicant: Comet Signs  
Owner: Weingarten Realty Investors  
Location: 8523 Blanco Road  
Legal Description: Lot 16, Block 5, NCB 13747  
Zoning: "C-2" Commercial District  
Subject: Sign Variance  
Prepared By: Jacob Floyd, Planner

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### **Summary**

The applicant is requesting a 7-foot variance from the requirement that signs exceeding 25 feet in height along streets classified "Arterial Type A" be setback a minimum of 10 feet from the street rights-of-way, to keep an existing sign 3 feet from the right-of-way.

### **Procedural Requirements**

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on September 17. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on September 18. Additionally, notice of this meeting was posted at city hall and on the city's internet website on October 2, in accordance with Section 551.043(a) of the Texas Government Code.

### **Project Description**

The purpose of the requested variance is to keep an existing multi-tenant sign as it is currently positioned, 3 feet from the right-of-way of West Avenue. The applicant states that the current position is necessary to maintain the traffic flow within the property and to avoid conflict with parking areas and the fire lane.

The applicant was denied permits for work on this sign due to the encroachment into the 10 foot setback. The work proposed for this sign includes the modification of the sign cabinets

to reduce the sign face area from 523 square feet to 498 square feet in area and lowering the overall height of the sign from 60 feet to 50 feet.

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

North	C-3	Commercial, Retail Strip Center
South	R-5, MF-33	Single-Family Residential, Duplex
East	C-3, O-2	Commercial, Office
West	C-3, C-2	Commercial, Retail Strip Center

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

The subject property is not located within the boundaries of a neighborhood or community plan. The subject property is located within the Greater Harmony Hills Neighborhood Association. Staff has not received a response from the neighborhood association as of September 30.

### **Criteria for Review**

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

1. The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or

*It does not appear that the site possesses any unique features, in terms of the dimensions, landscaping or topography, which would prohibit the reasonable opportunity to provide adequate signage on the site.*

2. A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and

*Staff does not believe, nor has the applicant provided evidence to suggest, that the denial of the variance would cause the cessation of a legitimate, longstanding active commercial use of the property. The commercial use of the property will not be denied through the literal enforcement of the sign regulations.*

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 granting of the requested variance may provide the property a privilege not enjoyed by other similarly situated properties. Signs on similar properties would also be required to adhere to required setbacks and there are a number of signs on surrounding properties that meet or exceed the minimum specified setback.*

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

*It does not appear that the granting of the variance will have an adverse impact on the neighboring properties, as the neighboring properties are mostly commercial and the subject sign is not immediately adjacent to any residential uses.*

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

*Granting the requested variance may conflict with the stated purpose of this article to reduce visual confusion and visual clutter.*

### **Staff Recommendation**

Staff recommends that **A-09-090, 8523 Blanco Road, be denied** because the findings of fact have not been satisfied as presented above. Alternative placements of the sign are possible that would conform to the requirements of this article without denying the property the ability to reasonably identify itself and its tenants through on-premise signage.

### **Attachments**

Attachment 1 – Location Map

Attachment 2 – Plot Plan

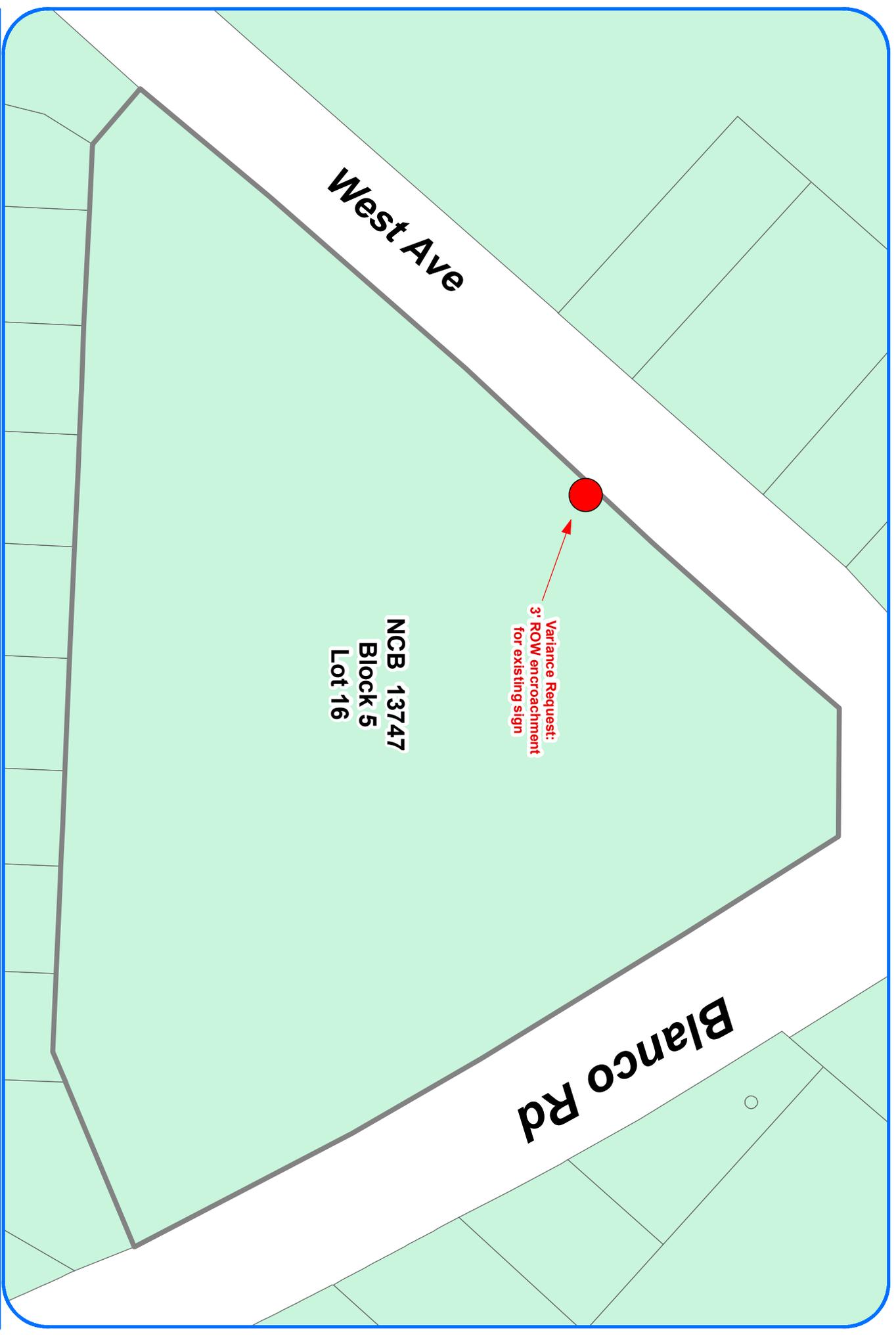
Attachment 3 – Applicant's Submitted Drawings

**Board of Adjustment**  
Plot Plan for  
**Case A-09-090**



**Legend**  
 Sign Location  
Scale: 1" approx. = 100'  
Council District 9

**8523 Blanco Rd**  
Planning and Development Services Dept  
City of San Antonio  
(979) 420-0909 - P. Trinkle



**Weingarten Realty**

client: Weingarten Realty

location: West Avenue  
San Antonio, TX

sheet 1 of 1

salesperson: Carter Thurmond

date: 8-10-09

scale: noted

computer file (name): CarterWeingartenRealty6

drawn by: JH

approved  
 approved as noted  
 revise & resubmit

voltage: 120 V  
 amperes: 80 amp circuits required

**FINAL**

www.cometsigns.com

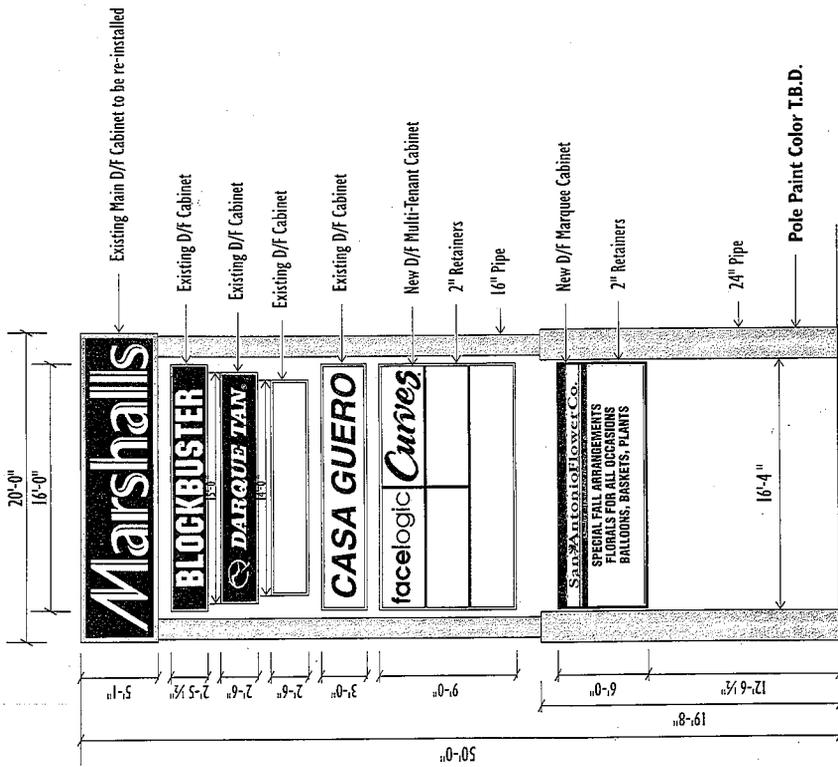
**Comet Signs**

235 West Turpo  
SAN ANTONIO, TX 78216

ph: (210) 341-7244  
 fax: (210) 341-7279



EXISTING N.T.S.



Scale: 1/8" = 1'-0"

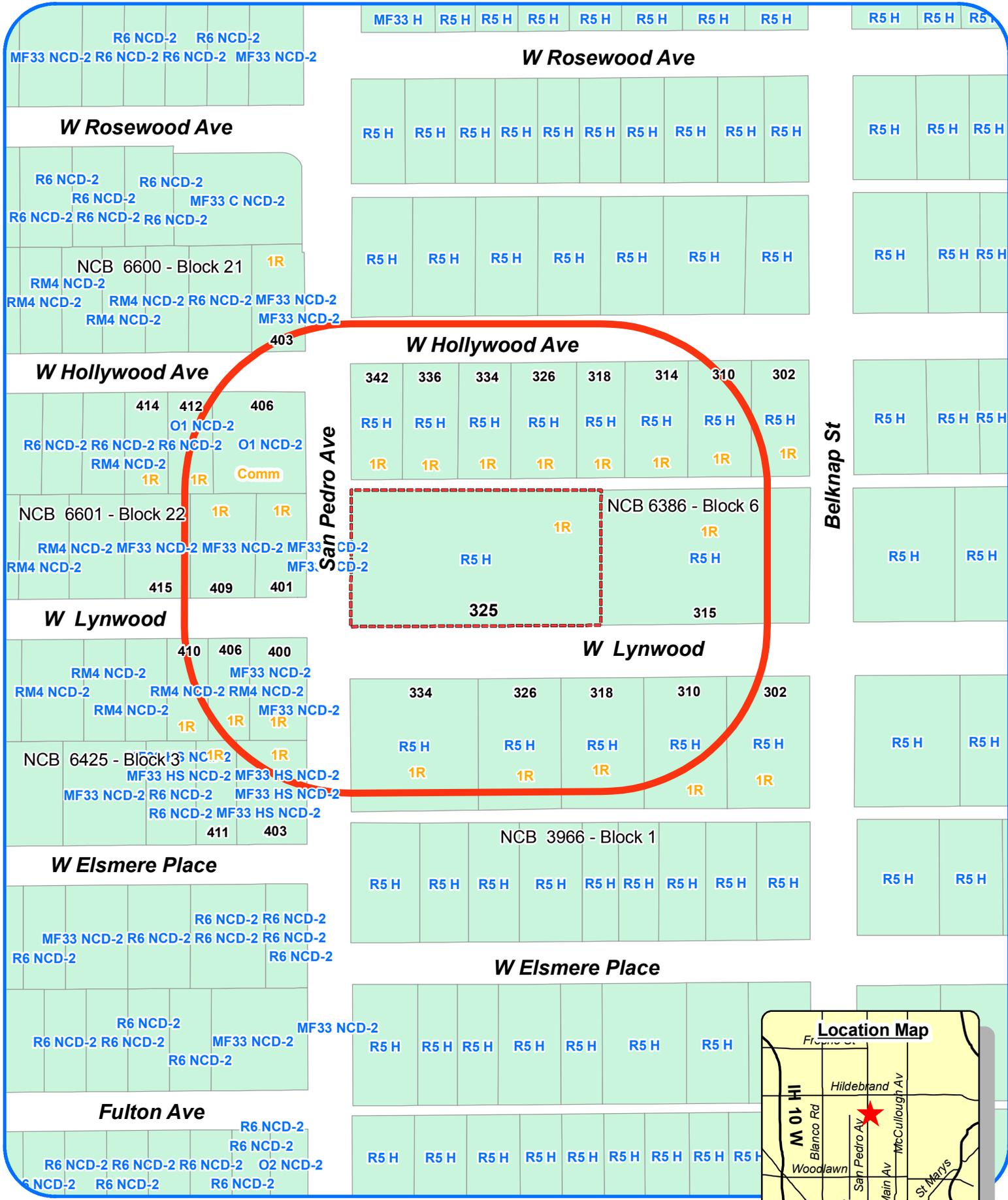
**! NOTE: CLIENT TO PROVIDE FINAL COLOR SPECIFICATIONS PRIOR TO SIGN FABRICATION.**

**A Sign Elevation**

**West Avenue Sign Proposal**

Remove existing main id D/F cabinet, Blockbuster, Darque Tan, Casa Quero, Blank Cabinet, and set aside for reuse  
 Cut existing pipe to 50' O.A.H, Reinstall Main Cabinet  
 Remove and discard existing D/F flex face multi-tenant cabinet  
 Manufacture and install new D/F Multi-Tenant Cabinet as shown.  
 Alum. Construction with 2" retainers (color T.B.D.) White lexan faces with applied graphics ( Curves, Facelagic - top two panels)  
 Internally illuminated by h-o lamps.  
 Manufacture and install (1) D/F Marquee Cabinet sign. (S.A. Flower Company). Alum. Construction with 2" retainers (color T.B.D.)  
 White lexan faces with applied graphics (T.B.D.). Install track for four(4) lines of 8" changeable copy internally illuminated by H.O Lamps.

LEGEND	
1/4" = 1'00"	Property Lines
1/8" = 1'00"	Right of Way
1/16" = 1'00"	Utility Lines
1/32" = 1'00"	Other
1/64" = 1'00"	Other
1/128" = 1'00"	Other
1/256" = 1'00"	Other
1/512" = 1'00"	Other
1/1024" = 1'00"	Other
1/2048" = 1'00"	Other
1/4096" = 1'00"	Other
1/8192" = 1'00"	Other
1/16384" = 1'00"	Other
1/32768" = 1'00"	Other
1/65536" = 1'00"	Other
1/131072" = 1'00"	Other
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1/524288" = 1'00"	Other
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1/8388608" = 1'00"	Other
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**Board of Adjustment**  
**Notification Plan for**  
**Case A-09-092**



**Legend**  
 Subject Property -----  
 200' Notification Boundary —————  
 Scale: 1" approx. = 150'  
 Council District 1





# City of San Antonio

## Planning & Development Services Department

### Staff Report

To: Board of Adjustment  
Case No.: A-09-092  
Date: October 5, 2009  
Applicant: George Vaughan  
Owner: Mike Gibbs  
Location: 325 West Lynwood  
Legal Description: Lots 1 through 12, Block 6, NCB 6386  
Zoning: "R-5 H" Residential Single-Family Monte Vista Historic District  
Subject: Front-Yard Fence Height Variance  
Prepared By: Mike Farber, Planner

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#### **Summary**

The applicant requests **1)** a 3-foot variance from the requirement that solid fences in front yards not exceed 3 feet in height, in order to erect a 6-foot tall solid fence in the front yard and **2)** a 2 foot variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to erect a 6-foot tall predominantly open front yard fence.

#### **Procedural Requirements**

The request was publicly noticed in accordance with Section 403 of the Unified Development Code (UDC). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on September 17. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation on September 18. Additionally, notice of this meeting was posted at city hall and on the city's internet website on October 2, in accordance with Section 551.043(a) of the Texas Government Code.

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

North	R-5 H	Residential Single-Family Monte Vista Historic District;
South	R-5 H	Residential Single-Family Monte Vista Historic District
East	R-5 H	Residential Single-Family Monte Vista Historic District
West	MF-33 NCD-2	Multi Family Alta Vista Neighborhood Conservation District

## **Project Description**

The applicant is requesting variances from the front yard fence height standards in order to erect a 6-foot tall fence that would be partially predominately open and solid screen. The applicant argues that a fence built to adhere to the city's regulations in terms of fence height would detract from the architectural significance of the property and would further allow nuisances, such as noise and security, to go unaddressed.

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

The subject property is located in the Monte Vista Community Plan. The property is also located within the boundaries of the Monte Vista Historical Association. As of October 1, staff has not received a reply from the association.

## **Criteria for Review**

According to Section 482(e) of the Unified Development Code, 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:

*It does not appear that the granting of the variances will be contrary to the public interest. It does not appear that the proposed fence would create a visual obstruction to the neighboring properties.*

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

*It does not appear that the literal enforcement of the ordinance would result in unnecessary hardship. The property does not possess any unique topographical characteristics that would necessitate a fence of excessive height.*

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

*It does not appear that the granting of the variances would observe the spirit of the ordinance. The applicant will not be denied the reasonable use of the property without the granting of these variances.*

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 granting of these variances would not authorize a use other than those specifically permitted in "R-5" zoning district.*

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

*It does not appear that the granting of these variances would injure the appropriate use of adjacent conforming property. However, the granting of these variances may alter the character of the district in that front yard fences are not a common feature of the surrounding 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.

*There do not appear to be any unique circumstances existing on the property which would result in undue hardship through the literal enforcement of the ordinance. A denial of the request would not cause a cessation of the residential use for the property owner. The applicant's rationale of greater security and noise are not sufficient to warrant a variance. The applicant has not provided any evidence to suggest that the additional fence height would serve to lower the noise level experienced by the property owners. Creative vegetative plantings along the front and side property lines may serve a similar purpose and would not require a variance.*

### **Staff Recommendation**

Staff recommends that **A-09-092, be denied** because the findings of fact have not been satisfied as presented above. The subject property does not appear to have any unique characteristics that would create an undue hardship due to literal enforcement of the front yard fence height standards. Furthermore, the applicant has not demonstrated that a physical or topographic hardship exists which would warrant the existence of the proposed fence.

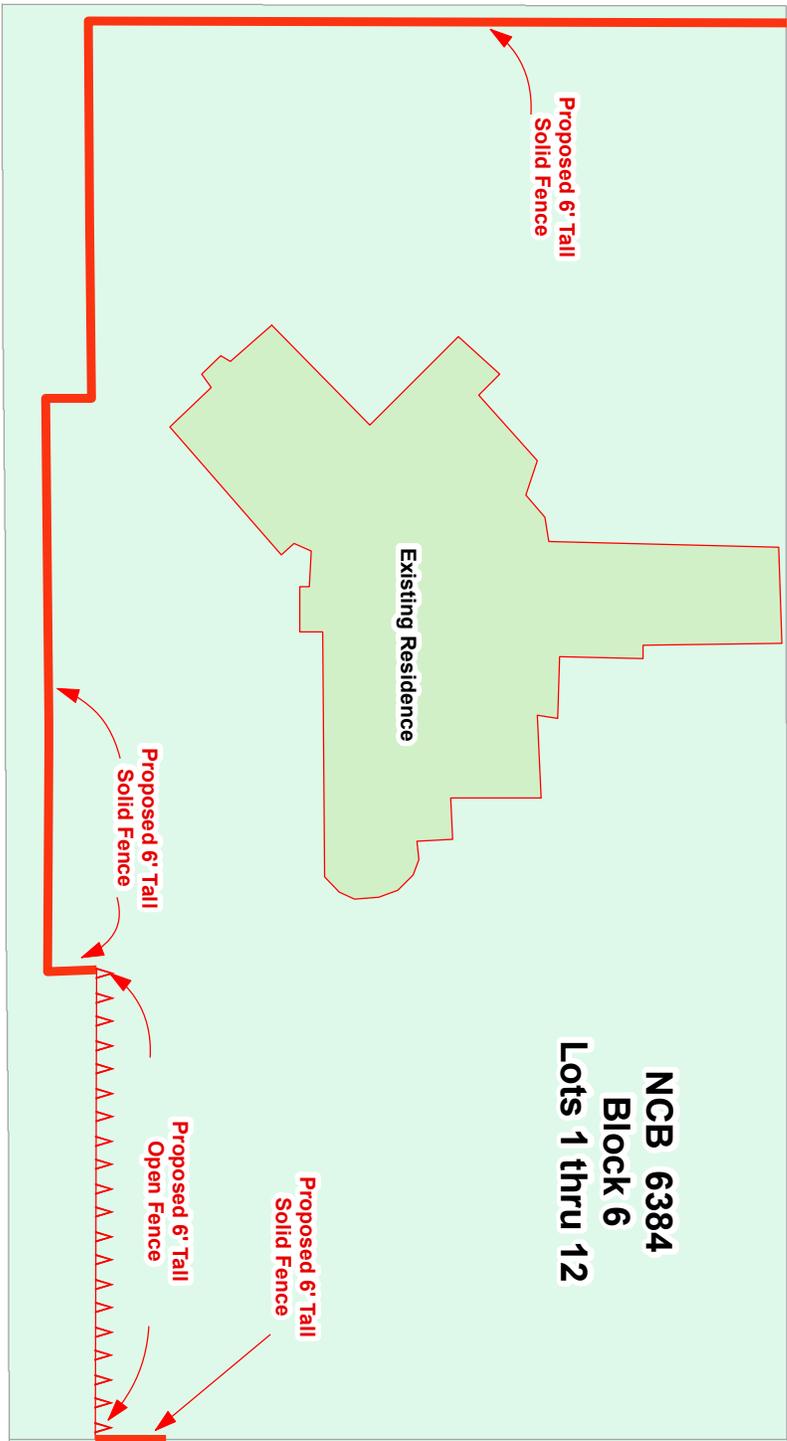
### **Attachments**

Attachment 1 – Location Map

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Proposed Site Plan

# San Pedro Ave



# W.Lynwood

## Board of Adjustment

Plot Plan for  
Case A-09-092



### Legend

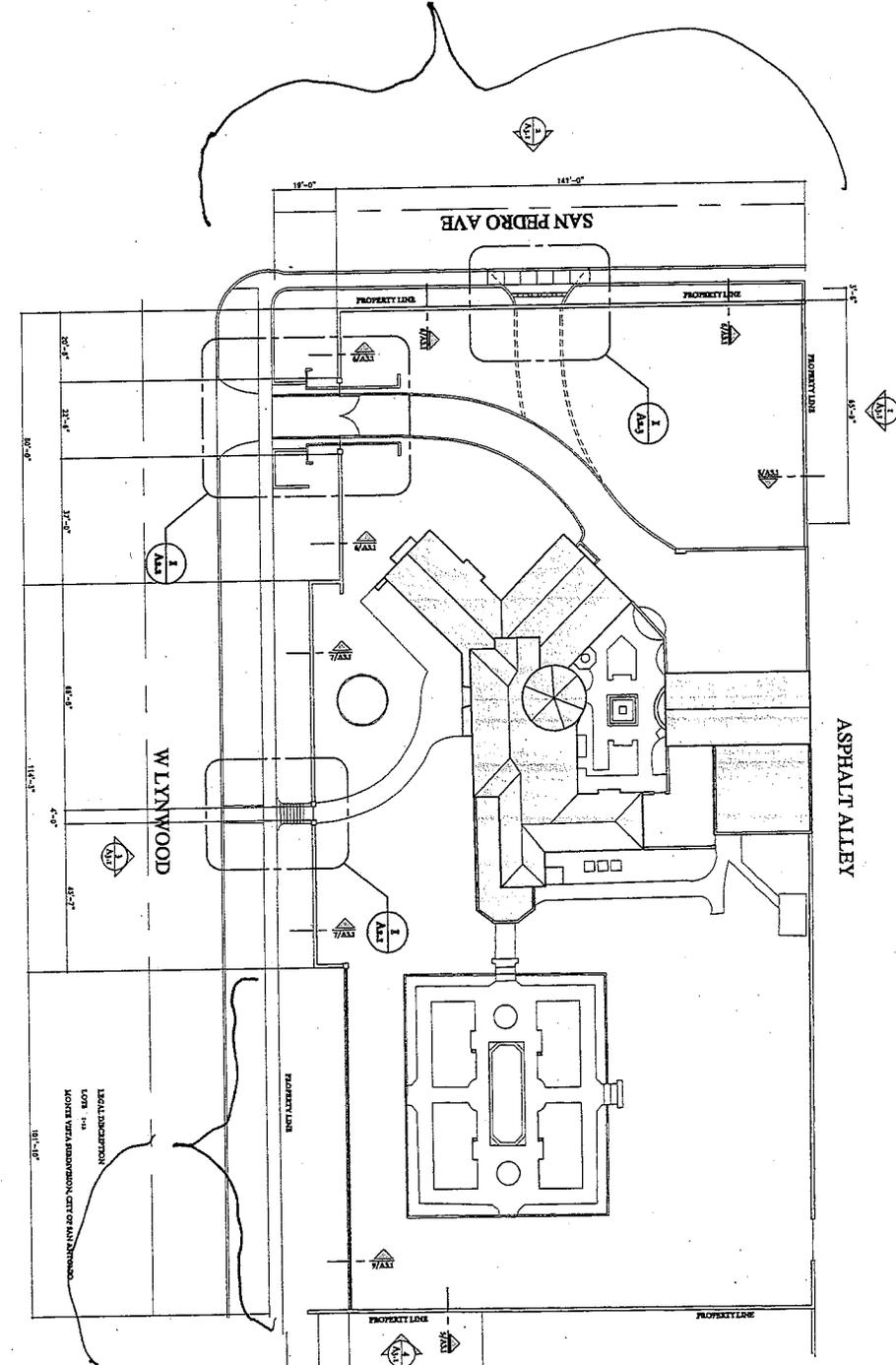
Scale: 1" approx. = 40'  
Council District 1

325 W. Lynwood

Planning and Development Services Dept  
City of San Antonio  
(09/14/2009 - P. Trinke)

6' Solid Fence

6' Solid Fence



6' Open Fence

6' Solid Fence

SITE PLAN  
SCALE 1/8"=1'-0"

LEGAL DESCRIPTION  
FROM THE  
KORNER WITH REMOVAL, CITY OF SAN ANTONIO.