

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, September 17, 2012

1:00 P.M.

Cliff Morton Development and Business Services Center, Board Room

Anytime during the public hearing, the Board of Adjustment may meet in Executive Session to consult on attorney-client matters (real estate, litigation, personnel and security matters), as well as to discuss any of the agenda items. This notice was posted on the 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. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-12-086:** The request of Veronica Gonzalez, Oak Meadow Homeowners Association, for a 2-foot variance from the 6-foot maximum fence height requirement to allow a privacy fence 8 feet in height, along the rear property lines of 2703, 2707, 2711, 2715 & 2719 Bramblebush Drive. (Council District 8)
5. **A-12-087:** The request of Kaufman & Killen, Inc. for **1)** a variance from a requirement that all dwelling units shall provide an entry from a primary street through a required transition space to allow unit entrances from inside the building and inside the site **2)** a 170-foot variance from the maximum building width of 80-feet to allow eight buildings no longer than 250-feet in width and **3)** a 14-foot variance from the maximum 40-foot building height to allow five buildings up to 54-feet in height, on a 10.2 acre parcel also known as 1130, 1202, 1234 & 1250 E. Mulberry Avenue. (Council District 2)
6. Approval of the minutes – August 27, 2012
7. Discussion of 2013 Public Hearing Calendar
8. 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).

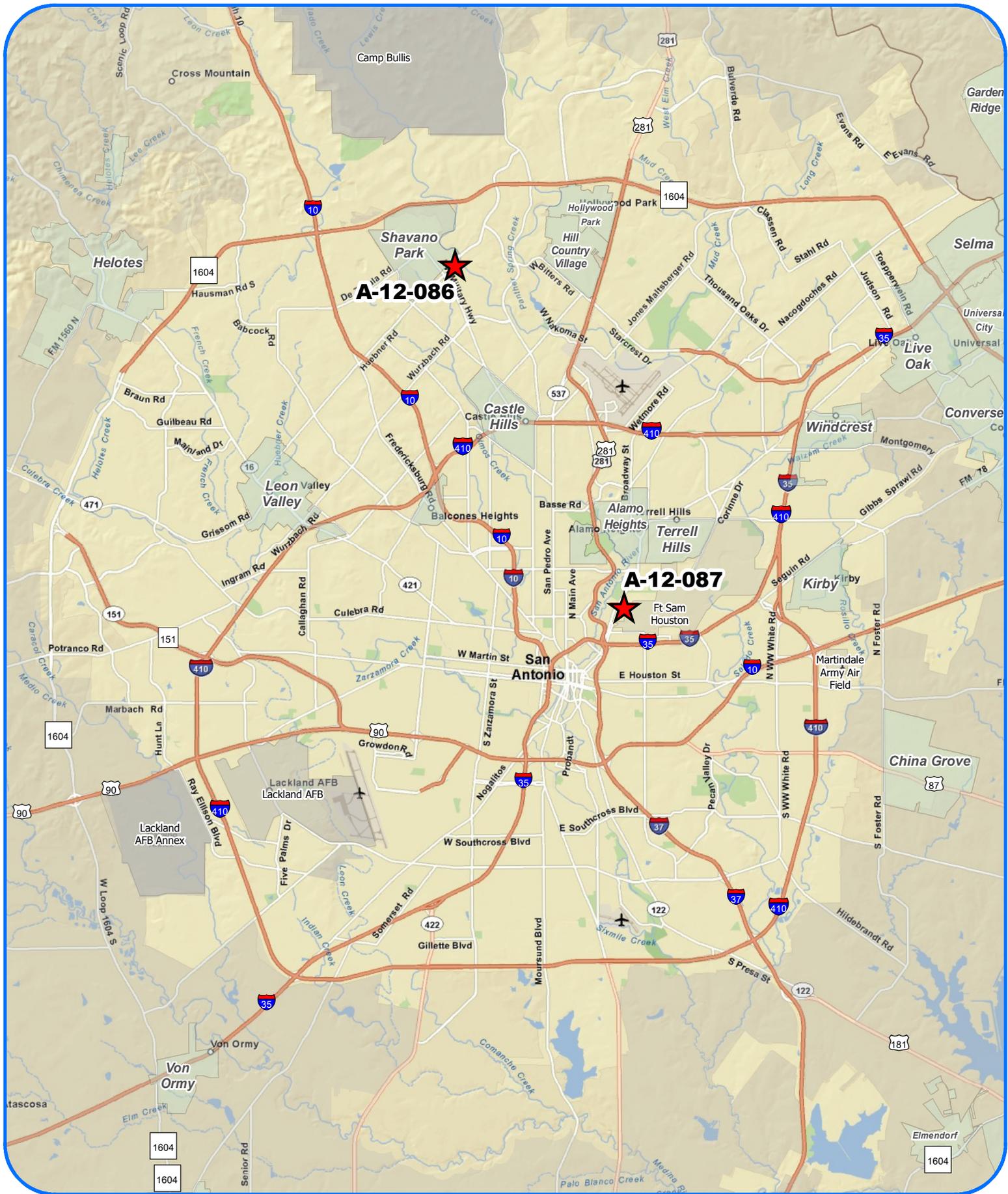
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210)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

Board of Adjustment Membership

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Board of Adjustment
Subject Property Locations
Cases for 17th September 2012





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-086
Date: September 17, 2012
Applicant: Oak Meadow Homeowner's Association - Veronica González, President
Owners: Robert L. Cooper; David and Lisa McBurnett; Eduardo Guajardo; Richard Adams; Jeffrey and Judy Joseph
Location: 2703, 2707, 2711, 2715, and 2719 Bramblebush Drive
Legal Description: Lots 1-5, Block 12, NCB 18023
Zoning: "R-6 ERZD AHOD MLOD" Residential Single-Family Edwards Recharge Zone Airport Hazard Overlay Military Lighting Overlay District

Request

A request for a 2-foot variance from the 6-foot maximum fence height requirement to allow a privacy fence 8 feet in height.

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 August 30, 2012. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 31, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on September 14, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The five subject properties are located along the perimeter of a multiple-lot residential subdivision. Each lot has primary frontage along Bramblebush Drive, and the lots are fairly uniform in size. The fence is proposed to be located along the rear property lines of each lot, for a total of approximately 425 linear feet of fencing. The five lots are adjacent to a commercially zoned (O-1) lot, which is currently developed with a medical office.

The adjacent lot, addressed as 15102 Huebner Road, is roughly triangular in shape, with the narrowest portion of the lot extending along Huebner Road behind 2707-2719 Bramblebush

Drive. The lot is so narrow in this portion that it is indistinguishable from the adjacent right-of-way, and it not useful for development. The developed portion of the lot, behind 2703 Bramblebush Drive, is developed without an adequate buffer, with parking abutting the residential lot.

Section 35-514(d)(2)B of the UDC contains a provision to allow privacy fencing up to eight feet in height along the side and rear lot lines of multiple-lot subdivisions which adjoin collector or arterial streets. Huebner Road is classified as a “Type A Primary Arterial.” This section, however, does not apply to the subject properties because of the intervening lot. The Oak Meadow Homeowner’s Association has completed construction of the fencing to the southeast of the subject lots to NW Military Highway where the subdivision directly adjoins Huebner Road.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
R-6 ERZD AHOD MLOD (Residential Single-Family)	Single-Family Residences

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	O-1 ERZD AHOD MLOD (Office)	Medical Office
South	R-6 ERZD AHOD MLOD (Residential Single-Family)	Single-Family Residences
East	R-6 ERZD AHOD MLOD (Residential Single-Family)	Single-Family Residences
West	R-6 ERZD AHOD MLOD (Residential Single-Family)	Single-Family Residences

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan and the San Antonio International Airport Vicinity Land Use Plan. 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:*

Fence height regulations are designed to promote orderly development, reduce visual distraction, and create a sense of community, especially in neighborhoods. In this case, the

UDC provides a mechanism to allow fences of the requested height along major street thoroughfares; this provision is in place to mitigate the negative effects of high traffic counts and speeds on these roadways. As stated above, the intervening lot between the subject properties and Huebner Road is exceptionally narrow, and, absent development, is indistinguishable from the right-of-way. As such, a 6-foot high fence may not be able to provide the same type of protection from the adverse effects of the major thoroughfare that a larger lot could provide. The portion of the intervening lot that is developed was developed without a buffer, and is a more intense land use; as such, an 8-foot fence would mitigate the adverse impact of commercial development on the adjacent residential property. Given these circumstances, the variance is not contrary to the public interest.

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

A literal enforcement of the ordinance would result in an unnecessary hardship to the property owners by not affording them the protections of the higher fence along the narrow intervening lot between them and the Huebner Road right-of-way. Additionally, not allowing the higher fence along the developed portion of the intervening lot will not provide an effective buffer for the subject residential property from the unbuffered higher intensity commercial use.

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 and substantial justice will be done by granting the variance because the UDC, in Sections 35-510 and 35-514(d)(2)B, provides protections for residential properties abutting major thoroughfares as well as residential properties abutting higher intensity uses. The request is materially the same as the intent of these sections of the ordinance due to the unique circumstances occurring as stated above.

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 ERZD AHOD MLOD" (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 appropriate use of adjacent conforming property or alter the essential character of the district; rather the variance will be mutually beneficial for both the property owners and the owners of the commercial property by providing a better buffer. Additionally, the character of the residential district will be maintained by allowing uniformity in the fence height along the rear of the subdivision.

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 on unique circumstances as stated above existing on both the subject properties and the adjacent lot to the north.

Alternatives to Applicant's Request

The alternative to the applicant's request is to maintain the existing 6-foot high fence which does not afford the subject properties with adequate protections from either the impacts of the adjacent major thoroughfare or the negative effects of the adjacent commercial development.

Staff Recommendation

Staff recommends **approval of A-12-086**, due to the following reasons:

1. There are special conditions that warrant the granting of the requested variance, namely the narrowness of the adjacent commercial lot and the fact that the lot was developed without a proper buffer.
2. The requested variance observes the spirit of the UDC by providing protections from the adverse effects of a major thoroughfare (Huebner Road) and the adjacent commercial development.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

**Attachment 1 (Continued)
Notification Plan**



Board of Adjustment
Notification Plan for
Case No A-12-086



Subject Property ———
200' Notification Boundary - - - - -
Council District 8 |

0 10 20 30 40 Feet

Development Services Department
City of San Antonio
(09/17/2012)

Attachment 2
Plot Plan



Board of Adjustment

Plot Plan for
Case No A-12-086



▲▲▲▲ 8ft Fence



Council District 8

2703 to 2719 Bramblebush

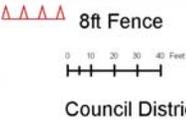
Development Services Department
City of San Antonio
17th September 2012

**Attachment 2 (Continued)
Plot Plan**



Variance Request:
A request for a 2-foot variance from the 6-foot maximum fence height requirement to allow a privacy fence 8 feet in height.

Board of Adjustment
 Plot Plan for
Case No A-12-086



Council District 8

2703 to 2719 Bramblebush

Development Services Department
 City of San Antonio
 17th September 2012



City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-12-087
Date: September 17, 2012
Applicant: Kaufman & Killen, Inc.
Owner: Brack Hill Investors, Inc.
Location: 1130, 1202, 1234 & 1250 E. Mulberry Avenue
Legal Description: Lots 5, 6 & 7 Block 3, NCB 9021 and Lots TRI 1, TRI 2, TRI3, P-100 & P101, Block 1, NCB 9019 and a 0.710 acre vacated portion of Oaktree Drive described in Ordinance 2012-06-21-0489
Zoning: "C-2 NCD-6 AHOD" Commercial, Neighborhood Conservation District-6, Airport Hazard Overlay District and "MF-33 NCD-6 AHOD" Multi-Family 33, Neighborhood Conservation District-6 Airport Hazard Overlay
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant requests **1)** a variance from a requirement that all dwelling units provide an entry from a primary street through a required transition space to allow unit entrances from inside the building and inside the site and **2)** a 170-foot variance from the maximum building width of 80-feet to allow eight buildings no longer than 250-feet in width and **3)** a 14-foot variance from the maximum 40-foot building height to allow five buildings up to 54-feet in height.

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. Notices were sent to property owners within two hundred (200) feet of the subject property on August 30, 2012. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 31, 2012. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on September 13, 2012, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a large 10.2 acre parcel, assembled by the current owners for the construction of a new multi-family housing complex. Existing apartment buildings have occupied the site since 1960, according to Bexar County Appraisal District. The apartment complex has become obsolete, since it has not been properly maintained and has numerous code compliance issues. A review of police department records shows 478 calls to the complex during 2011. The buildings will also require asbestos remediation prior to their demolition.

Replacing the existing complex with 283 new dwellings units in ten buildings will significantly improve the area. Many large heritage trees cover the site and the current site plan has been developed to preserve as many of these trees as possible. The property is also sloped with nearly 60-feet of grade change from the eastern edge to the western property line. These two property-related features were significant factors in site planning and design and will remain challenging as the site proceeds to platting and engineering.

The site is located within the boundaries of the Mahncke Park Neighborhood Conservation District, directly across the street from Fort Sam Houston. Though the existing apartment complex was addressed from Mulberry Avenue, this new project will instead focus its frontage on Brackenridge Avenue. As shown on the proposed site plan, there will be vehicular accesses from Mulberry and Tendick, but the main entrance will be on Brackenridge Avenue. On-street parking and individual unit entrances will also enhance this frontage.

The Mahncke Park Neighborhood Conservation District includes development standards and guidelines that address not only single-family residential uses, the dominant land use in the district, but multi-family residential uses as well. The goals of this district are stated in the commentary section of the Mahncke Park NCD and highlight the emphasis on the single family composition of the neighborhood.

- *The intent of this document is to promote those common predominant features of this neighborhood so that those features may be preserved and perhaps enhanced in future developments for future generations to enjoy.*
- *The open streetscape is predominant in the neighborhood with few structures between the street and the front face of the buildings. Fences in general unnaturally obscure the streetscape and are discouraged.*
- *The neighborhood hopes to maintain the scale and rhythm of the existing streetscape.*
- *The entry sequence and transition space is an imperative key to the front yard community space.*
- *The neighborhood presently accommodates comfortable pedestrian movements, and every effort should be made to promote this character.*
- *The predominant single-family structure is 35-feet in width. The scale of multi-family structures is limited to remain somewhat consistent with potentially adjacent single-family uses.*

These goals are implemented through specific regulations regarding front façade articulation, parking and garage placement, sidewalks and fencing, and entry and “transition space” details. The project design is satisfying many of these requirements, but requesting variances from three of these standards.

The first variance is from a requirement in the guidelines that all new dwelling units provide an entry from a primary street through a required transition space. Transition space is described as a component of the entry, such as a porch, stoop, alcove or nook. Many of the ground floor units will comply with this standard, but it would be impractical to require all units, especially those on the third and fourth floors, to enter from the street. In addition, the site is 500 feet wide between streets, requiring some of the building entrances to be internal to the site.

The next request is a variance from the maximum building width of 80 feet to allow longer buildings, with one as wide as 250-feet. Each of the proposed ten buildings is unique in their shape, with quite a variety of widths. A district standard requires articulation every 35-feet, which regardless of the overall width, each of the proposed buildings will satisfy. Articulation and horizontal offsets are strategies used by architects to reduce the visual impact of long buildings. The applicant asserts that the large, long buildings are also needed to cluster the density around the existing trees. The buildings' length is positioned along the street frontages and reinforces the pedestrian streetscape described in the conservation district guidelines.

	width	height
BLDG 1	164' x 70'	42'-4"
BLDG 2	150' x 238' x 75'	54'
BLDG 3	118' x 80'	54'
BLDG 4	250' x 250' x 75'	54'
BLDG 5	160' x 70'	42'-4"
BLDG 6	60' x 50'	31'-8"
BLDG 7	113' x 80'	54'
BLDG 8	165' x 70'	42'-4"
BLDG 9	112' x 80'	54'
BLDG 10	65' x 50'	31'-8"

The last variance is a 14-foot variance from the maximum building height of 40-feet. In an effort to address the slope on the site, the applicant is designing buildings that are 3 stories on the higher side and four stories on the lower side. This approach uses the building as a retaining wall and reduces site grading. This design will result in five buildings with single façade elevations as tall as 54-feet. However, the UDC provides for building height to be measured from the average finish grade around all four sides of a building, reducing the overall impact of this height. Four of the five taller facades are oriented toward Brackenridge Avenue, facing Fort Sam Houston. Several of the existing historic buildings on the Post are 3 ½ stories with similar massing. The other “split” building is in the northwest corner of the site where the grade slopes downward and there are several heritage trees targeted for preservation.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-2 NCD-6 AHOD” Commercial AND “MF-33 NCD-6 AHOD” Multi-Family 33, Neighborhood Conservation District-6 Airport Hazard Overlay	Multi-family Apartment Complex

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 NCD-6 AHOD” Multi-Family Residential, Neighborhood Conservation District w/ Airport Hazard Overlay	Multi-family Apartment Complex
South	“MR AHOD” Military Reservation Airport Hazard Overlay	Various military activities
East	“MF-33 NCD-6 AHOD” Multi-Family Residential, Neighborhood Conservation District w/ Airport Hazard Overlay	Residential structure
West	“C-2, NCD-6 AHOD” Commercial, Neighborhood Conservation District w/ Airport Hazard Overlay	Motel

Comprehensive Plan Consistency/Neighborhood Association

The Mahncke Park Neighborhood Plan was adopted in September 2001. In its land use component, the subject property is designated as appropriate for “Compact Multifamily Residential” uses. A few objectives in the plan can be facilitated by the proposed project including:

- Provide housing options for those that cannot or choose not to remain in single family homes yet desire to live in the Mahncke Park neighborhood.
- Concentrated Multifamily Residential uses should be located in a manner that does not route traffic through other residential uses.

The Mahncke Park Neighborhood Association was notified of this application, as was the nearby Westfort Alliance group.

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 NCD-6 commentary highlights the overall neighborhood’s stock of mature trees as one of its appealing characteristics and *hopes* that they are preserved. The UDC includes very specific tree preservation requirements as detailed in Section 35-523. Regarding site design, the code requires that the applicant prepare a tree survey and orient all buildings and improvements in a manner which preserves the greatest number of trees. Some trees will be lost and require mitigation but the variances assist in a site layout that will minimize tree loss, an important goal in the public interest. In addition, removal of the derelict housing and reduction in police calls furthers the overall public interest.

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

The applicant explains that the combination of site features, including width, grade and heritage trees made site planning very difficult. Several versions of site design were evaluated for impact

to a list of essential criteria. The requested variances were the remaining regulatory impediments in the proposed balance of site development and site preservation. These requirements in the Neighborhood Conservation District, if enforced here, would result in an unnecessary hardship given the unique characteristics of the 10 acre parcel. The requested building width variance allows the buildings to be clustered along the street frontages, while the additional height steps the buildings across the steep slope. Each of the 283 units cannot include an entry onto a primary street, which would be an unnecessary hardship for residents on the upper floors.

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 in its collection of regulations within the UDC, not any one regulation in particular. Each of the regulations combines to result in compatible buildings and neighborhoods. In this case, the project satisfies the development standards of the MF-33, but is seeking regulatory flexibility from some of the NCD-6 standards. The applicant explains that “*approval of the variances will allow the project to be developed in a manner consistent with surrounding multi-family projects, which have buildings wider than 80 feet and taller than 3 stories or 40-feet.*” Given the attention to the newly proposed streetscape across from Fort Sam Houston and the tree preservation, the spirit of the ordinance is observed.

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.*

There is no use variations proposed from the uses allowed in these districts.

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

The essential character of this district is created and reinforced by its cohesive patterns established in the grid network of its local streets and small lots. This property is on the southern edge of the district, surrounded by other multi-family housing and is differently characterized by its large size, numerous heritage trees and sloping grades. This size is itself influential and will create a lasting character to be recognized in the future redevelopment of Fort Sam Houston, its prominent neighbor. By focusing larger buildings on Brackenridge, the impact of the project is reduced above on Mulberry. In fact, all of the elevations on the Mulberry frontage are 80-feet wide or less and the two smallest buildings will be just over 30-feet in height. These three variances will not injure the use of adjacent conforming 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 are several property-related features and circumstances that differentiate this property from the majority of parcels in the NCD-6 zoning district. It is 10 acres in size, far larger than the typical 0.170 acre single-family lot. The property slopes across its length 55 to 60 vertical feet. These grades could be managed with retaining walls, but this type of earth-moving activity can be dangerous to the health of mature trees. The applicant is proposing to address these site constraints by using the “split-level” building approach to transition the building height across the site. The additional height on the downhill side of the building requires a variance.

In addition the site has an inventory of many heritage trees which must be preserved or mitigated. Clustering the density on the portions of the site without trees increases their preservation. The increase in building width will assist in this goal and enhance the streetscape along the frontage. This modification of the maximum 80-feet in width requires a variance.

Finally, the lot varies in depth between 360 and 550-feet. Each of the units constructed on the site will not have an entrance from the primary street, but many ground floor units with frontage on the street will. This effort will create the lively pedestrian orientation described in the NCD-6 goals.

Alternatives to Applicant's Request

The applicant could lower the proposed building height and reduce the building width to 80 feet. This would increase the number of buildings on the site and significantly reduce the density.

Staff Recommendation

Staff recommends **approval of the variance as proposed in application A-12-087** based on the following findings:

1. The requested variances serve the public interest by allowing the redevelopment of a deteriorated, crime stricken apartment complex.
2. A literal enforcement of the ordinance creates an unnecessary hardship for this particular project in this location with the site layout as shown.
3. The spirit of the ordinance is upheld by focusing the density and the height on Brackenridge Drive and preserving the heritage trees near Mulberry Avenue.
4. The plight of the owner is unique. Most of the parcels within this NCD-6 district are small individual lots with single-family homes forming a cohesive development pattern, while this ten acre site is on the edge of the neighborhood with unique access, topography and lot configuration challenges.

Attachments

Attachment #1: Notification Map

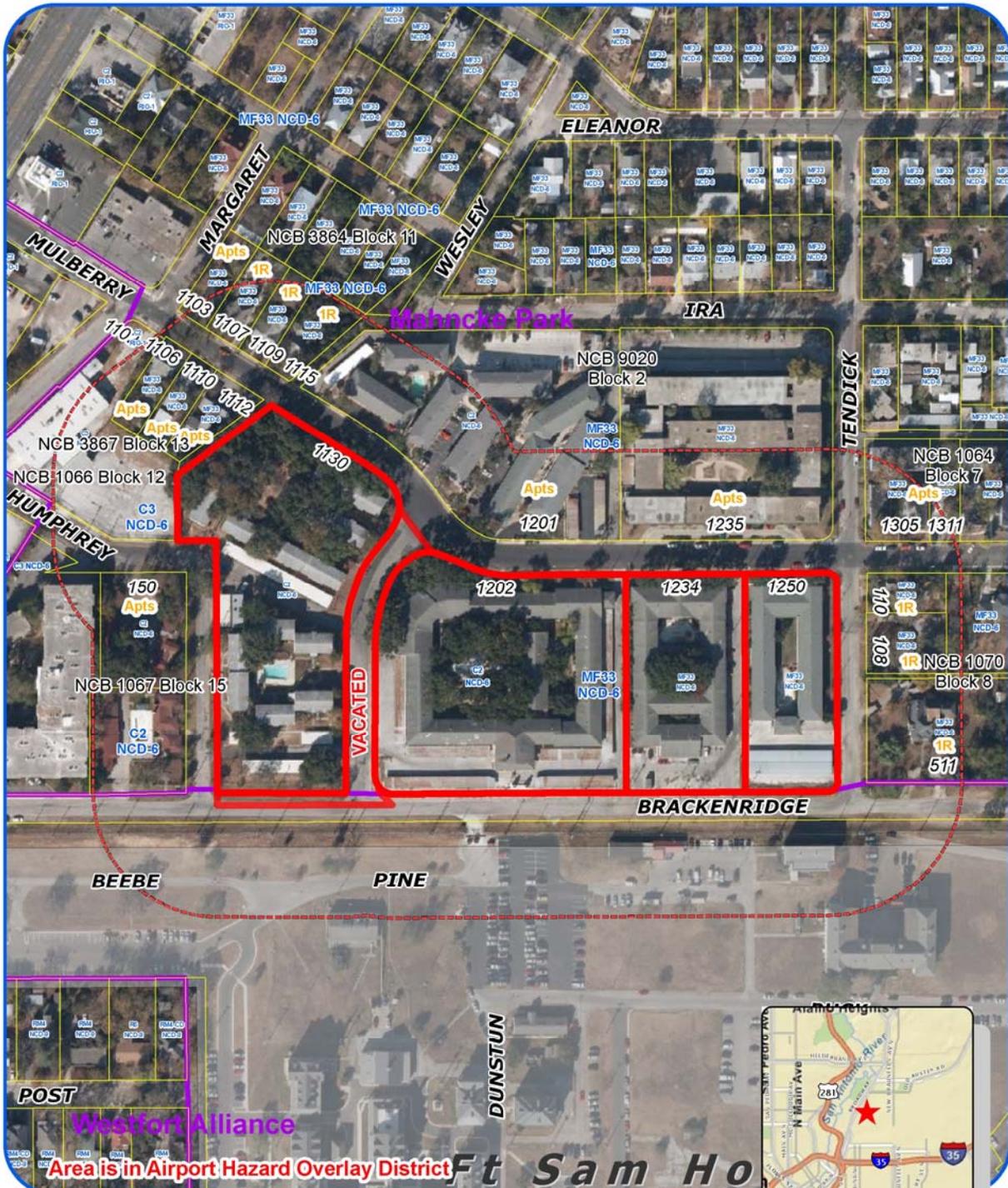
Attachment #2: Plot Plan

Attachment #3: Applicant's Site Plan

Attachment #4: Architectural Drawings

Attachment #5: Site Photos

Attachment #1 Notification Map



Board of Adjustment
Notification Plan for
Case No A-12-087



Subject Property
 200' Notification Boundary
 Council District 2



Development Services Department
 City of San Antonio
 (09/17/2012)

Attachment #2



Variance Request:

- 1) a variance from a requirement that all dwelling units shall provide an entry from a primary street through a required transition space to allow unit entrances from inside the building
- 2) a 170-foot variance from the maximum width of 80-feet to allow six buildings no longer than 250-feet in width and
- 3) a 14-foot variance from the maximum 40-foot building height to allow five buildings up to 54-feet in height.

Board of Adjustment

Plot Plan for
Case No A-12-087

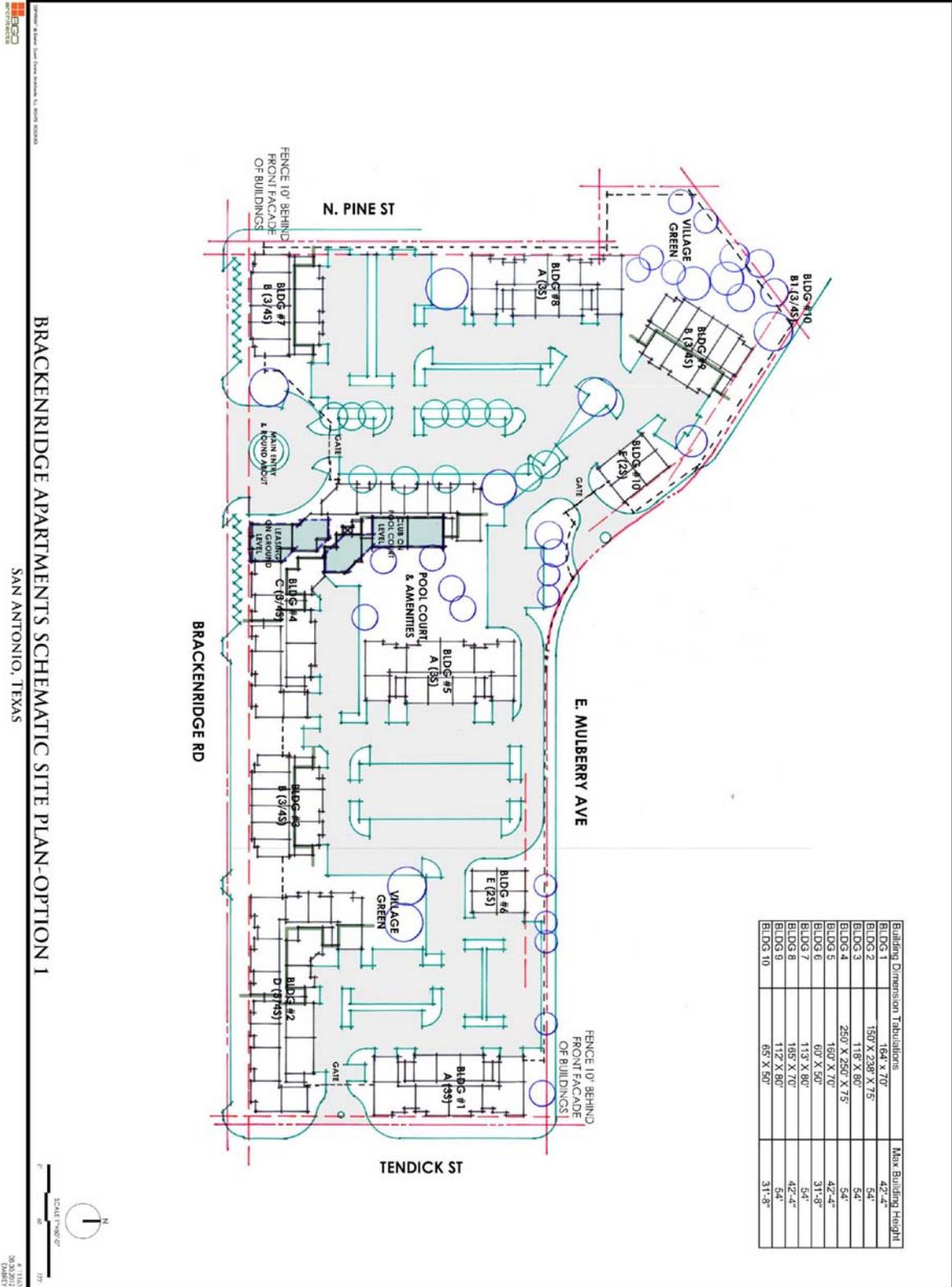


Council District 2

1130/1202 E. Mulberry

Development Services Department
City of San Antonio
17th September 2012

Attachment #3 Applicant's Site Plan



**Attachment #5
Site Photos**



View from Mulberry Avenue



Attachment #5



View from Brackenridge Dr.

