

City of San Antonio Board of Adjustment

Regular Public Hearing Agenda

Monday, October 21, 2013

1:00 P.M.

Board Room, Cliff Morton Development and Business Services Center

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

1. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-13-084:** The request of Top Golf International, Inc. for a special exception from the provisions of the Military Lighting Overlay District to extend the hours of illumination every week until midnight Sunday through Thursday and 1:00am Friday and Saturday, located at approximately 5539 N Loop 1604 W. (Council District 8)
5. **A-13-081:** The request of Dessy & Sylvia Garcia for a 5-foot variance from the minimum 5-foot side yard setback to allow a carport on the property line, located at 1002 Fitch Street. (Council District 5)
6. **A-13-082:** The request of Susan M. Mossberger for a 3-foot variance from the 3-foot maximum fence height to allow a solid fence 6 feet in height in the front yard, located at 10011 Southwell Road. (Council District 8)
7. **A-13-083:** The request of Santos A. Gonzalez for a 1 ½ -foot variance from the 4-foot maximum fence height to allow an ornamental iron fence 5 ½ feet in height in the front yard, located at 3838 Motes Drive. (Council District 6)
8. **A-13-088:** The request of Joshua Calzada for a 2-foot variance from the 4-foot maximum fence height to allow an ornamental iron fence 6-feet in height in the front yard, located at 8650 Fredericksburg Road. (Council District 8)
9. **A-13-089:** The request of Bailey Porter for 1) a 2-foot variance from the minimum 5-foot side yard setback; 2) a 8-foot variance from the minimum 20-foot rear yard setback to allow construction of a new residence, located at 632 Leigh Street. (Council District 1)
10. **A-13-091:** The request of Sherry Chaudhry for 1) a 3-foot variance from the 3-foot maximum height for a solid screen fence to allow a 6-foot wall in the front yard and 2) a 5-foot variance from the 4-foot maximum

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
Brian Smith, District 5 • Jesse Zuniga, District 6 • Mary Rogers, District 7 • John Kuderer, District 9 • Gene Camargo, Mayor

Alternate Members

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

height for a predominately open fence to allow a 9-foot high gate in the front yard, located at 200 Bluffknoll. (Council District 9)

11. **A-13-085:** The request of Ernesto Narvaiz for a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height in the front yard, located at 5427 Greyrock Drive. (Council District 7)
12. **A-13-087:** The request of Adriana Rodriguez for a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height in the front yard, located at 5251 Marconi Drive. (Council District 7)
13. **A-13-090:** The request of Blanca Acuña for a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height in the front yard, located at 5235 Marconi Drive. (Council District 7)
14. **A-13-092:** The request of Angelica Vasquez for a 1-foot, 1-inch variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet, 1-inches in height in the front yard, located at 5239 Marconi Drive. (Council District 7)
15. **A-13-093:** The request of Luz A. Castillo for a 1-foot, 2-inch variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet, 2-inches in height in the front yard, located at 5410 Bakersfield. (Council District 7)
16. Approval of the minutes – October 7, 2013
17. Approval of the Meeting and Deadline Dates for Calendar Year 2014
18. Announcements and Adjournment

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

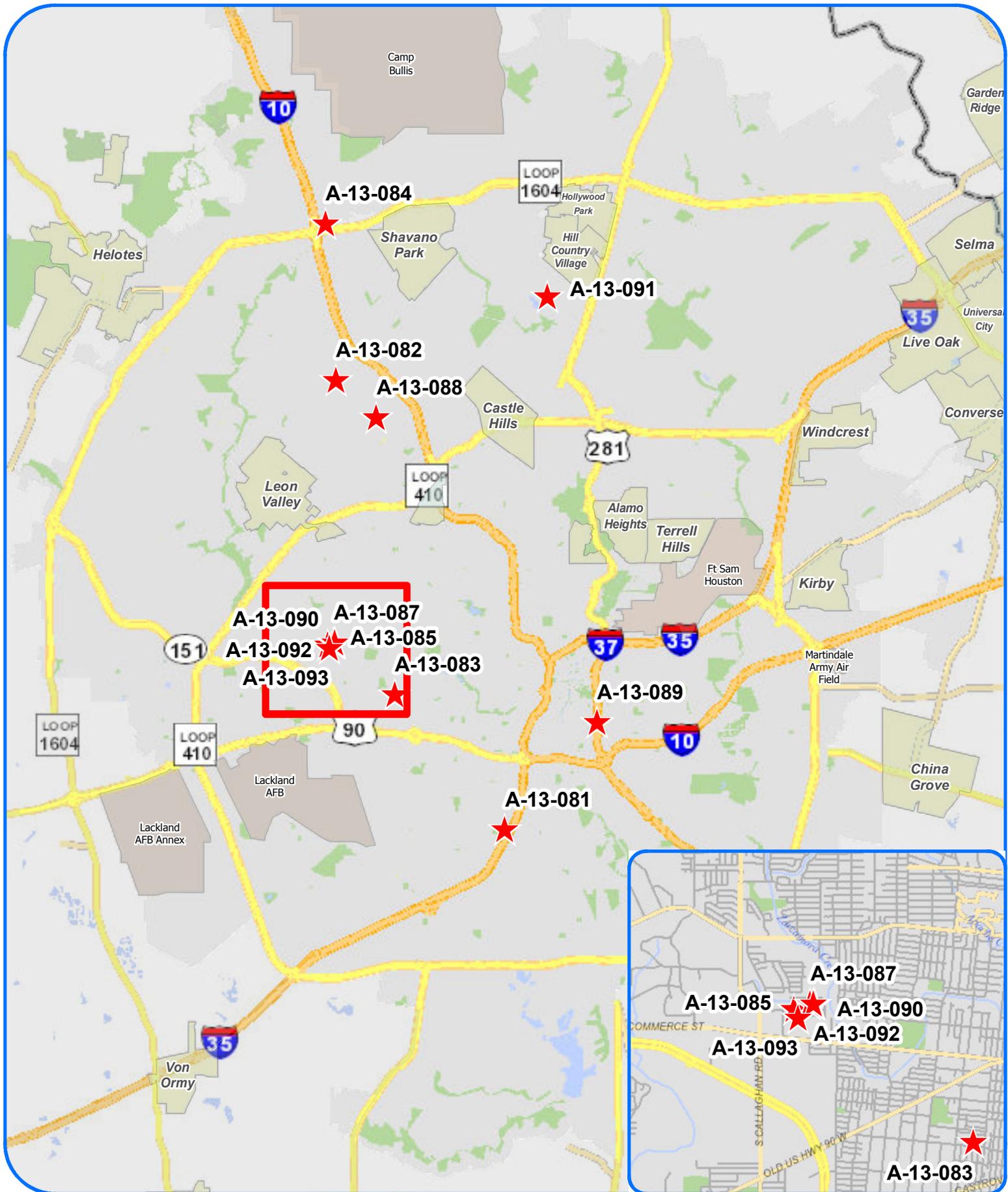
DECLARACIÓN DE ACCESIBILIDAD – Este lugar de la reunión es accesible a personas incapacitadas. Se hará disponible el estacionamiento. Ayudas auxiliares y servicios y interpretes para los sordos se deben pedir con cuarenta y ocho [48] horas de anticipación al la reunión. Para asistencia llamar a (210)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

Board of Adjustment Membership

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Board of Adjustment

**Subject Property Locations
Cases for 21st October 2013**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-084
Date: October 21, 2013
Applicant: Top Golf International, Inc.
Owner: Fourth Quarter Properties LXV, LP
Location: Approximately 5539 N Loop 1604 W
Legal Description: A portion of Lot 1, Block 1, NCB 14853
Zoning: "MPCD, ERZD, GC-1, MLOD, AHOD" Master Planned Community, Edwards Recharge, Gateway Corridor, Military Lighting Overlay, Airport Hazard Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

The applicant is requesting a special exception from the provisions of the Military Lighting Overlay District to extend the hours of illumination, as specified in Section 35-339.04 (b) 6, every week until midnight Sunday through Thursday and 1:00am Friday and Saturday.

Procedural Requirements

A special exception is a decision vested with the Board of Adjustment and includes performance standards specific to each type of exception. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on October 3, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The applicant is leasing a 17.59 acre parcel for development as a golf entertainment complex, the seventh in the State. The business plan relies on both day time and evening schedules and includes a restaurant, a lounge, and live entertainment in addition to their open air driving range. The UDC includes standards, detailed in Section 35-339.04, regarding properties designated within the boundaries of the Military Lighting Overlay District. The stated purpose of this overlay is to reduce glare and distractions to night-time military training and to balance the needs of the military, the City and private property owners regarding the responsible use of outdoor

lighting in the area. This section also delegates the authority to modify the standards to the Board of Adjustment through a special exception process when a project’s design does not meet the strict standards but through alternative methods satisfies the intent.

Section 35-339.04 (b) outlines various performance standards and subsection 6) **Commercial Lighting** details those additional requirements for commercial projects. A detailed lighting plan and the proposed light fixture “cut-sheet” were submitted to determine compliance with the requirements. The proposed golf entertainment facility satisfies each of these standards including:

- All light fixtures have to be full cut-off;
- All trespass lighting shall not exceed 2.5 foot candles at property line;
- Floodlight fixtures must be aimed to prevent light into the open sky.

However, it is in this section where the hours of illumination are restricted for businesses.

With the exception of lighting which is required for security and safety such as parking lot illumination, businesses must turn off outdoor lights emitting illumination levels exceeding two (2) foot-candles (fc) after 11:00 p.m.

The applicant is requesting a special exception to extend the hours of illumination until midnight on Sunday through Thursday and 1:00 am on Fridays and Saturdays. These late night hours are essential to their success and have already been reduced from the hours of operation at their other Texas facilities.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MPCD, ERZD, GC-1, MLOD, AHOD” Master Planned Community, Edwards Recharge, Gateway Corridor, Military Lighting Overlay, Airport Hazard Overlay Districts	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“MPCD, ERZD, GC-1, MLOD, AHOD” Master Planned Community, Edwards Recharge, Gateway Corridor, Military Lighting Overlay, Airport Hazard Overlay Districts	Vacant
South	“MPCD, ERZD, GC-1, MLOD, AHOD” Master Planned Community, Edwards Recharge, Gateway Corridor, Military Lighting Overlay, Airport Hazard Overlay Districts	Vacant

East	“MPCD, ERZD, GC-1, MLOD, AHOD” Master Planned Community, Edwards Recharge, Gateway Corridor, Military Lighting Overlay, Airport Hazard Overlay Districts	Vacant
West	“MPCD, ERZD, GC-1, MLOD, AHOD” Master Planned Community, Edwards Recharge, Gateway Corridor, Military Lighting Overlay, Airport Hazard Overlay Districts	Vacant

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan area and identified for regional commercial land uses. There is no neighborhood association registered in this area. Camp Bullis and Joint Base San Antonio were notified of this application by both the applicant and the City, according to our notification agreement. They indicated that they had no concerns about the requested modification of the MLOD standards.

Criteria for Review

According to Section 482(h) of the Unified Development Code, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the following conditions (in addition to the requirements of Section 35-339.04):

- 1. The special exception will be in harmony with the spirit and purpose of the chapter:*

The applicant has selected a light fixture with a very specific directional control, widely used for sports applications. The fixture has no light trespass beyond the property line. Because the plan complies with the other performance standards of the overlay district, and the reviewers at Camp Bullis have no concerns, the special exception will be in harmony with the spirit and purpose of the section.

- 2. The public welfare and convenience will be substantially served:*

The applicant has shortened their typical hours of operation in order to accommodate the goals of the MLOD. However, they could not succeed and discontinue their operations at 11:00 every evening. They have incorporated every other mitigation measure available to honor the overlay district intent.

- 3. The neighboring property will not be substantially injured by such proposed use:*

Much of the neighboring commercial property is exempt from the provisions of the overlay district, because it was approved as a master development plan prior to the adoption of the district regulations in December of 2008. Therefore, granting the special exception will not injure neighboring property.

- 4. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought:*

The essential character of the district is created and reinforced by the Rim Shopping and Entertainment enterprises. The proposed golf facility will enhance this area as a regional entertainment destination. It does not appear that the granting of the special exception will alter the essential character of the district.

5. The special exception will not weaken the general purpose of the district or the regulations herein established for the specified district:

The MLOD was adopted to protect and promote Camp Bullis as a premier night time training facility for the military. The most critical components of dark sky initiatives are the type and location of light fixtures, not necessarily the hours of illumination. With the elimination of light-trespass by using the selected fixtures, aimed in the proposed direction, the additional hours of illumination will not weaken the purpose of the overlay district.

Staff Recommendation

Staff recommends **approval of A-13-084**, based on the following findings:

1. The applicant has agreed to install the lighting in compliance with other relevant provisions of 35-339.04; and
2. The requested extended hours of illumination have been approved by Camp Bullis and Joint Base San Antonio review personnel.

Attachments

Attachment 1 – Notification Plan (Location Map)

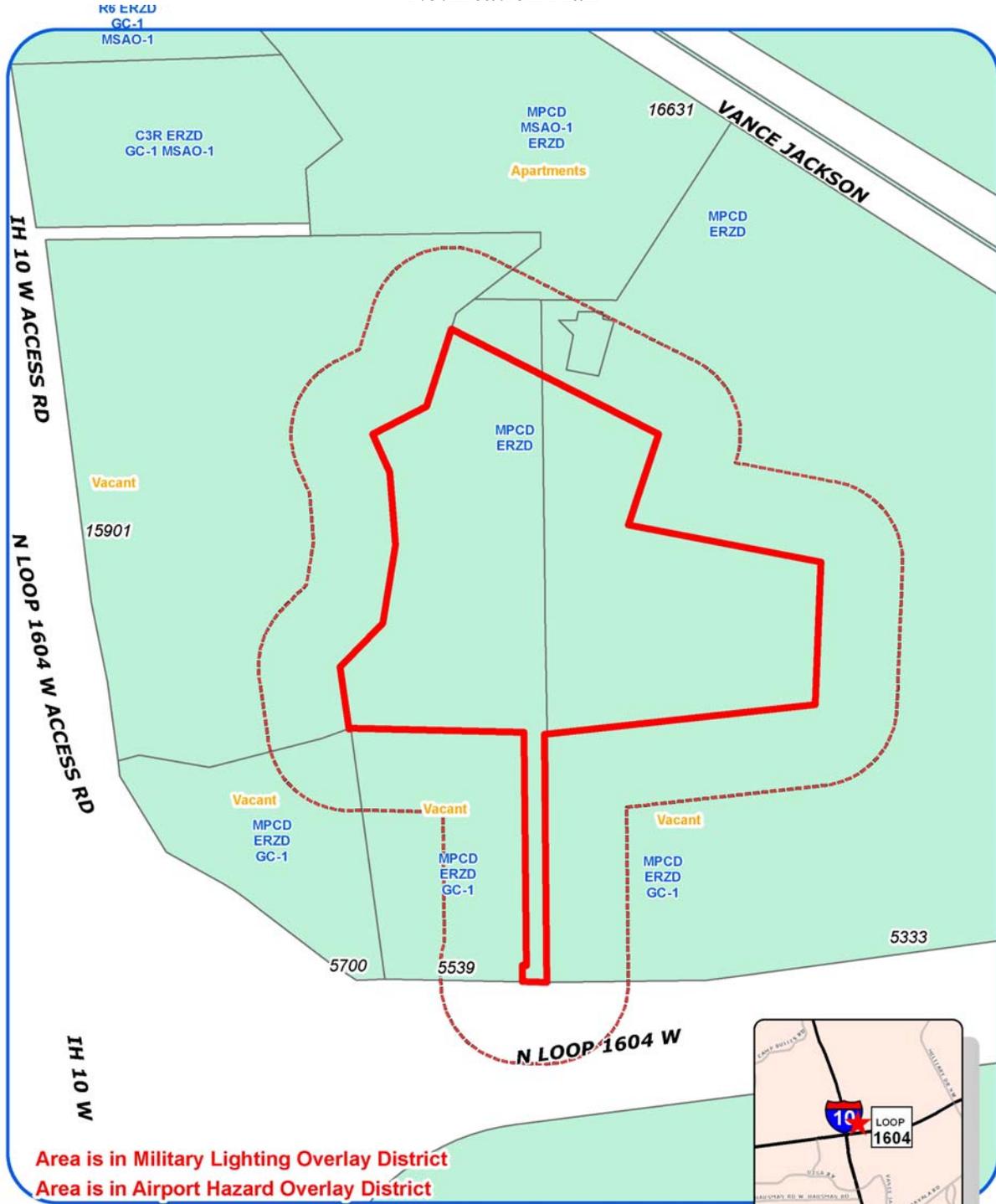
Attachment 2 – Plot Plan

Attachment 3 – Light Fixture

Attachment 4 – Photometric Analysis

Attachment 5 – Photos

Attachment 1 Notification Plan



Board of Adjustment
Notification Plan for
Case No A-13-084

San Antonio City Limits 
 Subject Property 
 200' Notification Boundary 
 Council District 8 

Development Services Department
City of San Antonio

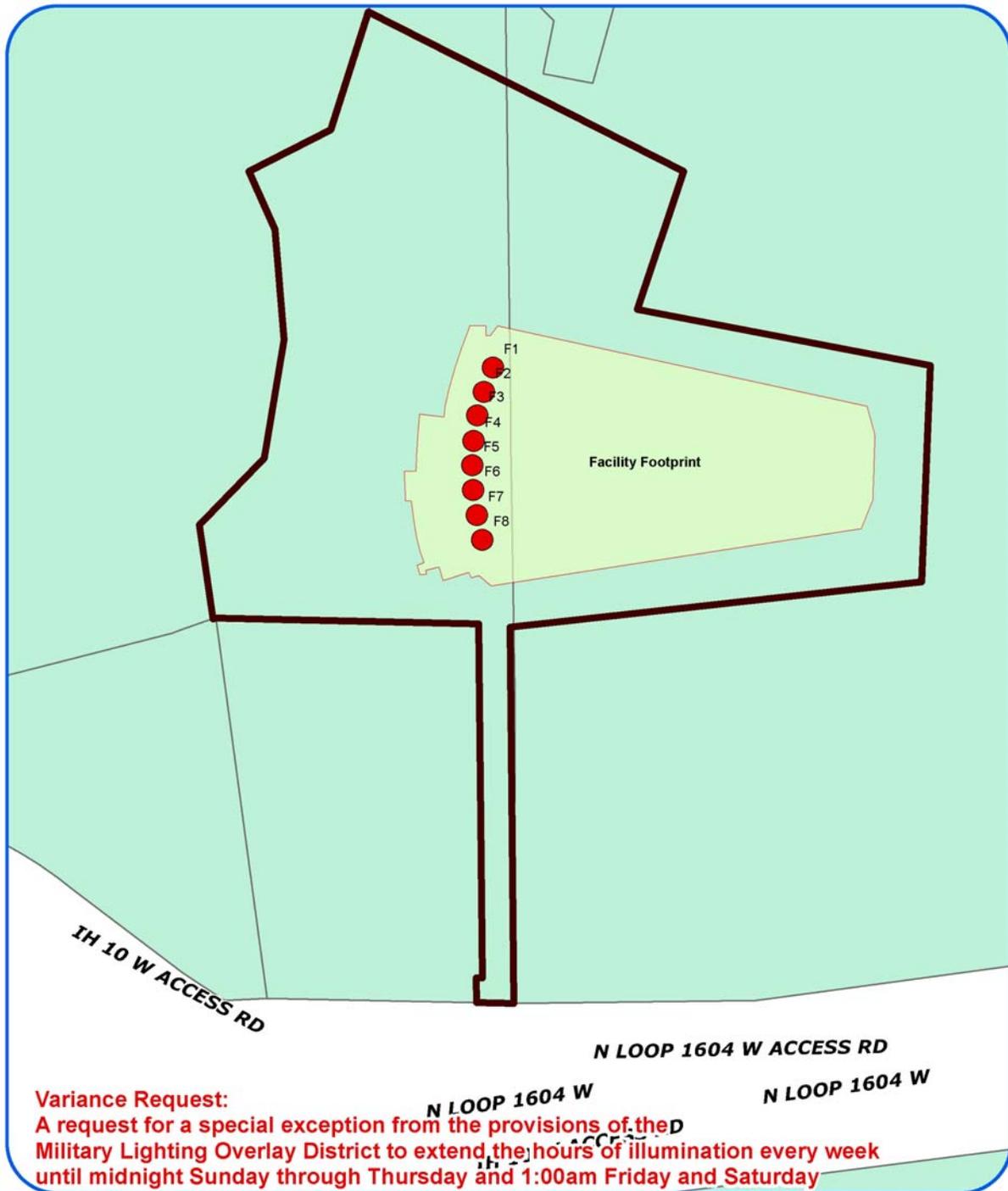
**Attachment 1 (continued)
Notification Plan**



**Area is in Military Lighting Overlay District
Area is in Airport Hazard Overlay District**

<p>Board of Adjustment Notification Plan for Case No A-13-084</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 8 </p>	<p></p>	<p>Development Services Department City of San Antonio</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-084



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

NEC W 1604 & IH-10

Development Services Department
City of San Antonio

Attachment 2
Plot Plan (continued)



Board of Adjustment
Plot Plan for
Case No A-13-084

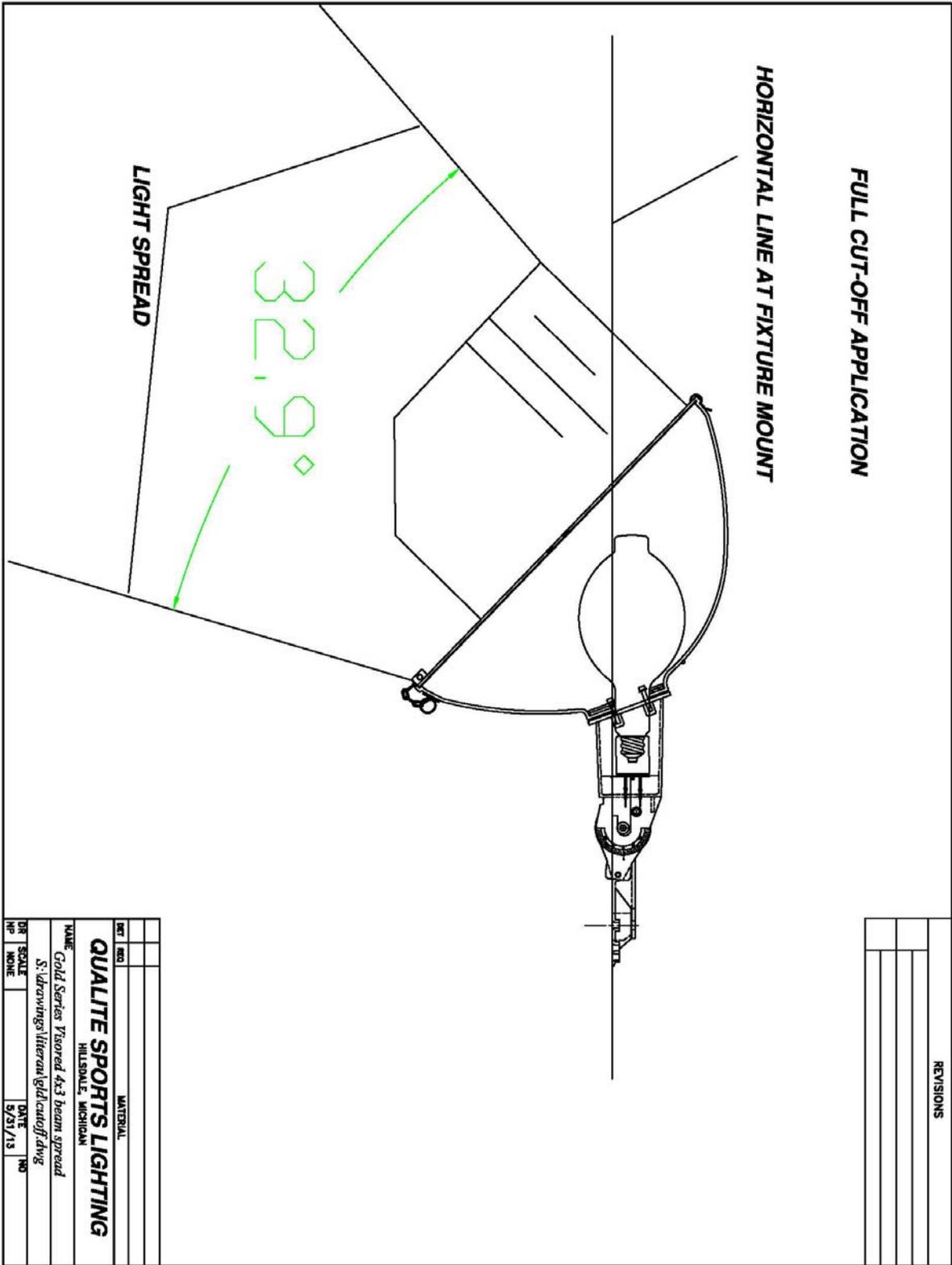


"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 8

NEC W 1604 & IH-10

Development Services Department
City of San Antonio

**Attachment 3
Light Fixture**



FULL CUT-OFF APPLICATION

HORIZONTAL LINE AT FIXTURE MOUNT

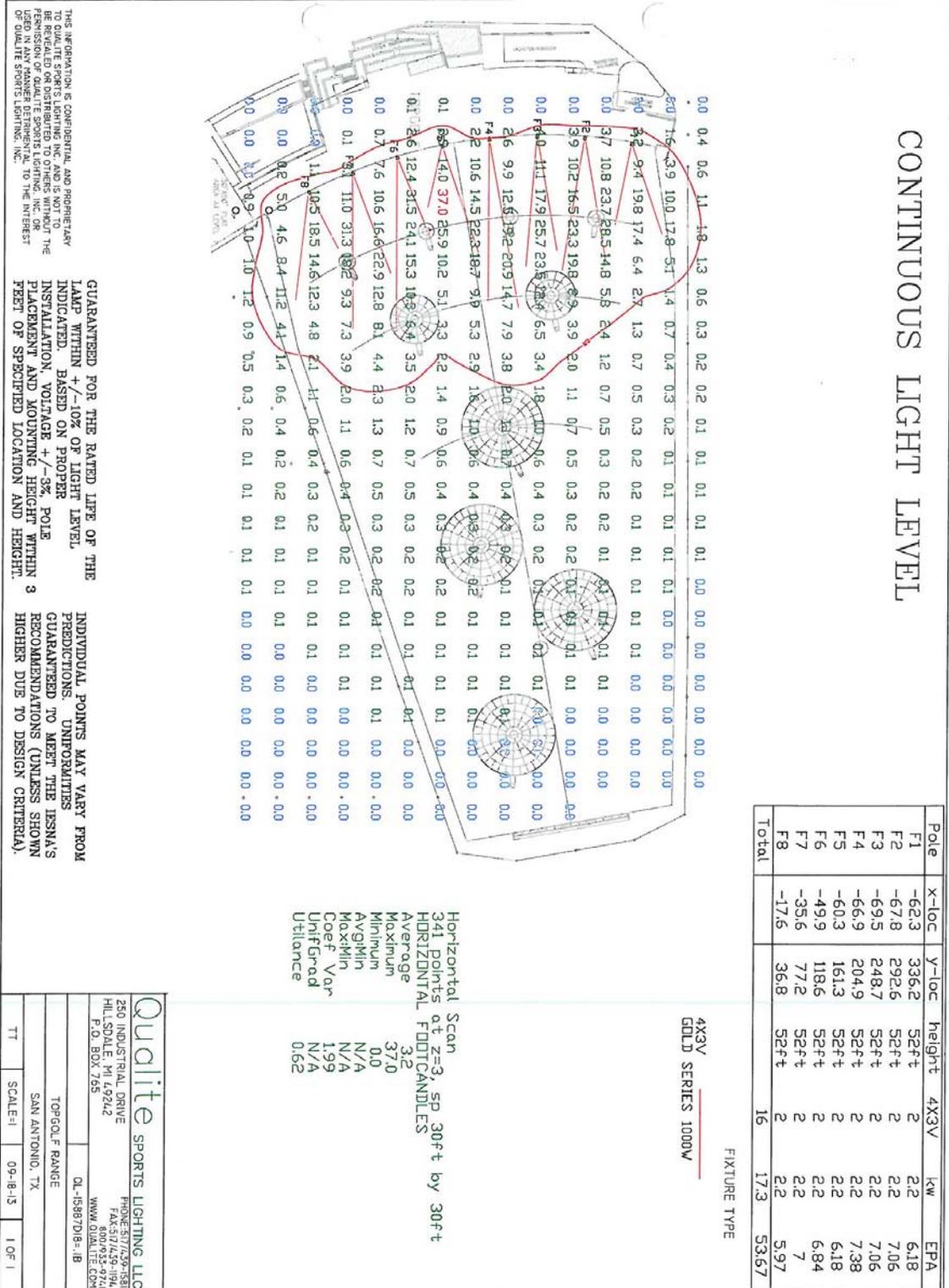
LIGHT SPREAD

32.9°

REVISIONS

REV	NO	MATERIAL
QUALITE SPORTS LIGHTING		
HILLSDALE, MICHIGAN		
NAME: Gold Series Trooper 4x3 beam spread		
S:\drawings\litera\gold\catoff.dwg		
DR	SCALE	DATE
HP	NONE	5/21/13
		NO

Attachment 4 Photometric Analysis



**Attachment 5
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-081
Date: October 21, 2013
Applicant: Dessy & Sylvia Garcia
Owner: Dessy & Sylvia Garcia
Location: 1002 Fitch Street
Legal Description: Lots 1 & 2, Block 19, NCB 8554
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay Districts
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for a 5-foot variance from the minimum 5-foot side yard setback, as detailed in Table 35-310-1, to allow a carport on the property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on October 3, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is a 6,600 square foot parcel, Lots 1 and 2 of the Brunswick Park Addition subdivision, recorded in 1914. The house was constructed in 2002 and the applicant was the first owner. Recently, they were cited for constructing a carport and a block wall without a building permit. The carport is constructed up to the property line and the wall. The applicant is requesting a side yard setback variance to allow the carport to remain. If granted, the applicant will work with the building plan review division to address potential code requirements and modifications.

The neighboring property abutting this property line is extra large. Back in 1987, a 40-foot street right-of-way was vacated and the then owner of 1002 Fitch abandoned their interest in the

additional land from the street. Normally, the land is split between the abutting owners. Public record does not reflect the reasoning or the financial charges that may have been a factor. The land has limited purpose however. The City retained an easement over, across and under the entire parcel for sewer, water, and electric utilities.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Mixed Historic Airport Hazard Overlay Districts	Single-family dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Airport Hazard Overlay Districts	Single-family dwelling
South	"R-4 AHOD" Residential Airport Hazard Overlay Districts	School
East	"R-4 AHOD" Residential Airport Hazard Overlay Districts	Single-family dwelling
West	"R-4AHOD" Residential Airport Hazard Overlay Districts	Single-family dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Nogalitos/S.Zarzamora Community Plan, adopted by the City Council in September of 2004. The future land use plan designated this area for low-density residential land use. 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.*

The public interest is defined as the general health, safety and welfare of the public at large. The applicant is requesting that the 5-foot side yard setback be eliminated. Setbacks are established to ensure adequate light and air, allow property maintenance and reduce fire hazard. The Board may determine that the restrictions on the use of the neighboring parcel may provide protection for the public interest.

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

The subject property is not unique in shape or size. In fact the driveway along this side of the home leads to the rear yard, where covered parking could be provided. The hardship for the

applicant is the fact that the carport and block wall are already constructed. The Board will evaluate the potential benefit from relocating the carport to the rear yard and determine if literal enforcement of the ordinance is an unnecessary hardship.

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

The Board must determine the “spirit” of the ordinance as contrasted with the “strict letter” of the law for each unique case. In this case, the applicant asserts that the spirit of the ordinance would be followed because several other homes in the area have carports on their side property line. Indeed, constructing carports over driveways is a common solution to houses without garages. Nevertheless, setbacks also apply to every parcel.

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-4 AHOD” 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 neighborhood has several similar carports and the applicant’s property is well-maintained and contributes positively to the character of the district. The applicant asserts that the neighboring house is over 40 feet away and that the block wall provides fire protection. The City retained an easement over the 40-foot vacated street parcel for sewer, water, and electric utilities, so this wide side yard owned by the neighbor may never be used for a permanent structure. The Board may determine that the variance in this case will not injure the adjacent property.

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

There are no peculiar circumstances existing on the subject property to warrant a modification of the required setback. The property is one of the wider lots on the street with 50 feet in width. The unique circumstance is actually on the adjacent parcel, where a 40-foot easement for utilities exists and restricts the potential uses along this shared property line.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to relocate the covered parking to the rear yard.

Staff Recommendation

Staff recommends **denial of A-13-081** based on the following findings:

1. The property has no unusual characteristics that differentiate it from the typical 50-foot wide residential parcel.

Attachments

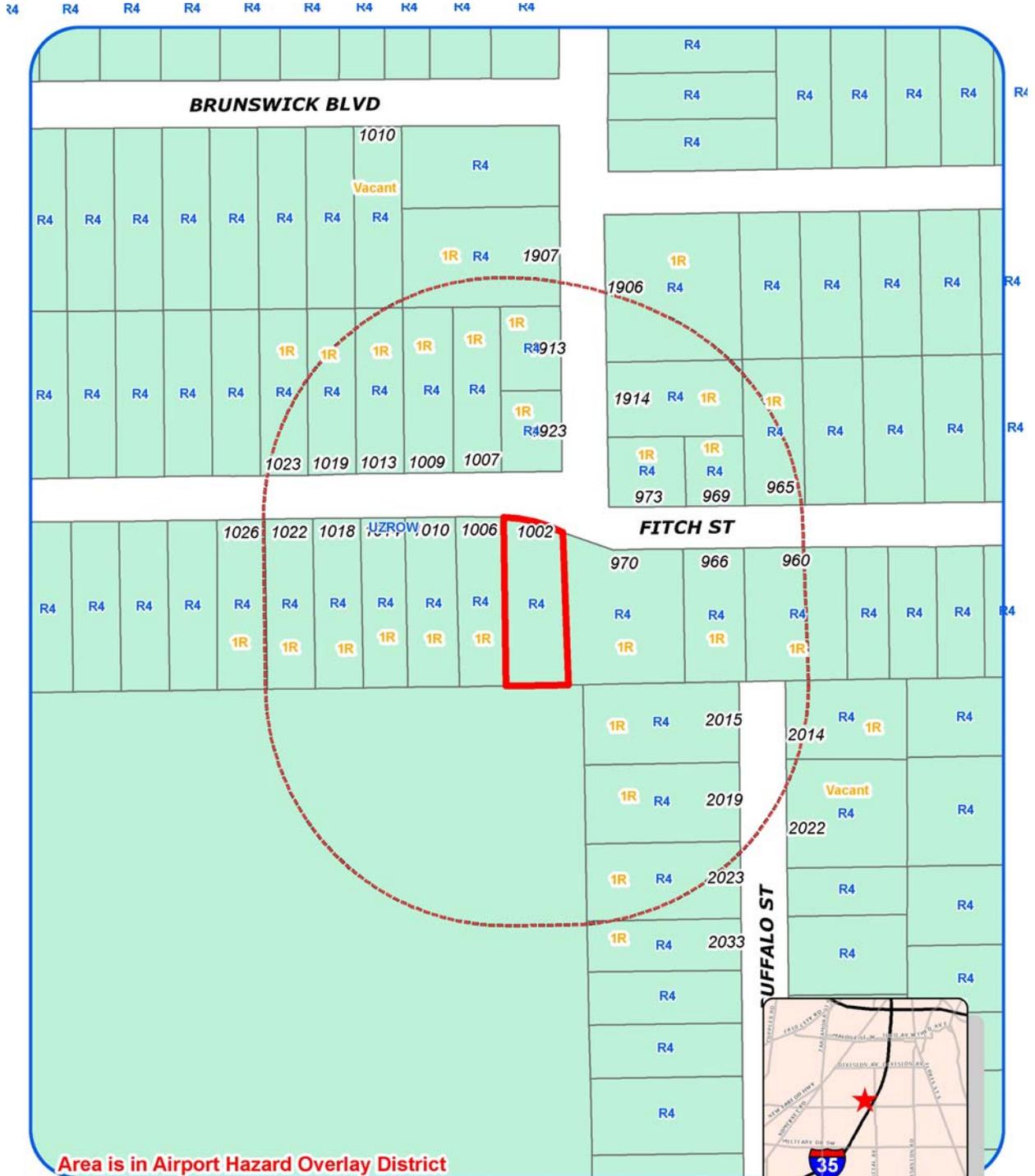
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant’s Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



Board of Adjustment
Notification Plan for
Case No A-13-081

San Antonio City Limits
Subject Property
200' Notification Boundary
Council District 5

Development Services Department
City of San Antonio

11/200

Attachment 1 Notification Plan (continued)



<p>Board of Adjustment Notification Plan for Case No A-13-081</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 5 </p>		<p>Development Services Department City of San Antonio</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-081



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

1002 Fitch

1:184

Development Services Department
City of San Antonio

**Attachment 2
Plot Plan (continued)**



Board of Adjustment
Plot Plan for
Case No A-13-081



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 5

1002 Fitch

1:184

Development Services Department
City of San Antonio

**Attachment 3
Applicant's Site Plan**

PLOT PLAN

FOR
BLDG PERMITS

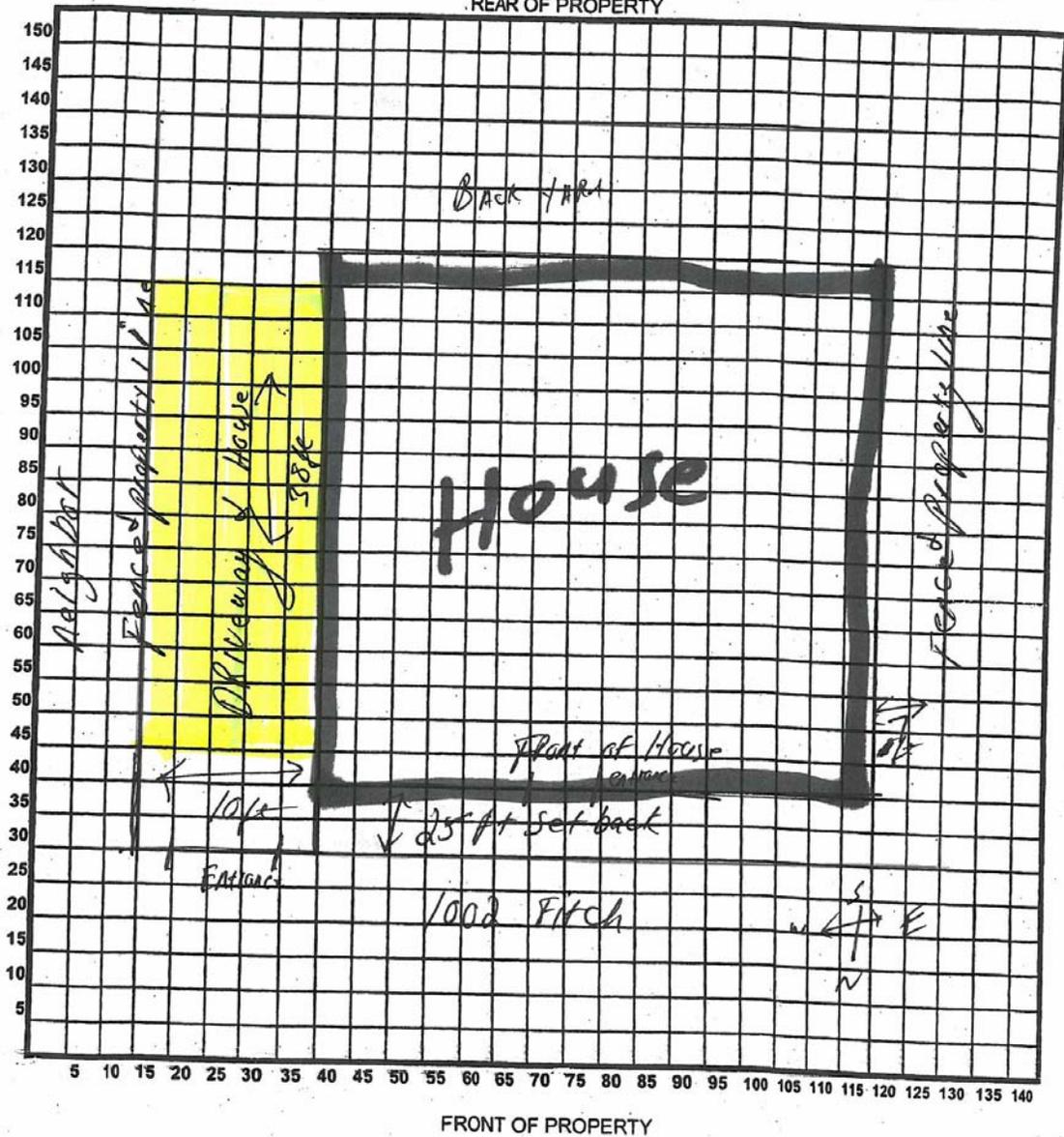
Address 1002 Fitch

Lot 5200 14.5, 12th & 1st SW 122/42

Block 19

NCB 2554

REAR OF PROPERTY



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

**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-082
Date: October 21, 2013
Applicant: Susan M. Mossberger
Owner: Susan M. Mossberger
Location: 10011 Southwell Road
Legal Description: S 118.06 ft of Lot 25, & N IRR 14.74 ft of N 1/2 of Lot 26, Block 3, NCB 14703
Zoning: "RE" Residential Estate District
Prepared By: Tony Felts, Planner

Request

A request from Section 35-514(d) for a 3-foot variance from the 3-foot maximum fence height to allow a solid fence 6 feet in height in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before October 3, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the west side of Southwell Road, approximately 190 feet south of Verbena Road.

The site is currently developed as a single-family residence. The applicant has installed a solid wall in the front yard, 6 feet in height without a permit. The wall is composed of brick and has a white stucco finish. The wall does not continue along the side of the property, it is only located along the Southwell Road frontage.

The applicant has stated that the wall is required for privacy due to the amount of traffic on Southwell Road and the large window in front of the applicant's house. The applicant also states

that the house adjacent to and south of the subject property is abandoned, and they have had problems with vagrants breaking into the abandoned house.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RE” (Residential Estate District)	Single-family residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RE” (Residential Estate District)	Single-Family Residence
South	“RE” (Residential Estate District)	Single-Family Residence (Abandoned)
East	“C-2” (Commercial District)	Vacant
West	“RE” (Residential Estate District)	Vacant

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Oakland Estates Neighborhood Plan (designated as Low Density Residential Estate) and the North Sector Plan (designated as Rural Estate Tier). The subject property is also located within the boundaries of the Oakland Estates Registered Neighborhood Association. As such, the neighborhood association was contacted and asked to comment.

Criteria for Review

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

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

Fence height restrictions are put into place in order to provide orderly development and encourage a sense of community. There are no other examples of front yard fences or walls in the immediate vicinity of the subject property. The property adjacent to the site (to the north) have high fencing, however, it is composed of wrought iron and predominately open. As granting of the requested variance would result in a special privilege, the variance is contrary to the public interest.

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

There are no special conditions readily apparent that would warrant the granting of the requested variance. Though the site is located directly along Southwell Road, this is not unique. As such, a literal enforcement of the ordinance would not result in an unnecessary hardship.

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

Granting of the ordinance will not observe the spirit of the ordinance as there are no special conditions readily apparent to warrant the granting the requested variance.

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 Residential Estate base zoning district.

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

The requested variance, if approved, will likely not injure other adjacent conforming properties, but may have the effect of altering the character of the district as there are no other examples of solid front yard walls of the type requested in the area of the subject property.

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

There are no unique circumstances readily apparent, and the location along Southwell Road is indicative of general conditions in the district; in fact, residences similarly situated and within the immediate vicinity have constructed predominantly open wrought iron fences. As such, granting of the requested variance is not warranted.

Alternatives to Applicant's Request

The alternative to the applicant's request is to modify the fence to 3 feet in height uniformly.

Staff Recommendation

Staff recommends **denial of A-13-082** because of the following reasons:

- There are no special conditions readily apparent on the property to warrant the granting of the variance.
- The condition of the house along Southwell Road is due to general conditions in the area, and not a special condition.

Attachments

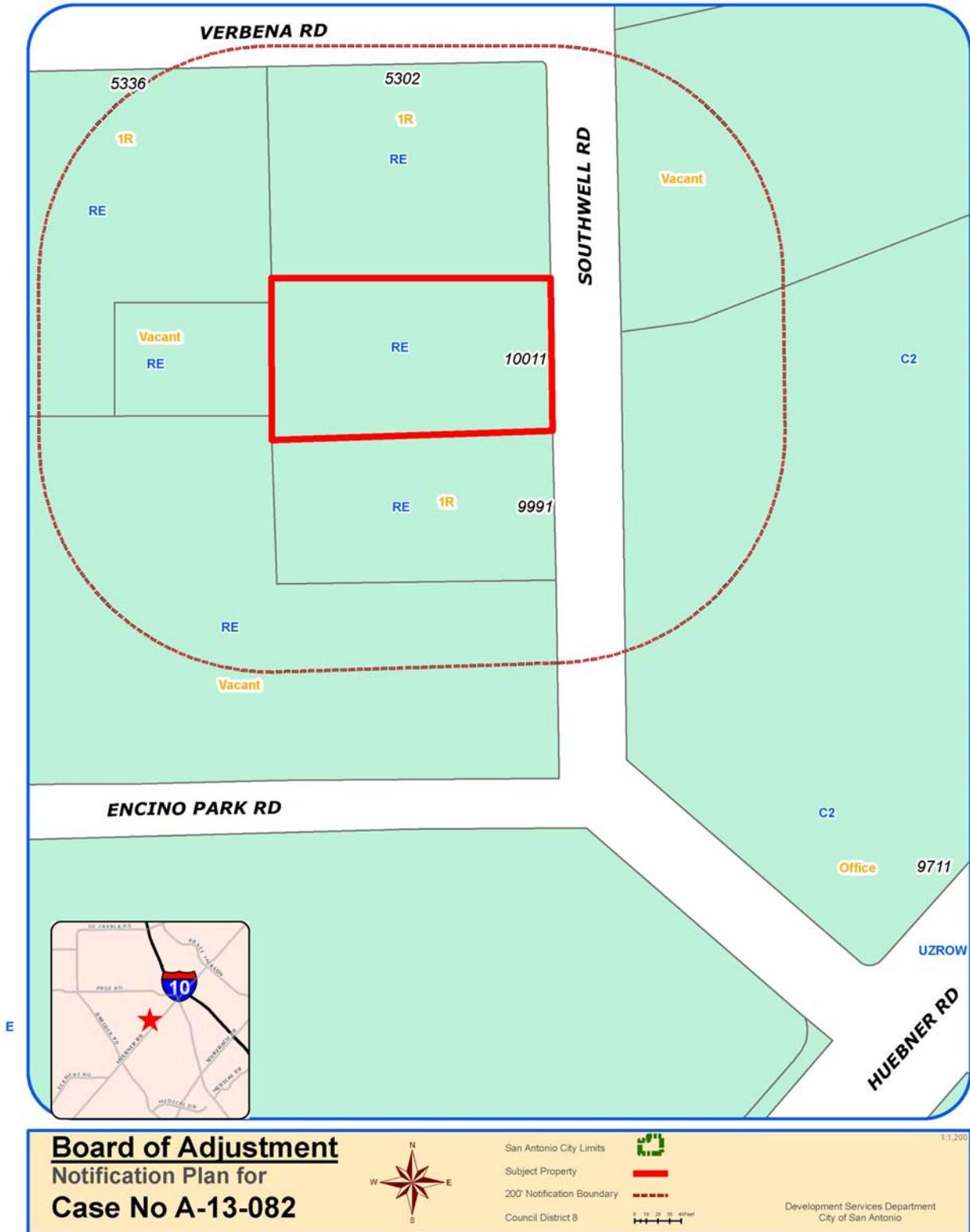
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

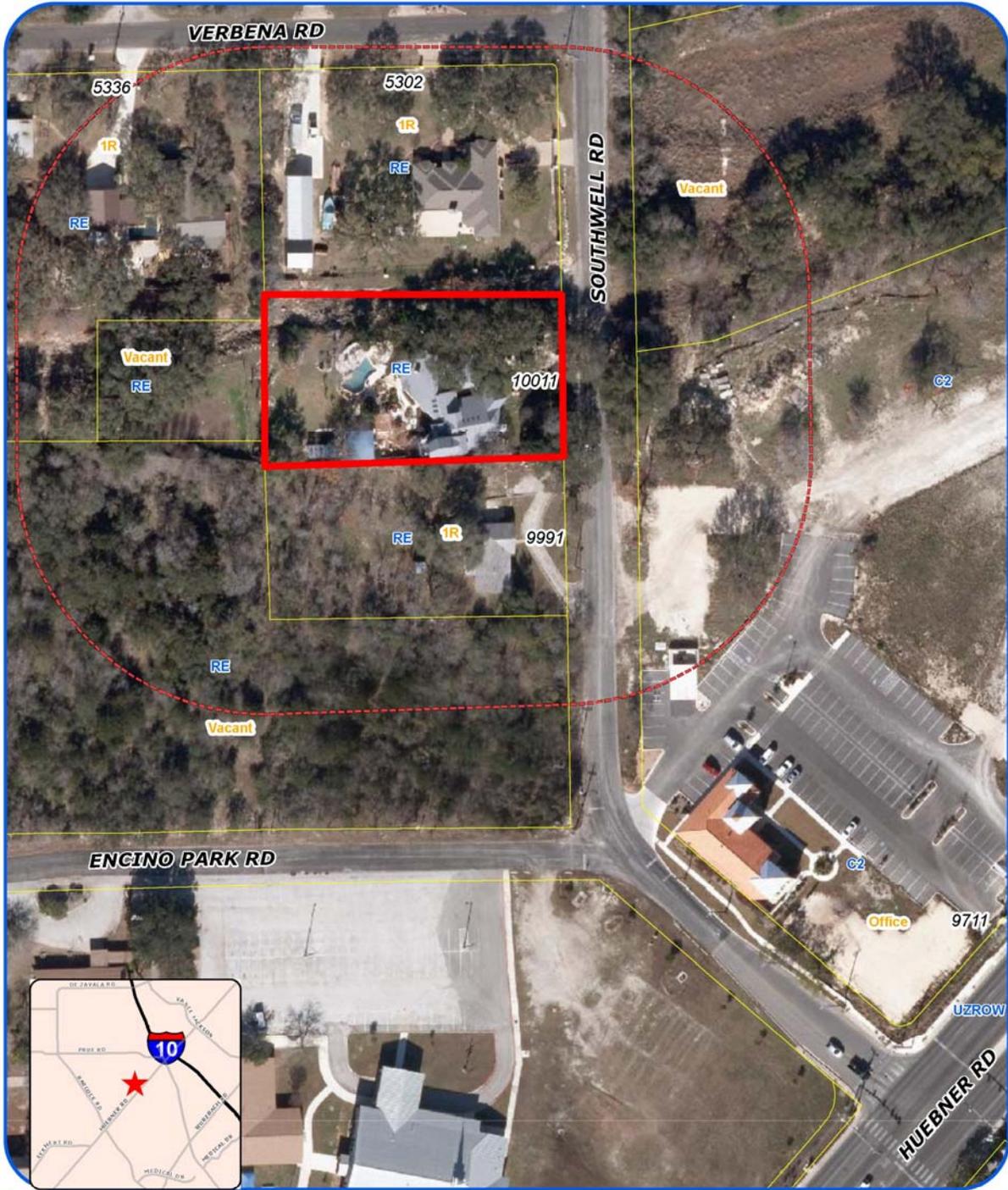
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



**Board of Adjustment
Notification Plan for
Case No A-13-082**

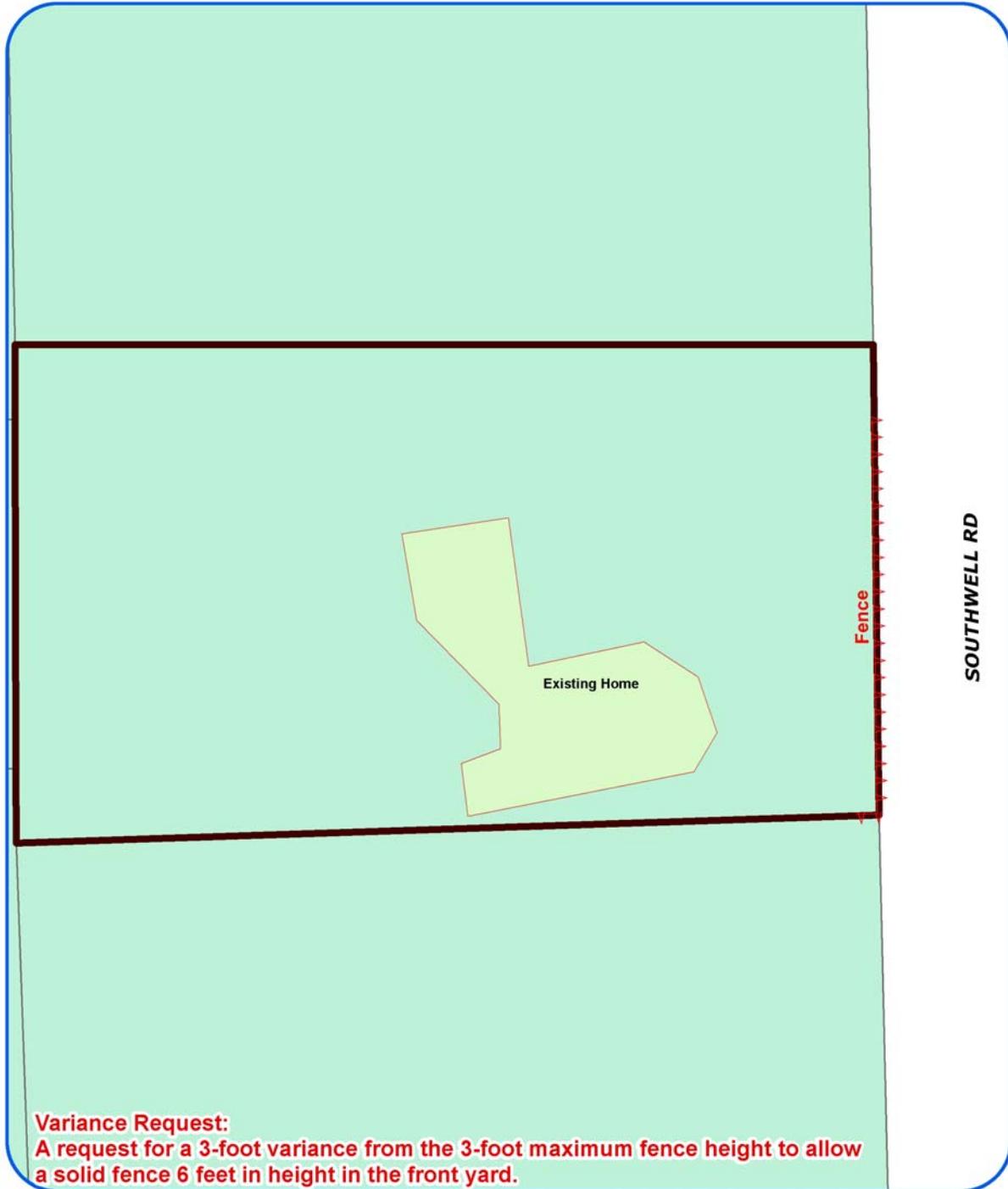


- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 8

Development Services Department
City of San Antonio

1:1,200

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-082



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

10011 Southwell ^{1.416}

Development Services Department
City of San Antonio

**Attachment 2 (Continued)
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-082



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

10011 Southwell^{1.416}

Development Services Department
City of San Antonio

**Attachment 4
Site Photos**





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

To: Board of Adjustment
Case No.: A-13-083
Date: October 21, 2013
Applicant: Santos A. Gonzalez
Owner: Delfina & Santos A. Gonzalez
Location: 3838 Motes Drive
Legal Description: Lot 14, Block 2, NCB 12810
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Osniel Leon, Planner

Request

The applicant is requesting a 1 ½-foot variance from the 4-foot maximum fence height as specified in Section 35-514 (d) to allow a 5 ½-foot ornamental iron fence in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on October 3, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of Motes Drive between South San Joaquin and Southwest 34th Street. The property is currently developed with a single-family residence. The applicant constructed a fence along the front property line without a building permit and was cited by Code Compliance September 4, 2013. Following the citation, the applicant applied for a building permit; however, a permit could not be issued because the fence exceeds the maximum height allowed for fencing in the front yard.

The existing fence does not provide a minimum of 5 ½-inches of spacing between vertical bars to qualify for a special exception for an ornamental-iron fence. Therefore, the applicant is requesting a variance to allow the existing ornamental iron fence in the front yard.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5” (Residential Single-Family)	Single-Family Residential

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan area, and designated for future land use of General Urban Tier. The property is not located within the boundary of any neighborhood associations registered with the City.

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 UDC does contemplate that increased fence heights are occasionally appropriate for security or to reduce negative visual or noise-related impacts on the enjoyment of one’s property. In this request, negative impact on these goals is minimal. Therefore, the variance would not be contrary to the public interest.

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

As currently configured and developed, the property has no existing special conditions warranting any variances to allow increased fence heights. The existing fence provisions do not prevent the applicant from developing and using their property in a manner similar to that of other property owners whose properties have the same zoning classification. The applicant has stated that the primary reason for having the fence is for security reasons due to the crime in the area. The applicant also adds that he is blind from one eye and had surgery on the other making him about 70% blind. A literal enforcement of the City’s fence provisions requires the applicant reduce the height of the fence by just 1 ½-feet. The Board has the discretion to determine if this requirement creates an unnecessary hardship for the applicant.

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

Perimeter fencing is a common and generally accepted improvement to one's property. In addition to security, fencing also controls ingress and egress and serves as a visual delineation between properties and property boundaries. In this case, substantial justice is done by encouraging the applicant to comply with the existing regulations.

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 principle and accessory uses permitted by right in the "R-5" zoning district.

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

Should the Board approve the variance, staff believes the essential character of the district will not be altered since all properties are developed with single-family dwellings. Additionally, many of these dwellings have perimeter fencing that varies in heights, materials, and purpose.

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.

Relief from the fencing provisions is more difficult to justify as a variance than as a special exception, as there must be a unique property-related feature that distinguishes it from others in the area. The unique circumstances existing on the property were not caused by the applicant, but rather the circumstances result from crime in the area and having a vision disability.

Alternatives to Applicant's Request

The alternative to the applicant's request would be to reduce the fence height to 4 feet to maintain front yard fencing consistent with what is allowed by right or remove the fence.

Staff Recommendation

Staff recommends **approval of A-13-083**, based on the following findings:

1. The existing fence serves to provide security.
2. The existing fence design does not impede visibility or free-flow of air.

Attachments

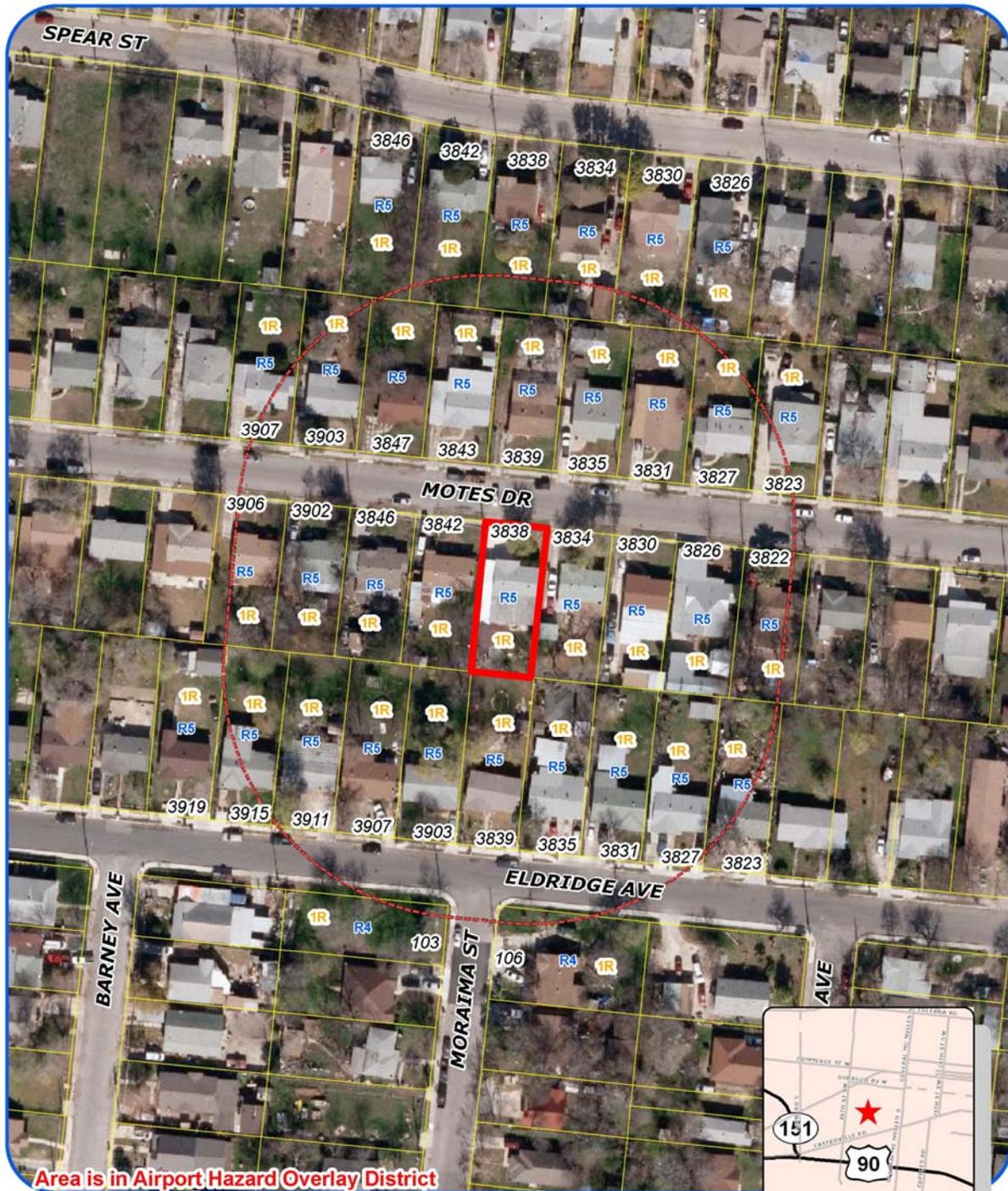
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Fence Plan

Attachment 4 – Photos

Attachment 1 Notification Plan



<p>Board of Adjustment Notification Plan for Case No A-13-083</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 6 </p> <p style="font-size: small;">0 100 200 300 400</p>	<p style="font-size: small;">Development Services Department City of San Antonio</p>
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**Attachment 2
Plot Plan**



Variance Request:
A request for a 1 1/2-foot variance from the 4-foot maximum fence height to allow an ornamental iron fence 5 1/2 feet in height in the front yard.

Board of Adjustment
Plot Plan for
Case No A-13-083



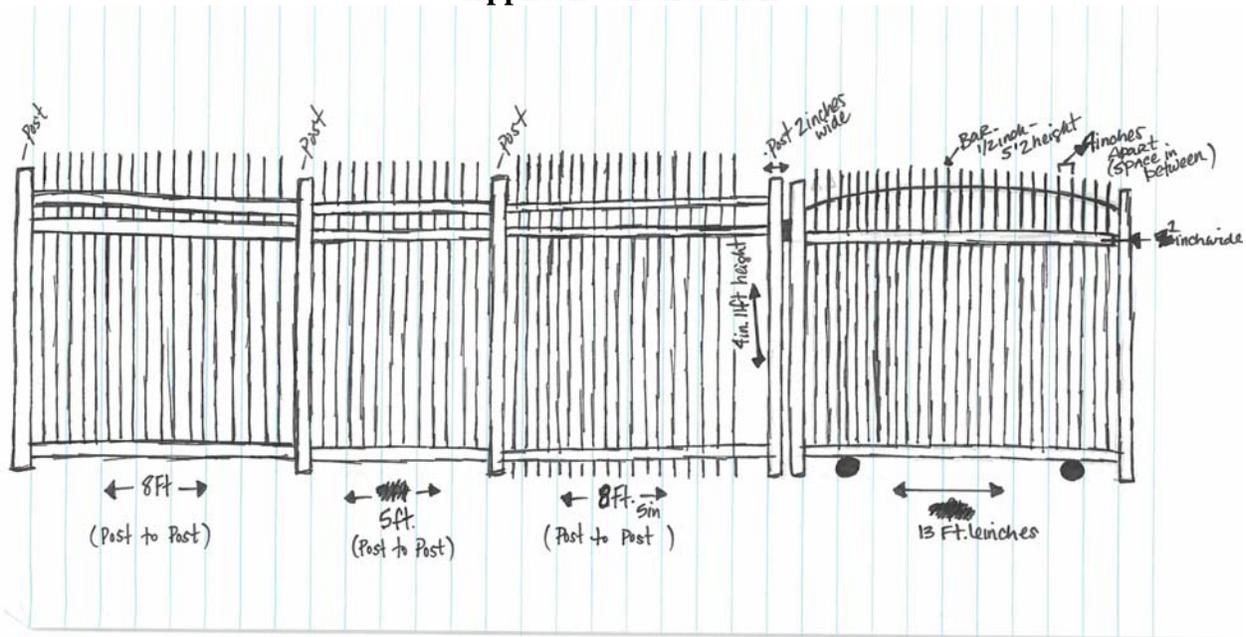
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 6

3838 Motes

1/210

Development Services Department
City of San Antonio

Attachment 3 Applicant's Fence Plan



**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-088
Date: October 21, 2013
Applicant: Joshua Calzada
Owner: IBC Bank
Location: 8650 Fredericksburg Road
Legal Description: The Southwest irregular 241.04 Feet of Lot 44, NCB 12858
Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District
Prepared By: Osniel Leon, Planner

Request

The applicant is requesting a 2-foot variance from the 4-foot maximum fence height as described in Section 35-514 (d) to allow a 6-foot ornamental iron fence in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on October 3, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The property is currently undeveloped and totals approximately 1.521-acres in area and is located on the east side of Fredericksburg Road between Bluemel Road and Wurzbach Road. The applicant is proposing to construct a commercial structure with a floor area of approximately 9,000 square feet. Since the proposed fencing does not qualify for consideration as a Special Exception, the applicant is requesting a variance for a 6-foot ornamental-iron fence for a portion of the property frontage along Fredericksburg Road. Per Section 35-514 (c) (1) of the UDC, no fence or wall, other than the wall of a permitted structure, shall be erected or altered in any front yard to exceed a height of 4-feet.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-3” (General Commercial)	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3” (General Commercial)	Offices
South	“C-3” (General Commercial)	Apartments
East	“C-2” (Commercial)	Apartments
West	“C-3” (General Commercial)	Offices

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan area, and designated for future land use of Regional Center. The property is not located within the boundary of any neighborhood associations registered with the City.

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 UDC contemplates that increased fencing height is occasionally appropriate and sometimes necessary in order for security or to reduce negative visual or noise-related impacts on the enjoyment of one’s property. In this case, allowing a 6-foot fence along the south corner of the lot is not contrary to the public interest.

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

The subject property is not subjected to unique or oppressive conditions that prevent the applicant from erecting a 4-foot, predominantly open fence or wall within the front yard of the property. A literal enforcement of the City’s fence provisions does not prohibit the applicant from constructing a fence or wall in the proposed location – just a fence or wall in excess or 4-feet. Further, the existing fence provisions do not prevent the applicant from developing and using their property in a manner similar to that of other property owners with properties having the same zoning classification. Therefore, a literal enforcement of the ordinance would not result in unnecessary hardship.

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

In the spirit of the ordinance, variances from city code should be granted on properties with unique oppressive conditions where the literal enforcement of the fence provisions create undue

hardship and deny the reasonable use of a property. The subject property may be reasonably developed without any variances that provide relief from the current fence height regulations.

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.

If approved, the requested variance will not allow any principle or accessory uses other than those currently permitted by the base zoning district.

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

Fence heights are restricted within the front yard of commercial properties to maintain the interconnectivity and relationship between the right-of-way, pedestrian and commercial uses. The subject property is surrounded by other similar commercial and service type use properties, the majority of which do not have fences within the front yard. Other properties in the immediate vicinity are subject to the same fence height provisions identified in the UDC.

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 an increase in the minimum fence height out of concern for property security. The property fronts on a major arterial and, when developed, will be one of many non-residential uses along Fredericksburg Road. Since this property does not possess any unique characteristics and many other office and commercial uses exist in this area with fencing that complies with the provisions identified in the UDC, the request is not based on legitimate security concerns but not on justifiably unique circumstances.

Alternatives to Applicant's Request

The alternative to the applicant's request would be to comply with the 4-foot maximum height allowed in the front yard. Or realign the fence 26-feet back in line with the building facade.

Staff Recommendation

Staff recommends **denial of A-13-088**, based on the following findings:

1. There are no unique features or characteristics which differentiate this lot from others in the area to warrant alteration of the ordinance provision;
2. No unique circumstances or conditions exist on the property that creates a hardship.

Attachments

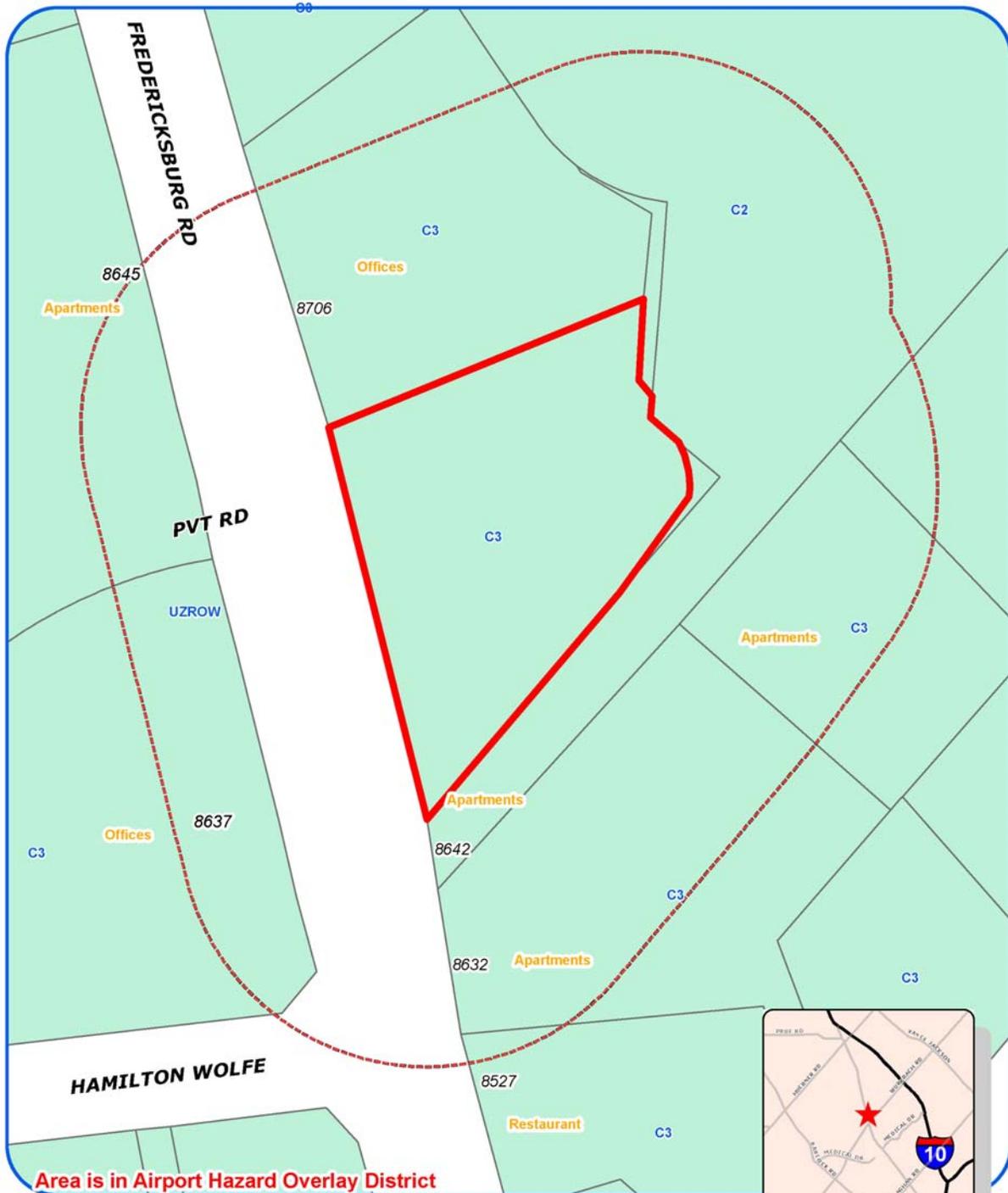
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plans

Attachment 4 – Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-13-088</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 8 </p>		<p style="font-size: small;">Development Services Department City of San Antonio</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-088

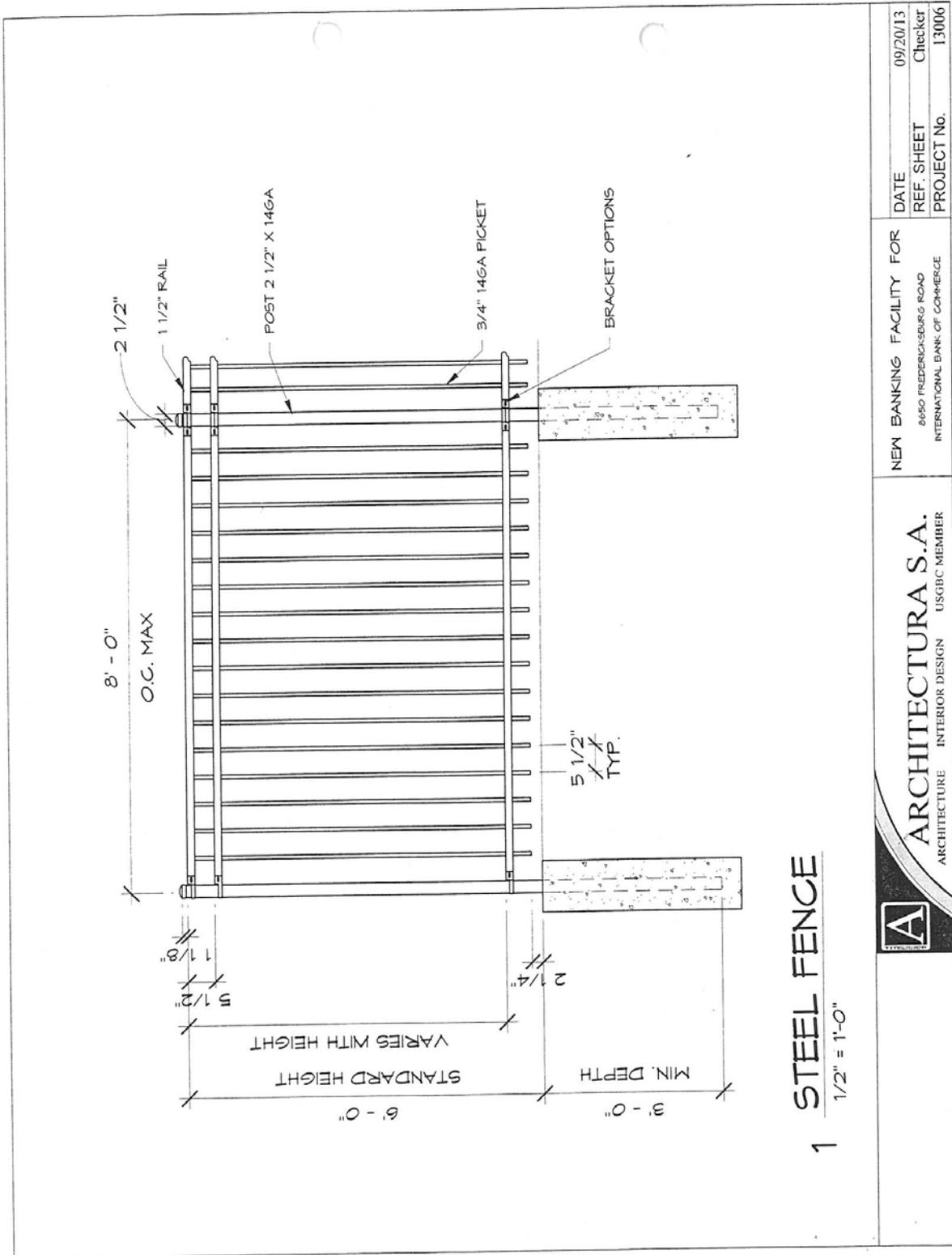


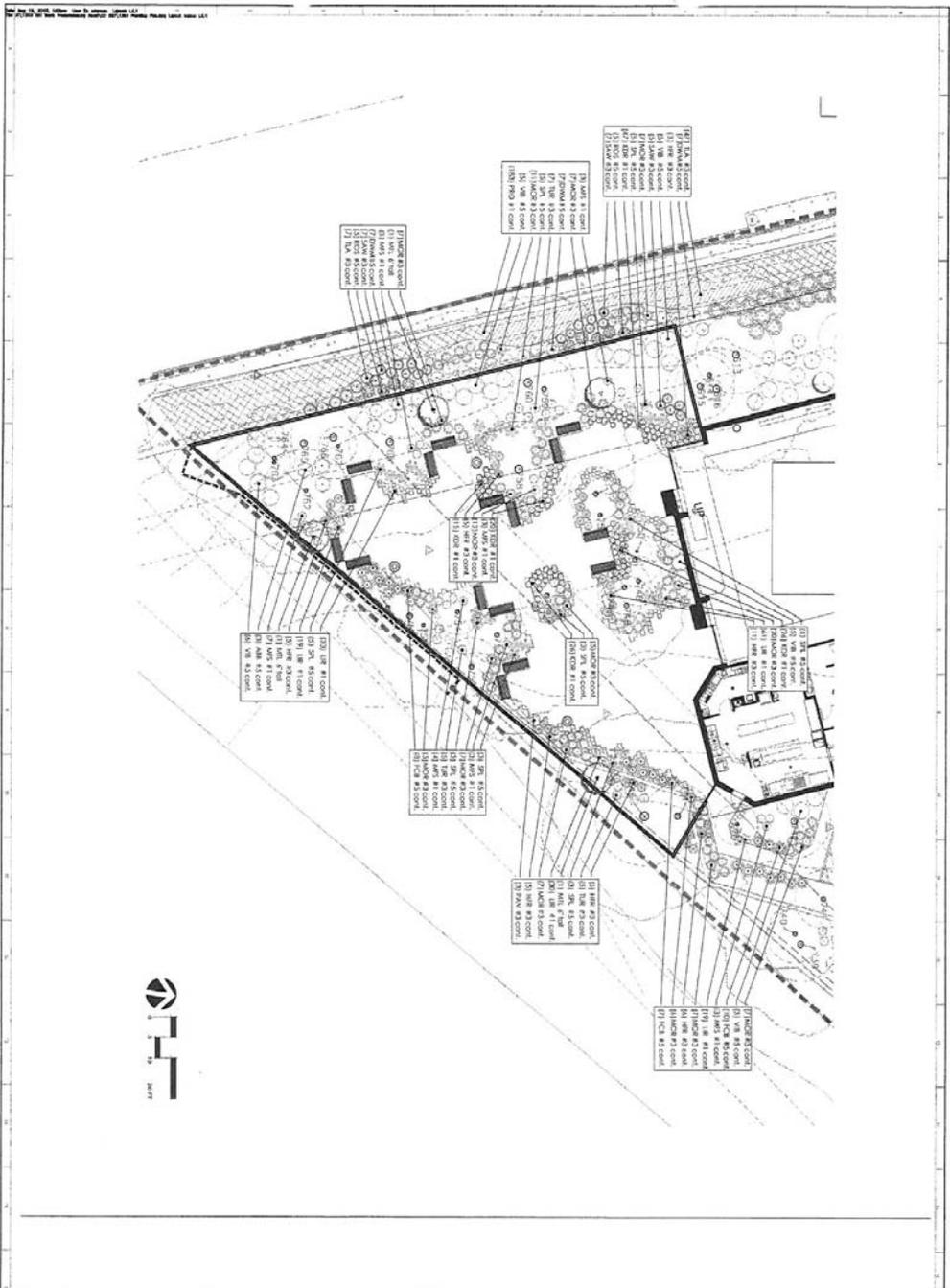
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 8

8650 Fredericksburg

Development Services Department
City of San Antonio

**Attachment 3
Applicant's Site Plans**





<p style="text-align: center;">L4.1</p>	<p>FREDERICKSBURG ROAD IBC</p> <p>IBC</p> <p>INTERNATIONAL BANK OF COMMERCE</p> <p>8600 FREDERICKSBURG ROAD SAN ANTONIO, TEXAS</p>	<p>ARCHITECTURA S.A., INC.</p> <p>ARCHITECTURE INTERIOR DESIGN CONSULTANTS</p> <p>1708 BEECHLAND ROAD, SUITE 300, SAN ANTONIO, TEXAS 78241 1.210.244.8200 • 4.094.551.2966 • 2.202.174.1215 www.architectura.com</p>	
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**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-089
Date: October 21, 2013
Applicant: Bailey Porter
Owner: Mary Ann Ohlenbusch
Location: 632 Leigh Street
Legal Description: Lot W 41.6 feet of A19, NCB 2739
Zoning: "R-5 H AHOD" Residential Single-Family Historic Airport Hazard Overlay District
Prepared By: Osniel Leon, Planner

Request

The applicant is requesting for 1) a 2-foot variance from the minimum 5-foot side yard setback; 2) an 8-foot variance from the minimum 20-foot rear yard setback as detailed in Table 35-310-1 to allow construction of a new residence 3 feet from the side property line and 12-feet from the rear property line.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on October 3, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south of Leigh Street between McMillan Place and Interstate Highway 37 South. The property is currently undeveloped. The site is located within the City Limits as they were recognized in 1938, and was originally zoned under the 1938 zoning code. In a 1991 City-initiated large-area case, the property was rezoned to "R-5" One-Family Residence District. In 2004, in another City-initiated large-area case, the Historic District was adopted. According to the Bexar County Property Appraisal District, the property contains 4,494 square feet, measuring 42 feet by 107 feet. Section 35-310.01 (b) of the Unified Development

Code the current base zoning district allows a 5-foot side yard setback and a 20-foot rear yard setback, in a minimum lot area of 5,000 square feet with a minimum lot width of 45 feet. The lot does not meet the minimum lot size as well as the minimum width requirements. The property is not platted. However, according to Section 35-432 it does meet the requirements for an antiquated lot which does not require a subdivision plat. The applicant has applied for a Certificate of Determination to verify this exception.

In June 21, 2004, a variance was granted for a 3-foot side yard setback on this property per case A-04-075. However, no permits for construction were issued and the variance expired.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 H AHOD" (Residential Single-Family Historic District)	Single-Family Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"MF-33 IDZ AHOD" (Multi-Family Residential Infill Development Zone District)	Undeveloped Land
South	"R-5 H AHOD" (Residential Single-Family Historic District)	Single-Family Residential
East	"R-5 H AHOD" (Residential Single-Family Historic District)	Single-Family Residential
West	"R-5 H AHOD" (Residential Single-Family Historic District)	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Lavaca Neighborhood Plan area, and designated for future land use of Low Density Residential. The property is located within the boundaries of the Lavaca Neighborhood Association; a registered neighborhood association recognized by the City of San Antonio. As such, they were notified and asked to comment.

Criteria for Review

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

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

Building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. New construction would have to meet all building and fire safety codes in order to be granted a building permit. The 2-foot variance is not contrary to the public interest as the

proposed structure will not infringe upon the abutting properties to an extent detrimental to the health, safety, or general welfare of the public.

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

Because of the age of the subdivision, a special condition exists that would cause a literal enforcement of the ordinance to result in an unnecessary hardship. The buildable area is only 32 feet wide.

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

The granting of the variance would observe the spirit of the ordinance and do substantial justice. The subject property's shape and size restrains the owner to develop a structure within the development guidelines for the "R-5" zoning district. According to the submitted site plan, the home will maintain the ten-foot setback in the front yard. In "in-fill" development, flexibility is often needed to create investment opportunities. Therefore, allowing the new structure to be built with the requested setbacks will observe the spirit of the Code.

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" zoning 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.*

Should the Board approve the variance, staff believes the essential character of the district will not be altered. Several lots nearby have less than 5,000 square feet in lot area; the character of the neighborhood is a variety of small and larger lots on this block. Since the property is zoned Historic, all new construction will have to be reviewed and approved by the HDRC and Historic Preservation Officer prior to construction, guaranteeing its compatibility with the Historic District. The applicant has received conceptual approval, pending the Board's decision. Therefore, the requested variance will not injure adjacent property nor detract from the essential character of the neighborhood.

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 not created by them, namely the size and shape of the lot is unique within this district.

Alternatives to Applicant's Request

The alternative to the applicant's request is to construct the dwelling so as to meet all applicable setbacks.

Staff Recommendation

Staff recommends **approval of A-13-089**, based on the following findings:

1. The shape and size of the lot is a special condition that warrants the granting of the requested variance.
2. A literal enforcement of the ordinance may create an unnecessary hardship.
3. The spirit of the ordinance is observed by allowing development of a parcel similar in size with others on the same block face.
4. Any new construction will be subject to review and approval of the Office of Historic Preservation.

Attachments

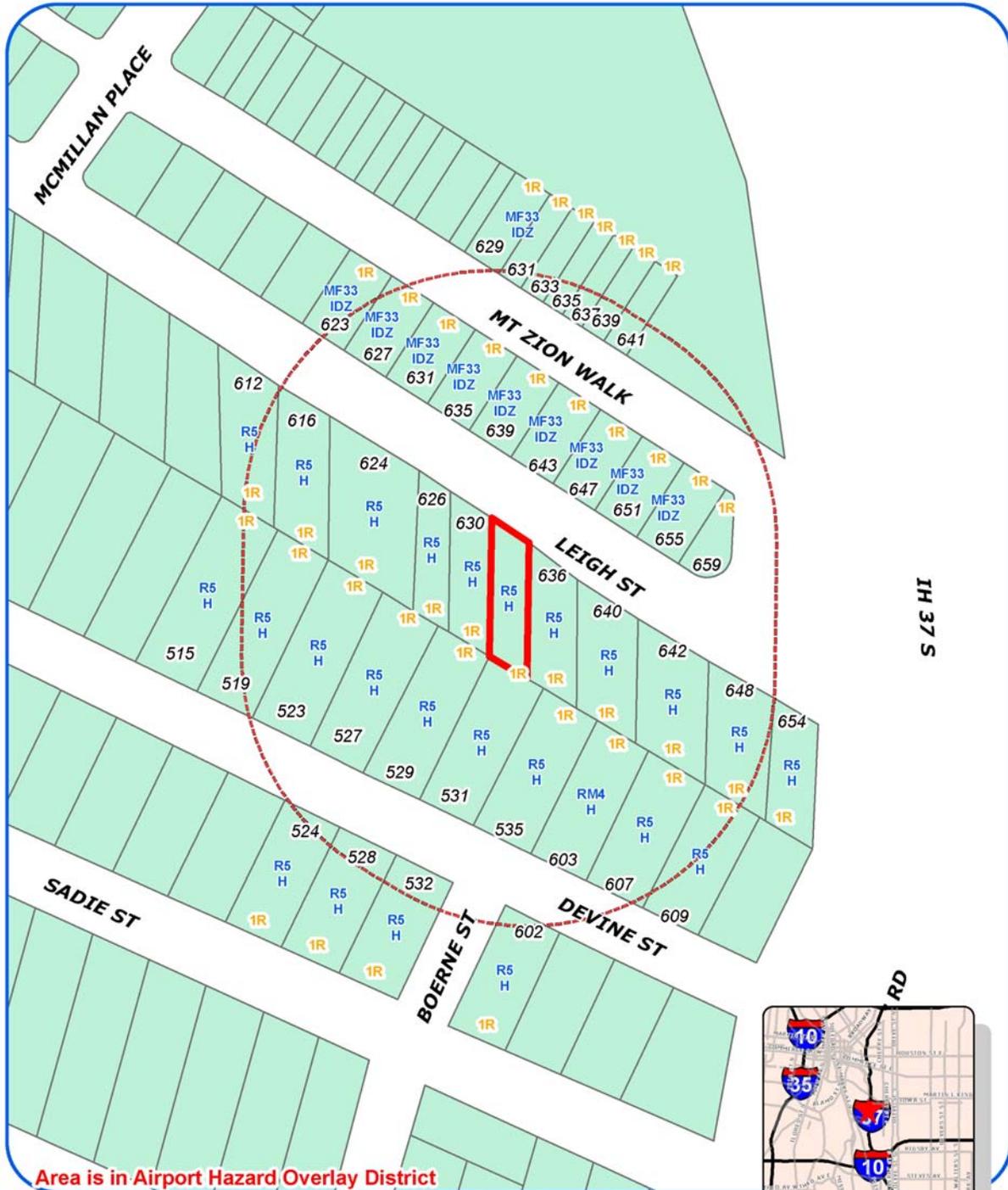
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 –Applicant’s Site Plan

Attachment 4 – Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

<p>Board of Adjustment Notification Plan for Case No A-13-089</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 1 </p>	<p style="text-align: right;">1:200</p>
<p>Development Services Department City of San Antonio</p>			

Attachment 2
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-089



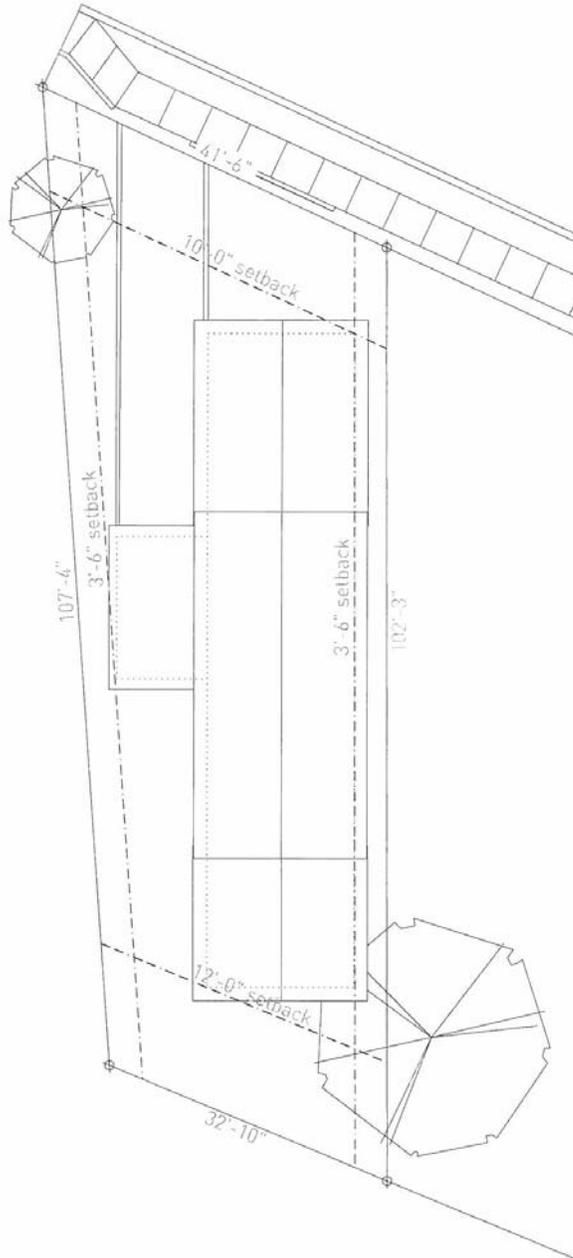
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 1

632 Leigh

1:178

Development Services Department
City of San Antonio

Attachment 3
Applicant's Site Plan



SITE PLAN
scale 1/16" = 1'-0"



Attachment 4
Site Photos





City of San Antonio Development Services Department Staff Report

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

Request

A request for 1) a 3-foot variance from the 3-foot maximum height for a solid screen fence to allow a 6-foot wall in the front yard and 2) a 5-foot variance from the 4-foot maximum height for a predominately open fence as described in Section 35-514 (d) to allow a 9-foot high gate in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on October 3, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

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

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

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

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

Criteria for Review

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

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

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

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

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

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

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

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-6 AHOD MLOD” zoning district.

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

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

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

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

Alternatives to Applicant’s Request

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

Staff Recommendation

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

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

Attachments

Attachment 1 – Notification Plan (Location Map)

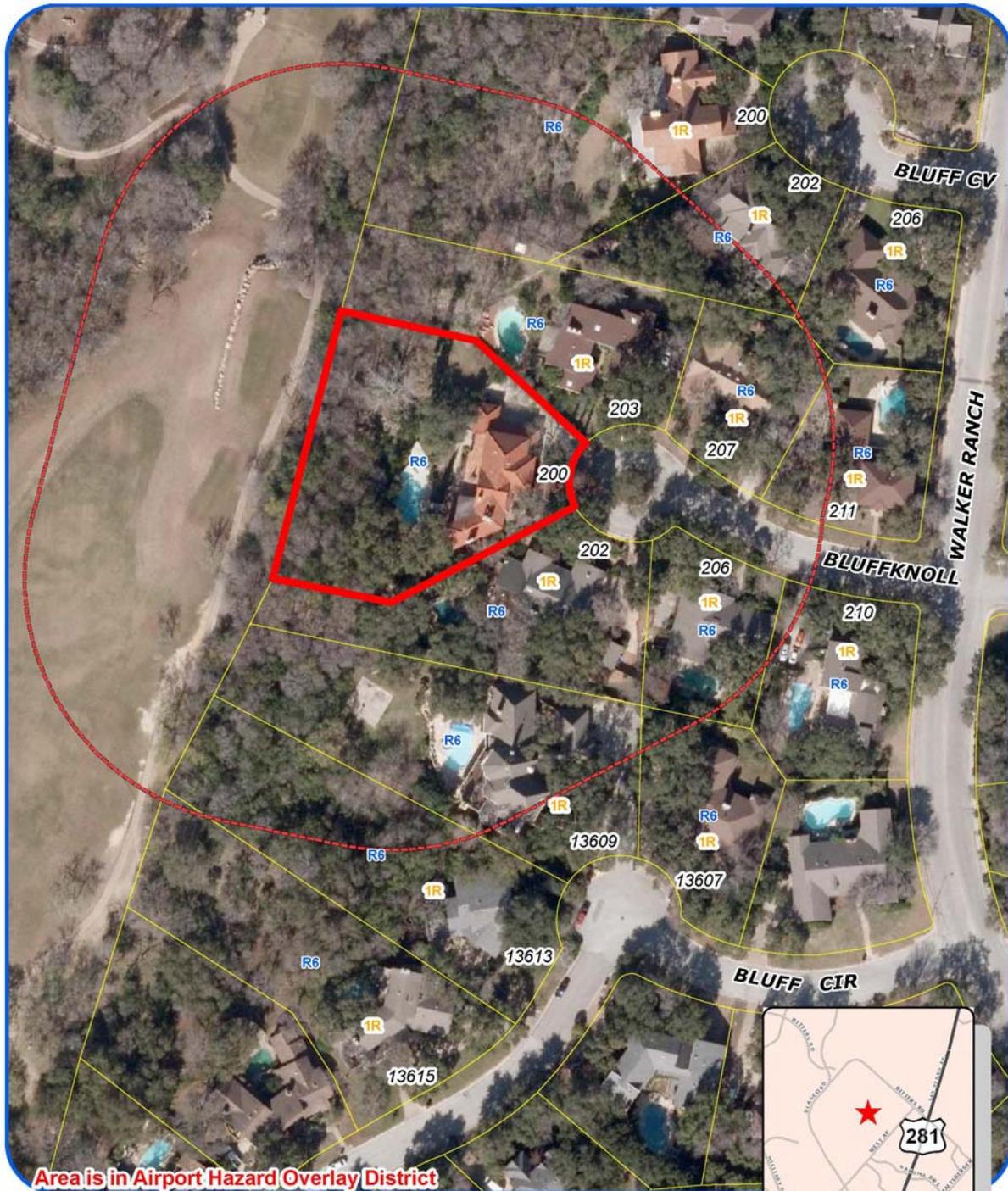
Attachment 2 – Plot Plan

Attachment 3 – Applicant’s Site Plan

Attachment 4 – Applicant’s Gate Design

Attachment 5 – Site Photos

Attachment 1 Notification Plan



Area is in Airport Hazard Overlay District

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

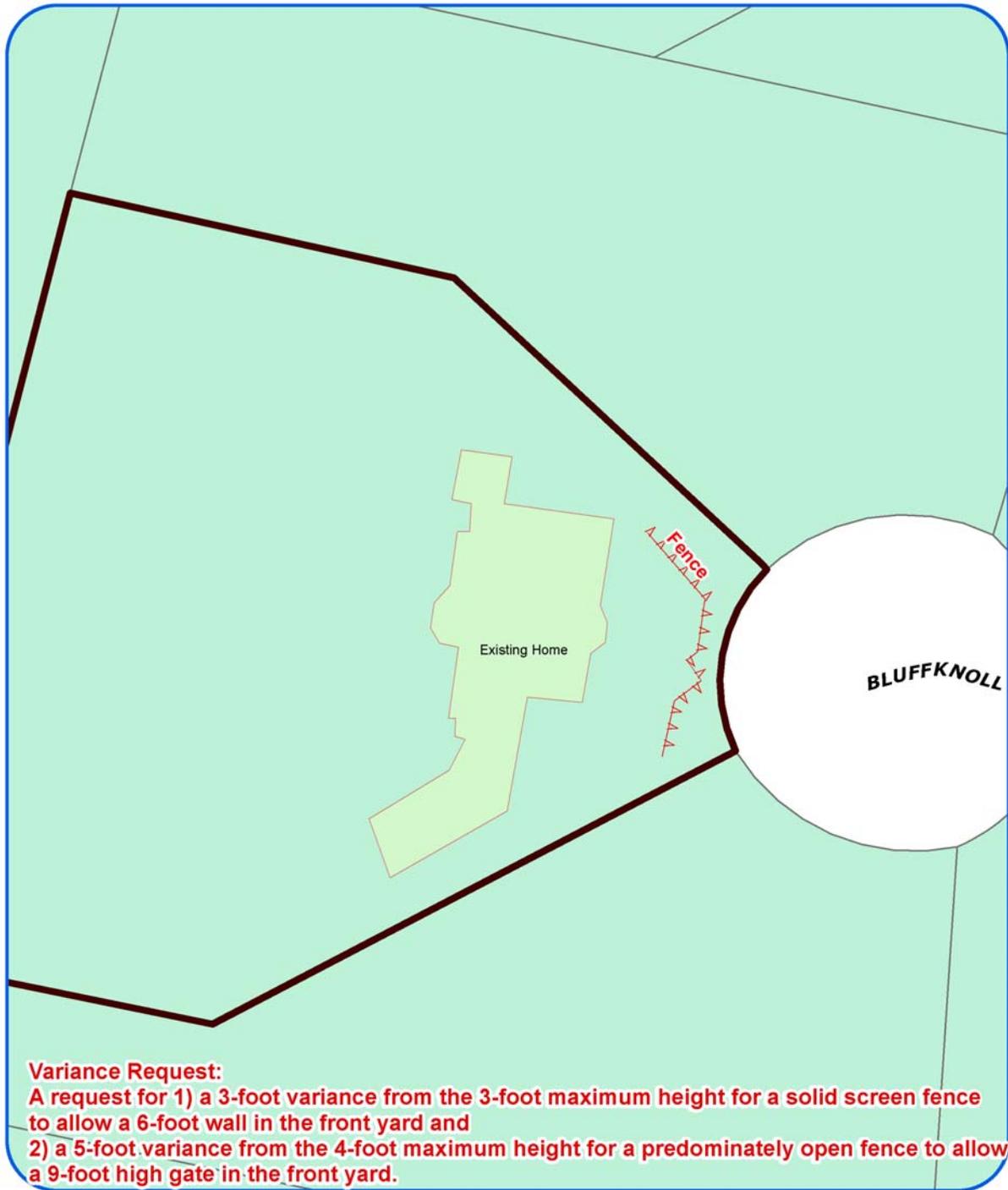


- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 0



Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



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

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



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

200 Bluffknoll

Development Services Department
City of San Antonio

1:420

**Attachment 2
Plot Plan (continued)**



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



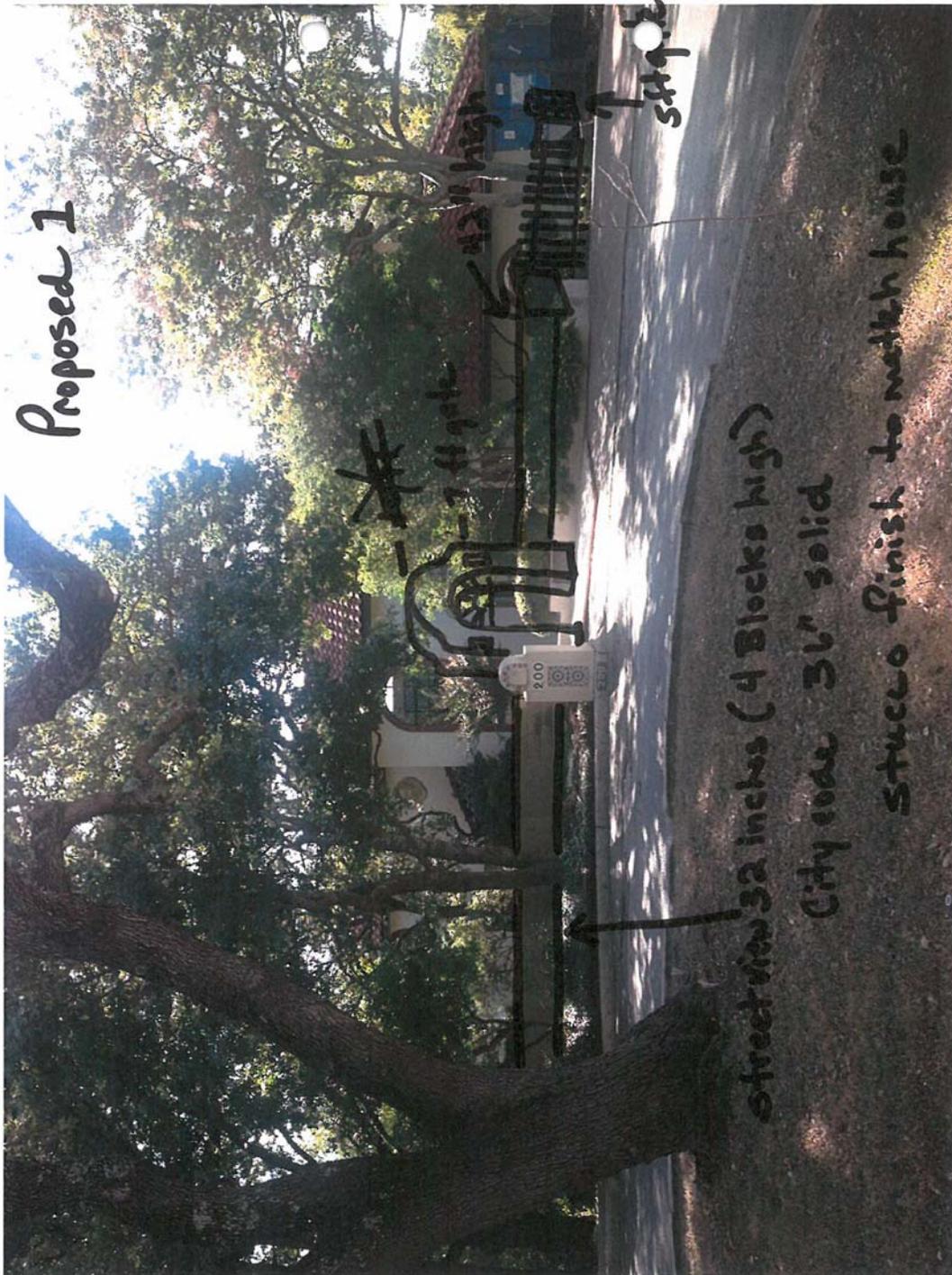
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 9

200 Bluffknoll

Development Services Department
City of San Antonio

1/4/20

Attachment 4
Applicant's Gate Design



**Attachment 5
Site Photos**



Wall begun without permit





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-085
Date: October 21, 2013
Applicant: Ernesto Narvaiz
Owner: Ernesto Narvaiz
Location: 5427 Grey Rock Drive
Legal Description: Lot 57, Block 5 NCB 14513
Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request from Section 35-514(d) for a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before October 3, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the north side of Grey Rock Drive, approximately 200 feet east of Dulce.

The site is currently developed as a single-family residence. The applicant has installed a wrought-iron fence in the front yard, 5 feet in height without a permit. Staff visited the site and determined that the subject fence did not qualify for a special exception because the fence did not conform to the design requirements as listed in Section 35-399.04 of the UDC. Specifically, the UDC required a minimum spacing of 5 ½ inches between the vertical bars, this fence had a spacing measurement of 4 inches, and the UDC requires that columns must be a minimum of 8

feet apart; this fence’s columns were measured at 7 feet, 8 inches apart. As such, a variance for height is required.

The applicant has stated that there has been crime in the neighborhood and trespassing onto their property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-3 AHOD” (General Commercial Airport Hazard Overlay District)	Single-family residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” (Residential Single-Family Airport Hazard Overlay District)	Single-Family Residence
South	“C-3 AHOD” (General Commercial Airport Hazard Overlay District)	Single-Family Residence
East	“C-3 AHOD” (General Commercial Airport Hazard Overlay District)	Single-Family Residence
West	“C-3 AHOD” (General Commercial Airport Hazard Overlay District)	Single Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). 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:*

Usually, fence height restrictions are put into place in order to provide orderly development and encourage a sense of community. Front yard fences of varying materials are common in this area. In fact, in September, the Board approved a similar variance request in this neighborhood. The difference between the applicant’s fence and the required design specifications required for a special exception, a lower burden of proof than a variance, are minute, and likely indiscernible to passersby. As such, 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 review of the City of San Antonio's online crime tracking tool does reveal that there have been instances of burglary, theft, and assault in the area of the subject property. Though the applicant did not submit copies of any police reports for the property, not allowing the extra fence height could be considered an unnecessary hardship.

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

The UDC contemplates that higher fences are sometimes required to protect properties. The city's online crime tracking tool reveals that there have been crime issues in the immediate vicinity. Additionally, the fence is predominantly open, allowing for clear vision and free flow of air and light. Because of this, the spirit of the ordinance will be observed and substantial justice 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 General Commercial base zoning 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 requested variance, if approved, will not injure the appropriate use of adjacent conforming properties but rather the variance would likely have the effect of enhancing the quality of life for the applicants and deterring crime.

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

The unique circumstances existing on the property were not caused by the applicant, but rather the circumstances result from crime in the area.

Alternatives to Applicant's Request

The alternative to the applicant's request is to modify the fence to 4 feet in height uniformly, which may be insufficient to accomplish the applicant's goal of protecting the property.

Staff Recommendation

Staff recommends **approval of A-13-085** because of the following reasons:

- The proposed fence design utilizes an open material which will not impede visibility or free-flow of air.
- The proposed fence will serve to protect the property from crime in the area.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan

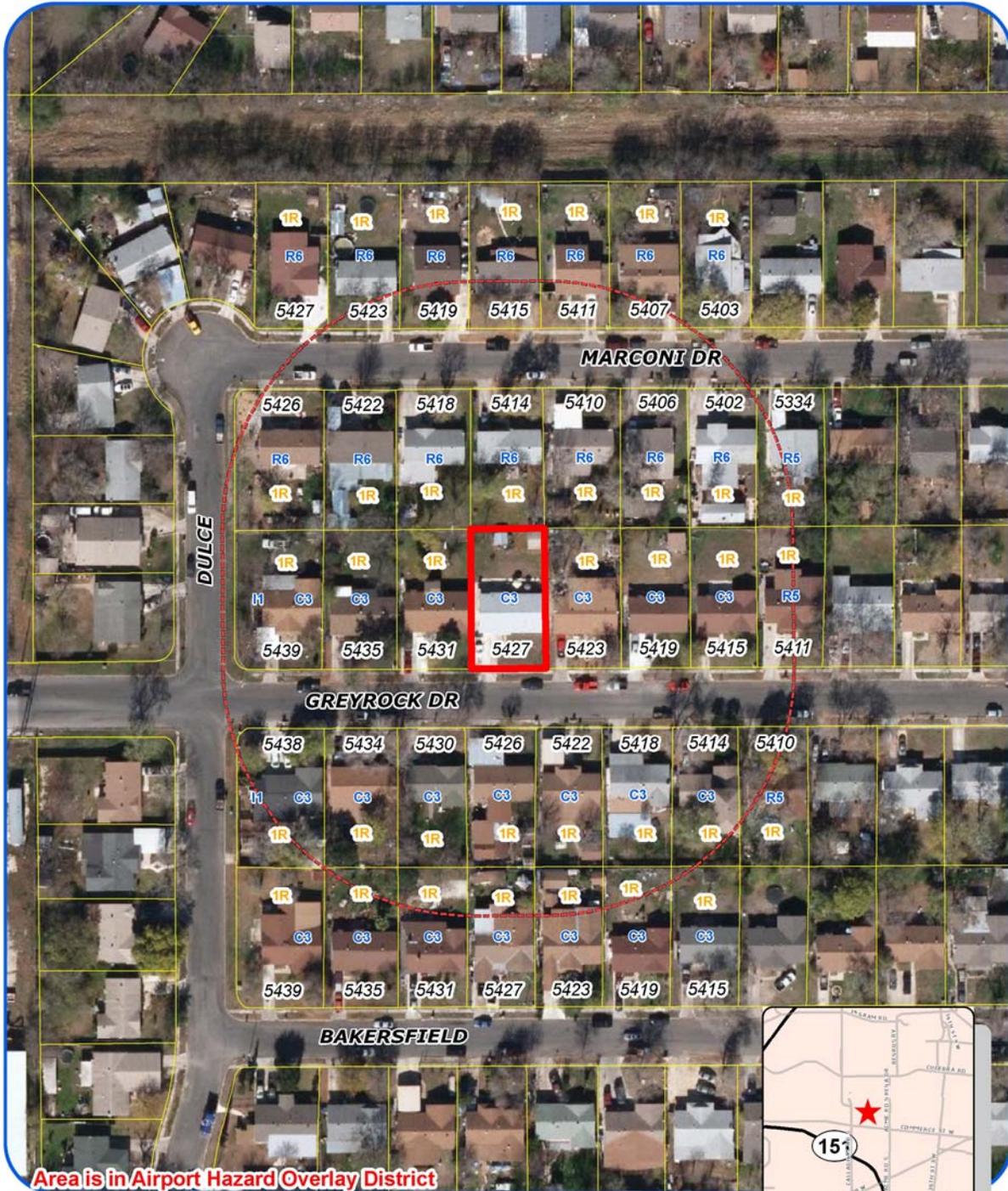


Area is in Airport Hazard Overlay District



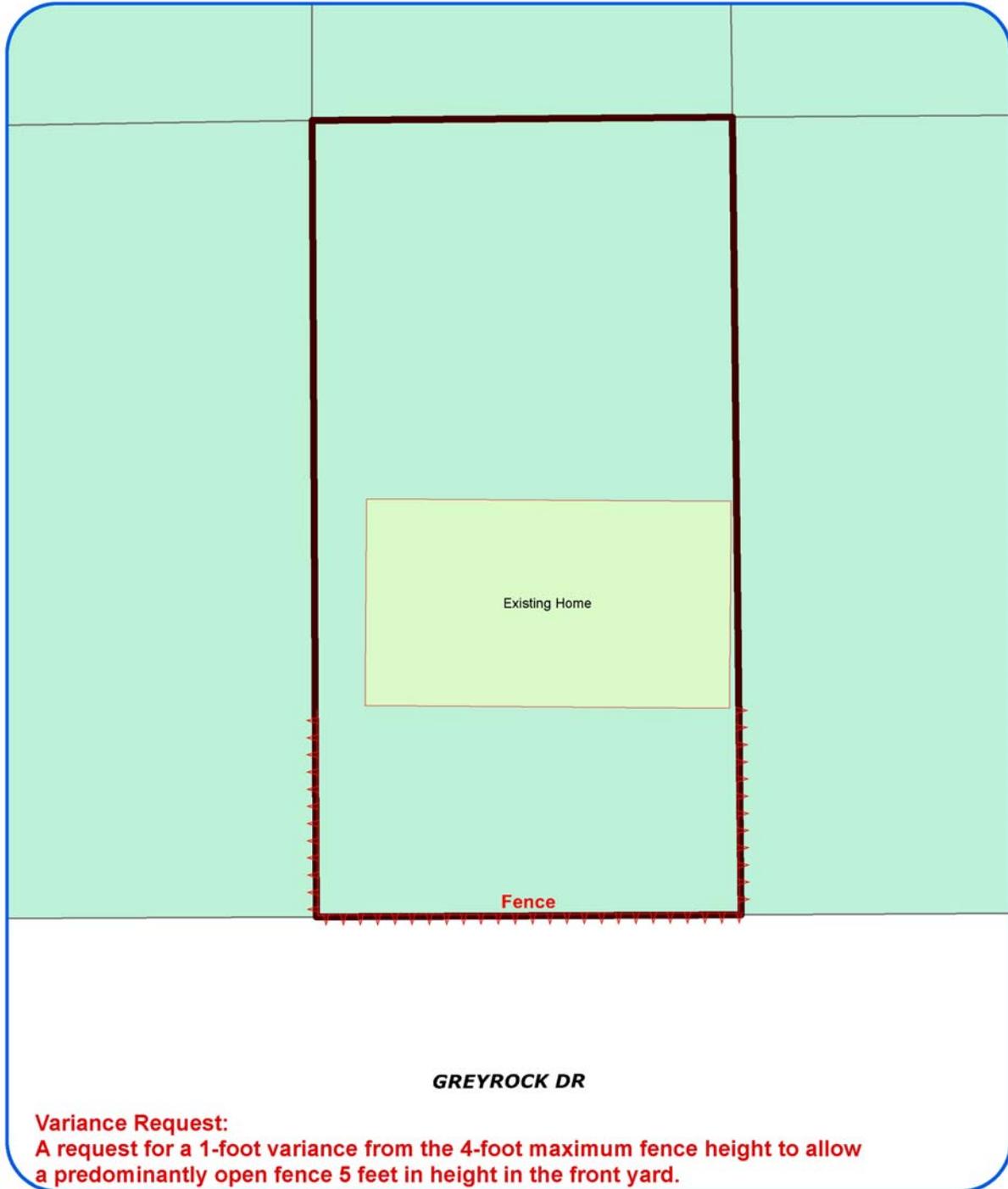
<p>Board of Adjustment Notification Plan for Case No A-13-085</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7 </p>	<p>Development Services Department City of San Antonio</p> <p style="font-size: small;">1:1,200</p>
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**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-13-085</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7 </p>	<p>Development Services Department City of San Antonio</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-085



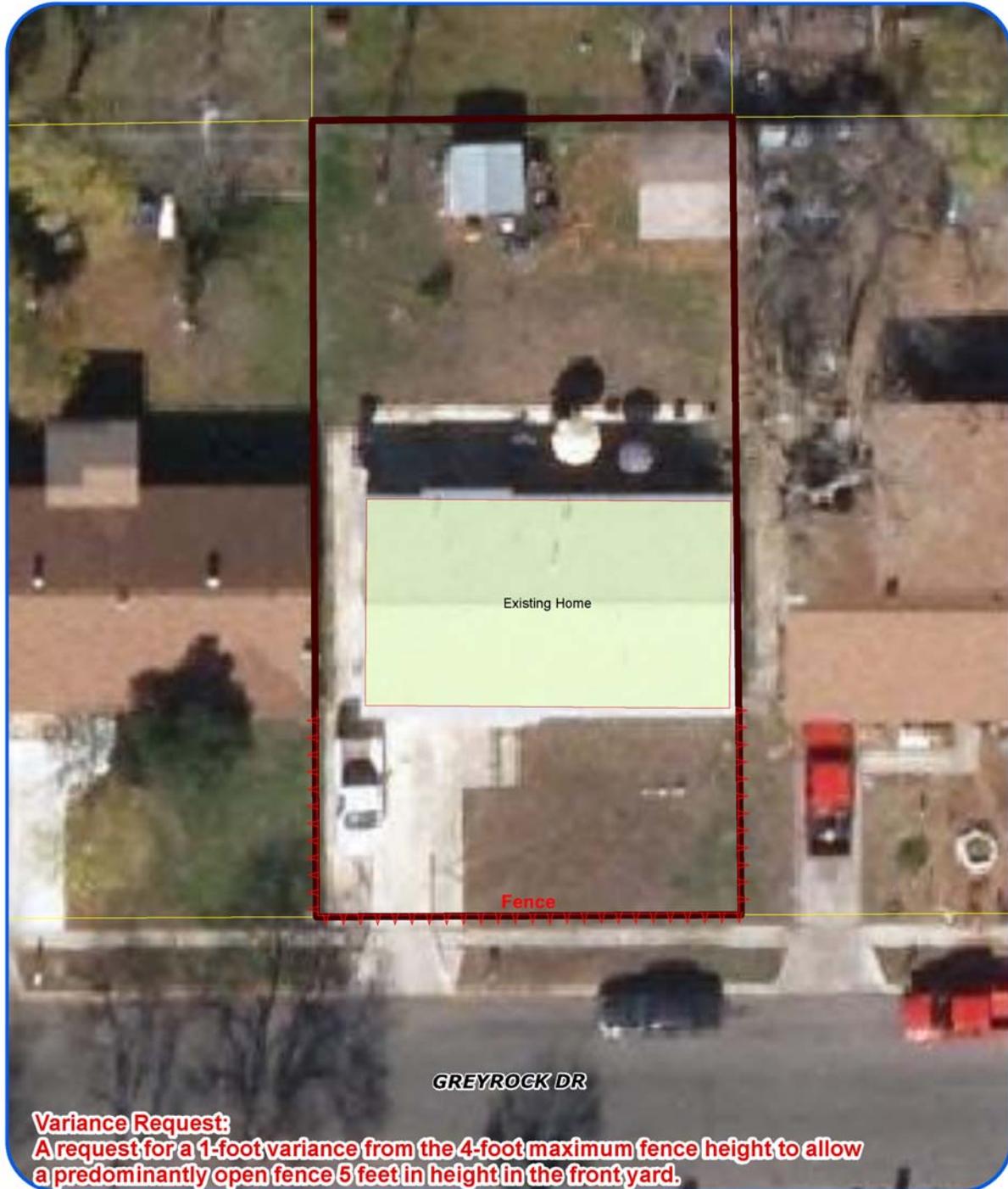
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5427 Greyrock

Development Services Department
City of San Antonio

1:210

**Attachment 2 (Continued)
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-085



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5427 Greyrock

Development Services Department
City of San Antonio

1/210

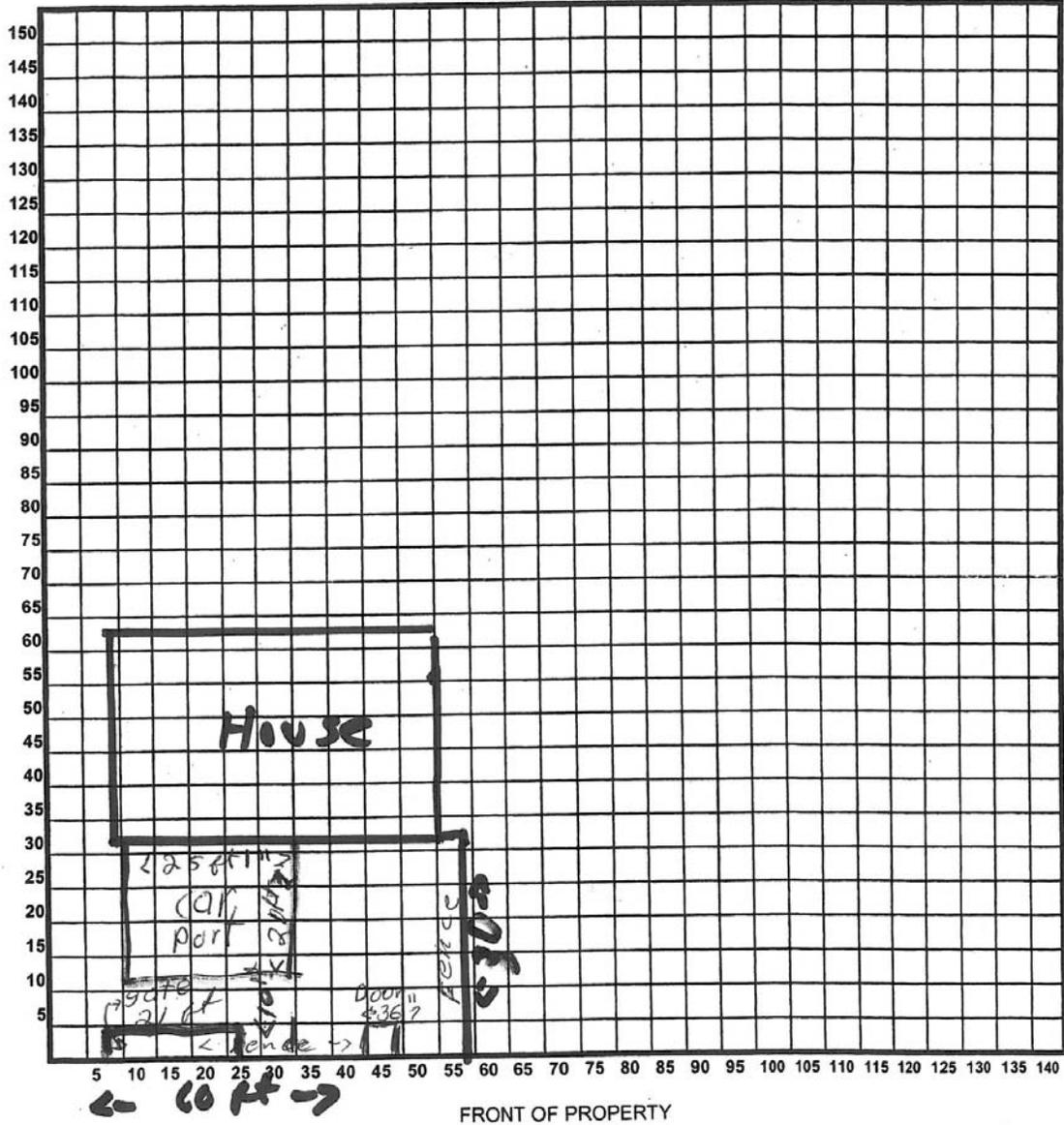
Attachment 3
Applicant's Site Plan

PLOT PLAN

FOR
BLDG PERMITS

Address 5427 Grey Rock Lot 7 Block 25 NCB 14867

REAR OF PROPERTY



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

9/19/2013
Date

[Signature]
Signature of Applicant

**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-087
Date: October 21, 2013
Applicant: Adriana Rodriguez
Owner: Adriana Rodriguez
Location: 5251 Marconi Drive
Legal Description: Lot 1, Block 4, NCB 14512
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request from Section 35-514(d) for a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before October 3, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the northeast corner of Marconi Drive and Laven Drive.

The site is currently developed as a single-family residence. The applicant has installed a wrought-iron fence in the front yard, 5 feet in height without a permit. Staff visited the site and determined that the subject fence did not qualify for a special exception because the fence did not conform to the design requirements as listed in Section 35-399.04 of the UDC. Specifically, the UDC required a minimum spacing of 5 ½ inches between the vertical bars, this fence had a spacing measurement of 4 ½ inches, and the UDC requires that columns must be a minimum of 8

feet apart; this fence’s columns were measured at 7 feet apart. As such, a variance for height is required.

The applicant has stated that there has been crime in the neighborhood and trespassing onto their property.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). 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:*

Usually, fence height restrictions are put into place in order to provide orderly development and encourage a sense of community. Front yard fences of varying materials are common in this area. In fact, in September, the Board approved a similar variance request in this neighborhood. The difference between the applicant’s fence and the required design specifications required for a special exception, a lower burden of proof than a variance, are minute, and likely indiscernible to passersby. As such, 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 review of the City of San Antonio's online crime tracking tool does reveal that there have been instances of burglary, theft, and assault in the area of the subject property. Though the applicant did not submit copies of any police reports for the property, not allowing the extra fence height could be considered an unnecessary hardship.

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

The UDC contemplates that higher fences are sometimes required to protect properties. The city's online crime tracking tool reveals that there have been crime issues in the immediate vicinity. Additionally, the fence is predominantly open, allowing for clear vision and free flow of air and light. Because of this, the spirit of the ordinance will be observed and substantial justice 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 Residential Single-Family base zoning 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 requested variance, if approved, will not injure the appropriate use of adjacent conforming properties but rather the variance would likely have the effect of enhancing the quality of life for the applicants and deterring crime.

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

The unique circumstances existing on the property were not caused by the applicant, but rather the circumstances result from crime in the area.

Alternatives to Applicant's Request

The alternative to the applicant's request is to modify the fence to 4 feet in height uniformly, which may be insufficient to accomplish the applicant's goal of protecting the property.

Staff Recommendation

Staff recommends **approval of A-13-087** because of the following reasons:

- The proposed fence design utilizes an open material which will not impede visibility or free-flow of air.
- The proposed fence will serve to protect the property from crime in the area.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

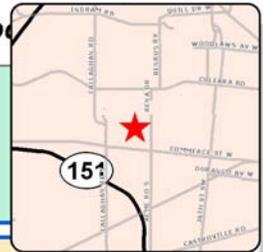
Attachment 1 Notification Plan



Board of Adjustment
Notification Plan for
Case No A-13-087

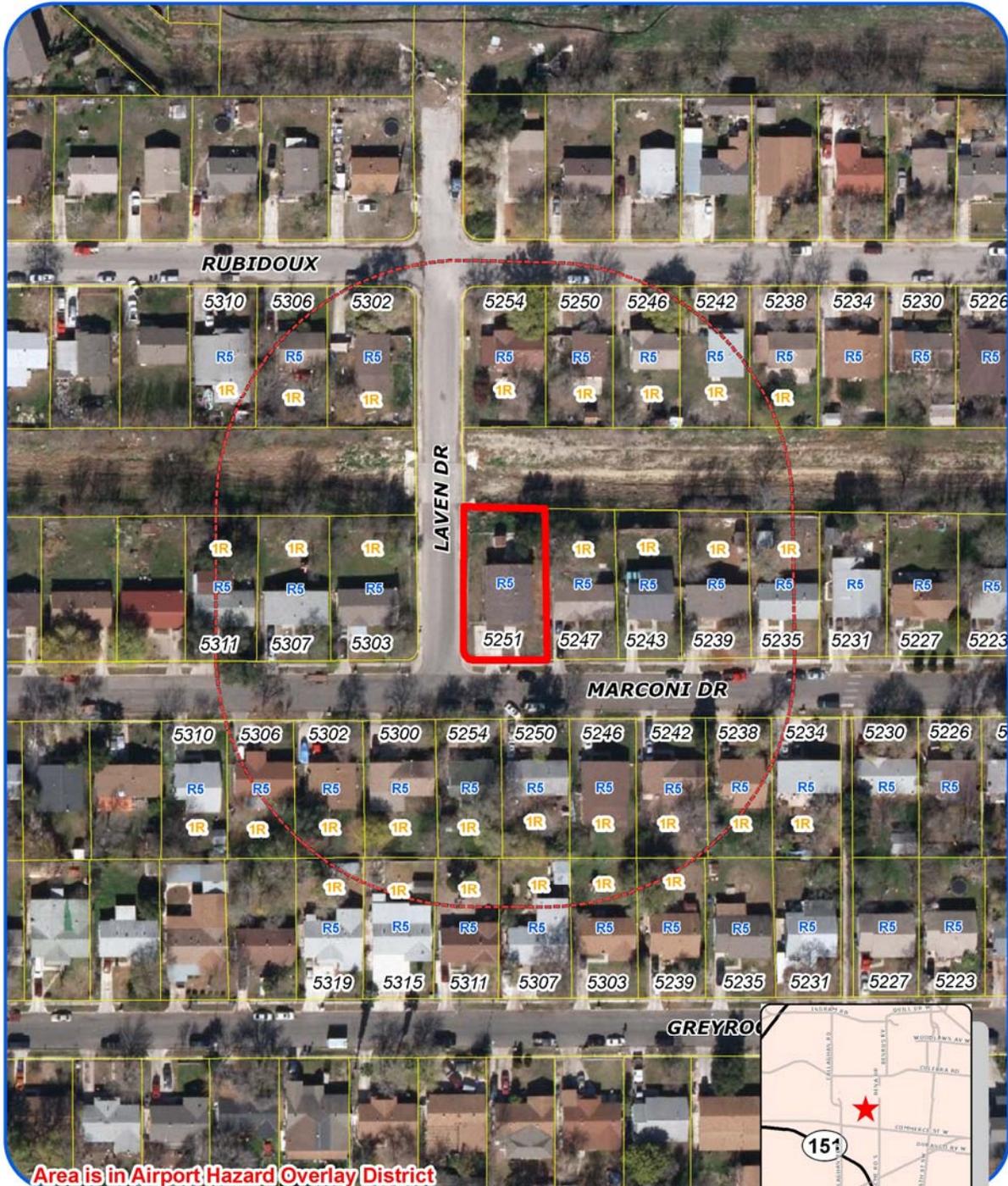


- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 7



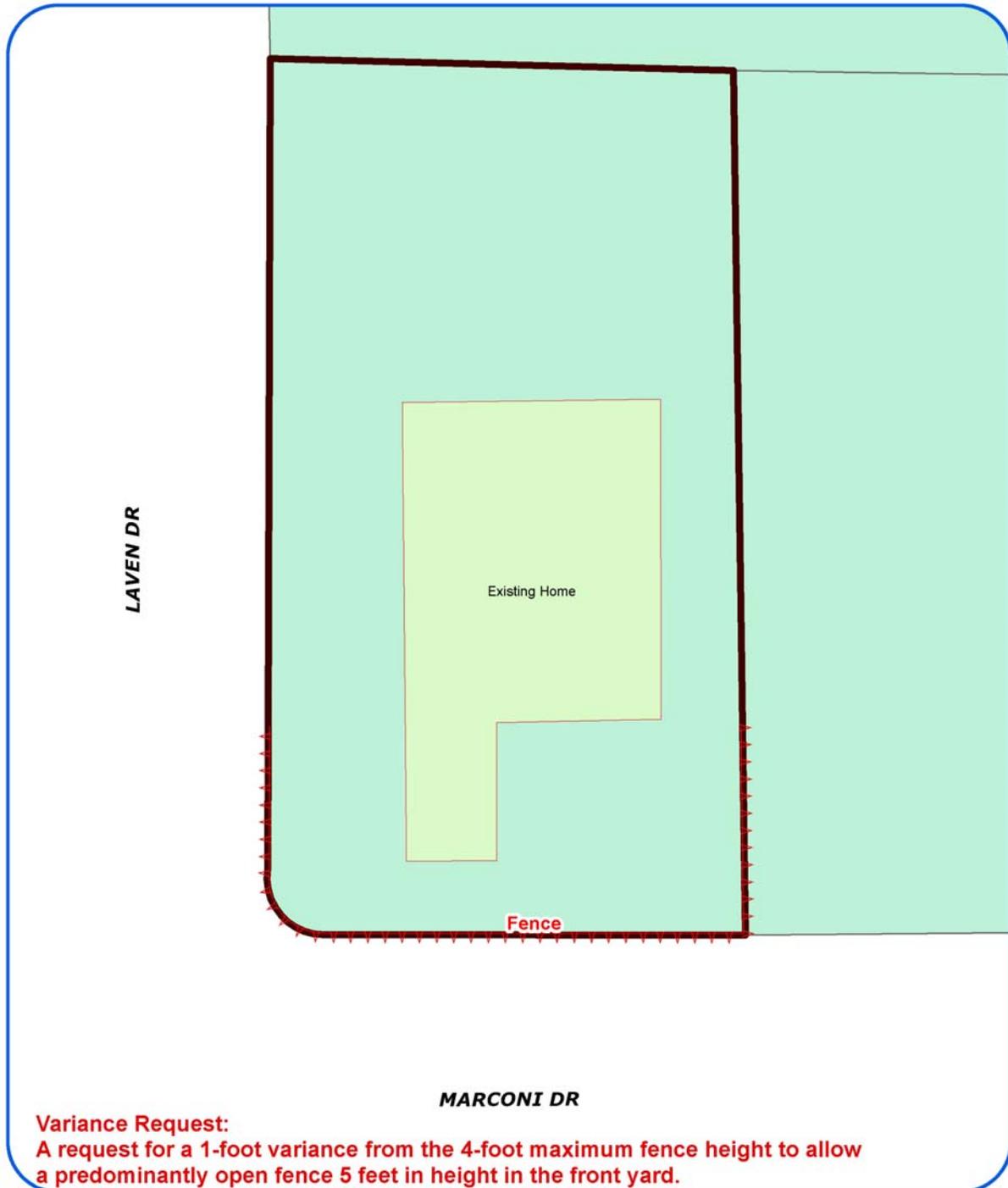
Development Services Department
City of San Antonio

**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-13-087</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7 </p>	<p>Development Services Department City of San Antonio</p>

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-087



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5251 Marconi

1:210

Development Services Department
City of San Antonio

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-087



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5251 Marconi

Development Services Department
City of San Antonio

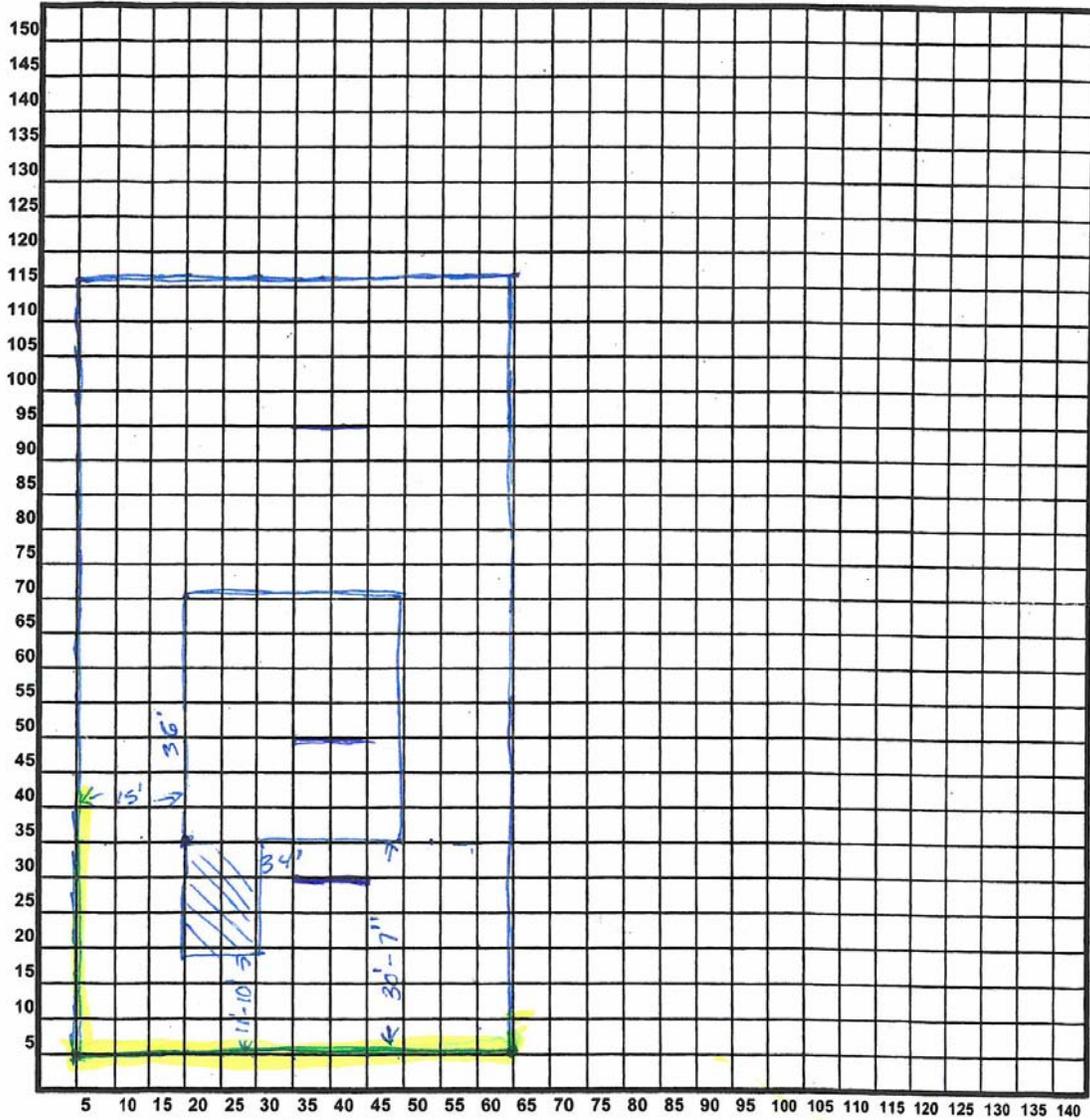
1/210

Attachment 3 Applicant's Site Plan

PLOT PLAN

FOR
BLDG PERMITS

Address 3251 MARconi Lot 1 Block 4 NCB 14512
REAR OF PROPERTY



60 x 112 Face line. FRONT OF PROPERTY

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

9-20-13
Date

[Signature]
Signature of Applicant

**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-090
Date: October 21, 2013
Applicant: Blanca Acuña
Owner: Blanca Acuña
Location: 5235 Marconi Drive
Legal Description: Lot 31, Block 4, NCB 14512
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request from Section 35-514(d) for a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before October 3, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the north side of Marconi Drive, approximately 230 feet east of Laven Drive.

The site is currently developed as a single-family residence. The applicant has installed a wrought-iron fence in the front yard, 5 feet in height without a permit. Staff visited the site and determined that the subject fence did not qualify for a special exception because the fence did not conform to the design requirements as listed in Section 35-399.04 of the UDC. Specifically, the UDC required a minimum spacing of 5 ½ inches between the vertical bars, this fence had a spacing measurement of 3 ½ inches, and the UDC requires that columns must be a minimum of 8

feet apart; this fence’s columns were measured at 7 ½ feet apart. As such, a variance for height is required.

The applicant has stated she has a special needs child, and the fence is required for the safety of the child.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). 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:*

Usually, fence height restrictions are put into place in order to provide orderly development and encourage a sense of community. Front yard fences of varying materials are common in this area. In fact, in September, the Board approved a similar variance request in this neighborhood. The difference between the applicant’s fence and the required design specifications required for a special exception, a lower burden of proof than a variance, are minute, and likely indiscernible to passersby. As such, 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.*

The applicant has stated that the primary reason for having the fence is the safety of her special needs child. As such, not allowing the extra fence height could be considered an unnecessary hardship.

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

The UDC contemplates that higher fences are sometimes required to protect properties and to protect the residents. A child with developmental disabilities requires special concern for care and safety, including a fenced yard. Additionally, the fence is predominantly open, allowing for clear vision and free flow of air and light. Because of this, the spirit of the ordinance will be observed and substantial justice 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 Residential Single-Family base zoning 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 requested variance, if approved, will not injure the appropriate use of adjacent conforming properties but rather the variance would likely have the effect of enhancing the quality of life for the applicants and deterring crime.

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

The unique circumstances existing on the property were not caused by the applicant, but rather the circumstances result from crime in the area and having a special needs child.

Alternatives to Applicant's Request

The alternative to the applicant's request is to modify the fence to 4 feet in height uniformly, which may be insufficient to accomplish the applicant's goal of protecting the property.

Staff Recommendation

Staff recommends **approval of A-13-090** because of the following reasons:

- The proposed fence design utilizes an open material which will not impede visibility or free-flow of air.
- The proposed fence will serve to protect the applicant's special needs child.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

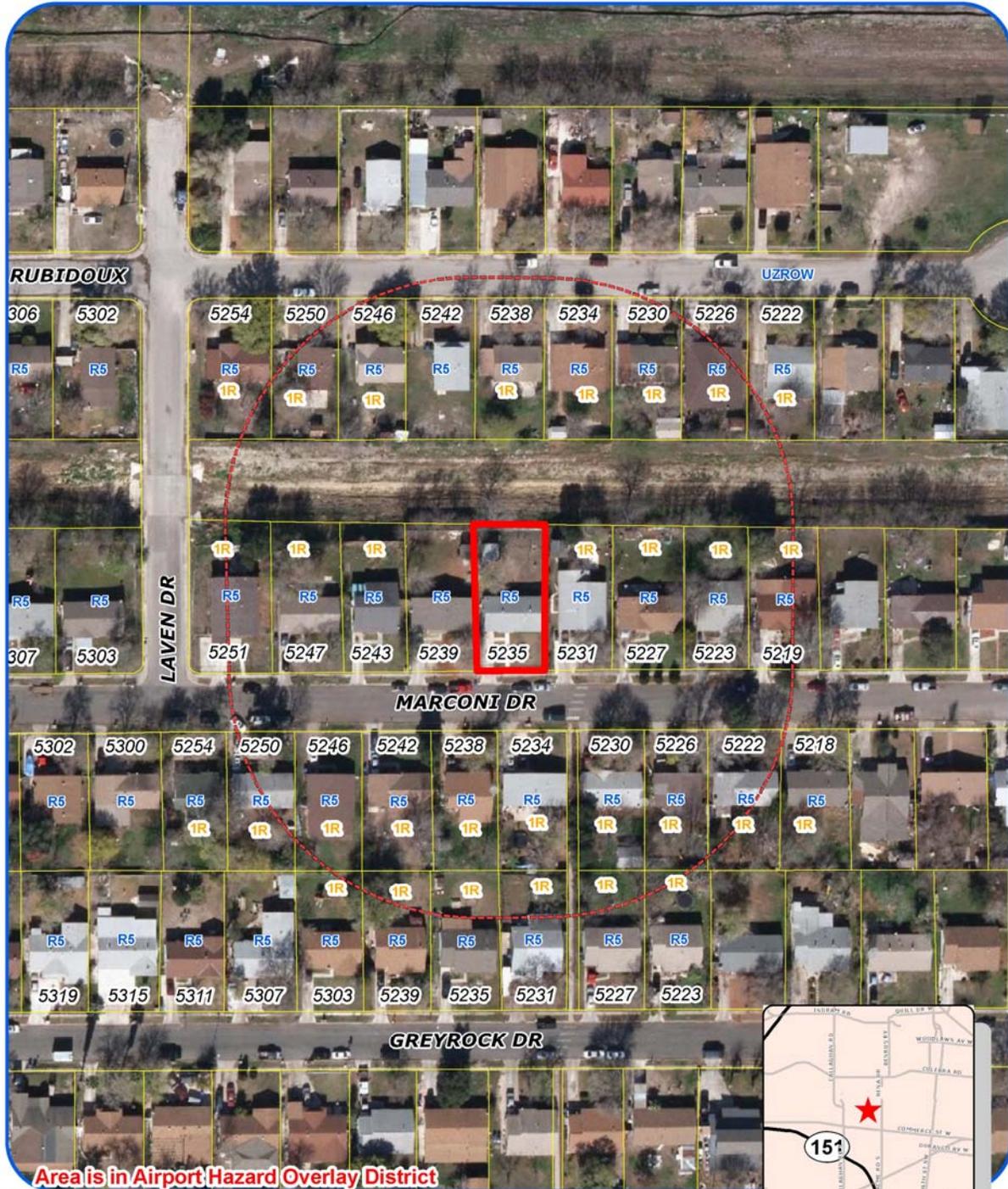
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan

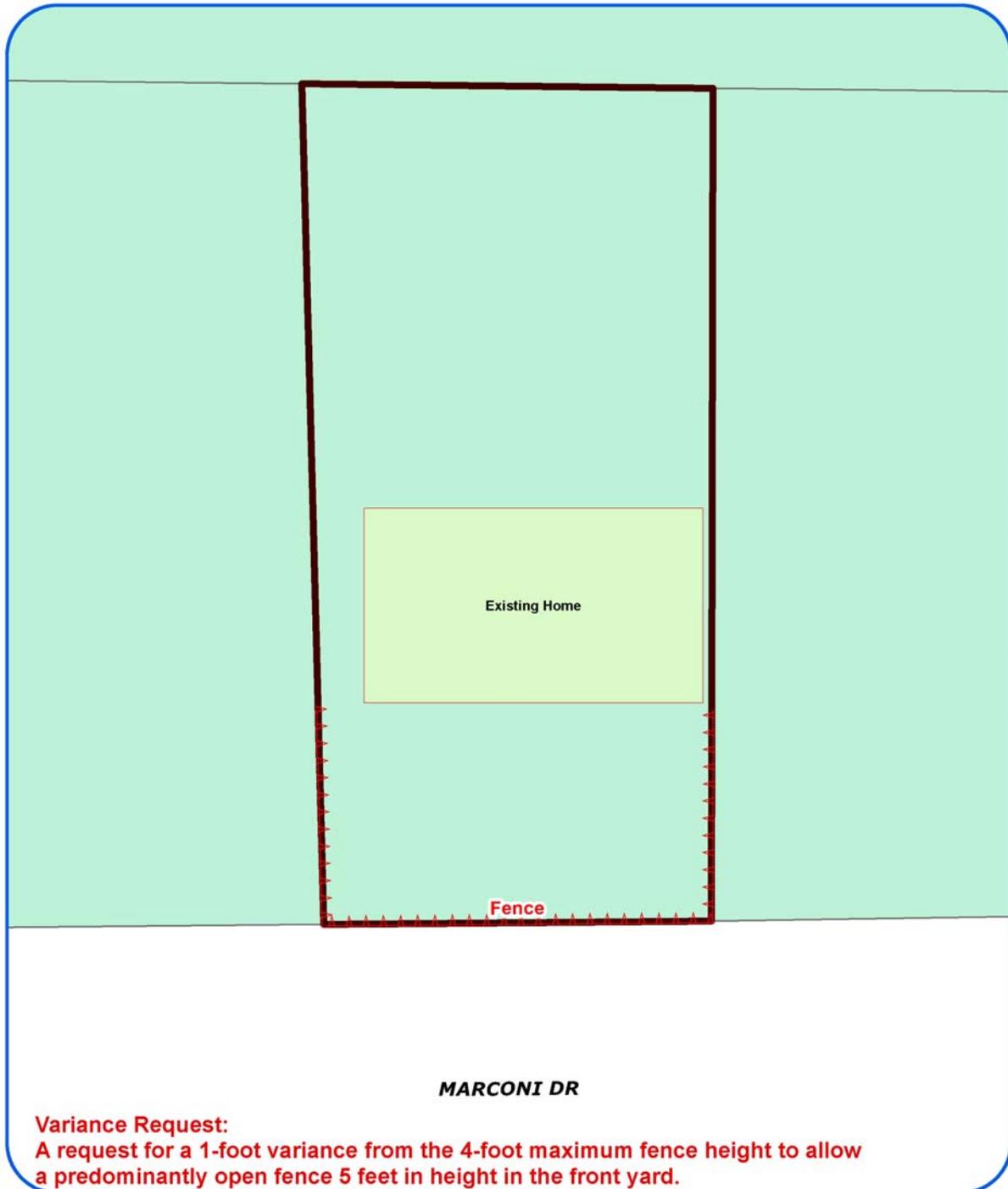


**Attachment 1 (Continued)
Notification Plan**



<p>Board of Adjustment Notification Plan for Case No A-13-090</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7 </p>	<p></p>	<p>Development Services Department City of San Antonio</p>
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**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-090



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5235 Marconi

1/210

Development Services Department
City of San Antonio

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-090



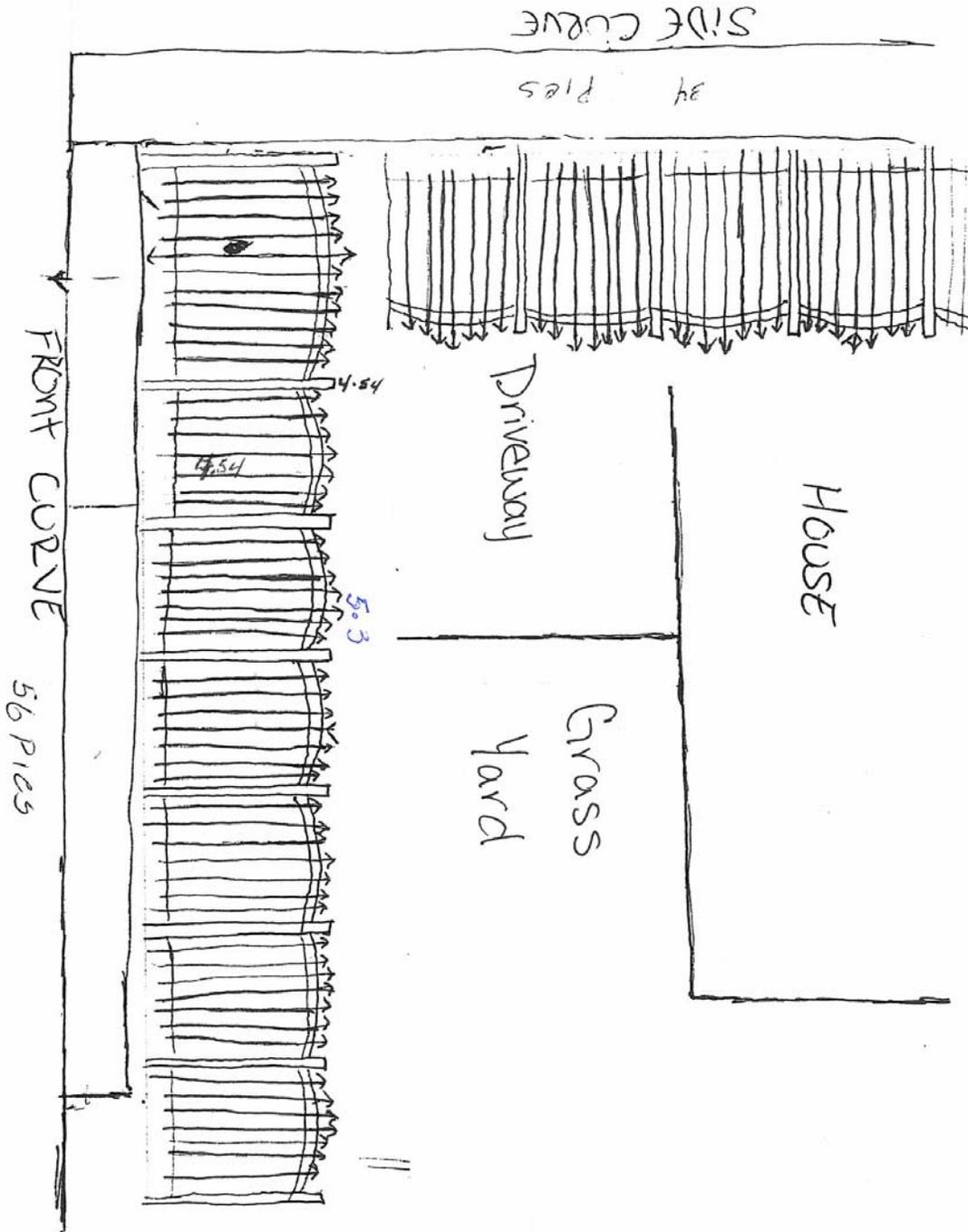
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5235 Marconi

Development Services Department
City of San Antonio

1/210

Attachment 3
Applicant's Site Plan



**Attachment 5
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-092
Date: October 21, 2013
Applicant: Angelica Vasquez
Owner: Angelica Vasquez
Location: 5239 Marconi Drive
Legal Description: Lot 30, Block 4, NCB 14512
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request from Section 35-514(d) for a 1-foot, 1-inch variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet, 1 inch in height in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before October 3, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located at the north side of Marconi Drive, approximately 175 feet east of Laven Drive.

The site is currently developed as a single-family residence. The applicant has installed a wrought-iron fence in the front yard, 5 feet, 1-inch in height without a permit. Staff visited the site and determined that the subject fence did not qualify for a special exception because the fence did not conform to the design requirements as listed in Section 35-399.04 of the UDC. Specifically, the UDC required a minimum spacing of 5 ½ inches between the vertical bars, this fence had a spacing measurement of 4 inches. As such, a variance for height is required.

The applicant has stated that there has been crime in the neighborhood and trespassing onto their property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single-family residence

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). 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:*

Usually, fence height restrictions are put into place in order to provide orderly development and encourage a sense of community. Front yard fences of varying materials are common in this area. In fact, in September, the Board approved a similar variance request in this neighborhood. The difference between the applicant's fence and the required design specifications required for a special exception, a lower burden of proof than a variance, are minute, and likely indiscernible to passersby. As such, 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 review of the City of San Antonio's online crime tracking tool does reveal that there have been instances of burglary, theft, and assault in the area of the subject property. Though the applicant did not submit copies of any police reports for the property, not allowing the extra fence height could be considered an unnecessary hardship.

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

The UDC contemplates that higher fences are sometimes required to protect properties. The city's online crime tracking tool reveals that there have been crime issues in the immediate vicinity. Additionally, the fence is predominantly open, allowing for clear vision and free flow of air and light. Because of this, the spirit of the ordinance will be observed and substantial justice 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 Residential Single-Family base zoning 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 requested variance, if approved, will not injure the appropriate use of adjacent conforming properties but rather the variance would likely have the effect of enhancing the quality of life for the applicants and deterring crime.

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

The unique circumstances existing on the property were not caused by the applicant, but rather the circumstances result from crime in the area.

Alternatives to Applicant's Request

The alternative to the applicant's request is to modify the fence to 4 feet in height uniformly, which may be insufficient to accomplish the applicant's goal of protecting the property.

Staff Recommendation

Staff recommends **approval of A-13-092** because of the following reasons:

- The proposed fence design utilizes an open material which will not impede visibility or free-flow of air.
- The proposed fence will serve to protect the property from crime in the area.

Attachments

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

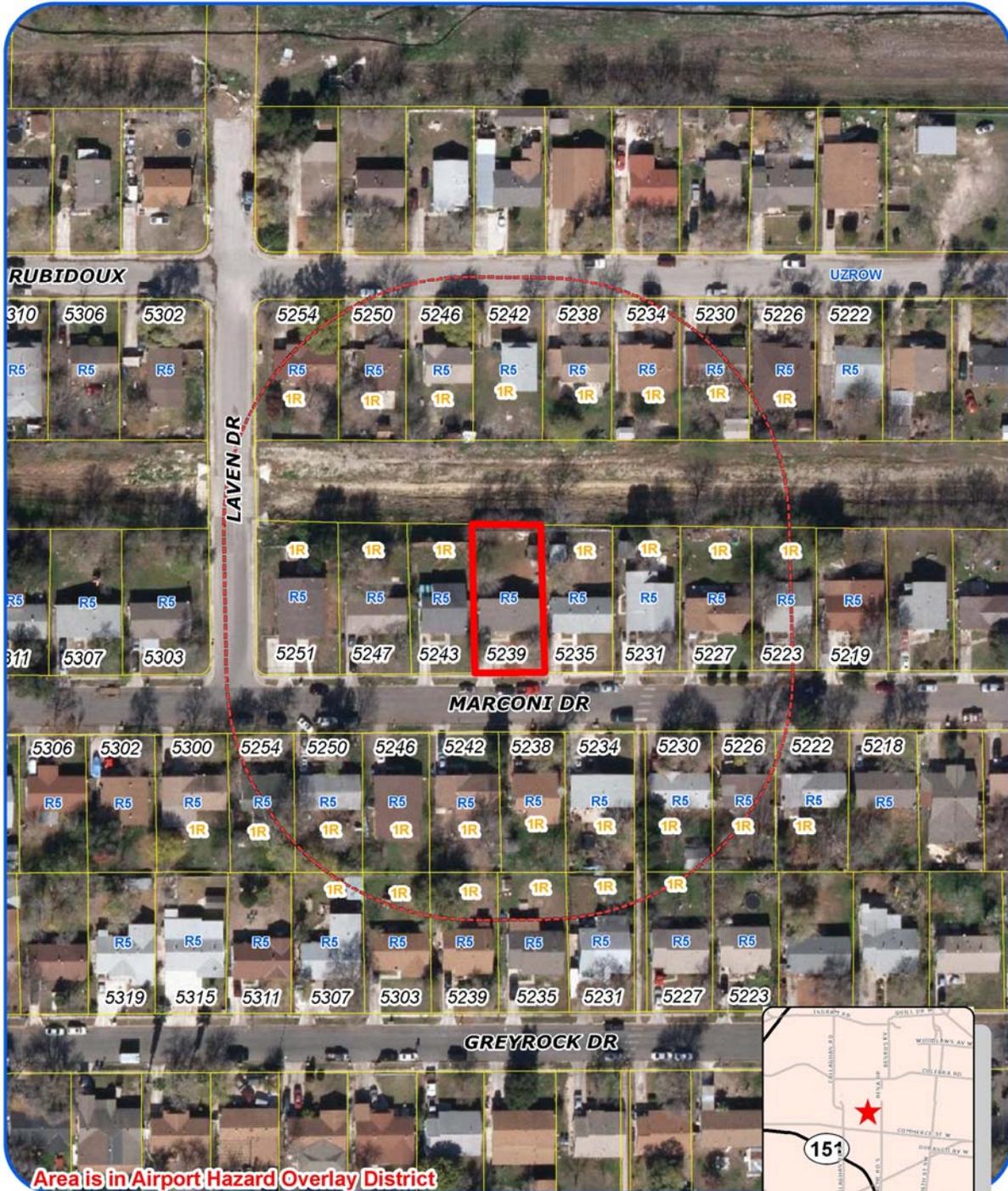
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**

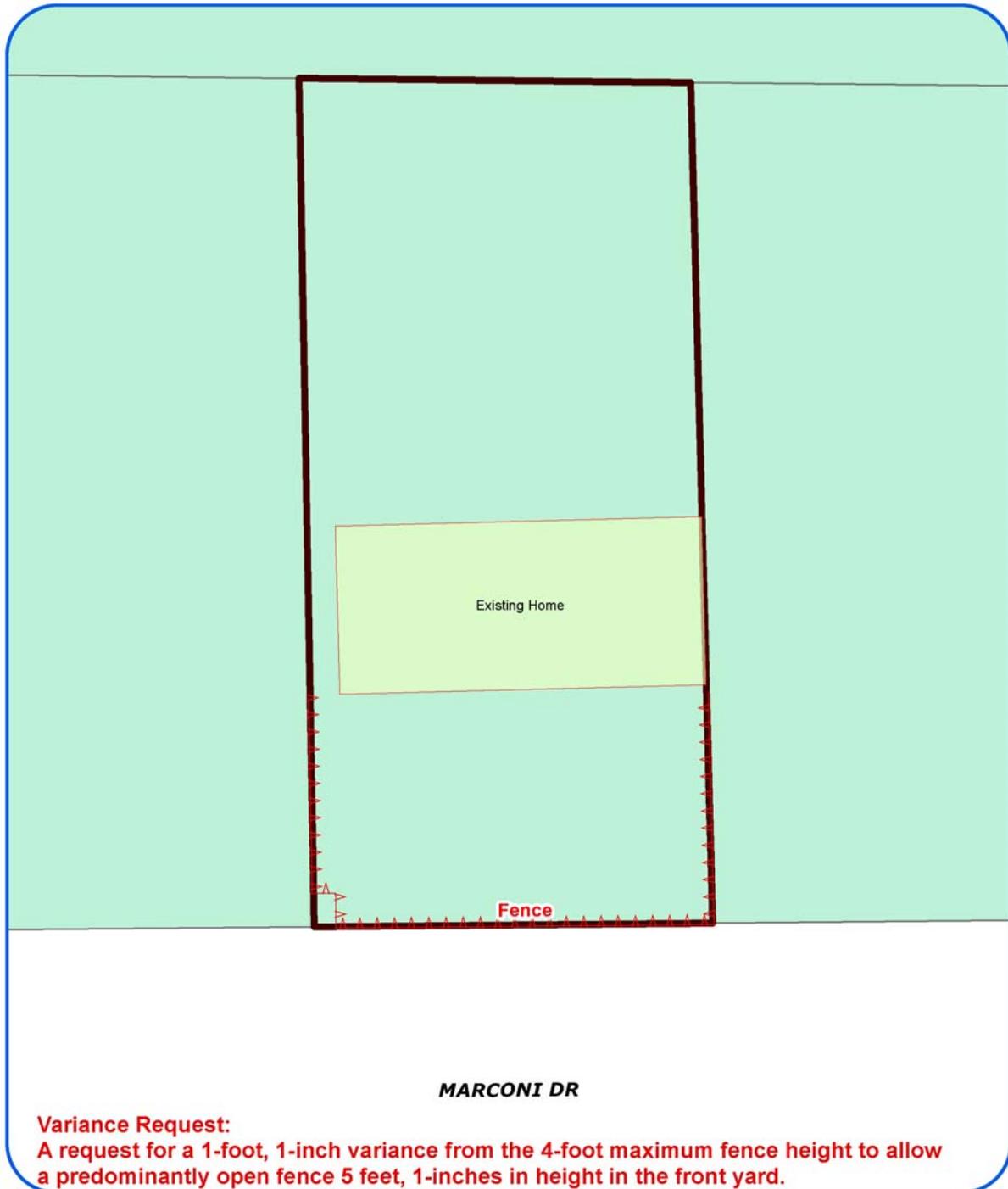


**Board of Adjustment
Notification Plan for
Case No A-13-092**

San Antonio City Limits	
Subject Property	
200' Notification Boundary	
Council District 7	

Development Services Department
 City of San Antonio

**Attachment 2
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-092



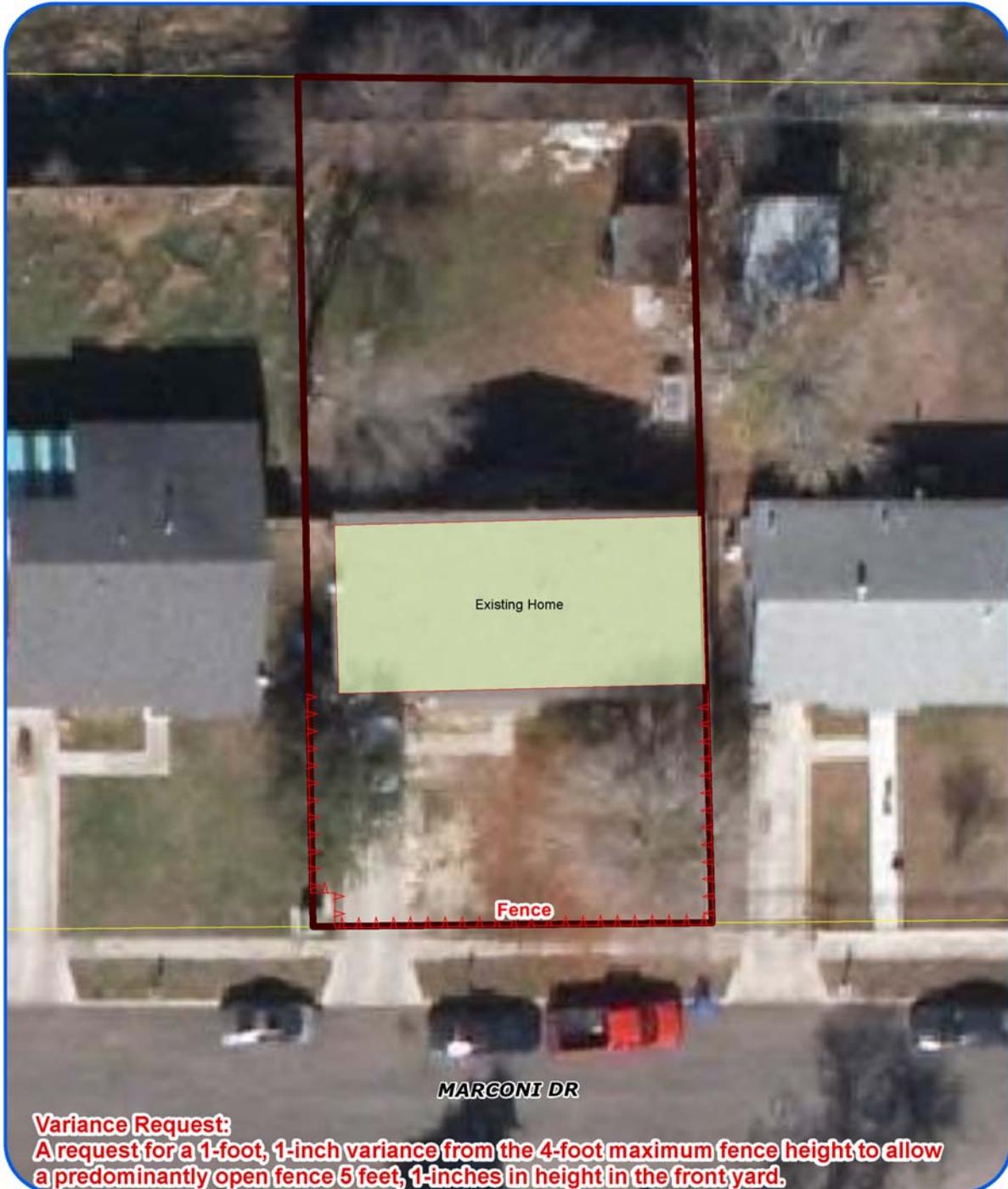
"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5239 Marconi

1:210

Development Services Department
City of San Antonio

Attachment 2 (Continued)
Plot Plan



Board of Adjustment
Plot Plan for
Case No A-13-092



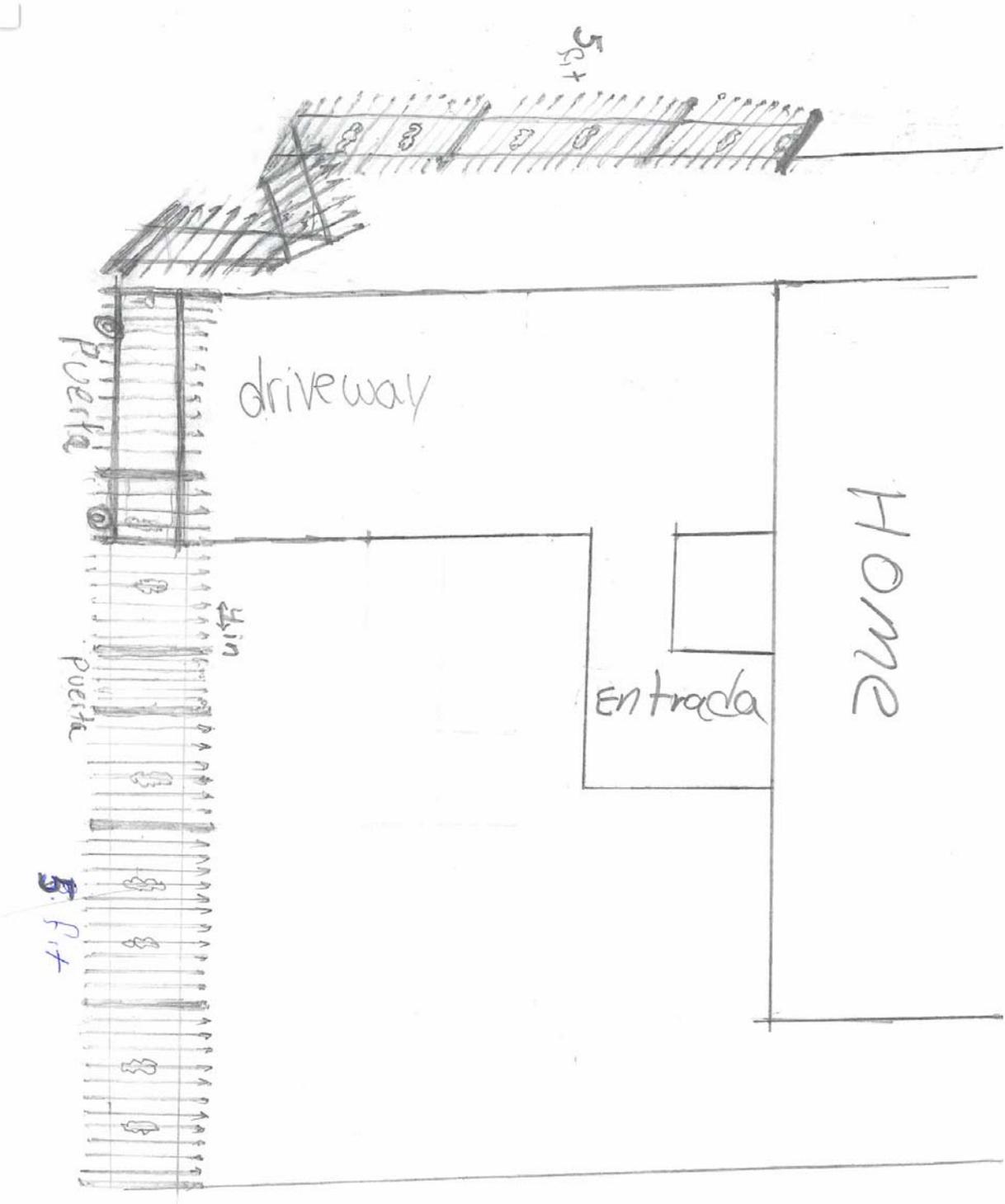
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Development Services Department
City of San Antonio

1:210

Attachment 3
Applicant's Site Plan



**Attachment 4
Site Photos**





City of San Antonio Development Services Department Staff Report

To: Board of Adjustment
Case No.: A-13-093
Date: October 21, 2013
Applicant: Luz Castillo
Owner: Luz Castillo
Location: 5410 Bakersfield Street
Legal Description: Lot 8, Block 8, NCB 14516
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Tony Felts, Planner

Request

A request from Section 35-514(d) for a 1-foot, 2-inch variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet, 2 inches in height in the front yard.

Procedural Requirements

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before October 3, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on October 4, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before October 18, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

Executive Summary

The subject property is located on the south side of Bakersfield Street, approximately 400 feet east of Dulce.

The site is currently developed as a single-family residence. The applicant has installed a wrought-iron fence in the front yard, 5 feet, 2 inches in height without a permit. Staff visited the site and determined that the subject fence did not qualify for a special exception because the fence did not conform to the design requirements as listed in Section 35-399.04 of the UDC. Specifically, the UDC required a minimum spacing of 5 ½ inches between the vertical bars, this fence had a spacing measurement of 4 ¼ inches. As such, a variance for height is required.

The applicant has stated that there has been crime in the neighborhood and trespassing onto their property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single-family residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single-Family Residence
South	"C-3 AHOD" (General Commercial Airport Hazard Overlay District)	Vacant
East	"R-5 AHOD" (Residential Single-Family Airport Hazard Overlay District)	Single-Family Residence
West	"C-3 AHOD" (General Commercial Airport Hazard Overlay District)	Single Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan (designated as General Urban Tier). 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:*

Usually, fence height restrictions are put into place in order to provide orderly development and encourage a sense of community. Front yard fences of varying materials are common in this area. In fact, in September, the Board approved a similar variance request in this neighborhood. The difference between the applicant's fence and the required design specifications required for a special exception, a lower burden of proof than a variance, are minute, and likely indiscernible to passersby. As such, 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 review of the City of San Antonio's online crime tracking tool does reveal that there have been instances of burglary, theft, and assault in the area of the subject property. Though the applicant did not submit copies of any police reports for the property, not allowing the extra fence height could be considered an unnecessary hardship.

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

The UDC contemplates that higher fences are sometimes required to protect properties. The city's online crime tracking tool reveals that there have been crime issues in the immediate vicinity. Additionally, the fence is predominantly open, allowing for clear vision and free flow of air and light. Because of this, the spirit of the ordinance will be observed and substantial justice 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 Residential Single-Family base zoning 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 requested variance, if approved, will not injure the appropriate use of adjacent conforming properties but rather the variance would likely have the effect of enhancing the quality of life for the applicants and deterring crime.

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

The unique circumstances existing on the property were not caused by the applicant, but rather the circumstances result from crime in the area.

Alternatives to Applicant's Request

The alternative to the applicant's request is to modify the fence to 4 feet in height uniformly, which may be insufficient to accomplish the applicant's goal of protecting the property.

Staff Recommendation

Staff recommends **approval of A-13-087** because of the following reasons:

- The proposed fence design utilizes an open material which will not impede visibility or free-flow of air.
- The proposed fence will serve to protect the property from crime in the area.

Attachments

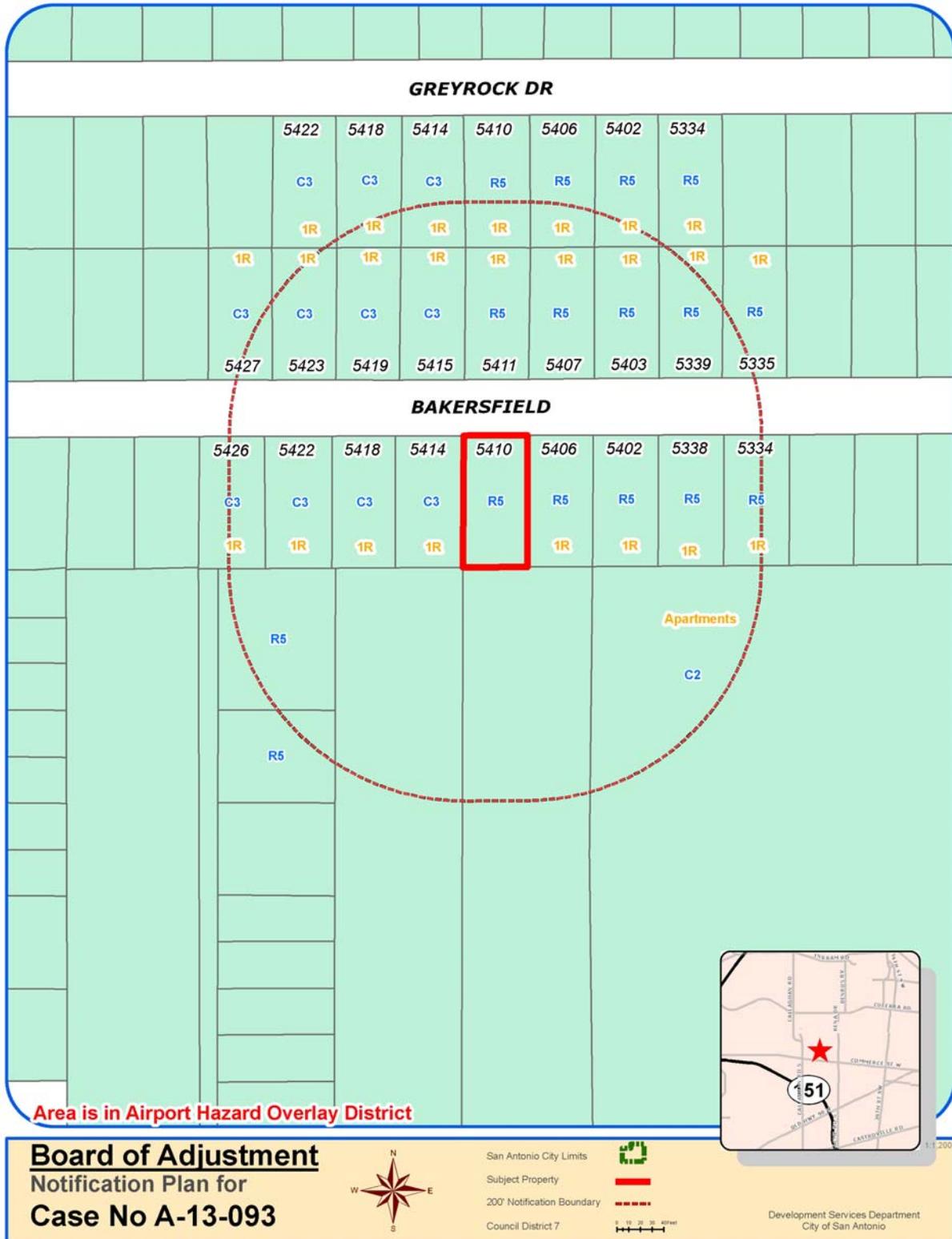
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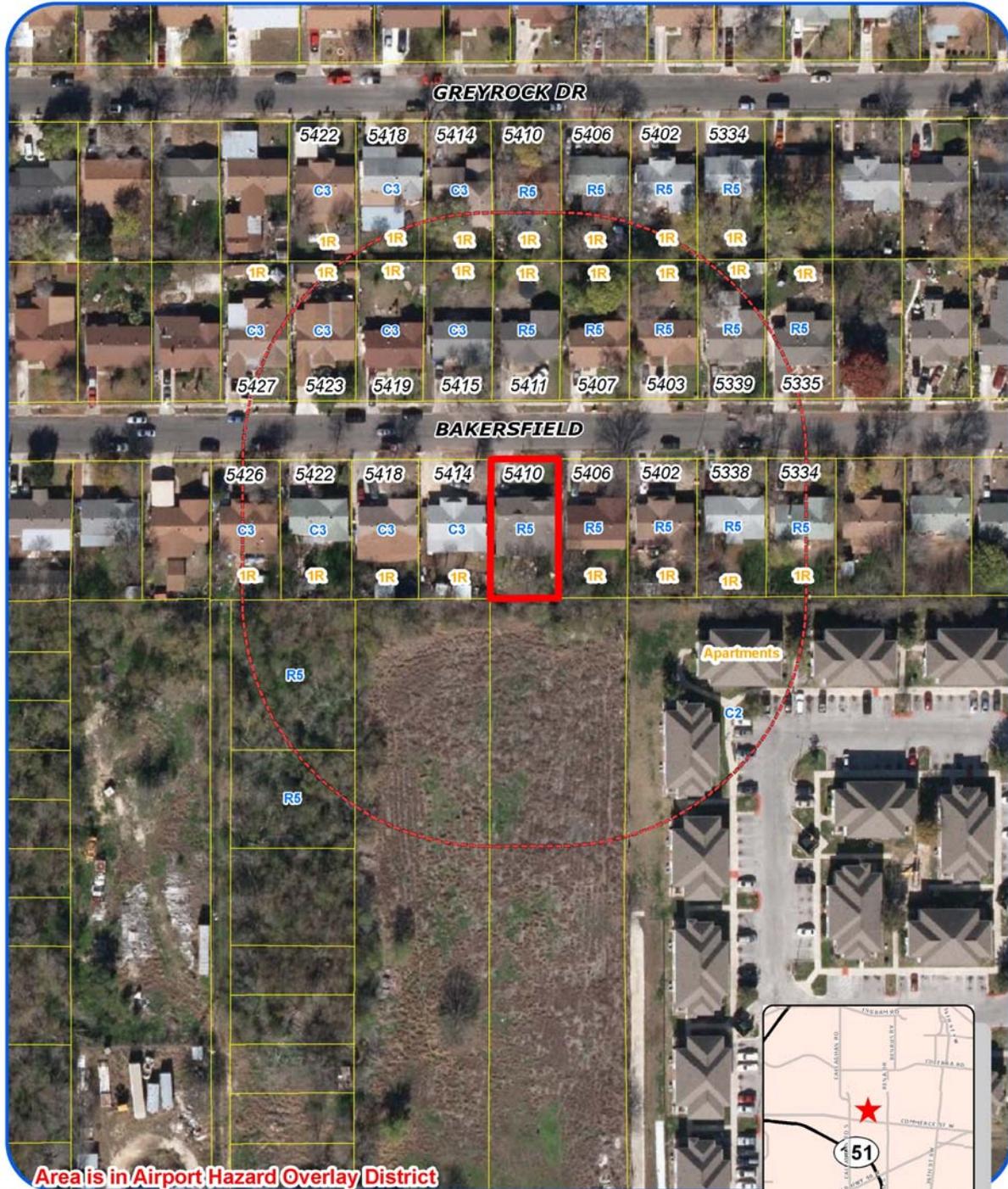
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

Attachment 1 Notification Plan



**Attachment 1 (Continued)
Notification Plan**



**Board of Adjustment
Notification Plan for
Case No A-13-093**

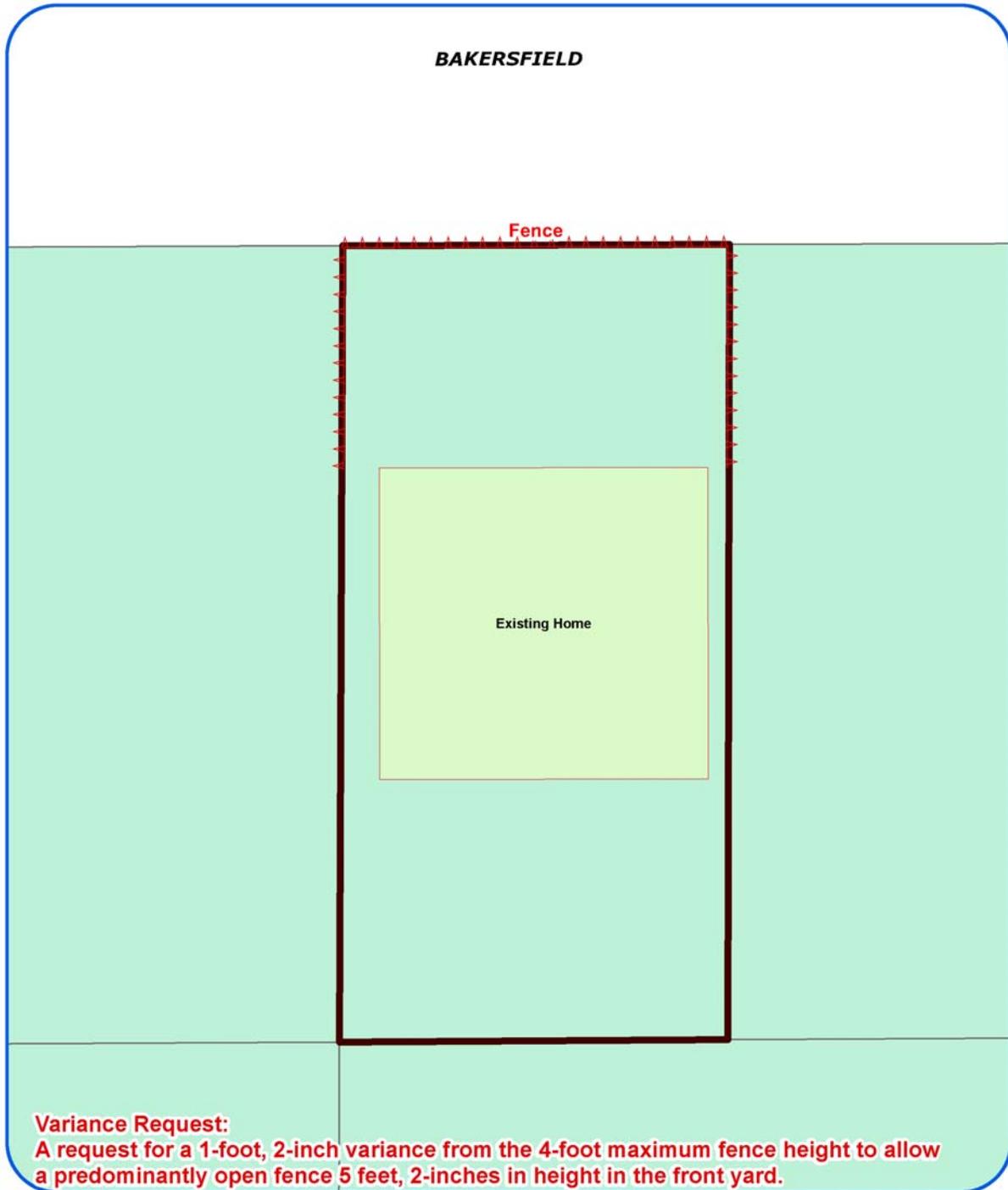


- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 7



Development Services Department
City of San Antonio

**Attachment 2
Plot Plan**



Variance Request:
A request for a 1-foot, 2-inch variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet, 2-inches in height in the front yard.

Board of Adjustment
Plot Plan for
Case No A-13-093



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Council District 7

5410 Bakersfield^{1:210}

Development Services Department
City of San Antonio

**Attachment 2 (Continued)
Plot Plan**



Board of Adjustment
Plot Plan for
Case No A-13-093



"NOT TO SCALE,
FOR ILLUSTRATIVE PURPOSES ONLY"
Council District 7

5410 Bakersfield^{1:210}

Development Services Department
City of San Antonio

Attachment 3
Applicant's Site Plan



Attachment 5
Site Photos

