

# City of San Antonio Board of Adjustment

## Regular Public Hearing Agenda

Monday, September 16, 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](http://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.

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1. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-13-065:** The request of Edmund S. Beck for 1) a 10-foot variance from the 10-foot required front setback to allow a carport at the front property line, and 2) a 4-foot variance from the 5-foot required north side property line to allow a carport 1 foot from the north side property line, located at 124 City Street. (Council District 1)
5. **A-13-069:** The request of Guadalupe De La Torre for a special exception to allow an ornamental-iron front yard fence, located at 1342 West Hollywood Avenue. (Council District 1)
6. **A-13-070:** The request of Daniel Rodriguez for a 5-foot variance from the 5-foot minimum side yard setback to allow a new carport on the west property line, located at 165 Halliday Avenue. (Council District 3)
7. **A-13-072:** The request of Jaime Garcia & Esthela Garcia for a 1-foot variance from the 4-foot maximum fence height to allow a fence 5-foot in height in the front yard, located at 5431 Greyrock Drive. (Council District 7)
8. **A-13-073:** The request of Pape-Dawson Engineers, Inc. for up to a 6-foot variance from the 6-foot maximum height limitation to allow a wall up to 12 feet in height, located at 5731 Rittiman Road. (Council District 2)
9. **A-13-075:** The request of Shirley Homeier-McBrayer for a 6-foot variance from the minimum 20-foot rear yard setback to allow a building addition with a 14-foot rear yard setback, located at 6730 Manassas Drive. (Council District 7)
10. Approval of the minutes – August 19, 2013
11. Adjournment

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### 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*

**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).**

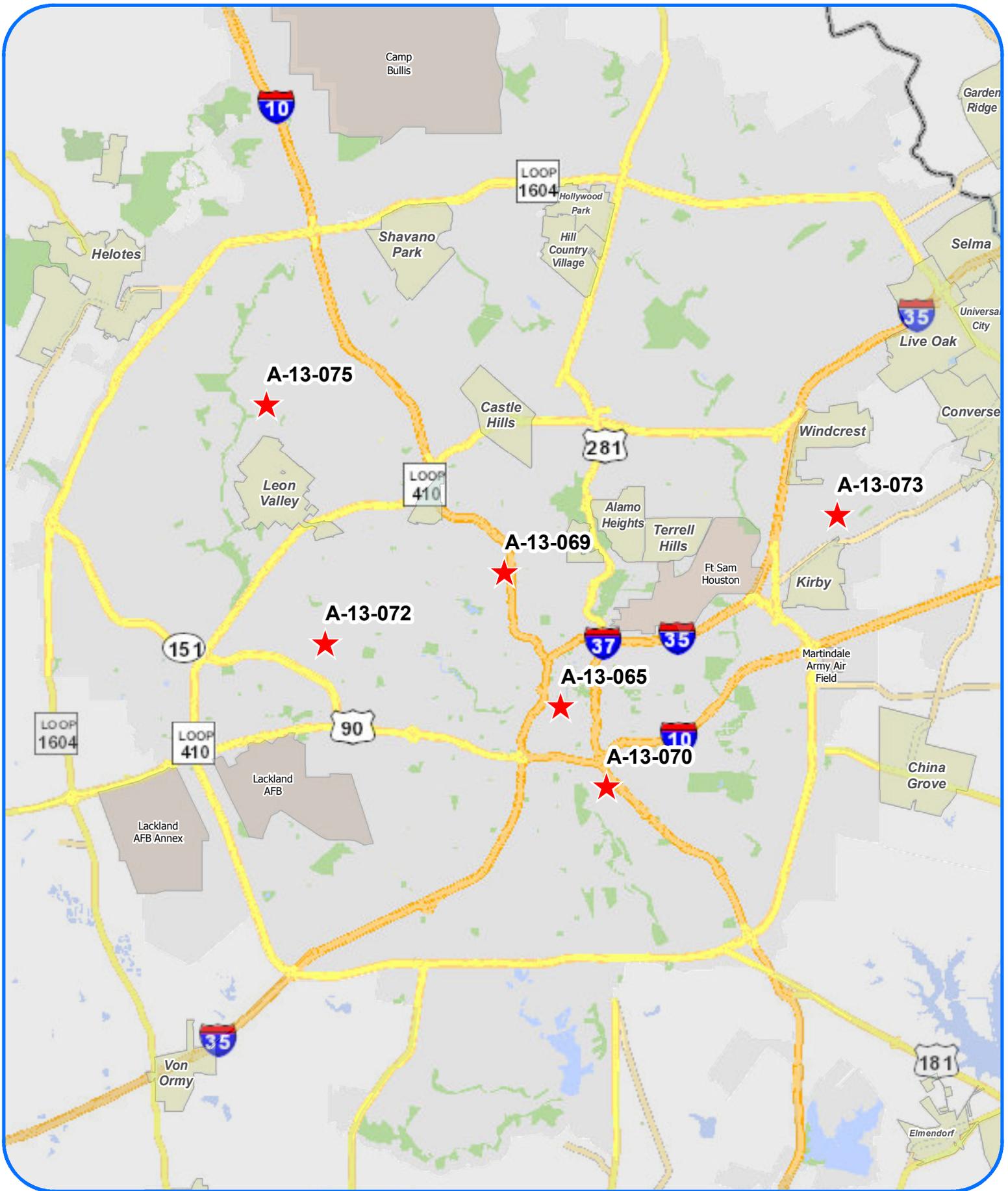
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# **Board of Adjustment**

**Subject Property Locations  
Cases for 16th September 2013**





## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-13-065  
Date: September 16, 2013  
Applicant: Edmund S. Beck  
Owner: Edmund S. Beck  
Location: 124 City Street  
Legal Description: Lot 2, Block 8, NCB 972  
Zoning: "RM-4 H HS RIO-4 AHOD" Residential Mixed King William Historic District Historic Significant River Improvement Overlay Airport Hazard Overlay District  
Prepared By: Tony Felts, Planner

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### **Request**

A request from Table 310-1 of the UDC, Lot and Building Dimensions Table, for 1) a 10-foot variance from the 10-foot required front setback to allow a carport at the front property line, and 2) a 4-foot variance from the 5-foot required by Section 35-370(b)(1) on the north side property line to allow a carport 1 foot from the north side property line.

### **Procedural Requirements**

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before August 29, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 30, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before September 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located on the east side of City Street, approximately 100 feet north of West Sheridan Street. Additionally, the property directly abuts the San Antonio River right-of-way to the East and is located within the King William Historic District. The property is currently developed as a single-family residence which was constructed, as per BCAD records, in 1903. The applicant is requesting to construct an open carport in the front yard. The applicant

has received a Certificate of Appropriateness from the San Antonio Historic and Design Review Commission (HDRC).

The carport is proposed to be situated within the required front setback, directly on the front property line, and within the required side yard setback, one foot from the north side property line. The proposed structure will be situated over an existing vehicular parking area composed of brick pavers. It should be noted that staff has not been able to identify an appropriate area on the site that would allow the construction of a carport either due to narrow side yards, setbacks, or existing easements along the San Antonio River. There is, however, no prohibition on the open-air parking situation that is currently in place, nor is there a prohibition upon on-street parking.

It should be noted that if the variance request is approved, fireproofing consistent with the International Residential Code (and any other applicable building or city code) will be required.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“RM-4 H HS RIO-4 AHOD” (Residential Mixed Historic River Improvement Overlay)	Single Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 H RIO-4 AHOD” (Residential Mixed Historic River Improvement Overlay)	Single Family Residence
South	“RM-4 H HS RIO-4 AHOD” (Residential Mixed Historic River Improvement Overlay)	Single-Family Residence
East	San Antonio River Right-of-way	San Antonio River, Riverwalk
West	“RM-4 H HS RIO-4 AHOD” (Residential Mixed Historic River Improvement Overlay)	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Downtown Neighborhood Plan (designated as Residential). The subject property is also located within the boundaries of the King William Neighborhood Association; as such, the neighborhood association was 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. The UDC does not contemplate any situations where the front setback is covered by a structure. As such, the variance is contrary to the public interest. In this case, staff noted that front yard carports are not common in the immediate vicinity, and the front yard carport would be the only one on this block of City Street.

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

The building layout on the site, its orientation against the river, and existing easements on the site do present limitations in allowing the construction of a covered carport. That being stated, there is no requirement that off-street parking be covered. In fact, the applicant's current off street parking is uncovered. Because there is not a requirement to provide covered parking, no unnecessary hardship would result from not granting the variance.

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

The spirit of the ordinance will not be maintained by granting this variance as the UDC does not contemplate any situation where structures would be allowed to be placed within the front setback. As such, the spirit of the ordinance will not be observed.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the RM-4 (Residential Mixed) base zoning district.

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

The requested variance, if approved, may injure adjacent properties and alter the character of the district. In this case, staff noted that front yard carports are not common in the immediate vicinity, and the front yard carport would be the only one on this block of City Street. By granting this variance, it may create a "domino effect" which could lead to more construction of this type on the street. Additionally, the proposed carport is only one foot from the side property line, which does not allow enough room for maintenance of the structure, and as such, may result in the deterioration of the structure.

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 are a function of the site's age and location. While there is not room for the structure to be placed on the property, meet

setbacks, and still be able to access it for its intended use as a carport, there is likewise no requirement for a carport to be constructed on the property; as such, the variance should not be granted.

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to not construct the carport and continue with the current parking situation.

### **Staff Recommendation**

Staff recommends **denial of A-13-065** because of the following reasons:

- The variance is contrary to the public interest in that there are no other front yard carports in the immediate vicinity
- There is no unnecessary hardship as there is no requirement for covered residential parking

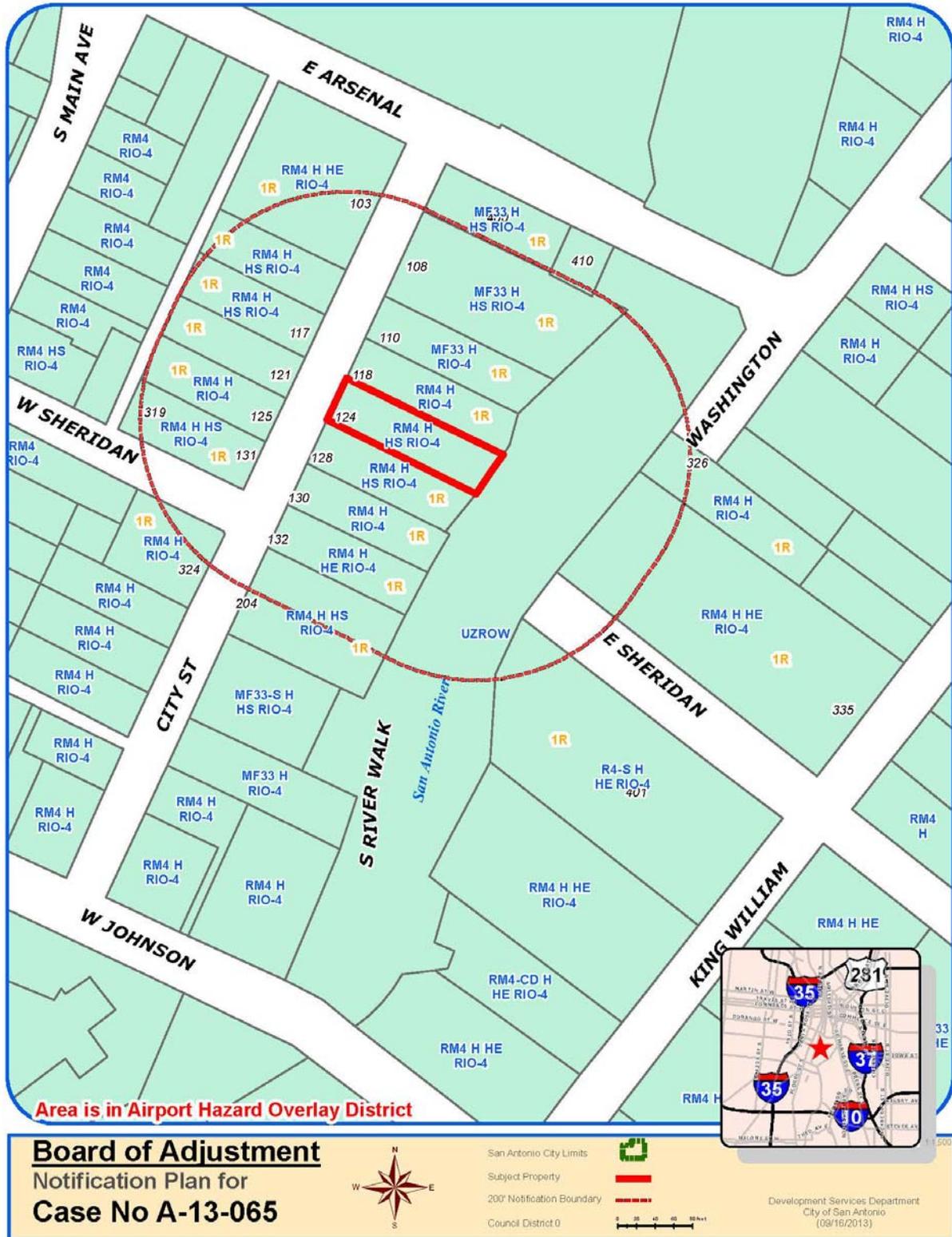
### **Attachments**

Attachment 1 – Notification Plan (Location Map)

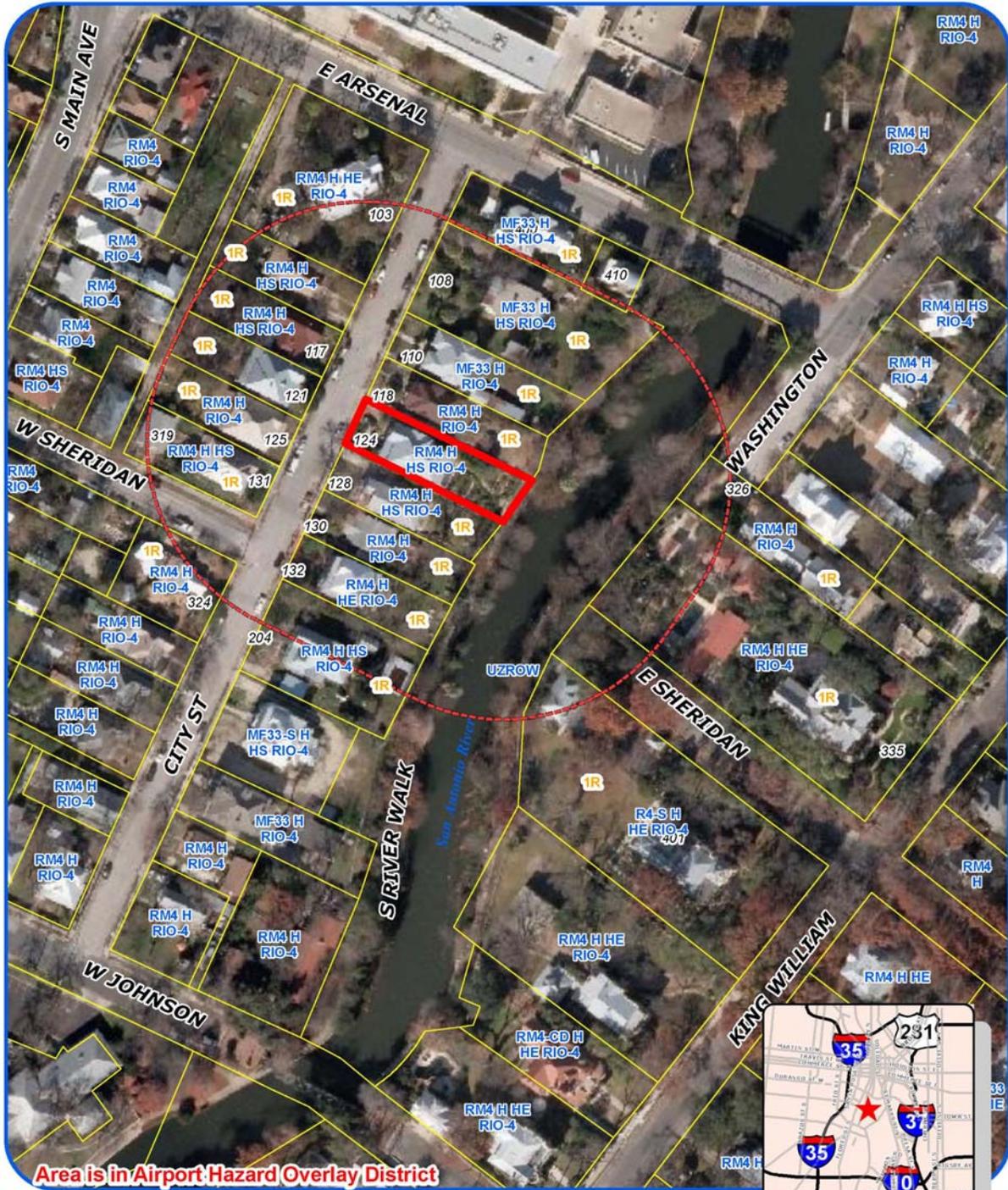
Attachment 2 – Plot Plan

Attachment 3 – Applicant's Rendering and Site Plan

# Attachment 1 Notification Plan



**Attachment 1 (Continued)  
Notification Plan**



**Board of Adjustment  
Notification Plan for  
Case No A-13-065**

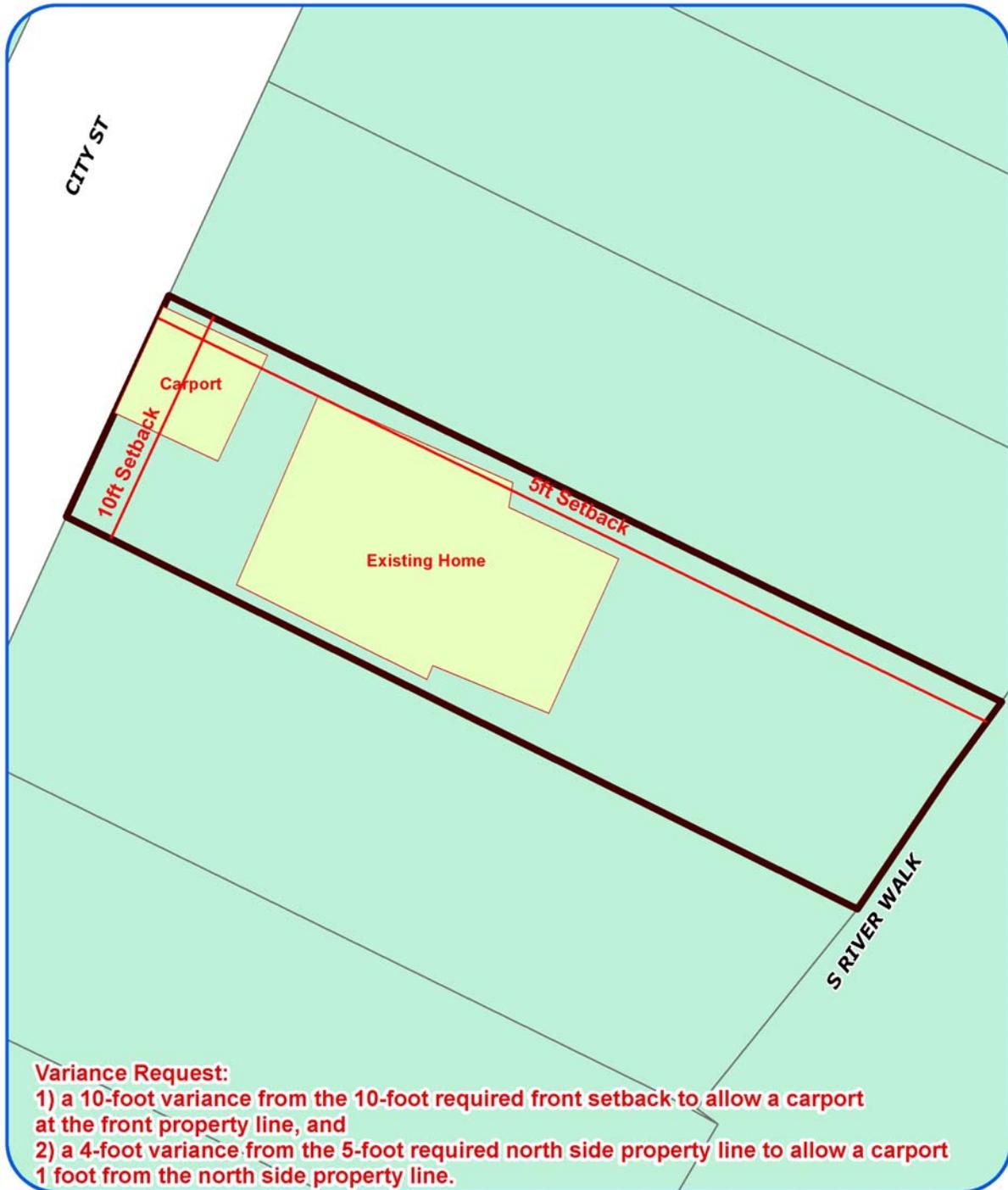


- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 0



Development Services Department  
City of San Antonio  
(09/16/2013)

**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-13-065**



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

**124 City Street**

Development Services Department  
City of San Antonio  
(09/16/2013)

Attachment 2 (Continued)  
Plot Plan



**Board of Adjustment**  
Plot Plan for  
**Case No A-13-065**



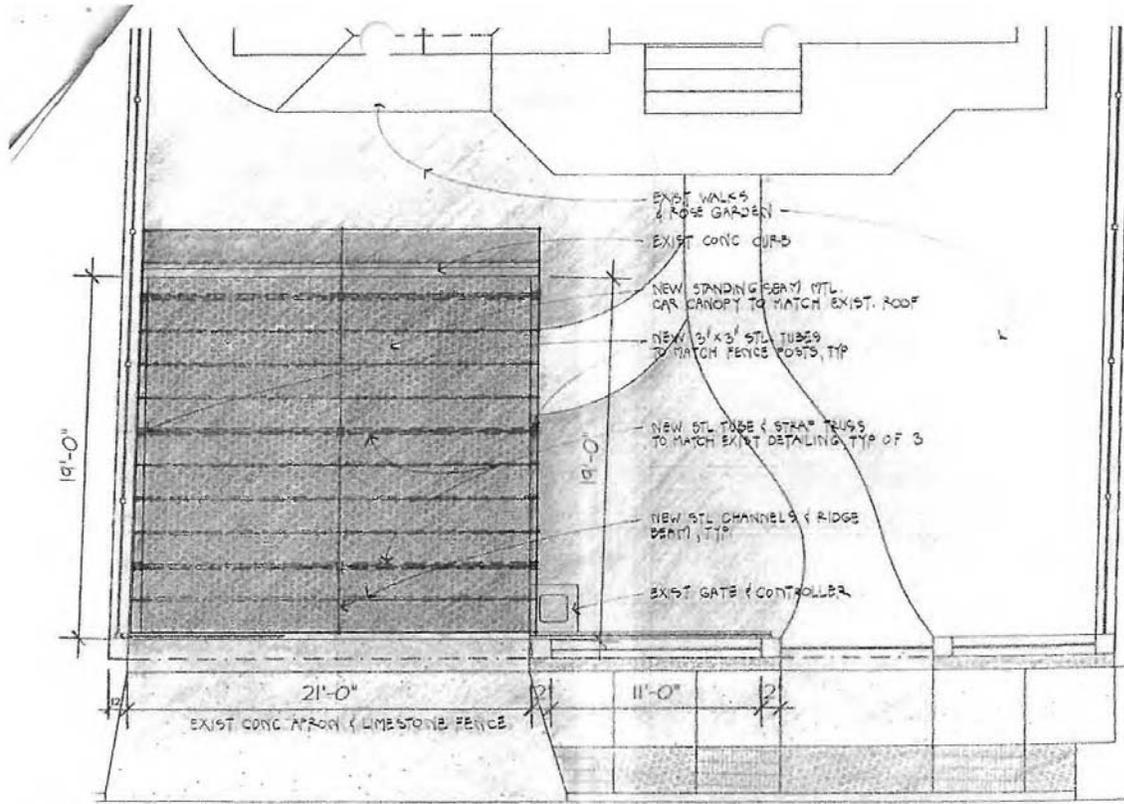
"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District 1

**124 City Street**

Development Services Department  
City of San Antonio  
(09/16/2013)

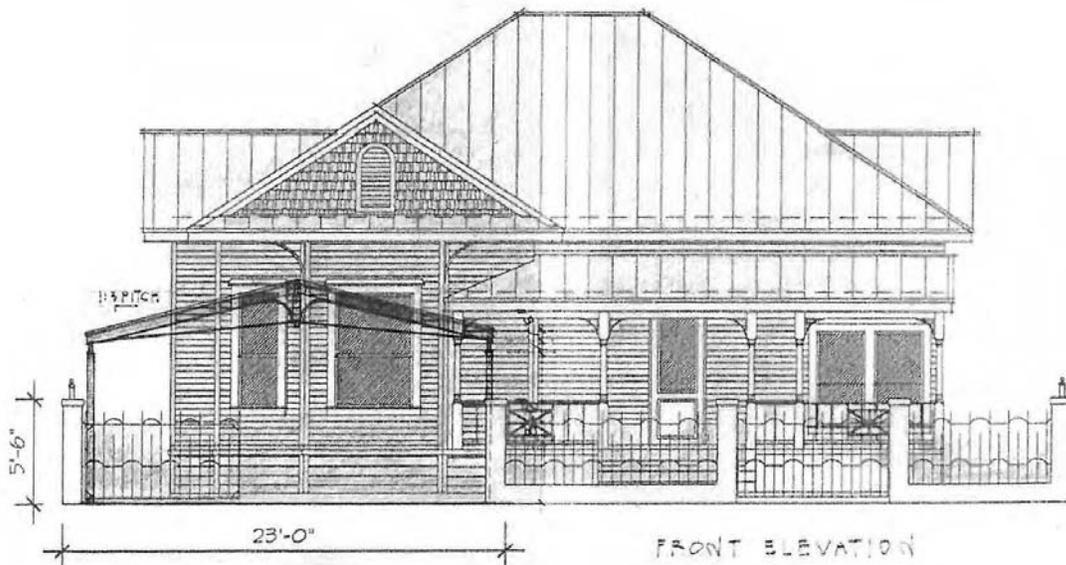
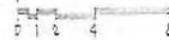
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**Attachment 3**  
**Applicant's Rendering and Site Plan**



124 CITY STREET  
 SAN ANTONIO, TX

PARTIAL SITE PLAN





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

To: Board of Adjustment  
Case No.: A-13-069  
Date: September 16, 2013  
Applicant: Guadalupe De La Torre  
Owner: Guadalupe De La Torre  
Location: 1342 West Hollywood Avenue  
Legal Description: Lot 2, Block 70, NCB 2765  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Tony Felts, Planner

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### **Request**

The applicant is requesting a special exception per Section 35-399.04 of the UDC to allow an ornamental-iron front yard fence 6 feet in height.

### **Procedural Requirements**

A special exception is a decision vested with the Board of Adjustment, and includes uses which may be authorized under certain circumstances. The notification requirements are the same as those required for variances as specified in 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 or before August 29, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 30, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before September 13, 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 West Hollywood Avenue, approximately 50 feet east of Neer Avenue. The property was constructed, per BCAD records, in 1945, and the neighborhood is well-established. Staff noted that front yard ornamental-iron fences are commonplace in the area.

The front yard fence has already been constructed without a permit. A review of the fence plan, and an inspection on site indicated that the fence meets the requirements for a special exception to be granted.

**Subject Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single Family Residence

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single Family Residence
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single Family Residence
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single Family Residence
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Near Northwest Community Plan (designated as Urban Low Density Residential). The subject property is also located within the boundaries of the Keystone Neighborhood Association; as such, the neighborhood association was notified and asked to comment.

**Table 1. General Requirements for ornamental iron fences per Chapter 35-399.04**

<b><u>Technical Standard</u></b>	<b><u>Requirement</u></b>	<b><u>Proposed/Actual</u></b>	<b><u>Requirement Met?</u></b>
Height of fence	Maximum of 6 feet	Six (6) feet	Yes
Width of vertical bars/balusters	Maximum of 1 inch	1 inch	Yes
Spacing between vertical bars/balusters	Minimum of 5 ½ inches	5 ½ inches	Yes
Width of columns/posts	Maximum of 18 inches	2 inches	Yes
Spacing between columns/posts (Pedestrian Gate)	Minimum of 3 feet	No Pedestrian	N/A
Spacing between columns/posts (Vehicle)	Minimum of 8 feet	12 feet	Yes

### **Criteria for Review**

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

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

The UDC allows ornamental-iron front yard fences up to a maximum of 6 feet in height as a special exception, so long as certain design criteria are met. The applicant has a fence plan that satisfies the established criteria and as such would be in harmony with the spirit and purpose of the ordinance if the exception were granted.

*B. The public welfare and convenience will be substantially served.*

The applicant did not provide information concerning the need for the fence; however, the fence meets the requirements for a special exception to be granted, and, as such, the fence would serve the public welfare and convenience.

*C. The neighboring property will not be substantially injured by such proposed use.*

The neighboring property is unlikely to be substantially injured by the proposed fence; additionally, ornamental-iron front yard fencing is commonplace in this area.

*D. 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.*

Staff noted that ornamental-iron front yard fencing is prevalent in the area, as such, the essential character of the neighborhood is unlikely to be altered.

*E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The granting of the proposed special exception will not weaken the general purposes of the district as ornamental-iron front yard fencing is commonplace in the area, and the fence meets all of the design criteria outlined in the chapter.

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to reduce the height of the fencing to 4-feet in the front yard.

### **Staff recommendation**

Staff recommends **approval of A-13-063** based on the following findings:

1. The fence satisfies the established standards for the special exception.
2. The fence will be in harmony with the spirit and purpose of the UDC.

### **Attachments**

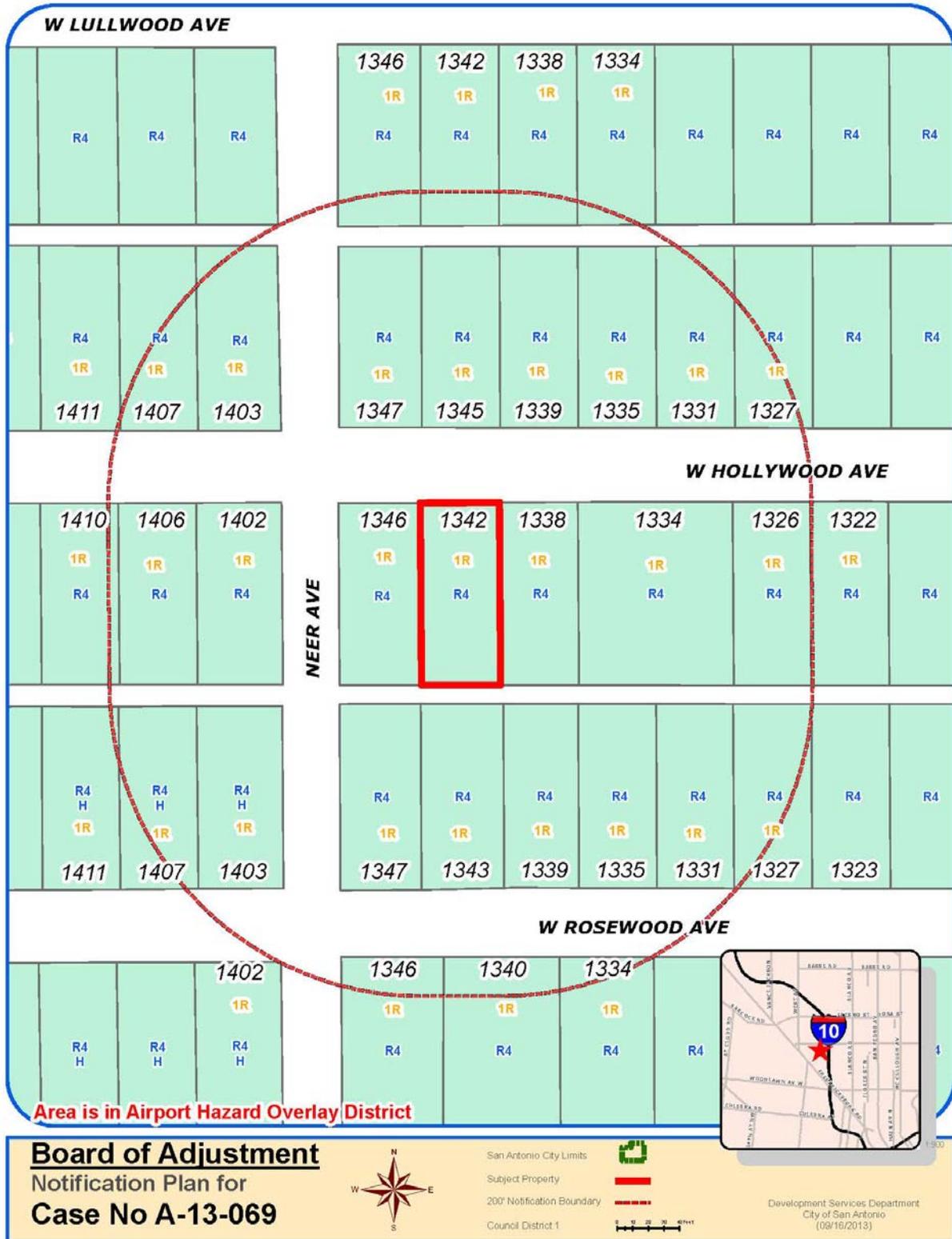
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

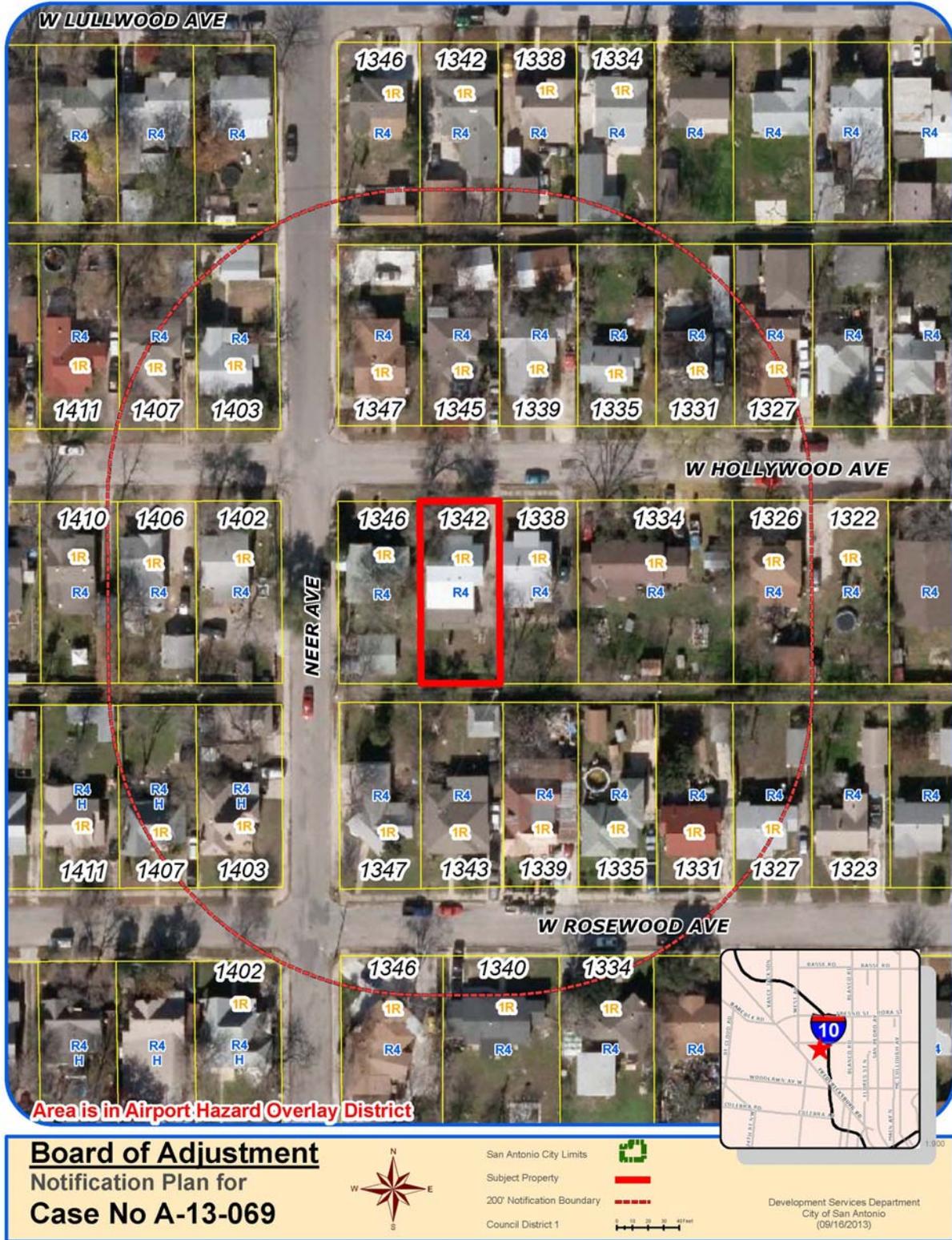
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Attachment 1 (Continued)  
Notification Plan**



**Attachment 2  
Plot Plan**



**Variance Request:  
A request for a special exception to allow an ornamental-iron front yard fence.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-13-069**



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

**1342 W. Hollywood**

Development Services Department  
City of San Antonio  
(09/16/2013)

**Attachment 2 (Continued)  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-13-069**

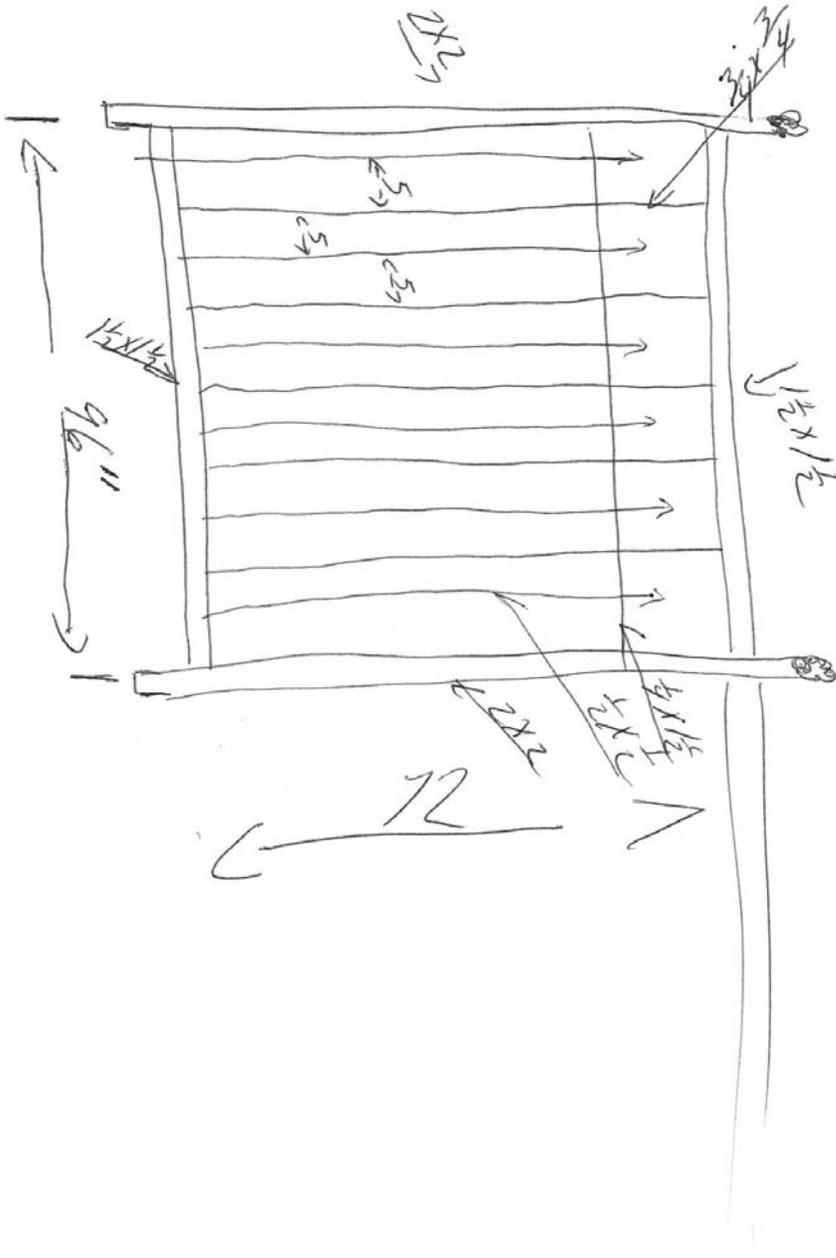


"NOT TO SCALE,  
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Council District 1

**1342 W. Hollywood**

Development Services Department  
City of San Antonio  
(09/16/2013)

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-13-070  
Date: September 16, 2013  
Applicant: Daniel Rodriguez  
Owner: Daniel Rodriguez  
Location: 165 Halliday Ave  
Legal Description: Lot 17, Block 1, NCB 3054  
Zoning: "R-4 AHOD" Residential Single-Family, Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

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### **Request**

A request for 1) a 5-foot variance from the minimum 5-foot side yard setback, as required in Section 35-370 (b) 1 of the UDC, to allow a new carport constructed on the west 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 August 29, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 30, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before September 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property measures 50 feet in width and 151 feet in depth and contains a total of 7,550 square feet in lot area. The lot is improved with a single family home and a detached two-car garage. A paved driveway leads back to the garage and includes a paved maneuvering area to allow vehicular turn-arounds. Driveways are allowed within the setbacks and have historically been installed along one side of the home to provide access to a garage in the rear yard, as in this case. The applicant came to Development Services to pull a permit to construct the carport. The applicant is requesting approval to build a carport over most of the driveway and maneuvering area without a setback from the west property line. The carport totals 1,437 square feet of coverage. The permit could not be issued as proposed, so the applicant was referred to the Board of Adjustment. A variance from the minimum 5-foot side yard setback is

required to allow the carport as proposed. The applicant submitted photographs of several other carports built without a setback in support of his request.

The UDC regulates carports and garages under the identical provisions, calling them accessory structures. Accordingly, Section 35-370 (b) identifies the provisions including the required 5-foot setback from both side and rear property lines. Without any eaves or similar projections, the setback may be reduced to 3 feet.

This section also specifies an allowable lot coverage of 50% of side and rear yard area for all accessory structures, as well as a maximum cumulative size of 2,500 square feet. An analysis of the square footage included in the side and rear yards identified 4,000 square feet in the rear and 861 square feet in the two side yards for a total of 4,861 square feet. This provides a limitation of 2,430 square feet that can be constructed as accessory structures.

An evaluation of the overall accessory structure size if the carport were approved as proposed totals 2,157 square feet as follows:

- Existing garage = 720 square feet
- Parking pad = 957 square feet
- Area along house= 480 square feet

Therefore, a variance from the allowable coverage limitation is not necessary.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single-family dwelling

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the South Central Community Plan, adopted by the City Council in October of 2005. The future land use plan designated this area for low-density residential land use, consistent with the current development pattern. The subject property is not located within the boundaries of a Neighborhood Association.

## **Criteria for Review**

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

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

The public interest is defined as the general health, safety and welfare of the public at large. The public interest in this case is represented by minimum setbacks established to ensure activities on individual properties do not impact the rights of a neighboring property owner. Stormwater runoff is a typical impact protected by setbacks. Setbacks also allow property maintenance activities. The variance to allow no setback therefore would be contrary to the public interest.

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

The applicant argues that the carport is necessary to protect his vehicle against hail storms and sun damage. A review of existing pavement finds alternative locations, in addition to the existing garage, where covered parking could be increased consistent with a literal enforcement of the ordinance. The applicant could install a carport in the rear yard on the existing pavement with the required setback. The Board will have to determine if the reduction of covered parking area results in an unnecessary hardship.

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

Various zoning court cases have provided guidance as to the “spirit” of the ordinance as contrasted with the “strict letter” of the law. In observing the spirit, the Board is directed to weigh the competing interests of the property owner and the community. Eliminating the entire setback that is required of every residentially zoned property, where feasible alternatives exist, seems to violate the intent of the regulation.

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 applicant submitted photos of more than 10 other locations within his neighborhood where carports are located along the shared property line. The applicant asserts that the elimination of the setback will not injure the neighboring property because their driveway is located along the shared boundary. The International Residential Code (IRC) will require fire protection measures incorporated into the carport design to protect this neighboring property regardless of the conditions nearby. While carports were historically located close to property lines, more recent protective regulations restrict activities within 5-feet of a property line.

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 asserts that the existing 14-foot setback for a driveway is too narrow, stating that the original subdivision of land created this situation. Actually, a 50-foot wide rectangular lot is not unique but rather commonplace. In addition, the parcel includes 7,550 square feet which would not be characterized as small in terms of lot area. Therefore, no unique property-related circumstances seem to justify the request to eliminate the side yard setback.

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to expand the covered parking on the parking pad in the rear yard.

### **Staff Recommendation**

Staff recommends **denial of A-13-070** based on the following findings:

1. The setback was established to reduce fire hazard, contain storm water runoff and allow for property maintenance without inconvenience to neighboring property owners.

### **Attachments**

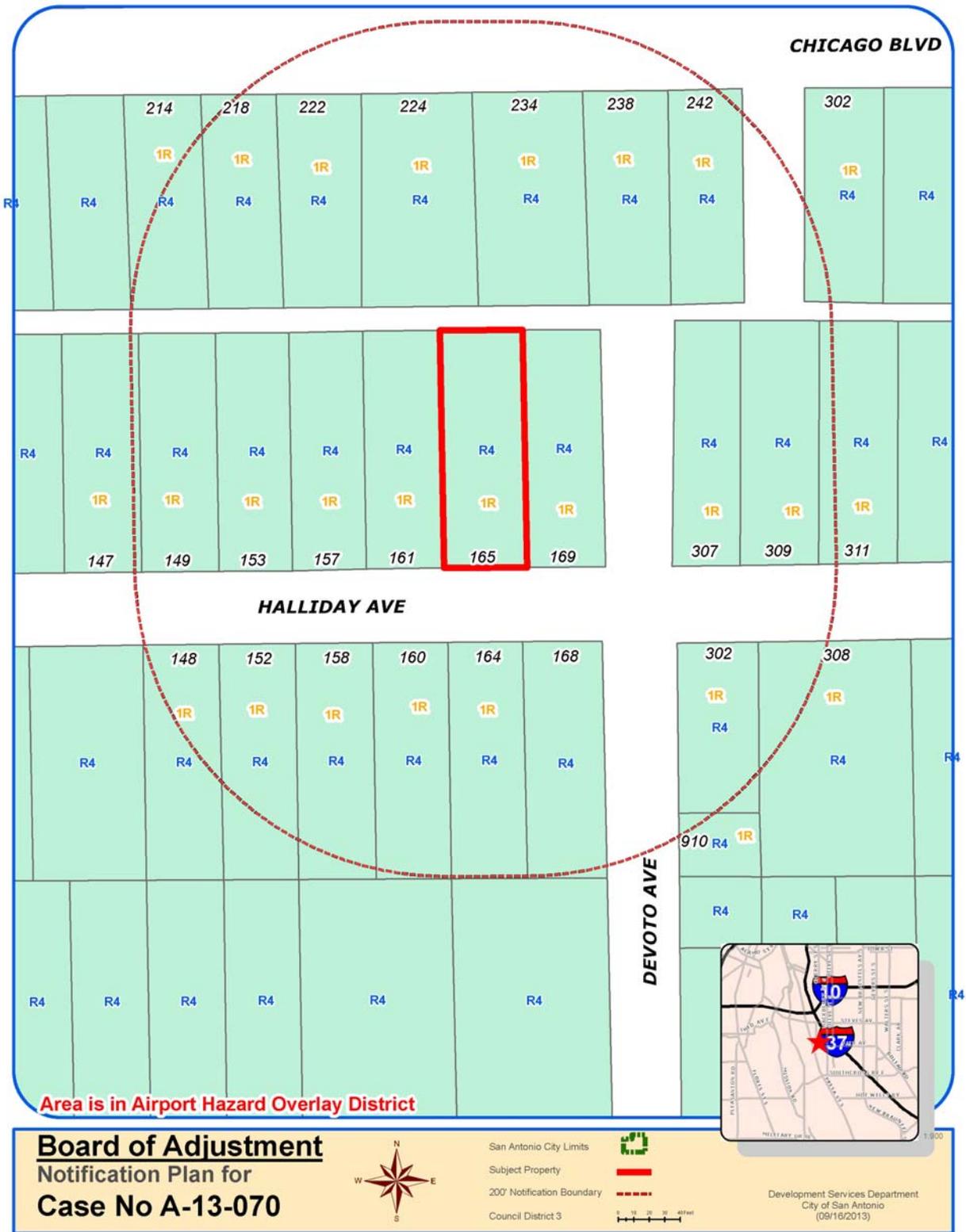
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

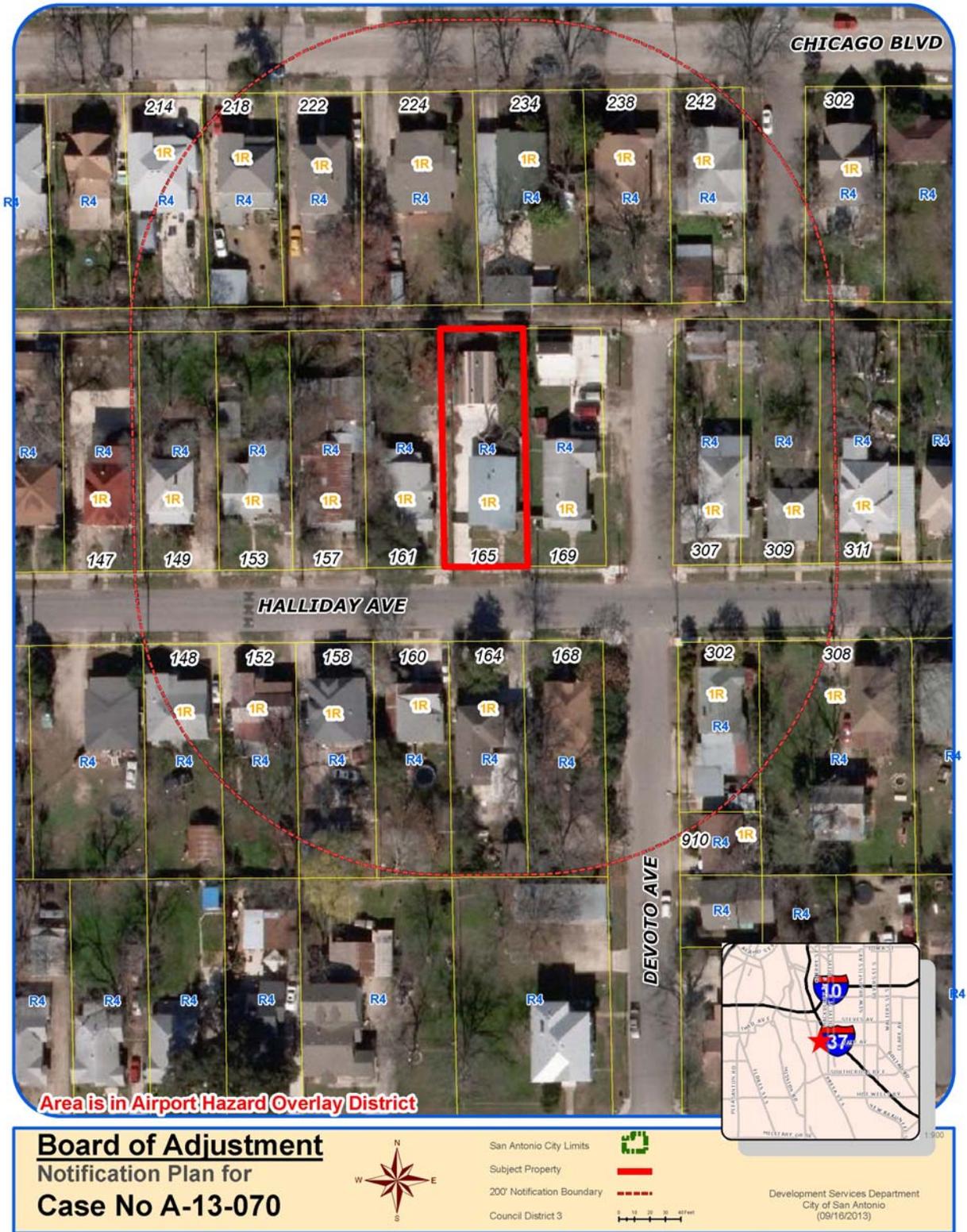
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

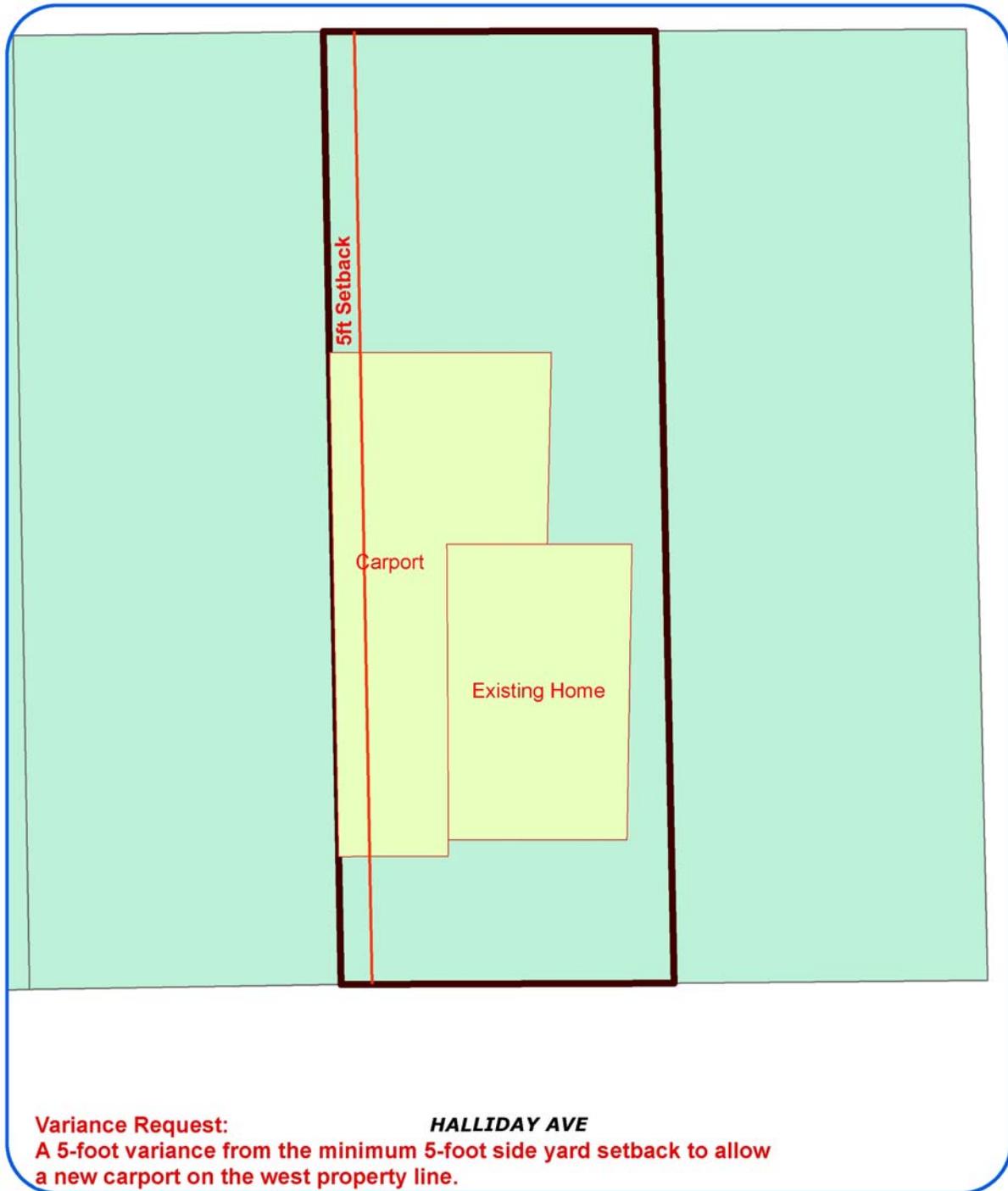
# Attachment 1 Notification Plan



**Attachment 1  
Notification Plan (continued)**



**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-13-070**



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District 3

**165 Halliday**

Development Services Department  
City of San Antonio  
(09/16/2013)

1/240

**Attachment 2  
Plot Plan (continued)**



**Variance Request:**  
A 5-foot variance from the minimum 5-foot side yard setback to allow a new carport on the west property line.

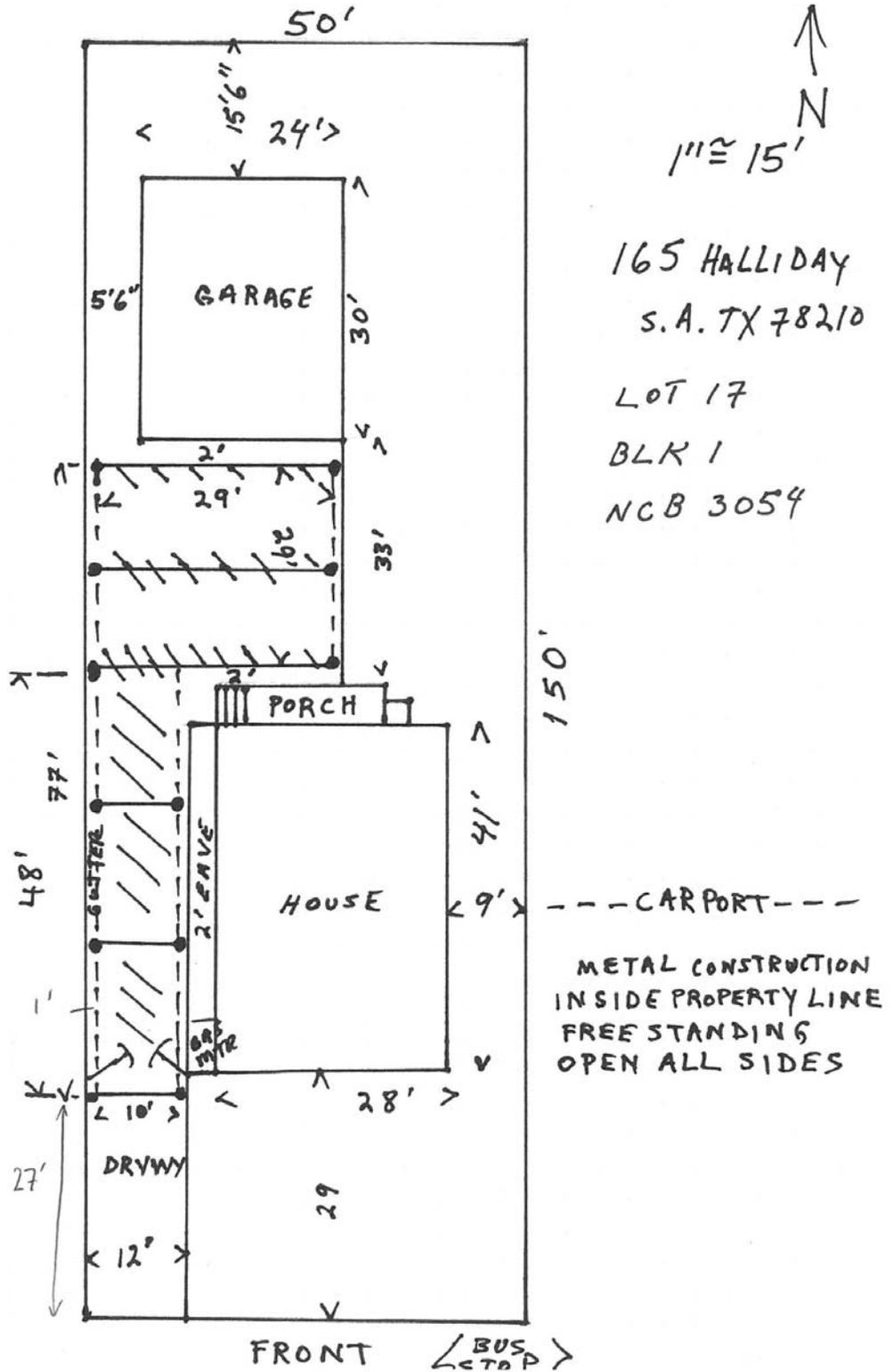
**Board of Adjustment**  
Plot Plan for  
**Case No A-13-070**



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District 3

**165 Halliday** 1/240  
Development Services Department  
City of San Antonio  
(09/16/2013)

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-13-072  
Date: September 16, 2013  
Applicant: Jaime & Esthela Garcia  
Owner: Jaime & Esthela Garcia  
Location: 5431 Greyrock Drive  
Legal Description: Lot 58, Block 5, NCB 14513  
Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District  
Prepared By: Osniel Leon, Planner

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### **Request**

The applicant is requesting a 1-foot variance from the 4-foot maximum fence height as stated in Section 35-514 to allow a fence 5-foot 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 within two hundred (200) feet of the subject property on August 29, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 30, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on September 13, 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 Greyrock Drive between Dulce and Noriega Street. The property is currently developed as a single-family residence. The applicant purchased the house in September of 1998 and about a year ago constructed a fence along the front property line without a building permit. Code Compliance cited the applicant on July 7, 2013.

According to 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 with the fence or wall to be constructed that vision will not be obscured above a height of 3 feet.

In response to the citation for construction without a building permit, the applicant applied for a building permit. A permit could not be issued however because the fence exceeds the maximum

height allowed for fencing in the front yard. Additionally, the existing fence does not provide a minimum of five and one-half 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 fence 5 feet in height along the front yard of the property.

Because the parcel is commercially zoned, the existing single family dwelling on the property is a legal, nonconforming use; however, per Section 35-514 of the UDC, predominately open fences in the front yard may not exceed 4 feet in height in residential or commercial zoning districts.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-3” (General Commercial)	Single-Family Residential

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6” (Residential)	Single-Family Residential
South	“C-3” (General Commercial)	Single-Family Residential
East	“C-3” (General Commercial)	Single-Family Residential
West	“C-3” (General Commercial)	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. No neighborhood association has been registered in this area.

**Criteria for Review**

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

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

The public interest is defined as the general health, safety and welfare of the public at large. Fence and wall restrictions are put into place in order to provide orderly development and encourage a sense of community. The UDC does contemplate that sometimes higher fences than that which are normally allowed are sometimes necessary in order for security or to reduce negative visual or noise-related impacts on the enjoyment of one’s property. In this request for a variance of an additional foot, the impact to 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 fence-height related variances. A literal enforcement of the City's fence provisions would require that the applicant reduce the height of the fence by 1-foot. The Board will have to determine if this requirement creates an unnecessary hardship for the applicant. 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 in the same zoning district.

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 specifically permitted in the "C-3" zoning districts. The existing single family dwelling is a legal, nonconforming use. Based on the provisions of Article VII of the UDC, this use may not be expanded without a change to an appropriate residential zoning district.

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

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.*

Fencing is more difficult to justify as a variance than the special exception process; there has to be a property-related feature that distinguishes it from others in the area. In this case, no unique characteristics have been identified. Instead, the applicant has invested in construction of a fence above the maximum height of 4-feet, a self-imposed hardship. There are no unique circumstances existing on this property that justify the approval of a variance.

### **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 **denial of A-13-072**, based on the following findings:

1. No hardship;

2. There are no unique features or characteristics which differentiate this lot from others in the subdivision to warrant alteration of the ordinance provision.

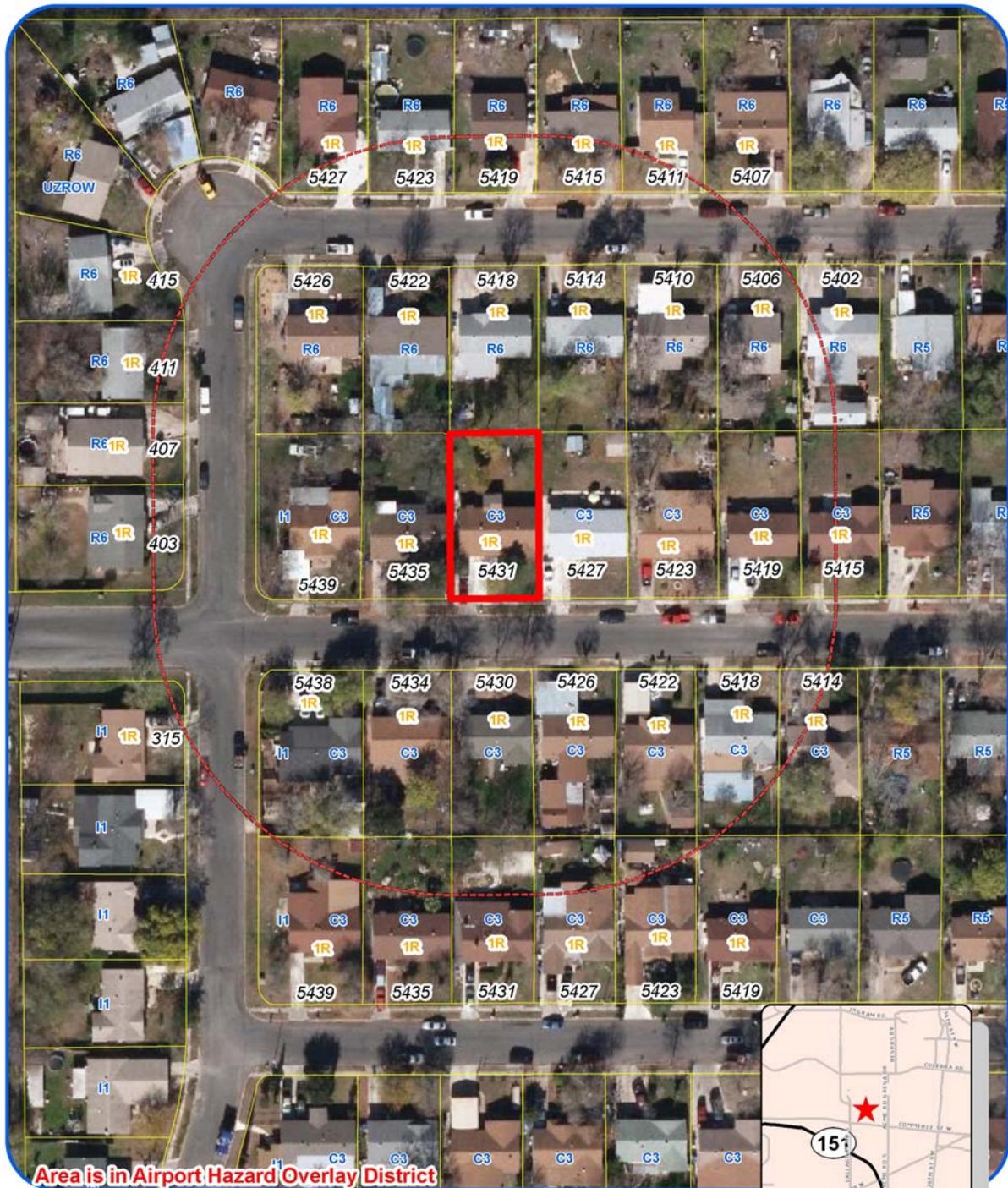
### **Attachments**

Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Photos

# Attachment 1 Notification Plan



<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-13-072</b></p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 7 </p>	<p style="text-align: right;">Development Services Department City of San Antonio (09/16/2013)</p>
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**Attachment 2  
Plot Plan**



**Variance Request:**  
**A 1-foot variance from the 4-foot maximum fence height to allow a fence 5-foot in height in the front yard.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-13-072**

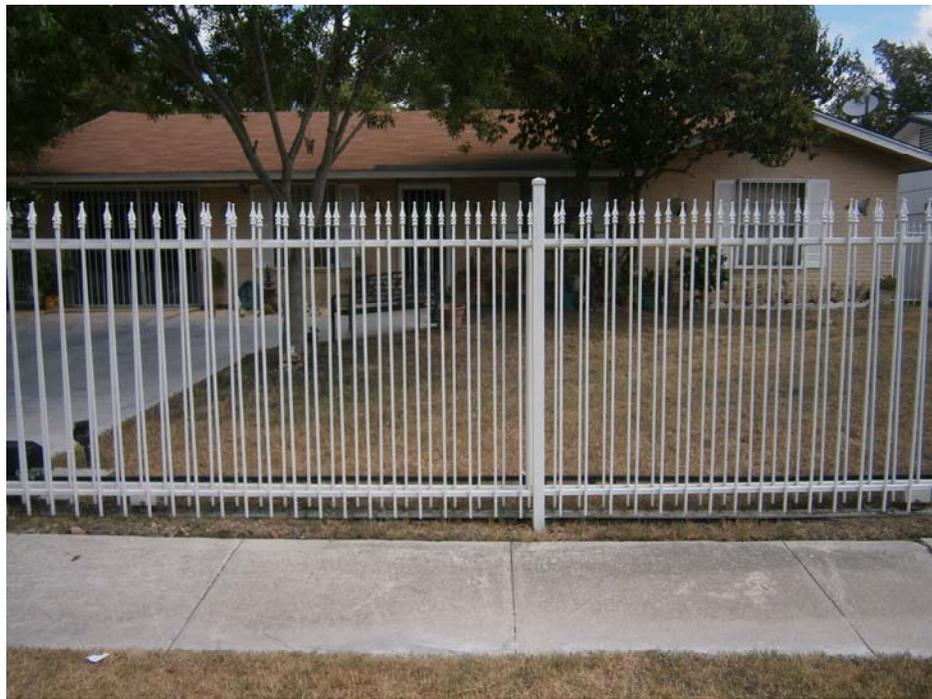


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District 7

**5431 Greyrock Dr**<sup>1:210</sup>

Development Services Department  
City of San Antonio  
(09/16/2013)

**Attachment 3**  
**Site Photos**





## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-13-073  
Date: September 16, 2013  
Applicant: Pape-Dawson Engineers, Inc.  
Owner: H. E. Butt Grocery Company  
Location: 5731 Rittiman Road  
Legal Description: 42.8 acres out of NCB 16828  
Zoning: "I-1 AHOD" General Industrial Airport Hazard Overlay District and "C-3 AHOD" General Commercial Airport Hazard Overlay District  
Prepared By: Tony Felts, Planner

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### **Request**

A request from Section 35-514(d) of the UDC for up to a 6-foot variance from the 6-foot maximum height limitation to allow a wall up to 12 feet in height.

### **Procedural Requirements**

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners and registered neighborhood associations within two hundred (200) feet of the subject property on or before August 29, 2013. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 30, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before September 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is a 42.8 acre track of land located generally on the north side of Rittiman Road between Rosillo Creek and Castle Cross (note that there are several out parcels within this area). The site is currently undeveloped, but is planned to be a truck terminal in support of HEB Grocery's operations in the immediate vicinity. To the north, the site abuts single-family residential properties along Castle Prince Drive, Castle Knoll, and Castle Hunt Drive.

The site is proposed to be a 24-hour operation, with frequent heavy truck traffic. Some parking and driveways are located adjacent to the single family homes on Castle Hunt Drive.

The applicant has already received approval from the Board for a similar wall behind their distribution center and snack plant to the west of the subject property. The wall behind the distribution center received approval from the Board in May, while the wall behind the snack plant received a variance in 1997. The proposed wall is similar to these, and an attempt by the applicant to be a good neighbor to the adjacent residents.

The stone wall is proposed to be up to 12-feet in height, the maximum height allowed for a wall by city code. The wall will have variable height of 8 to 12 feet, and will only be 12 feet in height in areas where topographical issues are a concern. The total length of the wall is proposed to be approximately 3,220 feet.

The applicant has stated that the wall will be properly engineered so as to ensure safety and will be constructed of a decorative “fencecrete” material.

It should also be noted that the applicant would also have to comply Section 35-510 of the UDC, and install a “Type C” Bufferyard between the subject property and the adjacent residential properties. The “Type C” Bufferyard requires a minimum width of 25 feet, specified plantings, and a solid fence or wall of at least 6 feet in height. Maintenance of the bufferyard, wall, as well as any areas beyond the wall would be the responsibility of the property owners.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“I-1 AHOD” (General Industrial Airport Hazard Overlay District), “C-3 AHOD” (General Commercial Airport Hazard Overlay District)	Vacant (proposed truck staging area and truck scales)

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” (Residential Single-Family Airport Hazard Overlay District)	Single-Family Dwellings
South	“I-1 AHOD” (General Industrial Airport Hazard Overlay District), “L AHOD” Light Industrial Airport Hazard Overlay District, and “C-3 AHOD” (General Commercial Airport Hazard Overlay District)	Vacant and Warehousing
East	“C-2 AHOD” (Commercial Airport Hazard Overlay District)	Restaurant and Car Wash
West	“I-1 AHOD” (General Industrial Airport Hazard Overlay District),	Snack Plant

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is not located within a community, land use, or sector plan. The subject property is also located within the boundaries of the East Village Neighborhood Association; as such, the neighborhood association was 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:*

Usually, fence and wall height restrictions are put into place in order to provide orderly development and encourage a sense of community. In this case, a large industrial truck staging area is proposed to be located adjacent to single-family residences and has the potential to create issues of noise and light pollution. In an effort to be a good neighbor, the applicant has proposed the wall as a means of mitigating some of the possible negative impacts of their operation. 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 literal enforcement of the ordinance would provide inadequate buffering and screening of the proposed industrial use from the single-family residential homes adjacent to it, and as such would result in an unnecessary hardship to the residents of those homes.

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 and segregate incompatible land uses; the applicant's proposal is such a case. 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 Industrial or 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 residents of the adjacent single-family residences by reducing noise and light pollution.

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 they will result from the development of a conforming use on the subject property adversely impacting adjacent single-family properties.

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to construct a wall of only 8 feet in height uniformly, which may be insufficient to accomplish the applicant's goal of mitigating the negative impacts of their proposed operation.

### **Staff Recommendation**

Staff recommends **approval of A-13-073** because of the following reasons:

- The proposed wall will provide an effective light and noise barrier for the residents of the single-family homes adjacent to a proposed industrial use.

### **Attachments**

Attachment 1 – Notification Plan (Location Map)

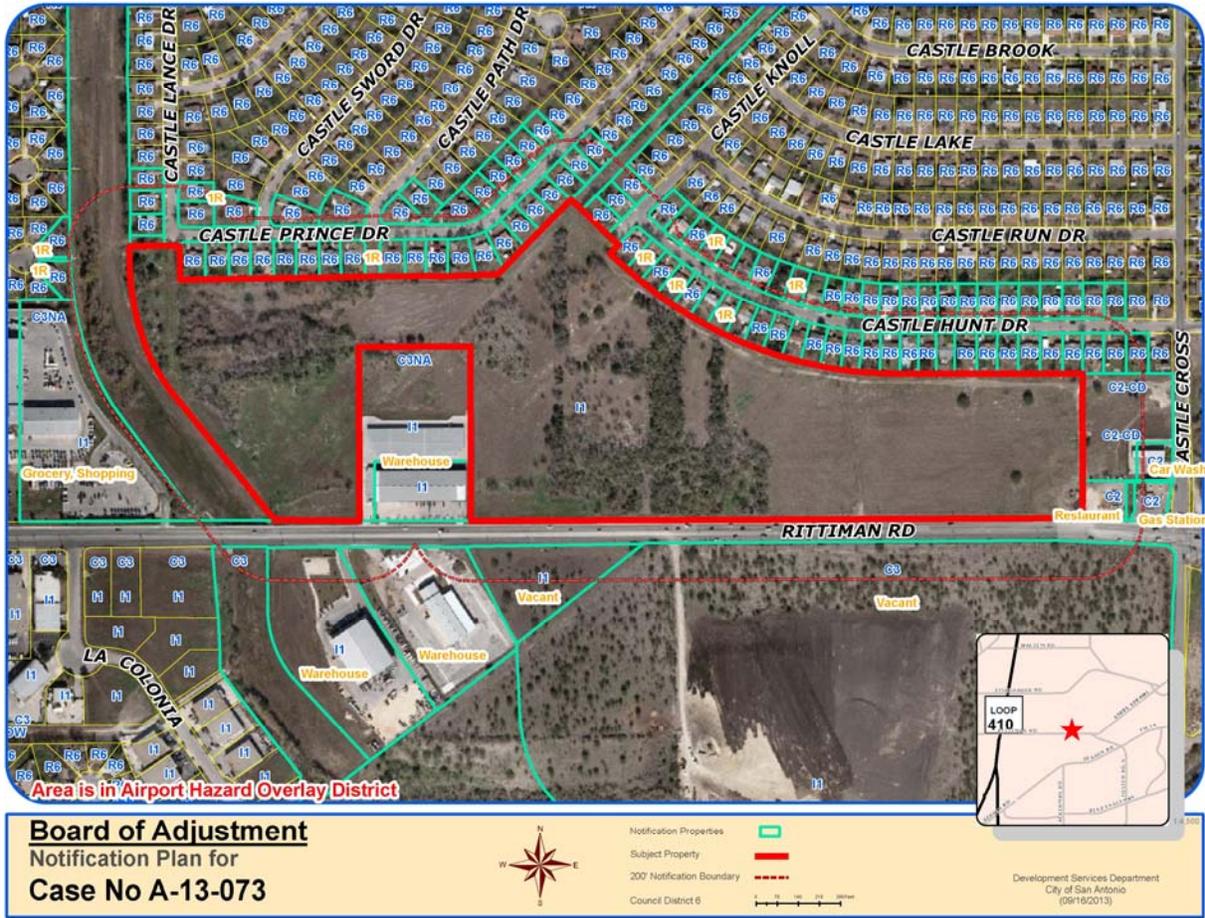
Attachment 2 – Plot Plan

Attachment 3 – Applicant's Site Plan

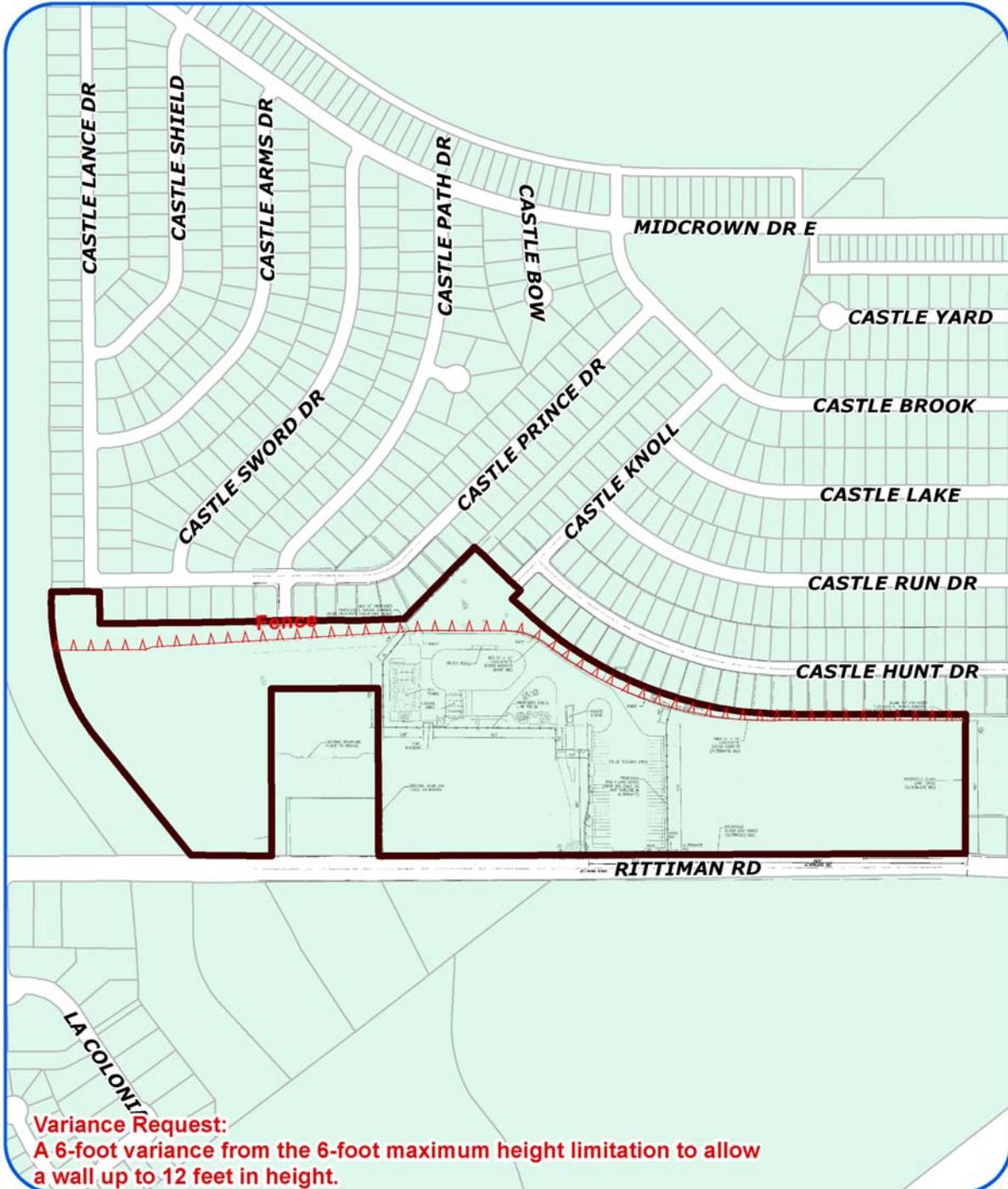
Attachment 4 – Proposed Fence Material



# Attachment 1 (Continued) Notification Plan



Attachment 2  
Plot Plan



**Variance Request:**  
A 6-foot variance from the 6-foot maximum height limitation to allow a wall up to 12 feet in height.

**Board of Adjustment**  
Plot Plan for  
**Case No A-13-073**



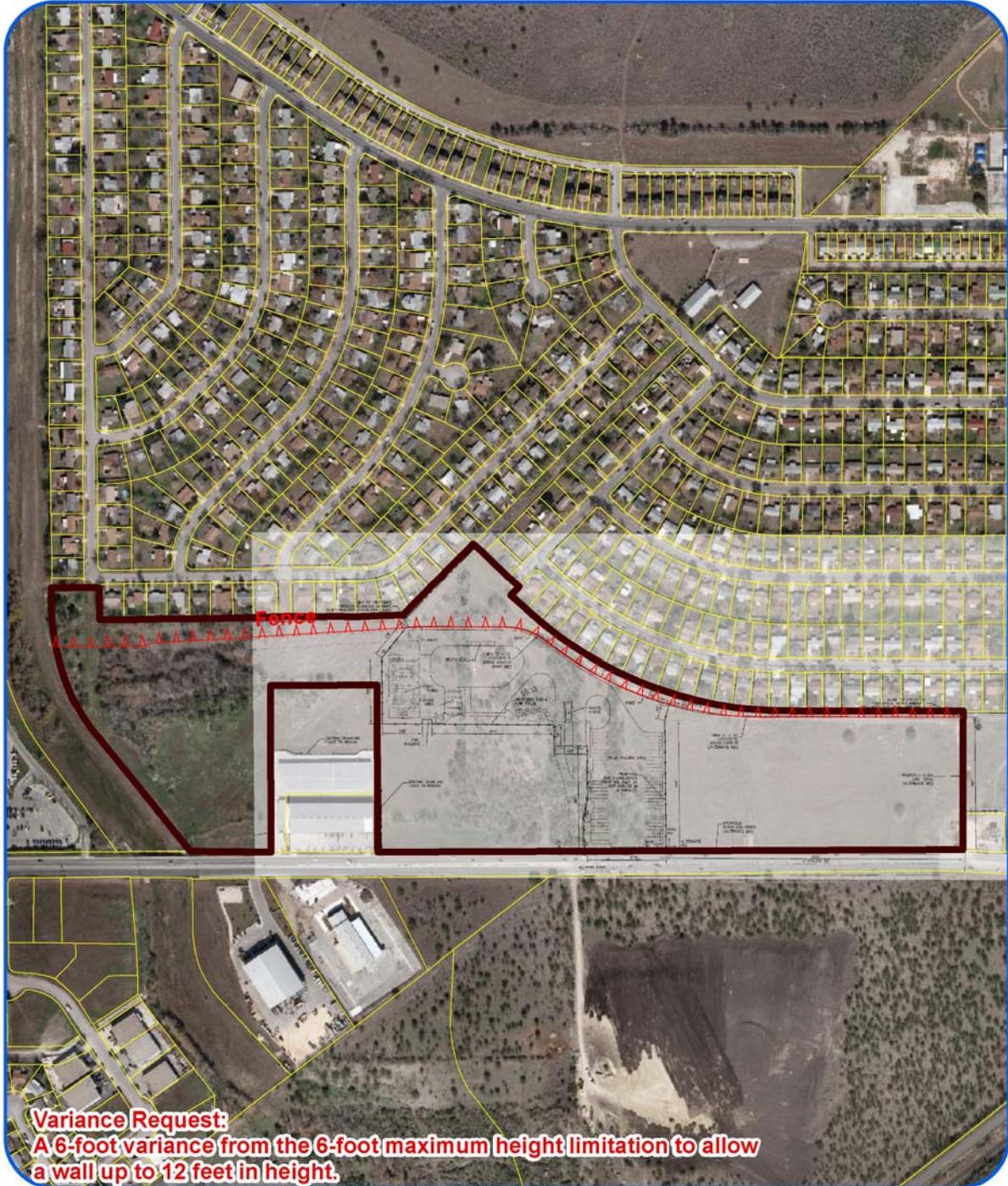
"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District 2

**5731 Rittiman**

Development Services Department  
City of San Antonio  
(09/16/2013)

1:5,180

**Attachment 2 (Continued)  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-13-073**



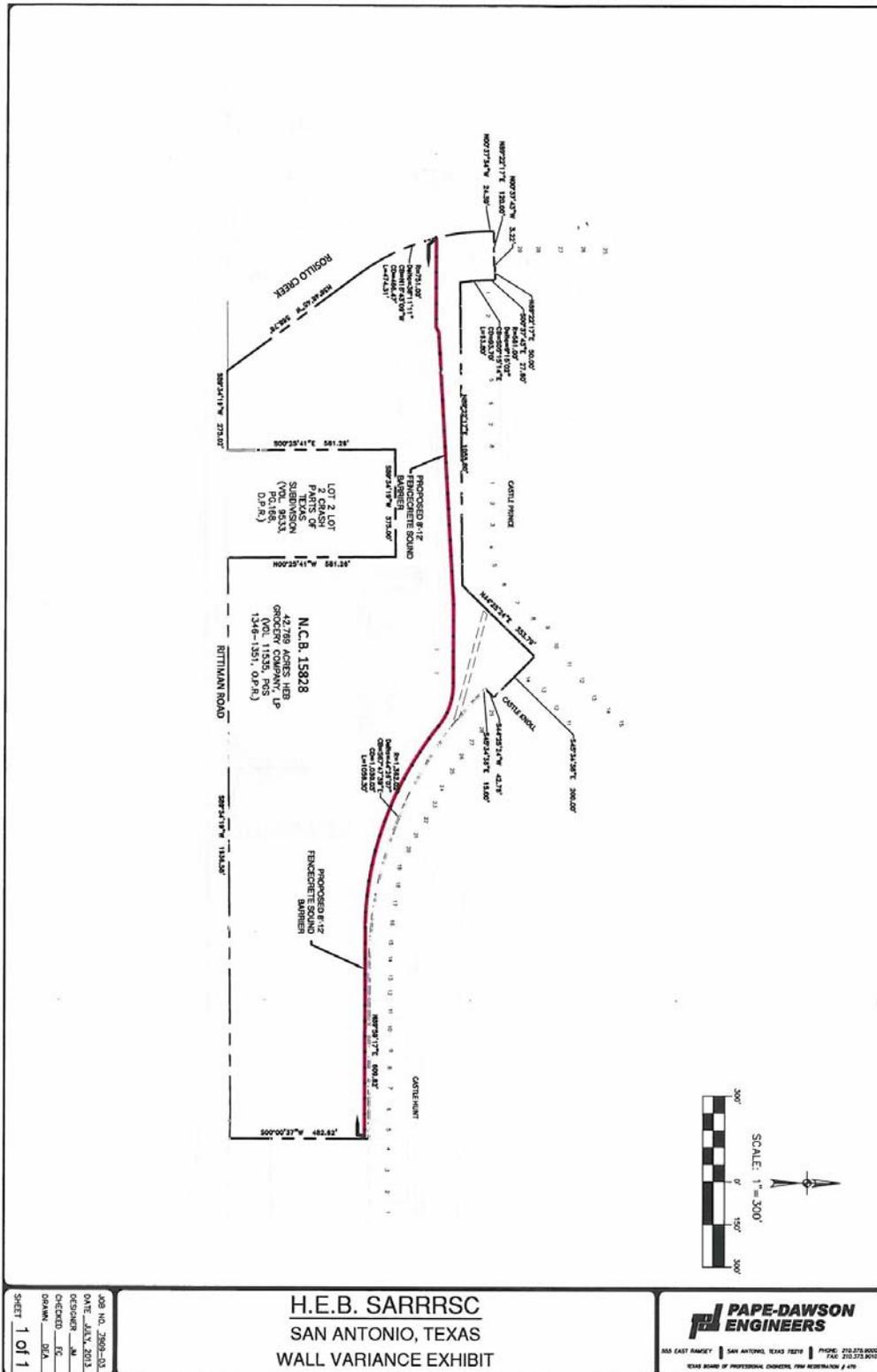
"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District 2

**5731 Rittiman**

1:5,160

Development Services Department  
City of San Antonio  
(09/16/2013)

# Attachment 3 Applicant's Site Plan



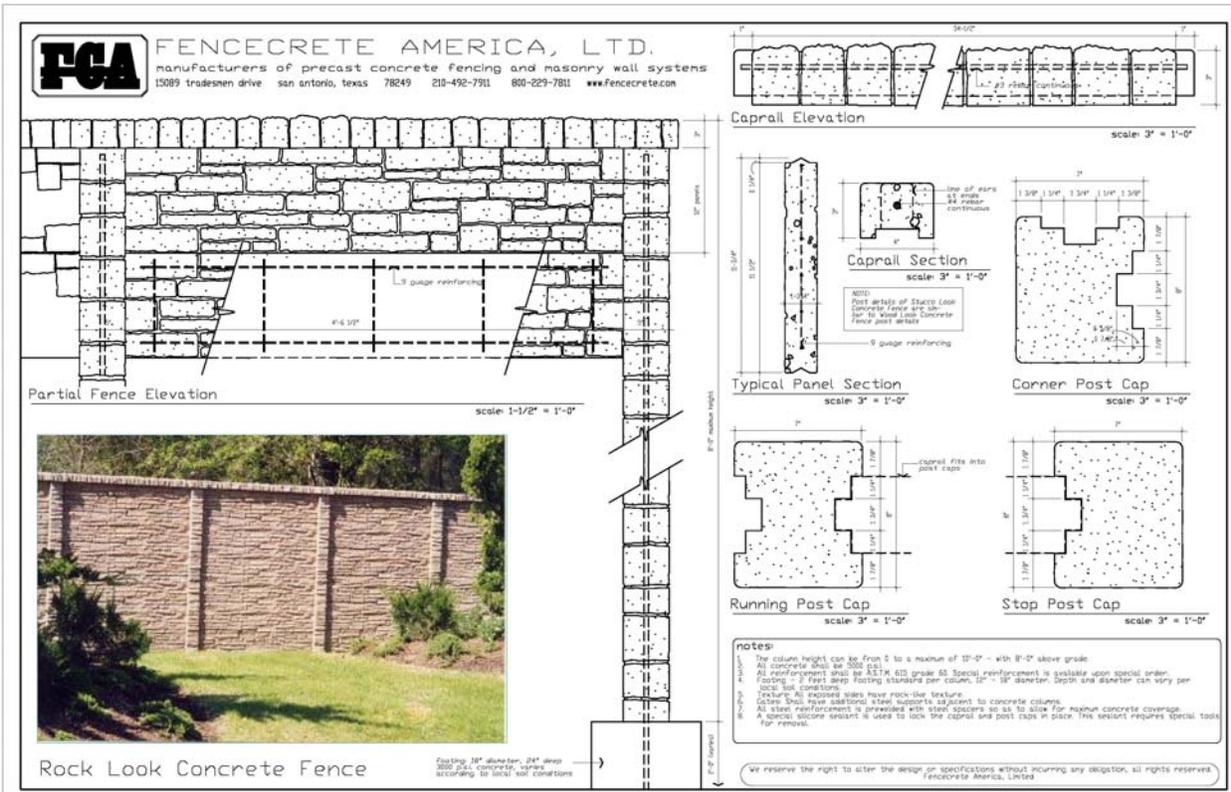
**H.E.B. SARRRSC**  
SAN ANTONIO, TEXAS  
WALL VARIANCE EXHIBIT

**Pape-Dawson**  
**ENGINEERS**

600 EAST RANGY | SAN ANTONIO, TEXAS 78210 | PHONE: 210.276.8000  
FAX: 210.276.8000  
TEXAS BOARD OF PROFESSIONAL ENGINEERS, PUBLIC ACCOUNTANTS & ARCHITECTS

JOB NO. 2009-01  
DATE: JULY 2013  
DESIGNER: AM  
CHECKED: FC  
DRAWN: DEB  
SHEET 1 of 1

# Attachment 4 Proposed Fence Material





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

To: Board of Adjustment  
Case No.: A-13-075  
Date: September 16, 2013  
Applicant: Shirley Homeier-McBrayer  
Owner: Shirley Homeier-McBrayer  
Location: 6730 Manassas Drive  
Legal Description: Lot 9, Block 10, NCB 17414  
Zoning: "R-5 AHOD" Residential Single-Family, Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

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**Request**

The applicant is requesting a 6-foot variance from the minimum 20-foot rear yard setback, as detailed in Table 35-310-1, to allow a building addition with a 14-foot rear setback.

**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 August 29, 2013. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on August 30, 2013. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before September 13, 2013, in accordance with Section 551.043(a) of the Texas Government Code.

**Executive Summary**

The applicant owns a single family home built in 1990 on a 5,250 square-foot lot in the Lincoln Park Subdivision. The subdivision is characterized by moderately sized brick homes on small lots. At the time of recordation, the zoning district required 5,000 square feet of lot area. The subject lot is a "double frontage" lot, meaning it has streets both at the front and the rear of the lot. Typically, this design is used on busy streets, orienting the houses toward the interior of the project. A cohesive 6-foot brick wall borders the subdivision along this rear interface with Oxford Trace, a local street.

The home has an existing patio across the rear façade that is 10 feet wide. The applicant is requesting a variance from the required 20-foot rear yard setback to allow a roof to be installed

over the patio within 14 feet of the rear property line. A patio is allowed to encroach into the rear-yard setback unless it has a roof or is elevated above 30 inches and needs a railing. Under these two scenarios, it is considered a structure and must adhere to setbacks.

The applicant asserts that the roof is the last option for mitigating the full sun exposure along this elevation. A new air conditioner, a storm door, weatherization and solar screens were unable to address the intense heat from this exposure. The paint on the rear door peels annually according to the applicant. In addition, the applicant submitted a petition containing signatures from 12 property owners in her immediate vicinity who support her application.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-5 AHOD” Residential Single-Family Airport Hazard Overlay Districts	Single-family dwelling

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Huebner/Leon Creeks Community Plan, adopted by the City Council in August of 2009. The future land use plan designated this area for low-density residential land uses. The subject property is not located within the boundaries of a Neighborhood Association.

**Criteria for Review**

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

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

The public interest is defined as the general health, safety and welfare of the public at large. The public interest in this case is represented by minimum setbacks established to ensure activities on individual properties do not impact the rights of a neighboring property owner. In this case, the applicant abuts a local street, fenced off by a 6-foot brick wall. In addition, the

requested 14-foot setback will provide adequate setback for property maintenance. Therefore, the requested 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.*

A literal enforcement of the ordinance would allow a 4-foot cover to be installed, reducing the desired shading effect and creating an awkward addition. The double frontage lot creates a special condition that may warrant consideration by the Board. The Board will have to determine if the required 20-foot rear yard setback results in an unnecessary hardship in this case.

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

In observing the spirit, the Board is directed to weigh the competing interests of the property owner and the community. The community's interest is altered by the location of a street abutting the rear lot line, rather than other owners' rear yards. Therefore, the spirit of the ordinance could be observed by reducing the required setback by 6 feet.

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 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 small lots and well-appointed red brick homes create a very distinct character for this subdivision. The narrow 5-foot side yard setbacks and fencing restrict the public view of each individual rear yard. This is especially true for the applicant's property where there are no houses abutting the rear property line. Only the two neighboring property owners will be able to see the proposed structure and each of these has pledged their support. Therefore, the variance will not alter the character of the district.

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 lot is a double-frontage lot, a rare lot configuration approved in limited circumstances. These parcels share a rear property line with a street. This lot configuration reduces the impact of the proposed variance.

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to reduce the depth of the patio cover to 4-feet.

### **Staff Recommendation**

Staff recommends **approval of A-13-075** based on the following findings:

1. The rear yard abuts a local street rather than other rear yards; and

2. The applicant has employed several alternatives to reduce impact of full sun exposure.

**Attachments**

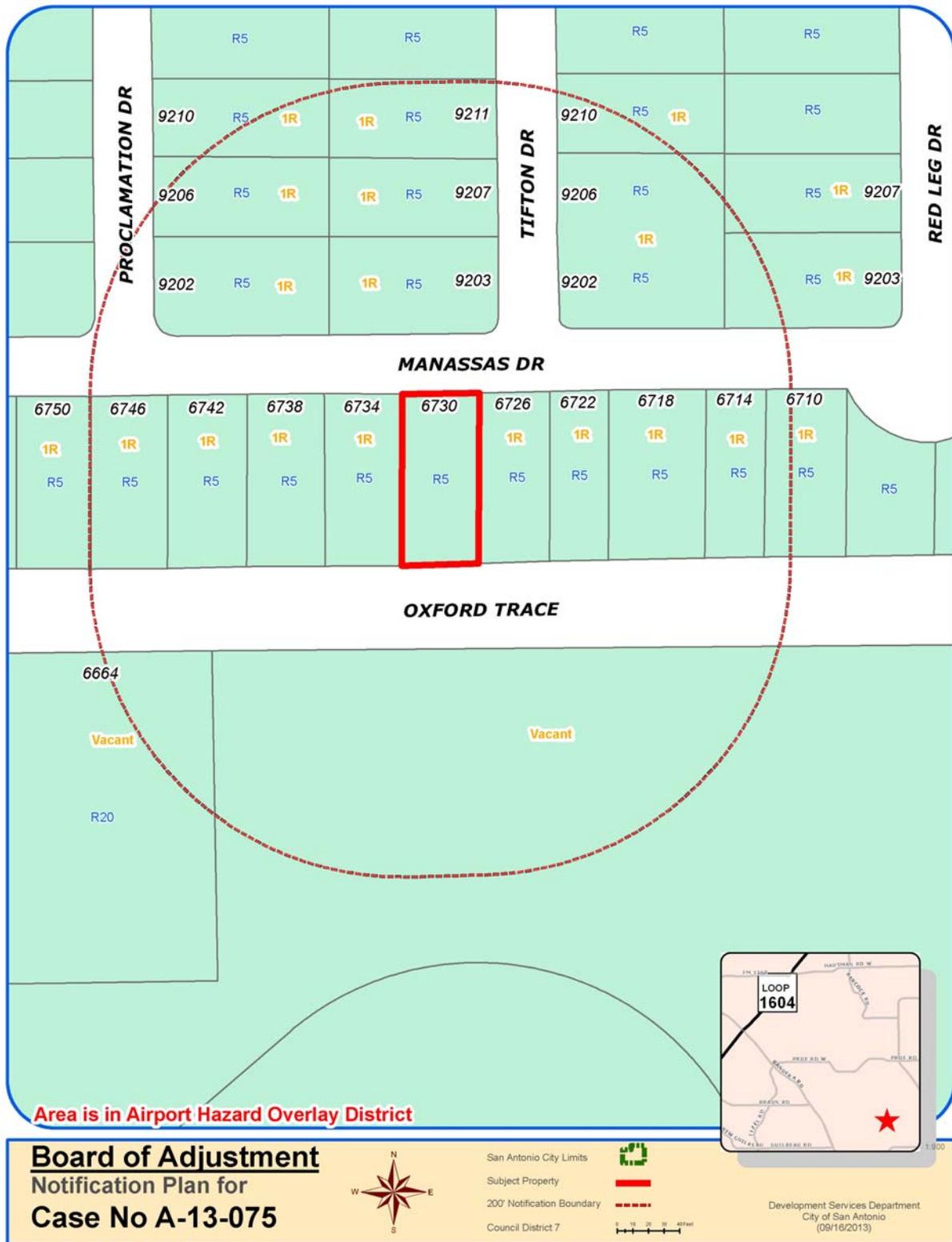
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

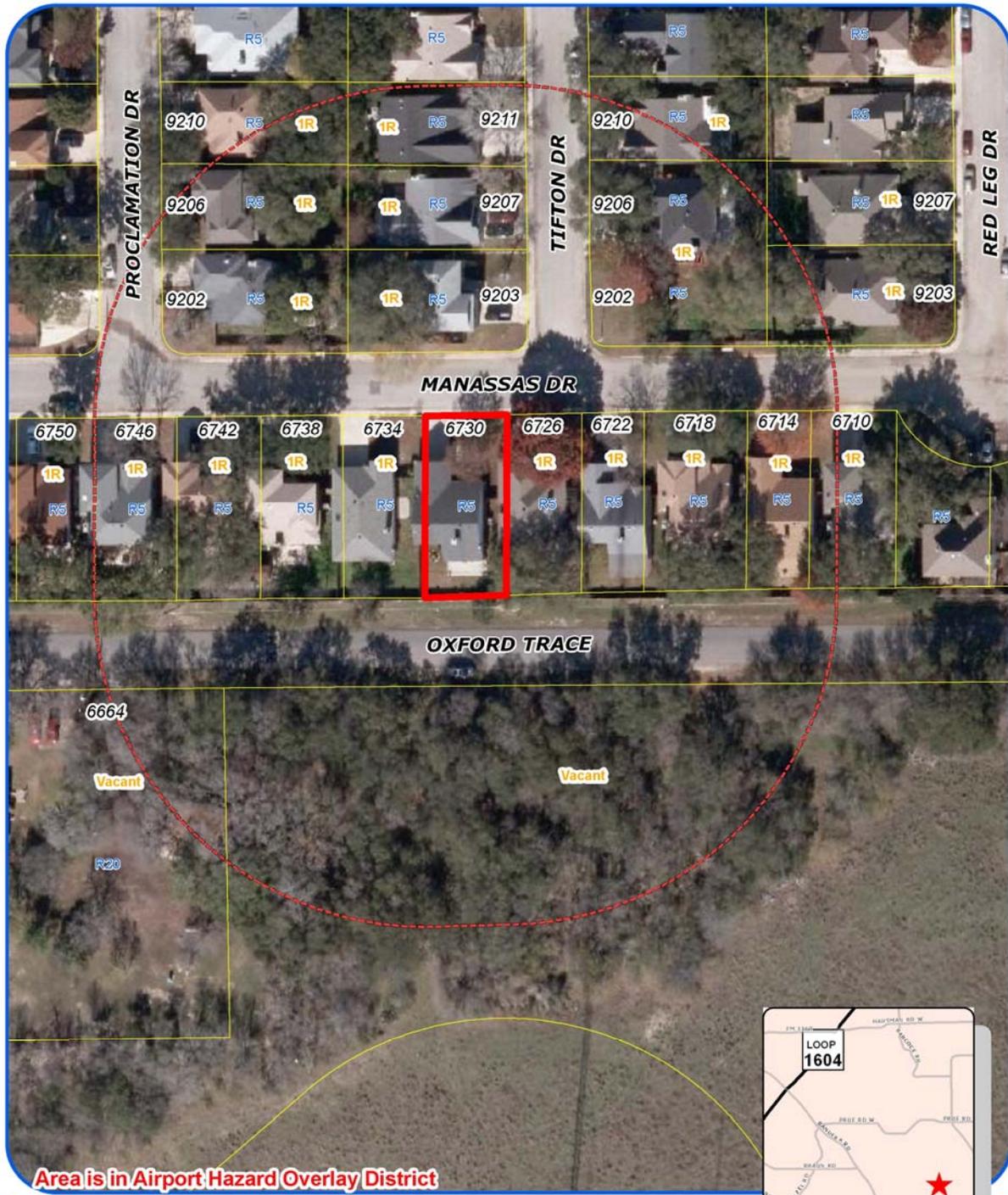
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

# Attachment 1 Notification Plan

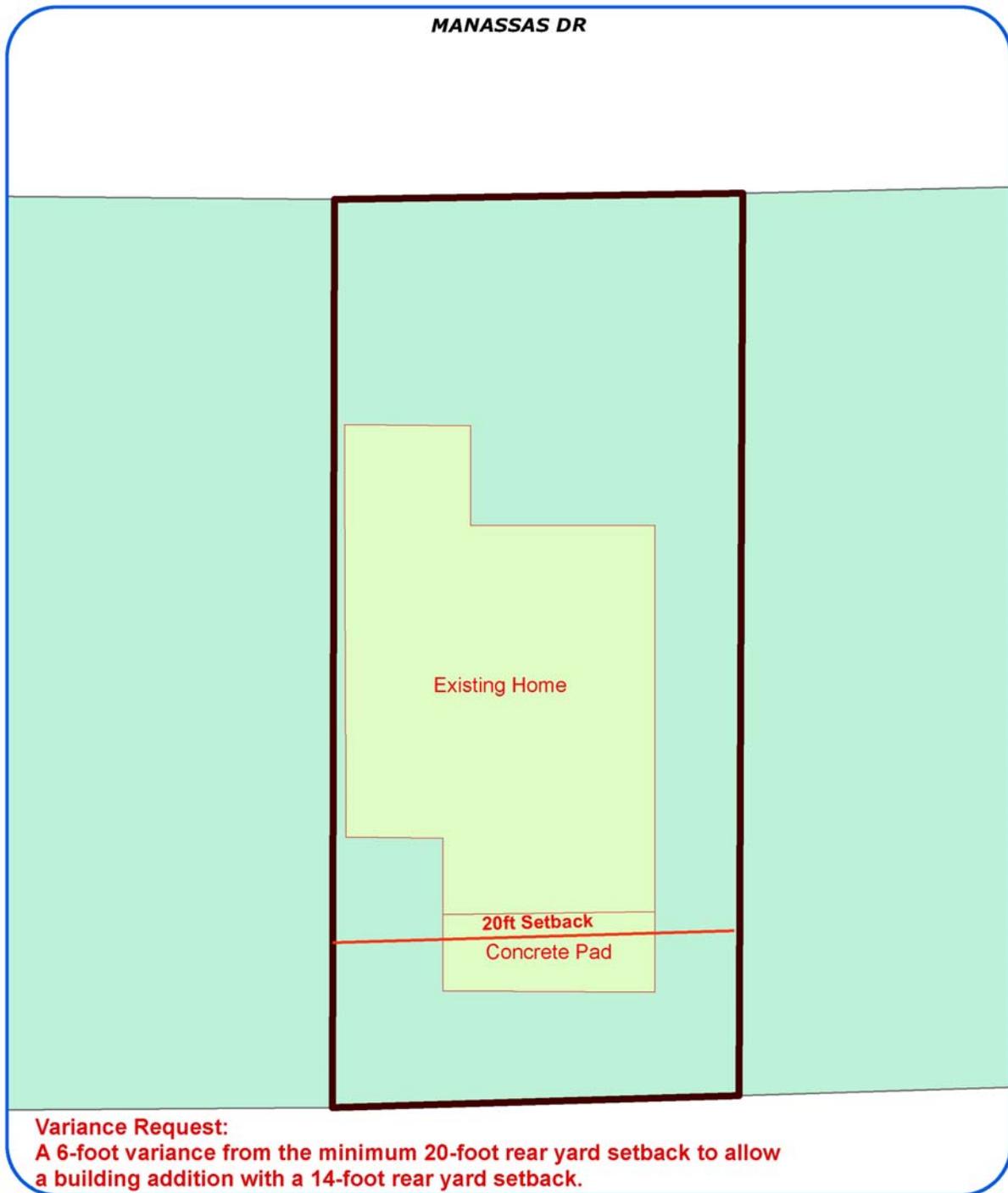


**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-13-075</b></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 (09/16/2013)</p>		

**Attachment 2  
Plot Plan**



**Variance Request:**  
A 6-foot variance from the minimum 20-foot rear yard setback to allow a building addition with a 14-foot rear yard setback.

**Board of Adjustment**  
Plot Plan for  
**Case No A-13-075**



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

**6730 Manassas**

Development Services Department  
City of San Antonio  
(09/16/2013)

1:180

**Attachment 2  
Plot Plan (continued)**



**Variance Request:**  
**A 6-foot variance from the minimum 20-foot rear yard setback to allow a building addition with a 14-foot rear yard setback.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-13-075**



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

**6730 Manassas**

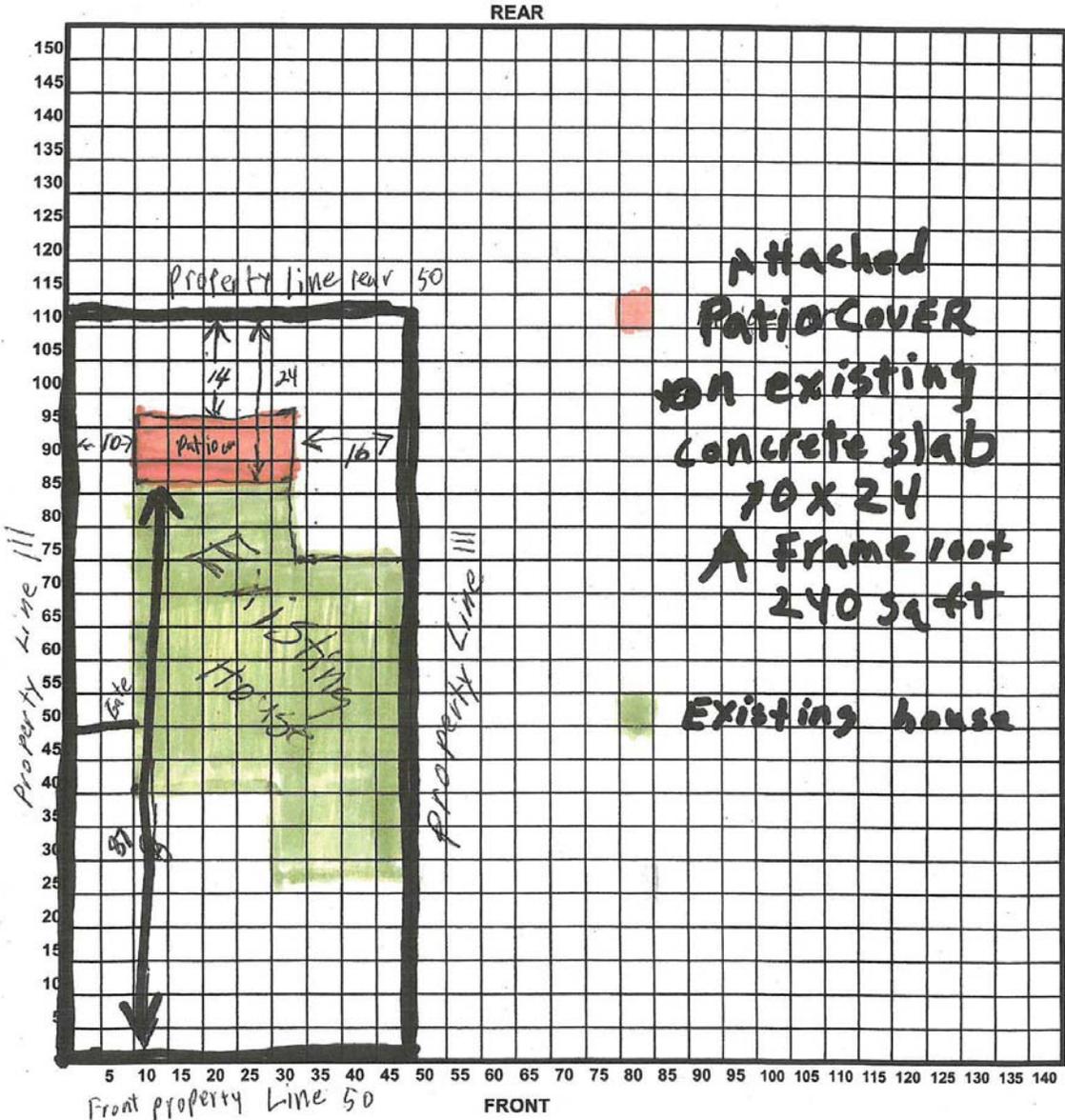
Development Services Department  
City of San Antonio  
(09/16/2013)

1:180

**Attachment 3  
Applicant's Site Plan**

**PLOT PLAN  
FOR  
BLDG PERMITS**

Address 6730 Manassas Lot 9 Block 10 NCB 17414



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 2012 IRC

8-15-2013

Date

[Signature]  
Signature of Applicant

**Attachment 4  
Site Photos**

