

# City of San Antonio Board of Adjustment

## Regular Public Hearing Agenda

Monday, April 21, 2014

1:00 P.M.

Training 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.

---

1. **1:00 PM** - Public Hearing – Call to Order
2. Roll Call
3. Pledges of Allegiance
4. **A-14-047:** The request of Ruby Casteel for a special exception to allow relocation of a single-family residence, located at 219 4<sup>th</sup> Street, to a vacant lot located at 610 Nolan Street. (Council District 2)
5. **A-14-045:** The request of Marie Teresa Ruthenberg for a 5-foot variance from the 5-foot side yard setback to allow a structure on the west side property line located at 243 East Formosa Boulevard. (Council District 3)
6. **A-14-048:** The request of Clint Belew for a variance to eliminate the off street parking requirements for a single-family residence located at 323 Lavaca Street. (Council District 1)
7. **A-14-049:** The request of Michele Pauli Torres for:
  - A.) an appeal of the Director’s decision to rescind building permit #1951114 for a guard rail & classifying it a sport court fence; and
  - B.) a variance from the 20-foot setback to allow installation of a guard fall protection system on the property line. (Council District 9)
8. 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) 207-7268 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) 207-7268 o al 711 (servicio de transmitir para sordos).*

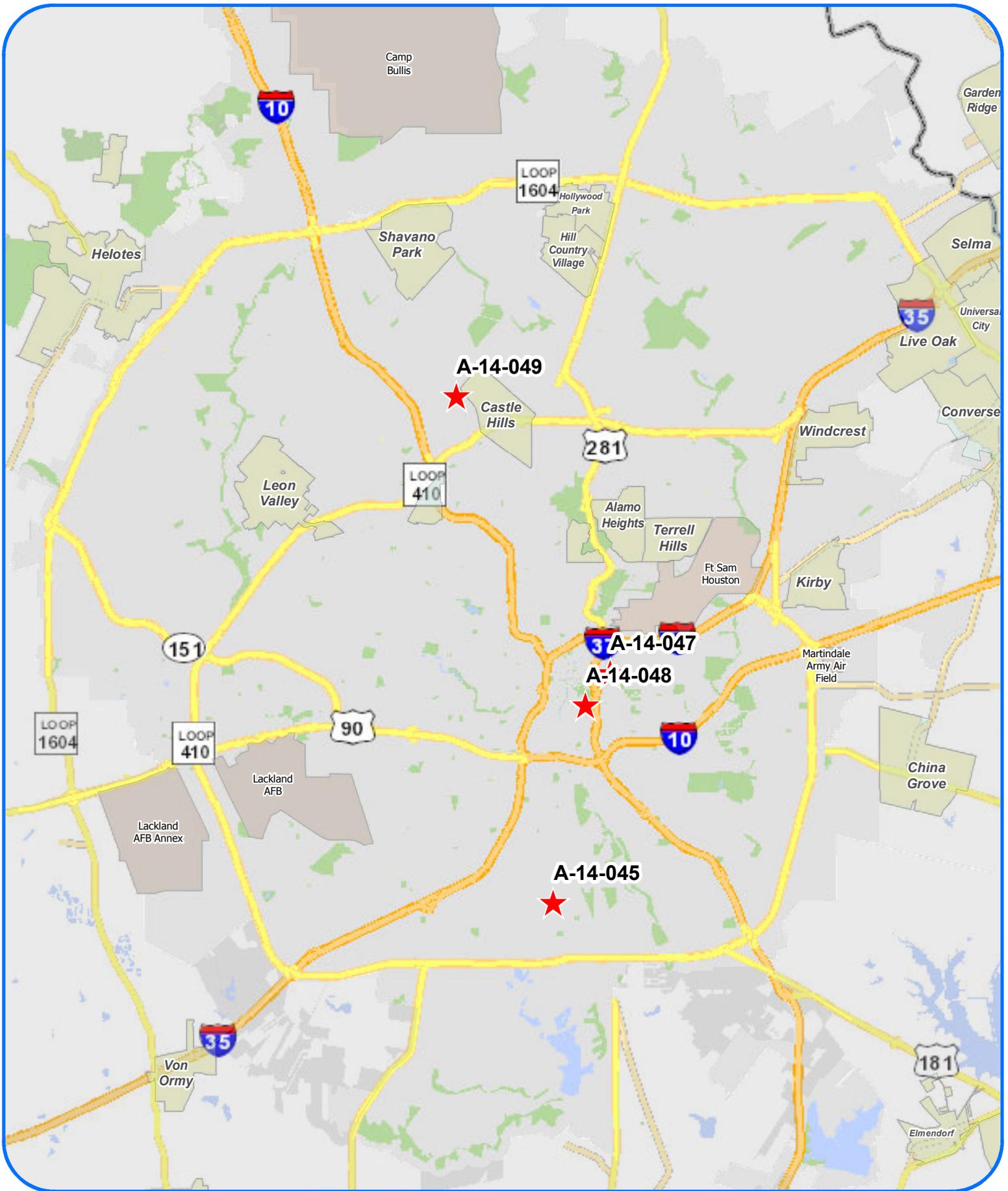
---

### Board of Adjustment Membership

Andrew Ozuna, District 8, Chair      Mary Rogers, District 7, Vice Chair  
Frank Quijano, District 1 • Alan Neff, District 2 • Gabriel Velasquez, District 3 • George Britton, District 4  
Maria Cruz, District 5 • Jesse Zuniga, District 6 • John Kuderer, District 9 • Roger Martinez, District 10  
Gene Camargo, Mayor

### Alternate Members

Harold O. Atkinson • Paul E. Klein • Henry Rodriguez • Vacancy • Vacancy • Vacancy



# **Board of Adjustment**

**Subject Property Locations  
Cases for 21st April 2014**





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

To: Board of Adjustment  
Case No.: A-14-047  
Date: April 21, 2014  
Applicant: Ruby Casteel  
Owner: Ruby Casteel  
Location: 610 Nolan Street  
Legal Description: Lot 3 & W 9.72 ft of Lot 4, Block 18, NCB 561  
Zoning: "R-6 H AHOD" Residential Single-Family Historic Airport Hazard Overlay Districts  
Prepared By: Margaret Pahl, AICP Senior Planner

---

### **Request**

The applicant is requesting a special exception to allow the relocation of a historic residential building from 219 4<sup>th</sup> Street to a lot zoned for single family use, located in a historic district at 610 Nolan Street.

### **Procedural Requirements**

A special exception is a decision vested with the Board of Adjustment, subject to compliance with a specific set of performance criteria. 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 April 4, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on April 4, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 18, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is a vacant lot, located in the Dignowity Hill Historic District. The average age of the houses on the block is 97 years old, with the oldest house built in 1873. The house originally built on the lot was demolished in 1990 by the City as a dangerous premise. The house proposed for relocation, located at 219 4<sup>th</sup> Street, was designated as a Historic Landmark by the City Council in January 2011, as a part of a 31 structure initiative in the River North Master Plan area. It is owned by the First Baptist Church who has been searching for a lot in a historic district owned by someone willing to accept the responsibility of its relocation. While

the applicant has no experience with house relocations, she has teamed up with Dodson to assist in the job.

The parcel is 70 feet in width, wide enough to locate the 30 foot wide home with large setbacks on each side. There is an intact ribbon driveway on the western side of the lot that can still be used for off-street parking. All of the mature trees on the lot are on the perimeter and do not impact the final placement of the house.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 H AHOD” Residential Single-Family Historic Airport Hazard Overlay Districts	Vacant

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 H AHOD” Residential Single-Family Historic Airport Hazard Overlay District	Single-Family Home
South	“R-4 H AHOD” Residential-Single-Family Historic Airport Hazard Overlay District	Single-Family Home
East	“R-6 H AHOD” Residential Single-Family Historic Airport Hazard Overlay District	Single-Family Home
West	“R-6 H AHOD” Residential Single-Family Historic Airport Hazard Overlay District	Single-Family Home

**Relocation Compatibility Table**

Compatibility Standard	Existing Condition on Blockface	Applicant's Proposed Condition
Lot Size	Mean Lot Size: 10,550sf	13,200
Structure Age	Min: 84 years	129 years
	Max: 144 years	
	Mean Age: 97 years	
Structure Size	Min: 1356 sf	2144 sf

	<b>Max:</b> 3,200 sf	
	<b>Mean Size:</b> 2121 sf	
<b>Structure Height</b>	1 Story	1 Story
<b>Front Entry, Porch, Walkway</b>	Front of House	2 doors/porch
<b>Building Materials</b>	<b>Exterior siding:</b> Various	Wood
	<b>Roofing:</b> Shingles	Shingles
	<b>Window:</b> Aluminum, vinyl & wood	Wood
<b>Foundation Type</b>	Various	Post & beam
<b>Roof Line/Pitch</b>	Gabled	Gabled/part hip
<b>Fencing</b>	Chain Link & ornamental iron	None

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Dignowity Hill Neighborhood Plan, adopted in December, 2009. A goal of enhancing historic residential neighborhoods was highlighted in the plan and would be furthered by the proposed relocation. The subject property is within the boundaries of the Dignowity Hill Neighborhood Association and as such, they were notified and asked to comment.

**Criteria for Review**

According to Section 35-482(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 five (5) following conditions:

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

The applicant is proposing to relocate a historic structure to a vacant lot within a historic district and intends to renovate the structure to meet current buildings codes. New electrical service and new plumbing are planned. **A residential use on this vacant lot is preferred, given the previous house was demolished over 20 years ago. Therefore, granting the special exception will be in harmony with the spirit and purpose of the chapter.**

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

**The structure will be used as a single family dwelling, making use of an undeveloped parcel within a neighborhood that could benefit from incremental revitalization. The public welfare and convenience will be substantially served by the relocation.**

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

**The addition of this historic home will add integrity to the streetscape, bring a family to the block and convert a vacant lot into a personal yard. The proposed home will not negatively impact the neighboring property.**

*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.*

**The houses in this historic district are each unique and contribute to the character of the district. This historic home is an ideal candidate for this large vacant parcel and much preferred to a new home as an alternative. Therefore, the special exception authorizing the relocation will not alter the essential character of the district.**

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

**The special exception will not weaken the general purpose of “R-6 H AHOD” zoning district, a district designed to support historic residential land uses. The site plan submitted by the applicant and the size of the parcel show the proposed placement of the home will exceed the minimum front, side and rear yard setbacks of the district.**

### **Staff Recommendation**

Staff recommends **approval of A-14-047**, based on the following findings:

1. The requested special exception complies with all of the review criteria for granting a special exception as presented above.
2. The relocation of the structure in question will allow the reasonable use of a property that has been vacant for a significant time, and will fit with the character of the existing area.

### **Attachments**

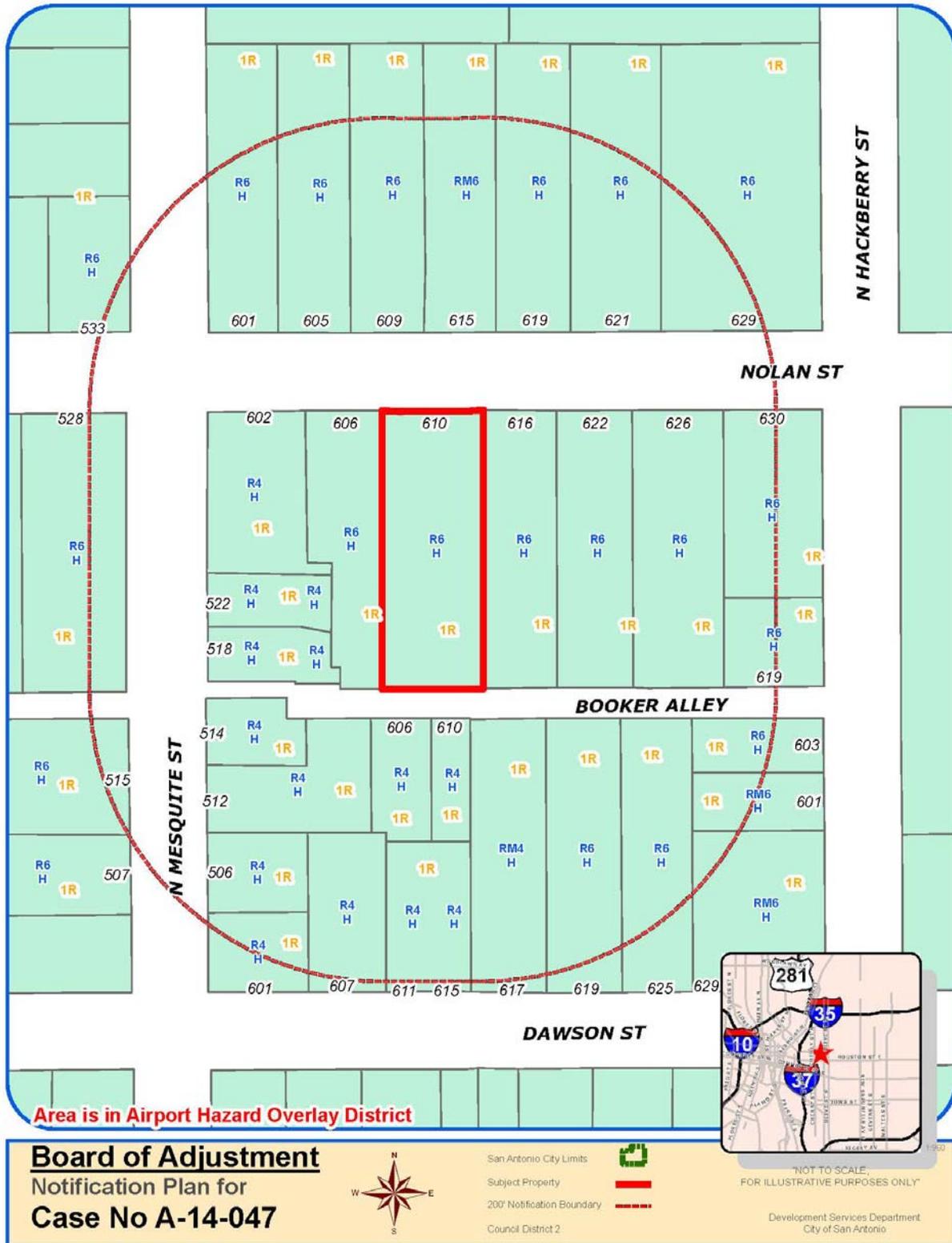
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

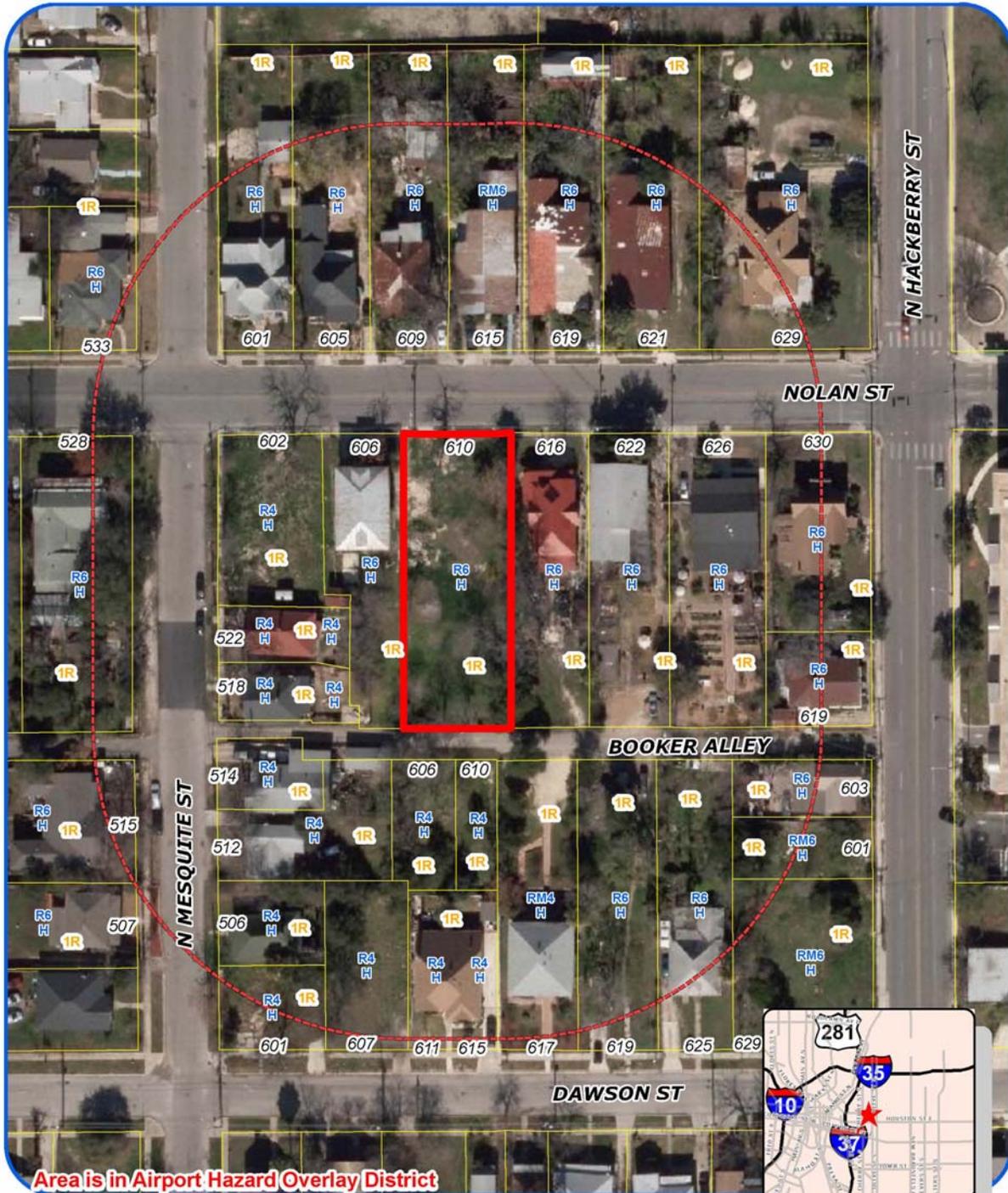
Attachment 3 – Applicant’s Site Plan

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Attachment 1  
Notification Plan (cont)**



**Area is in Airport Hazard Overlay District**

**Board of Adjustment  
Notification Plan for  
Case No A-14-047**



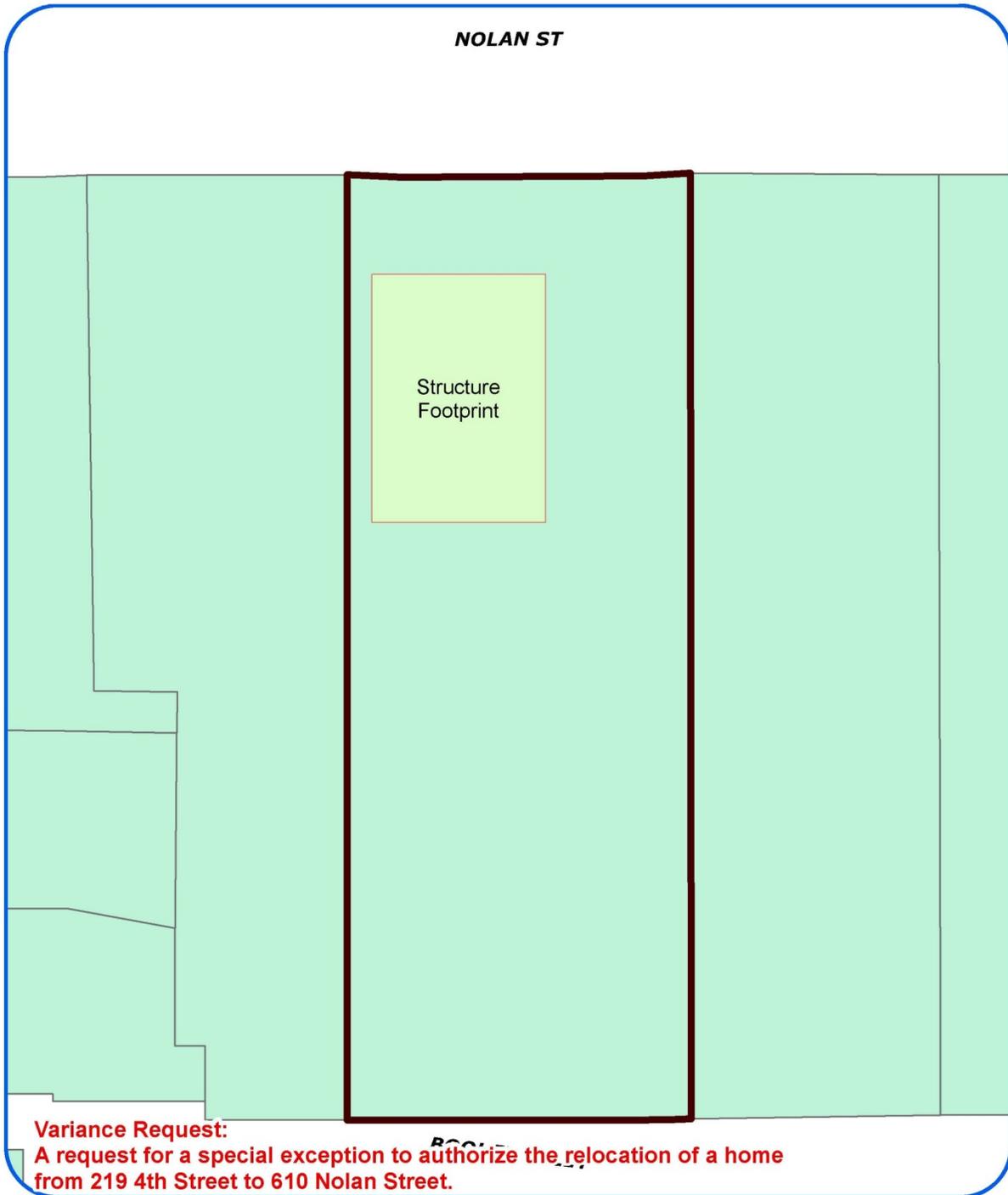
- San Antonio City Limits 
- Subject Property 
- 200' Notification Boundary 
- Council District 2



\*NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY\*

Development Services Department  
City of San Antonio

**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-14-047**



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

**610 Nolan**

Development Services Department  
City of San Antonio

**Attachment 2  
Plot Plan (cont)**



**Variance Request:**  
**A request for a special exception to authorize the relocation of a home from 219 4th Street to 610 Nolan Street.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-14-047**



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

**610 Nolan**

1:300

Development Services Department  
City of San Antonio

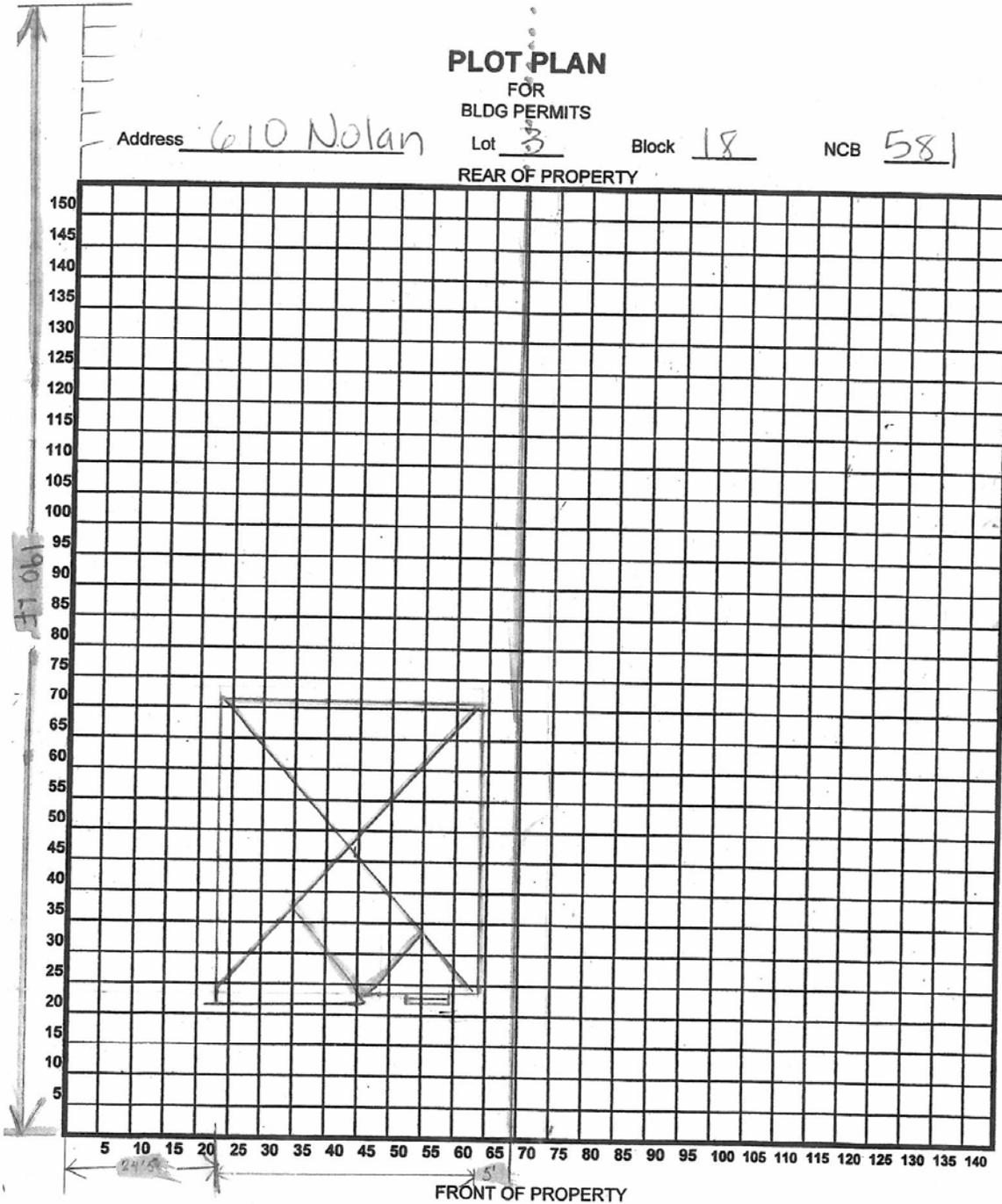
Attachment 3  
Applicant's Site Plan

PLOT PLAN

FOR  
BLDG PERMITS

Address 610 Nolan Lot 3 Block 18 NCB 581

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**



**610 Nolan Street**



**219 4<sup>th</sup> Street Historic Home**



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

To: Board of Adjustment  
Case No.: A-14-045  
Date: April 21, 2014  
Applicant: Marie Teresa Ruthenberg  
Owner: Marie Teresa Ruthenberg  
Location: 243 East Formosa Boulevard  
Legal Description: Lot 29, Block 12, NCB 10806  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Tony Felts, Planner

---

### **Request**

A request from Table 310-1 for a 5-foot variance from the 5-foot side yard setback to allow a structure on the west 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 April 2, 2014. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on April 3, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 18, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located on the north side of East Formosa Boulevard, approximately 557 feet east of Gladnell Avenue.

The site is currently developed as a single-family residence. The applicant has constructed an attached carport on the west side of the home on the property line. The carport was constructed without permits and the applicant was cited by Code Compliance for the violation.

If the variance were to be approved, the Plan Review section has indicated that the applicant would be required to provide a one-hour fire-resistance rated wall.

### **Subject Property Zoning/Land Use**

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

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” (Residential Single-Family Airport Hazard Overlay District)	Single-Family Residence
South	“R-5 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 Stinson Airport Vicinity Land Use Plan (designated as Low Density Residential). 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:*

Building setbacks are designed to preserve adequate access, access to light and air, and preserve public safety by ensuring proper separation of buildings. The structure abuts the neighboring property’s required side yard area. By allowing the addition to remain, it may adversely affect the neighboring property by not allowing for adequate access.

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

The subject property is sufficiently deep to allow the construction of a compliant carport or garage in the rear of the main structure. Likewise, there is sufficient room for the applicant to access the rear of the property with an automobile, and therefore, any garage. As such, no special conditions exist on the property to warrant to granting of a 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 observed by granting the variance as the carport, as constructed, does not provide for adequate room to access the structure for maintenance and there are adequate alternatives to the structure's current placement.

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" Residential Single-Family 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 the appropriate use of the adjacent property to the west because there is not adequate space to maintain 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.*

There are no unique circumstances readily apparent to warrant the granting of the requested variances.

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

The alternative to the applicant's request is to construct the carport in the rear of the main structure.

### **Staff Recommendation**

Staff recommends **denial of A-14-045** because of the following reasons:

- The addition does not allow enough room to be maintained and does not meet the spirit of the ordinance.

### **Attachments**

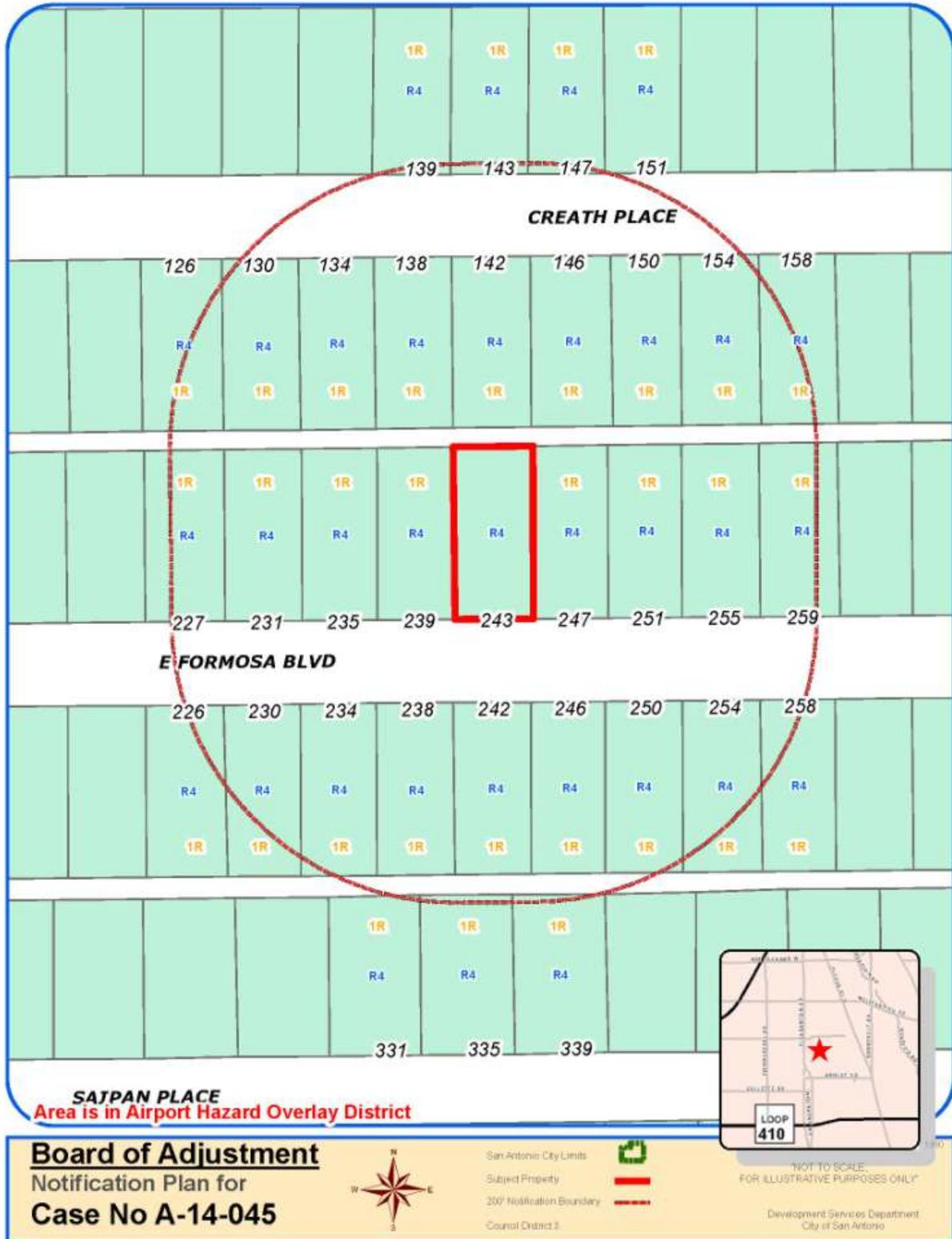
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

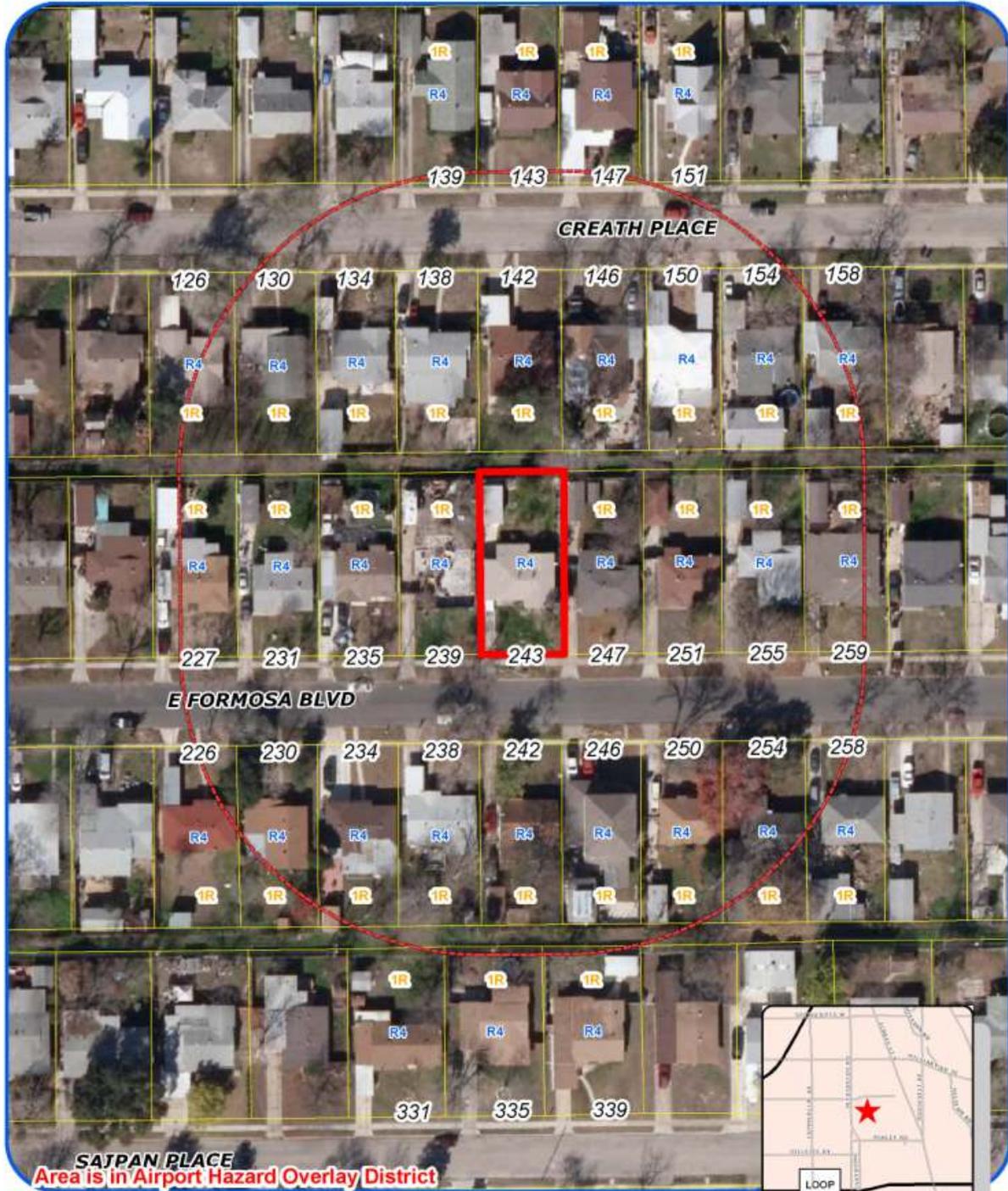
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Attachment 1 (Continued)  
Notification Plan**



**Board of Adjustment  
Notification Plan for  
Case No A-14-045**



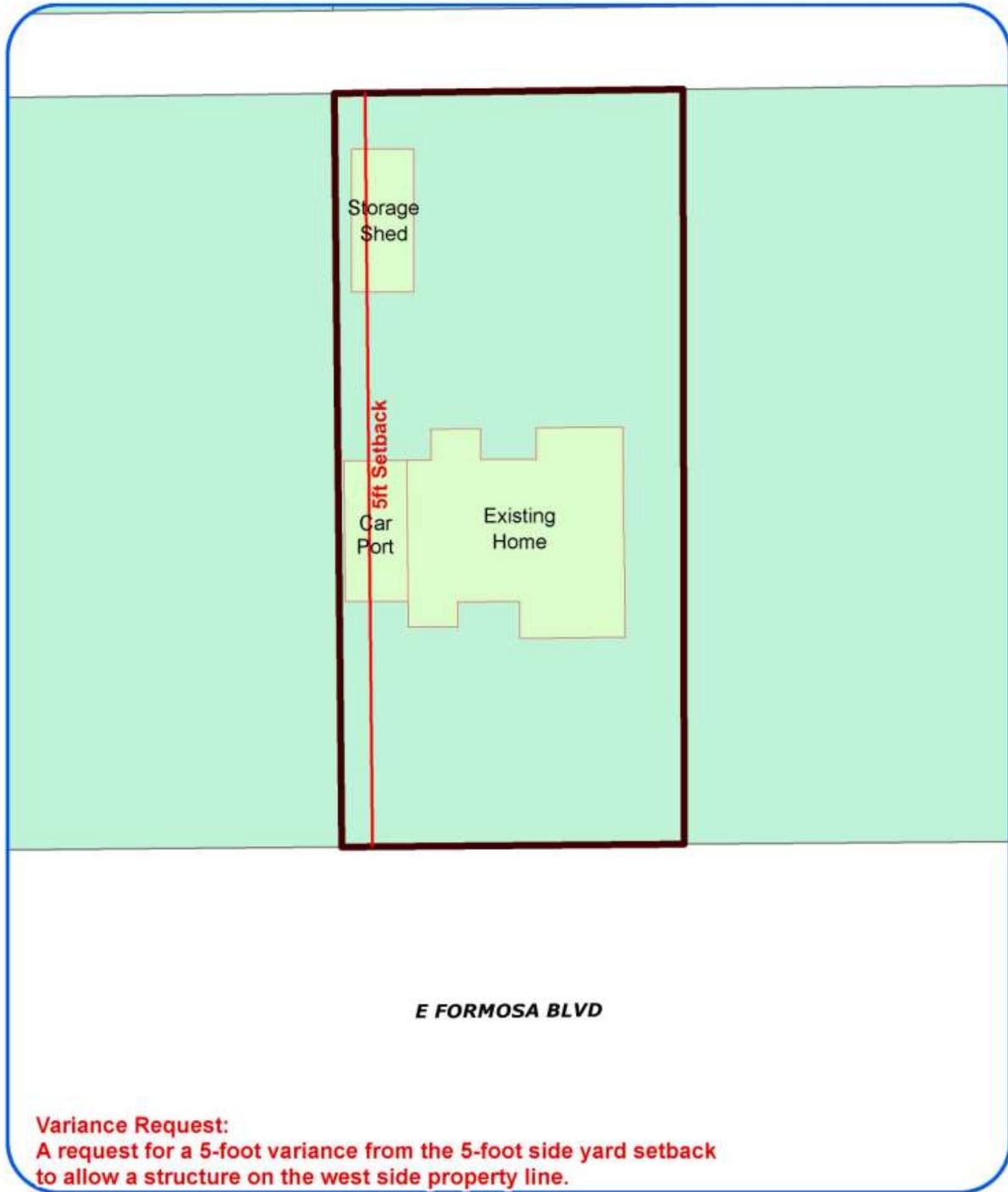
- San Antonio City Limits
- Subject Property
- 200' Notification Boundary
- Council District 3



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department  
City of San Antonio

**Attachment 2  
Plot Plan**



**Variance Request:**  
A request for a 5-foot variance from the 5-foot side yard setback to allow a structure on the west side property line.

**Board of Adjustment**  
Plot Plan for  
**Case No A-14-045**



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

**243 E. Formosa** <sup>1248</sup>

Development Services Department  
City of San Antonio

**Attachment 2 (Continued)  
Plot Plan**



**Variance Request:**  
A request for a 5-foot variance from the 5-foot side yard setback to allow a structure on the west side property line.

**Board of Adjustment**  
Plot Plan for  
Case No A-14-045



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

**243 E. Formosa** <sup>1248</sup>

Development Services Department  
City of San Antonio

# Attachment 3 Applicant's Site Plan

## PLOT PLAN

FOR  
BLDG PERMITS

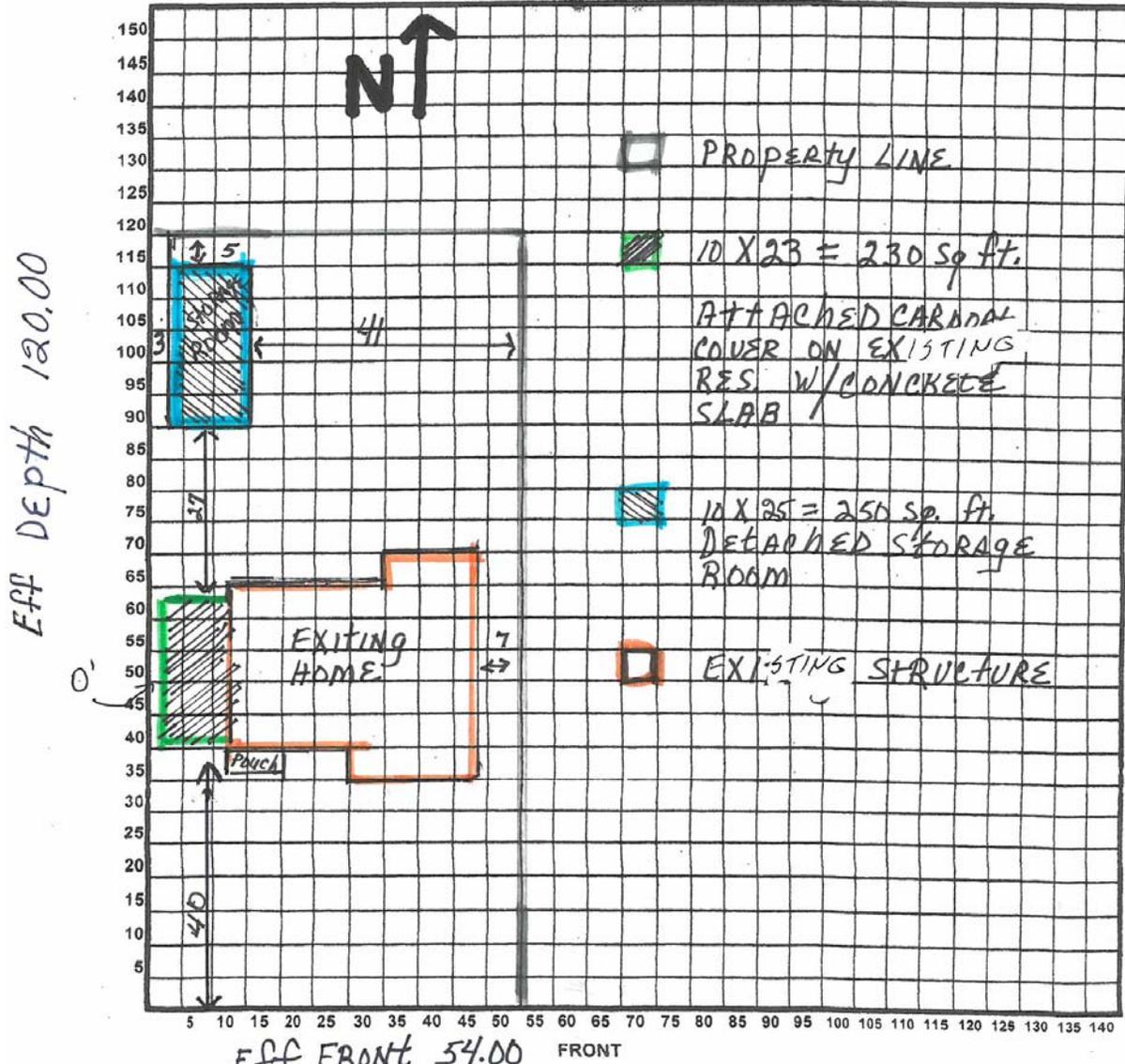
Address 243 EAST FORMOSA

Lot 29

Block 12

NCB 10806

REAR



EFF FRONT 54.00 FRONT

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

**Attachment 4  
Site Photos**





## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-14-048  
Date: April 21, 2014  
Applicant: Clint Belew  
Owner: Clint and Ashlee Belew  
Location: 323 Lavaca Street  
Legal Description: The Southwest ¼ of Lot 6, Block 8, NCB 708  
Zoning: "RM-4 H AHOD" Residential Mixed Lavaca Historic Airport Hazard Overlay District  
Prepared by: Tony Felts, Planner

---

### **Request**

A request for a variance from Table 526-3a of the UDC to eliminate the off street parking requirements for a single-family residence.

### **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 April 2, 2014. The application was published in The Daily Commercial Recorder, an official newspaper of general circulation, on April 3, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 18, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located on the northeast side of Lavaca Street, approximately 247 feet northwest of Labor Street. The applicant is proposing to construct a new single-family dwelling with no off street parking.

Single-family dwellings are required to have at least one off street parking space, and this off-street parking space can be provided in the form of an enclosed garage. The purpose of this requirement is to reduce on-street parking which can, in large numbers, affect traffic flow, livability, and pedestrian safety.

In this case, the subject property is extraordinarily small – only 2,184 square feet in area, with a width of 27.8 feet. The site plan indicates that nearly the entire lot, save for the required setbacks, will be covered by the proposed single-family residence. The proposed residence is 2 stories, 2-bedroom, 2 ½ bath with kitchen, living, and dining areas and a “flex room.” The structure is reminiscent of a detached townhome. The site plan does not leave adequate space on the property for an off-street parking space, nor does the plan incorporate a garage. Similarly, there is neither access, nor room to place a parking space in the rear of the property.

The applicant proposes to rely on on-street parking as the sole manner in which to accommodate the parking needs of the structure. On-street parking is neither desirable, nor is it guaranteed to be available. Similarly, if multiple cars are at the home, parking will occur in front of other landowner’s property. Additionally, Action Goal 1.6.2 of the Lavaca Neighborhood Plan specifically identifies Lavaca Street as a problem area for on-street parking.

There is adequate space on the property to accommodate the single required off-street parking space, but it would require the removal of the “flex space” as indicated on the house plans. Otherwise, the property may be considered to be proposed for overdevelopment.

It should be noted that the lot does not meet the minimum square footage or the minimum width for a lot in the “RM-4” base zoning district, but, the lot is considered “antiquated” per Section 35-430(c)(15) of the UDC; the Land Entitlements Section of the Development Services Department has issued a Certificate of Determination (#14-086 dated 3/18/14) attesting to this fact. Additionally, the applicant’s design has been reviewed by the Historic and Design Review Commission and the Office of Historic Preservation and has been granted a Certificate of Appropriateness (#2013-369 dated 2/5/14).

Lastly, the addition of a garage or carport to the structure, as proposed, may require a front yard setback variance; however, this would provide the applicant with an opportunity to provide the required parking, and staff may be supportive of that request.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“RM-4 H AHOD” (Residential Mixed Lavaca Historic Airport Hazard Overlay District)	Vacant (proposed single-family residence)

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 H AHOD” (Residential Mixed Lavaca Historic Airport Hazard Overlay District)	Single Family Residences
South	“RM-4 H AHOD” (Residential Mixed Lavaca Historic Airport Hazard Overlay	Single Family Residences

	District)	
East	“RM-4 H AHOD” (Residential Mixed Lavaca Historic Airport Hazard Overlay District)	Vacant
West	“RM-4 H AHOD” (Residential Mixed Lavaca Historic Airport Hazard Overlay District)	Vacant

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Lavaca Neighborhood Plan (designated as Low Density Residential). The subject property is also located within the boundaries of the Lavaca Neighborhood Association, a registered neighborhood association; 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:*

The purpose of off-street parking requirements is to reduce on-street parking which can, in large numbers, affect traffic flow, livability, and pedestrian safety. By eliminating the off-street parking requirement, on-street parking will be the only option available to this proposed single-family residence which may result in an adverse impact on traffic flow and pedestrian safety.

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

While there are special conditions apparent on the property which demonstrate a hardship in regards to site design, it can also be reasonably argued that the site is being overdeveloped. Additionally, based on the floor-plan presented by the applicant, adequate space does exist to create the minimum one required off-street parking space by elimination of a single flex-space room in the structure.

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 observed as the elimination of the off-street parking requirements for this property will not further the purposes established by the UDC.

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” Mixed Residential 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 substantially injure adjacent conforming properties, by increasing congestion and crowding along Lavaca Street and by causing multiple vehicles to be parked in front of other properties on Lavaca Street.

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 due to the age of the property and were not caused by the applicant; however, the overdevelopment of the property is a circumstance that could be avoided by better site design.

### **Staff Recommendation**

Staff recommends **denial of A-14-048** due to the following:

- 1) It appears as though the lot may be proposed to be overdeveloped.
- 2) Potential of congestion along Lavaca Street

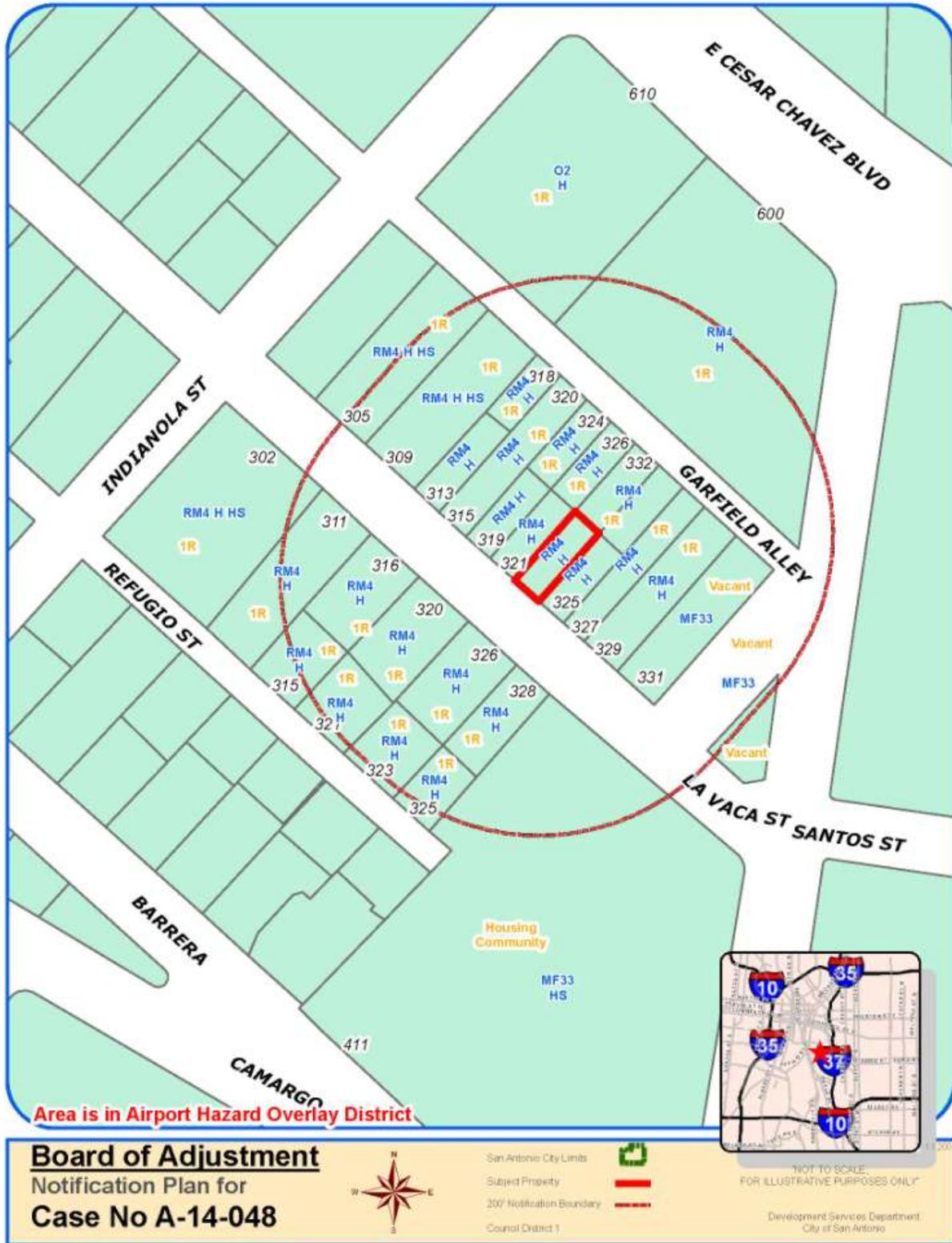
### **Alternatives to Applicant's Request**

The applicant could redesign to structure to incorporate a garage or carport for an off-street parking space.

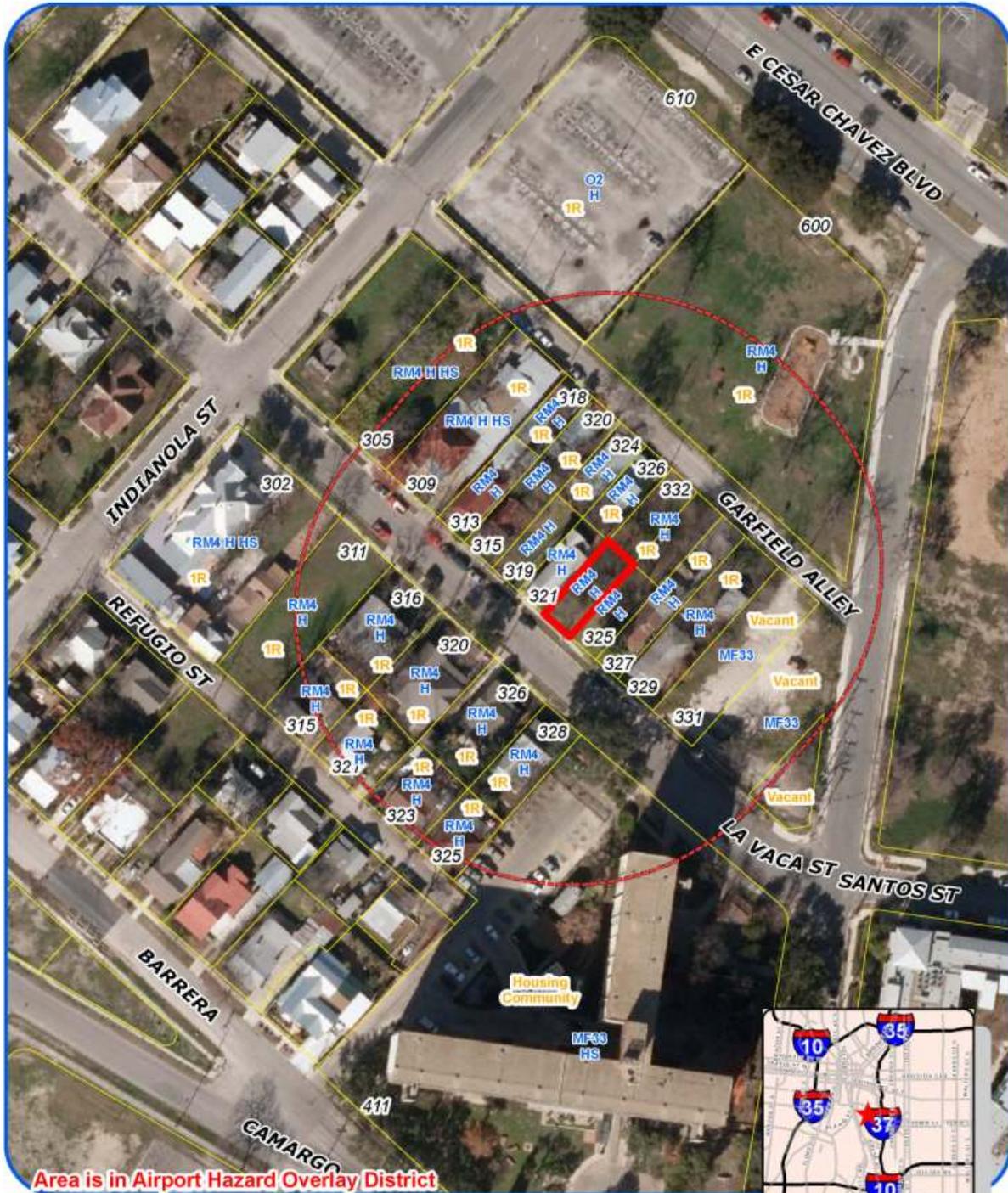
### **Attachments**

- Attachment 1 – Notification Plan (Location Map)
- Attachment 2 – Plot Plan
- Attachment 3 – Applicant's Site Plan
- Attachment 4 – Applicant's Floor Plan
- Attachment 5 – Site Photos

# Attachment 1 Notification Plan



**Attachment 1 (Continued)  
Notification Plan**



Area is in Airport Hazard Overlay District



**Board of Adjustment  
Notification Plan for  
Case No A-14-048**



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

"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department  
City of San Antonio

**Attachment 2  
Plot Plan**



**Variance Request:**  
A request for a variance to eliminate  
the off street parking requirements for a single-family residence.

**Board of Adjustment**  
Plot Plan for  
**Case No A-14-048**



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

**323 Lavaca**

Development Services Department  
City of San Antonio

1.150

**Attachment 2 (Continued)  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-14-048**

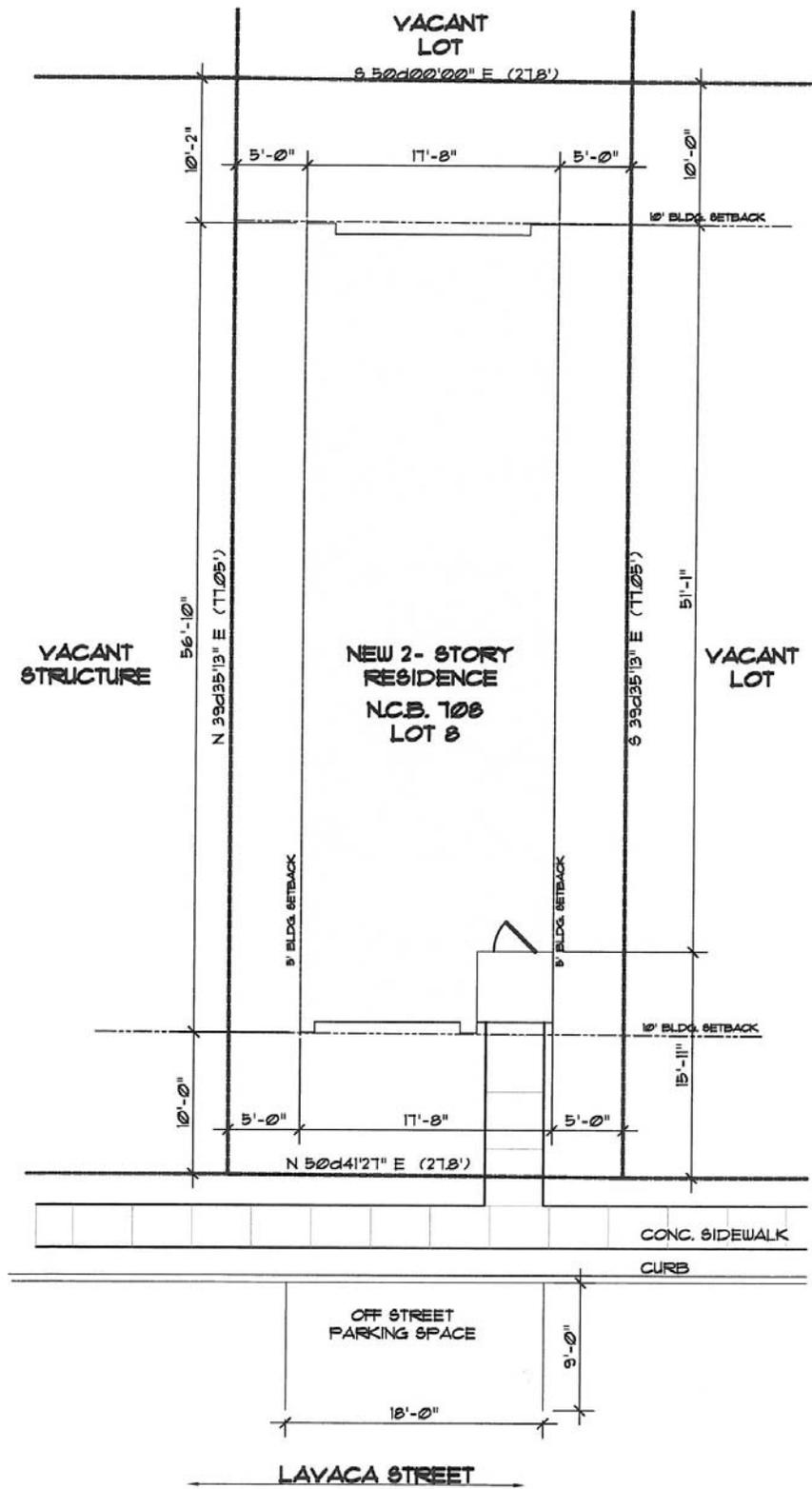


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District 1

**323 Lavaca**

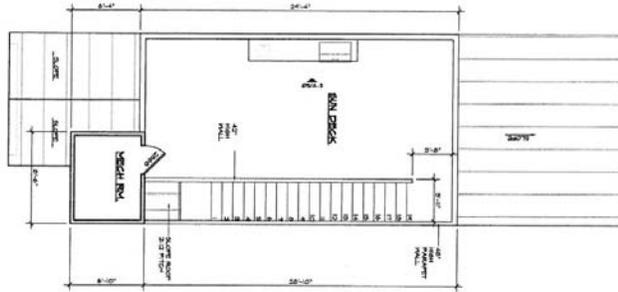
Development Services Department  
City of San Antonio

### Attachment 3 Applicant's Site Plan

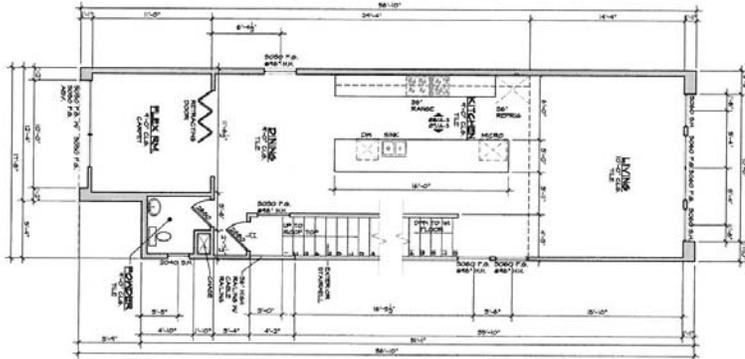


# Attachment 4 Applicant's Floor Plan

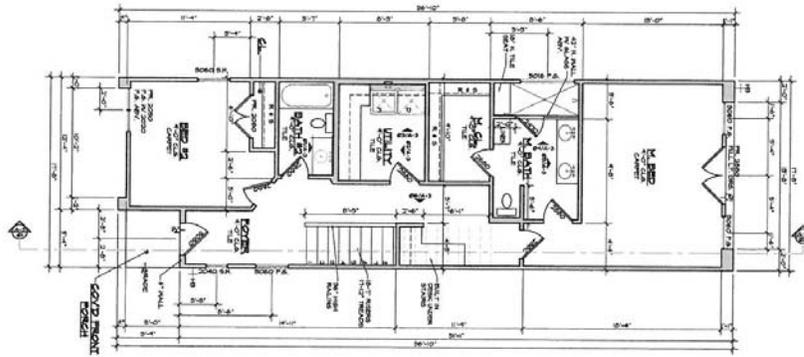
ROOF TOP PLAN



2ND FLOOR PLAN



1st FLOOR PLAN



<p><b>A-1</b> Sheet Number:</p>	<p>Plan Number: <b>R14-002</b></p>	<p><b>samuel</b> ARCHITECT 10115 DORTCH ST. HOUSTON, TX 77057</p>	<p>Drawn By: <b>NV</b></p>	<p>Title Date: <b>01/15/2014</b></p>	<p><b>BELEW RESIDENCE</b> 323 LAVACA ST. SAN ANTONIO, TEXAS 78210</p>	<p><b>WILKINS</b> WILKINS ARCHITECTS, P.C. 280317 DASH HOUSTON, TX 77057</p>
-------------------------------------	--	---	--------------------------------	--	---	--

**Attachment 4  
Site Photos**





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

To: Board of Adjustment  
Case No.: A-14-049  
Date: April 21, 2014  
Applicant: Michele Pauli Torres  
Owner: Michele Pauli Torres  
Location: 151 Algerita Street  
Legal Description: Lot 5, Block A, NCB 11649  
Zoning: "R-5" Residential Single-Family District  
Prepared By: Margaret Pahl, AICP Senior Planner

---

**Request**

The applicant is requesting:

- A) An appeal of the Director's decision to rescind building permit #1951114 for a guard rail, classifying it a sport court fence; and
- B) A request for a variance from the 20-foot setback to allow installation of the guard rail on the property line.

**Procedural Requirements**

This application is two-fold, but because a single property is the subject of both requests, each can be incorporated into the same legal notice and proceedings. An appeal of an administrative official and a variance from the requirements of the zoning ordinance are decisions 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 April 4, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on April 4, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before April 18, 2014, in accordance with Section 551.043(a) of the Texas Government Code.

**Executive Summary**

The subject property is a 40,000 square foot lot created in 1949 with the recording of the Algerita Park Subdivision. The property improvements include a single family home, a swimming pool,

a pool house, outdoor patio and a tennis court. The tennis court has been the subject of an ongoing dispute between the owners and a neighboring property owner. As such, it has not been used in years and has no fencing surrounding it. Because of natural grades and construction leveling, the court is elevated above the neighboring property 10 to 12 feet and needs some guard fall protection.

On January 13, 2014, the Board considered the appeal by the adjacent property owner of the Director's decision to issue the permit for a guard rail. At that hearing, the Board considered two issues, one of which was the characterization of a guard rail. The Board of Adjustment reversed the Director's decision that a guard rail was not a fence or a sport court fence which required a 20 foot setback. Staff interpreted that decision that the fence was not a sport court fence needing to maintain the 20 foot setback and issued a permit to allow the installation of the guardrail. However, after discussion with the staff attending the January hearing, and receiving clarification from the Board during an Executive Session held on March 3, 2014, the Director rescinded the permit issued for the guardrail on the property line. The property owner has filed an appeal of that decision.

**A) The Appeal of Director's Decision**

The appeal states:

*The railing is not a "sport court fence as defined in the UDC. Under Section 35-514 (b) 1, sports court fencing is described as fencing, screening and/or backstops. The railing is not a fence as described in Section 35-514 or as defined under Appendix A. The railing is not a screen as defined in Appendix A or described in various UDC provisions, including 35-510. The railing is not a backstop, a term undefined in the UDC but defined in other sources as a "screen or fence for keeping a ball from leaving the field of play." Since the railing is not a sports court fence, no setback is required and staff erred in rescinding approval.*

**Unified Development Applicable Code Provisions**

**Sport Court Fencing:** *Fencing, screening and/or backstops for sport courts shall be constructed only in the side or rear yard and shall be located no closer than 20 feet to a property line of an adjacent single family use.*

**Fence:** *A tangible enclosure or barrier erected for the purpose of providing a boundary, separation or areas, means of protection, to prevent uncontrolled access, decorative purposes or concealment.*

**Screen:** *Vegetation, fence, wall, berm or combination of any or all of these which partially or completely blocks the view of and provides special separation of a portion or all of a site from an adjacent property.*

The Board shall consider the definitions, purpose and intent of the provisions of the UDC and in accordance with 35-481, they may vote to reverse or affirm in whole or in part, or modify the Director's decision or determination. If the Board decides to reverse the Director's decision to rescind the permit and allow the guard rail permit along the property line, the applicant will again proceed with securing the building permit. However, the Board previously ruled that a

guardrail was a sport court fence requiring a 20 foot setback as a result of the decision to rescind the Director’s decision that a guardrail was not a fence or a sport court fence. If the Board affirms the Director’s decision that the guard rail is a sport court fence which must satisfy the minimum 20-foot setback, the applicant is requesting a variance from the setback to allow the fencing on the property line.

**Staff Recommendation**

Staff recommends **denial of the appeal portion of A-14-049**, based on the following findings:

- 1) Board of Adjustment already ruled to reverse the Director’s decision that a guardrail was not a fence or a sport court fence. Therefore, this decision requires the property owner to seek a variance to permit a guardrail within the 20 foot setback.

**B) The Variance Request**

The applicant is requesting a variance from the minimum 20-foot setback to allow a guard rail/sport court fence on the property line.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-5” Residential Single-Family	Single-Family Home

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5” Residential Single-Family	Single-Family Home
South	“R-5” Residential-Single-Family	Single-Family Home
East	“R-5” Residential Single-Family	Single-Family Home
West	“R-6 PUD” Residential Single-Family Planned Unit Development District	Single-Family Home

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is not located within a neighborhood planning area. The subject property is within the boundaries of the Vance Jackson Neighborhood Association and within 200 feet of the Parman Place Homeowner’s Association. As such, they were both 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.*

The public interest is defined as the general health, safety and welfare of the public at large. **The public interest in this case is both the applicant and the neighboring property owners. A secure fencing system should be installed to provide fall protection on the perimeter of this elevated slab. If it is located 20 feet from the property line, safety is not served and someone could easily fall. Additionally, staff has conducted research of other major Texas cities and have found no other definitions for sport court fences or setback requirements within their respective codes. Staff will review the sport court fence provisions during our 2014 UDC Code Amendment process and bring forward appropriate revisions.**

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

The Board of Adjustment is asked to evaluate the situation and determine if the literal enforcement of the ordinance results in an unnecessary hardship. **The applicant states that the topography of the parcel, and the installation of the retaining wall/slab system, created a dangerous edge that requires guard fall protection. Constructing a “sport-court fence” with a 20 foot setback still leaves the edge unprotected.**

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

The applicant is requesting a variance from a requirement that guard rail fencing around an elevated slab be located 20 feet inside the edge of the slab. The Board must evaluate the “spirit” of the ordinance in this case and determine if leaving the edge of an elevated slab unprotected is justified. **The strict letter of the law requires that sport court fencing be setback 20 feet from the property boundary, but this is based on an assumption that the court itself would also be setback. Setting the sport court fence back 20 feet leaves the edge of an elevated slab unprotected.**

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 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 guard fall protection system is a benefit to both the subject property owners and the adjacent owners. Anyone who falls from the elevated slab will be hurt and will need medical attention. Protection could have been provided and the accident could have been prevented. The variance to allow the protection on the edge of the slab, rather than 20 feet inside the edge, will not alter the character of the district nor 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.*

**According to the applicant, the unique circumstance existing on the property is the sloping topography. This slope required a large retaining system to create a level slab for play. The UDC does not limit grade changes or retaining wall height. The building code however does require that a drop greater than 30 inches be protected by some type of guard rail fencing system. The variance is essential to providing this protection.**

### **Staff Recommendation**

Staff recommends **approval of A-14-049**, based on the following findings:

1. The guard fall protection system should be located on the edge of the slab.
2. The setback of 20 feet leaves the edge unprotected.

### **Attachments**

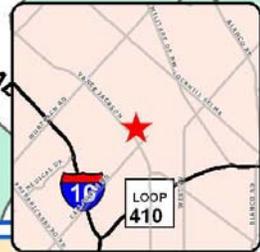
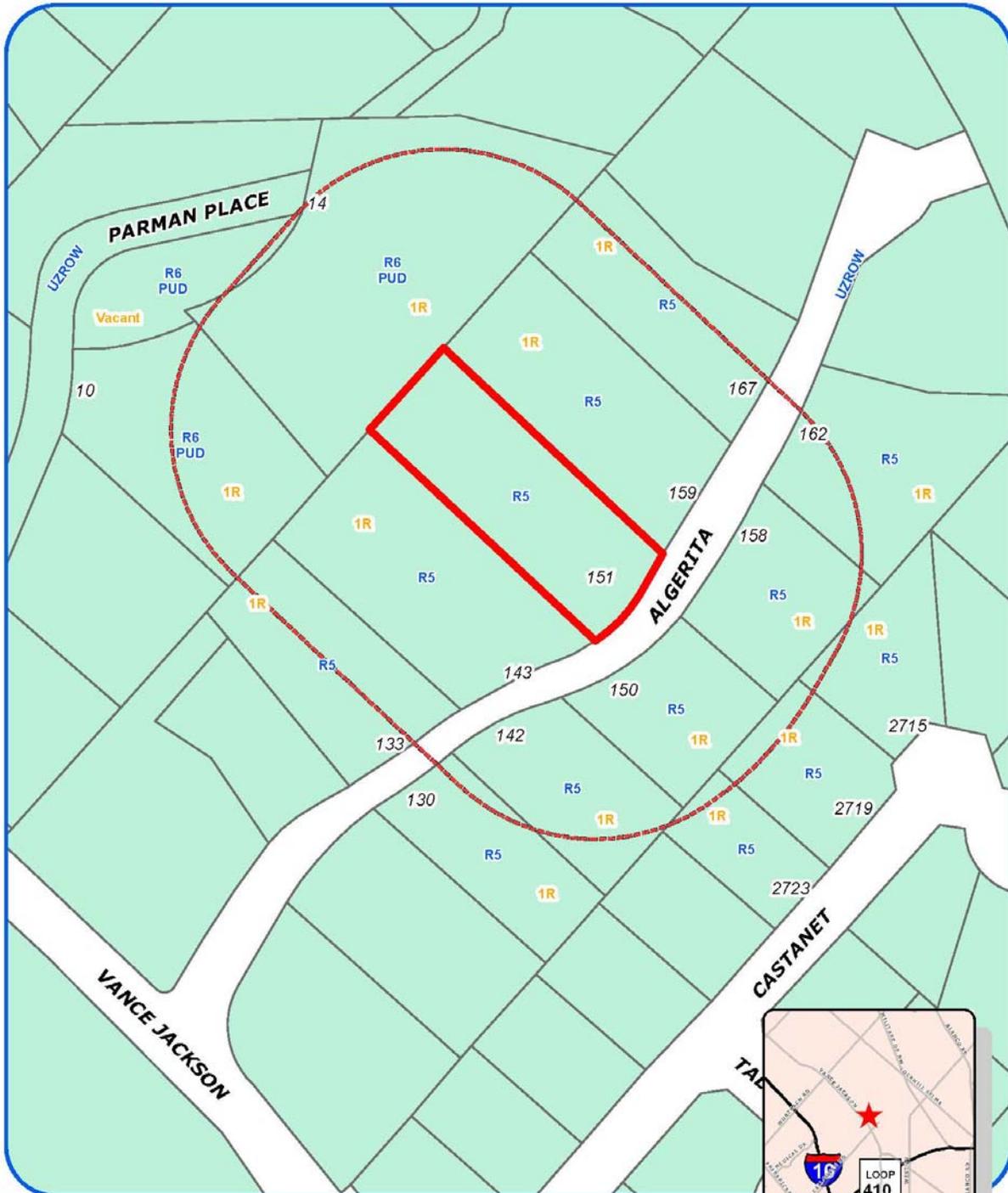
Attachment 1 – Notification Plan (Location Map)

Attachment 2 – Plot Plan

Attachment 3 – Applicant’s Site Plan

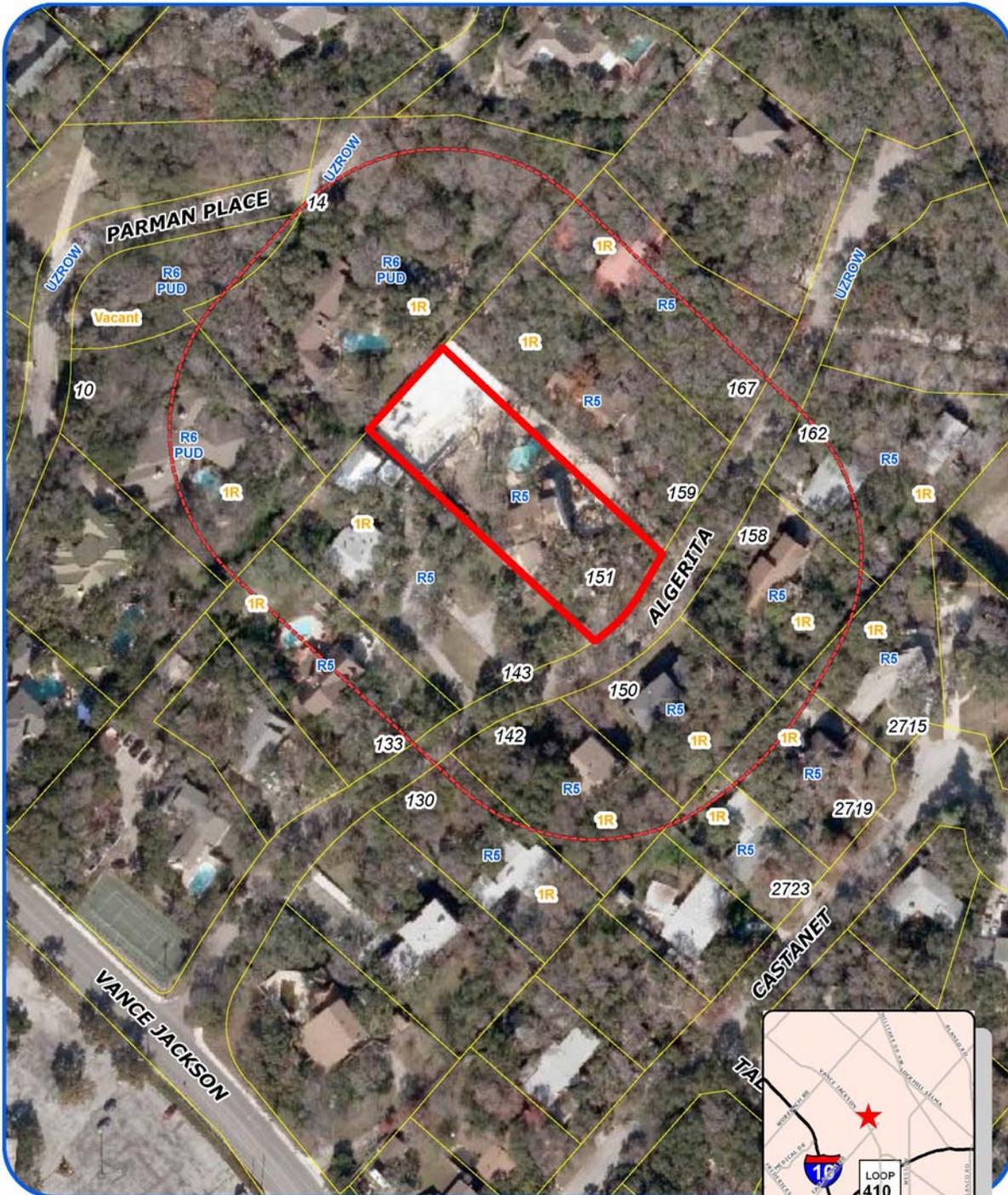
Attachment 4 – Site Photos

# Attachment 1 Notification Plan



<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-14-049</b></p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 9</p>	<p style="font-size: small;">NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY</p> <p style="font-size: x-small;">Development Services Department City of San Antonio</p>
---	---	---	--

**Attachment 1  
Notification Plan (cont)**



<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-14-049</b></p>		<p>San Antonio City Limits </p>	<p align="right">"NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p align="right">Development Services Department City of San Antonio</p>
		<p>Subject Property </p>	
		<p>200' Notification Boundary </p>	
		<p>Council District 9 </p>	

**Attachment 2  
Plot Plan**



**Variance Request:**

- 1) appealing the Director's decision to rescind a building permit authorizing the installation of a guard rail fall protection system, classifying it as a sport court; and
- 2) requesting a variance from the 20 ft setback required for the guard rail fall protection system.

**Board of Adjustment**  
Plot Plan for  
**Case No A-14-049**



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

**151 Algerita**

Development Services Department  
City of San Antonio

1:481

**Attachment 2  
Plot Plan (cont)**



**Variance Request:**

- 1) appealing the Director's decision to rescind a building permit authorizing the installation of a guard rail fall protection system, classifying it as a sport court; and
- 2) requesting a variance from the 20 ft setback required for the guard rail fall protection system.

**Board of Adjustment**  
Plot Plan for  
**Case No A-14-049**



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

**151 Algerita**

1.481

Development Services Department  
City of San Antonio



**Attachment 4  
Site Photos**

