

# City of San Antonio Board of Adjustment

## Regular Public Hearing Agenda

Monday, February 02, 2015

1:00 P.M.

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-15-037 (CONTINUED):** The request of Shavano Rogers Ranch North No. 3 LTD for 1) a three foot variance from the maximum eight foot monument sign height to allow a 11 foot tall monument sign at the entrance to a residential subdivision; 2) a 15 foot variance from the minimum 15 foot setback from a public street to allow the monument sign on the property line; and 3) a five foot variance from the maximum eight foot perimeter wall height to allow a decorative wall element no taller than 13 feet tall for a length of 22 feet, located at 18029 Shavano Ranch Road. (Council District 9)
5. **A-15-027 (CONTINUED):** The request of Jose Torres for a five foot variance from the required five foot side and rear setbacks to allow an arbor on the side and rear property lines, located at 9222 Rustlers Creek. (Council District 9)
6. **A-15-032:** The request of Ralph Banda for a variance to allow a four foot variance from the five foot minimum side setback to allow a covered patio one foot from the side property line, located at 2330 Texas Avenue. (Council District 7)
7. **A-15-033:** The request of Martha Jordan for a variance to eliminate the required 15 and 30 foot bufferyards to allow a development with no bufferyards, located at 1825 S. WW White Road. (Council District 2)
8. **A-15-038:** The request of Dante Chiei for a two foot variance from the six foot maximum predominately open fence height to allow an eight foot tall predominately open fence in the rear yard, located at 11802 Pomeroy Circle. (Council District 10)
9. **A-15-039:** The request of Diana Maria Moreno Bugarin for 1) a three foot variance from the minimum 20 foot rear yard setback to allow a structure with a 17 foot rear setback and 2) a three foot and eight inch variance from the minimum five foot side setback to allow a structure one foot and four inches from the side property line, located at 1818 Alamos Street. (Council District 1)

---

### 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 Atkinson • Paul E. Klein • Henry Rodriguez • Lydia Fehr • Jeffrey Finley • Christopher Garcia*

10. **A-15-040:** The request of Mitchell Hill for 1) a ten foot variance from minimum 20 foot rear yard setback to allow an addition ten feet from the rear property line and 2) a three foot variance from the five foot side setback to allow an attached carport two feet from the east property line, located at 819 E. Magnolia Avenue. (Council District 1)
11. Approval of the November 3, 2014, December 15, 2014, and the January 12, 2015 Board Meeting Minutes
12. 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).*

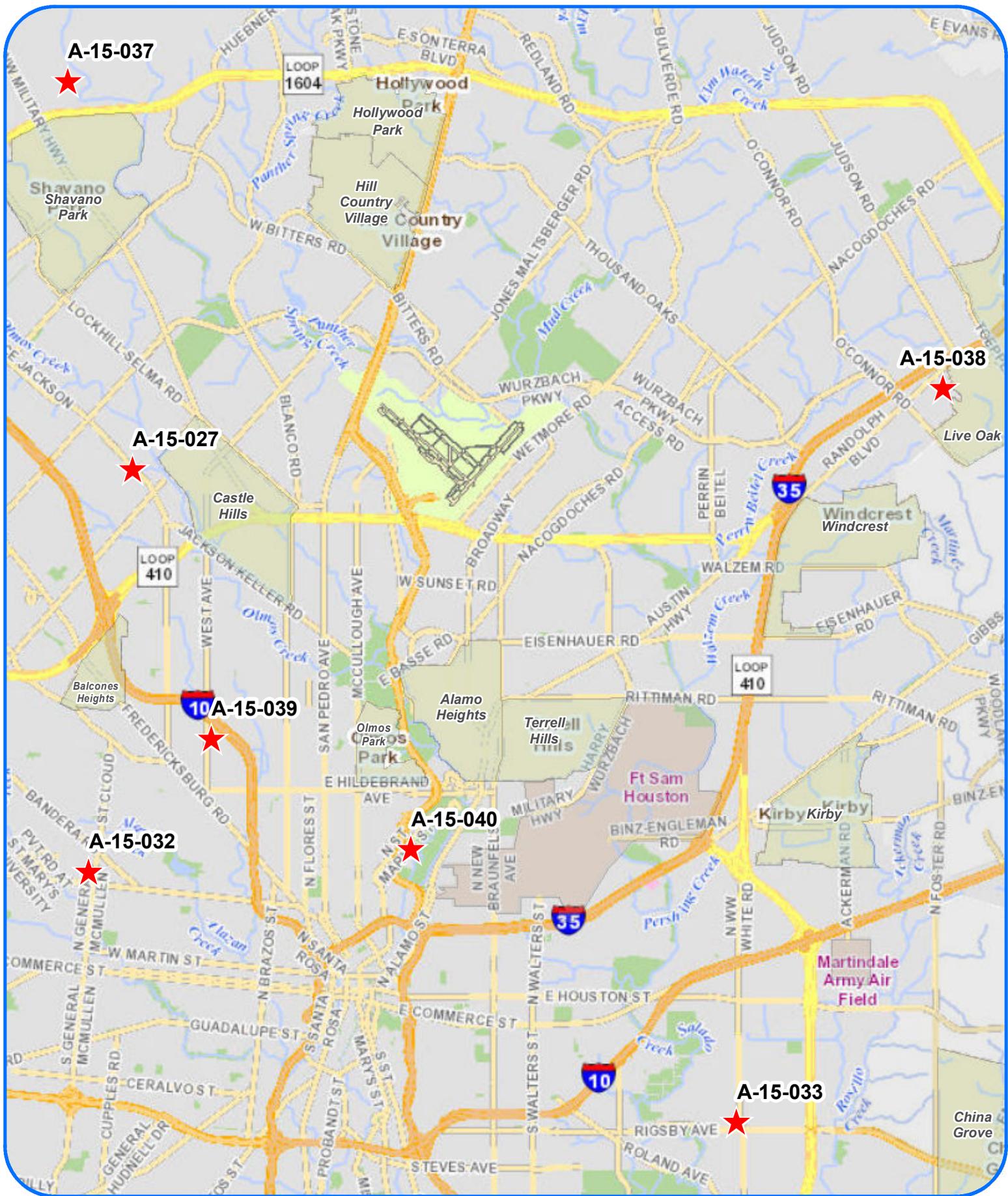
---

**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 Atkinson • Paul E. Klein • Henry Rodriguez • Lydia Fehr • Jeffrey Finley • Christopher Garcia*



# Board of Adjustment

Subject Property Locations  
Cases for 2nd February 2015





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

To: Board of Adjustment  
Case No.: A-15-037 **CONTINUED**  
Date: February 2, 2015  
Applicant: Shavano Rogers Ranch North No. 3, LTD  
Owner: Shavano Rogers Ranch North No. 3, LTD  
Council District: 9  
Location: 18029 Shavano Ranch Road  
Legal Description: Lot 999, Block 17, NCB 17701  
Zoning: “R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit  
Development Edwards Aquifer Recharge Zone Military Lighting Overlay  
Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

---

### **Request**

A request for 1) a 3 foot variance from the maximum 8 foot monument sign height, as described in Section 28-240, to allow an 11 foot tall monument sign at the entrance to a residential subdivision; 2) a 15 foot variance from the minimum 15 foot setback from a public street to allow the monument sign on the property line; and 3) a 5 foot variance from the maximum 8 foot perimeter wall height, as described in Section 35-514 (d) to allow a decorative wall element no taller than 13 feet tall for a length of 22 feet.

### **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 December 19, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 23, 2014. Additionally, notice of this meeting was posted at City Hall and on the City’s internet website on or before January 9, 2015, in accordance with Section 551.043(a) of the Texas Government Code. This variance application must be reviewed under two different sections of City Code; one for the sign height and setback and one for the wall height. The proposed sign is regulated by Chapter 28, Section 28-240 and a variance must be evaluated under the required

factors for a sign variance. The fence height is evaluated under the required findings for a zoning variance.

**Executive Summary**

The subject property is located at the entrance into a gated subdivision. The applicant is requesting variances to allow a combination of entry features which exceed the maximum heights. The first two variances address a monument sign. The sign is approximately 11 feet in height, 3 feet taller than the 8 feet allowed for residential subdivision monument signs. In addition, the monument sign is normally required to provide a 15 foot setback from the property line. In this case, the proposed sign is located within a landscaped median on the private street right of way, less than 15 feet from the public/private boundary line. The last variance is proposed to allow a 13 foot tall section of wall, 12 feet in length, also within the landscaped median of the private right of way. This section of wall will connect to the gates on the entrance and exit lanes of the private street. A 5 foot variance is required for this proposal, since walls around the perimeter of subdivisions are limited to 8 feet in height.

It should be noted that an 8 foot masonry wall is permitted and will be installed along the perimeter of the subdivision on Shavano Ranch Road. This wall will provide the desired privacy and separation between the residential neighborhood and the potentially busy thoroughfare. The variances instead are requested for signage and entry features located within a private street right of way and provide no additional protection to homes. The variances are requested to allow emphasis and distinction of the entry elements from the adjoining 8 foot masonry wall.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Future landscaped median

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Vacant
South	“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Vacant

East	“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Vacant
West	“R-6 PUD ERZD MLOD AHOD” Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is located within the boundaries of the North Sector Plan area and designated as Suburban Tier land use. It is not within the boundaries of any registered neighborhood association.

**Criteria for Review for the sign**

According to Section 28-246 of the City Code, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and*

The applicant is seeking the height variance to allow the sign panel to be distinct from the wall. It is a proposed artistic design solution to add a center piece element. The topography at the entrance has no impact on the sign height. Strict enforcement of the 8-foot limitation does not prohibit adequate signage. The sign could also meet the setback requirements. The site plan is not specific about the location of the public street right of way and the private street, but this will have to be determined prior to installation.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*

- A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*

Granting the height variance in fact does provide the applicant with a special privilege not enjoyed by the other gated community up the street. The requested setback variance to reduce the 15 foot setback was perhaps related to a landscaping plan designed without knowledge of the setback or property line.

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

Granting the variance to allow the sign to be 3 feet taller than other residential subdivision monument signs could generate similar requests from other residential communities seeking to compete for the most desirable gated community. The monument sign structure is substantial, 45 linear feet before the angular sections. The 11 foot tall section is 12 feet in width, before reducing in height to 8 feet on either side.

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

The stated purpose is to provide minimum standards to protect the safety of the City's transportation network by reducing confusion or distractions to motorists. In addition, the purpose is to contribute to the development of an attractive visual environment. The height and setback variances are changes which modify the adopted standards specified in the Code. The proposed height was never allowed and to staff's knowledge, there are no other residential monument signs of this size. Therefore, the variances conflict with the stated purpose.

### **Criteria for Review for the wall**

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. In this case the public interest is represented by height limitations for walls to encourage a sense of community. The proposed variance seems to 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 code would require that the applicant limit the height of the wall entry element to 8 feet, the same height allowed for the perimeter wall. To allow distinction from the perimeter wall, a smaller variance could achieve a similar dramatic result.

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

The spirit of the ordinance would not be observed by allowing a section of wall 13 feet in height. Another gated community nearby has constructed a similar wall 8 feet in height, observing the ordinance standards. The allowed height of 8 feet is adequate for security and privacy.

4. *The 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 PUD ERZD MLOD AHOD" Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay 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 is excessive and would create a wall element taller than some single story structures. The tallest section of the wall element, nearly 13 feet in height, is 12 feet in width before reducing in height to two 9 foot columns and eventually the 8 foot wall sections.

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.*

Staff finds that there are no unique circumstances present in this case. The applicant is requesting a variance to allow an entry feature in the landscaped median, stating that the change in elevation between the main road and the lower residential lots reduce the visual impact of the wall element from the main road.

### **Alternative to Applicant's Request**

The applicant would need to design signage and entry features under the 8 foot height limitation established by the Unified Development Code.

### **Staff Recommendation**

Staff recommends **denial of all of the requested variances described in A-15-037** based on the following findings of fact:

1. The proposed entry feature is allowed to be 8 feet in height, a reasonable height for identification of the subdivision; and
2. There are no unique property-related circumstances warranting additional height.

### **Attachments**

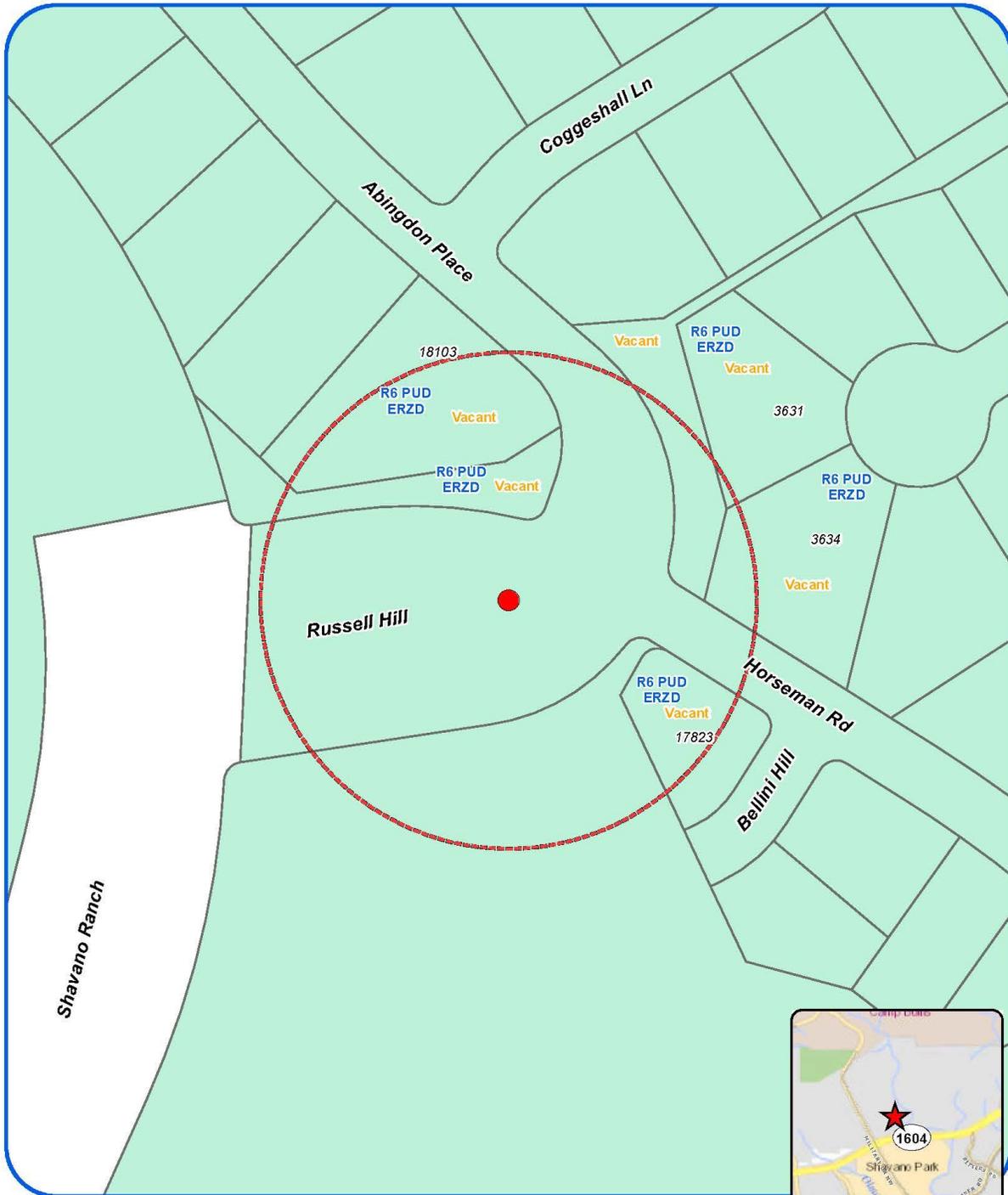
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment**  
**Notification Plan for**  
**Case No A-15-037**


 San Antonio City Limits  
 Subject Property  
 200' Notification Boundary  
 Council District: 9

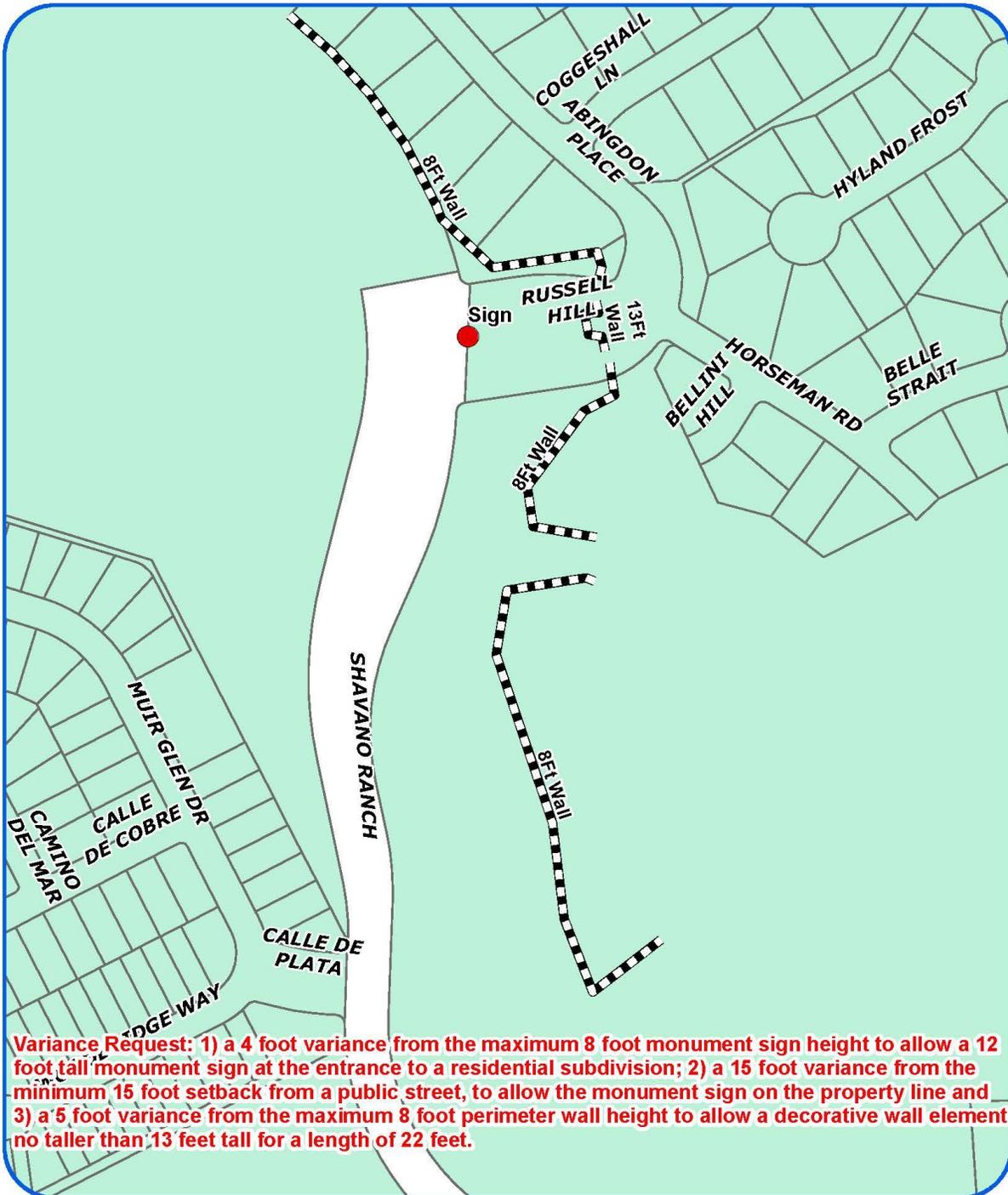
"NOT TO SCALE,  
 FOR ILLUSTRATIVE PURPOSES ONLY"  
 Development Services Department  
 City of San Antonio

**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-037</p>		<p>San Antonio City Limits </p>	<p align="right">"NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p align="right">Deane Kpeme at 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**



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-037**

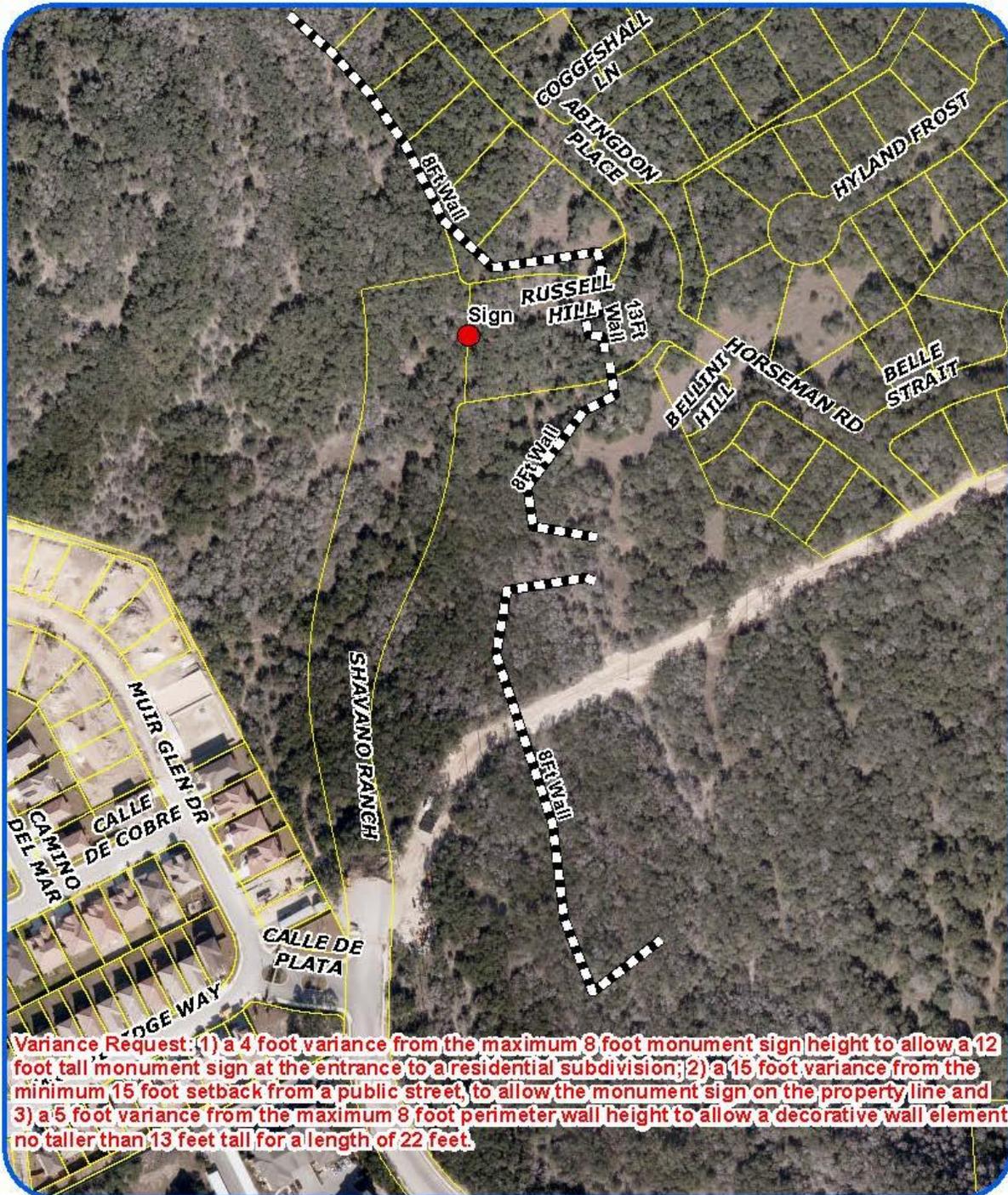


“NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY”  
Council District: 9

**18029 Shavano Ranch** 1/2"=100'

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



Variance Request: (1) a 4 foot variance from the maximum 8 foot monument sign height to allow a 12 foot tall monument sign at the entrance to a residential subdivision; (2) a 15 foot variance from the minimum 15 foot setback from a public street, to allow the monument sign on the property line and (3) a 5 foot variance from the maximum 8 foot perimeter wall height to allow a decorative wall element no taller than 13 feet tall for a length of 22 feet.

**Board of Adjustment**  
Plot Plan for  
Case No A-15-037

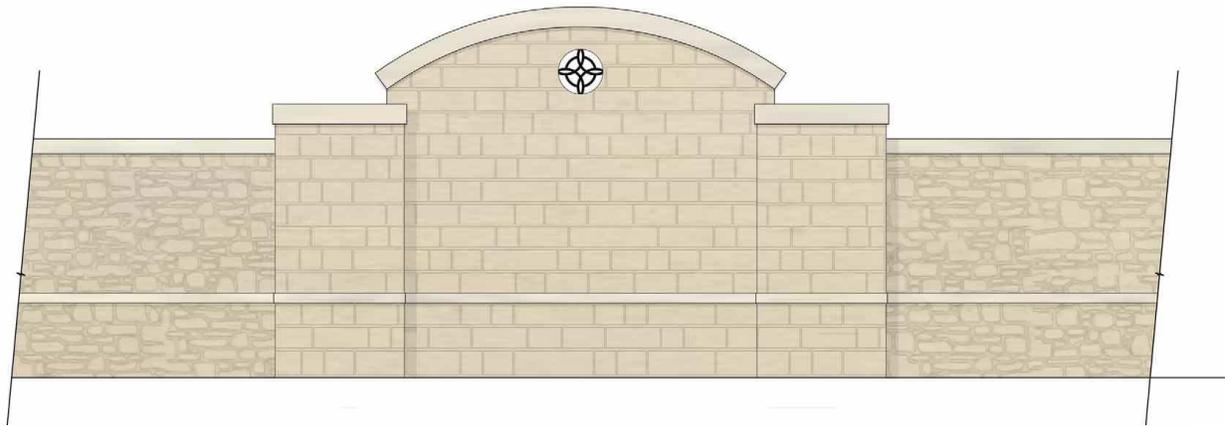
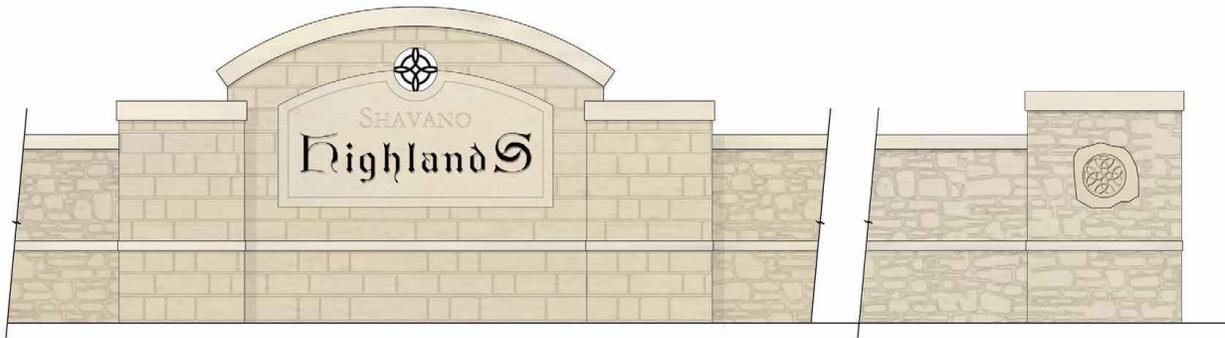


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 9

18029 Shawano Ranch

Deane Koppert Services Department  
City of San Antonio

**Attachment 3  
Applicant's Site Plan**



**Attachment 4 - Photos**



**Proposed monument sign height 11 ft. and location**





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

To: Board of Adjustment  
Case No.: A-15-027 **CONTINUED**  
Date: February 2, 2015  
Applicant: Jose Torres  
Owner: Jose Torres  
Council District: 9  
Location: 9222 Rustlers Creek  
Legal Description: Lot 49, Block 3, NCB 16662  
Zoning: "R-5" Residential Single-Family District  
Prepared By: Margaret Pahl, AICP Senior Planner

---

### **Request**

A request for a five foot variance from the required five foot side and rear yard setbacks, as described in Section 35-370, to allow an arbor and deck on the side and rear yard 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 December 19, 2014. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on December 23, 2014. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 9, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 9222 Rustlers Creek approximately 166 feet southeast of Sinsonte Street. The lot is considered a "double-frontage" lot, with the rear lot line abutting Vance Jackson, while the front of the lot faces Rustlers Creek. The applicant is seeking a variance to allow an existing covered arbor and deck to remain on the side and rear property lines. The applicant states that the arbor and deck were constructed in that location because of the small size of the rear yard at the subject property which also accommodates a pool.

Additionally, the applicant did not pull any permits for the structure. Had the applicant applied for a permit, the setback violations could have been corrected prior to construction of the arbor.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-5” Residential Single-Family District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of any neighborhood plan. The subject property is located within the boundaries of the Vance Jackson registered 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.*

The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by required setbacks to ensure equal access to air, light, and distance for fire separation. In this case the structure is built on the property line. Zero-lot-line construction results in a number of adverse impacts for adjacent properties including trespass for maintenance and an increased risk of fire spread. Staff finds that the requested variance is 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 code would require that the applicant construct the arbor in a location that meets the required setbacks. While the applicant may have less space than other properties, they could build a smaller arbor that respects the required setbacks. Had the applicant applied for a permit, the setback violations could have been identified before construction. Staff finds that there are no special conditions present to warrant the granting of 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 calls for setbacks to ensure access to air, light, and to provide for fire separation. Zero-lot-line construction compromises the integrity of each of the aforementioned criteria. As such, allowing the structure to remain on the property line does not observe the spirit of the ordinance.

4. *The 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” Residential Single-Family 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 is likely to harm adjacent, conforming properties. The existing accessory structure is built on the property line and would require trespass in the event of needed maintenance. Additionally, the structure is constructed of wood and poses an increased threat of fire.

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.*

Staff finds that there are no unique circumstances present in this case to warrant the granting of the requested variance. The applicant should have applied for a permit to construct the arbor and deck, then the setback violation could have been identified prior to construction.

### **Alternative to Applicant’s Request**

The applicant needs to reduce the size of the arbor and deck to come into compliance with the setback standards established by the Unified Development Code.

### **Staff Recommendation**

Staff recommends **denial of A-15-027** based on the following findings of fact:

1. The zero-lot-line construction triggers the need for trespass for adequate maintenance of the structure;
2. The existing structure compromises equal access to air, light, and distance for fire separation.

### **Attachments**

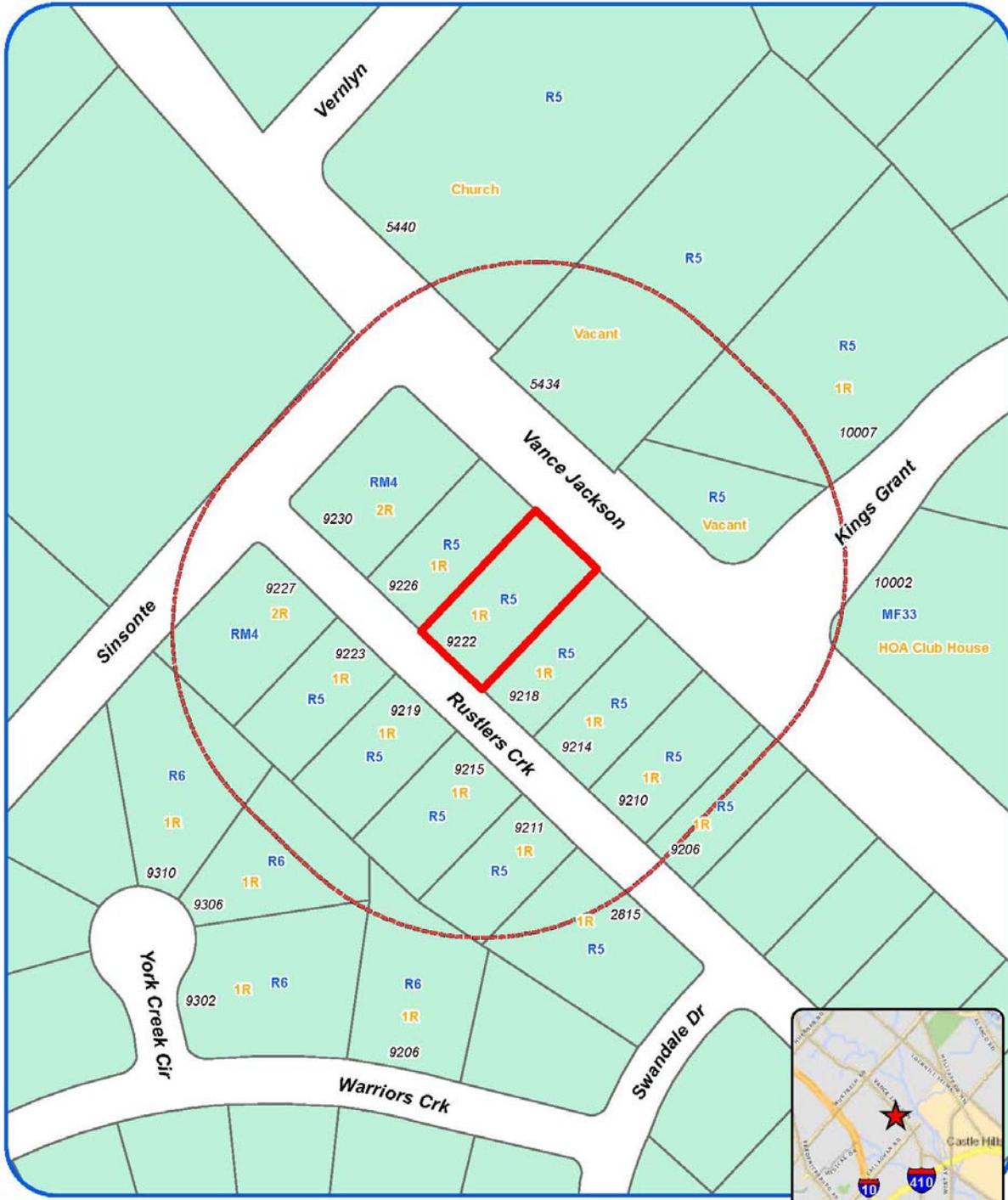
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment**  
**Notification Plan for**  
**Case No A-15-027**

San Antonio City Limits   
 Subject Property   
 200' Notification Boundary   
 Council District: 9

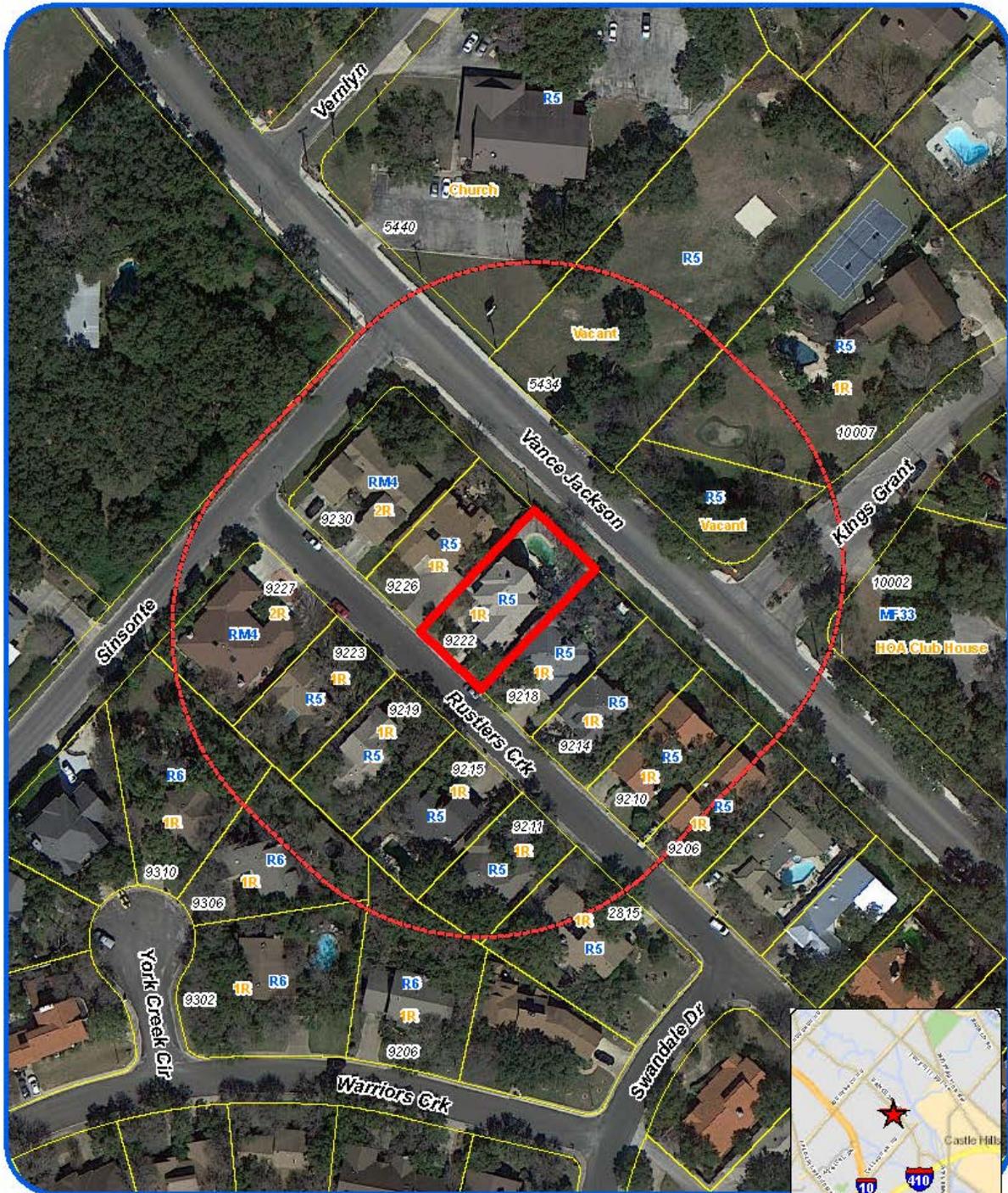
W  E  
 N  
 S

San Antonio City Limits  
 Subject Property  
 200' Notification Boundary  
 Council District: 9

NOT TO SCALE,  
 FOR ILLUSTRATIVE PURPOSES ONLY

Development Services Department  
 City of San Antonio

**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-027</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 9 </p>	<p align="center">*NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY*</p> <p align="center">Debra Kpeme at Services Department City of San Antonio</p>
--	--	--	---

Attachment 2  
Plot Plan



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-027**

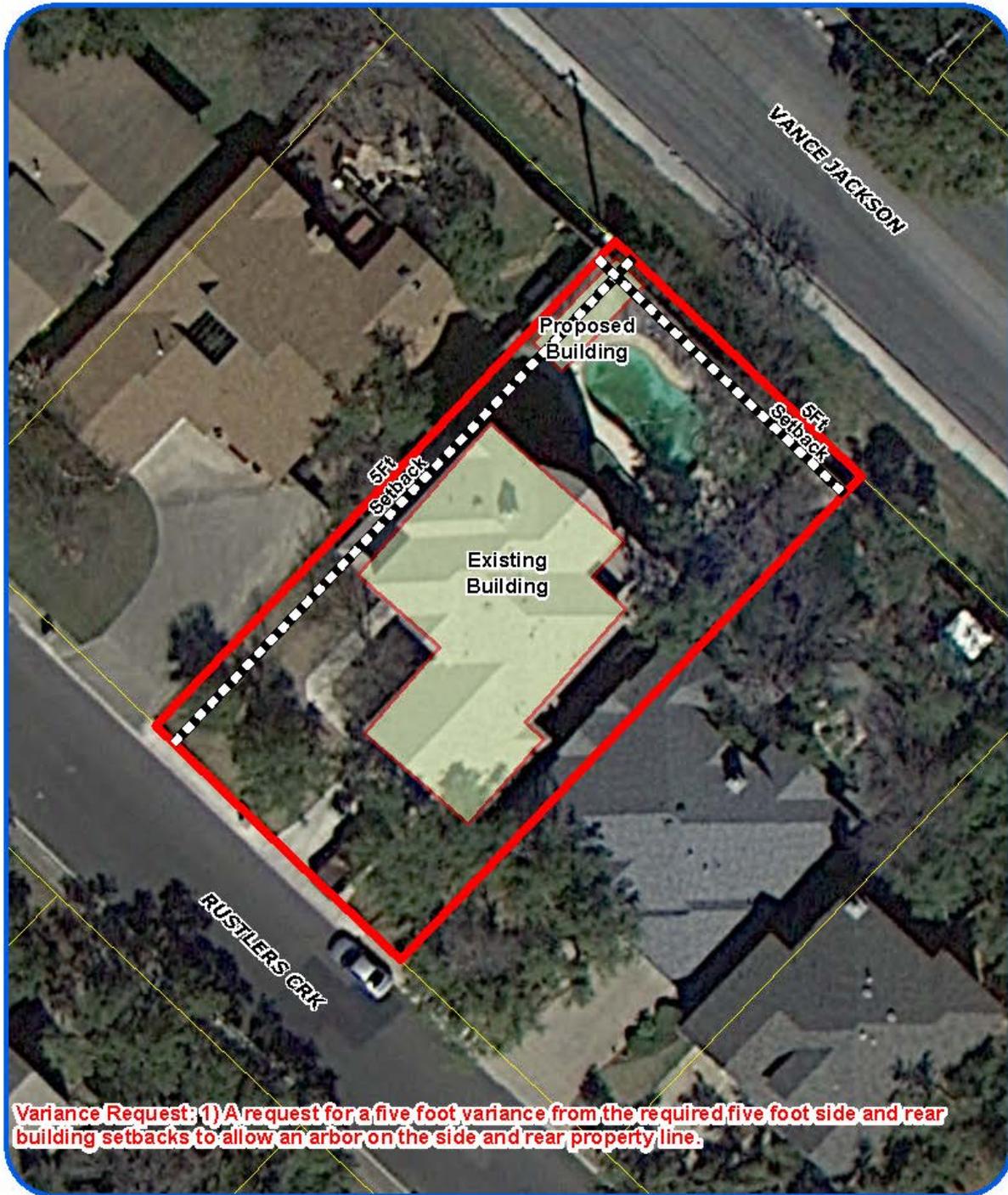


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 9

9222 Rustlers Creek <sup>1.303</sup>

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



Variance Request: 1) A request for a five foot variance from the required five foot side and rear building setbacks to allow an arbor on the side and rear property line.

**Board of Adjustment**  
Plot Plan for  
Case No A-15-027



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

9222 Rustlers Creek

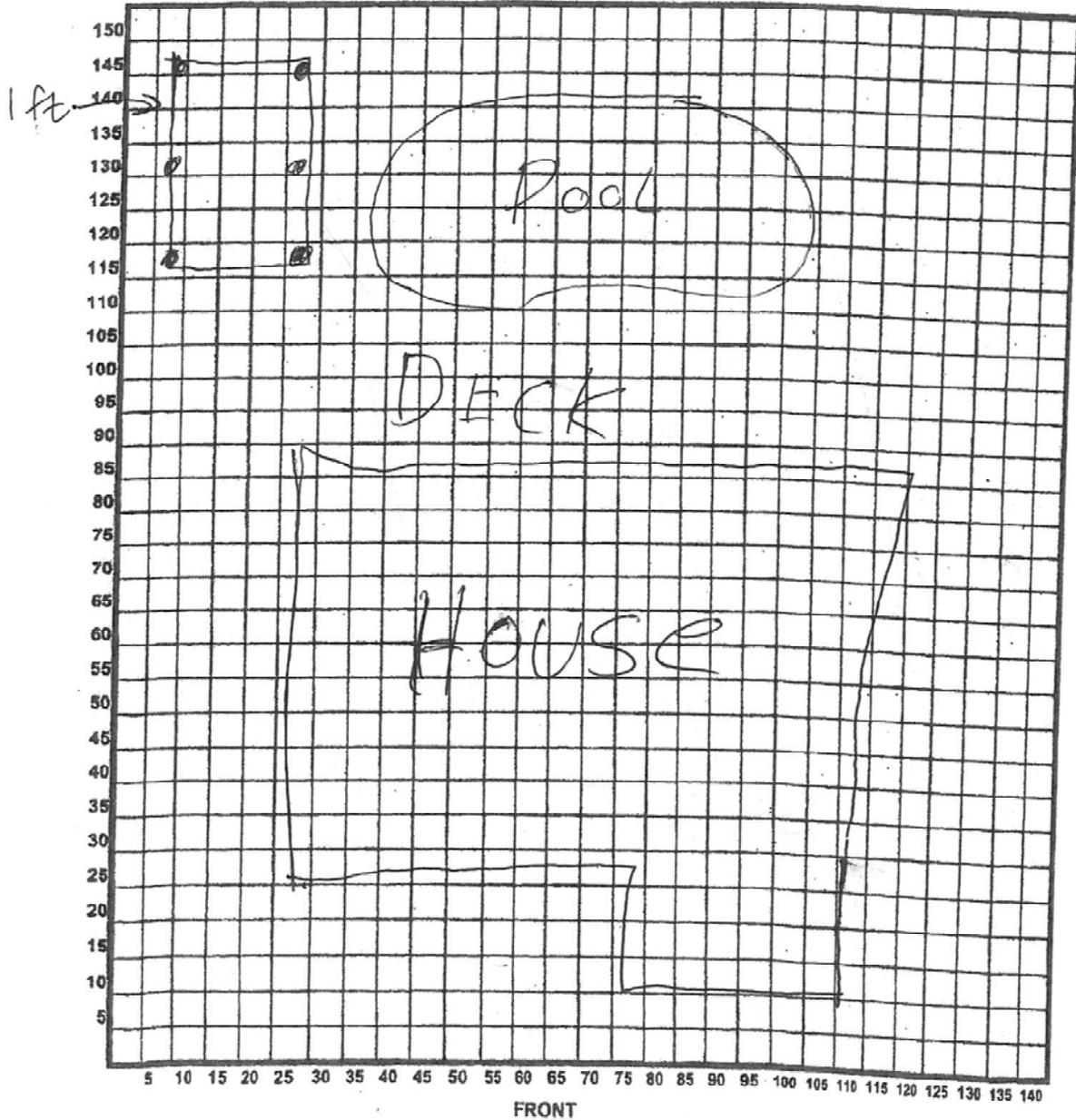
1300  
Data Support Services Department  
City of San Antonio

Attachment 3  
Applicant's Site Plan

PLOT PLAN  
FOR  
BLDG PERMITS

Address \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_ NCB \_\_\_\_\_

REAR



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 – Photos**



**Attachment 4 – Photos**



**Arbor Distance from Rear Property Line**



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

To: Board of Adjustment  
Case No.: A-15-032  
Date: February 02, 2015  
Applicant: Ralph Banda  
Owner: Ralph Banda  
Council District: 7  
Location: 2330 Texas Avenue  
Legal Description: Lot 10, Block 16, NCB 9236  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Logan Sparrow, Planner

---

**Request**

A request for a four foot variance from the five foot minimum side setback as described in Section 35-310 to allow a covered patio one foot from the property line.

**Procedural Requirements**

A variance from the requirements of the zoning ordinance is a decision vested with the Board of Adjustment. State law prescribes specific factors that must be satisfied when deciding to grant a variance. The request was publicly noticed in accordance with Section 35-403 of the Unified Development Code ("UDC"). Notices were sent to property owners within two hundred (200) feet of the subject property on January 15, 2015. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on January 16, 2015. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 30, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

**Executive Summary**

The subject property is located at 2330 Texas Avenue approximately 428 feet west of N General McMullen Street. The applicant is seeking a variance to allow an attached, covered patio to remain one foot from the side property line. As a result of the covered patio being attached to the home the required setback is five feet. The covered patio is constructed of metal and, as such, poses little fire threat. However, staff has been notified by an immediate neighbor that the proposed design, specifically the corrugated sheet metal roofing material, in conjunction with the reduced side setback, has generated a substantial rainwater runoff problem. When staff visited

the neighboring property it was clear that rainwater had run off of the covered patio onto the adjacent property as the side yard of the neighboring property was abnormally saturated. This has led to concerns about the long-term integrity of the neighbor’s foundation. The neighbor also indicated that during construction of the covered patio, the concrete poured by the applicant spilled over onto her property. The neighbor was forced to acquire help in breaking up the concrete that spilled onto her yard and has also stated that during construction the gate to her fence was destroyed and had to be replaced.

**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 District	Single-Family Dwelling
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of any neighborhood plan. The subject property is located within the boundaries of the University Park registered 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.*

The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by required setbacks to ensure equal access to air, light, and distance for fire separation, and also to ensure that activities on one lot do not negatively impact another. In this case the variance is contrary to the public interest as the proposed structure has already led to large amounts of rainwater runoff onto a neighboring property. Over time this could have the effect of damaging, or otherwise compromising, the integrity of the neighbor’s home foundation.

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

A literal enforcement of the code would require that the applicant remove four feet of the current covered patio to come into compliance with the Unified Development Code. The applicant states that the covered patio was designed to protect outdoor storage. Staff finds that removing four feet of the covered patio would not be an unnecessary hardship as there is plenty of space on the property, specifically in the rear yard, to allow for an alternative means to safely store the applicant's property without damaging nearby legal, conforming properties.

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 and the safety and welfare of the neighboring properties will not be protected. It is likely that, over time, the foundation of the neighbor's home will be compromised. This will not result in substantial justice.

4. *The 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" Residential Single-Family Airport Hazard Overlay 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 is likely to harm adjacent, conforming properties. The existing covered patio has already demonstrated that it leads to significant rainwater runoff. During field visits, staff noted that the neighbor's side yard was saturated. It is very likely that adjacent legal, conforming properties will be substantially injured.

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.*

Staff is unable to find any unique circumstance present on the property to warrant the granting of this variance. Had the applicant applied for a building permit the setback violation could have been corrected prior to construction. Staff noted that the yard is still large enough to construct another means by which the applicant can safely store outdoor possessions without imposing an adverse affect on adjacent properties.

### **Alternative to Applicant's Request**

The applicant needs to remove four feet of the covered patio to come into compliance with the standards established by the Unified Development Code and establish another means of storing their outdoor possessions.

## **Staff Recommendation**

Staff recommends **DENIAL of A-15-032** based on the following findings of fact:

1. The existing covered patio has already demonstrated harmful affects upon adjacent properties;
2. Staff noted that the subject property is large enough for an alternative means of outdoor storage to be established in a manner that respects both the Unified Development Code and neighbors;
3. There are no unique circumstances that warrant the granting of the variance.

## **Attachments**

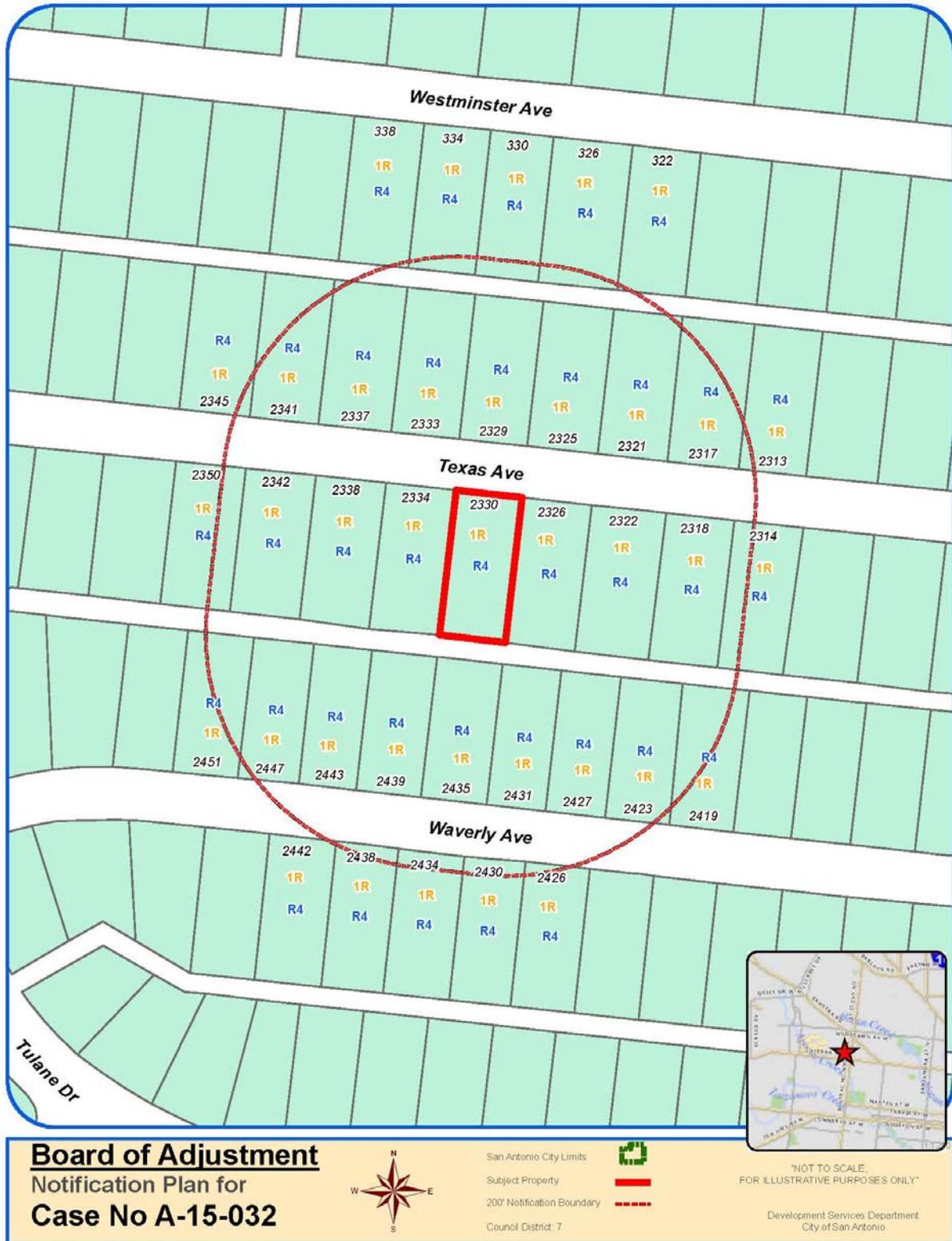
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment**  
Notification Plan for  
Case No A-15-032



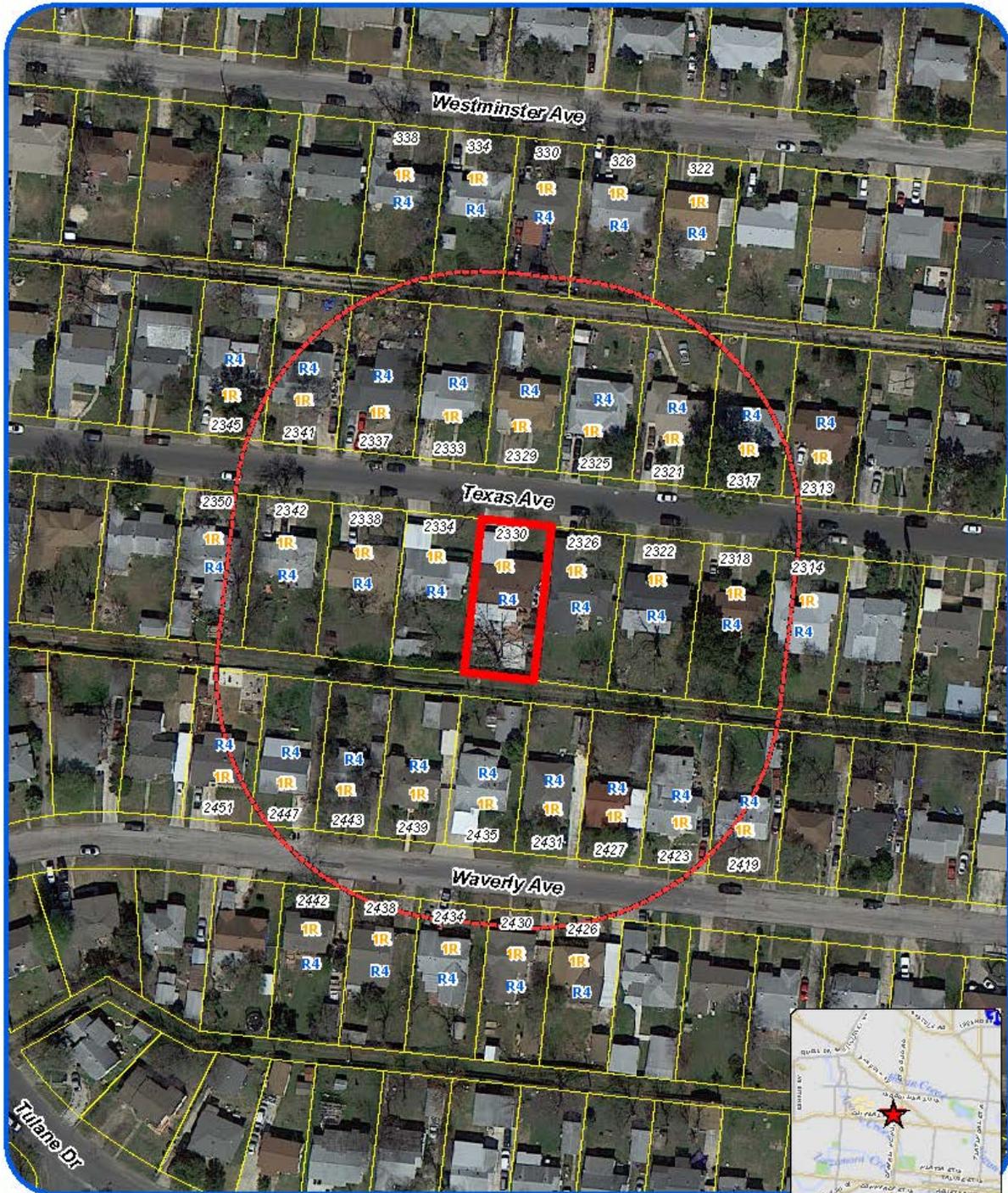
San Antonio City Limits  
Subject Property  
200' Notification Boundary  
Council District: 7



"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"

Development Services Department  
City of San Antonio

**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-032</p>		<p>San Antonio City Limits </p>	<p align="right">*NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY*</p> <p align="right">Debra Kpeme at Services Department City of San Antonio</p>
		<p>Subject Property </p>	
		<p>200' Notification Buffer </p>	
		<p>Council District 7 </p>	

**Attachment 2  
Plot Plan**



**Variance Request: 1) a four foot variance from the five yard side setback to allow a covered patio one foot from the side property line.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-15-032**



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

**2330 Texas**

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



Variance Request: 1) a four foot variance from the five yard side setback to allow a covered patio one foot from the side property line.

**Board of Adjustment**  
Plot Plan for  
Case No A-15-032



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

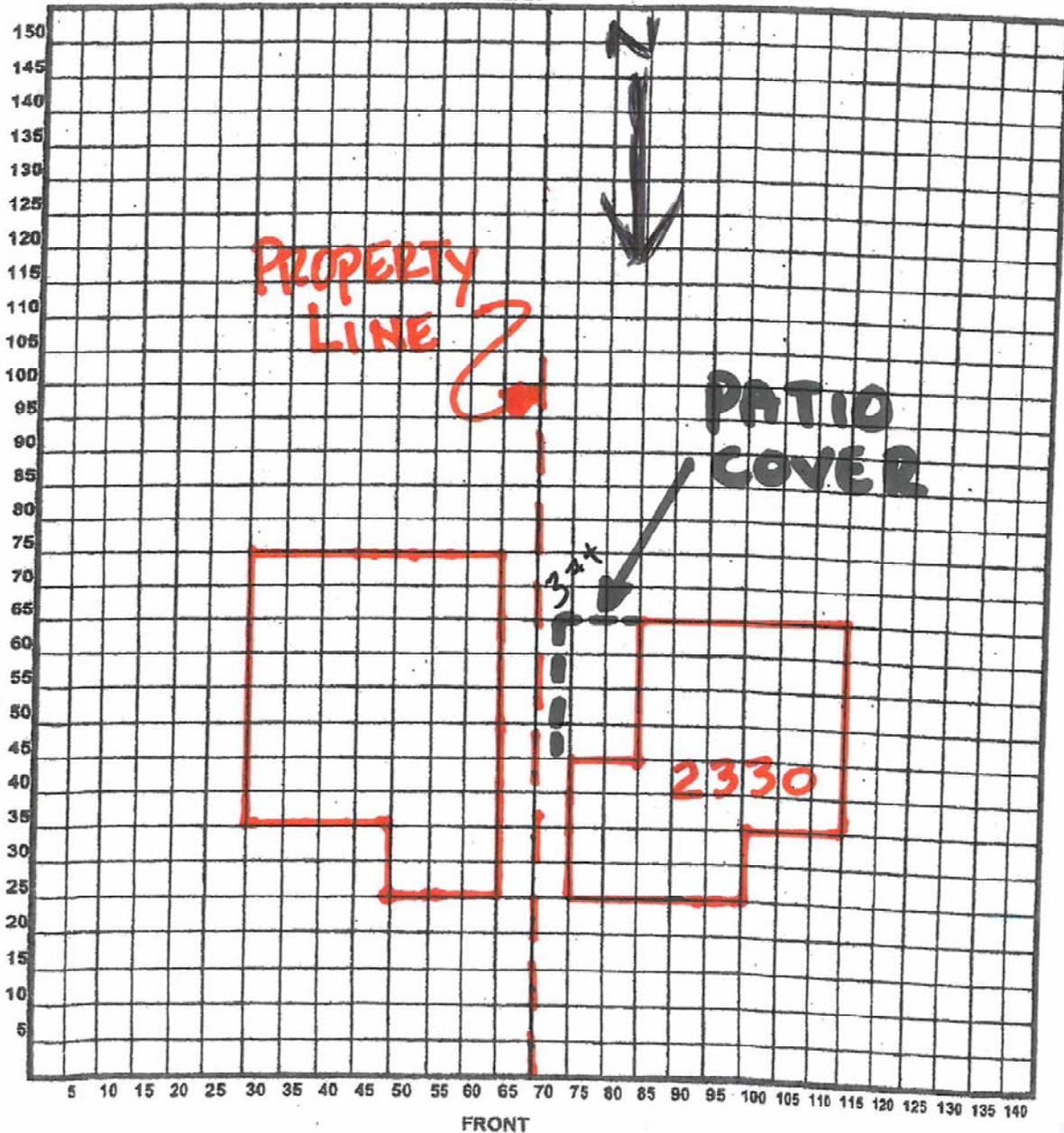
2330 Texas

Design & Survey Services Department  
City of San Antonio

Attachment 3  
Applicant's Site Plan

PLOT PLAN  
FOR  
BLDG PERMITS

Address 2330 TEXAS AVE. Lot 10 Block 14 NCB 9236  
SA TX 78228



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 – Photos**

**Subject Property**



**Excess concrete spilled onto neighbor's property**



**Neighbor's door was damaged, had to be replaced by construction**



**Beam 19" from property line**



**7" overhang brings structure within one foot of property line**



**Covered patio not built evenly, at far end 28" from property line**





## City of San Antonio Development Services Department Staff Report

To: Board of Adjustment  
Case No.: A-15-033  
Date: February 02, 2015  
Applicant: Martha Jordan  
Owner: Southeastern California Conference of Seventh Day Adventist  
Council District: 2  
Location: 1825 S. WW White Road  
Legal Description: Lot 2C, NCB 10757  
Zoning: "C-2" Commercial District  
Prepared By: Logan Sparrow, Planner

---

### **Request**

A request for the elimination of the required 15 and 30 foot bufferyards, as described in Section 35-510, to allow a development with no bufferyards.

### **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 January 15, 2015. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on January 16, 2015. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 30, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 1825 S. WW White Road approximately 445 feet north of Rigsby Avenue. The applicant is seeking a variance to allow a development with no bufferyards present. The subject property is zoned "C-2" Commercial District, while the property to the north is split-zoned both "R-5" Residential Single-Family and "I-2" Heavy Industrial District. When a "C-2" Commercial District abuts an "R-5" Residential Single-Family District, a type B bufferyard, which must maintain a depth of 15 feet, is triggered. When a "C-2" Commercial district abuts an "I-2" Heavy Industrial District, a type E bufferyard, which must maintain a

depth of 30 feet, is triggered. The applicant has indicated that they will likely be able to add a fence on the property line as well as some buffering, possibly five feet, but was unable to give an exact amount pending the design of the development.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-2” Commercial District	Vacant Lot, proposed restaurant and self-storage

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“I-2” Heavy Industrial District and ‘R-5” Residential Single-Family District	Contracting Business and Hair Salon
South	“C-3” General Commercial District	Retail Shop
East	UZROW	S WW White Road
West	“C-3R” Restrictive General Commercial District	Vacant Lot

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Eastern Triangle neighborhood plan and designated for future community commercial land use. The subject property is not located within the boundaries of any registered neighborhood association.

**Criteria for Review**

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

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

**The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by bufferyards to separate uses and to add beauty to a community. The applicant has stated that they will likely be able to add a fence and some buffering, possibly five feet, to the subject property. Staff finds that a reduced bufferyard along the R-5 Residential Single-Family property is in keeping with the public interest as it will separate uses, especially if the property is later developed for residential uses and will allow the developer to improve the site.**

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

**A literal enforcement of the code would require that the applicant establish a 15 foot bufferyard at the rear of the property and a 30 foot bufferyard at the front of the property. The site plan submitted by the applicant depicts a driveway to service both a new Subway restaurant at the front, and a self-storage facility at the rear of the property. This driveway**

is located where much of the bufferyards would have to be established. A literal enforcement of the code would make the development of this site significantly more challenging. Because the “R-5” Residential Single-Family zoning to the north is not used residentially, but rather for a hair salon, staff finds that a having the applicant construct both a 15 and a 30 foot bufferyard may result in an unnecessary hardship to the applicant.

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

**Staff finds that a reduced bufferyard, even to five feet in depth, would respect the spirit of the ordinance. Because the property to the north is also used for commercial purposes, not residential, staff finds that substantial justice will be done by granting a reduced bufferyard.**

4. *The 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-2” Commercial 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 is not likely to harm adjacent, conforming properties. The proposed site design requires that a driveway be established along the north of the property, right where the bufferyard is triggered. Staff finds that adjacent properties are not likely to be harmed.**

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 present on this lot are the zones that abut the property to the north. The “I-2” Heavy Industrial zoning to the north, which is used as a contractor facility, triggers a 30 foot bufferyard. That depth would make the north 17% of the property undevelopable. The rear of the property requires a 15 foot bufferyard because of the “R-5” Residential Single-Family zoning to the north. The “R-5” zoning to the north houses a hair salon, considered a commercial use. Had that property been zoned commercially, then a bufferyard would not be required. As such, staff finds that the unique circumstances present in this case are the zoning classifications of surrounding properties.**

### **Alternative to Applicant’s Request**

The applicant would need to re-work the site plan to create a development that can respect the required 15 and 30 foot bufferyards. The applicant could also construct a reduced bufferyard, at a depth of five feet with a fence, to respect the spirit of the ordinance.

## **Staff Recommendation**

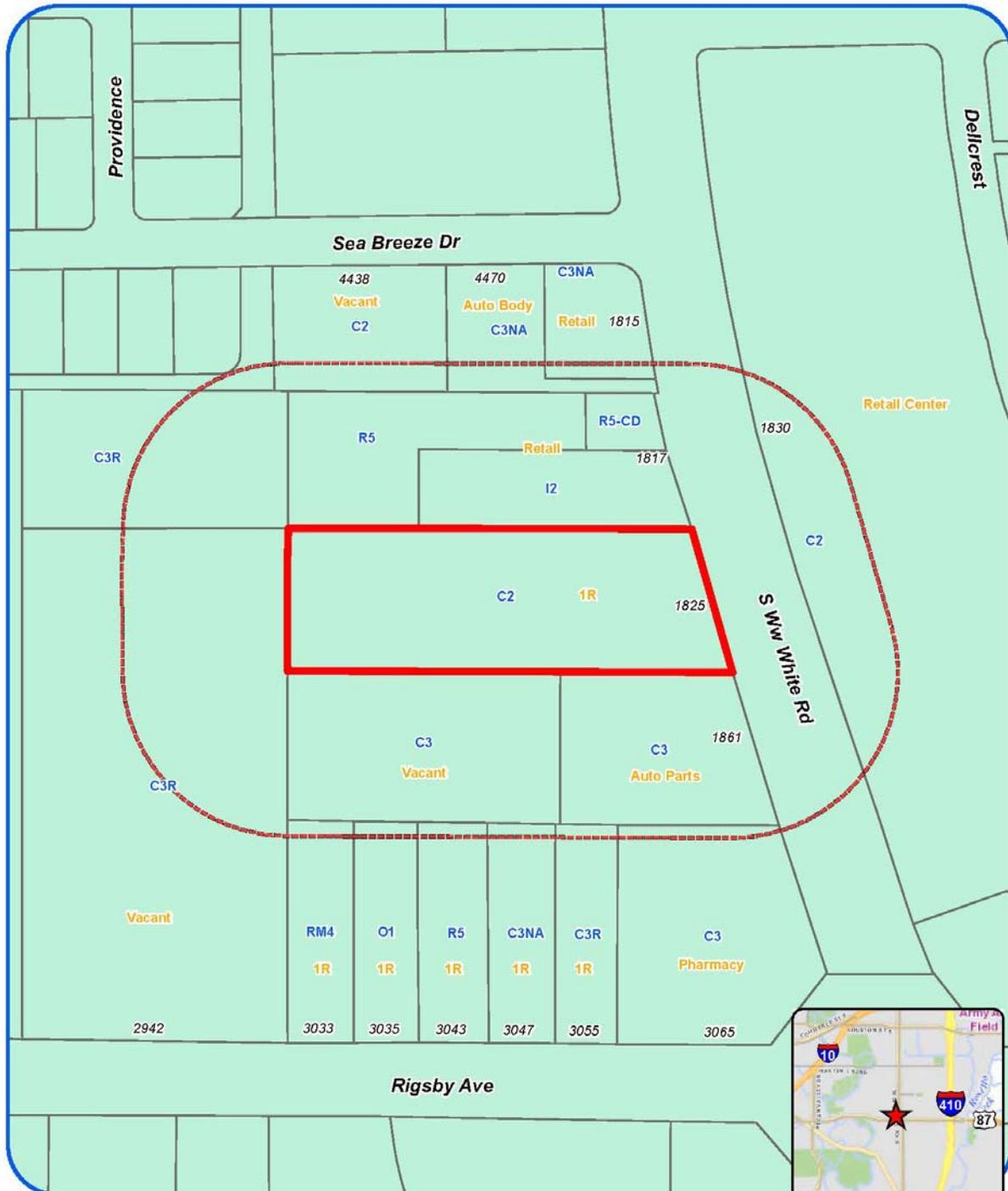
Staff recommends:

- 1) **APPROVAL of the elimination of the bufferyard adjacent to the I-1 property** based on the following findings of fact:
  1. The zoning classifications located to the north of the subject property trigger abnormally large bufferyards;
  2. The subject property is a small lot and the imposed bufferyards make development of the lot challenging.
  
- 2) **DENIAL of the elimination of the bufferyard adjacent to the R-5 property and APPROVAL of a reduced bufferyard of five feet along that same section**, based on the following findings of fact:
  1. Although the R-5 property is not currently used for residential purposes it could later be developed for residential purposes. The applicant should establish some buffering between the two zones.

## **Attachments**

- Attachment 1 – Notification Plan (Aerial Map)
- Attachment 2 – Plot Plan (Aerial Map)
- Attachment 3 – Elevation of Sign
- Attachment 4 – Site Photos

# Attachment 1 Notification Plan



**Board of Adjustment  
Notification Plan for  
Case No A-15-033**

San Antonio City Limits

Subject Property

200' Notification Boundary

Council District: 2

NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY

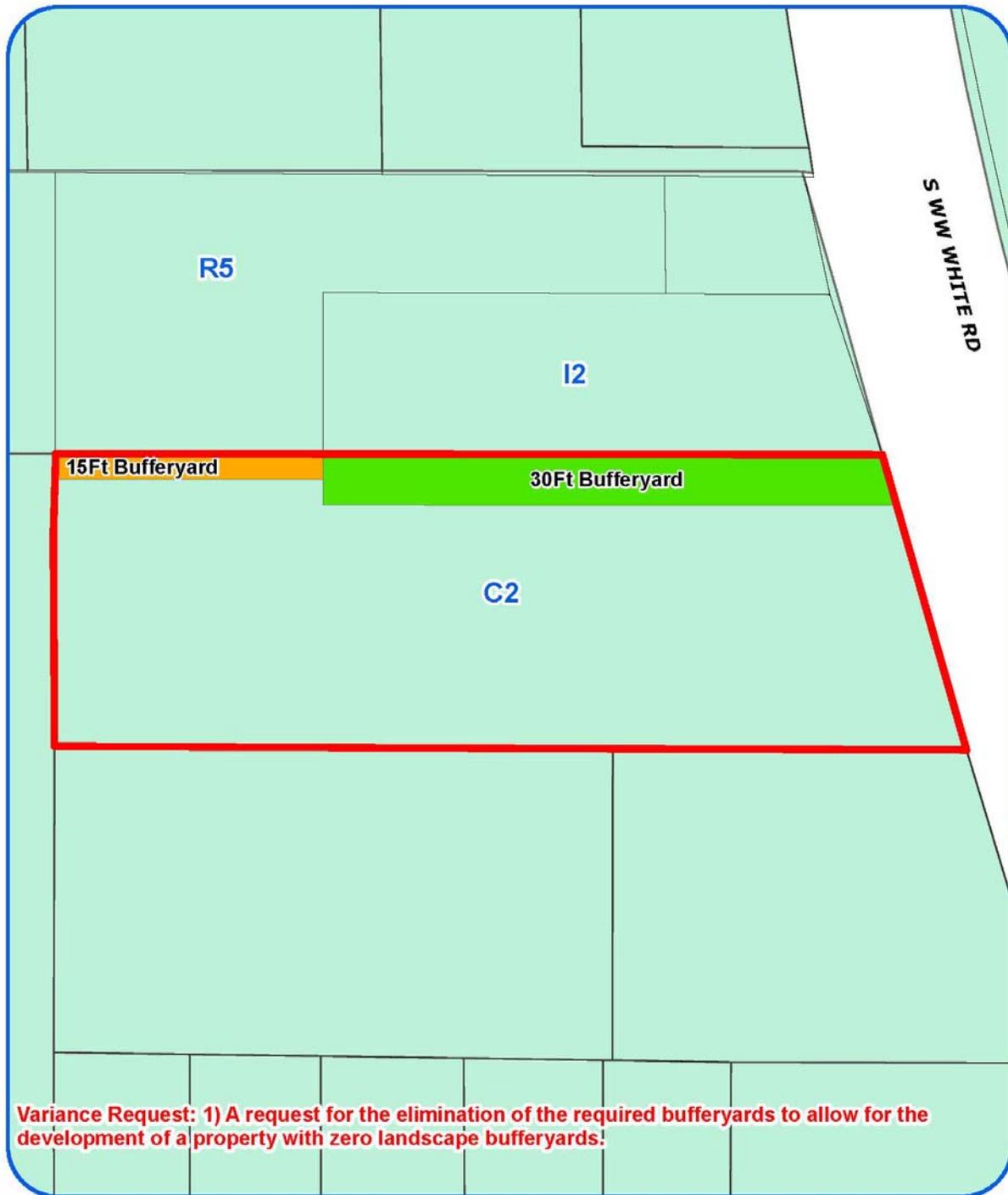
Development Services Department  
City of San Antonio

# Attachment 1 Notification Plan (continued)



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-033</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Buffer </p> <p>Council District 2</p>	<p style="text-align: center;">"NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p style="text-align: center;">Deputy Administrative Services Department City of San Antonio</p>
--	--	---	--

**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-033**

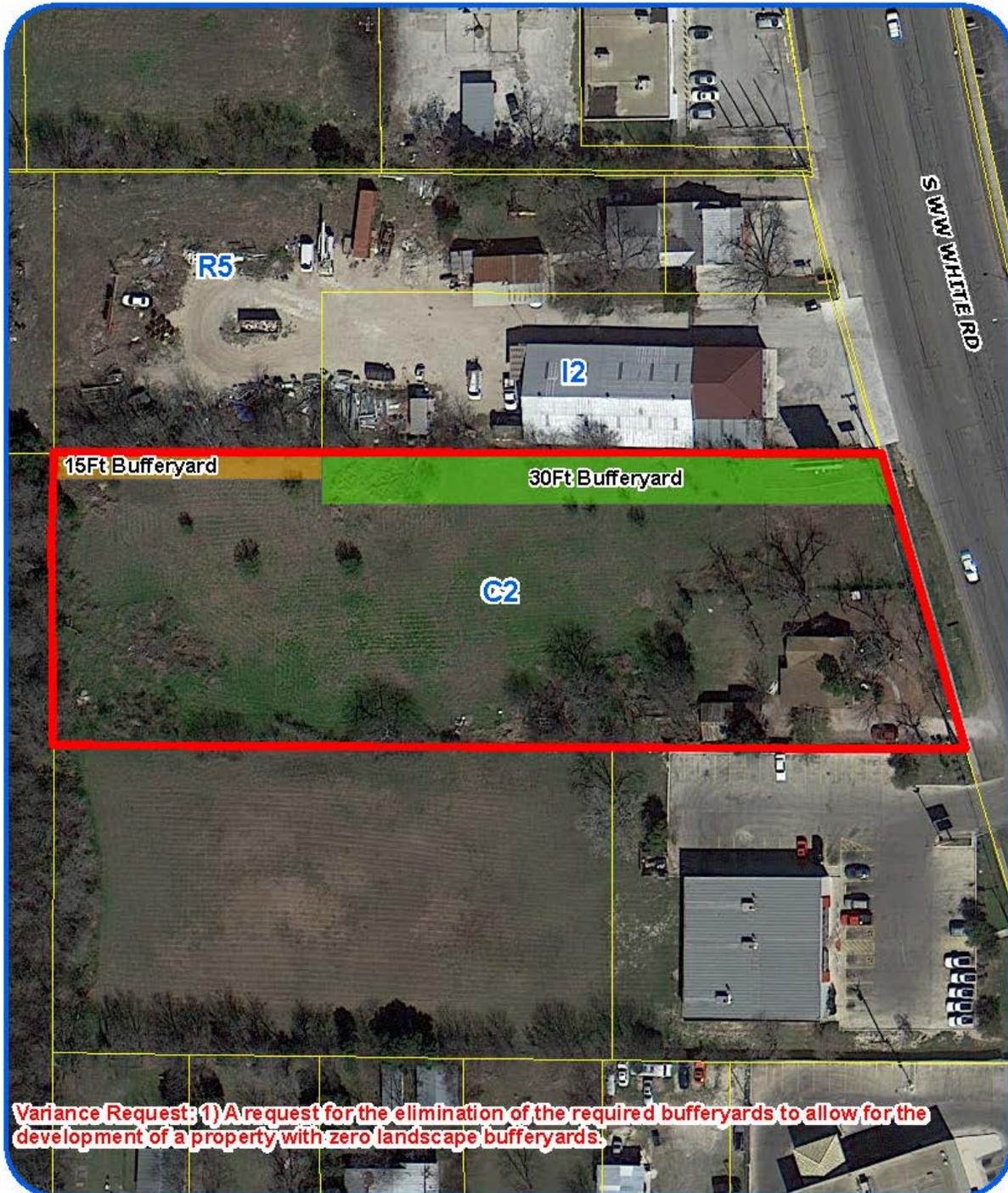


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 2

1825 S WW White

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



**Board of Adjustment**  
Plot Plan for  
Case No A-15-033

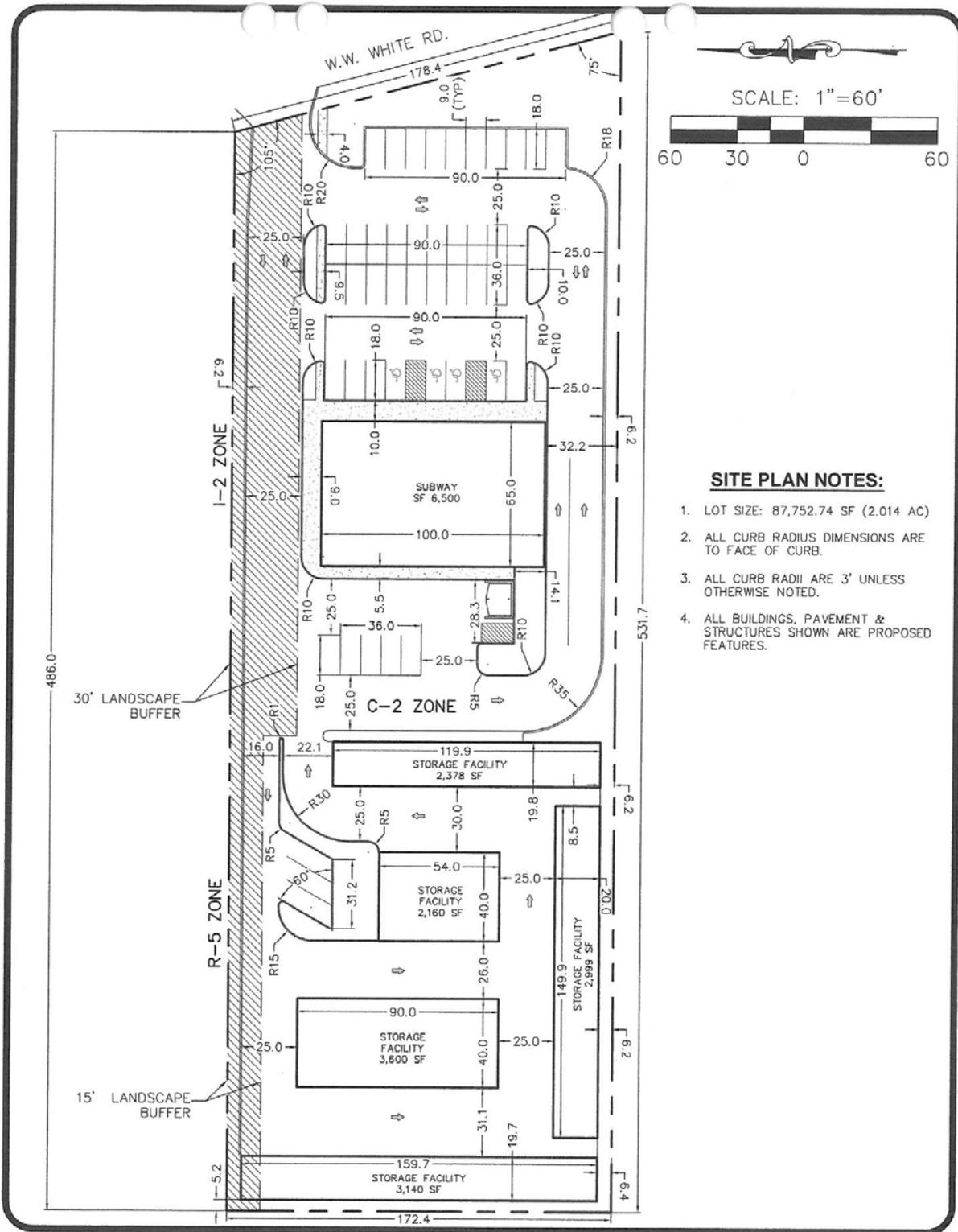


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 2

1825 S WW White

1 2018  
Development Services Department  
City of San Antonio

# Attachment 3 Applicant's Site Plan



**SITE PLAN NOTES:**

1. LOT SIZE: 87,752.74 SF (2.014 AC)
2. ALL CURB RADIUS DIMENSIONS ARE TO FACE OF CURB.
3. ALL CURB RADII ARE 3' UNLESS OTHERWISE NOTED.
4. ALL BUILDINGS, PAVEMENT & STRUCTURES SHOWN ARE PROPOSED FEATURES.

**Attachment 4 – Photos**

**Subject Property**



**S. WW White Streetscape**



**Location on site where bufferyards are to be established**



**Property line, view from property to the north**





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

To: Board of Adjustment  
Case No.: A-15-038  
Date: February 02, 2015  
Applicant: Dante Chiei  
Owner: Dante Chiei  
Council District: 10  
Location: 11802 Pomeroy Circle  
Legal Description: Lot 18, Block 47, NCB 18429  
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Logan Sparrow, Planner

---

### **Request**

A request for a two foot variance from the six foot maximum fence height, as described in Section 35-514, to allow a predominately open fence to be eight feet tall in the rear 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 January 15, 2015. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on January 16, 2015. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 30, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 11802 Pomeroy Circle approximately 250 feet west Queens Crown West Drive. The applicant is seeking a variance to allow construction of an eight foot tall, predominately open fence in the rear yard of the subject property. The fence is requested at the additional height so that the applicant can protect his property. The applicant has told staff, and written in the application, that he has had about \$60,000.00 worth of property stolen from his home. Additionally, the requested fence height will also allow the applicant to more effectively secure his large dogs on the property as he fears that they could easily jump over a six foot tall

fence, especially given the properties elevated topography over adjacent lots. The Board should consider that the subject property is on the border of San Antonio’s city limits. An eight foot tall fence would likely compliment the rural nature of the property. Lastly, because of the size and frontage of the subject property, this site qualifies as a residential estate lot and, therefore, the proposed six foot predominately open front yard fencing is permitted by right.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant Lot
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Cell Tower
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of any neighborhood plan. The subject property is located within the boundaries of the Randolph Hills registered neighborhood association. 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.*

**The public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by fence height limitations to create a sense of community. Occasionally, though, fence height limitations leads to compromised security, as is the case here. The applicant states that nearly \$60,000 worth of property has been stolen from his home and he fears that a six foot tall fence is inadequate at keeping thieves out. The proposed eight foot tall fence will secure the home for effectively. Additionally, the fence design will help to secure the family dogs on the property.**

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

**A literal enforcement of the code would result in a fence no taller than six feet in the rear yard. The applicant feels that a six foot tall rear yard fence is inadequate at securing his property. The applicant will construct a six foot tall fence in the front yard, but because the property qualifies as a residential estate, the six foot tall fence is permitted by right. Because the applicant has experienced theft on multiple occasions, it is very likely that a literal enforcement of the code, limiting the applicant to a six foot fence at the rear of the property, where most of the theft has occurred, may constitute an unnecessary hardship.**

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

**Staff finds that substantial justice will be done. The requested variance will add to a sense of security that one should feel on their property.**

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

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-6 AHOD” Residential Single-Family Airport Hazard Overlay 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 is not likely to harm adjacent, conforming properties. The location of the subject property is very rural in nature, and homes are spread far apart from one another. Allowing the applicant to construct the eight foot tall fence is unlikely to harm adjacent properties. Additionally the requested variance may contribute to a more enjoyable neighborhood as the applicant will be able to keep his large dogs in his yard more easily. Lastly, the height of the proposed fence is not out of scale within this largely rural community.**

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 present in this case are the abnormally high occurrences of theft. Through five separate incidents, the applicant has had nearly \$60,000 worth of property stolen from his home and garage. This is not the fault of the owner of the property.**

### **Alternative to Applicant’s Request**

The applicant needs to construct a fence no taller than six feet in height to comply with the requirements established in the Unified Development Code.

## **Staff Recommendation**

Staff recommends **APPROVAL of A-15-038** based on the following findings of fact:

1. The proposed height would not be out of scale within the very rural community;
2. The owner of the property has had \$60,000 worth of property stolen from his home. Limiting the applicant to six feet in rear fence height may constitute an unnecessary hardship.

## **Attachments**

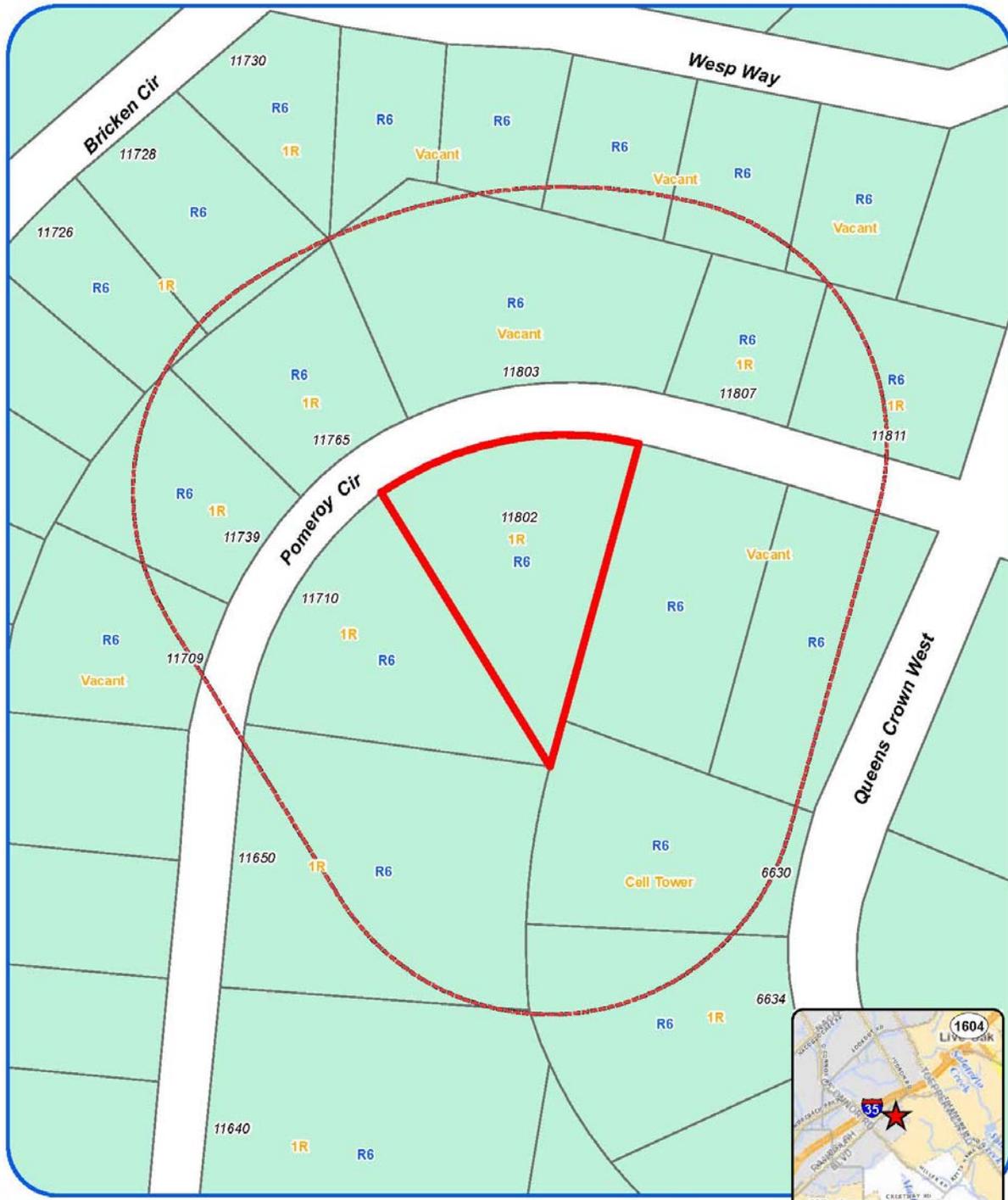
Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Elevation of Sign

Attachment 4 – Site Photos

# Attachment 1 Notification Plan



<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-15-038</b></p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District: 10 </p>	<p style="text-align: center;">NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY</p> <p style="text-align: center;">Development Services Department City of San Antonio</p>
---	--	--	--

**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-038</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District 10 </p>	<p><b>1604</b> Loop 1604</p> <p><b>35</b> Interstate 35</p> <p>Windcrest</p>
	<p>*NO TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY*</p>		
	<p>Deane Kpeme at Services Department City of San Antonio</p>		

**Attachment 2  
Plot Plan**



**Board of Adjustment**  
Plot Plan for  
**Case No A-15-038**

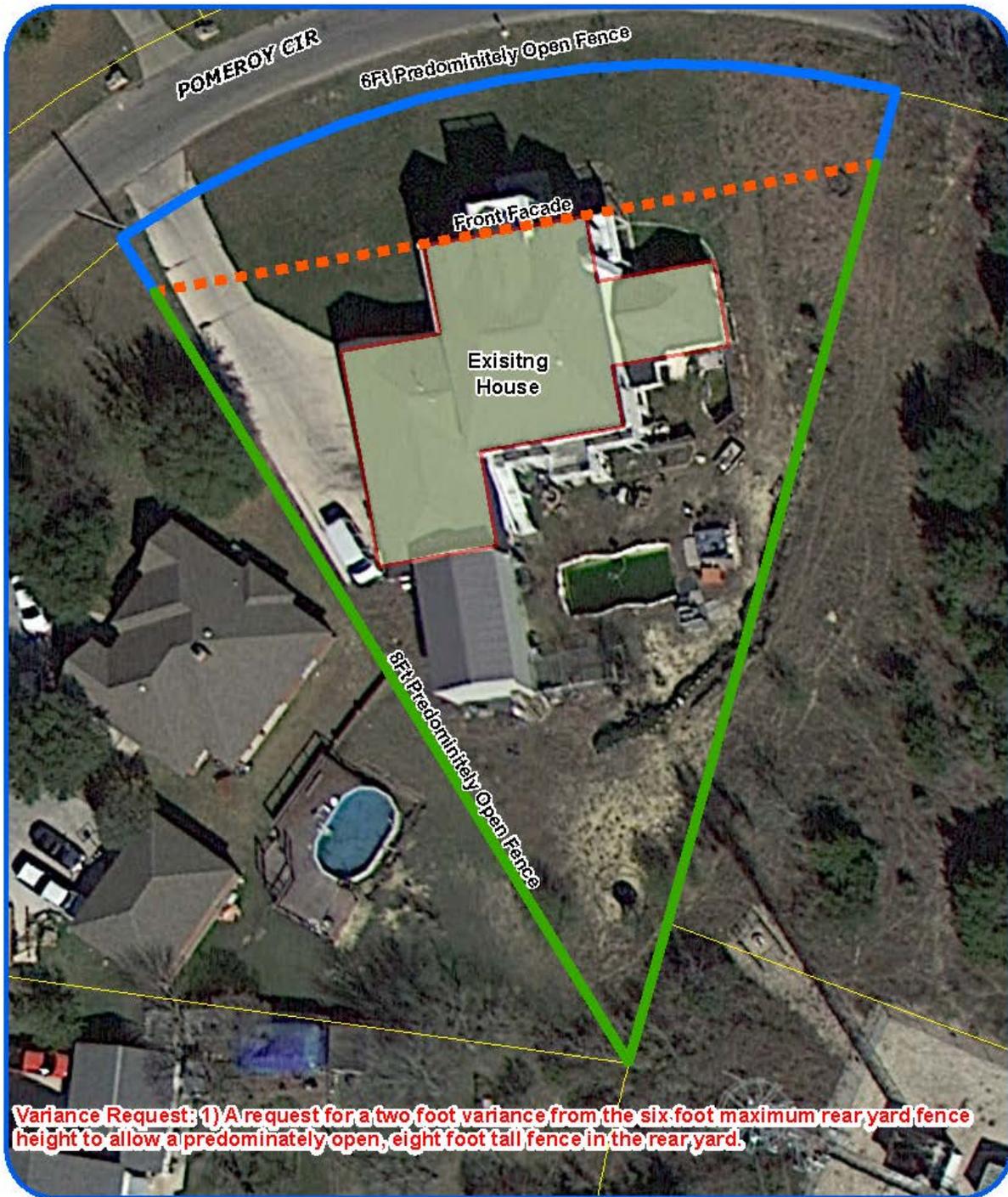


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 10

**11802 Pomeroy Circle**

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



Variance Request: 1) A request for a two foot variance from the six foot maximum rear yard fence height to allow a predominately open, eight foot tall fence in the rear yard.

**Board of Adjustment**  
Plot Plan for  
Case No A-15-038

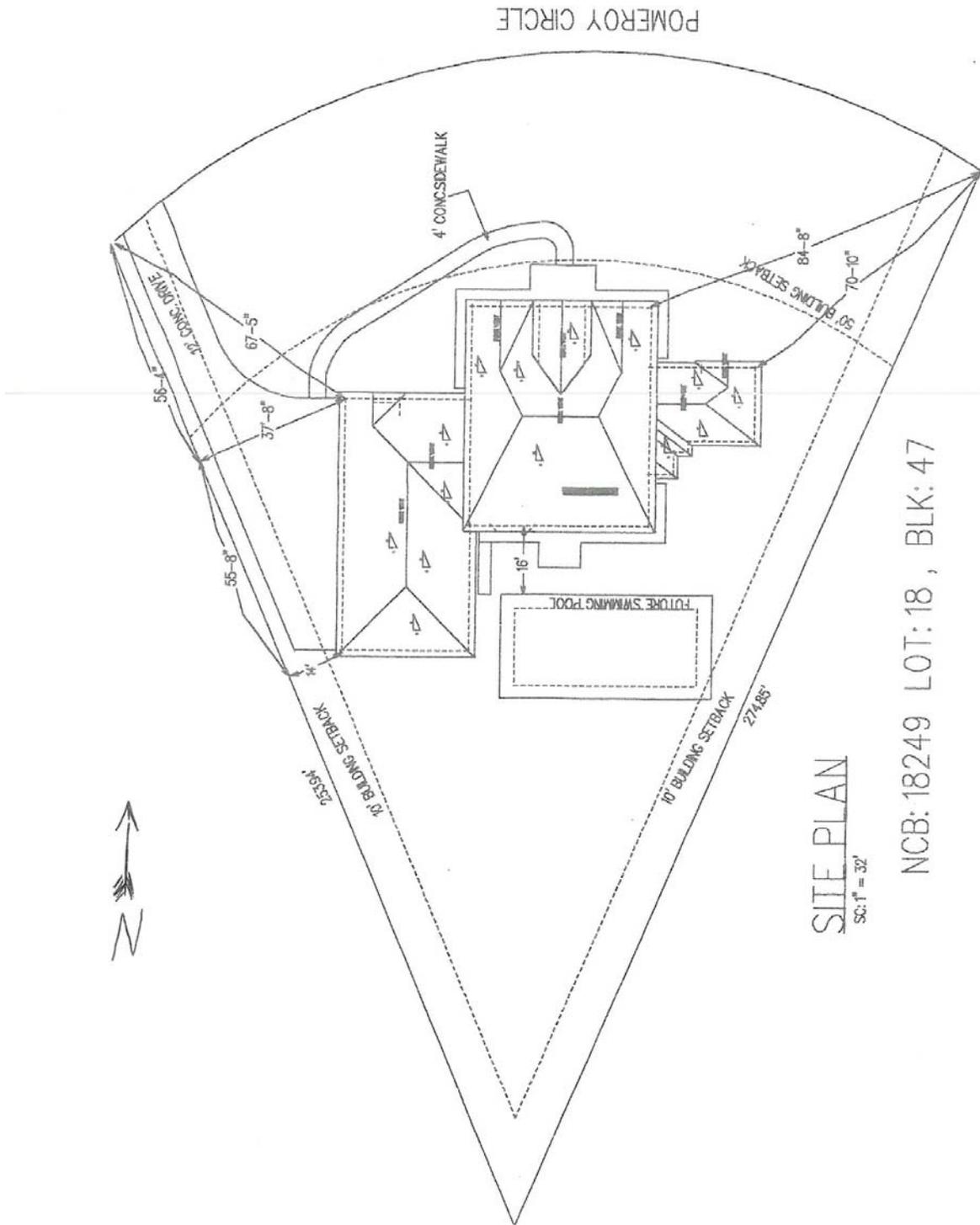


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 10

11802 Pomeroy Circle

Development Services Department  
City of San Antonio

**Attachment 3  
Applicant's Site Plan**



**SITE PLAN**  
SC: 1" = 32'

NCB: 18249 LOT: 18 , BLK: 47

**Attachment 4 – Photos**

**Subject Property**



**Side Yard**



**Side Yard**



**Pomeroy Circle Streetscape**





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

To: Board of Adjustment  
Case No.: A-15-039  
Date: February 2, 2015  
Applicant: Diana Maria Bugarin  
Owner: Diana Maria Bugarin  
Council District: 1  
Location: 1818 Alamos Street  
Legal Description: Lot 6 & the W 36 feet of Lot 7, Block 94, NCB 8810  
Zoning: "R-4" Residential Single-Family Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

---

### **Request**

A request for 1) a 3 foot variance from the minimum 20 foot rear yard setback to allow a structure with a 17 foot rear setback and 2) a 3 foot 8 inch variance from the minimum 5 foot side yard setback, both as described in Section 35-370 to allow a structure 1 foot 4 inches from the 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 within two hundred (200) feet of the subject property on January 16, 2015. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on January 16, 2015. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 30, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located at 1818 Alamos Street, 260 feet east of West Avenue. The applicant is seeking a variance to allow an existing covered carport/patio structure to remain near the side and rear property lines. The applicant states that the improvements were constructed in that location because of the small size of the lot, consisting of a portion of a lot. The carport is constructed a little more than 1 foot from the side property line. Additionally, the applicant did

not pull any permits for the structure. Had the applicant applied for a permit, the setback violations could have been addressed prior to construction of the structure.

In actuality, the lot is large for the area, having 10,320 square feet, 86 feet wide, with a 19 foot side yard setback on the east side and a 22 foot setback on the west. The carport structure is nearly 18 feet wide and with future fire rated requirements could look more like a garage when completed. Prior to this recent construction, the lot included a small detached garage in the rear yard, which has been incorporated into the new structure. Because the gabled-roof structure was attached to the principal building, the full rear setback is required, rather than the reduced one for accessory structures. The minimum rear yard setback has been reduced by 5 feet because of the rear 10 foot wide alley. The carport structure is actually 12 feet from the property line, but only 15 feet is required because of this alley reduction.

**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	Two-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 District	Single-Family Dwelling
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Near Northwest Community Plan, adopted in February of 2002 and designated as urban low density land use. The subject property is located within the boundaries of the Los Angeles Heights 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 public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by required setbacks to ensure equal access to air, light, and

distance for fire separation. For this property, the structure is built very close to the side property line. This proximity results in a number of adverse impacts for adjacent properties including trespass for maintenance and an increased risk of fire spread. Staff finds that the requested side setback variance is contrary to the public interest. **The rear setback variance is less significant at 3 feet, still providing an adequate setback from the rear property line. If the covered patio were not connected to the principal structure, it would satisfy setback standards, making this request consistent with the public interest.**

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

A literal enforcement of the side yard setback would require that the applicant reduce the width of the carport from 18 feet to 13 feet, ample room to protect a parked car. The applicant has submitted a letter from the adjacent property owner indicating support for the requested variance, however long-term maintenance will require trespass and owners change over time. **The rear setback currently provided at 12 feet represents the same rear setback historically provided by the detached garage. Changing this could result in an unnecessary hardship.**

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

The spirit of the ordinance calls for setbacks to ensure access to air, light, and to provide for fire separation. As such, allowing the structure to remain at 1 foot 4 inches from the property line does not observe the spirit of the ordinance. In addition, fire resistant methods required could further reduce the setback. **The minimal 3 foot variance from the rear setback could be considered consistent with the spirit, since detached structures are allowed to be within 5 feet of the property line.**

- 4. The 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” Residential Single-Family Airport Hazard Overlay 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 is likely to harm the adjacent, conforming property. The existing carport structure is built 1 foot 4 inches from the property line and would require trespass in the event of needed maintenance. Additionally, the structure is constructed of wood and poses an increased threat of fire. **Along the rear alley, the structure is not likely to injure adjacent properties. There are several accessory buildings built near the rear property line and the provided setback ensures room for maintenance.**

- 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.*

Staff finds that there are no unique circumstances present in this case to warrant the granting of the requested side setback variance; the house had a 19 foot side setback prior to the

construction. The applicant should have applied for a permit to construct the carport so the setback violation could have been identified prior to construction. Even though the existing driveway was wide enough to park 2 cars, no setback is required for flat work. **The existing garage in the rear is setback almost 3 feet from this side property line, a side setback far preferable than the current 1 foot. In addition, the roof has a slight overhang and no gutters to control stormwater. The requested rear setback modification is slight with current improvements 12 feet from the unimproved alley, requiring a 3 foot variance.** A neighboring owner behind the structure however is in opposition because of the height as seen from her property.

### **Alternative to Applicant's Request**

The applicant needs to reduce the width of the carport to come into compliance with the side setback standards established by the Unified Development Code.

### **Staff Recommendation**

Staff recommends **denial of the side setback variance requested in A-15-039** based on the following findings of fact:

1. The existing improvements trigger the need for trespass for adequate maintenance of the structure; and
2. The existing structure compromises equal access to air, light, and distance for fire separation.

Staff recommends **approval of the rear yard variance requested in A-15-039** based on the following findings of fact:

1. The existing setback of 12 feet provides adequate room for maintenance and fire separation; and
2. The reduced setback is similar to several detached structures along the alley.

### **Attachments**

Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

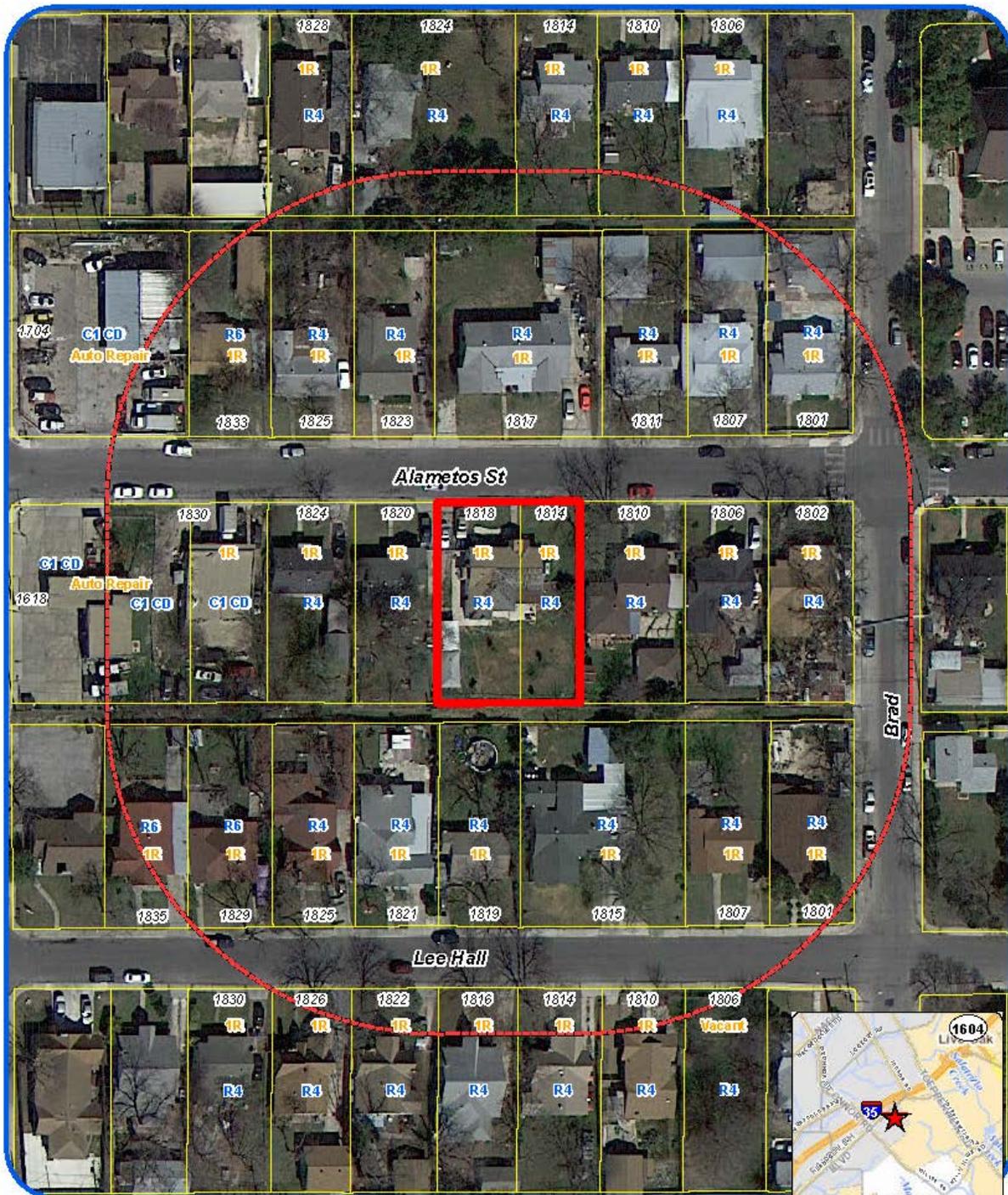
Attachment 3 – Applicant's Site Plan

Attachment 4 – Site Photos

# Attachment 1 Notification Plan

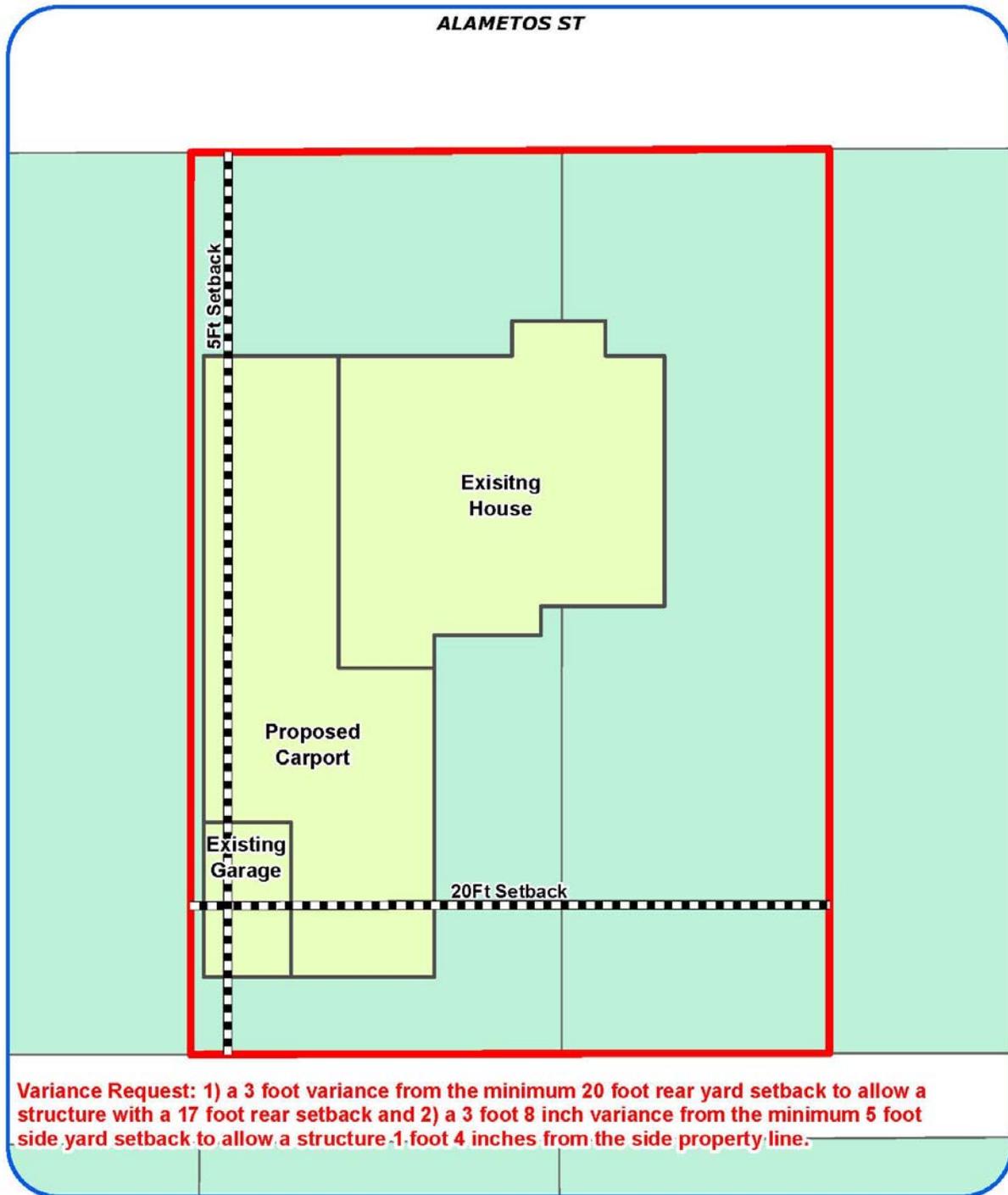


**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-039</p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Buffer </p> <p>Council District 1 </p>	<p align="center">   <small>NO T T O SCALE, FOR ILLUSTRATIVE PURPOSES ONLY</small>                  Debra Kpeme at Services Department                  City of San Antonio             </p>
--	--	--	--

**Attachment 2  
Plot Plan**



**Variance Request: 1) a 3 foot variance from the minimum 20 foot rear yard setback to allow a structure with a 17 foot rear setback and 2) a 3 foot 8 inch variance from the minimum 5 foot side yard setback to allow a structure 1 foot 4 inches from the side property line.**

**Board of Adjustment**  
Plot Plan for  
**Case No A-15-039**



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

**1818 Alametos**

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



**Board of Adjustment**  
Plot Plan for  
Case No A-15-039



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

1818 Alametos

1200  
Development Services Department  
City of San Antonio



**Attachment 4 – Photos**





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

To: Board of Adjustment  
Case No.: A-15-040  
Date: February 2, 2015  
Applicant: Mitchell Hill  
Owner: Mitchell Hill & Judith Molesky-Hill  
Council District: 1  
Location: 819 E Magnolia Avenue  
Legal Description: Lot 5A, NCB 6939  
Zoning: "R-4 H RIO-1 AHOD" Residential Single-Family River Road Historic Airport Hazard Overlay District  
Prepared By: Margaret Pahl, AICP Senior Planner

---

### **Request**

A request for 1) a 10 foot variance from the minimum 20 foot rear yard setback to allow an addition 10 feet from the rear property line; 2) a 3 foot variance from the minimum 5 foot side setback, as specified in Table 35-310-1, to allow an attached carport 2 feet from the east 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 within two hundred (200) feet of the subject property on January 16, 2015. The application details were published in The Daily Commercial Recorder, an official newspaper of general circulation, on January 16, 2015. Additionally, notice of this meeting was posted at City Hall and on the City's internet website on or before January 30, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

### **Executive Summary**

The subject property is located in the River Road Historic District, on a 6,700 square foot lot platted in 1929. According to Bexar County Appraisal District, the home currently includes 1212 square feet; the applicant would like to construct an addition. The home is setback 30 feet from the front property line, but any additions in historic districts are encouraged to be located in

the rear out of sight. For this reason, the applicant has designed a single story addition that will be virtually hidden from the right of way. The proposed plan for the rear addition has been reviewed and approved by the Historic Design and Review Commission. In order to construct this plan a variance to the required rear setback is required. The applicant is requesting a 10 foot variance to allow a 10 foot rear setback.

In addition, the applicant is requesting a side yard setback variance to allow the construction of a carport. The carport will be 2 feet from the side property line. During the carport review by the HDRC, the staff suggested a simplified design to minimize the distraction of the new construction from the original structure. Their original design proposed mimicking the original home, but the historic preservation guidelines suggest that additions remain obvious. According to these guidelines *new elements and details that create a false historic appearance should be avoided.*

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 H RIO-1 AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 H RIO-1 AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Two-Family Dwelling
South	“R-4 H RIO-1 AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 H RIO-1 AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 H RIO-1 AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the River Road Neighborhood Plan, adopted in February of 2006 and designated as low density land use. The subject property is located within the boundaries of the River Road 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 public interest is defined as the general health, safety, and welfare of the public. In this case the public interest for the rear yard variance is represented by required setbacks to ensure access to air and light. **The rear setback variance is at 10 feet, still providing a 10 foot setback from the rear property line. Given the constraints of the historic district, this variance would be consistent with the public interest.**

The public interest for the carport variance is defined as the preservation of the historic character of the River Road neighborhood. The carport will be visible from the right of way and, according to the suggestion from the HDRC, should be obvious as new construction. Denial of the proposed variance will prevent the construction of the carport, protecting the public interest.

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

**The special condition limiting options on this property is the historic district and the commitment to respect it. The requested rear setback variance of 10 feet is consistent with the rear setback required in a majority of residential districts (9 of 15), and a larger setback would result in an unnecessary hardship.**

The requested side setback variance to allow construction of a carport requires more consideration. Carports are not characteristic or common in this historic neighborhood; only a few others were found. Ribbon driveways however are a repeating element throughout the district and literal enforcement of the setback would result in the prevention of the carport. The neighboring property owner is also in opposition to the reduced setback.

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

The spirit of the ordinance calls for setbacks to ensure access to air, light, and to provide for fire separation. **The variance to allow a single story addition in the rear yard 10 feet from the property line will provide an adequate setback, given the constraints of the historic district guidelines.** The reduction of the side yard setback to 2 feet to allow construction of a carport results in a new structure very close to the neighboring home, and is contrary to the spirit of the ordinance.

4. *The 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 H RIO-1 AHOD” Residential Single-Family River Road Historic Airport Hazard Overlay 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 rear yard variance to allow a minimum 10 foot rear setback is unlikely to injure the adjacent property. The applicant discussed the variance request and the neighbors jointly agreed that this distance was adequate. In addition, it allows the expansion to remain hidden from the public right of way.** The side setback variance request to allow a structure within 2 feet of the shared property line is likely to harm the adjacent, conforming property. The neighboring owner asserts a potential reduction in air circulation, a goal of minimum setbacks.

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 need for a reduced rear setback is not financial, but instead a cooperative approach to preserving the historic character of the neighborhood while allowing equal enjoyment of property rights.** This same argument cannot be supported for the side setback variance since very few other homes in the area have covered parking provided by a side yard carport. The applicant has an existing rear garage that could be repaired to provide shelter for a vehicle.

#### **Alternative to Applicant's Request**

The applicant could further reduce the proposed addition to come into compliance with the rear setback standards established by the Unified Development Code.

#### **Staff Recommendation**

Staff recommends **approval of the rear yard variance requested in A-15-040** based on the following findings of fact:

1. The proposed setback of 10 feet provides adequate room for maintenance and fire separation; and
2. The goal of the historic district is to hide the addition from public view where possible.

Staff recommends **denial of the side setback variance requested in A-15-040** based on the following findings of fact:

1. The proposed carport is not common in the district and would detract from the historic character of the River Road neighborhood.

#### **Attachments**

Attachment 1 – Notification Plan (Aerial Map)

Attachment 2 – Plot Plan (Aerial Map)

Attachment 3 – Applicant's Site Plan

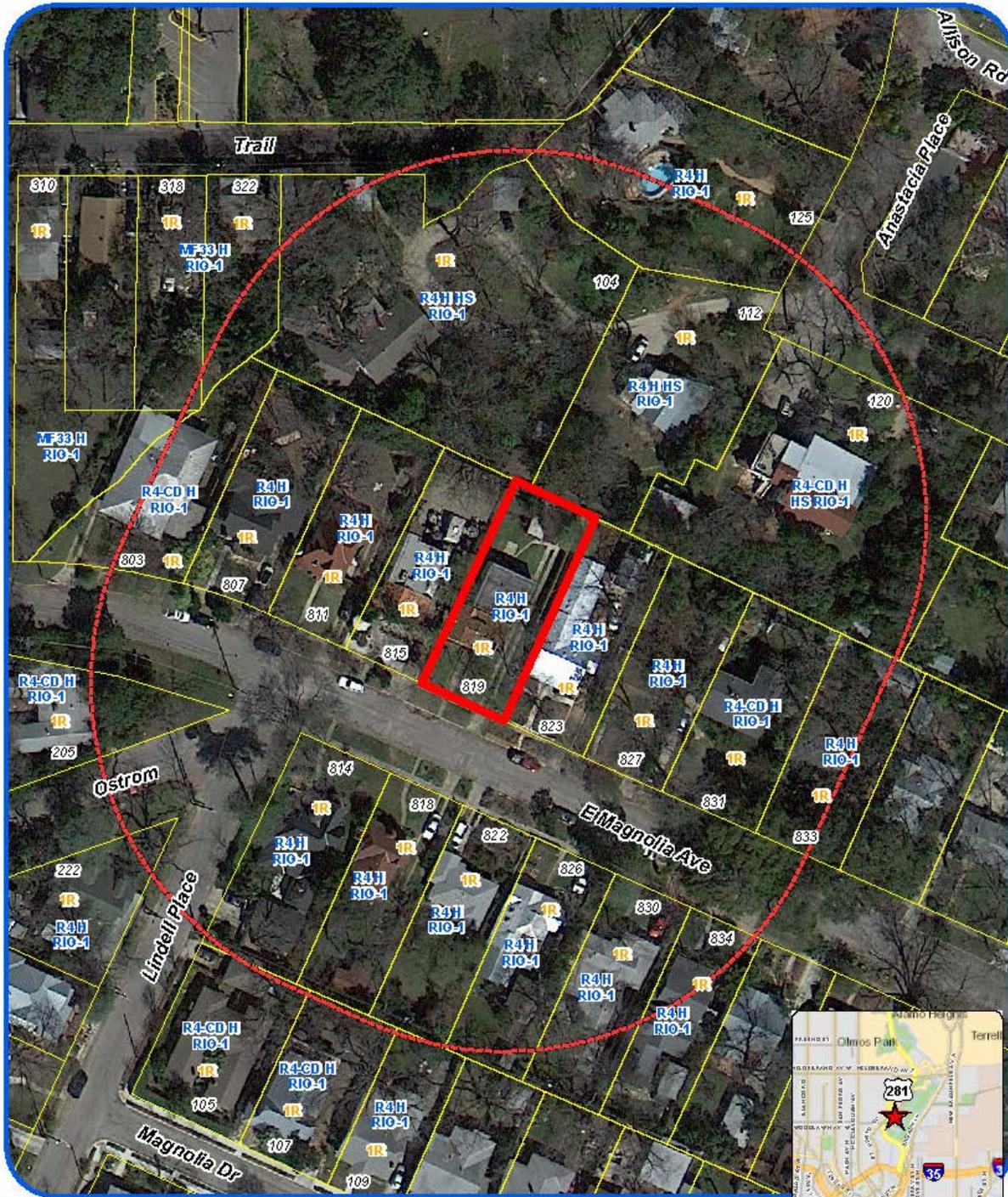
Attachment 4 – Site Photos

# Attachment 1 Notification Plan



<p><b>Board of Adjustment</b> Notification Plan for <b>Case No A-15-040</b></p>		<p>San Antonio City Limits </p> <p>Subject Property </p> <p>200' Notification Boundary </p> <p>Council District: 1</p>	<p style="text-align: center;">"NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY"</p> <p style="text-align: center;">Development Services Department City of San Antonio</p>
---	--	--	--

**Attachment 1  
Notification Plan (continued)**



<p><b>Board of Adjustment</b> Notification Plan for Case No A-15-040</p>		<p>San Antonio City Limits </p>	<p align="right">*NOT TO SCALE, FOR ILLUSTRATIVE PURPOSES ONLY*</p> <p align="right">Deane Kpeme at Services Department City of San Antonio</p>
		<p>Subject Property </p>	
		<p>200' Notification Boundary </p>	
		<p>Council District 1 </p>	

Attachment 2  
Plot Plan



Variance Request: 1) a 10 foot variance from the 20 foot rear yard setback to allow a rear building addition to be 10 feet from the rear property line; and 2) a 3 foot variance from the 5 foot side yard setback to allow a new carport to be 2 feet from the side property line.

**Board of Adjustment**  
Plot Plan for  
**Case No A-15-040**



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

819 E Magnolia Ave

Development Services Department  
City of San Antonio

Attachment 2  
Plot Plan (continued)



**Board of Adjustment**  
Plot Plan for  
Case No A-15-040

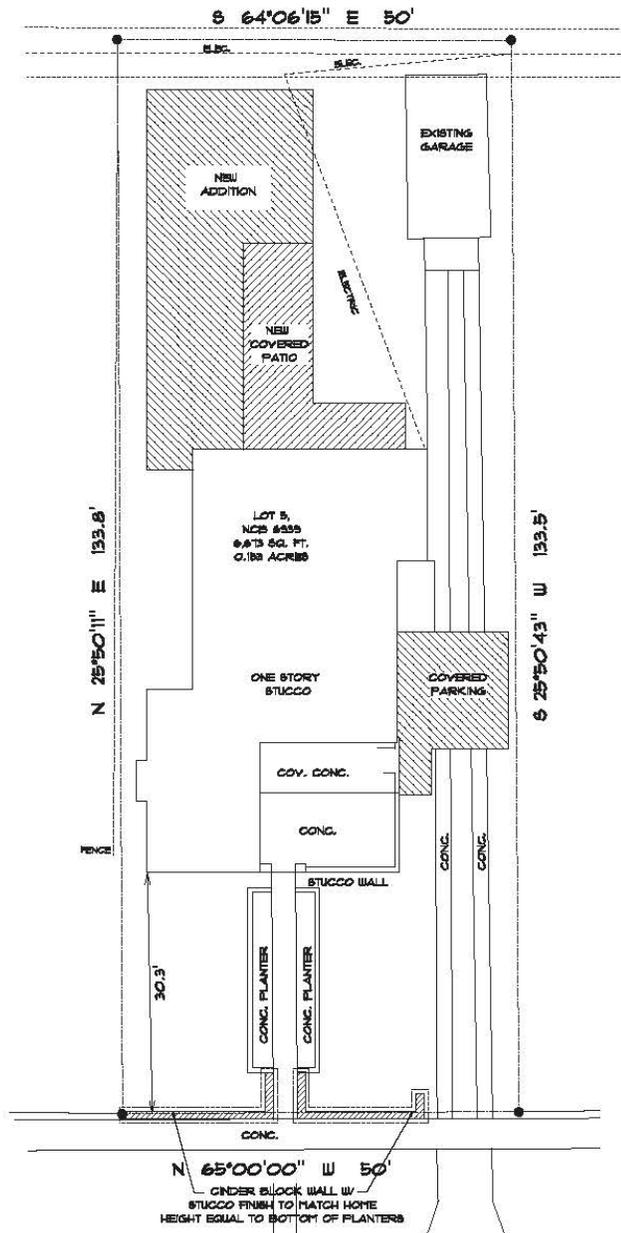


"NOT TO SCALE,  
FOR ILLUSTRATIVE PURPOSES ONLY"  
Council District: 1

819 E Magnolia Ave

Department Services Department  
City of San Antonio

# Attachment 3 Applicant's Site Plan



**819 E. MAGNOLIA**  
(60' R.O.W.) (MAGNOLIA AVE. PER PLAT)

REVISED SITE PLAN

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

**Attachment 4 – Photos**

