



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-6073

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 10/19/2020

**Title:** BOA-20-10300087: A request by Site Works Texas, LLC for a special exception to allow an 8' privacy fence to be within the front property and 2) and variance to allow a privacy fence to be within the Clear Vision field, located at 427 East Hildebrand. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-20-10300087

**Applicant:** Site Works Texas, LLC

**Owner:** Anne C. Hagelstein

**Council District:** 1

**Location:** 427 East Hildebrand

**Legal Description:** Lot 116 West 30 Feet of Lot 117, NCB 6761

**Zoning:** "R-5 AHOD" Single-Family Residential Airport Hazard Overlay District

**Case Manager:** Dominic Silva, Senior Planner

### Request

A request for a 1) a special exception to allow an 8' privacy fence, as described in Section 35-514, to be within the front property and 2) and variance to allow a privacy fence to be within the Clear Vision field, also described in Section 35-514.

### Executive Summary

The applicant is requesting variances to allow a solid masonry wall to be constructed within the front property serving both as a privacy screen as well as a sound barrier for the Hildebrand Avenue traffic.

The center masonry wall, that being 4' in height, is proposed to be built in the middle of the front property

between the two drive approaches. This wall is proposed to be within the Clear Vision field. The 8' portion of the request will be a solid masonry wall along the eastern side of the property.

The portion of East Hildebrand in which the subject property is located does have consistent rate of traffic and many residences on East Hildebrand Avenue do utilize some sort of sound barrier, whether it be natural vegetation or masonry walls to cut the visual and auditory distraction.

### **Code Enforcement History**

No code enforcement history exists on this property.

### **Permit History**

No permits have been processed for this property.

### **Clear Vision Review**

A review of Clear Vision is required for this request and has been conducted.

### **Zoning History**

The property is within the original 36 square miles of the City of San Antonio and was originally zoned as “A” Residence District. The “A” Residence District converted to the current “R-5” Single-Family District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-5 AHOD” Single-Family Residential Airport Hazard Overlay District	Residential

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-5 AHOD” Single-Family Residential Airport Hazard Overlay District	Residential
South	“R-5 AHOD” Single-Family Residential Airport Hazard Overlay District	Residential
East	“R-5 AHOD” Single-Family Residential Airport Hazard Overlay District	Residential
West	“R-5 AHOD” Single-Family Residential Airport Hazard Overlay District	Residential

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the North Central Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is not within the boundaries of a registered neighborhood association.

## **Street Classification**

East Hildebrand Avenue is classified as a Secondary Arterial B roadway.

## **Criteria for Review - Special Exception for Fence Height**

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

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

The requests for the 8' portion of fence in the front yard, as proposed would be out of character within the community in which it is located. Staff finds that these requests are not in harmony with the spirit and purpose of the chapter and it differs from other properties in the neighborhood.

**Staff does recommend an alternate of a 6' fence within the front property. The additional fence height is intended to provide safety and security of the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.**

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

Staff is unable to establish a special condition that would allow for an 8' tall privacy masonry fence within the front yard of the property.

**Staff can support an alternate recommendation for a 6' privacy fence within the front yard as East Hildebrand does produce a constant rate of traffic. A 6' privacy fence would substantially decrease visual and auditory distraction from East Hildebrand traffic.**

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

Staff is unable to locate solid privacy fences at an 8' height within the immediate area of the subject property and could substantially injure adjacent conforming properties.

**Staff's alternate recommendation of a 6' privacy fence will still create enhanced security for the subject property and is highly unlikely to injure adjacent properties.**

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

Staff did not locate any properties along East Hildebrand Avenue with a 8' solid screen fence within the front property; such a fence would alter the character of the district as it would be the only fence above 6' in height.

**Staff's alternate recommendation of a 6' privacy fence would not detract from the character of the neighborhood. The fencing is in line with other preexisting fencing material and height within the immediate vicinity.**

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

**The property is located within the "R-5 AHOD" Single-Family Residential Airport Hazard Overlay District and permits the current use. The requested special exception will not weaken the general purpose of the district.**

### **Criteria for Review - Variance to Clear Vision**

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, given the high rate of traffic along East Hildebrand Avenue, staff cannot support a solid masonry wall within the Clear Vision field due to concerns of safety of pedestrians and of the homeowners.

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

Staff cannot find an unnecessary hardship by not supporting the requested variance to allow a solid masonry wall to be located within the Clear Vision field.

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

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the Clear Vision field is to create and enhance pedestrian and vehicular safety while entering and exiting the subject property. Staff cannot support a solid masonry fence within this field that would negatively affect safety.

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

The requested variances will not permit a use not authorized within the district it is located in.

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.*

Staff finds the variance requested to allow a solid fence to be within the Clear Vision field would substantially alter the essential character of the district.

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

Staff could not locate any unique circumstances existing on the property to allow a 4' solid screen fence to be within the Clear Vision field. Many residences along East Hildebrand utilize a mixed-design format that does not interfere with Clear Vision but still remains an effective deterrent of visual and auditory distraction.

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

The alternative to the applicant's request is to conform to Clear Vision and fence heights set forth in the Unified Development Code, Section 35-514.

### **Staff Recommendation**

Staff recommends an **Alternate Recommendation** of 1) a special exception to allow a 6' privacy fence to be

within the front property in **BOA-20-10300087**, based on the following findings of fact:

1. There are no other 8' solid masonry walls within the immediate vicinity, and;
2. A 6' privacy fence allows adequate visual and auditory privacy.

Staff recommends **DENIAL** of 2) and variance to allow a privacy fence to be within the Clear Vision field in **BOA-20-10300087**, based on the following findings of fact:

1. Due to the constant rate of traffic along Ease Hildebrand Avenue, and;
2. The masonry wall can be cut back on both sides along the drive approach which would allow adequate field of vision while still keeping with the design and function as intended.