



# City of San Antonio

## Agenda Memorandum

**File Number:**16-5382

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**Agenda Item Number:** 3.

**Agenda Date:** 10/17/2016

**In Control:** Board of Adjustment

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**Case Number:** A-16-165  
**Applicant:** Binkan and Ashlee Cinaroglu  
**Owner:** Binkan and Ashlee Cinaroglu  
**Council District:** 8  
**Location:** 4910 Haven Oak Drive  
**Legal:** Lot 39, Block 2, NCB 17401  
**Description:**  
**Zoning:** "R-6 PUD MLOD-1 ERZD" Residential Single-Family  
Planned Unit Development Camp Bullis Military Lighting  
Overlay Edwards Recharge Zone District  
**Case Manager:** Logan Sparrow, Principal Planner

### Request

A request for a two and a half foot variance from the maximum six foot fence height, as described in Section 35-514, to allow an eight and a half foot tall fence in the rear yard.

### Executive Summary

The subject property is located at 4910 Haven Oak Drive, at the entrance to this residential subdivision. The applicants added a taller fence along the existing stone neighborhood perimeter wall to provide for additional privacy. The applicant states that, on several occasions, intruders have scaled the six foot tall stone wall to gain access into the community. Further, due to elevations changes along the rear property line there are several locations where passersby can easily view the back yard and pool. Lastly, the applicant has stated that the community Homeowners Association has approved of the design. Because special exceptions can only authorize fence heights as tall as eight feet, this request had to be processed as a variance.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 PUD MLOD-1 ERZD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 PUD MLOD-1 ERZD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
South	"R-6 PUD MLOD-1 ERZD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District Recharge Zone District	Single-Family Dwelling
East	"R-6 PUD MLOD-1 ERZD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
West	"C-2 MLOD-1 ERZD" Commercial Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Vacant

## Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Sector Plan and currently designated as Suburban Tier in the future land use component of the plan. The subject property is located within the boundaries of the Woodland Park 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 fence height limitations to provide for privacy and security while maintaining a sense of community. The applicant states that, due to elevation changes along the rear property line, passersby are easily able to look into their yard, detracting from their enjoyment of it and their pool. The HOA has approved of the design, and the applicant has submitted numerous examples of its use throughout this neighborhood. Staff finds that the request is not contrary to the public interest.**

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

**A literal enforcement of the ordinance would result in the property benefitting from a fence no taller than six feet, which they already have in the form of the stone neighborhood perimeter fence. That fence, as demonstrated by the applicants concerns, does not grant the property owner enough privacy.**

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 be observed because the property owners will benefit from privacy similarly enjoyed by others in the neighborhood.**

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 MLOD-1 ERZD” Residential Single-Family Planned Unit Development Camp Bullis Military Lighting Overlay Edwards Recharge Zone 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 seeks to place fencing along the portions of the property that abut the public space. No fencing is proposed between the subject property and their neighbor. As such, the fence is unlikely to injure the adjacent property.**

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

**The unique circumstance present in this case is the elevation changes along the rear property line that allows passersby to easily view the applicant’s rear yard. This is not the fault of the owner of the property, nor is this issue merely financial in nature.**

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

Without the requested variance, the fence cannot remain as built.

#### **Staff Recommendation**

Staff recommends **APPROVAL of the requested side yard variance in A-16-165** based on the following findings of fact:

1. The fence design is common within the community;
2. The fence is located only along the public spaces;
3. It grants the applicant the same privacy enjoyed by others in the community.