



# City of San Antonio

## Agenda Memorandum

**File Number:** 17-6344

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**Agenda Item Number:** 5.

**Agenda Date:** 11/20/2017

**In Control:** Board of Adjustment

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Case Number: A-17-201  
Applicant: Stephen Hennigan  
Owner: Stephen Hennigan  
Council District: 9  
Location: 22314 Roan Forest  
Legal: Lot 39, Block 9, NCB 18217  
Description:  
Zoning: "PUD R-6 MLOD-1 ERZD" Planned Unit Development  
Residential Single-Family Camp Bullis Military Lighting  
Overlay Edwards Recharge Zone District  
Case Manager: Logan Sparrow, Principal Planner

### Request

A request for a five foot variance from the six foot maximum rear yard fence height, as described in Section 35-514, to allow a fence to be eleven feet tall.

### Executive Summary

The subject property is located at 22314 Roan Forest, approximately 360 feet north of Roan Court. The applicant is seeking a variance to allow a rear yard fence to be eleven feet tall. The request must be processed as a variance as a special exception can only authorize fences up to eight feet tall. The proposed fence is a cable trellis, covered with faux vines (with intention to later grow real ones), intended to screen the view of on-site water storage tanks and solar panels from neighboring property owners. The applicant submitted documentation from the Homeowners Association showing that approval of the water tanks and solar panel array must comply with the condition that "a metal trellis with lateral cabling has been installed in order to shield the storage tanks from view of adjacent property owners. The newly installed trellis structure shall be planted with fast-growing vine or other plant material in order to accomplish the shielding purpose." The conditional approval from the Homeowners Association is an entirely private agreement, and is not enforced by the City of San Antonio.

The definition of a fence is "A tangible enclosure or barrier, constructed of any material allowable by this chapter, but not including hedges, shrubs, trees, or other natural growth, erected for the purpose of providing a boundary, separation of areas, means of protection, to prevent uncontrolled access, decorative purposes, or concealment. Retaining walls shall not be considered fences".

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“PUD R-6 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**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“PUD R-6 MLOD-1 ERZD” Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
South	“PUD R-6 MLOD-1 ERZD” Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
East	“PUD R-6 MLOD-1 ERZD” Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
West	“PUD R-6 MLOD-1 ERZD” Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling

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

The subject property is within the boundaries of the North Sector Plan and currently designated Suburban Tier in the future land use component of the plan. The subject property is not 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 applicant is seeking to nearly double the permitted fence height within residential zoning districts. The applicant ascertains that the variance is needed because HOA approval for other projects is conditionally approved based on providing the requested screening. However, nowhere is the documentation submitted to staff did the HOA require that screening be provided to a height of eleven feet. The fence, as built, towers over other, nearby fences, and is out of character within the community in which it is located. Staff finds that the request for an eleven foot tall cable-trellis fence is contrary to the public interest.

**Alternatively, staff could support a fence up to eight feet tall, located further from the property line, and nearer the solar array and water tanks, to screen the view of them from adjacent residential property.**

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

The applicant states that their special condition is that the additional screening is required by their Homeowners Association. While the HOA did grant approval on the condition that “a metal trellis with lateral cabling has been installed in order to shield the storage tanks from view of adjacent property owners...,” it does not require the eleven foot tall height requested by the applicant.

**A literal enforcement of the ordinance would require that the applicant adhere to the fence heights established by Section 35-514. The subject property is lower in elevation compared to the adjacent property to the rear. The applicant could consider an eight foot fence located closer to the actual water storage tanks to screen them from view of adjacent residential 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 is the intent of the requirements rather than the strict letter of the law. The intent of the fence height limitations is to provide protection and to preserve community character. The proposed eleven foot tall fence greatly exceeds the permitted fence height, and is notably out of place within the community. Staff finds that the requested variance does not observe the spirit of the ordinance, nor will approval result in substantial justice.

**Rather, staff finds that an alternative to approve an eight foot tall fence located nearer to the tanks would satisfy the same goal with less adverse impact on adjacent 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 “PUD R-6 MLOD-1 ERZD” Planned Unit Development Residential Single-Family 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 proposed fence is eleven feet tall, nearly double the height of adjacent residential fencing. The fence alters the essential character of the community in which it is located, which injures adjacent property owners.

**Staff finds that an eight foot fence located further from the property line can satisfy the applicant’s need to screen the water tanks, and have less of an impact on neighbors.**

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 establish any unique circumstance present on the property to warrant nearly doubling the permitted fence height. The applicant states that the unique circumstance is the conditional approval from their HOA, however, nowhere in that document does it require an eleven foot tall fence. The applicant’s request is well in excess of the permitted fence height, and staff finds that the variance request is created by the owner as no permit was applied for.

**An eight foot fence located closer to the water tanks would achieve the applicant’s goal and not harm neighbors.**

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

The applicant could construct an eight foot tall fence located closer to the solar array and storage tanks to conceal the view from adjacent residential property.

**Staff Recommendation**

Staff recommends **DENIAL with an alternative recommendation of an eight foot fence in A-17-201** based on the following findings of fact:

1. Staff can find no special condition that warrants the granting of the requested variance, and;
2. The proposed fence is nearly double the permitted fence height, and;
3. The applicant could construct an eight foot tall fence nearer the solar array and water tanks to screen them from view of residential property.