City of San Antonio

Agenda Memorandum

File Number: 18-1622

Agenda Item Number: 4.

Agenda Date: 2/5/2018

In Control: Board of Adjustment

Case Number:	A-18-025
Applicant:	Rafic C.de los Santos
Owner:	Rafic C.de los Santos
Council District:	7
Location:	6446 Lost Holly
Legal Description:	Lot 9, Block 2, NCB 17353
Zoning:	"PUD R-5 AHOD" Plan Unit Development Residential Single-Family Airport Hazard Overlay District
Case Manager:	Logan Sparrow, Principal Planner

Request

A request for a special exception, as described in Section 35-514, to allow an eight foot tall fence on the rear and side.

Executive Summary

The subject property is located at 6446 Lost Holly, and is located within a PUD "Planned Unit Development", which was annexed on January 8, 1970, by Ordinance 38136. PUD's are unique in that they allow more flexibility with clustering development, and do not require internal setbacks. The only setback required by a PUD is a perimeter setback of twenty feet, measured from the boundary of the community. The applicant is seeking a special exception to permit an eight foot tall fence on the side and rear of the property. In the application, the applicant lists "substantial topographic slope" on the property as justification for the fence. However, ten foot contour maps from the United States Geological Survey show only a ten foot grade change, lower on the east moving taller to the west, through half of the subdivision development. Fences within the community are very consistent, as certain covenants and restricts prohibit fencing taller than six feet. While the City of San Antonio is not a party to the creation of codes, covenants, and restrictions, nor will the city enforce them, it is difficult for staff to find that the requested special exception will not detract from the character of the community.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use

"PUD R-5 AHOD" Plan Unit Development Residential Single-Family Airport Hazard Overlay District	Single-Family Home

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"PUD R-5 AHOD" Plan Unit Development Residential Single-Family Airport Hazard Overlay District	Single-Family Home
South	"PUD R-5 AHOD" Plan Unit Development Residential Single-Family Airport Hazard Overlay District	Single-Family Home
East	"PUD R-5 AHOD" Plan Unit Development Residential Single-Family Airport Hazard Overlay District	Single-Family Home
West	"PUD R-5 AHOD" Plan Unit Development Residential Single-Family Airport Hazard Overlay District	Single-Family Home

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Huebner/Leon Creeks Community Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Alamo Farmsteads Babcock Road registered neighborhood association. As such, they were notified and asked to comment.

Criteria for Review

According to Section 35-482(h) of the UDC, in order for special exception to be granted, 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 spirit of the chapter is intended to provide for reasonable protections to property owners and to establish a sense of community within our neighborhoods. The applicant states that there is topography that requires the additional height, but during field visits, and after researching the topographical maps, staff was unable to confirm that claim. The request for eight foot tall fencing along the side and rear yard is not in harmony with the spirit and purpose of the chapter, especially within a Planned Unit Development, which are often utilized to increase design consistency within communities.

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

Staff cannot determine how allowing one out of 126 property owners in the community to have an eight foot fence, while the rest have a six foot fence, substantially serves the public welfare or convenience. The applicant mentioned the nonconforming fence was already built when they purchased the home. In that the fence is in need of repair, staff advises that a new fence be built that meets the code.

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

The fence is not consistent with those of surrounding properties. Allowing this one property owner to have an eight foot tall fence negatively affects the design consistency within the neighborhood, and could injure adjacent property owners.

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

The fence was the only eight foot tall fence in the community that staff identified. The fence does alter the essential character of the community in which the property is located.

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

The purpose of the "PUD R-5" Planned Unit Development Residential Single-Family zoning district is to allow for single-family uses arranged in a clustered pattern, often with the intention of creating a consistent and cohesive community. Staff finds that the request for the additional height is contrary to the purpose of the PUD district because it interferes with that intent.

Alternative to Applicant's Request

The applicant would need to adhere to the permitted fence heights as described in Section 35-514.

Staff Recommendation

Staff recommends **DENIAL of A-18-025** based on the following findings of fact**:**

1. The fence is the only fence in the community that staff could find taller than six feet; and
2. The non-conforming status of the fence should not be used as justification for permanency, and;
3. There are no conditions, physical or otherwise, that merit the need for an eight foot tall fence.