

AGENDA
BOARD OF ADJUSTMENT OF THE CITY OF UNIVERSAL CITY, TEXAS
Regular Meeting, Monday Evening, 26 February 2024
COUNCIL CHAMBER OF CITY HALL

1. CALL TO ORDER: Chair J. Sue Svalberg at 6:00 PM
2. QUORUM CHECK: Michael Cassata, Development Services Director
3. MINUTES OF PREVIOUS MEETING:
 - A. Regular Meeting – 18 December 2023
4. NEW BUSINESS:

ITEM 1

- A. **Public Hearing:** V.C. 676— A request for a variance for property zoned R3-Medium Density Residential at 481 Coronado Boulevard (CB 5047B BLK 18 LOT 31) to allow a garage conversion without installing a carport, per zoning ordinance 581.
- B. **Consider:** V.C. 676— A request for a variance for property zoned R3-Medium Density Residential at 481 Coronado Boulevard (CB 5047B BLK 18 LOT 31) to allow a garage conversion without installing a carport, per zoning ordinance 581.

ITEM 2

- C. **Public Hearing:** V.C. 677— A request for a variance for property zoned R2-Low Density Residential at 333 Kimberly (CB 5047A BLK 3 LOT 30) to allow a residential fence to exceed the maximum 6-foot height requirement by two feet to allow an 8-foot fence with the smooth side facing inward, per zoning ordinance 581.
 - D. **Consider:** V.C. 677— A request for a variance for property zoned R2-Low Density Residential at 333 Kimberly (CB 5047A BLK 3 LOT 30) to allow a residential fence to exceed the maximum 6-foot height requirement by two feet to allow an 8-foot fence with the smooth side facing inward, per zoning ordinance 581.
5. CITY MANAGER'S REPORT:
 - A. Dates and Times of Local Meetings
 - B. Status of City projects and programs
 - C. ADJOURNMENT:

Maribel Garcia
Deputy City Clerk

This facility is handicap accessible and handicap parking spaces are available. Request for accommodations or interpretive services must be made 72 hours prior to this meeting. Please contact the City Clerk's Office at (210) 659-0333 if these services are needed.

MINUTES
BOARD OF ADJUSTMENT OF THE CITY OF UNIVERSAL CITY, TEXAS
Regular Meeting, Monday Evening, 18 December 2023

1. CALL TO ORDER: Vice-Chair Charles Consla at 6:00 p.m.

2. QUORUM CHECK: Michael Cassata, Development Services Director

Commission Members Present:

Charles Consla, Vice-Chair
Tom England, Member
Lori Putt, Member
J. Sue Svalberg, Member
Ron Jackson, Alternate Member
Grace Wilkerson, Alternate Member

Staff Present:

Kim Turner, City Manager
Michael Cassata, Development Services Director
Maribel Garcia, Deputy City Clerk

Absent:

Donna Ash, Member
Scott Dagg, Member
Elizabeth Dixon, Member

Mr. Cassata noted a quorum was present.

3. MINUTES OF THE PREVIOUS MEETING: Regular Meeting – 27 February 2023.

Mr. England moved to accept the minutes as presented. Mr. Jackson seconded the motion.

The motion was approved on a 6-0 vote.

4. NEW BUSINESS:

A. Election of Officers

Mr. England moved to nominate Ms. Svalberg as Chair. Mr. Jackson seconded the motion.

The Board voted to elect Ms. J. Sue Svalberg as Chair of the Board of Adjustment.

The motion was approved on a 6-0 unanimous vote.

Ms. Putt moved to nominate Mr. England as Vice-Chair. Mr. Consla seconded the motion.

The Board voted to elect Mr. Tom England as Vice-Chair of the Board of Adjustment.

The motion was approved on a 6-0 unanimous vote.

B. Public Hearing: V.C. 674– A request for a variance for property zoned C1-Neighborhood Services at 1401 Pat Booker Road (CB 5053H BLK 1 LOT 6 UNIVERSAL CITY BAPTIST CHURCH SUBDIVISION) to allow an eight-foot (8') fence surrounding a community garden, per Zoning Ordinance 581.

Ms. Putt moved to open the Public Hearing. Mr. England seconded the motion.

The motion was approved unanimously; Chair Svalberg opened the Public Hearing at 6:01 P.M.

Mr. Cassata clarified the location of the property and explained that the applicant applied for a variance regarding a community garden fence. The request was to build an 8-foot fence rather than the permitted 6-foot fence. The additional 2 feet would help keep deer and other animals out of the garden. Fence aesthetics were reviewed. Mr. Cassata noted that the property was in the JBSA Randolph AICUZ I zone. The required legal notices were sent out with only two responses of no contest.

Mr. England received clarification from Ms. Turner regarding the definition of an AICUZ zone and was notified that the project had received prior approval from Randolph Air Force Base.

Ms. Putt expressed support given that a community garden had always been a topic of positive discussion.

Chair Svalberg shared her support and thanked the applicant and Development Services for providing the Texas Parks and Wildlife recommendation for the project.

There being no further public comment, Ms. Putt moved to close the Public Hearing. Mr. Consla seconded the motion.

The motion was approved unanimously; Chair Svalberg closed the Public Hearing at 6:10 P.M.

- C. **Consider:** V.C. 674– A request for a variance for property zoned C1-Neighborhood Services at 1401 Pat Booker Road (CB 5053H BLK 1 LOT 6 UNIVERSAL CITY BAPTIST CHURCH SUBDIVISION) to allow an eight-foot (8') fence surrounding a community garden, per Zoning Ordinance 581.

Mr. Jackson concurred with the findings of fact as outlined in the variance application. Specifically,

- That there are extraordinary conditions affecting the land, including existing land constraints
- That the variance is necessary and essential to the preservation of substantial property rights
- That granting the variance will not be detrimental to the public health or safety
- That extraordinary conditions do not generally apply to other properties within the vicinity
- The unique conditions of the property were not created by the property owner
- The variance requested is in conformance with the City's Future Land Use Plan
- Approval of the variance requested allows the greatest utilization of the property

Mr. Jackson, therefore, moved to approve V.C. 674 and to grant a variance from Section 4-5-71 of the Zoning Code for the property at 1401 Pat Booker Road, 1st Baptist Church, to allow an eight-foot fence around the perimeter of the community garden.

Ms. Putt seconded the motion.

Vote: Yeas: Jackson, Putt, Svalberg, England, Consla, Wilkerson
Nays: None

The motion was approved on an 6-0 vote.

- D. **Public Hearing:** V.C. 675 – A request for a variance for property zoned R-OT-Old Town Residential at 401 E. Lindbergh Boulevard (CB 5768A BLK 59 LOT 26) to allow: (i) a second shed; and (ii) a shed to encroach the 5-foot side yard accessory setback, per Zoning Ordinance 581.

Ms. Putt moved to open the Public Hearing. Mr. England seconded the motion.

The motion was approved unanimously; Chair Svalberg opened the Public Hearing at 6:16 P.M.

Mr. Cassata stated the property was zoned Old-Town Residential and was located on a corner lot on Trudy and Lindbergh. The property backs up to an alley, reducing the impact to immediate neighbors. He explained that the variance request is to approve two sheds, though Ordinance only allows for one.

The Board gained clarification regarding the setback and specifications of the shed in question. These specifications included that the shed had not been inspected, was not on a slab of concrete, had no utilities going to it, was made of wood, and was installed after purchase of the property, which already had one existing shed.

Mr. England gained clarification that the property did not have a garage and that if the variance was approved, the shed would undergo the inspection process.

Ms. Putt gained clarification on the City's position; Mr. Cassata explained that, due to the shed's proximity to the alley and not to neighbors, the City was not worried about the shed causing a visual impact to the immediate neighbors. After the proper legal notices were mailed to residents in a 200-foot radius, only two responses were received, both not objecting to the request.

Mr. Cassata explained various Zoning Code changes that have happened in the last 10 years.

After discussion regarding other similar variance cases, Ms. Turner reminded the BOA that variance cases do not get decided based on precedent and that each case must be considered individually on its merits.

Ms. Wilkerson asked whether the health of the adjacent tree would be affected by the new shed. She explained that both they and the neighbors would have vested interest in the tree's health.

Given there was no further public comment, Mr. Jackson moved to close the Public Hearing. Mr. Consla seconded the motion.

The motion was approved unanimously; Chair Svalberg closed the Public Hearing at 6:32 P.M.

- E. **Consider:** V.C. 675 – A request for a variance for property zoned R-OT-Old Town Residential at 401 E. Lindbergh Boulevard (CB 5768A BLK 59 LOT 26) to allow: (i) a second shed; and (ii) a shed to encroach the 5-foot side yard accessory setback, per Zoning Ordinance 581.

Ms. Putt concurred with the findings of fact as outlined in the variance application. Specifically,

- That there are extraordinary conditions affecting the land, including existing land constraints
- That the variances are necessary and essential to the preservation of substantial property rights
- That granting the variances will not be detrimental to the public health or safety
- That extraordinary conditions do not generally apply to other properties within the vicinity
- The unique conditions of the property were not created by the property owner
- The variances requested are in conformance with the City's Future Land Use Plan
- Approval of the variances requested allows the greatest utilization of the property

Ms. Putt, therefore, moved to approve V.C. 675 and to grant variances from Section 4-5-63 of the Zoning Code for the property at 401 E. Lindbergh Boulevard to allow (i) a second shed; and (ii) a shed to encroach the 5-foot side yard accessory setback.

Mr. Jackson seconded the motion.

With the item open to discussion, Mr. Jackson clarified that the issue presented was specific to the second shed and challenged the BOA to evaluate whether the second shed would have been approved before being built had the owners taken proper avenues and applied for the variance before.

The BOA was reminded after discussion that BOA cases do not use precedents in determining variance outcomes; each case must stand on its own.

After being asked to clarify the need for a second shed, Ms. Parker explained that the first shed held her recently deceased son's belongings. Having recently moved, her soon-to-be husband had built the second shed for his own belongings.

Ms. Wilkerson suggested combining the shed contents into one larger shed.

After discussion, Mr. England moved to table the item to give the applicants more time to consider their options. However, the applicants felt they had adequate reasoning for granting the variance.

Mr. Jackson clarified that the BOA would only be deciding the fate of the second shed, not the first since the first was grandfathered.

The BOA discussed Zoning Code requirements and ascertained that the property does not have a garage.

Mr. Cassata suggested that tabling the item may be futile as the same explanation may be given again. The applicant had already established the need for the shed; they had too many belongings to fit in the existing shed and the desire to avoid commercial storage.

Chair Svalberg was informed that Code Compliance found out about the shed through routine inspections. She expressed concern regarding fire safety given that the shed was wooden and near a wooden fence; that is, it did not meet the five-foot setback requirement.

Confirming no additional discussion was warranted, a vote was taken.

Vote: **Yeas: Putt, Consla**
 Nays: England, Svalberg, Jackson, Wilkerson

The motion failed on a 2-4 vote.

5. CITY MANAGER'S REPORT:

Ms. Turner noted the Waste Management holiday schedule. She reported that Mr. Cassata would give a Development Services update at the December 19, 2023 City Council meeting. She lauded the Fire Department for their successful Pancake Breakfast; they hosted 409 adults and 175 children under the age of 5 years old. Their proceeds totaled \$6,500.

ADJOURNMENT: Chair Svalberg adjourned the meeting at 6:58 p.m.

J. Sue Svalberg
Chair

CITY OF UNIVERSAL CITY

Date 15 February 2024

File VC 676

TO: Members of the Board of Adjustment

FROM: Michael Cassata, Development Services & EDC Director

SUBJECT: VC 676—Request to allow a garage conversion with installing a carport at 481 Coronado

Specific Request

A request for a variance from Section 4-5 Appendix A of the Zoning Code for property zoned R3–Medium Density Residential at 481 Coronado Boulevard to allow a garage conversion without installing a carport.

Zoning

The property is owned by Brian Fitzgerald and is zoned R3–Medium Density Residential. The Future Land Use Plan designates this property as LDR–Low Density Residential.

Surrounding Uses

Properties in the immediate area are both single-family attached and detached residences, zoned R3–Medium Density Residential.

Project Specifics

The existing home is approximately 1,767 square feet plus a 525 square foot attached garage. The property owner would like to convert a large portion of the garage into living/workspace without installing a carport. However, per Section 1.2.2 of Appendix A, a single-family residence shall be permitted to convert their garage space or spaces into living space as long as a permitted residential carport is installed on the driveway. Therefore, the property owner is requesting a variance.

It should be noted that two vehicles can be parked on the driveway with or without the conversion. Also, there are only two carports in the neighborhood comprised of approximately 400 homes.

Please find attached a letter from the property owner describing the situation.

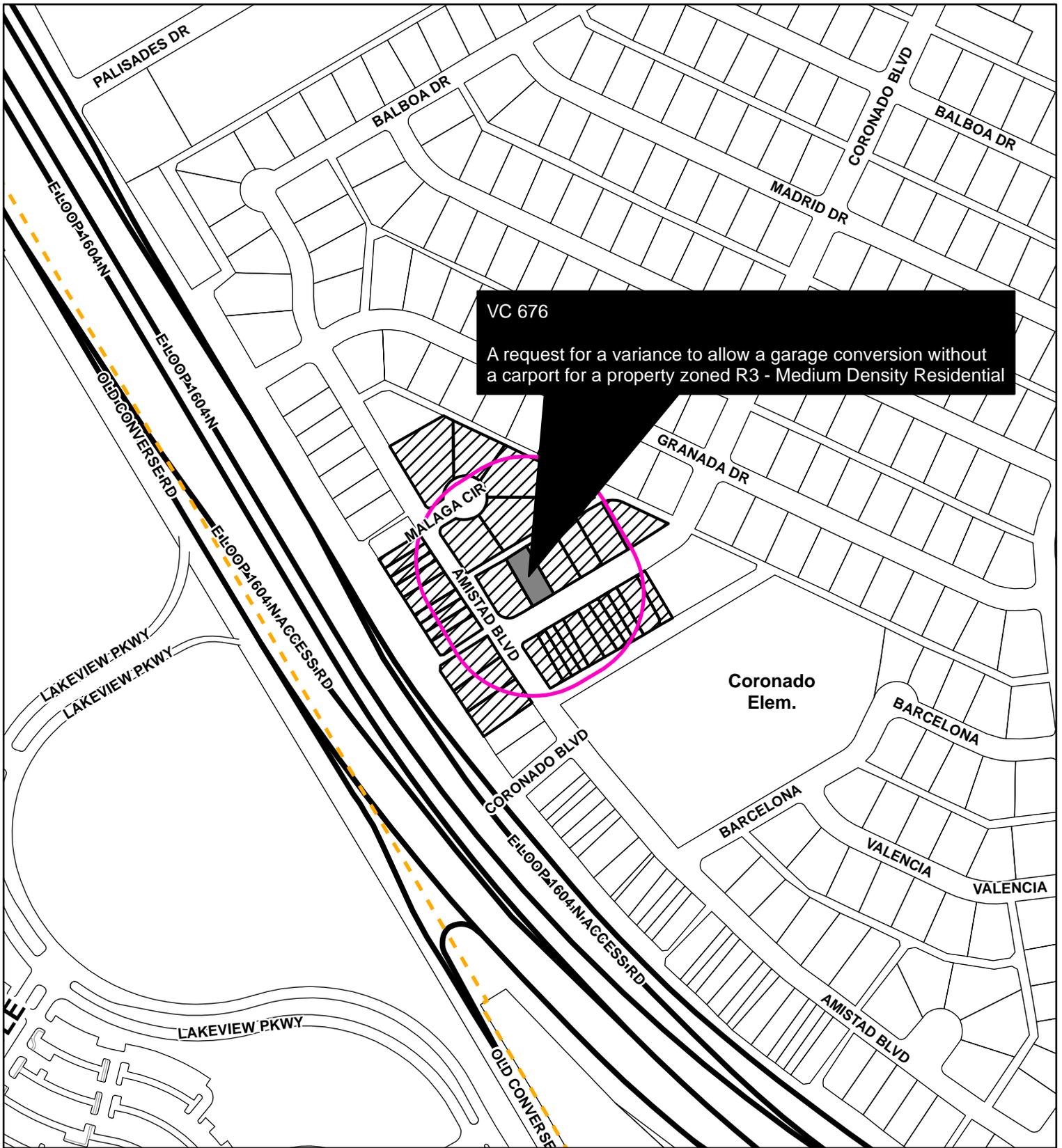
The subject property is not located within a JBSA Randolph Air Installations Compatible Use Zone (AICUZ I or II).

Findings of Fact

For your consideration, please find attached a set of responses to the Criteria for Granting a Variance.

Legal Notices

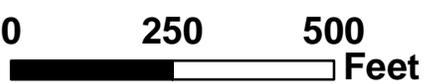
Per State law, 30 notices were mailed to property owners within 200 feet of the subject property. As of this memo, the City has not received any phone calls or return notices regarding this request.



VC 676
 A request for a variance to allow a garage conversion without a carport for a property zoned R3 - Medium Density Residential

VC 676
481 CORONADO BLVD

Date Prepared: Tuesday, Jan. 23, 2024

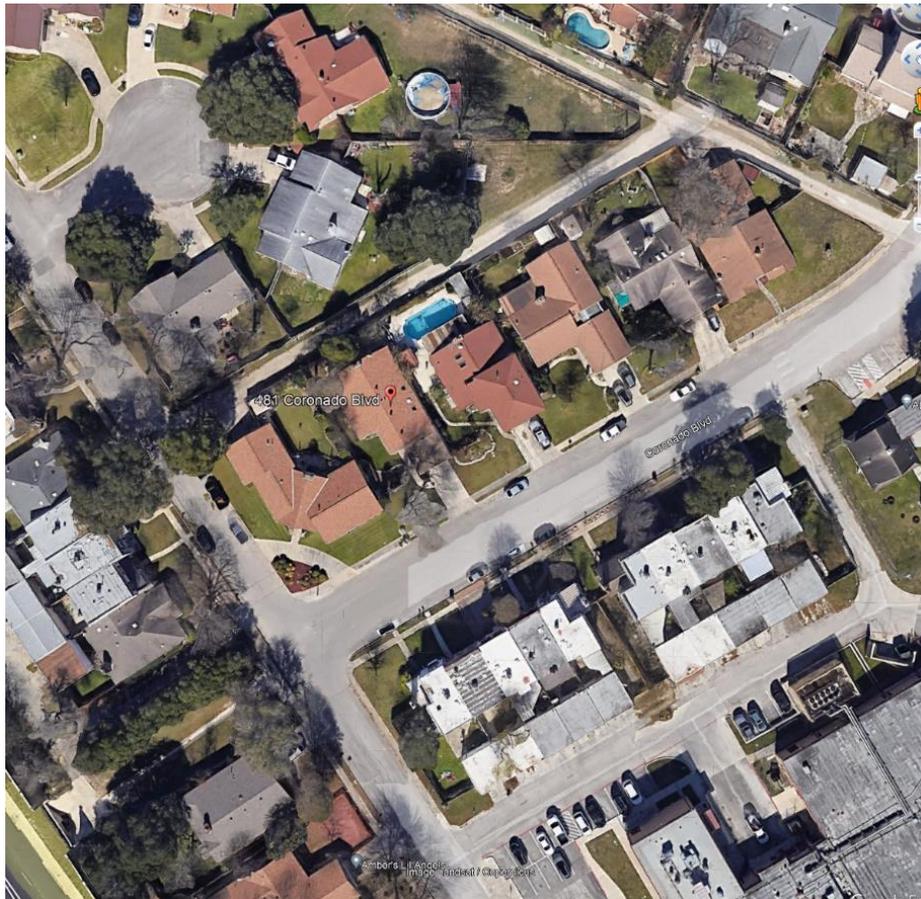


Legend
 200 Ft Buffer
 Affected Parcels



The City of Universal City
 Texas
 2150 Universal City Blvd
 Universal City, TX 78148

481 CORONADO BOULEVARD



To Whom It May Concern,

I am writing to respectfully request an exception to the city ordinance that mandates the construction of a carport or a two-car enclosed garage when making certain home renovations. I am planning to extend a bedroom wall into a part of my garage to create additional office space, necessary for my work-from-home setup. My request for an exemption is based on the following grounds:

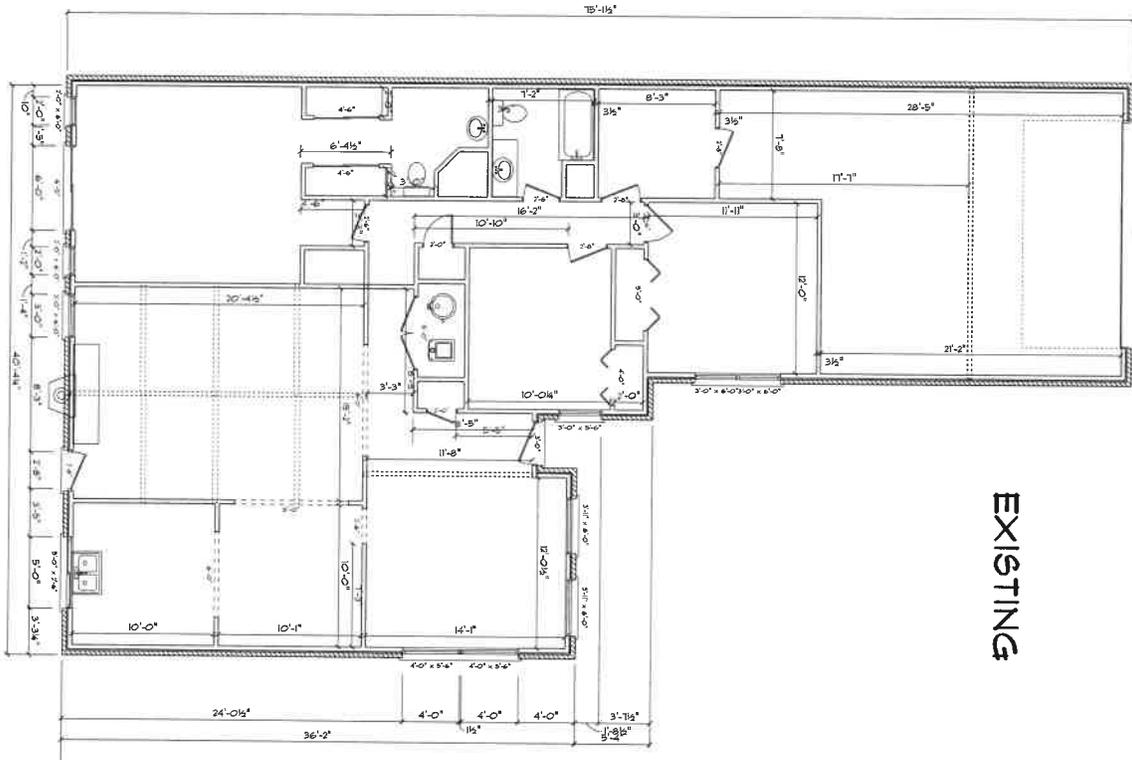
- **Essential Home Office Space:** The expansion into the garage is crucial to accommodate my office furniture and computer hardware. This modification is vital for my productivity and comfort, given the increasing need for a dedicated home office in today's remote working environment.
- **Aesthetic Considerations and Neighborhood Harmony:** Installing a carport would significantly alter the visual appeal of my property and the neighborhood. Carports are uncommon in our area and would disrupt the continuity of open front lawns, which contributes to the overall beauty and uniformity of the street. In contrast, the proposed extension is an internal change and will be unobtrusive, maintaining the external aesthetics of the neighborhood.
- **Financial Constraints and Ongoing Drainage Issues:** My current renovation budget is constrained due to significant expenses incurred in addressing a major flooding issue on my property, partly caused by a neighbor's construction. Despite installing a French drain and planning for further remedial work (new gutter system, additional drainage solutions, and patio reconstruction, periodic repairs to areas impacted by water damage), this issue demands continuous financial investment. Granting an exception for the carport would allow me to allocate more resources towards these critical and ongoing drainage problems, which pose a long-term financial and structural risk to my property.
- **Neighborly Consensus:** I have discussed this matter with three of my immediate neighbors, all of whom have expressed a preference against the addition of an unconventional carport. They have no objections to the proposed extension of the bedroom into the garage area.

Given these considerations, I kindly request your understanding and favorable consideration of my situation. An exception to the carport requirement would not only help maintain the aesthetic integrity of our neighborhood but also alleviate significant financial pressures due to unavoidable property maintenance issues.

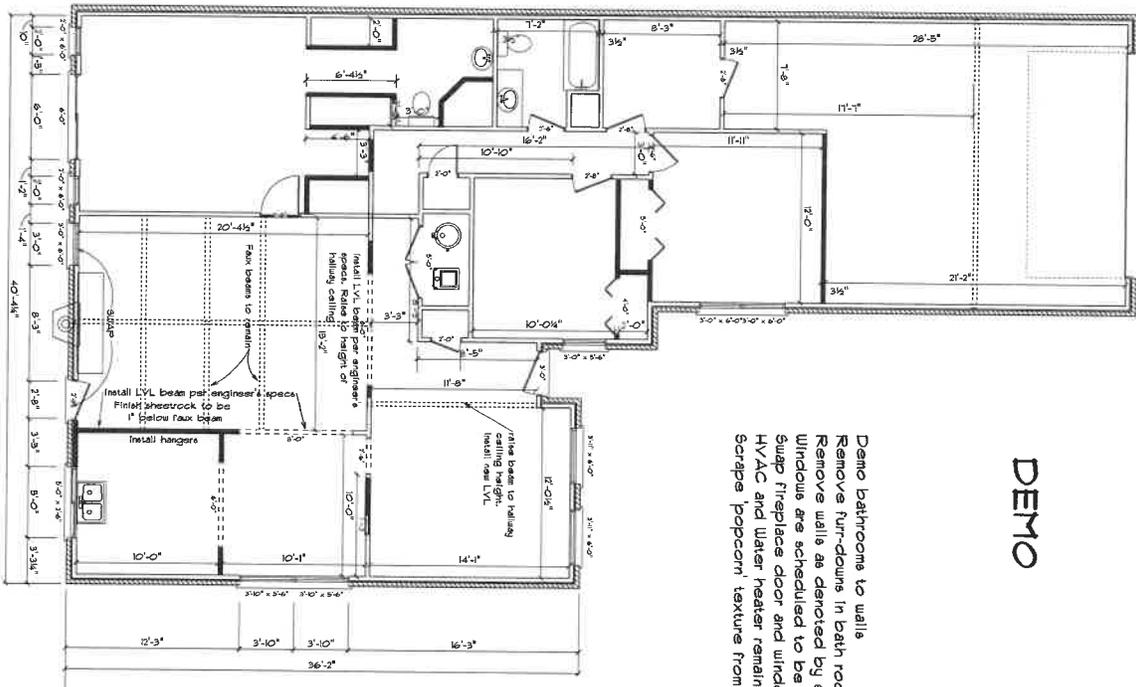
Thank you for your time and attention to this matter. I am happy to provide any further information or clarification as needed.

Sincerely,

Brian FitzGerald



MAIN FLOOR-EXISTING
SCALE: 1/4" = 1'-0"



MAIN FLOOR-DEMO
SCALE: 1/4" = 1'-0"

Demo bathrooms to walls
 Remove furr-downs in bath rooms
 Remove walls as denoted by solid segments
 Windows are scheduled to be changed
 Swap fireplace door and window
 HVAC and Water heater remain
 Scraps 'popcorn' texture from ceilings

DEMO

VC 676 – 481 CORONADO BOULEVARD

Criteria for Granting a Variance, Findings Required

The Board of Adjustment shall prescribe only conditions that it deems not prejudicial to the public interest and shall enumerate its decision with findings of fact. In making the required findings, the Board of Adjustment shall take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance may be created, and the probable effect of such variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity. No variance shall be granted unless the Board of Adjustment finds all of the following:

A. Extraordinary Conditions

That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of a reasonable use of the land. For example, a variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.

Response: The subject property is an interior lot that is not well-suited for an addition due to the limited remaining pervious cover. Therefore, strict application of the Code would deprive the applicant of a reasonable use of the land, which is needed to provide for a home office space.

B. Preservation of a Substantial Property Right

That the variance is necessary for the preservation of a substantial property right of the applicant.

Response: A substantial property right is the ability to use land in a reasonable and satisfactory way, including providing for a home office space. Therefore, since only two homes out of approximately 400 in the neighborhood have carports, remodeling to accommodate a home office space in the existing garage, but not installing a carport would be in keeping with the look of the neighborhood while preserving a substantial property right.

C. Substantial Detriment

That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code.

Response: Granting of the requested variance will still provide two parking spaces on the driveway and, therefore, will not negatively impact adjacent neighbors, will not be detrimental to the public health, safety, or welfare, and will not be injurious to other property in the area.

VC 676 – 481 CORONADO BOULEVARD

D. Other Property

That the conditions that create the need for the variance do not generally apply to other property in the vicinity.

Response: It is not known how many other properties in the area have home office spaces. However, granting of the requested variance will still provide two parking spaces on the driveway and since only two homes out of approximately 400 in the neighborhood have carports, remodeling to accommodate a home office space in the existing garage, but not installing a carport would be in keeping with the look of the neighborhood.

E. Applicant's Actions

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.

Response: The subject property is an interior lot that is not well-suited for an addition due to the limited remaining pervious cover. Therefore, the plight of the owner is due to unique circumstances existing on the property and were not created by the owner of the property.

F. Future Land Use Plan

That the granting of the variance would not substantially conflict with the Future Land Use Plan and the purposes of this Ordinance.

Response: Since carports are not predominant in this neighborhood, the granting of the variance would not substantially conflict with the Future Land Use Plan designation of this property as MDR-Medium Density Residential.

G. Utilization

That because of the conditions that create the need for the variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Response: The application of this Code to that particular piece of property would effectively prohibit or unreasonably restrict utilization of the property in the sense that it would increase the remodeling costs, as well as take the look of the property out of conformance with the neighborhood; that is, none of the immediate neighbors has a carport.

VC 676 – 481 CORONADO BOULEVARD

Insufficient Findings

The following types of possible findings alone do not constitute sufficient grounds for granting a variance:

- A. That the property cannot be used for its highest and best use.
- B. That there is only a financial or economic hardship.
- C. That there is a self-created hardship by the property owner or its agent.
- D. That the development objectives of the property owner are or will be frustrated.
- E. The fact that property may be utilized more profitably should a variance be granted.

ORDINANCE 559-J-2021

AN ORDINANCE AMENDING A CERTAIN SECTION OF ORDINANCE 559, CHAPTER 4-5 – ZONING RELATED TO OFF-STREET PARKING, LOADING AND DRIVEWAY REQUIREMENTS REGARDING GARAGE CONVERSIONS AND CARPORTS, PROVIDING SEVERABILITY, AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Universal City is a home rule City acting under its home rule Charter and the law of the State of Texas; and

WHEREAS, Tex. Loc. Gov't Code Chapter 211 authorizes the City of Universal City to adopt rules and regulations regarding land use within the City limits of the City of Universal City for the purpose of promoting the public health, safety, or general welfare of the City and protecting and preserving places and areas of historical, cultural, or architectural importance and significance; and

WHEREAS, on June 7, 2021, the Planning and Zoning Commission of the City of Universal City conducted a public hearing on the matter at which parties in interest and citizens had an opportunity to be heard; and

WHEREAS, on June 7, 2021, the Planning and Zoning Commission of the City of Universal City made a recommendation to adopt an ordinance to the City Council; and

WHEREAS, on June 15, 2021, the City Council of the City of Universal City conducted a public hearing on the matter at which parties of interest and citizens had an opportunity to be heard before the adoption of the rules established herein; and

WHEREAS, the City Council finds it necessary to establish the provisions of this ordinance regarding the regulation of garage conversions and carports; and

WHEREAS, the City Council finds that it would be advantageous and beneficial to the citizens of the City of Universal City, Texas, to adopt this ordinance establishing regulation of garage conversions and carports within the City of Universal City; and

WHEREAS, the City Council of the City of Universal City, Texas, has determined that it is in the best interest of the public and in support of the health, safety, and general welfare of the citizens of the City that the Zoning Code regulations relative to garage conversions and carports be established as hereinafter stated; and

WHEREAS, the City has complied with all conditions precedent necessary to take this action, has properly noticed and conducted all public hearings and public meetings pursuant to the Texas Local Government Code and Texas Government Code, as applicable.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS:

Section 1. Amendments. That Chapter 4-5 – Zoning, Appendix A.-Off-Street Parking, Loading and Driveway Requirements, Table A.1: Off-Street Parking Requirements, Note: of the Universal City Code of Ordinances be amended to read:

Note:

¹ 1-car enclosed parking space shall be a minimum of two hundred (220) sq. ft. and two-car enclosed parking spaces shall be a minimum of four hundred (440) sq. ft.

Section 2. Amendments. That Chapter 4-5 – Zoning, Appendix A.-Off-Street Parking, Loading and Driveway Requirements, 1.-Off-Street Parking and Loading of the Universal City Code of Ordinances be amended to include the following:

1.2.2 Off-Street Parking Requirements Exceptions. Single-family residences shall be permitted to convert their garage space or spaces into living space as long as: (i) a valid building permit is issued by the City for the garage conversion; (ii) a permitted residential carport, in accordance with Appendix A.3-Carports of the City Code, is installed on the driveway and is either adjacent to or attached to the existing house structure after issuance of a building permit for said carport; and (iii) the installed carport does not encroach the right-of-way (i.e., sidewalk or City parkway) – note the Development Services Director or designee has the right to review and deny the installation of a carport that would create a visibility issue yet still allow the garage conversion.

Property owners of single-family homes that have an existing converted garage as of the date of this ordinance are exempted from the requirement of obtaining a retro building

permit and installing a carport; however, the same property owners are not precluded from installing a permitted residential carport.

Unless otherwise permitted by this section, conformance to the Accessory Structure Standards, per Sections 4-5-62 and 4-5-63 (i.e., height, setback and maximum lot cover requirements) apply to this Section.

Parking of a current registered motor vehicle, recreational vehicle, boat (watercraft) and/or utility trailer, per the City's Code of Ordinances, underneath a permitted carport is allowed; however, areas underneath a carport shall not be used as outside storage of personal household items, which shall mean any item other than a two, three or four-wheeled motor vehicle or self-propelled item, such as a bicycle or tricycle, or an approved garbage receptacle.

Section 3. Amendments. That Chapter 4-5 – Zoning, Appendix A.-Off-Street Parking, Loading and Driveway Requirements of the Universal City Code of Ordinances be amended to include the following:

3. – Carports

3.1 Carport Building Requirements. A permitted residential carport shall: (i) require a building permit; (ii) comply with the regulations established via the most current International Code, as adopted by the City; (iii) be located not more than two feet (2') from the furthest edge of the house if not attached to the house; and (iv) not exceed twelve feet (12') in height, as defined in the Zoning Code.

3.2 Carport Design Requirements. A permitted residential carport shall: (i) complement the color and character of the house; and (ii) provide design articulation consistent with the examples shown in Figure A – Carport Design Styles. Carports shall not be plain, bare, unadorned, conventional or simple in style. Instead, carports meeting the design articulation standards can be either classical/traditional or modern, but shall have distinguishing materials and architectural elements producing a stylistic design, form and structure, including, but not limited to, unique slopes and/or curves.

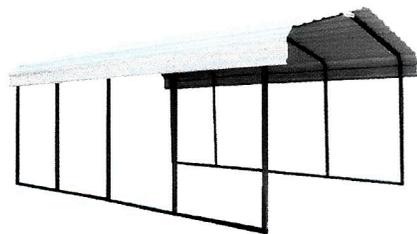
FIGURE A – CARPORT DESIGN STYLES





3.3 Carport Designs Not Permitted. Carports lacking design articulation shall not be allowed. Examples of carports lacking design articulation are shown in Figure B – Carport Designs Not Permitted.

FIGURE B – CARPORT DESIGNS NOT PERMITTED



3.4 Carport Appeal Procedure. Enforcement of this section may be appealed to the Board of Adjustment.

Section 4. Conflict with City Ordinances. All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 5. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council of Universal City.

Section 6. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 7. Unamended. That the remainder of Chapter 4-5 – Zoning of the Universal City Code of Ordinances not amended hereby remain in full force and effect.

Section 8. Severability. If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

Section 9. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 10. Effective Date: This ordinance shall become effective on 6 July 2021.

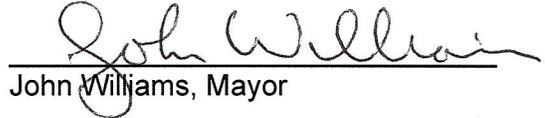
PASSED on first reading 15 June 2021.

PASSED AND ADOPTED 6th day of July 2021.

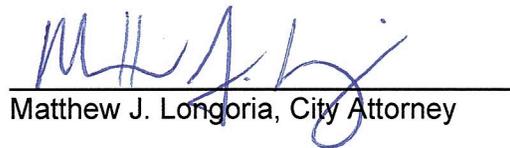


Attest:


Kristin Mueller, City Clerk


John Williams, Mayor

Approved for legal sufficiency:


Matthew J. Longoria, City Attorney

Motion to Approve:

VC 676

I concur with the findings of fact as outlined in the variance application. Specifically,

- That there are extraordinary conditions affecting the land, including existing land constraints
- That the variance is necessary and essential to the preservation of substantial property rights
- That granting the variance will not be detrimental to the public health or safety
- That extraordinary conditions do not generally apply to other properties within the vicinity
- The unique conditions of the property were not created by the property owner
- The variance requested is in conformance with the City's Future Land Use Plan
- Approval of the variance requested allows the greatest utilization of the property

Therefore, I move to approve VC 676 and to grant a variance from Section 4-5 Appendix A of the Zoning Code for the property at 481 Coronado Boulevard to allow a garage conversion without installing a carport.

CITY OF UNIVERSAL CITY

Date 15 February 2024

File VC 677

TO: Members of the Board of Adjustment

FROM: Michael Cassata, Development Services & EDC Director

SUBJECT: VC 677—Request to allow an 8-foot high residential fence with the smooth side facing inward at 333 Kimberly Drive

Specific Request

A request for a variance from Section 4-5-71 of the Zoning Code for property zoned R2–Low Density Residential at 333 Kimberly Drive to allow a residential fence to exceed the maximum 6-foot height requirement by two feet resulting in an 8-foot fence with the smooth side facing inward.

Zoning

The property is owned by Tony and Dawn Judson and is zoned R2–Low Density Residential. The Future Land Use Plan designates this property as LDR–Low Density Residential.

Surrounding Uses

Properties in the immediate area are single-family detached residences, zoned R2–Low Density Residential.

Project Specifics

This request is to allow an 8-foot residential fence backing up to an alley on one side of the property with the smooth side facing inward. The Zoning Code allows for a six-foot fence maximum. Also, since the fence is visible from the street (Kimberly Drive), the smooth side needs to face the alley, per the Zoning Code. The property owner installed an eight-foot fence with the smooth side facing the wrong direction. Therefore, a variance is being requested.

Please find attached a letter from the property owner describing the situation.

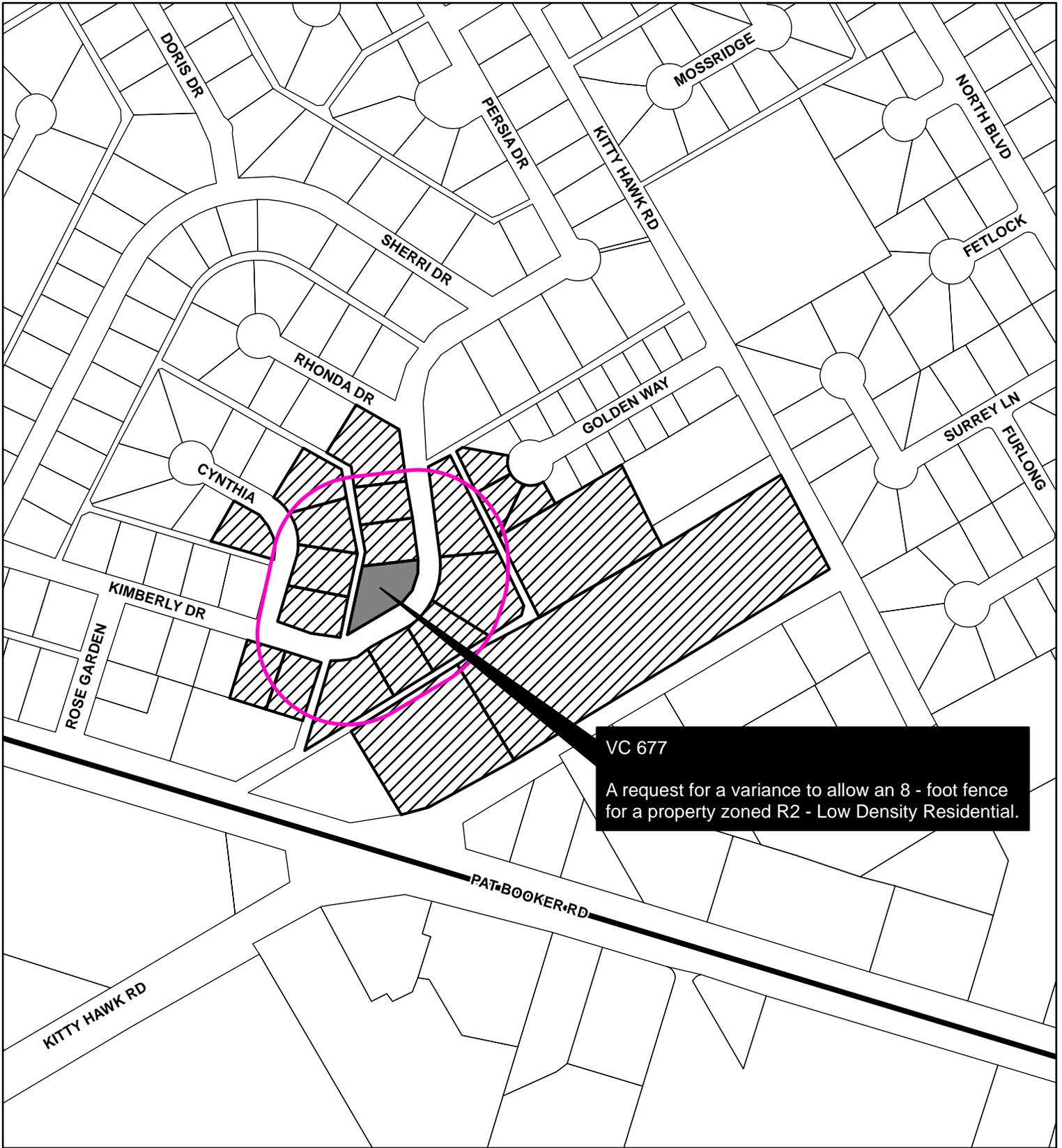
The subject property is located within a JBSA Randolph Air Installations Compatible Use Zone I (AICUZ I).

Findings of Fact

For your consideration, please find attached a set of responses to the Criteria for Granting a Variance.

Legal Notices

Per State law, 22 notices were mailed to property owners within 200 feet of the subject property. As of this memo, the City has not received any phone calls or return notices regarding this request.



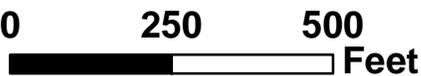
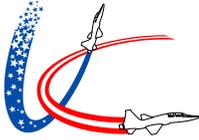
VC 677
 A request for a variance to allow an 8 - foot fence for a property zoned R2 - Low Density Residential.

VC 677
333 KIMBERLY DR

Date Prepared: Monday, Feb. 5, 2024

Legend

-  200 Ft Buffer
-  Affected Parcels

UNIVERSAL CITY
Gateway to Randolph AFB EST. 1967

**The City of Universal City
 Texas**
 2150 Universal City Blvd
 Universal City, TX 78148

333 KIMBERLY DRIVE



333 KIMBERLY DRIVE



333 KIMBERLY DRIVE



Criteria for Granting a Variance, Findings Required

The Board of Adjustment shall prescribe only conditions that it deems not prejudicial to the public interest and shall enumerate its decision with findings of fact. In making the required findings, the Board of Adjustment shall take into account the nature of the proposed use of the land involved, the existing use of land in the vicinity, the number of persons who will reside or work in the proposed development, the possibility that a nuisance may be created, and the probable effect of such variance upon traffic conditions and upon public health, convenience, and welfare of the vicinity. No variance shall be granted unless the Board of Adjustment finds all of the following:

A. Extraordinary Conditions

That there are extraordinary or special conditions affecting the land involved such that strict application of the provisions of this Code will deprive the applicant of a reasonable use of the land. For example, a variance might be justified because of topographic, or other special conditions unique to the property and development involved, while it would not be justified due to inconvenience or financial disadvantage.

Response: The subject property previously had an 8-foot fence that was knocked down during a storm. Therefore, due to this special condition, strict application of the Code would deprive the applicant of maintaining the same reasonable use of the land.

B. Preservation of a Substantial Property Right

That the variance is necessary for the preservation of a substantial property right of the applicant.

Response: A substantial property right is the ability to use land in a reasonable and satisfactory way. Therefore, since the subject property previously had an 8-foot fence that was knocked down during a storm, maintaining this same use is reasonable and would preserve a substantial property right.

C. Substantial Detriment

That the granting of the variance will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area, or to the City in administering this Code.

Response: Granting of the requested variance for an 8-foot fence with the smooth side facing inward will not be detrimental to the public health, safety, or welfare and will not be injurious to other property in the area.

D. Other Property

That the conditions that create the need for the variance do not generally apply to other property in the vicinity.

VC 677 – 333 KIMBERLY DRIVE

Response: The conditions that create the need for the variance do not generally apply to other properties in the vicinity because those properties currently have 6-foot fences and likely never had a 8-foot fences that were severely damaged during a storm causing the need for replacement.

E. Applicant's Actions

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.

Response: The applicant purchased the property with an 8-foot fence intact, but it was knocked down during a storm. Therefore, the unique circumstances were not created by the property owner.

F. Future Land Use Plan

That the granting of the variance would not substantially conflict with the Future Land Use Plan and the purposes of this Ordinance.

Response: Since fences are permitted in residential districts, the granting of the variance would not substantially conflict with the Future Land Use Plan designation of this property as LDR-Low Density Residential.

G. Utilization

That because of the conditions that create the need for the variance, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Response: The subject property previously had an 8-foot fence that was knocked down during a storm. Therefore, the application of this Code to that particular piece of property would effectively prohibit or unreasonably restrict utilization of the property in the same manner as previously enjoyed.

Insufficient Findings

The following types of possible findings alone do not constitute sufficient grounds for granting a variance:

- A. That the property cannot be used for its highest and best use.
- B. That there is only a financial or economic hardship.
- C. That there is a self-created hardship by the property owner or its agent.
- D. That the development objectives of the property owner are or will be frustrated.
- E. The fact that property may be utilized more profitably should a variance be granted.

Synopsis of necessity for variance at 333 Kimberly Dr.

In January of 2023 I purchased the property at 333 Kimberly Drive and fell in love with the home and neighborhood.

I soon began to meet and talk with neighbors whom were excited to see new owners that wanted to make a difference on their street by taking some pride in the home and in the community.

In meeting and speaking with new neighbors, I soon began to hear some terrible stories about how the garage was a trash dump open for all to see; broken windows everywhere, old plumbing fixtures and toilets in the front yard and apparently a rat and mice infestation that was spilling over to other homes. I had also discovered that some of the to home had essentially been covered up with a quick coat of paint and not much else. (painted over roach and rodent droppings)

I wanted to get the home back to a beautiful home to be enjoyed for many years to come.

In meeting our new neighbors and forming new friendships I was introduced many new people including one whom participates on the code compliance board. I had already planned on repairing the fence in the future due to its degraded nature and to be honest a terrible eyesore. I was informed by the board member that as long as I was not replacing the entire fence I would not need a permit as I was only repairing a portion of the total fence.

Fast forward to spring/ summer of 2023, mid July I think and a decent thunderstorm with some high winds knocked down the existing fence. The winds were strong enough to blow down almost the entire fence outwards into the alley itself. Knowing that I shouldn't encumber the alley itself in case of some sort of emergency I cleared the debris and began repairing a large portion of the 8' tall fence that already existed

when I purchased the property. Expediency of the repair was needed as we also have a dog and did not want her getting out of the yard.

I repaired the fence and did so with excellent materials and performed the repairs to better than what was ever on site. Better, stronger, and longer lasting materials meant to keep our property and the neighborhood looking good. Pictures in UC City files show condition of fence before and I am attaching pics of how it is now with the exception of trimming posts and top of fence itself. I installed steel posts to prevent rot, Cedar pickets to last longer, etc.

July 28, 2023 I was involved in a very bad accident and suffered 12 fractures in my spine and was relegated to bed for 20+ hours per day for many months. I was notified of a permit violation a week later and did follow through and started the permit process.

As of January 16, 2024 I have been fully released and can now attend to details on this permit variance accordingly.

I believe a variance should be granted as the fence was only repaired according to the board member I spoke to as well as the fact that the alley is no longer utilized by the city with the exception over overhead easement.

I may be open to other ideas but feel that there are plenty of other fences withing several blocks of my home that exhibit similar "violations" and are being allowed to remain. Examples are 6' tall fences at or in front of wall of homes (above the 3' limit); slick side facing in fences; and have witnessed double sided fences as well.

Thank you for consideration

Tony Judson

ORDINANCE 581-Y-2023

AN ORDINANCE AMENDING A CERTAIN SECTION OF ORDINANCE 581, CHAPTER 4- 5 ZONING RELATED TO FENCES, PROVIDING SEVERABILITY, AND SETTING AN EFFECTIVE DATE.

WHEREAS, the City of Universal City is a home rule City acting under its home rule Charter and the law of the State of Texas; and,

WHEREAS, Tex. Loc. Gov't Code Chapter 211 authorizes the City of Universal City to adopt rules and regulations regarding land use within the City limits of the City of Universal City for the purpose of promoting the safe, orderly, and healthful development of the City; and,

WHEREAS, Tex. Loc. Gov't Code Section 211.003 provides that the City Council may regulate the height, number of stories, and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, courts, and other open spaces, and the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and,

WHEREAS, the City Council finds it necessary to establish the provisions of this ordinance regarding the regulation of fences; and,

WHEREAS, the City Council finds that it would be advantageous and beneficial to the citizens of the City of Universal City, Texas, to adopt this ordinance regulating the requirements for fences within the City of Universal City; and,

WHEREAS, the City Council of the City of Universal City, Texas, has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens of the City that the Zoning Code regulations relative to fencing requirements be established as hereinafter stated; and,

WHEREAS, the City has complied with all conditions precedent necessary to take this action, has properly noticed and conducted all public hearings and public meetings pursuant to the Texas Local Government Code and Texas Government Code, as applicable.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSAL CITY, TEXAS:

Section 1. Amendments. That Article VII. – FENCE, LANDSCAPING, BUFFERING AND ARCHITECTURAL DESIGN STANDARDS of the Universal City Code of Ordinances be amended to include the following Section:

I. Sec. 4-5-70. – Intent and Applicability.

Intent. The intent of this section is to provide reasonable regulations for fence installation while allowing property owners the ability to install a fence for aesthetic, screening, separating or security purposes, and at the same time taking into consideration the health, safety, morals and general welfare of the citizens and business owners of the City.

Applicability. The provisions of this section are deemed to be minimum standards and shall be applicable to all new and replacement fences and the maintenance of said fences within the corporate limits of the City, except as otherwise exempted.

Section 2. Amendments. That Chapter 4-5 – Zoning, Section 4-5-71 – Fence Requirements of the Universal City Code of Ordinances be amended in its entirety to read:

II. Sec. 4-5-71. – Fence requirements.

(1) Definitions

Minor Maintenance. The following shall be considered 'Minor' fence maintenance:

- (a) Power washing, painting, staining
- (b) Repairing or replacing fewer than 17 pickets (1 – 16), lattice, rail runner, trim, post caps, kickboards, gates and

gate components, including hinges and handles
Major Maintenance. The following shall be considered
'Major' fence maintenance:

- (a) Repairing or replacing more than one (1) post anchored in the ground
- (b) Repairing or replacing 17 or more pickets
- (c) Repair or maintenance that alters the fence-to-ground clearance allowing for stormwater runoff
- (d) In-kind replacement of an existing fence; that is, the replacement fence will be in the same location as the previous fence and will be the same height, made of the same material, and provide the same fence-to-ground clearance.

Public Viewshed. A public viewshed shall be defined as an area that is visible from one or more public viewing points, such as from a public right-of-way (e.g., roadway, drive aisle, parking lot), alley, pedestrian or multi-purpose path, or a public or private park (e.g., City or HOA-owned and/or -maintained)

(2) Permits and Inspections

- (a) A permit, associated fee as identified in Chapter 1-4-Finance, and related inspection(s) shall be required for the following:
 1. A new fence where one did not exist before
 2. Modification to an existing fence not covered in 'Minor' or 'Major' fence maintenance definitions
- (b) A permit, associated fee as identified in Chapter 1-4-Finance, and related inspection(s) shall be required for 'Major' fence maintenance
- (c) A permit, fee and inspection(s) shall not be required for 'Minor' fence maintenance

(3) The erection of a fence is not mandatory, with the following exceptions in which it is required:

- (a) As required to enclose a swimming pool area;
- (b) As required to enclose a day care center play area;
- (c) As required for any nonresidential property, whether a permitted or conditional use, where it abuts residential property. In such a case, only a privacy fence shall be allowed unless otherwise specified and agreed upon in a Planned Unit Development (PUD) or the Redevelopment District Overlay (RO);
- (d) As required for churches, schools, Multifamily Residential (R5), Manufactured Housing (MH1) and Mobile Home Parks (MH2), whether a permitted or conditional use, where it abuts residential property located in R1, R2, R3, R4, and R-OT. In such a case, only a privacy fence shall be allowed unless otherwise specified and agreed upon in a Planned Unit Development (PUD) or the Redevelopment District Overlay (RO);
- (e) As required by other applicable sections of this chapter.

(4) Fences that are constructed shall comply with the following regulations:

- (a) *Fence Location.*
 1. Fences may be built on or along property lines in all districts. Fences may be installed within a residential district on the property line at a corner lot adjacent to a public street, provided there is no visual impairment of motorists and pedestrians, provided there is a visual triangle clearance of a minimum of thirty (30) feet, and provided there is no interference with utility and/or drainage easements.
 2. Fences may be built across other areas of private property, provided that the fence is in no case taller than six (6) feet in total height, except in accordance with Section 4-5-71(2)(c). Fence height shall be measured from natural grade. However, fences located on a retaining wall (not a

decorative wall) shall be reviewed by the Zoning Administrator with regard to height determination. Fence lines shall be securely joined and/or affixed to abutting or intersecting fence lines. At no time shall fences be constructed so as to provide a gap or spacing between abutting, adjacent or perpendicular fence lines; that is, no back-to-back fences are allowed.

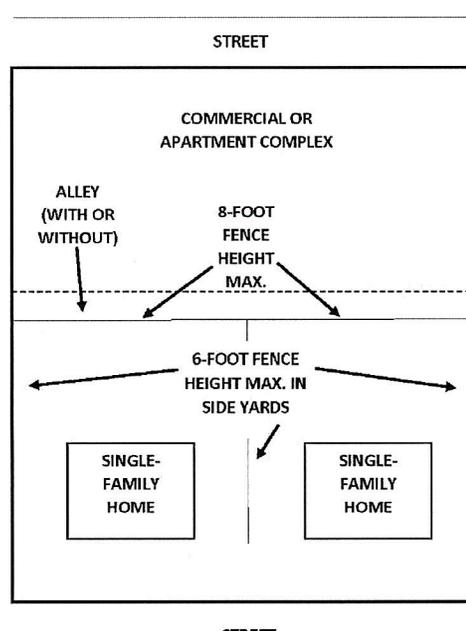
3. Fences cannot cross onto any public or private property and may not block access to any fire hydrant or utility meter.

(b) *Maintenance.*

1. The owner or person in control of any property adjacent to any intersection where a traffic control device is erected shall not permit any vegetation, fences or other structures to obstruct any such intersection.
2. Any vegetation, fence or other structure in excess of twenty-four (24) inches above the roadway within the visibility triangle is hereby declared to be a public nuisance and a traffic hazard. In the event the developer, owner, tenant, lessee or agent fails to remove or remedy the condition within ten (10) days after notice has been served by the Code Enforcement Officer or other duly appointed officer of the city, the city may do as necessary to remove or remedy the condition or cause same to be done, may issue a citation for violation of said offense and may charge the expense incurred in removing the violation to the developer, owner, agent or lessee of the subject lot or parcel.
3. The owner or person in control of the property must maintain the integrity of the fence and the space between the fence and property line.

(c) *Fence Height.*

1. Fences constructed in the front yard must be three (3) feet or shorter and decorative/ornamental; however, fences in the front yard may be increased by one (1) foot if the fence is at least fifty percent (50%) transparent and decorative/ornamental.
2. Fences in all other yards shall not exceed six (6) feet in total height, except as provided for in Section 4-5-71(2)(c)3 and Section 4-5-71(2)(c)4. Fence height shall be measured from natural grade. Fence lines shall be securely joined and/or affixed to abutting or intersecting fence lines. At no time shall fences be constructed so as to provide a gap or spacing between abutting, adjacent or perpendicular fence lines; that is, no back-to-back fences are allowed.
3. Fences in the C4-General Commercial and C5-Highway Commercial Districts shall not exceed eight (8) feet in total height with fence posts not to exceed nine (9) feet in total height.
4. Fences in residential districts abutting a commercial district or multi-family residential district with more than eight (8) attached dwelling units shall be allowed to be installed on the property line abutting the commercial or multi-family residential district at a height not to exceed eight (8) feet.



This shall also apply when an alley is situated between the residential property and commercial or multi-family property.

(d) *Building Materials.*

1. Fences must be built of wood, metal, chain link, bricks, or masonry.
2. Only two (2) or less materials may be used to construct a fence.
3. Wood fences should be rot resistant.
4. The use of barbed wire, electrically charged wire, chain link with slats, razor wire or other sharp-edged surfaces on fences within residential zoning districts is hereby prohibited. The above items located on fences in commercial districts shall not be included the total height measurement.
5. The finished side of a fence shall face away from the lot on which it is located. However, when two adjacent properties share a fence, then the finished side shall be oriented as determined by the two property owners. The finished side of a fence shall mean the smooth side, not the side exposing the fence posts and rails. This provision shall not be required when a fence backs up to an alley, utility right-of-way, easement or drainage area that is not within the public viewshed.
6. All fence posts and rails shall be placed on the inside of the fence.

(e) *Electrified Fences.*

1. Electrified fences may be used in residentially-zoned neighborhoods to control small animals, such as dogs and cats.
2. Only those commercially sold electrical control devices that state for use to control dogs and/or cats may be installed. If the property has a residential fence, then installation of the electrified fence shall be as a secondary fence within a residential fence on the property. The electrical conductor shall be mounted on individual stakes at least twenty-four (24) inches inside the main residential fence on the property.
3. An electrified fence shall be located on the residential property only and shall not be located in the right-of-way, including the area between the sidewalk and street curb. An electrified fence located in an easement shall be allowed but at the property owner's risk; that is, should the City or easement holder perform work in the easement that damages the electrified fence, then the property owner shall be responsible for the cost to repair or replace the electrified fence.
4. A permit to install the electrified fence is not required.

Section 3. Conflict with City Ordinances. All Ordinances or parts of Ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 4. Unamended. That the remainder of Chapter 4-5 – Zoning of the Universal City Code of Ordinances not amended hereby remain in full force and effect.

Section 5. Severability. If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are declared to be severable.

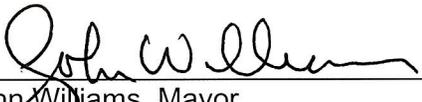
Section 6. Effective Date: This ordinance shall become effective on 04 October 2023.

PASSED on first reading 19 September 2023

PASSED AND ADOPTED 17th day of October 2023.

CITY OF UNIVERSAL CITY, TEXAS
APPROVED:

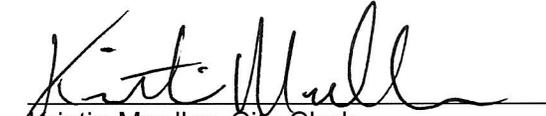




John Williams, Mayor

ATTEST:

APPROVED AS TO FORM:



Kristin Mueller, City Clerk



Megan R. Santee, City Attorney
Denton Navarro Rocha Bernal & Zech, P.C.

Motion to Approve:

VC 677

I concur with the findings of fact as outlined in the variance application. Specifically,

- That there are extraordinary conditions affecting the land, including existing land constraints
- That the variance is necessary and essential to the preservation of substantial property rights
- That granting the variance will not be detrimental to the public health or safety
- That extraordinary conditions do not generally apply to other properties within the vicinity
- The unique conditions of the property were not created by the property owner
- The variance requested is in conformance with the City's Future Land Use Plan
- Approval of the variance requested allows the greatest utilization of the property

Therefore, I move to approve VC 677 and to grant a variance from Section 4-5-71 of the Zoning Code for the property at 333 Kimberly Drive to allow a residential fence to exceed the maximum 6-foot height requirement by two feet resulting in an 8-foot fence with the smooth side facing inward.