

AGENDA  
BOARD OF ADJUSTMENT/APPEALS OF THE CITY OF UNIVERSAL CITY, TEXAS  
Regular Meeting, Monday Evening, 22 July 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 & EDC Director
3. MINUTES OF PREVIOUS MEETING:
  - A. Regular Meeting – 26 February 2024
4. NEW BUSINESS:

**ITEM 1**

- A. **Public Hearing:** V.C. 678— A request for a variance for property zoned R3-Medium Density Residential at 128 Low Meadow Drive (CB 5046X (CIBOLO CROSSING UT-1), BLOCK 1 LOT 67) to allow a residential fence to exceed the maximum 6-foot height requirement by two feet to allow an 8-foot fence, per zoning ordinance 581.
- B. **Consider:** V.C. 678— A request for a variance for property zoned R3-Medium Density Residential at 128 Low Meadow Drive (CB 5046X (CIBOLO CROSSING UT-1), BLOCK 1 LOT 67) to allow a residential fence to exceed the maximum 6-foot height requirement by two feet to allow an 8-foot fence, per zoning ordinance 581.

**ITEM 2**

- C. **Public Hearing:** V.C. 679 – Per Section 7.02 of the City Charter, a request for an appeal from an alleged error by an administrative official of the City specifically related to Section 4-5-65 of the Zoning Code related to Nonconforming Buildings and Uses at 205 W. Byrd Boulevard (CB 5768 BLK 7 LOT 11).
  - D. **Consider:** V.C. 679 – Per Section 7.02 of the City Charter, a request for an appeal from an alleged error by an administrative official of the City specifically related to Section 4-5-65 of the Zoning Code related to Nonconforming Buildings and Uses at 205 W. Byrd Boulevard (CB 5768 BLK 7 LOT 11).
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, 26 February 2024

**1. CALL TO ORDER:** Chair J. Sue Svalberg at 6:03 p.m.

**2. QUORUM CHECK:** Michael Cassata, Development Services & EDC Director

**Commission Members Present:**

J. Sue Svalberg, Chair  
Donna Ash, Member  
Scott Dagg, Member  
Elizabeth Dixon, Member  
Tom England, Member  
Charles Consla, Vice-Chair  
Lori Putt, Member

**Staff Present:**

Kim Turner, City Manager  
Michael Cassata, Dev Services & EDC Director  
Maribel Garcia, Deputy City Clerk

Mr. Cassata noted a quorum was present.

**3. MINUTES OF THE PREVIOUS MEETING:** Regular Meeting – 18 December 2023.

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

**The motion was approved on a 7-0 vote.**

**4. NEW BUSINESS:**

- 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.

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

**The motion was approved unanimously; Chair Svalberg opened the Public Hearing at 6:04 P.M.**

Mr. Cassata explained the variance requirements for approval and gave an overview of the request. He stated the owner's intention to convert the garage into living space. However, City Ordinance requires a carport if this is to be done. Mr. Cassata listed historical reasons for the carport requirement if there is no garage; this requirement made sense for the Aviation District but was applied to the whole City in its passage to be equitable. He noted that the home has a driveway that fits two cars without the garage.

Mr. Brian Fitzgerald, the homeowner and applicant, explained that this home had been in his family for generations. He gave an overview of renovation done to the house and budget, as well as explained the setbacks, including neighbor-cased flooding. A carport requirement would cause Mr. Fitzgerald to go over budget.

Mr. Consla asked if the garage doors would remain; it was confirmed that the existing door would remain as the space would continue to be a workout space with a work bench.

Mr. England received elaboration regarding the water damage caused by a neighbor's cement slab positioning.

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

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

- 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.

Mr. England received clarification on the carport requirement including the history of its passage. Residents had converted garages to living spaces without permits, leaving them without a covered parking space. Prior ordinances had required the addition of a two-car garage if the existing garage was converted into a living space. The carport requirement was an amenable alternative.

Ms. Putt added that the ordinance requiring carports seemed to be geared toward the Aviation District rather than Coronado Village, where the applicant resides. Furthermore, she opined that a carport in Coronado Village would look out of place. She asked the Board to consider the neighborhood.

Mr. Dagg received clarification regarding the square footage of the property and the garage.

Mr. England 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. England, therefore, moved to approve V.C. 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. Ms. Putt seconded the motion.

**Vote:**                    **Yeas: England, Putt, Svalberg, Ash, Consla, Dagg, Dixon**  
**Nays: None**

**The motion was approved on a 7-0 vote.**

- 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.

Mr. Cassata explained there were two issues to consider: the public viewshed requirement for fences and the 6-foot allowance. The applicant requested the public viewshed requirement be excused to have the smooth side inside the fence line. He also asked to allow an 8-foot fence.

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

**The motion was approved unanimously; Chair Svalberg opened the Public Hearing at 6:27 P.M.**

Mr. Tony Judson, the applicant, explained that he was unaware of the permit and fence construction requirements. He elaborated saying he was new to the area and a thunderstorm knocked down his fence, so he quickly worked to fix the fence and replace any broken pieces. The existing fence when he moved in was also an 8-foot fence with the smooth side being inside-facing. He said that the fence built would be long-lasting and was structurally sound. He felt that some ordinances included outdated requirements. Mr. Judson noted that all alley fences have inward-facing smooth sides. He emphasized his neighbors' agreement with the way he built his fence, and their appreciation for other property upkeep he has done on the house.

Mr. Cassata stated that five neighbors replied to legal notices with "Do Not Object," including one at a crucial location.

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 6:35 P.M.**

- 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.

Ms. Putt thanked the homeowner for his upkeep of the house. She did not have a problem with an 8-foot fence due to the pre-existing fence being the same height.

Mr. Dagg commented that the fence-work was good. He received clarification that the 6-foot fence requirement was for safety and police accessibility.

Ms. Turner also responded to Mr. Dagg's questions regarding whether 8-foot fences were allowed at some point; they were not, and this fence was created without permission and out of Code compliance.

Ms. Svalberg expressed concern for the scalability of the fence for PD and EMS.

Ms. Ash opined the 8-foot fence was not noticeable and the inward-facing smooth side of the fence would not create safety issues due to its height being more difficult to scale.

Mr. Fitzgerald's fence-work was complimented.

Mr. England stated it would be easier to scale an eight-foot fence with the ladder side out if concerns were raised regarding PD and EMS accessibility.

Mr. Cassata clarified for Ms. Dixon and the Board that the Ordinance requirement is to bring all fences up to Code.

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 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

Ms. Putt, therefore, moved to approve V.C. 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. Mr. Dagg seconded the motion.

**Vote:**                    **Yeas: Putt, Dagg, Ash, Consla, Dixon, England**  
                                 **Nays: Svalberg**

**The motion was approved on a 6-1 vote.**

## **5. CITY MANAGER'S REPORT:**

Mrs. Turner gave an update regarding City-wide events.

**ADJOURNMENT:** Chair Svalberg adjourned the meeting at 6:49 p.m.

J. Sue Svalberg  
Chair

# CITY OF UNIVERSAL CITY

Date 9 May 2024

File VC 678

TO: Members of the Board of Adjustment

FROM: Michael Cassata, Development Services & EDC Director

**SUBJECT:** VC 678—Request to allow an 8-foot high residential fence at 128 Low Meadow Drive

## **Specific Request**

A request for a variance from Section 4-5-71 of the Zoning Code for property zoned R3–Medium Density Residential at 128 Low Meadow Drive to allow a residential side yard fence to exceed the maximum 6-foot height requirement by two feet resulting in an 8-foot fence.

## **Zoning**

The property is owned by Rebecca Sadler and is zoned R3–Medium Density Residential. The Future Land Use Plan designates this property as MDR–Medium Density Residential.

## **Surrounding Uses**

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

## **Project Specifics**

This request is to allow an 8-foot residential fence on the side yards. The property is at the beginning of a cul-de-sac, has a five-foot setback on the side yards, and backs up to open space leading down to Cibolo Creek. The home next door to the north has not yet been occupied (132 Low Meadow). The property owner installed an eight-foot fence on one side due to:

- The closeness of the homes
- The window locations on each home that allow neighbors to see into each other's rooms
- The slope to the side yard property line that drops approximately six to eight inches
- The raised back patios that allow the neighbors to easily see above a six-foot fence and into the applicant's back yard

The Zoning Code allows for a six-foot fence maximum. Therefore, a variance is being requested to allow an eight-foot fence on both side yards.

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

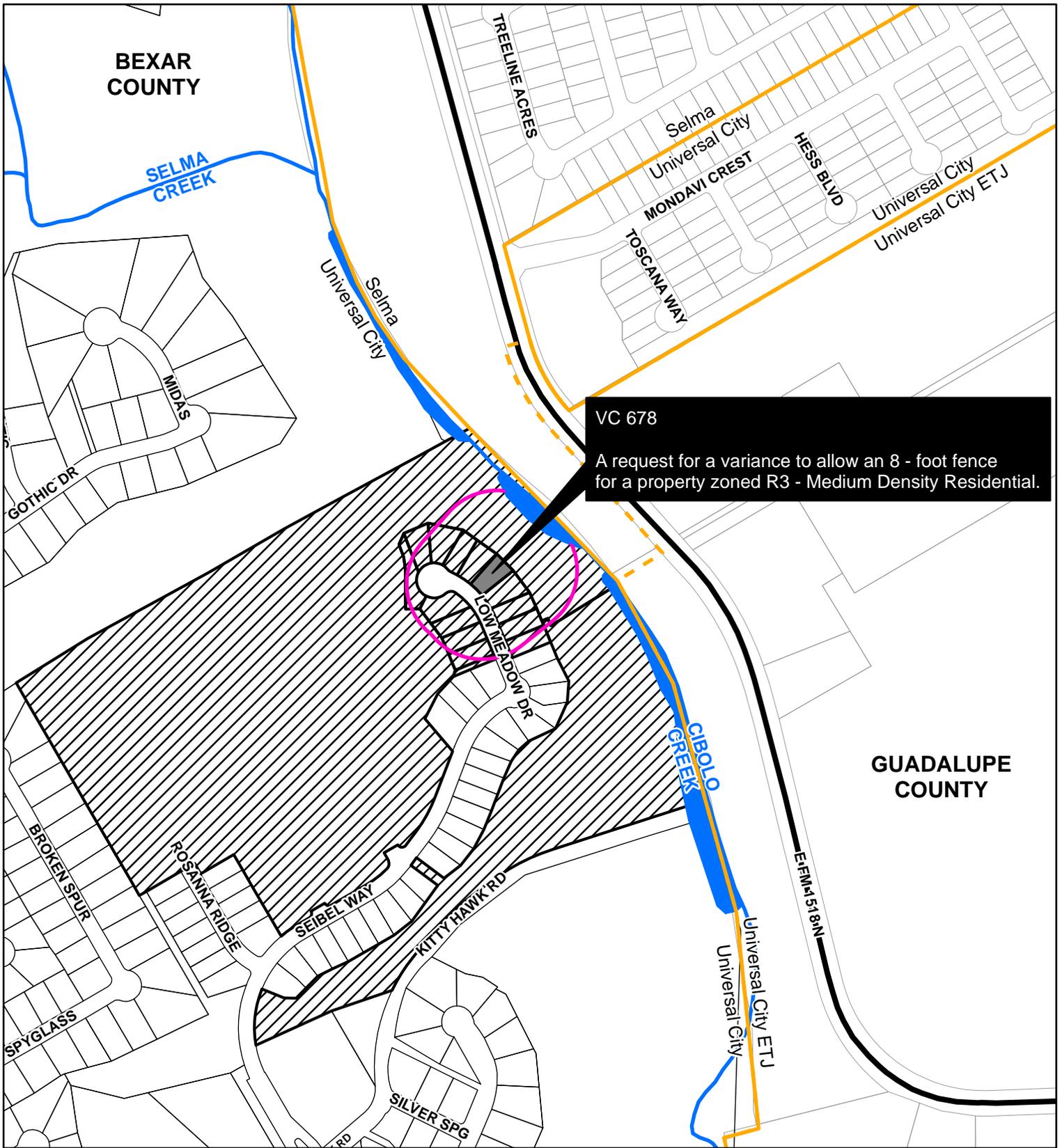
The subject property is not located within a JBSA Randolph Air Installations Compatible Use Zone (AICUZ).

## **Findings of Fact**

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

## **Legal Notices**

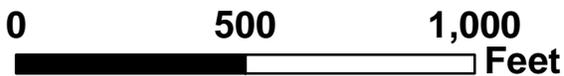
Per State law, 16 notices were mailed to property owners within 200 feet of the subject property. As of this memo, the City has not received any phone calls or return notices regarding this request.



**VC 678**  
 A request for a variance to allow an 8 - foot fence for a property zoned R3 - Medium Density Residential.

**VC 678**  
**128 LOW MEADOW DR**

**Date Prepared: Saturday, May. 4, 2024**



**Legend**

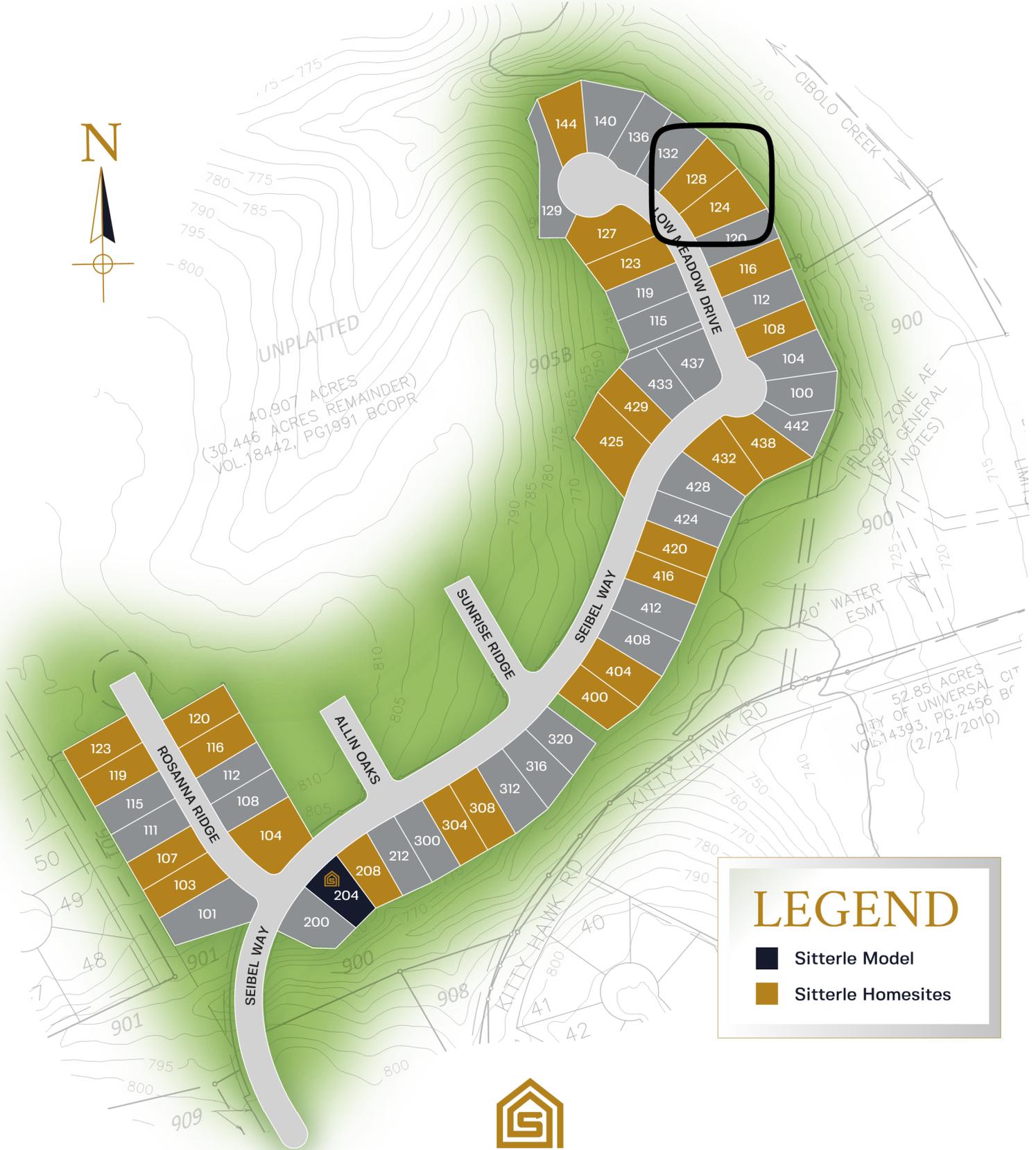
-  200 Ft Buffer
-  Affected Parcels



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

# SITTERLE HOMES

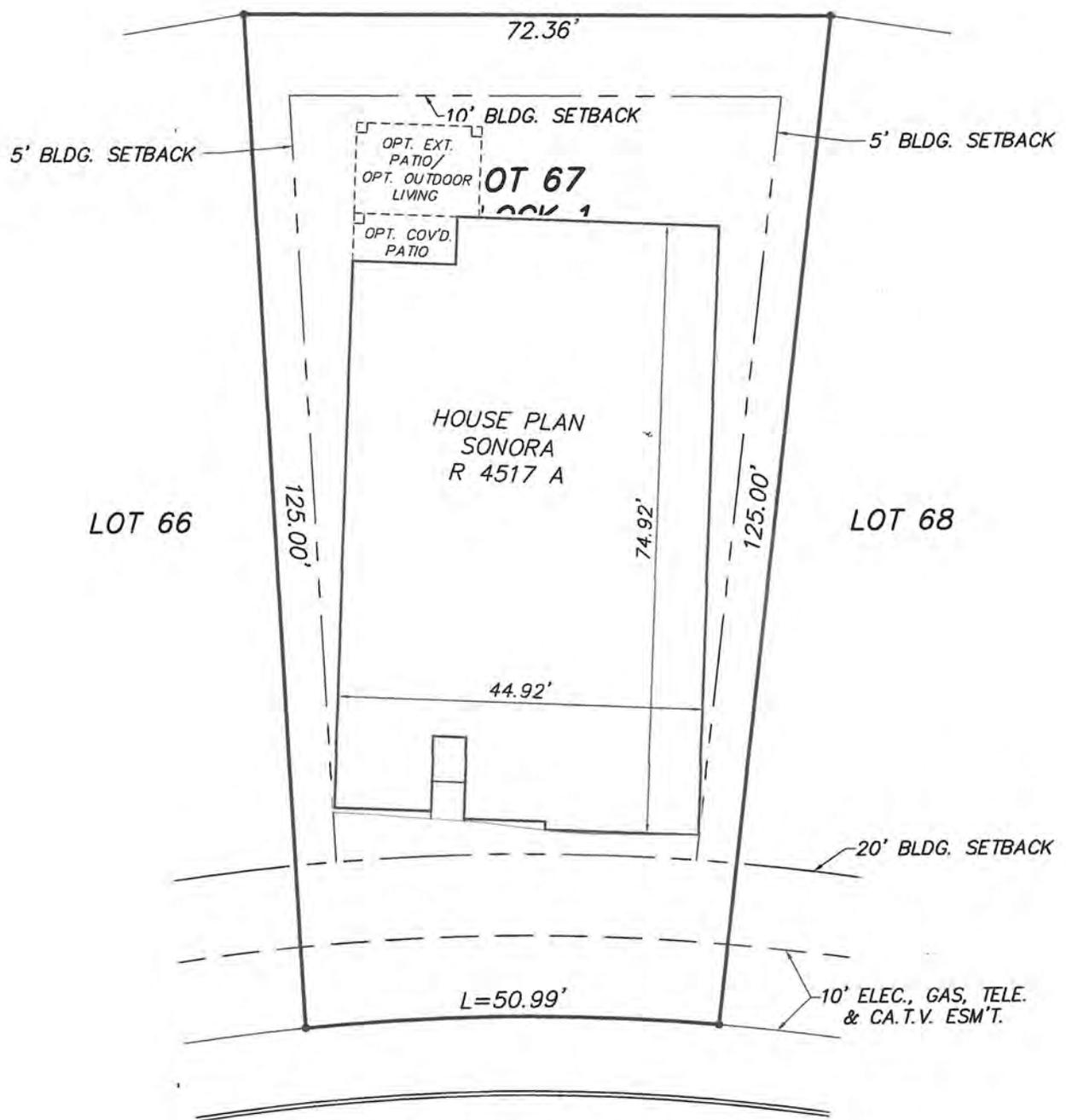
## CIBOLO CROSSING



**SITTERLE HOMES**



Plans, prices and specifications are subject to change without notice. Please consult with your Sales Professional for details. 04/26/2022



**128 LOW MEADOW DR**  
(50' RIGHT-OF-WAY)

128 LOW MEADOW DRIVE



128 LOW MEADOW DRIVE



25 April 2024

FROM: Rebecca Sadler

TO: Universal City, Board of Adjustment

SUBJECT: Notification of Appeal for Variance

1. This is letter is to provide notification that I, Rebecca Sadler owner of the property at the following address: 128 Low Meadow Drive, Universal City Texas 78148.
2. Due to the closeness of the homes and topographic nature of the land request approval of a variance to allow an 8-foot fence on the left and right side of the subject property (request for both sides for aesthetics).
3. If there are any questions or concerns, please contact me at [REDACTED]

Sincerely,

*Rebecca Sadler*

Rebecca Sadler

## 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 (128 Low Meadow Dr) is a new build family residence in Cibolo Crossing. It is also the first home built and owner occupied (22 June 2023). This property slopes downwards to Cibolo Creek and the trail. All the homes on the creek side of Low Meadow Drive have elevated foundation slabs (higher in the back). In February/March 2024 the home to the right (124 Low Meadow Dr) of the subject property was completed. Its back slab is approximately 29 inches high, and additionally was set back between 10-11 feet further on the property than the subject property (which has a back slab height of 27 inches). Further the homes are 10 feet and 2 inches apart from their outer walls at the start of the neighbor's left front corner. For these three reasons the topographic nature of the land and the dipping of the fence line from the front of the home to the back of the home makes the fence no more than 40 inches high between the two homes. On a level parcel of land homes on both sides will have some privacy with a 6-foot fence, however this height difference between these two homes allows viewing inside the subject property's living/eating spaces and bedrooms creating a lack of privacy. 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, due to the closeness of the homes and topographic nature of the land approval of a variance to allow an 8-foot fence on the left and right side of the subject property (request for both sides for aesthetics) 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 outward 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.

Response: The conditions that create the need for the variance do not generally apply to other properties in the vicinity because those properties are either on larger parcels of land (Low Density Residential) and further apart or are built on a more level parcel of land.

**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 a 6-foot fence intact, however no other homes were built on either side when the fence was installed, and the property built on 124 Low Meadow Dr was permitted a further set back from the street after the fact of the subject property owner's purchase.

**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 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: Due to the MDR of the subject property's area and the topographic nature of the property 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 and/or afforded to other properties in the area.

#### 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.

**Motion to Approve:**

VC 678

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 678 and to grant a variance from Section 4-5-71 of the Zoning Code for the property at 128 Low Meadow to allow a residential fence on the side yards to exceed the maximum 6-foot height requirement by two feet resulting in an 8-foot fence.

# CITY OF UNIVERSAL CITY

Date 17 June 2024

File VC 679

TO: Members of the Board of Appeals/Adjustment

FROM: Michael Cassata, Development Services & EDC Director

**SUBJECT:** VC 679—Appeal of Administrative Official’s Determination re 205 W. Byrd Boulevard

## **Specific Request**

Per Section 7.02 of the City Charter, the applicant has filed a request for an appeal from an alleged error by an administrative official of the City specifically related to Section 4-5-65 of the Zoning Code related to Nonconforming Buildings and Uses at 205 W. Byrd Boulevard (CB 5768 BLK 7 LOT 11).

## **Zoning**

The property is owned by Camino Nuevo LLC and is zoned R-OT—“Old Town Residential”. The Future Land Use Plan designates this property as MDR—Medium Density Residential.

## **Surrounding Uses**

Properties surrounding the subject property are zoned R-OT—“Old Town Residential” and C2-Retail, including two single-family residences, a gas station, a church, two vacant properties and Jon Wayne Service Company.

## **Project Specifics**

Per Section 4-5-65 of the Zoning Code, the use of a nonconforming building or structure which becomes vacant may be reoccupied for the use for which the building or structure was designed or intended, if so occupied within a period of one hundred twenty (120) days after the building or structure becomes vacant. All such buildings, after one hundred twenty (120) days of vacancy, shall be converted to a conforming use.

On September 19, 2023, a Temporary Certificate of Occupancy for a prospective tenant with a nonconforming use was granted by the City that expired on November 10, 2023. A subsequent full Certificate of Occupancy was not requested and was not issued by the City. Therefore, the 120<sup>th</sup> day to re-occupy the building was March 9, 2024.

On May 3, 2024, the City received a Certificate of Occupancy application from a different prospective nonconforming tenant, The Czar Group, LLC. However, in accordance with Section 4-5-65 of the Zoning Code, since 120 days to re-occupy the building with a nonconforming use passed, the request for a Certificate of Occupancy was not approved.

It is important to note that Section 4-5-65(1)(c) states “Vacant shall mean the absence of characteristic furnishings, equipment, and personnel”. As identified in the Notice of Additions and Corrections issued by the Building Official on September 19, 2023, the Temporary Certificate of Occupancy granted furniture, fixtures and equipment to subsequently be moved in; that is, the building was without these items on that date and officially remained so since the applicant did not follow through with a full Certificate of Occupancy request.

Please find attached Section 7.02 of the City Charter, Section 4-5-65 of the Zoning Code, the City’s denial letter to The Czar Group, and the letter requesting the appeal from the property owner’s attorney.

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

**Findings of Fact**

These do not apply since the applicant's appeal is to a decision made by an administrative official of the City, not a request for a variance or special exception to the Zoning Code.

**Legal Notices**

Per State law, 24 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 appeal.

## **CITY CHARTER**

There shall be a Board of Adjustment, consisting of five (5) or more members as determined and appointed by the City Council from among the qualified voters of the City. This Board shall be responsible for hearing appeals from alleged errors by any administrative official of the City; for hearing requests for special exceptions to the terms of an ordinance; for authorizing, where determined to be warranted, such variance from the terms of an ordinance as will not be contrary to the public interest; and for such other functions as required or authorized by ordinances of the City. All of such actions to be considered and determined in accordance with substantive and procedural rules to be prescribed in ordinances of the City.

## Sec. 4-5-65. - Nonconforming buildings and uses.

- (1) *Regulations.* The lawful use of any building, structure, tenant space (as separated by fire partitions) or land existing on the effective date of this ordinance [chapter] (January 22, 2007) may be continued, although such use does not conform with the provisions of this ordinance; provided, however, the right to continue such nonconforming use shall be subject to all of the following regulations:
  - (a) Normal repairs and maintenance may be made to a nonconforming building or structure; provided that no expansions shall be made except those required by law or ordinance or those necessary for installing or enclosing required sanitary facilities, such as toilets and bathrooms. A nonconforming use may be enlarged or changed by horizontal expansion upon, but not beyond, the tract or lot of record upon which it is located as of the date such a use becomes nonconforming; and any enlargement or expansion shall not encroach upon any open space upon such lot that would be required as a yard if the use were a conforming use in the district in which it is located.
  - (b) A nonconforming building or structure shall not be moved in whole or in part unless every portion of such building or structure is made to conform to all regulations of the district in which it is to be located.
  - (c) A vacant, nonconforming building or structure lawfully constructed before the date of enactment of this ordinance may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one hundred twenty (120) days after the effective date of this ordinance [chapter]. The use of a nonconforming building or structure lawfully constructed before the date of enactment of this ordinance [chapter], which becomes vacant after the effective date of this article, may be reoccupied for the use for which the building or structure was designed or intended, if so occupied within a period of one hundred twenty (120) days after the building or structure becomes vacant. All such buildings, after one hundred twenty (120) days of vacancy, shall be converted to a conforming use. Vacant shall mean the absence of characteristic furnishings, equipment, and personnel. The status of utility connections and accounts may be used in determining vacancy.
  - (d) A nonconforming building or structure which is damaged or destroyed, whether partially or fully, by fire, flood, wind, explosion, earthquake, or other calamity or act of God may be restored to its nonconforming use provided that a building permit is acquired within a period of two (2) years from the date of the fire, flood, wind, explosion, earthquake, or other calamity or act of God. The Board of Adjustments may grant a variance to extend the said two-year period provided that the request is made not later than sixty (60) days prior to the date it elapses.
- (2) *Change or Expansion Prohibited.* The nonconforming use of a building or structure may be continued as hereinafter provided:
  - (a) The nonconforming use of a building or structure may not be changed to a use which does not conform to the requirements of the district in which it is situated.
  - (b) A nonconforming use of a conforming building or structure shall not be extended or expanded into any other portion of such conforming building or structure, nor changed except to a conforming use. If such nonconforming use or portion thereof is voluntarily discontinued or changed to a conforming use, any future use of such building or structure or portion thereof shall conform to the regulations of the district in which such building or structure is located.
- (3) *Continuation of Existing Uses.* The nonconforming use of land existing at the time of the effective date of this article may continue as hereinafter

provided:

- (a) A nonconforming use of land shall not be expanded, extended or changed to some other use not in compliance with the regulations of the district in which the land is situated.
  - (b) If a nonconforming use of land or any portion thereof, is voluntarily discontinued for a period of one hundred twenty (120) days any future use of such land or portion thereof, shall be in conformity with the regulations of the district in which such land or portion thereof is located.
- (4) *Abandonment.* Except for subsection (1)(d) of this section the nonconforming use of a building, structure or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when:
- (a) The intent of the owner to discontinue the use is apparent; or
  - (b) The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one hundred twenty (120) days; or
  - (c) A nonconforming building, structure or land which is or hereafter becomes vacant and remains unoccupied for a period of one hundred twenty (120) days; or
  - (d) A nonconforming use has been replaced by a conforming use.
- (5) *Change in District Boundaries.* Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one (1) district to another district, or when the boundaries of districts are changed as the result of annexation of new territory, or changed in the regulations or restrictions of this chapter, the foregoing provisions relating to nonconforming uses shall also apply to any uses existing therein which may become nonconforming.

(Ord. No. 581, § 6.5, 1-22-07; Ord. No. 581-B-2007, § I, 12-18-07)



8 May 2024

The Czar Group, LLC  
24706 Twin Arrows  
San Antonio, TX 78258

Via Email: [czargroup22@gmail.com](mailto:czargroup22@gmail.com)

RE: 205 W. Byrd Boulevard – Certificate of Occupancy Application Response

Mr. Dave Zarczynski:

The City is in receipt of the Certificate of Occupancy application dropped off at our office on Friday, May 3, 2024. The application identifies the proposed use at 205 W. Byrd Boulevard as General Construction to be occupied by The Czar Group, LLC.

Per City Ordinance 581, adopted January 22, 2007, which includes the Official Zoning Map, the subject property is located in the R-OT–“Old Town Residential” Zoning District. Please find attached Section 4-5-41 of the Zoning Code that describes the City’s residential districts. The proposed General Construction use does not conform with the City’s Zoning Code and, therefore, the request for a certificate of occupancy is not approved.

Per Section 4-5-65 of the Zoning Code, the use of a nonconforming building or structure which becomes vacant may be reoccupied for the use for which the building or structure was designed or intended, if so occupied within a period of one hundred twenty (120) days after the building or structure becomes vacant. All such buildings, after one hundred twenty (120) days of vacancy, shall be converted to a conforming use.

On September 19, 2023, a Temporary Certificate of Occupancy for a prospective tenant was granted by the City that expired on November 10, 2023. A subsequent full Certificate of Occupancy was not issued by the City. Therefore, the 120 days to re-occupy the building with a nonconforming use has passed. Since the subject property does not meet the requirements of Section 4-5-65 of the Zoning Code, the existing building shall be converted to a conforming use. Please find attached Section 4-5-65 of the Zoning Code.

Should you have questions or comments, do not hesitate to contact me at (210) 659-0333 ext 720.

Respectfully,

Michael Cassata, AICP  
Development Services & EDC Director

## Sec. 4-5-41. - Residential districts.

- (1) *Large Lot Residential (R1)*. This district is established for large-lot single-family residential housing. It is consistent with a very low density suburban environment and protected from incompatible uses. Housing is arranged in a conventional detached format and not to exceed a density of three (3) units per acre.
- (2) *Suburban Residential (R2)*. This district is established for traditional residential suburban development in a medium density setting of three (3) to five (5) units per acre. This area is protected from incompatible uses with buffers of higher intensity residential development.
- (3) *Medium Density Residential (R3)*. Same as above, but also permits placement of clustered patterns of housing. This district is intended for a moderately dense pattern of development of five (5) to seven (7) units per acre.
- (4) *High Density Residential (R4)*. This district is intended to provide appropriate areas and standards for dense, single-family housing. Garden homes, townhomes, zero lot line construction, and placement of clustered patterns of housing are appropriate in this district, up to twelve (12) units per acre.
- (5) *"Old Town" Residential (R-OT)*. This "old town" district is established for higher densities of single family housing. Future development should remain consistent with original character of subdivision to maintain historic integrity.
- (6) *Multifamily Residential (R5)*. This district is established for the highest residential densities meant primarily for apartment housing and is an appropriate transition use between residential and nonresidential districts.
- (7) *Manufactured Housing (MH1)*. This district is established for areas of relatively permanent, HUD-Code manufactured housing placed on individually-owned lots.
- (8) *Mobile Home Park (MH2)*. This district is established for trailer park areas, where multiple trailers are located on a common, large lot.

(Ord. No. 581, § 4.1, 1-22-07; Ord. No. 581-K-2017, § I, 4-4-17)

## Sec. 4-5-65. - Nonconforming buildings and uses.

- (1) *Regulations.* The lawful use of any building, structure, tenant space (as separated by fire partitions) or land existing on the effective date of this ordinance [chapter] (January 22, 2007) may be continued, although such use does not conform with the provisions of this ordinance; provided, however, the right to continue such nonconforming use shall be subject to all of the following regulations:
  - (a) Normal repairs and maintenance may be made to a nonconforming building or structure; provided that no expansions shall be made except those required by law or ordinance or those necessary for installing or enclosing required sanitary facilities, such as toilets and bathrooms. A nonconforming use may be enlarged or changed by horizontal expansion upon, but not beyond, the tract or lot of record upon which it is located as of the date such a use becomes nonconforming; and any enlargement or expansion shall not encroach upon any open space upon such lot that would be required as a yard if the use were a conforming use in the district in which it is located.
  - (b) A nonconforming building or structure shall not be moved in whole or in part unless every portion of such building or structure is made to conform to all regulations of the district in which it is to be located.
  - (c) A vacant, nonconforming building or structure lawfully constructed before the date of enactment of this ordinance may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one hundred twenty (120) days after the effective date of this ordinance [chapter]. The use of a nonconforming building or structure lawfully constructed before the date of enactment of this ordinance [chapter], which becomes vacant after the effective date of this article, may be reoccupied for the use for which the building or structure was designed or intended, if so occupied within a period of one hundred twenty (120) days after the building or structure becomes vacant. All such buildings, after one hundred twenty (120) days of vacancy, shall be converted to a conforming use. Vacant shall mean the absence of characteristic furnishings, equipment, and personnel. The status of utility connections and accounts may be used in determining vacancy.
  - (d) A nonconforming building or structure which is damaged or destroyed, whether partially or fully, by fire, flood, wind, explosion, earthquake, or other calamity or act of God may be restored to its nonconforming use provided that a building permit is acquired within a period of two (2) years from the date of the fire, flood, wind, explosion, earthquake, or other calamity or act of God. The Board of Adjustments may grant a variance to extend the said two-year period provided that the request is made not later than sixty (60) days prior to the date it elapses.
- (2) *Change or Expansion Prohibited.* The nonconforming use of a building or structure may be continued as hereinafter provided:
  - (a) The nonconforming use of a building or structure may not be changed to a use which does not conform to the requirements of the district in which it is situated.
  - (b) A nonconforming use of a conforming building or structure shall not be extended or expanded into any other portion of such conforming building or structure, nor changed except to a conforming use. If such nonconforming use or portion thereof is voluntarily discontinued or changed to a conforming use, any future use of such building or structure or portion thereof shall conform to the regulations of the district in which such building or structure is located.
- (3) *Continuation of Existing Uses.* The nonconforming use of land existing at the time of the effective date of this article may continue as hereinafter

provided:

- (a) A nonconforming use of land shall not be expanded, extended or changed to some other use not in compliance with the regulations of the district in which the land is situated.
  - (b) If a nonconforming use of land or any portion thereof, is voluntarily discontinued for a period of one hundred twenty (120) days any future use of such land or portion thereof, shall be in conformity with the regulations of the district in which such land or portion thereof is located.
- (4) *Abandonment.* Except for subsection (1)(d) of this section the nonconforming use of a building, structure or land which has been abandoned shall not thereafter be returned to such nonconforming use. A nonconforming use shall be considered abandoned when:
- (a) The intent of the owner to discontinue the use is apparent; or
  - (b) The characteristic equipment and furnishings of the nonconforming use have been removed from the premises and have not been replaced by similar equipment within one hundred twenty (120) days; or
  - (c) A nonconforming building, structure or land which is or hereafter becomes vacant and remains unoccupied for a period of one hundred twenty (120) days; or
  - (d) A nonconforming use has been replaced by a conforming use.
- (5) *Change in District Boundaries.* Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one (1) district to another district, or when the boundaries of districts are changed as the result of annexation of new territory, or changed in the regulations or restrictions of this chapter, the foregoing provisions relating to nonconforming uses shall also apply to any uses existing therein which may become nonconforming.

(Ord. No. 581, § 6.5, 1-22-07; Ord. No. 581-B-2007, § I, 12-18-07)

# CITY OF UNIVERSAL CITY

Development Services Department  
2150 Universal City Blvd.  
Universal City, TX 78148

## NOTICE OF ADDITIONS OR CORRECTIONS

JOB ADDRESS: 205 W. Byrd Ste 105

TYPE OF INSPECTION: Building Safety

PERMIT #: 231176

**DISAPPROVED**

**APPROVED W/COMMENTS**

- 1) Site address size must meet requirements of Fire Marshal
- 2) Seal all open penetrations through walls and ceiling
- 3) Install exit indicator at front door that ties into the thumb-turn lock. Include signage on door stating "This door to remain unlocked while suite is occupied."
- 4) Ensure emergency and exit lights throughout space are fully operational with min 90 minute battery backup
- 5) Install self closing device on all exterior doors
- 6) Insulate all exposed waterlines in warehouse
- 7) Service sink cannot have flexible faucet
- 8) Repair insulation in warehouse
- 9) Install hose bibb vacuum breakers on all hose bibbs
- 10) Restripe parking lot including at least one van accessible handicap parking space

Temporary Certificate of Occupancy granted for  
furniture, fixtures, and equipment only until November 10, 2023.

Work shall not be done on any part of the building and electrical, mechanical, or plumbing systems beyond this inspection without first obtaining written release from the Building Official for the above-mentioned item(s).

**FAILURE TO COMPLY WITH ANY OF THE ABOVE-MENTIONED ITEMS MAY RESULT IN ADDITIONAL FINES/FEEES OR COURT CITATION.**

After additions or corrections have been made and all required fees have been paid, please contact the Inspections Department at (210) 659-0333, extension 444, to reschedule an inspection. Inspections must be called in before 4:00 p.m. in order to insure next day scheduling.

Date: 09/19/23

Inspected by: J. Redmon TSBPE I-3544

MAY 28 2024

Received By:



County of Bexar

City of Universal City §  
§  
State of Texas §

**TO THE HONORABLE BOARD OF ADJUSTMENT:**

Subject Property Description

Lot No. 11

Block No. 7

Property Address: 205 W. Byrd Blvd.

CB 5768

Per Section 7.02 of the Code of Ordinances (the "Code"), the Board of Adjustment is empowered to consider appeals from a decision made by an administration official.

The Applicant, Brown & McDonald, PLLC of Bexar County, as agent for Camino Nuevo, LLC, alleges that the following administrative official, Michael Cassata, in his capacity as Director of Development Services, made an incorrect decision, or interpretation regarding Section 4-5-65 of the Code. In his interpretation, Director Cassata incorrectly determines that the building or structure became vacant therefore revoking the non-conforming use status.

The facts will show the non-conforming use was never abandoned or voluntarily discontinued. The owner of the property has consistently maintained the intention for the continued utilization of the property and its non-conforming use, as evidenced by the presence of tenants who have intermittently occupied the premises, with characteristic equipment and furnishings consistent with the non-conforming use, at all times being retained on the property. Consistent with the foregoing, the Applicant maintains that the non-conforming use has not been voluntarily terminated. Tenants have been granted temporary certificates of occupancy and have sought final certificates of occupancy, albeit unsuccessfully due to the assertion of non-conforming use.

Therefore, we respectfully request that non-conforming use be recognized for the Subject Property and the determination of vacancy been overturned.

[signature pages next page]

**Respectfully submitted:**

**Applicants name:** Brown & McDonald, PLLC (Agent)

**Mailing Address:** 100 NE Loop 410 St. 1385, San Antonio, Texas, 78216

**Telephone:** (210) 429-7917

**Email:** Ken@BrownMcDonaldLaw.com

---

Applicant Signature

**Property Owner:** Camino Nuevo, LLC c/o Logan Fullmer

**Mailing Address:** 8531 N. New Braunfels Ave. Ste. 101, San Antonio, Texas, 78217

I, Camino Nuevo, LLC c/o Logan Fullmer, the owner of the Subject Property, authorize Brown and McDonald, PLLC, to submit this appeal and represent me before the Board of Adjustment.



---

Property Owner Signature

**Motion to Approve:**

VC 679

I move to approve VC 679 and to overturn the decision made by the administrative official of the City regarding the nonconforming status of the property at 205 W. Byrd Boulevard. As a result, in accordance with Zoning Code Section 4-5-65— Nonconforming Buildings and Uses, the subject property and building may be re-occupied with a use for which the building or structure was designed or intended, if so occupied within a period of 120 days from the date of this determination.