

AGENDA  
CITY OF FREDERICKSBURG  
BOARD OF ADJUSTMENT

Thursday, August 16, 2012

**5:30 P.M.**

CITY HALL CONFERENCE ROOM, 126 W. MAIN ST.

- |    |   |                  |
|----|---|------------------|
| 1. | Call to Order                           | <i>PAGE REF.</i> |
| 2. | Approve Minutes of the May 2012 Meeting | <i>Pp 1 - 3</i>  |

**PUBLIC HEARINGS**

- |    |  |                  |
|----|--|------------------|
| 3. | <u>PUBLIC HEARING:</u> (ZBA2012-2) by Tim Bobo on behalf of Gwynne Juett at 305 Cottonwood Street to consider a variance to Section 7.530 (a) of the Zoning Ordinance pertaining to maximum fence height | <i>Pp 4 - 16</i> |
| 4. | Consider taking action on ZBA2012-2  |                  |

**ADJOURN**

**STATE OF TEXAS  
COUNTY OF GILLESPIE  
CITY OF FREDERICKSBURG**

**BOARD OF ADJUSTMENT  
May 17, 2012  
5:30 P.M.**

On this the 17<sup>th</sup> day of May, 2012, the BOARD OF ADJUSTMENT convened in regular session at the regular meeting place thereof with the following members present to constitute a quorum:

MIKE DOOLEY - Chair  
ROBERT DEMING  
BRYON SCHAETTER  
KATHY SANFORD  
KAREN OESTREICH

ABSENT: BARBARA HEINEN  
JIM MCAFEE

ALSO PRESENT: BRIAN JORDAN - Director of Development Services  
KYLE STAUDT – City Inspector  
TAMMIE LOTH - Development Coordinator

The meeting was called to order at 5:30 P.M. by Mike Dooley.

**MINUTES**

Karen Oestreich moved to approve the minutes of the January 2012 regular meeting and Kathy Sanford seconded the motion. All voted in favor and the motion carried.

**PUBLIC HEARING - (ZBA 2012-1)**- by Cavan McMahon at 112 W. Schubert to consider a variance to Section 3.110 of the Zoning Ordinance pertaining to residential density and front yard setback. Cavan McMahon presented the application. Mr. McMahon stated he would like to build three efficiency guesthouses on the subject property. Mr. McMahon stated the lot is hindered by it's size, approximately 5,385 square feet, and stated per code he is allowed to build one efficiency unit per 2500 square feet of property. Mr. McMahon noted he is allowed to have two efficiency units on the lot but he would like to build three. Mr. McMahon commented he believes Schubert Street is under utilized and since the pool redevelopment has passed he believes there will be a proposal to close off Schubert Street when the construction starts.

Mike Dooley asked about the head-in parking proposed on Schubert Street. Mr. Dooley noted there was head-in parking on the opposite side of the street and asked if the street is wide enough to allow head-in parking on both sides as well as two driving lanes. Brian Jordan, Director of Development Services, noted the street is designed for those circumstances between the subject property and the pool and is capable of handling what the applicant is proposing. Mr. Jordan also noted there is a provision in the zoning code that based on the zoning of the property, the

location of the property, and the existing conditions, the applicant is entitled to propose head-in parking. Bryon Schaeffer asked if he was not required to have any on-site parking. Mr. Jordan stated he does have to provide parking for the site, but head-in parking is an appropriate option. Mr. Jordan then noted the parking issue does not have anything to do with the variance request.

### **STAFF COMMENTS**

Brian Jordan, Director of Development Services, noted the applicant is asking for two different variances on the property. Mr. Jordan noted the first one deals with the density which, by code, requires 2500 square feet of land per efficiency unit. Mr. Jordan explained the applicant would have to have 7500 square feet of land to build 3 efficiency units as he is asking. Mr. Jordan noted the other request is to reduce the setback on Crockett Street from 15 feet to 10 feet. Mr. Jordan noted the only thing that makes the property unique is that it is small, but Mr. Jordan noted the applicant was aware of that when he bought the property. Mr. Jordan noted in Staff's opinion there is nothing unique to the property that would justify granting a variance for a third efficiency unit.

Mr. Jordan stated the other request is in regards to the setback. Mr. Jordan noted there are buildings on both Crockett Street and Schubert Street that are built much closer to the property line than 15 feet and the building on the north side of the property is as well. Mr. Jordan stated with the circumstances in the area and the characteristics of the street within the right-of-way, Staff would not be opposed to allowing a variance to the setback requirement. Robert Deming asked if there was another zoning district that would allow a higher density and Mr. Jordan noted R-3, Multi-Family Residential, allows a higher density, dependant on the type of structure. Kathy Sanford asked if the applicant met the requirements of impervious coverage with all three houses. Mr. Jordan stated he believes that requirement is met, but if it isn't the building permit would not be issued. It was noted no letters were received in opposition or support of the request. Mike Dooley closed Public Hearing ZBA2012-1.

Cavan McMahon explained there are guesthouses all around this property, as well as commercial type uses, a pool and gathering hall, so allowing the variance would not have a negative impact on the area. Mr. Dooley stated the required 15 foot setback exceeds the setbacks that are currently in place on the surrounding properties and he does not believe allowing a variance to the setback would create any adverse consequences. Mr. Dooley also stated if the Board allows a density variance, he believes they will create a problem and set a precedence. Karen Oestreich agreed with Mr. Dooley's comments and added the lot is very visible. Kathy Sanford noted she does not have a problem with allowing the setback variance, and while the applicant presented a great design, she is not willing to set the precedence of allowing a higher density than is dictated by code.

Robert Deming moved to approve the variance with respect to the setback request and deny the variance with respect to the density request. Bryon Schaeffer seconded the motion. All voted in favor and the motion carried.

With nothing further to come before the Board, Karen Oestreich moved to adjourn the meeting and Bryon Schaetter seconded the motion. All voted in favor and the meeting was adjourned at 5:52 p.m.

PASSED AND APPROVED this the 16<sup>th</sup> day of August, 2012.

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SHELLEY BRITTON, CITY SECRETARY

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MIKE DOOLEY, CHAIR



**VARIANCE BRIEF**

*Request # 2012-2*

**APPLICANT:**

Tim Bobo

**OWNER:**

Gwynne Juett

**ZONING:**

R-1, Single Family Residential District

**LOCATION:**

305 Cottonwood Street (Intersection of Cottonwood Street and W. Ufer Street)

**REQUEST:**

Variance to Section 7.530 (a) of the Zoning Ordinance, pertaining to maximum fence height of 4' in the minimum required front yard setback. The applicant intends to build a 6' fence within a portion of the front yard setback of Cottonwood Street and W. Ufer Street.

**FINDINGS:**

- The subject property is located at the southeast corner of Cottonwood Street and W. Ufer Street (305 Cottonwood St).
- The subject property contains approximately 1.3 acres, with approximately 100' of frontage on Cottonwood St. and 40' of frontage on Ufer St.
- A drainage channel runs along the west side of the property.
- The property is zoned R-1, Single family Residential, as is all surrounding properties.
- Setbacks per the zoning are 25' along Cottonwood St. and Ufer St.
- The applicant would like to construct a 6' high continuous fence running generally parallel to the creek to keep deer out of the yard area. The proposed fence would encroach into the required front yard for a short distance along the Ufer Street side of the property.
- The floodplain along Barons Creek encroaches into the subject property. Any approved fence within this area will need to be located out of the floodplain.
- All other structures within the property appear to meet the required setbacks.

The Board of adjustment may grant a variance if it makes affirmative findings of fact on **each** of the criteria described below:

- a. The Zoning Regulations applicable to the property do not allow for reasonable use. **While there is ample room to build the proposed fence elsewhere on site, the applicant would like to locate the fence in such a way to help protect the garden and landscaping from deer. Given the irregular shape of the lot and location of the floodplain, the proposed fence would be located within an area of the lot that is essentially unusable.**
- b. The plight of the owner of the property is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the zoning district in which the property is located. **The circumstances relating to the property are unique and were not created by the applicant. The lot configuration is the same as shown on our original maps. This part of the property where the encroachment is proposed slopes toward the creek and is essentially not buildable for a structure.**
- c. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the zoning district in which the property is located. **The building of this fence as proposed would not negatively affect nearby properties.**

**OPPOSITION/SUPPORT OF REQUEST:** We have received 3 letters in support and no letters in opposition to the variance request.

**STAFF RECOMMENDATION:**

Approval: The configuration of this property is unique in that it has frontage on two streets, with minimal frontage on Ufer Street, a drainage channel and the proximity to the creek. As long as the proposed fence is located out of the floodplain along Baron's Creek, approval is recommended.

The applicant has verified that the portion of the fence affected by this variance request is located out of the floodplain.

VARIANCE REQUEST APPLICATION  
TO  
BOARD OF ADJUSTMENT

1. APPLICANT: Tim Bobo

2. ADDRESS: 714 W. Live Oak Fbg, TX 78624

PHONE: 830 998 6296 FAX: None

3. DESCRIPTION OF PROPERTY INVOLVED IN THIS REQUEST:

ADDRESS: 305 Cottonwood

LEGAL DESCRIPTION: ABS A0125 JW Clark #190

LOT SIZE: ~~1.31~~ 1.31 acres ZONING DISTRICT: R-1 Single Family Residential

4. REQUEST IS MADE HEREWITH TO THE BOARD OF ADJUSTMENT THAT A VARIANCE BE GRANTED TO THE FOLLOWING PROVISIONS OF THE ZONING ORDINANCE:

SECTION: 7.530 Fences, Walls, Visibility PAGE: 74

SUBSECTION: (a)

ITEM: N/A

RELATING TO: fence heights

REQUIRING: All fences, walls, and hedges located in front of the minimum required front yard line as specified herein, shall not be constructed or maintained to a height exceeding four (4) feet above the grade of the lot.

5. INFORMATION TO BE SUBMITTED BY THE APPLICANT:

A. Site plans, preliminary building elevations, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to the Variance application:

- a. Existing and proposed location and arrangement of uses on the site, and on abutting sides within 50-feet.
- b. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
- c. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
- d. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvements related to or necessitated by the proposed use.

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B. The Building Official and/ or Director of Development Services may request additional information necessary to enable a complete analysis and evaluation of the variance request, and a determination as to whether the circumstances prescribed for the granting of a Variance exists.

6. REASONS FOR THE REQUEST: To be able to build a continuous 6' fence that has frontage on two streets.

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A. The Board of Adjustment may grant a variance if it makes affirmative findings of FACT on EACH of the criteria. The applicant shall give a reason why the request complies with the following criteria:

1. The Zoning Regulations applicable to the property do not allow for a reasonable use.

Due to this large lot having two frontages the ordinance would require this 6' deer fence to drop down to 4' in two separate places thus negating the purpose of the fence.

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

The back of this property ends at a creek, which is also the end of the city limit. Large numbers of deer reside in this creek/county area causing devastation to her gardens/landscaping. There is also a need to bring the fence out of the apparent flood zone.

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purposes or regulations to the Zoning District in which the property is located.

The variance requested by W. Ufer is set back from the property line by over 10 feet. The other portion of the fence in violation is below a hill and not visible from the street.

B. PARKING: ADDITIONAL CRITERIA-The Board may grant a Variance to a regulation prescribed by this ordinance with respect to the number of off-street spaces required if it makes findings of fact that the following additional criteria are also satisfied:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation.

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2. The granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets.

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3. The granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of this ordinance.

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4. The Variance shall run with the use or uses to which it pertains, and shall not run with the site.

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C. SIGNS: ADDITIONAL CRITERIA-The Board may grant a Variance to a regulation prescribed by the Sign Ordinance with respect to the placement of signs, the height of signs or the area of signs if it affirmatively finds each of the following.

1. That a sign is being replaced. For the purposes of this Section, replacement shall include the erection of a new or different sign due to the removal of another sign for any reason, including the change of name of a business, whether from change of ownership, business being conducted, or otherwise, the change of a sign for a continuing business containing the same or different information as the sign being replaced, and the replacement of signs due to damage or vandalism.

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2. That all structures on the property for which the sign is proposed that would impede the replacement of a sign were constructed prior to February 17, 1986.

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3. That it is impractical to abide by existing placement, height or area regulations due to the placement, size of construction of existing structures in relationship to the physical characteristics of the site. For purposes of illustration, physical characteristics may include topography of the site or the surrounding sites, structures on surrounding sites, traffic conditions, street layouts and existing natural vegetation.

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4. That the other types of signs which are permitted by this Ordinance cannot practically be used. In making this determination of practicality, the Board may consider
- a. The undesirability of altering a historic site to accommodate a sign which would be permitted with no variance under this Ordinance; or
  - b. That alternatives permitted by this Ordinance would involve extensive reconstruction of structures; or
  - c. That alternatives permitted by this Ordinance are prohibitively expensive; or
  - d. That alternatives permitted by this Ordinance will not effectively identify the subject of the sign.

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5. That the proposed sign has been reviewed by the Historic Review Board if applicable.

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6. That the proposed variance is as close to the requirements of the sign ordinance as is feasible.

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7. **NOTICE TO APPLICANT: YOU, OR YOUR REPRESENTATIVE ARE STRONGLY URGED TO ATTEND THE BOARD OF ADJUSTMENT MEETING AT WHICH YOUR VARIANCE REQUEST WILL BE CONSIDERED-** The Board will consider whatever evidence is presented at that time, and may approve, deny, or postpone consideration of your request. Failure to attend may result in the presentation of inadequate or inaccurate information which may result in denial or postponement.

Signature of Owner: Gwynne A. Johnson

Date: 7/26/12 Fee Paid: 50.<sup>00</sup>

8. List of property owners within 200 ft. (Provided by City)



COTTONWOODS S.

W. UFER ST.

ENCROACHMENT

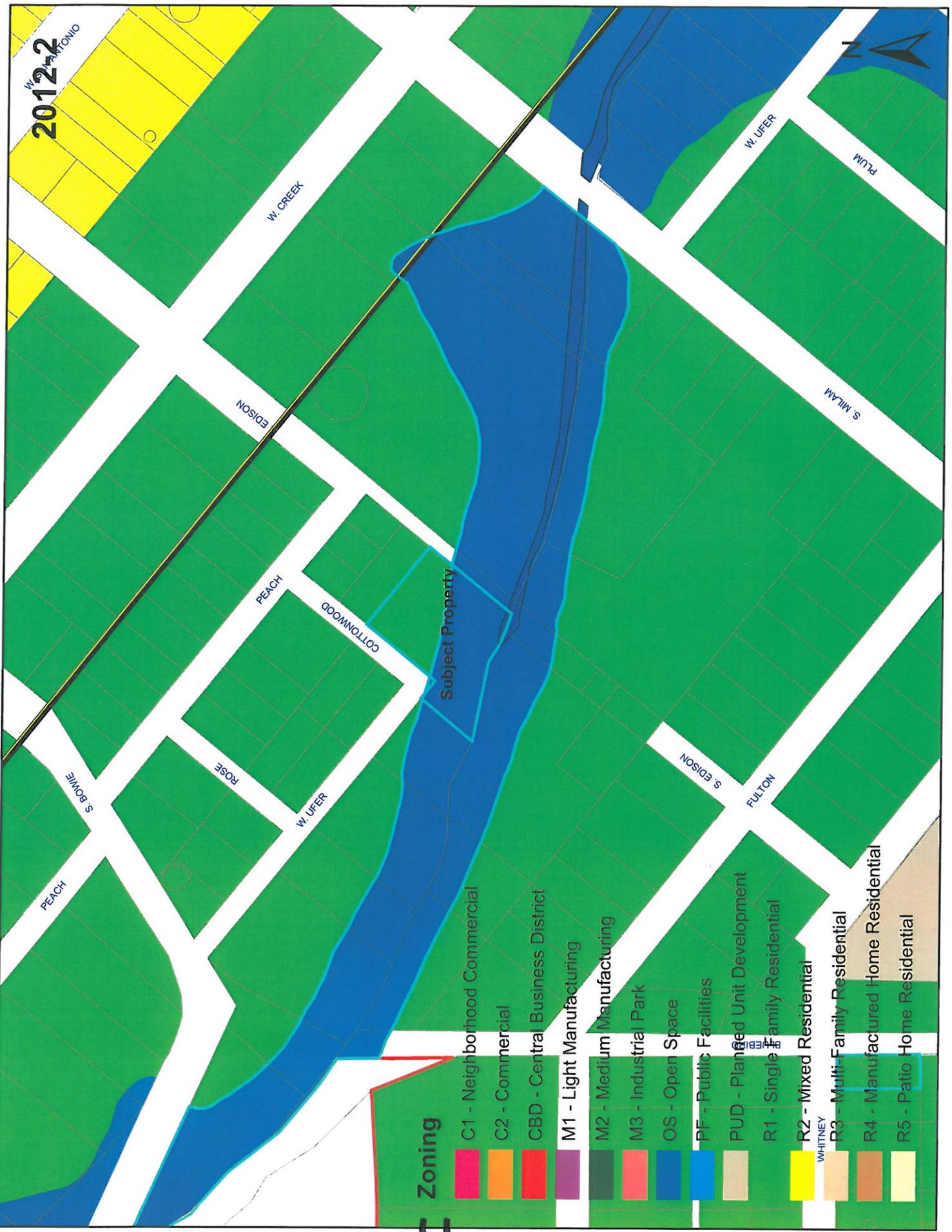
PROPOSED FENCE

ESR PLANT

B

10

2012  
ANTONIO

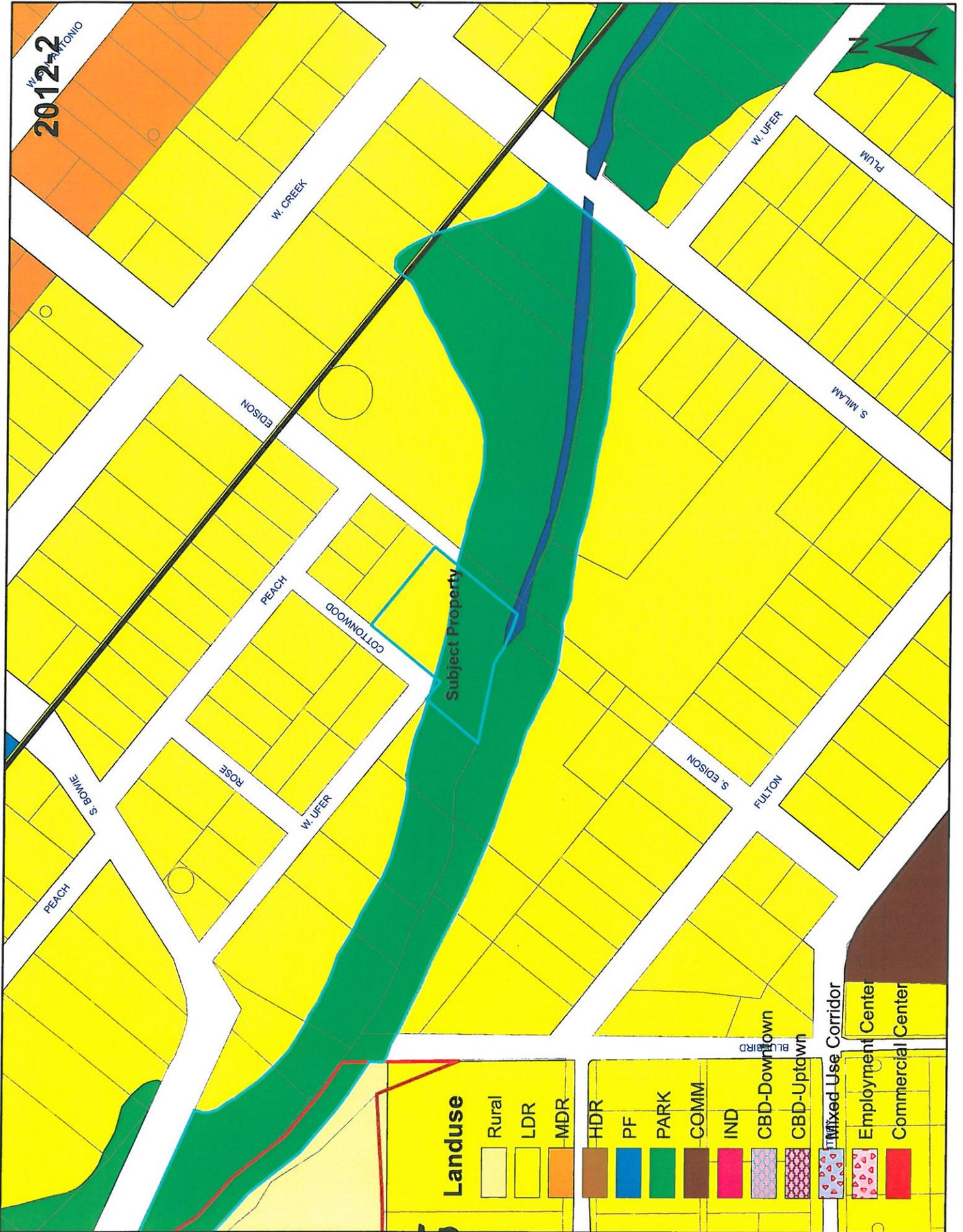


**Zoning**

- C1 - Neighborhood Commercial
- C2 - Commercial
- CBD - Central Business District
- M1 - Light Manufacturing
- M2 - Medium Manufacturing
- M3 - Industrial Park
- OS - Open Space
- PF - Public Facilities
- PUD - Planned Unit Development
- R1 - Single Family Residential
- R2 - Mixed Residential
- R3 - Multi-Family Residential
- R4 - Manufactured Home Residential
- R5 - Patio Home Residential

W. CREEK  
EDISON  
PEACH  
COTTONWOOD  
S. BOWIE  
ROSE  
W. UFER  
S. EDISON  
FULTON  
S. MILAM  
PLUM  
W. UFER

Subject Property



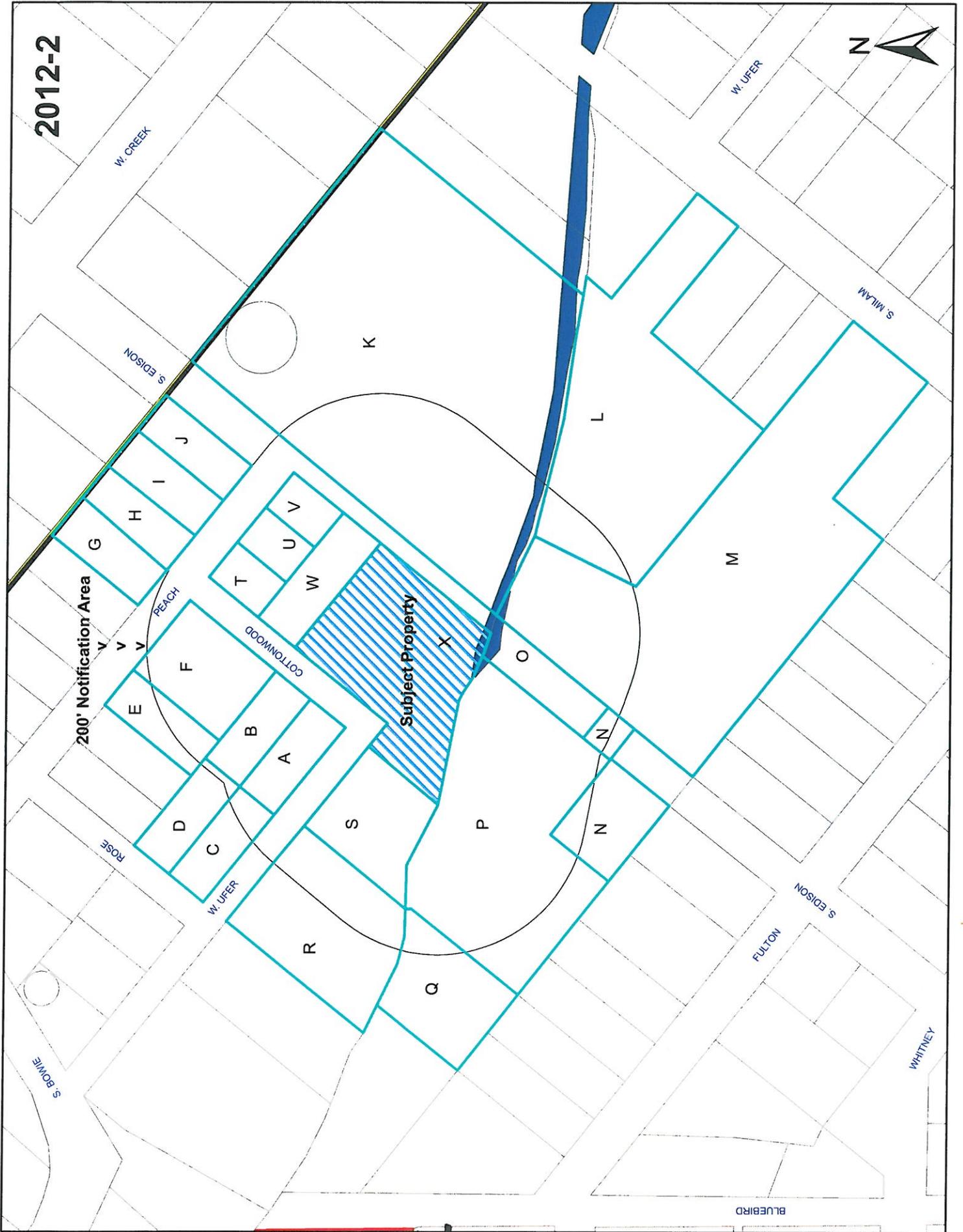
**Landuse**

- Rural
- LDR
- MDR
- HDR
- PF
- PARK
- COMM
- IND
- CBD-Down
- CBD-Uptown
- Mixed Use Corridor
- Employment Center
- Commercial Center



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Letter	Owner
A	Carolyn C. Stewart
B	Carolyn C. Stewart
C	Cynthia Ann Radle
D	James A. Estes & Diane M. Lohman
E	Don & Robin Rucker
F	Don & Robin Rucker
G	Gus Pehl, Jr.
H	Jorge L. & Dora Mirelez
I	Drew Liddell & Silke Cervanties
J	Allen Keller Company I, LLC
K	Robert & Julie A. Sawtelle
L	Carolyn Schilthuis
M	Mildred Klier
N	Kevin Wade Klier etal
O	City of Fredericksburg
P	Kevin Wade Klier etal
Q	Victor John Nugent
R	Richard A. Robinson & Carol J. Crowder
S	Robert C. Deming
T	Herbert A. Oehler
U	Geraldine Bishop
V	Victoria Messer Hildebrand
W	Herbert A. Oehler
X	Gwynne Underwood Juett

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2012-2



**City of Fredericksburg**  
126 West Main Street  
Fredericksburg, TX 78624

**NOTICE OF PUBLIC HEARING ON VARIANCE REQUEST**

**HEARING DATE: August 16, 2012**

**TIME: 5:30 P.M.**

**APPEAL NO. 2012-2**

**The BOARD OF ADJUSTMENT of the City of Fredericksburg will hold a public hearing at the above stated time and date in the Conference Room of City Hall, 126 W. Main St. to consider a variance request as indicated below.**

According to City Tax Record, you are the owner of real property within 200' of the requested variance. You are not required to attend the hearing, but if you care to attend you will be given full opportunity to be heard. If you cannot attend the hearing, but wish to comment on the request, please detach the response form below and return it to the City of Fredericksburg, 126 W. Main St., Fredericksburg, Texas 78624. All protests must be submitted in writing.

**The decision of the BOARD OF ADJUSTMENT on the requested variance is final. For additional information please do not hesitate to contact the Development Services Department at 830-997-7521.**

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**APPLICANT: Tim Bobo on behalf of Gwynne Juett**

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**ADDRESS OF THE SUBJECT PROPERTY: 305 Cottonwood St.**

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**EXPLANATION OF REQUEST: Variance to section 7.530 (a) of the Zoning Ordinance pertaining to maximum fence height**

(detach here)

**Appeal No. 2012-2**

As an interested property owner, I (PROTEST) (APPROVE) the requested variance represented by the above appeal number because:

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Signed

Address

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