

**ZONING BOARD OF ADJUSTMENT – May 7, 2018
STAFF REPORT**



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|--------------------------|------------------|
| APPLICATION TYPE: | CASE: |
| Variance | ZBA18-03: Zaruba |

SYNOPSIS:

On March 16, 2018, the applicant submitted this variance application to allow for the construction of 6-foot high privacy fence within the 25-foot front yard facing Hudson Street on the subject property. The property contains an existing hotel “Inn of the Conchos,” and the hotel building has existed since at least 1984, according to the Tom Green County Appraisal District. The applicant indicates that the purpose of the fence is to provide additional security to the rear of the hotel (defined as a front yard in the Zoning Ordinance) and prevent non-hotel pedestrians and vehicles from cutting across the property from Hudson Street to North Bryant Boulevard. The new fence would extend approximately 500 feet, beginning on the north end of the property connecting to the existing Action Pawn property fence, and extending south to an existing residence which the hotel uses as storage at 2000 Hudson Street. The proposed fence will be constructed along the west property line, approximately 4 feet back from the existing curb on Hudson Street, and east of the existing telephone line.

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| LOCATION: | LEGAL DESCRIPTION: |
| 2000 Hudson Street and 2021 North Bryant Boulevard; generally located west of North Bryant Boulevard between West 19 th Street and West 23 rd Street | Part of Lots 3-9 within Block 1 of the Home Acres Subdivision, comprising a total of 3.85 acres |

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|---|---|-------------------------|--------------|
| SM DISTRICT / NEIGHBORHOOD: | ZONING: | FUTURE LAND USE: | SIZE: |
| SMD District #4 – Lucy Gonzales Blackshear Neighborhood | CG/CH – General Commercial/ Heavy Commercial | C - Commercial | 3.85 acres |

THOROUGHFARE PLAN:

North Bryant Boulevard– Urban Arterial Street
Required: 80’ right-of-way, 64’ pavement; Provided: 190’ right-of-way, 68’ pavement in compliance

Hudson Street – Urban Local Street
Required: 50’ right-of-way, 40’ pavement, or 36’ pavement with a 4’ sidewalk; Provided: 50’ right-of-way, 40’ pavement and no sidewalk in compliance

NOTIFICATIONS:

27 notifications were mailed within a 200-foot radius on April 25, 2018. One letter was received in support and none in opposition of the request to date.

STAFF RECOMMENDATION:

Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a Variance from Section 509.B.3.a of the Zoning Ordinance to allow placement of a fence within the west front yard facing Hudson Street up to a maximum 6 feet in height within the General Commercial/Heavy Commercial (CG/CH) Zoning District, subject to four (4) Conditions.

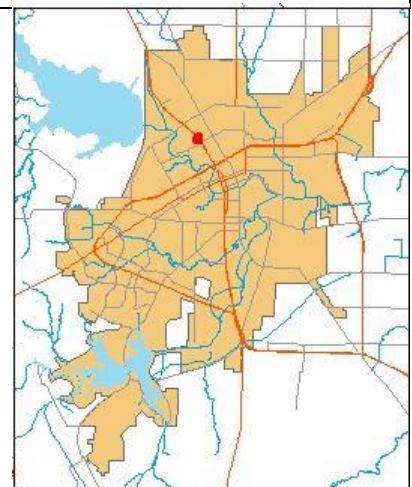
PROPERTY OWNER/PETITIONER:

Property Owner:
D and V Inc.

Applicant:
Mr. Scott Zaruba, General Manager
Inn of the Conchos

STAFF CONTACT:

Jeff Fisher, AICP
Senior Planner
(325) 657-4210, Extension 1550
jeff.fisher@cosatx.us



Variations: Section 207(F) of the Zoning Ordinance requires that an applicant for a variance must show that a hardship exists and that the Zoning Board of Adjustment make an affirmative finding that each and every one of the following six (6) criteria are met:

1. **Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.**

The Planning Division concurs with the applicant that the west front yard facing Hudson Street serves as a rear yard to the hotel even though it has direct and abutting access to a street. The property is defined as a “through lot” under Section 804 of the Zoning Ordinance because it has “two street lines that are opposite each other, and that are parallel to each other, and that is not a corner lot.” In this case, North Bryant Boulevard serves as the primary access for vehicles entering the property, and if the west accesses were closed, vehicles entering from North Bryant Boulevard could still access the rear parking lot through the north and south internal drives. The adjacent properties to the north, Action Pawn and the Ramada Limited Hotel, also have 6-foot high fences facing Hudson Street, and the applicant intends to install a fence that extends from the Action Pawn fence, continuing along the same sight line parallel to Hudson Street.

2. **These special circumstances are not the result of the actions of the applicant.**

The applicant did not create the existing lot configuration. The Tom Green County Appraisal District indicated that the associated subdivision plat, Home Acres Addition, was filed for record on November 14, 1941, and according to the Tom Green County Appraisal District, the hotel was not constructed until 1984. As a Condition of Approval, the applicant will be required to install a 20-foot wide gate which allows immediate emergency access for firefighters along on at least one of the entries facing Hudson Street. Additional conditions will include reducing the height of the existing 8-foot high garbage dumpster fence to 6 fence consistent with the new property line fence (or relocating it out of the 25-foot front yard along Hudson Street); that the fence not be constructed of chain link material which is inconsistent with the surrounding area; and that the applicant obtain a change of occupancy for the building at 2000 Hudson Street which the Appraisal District currently identifies as a residence.

3. **Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.**

The Planning Division believes a literal interpretation of the Zoning Ordinance would cause the applicant an unnecessary hardship in preventing a security fence from being erected adjacent to Hudson Street which acts as a rear yard and not a front. The existing hotel property, as well other commercial businesses along North Bryant Boulevard, were built with two street accesses – North Bryant Boulevard and Hudson Street. However, all of these businesses have their main entrances and primary accesses on North Bryant Boulevard. As previously stated, the Ramada Limited Hotel and Action Pawn facility already have 6-foot tall privacy fences along the Hudson Street property side, and the Inn of the Conchos’ new fence would be a continuation of this existing fence line.

4. **Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.**

The proposed 6-foot high fence is consistent with the adjoining fences and typical of security fences for commercial businesses in San Angelo. If the variance was granted, the Planning Division does not believe the approval would be contrary to the public interest as the Hudson Street property line acts as a rear yard, and a private security fence would provide additional screening from the residences on the west side of Hudson Street.

5. **Granting the variance will not adversely affect adjacent land in a material way.**

The Planning Division does not believe that granting a variance would negatively affect any adjacent land. As indicated above, a new 6-foot high fence would provide further visual separation from the residences to the west. The fence would also provide continuity of the existing fence line of the Ramada Limited Hotel and Action Pawn properties.

6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.**

The Planning Division believes that the fence variance will be generally consistent with the Zoning Ordinance. The proposed fence does not contravene any other section of the Zoning Ordinance. The proposed fence variance is generally consistent with Section 105 of the Zoning Ordinance, in particular Section 105.B.2, which calls to “protect quasi-residential uses that benefit from a residential environment and which provide essential health and welfare services for the residents thereof.” Installation of a 6-foot high privacy fence, whether enclosed or unenclosed, provides a visual separation from the residential uses to the west and the commercial hotel use to the east of Hudson Street.

Allowed Variances:

In exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that one or more of the following circumstances applies:

1. **SPECIAL CIRCUMSTANCES RESULTING IN UNNECESSARY HARDSHIP.** *Where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this zoning ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.*

The applicant believes there is a special circumstance respecting the fence given that the west property line acts as a rear yard and that new hotels today are often built with a single entry and exit.

2. **OVERRIDING PUBLIC INTEREST.** *If the variance further an overriding public interest or concern, including, but not limited to: (a) Preserving the natural environment, (b) Promoting maintenance or reuse of older urban or historic buildings, or (c) Helping to eliminate a nonconforming use at another location.*
3. **LITERAL ENFORCEMENT.** *If it is found that the literal enforcement and strict application of this Zoning Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.*

Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a Variance from Section 509.B.3.a of the Zoning Ordinance to allow placement of a fence within the west front yard facing Hudson Street up to a maximum 6 feet in height within the General Commercial/Heavy Commercial (CG/CH) Zoning District, on the subject properties, subject to the following **four Conditions of Approval**:

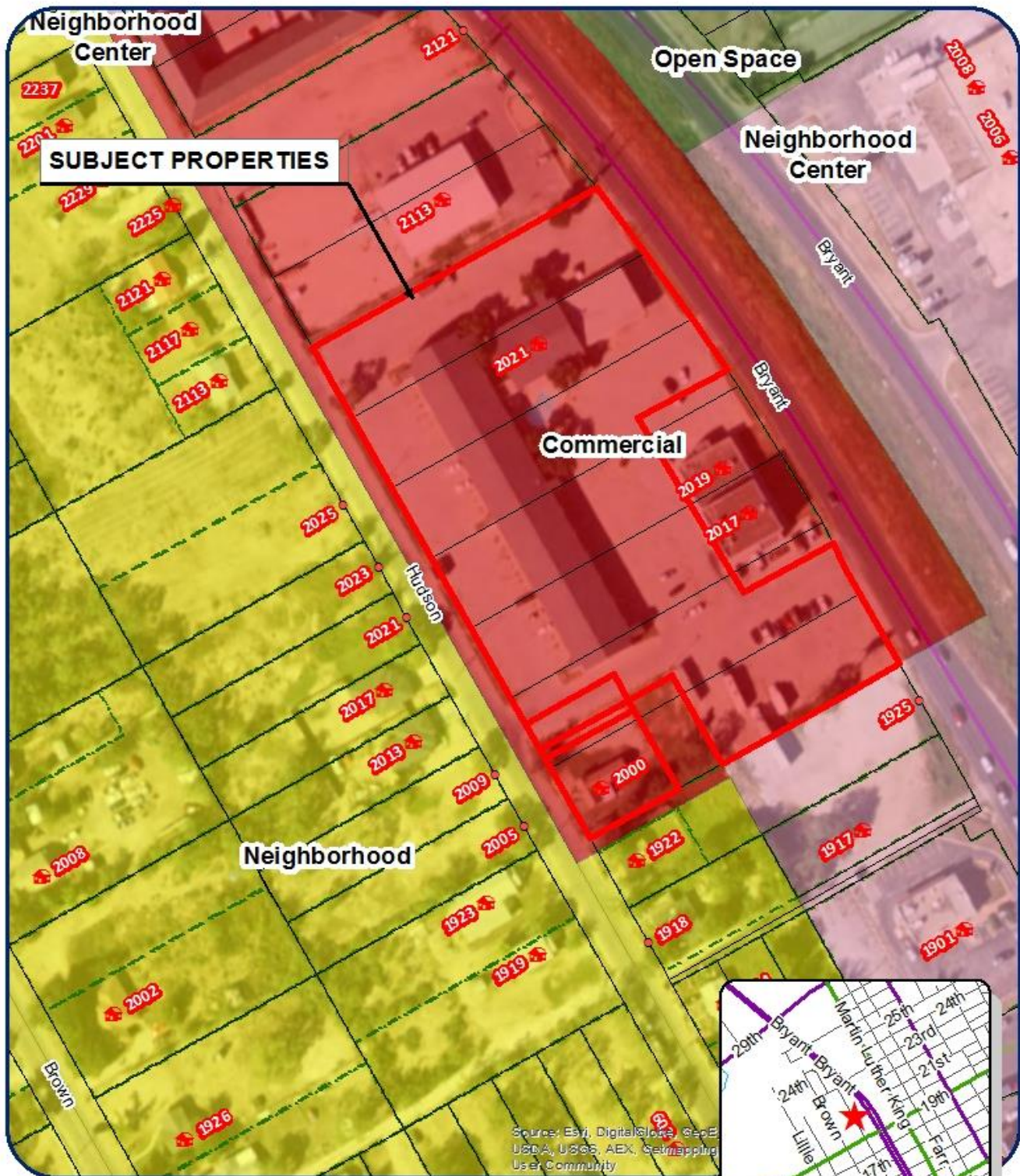
1. The fence shall not be constructed of chain link material. Barbed or razor wire shall not be permitted on any portion of the fence.
2. The applicant shall install a 20-foot wide gate that is Optimum compatible which allows immediate emergency access for firefighters on at least one of the entries facing Hudson Street, as per Appendix D of the International Fire Code, and as approved by the Fire Department.
3. The applicant shall remove or relocate the portion of the existing garbage dumpster fence within the public right-of-way onto private property. In addition, this fence shall be reduced in height from 8 feet to 6 feet, or the fence shall be relocated entirely outside of the required 25-foot front yard facing Hudson Street.
4. Prior to erection of the new fence, the applicant shall obtain a Change of Occupancy Permit, if necessary, for the existing building at 2000 Hudson Street, identified as a residence by the Tom Green County Appraisal District.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Photographs
Resident Letter
Site Plan
Application



| | | | |
|---|--|-------------------------------------|--|
| Variance Case File | | Legend | |
| ZBA18-03: Zaruba | | Subject Properties: | |
| Council District: Lucy Gonzales (SMD #4) | | Current Zoning: CG/CH | |
| Neighborhood: Blackshear | | Requested Zoning Change: N/A | |
| Scale: 1" approx. = 125 ft | | Vision: Commercial | |
| Subject Properties: 2000 Hudson Street and 2021 N. Bryant Blvd. | | | |



Source: Esri, DigitalGlobe, GeoEye, USA, USGS, AEX, Getmapping, User, Community

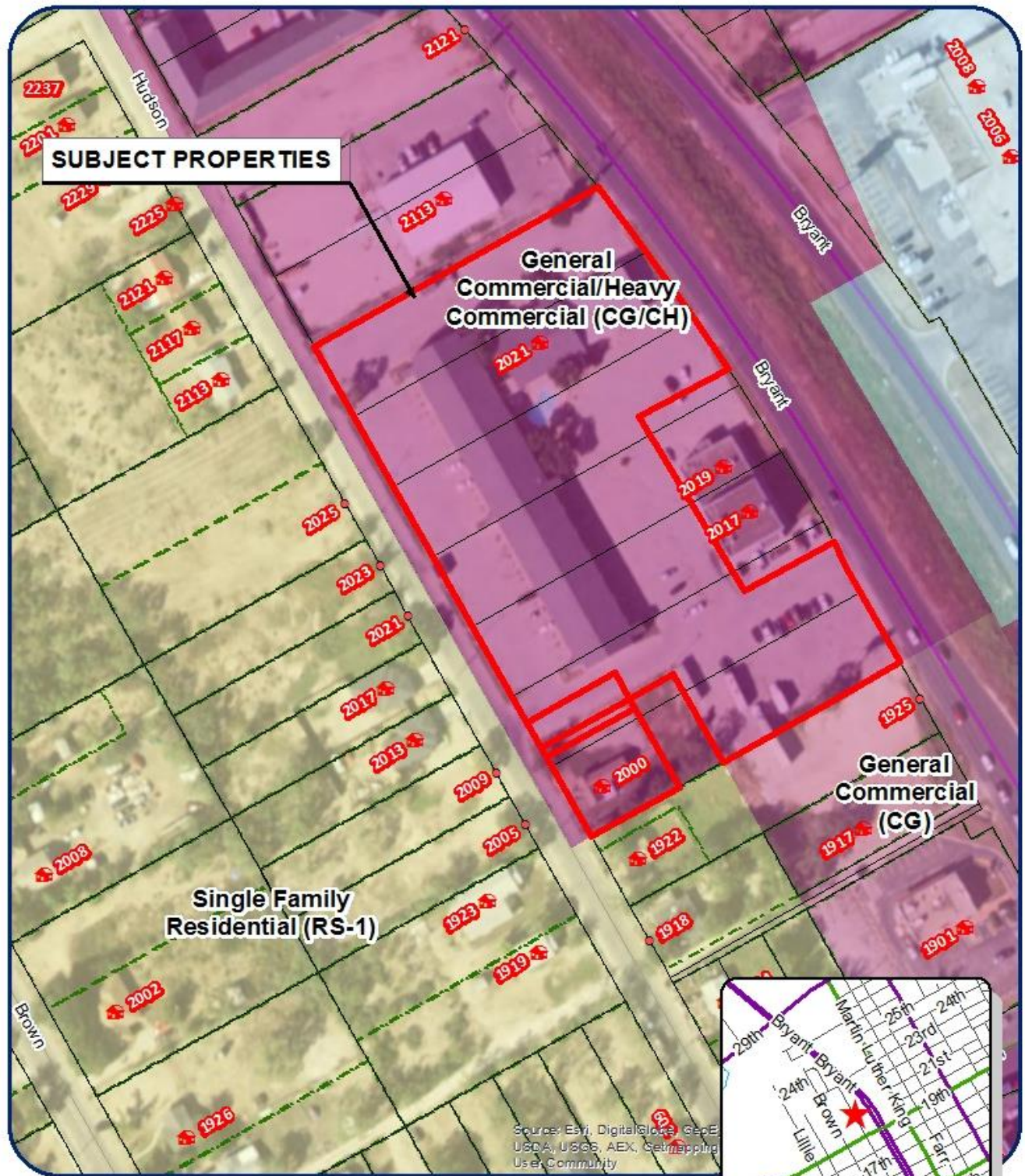


Variance Case File
ZBA18-03: Zaruba

Council District: Lucy Gonzales (SMD #4)
 Neighborhood: Blackshear
 Scale: 1" approx. = 125 ft
 Subject Properties: 2000 Hudson Street and 2021 N. Bryant Blvd.

Legend
 Subject Properties:
 Current Zoning: **CG/CH**
 Requested Zoning Change: **N/A**
 Vision: **Commercial**





Variance Case File
ZBA18-03: Zaruba

Council District: Lucy Gonzales (SMD #4)
 Neighborhood: Blackshear
 Scale: 1" approx. = 125 ft
 Subject Properties: 2000 Hudson Street and 2021 N. Bryant Blvd.

Legend
 Subject Properties: —
 Current Zoning: — CG/CH
 Requested Zoning Change: — N/A
 Vision: — Commercial



Photos of Site and Surrounding Area

NORTH ALONG HUDSON STREET



SOUTH ALONG HUDSON STREET



EAST AT PROPERTY



WEST



**6-FOOT HIGH PRIVACY FENCE
2201 N. BRYANT BLVD. (RAMADA)**



**6-FOOT HIGH PRIVACY FENCE
2113 N. BRYANT BLVD. (ACTION PAWN)**



Photos of Site and Surrounding Area

NORTH ENTRANCE FACING HUDSON ST.



SOUTH ENTRANCE FACING HUDSON ST.



EXISTING GARBAGE FENCE (REDUCE TO 6 FEET TALL OR REMOVE)



PROPOSED FENCE LOCATION



TO BE FORMALLY ON RECORD IN FAVOR OR AGAINST THIS REQUEST, YOU MAY ALSO FILL OUT THIS FORM, SIGN IT AND MAIL IT BACK TO THE PLANNING DIVISION AT 52 W COLLEGE STREET IN SAN ANGELO, TEXAS 76903.

() IN FAVOR () IN OPPOSITION

REASON(S) _____

NAME: Terry Shaw Galilee DE

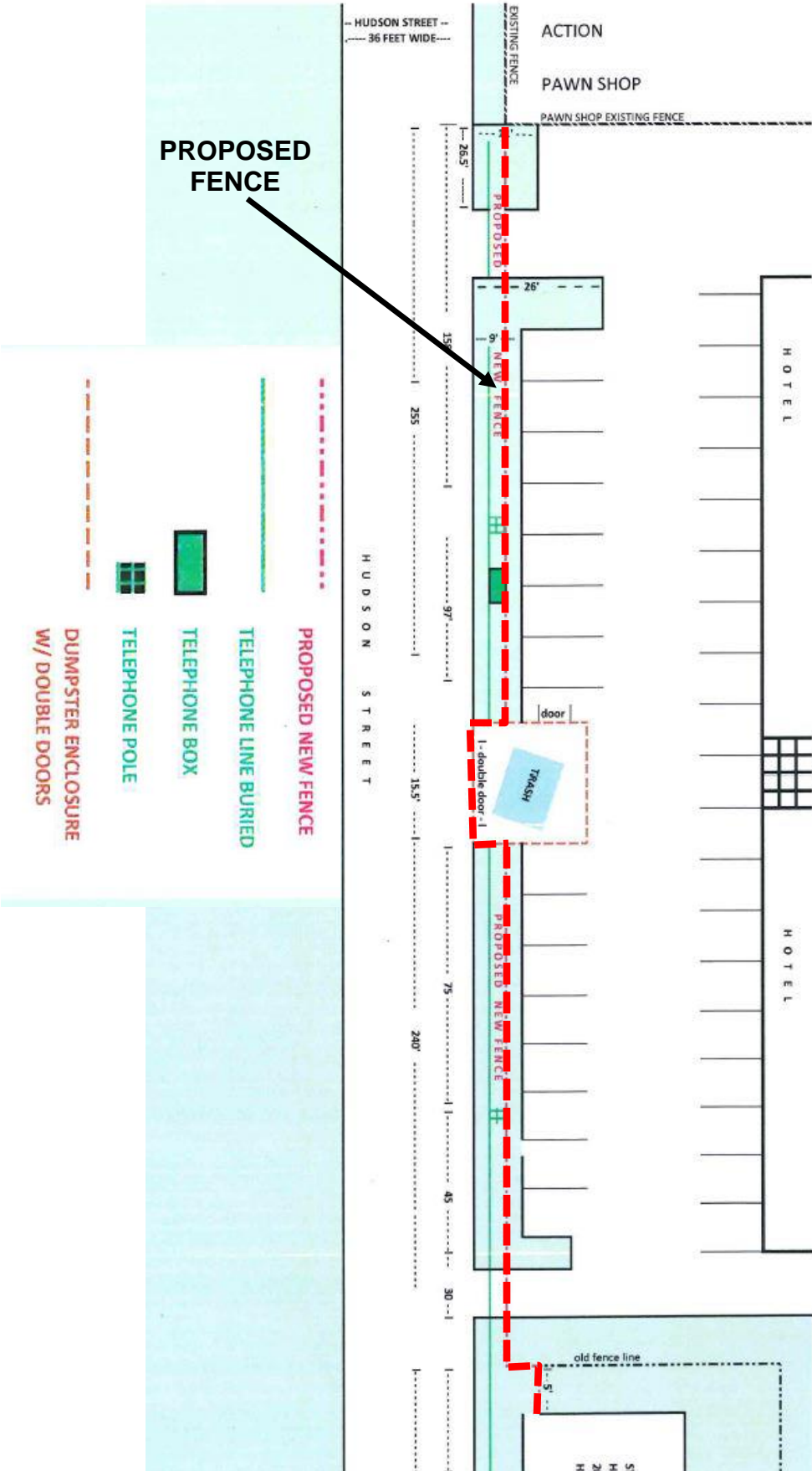
ADDRESS: 1404 S. Oakel
San Angelo TX 76903

SIGNATURE: Terry Shaw

ZBA18-03: Zaruba
property owner number: 9

If you have any questions about these proceedings, please call Mr. Jeff Fisher, Planner, with the City of San Angelo's Planning Division at telephone number 325-657-4210. The Planning Division staff may also be reached by email at jeff.fisher@cosatx.us.

Site Plan



Effective January 3, 2017



City of San Angelo, Texas – Planning Division
 52 West College Ave
Application for Variance from Zoning Regulations



Section 1: Basic Information

Name of Applicant(s): Scott Zaruba, GM Inn of the Conchos
 Owner Representative (Notarized Affidavit Required)

2021 N Bryant Blvd San Angelo, TX 76903
 Mailing Address City State Zip Code

325-658-2811 arubaz@innoftheconchos.com
 Contact Phone Number Contact E-mail Address

2021 N. Bryant Blvd. & 2000 Hudson St., San Angelo, TX 76903
 Subject Property Address and/Location City State Zip Code

Geo Id: 15-28100-0001-012-00 Home Acres, Blk: 1 part of lots 3-9 west of hwy 87 less 20000 sq ft for rest /bar
 Legal Description (can be found on property tax statement or at www.tamgreencad.com)

Geo Id: 15-28100-0001-0090-00, 15-28100-0001-010-50, 1528100-0001-010-60 and 15-28100-0001-010-00

Zoning District:
 CN CO CG CH CG/CH CBD OW ML MHS MHP PD
 R8-1 R8-2 R8-3 RM-1 RM-2 R&E

(Zoning Map available on [City Maps](#))

Section 2: Variance Request(s)

List each variance request separately:

1. Zoning Ordinance section: Sec. 509. B. 3. a. To allow for a 6 foot security fence within the grassy
 Describe variance: area facing Hudson Street.

2. Zoning Ordinance section: _____
 Describe variance: _____

3. Zoning Ordinance section: _____
 Describe variance: _____

4. Zoning Ordinance section: _____
 Describe variance: _____

Section 3: Variance Request Criteria

I assert that my request for variance meets all of the required criteria based on my explanation(s) below:

1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial;
 Explanation: The west side of our property facing Hudson Street acts as our backyard. A fence will provided needed security for our guests and increase safety by reducing transient walking traffic and eliminating through traffic between Bryant Blvd. and Hudson Street.

Effective January 3, 2017

Section 3 continued: Variance Request Criteria

2. These special circumstances are not the result of the actions of the applicant;

Explanation: _____

The Hotel was built in 1983. Most new hotels are built with a single entrance/exit for a more secure environment.

3. Literal interpretation and enforcement of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship;

Explanation: _____

A fence along Hudson Street would create a distinction between our commercial property and the residential neighborhood behind us. Aesthetically, our fence would be a continuation of a line from the backyard fence of Action Pawn and Ramada Limited down Hudson Street along the residential fences such as 1922 and 1914 Hudson Street and the privacy fence at 522 19th street and across 19th Street to Auto Wrangler.

4. Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of the Zoning Ordinance and substantial justice;

Explanation: _____

Essentially the Hudson Street side of our property is our backyard. There is no good reason for this to be open to the public or open as a thoroughfare for pedestrian or vehicle traffic.

5. Granting the variance will not adversely affect adjacent land in a material way; and

Explanation: _____

This fence will only serve to provide a secure division between our commercial property and the residential neighborhood across Hudson Street and beyond.

6. Granting the variance will be generally consistent with the purposes and intent of the Zoning Ordinance.

Explanation: _____

This fence will increase safety and security in the area. The fence will be consistent with the other commercial properties immediately along Hudson Street.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

3 I/we understand that the Zoning Board of Adjustment (ZBA) is bound by criteria established by state law; I further understand that my request is not guaranteed to be approved and that it constitutes an exception from regulations of the City of San Angelo;

3 I/we understand that any variation(s) authorized by the ZBA will require me/us to obtain a building permit for that stated variation within twelve (12) months of the approval date by the ZBA, unless the ZBA has specifically granted a longer period;

3 I/we understand that all drawings, pictures, documents or other information used during your testimony to the ZBA must be kept in the permanent files of the Planning Division; and

3 I/we understand that any appeal of a decision made by the ZBA must be presented to a court of record with a verified petition stating that the decision of the ZBA is illegal in whole or in part and specifying the grounds of the illegality. This petition for appeal must be presented within ten (10) days after the date the decision is filed in the board's office.

I/We the undersigned acknowledge that the information provided above is true and correct.

Scott M Zaruba
Signature of licensee or authorized representative

3-16-18
Date

Scott Zaruba
Printed name of licensee or authorized representative

Inn of the Conchos
Name of business/Entity of representative

FOR OFFICE USE ONLY:

Reviewed/Accepted by: J. Fisher

Date: 3, 16, 18

Case No.: ZBA: 18 - 03

ZBA Hearing Date: 5, 7, 18

Fully-Dimensioned and scaled Site Plan: Yes No

Date of Application: 3, 16, 18

Non-Refundable Fee: \$ 250.00 Receipt #: 284661

Date paid: 4, 4, 18

Ordinance section(s) from which variance(s) is/are requested: 509.B.3.a.

Residential Carports

How and where to construct a carport



1. A permit through Building Permits and Inspections is always required within the city limits of San Angelo.
2. A carport is defined as a roof-covered structure accessory to a residence, substantially open on at least two sides, and which is designed or used for the storage of motor vehicles.

Am I zoned for a carport?

Every property in the city limits is located in a zoning district. The zoning district will determine the distance from the property line where the carport can be located.

It may be difficult to fit a carport on some properties, especially corner lots.

Contact the Planning Division to see if you are in a special zoning district like the open structure overlay, the river corridor, downtown or historic districts that may impact the rules for a carport.

What is a setback?

- A setback is the minimum distance from the property line that a carport structure can be placed.
- Setbacks are affected by zoning districts, public rights-of-way, and easements.
- Always contact City of San Angelo Planning Division at 325-657-4210 or planning@cosatx.us to help determine your setback.

What if my carport won't fit?

Apply for a variance to the Zoning Board of Adjustments if a hardship exists.

Potential variances:

- setback distance from property line
- carport construction materials (in some zoning districts)
- the size and dimensions of the carport
- amount of space it covers in a front yard
- structural design requirements is not eligible for a variance

The Zoning Board of Adjustment hears cases once a month. Contact Planning for application dates. 325-657-4210

Apply for a permit

- Step 1 - Complete a building permit application.
- Step 2 - Provide a scaled, detailed site plan of property (1/32 scale).
- Step 3 - Provide construction detail and material list.
- Step 4 - Bring all the above to 52 W. College Ave. for review.



Planning and Development Services
52 W. College Ave
325-657-4210
development.services@cosatx.us