



July 10, 2020

Board Members,

Let me start by saying thank you for volunteering your time to the Zoning Board of Adjustment. Working through this pandemic has been an adjustment for everyone, but your continued dedication to the community is appreciated, and we thank you for your patience as we adjust to having a virtual public meeting.

We will continue to send printed packets in the mail as well as via e-mail. Our goal is to get the information to you a week in advance of the meeting, so if you have questions on any of the agenda items we can address those ahead of time. We ask that you send any questions on agenda items to planninginfo@sanmarcostx.gov, no later than 8 a.m. on Wednesday, July 15, 2020, and staff will provide a response to those questions during their presentation.

We realize a virtual meeting on Zoom comes with its challenges. Remember we are streamed live, so here's a few tips to keep in mind:

- Find a space that is quiet, and that has good lighting
- Do a test meeting with family or friends to see if you like your set-up, and test your technology

Unfortunately, we will not be able to troubleshoot any technical difficulties during the meeting. If you have any questions or concerns, please don't hesitate to reach out to staff before the meeting.

Sincerely,

Shavon Caldwell
City of San Marcos



REGULAR MEETING OF THE SAN MARCOS ZONING BOARD OF ADJUSTMENTS

Thursday, July 16th, 2020 5:45 P.M.

Due to COVID-19, this will be a virtual meeting. For more information on how to observe the virtual meeting, please visit: <http://sanmarcostx.gov/1119/Zoning-Board-of-Adjustments>.

Michael Nolen, Chair
Wayman Jones, Member
Gary Pack, Member
Floyd Akers, Alternate

Gloria Fortin, Vice Chair
Nicholas Costilla, Member
Chana Temple, Alternate

AGENDA

1. Call to order.
2. Roll call.
3. Chairperson's Opening Remarks.
4. **Citizen Comment Period.** *Persons wishing to comment during the citizen comment period must submit their written comments to planninginfo@sanmarcos.gov no later than 1:00 pm on the day of the meeting. Timely submitted comments will be read aloud during the citizen comment portion of the meeting. Comments shall have a time limit of three minutes each. Any threatening, defamatory, or other similar comments prohibited by Chapter 2 of the San Marcos City Code will not be read.*
5. Consider approval of the minutes of the **ZBOA Regular Meeting of June 18, 2020.**
6. **VR-20-05** *Hold a public hearing and consider a request by Robert Brown, on behalf of The Cottages at San Marcos for a variance to Section 6.1.3.3(a)(1) of the 2013 Land Development Code, in order to construct a chain link fence in lieu of approved materials, located at 1415 Craddock Avenue (M. Johnson)*
7. **Question and Answer Session with Press and Public.** *This is an opportunity for the Press and Public to ask questions related to items on this agenda.*
8. **Adjourn.**

NOTE: *The Zoning Board of Adjustments may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Zoning Board of Adjustments may also publicly discuss an item listed on the agenda for Executive Session.*

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov



**ZONING BOARD OF ADJUSTMENTS
REGULAR MEETING MINUTES
THURSDAY, June 18, 2020**

Due to COVID-19 the Zoning Board of Adjustments convened via a virtual meeting. To view the meeting please go to <https://www.sanmarcostx.gov/3121/Zoning-Board-of-Adjustments-ZBOA-VideosA>

Chair Nolen called the Board Meeting to order at 5:56 p.m.

Board Members in Attendance:
Michael Nolen, Chair
Gloria Fortin, Vice Chair
Gary Pack, Member
Nicholas Costilla, Member
Chana Temple, Alternate

Board Members Absent:
Wayman Jones, Member
Floyd Akers, Alternate

Staff in Attendance:
Sam Aguirre, Assistant City Attorney
Shannon Mattingly, Director of Planning & Development Services
Amanda Hernandez, Development Services Manager
Shavon Caldwell, Planner
Matt Johnson, Senior Planning Technician

1. Call to order

With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Chair Nolen at 5:51 p.m.

2. Roll Call

3. Chairperson's Opening Remarks

Chair Nolen welcomed the audience.

4. Citizen Comment Period

Chair Nolen opened the citizen comment period. No one spoke.

5. Consider approval of the minutes of the ZBOA Regular Meeting of May 21, 2020

MOTION: Member Gary Pack made a motion to **approve** the minutes. The motion was seconded by Vice Chair Gloria Fortin. Following a roll call vote, the motion **passed 5-0**.

6. **VR-20-04 Hold a public hearing and consider a request by Case Whitson, on behalf of Aqua 16 Apartments for a variance to Section 7.2.6.2(G) regarding fence height; a variance to Section 9.4.3.3(H)(3) regarding Multifamily fence articulation; and a variance to Section 7.2.6.2(B) regarding vehicle access gate setbacks, located at 1640 Aquarena Springs Drive.**

Chair Nolen opened the public hearing.

Matt Johnson, Senior Planning Technician, presented the staff report.

Case Whitson, Applicant, presented the request.

MAIN MOTION: Vice Chair Gloria Fortin made a motion to approve the variance to Section 7.2.6.2(G) of the San Marcos Development Code. The motion was seconded by Member Chair Michael Nolen. Following a roll call vote, the motion passed 5-0.

MAIN MOTION: Vice Chair Gloria Fortin made a motion to approve the variance to Section 9.4.3.3(H)(3) of the San Marcos Development Code. The motion was seconded by Chair Michael Nolen.

MOTION TO AMEND: Chair Michael Nolen made a motion to amend the main motion to include a condition that the articulation as required in Section 9.4.3.3(H)(3) be required along the portion of the property adjacent to the I-35 frontage road. Following a roll call vote the motion to amend passed 5-0.

MAIN MOTION: Following a roll call vote, the motion to approve the variance to Section 9.4.3.3(H)(3) passed 5-0.

MAIN MOTION: Vice Chair Gloria Fortin made a motion to approve the variance to Section 7.2.6.2(B) of the San Marcos Development Code. The motion was seconded by Member Gary Pack. Following a roll call vote, the motion passed 5-0.

9. **Question and Answer Session with Press and Public.**

There were no questions from the Press or Public

10. **ADJOURN**

Chair Nolen adjourned the meeting at 6:32 p.m. on Thursday June 18, 2020 without objection.

Michael Nolen, Chair

ATTEST:

Shavon Caldwell, Recording Secretary

VR-20-05 Fence Variance 1415 Craddock Ave



Applicant Information:

Applicant: Robert Brown
5 Bryant Park Ste. 2800
New York, NY 10018

Property Owner: Jefferson Loft, LLC
5 Bryant Park Ste. 2800
New York, NY 10018

Applicant’s Request: A variance from the requirements of Section 6.1.3.3(a)(1) of the 2013 Land Development Code which regulates the allowable material of fences and walls.

Notification: Public hearing notification mailed on July 2, 2020 to all property owners within 400 feet of subject property.

Citizen Response: None as of Staff Report date

Subject Property:

Location: 1415 Craddock Avenue

Legal Description: BUIE TRACT PHASE 1 SEC 1, BLOCK A, Lot 1

Frontage On: Craddock Avenue and W Wonder World Drive

Neighborhood: Castle Forest

Existing Zoning: MF-12 / Development Agreement 2009-166R

Preferred Scenario Designation: Existing Neighborhood

Utilities: Adequate

Existing Use of Property: Multifamily

Surrounding Area:

Proximity	Current Zoning	Existing Land Use
N of Property	FD	Open Space
E of Property	CC / FD	Vacant / Open Space
S of Property	CC / MU	Vacant
W of Property	FD/ MU	Parkland/ Vacant

Case Summary

The apartments located at 1415 Craddock Avenue, "The Cottages", secured development rights under a development agreement that vests the property to the 2013 Land Development Code. Section 6.1.2.1, Nonresidential and Multifamily Screening, requires the project to construct and maintain a 6 foot tall opaque fence to screen any residential district, and the construction shall withstand the pressures of time and nature. The fence that was initially required to screen the Bishops Crossing Subdivision has since been removed due to substantial damage. The applicant has provided pictures of the previous fence and has sited incidences in which residents and their guests continued to destroy the fence.

Section 6.1.3.3(a)(1) requires a decorative fence to screen the adjacent residential district and excludes chain link as an approved material. The applicant is requesting to install a 6 foot tall chain link fence in lieu of decorative fencing required by Code. The applicant believes chain link is necessary to alleviate any future damage. In addition to chain link material, the applicant proposes to install opaque wind slats to achieve an element of privacy and feels that this meets the intent of Multifamily screening.

The City was notified of the fence in disrepair on January 6, 2020. A permit was submitted; however, it was never completed due to ongoing discussions with the City, and the prohibition of chain link material. The dilapidated fence was removed on May 13, 2020.

Comments from Other Departments

Code Enforcement stated that the proposed fence may be better maintained by replacement of the wind slats that weave between the chain link material.

Relevant Code Requirements

The 2013 Land Development Code regulates the location, height, and openness of fences and walls.

Section 6.1.2.1 - Nonresidential and Multiple-Family Screening Required (New Construction)

(a) Requirement Criteria. This Section shall apply to the following:

- (1) Any nonresidential use that is separated by only a street or has a side or rear contiguous to any residential use other than multiple-family.*
- (2) Any multiple-family use that is separated by only a street or has a side or rear contiguous to any residential district other than multiple-family.*

(b) The following shall apply in either case outlined above:

- (1) The nonresidential or multiple-family use shall construct an opaque screening fence a minimum of six feet in height. The screen shall be located no closer to the street than the property line. Such screening fence shall be maintained in good condition. Any sections of this Code concerning sight obstructions of intersections shall be applicable to the screen where it is intersected by a street or throughway.*
- (2) Buildings shall be set back from the applicable street or property line at a width equal to twice the required setback.*
- (3) Prior to construction of buffers, as defined in Section 6.1.2.4 (3), complete plans showing type of material, depth of beam and structural support shall be submitted to the Building Inspection Division for analysis to determine whether or not:
 - (a) The screen will withstand the pressures of time and nature; and*
 - (b) The screen adequately accomplishes the purpose for which it was intended**

Section 6.1.3.3 - Fences in Nonresidential and Multi-Family Areas

(a) *Fences Permitted Adjacent to a Street, Park or Trail.*

(1) *Materials permitted. Fence or walls may be constructed of wood, decorative metal, masonry or other decorative materials. New and innovative materials may be approved for use by the responsible official if the material is compatible with creating a positive streetscape and enhancing the area's appearance. Chain link, woven wire mesh metal panel, or similar materials are not considered decorative fencing, and are therefore not allowed for this purpose except for property in Industrial and Heavy Commercial districts. Those properties may utilize chain ink fencing along a street if additional landscape material is provided between the fence and property line to assure compatibility with properties along that subject street.*

Planning Department Analysis

	San Marcos Development Code Standards	Applicant's Request
<i>Material Permitted</i>	Decorative fencing (Chain link identified as non-permitted material)	Allow chain link material
<i>Location</i>	Permitted	Permitted
<i>Openness</i>	Must be Opaque	Opaque wind slats within chain link material
<i>Height</i>	6 feet	6 feet

While the proposed chain link fence may prove to be easier to maintain, it may not adequately protect the neighborhood from noise and trash created by the apartments. Additionally, decorative fencing is intended to promote compatibility between single family and multifamily developments. Chain link is reserved for heavy commercial and industrial districts. Chain link is not found throughout adjacent neighborhoods; therefore, Staff believes the proposed chain link fence does not promote compatibility with the surrounding residential uses.

The code would allow the applicant to construct a fence or wall made of wood, decorative metal, masonry, or other decorative materials.

Criteria for Approval

The Land Development Code has established criteria for approval that should be considered in the decision of a variance petition. **Section 2.8.2.4 Criteria for Approval** states that *in deciding the variance petition, the decision-maker shall apply the following criteria:*

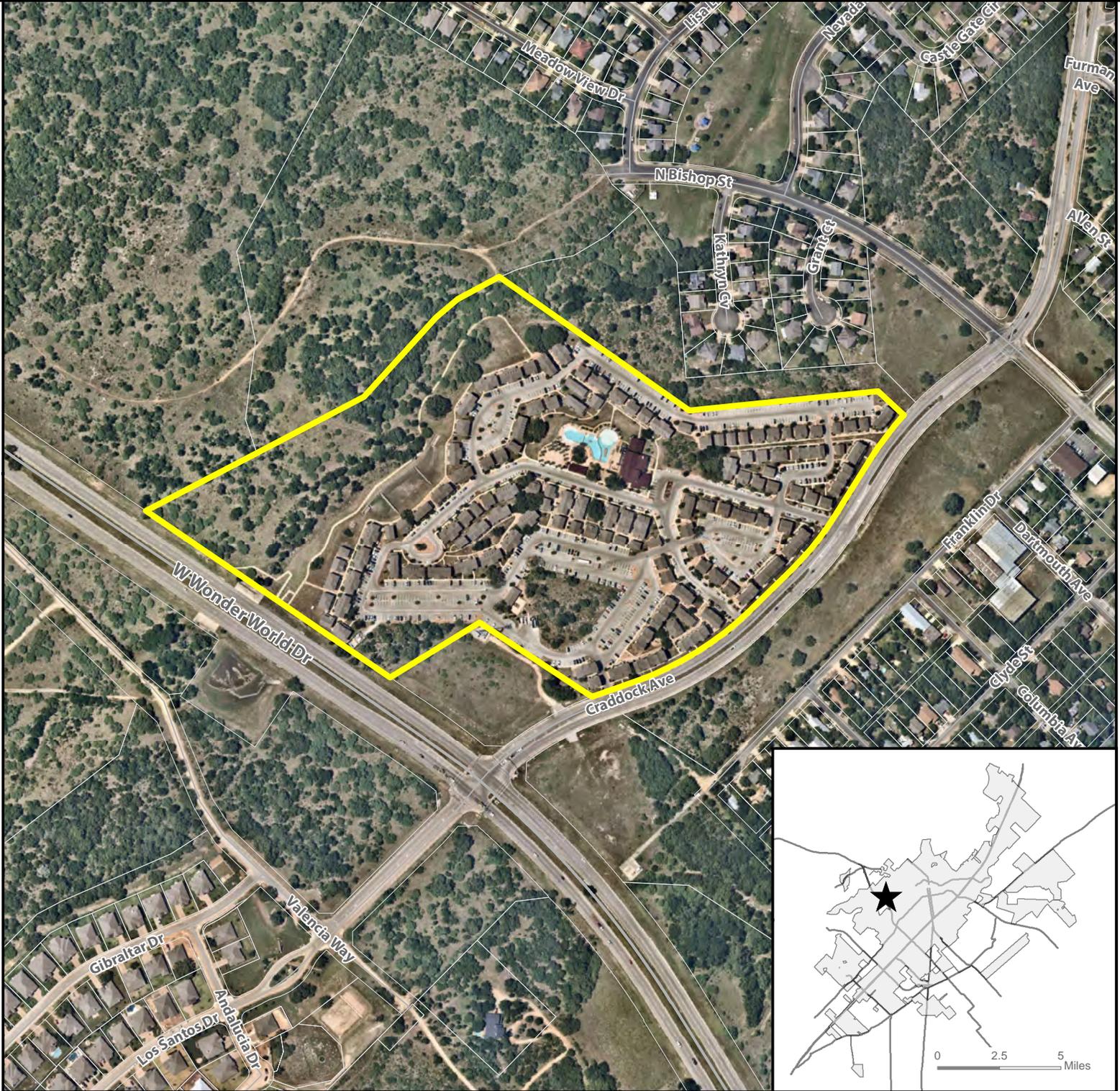
- (1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Land Development Code to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;
 - a. *Staff finds there are no special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition.*
- (2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
 - a. *Staff finds that most properties in the vicinity are single family residential or parkland, however multifamily projects, such as "The Retreat", were developed under the same codes and are subject to the same regulations.*
- (3) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
 - a. *Staff finds the variance is not necessary for the enjoyment of the property. The property is and may continue to be used for multi-family and may be secured by a decorative fence or wall that meets the standards of the code.*
- (4) Granting the variance petition will not be detrimental of the public health, safety or welfare, or injurious to other property within the area;
 - a. *Staff finds that this request may be detrimental to the health, safety, or welfare of the general public because the proposed chain link screen may not mitigate noise generated by the apartment as effective as a wood or masonry screen.*
- (5) Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;
 - a. *Staff finds granting a variance to the standards would not prevent the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property.*
- (6) Granting the variance petition is consistent with any special criteria applicable to varying particular standards, as set forth in Chapter 4 through 7 of the San Marcos Development Code;
 - a. *There are no special criteria that apply to this request.*
- (7) The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner;
 - a. *Staff finds that the hardship is caused by the applicants desire to construct a fence that is easier to maintain than a decorative privacy fence.*
- (8) The request for a variance is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship;
 - a. *The applicant indicates the request is based on reducing the financial hardship of ongoing maintenance costs.*

- (9) The degree of variance requested is the minimum amount necessary to meet the needs of the proponent and to meet the conditions of this Section;
- a. *Staff finds the degree of variance requested is the minimum amount necessary to meet the needs of the applicant.*

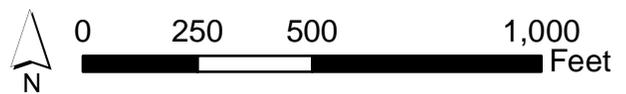
Prepared by:

Matt Johnson, AICP	Senior Planning Technician	July 8, 2020
Name	Title	Date

VR-20-05 Aerial View Fence Variance — 1415 Craddock Avenue



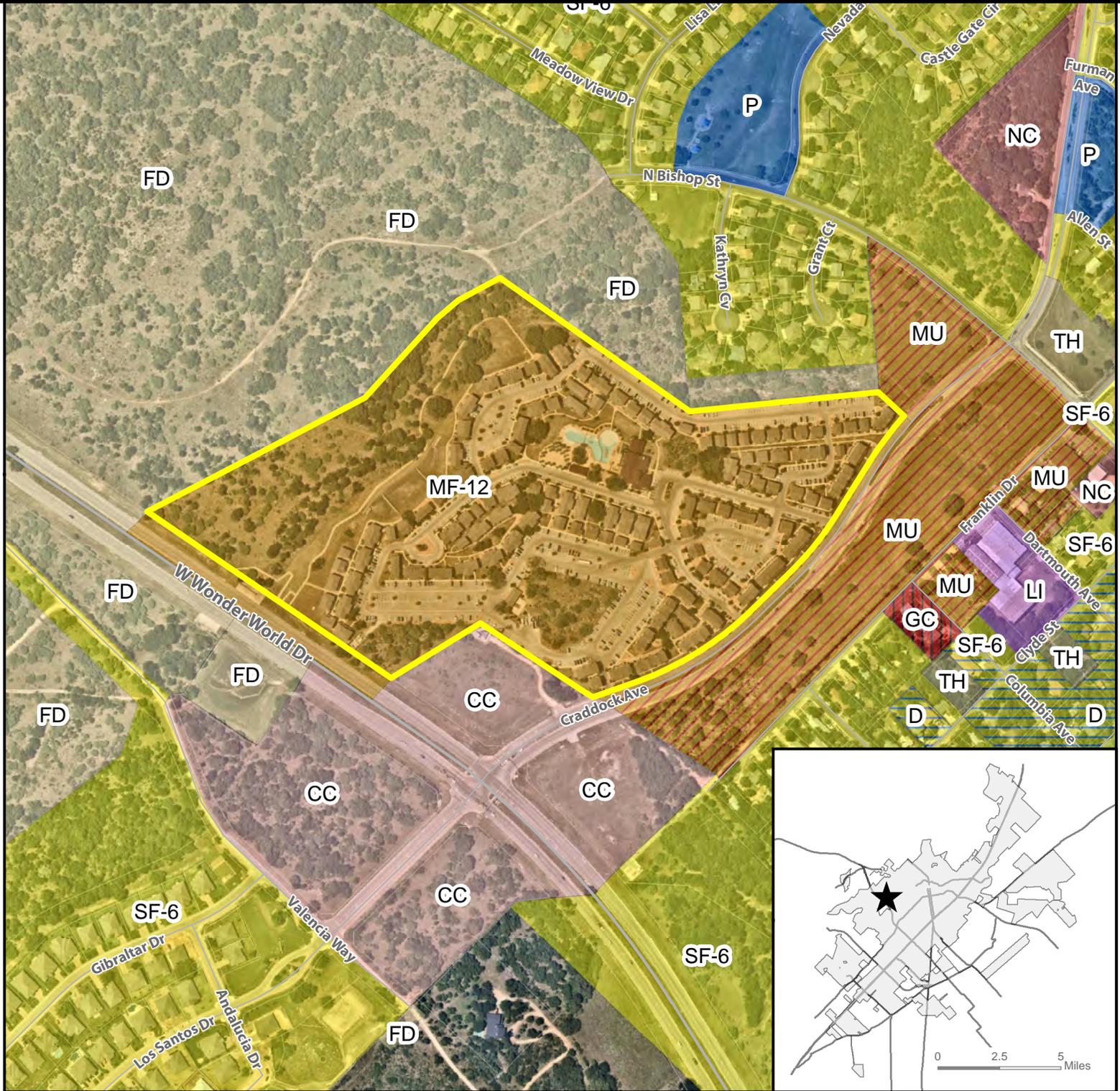
-  **Site Location**
-  **Subject Property**
-  **Parcel**
-  **City Limit**



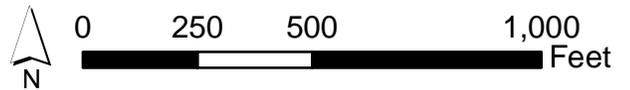
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 7/1/2020

VR-20-05 Zoning Map Fence Variance — 1415 Craddock Avenue



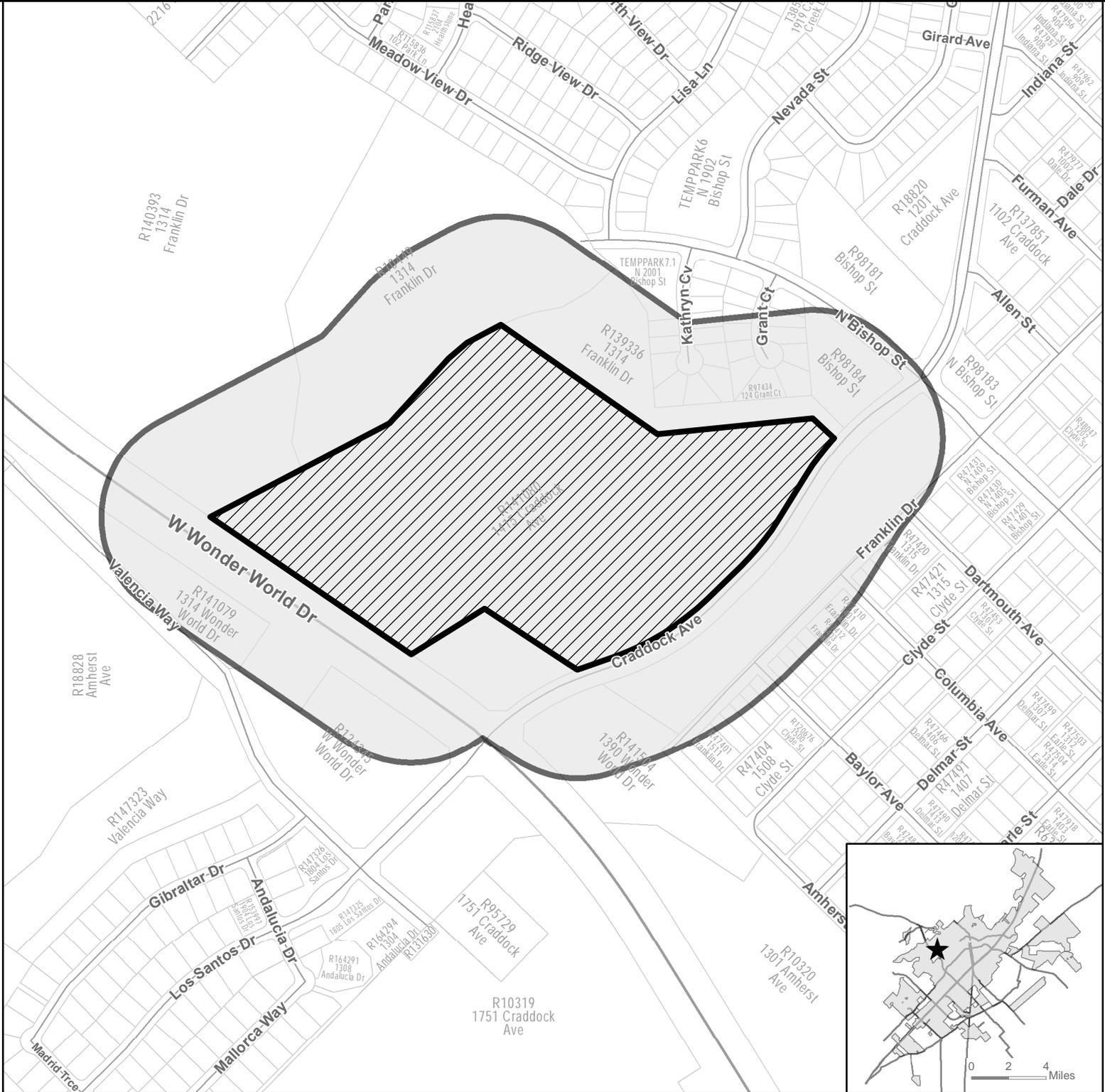
- ★ Site Location
- ▭ Subject Property
- ▭ Parcel
- ▭ City Limit



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 7/6/2020

VR-20-05 400' Notification Buffer Fence Variance — 1415 Craddock Avenue



	Site Location	 
	Subject Property	
	400' Buffer	
	Parcel	
	City Limit	

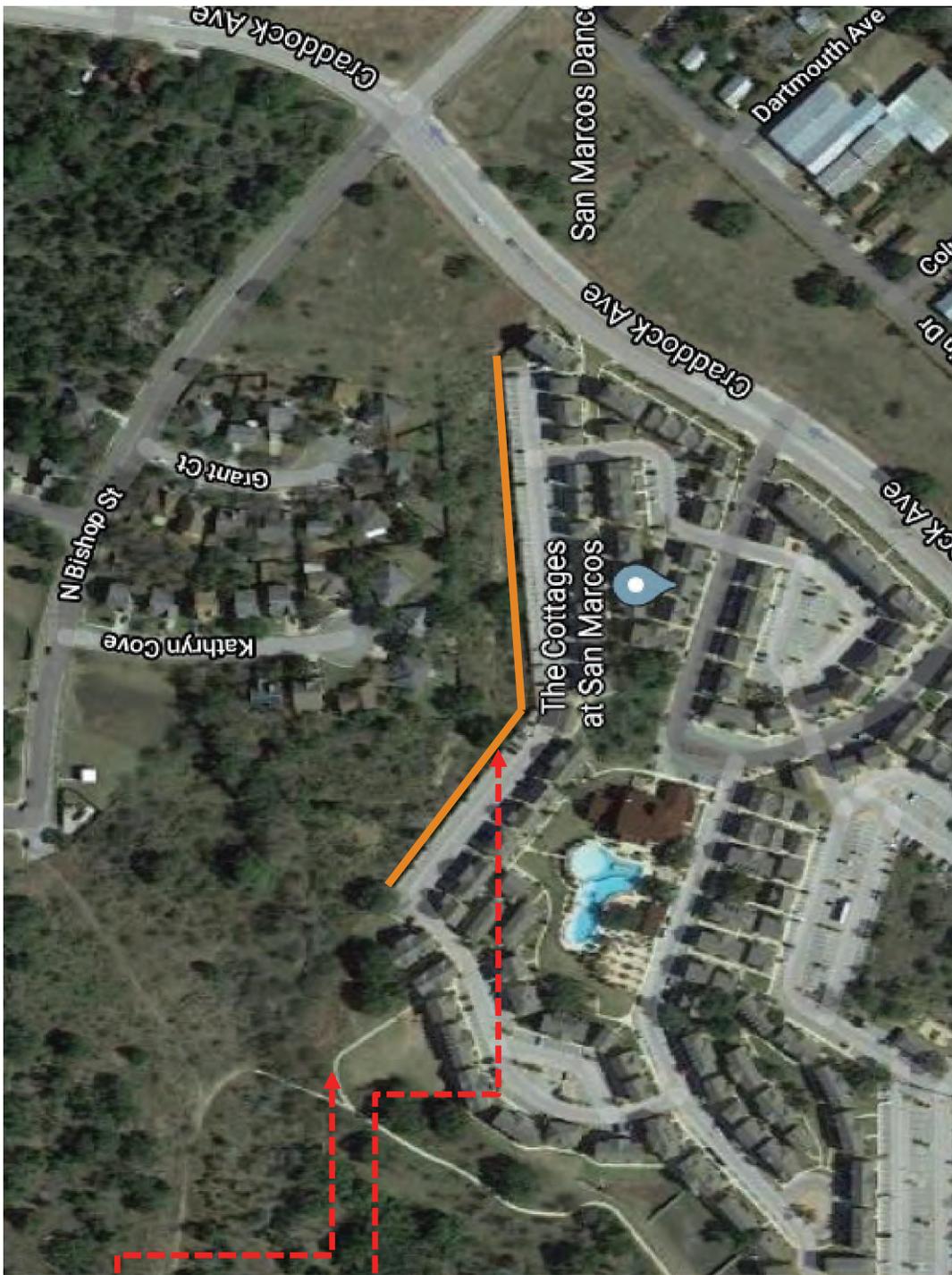
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 7/1/2020

EXISTING FENCE LOCATION

EXISTING
CHAIN LINK
FENCE
LOCATION

EXISTING FENCE
LOCATION



COTTAGES
AT SAN MARCOS

mapleiree

SUBDIVISION / ZONING VARIANCE APPLICATION

Updated: October, 2019



CONTACT INFORMATION

Applicant's Name		Property Owner	
Company		Company	
Applicant's Mailing Address		Owner's Mailing Address	
Applicant's Phone #		Owner's Phone #	
Applicant's Email		Owner's Email	

PROPERTY INFORMATION

Subject Property Address: _____

Acres: _____ Tax ID #: R _____

Legal Description: Lot _____ Block _____ Subdivision _____

Existing Use(s): _____

DESCRIPTION OF REQUEST

Variance to Section: _____ of the Land Development Code, which requires:

Description of proposed variance (additional pages may be used): _____

AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee \$740

Technology Fee \$13

TOTAL COST \$753

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

APPLY ONLINE – WWW.MYGOVERNMENTONLINE.ORG/

VARIANCE CONSIDERATIONS

(Please include additional pages as necessary)

1) What special circumstances or conditions affect the subject property such that strict application of the provisions of the Land Development Code would create an unnecessary hardship or inequity upon the applicant or would deprive the applicant of the reasonable and beneficial use of the property?

2) Do the circumstances or conditions causing the hardship similarly affect all or most of the properties in the vicinity of the subject property? _____

3) What substantial property right would not be preserved or enjoyed if the provisions of the Land Development Code were literally enforced? _____

4) What effect, if any, would the variance have on the rights of owners or occupants of surrounding property, or on the public health, safety or general welfare? _____

5) What effect, if any, would the variance have on the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code? _____

6) Is the hardship or inequity suffered by the applicant caused wholly or in substantial part by the property owner or applicant? _____

7) To what extent is the request for variance based upon a desire of the owner, occupant or applicant for increase financial gain from the property, or to reduce an existing financial hardship?

8) Is the degree of variance requested the minimum amount necessary to meet the needs of the applicant or property owner? _____

***Note for the Board / Commission:**

The following responses were provided by the applicant and may not be consistent with the Department staff report

PROPERTY OWNER AUTHORIZATION

I, _____ (owner name) on behalf of
_____ (company, if applicable) acknowledge that I/we
am/are the rightful owner of the property located at
_____ (address).

I hereby authorize _____ (agent name) on behalf of
_____ (agent company) to file this application for
_____ (application type), and, if necessary, to work with
the Responsible Official / Department on my behalf throughout the process.

Signature of Owner: _____ Date: _____

Printed Name, Title: _____

Signature of Agent: _____ Date: _____

Printed Name, Title: _____

Form Updated October, 2019

**AGREEMENT TO THE PLACEMENT OF NOTIFICATION SIGNS
AND ACKNOWLEDGEMENT OF NOTIFICATION REQUIREMENTS**

The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and / or personal notice based on the type of application presented to the Planning Commission and / or City Council.

- Notification Signs: if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. ***It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.***
- Published Notice: if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***
- Personal Notice: if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***

I have read the above statements and agree to the required public notification, as required, based on the attached application. The City's Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.

Signature: _____

Date: _____

Print Name: _____

Form Updated October, 2019



CHECKLIST FOR SUBDIVISION / ZONING VARIANCE APPLICATION

The following items are requested for consideration of this application. These and additional items may be required at the request of the Department		Comments				
<input type="checkbox"/>	<p><i>Pre-development meeting with staff is recommended</i></p> <ul style="list-style-type: none"> Please visit http://sanmarcostx.gov/1123/Pre-Development-Meetings to schedule 					
<input type="checkbox"/>	Completed Application for Variance					
<input type="checkbox"/>	If applicable, Completed Application for Development associated with the requested variance					
<input type="checkbox"/>	<p>If request is to waive platting requirements</p> <ul style="list-style-type: none"> Certificate of no tax delinquency Metes & Bounds or survey indicating the outer boundary of the subject property CAD file in grid for GIS integration. Projection: NAD 1983 StatePlane Texas South Central FIPS 4204 Feet 					
<input type="checkbox"/>	Detailed written statement of the reasons why the standards to be varied should not be applied to the development					
<input type="checkbox"/>	Description of the existing use and improvements of the subject property, including type(s) of building(s), floor area and number of off-street parking spaces, as applicable					
<input type="checkbox"/>	Description of the proposed use and related improvements / development of the subject property, including type(s) of building(s), floor area and number of off-street parking spaces, as applicable					
<input type="checkbox"/>	Illustrations or other documents showing the effect of the requested variance on the proposed development					
<input type="checkbox"/>	Written responses to the questions on pg. 2					
<input type="checkbox"/>	Notification Authorization					
<input type="checkbox"/>	Authorization to represent the property owner, if the applicant is not the owner					
<input type="checkbox"/>	<table> <tr> <td>Application Filing Fee</td> <td>\$740</td> </tr> <tr> <td>Technology Fee</td> <td>\$13</td> </tr> </table>	Application Filing Fee	\$740	Technology Fee	\$13	
Application Filing Fee	\$740					
Technology Fee	\$13					
<p>**San Marcos Development Code Section 2.3.1.1(C): “Every application accepted by the responsible official for filing shall be subject to a determination of completeness...the responsible official is not required to review an application unless it is complete...”</p>						



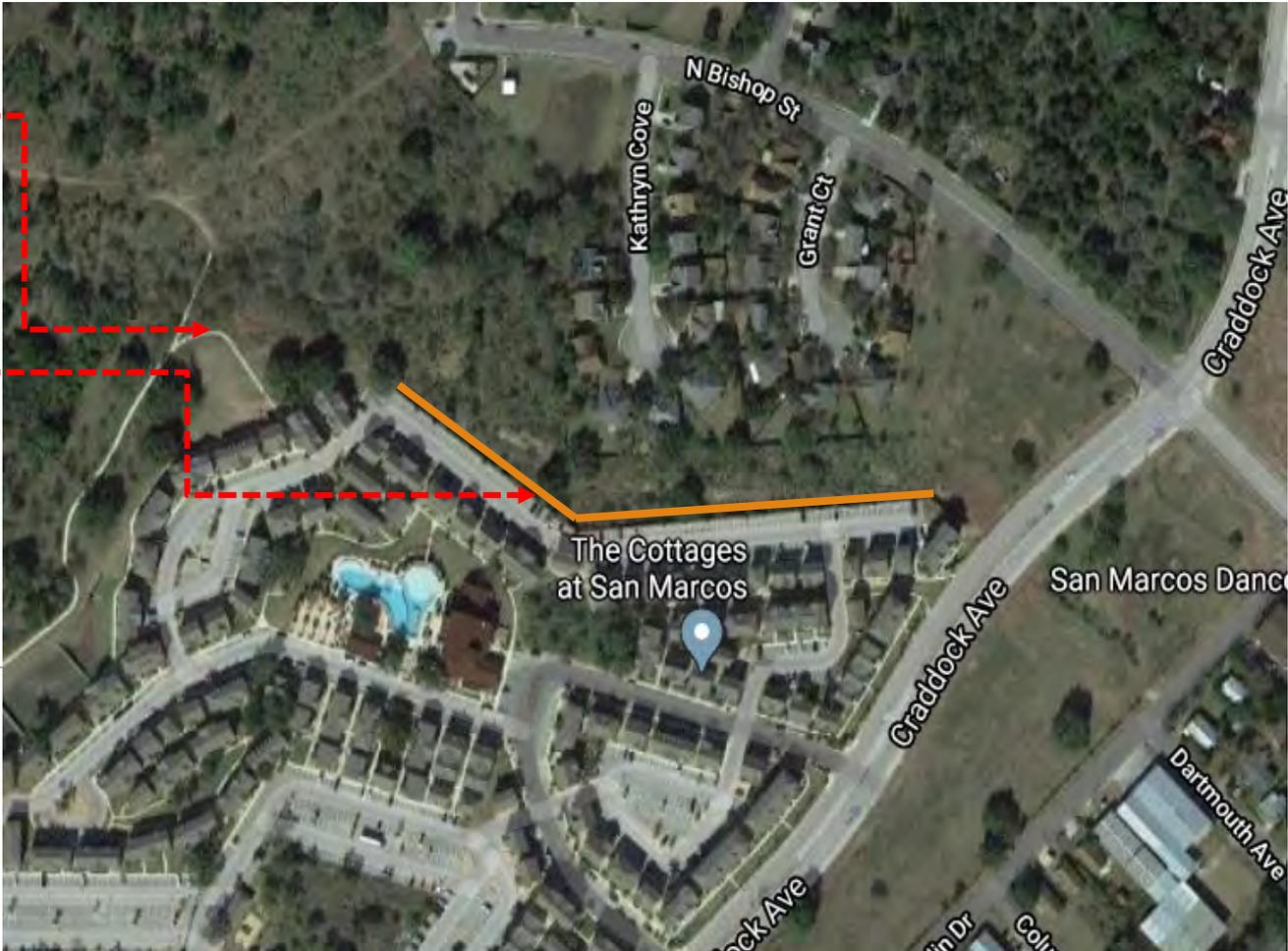
COTTAGES

AT SAN MARCOS

EXISTING FENCE LOCATION

EXISTING
CHAIN LINK
FENCE
LOCATION

EXISTING FENCE
LOCATION



EXISTING FENCE CONDITIONS



COTTAGES
AT SAN MARCOS

maple^{tree}

EXISTING FENCE CONDITIONS



COTTAGES
AT SAN MARCOS

maple^{tree}

EXISTING PERIMETER FENCE – OPEN AT BOTH ENDS



COTTAGES

AT SAN MARCOS

maple^{tree}

EXISTING PERIMETER FENCE



COTTAGES
AT SAN MARCOS

maple*ree*

EXISTING PERIMETER FENCE



COTTAGES
AT SAN MARCOS

maple^{tree}

PROPOSED CHAIN LINK FENCE



BLACK COATED WITH
PRIVACY SLATS



COTTAGES
AT SAN MARCOS

maple^{tree}

PROPOSED CHAIN LINK FENCE



COTTAGES
AT SAN MARCOS

maple^{tree}