

Case Number:	BOA-21-10300113
Applicant:	Michael Phillips
Owner:	Multiple owners
Council District:	7
Location:	4126, 4130, 4134 Majestic & 4311 Horseshoe Bend
Legal Description:	South 62.50 feet of Lot 134, North 55 feet of Lot 134, Lot 133, Lot 132B, and the East Irregular 13.89 feet of Lot 132, Block E, NCB 11546
Zoning:	"R-20 NCD-3 MLOD-2 MLR-2 AHOD" Residential Single-Family Ingram Hills Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### **Request**

A request for a variance from the NCD-3 Ingram Hills Neighborhood Conservation District design standards to allow a 5' predominantly open fence in the front yard

### **Executive Summary**

The subject property is located along Majestic Avenue & Horseshoe Bend Avenue near Callaghan Road. There are four subject properties included in the request. Three of the properties currently have a single-family residence constructed on the property and one is a vacant property. The properties are all located within the Ingram Hills Neighborhood Conservation District, which limits predominately open fencing in the front yard to 3' in height. The applicant is proposing to install a 5 foot predominately open wrought iron fence in the front yard. Upon staff's site visit, it was observed that there were other properties in the surrounding area with solid screened and predominately open fencing exceeding 3 feet in height.

### **Code Enforcement History**

There are no relevant Code Enforcement violations pending.

### **Permit History**

There have been no permits pulled for work on properties.

### **Zoning History**

The subject property was annexed by Ordinance 18115, dated September 24, 1952 by the City of San Antonio and was zoned "A" Single Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "A" to the "R-5" Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001. The property was rezoned to "R-20" Residential Single-Family District by Ordinance 95919, dated June 13, 2002.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"R-20 NCD-3 MLOD-2 MLR-2 AHOD" Residential Single-Family Ingram Hills Neighborhood Conservation Lackland Military	Single-Family Residence

Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	
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### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"MF-25 NCD-3 MLOD-2 MLR-2 AHOD" Low Density Multi-Family Ingram Hills Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Low Density Multi-Family
South	"R-20 NCD-3 MLOD-2 MLR-2 AHOD" Residential Single-Family Ingram Hills Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	"R-20 NCD-3 MLOD-2 MLR-2 AHOD" Residential Single-Family Ingram Hills Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	"R-20 NCD-3 MLOD-2 MLR-2 AHOD" Residential Single-Family Ingram Hills Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Ingram Hills Plan and is designated “Low Density Residential Estate” in the future land use component of the plan. The subject property is located within the Ingram Hills Neighborhood Conservation District and were notified of the case.

### **Street Classification**

Majestic and Horseshoe Bend are classified as local roads.

### **Criteria for Review – Fence Height Variance**

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance from the NCD-3 Ingram Hills Neighborhood Conservation District design standards to allow a 5' predominantly open fence in the front yard. A variance to the design standards would appear to be contrary to the public interest. The NCD was created through a public input rezoning process.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

A literal enforcement of the ordinance would result in the applicant installing a three foot predominantly open fence in the front yard. The request is to exceed the height by two feet.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The predominantly open fence of 5 feet in height will not observe the spirit of the ordinance.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

No uses other than those allowed within the district will be allowed with this variance.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

If granted, the predominantly open fence will maintain five feet in height on the front property line, which is likely to alter the essential character of the Neighborhood Conservation District.

6. *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 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 district in which the property is located.*

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The front yard of the lot is across low density residential and will provide additional security to existing homeowners living in the area. The circumstances were not created by the owner and are not merely financial.

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to leave the properties currently as is without a front fence or homeowners can construct a predominately open fence 3 feet in height to conform to the standards agreed upon with the Ingram Hill Neighborhood Association.

### **Staff Recommendation – Design Standards for Fence Height Variance**

Staff recommends Denial in BOA-21-10300113 based on the following findings of fact:

1. The fence is not consistent with the standards of the Ingram Hills Neighborhood Conservation District; and
2. There aren't many other lots with front yard fences in the neighborhood.