

AN ORDINANCE 2006 - 0 1 - 1 2 - 7 1

AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SAN ANTONIO BY AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, SECTION 35-304, OF THE CITY CODE OF SAN ANTONIO, TEXAS BY CHANGING THE ZONING DISTRICT BOUNDARY OF CERTAIN PROPERTY.

* * * * *

WHEREAS, a public hearing was held regarding this amendment to the Official Zoning Map at which time parties in interest and citizens were given an opportunity to be heard; and

WHEREAS, the Zoning Commission has submitted a final report to the City Council regarding this amendment to the Official Zoning Map of the City of San Antonio; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 35, Unified Development Code, Section 35-304, Official Zoning Map, of the City Code of San Antonio, Texas is amended by changing the zoning district boundary of Lot 14, Block 1, NCB 14701 from "R-6" Residential Single-Family District to "R-6" (CD-Professional Offices) Residential Single-Family District with Conditional Use for Professional Offices.

SECTION 2. The City Council finds as follows:

- A. The conditional use will not be contrary to the public interest.
- B. The conditional use will not substantially nor permanently injure the appropriate use of adjacent conforming property in the same district.
- C. The conditional use will be in harmony with the spirit and purpose for conditional uses as set forth in Section 35-422, Conditional Zoning, of the Unified Development Code.
- D. The conditional use will not substantially weaken the general purposes of the regulations as set forth in Section 35-422, Conditional Zoning, of the Unified Development Code.
- E. The conditional use will not affect adversely the public health, safety and welfare.

SECTION 3. The City Council finds that the following conditions shall be met to insure compatibility with the surrounding properties:

- 1. One story buildings only.
- 2. 6 foot high masonry fence
- 3. Dumpsters to be on front half of property.
- 4. Rear-most building main entrance will not face rear fence.
- 5. No parking spaces facing rear fence.
- 6. Business or office hours of operations shall not be permitted before 6:00 a.m. or after 7:00 p.m.

7. Landscaping with tall shrubbery along the rear fence.
8. Limit total building square footage to 15,000. 9. On site lighting shall use permanently affixed cut off fixtures of 90 degrees or less. 10. Internally lighted signs on Babcock Road.

SECTION 4. All other provisions of Chapter 35 except those expressly amended by this ordinance shall remain in full force and effect including the penalties for violations as made and provided for in Section 35-491.

SECTION 5. The Director of Development Services shall change the zoning records and maps in accordance with this ordinance and the same shall be available and open to the public for inspection.

SECTION 6. This ordinance shall become effective immediately upon passage if passed by eight or more votes otherwise this ordinance shall become effective January 22, 2006.

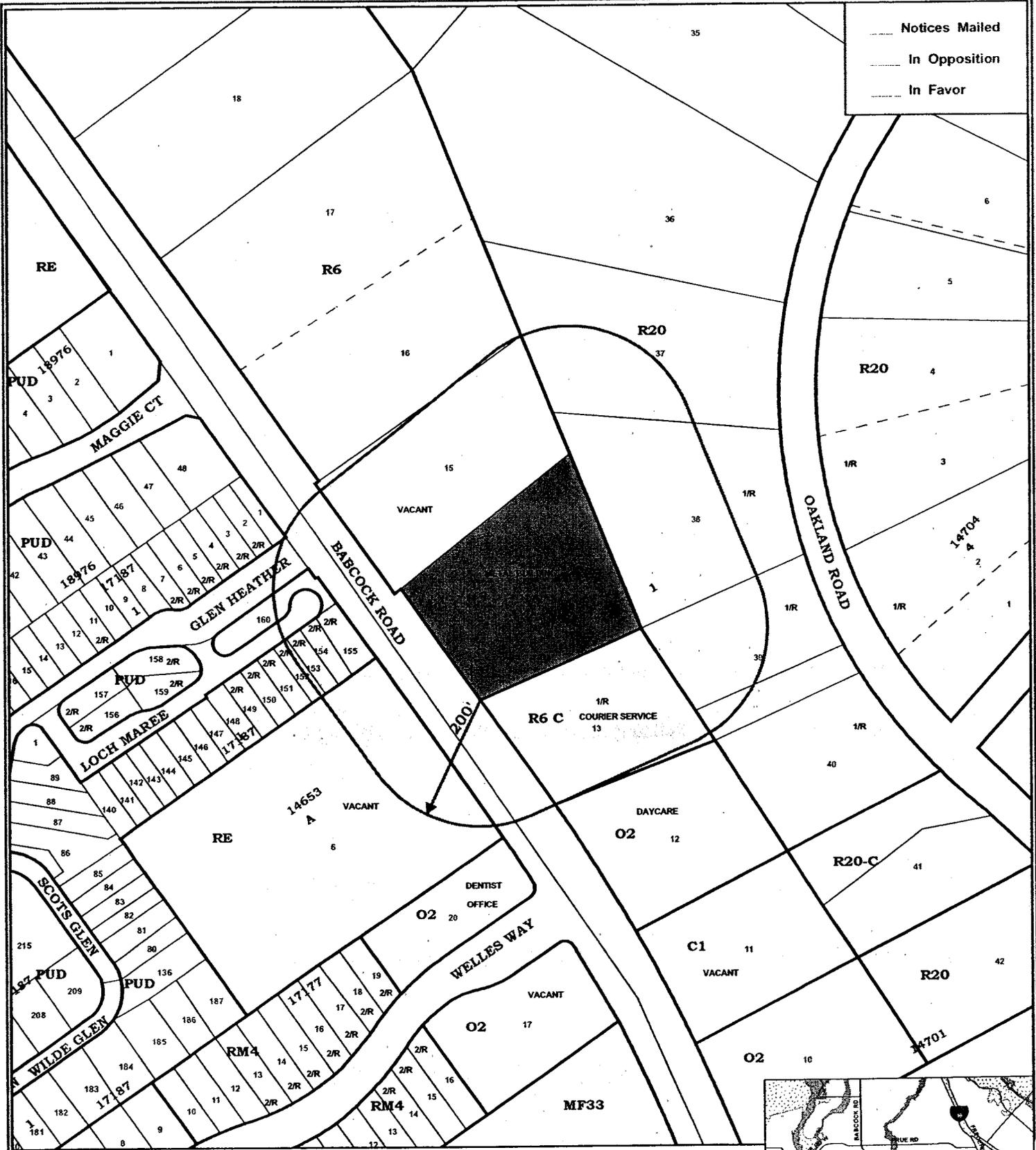
PASSED AND APPROVED this 12th day of January, 2006.


M A Y O R
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
City Attorney

- - - Notices Mailed
 - - - In Opposition
 - - - In Favor



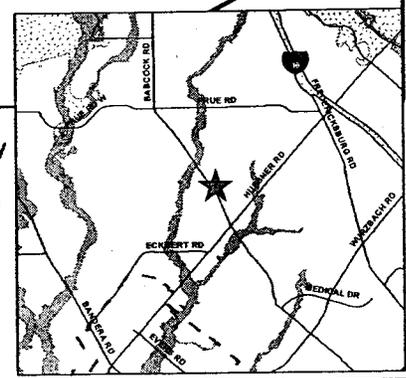
ZONING CASE: Z2005-277 CD

City Council District No. 8
 Requested Zoning Change
 From "R-6" To "R-6"CD
 Date: January 12, 2006
 Scale: 1" = 200'

■ Subject Property
 ○ 200' Notification



C:\Nov. 1, 2005



CASE NO: Z2005277 CD

Staff and Zoning Commission Recommendation - City Council

Date: January 12, 2006

Zoning Commission Meeting Date: December 06, 2005

Council District: 8

Ferguson Map: 548 C6

Applicant:

Roy Horn, III

Owner:

Harvey H and Kathryn Hancock

Zoning Request:

From "R-6" Residential Single-Family District to "R-6" (CD- Professional Offices) Residential Single-Family District with Conditional Use for Professional Offices

Lot 14, Block 1, NCB 14701

Property Location:

5979 Babcock Road

Northeast side of Babcock Road between Huebner Road and Hollyhock Road

Proposal:

Professional office buildings

Neighborhood Association:

Oakland Estates Neighborhood Association, Alamo Farmsteads/Babcock Road Neighborhood Association (Within 200 feet) and Pembroke Farms Home Owners Association (Within 200 feet)

Neighborhood Plan:

Oakland Estates Community Plan

TIA Statement:

A traffic impact analysis is not required

Staff Recommendation:

Consistent.

The Oakland Estates Neighborhood Plan identifies this site as Residential. The R-6 CD is consistent with the residential land use designation and repeats what was done on the property immediately to the south that was zoned R-6 CD through Case Z2005046. Because of this existing condition, the relatively larger lot size (1.911 acre) and the mixed commercial and residential zoning pattern of the area, the R-6 CD is appropriate at this particular location with conditions.

Approval

The subject property has an existing metal building and is located on Babcock Road, a major thoroughfare. The subject property is adjacent to "R-6" Residential Single-Family District to the northwest, "R-20" Residential Single-Family District to the northeast and "R-6" CD Residential Single-Family District to the southeast. The "R-6" CD Residential Single-Family District with a Conditional Use for a Professional Office is consistent and in character with the development pattern along Babcock Road. No change is proposed to the base zoning of "R-6" Residential Single-Family District. The "R-6" (CD- Professional Offices) Residential Single-Family District with Conditional Use for Professional Offices is appropriate at this particular location.

Required Buffer Yards

A proposed development zoned "O-1" Office District which adjoins an "R-20" Residential Single-Family District requires a Type "D" landscape buffer (25 feet). It is recommended that "O-1" uses permitted by Conditional Use adhere to "O-1" landscape buffers.

CASE NO: Z2005277 CD

Staff and Zoning Commission Recommendation - City Council

The following conditions shall apply to the operation of nonresidential conditional uses permitted within any residential district, unless otherwise approved by the City Council: 1. There shall be no exterior display or sign with the exception that a nameplate, not exceeding three (3) square feet in area, may be permitted when attached to the front of the main structure. 2. No construction features shall be permitted which would place the structure out of character with the surrounding neighborhood. 3. Business or office hours of operations shall not be permitted before 7:00 a.m. or after 6:00 p.m.

Zoning Commission Recommendation:

Approval with the following conditions 1. One story buildings only. 2. 6 foot high masonry fence 3. Dumpsters to be on front half of property. 4. Rear-most building main entrance will not face rear fence. 5. No parking spaces facing rear fence. 6. Business or office hours of operations shall not be permitted before 6:00 a.m. or after 7:00 p.m. 7. Landscaping with tall shrubbery along the rear fence. 8. Limit total building square footage to 15,000. 9. On site lighting shall use permanently affixed cut off fixtures of 90 degrees or less. 10. Internally lighted signs on Babcock Road.

CASE MANAGER : Pedro Vega 207-7980

VOTE

FOR 10

AGAINST 0

ABSTAIN 0

RECUSAL 0

Z2005277 CD

ZONING CASE NO. Z2005277 CD – December 6, 2005

Applicant: Roy Horn, III

Zoning Request: “R-6” Residential Single-Family District to “R-6” (CD-Professional Offices) Residential Single-Family District with Conditional Use for Professional Offices.

Roy Horn, 9725 Terra View Road, owner, stated that he proposes to construct a one story professional office building on the property. He further stated that he has been working with the homeowners association and he has agreed to install a solid screen fence along the rear of the property, and will agree to the “O-1” buffer adjacent to the “R-20” and there will not be a dumpster on the back of the property.

FAVOR

Sue Snyder, 5655 Lockhill Road, representing the Oakland Estates Homeowners Association, stated that she has met with the applicant and is in support of the request.

Staff stated there were 21 notices mailed out to the surrounding property owners, 1 returned in opposition and 1 returned in favor.

Everyone present, for and against having been heard and the results of the written notices having been received, the Chairman declared the public hearing closed.

FINDING OF CONSISTENCY OF THE MASTER PLAN

COMMISSION ACTION

The motion was made by Commissioner Stribling and seconded by Commissioner Marshall to find consistency with the neighborhood plan.

AYES: Martinez, Robbins, Rodriguez, Farias, Marshall, Sherrill, McAden, Avila, Stribling, Gray

NAYS: None

THE MOTION CARRIED

COMMISSION ACTION

The motion was made by Commissioner Stribling and seconded by Commissioner Marshall to recommend approval with the condition as noted in the document.

Z2005277 CD

1. Property is located on Lot 14, Block 1, NCB 14701 at 5979 Babcock Road.
2. There were 21 notices mailed, 1 returned in opposition and 1 in favor.
3. Staff recommends approval.

**AYES: Martinez, Robbins, Rodriguez, Farias, Marshall, Sherrill, McAden, Avila,
Stribling, Gray**

NAYS: None

THE MOTION CARRIED.

RESULTS OF NOTICE FOR COUNCIL HEARING

To be provided at Council hearing.

DECLARATION OF RESTRICTIVE COVENANTS

I. Definitions

Any term not herein specifically defined shall carry the definition contained in the Code as hereinafter defined.

“Association” shall mean the Oakland Estates Neighborhood Association or any successor organization or legal assignee of its rights under this Declaration.

“Authorities” shall mean any governmental unit having pertinent authority over the Property, including but not limited to the City of San Antonio, Bexar County, FEMA, SARA and the Texas Commission on Environmental Quality.

“Beneficiary” shall mean the Association and any person now or hereafter owning property that at any point is within 150 yards of the Property.

“Code” shall mean the Unified Development Code of the City of San Antonio as in effect from time to time.

“Declaration” shall mean this instrument.

“Development” and formatives of the verb “to Develop” shall be broadly defined herein to include any replatting, rezoning, land preparation, clearing, grading, paving or construction or any other physical land development activity of any sort.

“Footprint” shall mean the area delineated by the greatest of any horizontal perimeter of a Structure measured at every point between and including its foundation slab and roof.

“Interior” shall refer to a street within the Subdivision that is not a Boundary Road or a property within the Subdivision that does not abut a Boundary Road.

“Interior Lot” shall refer to the lot within the Interior that immediately adjoins a Property that faces a Boundary Road.

“Maximum Building Height” shall mean the height of a structure at its peak, excepting only a steeple of a house of worship. This height limit is absolute, and no setback or other credit applicable to Code height limits now or hereafter enacted shall serve to increase it.

“Notice” shall mean written notification sent by United States certified mail, return receipt requested, postage pre-paid, to the attention of the Association at its notice address on file with the Planning Department of the City of San Antonio, with a copy so sent to Mr. Edwin Ray, 10504 White Bonnet Road, San Antonio, Texas, 78240 (tel. 210-699-3662).

“Project” shall mean the development of the Property into single-story professional offices.

“Records” shall mean the Real Property Records of Bexar County, Texas.

“Street” shall mean any roadway or road easement, whether public or private, including its entire right of way, and the right of way of a roadway yet unbuilt.

“Subdivision” shall mean the Oakland Estates Subdivision as recorded in the Records and bounded by Huebner, Babcock, Prue and Fredericksburg Roads (“Boundary Roads”).

II. Ownership

The undersigned hereby represent and warrant that they have full power and authority, by their signatures hereto, to bind all of the owners of any and all legal and beneficial interest in the Property (“Owners”), and that they, or either one of them, is the record Owner thereof (“Owner”). The terms “Owner” and “Owners” as used in the Restrictions shall also refer to and bind any and all successors and assigns of Owner and Owners.

III. Properties.

The properties subject to this Declaration are those in that parcel of real property in the City of San Antonio and Bexar County consisting of one separate and distinct tract encompassed in City of San Antonio Zoning Case Numbered Z200-277CD (“Case”), described as: “NCB 1401, Block 1, Lot14” (“Property”).

IV. Declaration

The undersigned, on behalf of said Owners, does hereby finally and irrevocably impose the following Restrictions on the Property, and burden the Property with such Restrictions, which are to run with the land, to survive all transfers of ownership of the Property, and to govern any Development, zoning or use of the Property. The Property shall not be Developed other than in full compliance with the most restrictive of the applicable requirements of the Authorities and these Restrictions, applied cumulatively per requirement. The Restrictions shall continue for a period of twenty (20) years, upon the expiration of which they shall immediately renew for an additional period of twenty years, upon the expiration of which they shall immediately renew for a final period of twenty years, after which expiration they shall terminate.

V. Condition

The Restrictions shall not apply if no action by the City Council of the City of San Antonio rezoning all of the subject Property as requested in the Case(s) occurs on or before March 1, 2006. However, it shall be conclusively presumed that such rezoning has occurred unless Owner shall have given Notice to the Association of Owner’s view that such has not

occurred on or before May 1, 2006.

VI.
Limitation Upon Waiver

The Association may effectively waive the applicability of all or a portion of any one of the Restrictions if, but only if, an instrument is executed in writing by its then-serving President and one additional officer then serving, acknowledged before a Notary Public, verifying their then-current Association officer capacities, specifically referencing this Declaration (including the Volume and Page numbers of recordation of this Declaration in the Records), quoting the language of the Restrictions to be waived, specifying the property as to which the Waiver is to apply, and duly recorded in the Records ("Waiver".)

VII.
Enforcement

Any Beneficiary is entitled to enforce these Restrictions. In any action to enforce these Restrictions, it is agreed that Owners, or their successor(s) if ownership has been transferred regarding the Properties subject to the action, shall be liable for payment (jointly and severally if more than one successor Owner) of the reasonable attorneys' fees and costs of the party seeking enforcement if such party shall have substantially prevailed, whether in court or by settlement. It is also agreed that if a Beneficiary brings an unsuccessful enforcement action, Owners waive their right to any attorney's fees otherwise recoverable against Beneficiary and, if such fees are nevertheless awarded, hereby irrevocably agree to transfer any judgment for any such award to such judgment debtor for a consideration of \$1.00, immediately upon demand by him.

VII.
Restrictions

1. **Height.** No structure shall be constructed or maintained upon the Property that exceeds thirty (30) feet in Maximum Building Height.
2. **Garbage.** All garbage collection receptacles shall be fully screened from view from all adjoining properties and shall be placed at the front of the Property.
3. **Signage.** Only monument signage shall be employed, consisting of signs directly supported by the earth for the full width of the face area thereof; no pole signage shall be permitted. Signage dimensions may not exceed: one hundred eighty (180) square feet in printed area for multi-listing signs and ten (10) feet in height at their highest point. No billboards or other signs advertising anything except businesses with a substantial operation on the premises signed shall be permitted.
4. **Noise.** No outside speakers shall be utilized, whether for announcements, paging, music or otherwise.
5. **Light.** The illuminating component of any outside lighting shall not be located higher than fifteen (15) feet, and the light must be directed downward and away from the boundaries of the Property sufficiently to avoid illumination of the properties

adjoining or facing the Property. This shall not forbid low-intensity illumination of any primary building structure up to its maximum permitted height.

6. **Parking.** See Special Provisions.
7. **Universal Buffer Yard.** Upon and after any Development (other than as a detached, single family residential use with a minimum lot size of one acre) of any of the Property adjoining an Interior property that is single family residential in either zoning or use, the Type D buffer yard as described in the Unified Development Code of the City of San Antonio as of the date of adoption of said Code in Spring 2001, recorded at Book 9629, Pages 541-550 of the Real Property Records of Bexar County, Texas (“Original Code”), shall be implemented, notwithstanding the actual zoning of such Properties and adjoining properties and/or any subsequent modification of such Original Code requirements and without regard for whether the Code or the Original Code would require such buffer yard or any buffer yard under such circumstances.
8. **Strictest Applicable Requirement.** The Property shall never be Developed other than in full compliance with the more restrictive of the then-applicable requirements of any Authority and these Restrictions, applied cumulatively, provided further, however, that whether or not these governmental entities shall grant a waiver from any requirement of on-site detention of stormwater on the property, the Property shall nevertheless be Developed with on-site detention as prescribed by the Code. Furthermore, where more than one covenants herein applies (see, e.g., “Special Restrictions” herein), the strictest of those applicable shall govern.
9. **Tree Preservation.** Intentionally omitted.
10. **Floodplain Development.** No Owner shall apply for or utilize a floodplain development permit or waiver of requirement therefor, and notwithstanding any authorization or nonprohibition by the applicable body of law and regulations of any governmental entity, no “floodplain” in the Property, as most broadly defined by any Authority, shall be Developed to any extent, except and limited to the creation of stormwater detention facilities or excess stormwater abatement facilities that are duly approved by such of the Authorities as have approval authority therefor and that serve to reduce flooding materially in the Subdivision. Not applicable, no floodplain.
11. **Drainage.** Intentionally omitted.
12. **Access Restriction.** No Owner shall grant, accede to or otherwise permit any access from any of the Property or portions thereof, to any Interior street or property, without first obtaining the Waiver of the Association.
13. **Special Additional Buffer Yards.** Intentionally omitted.
14. **Use Exclusions.** Regardless of the zoning of the Property, the following uses are excluded.
 - 14.1 Automobile dealerships, paint & body shops, automobile and

- component service and repair, including oil change.
- 14.2 Bar or tavern serving alcohol unless restricted to beer and wine and excluding spirits.
- 14.3 Boarding house.
- 14.4 Multi-family residential uses, including apartments attached to a commercial building. The only residential uses permitted shall be detached, single-family residential uses with a minimum lot size of ½ acre.
- 14.5 Any sale or storage of gasoline or diesel fuel.
- 14.6 Drive-through facility for any restaurant or food service use.
- 14.7 Retail convenience store.
- 14.8 Any use requiring industrial or C-3 commercial zoning.
- 14.9 Any sexually oriented businesses as defined in the ordinances of the City of San Antonio

Any dance halls.

Special Restrictions.

15.1 The sole permitted use shall be for professional offices, regardless of current or future zoning.

15.2 If a neighborhood- wide rezoning is initiated in the future, the Owner will agree to a reclassification to an RE zoning classification subject to the same condition(s) as the R-6C conditional zoning sought in the Case.

15.3 The maximum Footprint for any single structure shall be 10,000 square feet and the maximum total Footprint for all Structures shall be 15,000 square feet.

15.4 All Structures shall be single-story, except that a loft office and storage space may be included with a dormer window in the front building.

15.5 The Type D buffer yard fence or wall shall be a masonry wall six feet in height composed of decorative concrete, stucco on concrete block, rock or a combination thereof. No brick or brick-look materials shall be used. This wall shall be built as soon as possible in the Development process. Landscaping shall meet or exceed Type D buffer yard requirements and shall use a type of tall, leafy evergreen shrubbery adjoining the wall on the Owner's side planted at such intervals as shall best facilitate the growth of the shrubbery as a continuous hedge to a height exceeding that of the wall.

15.6 No parking spaces shall face the rear of the Property unless separated from the line of sight to the Interior Lot by a Structure.

15.7 The entrance to the rear-most building will not face rear of the Property.

15.8 Side set backs, side fencing and side buffer yards shall be as required by the City of San Antonio for a use zoned "O-1."

15.9 The rear building Footprint shall at all points be at least seventy (70) feet from the rear lot line.

15.10 Any parking between the rear building and the rear lot line shall face the front or side of the Property and shall not face the rear of the Property. The front-facing parking shall at all points be curbed at least sixty (60) feet from the rear lot line, with vehicles permitted to extend from those curbs rearward. The side-facing parking towards the rear of the Property cannot extend rearward further than the rear limit of the front-facing parking spaces, and curbing or medians shall be used to enforce this limitation.

15.11 Special sign and sign illumination provisions: Babcock Road signage may be internally or externally illuminated. Association will support a sign variance request provided that that it is not inconsistent with the signage requirements of these Restrictions.


Harvey Hancock

ACKNOWLEDGMENT

STATE OF TEXAS §

COUNTY OF BEXAR §

Acknowledged before me by the undersigned Harvey Hancock on the _____ day of January, 2006.

Notary Public for the State of Texas

Countersignature limited to Association sign variance support commitment:

OAKLAND ESTATES NEIGHBORHOOD ASSOCIATION

By: Sue Snyder, President



Harvey Hancock

ACKNOWLEDGMENT

STATE OF TEXAS §

COUNTY OF BEXAR §

Acknowledged before me by the undersigned Harvey Hancock on the ____ day of January, 2006.

Notary Public for the State of Texas

Countersignature limited to Association sign variance support commitment:

OAKLAND ESTATES NEIGHBORHOOD ASSOCIATION



By: Sue Snyder, President