

## AGENDA

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING  
WEDNESDAY, APRIL 15, 2020 - 4:30 PM  
MCALLEN CITY HALL, 1300 HOUSTON AVENUE  
CITY COMMISSION CHAMBERS, 3<sup>RD</sup> FLOOR**

### JOIN WEBEX MEETING

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**Meeting password: ZBOA**

### JOIN BY PHONE

**+1-408-418-9388**

At any time during the course of this meeting, the Zoning Board of Adjustment and Appeals may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the Zoning Board of Adjustment and Appeals under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at any time during the course of this meeting, the Zoning Board of Adjustment and Appeals may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code.

## CALL TO ORDER – CHAIRPERSON DAVID SALINAS

### 1. MINUTES:

- a) Minutes for Regular Meeting held on April 1, 2020

### 2. PUBLIC HEARINGS:

- a) Request of U.S. Rags, Inc. for a special exception to the City of McAllen Off-Street Parking and Loading Ordinance and a variance to the City of McAllen Zoning Ordinance to allow: **1) 22 parking spaces instead of the required 36 parking spaces for a proposed commercial building measuring 13,000 sq. ft. and 2) an encroachment of 10 ft. into the 15 ft. side yard setback along the north and south property lines for a proposed commercial building measuring 13,000 sq. ft. at 0.99 acre tract of land out of Lot 18, Block 3, C.E. Hammond's Subdivision, Hidalgo County, Texas; 2621 South 23rd Street. (ZBA2020-0013)**
- b) Request of Steve Barajas on behalf of Rodrigo Martinez Rodriguez for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 1.08 ft. into the 25 ft. front yard setback for a proposed single family residence at Lot 46, Idela Park Unit 2 Subdivision, Hidalgo County, Texas; 5017 South 33rd Street. **(ZBA2020-0008) (TABLED: 04/01/2020)**
- c) Request of Randy Cleveland on behalf of Tae and Kyong Pyun for a special exception to the City of McAllen Off-Street Parking and Loading Ordinance and variances to the City of McAllen Zoning Ordinance to allow: **1) 29 parking spaces instead of the required 42 parking spaces, 2) a front yard setback of 0 ft. instead of the required 32.5 ft. front yard setback for an existing commercial building, 3) a front yard setback of 0 ft. instead of the required 32.5 ft. front yard setback for a proposed building expansion measuring 9.85 ft. by 6.1 ft., 4) Issuance of a building permit in excess of 10% replacement value for non-conforming use, 5) a variance to the 10% landscaping requirement, and 6) to not provide 50% of the required landscaped area to be visible from the street fronting the property, at all of Lots 1, 2, & 3, Block 55, North McAllen Townsite and that part of Ash Avenue lying between Lot 3, Block 55, North McAllen Townsite and the right-of-way of the St. Louis, Brownsville and Mexico Railway Company, Hidalgo County, Texas; 101 North 16th Street. (ZBA2020-0014)**

- d) Request of Sofia Garza for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 16.5 ft. into the 20 ft. front yard setback for an existing single family residence with a porch, at Lot 5, Block 3, Colonia Guadalupe Subdivision, Hidalgo County, Texas; 1709 Oakland Avenue. **(ZBA2020-0012) (TABLED: 04/01/2020)**
- e) Request of Juan A. Ruiz on behalf of San Juanita Ruiz for the following special exception and variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 7.5 ft. into the 10 ft. rear yard setback for an existing carport measuring 17 ft. by 31 ft., **2)** to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing storage building measuring 10 ft. by 12 ft., and **3)** to allow an encroachment of 3 ft. into the 6 ft. north side yard setback for an existing storage building measuring 10 ft. by 12 ft., at Lot 2, Block 1, El Rancho Santa Cruz Subdivision Phase IV, Hidalgo County, Texas; 3113 South McColl Road. **(ZBA2019-0060) (TABLED: 01/15/2020) (REMAIN TABLED: 02/05/2020, 03/04/2020, 04/01/2020)**
- f) Request of Oralia Rodriguez for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 ft. into the 25 ft. front yard setback for a wooden carport with decorative columns measuring 25.0 ft. by 20.0 ft., at Lot 131, Plantation Gap Subdivision Phase 1, Hidalgo County, Texas; 4400 Sandpiper Avenue **(ZBA2019-0057) (TABLED: 01/15/2020) (TABLED: 02/05/2020, 03/04/2020, 04/01/2020)**

### **3. FUTURE AGENDA ITEMS**

- a) NONE

#### **ADJOURNMENT:**

IF ANY ACCOMMODATIONS FOR A DISABILITY ARE REQUIRED, PLEASE NOTIFY THE PLANNING DEPARTMENT (681-1250) 72 HOURS BEFORE THE MEETING DATE. WITH REGARD TO ANY ITEM, THE PLANNING & ZONING COMMISSION MAY TAKE VARIOUS ACTIONS, INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR PARTICULAR ACTION AT A FUTURE DATE.

STATE OF TEXAS  
COUNTY OF HIDALGO  
CITY OF MCALLEN

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, April 1, 2020 at 4:34 p.m. in the City Commission Meeting Room with the following present:

<b>Present:</b>	<b>David Salinas</b>	<b>Chairperson</b>
	<b>Erick Diaz</b>	<b>Vice-Chairperson</b>
	<b>John Millin</b>	<b>Member</b>
	<b>Jose Gutierrez</b>	<b>Alternate</b>
	<b>Juan F. Jimenez</b>	<b>Alternate</b>
<b>Absent:</b>	<b>Sylvia Hinojosa</b>	<b>Member</b>
	<b>Sonia Falcon</b>	<b>Member</b>
<b>Staff Present:</b>	<b>Austin Stevenson</b>	<b>Assistant City Attorney</b>
	<b>Edgar Garcia</b>	<b>Planning Director</b>
	<b>Rodrigo Sanchez</b>	<b>Senior Planner</b>
	<b>Omar Sotelo</b>	
	<b>Liliana Garza</b>	<b>Planer II</b>
	<b>Juan Martinez</b>	<b>Development Coordinator</b>
	<b>Porfirio Hernandez</b>	<b>Technician II</b>
<b>Carmen White</b>	<b>Secretary</b>	

**CALL TO ORDER – Chairperson, David Salinas**

**1. MINUTES:**

- a) Minutes for Regular Meeting held on March 4, 2020.

The minutes for the meeting held on March 4, 2020 were approved. The motion to approve the minutes was made by Mr. John Millin. Vice-Chairperson Erick Diaz seconded the motion, which carried unanimously with five members present and voting.

**2. PUBLIC HEARINGS:**

- a) Request of Steve Barajas on behalf of Rodrigo Martinez Rodriguez for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 1.08 ft. into the 25 ft. front yard setback for a proposed single family residence at Lot 46, Idela Park Unit 2 Subdivision, Hidalgo County, Texas; 5017 South 33rd Street. **(ZBA2020-0008)**

Mr. Sotelo stated the applicant was requesting a variance to allow an encroachment of 1.08 ft. into the 25 ft. front setback along South 33<sup>rd</sup> Street for the construction of a new home.

The subject property was located on the east side of South 33<sup>rd</sup> Street, approximately 300 ft. north of Olga Avenue. The lot had 50 ft. of frontage along South 33<sup>rd</sup> Street and a depth of 90 ft. The property was zoned R-1 (single family residential) District. The surrounding zoning was R-1 District in all directions.

Idela Park Unit 2 Subdivision was recorded on July 25, 1978. The applicant submitted for the variance request on February 10, 2020. An application for building permit for the proposed residential construction had not been submitted.

The variance request was to allow an encroachment of 1.08 ft. into the 25 ft. front setback required along South 33<sup>rd</sup> Street. There are no improvements proposed over Utility easements.

Staff had not received any phone calls from the surrounding property owners with issues of concern regarding these variance requests.

Staff recommended disapproval of the variance request. However, if the Board chooses to grant the variance, it should be limited to the encroachment shown on the submitted site plan.

Mr. Rodrigo Martinez Rodriguez, the applicant, stated he was currently living at 822 South 19 ½ Street. Chairperson David Salinas inquired if the applicant could do staff's recommendation for the requirement of a 25-foot front yard setback because it was only one foot difference for the encroachment. The applicant wasn't clear on what the Chairperson was suggesting. Mr. Sotelo stated Mr. Steve Barajas, the contractor was on the line and webcam to give his comments. (At this time, there was connection issues).

Chairperson Salinas stated to staff he was inclined to agree with Mr. John Millin that he did not foresee a need to grant a variance for one foot that could be fixed easily.

Chairperson David Salinas inquired if there was anyone else present to speak in favor of the variance request. Mr. Sotelo stated there was no one else to speak in favor of the variance request.

Chairperson David Salinas inquired if there was anyone present to speak in opposition of the variance request. Mr. Sotelo stated there was no one present in opposition of the variance request.

Mr. John Millin stated he did not know why they needed the extra foot and that this was not considered a hardship. It could easily be remedied by adjusting or not building out an extra footprint or the slab an extra foot. Unless they hear anything compelling, the variance request needed to be denied.

Chairperson Salinas asked Mr. Millin if that was a motion. Mr. Millin stated yes. Chairperson Salinas stated before he asks for a second he inquired if Mr. Barajas was on the line to get his explanation. At this time, the Board was able to hear Mr. Barajas through the speakerphone. Mr. Barajas stated they previously showed the family the plan. They have four children. He had shown the family another plan but did not want to go smaller. He stated it was not much of an encroachment and it would be only encroached by the garage. Chairperson Salinas asked Mr. Barajas that the encroachment would only be by the garage and not a living space. Mr. Barajas stated that was correct.

Mr. Millin asked Mr. Barajas if he shorten the length of the garage by a foot, would they be able to park a vehicle like a curb stop before getting to the living space. Mr. Barajas stated the garage has a tight space with not much space. He stated they could go that route and cut another foot but that would mean paying out for another site plan. Mr. Millin

asked the applicant if he could have the plans redrawn given the plan was not compatible with the lot. In addition, if so, whoever drew up the plans could do it for no charge. Chairperson Salinas suggested doing a field change as the contractor is building it in order to avoid redrawing another set of plans for a foot. (Having webcam connection issues) At this time, Mr. Barajas called in. Chairperson Salinas asked Mr. Barajas why he could not make the adjustment and comply with the setback. Mr. Barajas stated he had given the family other options but liked the first plan. They had other lots to show them but they came to him and wanted to build on their own lot. Chairperson asked Mr. Barajas if there was any way he could adjust the plan to reduce a foot without affecting the overall floor plan of the house. Mr. Barajas asked remove the foot from the garage. Chairperson Salinas asked if by removing a foot from the garage does it affect the ability for a car to park in that garage. Mr. Barajas stated that the homes were reduced already and trying to fit what they can into a tight space would be impossible. Chairperson Salinas stated most garages have a curb stop built inside garages before the living area of the house. He asked how many feet was the curb stop. Mr. Barajas stated it was 4 feet 7 inches, more or less. He stated it might affect the water heater. Mr. Sotelo stated that he would not have to reduce anything just shift half the house to the back because they were not aligned identically. Chairperson Salinas asked Mr. Barajas if he could that without remaking the plans. Mr. Barajas stated had submitted plans to another staff member and told him that he wanted to encroach in the back. They told him it would work better instead of encroaching 10 feet in the back that he could encroach into the front driveway. Chairperson Salinas inquired if all their plans encroach into the setback line. Mr. Barajas stated he offered the family another home that did fit on that lot but they did not like it. That was the reason he was asking for a variance because they did not want a smaller home. Chairperson Salinas stated if he had a 3-foot curb stop you could work with the back wall that was greater than the 10 feet from the rear property line he could probably shift the house on that side to make up that foot. Mr. Barajas asked if should work on the plan and submit it. Mr. Sotelo stated he would not need a variance if he worked on the plan. Chairperson Salinas stated if he could comply with the 25-foot setback, he would not need to come before the Board or he withdraw the variance request.

Mr. Millin stated he could withdraw his motion to give the applicant time to come back in two weeks with a new site plan. Mr. Barajas stated that would be fine. At this time, Mr. Millin withdrew his motion.

Mr. John Millin **moved** to table the variance request to revise the site plan. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to table with five members present and voting.

- b) Request of Jake Beasley on behalf of Glazer's Real Estate, LLC for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6.41 ft. into the 20 ft. setback required along Fox Avenue for a canopy measuring 150 ft. by 55 ft., at Lot 5A, Lots 4, 5, 6 and 7, Map of International Center Block 3 Phase II Subdivision, Hidalgo County, Texas; 2000 Redbud Avenue. (ZBA2020-0010)**

Mr. Sotelo stated the applicant was requesting a variance to allow an encroachment of 6.41 ft. into the 20 ft. setback along Fox Avenue for a proposed canopy for a dock addition located at the rear of the building along Fox Avenue that will allow for better flow to the distribution center.

The property consisted of 6.11 acres and is located between Redbud Avenue and Fox

Avenue, approximately 1,110 ft. east of North 23<sup>rd</sup> Street. The property is zoned C-4 (commercial-industrial) District. The surrounding zoning is I-1 (light industrial) District to the north, R-1 (single family residential) District to the east, C-4 to the west and C-3 (general business) District to the south.

Lots 4, 5, 6, and 7 International Center was recorded on March 4 1992. The applicant submitted for the variance request on February 21, 2020. An application for building permit for the proposed addition and improvements had not been submitted.

The variance request was to allow an encroachment of 6.41 ft. into the 20 ft. setback required along Fox Avenue for a proposed canopy measuring 150 ft. by 55 ft. The proposed canopy will not affect the 10 ft. Utility Easement along the northeast corner of the lot. The proposed loading dock is to create a better flow of loading the merchandise onto the trucks at a faster pace.

Staff had not received any phone calls from the surrounding property owners with issues of concern regarding the variance as requested.

Staff recommended approval of the variance request as indicated on the site plan.

Chairperson David Salinas inquired if there was anyone else present to speak in favor of the variance request.

Mr. Matt Swelling, Glazer's Beer Beverage, stated they have 180 employees at that location. They are trying to prolong the building by getting more life out of that long-term plan and to continue business as usual. In addition, with the ability to build another at some point in the City Of McAllen.

Chairperson David Salinas inquired if there was anyone present to speak in opposition of the variance request. There was no one present in opposition of the variance request.

Mr. Jose Gutierrez **moved** to approve the variance request. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to approve with five members present and voting

- c) Request of Javier Aldape on behalf of Acre Construction, LLC to allow the following special exception to the City of McAllen Off-Street Parking and Loading Ordinance: to allow 140 parking spaces instead of the required 152 parking spaces, at Lot 1, Acre Subdivision, Hidalgo County, Texas; 101 East Expressway 83. **(ZBA2020-0011)**

Mr. Garza stated the applicant was requesting the above referenced special exception to allow 140 parking spaces instead of the required 152 parking spaces. The applicant stated that it was getting difficult to get retail business into commercial spaces and was looking to lease to tenants for office use.

Acre Subdivision consisted of one lot and was recorded on September 26, 2018. There is a multi-tenant commercial shopping center by the name of Premier Plaza on the property that was constructed in June of 2018. A building permit for the plaza was issued on December 21, 2018 for 5,800 sq. ft. of restaurant space and 19,176 sq. ft. of retail area, which required 129 spaces and as per site plan submitted 143 parking spaces were being provided. The

applicant was proposing to accommodate a dental office and a business corporate office in the 4,250 sq. ft. of available lease space.

As per section 138-395, the ordinance stated four parking spaces are required for the first 200 square feet of floor area plus one parking space for each additional 200 square feet of floor area are required for office use. The proposed dental office is 2,800 sq. ft. and requires 14 spaces. The proposed corporate business office 1,450 sq. ft. and requires 8 parking spaces. Based on 4,250 sq. ft. of office use, 22 parking spaces are required. The proposed use of a dental office is primarily through appointment. The parking for the business office is primarily for office staff members. Actual parking demand will vary by the type, peak hour, season and success of the business. Parking shortage may impact adjacent available parking areas and may discourage customers to seek other less crowded comparable businesses. The existing and proposed uses of commercial plaza will consist of 7,466.01 sq. ft. of restaurant (75 parking spaces), 12,866.58 sq. ft. of offices (68 parking spaces), and 2,380.89 sq. ft. retail (9 parking spaces). Based on the building square footage, 152 parking spaces are required; and 140 parking spaces are provided on site plan for a deficiency of 12 parking spaces.

A site visit by Planning Staff confirmed 140 parking spaces are being provided; however, they were not in compliance with the required 5 accessible parking spaces. The accessible parking space shown on the site plan was not on the ground; however, there was a parking space in the front of the parking lot area that was being occupied by a donation box. Relocation of the donation box and possibly converting that extra parking space into a loading/unloading aisle will comply with the 5 accessible parking spaces required.

No calls had been received in opposition.

Staff recommended disapproval of the special exception request. If the Board chooses to grant the special exception, it should be limited to the footprint of the site/floor plan submitted showing the proposed office use.

Chairperson Salinas inquired to legal if he needed to abstain since he did work as a surveyor for this property a while ago. Mr. Stevenson stated it was at this discretion but did not think it constitute a conflict in this case.

Mr. Javier Adalpe, the applicant, stated they were requiring 12 parking spaces. They had 3 remaining spaces in the plaza and instead of leaving it to retail, they were proposing to lease it to corporate and medical offices. He stated this was not a first option to come with this petition. They tried several options such as brokers and reducing their prices up to 40% to retailers. He stated they now have two potential prospects, a root canal specialist for two of the spaces and the other was a title company from Houston. Mr. Adalpe noticed that when there was medical and corporate offices there usually restaurants to accommodate but generates more traffic. These types of offices have the highest traffic in the morning. Restaurants have high traffic at lunch and dinner in which these offices were closed during those times.

Chairperson David Salinas inquired if there was anyone else present to speak in favor of the special exception. There was no one else to speak in favor of the special exception.

Chairperson David Salinas inquired if there was anyone present to speak in opposition of the special exception. There was no one present in opposition of the special exception.

Chairperson Salinas asked staff when the plaza was built did it comply with the parking requirements was the deficiency in parking being created by the changes of uses. Ms. Garza stated yes. For the first building permit was approved it was only for retail and restaurants. Now it was a combination of restaurants, retail and offices.

Mr. John Millin inquired if there was another issue with the fact that there were no accessible parking spaces that were provided, and was the owner going to comply. Ms. Garza had spoken to Mario Salinas who mentioned it to the owner that they could remove the donation box that is in one of the extra parking spaces. If they remove the donation box and create an aisle then they would comply with the five accessible parking spaces that were required for the 140 parking spaces.

Vice-Chairperson Erick Diaz inquired if the special exception was for the medical office space not for the entire plaza. Ms. Garza stated it was for the overall entire plaza. The dental office and the corporate office was creating the deficiency for the entire plaza.

Mr. John Millin **moved** to approve the special exception subject to staff's determination that the owner comply with adding five accessible parking spaces. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to approve with five members present and voting.

- d)** Request of Sofia Garza for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 16.5 ft. into the 20 ft. front yard setback for an existing single family residence with a porch, at Lot 5, Block 3, Colonia Guadalupe Subdivision, Hidalgo County, Texas; 1709 Oakland Avenue. **(ZBA2020-0012)**

Mr. Edgar Garcia, Planning Director stated this item would be tabled. Staff was waiting on a revised site plan.

Mr. John Millin **moved** to table the item for a revised site plan to be submitted. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to table with five members present and voting.

- e)** Request of Juan A. Ruiz on behalf of San Juanita Ruiz for the following special exception and variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing carport measuring 17 ft. by 31 ft., **2)** to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing storage building measuring 10 ft. by 12 ft., and **3)** to allow an encroachment of 3 ft. into the 6 ft. north side yard setback for an existing storage building measuring 10 ft. by 12 ft., at Lot 2, Block 1, El Rancho Santa Cruz Subdivision Phase IV, Hidalgo County, Texas; 3113 South McColl Road. **(ZBA2019-0060) (TABLED: 01/15/2020) (TABLED: 02/05/2020, 03/04/2020)**

Staff recommended the requests remain tabled.

Request of Oralia Rodriguez for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 ft. into the 25 ft. front yard setback for a wooden carport with decorative columns measuring 25.0 ft. by 20.0 ft., at Lot 131, Plantation Gap Subdivision Phase 1, Hidalgo County, Texas; 4400 Sandpiper Avenue **(ZBA2019-0057) (TABLED: 01/15/2020) (TABLED: 02/05/2020, 03/04/2020)**



Staff recommended this item was to remain tabled as requested by the applicant.

**FUTURE AGENDA ITEMS:**

- a) 2621 South 23<sup>rd</sup> Street
- b) 101 North 16<sup>th</sup> Street

**ADJOURNMENT**

There being no further business to come before the Zoning Board of Adjustment and Appeal, Mr. John Millin **moved** to adjourn the meeting. Mr. Jose Gutierrez seconded the motion, which carried unanimously with five members present and voting.

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Chairperson  
David Salinas

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Carmen White, Secretary

## Memo

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** April 9, 2020

**SUBJECT: REQUEST OF U.S. RAGS, INC. FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN OFF-STREET PARKING AND LOADING ORDINANCE AND A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) 22 PARKING SPACES INSTEAD OF THE REQUIRED 36 PARKING SPACES FOR A PROPOSED COMMERCIAL BUILDING MEASURING 13,000 SQ. FT., AND 2) AN ENCROACHMENT OF 10 FT. INTO THE 15 FT. SIDE YARD SETBACK ALONG THE NORTH AND SOUTH PROPERTY LINES FOR A PROPOSED COMMERCIAL BUILDING MEASURING 13,000 SQ. FT. AT 0.99 ACRE TRACT OF LAND OUT OF LOT 18, BLOCK 3, C.E. HAMMOND'S SUBDIVISION, HIDALGO COUNTY, TEXAS; 2621 SOUTH 23RD STREET. (ZBA2020-0013).**

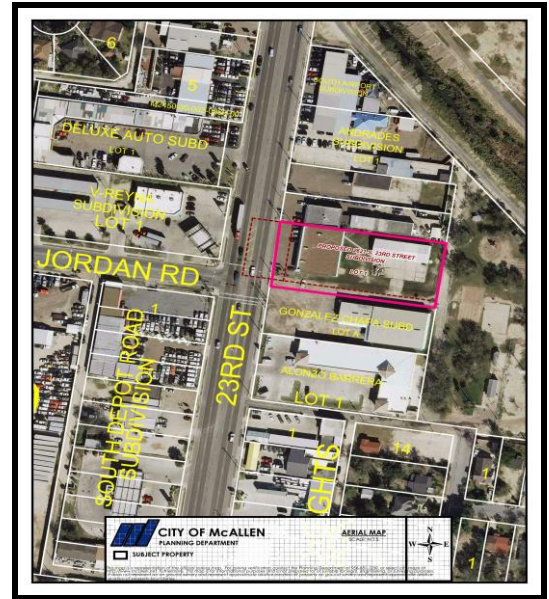
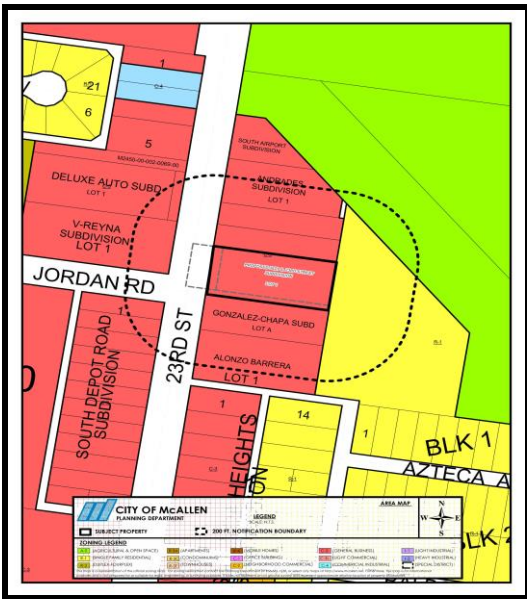
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**REASON FOR APPEAL:** The applicant is requesting a special exception from the City of McAllen Off-street Parking and Loading Ordinance to provide 22 parking spaces instead of the required 36 parking spaces for a commercial building. The applicant states the basis for this request is that at any given time only 3 or 4 parking spaces are used by customers and office personnel. The applicant is also requesting a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 ft. into the required side yard setback of 15 ft. on the north and south side of the property. The basis for the request to encroach into the side yard setbacks is that a 5 ft. utility easement prevents construction to the lot line as allowed by the Zoning Ordinance

**PROPERTY LOCATION AND VICINITY:** The property is located on the east side of South 23<sup>rd</sup> Street at the intersection with Jordan Road, and is zoned C-3 (general business) District. Surrounding areas are zoned C-3 District to the north, south and west, and R-1 (single family residential) District to the east.

**BACKGROUND AND HISTORY:** A subdivision plat for this property under the name of, "2621 South 23<sup>rd</sup> Street Subdivision" was approved in final form at the Planning and Zoning Board meeting of March 10, 2020.

**ANALYSIS:** The applicant is proposing to build a 13,000 sq. ft. commercial building for retail use on the subject property. As per Section 138-395, the ordinance states four parking spaces are required for the first 400 sq. ft. of floor area plus one parking space for each additional 400 sq. ft. of floor area for commercial use. Based on the square footage of the proposed commercial building, 36 parking spaces are required and 22 parking spaces are proposed. The shortage of parking spaces could create stacking issues on South 23<sup>rd</sup> Street, and also parking issues with customers using parking spaces from neighboring businesses.



The applicant is also requesting a variance to allow an encroachment of 10 ft. into the required 15 ft. side setback on the north and south side of the property. A general note on the proposed subdivision plat indicates that the proposed side yard setbacks will have be in accordance with the Zoning Ordinance or greater for easements. The proposed subdivision plat also indicates that there are 5 ft. utility easements along the north and south property lines. Section 138-356 (11) of the Zoning Ordinance indicates that side yard setbacks in commercial areas from all lot lines shall be one foot back for each two feet in height including corner lots, except a building may be built to a lot line when not adjacent to a residential zone and where a firewall is provided between uses. The proposed building will be 30 ft. in height; hence, required side setbacks will be 15 ft. The proposed 5 ft. utility easements along the side of the property prevent the proposed building from being constructed to the lot line. A letter submitted by the applicant indicates that he is willing to provide a firewall if the 5 ft. setback variance is approved. The utility easements will not be impacted by the proposed commercial building.

No calls or emails have been received in opposition.

**RECOMMENDATION:**

Staff recommends disapproval of the special exception, and approval of the variance request.

ZBA2020.0013

ZBOA  
4-15-20



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

<b>Project</b>	Legal Description	<u>0.99 AC 6/0 LOT 18, BIK. 3,</u> <u>C.R. HAMMOND'S SUBD., H.C.T.</u>	
	Subdivision Name	<u>2621 S. 23<sup>RD</sup> ST. SUBD.</u>	
	Street Address	<u>2621 S. 23<sup>RD</sup> ST., McALLEN</u>	
		Number of lots <u>1</u>	Gross acres <u>0.99</u>
	Existing Zoning	<u>C-3</u>	Existing Land Use <u>C-3</u>
	Reason for Appeal (please use other side if necessary)	<u>ALL PARKING REQ NOT</u> <u>NEEDED / INCREASED SETBACK REDUCES PARKING</u> <u>REQ.</u>	
<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required <u>SITE PLAN (EXHIBIT "B")</u>			

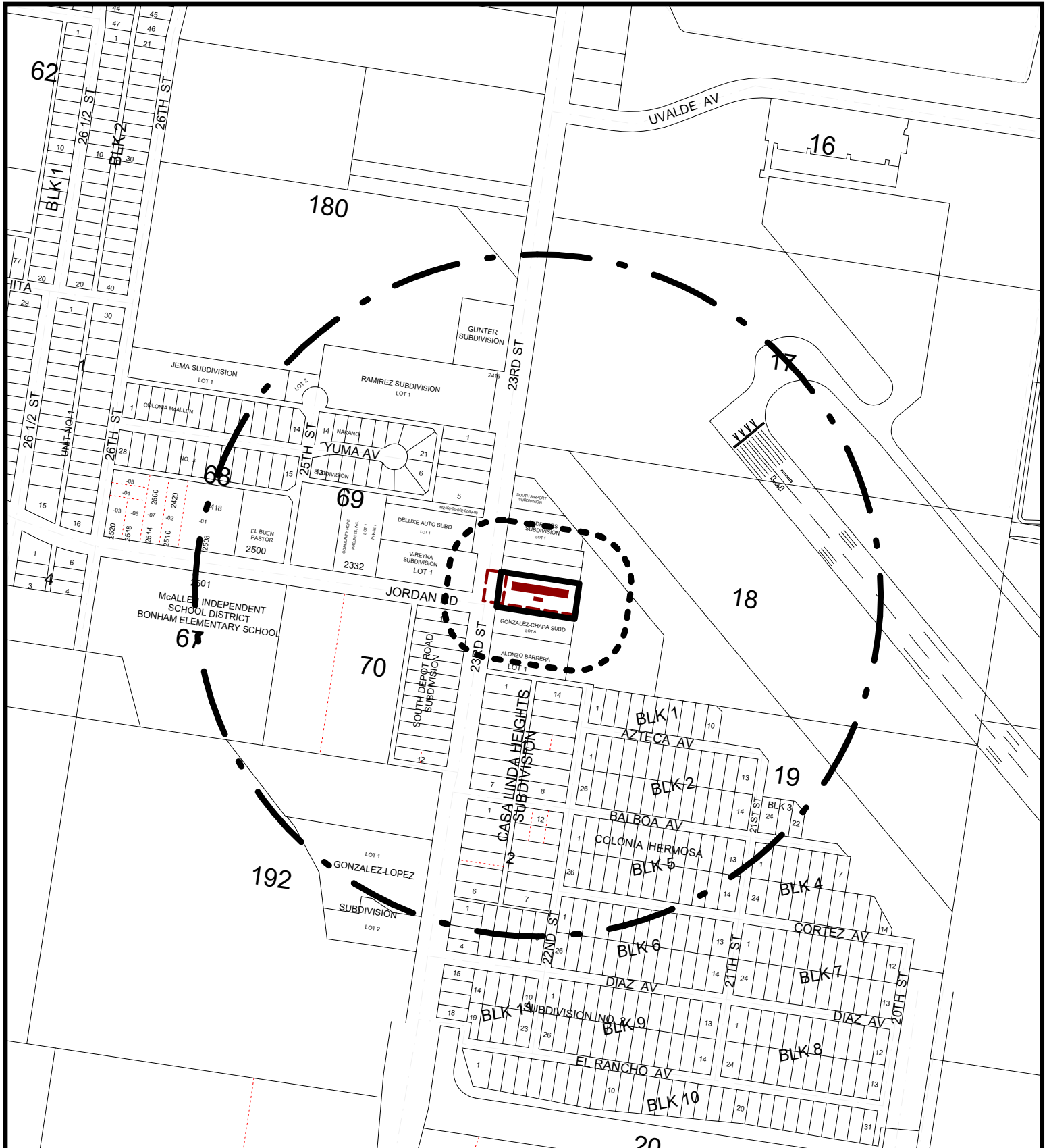
<b>Applicant</b>	Name	<u>U.S. RAGS, INC.</u>	Phone	<u>713-805-4546</u>
	Address	<u>303 S. 66<sup>TH</sup> ST.</u>	E-mail	<u>MAIL@BIGSTARMCNT.COM</u>
	City	<u>HOUSTON</u>	State	<u>TX</u> Zip <u>77011</u>


<b>Owner</b>	Name	<u>SAME AS APPLICANT</u>		
	Address	_____ E-mail _____		
	City	State	Zip	

<b>Authorization</b>	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?	
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.	
	Signature	Date <u>3/9/20</u>
Print Name	<u>DAVID O. SALINAS</u>	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent

<b>Office</b>	Accepted by _____	Payment received by _____
	Rev 10/18 <u>Cb</u>	 BY: _____

Ret#703923

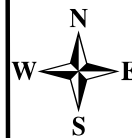






**CITY OF McALLEN**  
PLANNING DEPARTMENT


**LEGEND**  
SCALE: 1" = 500'

**AREA MAP**




 **SUBJECT PROPERTY**

 **200 FT. NOTIFICATION BOUNDARY**

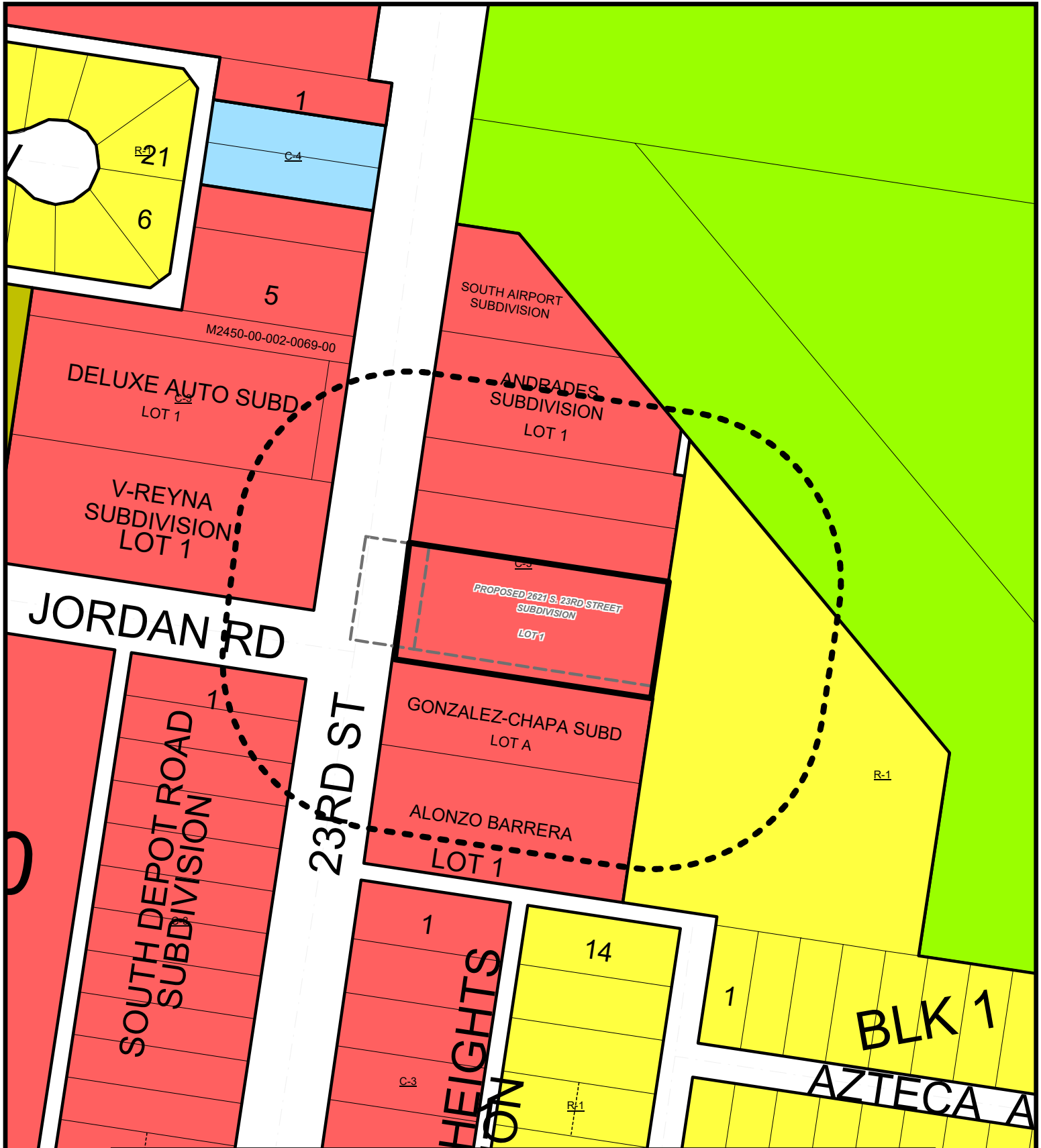
 **1/4 MILE RADIUS**


**ZONING LEGEND**

A-O (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLIX-FOURPLEX)	R-3T (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	 (SPECIAL DISTRICT)

This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcalten.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property boundaries.








**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: N.T.S.

**AREA MAP**



**SUBJECT PROPERTY**

**200 FT. NOTIFICATION BOUNDARY**

**ZONING LEGEND**

<p><b>A-0</b> (AGRICULTURAL &amp; OPEN SPACE)</p> <p><b>R-1</b> (SINGLE FAMILY RESIDENTIAL)</p> <p><b>R-2</b> (DUPLEX-FOURPLEX)</p>	<p><b>R-3A</b> (APARTMENTS)</p> <p><b>R-3C</b> (CONDOMINIUMS)</p> <p><b>R-3I</b> (TOWNHOUSES)</p>	<p><b>R-4</b> (MOBILE HOMES)</p> <p><b>C-1</b> (OFFICE BUILDING)</p> <p><b>C-2</b> (NEIGHBORHOOD COMMERCIAL)</p>	<p><b>C-3</b> (GENERAL BUSINESS)</p> <p><b>C-3L</b> (LIGHT COMMERCIAL)</p> <p><b>C-4</b> (COMMERCIAL INDUSTRIAL)</p>	<p><b>I-1</b> (LIGHT INDUSTRIAL)</p> <p><b>I-2</b> (HEAVY INDUSTRIAL)</p> <p><b>SPECIAL DISTRICT</b></p>
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This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcalen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property boundaries.

C-3

R-1

R-1

R-1

2221 S. 23rd Street

**SALINAS ENGINEERING & ASSOCIATES**  
CONSULTING ENGINEERS & SURVEYORS  
2221 DAFFODIL AVE. - MCALLEN, TEXAS 78501  
(956) 682-9081 (956) 686-1489 (FAX)  
dsalinas@salinasengineering.com  
TPLS 12100 PARK 35 ORACLE BLDG. A, SUITE 156, MC-230, AUSTIN, TEXAS 78573 (512) 239-5263

**METES AND BOUNDS DESCRIPTION**

BEING A 0.99 GROSS ACRE TRACT OF LAND, MORE OR LESS, AS FOUND ON THE GROUND, OUT OF AND FORMING A PART OF LOT 18, BLOCK 3, C.E. HAMMOND'S SUBDIVISION, HIDALGO COUNTY, TEXAS, AS PER THE MAP OR PLAT THEREOF RECORDED IN VOLUME 21, PAGE 599, DEED RECORDS OF HIDALGO COUNTY, TEXAS; SAID 0.99 ACRE TRACT OF LAND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 18 LOCATED INSIDE THE RIGHT-OF-WAY OF SOUTH 23RD. STREET; THENCE, AS FOLLOWS:

SOUTH 08 DEGREES 23 MINUTES 28 SECONDS WEST, COINCIDENT WITH THE WEST LINE OF SAID LOT 18, A DISTANCE OF 500.0 FEET TO A NAIL SET ON THE SOUTHWEST CORNER OF THAT CERTAIN 0.97 (DEED) TRACT OF LAND CONVEYED FROM ELIZABETH GOMEZ VEGA UNTO ROBERTO GOMEZ, DATED APRIL 09, 1998, FILED IN INSTRUMENT NO. 671712, H.C.D.R., FOR THE NORTHWEST CORNER AND POINT OF BEGINNING OF THIS HEREIN DESCRIBED TRACT:

(1) THENCE, SOUTH 81 DEGREES 17 MINUTES 00 SECONDS EAST, COINCIDENT WITH THE SOUTH LINE OF SAID GOMEZ TRACT, A DISTANCE OF 40.0 FEET (X/DOT ROW MAP) PASSING THE OLD EAST RIGHT-OF-WAY LINE OF SOUTH 23RD. STREET, AND BEING THE WEST LINE OF THAT CERTAIN EASEMENT AND RIGHT-OF-WAY CONVEYED UNTO THE CITY OF MCALLEN (VOL. 1091, PG. 463, H.C.D.R.), AT A DISTANCE OF 50.0 FEET PASSING A 1/2 INCH DIAMETER IRON ROD WITH YELLOW CAP MARKED "SEA 5782" SET IN ASPHALT ON THE EXISTING EAST RIGHT-OF-WAY OF SAID SOUTH 23RD. STREET SAME BEING ON THE EAST LINE OF SAID 100 FOOT PERMANENT EASEMENT AND RIGHT-OF-WAY CONVEYED TO THE CITY OF MCALLEN, AT A DISTANCE OF 357.20 FEET IN ALL TO A 1/2 INCH DIAMETER IRON ROD WITH YELLOW CAP MARKED "SEA 5782" SET ON THE SOUTHEAST CORNER OF SAID GOMEZ TRACT FOR THE NORTHEAST CORNER OF THIS HEREIN DESCRIBED TRACT;

(2) THENCE, SOUTH 08 DEGREES 43 MINUTES 00 SECONDS WEST, ALONG THE SOUTHERLY PROJECTED EAST LINE OF SAID GOMEZ TRACT, A DISTANCE OF 121.28 FEET TO A 1/2 INCH DIAMETER IRON ROD WITH YELLOW CAP MARKED "SEA 5782" SET ON THE NORTHEAST CORNER OF A 15.0 FOOT STRIP OF LAND CONVEYED TO THE CITY OF MCALLEN BY INSTRUMENT NUMBER 11501, DEED RECORDS OF HIDALGO COUNTY, TEXAS, BEING 15.0 FEET NORTH OF THE NORTH LINE OF LOT A, GONZALEZ-CHAPA SUBDIVISION, MCALLEN, HIDALGO COUNTY, TEXAS, AS PER MAP OR PLAT THEREOF RECORDED IN VOLUME 22, PAGE 55, MAP RECORDS OF HIDALGO COUNTY, TEXAS, FOR THE SOUTHEAST CORNER OF THIS HEREIN DESCRIBED TRACT;

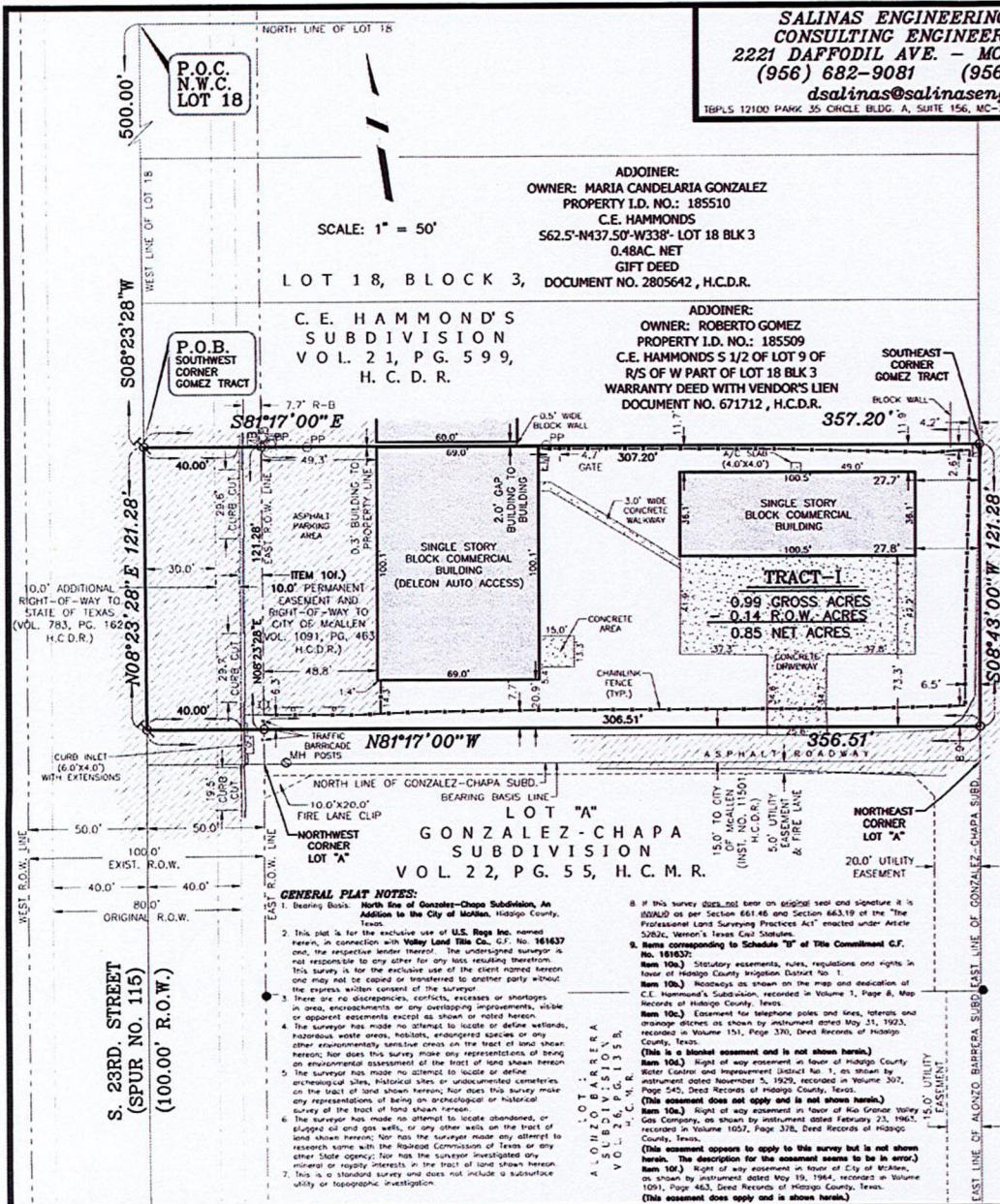
(3) THENCE, NORTH 81 DEGREES 17 MINUTES 00 SECONDS WEST, COINCIDENT WITH THE NORTH LINE OF SAID 15.0' STRIP, A DISTANCE OF 306.51 FEET PASS A 1/2 INCH DIAMETER IRON ROD WITH YELLOW CAP MARKED "SEA 5782" SET ON THE EXISTING EAST RIGHT-OF-WAY LINE OF SAID SOUTH 23RD. STREET SAME BEING THE EAST LINE OF SAID EASEMENT AND RIGHT-OF-WAY CONVEYED UNTO THE CITY OF MCALLEN AT A DISTANCE OF 316.51 FEET PASSING THE ORIGINAL EAST RIGHT-OF-WAY LINE OF SAID SOUTH 23RD. STREET SAME BEING THE WEST LINE OF SAID EASEMENT AND RIGHT-OF-WAY CONVEYED UNTO THE CITY OF MCALLEN, AT A DISTANCE OF 356.51 FEET IN ALL TO A NAIL SET IN ASPHALT WITHIN SOUTH 23RD. STREET ON INTERSECTION WITH THE WEST LINE OF SAID LOT 18 FOR THE SOUTHWEST CORNER OF THIS HEREIN DESCRIBED TRACT;

(4) THENCE, NORTH 08 DEGREES 23 MINUTES 28 SECONDS EAST, COINCIDENT WITH THE WEST LINE OF SAID LOT 18, A DISTANCE OF 121.28 FEET TO THE POINT OF BEGINNING, CONTAINING 0.99 GROSS ACRES OF LAND, MORE OR LESS, OF WHICH THE WEST 50.0 FEET, OR 0.14 ACRES, MORE OR LESS, ARE LOCATED WITHIN THE RIGHT-OF-WAY OF SAID SOUTH 23RD. STREET, LEAVING 0.85 NET ACRES OF LAND, MORE OR LESS.

BEARING BASIS: NORTH LINE OF SAID GONZALEZ-CHAPA SUBDIVISION.  
N&M&B.2019N.12.060319

**LEGEND**  
● FOUND 1/2" IRON ROD  
○ SET 1/2" IRON ROD WITH YELLOW CAP MARKED "SEA 5782"  
— SET NAIL  
— CABLE PEDESTAL  
— ELECTRIC METER  
— FIRE HYDRANT  
— CURB BUMP  
— MAIL BOX  
— POWER POLE  
— SANITARY SEWER MANHOLE  
— SINGLE POLE SIGN  
— TELEPHONE PEDESTAL  
— TRAFFIC SIGNAL POLE  
— WATER VALVE  
— RIGHT OF WAY  
— POINT OF COMMENCEMENT  
— POINT OF BEGINNING  
— H.C.D.R. HIDALGO COUNTY DEED RECORDS  
— H.C.D.R. HIDALGO COUNTY OFFICIAL RECORDS  
— H.C.M.R. HIDALGO COUNTY MAP RECORDS

ADJOINER:  
OWNER: CITY OF MCALLEN  
PROPERTY I.D. NO.: 185503  
C.E. HAMMOND  
P.O.B. SOUTHWEST CORNER GOMEZ TRACT  
WARRANTY DEED  
DOCUMENT NO. UNDETERMINED, H.C.D.R.  
PALM CURE OUT OF S. PART OF LOT 18 BLK 3



ADJOINER:  
OWNER: MARIA CANDELARIA GONZALEZ  
PROPERTY I.D. NO.: 185510  
C.E. HAMMONDS  
562.5-N437.50-W338'- LOT 18 BLK 3  
0.48AC. NET  
GIFT DEED  
DOCUMENT NO. 2805642, H.C.D.R.

ADJOINER:  
OWNER: ROBERTO GOMEZ  
PROPERTY I.D. NO.: 185509  
C.E. HAMMONDS S 1/2 OF LOT 9 OF  
R/S OF W PART OF LOT 18 BLK 3  
WARRANTY DEED WITH VENDOR'S LIEN  
DOCUMENT NO. 671712, H.C.D.R.

**GENERAL PLAT NOTES:**  
1. Bearing Basis: North Line of Gonzalez-Chapa Subdivision, An Addition to the City of McAllen, Hidalgo County, Texas.  
2. This plat is for the exclusive use of U.S. Regs Inc. named herein, in connection with Valley Land Title Co., C.F. No. 161637 and, the respective lender thereof. The undersigned surveyor is not responsible to any other for any loss resulting therefrom. This survey is for the exclusive use of the client named herein and may not be copied or transmitted to another party without the express written consent of the surveyor.  
3. There are no discrepancies, conflicts, encroachments, easements or appurtenant easements except as shown or noted hereon.  
4. The surveyor has made no attempt to locate or define wetlands, hazardous waste areas, habitats, endangered species or any other environmentally sensitive areas on the tract of land shown hereon. Nor does this survey make any representations of being an environmental assessment of the tract of land shown hereon.  
5. The surveyor has made no attempt to locate or define archaeological sites, historical sites or undocumented cemeteries on the tract of land shown hereon; nor does this survey make any representations of being an archaeological or historical survey of the tract of land shown hereon.  
6. The surveyor has made no attempt to locate abandoned, plugged oil and gas wells, or any other wells on the tract of land shown hereon; nor has the surveyor made any attempt to research same with the Railroad Commission of Texas or any other State agency; nor has the surveyor investigated any mineral or royalty interests in the tract of land shown hereon.  
7. This is a standard survey and does not include a subsurface utility or topographic investigation.

8. If this survey does not bear an original seal and signature it is INVALID as per Section 661.46 and Section 663.19 of the "The Professional Land Surveying Practices Act" enacted under Article 2022C, Vernon's Texas Civil Statutes.  
9. Name corresponding to Schedule "B" of this Commitment C.F. No. 181837:  
Item 10(a). Statutory easements, rules, regulations and rights in favor of Hidalgo County Irrigation District No. 1.  
Item 10(b). Easements as shown on the map and dedication of C.E. Hammond's Subdivision, recorded in Volume 1, Page 8, Map Records of Hidalgo County, Texas.  
Item 10(c). Easement for telephone poles and lines, telegrams and message wires as shown by instrument dated May 31, 1923, recorded in Volume 151, Page 370, Deed Records of Hidalgo County, Texas.  
(This is a blanket easement and is not shown hereon.)  
Item 10(d). Right of way easement in favor of Hidalgo County Water Control and Improvement District No. 1, as shown by instrument dated November 5, 1929, recorded in Volume 307, Page 242, Deed Records of Hidalgo County, Texas.  
(This easement does not apply and is not shown hereon.)  
Item 10(e). Right of way easement in favor of Rio Grande Valley Gas Company, as shown by instrument dated February 23, 1967, recorded in Volume 1057, Page 378, Deed Records of Hidalgo County, Texas.  
(This easement appears to apply to this survey but is not shown hereon. The description for the easement seems to be in error.)  
Item 10(f). Right of way easement in favor of City of McAllen, as shown by instrument dated May 19, 1984, recorded in Volume 1091, Page 463, Deed Records of Hidalgo County, Texas.  
(This easement does apply and is shown hereon.)

This is to certify that I have, this date, made a careful and accurate standard land survey on the ground of property which is located at 2621 S. 23RD. ST. in McALLEN, Texas, described as follows: BEING A 0.99 GROSS ACRE TRACT OF LAND, MORE OR LESS, AS FOUND ON THE GROUND, OUT OF AND FORMING A PART OF

(SEE METES AND BOUNDS DESCRIPTION)  
Lot 18, Block 3, of C.E. HAMMOND'S SUBDIVISION, HIDALGO CO., Texas, according to the plat recorded in Volume 21, Page 599, of the DEED Records of Hidalgo County, Texas. I further certify that this property lies in Zone B as per FIRM (Flood Insurance Rate Map) dated NOV. 2, 1982 Community Panel No. 480343 0010 C.

A.E.  
DRN. BY  
JUNE 03, 2019 DATE  
JUNE 14, 2019 UPDATED  
S-19-24128 JOB NO.

REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5782  
BY: *David Omar Salinas*  
RECEIVED SEP 19 2019  
STATE OF TEXAS REGISTERED PROFESSIONAL LAND SURVEYOR 5782 DAVID OMAR SALINAS



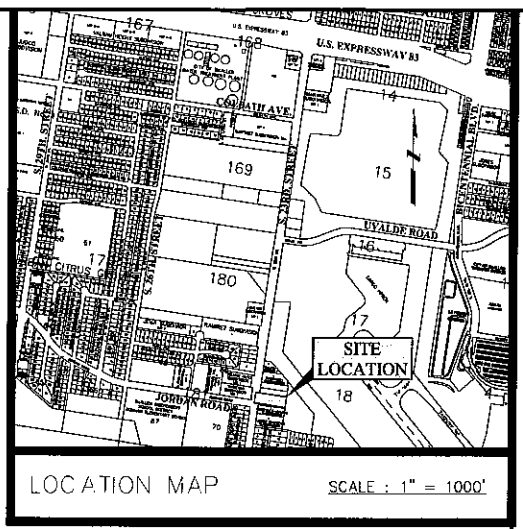
P.O.C. N.W.C. LOT 18

# EXHIBIT "B"

DISCLAIMER: THIS DOCUMENT IS RELEASED FOR THE PURPOSE OF INTERIM REVIEW BY THE CITY OF McALLEN ONLY & BY NO OTHERS UNDER THE AUTHORITY OF DAVID OMAR SALINAS, P.E., TX. REG. NO. 71973 ON MARCH 09, 2020. IT IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.

ADJOINER:  
OWNER: MARIA CANDELARIA GONZALEZ  
PROPERTY I.D. NO.: 185510  
C.E. HAMMONDS  
S62.5'-N437.50'-W338'- LOT 18 BLK 3  
0.48AC. NET  
GIFT DEED  
DOCUMENT NO. 2805642 , H.C.D.R.

ADJOINER:  
OWNER: ROBERTO GOMEZ  
PROPERTY I.D. NO.: 185509  
C.E. HAMMONDS S 1/2 OF LOT 9 OF  
R/S OF W PART OF LOT 18 BLK 3  
WARRANTY DEED WITH VENDOR'S LIEN  
DOCUMENT NO. 671712 , H.C.D.R.



**SEA**  
**SALINAS ENGINEERING & ASSOCIATES**  
(P.E. 6875) (1008700)  
CONSULTING ENGINEERS & SURVEYORS  
2821 DAFFODIL - McALLEN, TEXAS 78501  
(956) 682-9081 (956) 686-1466 (FAX)  
1905 DIBB PARK 38 ORLEANS BLVD. 4. SUITE 104, MCALLEN, TEXAS 78123 (214) 239-0881

SITEPLAN

LOT 18, BLOCK 3, DOCUMENT NO. 2805642 , H.C.D.R.

C.E. HAMMOND'S  
SUBDIVISION  
VOL. 21, PG. 599,  
H.C.D.R.

LOT 1  
34,182.75 SQ.FT.  
0.78 ACRES

LOT "A"  
GONZALEZ-CHAPA  
SUBDIVISION  
VOL. 22, PG. 55, H.C.M.R.

LOT 1  
ALONZO BARRERA  
SUBDIVISION  
VOL. 26, PG. 135 B

SCALE: 1"=20'

### LEGEND

- FOUND 1/2" IRON ROD
- SET 1/2" IRON ROD WITH YELLOW CAP MARKED "SEA 5782"
- SET NAIL
- CABLE PEDESTAL
- ELECTRIC METER
- FIRE HYDRANT
- GUY WIRE
- MAIL BOX
- PP POWER POLE
- MH SANITARY SEWER MANHOLE
- MH STORM DRAIN MANHOLE
- SINGLE POLE SIGN
- TELEPHOTIC PEDESTAL
- TRAFFIC SIGNAL POLE
- WV WATER VALVE
- R.O.W. RIGHT OF WAY
- P-B PROPERTY LINE TO BACK OF CURB
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- H.C.D.R. HIDALGO COUNTY DEED RECORDS
- H.C.O.R. HIDALGO COUNTY OFFICIAL RECORDS
- H.C.M.R. HIDALGO COUNTY MAP RECORDS

- DENOTES PROPOSED LANDSCAPE AREA
- ♿ DENOTES PROPOSED HANDICAP SPACE
- 🌳 DENOTES PROPOSED 4" CALIPER OAK TREE
- 🔥 DENOTES EXISTING FIRE HYDRANT

### CITY REQUIREMENTS

**PARKING REQUIREMENTS:**  
RETAIL - FOUR PARKING SPACES FOR UP TO 400 SQUARE FEET OF FLOOR AREA PLUS ONE PARKING SPACE FOR EACH ADDITIONAL 400 SQUARE FEET OF FLOOR AREA.  
13,000 S.F. - 400 S.F. (4 PARKING SPACES) = 12,600 S.F.  
12,600 S.F. / 400 S.F. = 32 PARKING SPACES  
TOTAL PARKING REQUIRED: 4 + 32 = 36 PARKING SPACES  
TOTAL PARKING PROVIDED: 22 PARKING SPACES  
TOTAL ACCESSIBLE PARKING REQUIRED: 2 SPACES  
TOTAL ACCESSIBLE PARKING PROVIDED: 2 SPACES  
PARKING SPACE DEFICIENCY: 14 PARKING SPACES

**DEVELOPED SQUARE FOOTAGE = 34,182.75 S.F.**  
LANDSCAPE REQUIRED: 34,182.75 S.F. X 10% = 3,418.28 S.F.  
LANDSCAPE PROVIDED = 7,318.30 S.F.  
FRONT LANDSCAPE REQUIRED: 3,418.28 S.F. X 50% = 1,709.14 S.F.  
FRONT LANDSCAPE PROVIDED = 3,434.88 S.F.  
TREE REQUIREMENTS: 2,001 S.F. TO 10,000 S.F. OF LANDSCAPE AREA = 10 TREES FOR FIRST 2,000 S.F. AND ONE TREE FOR EVERY 500 S.F. OVER 2,000 S.F.  
3,418.28 S.F. - 2,000 S.F. (10 TREES) = 1,418.28 S.F.  
1,418.28 S.F. / 500 S.F. = 3 TREES  
TREE CREDITS REQUIRED: 10 + 3 = 13 TREE CREDITS  
(1" - 4" CALIPER TREE = 2 TREE CREDITS)  
TREE CREDITS PROVIDED: 14 TREE CREDITS (7 - 4" CALIPER TREES)  
FIRE HYDRANTS = 1 EXISTING HYDRANT

Sheet Title

2621 S. 23RD. STREET  
SUBDIVISION

Project



David Omar Salinas  
Registered Professional Engineer # 71973  
Date: 03/09/20  
Scale: 1"=20'  
Designed By: D.D.S.  
Drawn By: A.E.  
Checked By: D.D.S.  
Approved By: D.D.S.  
Project No: SP-19-24164  
Drawing No: SP-19-24164  
Sheet 1 of 1



NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0013

**Memo**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** March 20, 2020

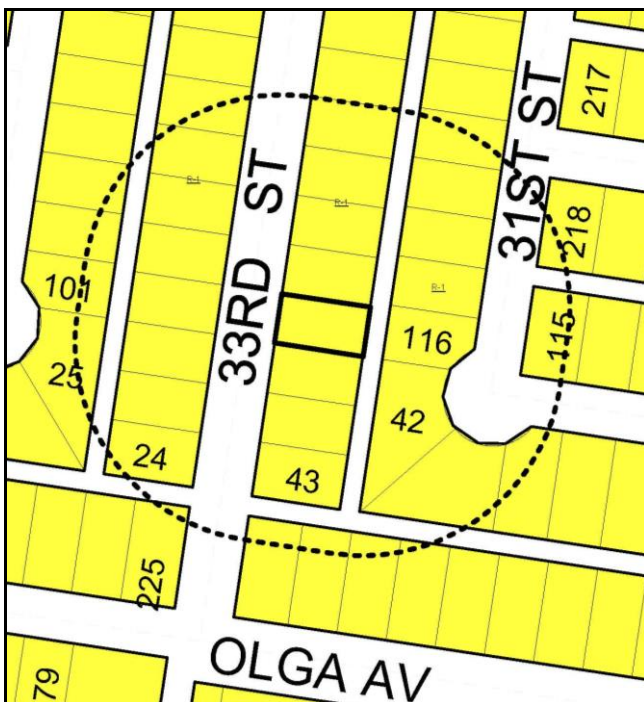
**SUBJECT: REQUEST OF STEVE BARAJAS ON BEHALF OF RODRIGO MARTINEZ RODRIGUEZ FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 1.08 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR A PROPOSED SINGLE FAMILY RESIDENCE AT LOT 46, IDELA PARK UNIT 2 SUBDIVISION, HIDALGO COUNTY, TEXAS; 5017 SOUTH 33<sup>RD</sup> STREET (ZBA2020-0008) (TABLED 4/1/2020)**

**REASON FOR APPEAL:**

The applicant is requesting a variance to allow an encroachment of 1.08 ft. into the 25 ft. front setback along South 33<sup>rd</sup> Street for the construction of a new home.

**PROPERTY LOCATION AND VICINITY:**

The subject property is located on the east side of South 33<sup>rd</sup> Street, approximately 300 ft. north of Olga Avenue. The lot has 50 ft. of frontage along South 33<sup>rd</sup> Street and a depth of 90 ft. The property is zoned R-1 (single family residential) District. The surrounding zoning is R-1 District in all directions.



**BACKGROUND AND HISTORY:**

Idela Park Unit 2 Subdivision was recorded on July 25, 1978. The applicant submitted for the variance request on February 10, 2020. An application for building permit for the proposed residential construction has not been submitted.

**ANALYSIS:**

The variance request is to allow an encroachment of 1.08 ft. into the 25 ft. front setback required along South 33<sup>rd</sup> Street. There are no improvements proposed over Utility Easements.

Staff has not received any phone calls from the surrounding property owners with issues of concern regarding these variance requests.

**UPDATE: ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF APRIL 1, 2020**

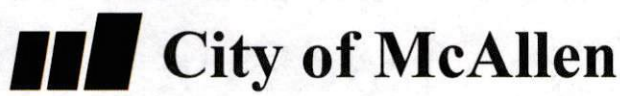
At the meeting of April 1, 2020 there was discussion with the applicant Steve Barajas and the property owner Rodrigo Rodriguez, staff was explaining to the board that the house floor plan had area to move one section of the house to the rear of the property without reducing the size of the home. A floor plan of the house will be included in the packet for the meeting of April 15 as requested. The item was tabled by the Board in order to allow additional time for the applicant to modify the site plan and work with staff.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request. However, if the Board chooses to grant the variance, it should be limited to the encroachment shown on the submitted site plan.

ZBA 2020-0008

ZBA  
3/18/2020



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

<b>Project</b>	Legal Description <u>Lot. 46</u>
	Subdivision Name <u>Idela Park Unit 2</u>
	Street Address <u>5017 S. 33rd St.</u>
	Number of lots <u>1</u> Gross acres _____
	Existing Zoning <u>R-1</u> Existing Land Use <u>Vacant</u>
	Reason for Appeal (please use other side if necessary) <u>I, Steve Barajas, wanted to propose the attached plan on behalf of Mr. Rodriguez and his family of 7. They</u>
<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)	
<input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required	

<b>Applicant</b>	Name <u>Steve Barajas</u> Phone <u>(956)688-7355</u>
	Address <u>1420 Erie Ave.</u> E-mail <u>sbarajas@ahsti.org</u>
	City <u>McAllen</u> State <u>TX</u> Zip <u>78501</u>

<b>Owner</b>	Name <u>Rodrigo Martinez Rodriguez</u> Phone <u>(956)451-2420</u>
	Address <u>5017 S. 33rd St.</u> E-mail <u>nancy.luna.martinez02@gmail.com</u>
	City <u>McAllen</u> State <u>Texas</u> Zip <u>78503</u>

<b>Authorization</b>	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.
	Signature <u>[Signature]</u> Date <u>2-10-2020</u>
	Print Name <u>Rodrigo Martinez Rodriguez</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent

<b>Office</b>	Accepted by <u>[Signature]</u> Payment received by _____ Date _____
	Rev 10/18



BY: [Signature]

Pct 697031



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

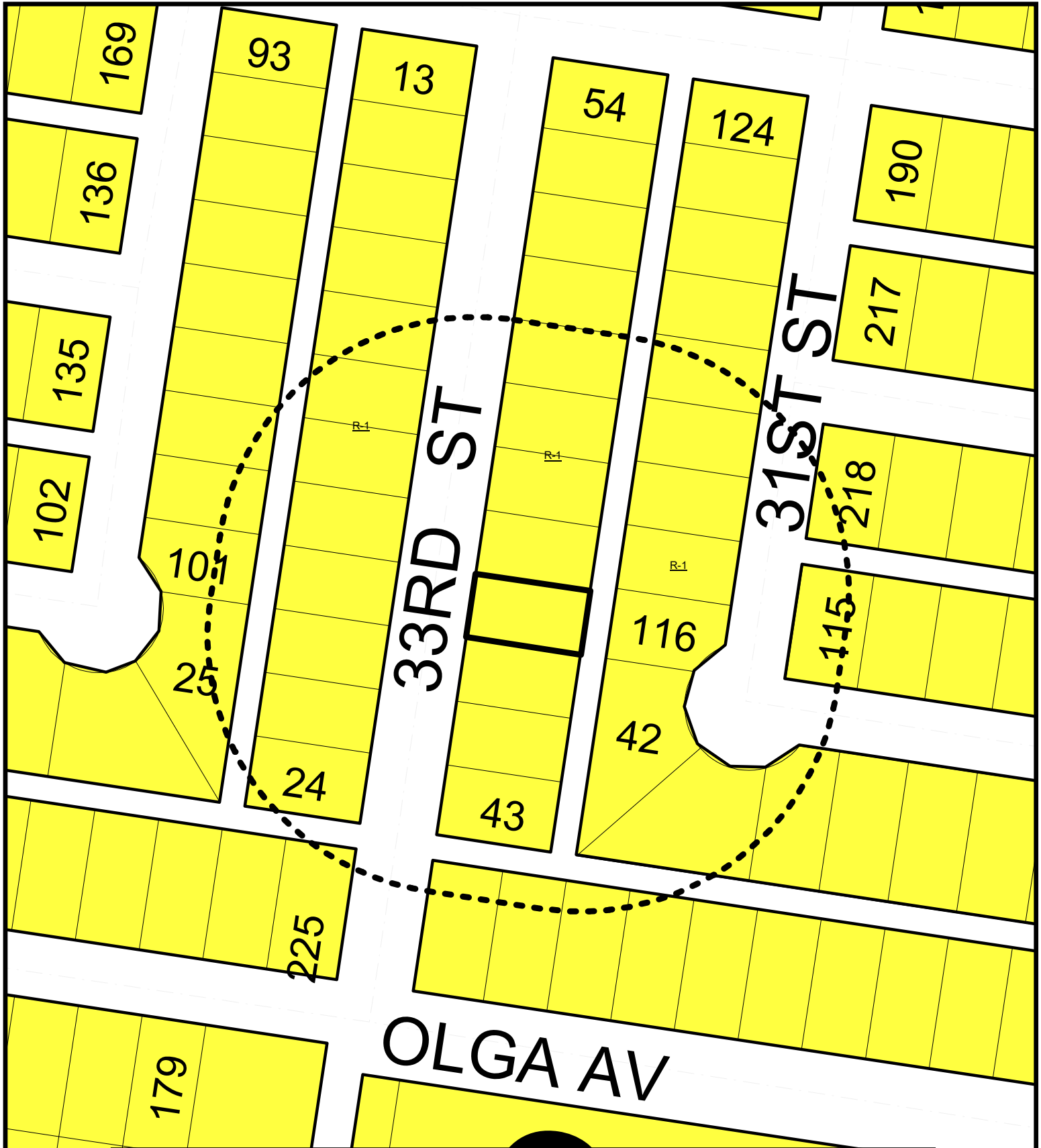
feel this plan will really accommodate his family. They originally wanted something bigger but it would not fit on the lot they already own. We have also already paid to have the plans made and after all considerations, they have asked me to ask you all to please take this variance into consideration. We are asking to encroach 1ft and 1 in. into the front setback, from only the garage side. This will leave the home at 23'11" from the front of the property line instead of the 25' setback. Thank you very much in advanced for your consideration.


-Steve Barajas

Board Action

Chairman, Board of Adjustment  
Signature

Date






**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: 1" = 500'

AREA MAP



**■** SUBJECT PROPERTY

**⋯** 200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND				
<b>A-0</b> (AGRICULTURAL & OPEN SPACE)	<b>R-3A</b> (APARTMENTS)	<b>R-4</b> (MOBILE HOMES)	<b>C-3</b> (GENERAL BUSINESS)	<b>I-1</b> (LIGHT INDUSTRIAL)
<b>R-1</b> (SINGLE FAMILY RESIDENTIAL)	<b>R-3C</b> (CONDOMINIUMS)	<b>C-1</b> (OFFICE BUILDING)	<b>C-3L</b> (LIGHT COMMERCIAL)	<b>I-2</b> (HEAVY INDUSTRIAL)
<b>R-2</b> (DUPLEX-FOURPLEX)	<b>R-3T</b> (TOWNHOUSES)	<b>C-2</b> (NEIGHBORHOOD COMMERCIAL)	<b>C-4</b> (COMMERCIAL INDUSTRIAL)	<b>SD</b> (SPECIAL DISTRICT)

This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcallen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property boundaries.

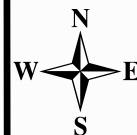


**CITY OF McALLEN**  
 PLANNING DEPARTMENT



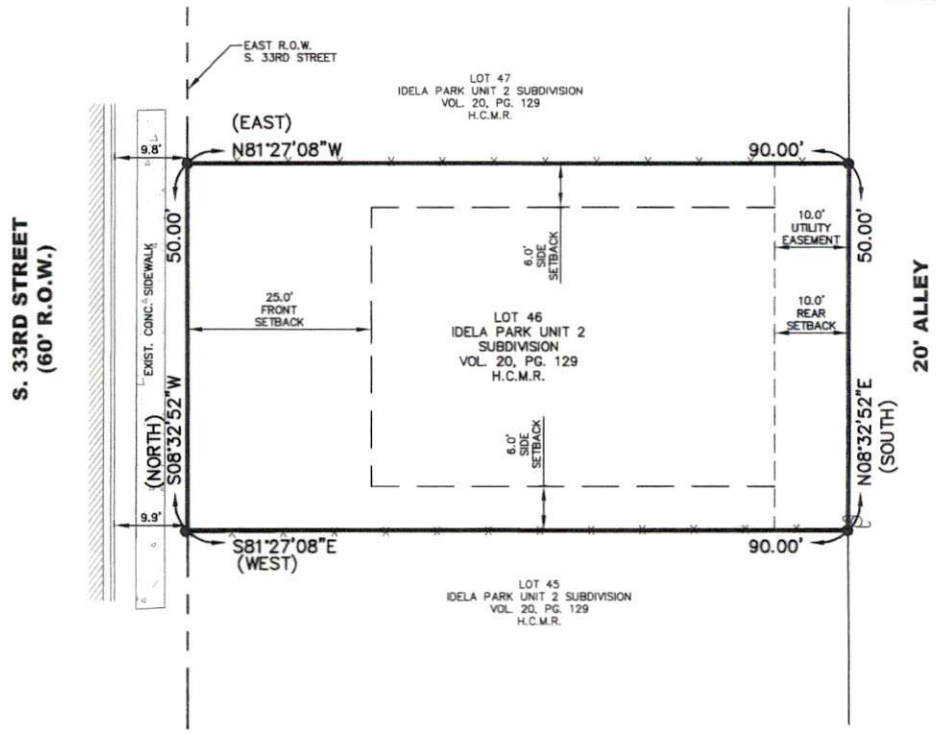
**SUBJECT PROPERTY**

**AERIAL MAP**  
 SCALE: N.T.S.



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**SETBACKS:**  
 FRONT: 25 FEET  
 REAR: 10 FEET  
 SIDE: 6 FEET  
 AS PER CITY OF MCALLEN

LEGEND	
●	- FND. 1/2" IRON ROD
—○—	- POWER POLE
- X -	- CHAINLINK FENCE LINE
EXIST.	- EXISTING
CONC.	- CONCRETE
ASPH.	- ASPHALT
CONC.	- CONCRETE
H.C.M.R.	- HIDALGO COUNTY MAP RECORDS
H.C.D.R.	- HIDALGO COUNTY DEED RECORDS
O.R.H.C.	- OFFICIAL RECORDS OF HIDALGO COUNTY
R.O.W.	- RIGHT OF WAY
FND.	- FOUND

**GENERAL NOTES:**  
 ADDRESS: 5017 S 33RD ST. MCALLEN TEXAS, 78503  
 SURVEYED: NOVEMBER 14, 2019  
 REQUESTED BY: TIFFANY HERNANDEZ - AFFORDABLE HOMES OF SOUTH TEXAS  
 PROPOSED BORROWER: RODRIGO MARTINEZ RODRIGUEZ AND NANCY MARTINEZ  
 FLOOD ZONE DESIGNATION: "ZONE B" - AREAS BETWEEN LIMITS OF THE 100-YEAR FLOOD AND 500-YEAR FLOOD; OR CERTAIN AREAS SUBJECT TO 100-YEAR FLOODING WITH AVERAGE DEPTHS LESS THAN ONE (1) FOOT OR WHERE THE CONTRIBUTING DRAINAGE AREA IS LESS THAN ONE SQUARE MILE; OR AREAS PROTECTED BY LEVEES FROM THE BASE FLOOD.  
 COMMUNITY-PANEL NUMBER: 4803430010C  
 MAP REVISED: NOVEMBER 2, 1982

I, SAMUEL D. MALDONADO, CERTIFY THAT THIS PLAT REPRESENTS THE FACTS FOUND ON THE GROUND AT THE TIME OF SURVEY AND THAT THERE ARE NO VISIBLE OR APPARENT EASEMENTS, DISCREPANCIES, CONFLICTS, OR SHORTAGES IN AREA OR BOUNDARY LINES, OR ANY ENCROACHMENTS, OR OVERLAPPING OF IMPROVEMENTS OR VISIBLE EASEMENTS EXCEPT AS SHOWN ON THIS PLAT. NO SUBSURFACE UTILITIES OR SERVICE CONNECTIONS ARE SHOWN. © COPYRIGHT 2018 SAM ENGINEERING & SURVEYING. THIS SURVEY WAS PROVIDED IN MULTIPLE ORIGINALS SOLELY FOR THE BORROWER NAMED HEREON, IN CONJUNCTION WITH THE ORIGINAL TRANSACTION WHICH SHALL TAKE PLACE WITHIN 6 MONTHS AFTER THE SURVEY WAS PROVIDED. NO LICENSE HAS BEEN CREATED OR IMPLIED COPY THIS SURVEY. SURVEY VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE.

*Samuel D. Maldonado* 11/15/2019  
 SAMUEL DAVID MALDONADO DATE  
 REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6027

JOB NUMBER	DRAWN BY	RVMD. BY	DATE
SUR 19.505	D.P.	S.D.M	11/15/2019

- SURVEY NOTES:**
1. BASIS OF BEARING THE NORTH LINE OF LOT 46, IDELA PARK UNIT 2 SUBDIVISION, AS PER THE MAP OR PLAT THEREOF RECORDED IN VOLUME 20, PAGE 129, MAP RECORDS OF HIDALGO COUNTY, TEXAS.
  2. BEARINGS SHOWN ARE BASED ON IDELA PARK UNIT 2 SUBDIVISION, AS PER THE MAP OR PLAT THEREOF RECORDED IN VOLUME 20, PAGE 129, MAP RECORDS OF HIDALGO COUNTY, TEXAS.
  3. ALL COORDINATES, BEARINGS, AND DISTANCES, ARE BASED ON THE TEXAS COORDINATE SYSTEM, (NAD 83), TEXAS STATE PLANES, SOUTH ZONE, US SURVEY FEET, GRID, BEARINGS AND DISTANCES SHOWN IN PARENTHESIS ARE BASED ON RECORDED DOCUMENT.
  4. ALL HORIZONTAL CONTROL ON THIS PROJECT WAS ESTABLISHED UTILIZING RTK GPS METHODS.
  5. THE SURVEYOR DID NOT PREPARE AN ABSTRACT OF TITLE. TITLE WORK WAS FURNISHED BY FIRST AMERICAN TITLE GUARANTY COMPANY, UNDER GF. NO. 163114, AND TITLE COMMITMENT DATED EFFECTIVE SEPTEMBER 17, 2019. SURVEYOR ASSUMES NO LIABILITY FOR THE ACCURACY OF THE TITLE WORK FURNISHED.

**THE FOLLOWING MATTERS AND ALL TERMS OF THE DOCUMENTS CREATING OR OFFERING EVIDENCE OF THE MATTERS:**

- a. SUBJECT TO THE SUBDIVISION RULES AND REGULATIONS OF THE COUNTY OF HIDALGO AND/OR ORDINANCES OR GOVERNMENTAL REGULATIONS OF THE CITY IN WHICH THE PROPERTY MAY BE LOCATED OR HOLDING EXTRA TERRITORIAL JURISDICTION OF SAID PROPERTY.
- b. EASEMENTS FOR ROADWAYS, CANALS, DITCHES AS SHOWN BY INSTRUMENT DATED JULY 14, 1908, RECORDED IN VOLUME X, PAGE 338, DEED RECORDS OF HIDALGO COUNTY, TEXAS.
- c. EASEMENT GRANTED TO EASEMENT IN FAVOR OF CENTRAL POWER & LIGHT COMPANY AS SHOWN BY INSTRUMENT RECORDED IN VOLUME 750, PAGE 297, DEED RECORDS OF HIDALGO COUNTY, TEXAS.
- e. PIPELINE EASEMENT IN FAVOR OF RIO GRANDE VALLEY GAS COMPANY AS SHOWN BY INSTRUMENT DATED JULY 5, 1978, RECORDED IN VOLUME 1584, PAGE 788, DEED RECORDS OF HIDALGO COUNTY, TEXAS.
- l. VISIBLE AND APPARENT EASEMENTS ON OR ACROSS THE PROPERTY HEREIN DESCRIBED.



**PLAT SHOWING**

ALL OF LOT 46, IDELA PARK UNIT 2 SUBDIVISION, AN ADDITION TO THE CITY OF MCALLEN, HIDALGO COUNTY, TEXAS, AS PER MAP OR PLAT THEREOF RECORDED IN VOLUME 20, PAGE 129, MAP RECORDS OF HIDALGO COUNTY, TEXAS.

	<b>SAM Engineering &amp; Surveying</b> 200 S. 10TH STREET, SUITE 1500 TEL: (956) 702-9880 MCALLEN, TEXAS 78501 FAX: (956) 702-9883
	SURVEY FIRM REG. No. 101416-00

LENGTH: 90'  
WIDTH: 50'

10'

38'

10'

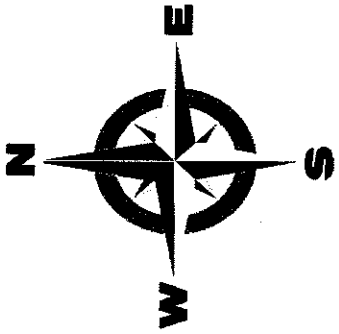
PATIO

5017 S. 33rd St. Lot. 46  
McAllen, TX 78503

Idela Park Subdivision Phase II

6'

6'



PORCH

Garage

56'1"

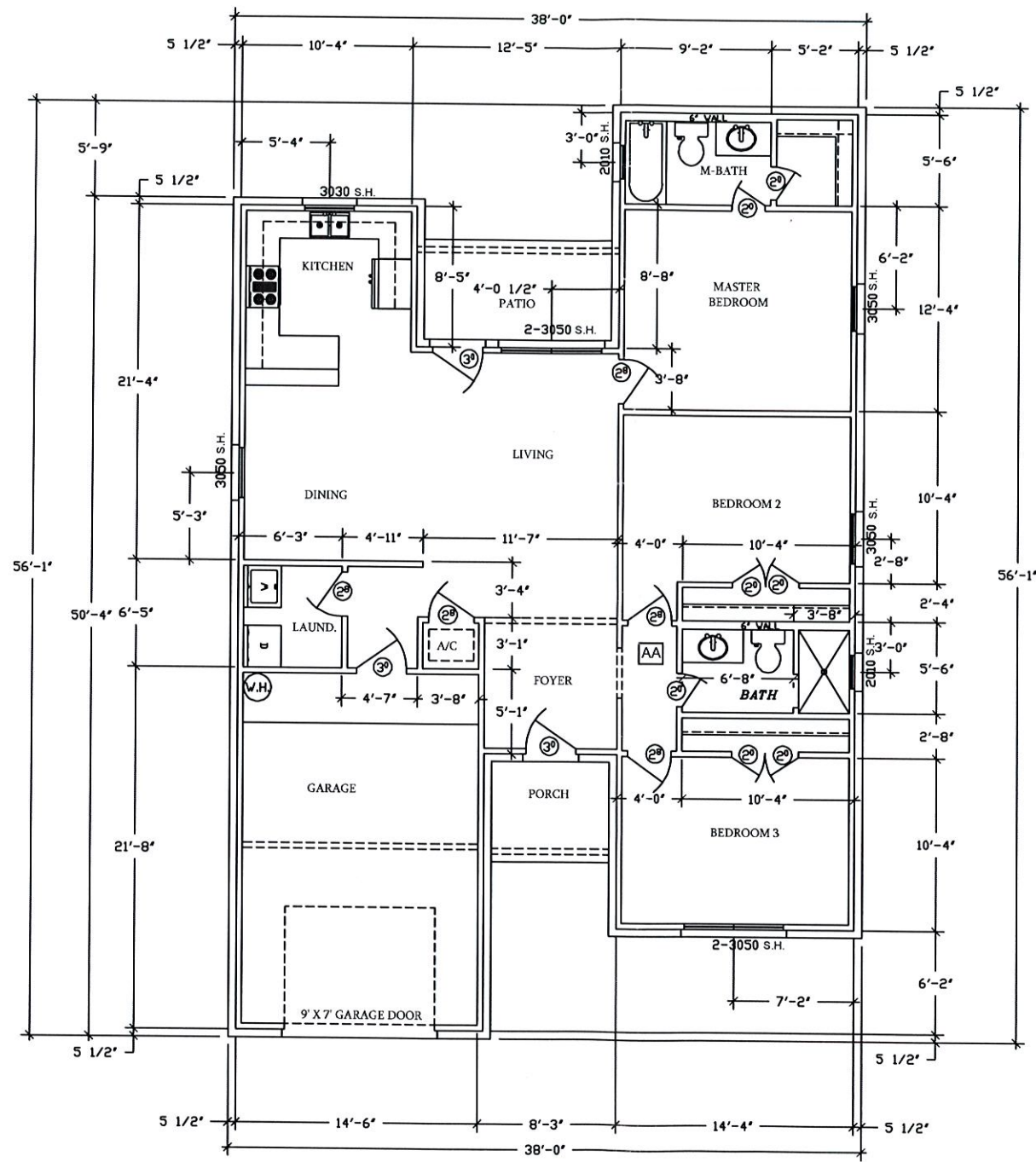
23'11"

DRIVEWAY 15'

SIDEWALK: 4'

90'  
LENGTH

**S. 33RD STREET**

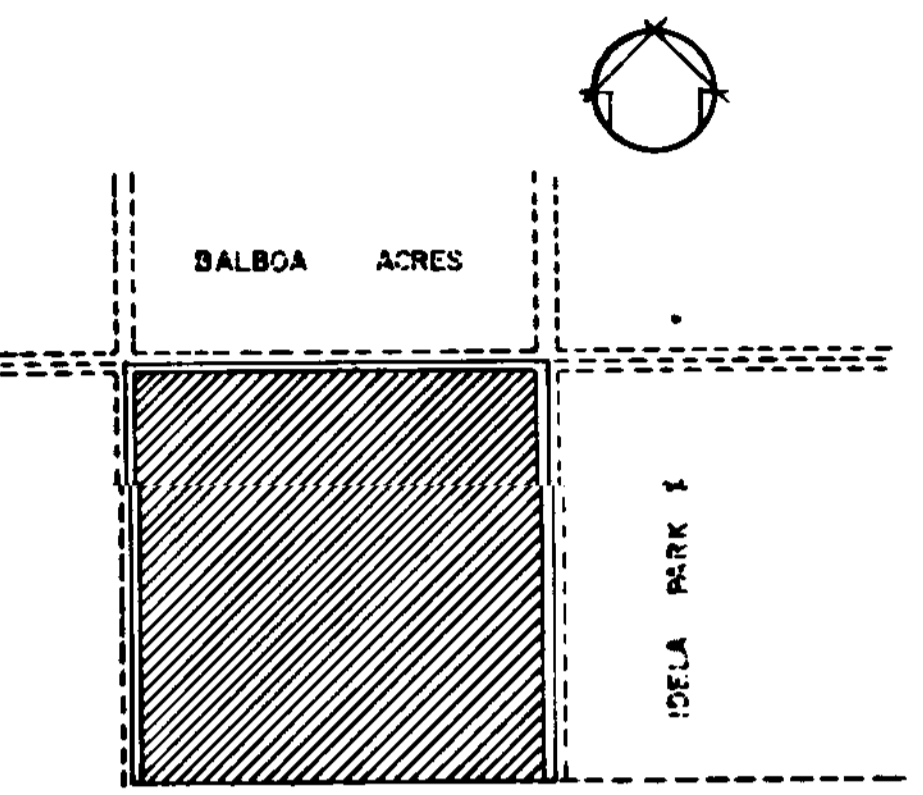
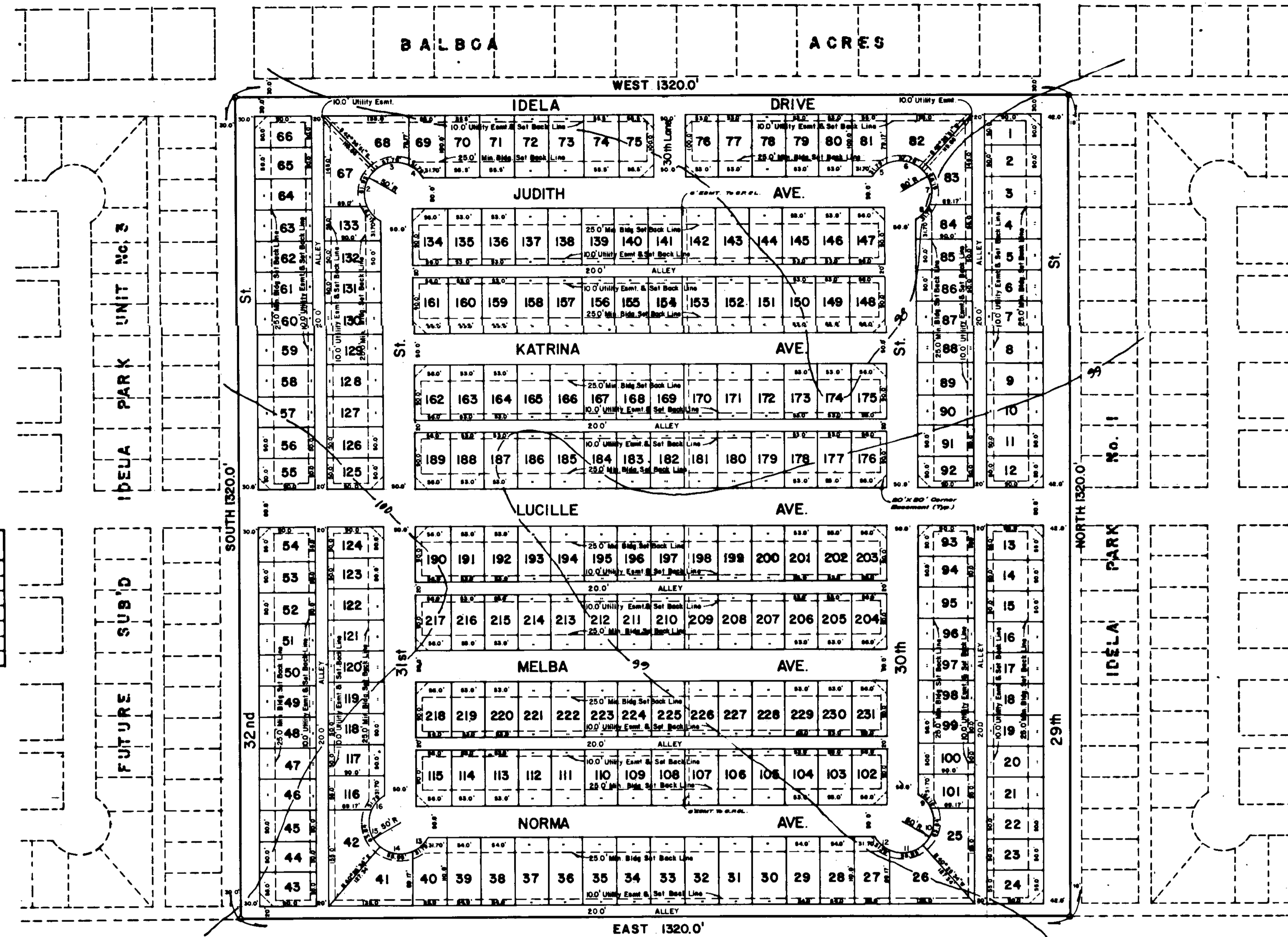


AREAS:	
LIVING AREA	1,357 SQ. FT.
GARAGE	339 SQ. FT.
PATIO	67 SQ. FT.
PORCH	42 SQ. FT.
<b>TOTAL AREA</b>	<b>1,805 SQ. FT.</b>

FLOOR PLAN  
SCALE 1/8" = 1'-0"

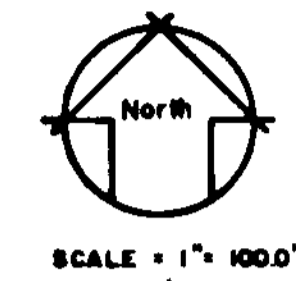
**OPTION 1**

<i>Affordable Homes of South Texas Inc.</i>	<i>REV.</i>
5017 S. 33rd St. Lot. 46 McAllen, TX 78503 Idela Park Subdivision	
PAGE NO. <b>1/5</b>	PLAN NO. 12-1278-A



location map

CURVE NUMBER	BEG. STA.	END. STA.	CHORD	CHORD BEG. STA.	CHORD END. STA.
1	0+00	0+50	47.00	0+00	0+50
2	0+50	1+00	47.00	0+50	1+00
3	1+00	1+50	47.00	1+00	1+50
4	1+50	2+00	47.00	1+50	2+00
5	2+00	2+50	47.00	2+00	2+50
6	2+50	3+00	47.00	2+50	3+00
7	3+00	3+50	47.00	3+00	3+50
8	3+50	4+00	47.00	3+50	4+00
9	4+00	4+50	47.00	4+00	4+50
10	4+50	5+00	47.00	4+50	5+00



- 1. Easements Required On All Lots For City Of McAllen, Specifications...
- 2. Easements Building Set Backs To Be 10 Feet Except On Corner Lots Where Minimum Building Set Backs Shall Be 15 Feet.
- 3. Minimum Finished Floor Elevations Shown On The Plat At Corner Of Lots Shall Be As Follows:

24704  
**IDELA PARK**  
(40 Ac.)  
UNIT 2

APPROVED FOR RECORDING  
Hidalgo Co. Right of Way Dept.  
By *Verna Walker*  
Date 7-24-78

Recorded in Book 20, Page 129  
of the map records of Hidalgo County, Texas  
Charles L. Melton  
County Surveyor

Being A Subdivision Of Lots 3 Of Blk. 3 Rio Bravo Plantation Company Subdivision.  
Hidalgo County, Texas

State Of Texas  
County Of Hidalgo

I, The Undersigned, Owner, Of The Land Shown On This Plat, And Designated Herein As The IDELA PARK Subdivision To The City Of McALLEN, TEXAS, And Whose Name Is Subscribed Herein, Herby Dedicate To The Use Of The Public All Streets, Alleys, Parks, Water Courses, Drains, Easements And Public Places Thereon Shown For The Purpose Of Consideration Therein Expressed.

**IDELA DEVELOPMENT COMPANY**  
(A PARTNERSHIP)  
*Jim Hood* PARTNER  
Owner

State Of Texas  
County Of Hidalgo

Before Me, The Undersigned Authority, On This Day Personally Appeared *Jim Hood* Known To Me To Be The Person Whose Name Is Subscribed To The Forgoing Instrument, And Acknowledge To Me That He Executed The Same For The Purposes And Consideration Therein Stated.  
Given Under My Hand And Seal Of Office This The 19th Day Of May 1978.

*W. L. Jones*  
Notary Public, County Of Hidalgo

APPROVED FOR RECORDING BY  
COMMISSIONER'S COURT  
This the 19th day of July 1978  
SANTOS SALAZAR, County Clerk  
Hidalgo County, Texas  
By: *Shengau* Deputy

I, The Undersigned, Mayor Of The City Of McALLEN, Herby Certify That This Subdivision Plat Conforms To All Requirements Of The Subdivision Regulations Of This City Wherein My Approval Is Required.

FILED FOR RECORD THIS DATE  
At *San Antonio* Tex.  
JUL 25 1978  
SANTOS SALAZAR  
County Clerk

State Of Texas  
County Of Hidalgo

I, The Undersigned, A Registered Professional Engineer In The State Of Texas, Herby Certify That This Plat Is True And Correctly Made Is Prepared From An Actual Survey On The Property Made Under My Supervision On The Ground, And Further Certify Proper Engineering Consideration Has Been Given To This Plat.

McALLEN, TEXAS

IDELA PARK UNIT No. 2

C.D.E. Community Development Engineering Mission, Texas

P.O. Box 1385

DATE: 7-10-78  
REVISED:  
SCALE:  
JOB NO.:  
DRAWN BY: R.M.

*Samuel W. Paris*

*R.M.*



NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0008

**Memo**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** April 14, 2020

**SUBJECT: REQUEST OF RANDY CLEVELAND ON BEHALF OF TAE AND KYONG PYUN FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN OFF-STREET PARKING AND LOADING ORDINANCE AND VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) 29 PARKING SPACES INSTEAD OF THE REQUIRED 42 PARKING SPACES, 2) A FRONT YARD SETBACK OF 0 FT. INSTEAD OF THE REQUIRED 32.5 FT. FRONT YARD SETBACK FOR AN EXISTING COMMERCIAL BUILDING, 3) A FRONT YARD SETBACK OF 0 FT. INSTEAD OF THE REQUIRED 32.5 FT. FRONT YARD SETBACK FOR A PROPOSED BUILDING EXPANSION MEASURING 9.85 FT. BY 6.1 FT., 4) ISSUANCE OF A BUILDING PERMIT IN EXCESS OF 10% REPLACEMENT VALUE FOR NON-CONFORMING USE, 5) A VARIANCE TO THE 10% LANDSCAPING REQUIREMENT, AND 6) TO NOT PROVIDE 50% OF THE REQUIRED LANDSCAPED AREA TO BE VISIBLE FROM THE STREET FRONTING THE PROPERTY, AT ALL OF LOTS 1, 2, & 3, BLOCK 55, NORTH MCALLEN TOWNSITE AND THAT PART OF ASH AVENUE LYING BETWEEN LOT 3, BLOCK 55, NORTH MCALLEN TOWNSITE AND THE RIGHT-OF-WAY OF THE ST. LOUIS, BROWNSVILLE AND MEXICO RAILWAY COMPANY, HIDALGO COUNTY, TEXAS; 101 NORTH 16TH STREET. (ZBA2020-0014)**

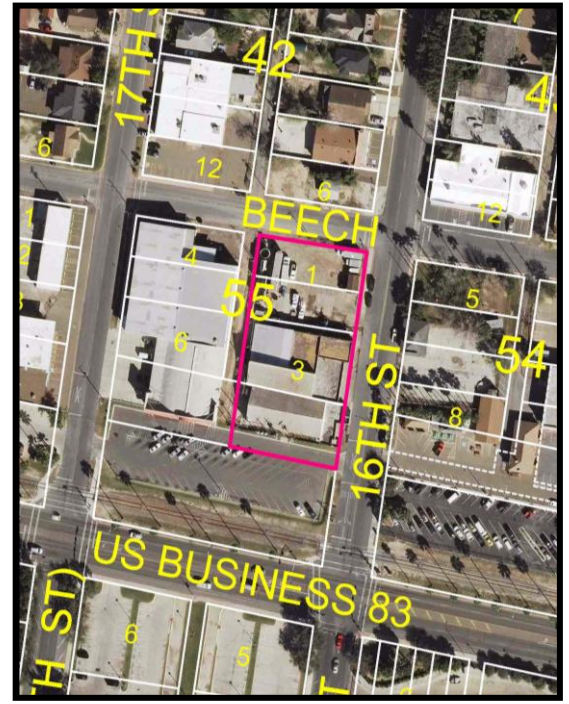
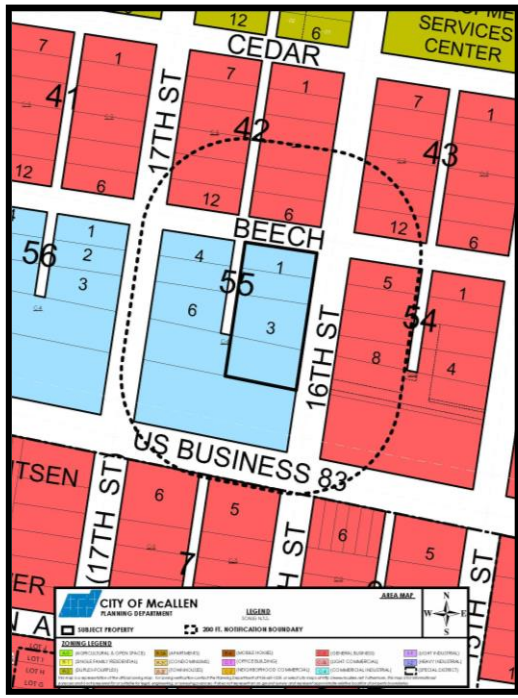
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**REASON FOR APPEAL:**

The applicant is requesting the above referenced special exception with the purpose of reducing the number of required parking spaces from 42 to 29. The applicant stated that the basis for the request is that he has insufficient space to add additional parking. The applicant is also requesting variances to allow a front yard setback of 0 ft. for an existing commercial building, to allow a front yard setback of 0 ft. for a proposed building expansion measuring 9.85 ft. by 6.1 ft., to allow issuance of a building permit in excess of 10% replacement value for a non-conforming use, to allow a variance to the landscaping requirement of 10% because he does not have sufficient space to accommodate landscaping ,and to allow a variance to not provide 50 % of landscaping area to be visible from the street fronting.

**PROPERTY LOCATION AND VICINITY:**

The property is located on the corner of Beech Avenue and North 16<sup>th</sup> Street. The lot has 237.47 ft. of frontage on 16<sup>th</sup> Street with a depth of 140 ft. for a lot size of .75 acres. The property is zoned C-4 (commercial industrial) District. Adjacent zonings are C-3 (general business) to the north and east, and C-4 District to the south and west.



**BACKGROUND AND HISTORY:**

The building was previously the site for Mid Valley Ice Inc. a business for selling and distributing ice. The building is now vacant. A building permit application was submitted on March 09, 2020 for the remodeling of a building at the 32,200 sq. ft. on the property. commercial property. An application for the proposed variance was submitted on March 18, 2020.

**ANALYSIS:**

Special Exception #1: The special exception request is to provide 29 parking spaces instead of the required 42 parking spaces. The applicant has 32,670 sq. ft. A retail use in a commercial building requires 42 parking spaces for compliance. There is insufficient space to provide the required parking.

Variance #2: The variance request is for a front yard setback of 0 ft. instead of the required 32.5 ft. setback for an existing commercial building. The front yard setback for a commercial building is half of the street R.O.W that the property fronts. North 16<sup>th</sup> Street has R.O.W. of 65 ft. Compliance with required setback would necessitate demolition of the existing building to the required setback line.

Variance #3: The variance request is for a front yard setback of 0 ft. instead of the required 32.5 ft. setback for a proposed building expansion of 9.85 ft. by 6.1 ft. The front yard setback for a commercial building is half of the street R.O.W. that the property fronts. North 16<sup>th</sup> Street has R.O.W. of 65 ft. Compliance with required setback would necessitate reduction of the existing building to the required setback line.

Variance #4: The variance request is for the issuance of a building permit in excess of 10 % replacement value for a non-conforming use. The applicant is proposing to make \$300,000 worth of improvements. The buildings value according to the appraisal district is \$189,332 for a difference of \$110,668.

Variance #5: The variance request is for the required 10% of the landscape requirement. The

applicant is needing a total of 3,267 sq. ft. of landscaping to be in compliance. The applicant is proposing to put 1,740.75 sq. ft. of landscaping. All new development, construction or reconstruction shall be in full compliance with provisions of the vegetation ordinance.

Variance #6: The variance request is to not provide 50 % of the required landscape area to be visible from the street fronting the property. The building was built in 1931 under a zoning district that allowed a 0 ft. front yard setback and is unable to comply with current Vegetation Ordinance requirements, unless the building is demolished.

The Planning Department has not received any calls in opposition to the request.

**RECOMMENDATION:**

Staff recommends approval of the special exception and variance requests.



ZBA 2020-0014

ZBOA  
4.15.20



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

Project	Legal Description <u>TRACT I: Lots 1, 2 &amp; 3, Block 55 North McAllen</u> <u>TRACT II: 50'x140' ABNO R/R South of L3, B55</u> Subdivision Name <u>North McAllen Townsite (see attached description)</u> Street Address <u>101 N. 16<sup>th</sup> Street, McAllen, Texas 78501</u> Number of lots <u>3 plus partial lot</u> Gross acres <u>.75 acres</u> Existing Zoning <u>C-4 (Commercial Industrial)</u> Existing Land Use <u>warehouse</u> Reason for Appeal (please use other side if necessary) <u>To procure the necessary variances and ultimate permit(s) for the (other side)</u> <input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
Applicant	Name <u>Randy Cleveland</u> Phone <u>(956) 668 8600</u> Address <u>1615 N. Main Street</u> E-mail <u>randy@clevelandlaw.net</u> City <u>McAllen</u> State <u>Texas</u> Zip <u>78501</u>
Owner	Name <u>Tae and Kyong Pyun</u> Phone <u>(956) 821-8800</u> Address <u>5112 N. 9<sup>th</sup> Street</u> E-mail <u>omega.6262@gmail.com</u> City <u>McAllen</u> State <u>Texas</u> Zip <u>78504</u>
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization. Signature <u>[Signature]</u> Date <u>3/18/2020</u> Print Name <u>Randy Cleveland</u> <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent
Office	Accepted by <u>[Signature]</u> Payment received by _____ Date <u>3/18/2020</u> Rev 10/18

Act 706940

RECEIVED  
MAR 18 2020  
BY: [Signature]



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

construction/re-construction and remodeling of the subject property. The following variances are requested:

- ① enclosing of an open space measuring  $9\frac{1}{2}' \times 6'$  with zero set back on existing building along 16<sup>TH</sup> street.
- ② variance for front yard set back along 16<sup>TH</sup> street for existing building (zero setback)
- ③ project cost exceeds 10% of replacement value.
- ④ requirement for parking spaces: Required 42, Provided 29
- ⑤ variance for landscape to be less than 10% of total sq. feet: Required 3222, Provided 1740.75 (actual planting)
- ⑥ variance for front having less than 50% of total landscape

Board Action

Chairman, Board of Adjustment  
Signature

Date

\_\_\_\_\_

\_\_\_\_\_



**BUILDING PERMIT APPLICATION**

REV. 10/16

P.O. BOX 220 McALLEN, TEXAS 78505-0220

APPLICATION MUST BE COMPLETE

PERMIT APPLICATION REFERENCE NUMBER

Cmm2020-01840

(Please type or print in black or blue ink)

03-9805  
APPLICANT

NAME American Valve Construction & Dev PHONE 956-630-0555  
 ADDRESS 110 N. 16th St.  
 CITY McAllen STATE Tx ZIP 78501  
 CONTACT NAME: Luis Muro PHONE 956 560 5378  
 OWNER  CONTRACTOR  TENANT  OTHER Cecilia Rodriguez (956) 212-9053

OWNER

NAME Omega Retail Store PHONE \_\_\_\_\_  
 ADDRESS 101 N. 16th St. \*EMAIL: \_\_\_\_\_  
 CITY McAllen STATE Tx ZIP 78501

\*OWNER INFORMATION NOT PROVIDED, INITIAL:

NEW  ADDITION  REMODELING  REPAIR  MOVE  REMOVE 28'0" BLDG. HGT. 1 NO. OF FLOORS  
 BLDG SQ. FT. 15,365 NO. PARKING SPACES 43 SQ. FT. LOT 32,200 LOT FRONT \_\_\_\_\_ FLOOR EL ABOVE CURB \_\_\_\_\_  
 EXISTING USE OF LOT Vacant lot NEW USE Retail/Commercial IMPROVEMENT VALUE \$ 300,000 |.00

SCOPE OF WORK TO BE DONE Construction of Building and parking.

PROJECT

FOR RESIDENTIAL USE ONLY NO. OF UNITS \_\_\_\_\_ NO. BDRMS \_\_\_\_\_ NO. BATHRMS \_\_\_\_\_ SQ. FT. NON-LIVING \_\_\_\_\_ SQ. FT. LIVING \_\_\_\_\_

FOUNDATION  CONCRETE SLAB  CONCRETE PIER  CONCRETE BLOCK  CONCRETE BEAM  WOOD POSTS  \_\_\_\_\_  
 EXT WALL  MASONRY VENEER  MASONRY SOLID  METAL SIDING  COMPOSITION  WOOD  Masonry block  \_\_\_\_\_  
 ROOF  WOOD SHINGLE  COMPOSITION  METAL  BUILD UP  \_\_\_\_\_  
 SPECIAL CONDITIONS  FIRE SPRINKLER SYSTEM  FIRE ALARM SYSTEM  TYPE OF CONSTRUCTION COMMERCIAL  ASBESTOS SURVEY  EABPRJA/B#: \_\_\_\_\_  CONDEMNED STRUCTURE

LOT 1,2,3 BLOCK SS SUBDIVISION \_\_\_\_\_  
 SITE ADDRESS ST. NO. 101 ST. NAME N 16th St

CITY USE ONLY

ZONING \_\_\_\_\_ PERMIT FEE \$ 2458.40 DOUBLE FEE \$ \_\_\_\_\_  
 PERMIT REVIEW FEE \$ 442.51  
 TOTAL PERMIT FEE \$ \_\_\_\_\_  
 PARK DEV.  ZONE # \_\_\_\_\_ PARK DEVELOPMENT FEE \$ \_\_\_\_\_

REC'D BY AF/celc  
 DATE 3-9-20  
 TIME 12:45pm

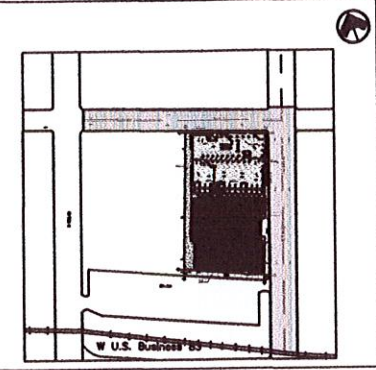
No BP

The foregoing is a true and correct description of the improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions of City ordinances, codes, subdivision restrictions of State law or be a waiver by the City of such violation. Alteration changes or deviations from the plans authorized by this permit is unlawful without written authorization from the Building Inspection Department. The applicant hereby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. It is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time of work is commenced. This permit is good for one year only.

Luis Muro PRINT (AUTHORIZED AGENT/OWNER) Luis Muro SIGNATURE lmuro@americanvalveconstruction.com EMAIL ADDRESS (required) DATE 3/9/2020



110 N 16 ST McALLEN TX, 78501  
PH. OFFICE 956.630.0555/ FAX 956.630.0558



**LEGEND**

- PROPERTY LINE
- - - WAY LINE
- EXIST. WATER METER
- EXIST. POWER POLE
- ⊕ EXIST. VALVE
- ▨ EXISTING ASPHALT PAVING
- ▤ PROPOSED HEAVY-DUTY CONCRETE
- ▥ PROPOSED LIGHT-DUTY ASPHALT

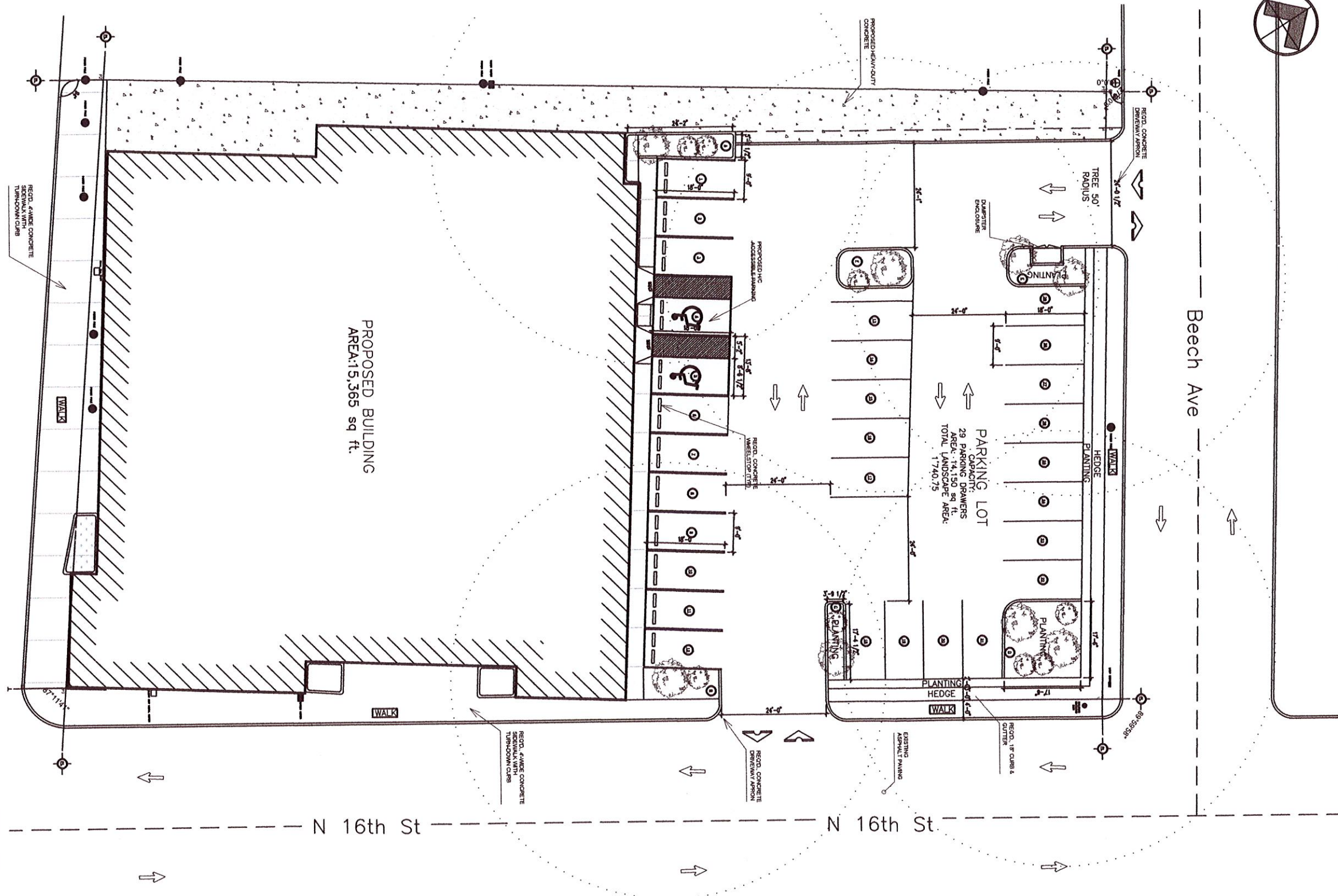
**GENERAL CONSTRUCTION NOTES:**

1. ANY DAMAGE TO EXISTING PAVEMENT, DRAINAGE OR EXISTING STRUCTURES SHALL BE PREPARED TO PRE-CONSTRUCTION CONDITION AT CONTRACTOR'S EXPENSE.
2. ALL SPOIL MATERIAL AND DEBRIS SHALL BE DISPOSED OFFSITE BY CONTRACTOR IN A LEGAL MANNER, FURNISHING AND TRANSPORTATION OF ALL OFFSITE MATERIAL TO BE AT CONTRACTOR'S EXPENSE.
3. DEMOLITION, REMOVAL AND DISPOSAL OF ALL EXCESS CONCRETE, CURBS, RUBBLE, ETC. TO BE AT CONTRACTOR'S EXPENSE.
4. THESE PLANS, PREPARED BY AMERICAN VALUE CONSTRUCTION DEVELOPMENT SERVICES\*

**OMEGA  
RETAIL STORE**

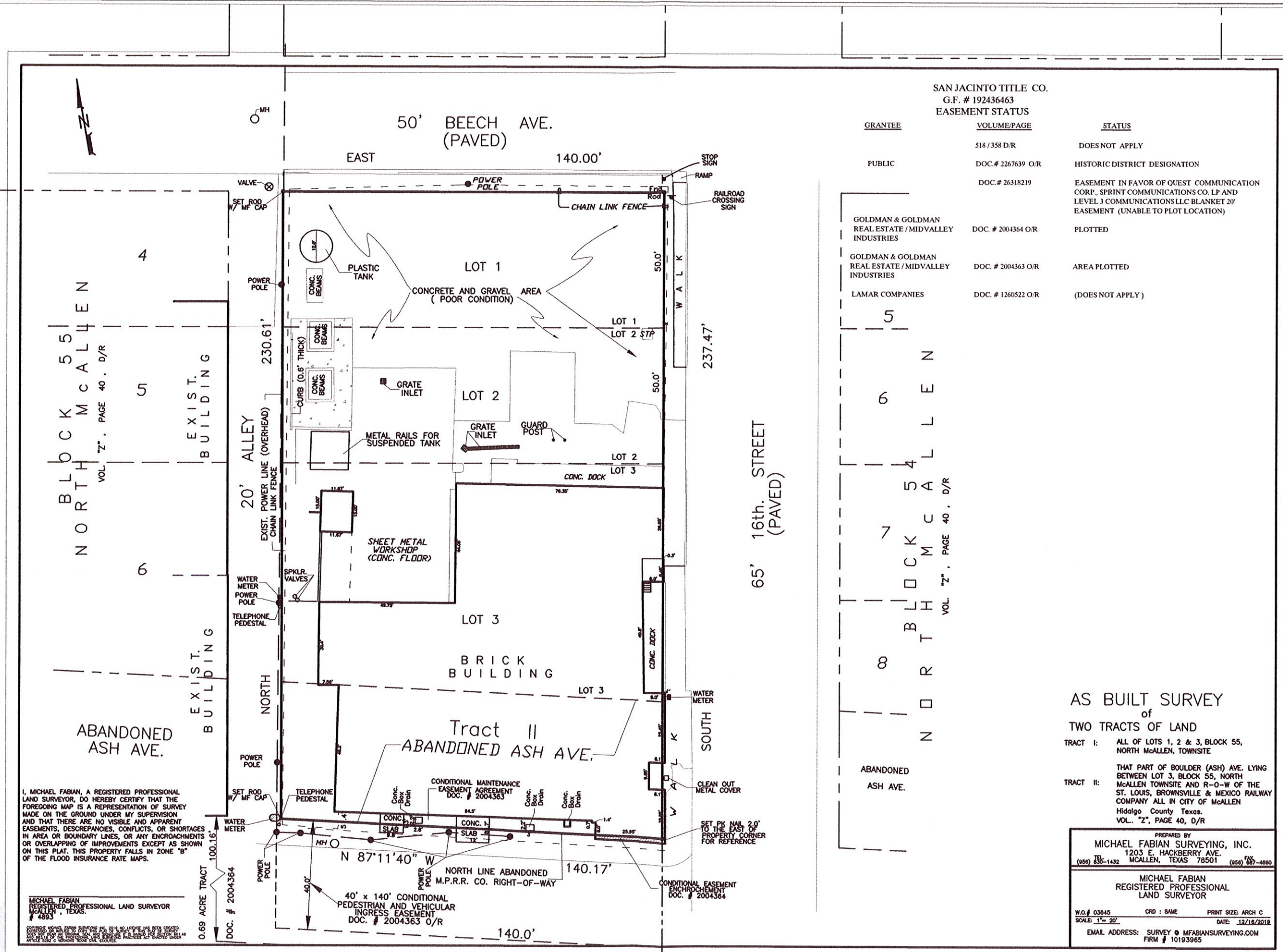
Project Number .01  
Date 03/16/2020  
Drawn By AVC  
Checked By AVC

**A-0003**



SITE PLAN  
SCALE: 3/32"=1'-0"

**RECEIVED**  
MAR 18 2020  
BY: *[Signature]* @ 2:57pm



SAN JACINTO TITLE CO.  
G.F. # 192436463  
EASEMENT STATUS

GRANTEE	VOLUME/PAGE	STATUS
PUBLIC	518 / 358 D/R	DOES NOT APPLY
	DOC. # 2267639 O/R	HISTORIC DISTRICT DESIGNATION
	DOC. # 26318219	EASEMENT IN FAVOR OF QUEST COMMUNICATION CORP., SPRINT COMMUNICATIONS CO. LP AND LEVEL 3 COMMUNICATIONS LLC BLANKET 20' EASEMENT (UNABLE TO PLOT LOCATION)
GOLDMAN & GOLDMAN REAL ESTATE / MIDVALLEY INDUSTRIES	DOC. # 2004364 O/R	PLOTTED
GOLDMAN & GOLDMAN REAL ESTATE / MIDVALLEY INDUSTRIES	DOC. # 2004363 O/R	AREA PLOTTED
LAMAR COMPANIES	DOC. # 1260522 O/R	(DOES NOT APPLY)

I, MICHAEL FABIAN, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE FOREGOING MAP IS A REPRESENTATION OF SURVEY MADE ON THE GROUND UNDER MY SUPERVISION AND THAT THERE ARE NO VISIBLE AND APPARENT EASEMENTS, DISCREPANCIES, CONFLICTS, OR SHORTAGES IN AREA OR BOUNDARY LINES, OR ANY ENCROACHMENTS OR OVERLAPPING OF IMPROVEMENTS EXCEPT AS SHOWN ON THIS PLAN. THIS PROPERTY FALLS IN ZONE "B" OF THE FLOOD INSURANCE RATE MAPS.

MICHAEL FABIAN  
REGISTERED PROFESSIONAL LAND SURVEYOR  
MCALLEN, TEXAS  
# 4893

AS BUILT SURVEY  
of  
TWO TRACTS OF LAND

TRACT I: ALL OF LOTS 1, 2 & 3, BLOCK 55, NORTH McALLEN, TOWNSITE

TRACT II: THAT PART OF BOULDER (ASH) AVE. LYING BETWEEN LOT 3, BLOCK 55, NORTH McALLEN TOWNSITE AND R-0-W OF THE ST. LOUIS, BROWNSVILLE & MEXICO RAILWAY COMPANY ALL IN CITY OF McALLEN Hidalgo County Texas. VOL. "Z", PAGE 40, D/R

PREPARED BY  
MICHAEL FABIAN SURVEYING, INC.  
1203 E. HACKBERRY AVE.  
MCALLEN, TEXAS 78501 (855) 887-4650

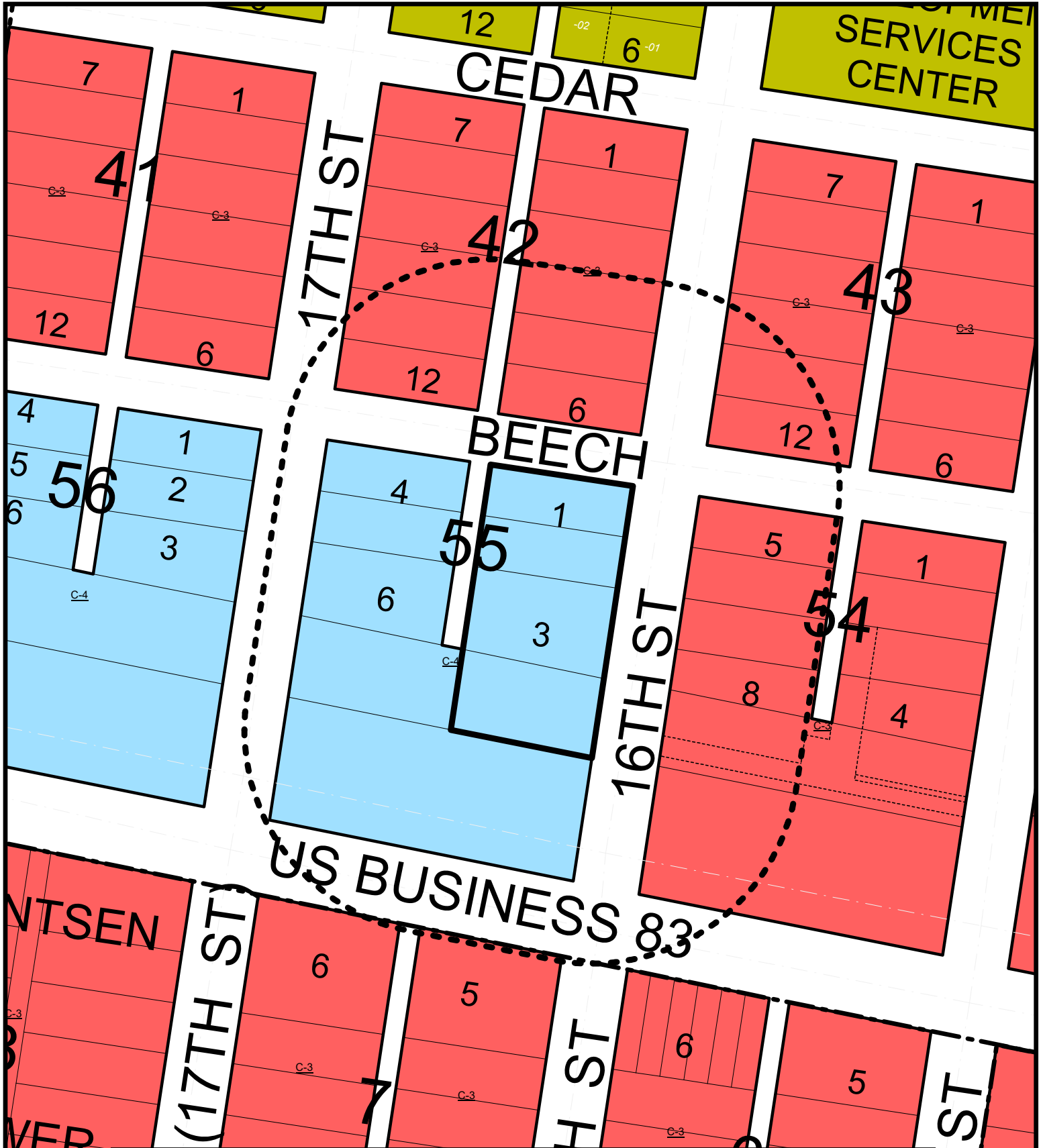
MICHAEL FABIAN  
REGISTERED PROFESSIONAL  
LAND SURVEYOR

W.O.# 03845 CRD : SAME PRINT SIZE: ARCH C  
SCALE: 1" = 20' DATE: 12/18/2019  
EMAIL ADDRESS: SURVEY@MFABIANSURVEYING.COM  
FIRM # 10193965

RECEIVED  
MAR 18 2020  
BY: jll @ 250pm



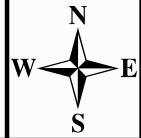




**CITY OF McALLEN**  
 PLANNING DEPARTMENT

**LEGEND**  
 SCALE: N.T.S.

AREA MAP



SUBJECT PROPERTY

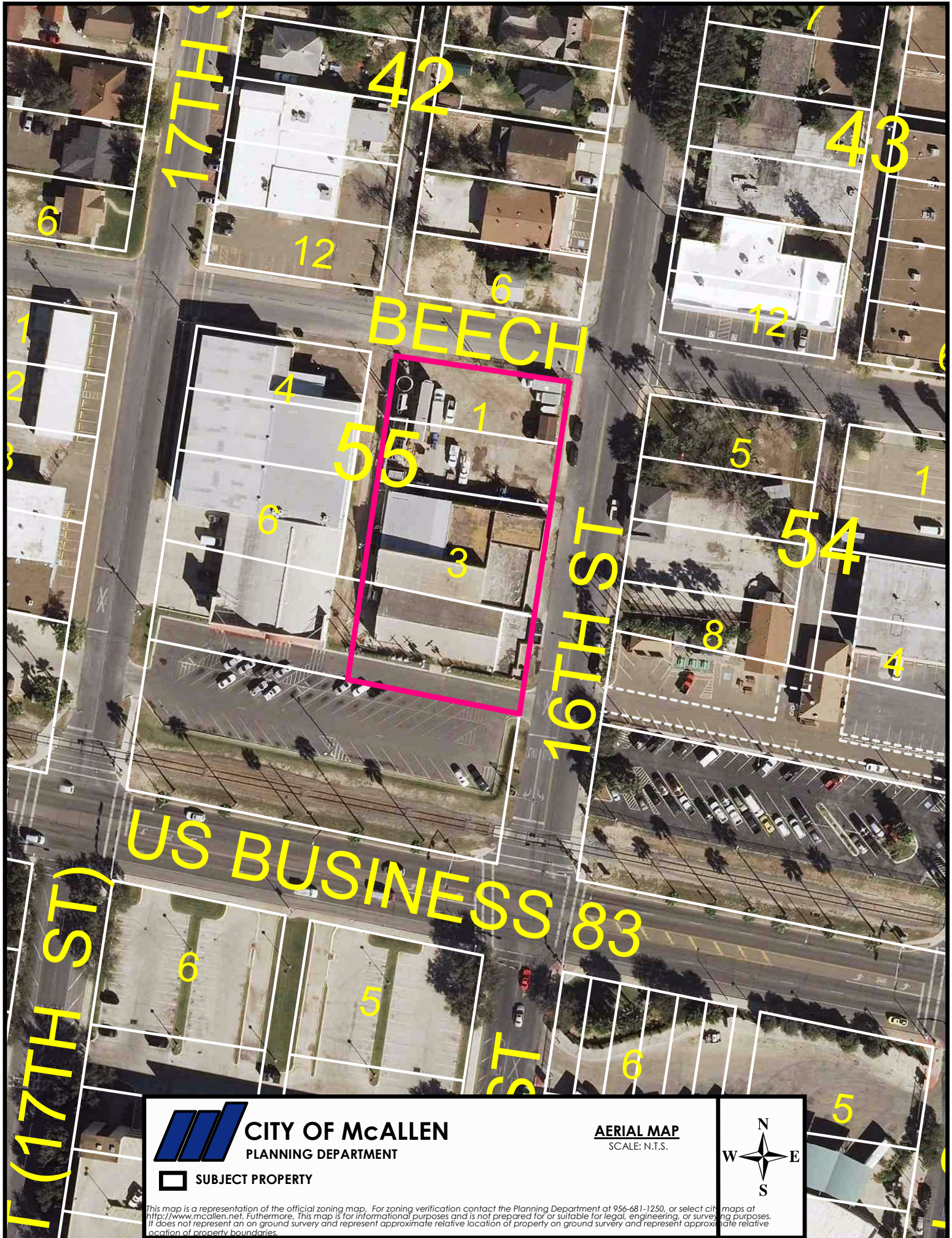
200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

A-0 (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLEX-FOURPLEX)	R-3I (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	(SPECIAL DISTRICT)

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**CITY OF McALLEN**  
PLANNING DEPARTMENT

 **SUBJECT PROPERTY**

**AERIAL MAP**  
SCALE: N.T.S.



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MID-VALLEY IND.



CRUSHED • CRACKED • BLOCKED

101 N. 16th St. Ph. 686-7451-685-5171

NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
Z-AD-09-014

MID-VALLEY IND.

CRUSHED • CRACKED • BLOCKED  
40 lb. 100 lb. 100 lb. 100 lb.  
SNOW READY









**MEMO**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** March 25, 2020

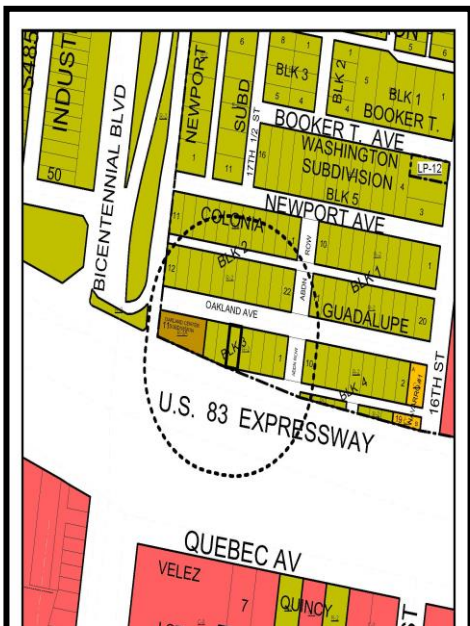
**SUBJECT: REQUEST OF SOFIA GARZA FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 16.5 FT. INTO THE 20 FT. FRONT YARD SETBACK FOR AN EXISTING SINGLE FAMILY RESIDENCE WITH A PORCH, AT LOT 5, BLOCK 3, AMENDED MAP OF COLONIA GUADALUPE SUBDIVISION, HIDALGO COUNTY, TEXAS; 1709 OAKLAND AVENUE. (ZBA2020-0012)**

**REASON FOR APPEAL:**

The applicant is requesting a variance to allow an encroachment of 16.5 ft. into the 20 ft. front yard setback for an existing wooden porch measuring 5 ft. by 22ft. The applicant stated that the basis for the request is that she wants to provide shade for her 81-year-old grandmother and they were unaware of the need to obtain a building permit or the need to observe setbacks. The Hidalgo County Appraisal District shows that a canopy was built in 2017. A contractor performed the work and the applicant was unaware that a building permit had not been obtained for the work.

**PROPERTY LOCATION AND VICINITY:**

The property is located along the south side of Oakland Avenue. The lot has 30 ft. of frontage along Oakland Avenue with a depth of 80 ft. for a lot size of 2,400 square feet. The property is zoned R-2 (duplex-fourplex residential) District. Adjacent zonings is R-2 District to the north, east, and west. R-3A (multifamily residential) District at the north east corner of Bicentennial and U.S. Expressway 83. Surrounding land uses include single-family homes and an apartment complex.



**BACKGROUND AND HISTORY:**

Amended Map of Colonia Guadalupe Subdivision was recorded on July 28, 1944. The plat does not indicate plat notes. The subdivision was recorded prior to 1979 and the applicable setbacks were subject to the 1945 Zoning Ordinance. Building Inspection Department records show that staff issued a stop work order on July 2018. A building permit application was submitted on July 2018 to build a wooden porch. A variance request was submitted on March 04, 2020.

**ANALYSIS:**

The variance request is for an existing wooden porch measuring 5 ft. by 22 ft. that is encroaching into the 20 ft. front yard setback. There is no utility and irrigation easement shown on the plat. The applicant is requesting an encroachment of 16.5 ft. in the 20 ft. front yard setback for the wooden porch.

Measurements shown on the site plan are without the benefit of a survey.

The Planning Department has not received any calls in opposition of the request.

**RECOMMENDATION:**

Staff recommends the request be tabled in order to allow the applicant time to submit a revised site plan.



ZBOA  
4-1-20

# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

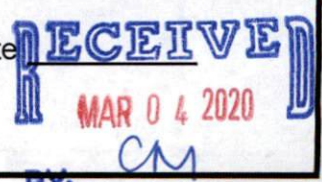
311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

<b>Project</b>	Legal Description	<u>Col. Guadalupe lot 5 block k 3</u>	
	Subdivision Name	<u>Col. Guadalupe</u>	
	Street Address	<u>1709 OAKLAND AVE</u>	
	Number of lots	<u>1</u>	Gross acres _____
	Existing Zoning	<u>R2</u>	Existing Land Use <u>Residencia</u>
Reason for Appeal (please use other side if necessary) _____ <u>La razón que pasó un señor y le ofrecio a hacerlo</u>			
<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)			
<input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required			

<b>Applicant</b>	Name	<u>SOFIN GARZA</u>	Phone	<u>956 (616-3440)</u>
	Address	<u>1709 OAKLAND AVE</u>	E-mail	<u>limit W. A</u>
	City	<u>McAllen</u>	State	<u>TX</u> Zip <u>78501</u>

<b>Owner</b>	Name	<u>S A M E</u>	Phone	_____
	Address	_____	E-mail	_____
	City	_____	State	_____ Zip _____

<b>Authorization</b>	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?	
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.	
	Signature	<u>SOFIN GARZA</u> Date <u>03-04-20</u>
Print Name	<u>SOFIN GARZA</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	

<b>Office</b>	Accepted by	<u>L.G.</u>	Payment received by	_____	Date	_____
	Rev 10/18					



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

mi mama que tiene 81 años hacer el porche y mi mamá no sabía que se tenía que sacar un permiso y como ella le gusta estar afuera para tener sombra y no sabía que tenía que dejar 20 pies de la línea propiedad enfrente en donde está el porche y por eso dejó el espacio de 3.5 pies

Board Action

Chairman, Board of Adjustment  
Signature

Date

P.O. BOX 220 McALLEN, TEXAS 78505-0220

APPLICATION MUST BE COMPLETE

(Please type or print in black or blue ink)

102586  
 PERMIT APPLICATION REFERENCE NUMBER RES2018-04491

APPLICANT

NAME SOFIA GARTA PHONE 956-616-3440  
 ADDRESS 1709 OAKLAND  
 CITY McAllen STATE TX ZIP 78501  
 CONTACT NAME: \_\_\_\_\_ PHONE \_\_\_\_\_  
 OWNER  CONTRACTOR  TENANT  OTHER

OWNER

NAME SOFIA GARTA PHONE 956 616 3440  
 ADDRESS 1709 OAKLAND \*EMAIL: \_\_\_\_\_  
 CITY McAllen REQ'D \_\_\_\_\_  
 STATE TX ZIP 78501

\*OWNER INFORMATION NOT PROVIDED, INITIAL:

NEW  ADDITION  REMODELING  REPAIR  MOVE  REMOVE \_\_\_\_\_ BLDG. HGT. \_\_\_\_\_ NO. OF FLOORS \_\_\_\_\_

BLDG SQ. FT. 115 ft NO. PARKING SPACES \_\_\_\_\_ SQ. FT. LOT \_\_\_\_\_ LOT FRONT \_\_\_\_\_ FLOOR EL ABOVE CURB \_\_\_\_\_

EXISTING USE OF LOT \_\_\_\_\_ NEW USE \_\_\_\_\_ IMPROVEMENT VALUE \$ 400<sup>00</sup> 1.00 \*

SCOPE OF WORK TO BE DONE Front Carport

PROJECT

FOR RESIDENTIAL USE ONLY NO. OF UNITS \_\_\_\_\_ NO BDRMS \_\_\_\_\_ NO BATHRMS \_\_\_\_\_ SQ. FT. NON-LIVING \_\_\_\_\_ SQ. FT. LIVING \_\_\_\_\_

FOUNDATION <input type="checkbox"/> CONCRETE SLAB <input type="checkbox"/> CONCRETE PIER <input type="checkbox"/> CONCRETE BLOCK <input type="checkbox"/> CONCRETE BEAM <input type="checkbox"/> WOOD POSTS <input type="checkbox"/> _____	EXT WALL <input type="checkbox"/> MASONRY VENEER <input type="checkbox"/> MASONRY SOLID <input type="checkbox"/> METAL SIDING <input type="checkbox"/> COMPOSITION <input type="checkbox"/> WOOD <input type="checkbox"/> _____	ROOF <input type="checkbox"/> WOOD SHINGLE <input type="checkbox"/> COMPOSITION <input type="checkbox"/> METAL <input type="checkbox"/> BUILD UP <input type="checkbox"/> _____	SPECIAL CONDITIONS <input type="checkbox"/> FIRE SPRINKLER SYSTEM <input type="checkbox"/> FIRE ALARM SYSTEM <input type="checkbox"/> TYPE OF CONSTRUCTION _____ <input type="checkbox"/> ASBESTOS SURVEY <input type="checkbox"/> EABPRJAV#: _____ <input type="checkbox"/> CONDEMNED STRUCTURE
--	---	--	--

LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ SUBDIVISION \_\_\_\_\_  
 SITE ADDRESS ST. NO. 1709 ST. NAME Oakland

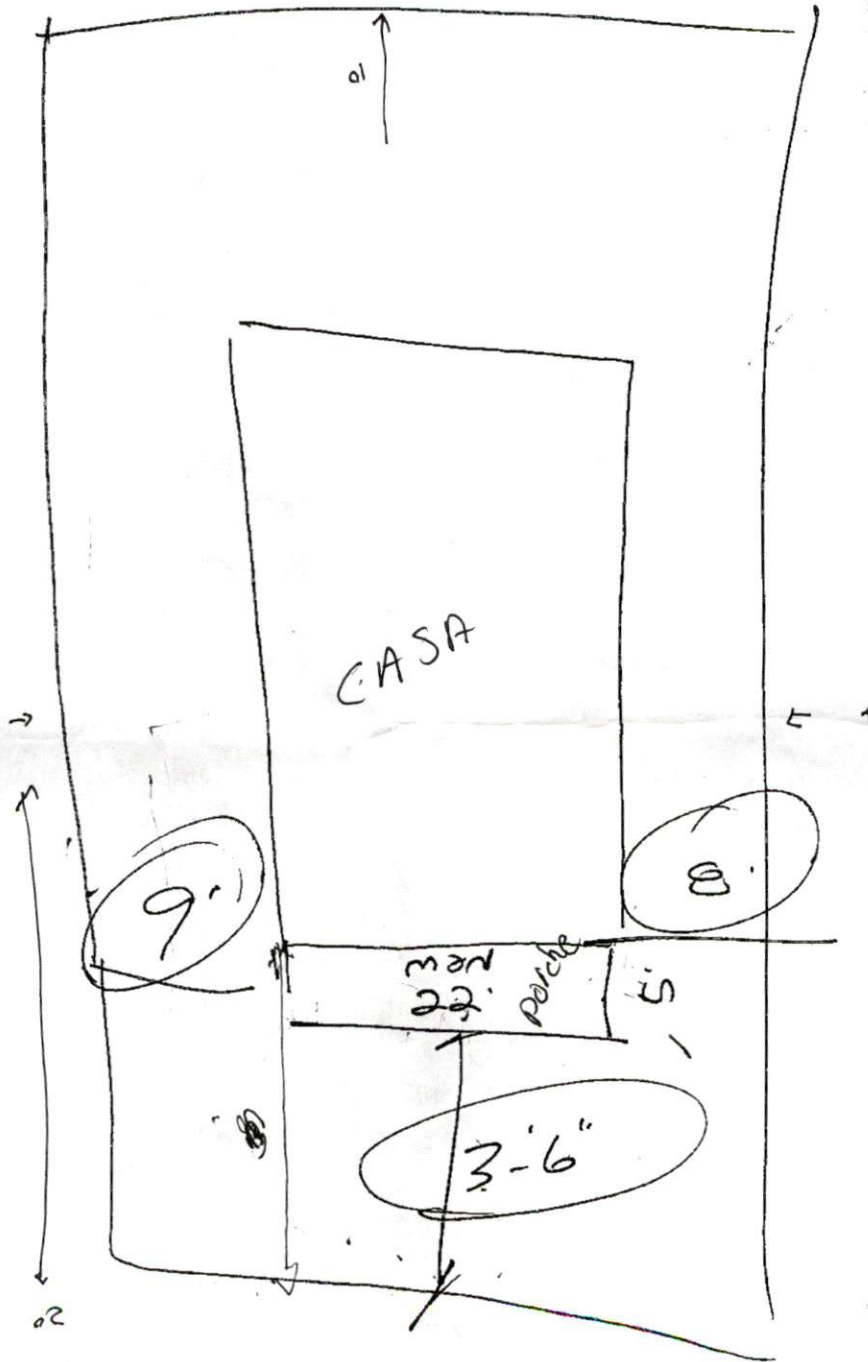
CITY USE ONLY

ZONING \_\_\_\_\_ PERMIT FEE \$ 48<sup>00</sup> DOUBLE FEE \$ 0 REC'D BY [Signature]  
 PERMIT REVIEW FEE \$ \_\_\_\_\_ DATE 7-18-18  
 PARK DEV.  TOTAL PERMIT FEE \$ 9<sup>00</sup> TIME \_\_\_\_\_  
 ZONE # \_\_\_\_\_ PARK DEVELOPMENT FEE \$ \_\_\_\_\_

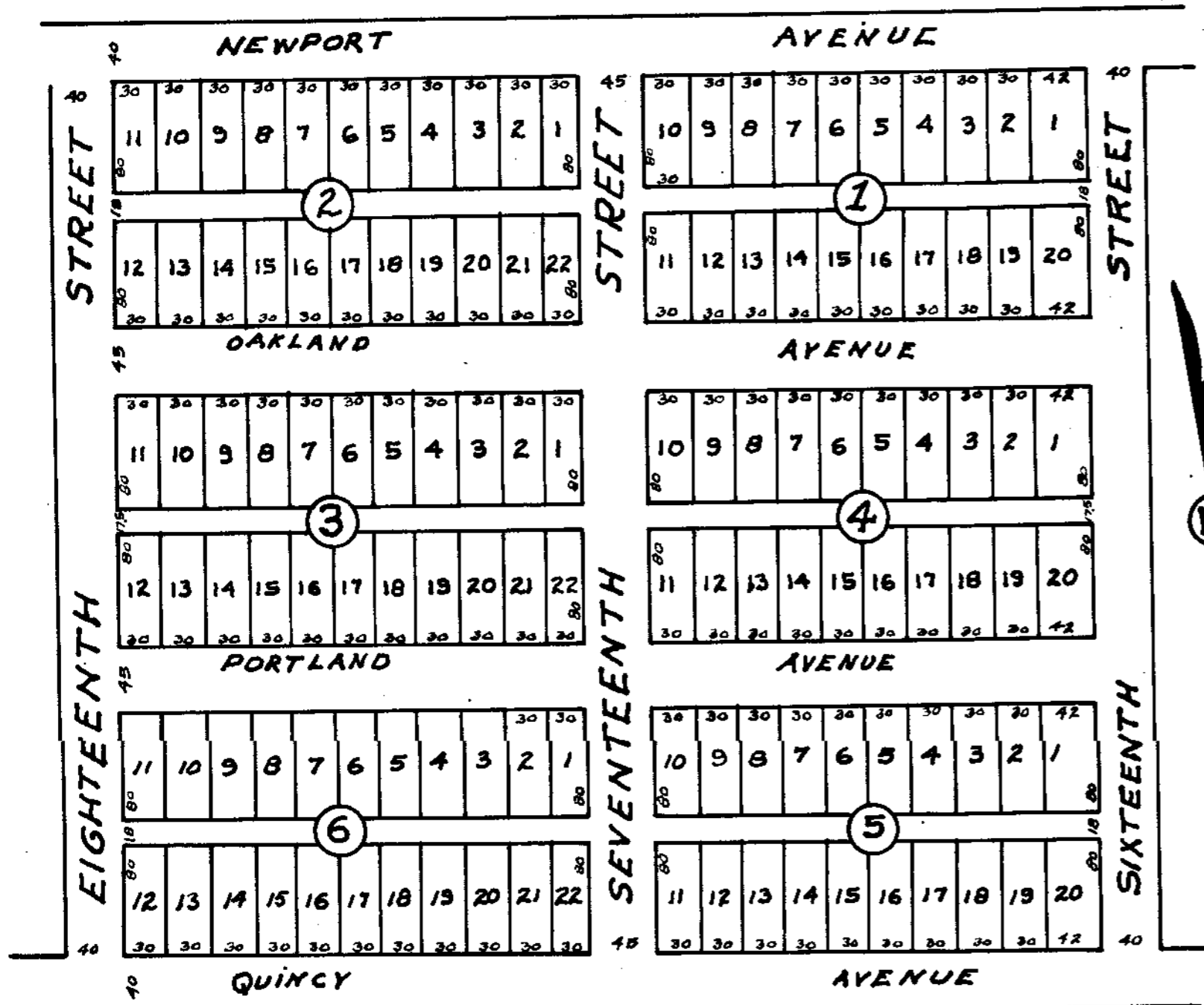
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SOFIA GARTA PRINT (AUTHORIZED AGENT/OWNER) SIGNATURE 07-16-18 DATE  
 EMAIL ADDRESS (required)

X Sofia Garza  
07-17-18



DAKLAND AVENUE  
SOFIA GARZA  
03-04-20



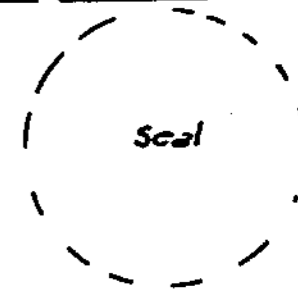
AMENDED  
**MAP**  
 OF  
**COLONIA GUADALUPE**  
 BEING A SUBDIVISION  
 OF  
 LOT 13 N.W. 1/4 SECTION 7  
 HIDALGO CANAL COMPANY'S SUBDIVISION  
 OF  
 - PORCIONES 64-65 & 66 -  
 HIDALGO COUNTY TEXAS  
 Scale 1"=100ft

I, E. M. Card, a Surveyor do hereby Certify that the foregoing Map of Colonia Guadalupe Being a Subdivision of Lot 13 N.W. 1/4 Section 7 Hidalgo Canal Company's Subdivision of Porciones 64, 65 & 66 Hidalgo County, Texas is a true and Correct Plat of said lands as Surveyed and Subdivided by me this 28<sup>th</sup> day of February 1944

E. M. Card  
 SURVEYOR.

Subscribed and Sworn to before me this 29<sup>th</sup> day of March, 1944

C. D. Martin  
 C. D. MARTIN  
 Notary Public in and for Hidalgo County, Texas



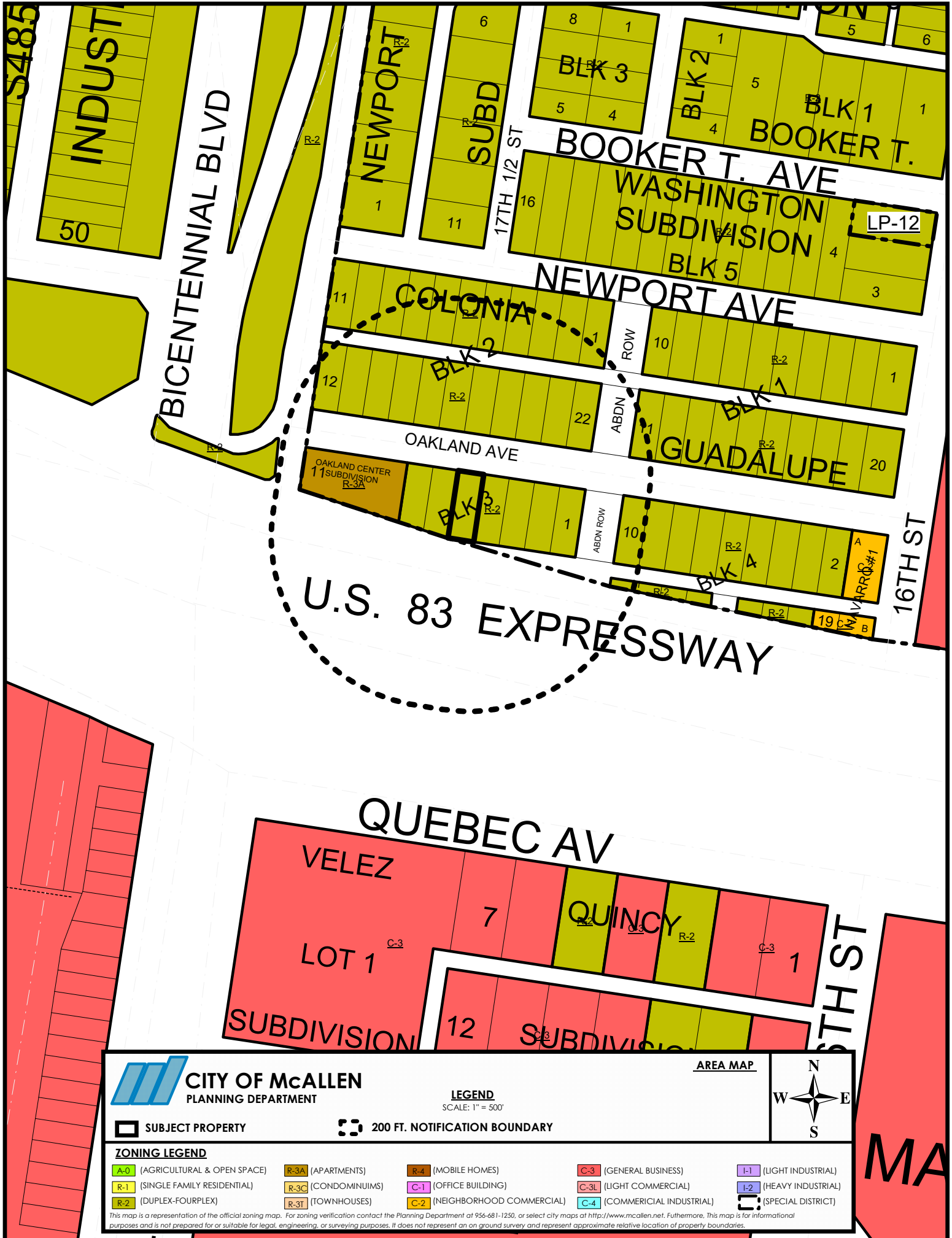
We, the undersigned Mayor & City Secretary, respectively of the City of McAllen Texas, do hereby Certify that at a meeting of the Board of Commissioners of Mc Allen, Texas, held on the 5<sup>th</sup> day of April, 1944, the above and foregoing map, or Plat, of Colonia Guadalupe an addition to and within the City of McAllen, was duly approved by the Commissioners of said City and ordained that same may be recorded in the Map Records of Hidalgo County Texas

Witness our hands and Seal of City this 5<sup>th</sup> day of April 1944

Man Drosal  
 City Secretary

Lorace Etchison  
 Mayor

Filed July 28, 1944 at 11:00 A.M



**CITY OF McALLEN**  
PLANNING DEPARTMENT

AREA MAP

**LEGEND**  
SCALE: 1" = 500'



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

A-0 (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLEX-FOURPLEX)	R-3I (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	(SPECIAL DISTRICT)

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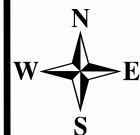


**CITY OF McALLEN**  
PLANNING DEPARTMENT

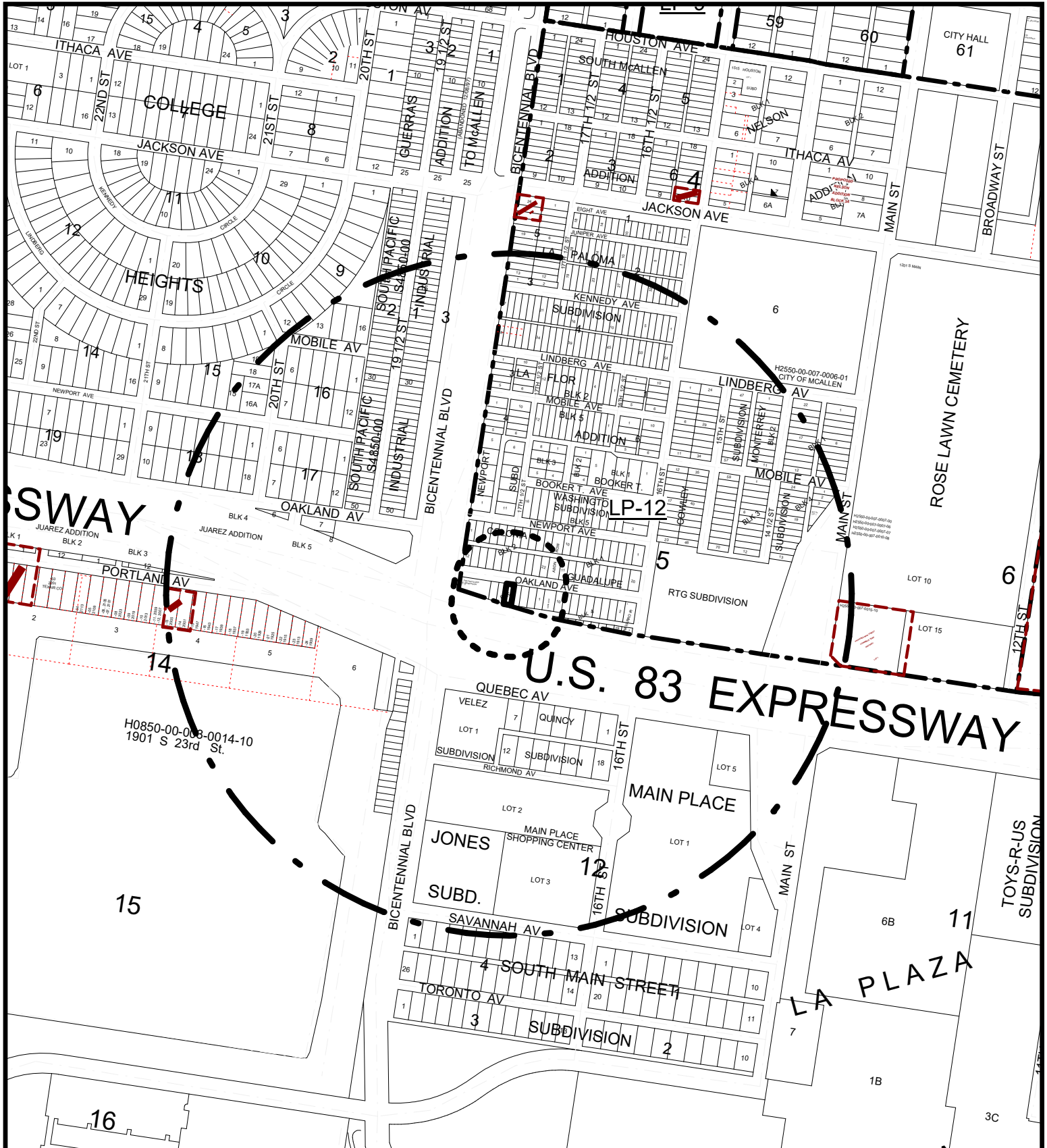



**SUBJECT PROPERTY**

**AERIAL MAP**  
SCALE: N.T.S.



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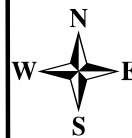






**CITY OF McALLEN**  
PLANNING DEPARTMENT


**LEGEND**  
SCALE: 1" = 500'

**AREA MAP**




**SUBJECT PROPERTY** 

**200 FT. NOTIFICATION BOUNDARY** 

**1/4 MILE RADIUS** 

**ZONING LEGEND**

A-O (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLIX-FOURPLEX)	R-3T (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	 (SPECIAL DISTRICT)

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NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0012

1709

# Planning Department

## Memo

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** March 26, 2020

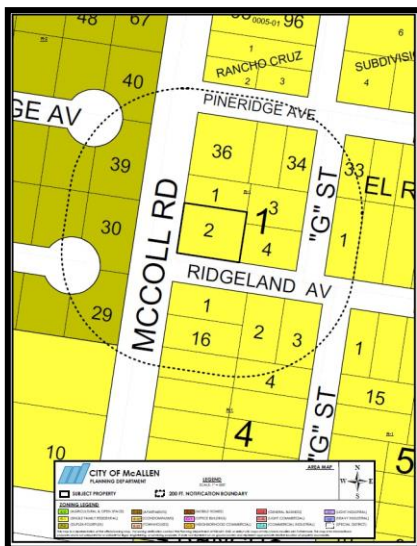
**SUBJECT:** REQUEST OF JUAN A. RUIZ ON BEHALF OF SAN JUANITA RUIZ FOR THE FOLLOWING SPECIAL EXCEPTION AND VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE 1) TO ALLOW AN ENCROACHMENT OF 7.5 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING CARPORT MEASURING 17 FT. BY 31 FT., 2) TO ALLOW AN ENCROACHMENT OF 5 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING STORAGE BUILDING MEASURING 10 FT. BY 12 FT., AND 3) TO ALLOW AN ENCROACHMENT OF 3 FT. INTO THE 6 FT. NORTH SIDE YARD SETBACK FOR AN EXISTING STORAGE BUILDING MEASURING 10 FT. BY 12 FT., AT LOT 2, BLOCK 1, EL RANCHO SANTA CRUZ SUBDIVISION PHASE IV, HIDALGO COUNTY, TEXAS; 3113 SOUTH MCCOLL ROAD. (ZBA2019-0060)

### REASON FOR APPEAL:

The applicant is requesting a special exception to allow an encroachment into 10 ft. rear yard setback for an existing metal carport. The applicant stated that the basis for the request is that he wants to protect his vehicles. The applicant also request variances for encroachments into the rear yard and side yard setbacks for a storage building.

### PROPERTY LOCATION AND VICINITY:

The property is located at the northeast corner of South McColl Road and Ridgeland Avenue. The lot has 88.60 ft. of frontage on South McColl Road with a depth of 110.00 ft. for a lot size of 9,746 square feet. The property is zoned R-1 (single family residential) District. Surrounding land uses are single family residential and duplex-fourplex.



1



**BACKGROUND AND HISTORY:**

El Rancho Santa Cruz Subdivision Phase IV was recorded on December 17, 1984. A general note on the subdivision plat indicates a side yard setback of 6 ft., and rear yard setback of 10 ft. Building Inspection Department records show that a stop work order was issued by staff on July 30, 2019 for the construction of the metal carport without a building permit. Subsequently, an application for a building permit for a carport was submitted on July 31, 2019. The application for the special exception and variance request was submitted on October 28, 2019.

A variance request to allow a side yard setback of 0 ft. instead of the required 6 ft. for an existing carport/storage structure for Lot 1, 3109 South McColl Road was approved on January 21, 2009.

**ANALYSIS:**

Variance #1: The special exception is for a metal carport measuring 17 ft. by 31 ft. that is encroaching into the 10 ft. rear yard setback. A 5 ft. utility easement runs concurrently with the 10 ft. rear yard setback. The applicant is requesting an encroachment of 7.5 ft. into the rear yard setback however; the site plan submitted shows a distance of 4 ft. from the carport to the rear property line. Based on the encroachment amount, the carport encroaches into the 5 ft. utility easement.

Variance #2: The variance request is for a wooden storage building measuring 10 ft. by 12 ft. that is encroaching into the 10 ft. rear yard setback. A 5 ft. utility easement runs concurrently with the 10 ft. rear yard setback. The applicant is requesting a 5 ft. encroachment into the 10 ft. rear yard setback however; the site plan submitted shows a distance of 4 ft. from the storage building to the rear property line. Storage buildings that are 200 square feet or less in size do not require a building permit, but must respect the zoning district setbacks in which they are located.

Variance #3: The variance request is for a wooden storage building measuring 10 ft. by 12 ft. that is encroaching 3 ft. into the 6 ft. side yard setback along the north property line. There are no utility easements within the side yard setback that impact the existing storage building encroachment. Storage buildings that are 200 square feet or less in size do not require a building permit, but must respect the zoning district setbacks in which they are located.

The Planning Department has not received any calls in opposition of the request.

**RECOMMENDATION:**

Staff recommends the requests remain tabled.

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF JANUARY 15, 2020:**

At the Zoning Board of Adjustment and Appeals meeting of January 15, 2020 the Board unanimously voted to table the variance and special exception requests in order to allow the applicant time for clarification of the abandonment process. There were five members present and voting.

**ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF FEBRUARY 05, 2020:**

At the Zoning Board of Adjustment and Appeals meeting of February 05, 2020 the Board unanimously voted to table the variance and special exception requests in order to allow the applicant time for clarification of the abandonment process. There were six members present and voting.

**ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF MARCH 04, 2020:**

At the Zoning Board of Adjustments and Appeals meeting of March 04, 2020 no one appeared in opposition to the variance request. Staff recommended the item to remain tabled. After no discussion, the Board voted to table the variance request with six members present and voting.

Subsequent to the Zoning Board of Adjustment and Appeals meeting of March 04, 2020, the applicant submitted the application to request abandonment of the 5ft. utility easement at the rear of Lot 2. Staff is pending written responses from various entities to the abandonment request.

ZBA 2019-0060

ZBDA  
12/4/19



# City of McAllen

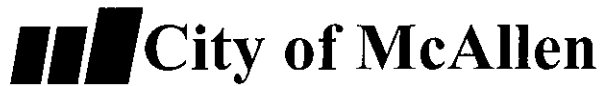
## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

<b>Project</b>	Legal Description <u>El Rancho Santa Cruz PH4 Lot 2 BIK 1</u>
	Subdivision Name <u>El Rancho Santa Cruz</u>
<b>Applicant</b>	Street Address <u>3113 S. McColl Rd - McAllen, TX 78503</u>
	Number of lots <u>1</u> Gross acres <u>0.2034</u>
	Existing Zoning <u>R-1</u> Existing Land Use <u>Single Family Home</u>
	Reason for Appeal (please use other side if necessary) _____
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
<b>Owner</b>	Name <u>Juan A. Ruiz</u> Phone <u>(956) 212-8689</u>
	Address <u>3113 S. McColl Rd.</u> E-mail <u>jar4778@yahoo.com</u>
	City <u>McAllen</u> State <u>Tx.</u> Zip <u>78503</u>
<b>Authorization</b>	Name <u>San Juanita Ruiz</u> Phone <u>(956) 225-6481</u> Address <u>3113 S. McColl Rd.</u> E-mail <u>sjruiz270@hotmail.com</u> City <u>McAllen</u> State <u>Tx.</u> Zip <u>78503</u>
	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.  Signature <u>[Signature]</u> Date <u>10-25-19</u> Print Name <u>Juan A. Ruiz</u> <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent
<b>Office</b>	Accepted by <u>[Signature]</u> Payment received by _____ Date _____
	Rev 10/18 <div style="text-align: right;">             BY: <u>CW</u> </div>



# City of McAllen Planning Department

REASON FOR APPEAL & BOARD ACTION

10-29-2019

5:17pm

J.R.

Carport Property

Wanting 5' Encroachment into  
the 10' rear Setback

+

3' Encroachment into the 6' Side

Setback.

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date

\_\_\_\_\_

\_\_\_\_\_


October 28, 2019

TO WHOM IT MAY CONCERN:

I San Juanita Ruiz do hereby give Juan A. Ruiz authorization to speak and make decisions on my behalf.

If you have any questions or concerns I can be reached at (956) 678-7199 or (956) 225-6481.

Sincerely,



A handwritten signature in cursive script, appearing to read "J. Ruiz", is written over a horizontal line.

P.O. BOX 220 McALLEN, TEXAS 78505-0220  
 APPLICATION MUST BE COMPLETE  
 (Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER RES 2019-04947

06103436 APPLICANT

NAME Juan Ruiz PHONE 956-212-8689  
 ADDRESS 3113 S. McCOY RD  
 CITY McALLEN TX STATE TX ZIP 78503  
 CONTACT NAME: \_\_\_\_\_ PHONE \_\_\_\_\_  
 OWNER  CONTRACTOR  TENANT  OTHER \_\_\_\_\_

OWNER

NAME San Juanita Ruiz PHONE 956 225 6481  
 ADDRESS 3113 S. McCOY RD \*EMAIL: \_\_\_\_\_  
 CITY McALLEN STATE TX ZIP 78503  
 \*OWNER INFORMATION NOT PROVIDED, INITIAL: \_\_\_\_\_

NEW  ADDITION  REMODELING  REPAIR  MOVE  REMOVE BLDG. HGT. \_\_\_\_\_ NO. OF FLOORS \_\_\_\_\_  
 BLDG SQ. FT. 595 NO. PARKING SPACES \_\_\_\_\_ SQ. FT. LOT \_\_\_\_\_ LOT FRONT \_\_\_\_\_ FLOOR EL ABOVE CURB \_\_\_\_\_  
 EXISTING USE House NEW USE House IMPROVEMENT VALUE \$ 2,700.00  
 SCOPE OF WORK TO BE DONE Add car port

PROJECT

FOR RESIDENTIAL USE ONLY NO. OF UNITS \_\_\_\_\_ NO BDRMS \_\_\_\_\_ NO BATHRMS \_\_\_\_\_ SQ. FT. NON-LIVING \_\_\_\_\_ SQ. FT. LIVING \_\_\_\_\_

<b>FOUNDATION</b>	<b>EXT WALL</b>	<b>ROOF</b>	<b>SPECIAL CONDITIONS</b>
<input type="checkbox"/> CONCRETE SLAB	<input type="checkbox"/> MASONRY VENEER	<input type="checkbox"/> WOOD SHINGLE	<input type="checkbox"/> FIRE SPRINKLER SYSTEM
<input type="checkbox"/> CONCRETE PIER	<input type="checkbox"/> MASONRY SOLID	<input type="checkbox"/> COMPOSITION	<input type="checkbox"/> FIRE ALARM SYSTEM
<input type="checkbox"/> CONCRETE BLOCK	<input type="checkbox"/> METAL SIDING	<input checked="" type="checkbox"/> METAL	<input type="checkbox"/> TYPE OF CONSTRUCTION _____
<input type="checkbox"/> CONCRETE BEAM	<input type="checkbox"/> COMPOSITION	<input type="checkbox"/> BUILD UP	<input type="checkbox"/> ASBESTOS SURVEY
<input type="checkbox"/> WOOD POSTS	<input type="checkbox"/> WOOD		<input type="checkbox"/> EABPRJAB#: _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> CONDEMNED STRUCTURE

LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ SUBDIVISION \_\_\_\_\_  
 SITE ADDRESS ST. NO. 3113 ST. NAME S. McCOY RD

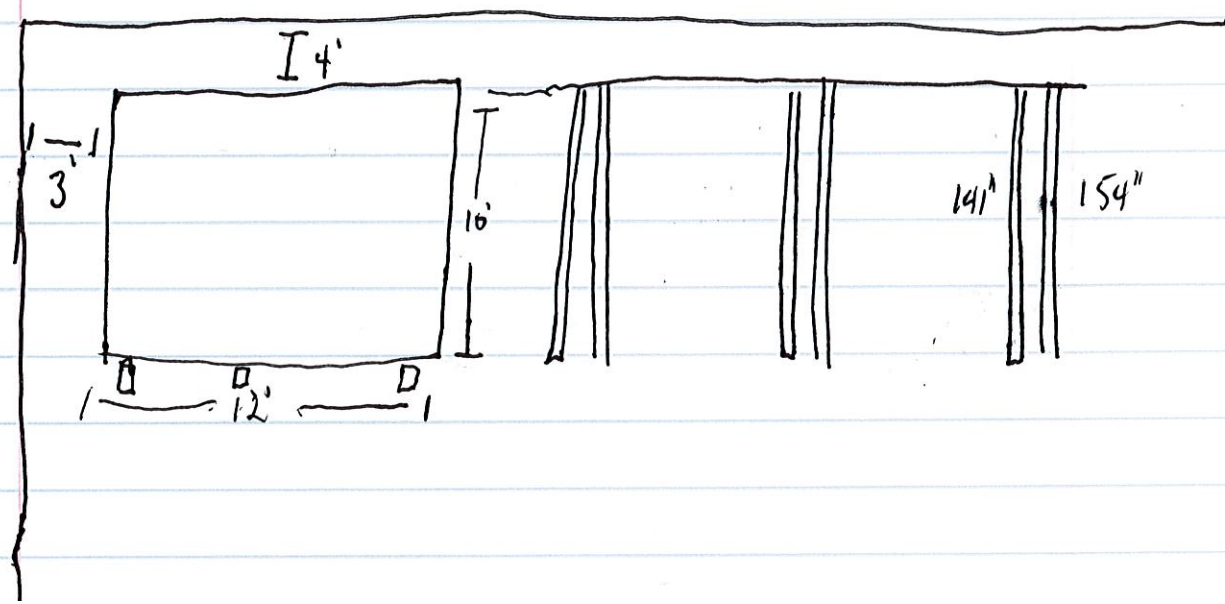
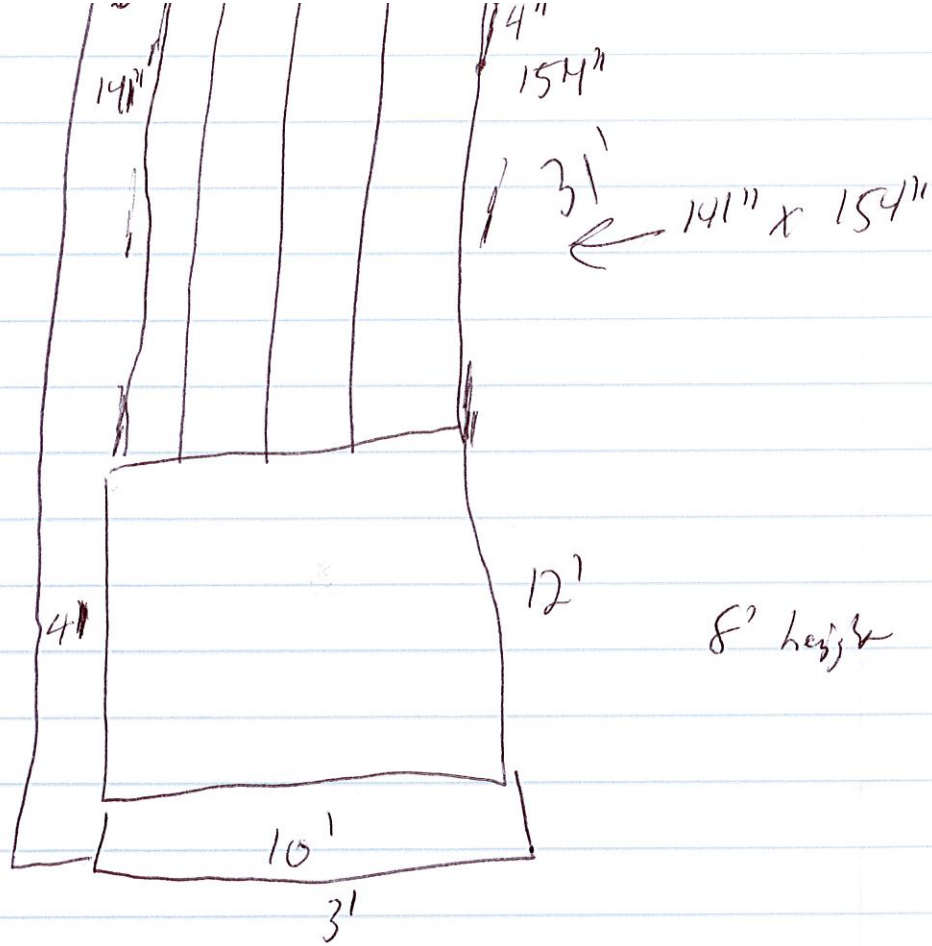
CITY USE ONLY

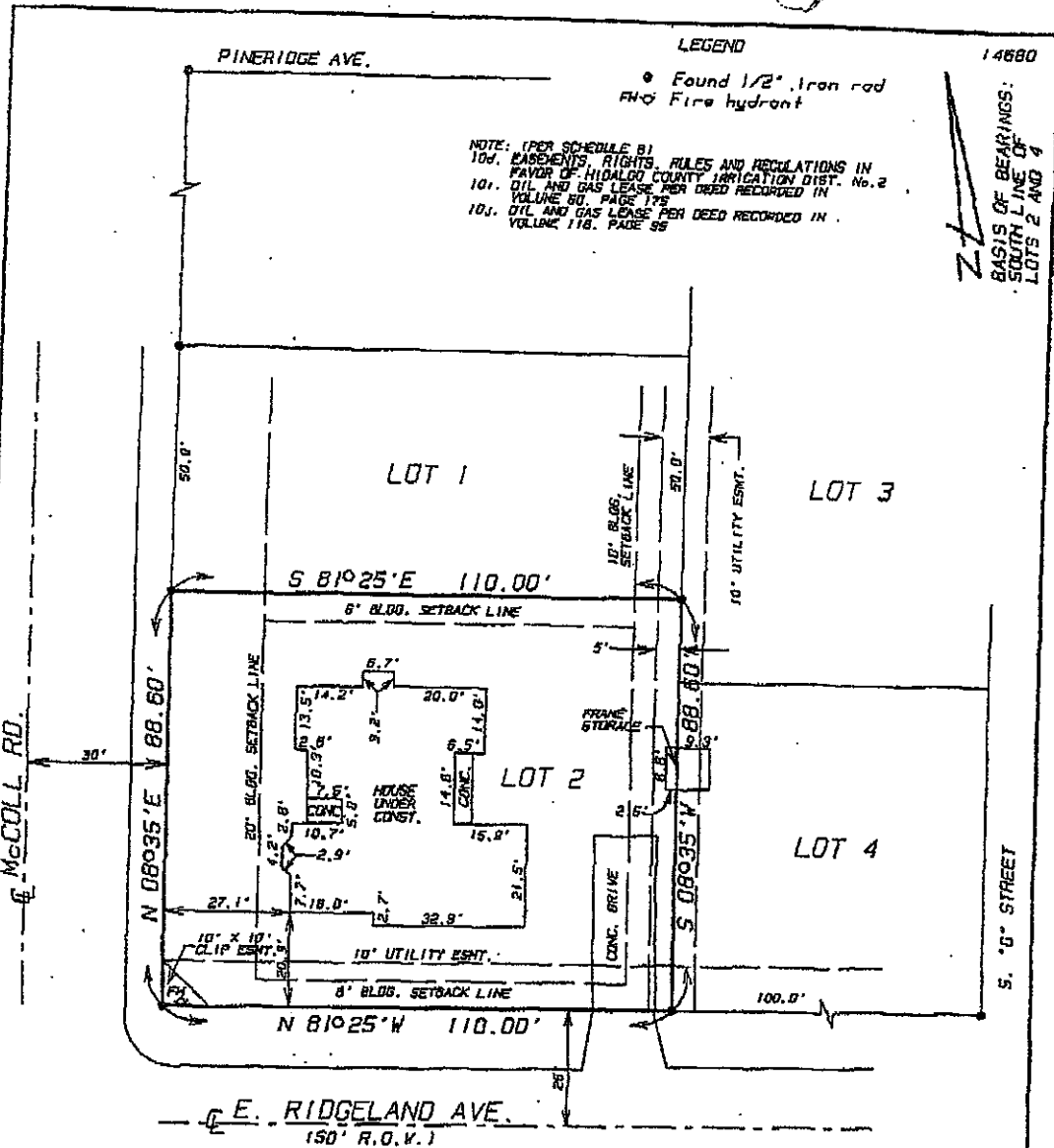
ZONING \_\_\_\_\_ PERMIT FEE \$ 95.20 **DOUBLE FEE \$** 95.20 REC'D BY [Signature]  
 PERMIT REVIEW FEE \$ \_\_\_\_\_ DATE 7-31-19  
 PARK DEV.  TOTAL PERMIT FEE \$ 190.40 TIME 5:40 PM  
 ZONE # \_\_\_\_\_ PARK DEVELOPMENT FEE \$ \_\_\_\_\_

The foregoing is a true and correct description of the improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions of City ordinances, codes, subdivision restrictions of State law or be a waiver by the City of such violation. Alteration changes or deviations from the plans authorized by this permit is unlawful without written authorization from the Building Inspection Department. The applicant hereby agrees to comply with all City ordinances, codes, subdivision, restrictions and State laws and assume all responsibility for such compliance. It is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance or if the work authorized by such permit is suspended or abandoned for six months after the time of work is commenced. This permit is good for one year only.

Juan Ruiz PRINT (AUTHORIZED AGENT/OWNER) [Signature] SIGNATURE 7/31/19 DATE  
 EMAIL ADDRESS (required) \_\_\_\_\_







SURVEY PLAT OF  
 LOT 2, BLOCK 1  
 EL RANCHO SANTA CRUZ SUBDIVISION PHASE IV  
 AN ADDITION TO THE CITY OF McALLEN  
 HIDALGO COUNTY, TEXAS  
 PER MAP RECORDED IN VOLUME 24, PAGE 78, H.C.M.R.

PROPERTY ADDRESS: 3113 S. McCOLL RD.  
 McALLEN, TX, 78501

PREPARED FOR: AMPARO RUIZ AND  
 SAN JUANITA RUIZ

**RRA** R. ROBLES &  
 ASSOCIATES, PLLC  
 PROFESSIONAL LAND SURVEYORS

P.O. BOX 478  
 107 W. HULDADE ST.  
 MESLADO, TEXAS 78569  
 PHONE (361) 868-2422  
 FAX (361) 868-2011

SURVEYED: 03-02-05 DRAWN BY: VL/03-07-05

SCALE: 1"=30' JOB No. 14680

TITLE COMMITMENT No. REVISED:

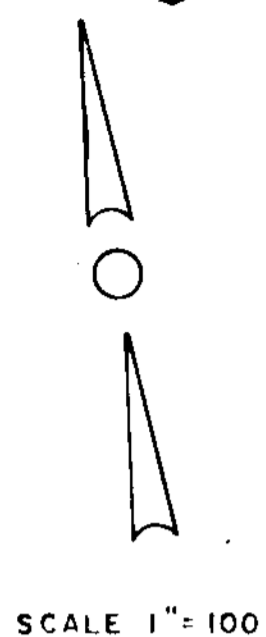
SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL  
 EMBOSSED SEAL OF SURVEYOR OF RECORD.

THIS SURVEY WAS PREPARED WITH THE USE OF A TOTAL STATION PROVIDED BY BRUNNEN & ASSOCIATES, AND THE SURVEYOR OF RECORD ASSUMES NO LIABILITY FOR ANY ERRORS OR OMISSIONS IN THE ABOVE PROPERTY.

*R. Robles*  
 REYNALDO ROBLES, R.P.L.S. 44032

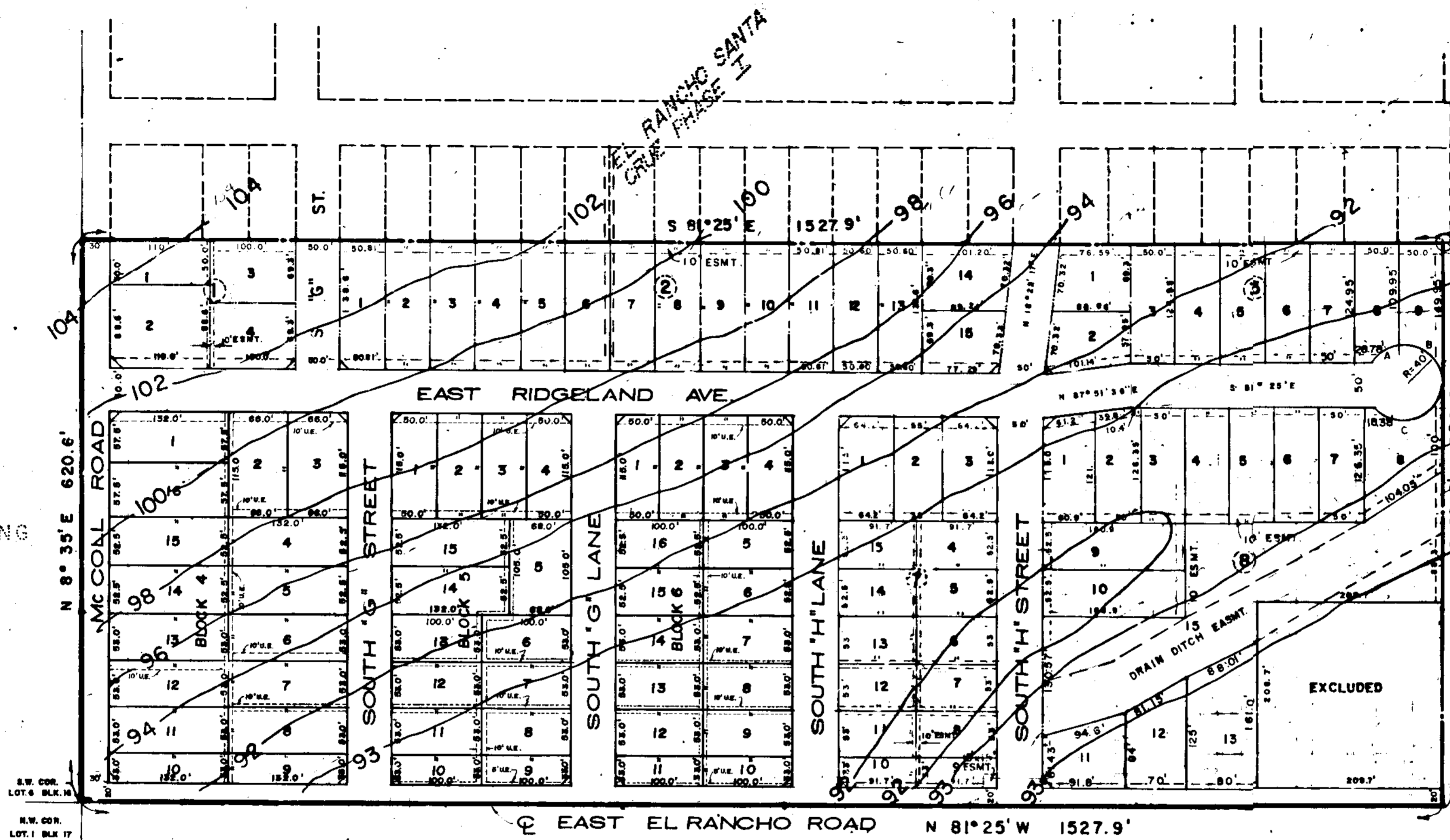
*J Ruiz*

COPYRIGHT 2005



SCALE 1" = 100'

LOT 5 BLK. 16  
STEELE & PERSHING  
SUBDIVISION



PROPERTY LINE  
OFF SETS

CURVE DATA

- A - R = 40'  
A = 31°19'04"  
L = 35.82
- B - R = 40'  
A = 104°26'39"  
L = 72.94'
- C - R = 40'  
A = 155°19'04"  
L = 108.76'

LOT 4 BLK. 8  
A. J. McCOLL SUBD.

S.W. COR.  
LOT 6 BLK. 16

N.W. COR.  
LOT 1 BLK. 17

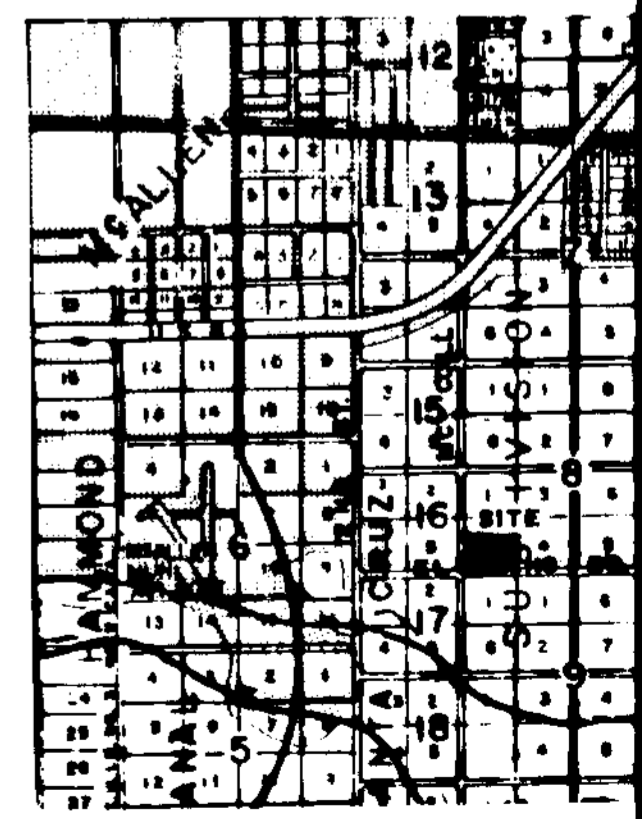
EL RANCHO SANTA CRUZ  
PHASE III

Recorded in Book 24 Page 78  
of the map records of Hidalgo  
County, Texas  
Whelan and Hunt, Inc.  
County Surveyors

# MAP SHOWING EL RANCHO SANTA CRUZ SUBD. PHASE IV

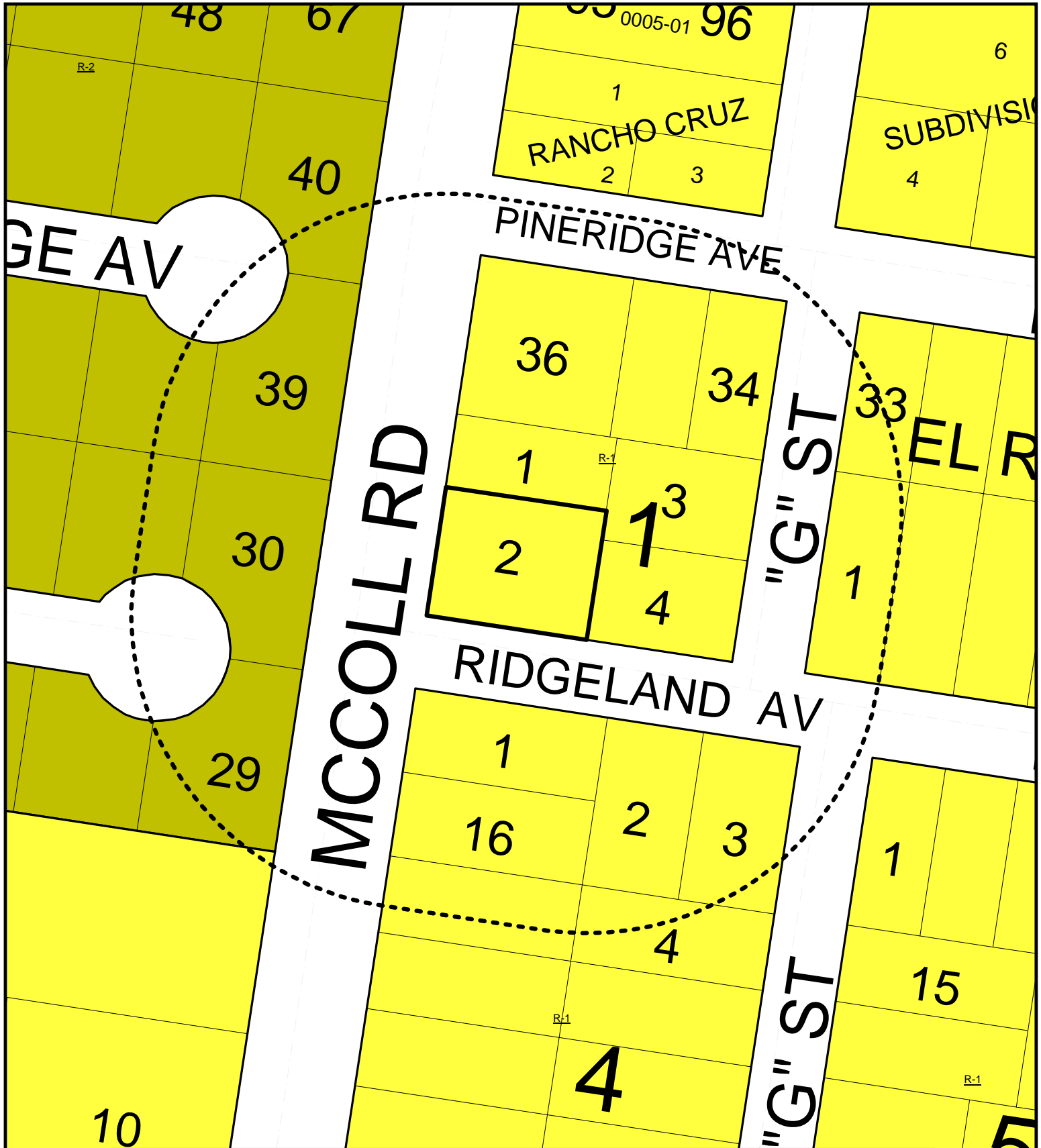
Being A Resubdivision Of 20.76 Acres Of The South 620.6 FT OF The West 1527.9 FT. OUT. Of Lot 6 Block 16  
Steele and Pershing Subdivision out of Porciones 66 and 67 of  
Hidalgo County, Texas.


96014



LOCATION MAP

NOTE






**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: 1" = 500'

**AREA MAP**

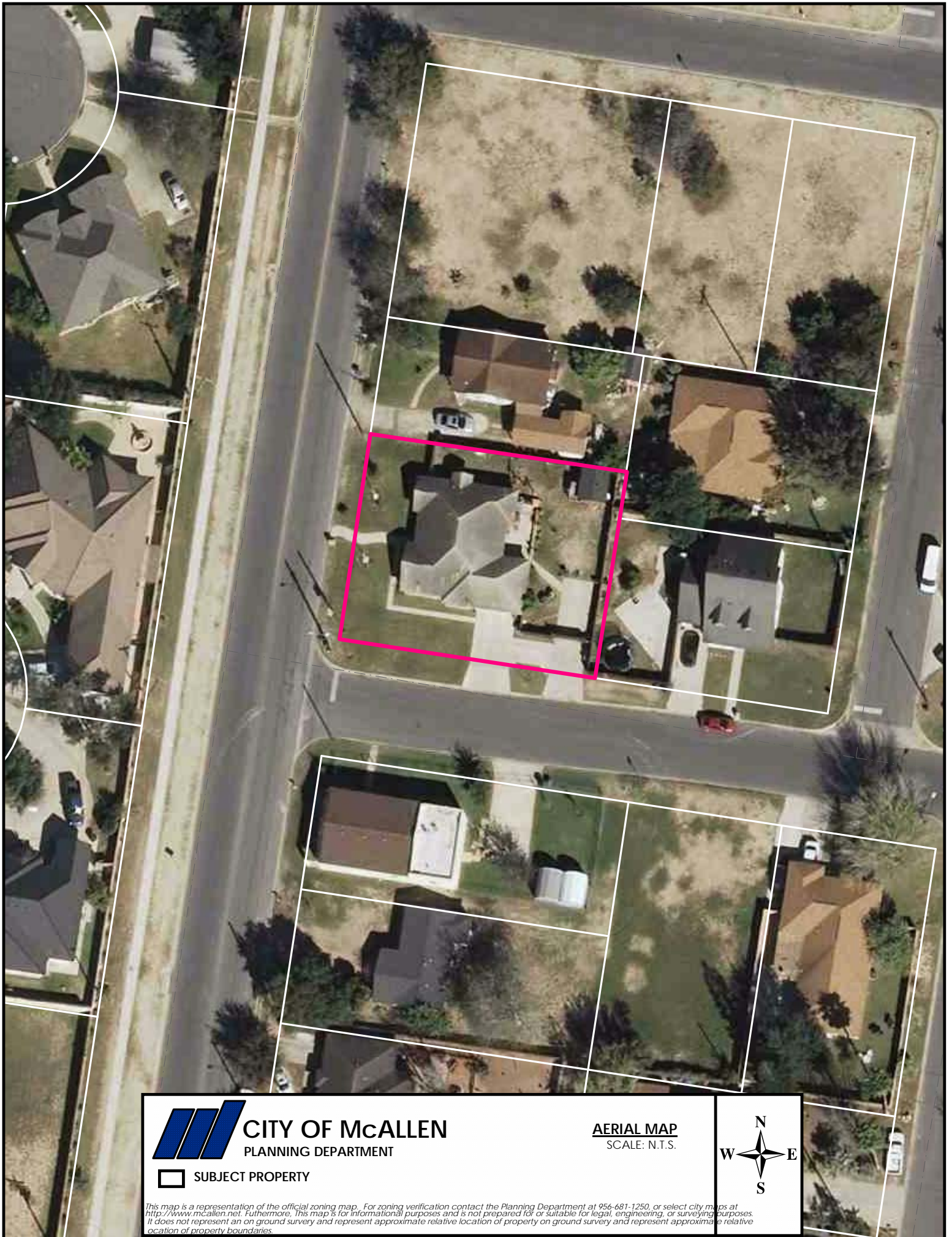


**□** SUBJECT PROPERTY

**⋯** 200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND				
<b>A-0</b> (AGRICULTURAL & OPEN SPACE)	<b>R-3A</b> (APARTMENTS)	<b>R-4</b> (MOBILE HOMES)	<b>C-3</b> (GENERAL BUSINESS)	<b>I-1</b> (LIGHT INDUSTRIAL)
<b>R-1</b> (SINGLE FAMILY RESIDENTIAL)	<b>R-3C</b> (CONDOMINIUMS)	<b>C-1</b> (OFFICE BUILDING)	<b>C-3L</b> (LIGHT COMMERCIAL)	<b>I-2</b> (HEAVY INDUSTRIAL)
<b>R-2</b> (DUPLEX-FOURPLEX)	<b>R-3I</b> (TOWNHOUSES)	<b>C-2</b> (NEIGHBORHOOD COMMERCIAL)	<b>C-4</b> (COMMERCIAL INDUSTRIAL)	<b>⋯</b> (SPECIAL DISTRICT)

This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcallen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property boundaries.

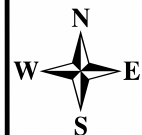


**CITY OF McALLEN**  
PLANNING DEPARTMENT



**SUBJECT PROPERTY**

**AERIAL MAP**  
SCALE: N.T.S.



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NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2019-0060

3113



**MEMO**

**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** April 7, 2020

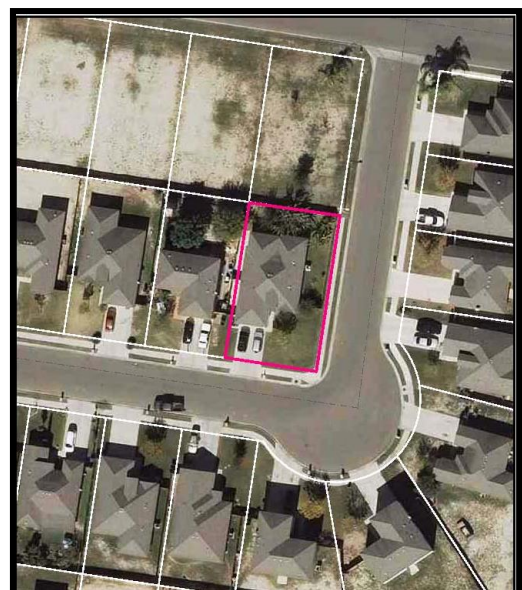
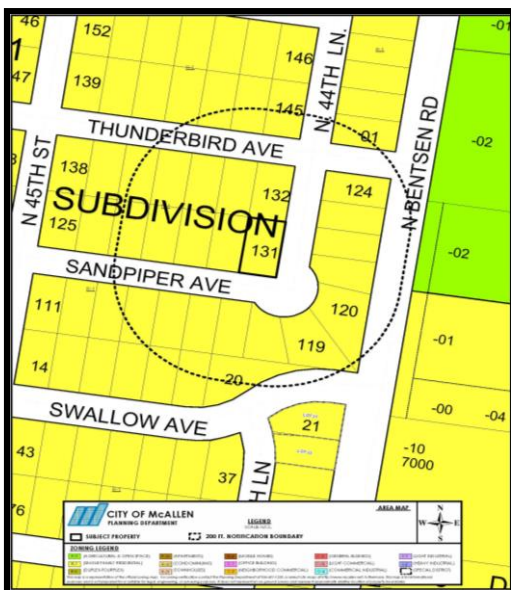
**SUBJECT: REQUEST OF ORALIA RODRIGUEZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 25 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR A WOODEN CARPORT WITH DECORATIVE COLUMNS MEASURING 25.0 FT. BY 20.0 FT., AT LOT 131, PLANTATION GAP SUBDIVISION PHASE 1, HIDALGO COUNTY, TEXAS; 4400 SANDPIPER AVENUE (ZBA2019-0057).**

**REASON FOR APPEAL:**

Mrs. Oralia Rodriguez, the property owner requests a special exception to allow an encroachment of 25 ft. into the 25 ft. front yard setback for a wooden carport with decorative columns measuring 25.0 ft. by 20.0 ft. The applicant has indicated that the basis for the request is allow the existing structure to remain.

**PROPERTY LOCATION AND VICINITY:**

The property is located on the northwest corner of Sandpiper Avenue and North 44<sup>th</sup> Lane. The lot has 60 ft. of frontage along Sandpiper Avenue and a depth of 102.98 ft. for a lot size of 6,178.8 sq. ft. The property is zoned R-1 (single-family residential) District and a single-family residence is located on the property. The surrounding land uses are single-family residences in all directions.





**BACKGROUND AND HISTORY:**

Plantation Gap Subdivision Phase 1 was recorded on December 20, 2004. A general note on the subdivision plat indicates a front yard setback of 25 feet. A citation for doing work without a permit was issued on October 17, 2019. The applicant applied for the special exception on October 16, 2019. An application for a building permit was submitted on October 16, 2019, and it is under review by city departments.

**ANALYSIS:**

The subdivision plat indicates there is a 5 ft. utility easement that runs along the front property line. The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Approval of a variance allowing a carport within the front yard may encourage future carports to be constructed in the front yard

The submitted site plan indicates the proposed carport to be along the front property line; however, measurements provided are without the benefit of a survey. The applicant also submitted an application for an abandonment of the 5 ft. utility easement that runs along the front property line on October 24, 2019 and it is being reviewed by various city departments.

No phone calls have been received in opposition to the special exception request.

**ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF JANUARY 15, 2020:**

At the Zoning Board of Adjustments and Appeals meeting of January 15, 2020 no one appeared in opposition to the variance request. The applicant was present. Staff recommended to table the variance request to until the City departments review the abandonment request. After a brief discussion, the Board voted to table the variance request with five members present and voting.

**ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF FEBRUARY 5, 2020:**

At the Zoning Board of Adjustments and Appeals meeting of February 5, 2020 no one appeared in opposition to the variance request. Staff recommended the item to remain tabled until the City departments review the abandonment request. After no discussion, the Board voted to table the variance request with six members present and voting.

**ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF MARCH 4, 2020:**

At the Zoning Board of Adjustments and Appeals meeting of March 4, 2020 no one appeared in opposition to the variance request. Staff recommended the item to remain tabled until the City departments review the abandonment request. After no discussion, the Board voted to table the variance request with six members present and voting.

**ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF APRIL 1, 2020:**

At the Zoning Board of Adjustments and Appeals meeting of April 1, 2020 no one appeared in opposition to the variance request. Staff recommended the item to remain tabled until the City departments review the abandonment request. After no discussion, the Board voted to table the variance request with five members present and voting.

**RECOMMENDATION:**

Staff recommends to table item as requested by the applicant.

ZBA 2019-0007

ZBA  
11/20/19.



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

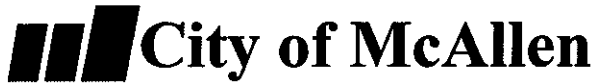
### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15<sup>th</sup> Street  
McAllen, TX 78501  
P. O. Box 220  
McAllen, TX 78505-0220  
(956) 681-1250  
(956) 681-1279 (fax)

<b>Project</b>	Legal Description <u>Plantation Gap PH 1 lots 131</u>
	Subdivision Name <u>Plantation Gap PH 1</u>
<b>Applicant</b>	Street Address <u>4400 Sand piper Ave McAllen tx 78504</u>
	Number of lots <u>131</u> Gross acres _____
	Existing Zoning <u>R 1 Single Family</u> Existing Land Use <u>Residential</u>
	Reason for Appeal (please use other side if necessary) <u>Estoy haciendo este tramite por no haber sacado permiso para construir antes de hacerlo</u>
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
<b>Owner</b>	Name <u>Oralia Rodriguez</u> Phone <u>915 867 0305</u>
	Address <u>4400 Sandpiper Ave.</u> E-mail <u>orlavirodriguez@hotmail.com</u>
	City <u>McAllen</u> State <u>Tx.</u> Zip <u>78504</u>
<b>Authorization</b>	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input type="checkbox"/> No
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.  Signature <u>Oralia Rodriguez</u> Date <u>10/16/2019</u> Print Name <u>ORALIA RODRIGUEZ</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
<b>Office</b>	Accepted by <u>L.G.</u> Payment received by _____
	Rev 10/18

**RECEIVED**  
Date OCT 16 2019  
BY: SC 4:27pm

Ret # 226701 Pd \$350



# City of McAllen Planning Department

## REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

Yo necesite este carport para proteger mis carros de tormentas de granizo, lluvias fuertes y el tremendo sol del verano, agrego el daño a la pintura por el calentamiento del sol.

Ya esta construido, solo pido que me permitan conservarlo por las razones antes mencionadas.

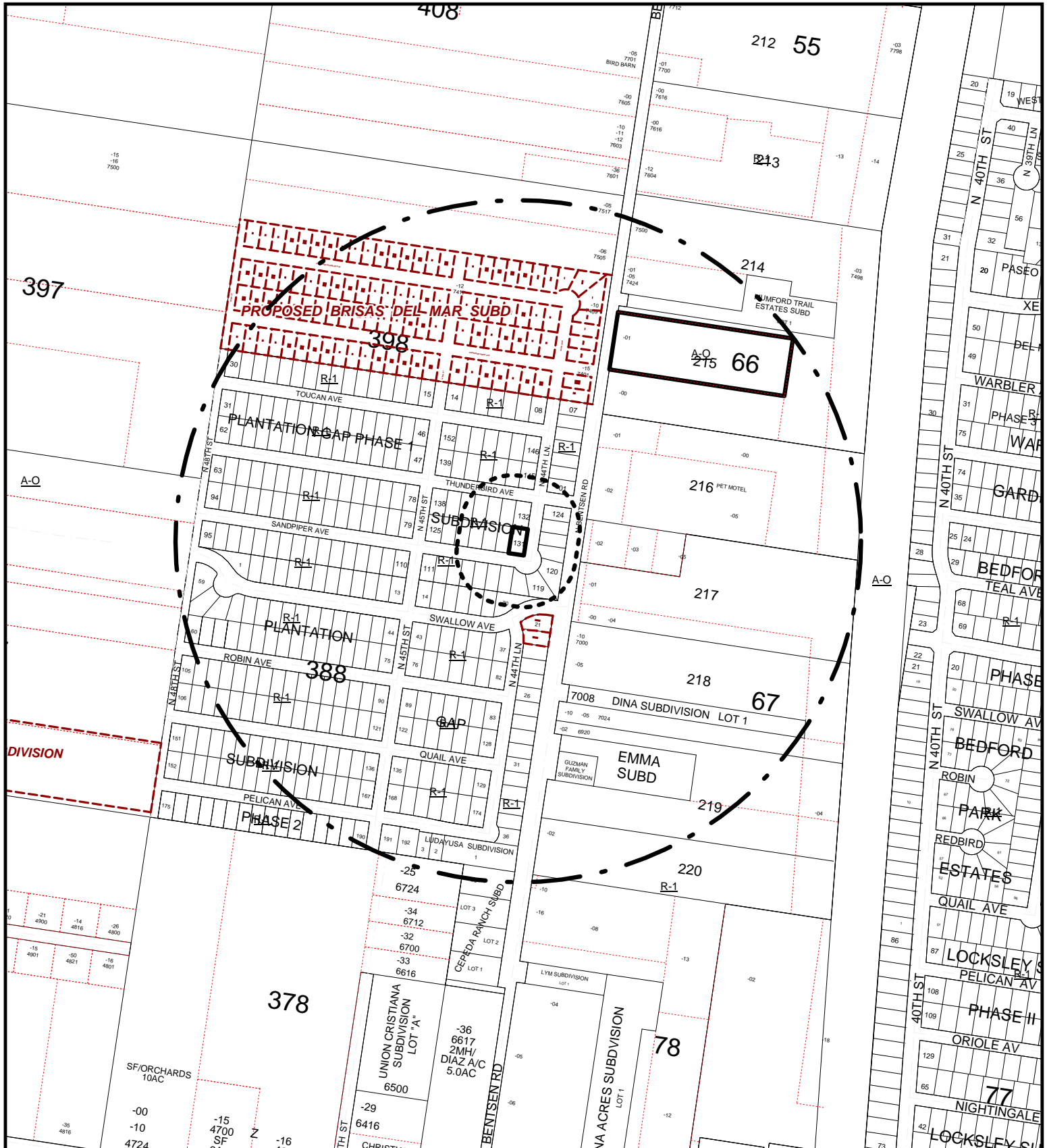
De antemano, muchas gracias por atencion a mi solicitud.

Rufo Rodriguez

Board Action

Chairman, Board of Adjustment  
Signature

Date



**CITY OF McALLEN**  
PLANNING DEPARTMENT

AREA MAP

**LEGEND**

SCALE: 1" = 500'

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

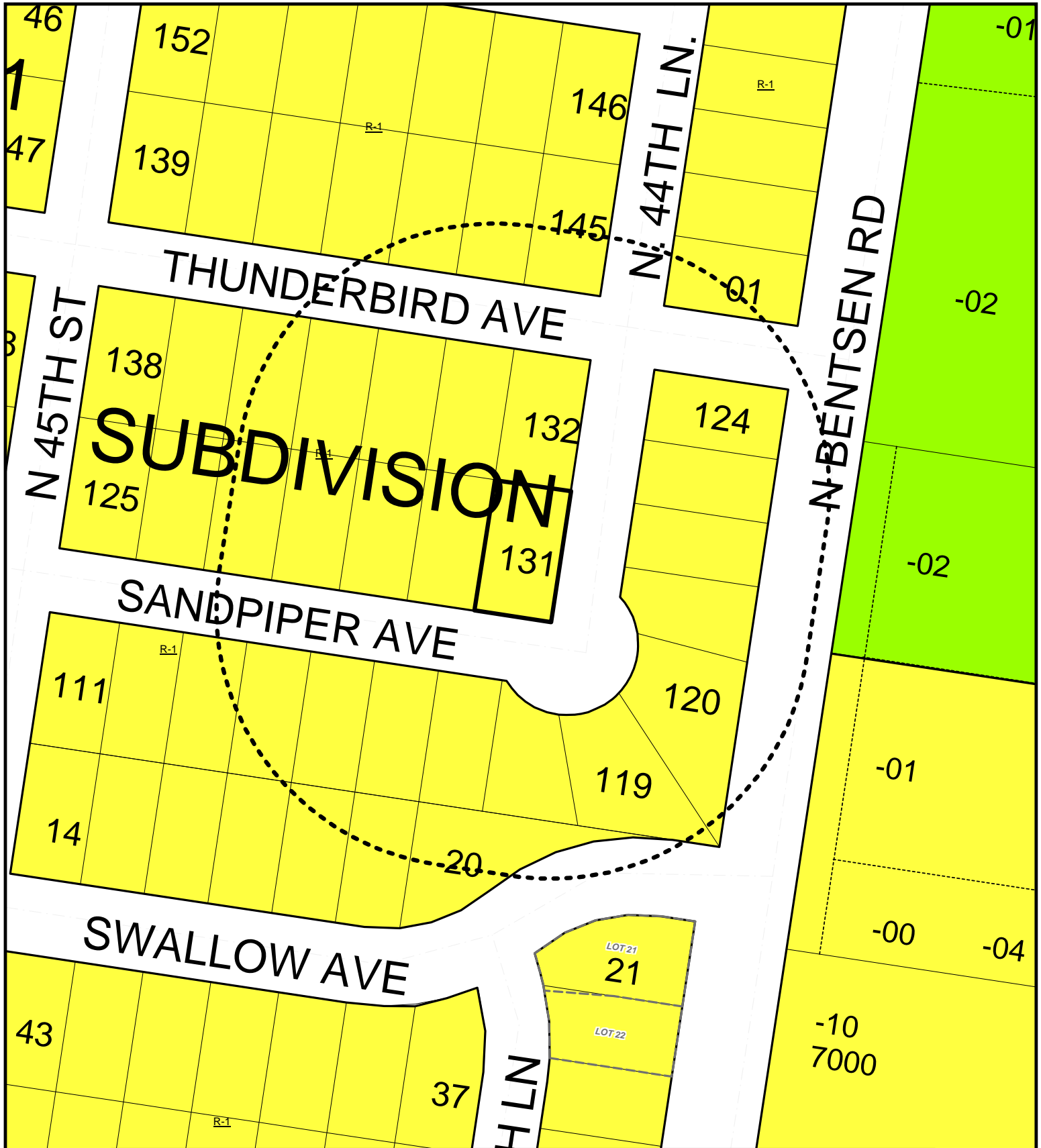
1/4 MILE RADIUS




**ZONING LEGEND**

- |                                 |                     |                               |                             |                        |
|---------------------------------|---------------------|-------------------------------|-----------------------------|------------------------|
| A-O (AGRICULTURAL & OPEN SPACE) | R-3A (APARTMENTS)   | R-4 (MOBILE HOMES)            | C-3 (GENERAL BUSINESS)      | I-1 (LIGHT INDUSTRIAL) |
| R-1 (SINGLE FAMILY RESIDENTIAL) | R-3C (CONDOMINIUMS) | C-1 (OFFICE BUILDING)         | C-3L (LIGHT COMMERCIAL)     | I-2 (HEAVY INDUSTRIAL) |
| R-2 (DUPLEX-FOURPLEX)           | R-3T (TOWNHOUSES)   | C-2 (NEIGHBORHOOD COMMERCIAL) | C-4 (COMMERCIAL INDUSTRIAL) | (SPECIAL DISTRICT)     |

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**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: N.T.S.

**AREA MAP**



**□** SUBJECT PROPERTY

**⋯** 200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

<p><b>A-0</b> (AGRICULTURAL &amp; OPEN SPACE)</p> <p><b>R-1</b> (SINGLE FAMILY RESIDENTIAL)</p> <p><b>R-2</b> (DUPLIX-FOURPLEX)</p>	<p><b>R-3A</b> (APARTMENTS)</p> <p><b>R-3C</b> (CONDOMINIUMS)</p> <p><b>R-3I</b> (TOWNHOUSES)</p>	<p><b>R-4</b> (MOBILE HOMES)</p> <p><b>C-1</b> (OFFICE BUILDING)</p> <p><b>C-2</b> (NEIGHBORHOOD COMMERCIAL)</p>	<p><b>C-3</b> (GENERAL BUSINESS)</p> <p><b>C-3L</b> (LIGHT COMMERCIAL)</p> <p><b>C-4</b> (COMMERCIAL INDUSTRIAL)</p>	<p><b>I-1</b> (LIGHT INDUSTRIAL)</p> <p><b>I-2</b> (HEAVY INDUSTRIAL)</p> <p><b>□</b> (SPECIAL DISTRICT)</p>
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This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcallen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property boundaries.

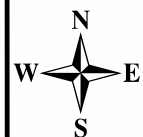


**CITY OF McALLEN**  
PLANNING DEPARTMENT

**AERIAL MAP**  
SCALE: N.T.S.

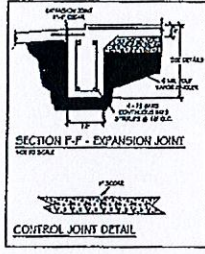
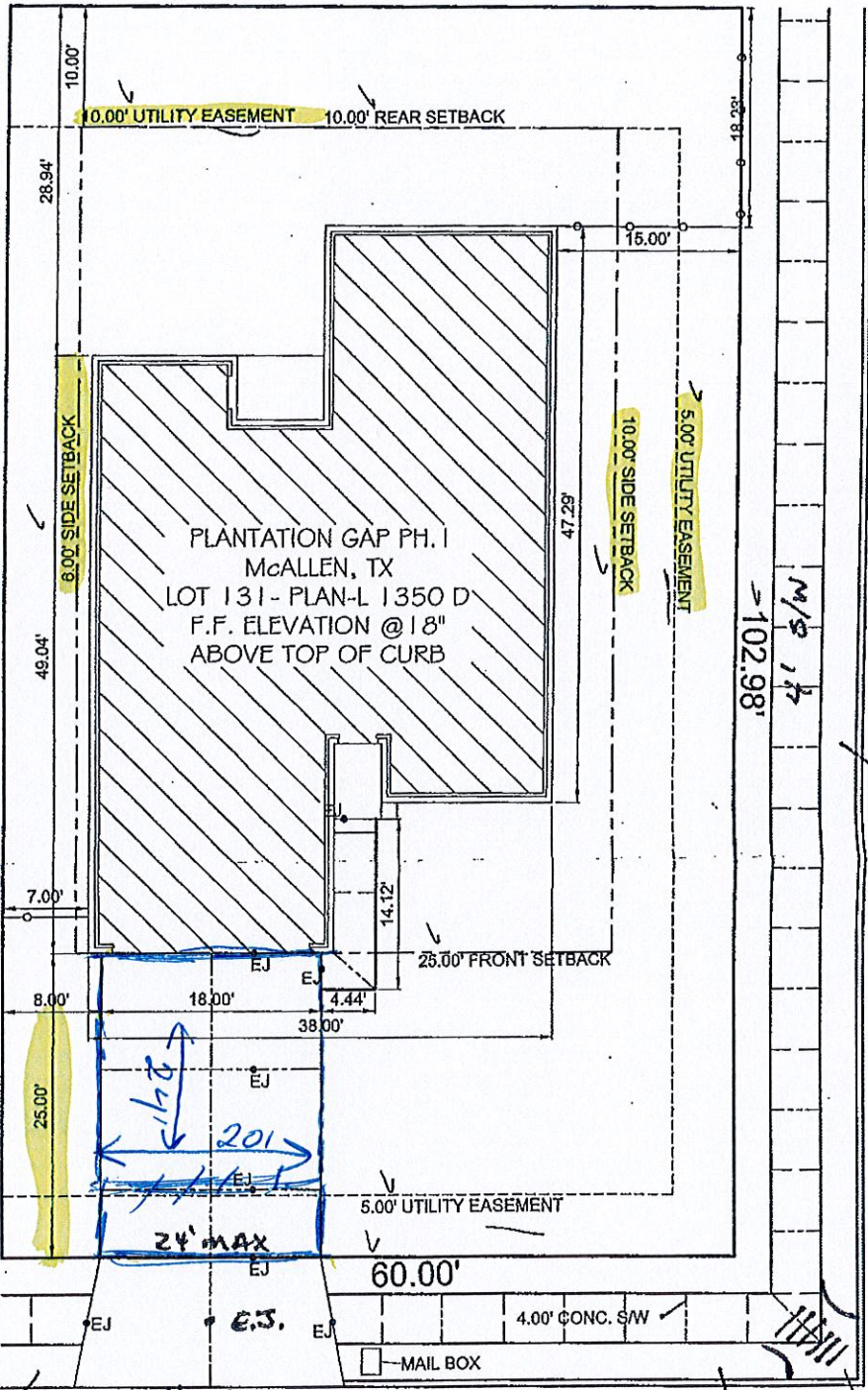


**SUBJECT PROPERTY**



This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcallen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property on ground survey and represent approximate relative location of property boundaries.

60.00

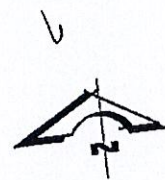


- LEGEND/NOTES**
- LOT LINE
  - - - SETBACK/EASEMENT
  - - - C.J.-CONTROL JOINT
  - FENCE
  - - - E.J.-EXPANSION JOINT
  - CONTROL JOINTS EVERY 5' ON SIDEWALK
  - EXPANSION JOINTS EVERY 10' ON SIDEWALK

- DRIVEWAY: 660 sq.ft. = 0.1 cu.yds.  
 SIDEWALKS: 664 sq.ft. = 0.2 cu.yds.  
 AC SLAB: 12.5 sq.ft. = 0.2 cu.yds.  
 TOTAL CONCRETE = 16.5 cu.yds.  
 FENCES: 41 lin.ft.  
 GRASS: 3054 sq.ft. = 5.0 pallets  
 CEDAR 1x4 10'-0" = 22 PIECES

**RECEIVED**  
 OCT 16 2019

BY: L.G.

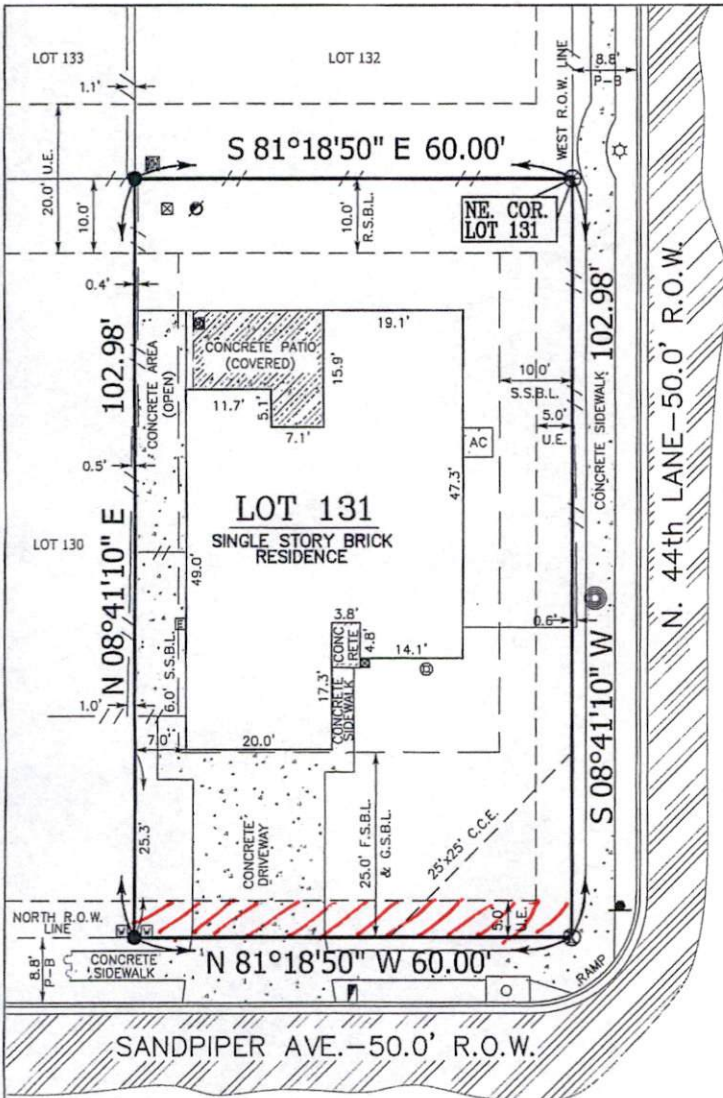


3' B.O.C. SANDPIPER AVENUE 3' B.O.C.

**SITE PLAN**  
 SCALE: 1"=10'

ADA  
 RR  
 RAMP

SHEET: <b>Site Plan</b>		Subdivision: PLANTATION GAP PHASE 1 PLAN ID# L-1350D ELEV: D 4 SIDE BRICK LEFT DRIVE	DRAWN BY:	DATE:
			AUDITED BY:	
			REVISED BY:	
			APPROVED BY:	
			APPROVED BY:	



BEARING BASIS  
 BEARING OF LOT 131,  
 SOLUTION GAP SUBDIVISION  
 PLANTATION PHASE I, H.C.M.R.  
 VOL. 46, PG. 181.

SCALE: 1"=20'

**LEGEND**

- FOUND 1/2" IRON ROD
- ⊗ FOUND "X" MARK
- ⊕ FOUND SPINDLE
- ⊙ TELEPHONE PEDESTAL
- ☆ LIGHT POLE
- ⊠ ELECTRIC BOX
- ⊞ CABLE T.V. PEDESTAL
- ⊡ ELECTRIC METER
- ⊞ CONC. (A/C UNIT) SLAB
- ⊞ WATER METER
- ⊙ CLEANOUT
- ⊞ CURB INLET
- ⊙ MANHOLE
- ⊞ STOP SIGN
- ⊞ MAILBOX
- ⊞ COLUMN
- /- WOODEN FENCE
- U.E. UTILITY EASEMENT
- C.C.E. CORNER CLIP EASEMENT
- F.S.B.L. FRONT SETBACK LINE
- R.S.B.L. REAR SETBACK LINE
- S.S.B.L. SIDE SETBACK LINE
- G.S.B.L. GARAGE SETBACK LINE
- R.O.W. RIGHT OF WAY
- P-B PROPERTY LINE TO BACK OF CURB
- H.C.M.R. HIDALGO COUNTY MAP RECORDS
- H.C.D.R. HIDALGO COUNTY DEED RECORDS
- H.C.O.R. HIDALGO COUNTY OFFICIAL RECORDS

**FLOOD ZONE**

ZONE "C"

AREAS DETERMINED TO BE OUTSIDE  
 500-YEAR FLOODPLAIN.  
 COMMUNITY-PANEL NUMBER: 480334 0400 C  
 MAP REVISED: NOVEMBER 15, 1982.

**NOTES:**

1. SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF SURVEYOR.
2. SURVEY WAS PREPARED IN COORDINATION WITH VALLEY LAND TITLE CO., COMMITMENT OF No. 152373  
 EFFECTIVE DATE: MAY 2, 2017  
 ISSUED DATE: JUNE 5, 2017
- 10.b. STATUTORY EASEMENTS, RULES, REGULATIONS AND RIGHTS IN FAVOR OF UNITED IRRIGATION DISTRICT. (BLANKET)
- 10.d. R.O.W. EASEMENT REC. IN VOL. 942, PG. 567 AND VOL. 946, PG. 354, BOTH IN H.C.D.R. (NOT APPLICABLE)
- 10.l. EASEMENT AND R.O.W. REC. IN DOC. NO. 550950, H.C.O.R. (BLANKET)
- 10.g. EASEMENT AND AGREEMENT REC. IN DOC. NO. 1290579, H.C.O.R. (BLANKET)
3. MINIMUM FLOOR ELEVATIONS, SETBACK LINES, EASEMENTS AND RESTRICTION AS SHOWN ON THE MAP OF PLANTATION GAP PHASE I, REC. IN VOL. 46, PG. 181, H.C.M.R.
4. W & L MANGUM SURVEYING NOR THE SURVEYOR OF RECORD RESEARCHED OR PREPARED A TITLE REPORT OR ABSTRACT OF TITLE ON THE ABOVE PROPERTY.

ADDRESS: 4400 SANDPIPER AVE.  
 McALLEN, TEXAS 78504

BORROWER:

ALFREDO RODRIGUEZ

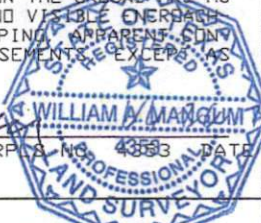
BORROWER:

ORALIA RODRIGUEZ

PLAT SHOWING  
 ALL OF LOT 131,  
 PLANTATION GAP  
 SUBDIVISION PHASE I,  
 AN ADDITION TO  
 THE CITY OF McALLEN,  
 HIDALGO COUNTY, TEXAS,  
 VOL. 46, PG. 181, H.C.M.R.

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS SURVEY AS DESCRIBED HEREON, WAS MADE ON THE GROUND ON 06/26/17 UNDER MY DIRECTION, THAT THE ONLY IMPROVEMENTS ON THE GROUND ARE AS SHOWN, THAT THERE ARE NO VISIBLE OVERLAPMENTS, VISIBLE OVERLAPPING, APPARENT CONFLICTS, OR VISIBLE EASEMENTS EXCEPT AS

*William A. Mangum*  
 WILLIAM A. MANGUM, R.P.A. No. 4353 DATE



**W & L MANGUM SURVEYING**

817 N. WARE ROAD SUITE 19  
 McALLEN, TEXAS 78501  
 PHONE (956) 821-7026  
 FIRM NUMBER 10113300  
 wlmangumsurveying@gmail.com

DATE: 06-26-17 JOB No. 2017.06.37 BOOK: 113L, PG. 46

T.B.P.L.S. PHONE NO. 512-239-5263





4400

NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2019-0057

CITY OF DALLAS PLANNING DEPT.  
100 MARSHALL ST.  
DALLAS, TX 75201





**ORDINANCE NO. 2018- 70**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF MCALLEN AT CHAPTER 138 ("ZONING"), ARTICLE VI ("SUPPLEMENTARY DISTRICT REGULATIONS"), DIVISION 3 ("LOTS AND YARDS"), BY ADDING PROVISIONS REGULATING CARPORTS AND GRANTING THE ZONING BOARD OF ADJUSTMENTS TO GRANT SPECIAL EXCEPTIONS THERETO; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY, AND ORDAINING OTHER PROVISIONS RELATED TO THE SUBJECT MATTER HEREOF.**

**WHEREAS**, the City of McAllen desires to establish rules and regulations relating to the construction and maintenance of carports within the City,

**WHEREAS**, the City Commission finds that it is in the public interest to delegate the authority to regulate carports to the Zoning Board of Adjustments,

**WHEREAS**, the City of McAllen seeks to protect the value of property located within the corporal limits of the City,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF MCALLEN, TEXAS, THAT:**

**SECTION I:** The Code of Ordinances, City of McAllen, Chapter 138 ("Zoning"), Article VI ("Supplementary District Regulations"), Division 3 ("Lots and Yards") is hereby amended to read as follows:

**Sec. 138-371. – Special Exception for carports.**

- (a) The Zoning Board of Adjustment may grant a special exception to the minimum setback requirements for a carport when, in the opinion of the board:
  - (1) there is no adequate vehicular access to an area behind the required front building line that would accommodate a parking space; and

- (2) the carport will not have a detrimental impact on surrounding properties.
- (b) In determining whether to grant this special exception, the board shall consider the following factors:
- (1) Whether the requested special exception is compatible with the character of the neighborhood.
  - (2) Whether the value of surrounding properties will be adversely affected.
  - (3) The suitability of the size and location of the carport
  - (4) The materials to be used in construction of the carport
- (c) Storage of items other than motor vehicles is prohibited in a carport for which a special exception has been granted under this subsection.
- (d) If the Zoning Board of Adjustmnet Grants a special exception as provided in this section, the site plan and the minutes of the Zoning Board of Adjustment meeting shall be officially recorded with Hidalgo County.
- (e) Any special exception granted under this chapter is granted solely to the applicant and may not be transferred, sold, inherited, bequeathed, or devised.
- (f) A new special exception shall be required upon any change or transfer in ownership of the underlying tract; a special exception granted to a previous applicant does not confer any right to any other individual or corporation to maintain the carport without approval from the Zoning Board of Adjustment.

**SECTION II:** The City Secretary of the City of McAllen is hereby authorized and directed to cause the caption of this ordinance to be published in a newspaper having general circulation in McAllen, Hidalgo County, Texas in accordance with the Code of Ordinances of the City of McAllen, Section 2-56. Publication of ordinances.

**SECTION III:** The City Secretary of the City of McAllen is hereby authorized and directed to cause the language in Chapter 38, Article VI, Division 3, the McAllen Code of Ordinances, as amended by Section I, hereinabove, to be published in the appropriate location in the said Code of Ordinances.

**SECTION IV:** This Ordinance shall be and remain in full force and effect from and

after its passage by the Board of Commissioners, and execution by the Mayor.

**SECTION V:** If any part or parts of this Ordinance are found to be invalid or unconstitutional by a court having competent jurisdiction, then such invalidity or unconstitutionality shall not affect the remaining parts hereof and such remaining parts shall remain in full force and effect, and to that extent this Ordinance is considered severable.

**CONSIDERED, PASSED and APPROVED** this 8<sup>th</sup> day of October, 2018, at a regular meeting of the Board of Commissioners of the City of McAllen, Texas at which a quorum was present and which was held in accordance with Chapter 551 of the Texas Government Code.

**SIGNED** this 9<sup>th</sup> day October, 2018.

**CITY OF McALLEN**

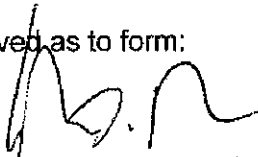
  
John Ingram, City Commissioner

Attest:



Perla Lara, TRMC/CMC, CPM  
City Secretary

Approved as to form:



Austin W. Stevenson, Assistant City Attorney



# Definitions

## Table of Contents

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## Chapter 138-Zoning

### Sec. 138-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building* means a subordinate building, located on the same lot as the main building, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the property.

*Accessory use* means a use which is clearly incidental to and customarily found in connection with the principal use of the premises and which is located on the same lot as the principal use.

*Accessory use of building* means a subordinate use or structure customarily incident to and located on the lot occupied by the main use or structure and conforming with setback and other regulations concerning location.

*Alley* means a minor public right-of-way which is used primarily for vehicular and utility service access to the backs or sides of properties otherwise abutting on a public street.

*Apartment* means a room or suite of rooms located in a building with other such rooms or suites arranged, designed, or to be occupied as a residence by a family. (See Dwelling unit.)

*Associated recreation* means recreational uses which are an integral part of a common ownership or associated or high density residential development (example: homeowners' association with a private club or facility).

*Authorized agent* means an architect, builder, developer or other person empowered to act on behalf of such persons.

*Base station.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below, except for new base stations that are not eligible for Section 6409, need not be existing at the time of the application, nor does subsection 138-1.A(a)1.c. apply to a new base station.

*Boardinghouse* means a building other than a hotel where lodging and meals are provided for compensation.

*Building* means any structure designed to be built for the support, enclosure, shelter or protection of persons, animals, chattel or property of any kind. The word "building" includes the word "structure."

*Carrier on wheels or cell on wheels ("COW").* A portable self-contained mobile facility moved to a location and set up to provide wireless services on a temporary or emergency basis.

*Concealed or stealth design elements.* A design elements of any tower, base station or transmission equipment that allows it to be integrated as an architectural feature of a tower or base station or so that it is not readily apparent to a casual observer. It may be screened, disguised, concealed or otherwise camouflaged as a natural structure, structure or part of a structure so that it is not easily recognizable from other natural structures.

*Conditional use* means a use which may be suitable in certain locations in a zoning district if developed and operated under specific conditions and/or for a limited period of time.

*Depth of lot* means the mean horizontal distance between the front and rear lot lines. (See definitions of Front and Rear lot lines.)

*District* means a section of the city for which the regulations governing the areas, heights or uses of buildings are uniform.

*Dwelling unit* means any building or portion thereof which is designed for or used primarily for residential occupancy, but not including hotels, boardinghouses or mobile homes.

- (1) *Single-family* means a building designed for and/or occupied exclusively by one family as a separate dwelling unit.



- (2) *Duplex* means a building designed for and/or occupied exclusively by two families living independently of each other.
- (3) *Triplex* means a building designed for and/or occupied exclusively by three families living independently of each other.
- (4) *Fourplex* means a building designed for and/or occupied exclusively by four families living independently of each other.
- (5) *Multiple* means a building designed for and/or occupied exclusively by five or more families living independently of each other.

The determination of whether one family is living independent of another is based on one or more of the following criteria: separate sanitary facilities; separate kitchen facilities; separate entrances; or separate utilities.

*Eligible facilities request.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Eligible support structure.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Existing.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Family* means one or more persons living together as a single housekeeping unit with common sanitary and kitchen facilities.

*Garage, commercial* means a building or premises used for storage, repair, rental or servicing of motor vehicles.

*Garage, private* means an accessory building, attached or detached, designed or used for the storage of motor-driven vehicles owned and used only by the occupants of the building to which it is accessory.

*Guesthouse* means an accessory building designed for the temporary occupancy of guests of the primary dwelling for which there is no remuneration. "Maids' quarters" means a portion of a dwelling unit, within the same enclosure and not a separate accessory building attached to the primary building, that may contain separate sanitary and/or kitchen facilities which is designed for or used for residential occupancy by an employee of the primary residence.

*Height* means, for a building or portion of a building, the vertical distance from grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, and the mean height level between eaves and ridge for hip, gable or gambrel roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, mechanical rooms, tanks, water towers, radio towers, television antennas, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height. Heights authorized in this chapter are subordinate to the airport zoning ordinance, appendix A.

*Loading space* means a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks and having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

*Lot* means an undivided tract or parcel of land having frontage on a public street, and which is, or in the future may be, offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record. The word "lot" includes the word "plot."

- (1) *Corner lot* means a lot abutting upon two or more public streets at their intersection.
- (2) *Building coverage* means percentage of the lot that is occupied by the ground area of a building and its accessory buildings.
- (3) *Lot, double frontage* means a lot abutting on two nonintersecting public streets as distinguished from a corner lot.

- (4) *Lot lines* means the lines bounding a lot as defined in this section.
- a. *Front lot line* means the property line between the front yard and the contiguous street right-of-way boundary.
  - b. *Rear lot line* means the property line between the rear yard and the adjacent property or right-of-way, and contiguous with the legal boundary of such use.
  - c. *Side lot line* means the property between two adjacent lots or between the side yard and the contiguous street right-of-way boundary on corner lots.

*Lot of record* means a parcel of land which is part of a subdivision, the map or plat of which has been recorded in the office of the county clerk; or a tract of land not a part of an urban or town lot subdivision, the deed of which has been recorded in the office of the county clerk prior to October 15, 1973, which has not been divided since recording.

*Maneuvering space* means the space entirely on private property required for maneuvering vehicles in such a manner as to preclude the backing of any vehicle into any street right-of-way.

*Mobile home* means a movable or portable dwelling originally constructed to be towed, on its own chassis, by a motor vehicle over public roads.

*Mobile home and modular home park* means a unified development of five acres or more for mobile homes arranged on a tract of land owned by an individual or a single business entity for the purpose of renting or leasing lots, and meeting the requirements of chapter 122, article II of this Code.

*Mobile home and modular home subdivision* means a unified development of five acres or more for mobile homes arranged on a tract of land in such a manner as to provide an individual lot (see definition of Lot) for each of the mobile homes.

*Modular home* means a dwelling unit in which more than 50 percent of the structure is constructed at other than the construction site, brought to the site in modules, and set on a permanent foundation.

*Ornamental feature* means an addition to a structure designed to enhance the appearance of the structure, in compliance with all of the following criteria:

- (1) Any space occupied by or enclosed by the ornamental feature should not be included in or made a part of the air conditioned, heated, or enclosed portion of the structure;
- (2) The feature should serve no purpose or function for the structure other than ornamentation. The building should be equally functional without the feature as with the feature; and
- (3) The feature shall extend no further than 24 inches into a required yard.

*Parking area* means a space used exclusively for the parking of vehicles and where no other business is conducted.

*Parking space* means an area, not closer than six feet from the back edge of the curb, the width and length of which shall exceed by a minimum of two feet the dimensions of the type of vehicle normally to be parked in the space, and connected with a street or alley by a driveway affording satisfactory ingress and egress. The minimum dimension of a parking space shall be in accordance with the city off-street parking requirements in article VII of this chapter.

*Planned unit development (PUD)* means and includes a combination of different dwelling types and/or a variety of land uses which creatively complement each other and harmonize with existing and proposed land uses in the vicinity, and which comply with the Planned Unit Development provisions of chapter 134, article IV of this Code.

*Portable building* means a temporary building that does not have a foundation and is transportable.

*Recreational vehicle or travel trailer* means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer of the trailer and, when factory-equipped for the road, it shall have a body width not exceeding eight feet and a body length not exceeding state maximums.

*Residential storage building* means any building, either portable or constructed onsite, utilized for storage purposes and not requiring plumbing and electrical wiring, and not used for living quarters.

*Restaurant* means a building or portion of a building where the primary business is the on-premises sale of prepared food, with adequate kitchen facilities for the preparation of the food to be sold, the adequacy of such kitchen facilities to be based upon the seating capacity of the restaurant and the type of menu offered, and where alcoholic beverages may be sold under the following conditions:

- (1) At least 51 percent of the gross income shall be derived from the sale of prepared food.
- (2) Any outside entrances, outside separate identification, outside signs or other separate advertising for lounge or bar areas shall be permitted only as an accessory or secondary feature of the restaurant.
- (3) Live entertainment may be permitted.
- (4) Whenever the director of planning on the basis of a sworn complaint from any person determines that a violation of this section exists, he may require any person serving alcoholic beverages as an incidental use to provide the city, within 30 days of notification, a verified audit for each quarter of the calendar year, showing the gross income derived from the sale of food.

*Retail* means the sale of goods directly to a consumer; engaged in, pertaining to or relating to the sale of merchandise at retail; or selling by individual items, or by the piece, directly to a consumer.

*Right-of-way line* means a dividing line between a lot, tract or parcel of land and the public right-of-way.

*Street* means a public or private thoroughfare which affords the principal means of access to abutting property, excluding alleys.

*Structural alteration* means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

*Structure* means anything constructed, erected or artificially built up; or composed of parts and joined together in a permanent manner.

*Substantial change.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Tower.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below, except for new towers that are not eligible for Section 6409, they need not be existing at the time of the application.

*Townhouse* means a single-family dwelling unit constructed in a series or a group of units having common walls, each on a separate lot.

*Transmission equipment.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Yard* means an open space between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in the definitions of "yard" set out in this section. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

- (1) *Front yard* means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the right-of-way line and wall of the main building or any projections thereof other than projections of the usual uncovered steps, uncovered balconies or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where corner lots may be square in dimension and/or have double frontage, in which case the front yard shall correspond to the lot's side adjacent to the longest block face in which it occurs and to which the majority of the existing structures front.

- (2) *Rear yard* means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than projections of uncovered steps, uncovered balconies or uncovered porches. On all lots, the rear yard shall be in the rear of the front yard.
- (3) *Side yard* means a yard between the main building and the side line of the lot, and being the minimum horizontal distance between a side lot line and the sides of the main buildings or any projections thereof.

(Code 1966, § 32-2; Ord. No. 1996-8, § I, 1-22-96; Ord. No. 1996-70, § I, 11-18-96; Ord. No. 1998-68, § 1, 2-27-98; Ord. No. 1999-69, § 1, 8-9-99; Ord. No. 2004-15, § 5, 2-9-04; Ord. No. 2015-38, § II, 5-11-15)

**Cross reference—** Definitions and rules of construction generally, § 1-2.

Footnotes:

--- () ---

**Note—** 47 U.S.C. § 332(c)(7)(C) Definitions. For purposes of this paragraph—(i) the term "personal wireless services" means commercial mobile services [cellular service], unlicensed wireless services, and common carrier wireless exchange access services..."; 47 U.S.C. § 332(d) ... (1) the term "commercial mobile service" means any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission;..."

--- () ---

**Note—** 47 U.S.C. § 332(c)(7)(C) Definitions for purposes of this paragraph... (ii) the term "personal wireless service facilities" means facilities for the provision of personal wireless services..."

## Chapter 110-Vegetation

### Sec. 110-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Buffer* means a screen constructed of wood, concrete block, masonry, a combination of wood and masonry, or landscape material with a chain link fence in such a manner that adjacent property is visually screened, and so that noise, solid waste or other objectionable influences will be avoided. Such buffer shall be perpendicular to the ground, a minimum of six feet in height, continuous and uninterrupted, and 100 percent opaque except where extraordinary circumstances exist where additional height will more adequately accomplish the desired end.

*Caliper* means the diameter of a tree measured 12 inches above the ground for trees up to and including eight inches in diameter and four and one-half feet above the ground for trees having a diameter of more the eight inches. The diameter of a multi-stem tree shall be measured at the point below branching or the sum of the two largest stems measured at four and one-half feet above the ground which ever is greater.

*Contiguous* means adjacent property whose property lines are shared, or are separated by only a street, alley, easement or right-of-way.

*Developed property* means that portion of a lot or parcel upon which a building, structure, pavement, or other improvements have been or are proposed to be placed.

*Diameter-at-breast-height (DBH)* means the tree trunk diameter measured in inches at a height of four and one-half feet (54 inches) above natural grade or the DBH measurement according to the latest edition of the Guide for Plant Appraisal as published by the Council of Tree and Landscape Appraisers, when the tree trunk branches out at a point lower than four and one-half feet.

*Frontage* means lineal distance measured along abutting street rights-of-way.

*Ground cover* means low growing plants planted in such a manner as to form a continuous cover over the ground, typical horizontal growth form with a maximum height of 24 inches, such as lirioppe, low growing varieties of honeysuckle, confederate jasmine, English ivy or others.

*Landscape material* means trees, shrubs, ground cover, vines or grass installed in planting areas, including but not limited to those installed for the purpose of fulfilling the requirements of this article.

*Landscape strip area* means a planting area within the property lines of specified width and parallel to a public street, excluding driveways for ingress and egress.

*Paved ground surface area* (also referred to in this article as paved area or paved ground area) means any paved ground surface area (excepting public rights-of-way) used for the purpose of driving, parking, storing or displaying of vehicles, boats, trailers and mobile homes, including new and used car lots and other open lot uses. Parking structures, covered drive-in parking areas to the drip line of the covering or garages shall not be considered as paved ground surface areas.

*Planting area* means an area intended or used for landscaping that has a minimum of 40 square feet of actual plantable area and an inside dimension on any side of at least 36 inches.

*Reconstruction* means rehabilitation or replacement of structures on nonresidential or multifamily property to an extent exceeding 50 percent of the assessed valuation of such structures as shown on the most recent tax roll of the city.

*Shrub* means any woody plant of relatively low height, having several stems arising from the base and lacking a single trunk.

*Stormwater detention facility* means an impoundment on a lot or parcel reserved for detaining and controlling the release of stormwater runoff as required by City of McAllen Drainage Policy.

*Street line* means that line separating the right-of-way from any adjacent property.

*Tree* means any self-supporting woody plant of a single trunk and of a species which normally grows to an overall mature height of a minimum of 15 feet in the lower Rio Grande Valley of the state.

*Vine* means any of a group of woody or herbaceous plants which may climb by twining, by means of aerial rootlets or tendrils, or which may simply sprawl over the ground or other plants.

*Xeriscape* means landscape methods which conserve water through the use of drought-tolerant plants and planting techniques.

(Code 1966, § 17 3/8 -4; Ord. No. 1993-88, § I, 12-13-93; Ord. No. 2006-118, § 1, 11-13-06; Ord. No. 2007-28, § 1, 3-26-07)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

## CRITERIA FOR ZBOA DETERMINATIONS

### APPEALS

1. ZBOA may hear and decide appeals **where it is alleged there is error** in any order, requirement, decision or determination made by an administrative official **in the enforcement of Chapter 138** of the Code of Ordinances ("Zoning").
2. In conformity with the provisions of V.T.C.A., Local Government Code § 211.009 et seq. and Chapter 138 of the Code of Ordinances, the **ZBOA may reverse or affirm, wholly or partly, or may modify** the order, requirement, decision or determination appealed from.

### SPECIAL EXCEPTIONS

Authorized under Ord. Sec. 138-43 ("Powers") in the following instances:

1. Where the **street layout** actually on the ground varies from the street layout as shown on such maps.
2. To permit the **reconstruction of a nonconforming building** which has been damaged to the extent of more than 50 percent of its replacement cost.
3. To **waive or reduce the parking and loading requirements** whenever:
  - a. The character or use of the building is such as to make unnecessary the full provisions of parking or loading facilities, OR
  - b. Where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
4. To allow a change **from an existing nonconforming use to another nonconforming use** of a structure, or a structure and premises in combination, if:
  - a. No structural alterations are made, AND
  - b. The Board finds that the proposed nonconforming use is not more nonconforming in the district as the existing nonconforming use.

#### **Ord. Sec. 138-86. – GENERAL POLICY.**

The general public, the board of commissioners, and the planning board are directed to take note that nonconformities in the use and development of land and buildings are to be avoided, or eliminated where now existing, wherever and whenever possible, except:

- (1) When necessary to preserve property rights established prior to the date the ordinance from which this article is derived became effective as to the property in question, and
- (2) When necessary to promote the general welfare and to protect the character of the surrounding property.

## VARIANCES

Authorized only when ALL of the following applies:

1. Owing to special conditions, a literal enforcement of Zoning Ordinance provisions would result in **unnecessary hardship**.
2. **Applicant proves** to the Board the following:
  - a. Land in question cannot yield a reasonable return if used only for a purpose allowed in that zone,
  - b. **Plight is unique** and not shared in general by others in the neighborhood, and
  - c. Variance will **not alter the essential character of the locality**.
3. Variance would **not merely serve as a convenience** to the applicant.
4. Variance must be in **harmony with purpose and intent of Zoning Ordinance**.
5. Variance would **not be contrary to the public interest**.
6. **Surrounding property is be properly protected**.
7. **The spirit of this Zoning Ordinance is observed and substantial justice done**.

## Exceptions Cited within the Zoning Ordinance

### Exceptions pertaining to front yard setbacks:

1. Balconies opening upon fire towers not to exceed 5 feet (*Section 138-366 (d)*)
2. Balconies, uncovered (*Section 138-1, Yard (1)*)
3. Chimneys not to exceed 5 feet (*Section 138-366 (d)*)
4. Cornices up to 2 feet (*Section 138-366 (c)*)
5. Eaves up to 2 feet (*Section 138-366 (c)*)
6. Fence not to exceed 3 feet within 25 feet of a curb intersection in residential zones (*Section 138-367 (c)*)
7. Fire escapes, open or lattice-enclosed not to exceed 5 feet (*Section 138-366 (d)*)
8. Flues not to exceed 5 feet (*Section 138-366 (d)*)
9. Ornamental features up to 2 feet (*Section 138-366 (c)*)
10. Planting not to exceed 3 feet within 25 feet of a curb intersection in residential zones (*Section 138-367 (c)*)
11. Porches, uncovered (*Section 138-1, Yard (1)*)
12. Projections up to 2 feet (*Section 138-366 (c)*)
13. Pumps, filling station not less than 13 feet from the property line or 18 feet from the curb, whichever greater (*Section 138-367(d)*)
14. Pumps, gas and canopies not less than 9 feet from the property line or 10 feet from the curb, whichever greater (*Section 138-259*)
15. Pumps, islands not less than 13 feet from the property line or 18 feet from the curb, whichever greater (*Section 138-367(d)*)
16. Sills up to 2 feet (*Section 138-366 (c)*)
17. Stairways, outside not to exceed 5 feet (*Section 138-366 (d)*)
18. Steps, uncovered (*Section 138-1, Yard (1)*)
19. Structure not to exceed 3 feet within 25 feet of a curb intersection in residential zones (*Section 138-367 (c)*)

### Exceptions pertaining to rear yard setbacks:

1. Balconies opening upon fire towers not to exceed 5 feet (*Section 138-366 (d)*)
2. Balconies, uncovered (*Section 138-1, Yard (1)*)
3. Buildings, accessory may occupy no more than 30% (*Section 138-369*)
4. Carports, unenclosed abutting an alley may be built up to the rear property line within the R-3A and R-3C Districts (*Section 138-356, Footnote 5*)
5. Chimneys not to exceed 5 feet (*Section 138-366 (d)*)
6. Cornices up to 2 feet (*Section 138-366 (c)*)
7. Eaves up to 2 feet (*Section 138-366 (c)*)
8. Fire escapes, open or lattice-enclosed not to exceed 5 feet (*Section 138-366 (d)*)
9. Flues not to exceed 5 feet (*Section 138-366 (d)*)
10. Ornamental features up to 2 feet (*Section 138-366 (c)*)
11. Parking, unenclosed may occupy no more than 90% (*Section 138-369*)
12. Porches, uncovered (*Section 138-1, Yard (1)*)
13. Projections up to 2 feet (*Section 138-366 (c)*)
14. Sills up to 2 feet (*Section 138-366 (c)*)
15. Stairways, outside not to exceed 5 feet (*Section 138-366 (d)*)
16. Steps, uncovered (*Section 138-1, Yard (1)*)



Exceptions pertaining to side yard setbacks:

1. Balconies opening upon fire towers not to exceed 5 feet (*Section 138-366 (d)*)
2. Canopy, unenclosed and not less than 4 feet from the side lot line or 8 feet from a corner lot line (*Section 138-368 (d)*)
3. Chimneys not to exceed 5 feet (*Section 138-366 (d)*)
4. Cornices up to 2 feet (*Section 138-366 (c)*)
5. Eaves up to 2 feet (*Section 138-366 (c)*)
6. Fire escapes, open or lattice-enclosed not to exceed 5 feet (*Section 138-366 (d)*)
7. Flues not to exceed 5 feet (*Section 138-366 (d)*)
8. Ornamental features up to 2 feet (*Section 138-366 (c)*)
9. Porte-cochere, unenclosed and not less than 4 feet from the side lot line or 8 feet from a corner lot line (*Section 138-368 (d)*)
10. Projections up to 2 feet (*Section 138-366 (c)*)
11. Side yards can be reduced to 10% of the lot width provided the lot has a width less than 50 feet. However, no side yard shall be less than 3.5 feet (*Section 138-368 (f)*)
12. Sills up to 2 feet (*Section 138-366 (c)*)
13. Stairways, outside not to exceed 5 feet (*Section 138-366 (d)*)
14. Townhouses can be built up to the side property line with a firewall (*Section 138-356, Footnote 10*)

Exceptions pertaining to height measurements (*Section 138-1, Height*):

1. Chimneys
2. Cooling towers
3. Domes
4. Elevator bulkheads
5. Mechanical rooms
6. Ornamental cupolas
7. Parapet walls not exceeding four feet in height
8. Radio towers
9. Spires
10. Tanks
11. Television antennas
12. Water towers

## Exceptions as per Planning Department Policy

By policy the following are permitted:

1. AC Units
2. Clothes lines
3. Concrete slabs
4. Fire pits
5. Pergolas, arbors, and trellises as a landscape feature (legal opinion, 2009)
6. Playground equipment
7. Pool decks
8. Pool pumps
9. Portable grills
10. Sports equipment i.e. basketball hoop
11. Swimming pools prior to 2009 (legal opinion)
12. Umbrellas and patio furniture
13. Water features and fountains

Legal opinions:

1. In 2009 Assistant City Attorney Ignacio Perez made an interpretation to allow arbors, pergolas, and trellises within the required setbacks. The definition of landscape material is stated as trees, shrubs, ground cover, vines or grass installed in planting areas in Section 110-26 of the Vegetation Ordinance. The legal interpretation was if vines were allowed by code as a planting area and they cover vertical planes such as walls then the same logic could be applied to arbors, pergolas, and trellises as a planting area. Mr. Perez also cited Section 110-56 (g) of the Vegetation Ordinance stating architectural planters may be permitted to fulfill landscape requirements.
2. Prior to 2009 swimming pools were not considered a structure due to the fact they were constructed underground and the Zoning Ordinance defines a structure as anything constructed, erected or artificially built up or composed of parts and joined together in a permanent manner. However, an interpretation was made in 2009 to consider swimming pools as a structure to abide by setback requirements.

**ZONING BOARD OF ADJUSTMENT AND APPEALS**

**RULES AND PROCEDURES**

**CITY OF MCALLEN**

**The McAllen Zoning Board of Adjustment and Appeals adopts the following Rules and Procedures (hereinafter “Rules”) to govern the substance of all board matters.**

**I. ORGANIZATION AND OFFICERS**

**A. Members**

The McAllen City Commission created the Zoning Board of Adjustment and Appeals (hereinafter referred to as “Board”) pursuant to Chapter 211 of the Texas Local Government Code and Chapter 138, Article II, Division 3 of the City of McAllen, Texas Code of Ordinances (the “City Code”). The Commission appoints the members for that Board under Section 211.008 of the Texas Local Government Code (the “Code”).

The Commission composed the Board to sit five (5) members. Each member serves a two-year term. The Commission may renew a member’s term for a maximum of three total consecutive terms. The Commission also appoints four (4) alternate members to serve in the absence of a regular board member. Alternate members serve just as regular members and are subject to the same rules as regular members, unless otherwise provided in these Rules, but do not vote except in the absence of a regular member.

**B. Officers**

The Board shall elect a Chair and a Vice Chair from its own regular members by majority vote. The Chair and Vice Chair each serve one year. The Board shall accept an Executive Secretary appointed by the McAllen Planning Department. The Board shall adopt an attorney advisor appointed by the McAllen Legal Department. The Board shall only accept the appointment of personnel under the condition each person remains the employee and charge of the City of McAllen, with no employment relationship to the Board.

**C. Duties and Officers**

The Chair shall preside over the Board, hold meetings of the Board, decide points of order, and dispense the business of the Board. The Chair may administer oaths, compel the attendance of witnesses, and issue subpoenas as per Section 211.008 of the Code. The Chair shall sign the minutes of board meeting after the minutes have been approved by the Board.

In the absence of the Chair, the Vice Chair, or in both their absences the most senior member, according to the member’s appointment date, shall dispense the duties of the Chair.

## **II. POWERS OF THE BOARD**

### **A. General Powers**

The Board has those powers specified in Section 211.009 and 241.033 of the Code, and those powers granted by the City Commission under Chapter 138 (Zoning Ordinance) and Chapter 110 (Vegetation Ordinance) of the City Code, and those powers granted to the Board by ordinance.

### **B. Specified Powers**

As per city ordinance and state statute, the Board has those powers described in Section 211.009 of the Code and Section 138-43 of the City Code. Those powers described in Section 138-43 are:

1. Hear and decide appeals that allege an error in any order, requirement, decision or determination made by an administrative official or agency in the enforcement of applicable provisions of the Local Government Code, the City Ordinance;
2. Authorize variances to specific cases from the terms of the City Code as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of City Ordinance will result in unnecessary hardship, and so that the spirit of ordinances shall be observed and substantial justice done;
3. Grant special exception to waive or reduce parking and loading requirements whenever the character and use of the building is such as to make unnecessary the full provisions of parking or loading, or where such regulations would impose an unreasonable hardship upon the use of the lot; and
4. Hear and decide any other matters authorized by the City Commission through ordinance.

## **III. DUTIES OF BOARD MEMBERS**

### **A. General Duties of Members**

1. All members of the Board should attempt to inspect the premises of each case which is under consideration at each meeting and become generally familiar with each case prior to Board meetings.
2. All members shall attend all meetings, provided, however, the member must provide 72 hours prior notice to the Executive Secretary in the event the member cannot attend.
3. All members of the Board shall arrive at a logical and fair decision on each case, except where a conflict may preclude a vote on the case.

### **B. Disqualification/Conflict of Interest**

All members of the Board of Adjustment are subject to the City of McAllen Ethics Ordinance (Chapter 2 of the City Code).

In all cases before the Board where a member of the Board has a conflict as described in the Ethics Ordinance, the member shall refrain from any discussion, deliberation or vote. When applicable, the member shall complete and submit a City Conflict of Interest form, but in all cases alert the Executive Secretary at least 72 hours prior to the meeting on which the conflict is at issue. The Executive Secretary shall submit all notices of conflict to the City's attorney.

#### **IV. A BASIS FOR ACTION**

The Board shall decide each case based on the following:

1. Facts filed with application.
2. Testimony presented at the public hearing on the appeal.
3. The Planning Department's technical report on the appeal.
4. The Board's findings in its field inspection of the property may question all witnesses to assist the Board in arriving at a correct, logical and fair decision.
5. The applicable standards of review described in Section 138-43 of the City Code and Sections II.A., II.B. and VI. of these Rules.
6. All decisions shall be made on the Basis for Action. Neither the Board nor the individual members may use personal, first hand knowledge of any facts to make a determination, if such information has not been entered into the record or made available at the public hearing.

#### **V. APPLICANTS**

##### **A. Legally Vested Interest**

The Board shall not consider an application from any applicant who does not have a vested legal or equitable interest in the property in question. Applicants may appear on their own behalf or may be represented by counsel or agent. Any representation by someone other than an applicant must be accompanied with a written designation by the applicant for the agent to act on behalf of the applicant. (For example, the representative may produce a letter from the applicant to the Planning Department to authorize the representative to speak on behalf of the applicant; or, the representative may submit an application on behalf of a verifiable power of attorney.)

##### **B. Applications**

All applications for consideration by the Board must be on the prescribed form approved by the Planning Department and acceptable to the Board. The Board shall not consider applications for a variance or a special exception or any other Board action, if the application is not on a designated form. The Board shall approve the official application and the Chair shall implement it.

All applications for variances and special exceptions to commercial properties must be submitted with a current, valid "on the ground" survey. An applicant must submit a pauper form with their application if

they cannot proffer a valid survey; provided, however, the applicant illustrates their property with setbacks and encroachments as a survey would.

**C. Meetings**

Applicants have the right to be heard at all meetings where their applications are considered for a dispositive vote. Applicants not able to be present at the scheduled meeting to consider their application may submit to the Planning Department a written request for the Board to table the application. The Board will decide whether or not to grant the applicant's request to table. No application may be tabled at the request of applicant for more than two meetings prior to being considered for a dispositive vote. However, if the applicant requests for his/her application to be tabled because there are only four (4) board members present, such request shall not be counted against applicant's two (2) opportunities to table his/her request. Board action may proceed on any application despite the request of any applicant to table the application. The Board shall note on the record the reason(s) for the tabling of an agenda item. The reason(s) for each tabling, as well as the number of times an agenda item has been tabled, shall be reflected in an activity log in the meeting minutes at the end of each agenda item.

**D. Evidence**

Applicants should be prepared to present evidence necessary to prove their application. The burden of persuasion on seeking a remedy from the Board remains with the applicant at all times.

**VI. HARDSHIP**

A. For an "unnecessary hardship" to apply to a variance, it must relate to the very property for which the variance is sought and be a condition unique, oppressive, and uncommon to other properties. An unnecessary hardship may not be self-created, or be solely financial.

B. "Hardship" must be based on hardship resulting from sharp changes in topography or unusual terrain features. The applicant may prove the topography with a plot plan which includes topographic information related to known base points or surveys, and profiles or particular problems involved, including relationships to topographic features of adjoining properties.

C. There is no unnecessary hardship if the property is suitable and useable for the uses permitted in the district in which it lies, although there will be a loss of profit or other economic disadvantage on account of such use.

**VII. MEETINGS**

**A. Texas Public Information Act and Open Meetings Act.**

Except as permitted under the advice of the Board's attorney, all meetings of the Board are subject to the Texas Public Information Act and shall be open to the public. The minutes of the Board's meetings and records of its examination or other official actions are public records, unless excepted under law.

**B. Quorum**

A quorum consists of seventy-five percent (75%) of the full complement of members. For a full complement of five (5) members, therefore, four (4) members present constitute a quorum. The Chair may declare a quorum does not exist fifteen (15) minutes following a posted meeting time, having found at least four (4) members and alternate members are not present; provided however, the Chair may not declare a quorum thirty (30) minutes from the posted time, should at least members and alternate members not be present.

**C. Regular Meetings**

Regular meetings shall be held every first and third Wednesday at 5:30 P.M., or at other times as determined by the Board, in the City Commission Chambers. The Board by majority vote may change the place, day, and hour of the meetings; provided that, notice complies with the Texas Open Meetings Act (Chapter 511 of the Texas Government Code).

**D. Special Meetings**

The Chair may call a special meeting. A special meeting shall have a lawful purpose and members and public shall be given at least seventy-two (72) hours notice prior to the meeting.

**E. Order of Business**

The usual order of business shall be:

1. Call to Order
2. Approval of Minutes
3. Open Public Hearing
4. Other Statements
5. Introduction: New Information Recommendation
  - a) Presentation of recommendation by City Staff.
  - b) The Chair shall call the applicant or his representative(s) to present the case and answers any questions. If the applicant or representative is not present when called, the Chair may move a case to the end of the agenda.
  - c) The Chair shall then inquire if there are others who wish to address the Board in support of the case.
  - d) The Chair shall then inquire if there are those present who wish to address the Board who are opposed to the case.
  - e) The applicant or his representative may then give a rebuttal to any opposition.
  - f) If new facts are presented during this rebuttal, opposition shall be given the opportunity for rebuttal
  - g) Staff shall then have an opportunity to provide additional information, clarification or address questions from the Board.
  - h) Board discussion.
  - i) The Chair shall then declare that the discussion of the case is closed.

- j) In order to achieve an unambiguous decision, motions should be made in affirmative manner when possible.
  - k) Any motion by a member shall require a second. After a motion has been made and duly seconded, discussion of the motion may be held for a reasonable time. Discussion shall terminate whenever a member shall call for a vote upon the question or whenever the Chair shall so rule.
  - l) Vote on a motion.
6. The Chair may move a case out of regular agenda order.
  7. Staff Report
  8. Other Business posted on the Agenda
  9. Adjournment

**F. Staff Recommendations**

City staff shall provide recommendations on each case before the Board.

**G. Action by the Board**

The super-majority concurring vote of seventy-five percent of the full board compliment, i.e., four affirming members of the Board, shall be necessary to reverse an order, requirement, decision or determination of an administrative official or agency; to decide in favor of an applicant on a matter upon which the Board is required to pass under any such ordinance or regulation; to authorize a variation; or to recommend to the Director of Planning to uphold or modify the interpretation of the City Code. All other matters shall be decided by a majority vote, unless otherwise specified in the City Code. The Board on its own motion may table an application when an applicant does not appear; provided however, in no case may the board table an application, for failure of the applicant to appear, more than twice without taking a dispositive vote.

**H. Minutes of the Board**

The Board, through its designated appointee, shall keep minutes of all meetings that indicate the vote of each member on every question on which it is required to act, or the fact that a member is absent or fails to vote. The minutes shall be filed in the office of the Planning Department and are public record.

**VIII. DECISIONS OF THE BOARD**

**A. Precedent**

There is not precedent. Any one case does not set a precedent for any future case. Each case shall be decided on its own merits and upon the circumstances of the case.

**B. Public Statements**

No Board member shall release any official statement to the public or the press. Only the Director of the Planning Department or her designated representative may make official statements on behalf of the Board.



**B. Parliamentary Procedure**

Any question regarding parliamentary procedure not covered by these rules shall be decided according to the latest edition of Robert's Rules of Order.

**IX. WITHDRAWAL OF APPEAL**

Any appeal or application may be withdrawn by the applicant upon written notice to the Director of Planning.

**X. ATTENDANCE**

Excessive absences cannot be tolerated, as the Board depends on a super majority of attendance in order to exercise decisions on applications for a variance. Three absences or more in a six-month period are excessive. If a Board member is excessively absent from regularly scheduled meetings, the Board may recommend to City Commission, by majority vote, that the Commission appoint an immediate replacement.

**XI. AMENDEMENT PROCEDURE**

Amendment to these rules and procedures may be made by the Board at any meeting, upon the affirmative vote of five (5) members, provided any such amendment is proposed at a preceding meeting and entered into the minutes of such meeting. However, board members may adopt through unanimous consent of all members an amendment at the meeting at which it was introduced; provided, however, the amendment shall not become effective until the next regular meeting.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014 as affirmed by the designated Executive Secretary assigned by the Planning Department of the City of McAllen.

\_\_\_\_\_  
**Executive Secretary**



# PLANNING DEPARTMENT



311 N 15th Street McAllen, TX 78501  
 Phone: 956-681-1250 Fax: 956-681-1279

## 2020 CALENDAR

### Meetings:

- City Commission
- ▲ Public Utility Board
- HPC - Historic Preservation Council
- Planning & Zoning Board
- Zoning Board of Adjustment
- CENSUS**

### Deadlines:

- D- Zoning/CUP Application
- N - Public Notification

\* Holiday - Office is closed

### JANUARY 2020

### FEBRUARY 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 <b>HOLIDAY</b>	2	3	4							1
5	6	7 <span style="background-color: yellow;"> </span>	8 D-2/4 & 2/5	9 <b>CENSUS</b>	10	11	2	3	4 <span style="background-color: yellow;"> </span>	5 D-3/3 & 3/4	6 <b>CENSUS</b>	7	8
12	13 <span style="color: red;">●</span>	14 <span style="color: blue;">▲</span>	15 N-2/4 & 2/5	16	17	18	9	10 <span style="color: red;">●</span>	11 <span style="color: blue;">▲</span>	12 N-3/3 & 3/4	13	14	15
19	20	21 <span style="background-color: yellow;"> </span>	22 <b>HPC</b> D-2/18 & 2/19	23	24	25	16	17	18 <span style="background-color: yellow;"> </span>	19 D-3/17 & 3/18	20	21	22
26	27 <span style="color: red;">●</span>	28 <span style="color: blue;">▲</span>	29 N-2/18 & 2/19	30	31		23	24 <span style="color: red;">●</span>	25 <span style="color: blue;">▲</span>	26 <b>HPC</b> N-3/17 & 3/18	27	28	29

### MARCH 2020

### APRIL 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 <span style="background-color: yellow;"> </span>	4 D-4/1 & 4/7	5 <b>CENSUS</b>	6	7				1 D-5/5 & 5/6	2 <b>CENSUS</b>	3	4
8	9 <span style="color: red;">●</span>	10 <span style="color: blue;">▲</span>	11 N-4/1 & 4/7	12	13	14	5	6	7 <span style="background-color: yellow;"> </span>	8 N-5/5 & 5/6	9	10 <b>HOLIDAY</b>	11
15	16	17 <span style="background-color: yellow;"> </span>	18 D-4/15 & 4/21	19	20	21	12	13 <span style="color: red;">●</span>	14 <span style="color: blue;">▲</span>	15 D-5/19 & 5/20	16	17	18
22	23 <span style="color: red;">●</span>	24 <span style="color: blue;">▲</span>	25 <b>HPC</b> N-4/15 & 4/21	26	27	28	19	20	21 <span style="background-color: yellow;"> </span>	22 <b>HPC</b> N-5/19 & 5/20	23	24	25
29	30	31					26	27 <span style="color: red;">●</span>	28 <span style="color: blue;">▲</span>	29	30		

### MAY 2020

### JUNE 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2		1	2 <span style="background-color: yellow;"> </span>	3 D-7/1 & 7/7	4 <b>CENSUS</b>	5	6
3	4	5 <span style="background-color: yellow;"> </span>	6 D-6/2 & 6/3	7 <b>CENSUS</b>	8	9	7	8 <span style="color: red;">●</span>	9 <span style="color: blue;">▲</span>	10 N-7/1 & 7/7	11	12	13
10	11 <span style="color: red;">●</span>	12 <span style="color: blue;">▲</span>	13 N-6/2 & 6/3	14	15	16	14	15	16 <span style="background-color: yellow;"> </span>	17 D-7/15 & 7/21	18	19	20
17	18	19 <span style="background-color: yellow;"> </span>	20 D-6/16 & 6/17	21	22 A-6/16 & 6/17	23	21	22 <span style="color: red;">●</span>	23 <span style="color: blue;">▲</span>	24 <b>HPC</b> N-7/15 & 7/21	25	26	27
24	25 <b>HOLIDAY</b>	26 <span style="color: red;">●</span>	27 <b>HPC</b> N-6/16 & 6/17	28	29	30	28	29	30				

Deadlines and Meeting Dates are subject to change at any time. Please contact the Planning Department at (956) 681-1250 if you have any questions.

## 2020 CALENDAR

### Meetings:

- City Commission
- ▲ Public Utility Board
- HPC - Historic Pres Council
- Planning & Zoning Board
- Zoning Board of Adjustment
- CENSUS

### Deadlines:

- D- Zoning/CUP Application
- N - Public Notification

\* **Holiday** - Office is closed

### JULY 2020

### AUGUST 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat			
			1 D-8/4 & 8/5	2 CENSUS	3 HOLIDAY	4							1			
5	6	7	8 N-8/4 & 8/5	9	10	11	2	3	4	5 D-9/1 & 9/2	6 CENSUS	7	8			
12	13 A-8/4 & 8/5	●	14	▲	15 D-8/18 & 8/19	16	17	18	9	10 A-9/1 & 9/2	●	11	12	13	14	15
19	20	21	HPC N-8/18 & 8/19	22	23	24	25	16	17	18	19 D-9/16 & 9/17	20	21	22		
26	27 A-8/18 & 8/19	●	28	▲	29	30	31	23	24 A-9/16 & 9/17	●	25	▲	26 HPC	27	28	29
							30	31			26 N-9/16 & 9/17					

### SEPTEMBER 2020

### OCTOBER 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat				
		1	2 D-10/6 & 10/7	3 CENSUS	4	5					1 CENSUS	2	3				
6	7 HOLIDAY	8	9 N-10/6 & 10/7	10	11	12	4	5	6	7 D-11/3 & 11/4	8	9	10				
13	14 A-10/6 & 10/7	●	15	▲	16 D-10/20 & 10/21	17	18	19	11	12 A-11/3 & 11/4	●	13	▲	14	15	16	17
20	21	22	HPC N-10/20 & 10/21	23	24	25	26	18	19	20	21 D-11/17 & 11/18	22	23	24			
27	28 A-10/20 & 10/21	●	29	▲	30			25	26 A-11/17 & 11/18	●	27	▲	28 HPC	29	30	31	
											28 N-11/17 & 11/18						

### NOVEMBER 2020

### DECEMBER 2020

Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat		
1	2	3	4 D-12/1 & 12/2	5 CENSUS	6	7			1	2 HPC D-1/5 & 1/6	3 CENSUS	4	5		
8	9 A-12/1 & 12/2	●	10	▲	11 N-12/1 & 12/2	12	13	14	6	7 A-1/5 & 1/6	8	9 N-1/5 & 1/6	10	11	12
15	16	17	18 D-12/16 & 12/17	19	20	21	13	14	●	15	▲	16 D-1/19 & 1/20	17	18	19
22	23 A-12/16 & 12/17	●	24	▲	25 N-12/16 & 12/17	26 HOLIDAY	27	28	20	21 A-1/19 & 1/20	22	23 N-1/19 & 1/20	24 HOLIDAY	25 HOLIDAY	26
29	30						27	28	29	30	31				

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## 2020 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/15/20	02/05/20	02/19/20	03/04/20	03/18/20	04/01/20	04/15/20	05/06/20	05/20/20	06/03/20	06/17/20	07/01/20	07/15/20	08/05/20	08/19/20	09/02/20	09/17/20	10/07/20	10/21/20	11/04/20	11/18/20	12/02/20	12/17/20
ERICK DIAZ- <b>VICE-CHAIRPERSON</b>	P	P	NM	P	NM	P																	
SYLVIA HINOJOSA	P	P	NM	P	NM	A																	
DAVID SALINAS- <b>CHAIRPERSON</b>	P	P	NM	P	NM	P																	
JOHN MILLIN, III	A	A	NM	P	NM	P																	
SONIA FALCON	A	P	NM	A	NM	A																	
JOSE R. GUTIERREZ (ALT. 1)	P	P	NM	P	NM	P																	
JUAN F. JIMENEZ (ALT. 2)	P	P	NM	P	NM	P																	
(ALTERNATE 3)																							
(ALTERNATE 4)																							

P - PRESENT

A - ABSENT

NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION

