

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, DECEMBER 2, 2020 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

Web: <https://zoom.us/join> or phone: (346) 248-7799

Meeting ID: 672 423 1883

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 ERICK DIAZ

1. MINUTES:

- a) Minutes for meeting held on November 4, 2020
- b) Minutes for meeting held on November 18, 2020

2. PUBLIC HEARINGS:

- a) Request of Carlos Cantu and Gary R. Miller, for the following variances to the City of McAllen Zoning Ordinance **1)** to allow an encroachment of 15 ft. into the 25 ft. rear yard setback for a proposed pool house measuring 10 ft. by 16 ft., and **2)** to allow an encroachment of 13 ft. into the 25 ft. rear yard setback for an existing pool measuring 12 ft. by 22 ft. at Lot 2., La Floresta Subdivision, Hidalgo County, Texas; 9505 N 22nd Lane. **(ZBA2020-0075)**
- b) Request of Irma I. Rios for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy measuring 25.33 ft. by 14 ft., at Lot 87, Forest Valley Subdivision, Hidalgo County, Texas; 5812 North 39th Street. **(ZBA2020-0076)**
- c) Request of Brendan Roth for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 3 ft. into the 15 ft. rear yard setback for an existing pool measuring 21.8 ft. by 9 ft., at Lot 30, Brisas Del Norte Subdivision, Hidalgo County, Texas; 2600 Notre Dame Avenue. **(ZBA2020-0077)**
- d) Request of Stephanie Ramirez, on behalf of Jaime Muriel for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 11.7 ft. into the 11.7 ft. front yard setback for an existing extension of the metal porch measuring 11.7 ft. by 34 ft. at South 25' of Lot 3 and All of Lot 4, Block 17, Ewing's Addition Subdivision, Hidalgo County, Texas; 901 & 905 North Main Street. **(ZBA2020-0082)**
- e) Request of Derrick Munoz, for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an entrance of 5 ft. to a garage instead of the required 18 ft. for an existing garage structure measuring 20 ft. by 25 ft., and **2)** to allow an encroachment of 5 ft. into the 10 ft. west side yard setback for a proposed room addition measuring 19.67 ft. by 25 ft., on Lot 4, Block 20, Camellia Terrace Subdivision, Hidalgo County, Texas; 722 Harvey Drive. **(ZBA2020-0009) (TABLED: 11/18/2020) (WITHDRAWN)**

- f) Request of Derrick Munoz, for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an entrance of 4 ft. to a garage instead of the required 18 ft. for an existing garage structure measuring 20 ft. by 25 ft., **2)** to allow an encroachment of 5 ft. into the 10 ft. corner side yard setback for a proposed room addition measuring 19.67 ft. by 25 ft., and **3)** to allow an encroachment of 4.5 ft. into the 10 ft. corner side yard setback for an existing single family home at Lot 4, Block 20, Camellia Terrace Subdivision, Hidalgo County, Texas; 722 Harvey Drive. **(ZBA2020-0009)**
- g) Request of Alonzo Cantu for a variance to the City of McAllen Zoning Ordinance to allow a lot size of less than 2,000 sq. ft. with a minimum lot size of 1,580 sq. ft. for Lots 2-12, 1,705 sq. ft. for Lots 15-21, and 1924.54 sq. ft. for Lot 13, for a 1.23-acre tract of land out of Lot 1, Section 11, Hidalgo Canal Company Subdivision (proposed 2nd and Dove Subdivision), Hidalgo County, Texas; 201 Dove Avenue. **(ZBA2020-0073) (TABLED: 11/18/2020)**
- h) Request of Maricela Galvan, for the following variances to the City of McAllen Zoning Ordinance: **1)** allow an accessory use without a primary use for a proposed swimming pool, **2)** to allow an encroachment of 4 ft. into the 6 ft. east side yard setback for an existing pergola measuring 10 ft. 10 ft. on Lots 2 & 3, Oxford Heights Subdivision, Hidalgo County, Texas; 3504 and 3500 Kilgore Avenue. **(ZBA2020-0074) (TABLED: 11/18/2020) (WITHDRAWN)**

3. FUTURE AGENDA ITEMS

- a) 2208 South 30th 1/2 Street
- b) 2717 York Avenue
- c) 1820 South Bentsen Road
- d) 2716 Ursula Avenue
- e) 612 South 15th Street

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, November 4, 2020 at 4:30 p.m. in the City Commission Meeting Room with the following present:

Present:	Erick Diaz	Chairperson
	John Millin	Vice- Chairperson
	Sylvia Hinojosa	Member
	Juan F. Jimenez	Member
	Jose Gutierrez	Alternate
	Rebecca Millan	Alternate
	Hugo Avila	Alternate
	Rogelio Rodriguez	Alternate
Staff Present:	Victor Flores	Assistant City
	Michelle Rivera	Assistant City Manager
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Carlos Garza	Planner II
	Hebert Camacho	Planner I
	Iris Alvarado	Planner I
	Juan Martinez	Development Coordinator
	John Gutierrez	Building Plans Examiner
	Porfirio Hernandez	GIS Technician II
Carmen White	Secretary	

CALL TO ORDER – Chairperson Erick Diaz

1. MINUTES:

- a) Minutes for the meeting held on October 7, 2020

The minutes for the meeting held on July 15, 2020 were approved. The motion to approve the minutes was made by Mr. John Millin. Ms. Sylvia Hinojosa seconded the motion, which carried unanimously with five members present and voting.

- b) Minutes for the meeting held on October 21, 2020.

These minutes will be submitted at the next meeting of November 4, 2020.

2. PUBLIC HEARINGS:

Vice-Chairperson John Millin **moved** to remove the item from table. Ms. Sylvia Hinojosa seconded the motion. The board voted unanimously to approve the variance requests with five members present and voting.

It was removed from the table even though the caption did not state “tabled” from

the last meeting.

- a) Request of Raul De La Garza, on behalf of Jorge Gutierrez, for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of up to 6 feet into the west side yard setback for an existing irregularly shaped wooden deck measuring 41 ft. by 55 ft., **2)** to allow an encroachment of up to 3 feet into the west side yard setback for an existing circular above ground swimming pool measuring 11 ft. by 20 ft., **3)** to allow an encroachment of up to 10 ft. on the rear setback for an existing irregularly shaped wooden deck measuring 41 ft. by 55 ft., **4)** to allow an encroachment of up to 10 ft. on the rear setback for an existing above ground swimming pool measuring 11 ft. by 20 ft., **5)** to allow an encroachment of up to 10 feet the rear side setback for an existing storage room measuring 6 ft. by 5 ft. at Lot 67, Falling Water Subdivision, Hidalgo County, Texas; 4204 Worthington Avenue. **(ZBA2020-0059)**

Ms. Alvarado stated the applicant was requesting variances to allow an irregularly shaped wooden deck, an above ground pool encroaching on the rear yard and side yard setback. In addition, the applicant was requesting a variance to allow a storage shed encroaching around the rear yard setback.

The property is located on a cul-de-sac on Worthington Avenue and has a total area of 3,424 sq. ft. The property is zoned R-3T (multifamily residential townhouse) District. The surrounding land uses include townhomes.

Falling Water Subdivision was recorded on September 19, 2007. A note on the plat indicates that the rear yard setback requirement for the lot is 10 ft. The Zoning Ordinance states that the setbacks on the side yard is 6 ft. on each side or up to the property line with a fire wall. The plat for the subdivision shows there is a 10 ft. utility easement that runs concurrently with the rear yard setback. On July 31, 2020 the applicant was issued a citation for construction without a permit. A variance request application for the above ground swimming pool and the irregularly shaped wooden deck was submitted on September 2, 2020.

Variance #1: To allow an encroachment of up to 6 ft. into the 6 ft. east side yard setback for an irregularly shaped wooden deck measuring 41 ft. by 55 feet. In order to obtain compliance, the deck could be reduced in its construction.

Variance #2: To allow an encroachment of up to 3 feet into the east side yard setback for an existing circular above ground swimming pool measuring 11 ft. by 20 ft., The pool is an accessory structure and not a primary building. The site plan submitted shows the proposed distance from the east property line to the outside wall of the above ground swimming pool at approximately 3 ft. The 3 ft. encroachment comprises a 6 ft. east side setback. The above ground swimming pool can be relocated to achieve compliance.

Variance #3: To allow an encroachment of up to 10 ft. on the rear yard setback for an existing irregularly shaped wooden deck measuring 41 ft. by 55 ft., The site plan submitted shows the proposed distance from the rear property line to the outside wall of the irregularly shaped wooden deck to be approximately at the property line. This deck also encroaches into the 10 ft. rear utility easement. Structures are not allowed within the

setbacks.

Variance #4: To allow an encroachment of up to 8 ft. into the 10 ft. rear yard setback for an existing above ground swimming pool measuring 11 ft. by 20 ft. The above ground swimming pool can be relocated to achieve compliance.

Variance #5: To an encroachment of up to 10 feet at the rear yard setback for an existing metal storage shed measuring 6 ft. by 5 ft. The site plan submitted shows the proposed distance from the rear property line to the outside wall of an existing metal storage shed at the property line. The storage shed also encroaches on the 10 ft. utility easement. The site plan does not show that there is an area for relocation in order to be in compliance.

A review of the site plan indicated that the existing house occupies most of the buildable area not allowing much space for the above ground swimming pool, the irregularly shaped wooden deck, and storage shed to remain without encroaching into the setbacks on the rear yard utility easement. The building department may require the construction for the irregularly shaped wooden deck to be of fire rated materials.

Staff recommended disapproval of the variance requests. If the Board chooses to grant the variances, it should be limited to the footprint of the site plan submitted. The applicant will have to go through the abandonment process.

Vice-Chairperson Millin asked on the variance request letter attachment it mentioned when the applicant built the residence three years ago that it was a walk through with a City inspector who told them that a variance was not required because the pool and deck were both above ground. Did staff have any history. Ms. Alvarado did reach out the Building Department to verify who the inspector may have been for the certificate of occupancy. There was no permit for the pool only for the house. Vice-Chairperson Millin asked would there may be an inspector who would have issue the certificate of occupancy or recommended it to be issued. Ms. Alvarado stated not to her knowledge. A member of the Building Department was present for any questions.

Mr. Edgar Garcia, Planning Director, stated we did have a building application from that time however, that site plan that was submitted for the building permit did not match what was currently there.

Chairperson Diaz asked staff in terms of the definition of the walkway. If this was a concrete on the side of the ground would it be a setback variance. Ms. Alvarado stated either way. Chairperson Diaz how high was the deck off the ground. Ms. Alvarado stated it was 5 feet.

Vice-Chairperson Millin asked staff if there was any opposition. Ms. Alvarado stated there were none.

Mr. Raul De La Garza, the applicant stated they were the former owners of 4204 Worthington Avenue and that Mr. Jorge Gutierrez and his wife, the current owners were present as well. He stated they had the house built in August 2017. The pool and deck already existed. A couple of days of moving in a City inspector came by and walked around the property. When they got to the backyard, he saw they had the above ground

pool and wooden deck. Mr. De La Garza asked the inspector if he needed a variance or a permit for the above ground did they still need a permit. The inspector said no. He stated they had gone through a variance process for this address of 4204 Worthington Avenue before for a second story overhang. When submitted they asked for the drawings and mentioned there was a setback in the front therefore you'll need a variance. They did comply with it and was granted the variance. He stated they've lived there for 3 years with no problems. They then sold the house the Gutierrez's on July 31, 2020. That same day they received a call from the City stating they may have something on the setback and easement. The inspector went out to see and the Gutierrez's received a citation. Mr. De La Garza stated it was an irregular shaped property and was the smallest lot in the subdivision. They cannot move the deck or pool anywhere else so it would create a unique hardship. Ms. De La Garza stated they did have a Homeowners Association and never had any type of issue with regards to the variance.

Mr. Gutierrez asked the applicant regarding the storage room. The storage room was added about two years later. It was movable and there was no concrete.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the variance request. There was no one present in opposition of the variance request.

Vice-Chairperson John Millin **moved** to approve all five variance requests within the footprint of the site plan submitted. Mr. Hugo Avila seconded the motion. The board voted unanimously to approve five variance requests with five members present and voting.

- b) Request of Aurora Pena for the following variances to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 5 ft. into the 5 ft. west side yard setback for an existing covered patio measuring 6.33 ft. by 56 ft.; 2) an encroachment of 9 ft. 9 in. into the rear yard setback for an existing wooden storage shed measuring 12.20 ft. by 12.25 ft.; 3) to allow an accessory building separation from the main building of 3.75 ft. instead of the required 5 ft.; at Lot 12, Block 3, Amigo Park 1 Subdivision, Hidalgo County, Texas; 4405 West Gardenia Avenue. (ZBA2020-0067) (TABLED: 10/21/2020)**

Vice-Chairperson John Millin **moved** to remove the item from table. Mr. Juan Jimenez seconded the motion. The board voted unanimously to remove from the table with five members present and voting.

Ms. Alvarado stated the applicant was requesting variances to allow a wooden canopy and wooden storage shed encroaching on the rear yard and side yard setback. The wooden shed will also require a variance for the distance from the main building.

The property was located approximately 130 ft. west of Bentsen Road, on the south side of Gardenia Avenue and has a total area of 4,950 sq. ft. The property was zoned R-4 (residential mobile home) District. The surrounding land uses include mobile homes.

Amigo Park 1 Subdivision was recorded on March 4, 1971. A note on the plat indicates

that there is a 10 ft. utility easement on rear yard setback. The Zoning Ordinance states that the setbacks on the side yard is 6 ft. on each side. On August 27, 2020 the applicant was contacted by the building department for construction without a permit. On September 16, 2020 the applicant applied for a building permit and a variance request application for the wooden canopy and wooden shed.

Variance #1: To allow an encroachment of 5 ft. into the 5 ft. west side yard setback for an existing wooden canopy measuring 6.33 ft. by 56 feet. The canopy provides shade for the residents.

Variance #2: To allow an encroachment of 9.75 feet into the rear yard setback for an existing wooden storage shed measuring 12.20 ft. by 12.25 ft. The site plan submitted shows the proposed distance from the rear property line to the outside wall of the wooden shed is approximately 1.25 ft. The storage building encroaches into the 10 ft. rear utility easement and the rear yard setback. The storage shed is moveable and can be relocated to outside of the utility and rear yard setback since it sits on cinder blocks.

Variance #3: To allow a building separation instead of 3.75 ft. instead of the required 5 ft. separation for an accessory building to the main building for an existing wooden storage building measuring 12.20 ft. by 12.25 ft. The storage shed is moveable. The storage shed is moveable and can be relocated to outside of the utility and rear yard setback.

A review of the site plan indicated that the existing house occupies most of the buildable area not allowing much space for the wooden canopy and wooden storage shed.

Setbacks were important in establishing the character of the residential mobile home district by promoting a desirable use of the land and direction of building development. They protect the character of the district and conserve the value of the land.

The planning department did not receive any phone calls in opposition to the variance request. There was one complaint by an anonymous caller made to the Building Inspections department on August 14, 2020.

Staff recommended disapproval of the variance requests. If the Board chooses to grant the variances it should be limited to the footprint of the site plan submitted. In addition, the encroachment on the rear yard 10 ft. utility easement will require the applicant to apply for an abandonment of the utility easement.

At the Zoning Board of Adjustment and Appeals meeting of October 21, 2020. No one appeared in opposition of the variance requests. Ms. Maribel Ochoa, the applicant's daughter, spoke in favor of the requests and stated that the purpose of the wooden canopy was to provide shade for the mobile home since the home gets uncomfortably hot. Board Member Hinojosa inquired if the structures had been there a long time. Ms. Ochoa replied they had been there as long as she could remember. In response to a question from Board Member Jimenez, if the applicant had applied for an abandonment, Ms. Ochoa stated that they had not applied. Following further discussion, the Board voted to table the variance requests in order to allow time for staff to meet with the applicant regarding relocation options for the wooden storage shed and to discuss options regarding the wooden canopy.

Subsequent to the meeting staff discussed via telephone with the applicant the possibility of relocating the wooden shed from the rear yard setback. The applicant would like for the structure to remain where it is. Staff discussed with her information regarding the abandonment process. Regarding the wooden canopy, the applicant stated she would like to keep the structure its present location but is willing to install gutters on the wooden canopy to prevent water from draining onto the adjacent property.

Ms. Melissa Pena, daughter for the applicant Aurora Pena stated there were two sheds in the back and also a canopy on the side. The canopy was to block the sun from entering inside the windows. She mentioned there were two or three windows on one side of the mobile home. As for the sheds in the back, they were used to store gardening supplies as well as her father's truck driving supplies. They did not have plans for a livable space.

Ms. Alvarado mentioned to the Board, in speaking with the applicant she stated the small shed was deteriorating and was going to remove it.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the variance request. There was no one present in opposition of the variance request.

Mr. Rodriguez asked staff if the structures were there before it was annexed. Ms. Alvarado stated the structures had been there for 20 years. In 1991, was when she purchased the home and mentioned that's when she installed the wooden canopy.

Vice-Chairperson Millin asked staff how it came to the City's attention. Ms. Alvarado stated a complaint came through the Building Department in which it was routed to the Planning Department after a stop work order was issued.

Mr. Juan Jimenez asked staff what was the actual complaint. Ms. Alvarado stated they were not constructing. It was an anonymous caller.

Ms. Hinojosa's only concern was the 2-foot overhang and the installation of the gutter. Ms. Alvarado stated the applicant would be able to do a gutter.

Chairperson Diaz asked staff if the Board was to approve the overhang, would Building Inspections go and make sure it was structurally sound. Ms. Alvarado stated there was still a building permit open.

Mr. Avila asked staff where the porch was located was that a vacant lot that could be utilized at one or another. Ms. Alvarado stated the adjacent lot, the neighbor owned both lots. Her house was on the opposite side.

Mr. Avila asked staff what was the setback on the east side. Ms. Alvarado stated it was a 7 feet setback. He asked was there another location where they could place the shed and be in compliance. Ms. Alvarado spoke with Ms. Pena and they have a trampoline in that area and possibility of switching out the trampoline for the storage shed. But that she had grandchildren that lived there ideally she'd like to keep it where it was visible. It would

help by getting it out of the utility easement which would be variance for the 5-foot separation and the side yard setback.

Vice-Chairperson Millin asked staff the shed that was going to be removed, was it the back shed or the front shed. Ms. Alvarado stated it was the smaller on the west side.

Chairperson Diaz mentioned that if it didn't go through the abandonment they would have to return for a side yard setback. Ms. Alvarado stated the applicant was aware of it.

Mr. Rogelio Rodriguez **moved** to disapprove variance requests 1, 2 & 3. Chairperson Diaz seconded the motion. The Board voted with two members voting aye and 3 nays. Ms. Sylvia Hinojosa, Mr. Juan Jimenez and Mr. John Millin.

The motion failed with two members voting in favor of the motion to deny the variance requests and three members voting against the same motion.

Ms. Hinojosa stated this was a unique situation that their usually in trailer park areas. There were factors with the porch and the heat.

Ms. Sylvia Hinojosa **moved** to approve variance requests 1, 2 & 3 limited to the footprint of the submitted site plan. Mr. Juan Jimenez seconded the motion. Members Ms. Sylvia Hinojosa, Mr. Juan Jimenez, and Vice-Chairperson John Millin voted in favor of the motion to approve the variance request. Mr. Jose Gutierrez and Mr. Rogelio Rodriguez voted against the motion.

The motion to approve the variance requests failed to gain a super majority vote, with three members in favor and two against.

Mr. Victor Flores, legal counsel, asked the motion was to approve all three variances. Chairperson Diaz responded yes. Mr. Flores stated there was a live motion now and not everyone had voted. There was clarification requested from the Secretary related to what members had voted. Clarification was received as follows: on the first motion to deny all three variances requests, Mr. Rodriguez and Chairperson Diaz voted to disapprove the variances and M. Hinojosa, Mr. Jimenez and Vice-Chairperson Millin voted to approve the variances. The motion to approve all three variance requests were as follows: Ms. Hinojosa, Mr. Jimenez and Vice-Chairperson Millin voted to approve and Mr. Gutierrez and Mr. Rodriguez voted to disapprove the variances.

This item was recalled upon confirmation that the motion to approve did not receive the required super majority vote to approve the requested variances. Upon recalling this item, an alternate motion was may by Member Millan to deny Variance Request #1 and approve Variance Requests #2 and #3.

Vice-Chairperson John Millin **moved** to approve variance request #1 and disapprove variance requests #2 & #3. Mr. Juan Jimenez seconded the motion. Vice-Chairperson Millin, Mr. Jimenez and Chairperson Erick Diaz voted in favor. Board members Mr. Jose Gutierrez and Ms. Sylvia Hinojosa voted with two nays. The motion failed and the special exception was denied.

- c) Request of Juan Lopez for the following Special Exception to the City of McAllen Zoning Ordinance to allow: an encroachment of 20 ft. into the 20 ft. front yard setback for an existing carport measuring 17 ft. by 23 ft. at Lot 44, Oak Terrace Subdivision, Hidalgo County, Texas; 1916 North 35th Street. **(ZBA2020-0056)**
(TABLED: 10/7/2020) (REMAIN TABLED: 10/21/2020)

Vice-Chairperson John Millin moved to remove the item from table. Ms. Rebecca Millan seconded the motion. The board voted unanimously to remove from the with five members present and voting.

Mr. Camacho stated the applicant was requesting a special exception to encroach 20 ft. into the 20 ft. front yard setback and a variance to encroach 6 ft. into the 6ft. side yard setback for an existing carport measuring 17 ft. by 23 ft. The applicant is requesting that the carport to remain there to protect his cars from hailstorms and inclement weather.

The subject property was located on the east side of North 35th Street, approximately 1,020 ft. North of Quince Avenue. The property has 50 ft. of frontage along North 35th Street and a depth of 110 ft. with a lot size of 5,500 square feet. Surrounding land use are single-family houses, Maranatha Baptist Church, Islamic Society of South Texas, Iglesia Aposento Alto and vacant land.

Oak Terrace was recorded on November 15, 1990. On August 20th, 2020 a Citation was given for a carport without a permit. On August 21, 2020 a building application was submitted for a carport. The application for the special exception was submitted on August 27th, 2020.

The request was to allow and encroachment of 20 ft. into the 20 ft. front yard setback for a carport measuring 17 ft. by 23 ft. The standard front yard setback for R-1 Lots is 20 ft.

A site visit revealed that the beginning of the structure is 6 ft. away from back of the curb, structure seems to be encroaching into the ROW around 4 ft. Site plan shows a 60 ft. ROW for the street. North 35th Street has a dimension of around 40 ft. Dimensions are without the benefit of a survey.

However, the subdivision showed a 5 ft. Utility Easement at the front of the property. After talking to the applicant about the encroachment in the easement, he is willing to shorten the existing carport 5 ft. to clear the Utility Easement. The dimension after the clearance of the 5 ft. Utility Easement and 4 ft. of ROW would be approximately 17 ft. by 14 ft.

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 of properties in a subdivision.

The request was to allow and encroachment of 6 ft. into the 6 ft. side yard setback for a carport measuring 17ft. by 23 ft.

A site visit revealed that the existing carport is all the way to the north property line. If approved, staff recommends the addition of a gutter along the north side of the carport to prevent water going into the neighbor's property.

Side yard setbacks are important to maintain a safety separation in between structures (12

ft.) in case of a fire and slow down the spread. Having any kind of encroaching structures might speed up the fire within properties.

There are other existing carports and structures that appear to be encroaching into the front and side yard setback, however only one special exception (1924 N. 34th St) has been requested around the area. Special Exception was requested in 2014, the request got table for the special exception to allow the Board discuss the issue of medical conditions as special exceptions. A variance to allow a 5 ft. side yard setback instead of 6 ft. was approved at the same address.

Should the request be approved, it may encourage other property owners to request a special exception to encroach into the front setback. Approval of the request will allow the construction to be modified to clear the 5 ft. front Utility Easement.

Staff received a concern in regards to the special exception.

After some discussion in regards to the location of the carport into the side yard. The Board decided to table the item to clarify if there was a side encroachment and clarify if there was an encroachment into the neighbor's property.

Staff recommended disapproval of the special exception and variance request. If the Board chooses to approve the request, the approval should be limited to the footprint after it has been removed from the 5 ft. Utility Easement and ROW.

Mr. Alejandro Molina, representative for the applicant, Juan Lopez. Mr. Molina stated the applicant was willing to move the carport back the 9 feet. He aware of the concerned neighbor that the water was going to fall onto their lawn. He stated they would install a gutter otherwise they would have to take it down.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the variance request. There was no present in opposition of the variance request.

Ms. Leticia Guerrero, 1920 N. 35th Street, stated she was the neighbor to the right of the carport. She stated that when it rained the water would go into the side of the yard. And in the back corner large amounts of water came down and created a huge hole.

Vice-Chairperson Millin asked staff how does it work when you have both special exception and variance. Mr. Camacho stated the applicant was submitted before the changing of the definition of the special exception. The rights of the variance it would be 6 feet to allow the building area but the special exception would be for the front. Mr. Millin asked if the variance was approved that part of this would run with the land and build it up to the property line. Mr. Camacho stated yes. Mr. Millin noticed they poured some extra flat work that went over the setback did that require any type of variance. Mr. Camacho stated it would require the Right-of-Way permit from Engineering Department but there was no permit for that in the system.

Mr. Jose Gutierrez **moved** to approve the special exception #1 and disapprove variance

request #2. Mr. John Millin seconded the motion. The board voted unanimously to approve the special exception and disapprove the variance request with five members present and voting.

Ms. Hinojosa mentioned on the 20 feet the applicant was willing to go back 6 feet. Mr. Camacho stated it would be the 4 feet of the right of way and the 5 feet of the utility easement.

- d)** Request of Martin Hinojosa III for the following Variance to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 16 ft. into the 25 ft. front yard setback for a proposed garage addition measuring 26 ft. by 22 ft., **2)** an encroachment of 10 ft. into the 10 ft. rear yard setback for an existing irregular hexagonal gazebo with an approximate area of 62.81 square feet **3)** an encroachment of 3.9 ft. into the 5 ft. side yard setback for an existing wooden storage measuring 15.9 ft. by 3.4 ft. and **4)** an encroachment of 6 ft. into the 10 ft. rear yard setback for an existing wooden storage measuring 15.9 ft. by 3.4 ft., at Lot 14 Block 5, Whitewing Addition Subdivision Unit 1, Hidalgo County, Texas; 2400 North 25th Street (**ZBA2020-0066**)

Mr. Camacho stated the applicant was requesting four variances; variance #1 is to encroach into the front yard setback for a proposed garage, variance #2 through #4 is for encroachments into the side and rear setbacks for existing structures. The applicant is requesting variance #1 to have an easy access for paramedics to pick up her disabled mother in order transport her to her medical appointments. Variances #3 through #4 are for existing structures that have been on the property over a few years according to appraisal district records.

The subject property was located on the east side of North 25th Street, just north of La Vista Avenue. The property has 67.17 ft. of frontage along North 25th Street and a depth of 120 ft. along La Vista Avenue and 124.49 ft. in the interior for a lot size of approximately 8,845 square feet. Surrounding land use are single-family houses, La Vista Apartments, duplexes and vacant land.

Oak Terrace was recorded on March 4, 1969, and amended on November 4, 1969. On September 15, 2020 a building application was submitted for a residential addition of a 2 car garage. The application for the variance was submitted on September 15, 2020.

Variance 1:

The request was to allow and encroachment of 16 ft. into the 25 ft. front yard setback for a proposed garage measuring 22 ft. by 26 ft. the proposed garage would be aligned with the existing house structure so there would be no encroachment into the side yard setback.

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 of properties in a subdivision.

A site visit revealed that there are two existing structures that are encroaching into the rear and side yard setbacks.

Variance 2:

The request was to allow an encroachment of 10 ft. into the 10 ft. rear setback for an existing irregular hexagonal gazebo with an approximate area of 62.81 square feet. The gazebo sits on a tile concrete slab. There are no Utility Easements shown on the plat.

Variance 3:

The request was to allow an encroachment of 3.9 ft. into the 5 ft. side yard setback for an existing wooden storage measuring 15.9 ft. by 3.4 ft. that sits on a concrete slab. There are no Utility Easements shown on the plat.

Variance 4:

The request was to allow an encroachment of 6 ft. into the 10 ft. rear yard setback for an existing wooden storage measuring 15.9 ft. by 3.4 ft. that sits on a concrete slab. There are no Utility Easements shown on the plat.

Side yard setbacks are important to maintain a safety separation in between structures (12 ft.) in case of a fire and slow down the spread. Having any kind of encroaching structures might speed up the fire within properties.

There are other existing structures that appear to be encroaching into the front and rear yard setbacks, however there are no variance applications on file.

Should the request be approved, it may encourage other property owners to request a variance to encroach into the front, rear and side yard setbacks. Approval of the request will allow the construction of the proposed garage as depicted on the submitted site plan and for the existing structures to stay as depicted on the site plan.

Staff received a phone call and a letter in opposition of this request.

Staff recommended disapproval of the requested variances. If the Board chooses to approve the request, the approval should be limited to the footprint of the submitted site plan.

Chairperson Diaz asked staff if there was discussion for different locations for the garage. Mr. Camacho stated there was space in the back and did discuss them with applicant. The applicant was present to answer those questions.

Vice-Chairperson Millin asked if the garage was then enclosed. Mr. Camacho stated the garage was enclosed however there was enough parking spaces they wouldn't need the variance.

Chairperson Diaz asked if there was a driveway. Mr. Camacho stated there was at the back.

Mr. Gutierrez asked staff if they had made a suggestion of creating a carport instead of a garage. Mr. Camacho stated it was not discussed with the applicant.

Mr. Martin Hinojosa, III, the applicant stated he'd like to build a garage in front of the house. An elderly family member had medical issues for 13 years. Having a garage would be beneficial for her health. All the houses in the neighborhood had garages to the front.

Mr. Hinojosa stated there was a concrete slab in the back and probably was a garage there some time ago before purchasing the house as well as the gazebo and storage shed. He stated it would be less expensive to put in the front. He wanted to keep the space in the backyard for his children which was gated.

Chairperson Diaz asked Mr. Hinojosa if he was planning on a two car garage. Mr. Hinojosa stated yes.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the variance request. There was one person present in opposition of the variance request.

Mr. Roel A. Gonzalez, 2404 N. 25th Street, stated his property was north of Mr. Hinojosa. His one concern was if allowed construction in the front it blocked his house from view from La Vista Street. His second concern was the structures in the back were an eye sore. The previous owners did enclose the garage and were the same family members as the applicants that are living there now.

Mr. Hinojosa stated that he spoke with other realtors and told him if he adds the garage in the front it would more value to their homes.

Vice-Chairperson Millin asked staff if they got any other oppositions. Mr. Camacho stated there were none.

Chairperson Diaz asked Mr. Hinojosa if he considered a carport instead of a garage. Mr. Hinojosa stated if he did a carport it would still open to the elements.

Mr. Avila mentioned if he builds the garage he would need to extend concrete up to the property line. Mr. Camacho stated that he would still have to meet the requirements from the Engineering and Building Departments.

Mr. Gonzalez stated he knew the Martinez's for quite some time and that Mr. Hinojosa purchased the house a month ago. He had been living there maybe 10 years prior.

Mr. Hinojosa stated he previously lived in Mission. He was a care taker for his father-in-law before passing that was why he was there constantly. His father-in-law owned the house and enclosed the garage.

Vice-Chairperson John Millin **moved** to disapprove variance requests #1, 3 and 4 and approve variance request #2 limited to the footprint of the submitted site plan. Ms. Sylvia Hinojosa seconded the motion. The board voted unanimously to disapprove variance requests #1, 3 and 4 and approve variance request #2 with five members present and voting

- e) Request of Maria Quinteros, for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 ft. into the 10 ft. front yard setback for a proposed garage extension measuring 10 ft. by 18 ft., at Lot 73, Los

Alegres Subdivision Unit No. 2, Hidalgo County, Texas; 317 Uvalde Avenue.
(ZBA2020-0071)

Mr. Garza stated Maria Quinteros was requesting the following variance to allow an encroachment of 10 ft. into the 10 ft. front yard setback for a for an proposed garage extension measuring 10 ft. by 10 ft. The existing proposed garage extension will be used for the applicant's cars because she enclosed her garage.

The subject property had frontage on Uvalde Avenue and is 274 ft. away from 3rd Street. The lot has 50 ft. of frontage on Uvalde Avenue and a depth of 75 ft. The property is zoned R-3T (multifamily residential townhomes) District. The surrounding land uses are townhomes.

Los Alegres Subdivisión Unit No.2 was recorded on January 23, 1978. The variance request was submitted on October 06, 2020.

The variance request was to allow an encroachment of 10 ft. into the 10 ft. front yard setback. 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 of properties in a subdivision.

There are other existing structures that appear to be encroaching into the front yard setbacks within the subdivision. The properties along Uvalde and Tyler have a 3 ft. setback and utility easement that allowed residences to be built with their setbacks. The plat does not specifically show setbacks for properties along the front side of Uvalde Avenue therefore the required setbacks are as per ordinance. A review of Planning Department records did not reveal any other variances or special exceptions granted along this block.

Staff had received two phone calls in opposition to the request.

Staff recommended disapproval of the variance requests. If the Board chooses to approve the variance request, the approval should be limited to the encroachment as shown on the site plan.

Mr. Garza stated the pictures that the applicant brought pictures of examples of what she wanted. He stated that the pictures that were shown on the packet included the construction of the enclosed garage which was approved by the Building Department.

Ms. Maria Quinteros, the applicant stated she was moving from a large home to a smaller home. She needed an extra room so she had the garage enclosed. Now she wants to build a garage in front of the enclosed garage. She wanted to keep the same style and the structure like everybody else.

Mr. Gutierrez asked the applicant what she meant by to keep it like everybody else. Ms. Quinteros showed a picture of the garage in front of her home.

Chairperson Diaz asked the applicant if she had enough room to put a car. Ms. Quinteros stated yes. Chairperson Diaz asked what would be the size of the garage. Mr. Garza stated the size showed to be 10 feet by 18 feet. Chairperson Diaz asked the patio would

stay behind the tree. Ms. Quinteros stated yes.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Mr. Mark Walker, attorney and representative for Ms. Anne Cragg who filed an opposition to this request. She lived directly across the street from Ms. Quinteros was the original owner of the house where she resided for 40 years. He stated there was never a waiver of a setback requirement in the Los Alegres neighborhood by the city. Mr. Walker stated he had 25 owners who had presented a petition opposed to it. He mentioned she bought a house with a garage, then she enclosed the garage and now she needed a variance to build another garage for one car instead of two cars. It would change the character of the neighborhood, reduce the property value and reduce the taxable value.

Ms. Anne Cragg, stated the non-conforming structures were being complained about all the time and need to be reported to the city. She stated everyone knew brick city and yes they had plat 2 of Los Alegres Subdivision. Brick city was that whole area. It's the Homeowners surrounding them. The lots were each 50 by 75 feet. There were no sidewalks. They needed that setback. There was never a house in that neighborhood that had an enclosed garage. She wanted to keep the character of the neighborhood the way it was. There were plat restrictions.

Mr. Jimenez asked Ms. Cragg that she mentioned there was a Homeowners Association. Ms. Cragg stated there was not. There was a Homeowners Association around the houses that were built around the edge of the development for townhouses.

Mr. Garza showed the aerial of the houses in that area which had several encroachments. There were some that were in the 3-foot setback.

Ms. Cragg stated the structures were not a full enclosed structure with a roof. You have structures that have brick walls but there's not lids on them.

Ms. Quinteros stated she was the newest homeowner and did not want to have any problems with her neighbors. She wanted to know if could build a garage but if her neighbors were opposing that was alright with her.

Mr. Avila had concerns granting a variance with a garage that had been enclosed. It may open a window of opportunity perhaps not to the current owner to the next owner.

Mr. Jimenez stated he was familiar with this neighborhood and there were some areas that were roofed but were patios. He did not see a hardship because there was a garage before and now there's not because it was enclosed.

Ms. Hinojosa had concerns with a lot of people parking on the street. This was a very old neighborhood. She had already had a port that she could park a car without enclosing it.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the variance request. There was no present in opposition of the variance request.

Following discussion, Mr. Juan Jimenez moved to disapprove the variance request within the footprint of the encroachment. Mr. Hugo Avila seconded the motion. The board voted to disapprove the variance request with four members voting aye and one nay, Mr. Jose Gutierrez.

- f) Request of Frances Rivas, for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 13 ft. into the 25 ft. front yard setback for an existing carport measuring 19 ft. by 23 ft. at Lot 16, Block 7, Westway Heights Subdivision Unit No. 2, Hidalgo County, Texas; 2108 Highland Avenue. **(ZBA2020-0069)**

Mr. Garza stated Frances Rivas was requesting a special exception to encroach 13 ft. into the 25 ft. front yard setback for a proposed carport measuring 19 ft. by 23 ft. As per a phone conversation, the applicant was requesting a carport because the inclement weather was not good for her health and the applicant states the structure was built over 15 years ago with proper permits; however, building Department records do not show permit information.

The subject property was located on the north side of Highland Avenue, 140 ft. west of North 21st Street. The property has 70 ft. of frontage along Highland Avenue and a depth of 112.5 ft. with a lot size of 7,875 sq. ft. Surrounding land use are single-family houses.

Westway Heights Subdivision, Unit No. 2 was recorded on May 21, 1963. A stop work order was issued by Building Inspection staff on August 07, 2020 for construction without a permit. An application for a special exception was submitted on September 29, 2020. According to an aerial view on Google Earth the carport was built between the date of March 2003 and August 2006. The applicant stated that construction was permitted, but the Building Department did not find any records on file of any building permits issued for the work.

The request was to allow an encroachment of 13 ft. into the 25 ft. front yard setback for a wooden carport with brick columns measuring 19 ft. by 23 ft. An aerial photo from 2002 does not appear to show the existing carport structure encroaching into the front yard. An aerial photo from 2006 show a roof structure closer to the street.

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 of properties in a subdivision. The applicant stated in her application an observation that the carport addition construction resembles the original overall construction of the residence. The materials used in construction of the carport are compatible with the existing residence and compatible with the character of the neighborhood.

There are other existing carports and structures that appear to be encroaching into the front yard setbacks. A review of Planning Department records did not reveal any other variances or special exceptions granted along this block

The carport was built over 15 years ago and in the past no concern has been raised to the best of the applicant's knowledge. The applicant states that part of the reason for the carport is her health. The residence has a two-car garage that is used for the storage of household items.

Staff had not received any phone calls in opposition to this variance request.

Measurements provided were without the benefit of a survey.

Staff recommended approval of the special exception request. Approval should be limited to the encroachment shown on the submitted site plan.

Ms. Frances Rivas, the applicant stated she had requested a permit to build a carport and it was granted but now it was being questioned after more than 20 years.

Ms. Mary Lou Rodriguez, applicant's daughter-in-law stated they had the carport built over 15-16 years ago. They did not keep a record of the permit. The next door neighbor Mr. Saenz's carport was built at the same time. The builder, Mr. Hernandez had passed. The house was built in 1975.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Mr. Sean O' Connor, 2104 Highland Avenue, neighbor to the east stated his grandfather was the first owner of that house. He did build that carport about 15 years ago and had a permit and record on file. He stated the issue was that the permit was never closed out. It did follow the guidelines needed to build it. Mr. O' Connor asked since their carport was extended out more than his would he and other neighbors be allowed to follow same suit. He stated he had a second vehicle that was half way not covered. Chairperson Diaz mentioned that he would have to take it to the Planning Department, apply for a special exception and bring it before the Board as a case by case basis. Chairperson Diaz asked Mr. O' Connor if he was in favor or in opposition. Mr. O' Connor stated he was in favor.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the variance request. There was no one present in opposition of the variance request.

Ms. Sylvia Hinojosa **moved** to approve the special exception limited to the encroachment as shown on the submitted site plan. Mr. Jose Gutierrez seconded the motion. The board voted unanimously to approve the special exception with five members present and voting.

- g)** Request of Douglas and Rosalia LaRoque for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 15 ft. into the 25 ft. front yard setback for an existing gazebo measuring 10 ft. by 10 ft. at Lot 33, El Rancho Santa Cruz Subdivision Phase I, Hidalgo County, Texas; 800 East Pineridge Avenue. **(ZBA2020-0070)**

This item was to remain tabled as per the applicant until the next meeting of November 18, 2020.

FUTURE AGENDA ITEMS:

- a)** 4905 Ibis Avenue
- b)** 201 Dove Avenue

c) 3500 and 3504 Kilgore Avenue

4. EXECUTIVE SESSION, CHAPTER 551, TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH ATTORNEY)

a) Consultation with Attorney regarding possible litigation related to enforcement. (Section 551.071, Tex Gov't Code)

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Ms. Sylvia Hinojosa **moved** to adjourn the meeting. Mr. Juan Jimenez seconded the motion, which carried unanimously with five members present and voting.

Chairperson Erick Diaz

Carmen White, Secretary

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN**

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, November 18, 2020 at 4:30 p.m. in the City Commission Meeting Room with the following present:

Present:	Erick Diaz	Chairperson
	John Millin	Vice- Chairperson
	Sylvia Hinojosa	Member
	Juan F. Jimenez	Member
	Jose Gutierrez	Alternate
	Rebecca Millan	Alternate
	Hugo Avila	Alternate
	Rogelio Rodriguez	Alternate
Staff Present:	Victor Flores	Assistant City
	Michelle Rivera	Assistant City Manager
	Luis Mora	Deputy Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Carlos Garza	Planner II
	Iris Alvarado	Planner I
	Mario Escamilla	Planner I
	Juan Martinez	Development Coordinator
	Porfirio Hernandez	GIS Technician II
	Carmen White	Secretary

CALL TO ORDER – Chairperson Erick Diaz

1. MINUTES:

- a)** Minutes for the meeting held on October 21, 2020

The minutes for the meeting held on October 21, 2020 were approved. The motion to approve the minutes was made by Ms. Sylvia Hinojosa. Mr. Jose Gutierrez seconded the motion, which carried unanimously with five members present and voting.

- b)** Minutes for the meeting held on November 4, 2020.

These minutes will be submitted at the next meeting of November 18, 2020.

2. PUBLIC HEARINGS:

- a)** Request of Douglas and Rosalia LaRoque for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 15 ft. into the 25 ft. front yard setback for an existing gazebo measuring 10 ft. by 10 ft. at Lot 33, El Rancho Santa Cruz Subdivision Phase I, Hidalgo County, Texas; 800 East Pineridge Avenue. **(ZBA2020-0070) (TABLED: 11/4/2020)**

Ms. Sylvia Hinojosa moved to remove the item from the table. Mr. Juan Jimenez seconded the motion. The board voted unanimously with five members present and voting.

Mr. Garza stated Douglas and Rosalia LaRoque were requesting the following variance to allow an encroachment of 10 ft. into the 220 ft. front yard setback for a for an existing gazebo structure measuring 10 ft. by 10 ft. The existing gazebo was used as a sitting area that helps the applicant spend time outdoors in order to cope with a medical condition.

The subject property had 50.81 of frontage on Pineridge Avenue and a depth of 110 ft. for an area of 5,538 sq. ft. The property was zoned R-1 (single family residential) District. The surrounding land uses are single-family residences.

El Rancho Santa Cruz Subdivision was recorded on January 06, 1986. A stop work order for building without a permit was issued on September 29, 2020. The applicant submitted an application for a building permit on October 06, 2020. The variance request was submitted on October 07, 2020.

The variance request was to allow an encroachment of 10 ft. into the 20 ft. front yard setback. There is a 5 ft. utility easement adjacent to the front property line. The existing gazebo does not encroach into the utility easement. 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 of properties in a subdivision.

The applicant had submitted a letter that relates to the request to keep the gazebo for medical reasons.

Accessory buildings are customarily located in the rear yard.

Staff had not received any phone calls in opposition to the request.

At the Zoning Board of Adjustment and Appeals meeting of November 04, 2020, one person appeared in opposition to the variance request, but did not comment. The applicant was not present. The Board unanimously voted to table the variance request in order allow the applicant time to clarify the site plan information for the request. There were five members present and voting.

Staff recommended disapproval of the variance request. If the Board chooses to approve the variance requests, the approval should be limited to the footprint as shown on the site plan.

Ms. Michelle La Roque, daughter and Mr. Douglas La Roque. Ms. La Roque stated her dad was a veteran who suffers from PTSD. She stated he visits his doctors on a monthly basis. They had decided to make a gazebo due to him being outside 95% of the time. It helped him cope with his medical issues.

Chairperson Diaz asked the applicant why the gazebo was in the front yard and not the back yard. Ms. La Roque stated in the front there was more distractions to help with his

medical condition. In the back yard, there was a church and the neighbor's fence. Also, there was a storage shed and a carport in which there was no room to put the gazebo. Chairperson Diaz asked when was the gazebo built. The applicant stated it was in the beginning of this year.

Vice-Chairperson Millin stated the issue was the gazebo being in the front instead of the back yard. He mentioned that the house transfers to another owner, they would have the right to build a structure like a room on the footprint of the gazebo. He asked did the gazebo have a concrete slab foundation or was it movable. Mr. La Roque stated it was sitting on a four-inch concrete slab. Vice-Chairperson Millin asked if the contractor check with the City what the ordinance required. Ms. La Roque stated they never hired a contractor. They bought the gazebo at Sam's Club prefabricated. The concrete slab was done years ago.

Mr. La Roque stated he wanted to pass the house onto his daughter and if there was a way to put that in a stipulation. Chairperson Diaz stated that he understood his situation and to see after speaking with legal counsel to if there was a way to make a change from a variance to a special exception where it would not run with the land.

Mr. Victor Flores, legal counsel stated after speaking with staff the structure itself could be classified as a carport. It would have to be advertised and heard as a special exception. The applicant would have to withdraw the item.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the variance request. There was one present in opposition of the variance request.

Ms. Ernestina S. Cerda, 720 N. 32nd Street stated she owned the property next door to the applicant. She stated she had spoken with other neighbors and they had to remove structures of similar kind that they had on their properties. Ms. Cerda stated there were City employees going around trying to declutter and beautify the City. Chairperson Diaz asked her if was an eyesore. Ms. Cerda stated they could not see it from the street because of the trees and branches that covered the house.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the variance request. There was one present in opposition of the variance request.

Ms. Antonia Pecina, 817 East Pineridge Avenue had concern once the structure was there what would happen when it moves on to the next owner that it would be built into a room of some kind. It was considered a fire hazard because the houses were too close to each other. Also, when people wanted to build carports in front, the City has said no.

Mr. Juan Jimenez suggested a letter of withdrawal or tabling the item so that they can apply for a special exception.

Mr. Flores stated it would be better to withdraw the variance and resubmit as a special exception.

Ms. La Roque stated she will withdraw the variance request and go by the special exception.

- b) Request of Derrick Munoz, for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an entrance of 5 ft. to a garage instead of the required 18 ft. for an existing garage structure measuring 20 ft. by 25 ft., and **2)** to allow an encroachment of 5 ft. into the 10 ft. west side yard setback for a proposed room addition measuring 19.67 ft. by 25 ft., on Lot 4, Block 20, Camellia Terrace Subdivision, Hidalgo County, Texas; 722 Harvey Drive. **(ZBA2020-0009)**

Mr. Garza stated this item was to be tabled.

Vice-Chairperson Millin **moved** to table the variance requests. Mr. Juan Jimenez seconded the motion. The board voted unanimously to table the variance requests with five members present and voting.

- c) Request of Alonzo Cantu for a variance to the City of McAllen Zoning Ordinance to allow a lot size of less than 2,000 sq. ft. with a minimum lot size of 1,580 sq. ft. for Lots 2-12, 1,705 sq. ft. for Lots 15-21, and 1,924.54 sq. ft. for Lot 13, for a 1.23-acre tract of land out of Lot 1, Section 11, Hidalgo Canal Company Subdivision (proposed 2nd and Dove Subdivision), Hidalgo County, Texas; 201 Dove Avenue. **(ZBA2020-0073)**

Mr. Garza stated this item was to be tabled.

Vice-Chairperson Millin **moved** to table the variance request for further information from staff. Mr. Juan Jimenez seconded the motion. The board voted unanimously to table the variance request with five members present and voting.

- d) Request of Maricela Galvan, for the following variances to the City of McAllen Zoning Ordinance: **1)** allow an accessory use without a primary use for a proposed swimming pool, **2)** to allow an encroachment of 4 ft. into the 6 ft. east side yard setback for an existing pergola measuring 10 ft. 10 ft. on Lots 2 & 3, Oxford Heights Subdivision, Hidalgo County, Texas; 3504 and 3500 Kilgore Avenue. **(ZBA2020-0074)**

Ms. Alvarado stated this item was to be tabled.

Vice-Chairperson Millin **moved** to table the variance requests. Ms. Sylvia Hinojosa seconded the motion. The board voted unanimously to table the variance requests with five members present and voting

- e) Request of Brenda Castro to allow a special exception request to not provide one required parking space beyond the front yard setback line at Lot 131, Taylor Crossing Subdivision, Hidalgo County, Texas; 4905 Ibis Avenue. **(ZBA2020-0072)**

Ms. Alvarado stated the applicant was requesting a special exception to the parking requirement of one off-street parking space for single family uses beyond the front yard

setback; as required by section 138-394(1) of the zoning ordinance. The applicant enclosed the garage to make a storage and work space for her family. The rooms in her home are too small and due to the pandemic her home is being occupied for distant learning and working from home. Enclosing the garage will help with additional space so that her family can work and attend online classes. The applicant also stated that it would prevent weather damage to instruments and furniture. The applicant enclosed a single car garage and by doing so eliminated the one parking space beyond the front yard setback line.

The subject property was located on the south side of Ibis Avenue, approximately 255 ft. west of North 48th Lane. The property had 50 ft. of frontage along Ibis Avenue and a depth of 119.41 ft. with a lot size of 5,970.5 square feet. The adjacent zoning was R-1 (single family residential) District in all directions. Surrounding land use is single-family residential.

Taylor Crossing Subdivision was recorded on January 6, 2010. The Board of Commissioners amended the zoning ordinance in 1999 to require 1 parking space beyond the front yard setback in order to enhance the appearance of single family residential areas. The subject property and subdivision is subject to compliance with the zoning ordinance requirement of the one parking space beyond the front yard setback line. A building permit application was submitted on July 23, 2020 for the enclosure of the garage. The application for the special exception request was submitted on October 20, 2020. Building Inspection staff noticed the enclosed garage during an inspection for a different building permit for subject property.

The application for the special exception was submitted on October 20, 2020. A building permit was submitted on July 23, 2020.

The request was to not provide a parking space beyond the front yard setback by enclosing the garage measuring 11 ft. by 18 ft. The submitted site plan shows a driveway measuring 18 ft. by 27 ft. accommodating the number of two required parking spaces.

There were no special exception requests on file for garage enclosures in the subdivision; a site inspection confirmed that there are no other visible garage enclosures.

The intent for the requirement of locating one parking space beyond the front yard setback line was to improve the street yard appearance of single-family residence areas by reducing the number of cars parked along the street and within the front yard.

Should the request be approved, it may encourage other property owners to request a special exception to enclose their garage. Approval of the request will allow the proposed construction to remain as depicted on the site plan.

Staff had not received any phone calls or concerns in regards to the special exception request.

Staff recommended disapproval of the special exception request.

Chairperson Diaz asked about the image that showed a garage door. Ms. Alvarado stated

they built through the inside. They would not have known if it wasn't for other building permit for the solar panels.

Mr. Avila mentioned on the picture it showed for a variance but said on the memo it said special exception. Ms. Alvarado stated it was a special exception.

Chairperson Diaz asked staff if there was enough parking space in front of the house to accommodate two cars. Ms. Alvarado stated yes. The driveway measured 18 feet by 27 feet.

Ms. Brenda Castro, the applicant stated due to Covid it was too crowded being in close quarters. They wanted to create a private space for working environment, home schooling and storage.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the special exception other than the applicant. There was one person in favor of the special exception.

Mr. Jimmy Parazon, applicant's boyfriend stated he was in favor of the special exception. He stated they did not change anything from the outside. They did have two cars and always parked them outside the garage since it was used for storage.

Chairperson Diaz asked if there was anyone else present or on Zoom in favor of the special exception other than the applicant. There was one person in favor of the special exception.

Ms. Georgina Aguilar, 4801 Ibis Avenue stated she had received a letter from the City and noticed a sign in front of their home. Chairperson Diaz explained the case to her. He asked her if she was in favor or opposition. She stated she was in favor.

Chairperson Diaz asked if there anyone present or on Zoom in opposition of the special exception. There was one present in opposition of the special exception.

Chairperson Diaz asked if there was a Homeowner's Association. Ms. Alvarado stated there was not. The subdivision was built in 2010.

Chairperson Diaz asked if there was anyone else present or on Zoom in favor of the special exception other than the applicant. There was one person in favor of the special exception.

Chairperson Diaz asked if there was anyone present or on Zoom in opposition of the special exception. There was one present in opposition of the special exception.

Ms. Ramira Reyes, 4805 Ibis Avenue stated she was in favor for the enclosed garage. She stated she did not want other neighbors to tell them they cannot park anywhere.

Chairperson Diaz asked if there was anyone else present or on Zoom in favor of the special exception other than the applicant. There was one else in favor of the special

exception.

Chairperson Diaz asked if there was anyone present or on Zoom in opposition of the special exception. There was one present in opposition of the special exception. Ms. Hinojosa asked staff if they had obtained a permit to enclose the garage. Ms. Alvarado stated yes. Ms. Hinojosa asked if the City allowed it. Ms. Alvarado stated they applied for a permit on July 23, 2020. Ms. Hinojosa asked staff if that's when it was enclosed. Ms. Alvarado stated no, they applied for it after the fact. There was a permit for the solar panels that's when they found out that the garage was enclosed. In order for the applicant to be in compliance, staff recommended for her to get a building permit for the garage and then the application for the special exception. There was one but it was not approved.

Mr. Jose Gutierrez **moved** to approve the special exception within the footprint of the encroachment. Ms. Sylvia Hinojosa seconded the motion. The board voted unanimously to approve the special exception with five members present and voting.

FUTURE AGENDA ITEMS:

- a) 9505 North 22nd Lane
- b) 5812 North 39th Street
- c) 2600 Notre Dame Avenue
- d) 722 Harvey Drive

4. EXECUTIVE SESSION, CHAPTER 551, TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH ATTORNEY)

- a) Consultation with Attorney regarding Cause No. C-3589-20-H; Roberto Zamora v. City of McAllen (Section 551.071, T.G.C.)

Ms. Sylvia Hinojosa **moved** to enter into Executive Session at 5:18 p.m. Mr. Jose Gutierrez seconded the motion. The Board voted unanimously with five members present and voting.

After Executive Session, the Board reconvened at 5:35 p.m.

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Ms. Sylvia Hinojosa **moved** to adjourn the meeting. Mr. Juan Jimenez seconded the motion, which carried unanimously with five members present and voting.

Chairperson Erick Diaz

Carmen White, Secretary

Memo

TO: Zoning Board of Adjustment & Appeals

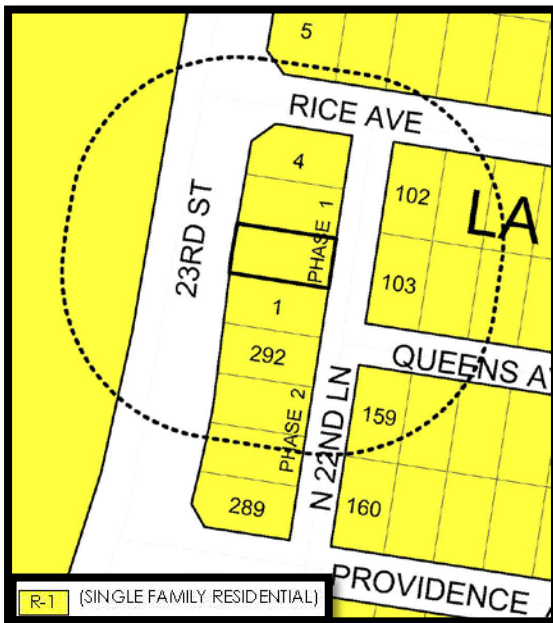
FROM: Planning Staff

DATE: November 19, 2020

SUBJECT: REQUEST OF CARLOS CANTU AND GARY R. MILLER, FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE 1) TO ALLOW AN ENCROACHMENT OF 15 FT. INTO THE 25 FT. REAR YARD SETBACK FOR A PROPOSED POOL HOUSE MEASURING 10 FT. BY 16 FT., AND 2) TO ALLOW AN ENCROACHMENT OF 13 FT. INTO THE 25 FT. REAR YARD SETBACK FOR AN EXISTING POOL MEASURING 12 FT. BY 22 FT. AT LOT 2, LA FLORESTA SUBDIVISION PHASE I, HIDALGO COUNTY, TEXAS; 9505 N 22ND LANE. (ZBA2020-0075)

REASON FOR APPEAL:

The applicants are requesting variances to allow a proposed pool house and existing pool encroaching onto the rear yard setback.



PROPERTY LOCATION AND VICINITY:

The property is located on the west side of North 22nd Lane and is double fronting along North 23rd Street as per plat note. The property has a total area of 7,220 sq. ft. and is zoned R-1 (single-family residential) District. The surrounding land uses include single family residential and vacant land west of N. 23rd Street.

BACKGROUND AND HISTORY:

La Floresta Subdivision Phase I was recorded on September 05, 2008. A note on the second page of the plat indicates that the rear yard setback requirement for the double fronting lots 1-4 is 25 ft. The plat

for the subdivision shows there is a 10 ft. utility easement that runs concurrently with the rear yard setback. In August 17, 2020 the applicant applied for a pool permit and was approved by staff. Staff looked at the first page of the Plat and compared it with the survey that stated the 10 ft. utility easement was also the setback not realizing there was a second page to the plat that noted that the lot was a double fronting and the rear setback should be 25 ft. As per plat there is an additional 20 ft. of ROW between N. 23rd Street and the rear property line where utility poles are located. A variance request application for the proposed pool house and existing swimming pool was submitted on November 2, 2020.

ANALYSIS:

Variance #1: To allow an encroachment of up to 15 ft. into the 25 ft. rear yard setback for a proposed pool house measuring 10 ft. by 16 ft. The pool house is an accessory structure and not a primary building.

Variance #2: To allow an encroachment of up to 13 feet into the 25 ft. rear yard setback for an existing swimming pool measuring 12 ft. by 22 ft. The pool is an accessory structure and not a primary building. The site plan submitted shows the distance from the rear property line to the outside wall of the swimming pool at approximately 12 ft.

RECOMMENDATION:

Staff recommends approval of the variance requests. If the Board chooses to grant the variances, it should be limited to the footprint of the site plan submitted.

2BA2020-0015

2809
12/1/2020

City of McAllen Planning Department APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Lot 2, La Floresta, Subdivision Phase 1, an addition to the city of McAllen, Hidalgo County, TX

Subdivision Name La Floresta Phase 1

Street Address 9505 N 22nd LN

Number of lots 1 Gross acres .16573921 (7219.4 sq. ft.)

Existing Zoning R1 Existing Land Use R1

Reason for Appeal (please use other side if necessary) see attached
pool house is encroaching the 25' rear setback.

\$300.00 non-refundable filing fee + \$50.00 Recording Fee for Special Exception (carport)

Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name ^{Carlos Cantu} Gary R. Miller Phone 618-599-2162

Address 9505 N 22nd LN E-mail gmiller0086@gmail.com

City McAllen State TX Zip 78504

Owner

Name ^{Carlos Cantu} Gary R. Miller Phone 618-599-2162

Address 9505 N 22nd LN E-mail gmiller0086@gmail.com

City McAllen State TX Zip 78504

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?

Yes 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 Gary R. Miller Date 11/2/2020

Print Name Gary R. Miller Owner Authorized Agent

Office

Accepted by LG. Payment received by _____ Date 11-2-20

Rev 10/18

RECEIVED
NOV 02 2020
BY: CLW

pd. by C.C.

Gary R. Miller
Carlos Cantu
9505 N 22nd LN
McAllen, TX 78504

Ph. 618-599-2162

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land.

Our lot is unique in that it faces 22nd Lane and abuts 23rd Street. We liked this house and did not realize when we purchased it that our lot was less than desirable because it did not abut against an alley or another lot. We applied for a permit to build our pool and once we received it, we proceeded in good faith with the plans for the pool house thinking there would not be a problem. Proposed placement of the pool house on the north side of the pool next to the north cinder block wall leave a 6 ft. setback from the north fence and 10 ft. setback from west fence (23rd Street). The south end of the pool leaves a 6 ft. setback.

The setback from 23rd Street to our property line is 23.3 ft., leaving sufficient land if the city were to widen 23rd Street. However, 23rd Street is already a 5 lane street, so it will probably not be widened in the foreseeable future. Also, in the event of growth to the north, Bicentennial Avenue and 29th Street (Rooth Road) are currently being opened all the way north to University. That should also help with any possible traffic increase to the north, and while we don't know the city's plans, opening those two streets would lessen the possibility that widening of 23rd Street will be necessary.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner.

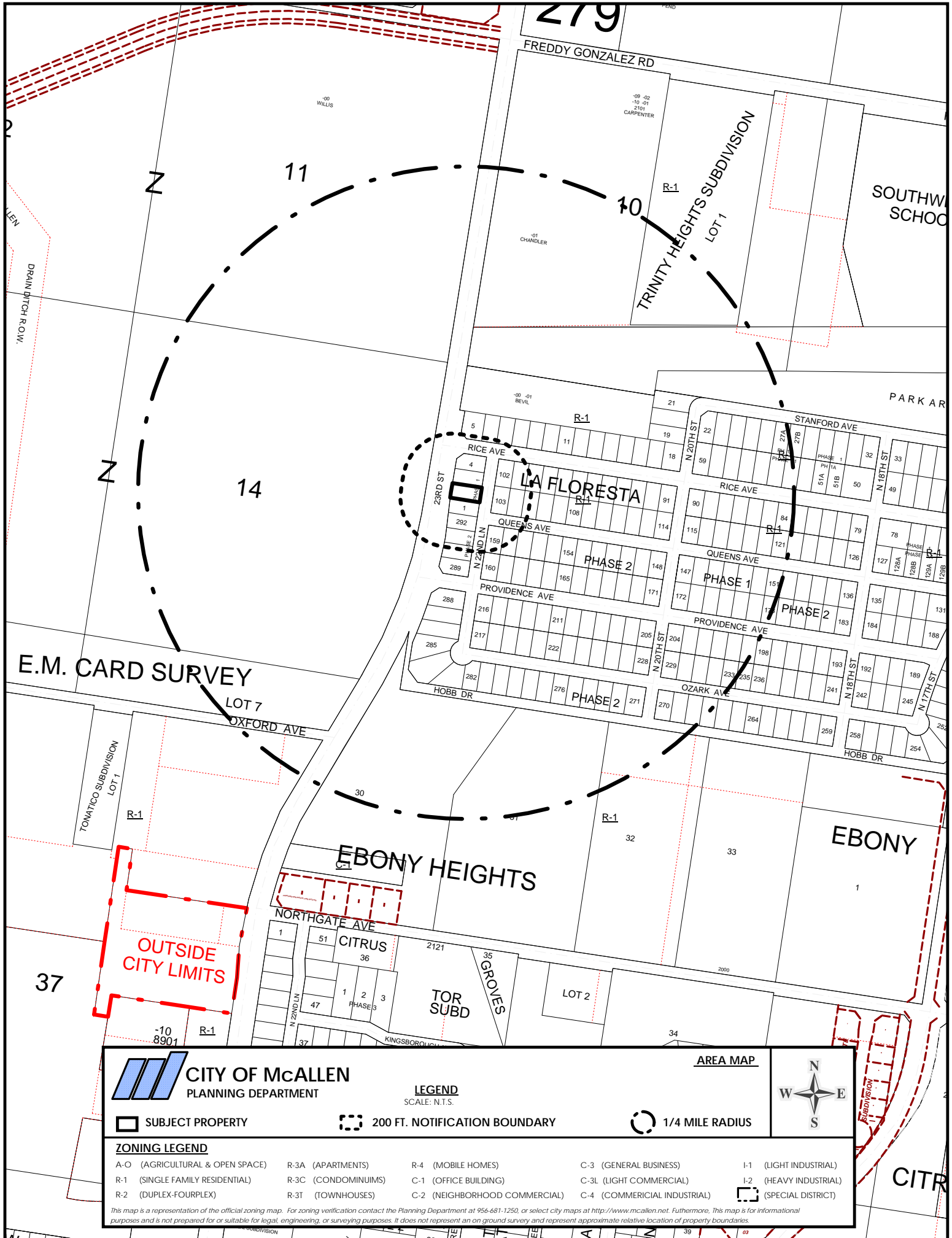
We approached the purchase of this home and property as our long term retirement residence and we have no plans to move or sell. As part of our retirement, we had always wanted a pool and of course, you want a pool house where guests can change, go to the bathroom, etc., without tracking water into to the main house. Original surveyor made an error by stating that a wood deck and concrete stepping stones were located where we plan to build the pool house. The wood deck is located next to the covered concrete patio.

3. Describe how the variance will not be detrimental to the public health, safety, or welfare or injurious to the legal rights other property owners enjoy in the area.

Out backyard is surrounded by a 6 ft. wood fence on the west and south sides of the lot and a 6 ft. cinder block wall on the north side. At most, the neighbors will only see part of the roof line of the pool house. Outside of that, there should be no detriment of any kind to any of our neighbors.

4. Describe special conditions that are unique to this applicant or property.





CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: N.T.S.



SUBJECT PROPERTY

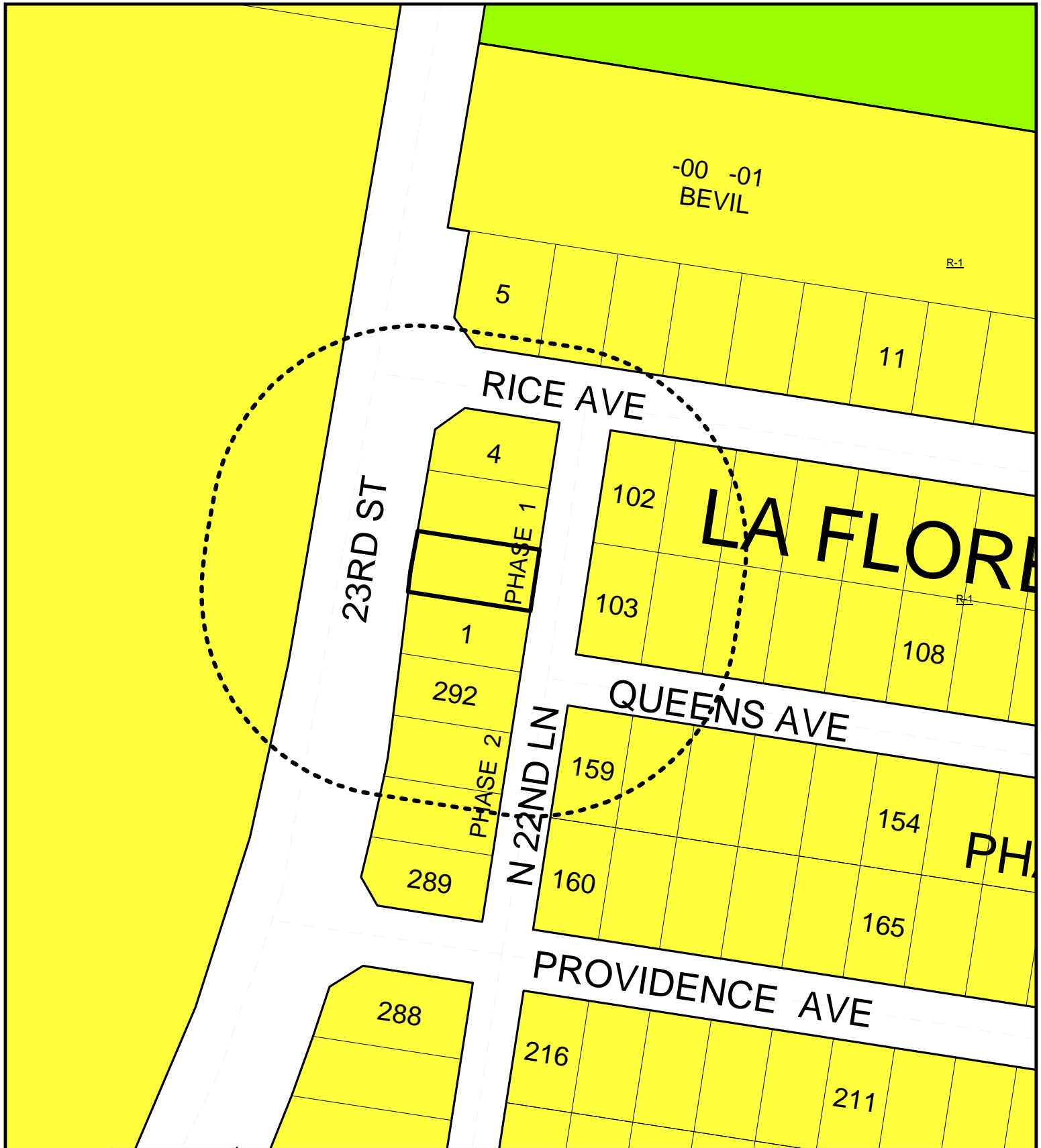
200 FT. NOTIFICATION BOUNDARY


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)

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

LEGEND
SCALE: N.T.S.

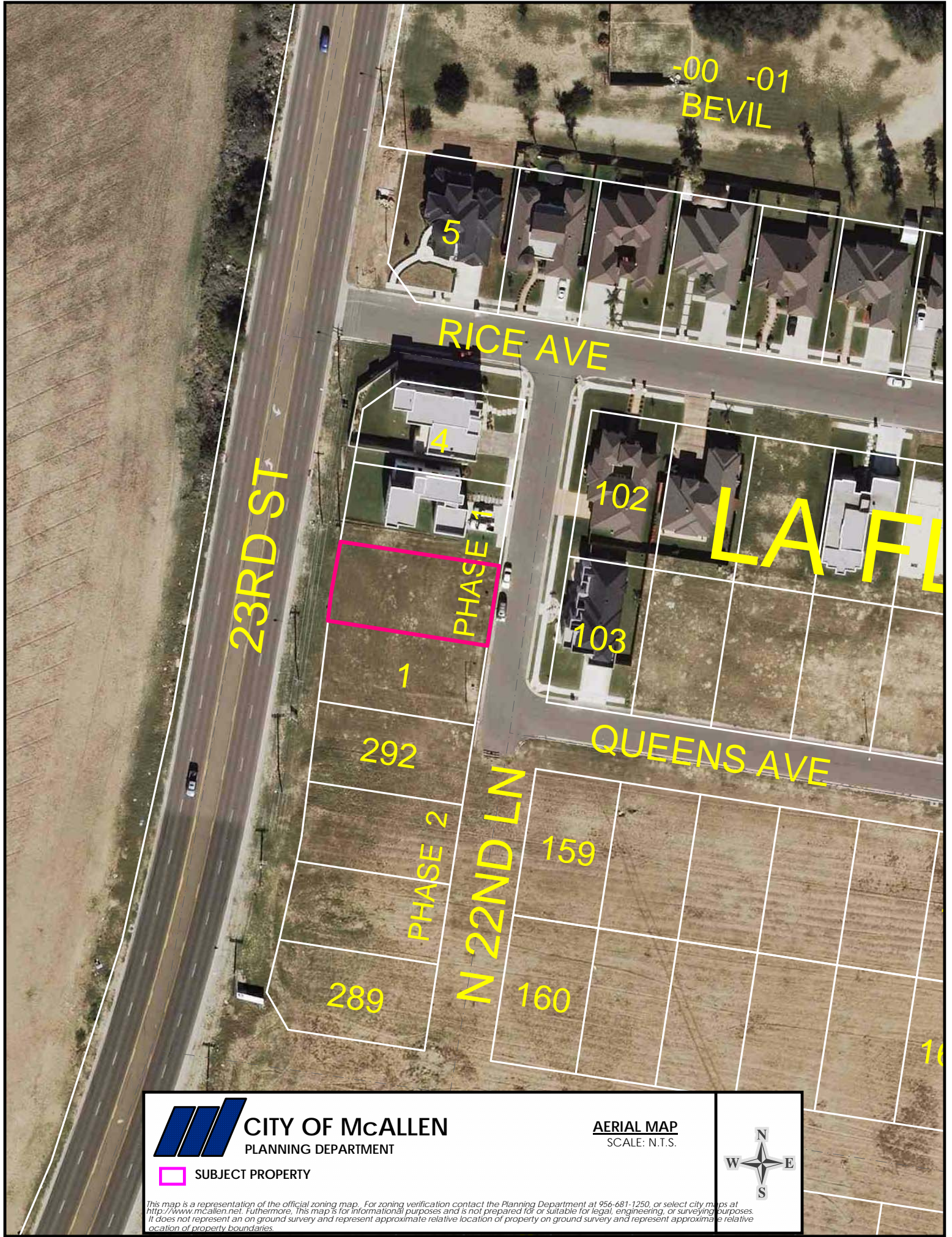
AREA MAP



□ 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)

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.



-00 -01
BEVIL

5

RICE AVE

4

PHASE 1

102

LAFI

103

23RD ST

1

QUEENS AVE

292

PHASE 2

N 22ND LN

159

289

160

10



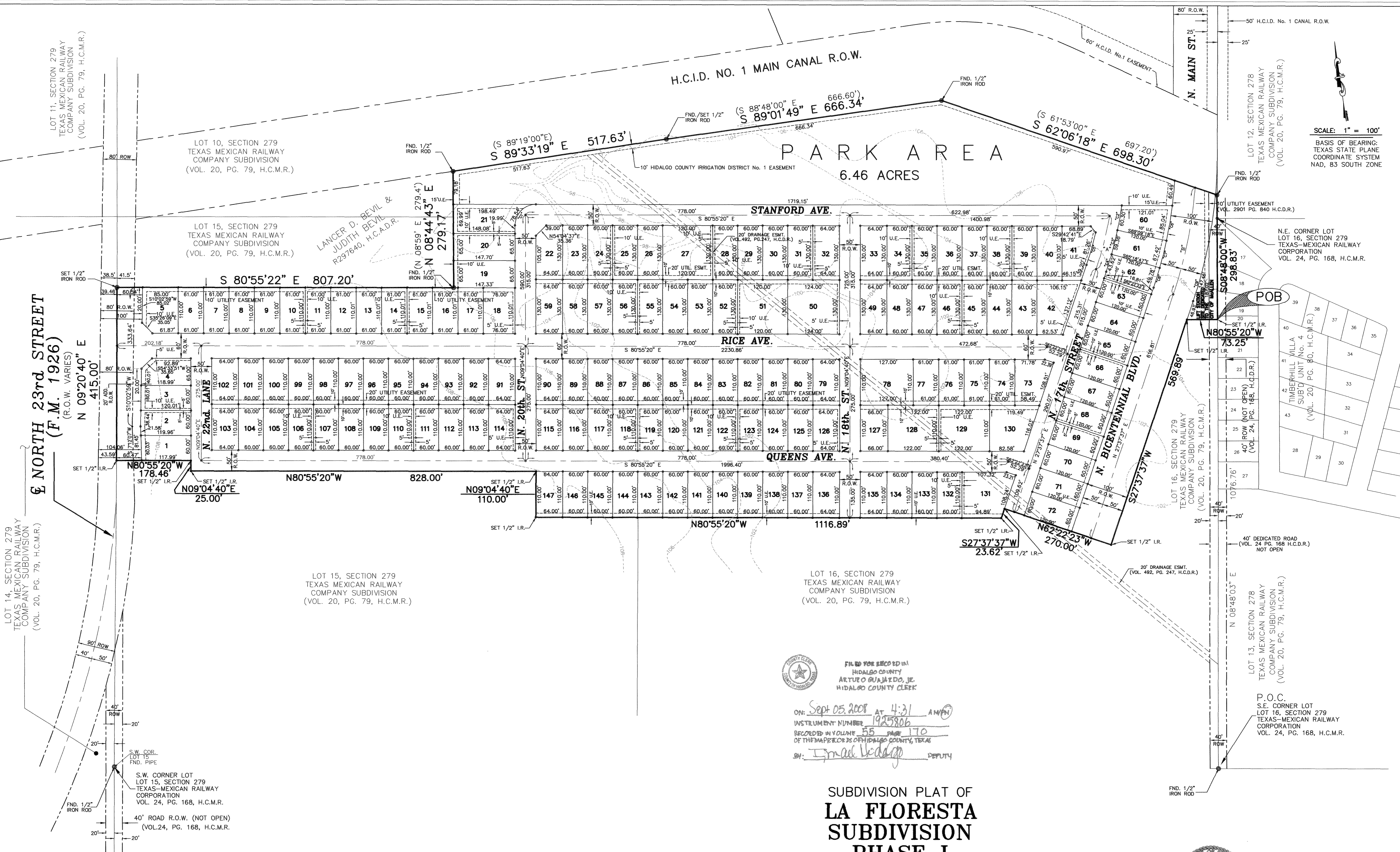
CITY OF McALLEN
PLANNING DEPARTMENT

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.



SCALE: 1" = 100'
 BASIS OF BEARING:
 TEXAS STATE PLANE
 COORDINATE SYSTEM
 NAD, 83 SOUTH ZONE

FILED FOR RECORD IN
 HIDALGO COUNTY
 ARTURO GUAYADO, JR.
 HIDALGO COUNTY CLERK

ON: Sept 05, 2008 AT 4:31 AM
 INSTRUMENT NUMBER 1925806
 RECORDED IN VOLUME 55 PAGE 170
 OF THE MAPS & RECORDS OF HIDALGO COUNTY, TEXAS
 BY: *Imad Hedige* DEPUTY

SUBDIVISION PLAT OF
**LA FLORESTA
 SUBDIVISION
 PHASE I**

A TRACT OF LAND CONTAINING 44.13 ACRES, SITUATED IN HIDALGO COUNTY, TEXAS AND ALSO BEING PART OR PORTION OF LOTS 9, 10, 15 AND 16, SECTION 279, TEXAS-MEXICAN RAILWAY COMPANY SURVEY, MAP REFERENCE: VOLUME 24, PAGE 68, HIDALGO COUNTY DEED RECORDS



DATE OF PREPARATION: NOVEMBER, 2005 DRAWN BY: P.GONZALEZ

J E H
JAVIER HINOJOSA ENGINEERING
 CONSULTING ENGINEERS
 416 E. DOVE AVENUE McALLEN, TEXAS 78504
 PHONE (956) 668-1588
 javhin@rgv.rr.com



BOC

BOC

SCALE: 1"=20'

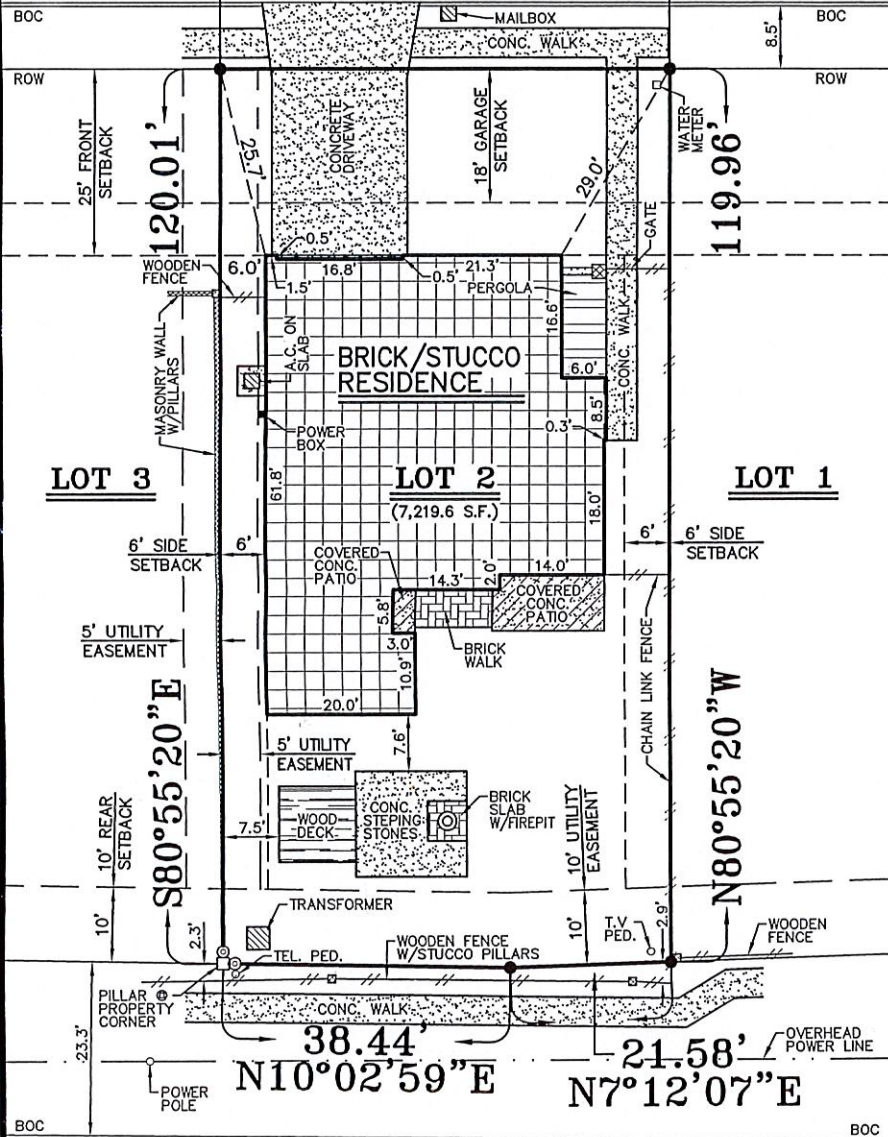
N. 22nd LN.

(50' ROW-VOL. 55, PG. 170, H.C.M.R.)

S09°04'40"W
60.00'

LEGEND

- - DENOTES FOUND 1/2" ROD
- ⊙ - DENOTES SET PK NAIL IN CONC. @ 0.6' OFFSET
- - DENOTES NO MONUMENT
- ROW - DENOTES RIGHT OF WAY
- BOC - DENOTES BACK OF CURB



FLOOD ZONE CERTIFICATION: The property shown herein lies in Zone "X". Zone "X" areas are areas determined to be outside 500-year flood plain as per F.E.M.A. Flood Insurance Rate Map No. 48334-0325-D dated 06-06-00.

PLAT NOTES:

- There are no discrepancies, conflicts, shortages in area or boundary lines, encroachments, overlapping of improvements or visible or apparent easements except as shown on this plat.
- This survey plat is prepared in connection with Title Policy G.F. # 000204140 and does not guarantee title. This survey is for the exclusive use of the client named herein and may not be copied or transferred to another party without the express written consent of the surveyor.
- This survey must contain an original signature and original signature to be valid as per Section 661.46 and Section 663.19 of the "The Professional Land Surveying Practices Act".
- This is a standard survey and does not include a subsurface utility line location or topographic investigation.
- Easements, rights, rules and regulations in favor of Hidalgo County Irrigation District No. 1, (Blanket)
- Subject to all rights, titles and interests in and to all portions of the subject property lying within a drainage ditch, drainage pipe, drainage line, a canal or an irrigation line as may be claimed in fee by Hidalgo County Irrigation District No. 1.
- No building permitted over any easements as shown on plat recorded in Volume 55, Pages 169, and 170, Map Records of Hidalgo County, Texas.
- No Curb Cut, Access or Lot Frontage permitted along N. 23' Street as shown on plat recorded in Volume 55, Pages 169 and 170, Map Records of Hidalgo County, Texas.
- Subject to any oil, gas and mineral lease of record.
- Bearing Basis: "E" line of Lot 2, La Floresta Subdivision Phase 1"

EGROWER(S): Gary B. Miller and Carlos Cantu

N. 23rd ST.
(aka N. DEPOT RD.)

THIS IS TO CERTIFY THAT I HAVE, THIS DATE, PREPARED A SURVEY ON THE PROPERTY WHICH IS LOCATED AT 9505 N. 22nd LN., in MCALLEN, TEXAS, DESCRIBED AS FOLLOWS:
LOT 2, LA FLORESTA SUBDIVISION PHASE I, AN ADDITION TO THE CITY OF MCALLEN, HIDALGO COUNTY, TEXAS, ACCORDING TO THE PLAT OR MAP THEREOF RECORDED IN VOLUME 55, PAGES 169 AND 170, MAP RECORDS OF HIDALGO COUNTY, TEXAS.

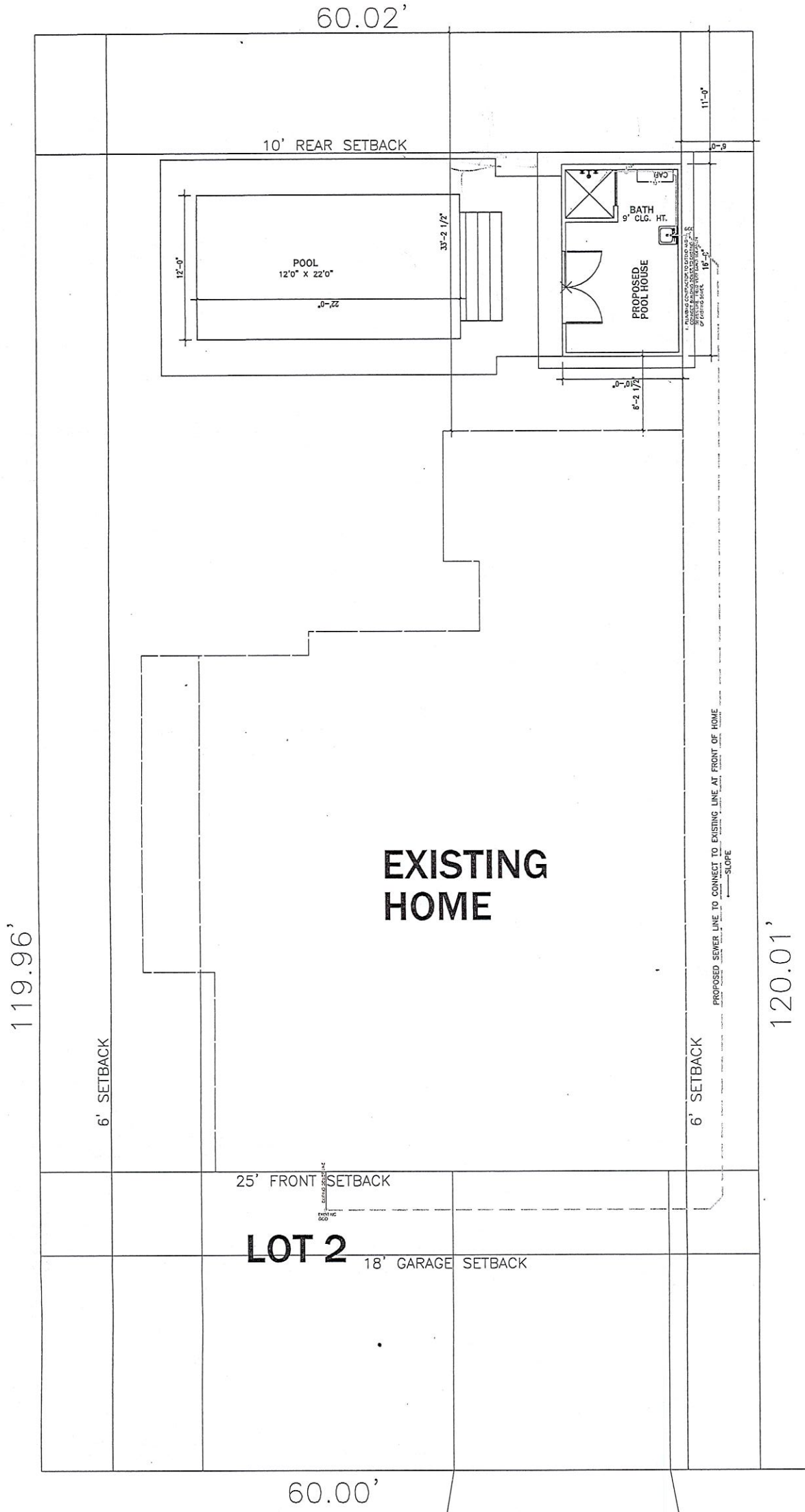
18-54482 Job No. 10-09-18 Date

© COPYRIGHT 2018 ART SALINAS ENGINEERING INC. THIS SURVEY WAS PROVIDED IN MULTIPLE ORIGINALS SOLELY FOR THE USE OF THE BORROWER NAMED HEREON. NO LICENSE HAS BEEN CREATED, EXPRESSED OR IMPLIED TO COPY THIS SURVEY.





PROJECT NO:	128000
DATE:	10-19-2020 MRJ
SCALE:	3/32" = 1'-0"
SHEET	



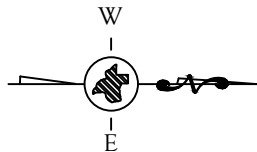
RECEIVED
 NOV 02 2020
 BY: *CA*

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

N. 22nd LN.

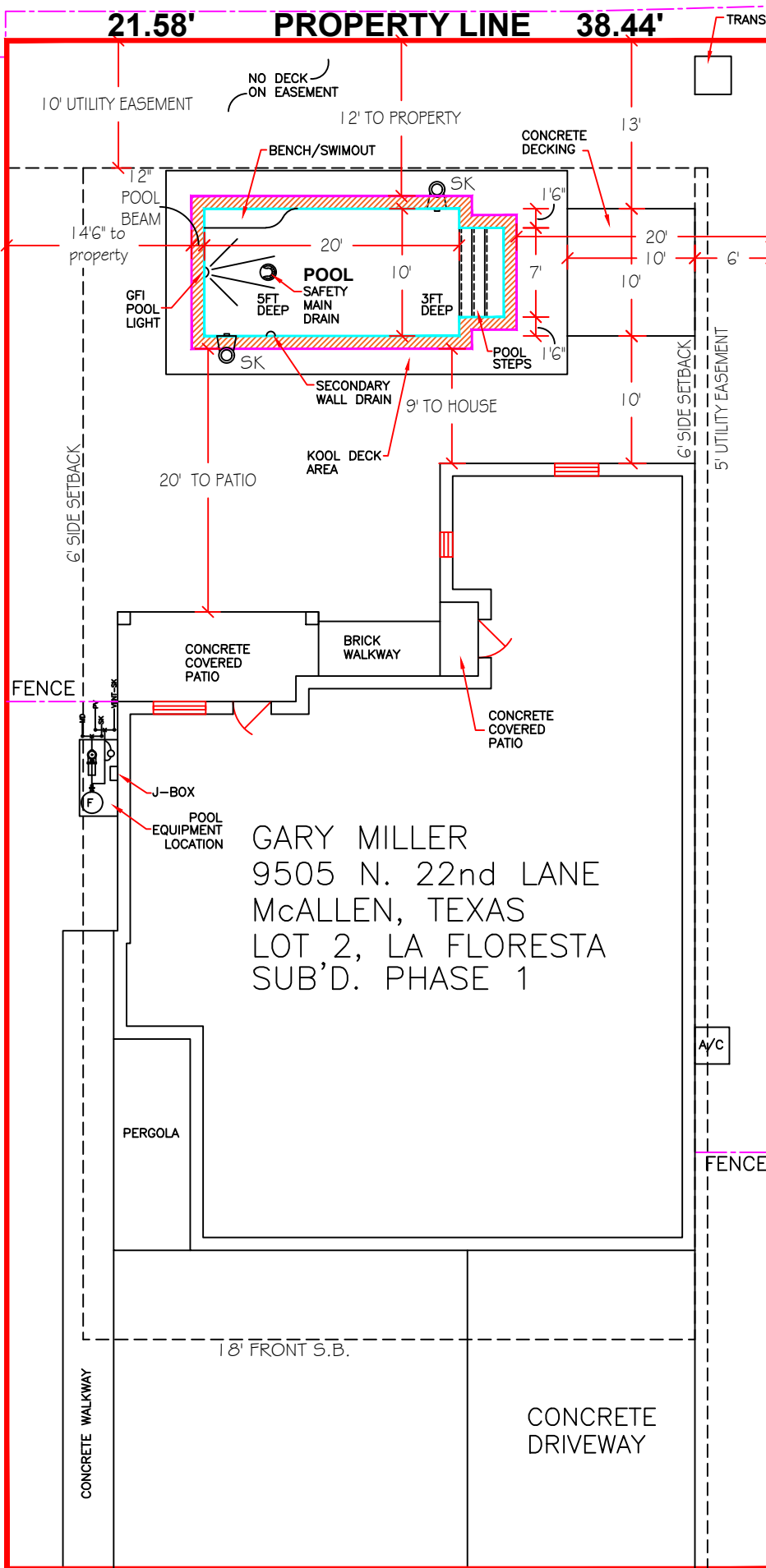
21.58' PROPERTY LINE 38.44'

TRANSFORMER



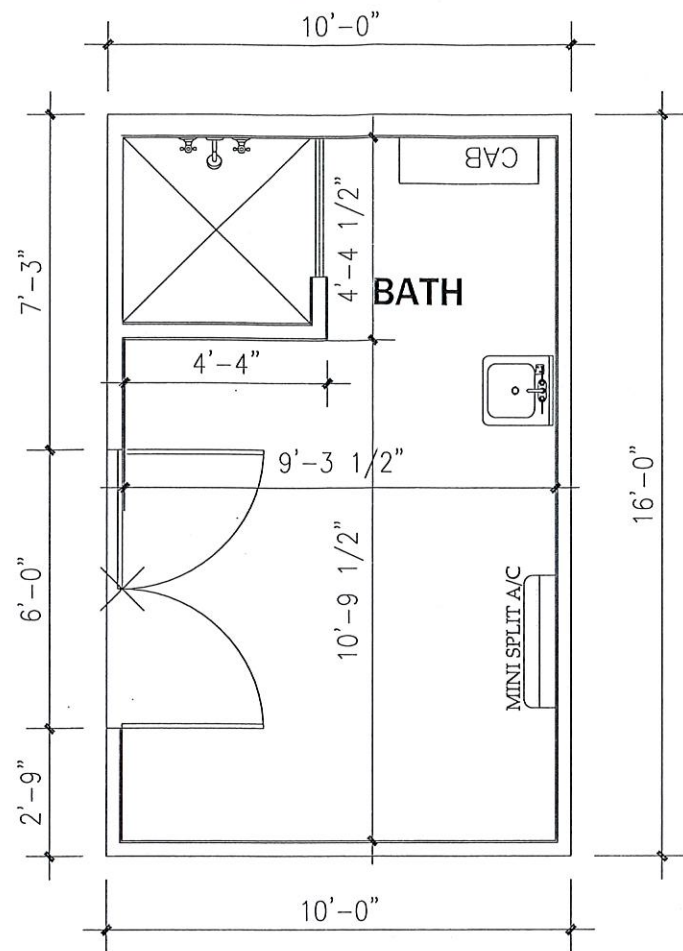
PROPERTY LINE 119.96'

PROPERTY LINE 120.01'



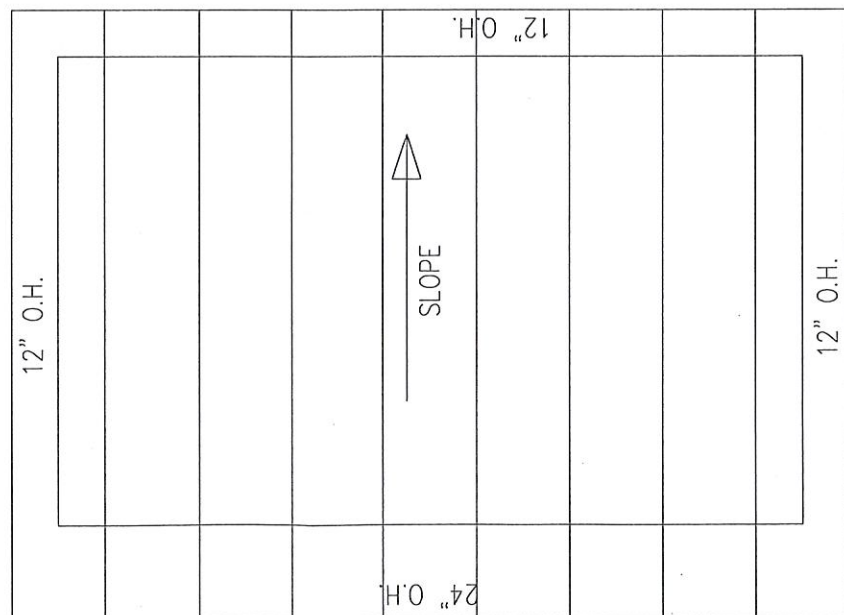
GARY MILLER
 9505 N. 22nd LANE
 McALLEN, TEXAS
 LOT 2, LA FLORESTA
 SUB'D. PHASE 1

PROPERTY LINE 60.0'



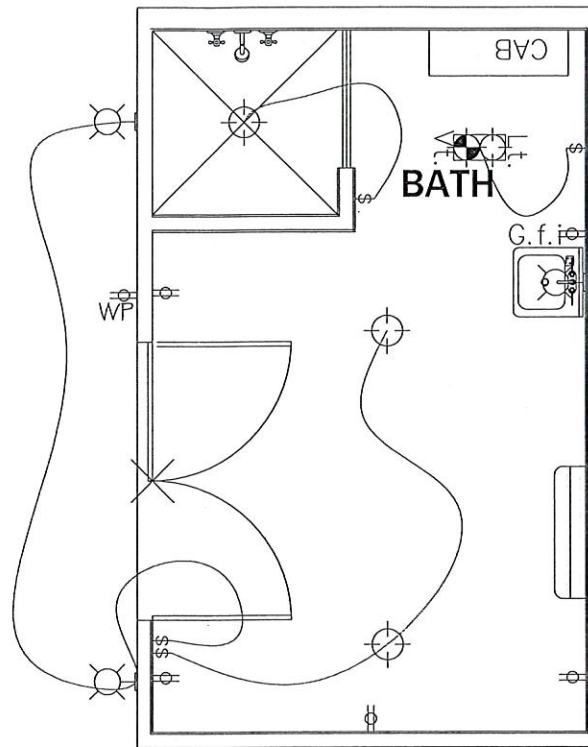
FLOOR PLAN

SCALE: 1/4" = 1'-0"



ROOF PLAN

SCALE: 1/4" = 1'-0"



ELECTRICAL PLAN

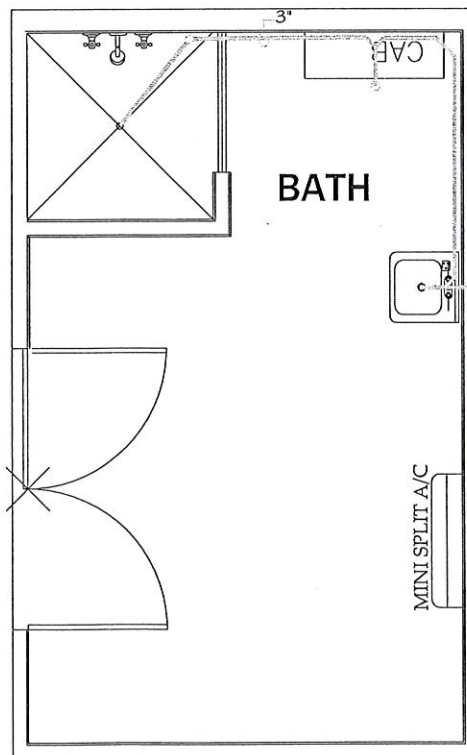
SCALE: 1/4" = 1'-0"

NOTE:

1. BREAKER BOX, LIGHT SWITCHES, OR OTHER CONTROL SWITCHES & THERMOSTAT IS NOT TO BE HIGHER THAN 48" AFF.
2. EACH ELECTRICAL PLUG OR OTHER RECEPTACLE IS AT LEAST 18" AFF

ELECTRICAL SYMBOL LEGEND

DB	DOOR BELL
☐	DOOR CHIME
⊙	GARBAGE DISPOSAL
⊕	DUPLEX OUTLET
⊕ _{GFI}	DUPLEX OUTLET W/ GROUND FAULT INTERRUPTER
⊕ _{WP}	WEATHER PROOF
⊕ ₂₂₀	220 VOLT OUTLET
▽	TELEPHONE OUTLET
☐	SMOKE DETECTOR
☐ _{TV}	CABLE T.V. OUTLET
⊕	SWITCH
⊕ ₃	3 WAY SWITCH
⊕ _{VL}	INCANDESCENT VANITY LIGHT FIXTURE
⊕	INCANDESCENT LIGHT FIXTURE
⊕ _{WM}	WALL MOUNT LIGHT FIXTURE
○	RECESSED LIGHT FIXTURE
⊕ _{FL}	INCANDESCENT LIGHT W/ FAN EXHAUST TO EXTERIOR
○	2'x4' FLUORESCENT LIGHT FIXTURE
⊕ _{HB}	HOSE BIBB
⊕ _{FL}	FLOOD LIGHTS
☐	BREAKER BOX
⊕ _{FL}	CEILING FAN W/ LIGHT
⊕ _{FL}	CEILING FAN
⊕ _{GO}	GARAGE DOOR OPENER



PLUMBING PLAN

SCALE: 1/4" = 1'-0"

1. PLUMBING CONTRACTOR TO EXTEND AND CONNECT BUILDING SEWER TO EXISTING SEWER LINE - FIELD VERY EXACT LOCATION OF EXISTING SEWER.

Please Note:
Urban Infrastructure group, Inc. assumes no liability for any structure constructed from this plan. It is the responsibility of the purchaser of this plan to perform the following before actual construction commences.

- 1- Builder or contractor must verify all dimensions prior to proceeding with construction.
- 2- Builder or contractor must verify compliance with all local building codes of the area where the structure is to be constructed and located.
- 3- Plans indicate locations only; engineering aspects should incorporate actual site conditions.

General Notes:

1. Power Outlet set 18" above finished floor, verify actual layout with builder and owner.
2. Power, communication/data and cable tv outlet location. Height placement to be verified and coordinated by builder and owner based on audio/visual equipment specifications.
3. Power and phone outlet. Coordinate final location with builder or owner.
4. Power outlet and Recessed water/drain box for refrigerator/freezer. Verify circuit and plug configuration requirements with owner and builder based on final appliance selection.
5. 220-Volt outlet for water heater.

ELECT. GROUNDING NOTES

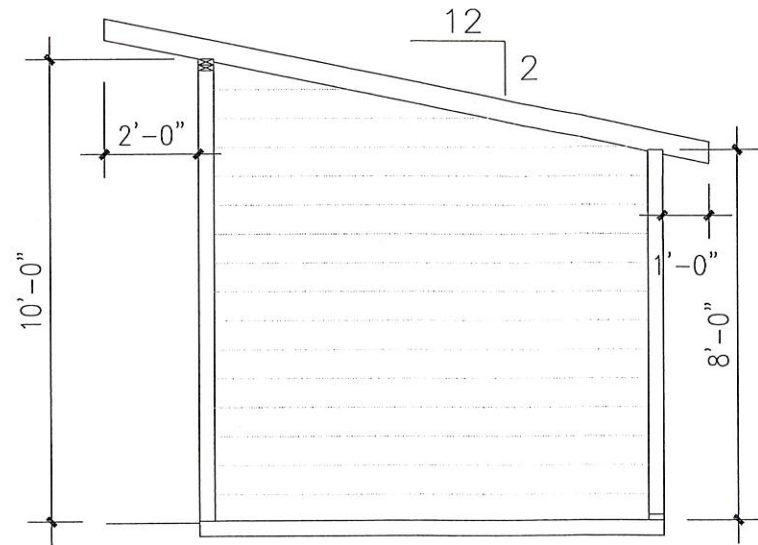
1. Consult local utility and local code for proper system grounding.
2. All interior metallic piping which may become energized shall be bonded together and made electrically continuous (a bond bare copper wire #4) shall be made between the bonded piping system and the grounding electrode conductor at the service disconnecting means.
3. The interior metal cold water piping system shall be bonded to the service at the grounding electrode, or to one or more grounding electrodes used.

NOV 02 2020
CW

URBAN INFRASTRUCTURE GROUP, INC.
 (956) 405-3337
 260 S. TEXAS BLVD.
 SUITE 403
 WESLACO, TEXAS 78596
 TBPB FIRM NO. F-13094
 WWW.UIGTEXAS.COM

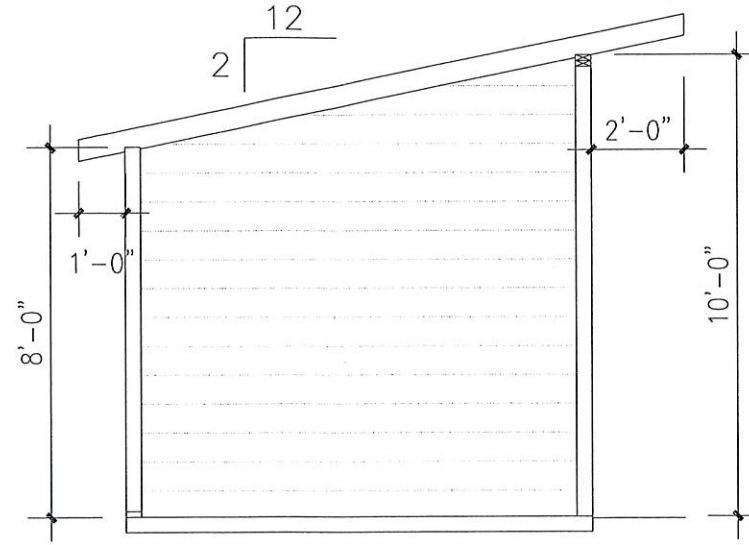
GARY MILLER
POOL HOUSE ADDITION
 9505 N. 22ND LANE
 McALLEN, TEXAS
 HIDALGO COUNTY

PROJECT NO.	128000
DATE:	10-19-2020 MRJ
SCALE:	1/4" = 1'-0"
SHEET	A1.0



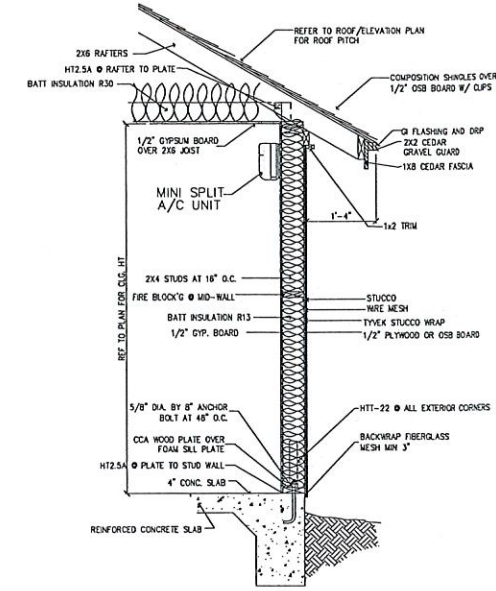
RIGHT ELEVATION

SCALE: 1/4" = 1'-0"

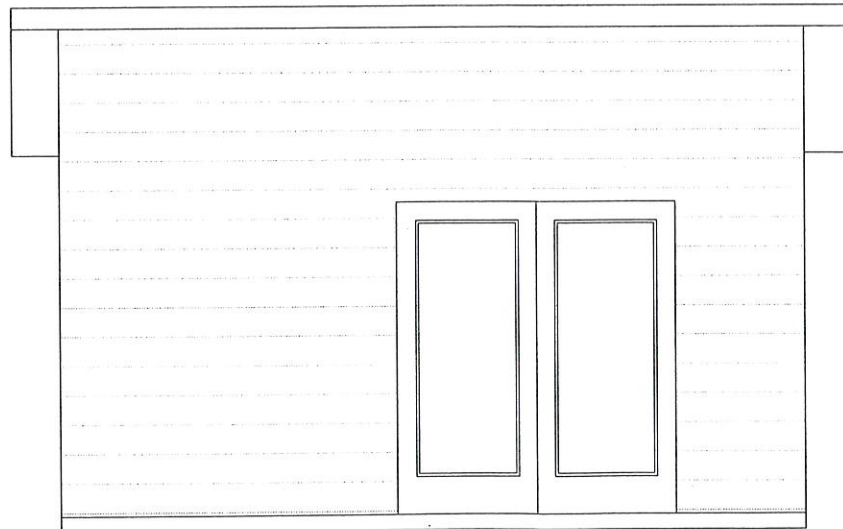


LEFT ELEVATION

SCALE: 1/4" = 1'-0"

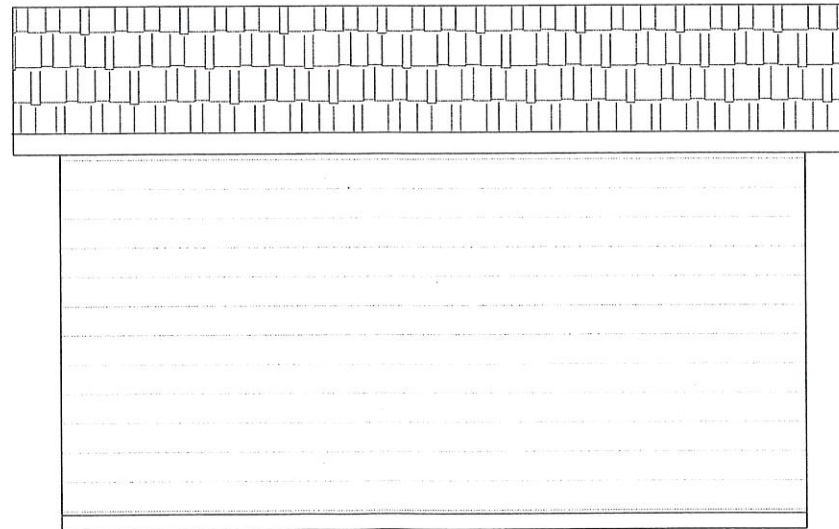


1-STORY STUCCO WALL SECTION
SCALE: N.T.S.



FRONT ELEVATION

SCALE: 1/4" = 1'-0"



REAR ELEVATION

SCALE: 1/4" = 1'-0"

URBAN INFRASTRUCTURE GROUP, INC.



(956) 405-3337
260 S. TEXAS BLVD.
SUITE 403
WESLACO, TEXAS 78596
WWW.UJGTEXAS.COM
TBPB FIRM NO. F-13094

GARY MILLER
POOL HOUSE ADDITION
9505 N. 22ND LANE
McALLEN, TEXAS
HIDALGO COUNTY

10-19-2020

PROJECT NO. 128000

DATE: 10-19-2020 MRJ

SCALE: 1/8" = 1'-0"

SHEET

A2.0

NOV 02 2020
CW





Hamlin Pools
956-787-3281

NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0075

CITY OF MCALLER PLANNING DEPT
200 W. 10TH
WWW.MCALLER.NET

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 27, 2020

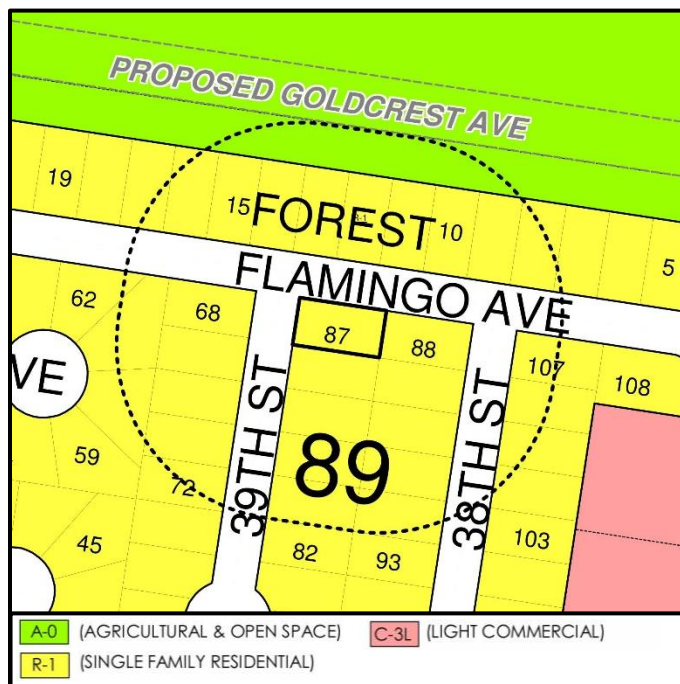
SUBJECT: REQUEST OF IRMA I. RIOS FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 10 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING WOODEN PORCH CANOPY MEASURING 25.33 FT. BY 14 FT., AT LOT 87, FOREST VALLEY SUBDIVISION, HIDALGO COUNTY, TEXAS; 5812 NORTH 39TH STREET. (ZBA2020-0076)

REASON FOR APPEAL:

The applicant is requesting a variance to allow an encroachment of 10 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy. The applicant stated the family uses it as a recreational space to relieve stress, especially during the pandemic, and that they did not know it was built on the rear yard setback. Ms. Rios also mentioned that since the property is a corner lot, they could not build it outside the setbacks and that none of the neighbors have ever complained about the canopy.

PROPERTY LOCATION AND VICINITY:

The subject property is located on the southeast corner of North 39th Street and Flamingo Avenue. The lot has 54 ft. of frontage along North 39th Street with a depth of 100 ft., for a lot size of 5,400 sq. ft. The surrounding land use is single-family residences.



BACKGROUND AND HISTORY:

Forest Valley Subdivision was recorded on June 7, 2001. According to Hidalgo County Appraisal District records, the residential home was built in 2001 and Irma Rios, the applicant, and Oscar Rios purchased the subject property in 2003. According to Google Earth aerial images, it seems that the canopy existed since February 2009. An application for a building permit for the existing porch canopy and the enclosed garage was submitted on February 24, 2020, which was disapproved during the building permit review process due to the encroachment into the rear yard easement and setback. A right-of-way permit to widen the existing driveway to accommodate two parking spaces was issued on February 24, 2020. A request to abandon an easement that ran concurrently with the rear yard setback was approved by the City Commission on October 26, 2020. A variance application to allow an encroachment of 10 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy was submitted on November 2, 2020.

ANALYSIS:

The plat for the subdivision shows a 10 ft. utility easement, which was later abandoned by the City Commission, and setback along the rear side of the subject property. The variance request is to allow an encroachment of 10 ft. into the 10 ft. rear yard setback for an existing wooden porch canopy measuring 25.33 ft. by 14 ft. The porch canopy is an accessory building which seems to be built prior to February 2009, according to Google Earth aerial images. Structures are not allowed on rear yard setbacks.

Approval of the variance request will allow the porch canopy to remain.

Staff has not received any emails or phone calls in opposition of the request.

RECOMMENDATION:

Staff recommends disapproval of the variance request. If the Board chooses to approve the request, the approval should be limited to the encroachments shown on the submitted site plan.

ZBA 2020-0076

ZBA
12/2/2020

City of McAllen Planning Department APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Lot (87) Forest Valley Subdivision

Subdivision Name Forest Valley

Street Address 5812 N. 39th St McAllen, Tx 78504

Number of lots 1 Gross acres 5.400

Existing Zoning Residential Existing Land Use Residential

Reason for Appeal (please use other side if necessary) _____

\$300.00 non-refundable filing fee + \$50.00 Recording Fee for Special Exception (carport)

Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name Irma I. Rias Phone _____

Address 5812 N. 39th St E-mail _____

City McAllen State Tx Zip 78504

Owner

Name _____ Phone _____

Address SAME AS ABOVE E-mail _____

City _____ State _____ Zip _____

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?

Yes 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 [Signature] Date 11/2/2020

Print Name Irma I. Rias Owner Authorized Agent

Office

Accepted by _____ Payment received by _____

Rev 10/18

Date NOV 02 2020

BY: [Signature]

05

H.C.



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider **any combination of** the following: *(Please use an additional page if necessary to complete responses)*

**Information provided here by the applicant does not guarantee that the Board will grant a variance.

***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

Las medidas del patio trasero son inusuales resultado de la construcción de la casa, localizada en una esquina entre las calles Flamingo Ave y 39th St.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

4. Describe special conditions that are unique to this applicant or property:

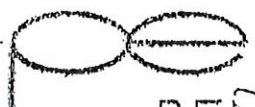
Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

- 2) ¡Queremos preservar las variaciones porque han sido muy provechosas para nuestra salud mental y emocional, ya que hemos pasado más tiempo con nuestra familia en estos espacios de recreo.
3. Nuestros vecinos nunca se han quejado y estos espacios no dañan sus propiedades en ninguna forma.
4. Los espacios están siendo usados con propósitos de recreo. Estamos pasando más tiempo en familia durante estos tiempos sin precedentes de la pandemia, y nos han ayudado a manejar el estrés.

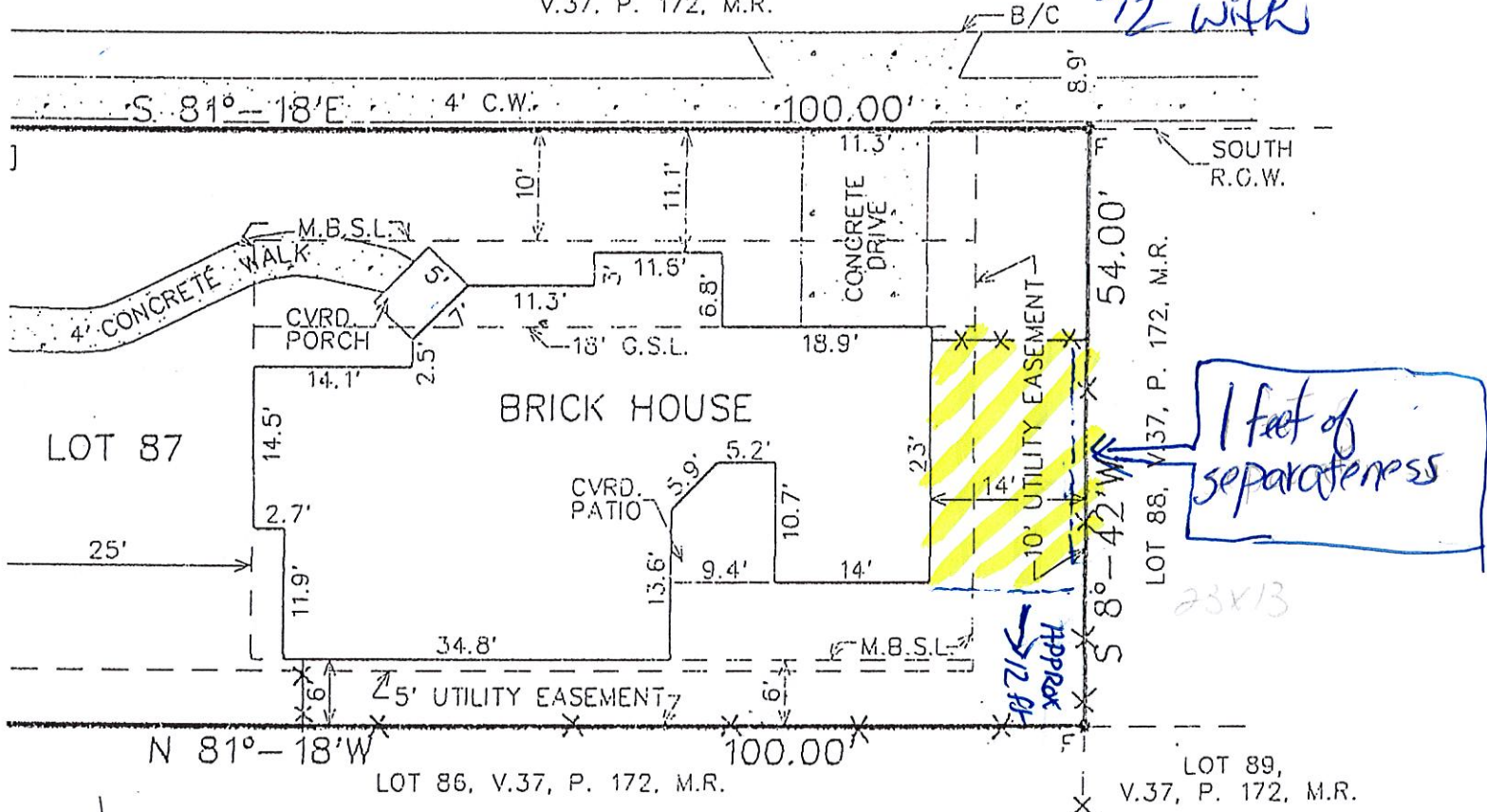


PEÑA ENGINEERING

1000 WHITEWING • P.O. BOX 4320
(956) 682-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA

*Wooden
Porch
8ft height
23 long
12 wide*

FLAMINGO AVENUE
V.37, P. 172, M.R.

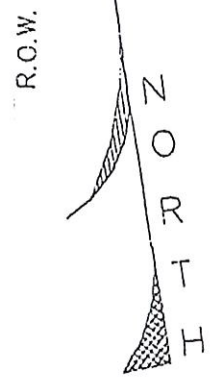


1 foot of separateness

23x13

NOTE: BASIS OF BEARING IS THE WEST LINE OF LOTS 82-87, FOREST VALLEY SUBDIVISION, V.37, P. 172, M.R.

- LEGEND
- F - FOUND 5/8" DIAMETER IRON ROD
 - B/C - BACK OF CONCRETE CURB & GUTTER
 - M.B.S.L. - MINIMUM BUILDING SETBACK LINE
 - G.S.L. - GARAGE SETBACK LINE
 - C.W. - CONCRETE WALK
 - CVRD. - COVERED
 - R.O.W. - RIGHT OF WAY
 - WATER METER
 - STORM WATER INLET
 - 6' CEDAR FENCE



SCALE: 1"=20'
CAD5-FOREST87.r

ES:
TATUTORY RIGHTS, RULES, REGULATIONS, EASEMENTS AND LIENS IN
AVOR OF HIDALGO COUNTY IRRIGATION DISTRICT NO.1, PURSUANT TO
PLICABLE SECTIONS OF THE TEXAS WATER CODE (PLANKET)

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

RES2000-0141.7

6003813 APPLICANT

NAME See below PHONE _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

CONTACT NAME _____ PHONE _____

OWNER CONTRACTOR TENANT OTHER

OWNER

NAME Irma I Rio PHONE _____

ADDRESS 5812 N. 39th St *EMAIL: _____

CITY McAllen, Tx 78504 STATE TX ZIP 78504

*OWNER INFORMATION NOT PROVIDED, INITIAL: _____

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

BLDG SQ. FT. 322 NO. PARKING SPACES _____ SQ. FT. LOT _____ LOT FRONT _____ FLOOR EL ABOVE CURB _____

EXISTING USE OF LOT Residential NEW USE _____

SCOPE OF WORK TO BE DONE include for storage room added of porch

PROJECT

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

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

LOT _____ BLDG _____ DIVISION _____
SITE ADDRESS ST. NO. 5812 ST. NAME N. 39th St McAllen, Tx 78504

CITY USE ONLY

ZONING _____ PERMIT FEE \$ 51.52 DOUBLE FEE \$ _____
 PERMIT REVIEW FEE \$ _____
 TOTAL PERMIT FEE \$ _____
 PARK DEV. ZONE # _____ PARK DEVELOPMENT FEE \$ _____

REC'D BY [Signature]
DATE 2/24/20
TIME 11:11

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.

Irma I Rio [Signature] _____ 2/18/2020
 PRINT (AUTHORIZED AGENT/OWNER) SIGNATURE EMAIL ADDRESS (required) DATE

LOT 1

PROPOSED GOLDCREST AVE

FOREST

FLAMINGO AVE

89

39TH ST

38TH ST

GARLAM SUBD LOT 1



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

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.

PROPOSED GOLDCREST AVE

**15 FOREST 10
FLAMINGO AVE**

39TH ST 89 38TH ST



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.

N 29TH ST 5000 DEAD END

FLAMINGO AVE

STOP

5812

NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0076
CITY OF McALLEN PLANNING DEPT.
1000 W. 10TH
WWW.MCALLEN.TX





Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 25, 2020

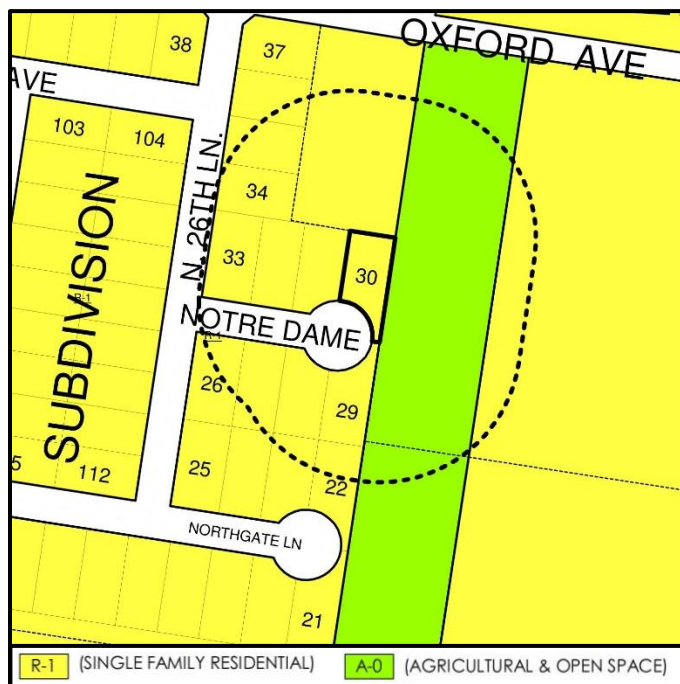
SUBJECT: REQUEST OF BRENDAN ROTH FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 3 FT. INTO THE 15 FT. REAR YARD SETBACK FOR AN EXISTING POOL MEASURING 21.8 FT. BY 9 FT., AT LOT 30, BRISAS DEL NORTE SUBDIVISION, HIDALGO COUNTY, TEXAS; 2600 NOTRE DAME AVENUE. (ZBA2020-0077)

REASON FOR APPEAL:

The applicant is requesting a variance to allow an encroachment of 3 ft. into the rear yard setback for an existing swimming pool built in 2006 by the previous property owner, Oscar Honeycutt. Mr. Honeycutt originally applied for a variance request in November 2017, which was not processed in order to resolve an abandonment request for an easement that runs concurrently with the rear yard setback. Since then, the property ownership has changed and the current property owner wishes to resolve the variance and abandonment requests, in order to sell the property.

PROPERTY LOCATION AND VICINITY:

The subject property is located on the north side of Notre Dame Avenue at a cul-de-sac, 195 ft. east of North 26th Lane. The irregularly shaped lot has 83.55 ft. of frontage along Notre Dame Avenue with a depth of 150.44 ft. at its deepest point, for a lot size of 7,591 sq. ft. The surrounding land use is single-family residences and drain ditch R.O.W.



BACKGROUND AND HISTORY:

Brisas del Norte Subdivision was recorded on January 26, 2005. The residential home was built in 2005 and an application for a swimming pool permit was approved in 2006. Oscar Honeycutt, the previous owner of the property, applied for a variance request on November 2, 2017, which was not processed at the time, in order to resolve the abandonment application first, which is not finalized yet. Staff has received eight letters of approval and one letter of disapproval from utility companies in response to the abandonment request. One letter is still pending.

Mr. Honeycutt stated on the variance application that he was not aware that the pool was built encroaching into the rear yard setback. Then he subsequently sold the subject property to Brendan Roth, who is attempting to resolve the cases and finish the process in order to sell the subject property. As a result, Mr. Roth submitted a variance request application on July 29, 2020, as a change of applicant.

ANALYSIS:

The plat for the subdivision shows a 15 ft. utility easement and setback along the rear side of the subject property. The variance request is to allow an encroachment of 3 ft. into the 15 ft. rear yard setback for an existing swimming pool measuring 21.8 ft. by 9 ft. The swimming pool is an accessory building which was constructed in 2006. The pool permit was issued on January 23, 2006, but was never finalized. Structures are not allowed on rear yard setbacks.

Approval of the variance request will allow the swimming pool to remain.

Staff has not received any emails or phone calls in opposition of the request.

RECOMMENDATION:

Staff recommends disapproval of the variance request. If the Board chooses to approve the request, the approval should be limited to the encroachments shown on the submitted site plan.

ZBA 2020-0077

280A
12/2/2020


City of McAllen Planning Department APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE


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

Project	Legal Description	<u>2600 Notre Dame Avenue - 3 Bedroom 2 Bathroom</u> <u>House with a swimming pool in the backyard</u>
		<u>Application was submitted in October 2017, regarding initial zoning of pool</u>
	Subdivision Name	<u>Brisas Del Norte</u>
	Street Address	<u>2600 Notre Dame Ave, McAllen TX 78504</u>
		Number of lots <u>1</u> Gross acres <u>.1743</u>
	Existing Zoning	<u>RS</u> Existing Land Use _____
	Reason for Appeal (please use other side if necessary) <u>Previous application was submitted in Oct 2017.</u> <u>The current homeowner is updating the application. Please read below/attached for full description</u>	
	<input 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	

Applicant	Name	<u>Brendan Roth</u>	Phone	<input type="text"/>
	Address	<u>2600 Notre Dame Ave</u>	E-mail	<input type="text"/>
	City	<u>McAllen</u>	State	<u>TX</u>
			Zip	<u>78504</u>

Owner	Name	<u>Brendan Roth</u>	Phone	<input type="text"/>
	Address	<u>2600 Notre Dame Ave</u>	E-mail	<input type="text"/>
	City	<u>McAllen</u>	State	<u>TX</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></u> Date <u>07/29/2020</u>
Print Name	<u>Brendan Roth</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	

Office	Accepted by <u></u> Payment received by _____ Date _____
	Rev 10/18

RECEIVED
 JUL 29 2020
 BY: 

City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>The city issued a permit for the pool to the current home owner, Roth, after he bought the house from the previous owner, Oscar Honeycutt. Roth has since attempted since October 2017 to finalize the variance application started by Mr. Honeycutt (which was a condition of the house sale) as well as work with the city to obtain the required variances, abandonments, and exemptions so that there would be no issue with the future house sale by Mr. Roth.</p> <p>Mr. Roth has provided all requested documents, photographs, estimates, and zoning pictures from the utilities companies to the city, as recently as October 2019. Mr. Roth is now updating the application of Mr. Honeycutt from 2017, with Mr. Roth as the current home owner, as directed by the city of McAllen city Planning Department to expedite this process. All fees were paid by Mr. Honeycutt in 2017 for the variance application.</p> <p>Mr. Roth simply wishes to complete this process so that there are no future issues at closing with the variance or zoning of the pool on the residence. Mr Roth intends to sell the home, but cannot list the property until these issues are resolved. Thank you for your assistance.</p>
Board Action	<div style="border: 1px solid black; height: 150px; width: 100%;"></div> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="width: 45%;"> <p>Chairman, Board of Adjustment Signature</p> <p>_____</p> </div> <div style="width: 45%;"> <p>Date</p> <p>_____</p> </div> </div>

City of McAllen Planning Department

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

APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

Project

Legal Description All of lot 30, Brisas Del Norte Subdivision, an addition to the city of McAllen, Hidalgo County, Texas according to the map recorded in volume 47, pages 23 & 24, map records in the office of the county clerk

Subdivision Name Brisas Del Norte

Street Address 2600 Notre Dame Avenue McAllen, TX 78504

Number of lots 1 Gross acres < 1/4 acre

Existing Zoning Residential Existing Land Use Single family home

Reason for Appeal (please use other side if necessary) Encroachment exists onto utility easement from swimming pool.

\$300.00 non-refundable filing fee

Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name Oscar A. Honeycutt Phone [Redacted]

Address 405 Heffern Drive E-mail [Redacted]

City St. Augustine State FL Zip 32084

Owner

Name Oscar A. Honey Phone [Redacted]

Address 405 Heffern Drive E-mail [Redacted]

City St. Augustine State FL Zip 32084

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?

Yes 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 [Signature] Date 10/30/17

Print Name OSCAR A. Honeycutt Owner Authorized Agent

Office

Accepted by [Signature] Payment received by _____ Date _____

RECEIVED
NOV 02 2017



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

My home was built in 2006. At the time of pool construction, I was advised by the builder & the pool company that a utility easement existed and the pool would have to be made very narrow to accommodate for this easement. I agreed. I am now trying to sell the home and have been made aware of the fact that the pool encroaches 1.5 feet into the easement. I was never made aware of the encroachment by either the builder, the pool company, nor the title company of this problem. I am applying for an abatement and rezoning in order to sell the home.

Board Action

Chairman, Board of Adjustment
Signature

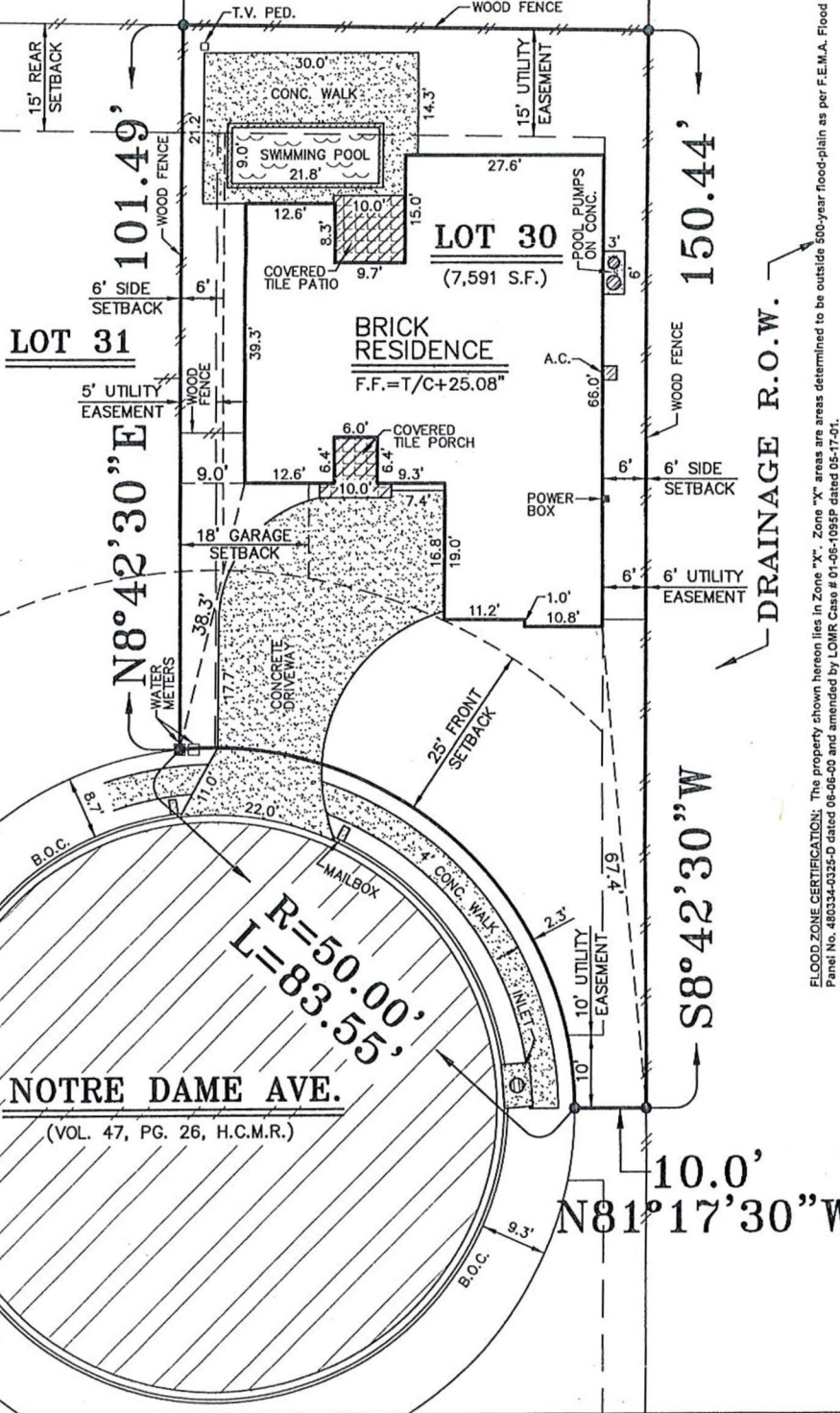
Date



ART SALINAS ENGINEERING & SURVEYING

1524 DOVE AVENUE, McALLEN, TEXAS 78504 PH: (956) 618-5565 FAX: (956) 618-5540

S80°35'16"E
65.00'



LOT 31

LOT 30
(7,591 S.F.)

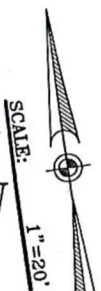
BRICK RESIDENCE
F.F. = T/C + 25.08"

NOTRE DAME AVE.
(VOL. 47, PG. 26, H.C.M.R.)

DRAINAGE R.O.W.

FLOOD ZONE CERTIFICATION: The property shown hereon lies in Zone "X". Zone "X" areas are areas determined to be outside 300-year flood-plain as per F.E.M.A. Flood Insurance Rate Map Panel No. 480334-0325-D dated 06-06-00 and amended by LOMR Case # 01-05-099P dated 05-17-01.
PLAT NOTES:

1. There are no discrepancies, conflicts or shortages in area or boundary lines, encroachments, or any overlapping of improvements, except as shown or noted hereon.
2. This survey plat is prepared in connection with Title Policy G.F.# 0957016P, and does not guarantee title. This survey is for the exclusive use of the client named hereon may not be copied or transferred to another party without the express consent of the surveyor.
3. If this survey does not bear an official 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 5382c, Vernon's Texas Civil Statutes.
4. Blanket easements, rules, regulations and rights in favor of Hidalgo County Irrigation District No. 1.
5. Right of way easement in favor of Coastal Transmission Corporation as shown by instrument recorded in Volume 892, Page 619 and in Volume 928, Page 429, both in the Deed Records of Hidalgo County, Texas, (Blainett).
6. Blanket Easement and Agreement in favor of AEP Central Company, a Texas Corporation, dated January 24, 2005, filed March 31, 2005 under Document Number 1452614 in the Official Records, Hidalgo County, Texas, to furnish, maintain and operate underground electric cables and other facilities as may appear upon the map attached thereto.
7. Bearing BRISAS DEL NORTE SUBDIVISION BORROWER: OSCAR A. HONEYCUTT



LEGEND

- - DENOTES FOUND 1/2" ROD
- - DENOTES NO MONUMENT

THIS IS TO CERTIFY TO THAT I HAVE, THIS DATE, MADE A CAREFUL AND ACCURATE STANDARD LAND SURVEY ON THE GROUND OF PROPERTY WHICH IS LOCATED AT 2600 NOTRE DAME AVE. in McALLEN, TEXAS, DESCRIBED AS FOLLOWS: ALL OF LOT 30, BRISAS DEL NORTE SUBDIVISION, AN ADDITION TO THE CITY OF McALLEN, HIDALGO COUNTY, TEXAS, ACCORDING TO THE MAP RECORDED IN VOLUME 47, PAGE 26, MAP RECORDS IN THE OFFICE OF THE COUNTY CLERK OF HIDALGO COUNTY, TEXAS, REFERENCE TO WHICH IS HERE MADE FOR ALL PURPOSES.

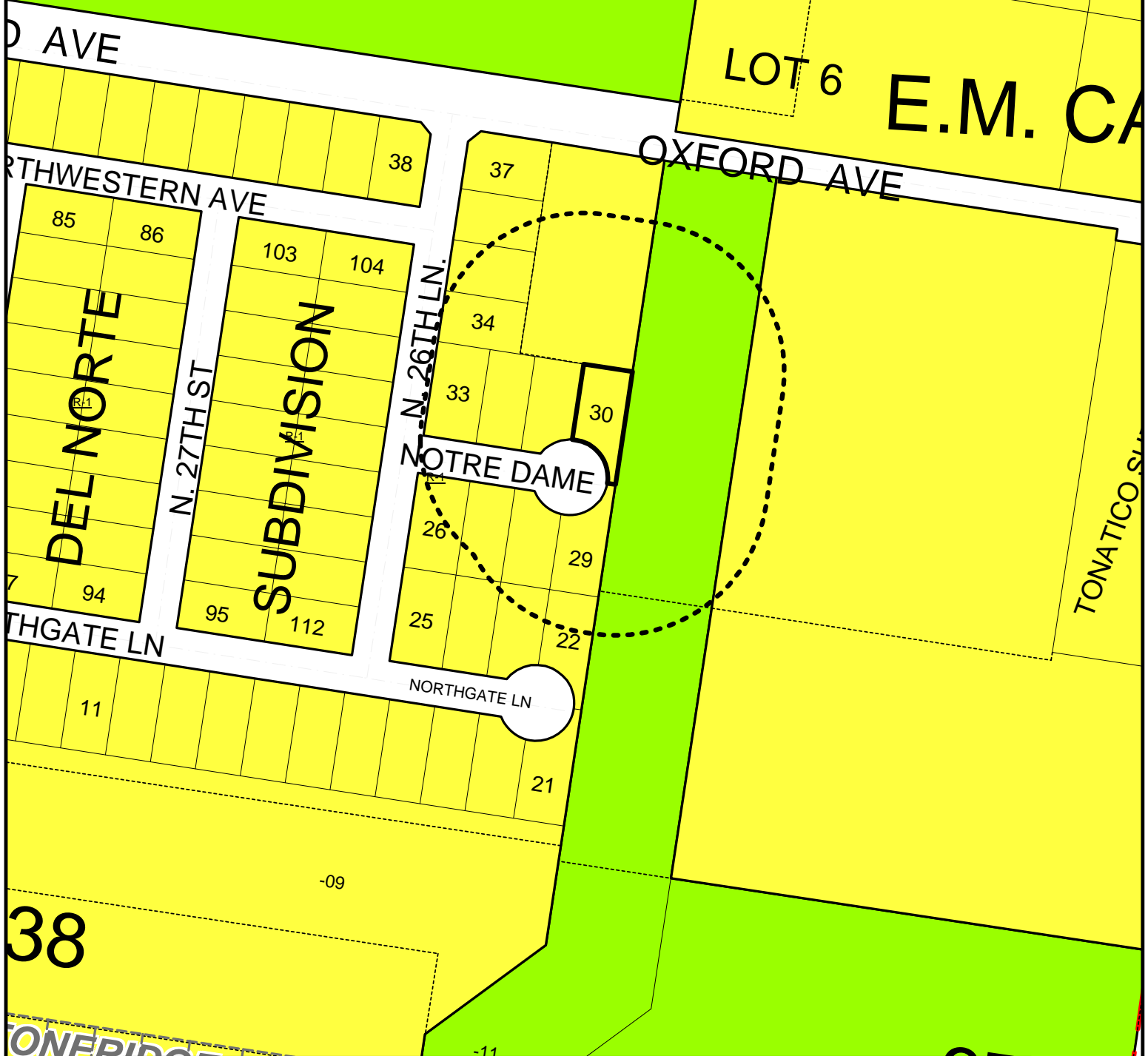
06-30770
Job No.


05-04-06
Date

© COPYRIGHT 2006 ART SALINAS ENGINEERING INC. THIS SURVEY WAS PROVIDED IN MULTIPLE ORIGINALS FOR A SINGLE TRANSACTION BY THE BORROWER NAMED HEREON. NO LICENSE HAS BEEN CREATED, EXPRESSED OR IMPLIED TO COPY THIS SURVEY.

Registered Professional Land Surveyor No. 4802

POLICE CENTER SUBDIVISION








CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.
















AREA MAP



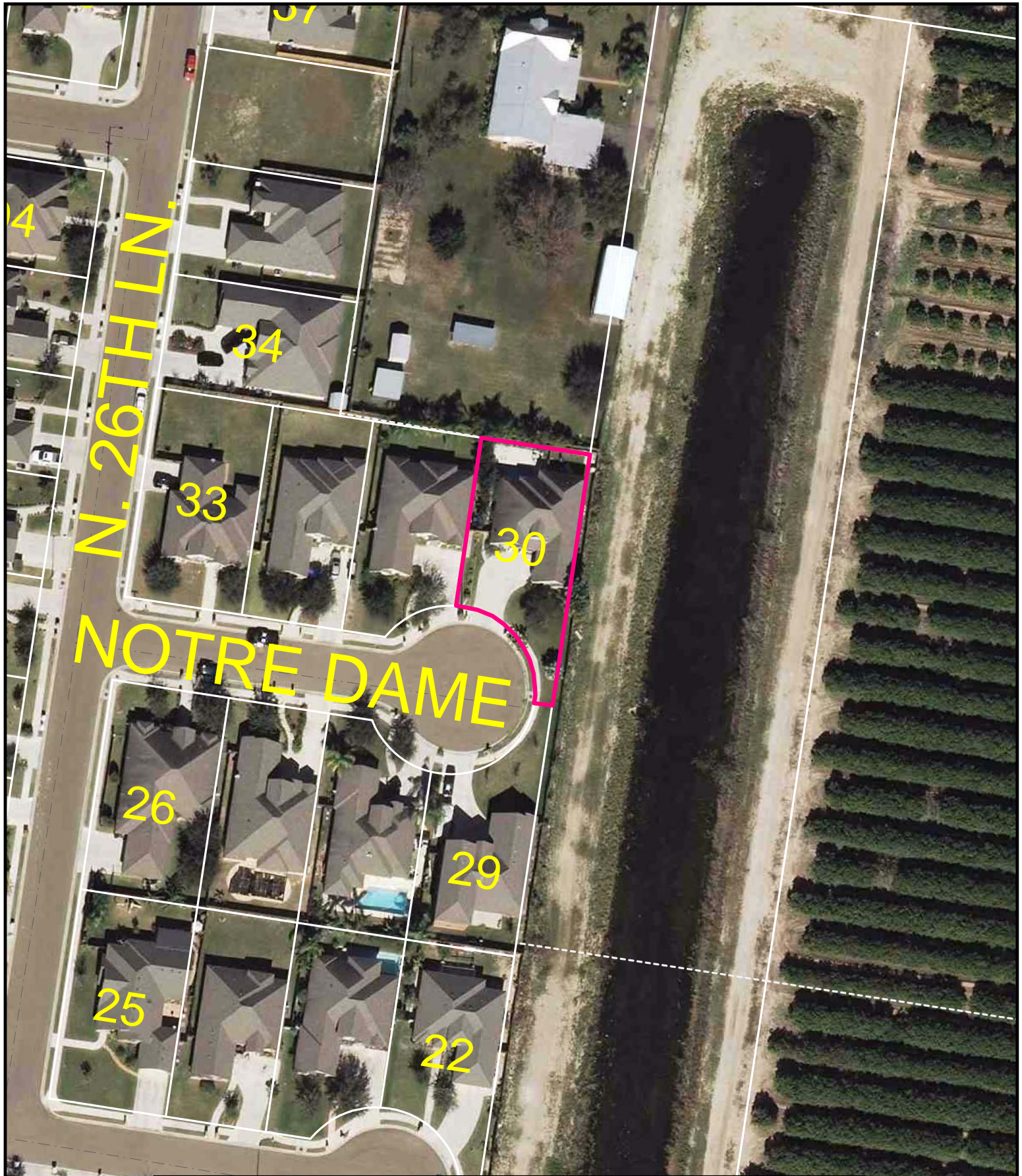
SUBJECT PROPERTY 

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 (DUPLIX-FOURPLEX)	 R-3I (TOWNHOUSES)	 C-2 (NEIGHBORHOOD COMMERCIAL)	 C-4 (COMMERCIAL INDUSTRIAL)	 (SPECIAL DISTRICT)

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CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.

 SUBJECT PROPERTY



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City of McAllen

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

POOL PERMIT

PERMIT NO. 0600375 DATE ISSUED 10/10/2017

GENERAL CONTRACTOR Brendan Roth
Brendan Roth
2600 Notre Dame Ave
McAllen, TX

PHONE []

BLDG SQ FT LOT FRONT

TYPE OF OCCUPANCY Residential RENEWAL Yes TAKEOVER No

OWNER Oscar Honeycutt
3629 Flamingo McAllen TX 78501

IMPROVEMENT VALUE 10000

PHONE []

LOT BLOCK SUBDIVISION

SITE ADDRESS 2600 Notre Dame

ZONING L.U. CODE Building/Swimming Pool

CERTIFICATE OF OCCUPANCY/COMPLETION

This document becomes the Certificate of Occupancy/Completion when signed by the Building Official

Signature _____ Date _____

The foregoing is a true and correct description of the improvements proposed by the undersigned applicant, and the applicant certifies that he will have full authority over construction of same. The 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 or State law, or be a waiver by the City of such violation. Alterations, 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 assumes all responsibility for such compliance. It is understood that the improvements shall not be occupied until a Certificate of Occupancy has been issued, or otherwise approved by the Building Inspection Department. 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 work is commenced. Otherwise, permit is good for one year only.

Authorized Agent/Owner [Signature] Date 10/10/17

CONDITIONS FOR SWIMMING POOL PERMIT APPROVAL

INSPECTION DEPARTMENT:

PROJECT DATA	
Address:	<u>2600 NOTRE DAME Ave.</u>
Plan #:	_____
Occupancy:	_____
Construction type:	_____

1. Minimum setback:
Rear: 15' U.E.
Sides: 6' setback

Maintain 5' separation between pool & structure.

2. Plumbing shall comply to City Code and Ordinance.
a. Master licensed plumber needed to obtain permits & install backflow prevention device.
3. Electrical installation shall comply to City Code and Ordinance. (2005 N.E.C.)
4. Need to identify job site (address).
5. Toilet facilities shall be provided at job sites during construction and shall be maintained in a sanitary condition.
6. All construction debris must be contained and disposed from property prior to final.
7. Must comply with the 1993 swimming pool enclosure law. (Senate Bill 170)
8. Electrical receptacles within 20' from pool's inside wall shall be G.F.C.I..

OTHER: _____

A FINAL INSPECTION APPROVAL IS REQUIRED. _____

Felix Sandwal
CONTRACTOR/AUTHORIZED AGENT (PRINT NAME)

Felix Sandwal
(SIGNATURE)

1-23-2004
(DATE)

10/10/17

***ALL CONSTRUCTION AS PER THE 2000 INTERNATIONAL BUILDING CODES (IBC)
***OTHER CODE AND CITY ORDINANCES MAY APPLY.

— File —



NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0077

DIANE McLARTY
956-330-2242

Star
Pr





Memo

TO: Zoning Board of Adjustment & Appeals

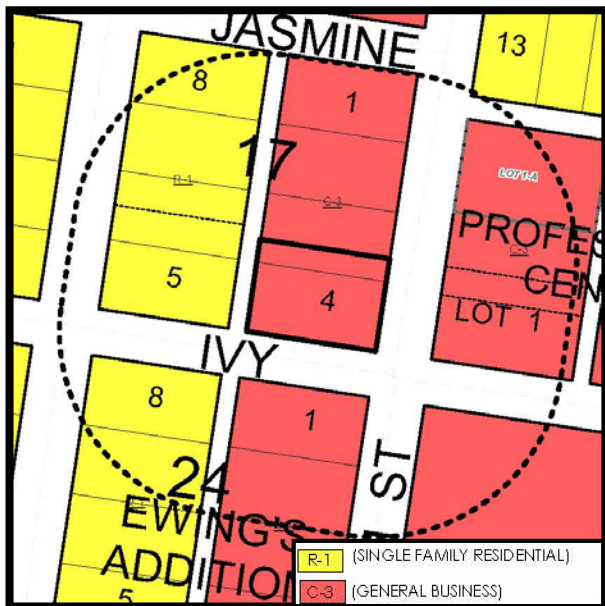
FROM: Planning Staff

DATE: November 19, 2020

SUBJECT: REQUEST OF STEPHANIE RAMIREZ, ON BEHALF OF JAIME MURIEL FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 11.7 FT. INTO THE 11.7 FT. FRONT YARD SETBACK FOR AN EXISTING EXTENSION OF THE METAL PORCH MEASURING 11.7 FT. BY 34 FT. AT SOUTH 25' OF LOT 3 AND ALL OF LOT 4, BLOCK 17, EWING'S ADDITION SUBDIVISION, HIDALGO COUNTY, TEXAS; 901 & 905 NORTH MAIN STREET. (ZBA2020-0082)

REASON FOR APPEAL: The applicant is requesting the following variance to allow an encroachment of 11.7 ft. into the 11.7 ft. front yard setback for an existing extension of the metal porch measuring 11.7 ft. by 34 ft. The applicant has indicated that the basis for the request is to use the existing expansion of structure as shade for front outdoor seating area of the restaurant, "Mikhuna Japanese- Peruvian Cuisine".

PROPERTY LOCATION AND VICINITY: The property is located on the west side of North Main Street, approximately 350 ft. north of Hackberry Avenue, and is zoned C-3 (general business) District. Adjacent zoning is zoned R-1 (single family residential) District to the west, and C-3 to the north, south and east. Surrounding land uses are restaurants, retail, and single family residential.



BACKGROUND AND HISTORY: The property is located in Ewing's Addition, which was recorded on February 2, 1920. The previous owner applied for a variance request on October 13, 1983 to build the existing building 13.6 ft. back from the front property line instead of the 27.5 ft. setback required. At the Zoning Board of Adjustment and Appeal meeting of November 16, 1983 there was no one present in opposition and the board made the motion to approve the variance as long as the continuity of the front building setback remained the same with the surrounding building.

A building permit application for a metal porch measuring 11.7 ft. by 35 ft. on the north side of the property was submitted on November 25, 2019 and on May 6, 2020 the applicant applied for a variance for the proposed metal porch encroaching into the front yard setback. A building permit was issued for the construction of the metal porch on May 20, 2020, with the applicant's understanding that if the variance request is denied, he will have to come back and revised the site plan to not have the proposed metal structure in the front of the restaurant. At the Zoning Board of Adjustment & Appeal meeting of June 3, 2020, there was someone in opposition to the request; however, after discussion, the Board voted unanimously to approve the variance request subject to the footprint as shown on the site plan.

The applicant received a Stop Work Order Notice on November 12, 2020 because the south extension porch was built without a building permit; nonetheless, the porch is completely built. They applied for a Building Permit on November 13, 2020 and after reviewing permit on November 16, 2020 Planning Staff let the applicant know that they had let the previous agent know that if they wanted to expand the porch to the south side, they needed to apply for a new variance request. The applicant applied for a variance request for the new expansion to the south on November 16, 2020.

ANALYSIS: The extension of the metal porch to the south will be used for outdoor dining at the restaurant. The new extension of the porch to the south measures 11.7 ft. by 34 ft. for (397.8 sq.ft.) with a height of 8 ft. The material of the extension of the porch to the south is identical to the north portion that was approved by the Board on June 3, 2020; it has a metal roof with metal posts in concrete. The porch extends from the wall of the existing building toward the front property line as per survey and site plan submitted. The zoning ordinance states that the front setback for a C-3 (general business) property shall be equal to one-half of the width of the street right-of-way which it faces or in line with majority setback of existing structures on the block face, whichever is greater. As per Ewing's Addition Subdivision plat, the street right-of-way is 75 ft.; however, as per Professional Center subdivision plat on the east side of Main Street shows the street ROW to be 60 ft.

The extension of the porch to the south is adding 397.8 sq. ft. of dining area to the restaurant; therefore, 4 additional parking spaces are required.

There was one call received in opposition.

RECOMMENDATION:

Staff recommends disapproval of the variance request. If the Board chooses to grant the variance, it should be limited to the foot print as shown on the site plan and must provide the 4 additional parking spaces required based on the additional 397.8 sq. ft. of dining area.

City of McAllen

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

Planning Department

APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

ZBA 12/2/20

Project

Legal Description Kucina Il Forno Patio Expansion

Subdivision Name Ewing-sm1

Street Address 905 N main ST

Number of lots 1 Gross acres _____

Existing Zoning _____ Existing Land Use _____

Reason for Appeal (please use other side if necessary) _____

\$300.00 non-refundable filing fee

Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name Stephanie Ramirez Phone (956) 252-0919

Address 905 N main ST E-mail stephrm208@hotmail.com

City McAllen State TX Zip 78501

Owner

Name Jaime Muriel Phone (956) 483-5234

Address 905 N main ST E-mail jmuriel@me.com

City McAllen State TX Zip 78501

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?

Yes 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 [Signature] Date _____

Print Name Jaime Muriel Owner Authorized Agent

Office

Accepted by _____ Payment received by _____ Date _____

RECEIVED
NOV 16 2020
By CM



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider **any combination of** the following: (*Please use an additional page if necessary to complete responses*)

**Information provided here by the applicant does not guarantee that the Board will grant a variance.

***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

The patio expansion is necessary due to the current situation we are dealing with (Covid-19). Restaurants guest feel it is best to be in an open area verses indoor space.

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

The expansion will help public health & safety of our guest. Allowing them to dine al fresco without feeling the need to feel that is are in closed area

4. Describe special conditions that are unique to this applicant or property:

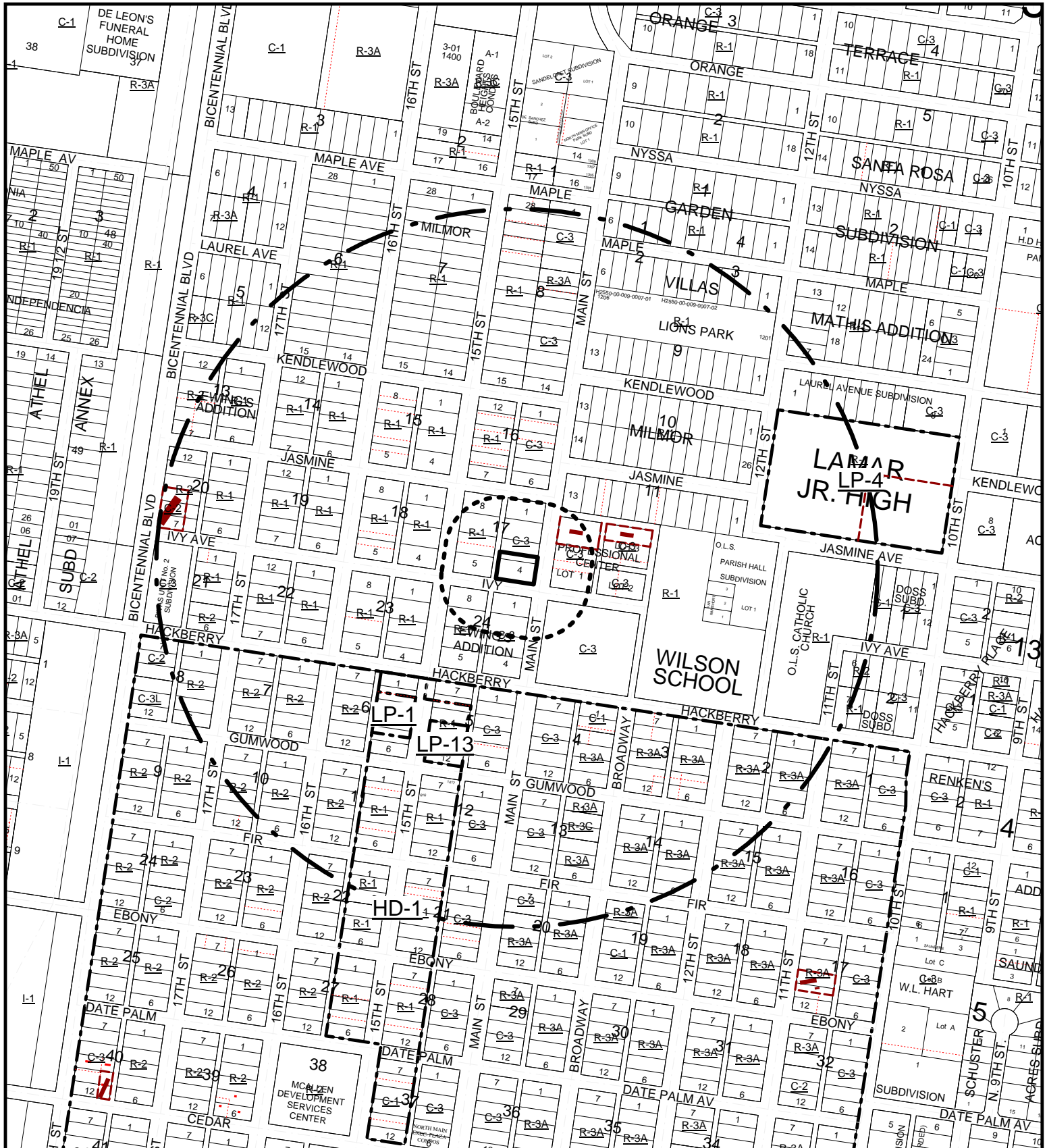
this expansion is crucial to our business survival.


Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date







CITY OF McALLEN
PLANNING DEPARTMENT


LEGEND
SCALE: N.T.S.

AREA MAP






SUBJECT PROPERTY



200 FT. NOTIFICATION BOUNDARY

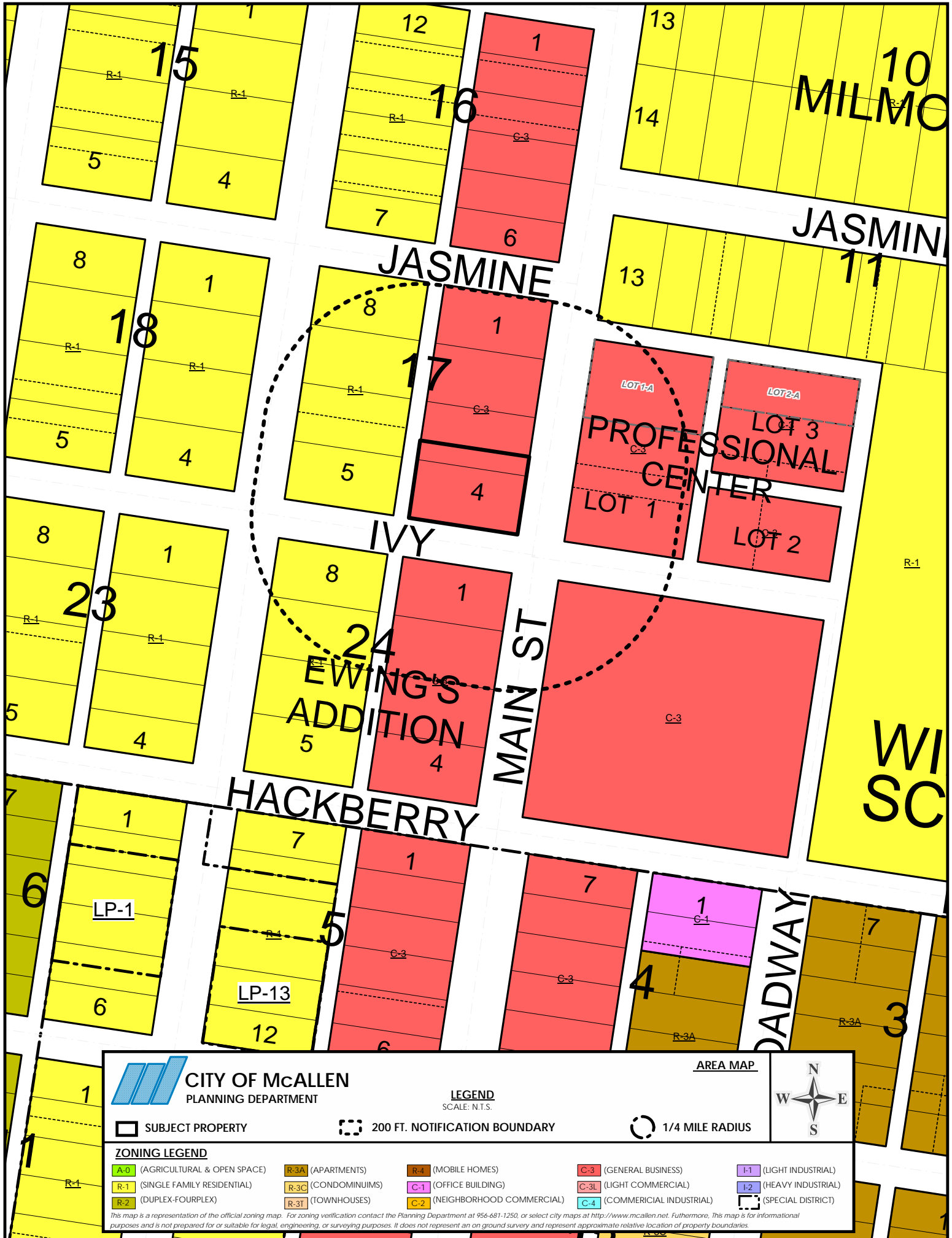



1/4 MILE RADIUS

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 (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

⊙ 1/4 MILE RADIUS

ZONING LEGEND

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

AERIAL MAP
SCALE: N.T.S.

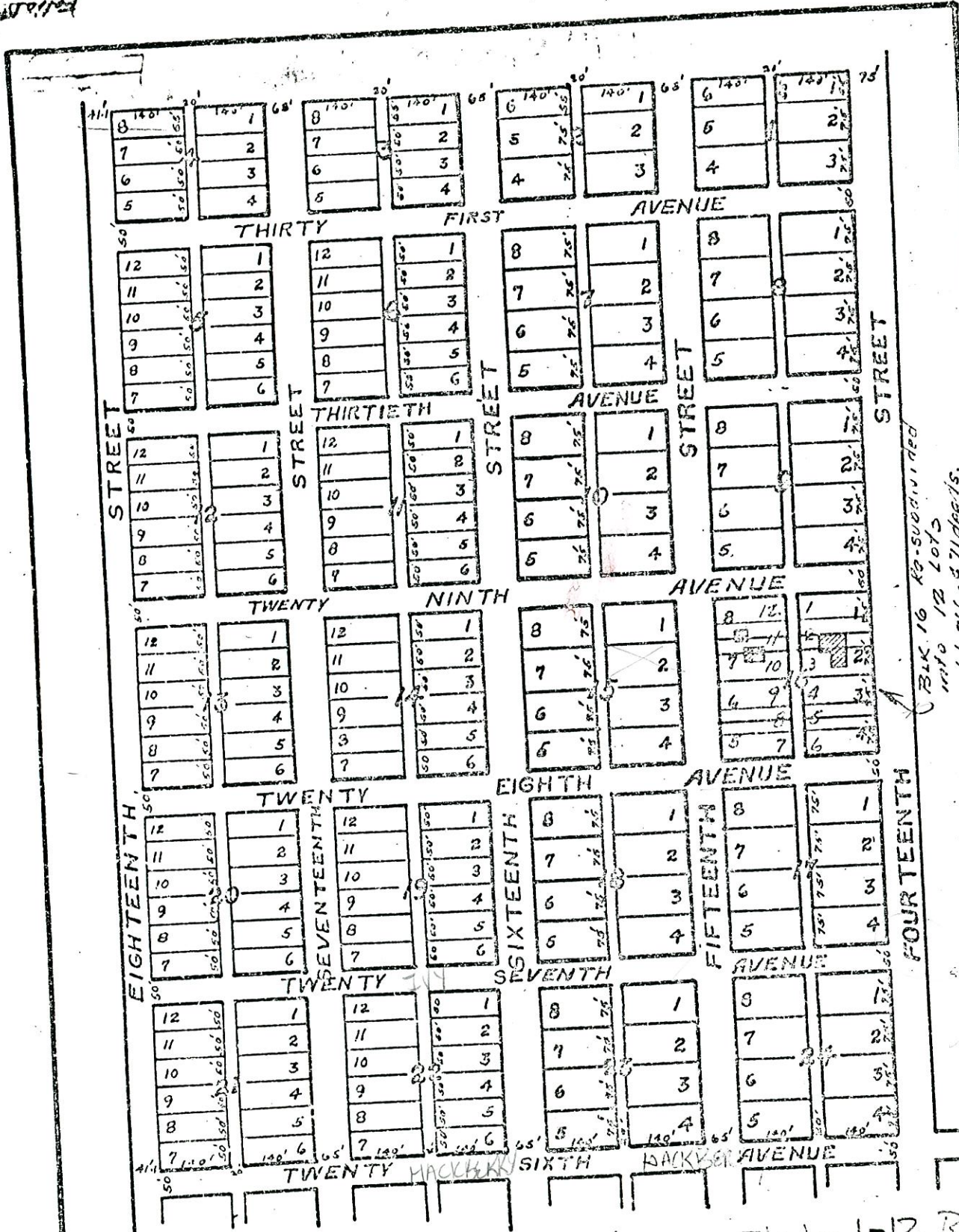
 SUBJECT PROPERTY

 200' NOTIFICATION BOUNDARY



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6-25-1924

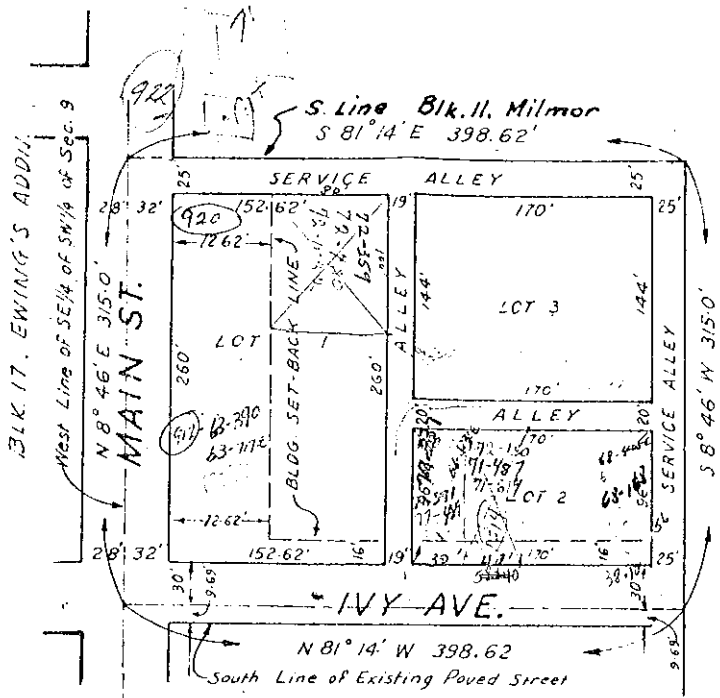


Blk 16 19-subdivided
 into 12 lots
 Vol 266p 471 dec 15.

MAP
 OF
EWING'S ADDITION
 TO
Mc ALLEN TEXAS
 SCALE 1"=200'

Blocks 1-12 Resub
 to Miller Addition

Being the South three fourths of the W 1/2 of the S.W. 1/4 of Section 9 of
 the Hidalgo Canal Company's Subdivision of Porciones 64, 65 & 66



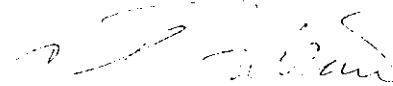
MAP
OF
PROFESSIONAL CENTER
MCALLEN, TEXAS

BEING A SUBDIVISION OF THE NORTH 315.0 FT.
OF THE WEST 398.62 FT. OF THE SOUTH 660.0 FT.
OF THE SE 1/4 OF THE SW 1/4 OF SECTION 9, HIDALGO
CANAL CO.'S. SUBDIVISION OF PORCIONES 64, 65 &
66, HIDALGO COUNTY, TEXAS.

SCALE: 1"=100'

DATE: July 9, 1962

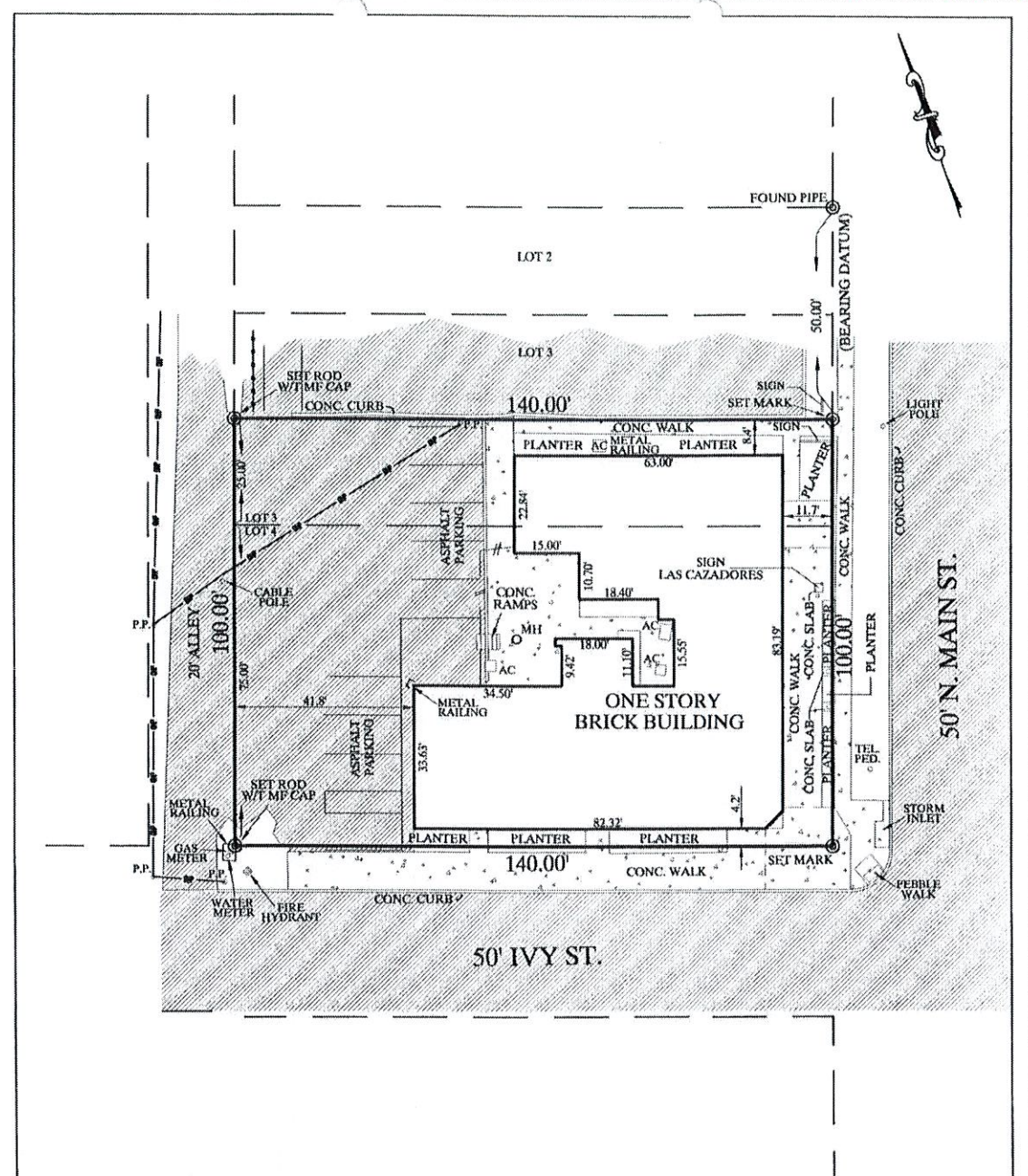
I, C. L. FABIAN, A REGISTERED PUBLIC SURVEYOR, DO HEREBY CERTIFY THE FOREGOING MAP TO BE A TRUE AND CORRECT REPRESENTATION OF THE LANDS HEREON DESCRIBED AS PLATTED BY ME FROM SURVEY OF THE OUTSIDE BOUNDARIES OF SAME.


 C. L. FABIAN
 REGISTERED PUBLIC SURVEYOR
 MCALLEN, TEXAS

STATE OF TEXAS:
COUNTY OF HIDALGO:

KNOW ALL MEN BY THESE PRESENTS:
THAT WE, W. E. WHITSITT AND C. R. LANGRIDGE, OWNERS OF THE PROPERTY HEREON DESCRIBED, DO HEREBY ADOPT, DEDICATE AND CONFIRM THE FOREGOING MAP AND DO HEREBY DEDICATE TO THE PUBLIC THE SURFACE USE OF THE STREETS, ALLEYS AND EASEMENTS THEREON SHOWN.

905 N. Main St.



TITLE CO. : VALLEY LAND TITLE CO.
 G.F. # 149178
 ADDRESS: 901 N. MAIN STREET
 BORROWER: PAMM FAMILY PROPERTIES, LLC

MAP
 OF
 THE SOUTH 25' OF LOT 3
 AND ALL OF LOT 4, BLOCK 17,
 EWING'S ADDITION
 CITY OF McALLEN, TEXAS
 HIDALGO COUNTY, TEXAS
 RECORDED IN VOL. 2, PG. 4 M/R

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 DISCREPANCIES, CONFLICTS, OR SHORTAGES IN AREA OR BOUNDARY LINES, OR ANY ENCROACHMENTS OR OVERLAPPING OF IMPROVEMENTS EXCEPT AS SHOWN ON THIS PLAT. THIS PROPERTY FALLS IN ZONE "B" OF THE FLOOD INSURANCE RATE MAPS.

PREPARED BY
MICHAEL FABIAN SURVEYING, INC.
 1203 E. HACKBERRY AVE.
 MCALLEN, TEXAS 78501
 TEL. (956) 630-1432 FAX. (956) 687-6660

Michael Fabian
 MICHAEL FABIAN
 REGISTERED PROFESSIONAL LAND SURVEYOR
 McALLEN, TEXAS.

MICHAEL FABIAN
 REGISTERED PROFESSIONAL
 LAND SURVEYOR

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W0 #3130 PRINT SIZE: LEGAL
 SCALE: 1" = 30' DATE: 2/20/20
 EMAIL ADDRESS: SURVEY@MFIANSURVEYING.COM
 FIRM # 10193965

U:\MES\2016\W03130.dwg, 8/26/2016 4:35:36

RECEIVED
 APR 30 2020
 BY: *Mc 9:55am*

Proposed

905 N MAIN STREET
MCALLEN, TX 78501

CONC. SIDE WALK

CONC. SIDE WALK

CONC. SIDE WALK

CONC. SIDE WALK

EXISTING PLANTER AREA

13 PEOPLE

PLAN 100

PLAN 100

11.7'

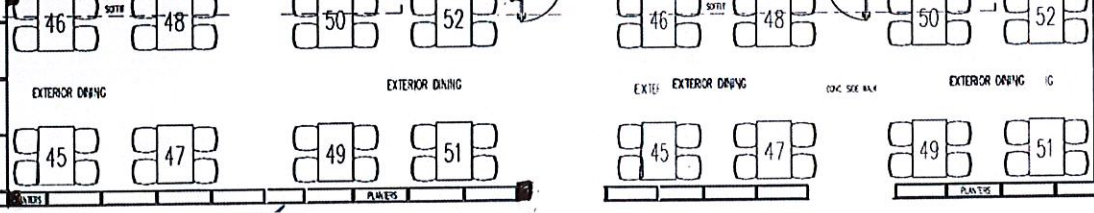
34'

EXTERIOR DINING

EXTERIOR DINING

EXTERIOR DINING

EXTERIOR DINING





813 N. Main St McAllen, TX 78501 – Ph: (956) 776-0100 – Fax: (956) 776-0111

City of McAllen
Planning & Zoning
301 N 15th St
McAllen, TX 78501

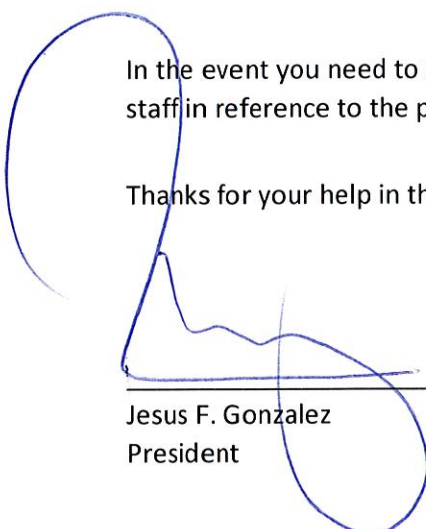
To whom it may concern,

The purpose of this letter is to let you know that Jaime Muriel, owner of Cucina Il Forno and tenant of our building located in 901 N Main St, McAllen, TX is working in the remodeling of the restaurant located in that address. To that extent, he has been working with the city of McAllen in procuring the different permits required to do remodeling work in order to reopen his restaurant that was affected by the pandemic.

As owners of the building, we authorize Jaime to initiate and conduct coordination work with the city of McAllen staff and personnel in charge of permits for such renovation/remodeling work so that he can restart operations as soon as possible and the area where he operates can benefit with the reopening of a restaurant that has been a great options for dinners in the area.

In the event you need to contact me in reference to this authorization for Jaime Muriel and/or any of his staff in reference to the permits required for this remodeling, feel free to do so at (956)369-9487.

Thanks for your help in this matter.



Jesus F. Gonzalez
President

North Side Porch Approved



South Side Porch Expansion





A
CISINE

MIKIHUNA
JAPANESE-PERUVIAN CUISINE



MIKIHUNA
JAPANESE RESTAURANT

NOW OPEN



MIKHUNA

JAPANESE PENITENTIARY CANTINE

MIKHUNA
JAPANESE PENITENTIARY CANTINE

MIKHUNA
JAPANESE PENITENTIARY CANTINE

NOW

ITEM 2E

REPLACED

BY ITEM 2F

MEMO

TO: Zoning Board of Adjustment & Appeals

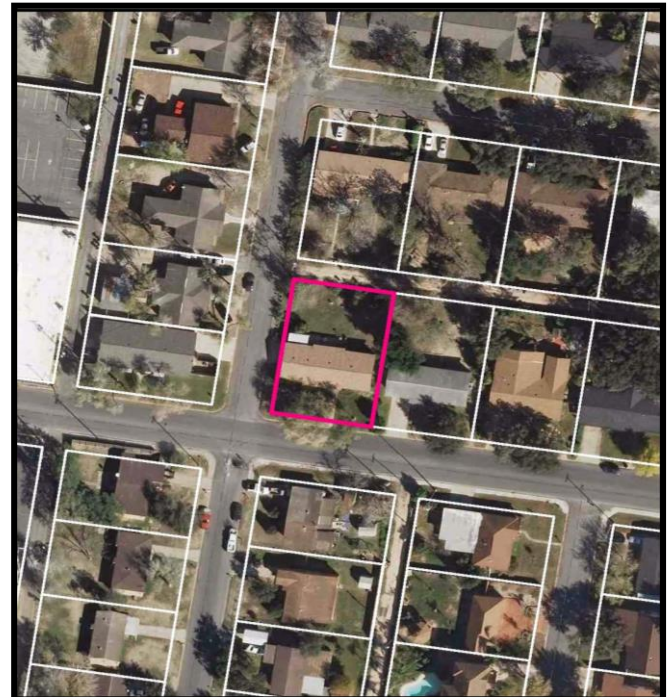
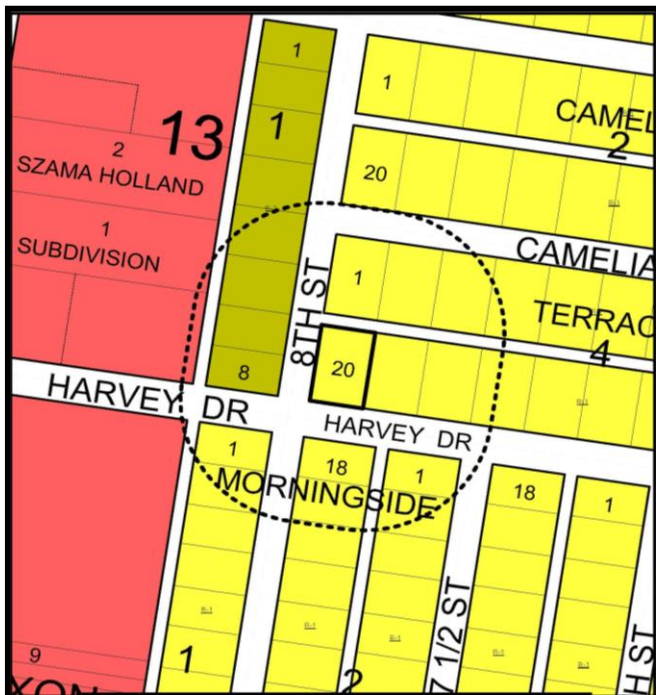
FROM: Planning Staff

DATE: November 25, 2020

SUBJECT: REQUEST OF DERRICK MUNOZ, FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) TO ALLOW AN ENTRANCE OF 4 FT. TO A GARAGE INSTEAD OF THE REQUIRED 18 FT. FOR AN EXISTING GARAGE STRUCTURE MEASURING 20 FT. BY 25 FT., 2) TO ALLOW AN ENCROACHMENT OF 5 FT. INTO THE 10 FT. CORNER SIDE YARD SETBACK FOR A PROPOSED ROOM ADDITION MEASURING 19.67 FT. BY 25 FT., AND 3) TO ALLOW AN ENCROACHMENT OF 4.5 FT. INTO THE 10 FT. CORNER SIDE YARD SETBACK FOR AN EXISTING SINGLE FAMILY HOME AT LOT 4, BLOCK 20, CAMELLIA TERRACE SUBDIVISION, HIDALGO COUNTY, TEXAS; 722 HARVEY DRIVE. (ZBA2020-0009)

REASON FOR APPEAL

Derrick Munoz, owner and applicant requests the following variances: 1) to allow an encroachment of 4 ft. to an entrance to a garage instead of the required 18 ft. for an existing garage structure measuring 20 ft. by 25 ft. 2) to allow an encroachment of 5 ft. into the 10 ft. west side yard setback for a proposed room addition measuring 19.67 ft. by 25 ft., and 3) to allow an encroachment of 4.5 ft. into the 10 ft. corner side yard setback for an existing single family home. The applicant indicated that he is requesting the above variance #1 to allow the existing garage structure to remain since a previously existing garage was enclosed. The applicant would also like to add an addition to their existing home, this being the reason for variance #2. The applicant requests variance #3 for an existing nonconforming single-family residence.



PROPERTY LOCATION AND VICINITY:

The property is located at the northeast corner of Harvey Drive and North 8th street. The property has 84 ft. of frontage along Harvey Drive and a depth of 125 ft. for a tract size of 10,500 sq. ft. The property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District to the north, east, and south, and R-2 (duplex-fourplex residential) District to the west.

BACKGROUND AND HISTORY:

Camellia Terrace Subdivision was recorded on January 27, 1959. A variance application for an existing garage structure and addition to a room was received in March 2020. The Planning Department had this application on hold in order to allow the applicant time to submit a revised site plan and due to the applicants concerns with COVID-19.

ANALYSIS:

The first variance request is to allow an encroachment of 4 ft. instead of the 18 ft. entrance to a garage requirement for an existing garage structure. The wooden “garage” canopy has a composition shingle roof and metal supports. The structure is open on all sides. A site plan submitted shows an existing covered carport that has been modified by enclosing, the street side opening with a garage door essentially turning a covered carport into a “garage”. The site plan further indicates that the garage door encroaches 14 ft. into the required 18 ft. entrance. The garage door was installed for security purposes. A building permit has not been applied for. No accessory building shall encroach into the required yard along any street. The zoning ordinance states that entrances to a garage or enclosed carport shall be a minimum of 18 ft. from streets or alleys. The purpose of the entrance to a garage of 18 ft. is to allow visibility to maneuvering into and out of the garage and additional parking for a garages used as storage.

The second variance request is to allow an encroachment of 5 ft. into the 10 ft. side yard setback for an addition to the existing home. Section 138-368(a) of the zoning ordinance states that the width of the side yard along the street shall not be less than ten feet on a corner lot in all districts, provided that the building width of such a lot of record shall not be reduced to less than 38 ft. The proposed encroachment into the corner side yard is 5 ft. by 19.67 ft. or 98.35 ft.

The third variance request is to allow an encroachment of 4.5 ft. into the 10 ft. corner side yard setback for an existing single family home that was built in 1978 under the 1945 zoning setbacks. Section 138-87 of the zoning ordinance states that no such nonconforming structure may be enlarged or altered in a way which increases its structural nonconformity. The proposed expansion will alter the existing nonconforming structure.

There is a shed and a metal roof that are encroaching into the side yard setback, but they will be removed for the proposed addition (variance #2) to the existing home.

There are no utility easements inside the property.

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

RECOMMENDATION:

Staff recommends disapproval of the variance requests #1 and #2, and approval of variance request #3.

ZBOA
3-18-20

ZBA 2020-0009

City of McAllen
Planning Department
APPEAL TO ZONING BOARD OF
ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project	Legal Description <u>Camellia Terrace lot 20 BLK 4</u> <hr/> Subdivision Name <u>Camellia Terrace</u> Street Address <u>722 Harvey Dr</u> Number of lots <u>20 BLK 4 (1)</u> Gross acres <u>.24</u> Existing Zoning <u>R1</u> Existing Land Use _____ Reason for Appeal (please use other side if necessary) <u>I do construction I always</u> <u>know Tools in trucks and dont want to risk getting stolen</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
	Applicant Name <u>Derrick minor</u> Phone <u>956 821-7585</u> Address <u>722 Harvey St</u> E-mail <u>Derrick minor @ aol.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78501</u>
Owner Name <u>Derrick minor</u> Phone <u>956 821-7585</u> Address <u>722 Harvey St</u> E-mail <u>Derrick minor @ aol.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78501</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>2-18-20</u> Print Name <u>Derrick minor</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	
Office Accepted by <u>LG.</u> Payment received by _____ Date <u>3-19-20</u> <u>RS</u> Rev 10/18	

RECEIVED
 FEB 19 2020
 BY: CM

pd. by C.C.



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

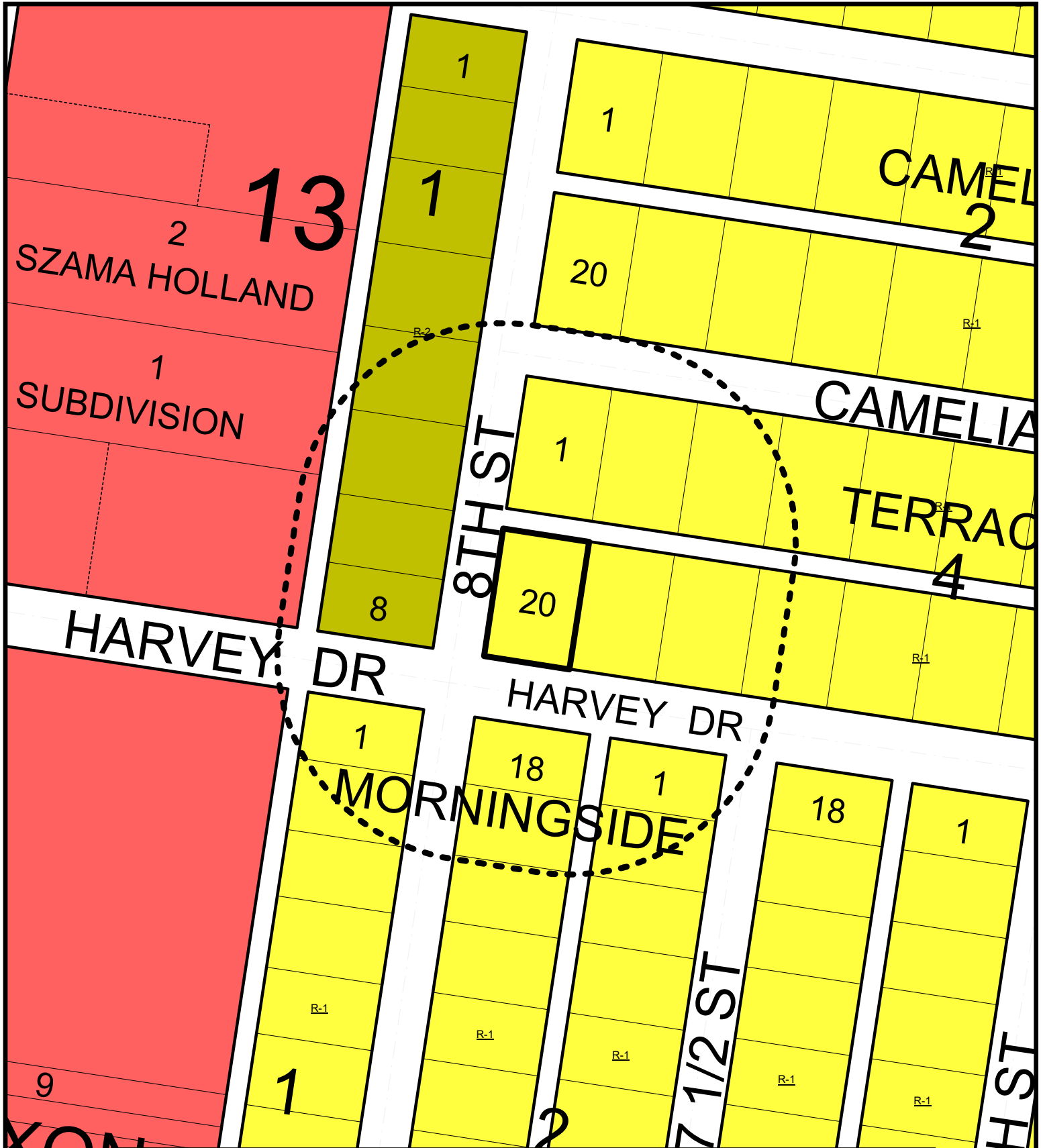
~~Carpet~~ Carpet is 2.7' from fence, I wanted to have more yard space for ~~family~~ family events. I would like to concrete my carpet to house in future construction. In time will explain master bed room notes, east end of house.

Will be closing existing carpet to make a room.

Board Action

Chairman, Board of Adjustment
Signature

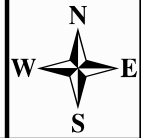
Date



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: 1" = 500'



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

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-31 (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	S (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.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.

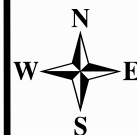


CITY OF McALLEN
PLANNING DEPARTMENT



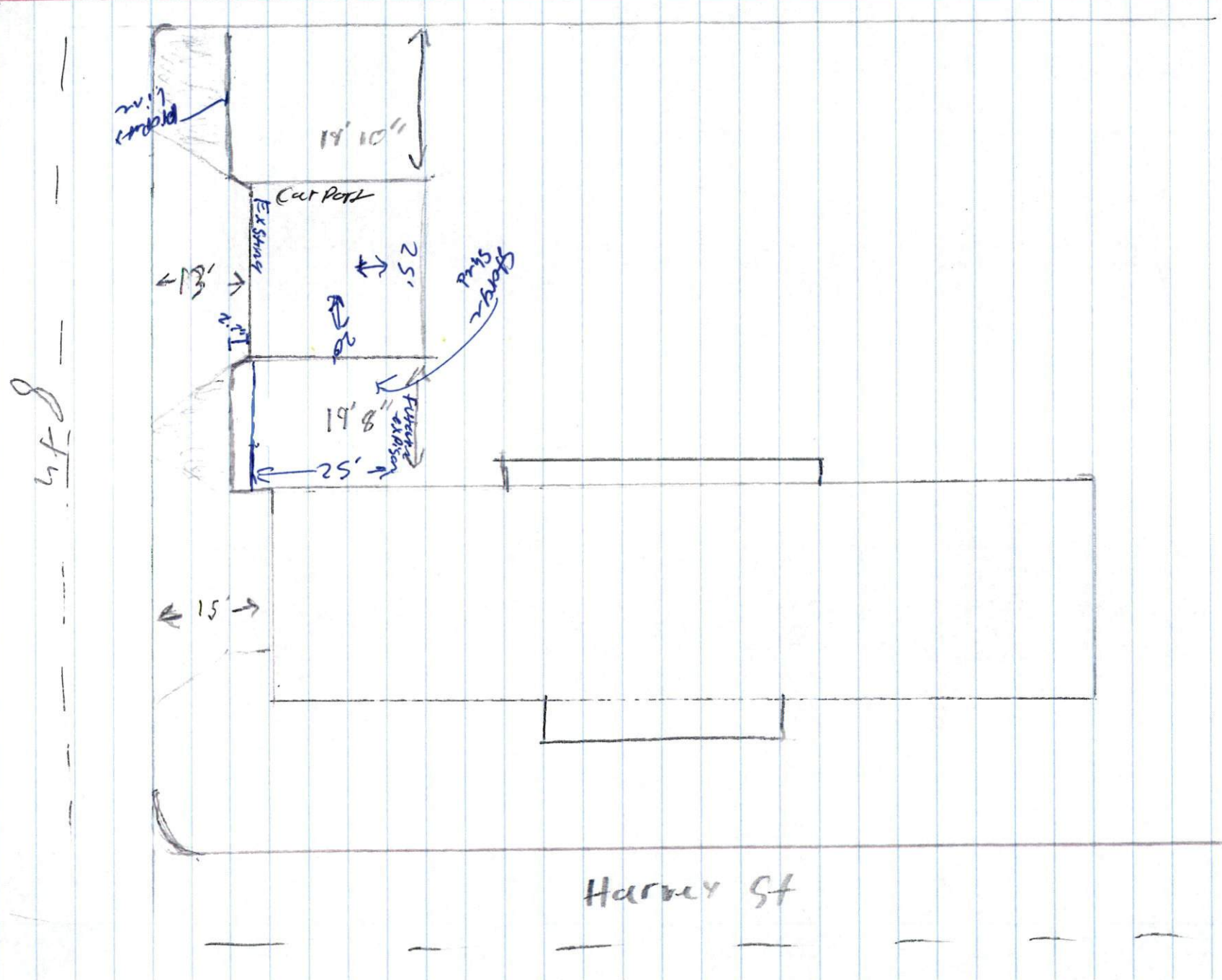
SUBJECT PROPERTY

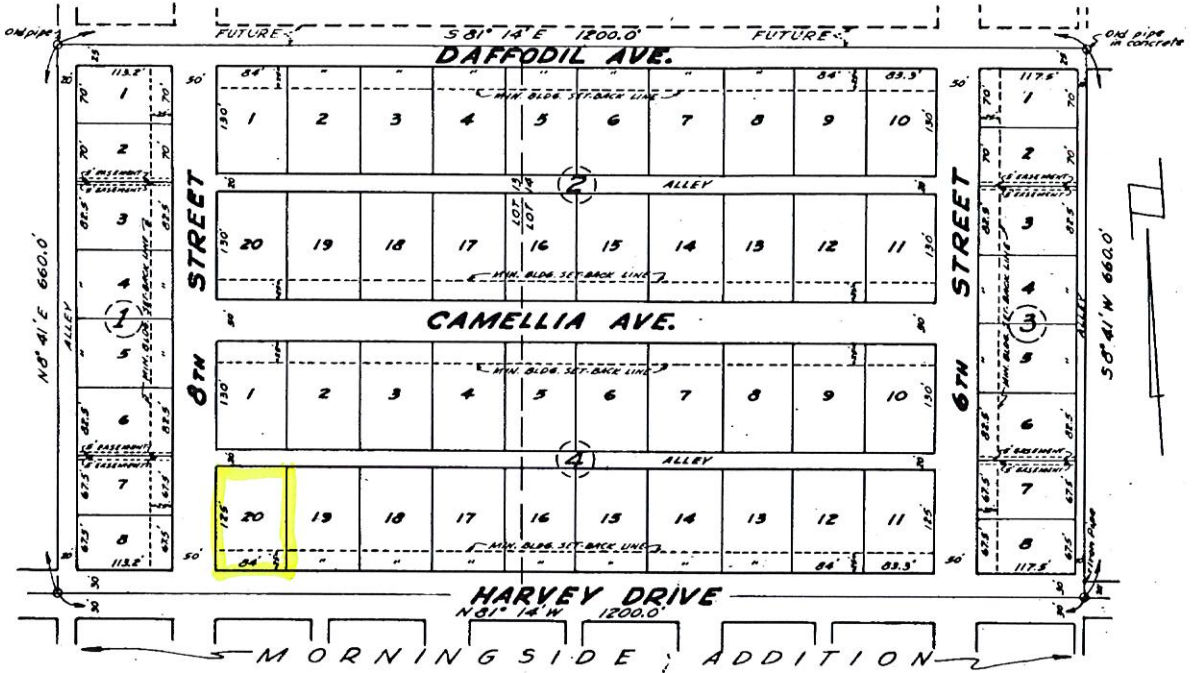
AERIAL MAP
SCALE: N.T.S.



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122 Harvey St
78501





**MAP
OF
CAMELLIA TERRACE
MC ALLEN, TEXAS**

BEING A SUBDIVISION OF THE EAST 8400 FEET OF LOT 13 & ALL OF LOT 14, SOUTHEAST 1/4 OF SECTION 10, HIDALGO CANAL CO.'S SUBDIVISION, OF PORCIONES 49, 55 & 56, HIDALGO COUNTY, TEXAS, CONTAINING 18.18 ACRES

Scale: 1"=100'

DATE: 9-27-58

FILED FOR RECORD THIS DATE
At 3:00 o'clock P.M.

JAN 27 1959

GEO. L. ANDERSON
County Clerk, Hidalgo County, Texas

I, C. L. FABIAN, A REGISTERED PUBLIC SURVEYOR, DO HEREBY CERTIFY THE FOREGOING MAP TO BE A TRUE AND CORRECT REPRESENTATION OF THE LANDS HEREON DESCRIBED AS PLATTED BY ME FROM THE OUTSIDE BOUNDARIES OF SAME.

C. L. Fabian
C. L. FABIAN
REGISTERED PUBLIC SURVEYOR
MC ALLEN, TEXAS



STATE OF TEXAS;
COUNTY OF HIDALGO;

KNOW ALL MEN BY THESE PRESENTS:

THAT I, ALFRED A. VOHS, OWNER OF THE PROPERTY HEREON DESCRIBED, DO HEREBY ADOPT, DEDICATE AND CONFIRM THE FOREGOING MAP AND DO HEREBY DEDICATE TO THE PUBLIC THE SURFACE USE OF THE STREETS, ALLEYS AND EASEMENTS THEREON SHOWN.

Alfred A. Vohs
ALFRED A. VOHS

STATE OF TEXAS;
COUNTY OF HIDALGO;

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED ALFRED A. VOHS, OWNER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED. GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE 11 DAY OF October A.D. 1958.

J. F. Ewers, Jr.
NOTARY PUBLIC IN AND FOR
HIDALGO COUNTY, TEXAS

THIS PLAT APPROVED BY THE MC ALLEN ZONING AND PLANNING BOARD ON THIS THE 18th DAY OF September A.D. 1958.

MC ALLEN ZONING AND PLANNING BOARD
BY: *V. E. Cook, Jr.*
V. E. COOK, JR., CHAIRMAN

THIS PLAT APPROVED BY THE CITY COMMISSION OF THE CITY OF MC ALLEN, TEXAS, ON THIS THE 13th DAY OF October A.D. 1958.

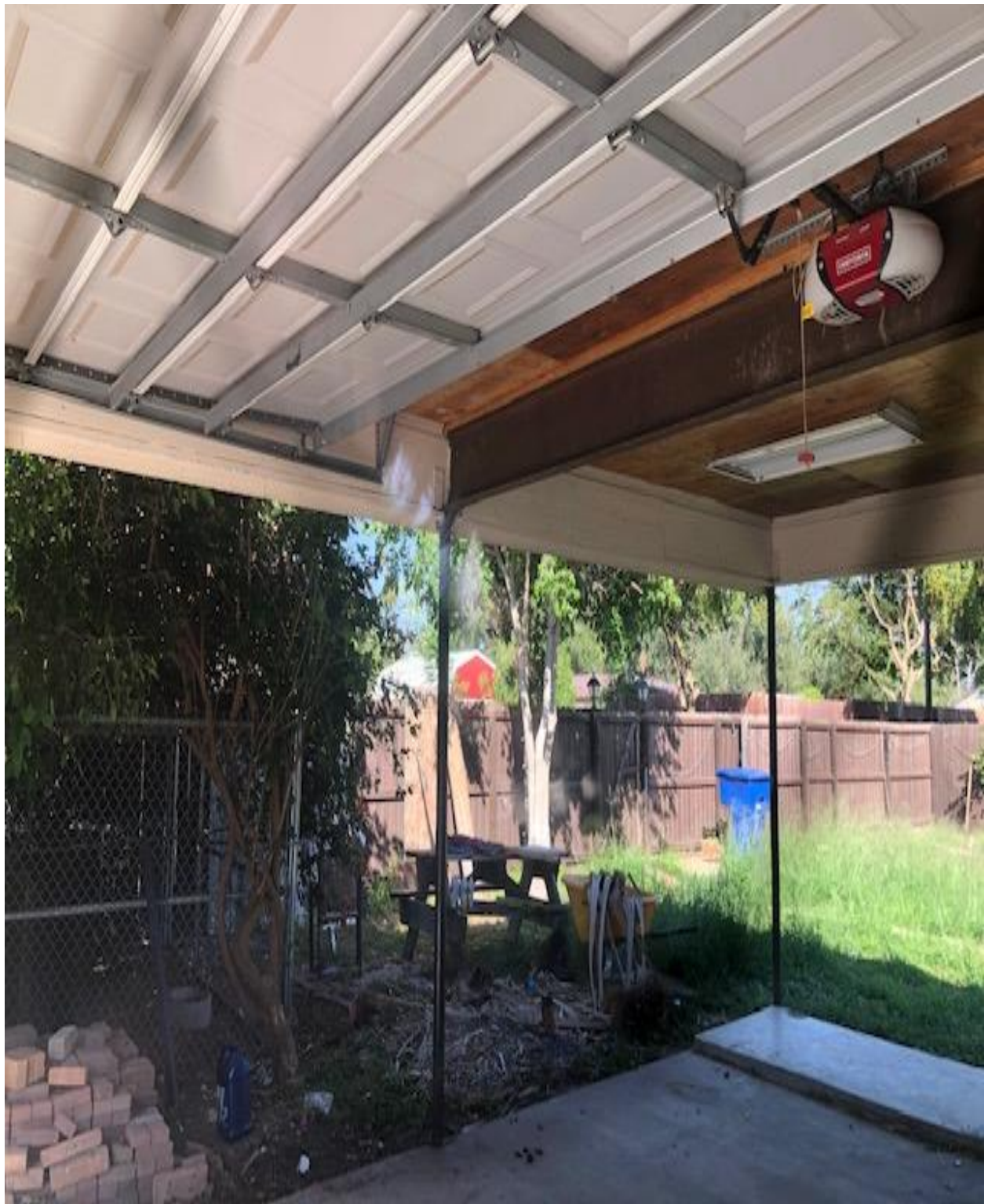
ATTEST:
H. H. Hensley
H. H. HENSLEY, CITY SECRETARY

Phillip Boeye
PHILLIP BOEYE, MAYOR



















NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0009

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 25, 2020

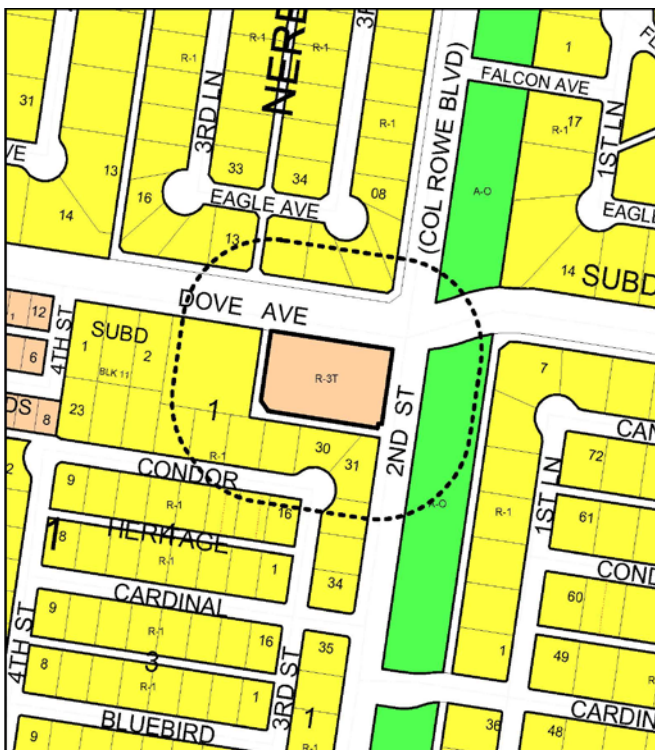
SUBJECT: REQUEST OF ALONZO CANTU FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW A LOT SIZE OF LESS THAN 2,000 SQ. FT. WITH A MINIMUM LOT SIZE OF 1,580 SQ. FT. FOR LOTS 2-12, 1,705 SQ. FT. FOR LOTS 15-21, AND 1,924.54 SQ. FT. FOR LOT 13, FOR A 1.23 ACRE TRACT OF LAND OUT OF LOT 1, SECTION 11, HIDALGO CANAL COMPANY SUBDIVISION (PROPOSED 2ND AND DOVE SUBDIVISION), HIDALGO COUNTY, TEXAS; 201 DOVE AVENUE. (ZBA2020-0073)

REASON FOR APPEAL:

Alonzo Cantu is requesting the following variance to allow a lot size of less than 2,000 sq. ft. with a minimum lot size of 1,580 sq. ft. for lots 2-12, 1,705 sq. ft. for lots 15-21, and 1,924.54 sq. ft. for lot 13. The proposed request is in order to establish a 21- lot townhouse subdivision.

PROPERTY LOCATION AND VICINITY:

The subject property is located at the southeast corner of Dove Avenue and 2nd Street. The lot has 277 ft. of frontage on Dove Avenue and 174.58 ft. along 2nd Street. The property is zoned R-3T (multifamily residential townhouse) District. The adjacent zoning is R-1 (single family residential) District to the north, south, and west, and A-O (agriculture and open space) District to the east. The subject property is vacant.



BACKGROUND AND HISTORY:

On August 10, 2020 the subject property was rezoned from R-1 District to R-3T District. 2nd and Dove (Proposed) Subdivision has been submitted and is currently under review. The variance request application was submitted on October 16, 2020.

ANALYSIS:

The variance request is to allow a lot size of less than 2,000 sq. ft. The minimum lot area includes internal sidewalks, recreation areas, floor space, parking area, open space and utility easements, but does not include any public right of way street easements or alley easements. Section 138-356 of the zoning ordinance shows the required lot size for lots in the R-3T District is 2,000 sq. ft. The lot size requirements are established to conserve and enhance the environment and character of a given use district, and to protect the health, safety and general welfare of the residents of that district.

A proposed subdivision plat shows Lots 2-12 are proposed to be at 1,580 sq. ft. or 420 sq. ft. less than the required 2,000 sq. ft. lot size, Lots 15-21 are proposed to be at 1,705 sq. ft. or 295 sq. ft. less than the required 2,000 sq. ft. lot size, and Lot 13 is proposed to be at 1,924.54 sq. ft. or 76 sq. ft. less than the required 2,000 sq. ft. lot size. The proposed subdivision 2nd and Dove is currently in the review process. They are proposing 21 lots (Lots 1 and 14) and 2 of those lots will be in compliance with the minimum lot size requirements.

The plight of the owner in regards to meet the lot size is not unique since a reduction in the number of proposed lots may enable the property to achieve compliance.

Staff has received one phone call in opposition to the request.

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF NOVEMBER 18, 2020:

At the Zoning Board of Adjustment and Appeals meeting of November 18, 2020, no one appeared in opposition to the variance request. The applicant was not present. The Board unanimously voted to table the variance request in order allow the applicant time to submit more information to staff. There were five members present and voting.

RECOMMENDATION:

Staff recommends disapproval of the variance request.

ZBA 2020-0073

ZBDA
11/18/2020

City of McAllen
Planning Department
APPEAL TO ZONING BOARD OF

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

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

Project	Legal Description <u>lot 1 2nd Dove subdivision</u>
	Subdivision Name <u>2nd Dove subdivision</u>
	Street Address <u>201 Dove</u>
	Number of lots <u>21</u> Gross acres <u>1.231</u>
	Existing Zoning <u>T3</u> Existing Land Use <u>Vacant</u>
	Reason for Appeal (please use other side if necessary) <u>Minimum sq.ft. of lots</u>
<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee <input 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>Alonzo Canto</u> Phone <u>956-631-1273</u>
	Address <u>5221 N. McCall</u> E-mail <u>oscar@cantocoststruction.com</u>
	City <u>McAllen,</u> State <u>TX</u> Zip <u>78502</u>

Owner	Name <u>Alonzo Canto</u> Phone <u>956-631-1273</u>
	Address <u>5221 N. McCall</u> E-mail <u>Alonzo@cantocoststruction.com</u>
	City <u>McAllen</u> State <u>TX</u> Zip <u>78503</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 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 _____
	Print Name _____ <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent

Office	Accepted by _____ Payment received by _____ Date _____
	REVISIED 9/11

RECEIVED
OCT 16 2020

BY: [Signature]

Act # 743497

Accela / L.F.



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: *(Please use an additional page if necessary to complete responses)*

**Information provided here by the applicant does not guarantee that the Board will grant a variance.

***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

Reason for Appeal

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

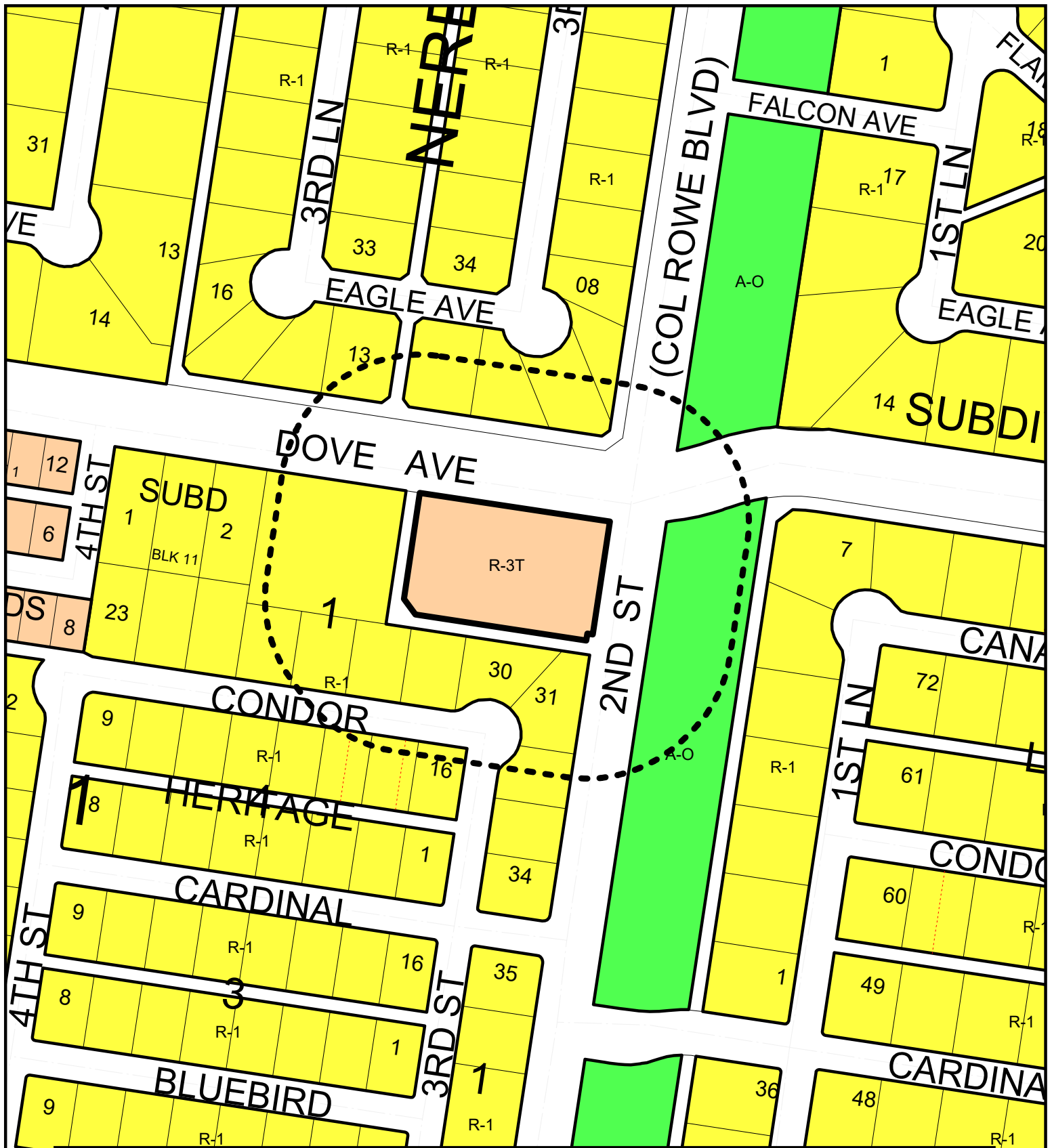
3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

4. Describe special conditions that are unique to this applicant or property:

Board Action

Chairman, Board of Adjustment
Signature

Date



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: N.T.S.



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-3T (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	(SPECIAL DISTRICT)

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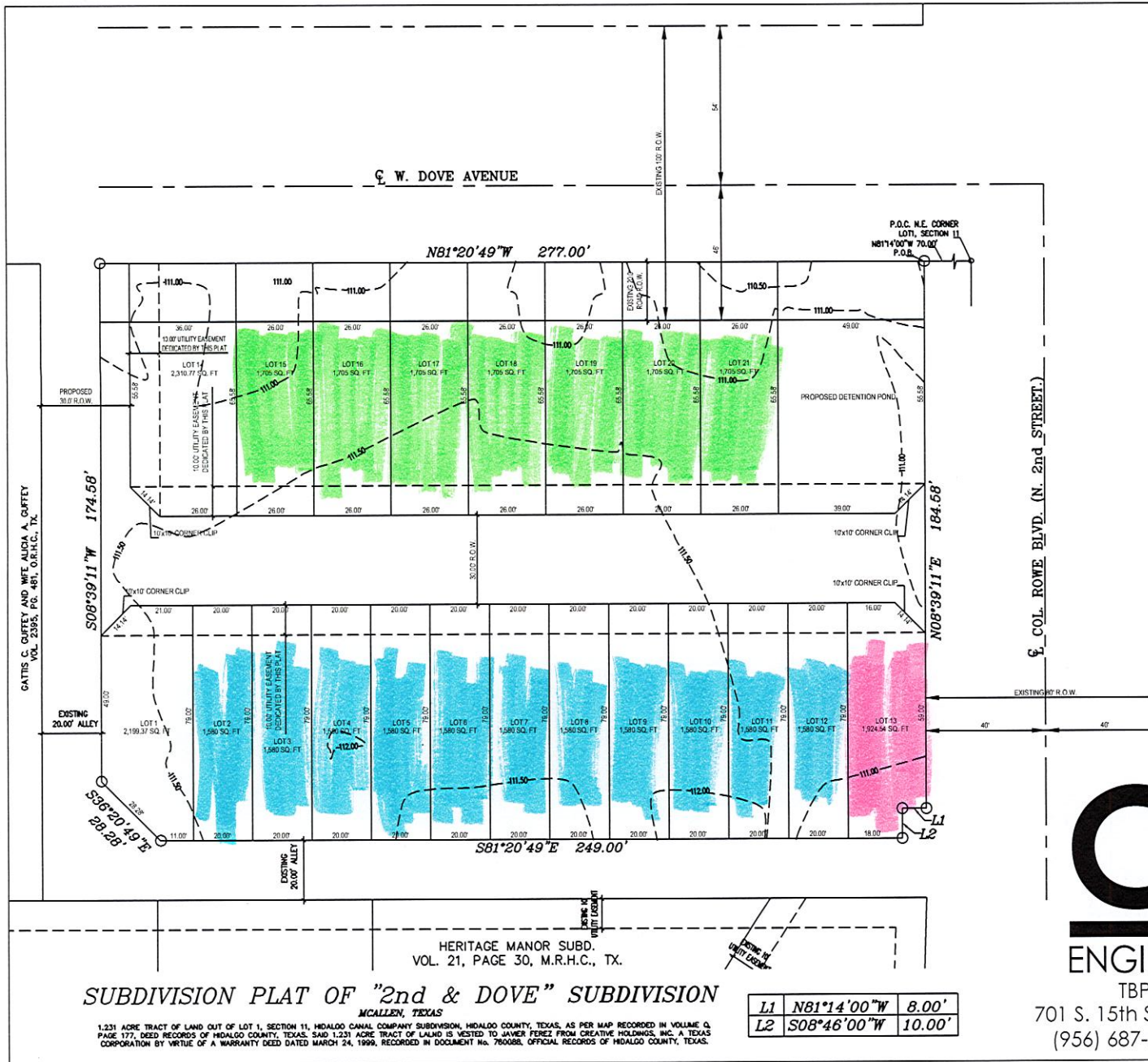
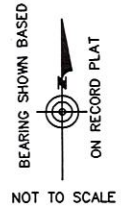
CITY OF McALLEN
PLANNING DEPARTMENT

 **SUBJECT PROPERTY**

AERIAL MAP
SCALE: N.T.S.



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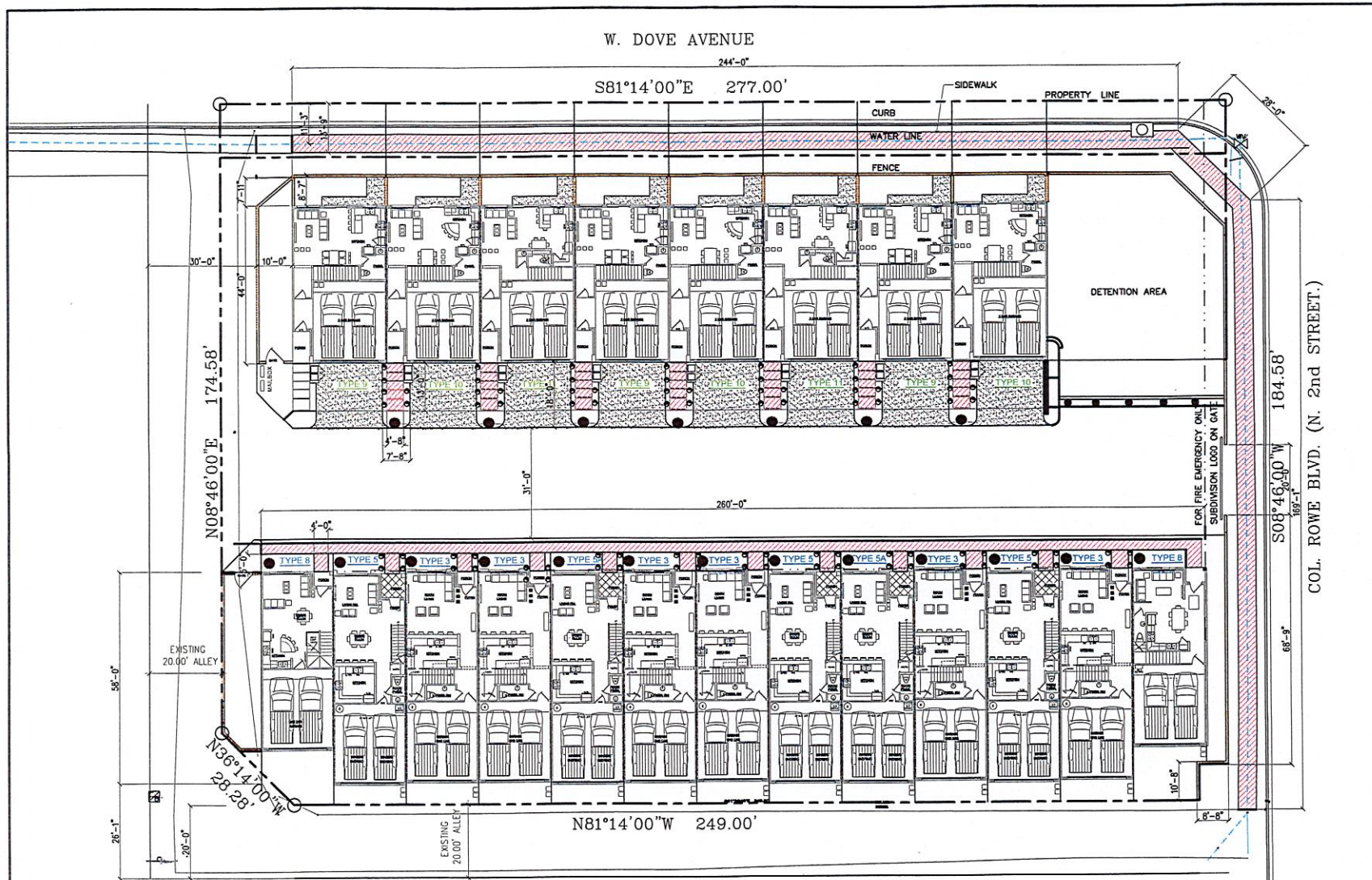


CLH
ENGINEERING, INC.

TBPE FIRM No. F-8719
701 S. 15th STREET McALLEN, TX. 78501
(956) 687-5560 (956) 687-5561

RECEIVED
NOV 12 2020

BY: _____



FLOOR PLAN TYPE

REAR ENTRY UNITS

TYPE	QTY.	SQUARE FOOTAGE
NO.3	6	2,096.00 SQ.FT. EACH — 12,576.00 SQ.FT.
NO.5	3	2,211.00 SQ.FT. EACH — 6,633.00 SQ.FT.
NO.5A	2	2,202.00 SQ.FT. EACH — 4,404.00 SQ.FT.
		TOTAL
		27,235.00 SQ.FT.

FRONT ENTRY UNITS

TYPE	QTY.	SQUARE FOOTAGE
NO.9	3	2,012.00 SQ./FT. EACH — 6,036.00 SQ.FT.
NO.10	3	2,207.00 SQ./FT. EACH — 6,621.00 SQ.FT.
NO.11	2	2,248.00 SQ./FT. EACH — 4,496.00 SQ.FT.
		TOTAL
		17,153.00 SQ./FT.

RECEIVED
OCT 28 2020



RECEIVED
NOV 12 2020

BY: ACI



NOTICE OF VARIANCE FOR THIS PROPERTY (2/23/2018)

NOTICE OF VARIANCE FOR THIS PROPERTY (2/23/2018)

ITEM 2H

TO BE

WITHDRAWN

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 8th 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 9th day October, 2018.

CITY OF McALLEN

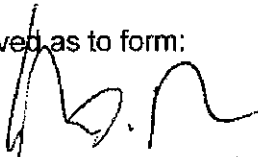
John Ingram, City Commissioner

Attest:



Perla Lara, TRMC/CMC, CPM
City Secretary

Approved as to form:



Austin W. Stevenson, Assistant City Attorney



Definitions

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Chapter 138-Zoning	1
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Chapter 110-Vegetation	6
Section 110-26 Definitions	6

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:

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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;..."

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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

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- VICE-CHAIRPERSON	P	P	NM	P	NM	P	P	NM	A	P	P	P	P	P	P	loq	P	P	A	P	P		
SYLVIA HINOJOSA	P	P	NM	P	NM	A	A	NM	A	P	P	A	P	A	P	loq	P	P	P	P	P		
DAVID SALINAS- CHAIRPERSON	P	P	NM	P	NM	P	P	NM	P	P	P	P	P	P	P								
JOHN MILLIN, III	A	A	NM	P	NM	P	P	NM	P	A	P	P	P	P	P	loq	P	P	P	P	P		
SONIA FALCON	A	P	NM	A	NM	A	A	NM	A	P	A	A	P	P	A	loq	P						
JOSE R. GUTIERREZ	P	P	NM	P	NM	P	P	NM	P	P	P	P	P	P	P	loq	P	P	P	P	P		
JUAN F. JIMENEZ	P	P	NM	P	NM	P	A	NM	P	A	P	A	P	A	P	loq	A	P	P	P	P		
HUGO AVILA (ALT 1)																	P	P	P	P	P		
ROGELIO RODRIGUEZ(ALT 2)																	P	P	P	P	A		
REBECCA MILLAN (ALT 3)																	P	P	P	P	P		

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED





NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION

2020 CALENDAR

Meetings:

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

Deadlines:

- D- Zoning/CUP Application
- N - Public Notification
- * **Holiday** - Office is closed

JULY 2020

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

AUGUST 2020

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

SEPTEMBER 2020

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

OCTOBER 2020

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

NOVEMBER 2020

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

DECEMBER 2020

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