

## AGENDA

### ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, JANUARY 6, 2021 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3<sup>RD</sup> 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 -

##### 1. MINUTES:

- a) Minutes for the meeting held on December 17, 2020

##### 2. PUBLIC HEARINGS:

- a) Request of Douglas and Rosalia LaRoque for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 10 ft. into the 20 ft. front yard setback for an existing wooden carport with an aluminum roof measuring 10 ft. by 10 ft. at Lot 33, El Rancho Santa Cruz Subdivision Phase I, Hidalgo County, Texas; 800 East Pineridge Avenue. **(ZBA2020-0084)**
- b) Request of Karely Ochoa for the following Variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 10.09 ft. into the 25 ft. rear yard setback for a proposed swimming pool measuring 20 ft. by 30 ft. and **2)** an encroachment of 10.09 ft. into the 25 ft. rear yard setback for a proposed gazebo measuring 20 ft. by 10 ft. at Lots 1 & 2, Coronado Estates Subdivision Phase I, Hidalgo County, Texas; 2502 South 43rd Lane. **(ZBA2020-0085)**
- c) Request of Alejandro Reyes Jr., for the following variances to the City of McAllen Zoning Ordinance: **1)** to not provide one required parking space beyond the front yard setback line and **2)** to allow an encroachment of 6 ft. into the 6 ft. side setback for an existing metal canopy measuring 6 ft. by 10 ft. at Lot 88, Los Encinos III Subdivision, Hidalgo County, Texas; 2716 Ursula Avenue. **(ZBA2020-0079) (TABLED: 12/17/2020)**
- d) Request of Jorge Herrera for the following variance to the City of McAllen Off-Street Parking and Loading Ordinance to allow 8 parking spaces instead of the required 9 parking spaces at Lot 3, Block 54, McAllen Addition Subdivision, Hidalgo County, Texas; 612 South 15th Street. **(ZBA2020-0083) (TABLED: 12/17/2020)**

##### 3. FUTURE AGENDA ITEMS

- a) 1106 North 17th Street
- b) 2812 Jay Avenue
- c) 8300 North Ware Road

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

- a) Consultation with Attorney regarding Cause No. C-4270-20-J; Jack Edwards v. The City of McAllen, Texas, and Zoning Board of Adjustment and Appeals of the City of McAllen, Texas.

**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, December 17, 2020 at 4:30 p.m. in the City Commission Meeting Room with the following present:

<b>Present:</b>	<b>Erick Diaz</b>	<b>Chairperson</b>
	<b>John Millin</b>	<b>Vice- Chairperson</b>
	<b>Sylvia Hinojosa</b>	<b>Member</b>
	<b>Jose Gutierrez</b>	<b>Member</b>
	<b>Rebecca Millan</b>	<b>Alternate</b>
<b>Absent:</b>	<b>Juan F. Jimenez</b>	<b>Member</b>
	<b>Hugo Avila</b>	<b>Alternate</b>
	<b>Rogelio Rodriguez</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Victor Flores</b>	<b>Assistant City</b>
	<b>Edgar Garcia</b>	<b>Planning Director</b>
	<b>Rodrigo Sanchez</b>	<b>Senior Planner</b>
	<b>Omar Sotelo</b>	<b>Senior Planner</b>
	<b>Liliana Garza</b>	<b>Planner II</b>
	<b>Carlos Garza</b>	<b>Planner II</b>
	<b>Iris Alvarado</b>	<b>Planner I</b>
	<b>Mario Escamilla</b>	<b>Planner I</b>
	<b>Juan Martinez</b>	<b>Development Coordinator</b>
	<b>Jose Ortega</b>	<b>GIS Technician III</b>
<b>Carmen White</b>	<b>Secretary</b>	

**CALL TO ORDER – Chairperson Erick Diaz**

**1. MINUTES:**

- a) Minutes for the meeting held on December 2, 2020.

The minutes for the meeting held on December 2, 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.

**2. PUBLIC HEARINGS:**

- a) Request of Maricela Galvan for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** accessory uses without a primary use for a proposed swimming pool measuring 10 ft. by 20 ft., an existing storage building measuring 12 ft. by 22 ft., and an existing pergola measuring 10 ft. by 10 ft. and, **2)** an encroachment of 2 ft. into the 6 ft. east side yard setback for an existing pergola measuring 10 ft. by 10 ft. at Lot 2, Oxford Heights Subdivision, Hidalgo County, Texas; 3504 Kilgore Avenue. **(ZBA2020-0074)**

Ms. Alvarado stated the applicant was requesting the following variances: to allow an accessory use without a primary use for a proposed swimming pool, existing storage

building and an existing pergola and to allow an encroachment of 2 ft. into the 6 ft. east side yard setback for a pergola measuring 10 ft. by 10 ft. The main use, a single family residence is located on the adjacent lot 3, both lots are owned by the applicant.

The property was located on the north side of Kilgore Avenue, approximately 70 ft. east of 36<sup>th</sup> Street. The lot has approximately 65.14 ft. of frontage along Kilgore Avenue and approximately 110.03 ft. of depth for a lot size of 7,120 sq. ft. The property is zoned R-1 (single-family residential) District. The adjacent zoning is R-4 (Mobile Home and Modular Home) District to the north, and R-1 (Single Family Residential) to the east, west, and south. The subject property does not have a main building and only has accessory structures. The surrounding land uses include single-family residences.

Oxford Heights Subdivision was recorded on January 11, 2005. An application for a swimming pool permit was submitted on October 21, 2020. The proposed swimming pool will be an accessory use on the vacant lot. A separate application for a building permit was submitted on October 21, 2020 for an existing pergola and storage shed on the vacant lot. The existing storage shed will be relocated out of the rear yard setbacks. The existing pergola is encroaching on the east side yard setback. The storage shed and pergola are accessory buildings; an accessory building is allowed on the same lot as the main building. The applicant was informed that she would require a variance for the pergola encroachment and the accessory buildings.

The variance request was for a proposed swimming pool, an existing storage building, and existing pergola which are accessory structures and not a primary building. In addition, a variance request was submitted for the pergola encroaching on the east side yard setback.

An accessory building meant a subordinate building, located on the same lot as the main building, the use of which was clearly incidental to and customarily found in connection with the main building or principal use of the property. Accessory uses of buildings are located on a lot occupied by the main use conforming with setback and other regulations concerning the location.

The site plan showed a proposed rectangular swimming pool measuring 10 ft. by 20 ft. on the west side of the rear side of the property. In addition, the site plan showed a storage shed measuring 12 ft. by 22 ft. on the rear yard of the property. The pergola was encroaching 2 ft. into the 6 ft. east side yard setback. There was a fence that encircles lots 2 and 3 making the tract one property.

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

Staff recommended disapproval of the variance request. If the Board chooses to grant the variance, it should be limited to the footprint of the submitted site plan and the uses shown on the proposed site plan.

Chairperson Diaz asked staff the location of the proposed pool was within the building setbacks. Ms. Alvarado stated yes. He asked the variance to allow it to exist without a primary residence that was on the site. Ms. Alvarado stated yes. They owned the adjacent lot so they owned both lots 2 and 3.

Vice-Chairperson Millin asked staff if the applicant lived in the house on Lot 3. Ms. Alvarado stated yes. The pergola was to maintain where it's located and would be an accessory use without a primary use. She stated all three structures the pool, storage to be located on that property without a house. The pergola was encroaching 2 feet into the 6 ft. east side yard setback. On the site plan it showed a small sidewalk which goes into Lot 3 and used for access.

Ms. Sylvia Hinojosa asked if the pergola was where the house was next to the lot. Ms. Alvarado stated it was on Lot 2. It was encroaching into the side yard setback which was next to Lot 3.

Mr. Jose Gutierrez asked staff if they had discussed with the applicant that they could move all structures which they had space as to not encroach. Ms. Alvarado stated she did mention it to the applicants but prefer to maintain where the pergola was located. But it would still require the variance because there was no primary use.

Ms. Maricela Galvan, the applicant stated they wanted to put the proposed swimming pool at the address of 3504 Kilgore Avenue. She stated when they purchased the property she liked it to put plants and a patio because they did not have enough space on the current property at 3500 Kilgore Avenue. She also stated she wanted to pergola to go and sit outside to admire the plants and birds.

Mr. Gutierrez asked the applicant if she could place the proposed swimming pool more inside the property as to not encroach. Ms. Galvan stated the pool would be surrounded by landscaping and plants. She could place it more inside if that was the recommendation of the Board.

Chairperson Diaz mentioned to Mr. Gutierrez that the proposed pool was not encroaching only the pergola. Chairperson Diaz asked the applicant if she would be willing to move the pergola 2 feet into the property. Ms. Galvan stated yes it could be moved.

Ms. Alvarado stated the first request was an accessory use without a primary use for a swimming pool and the pergola. It was all three structures which was already included. The second request was for the variance on the encroachment. She could remove variance request #2.

The applicant stated she was going to relocated the pergola next to the swimming pool and withdraw variance request #2.

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 was 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 accessory uses of swimming pool, storage and pergola as per the site plan. Mr. Jose Gutierrez seconded the motion. The board voted unanimously to approve the variance with five members present and voting.

- b) Request of Jose A. Carrasco for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 17 ft. into the 20 ft. front yard setback for an existing metal carport measuring 20 ft. by 16.5 ft. and, **2)** an encroachment of 5.5 ft. into the 6 ft. north side yard setback for an existing metal carport measuring 20 ft. by 16.5 ft. at Lot 140, Colonia McAllen Unit No. 6 Subdivision, Hidalgo County, Texas; 2208 South 30<sup>th</sup> ½ Street. **(ZBA2020-0078)**

Mr. Escamilla stated the applicant was requesting the following variances to allow: 1) an encroachment of 17 ft. into the 20 ft. front yard setback for an existing metal carport measuring 20 ft. by 16.5 ft. and, 2) an encroachment of 5.5 ft. into the 6 ft. north side yard setback for an existing metal carport measuring 20 ft. by 16.5 ft. The applicant is requesting the variances in order to allow an existing carport to encroach into the front and side yard setbacks. The applicant was unaware that a building permit was required, nor was he informed by the builder at the time of construction. The applicant would like the structure to remain because the existing carport provides shade and protection for his vehicles, and also helps him with his health conditions.

The property was located on the west side of South 30<sup>th</sup> ½ Street approximately 288 ft. north of Yuma Avenue. The property has 50 ft. of frontage along South 30<sup>th</sup> ½ Street and a depth of 111 ft. for a tract size of 5,550 sq. ft. The property is zoned R-1 (single family residential) District. Adjacent zoning was R-1 District in all directions. The surrounding land use is single family residential.

Colonia McAllen Unit No. 6 Subdivision was recorded on August 2, 1976. The plat specifies a 20 ft. front yard setback, 6 ft. side yard setbacks, and a 3 ft. rear yard setback. According to Hidalgo County Appraisal District records, the residential home on the subject property was built in 1995 and purchased by the applicant Jose A. Carrasco in 2001. Hidalgo County Appraisal District records also indicate a carport was built in 2010, however the carport doesn't appear in Google Earth aerial images until 2013. An application for a variance request for an existing carport was submitted on November 10, 2020. An application for a building permit for the existing carport was submitted to the Building Permits & Inspections Department on November 11, 2020. A stop work order was issued by Buildings and Inspections Department staff on November 17, 2020.

The construction of the 20 ft. by 16.5 ft. carport is of aluminum and steel tubing and is secured by bolts to an existing driveway.

Variance request #1 was to allow an encroachment of 17 ft. into the 20 ft. front yard setback. Front yard setbacks help to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision.

Variance request #2 was to allow an encroachment of 5.5 ft. into the 6 ft. north side yard setback. Side yard setbacks are important in providing adequate separation of the building area of the lot from one residence to another. The carport and an existing concrete driveway extend into the side yard setback up to the north property line. The applicant can relocate the existing carport outside of the side yard setback to be in compliance and thus allowing the front yard variance request to be considered as a special exception. The applicant has been apprised of this option however; this option would involve partial demolition and

reconstruction of the masonry wall that is located in the front yard, a re-design of the existing driveway, and a reduction of landscaping area in the front yard.

The area of the rear of the lot was enclosed by an 11 ft. masonry wall which restricts access from the alley.

Approval of the variances may encourage other similar structures to be constructed in the setbacks.

During a site visit, staff noticed three other existing carports along this street with similar encroachments. A review of Planning Department records did not reveal any variances granted along this street.

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

Staff recommended disapproval of the variance requests.

Mr. Jose Gutierrez asked staff if there were other carports on the same street. Mr. Escamilla stated yes. Customers did come in who lived across the street from the applicant but only to inquire about the variance process.

Vice-Chairperson Millin asked staff if those were encroaching into the side yard setback. Mr. Escamilla stated it did appear that it was encroaching into the front yard setback.

Chairperson Diaz asked staff if there any communication with the applicant regarding relocating the carport. Mr. Escamilla stated yes.

Mr. Jose A. Carrasco, the applicant stated he bought the house in 2001. He never thought about putting up a carport until the last hail that damaged his windows and roof. He had contacted a company in Weslaco which was no longer there. He never knew he needed a permit for the carport. Mr. Carrasco had received a letter that was meant for someone else but had his name on it. He stated he had medical issue and was on medications so the carport would be for shade as well. Chairperson Diaz asked if staff had explained the difference between a variance and a special exception. Mr. Carrasco stated yes. Chairperson Diaz went on to explain the difference. Chairperson Diaz asked the applicant if in 2001 did the house have a garage. Mr. Carrasco stated they bought the house the way it was and it might have had one before.

Mr. Victor Flores, legal counsel, asked if the applicant could reduce the width of the carport. Mr. Carrasco stated he would not because he had two cars plus it would be costly.

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 was 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 disapprove the variance request but to allow 6 months to modify the carport. Mr. Jose Gutierrez seconded the motion. The board voted unanimously to disapprove the variance with five members present and voting.

- c) Request of Alejandro Reyes Jr., for the following variances to the City of McAllen Zoning Ordinance: **1)** to not provide one required parking space beyond the front yard setback line and **2)** to allow an encroachment of 6 ft. into the 6 ft. side setback for an existing metal canopy measuring 6 ft. by 10 ft. at Lot 88, Los Encinos III Subdivision, Hidalgo County, Texas; 2716 Ursula Avenue. **(ZBA2020-0079)**

Ms. Garza stated the applicant was requesting a variance request 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 an additional bedroom for one of his four children since the house only has four bedrooms. The bedrooms in his home are too small and enclosing the garage will help with additional space so that his son can have his own room. The applicant enclosed a single car garage and by doing so eliminated the one parking space beyond the front yard setback line. The applicant was also requesting an encroachment of 6 ft. into the 6 ft. east side setback for an existing metal canopy.

The subject property was located on the north side of Ursula Avenue, approximately 105 ft. west of South 27<sup>th</sup> Lane. The property had 50 ft. of frontage along Ursula Avenue and a depth of 100 ft. with a lot size of 5,000 square feet. The adjacent zoning was R-1 (single family residential) District in all directions. Surrounding land use include single-family residential.

Los Encinos III Subdivision was recorded on December 4, 2006. 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 was subject to compliance with the zoning ordinance requirement of the one parking space beyond the front yard setback line. The application for the variance request was submitted on November 12, 2020 after building Inspection staff noticed the enclosed garage during an inspection for a different building permit for subject property.

The variance request #1 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 21 ft. by 20 ft. accommodating the number of two required parking spaces. The intent for the requirement of locating one parking space beyond the front yard setback line is 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.

There were no variance requests on file for garage enclosures in the subdivision; a site inspection confirmed that there are two visible garage enclosures on the same street and three more visible garage enclosures around the neighborhood (one on S 27<sup>th</sup> Ln. and two on Wanda Ave.)

- There was a Building Permit for a garage enclosure at 2701 Ursula Ave and was



approved by the Planning Department on June 29, 2017 with the condition that a driveway be built in the back of the property along S. 27<sup>th</sup> Street to comply with the one vehicle beyond the front yard setback requirement.

- The rest of the visible garage enclosures in the neighborhood do not have any building permits on file.

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

The variance request #2 was to allow an encroach of 6 ft. into the 6 ft. side yard setback along the east property line for an existing metal canopy measuring 6 ft. by 10 ft. The standard side yard setback for a lot in R-1 (single family residential) district is 6 ft. A site inspection indicated that the existing canopy extends all the way to the east property line. As per City's ordinance no structures are allowed to be built on any setbacks.

Staff had not received any phone calls or concerns in regards to the variances requests.

Staff recommended disapproval of the variance request.

Chairperson Diaz asked if the applicant was present or online. Ms. Garza stated the applicant was going to be present.

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 was 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 table the item to get more information from the applicant and to be present. Mr. Jose Gutierrez seconded the motion. The Board voted unanimously to table the item with five members present and voting.

- d)** Request of Adriana Salazar, on behalf of Servikon, LLC, INC for the following variance to the City of McAllen Zoning Ordinance to allow a 4 ft. landscaping strip along South Bentsen Road instead of the required 10 ft. at a 1.55-acre tract of land out of lot 178, John H. Shary Subdivision, Hidalgo County, Texas; 1820 South Bentsen Road. **(ZBA2020-0080)**

Ms. Garza stated the applicant was requesting variances to not comply with the 10 ft. landscape strip along South Bentsen Road.

The property was located on the northwest corner of South Bentsen Road and Colbath Road. The tract has 246.2 feet of frontage along South Bentsen Road and depth of 275 feet front fronting Colbath Road for a total area of 1.55 acres and was zoned R-3A (multifamily residential apartments) District. The adjacent zoning was R-1 (single family residential) District to the north and south, and C-3 (general business) District to the east and west.

Surrounding land uses are single family residences, commercial uses, church, and vacant land.

The applicant had originally applied for a variances request on September 2, 2020 to not comply with the 12 ft. separation between buildings, to not comply with 10 ft. landscape strip, and for the proposed apartments to encroaching into the into the 10 ft. rear setback of the property. However, the applicant withdrew the application until the Subdivision Plat for Barcelona received final approval in preliminary form to determine if Planning and Zoning committee would grant a variance of 6 ft. instead of 10 ft. for the rear setback on the Plat. At the Planning and Zoning meeting of October 20, 2020 after much discussion, the Board moved to approve the Barcelona Subdivision Plat in revised preliminary with a disapproval of the variance request. Therefore; the applicant went back and revised the site plan to comply with setbacks and building separation; however, the site plan is still not meeting the 10 ft. landscaping strip along South Bentsen Road.

Variance request to allow a 4 ft. landscaping strip along South Bentsen Road instead of the required 10 ft. In order to accommodate the necessary setbacks and separation between buildings, and parking for the proposed development, the applicant encroached 6 ft. into the required 10 ft. wide landscaping strip along Bentsen Road. If parking area is reduced, then parking requirement will not be met. As per Section 110-49(a) of the City's ordinance, a landscape strip area with a minimum width of ten feet shall be provided along and within the property lines of all nonresidential and multifamily uses contiguous to a public street, excluding driveway entrances and exits. For properties having a lot depth of less than 200 feet, the landscaped strip may be reduced to a minimum width of five feet with a landscape hedge not exceeding three feet in height.

Staff recommended disapproval of the variance request because a landscape strip area with a minimum width of ten feet was required along property lines of all nonresidential uses. If the Board chooses to grant the variances, it should be limited to the foot print as shown on the site plan and with the condition that they add a three-foot hedge to the landscaping strip along South Benston Road.

Ms. Hinojosa asked staff if they were townhouses. Ms. Garza stated they were apartments.

Vice-Chairperson Millin asked staff what was the response to the question of whether they can comply with City's ordinance. Ms. Garza stated originally they had done 7 feet of landscaping a month ago. However, they withdrew that variance because during the plat process Fire Department wanted 6 feet on the side setback. They had to move their buildings to comply with setbacks so now their landscaping was reduced more in order to meet the setbacks for the buildings and also in between. On the north side between apartments 8 and 9, there were proposing to 8 feet but revised their site plans to actually meet the 12 feet so that pushed their buildings more to the east which reduced their landscaping. They would have to move buildings 15 and 19 and push their parking to the west so they can have the parking maneuvering.

Chairperson Diaz asked staff if they were one or two story buildings. Ms. Garza stated they were two story, one unit.

Ms. Adriana Salazar, the applicant (via Zoom) stated the company owned this property for 15 years. They wanted to build something that would be of good use. The lot sizes were 5,000 square feet to build townhouses. Ms. Salazar stated they wanted to optimize the 1,500 square footage of each unit so they revised the site plan to comply.

Mr. Cano, the engineer stated that if the variance was not approved they would have to lose two townhouses in order to accommodate the proper parking spaces. They would have to reconfigure the site plan. They want to make the project feasible.

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 was anyone present or on Zoom in opposition of the variance request. There was no one present in opposition of the variance request.

Chairperson Diaz asked staff if the plat was approved. Ms. Garza stated the preliminary final had been approved because they were pending setbacks.

Vice- Chairperson Millin stated this variance did not appear to be a hardship.

Ms. Hinojosa asked staff they had 25 feet and they needed how many. Ms. Garza stated from the property line to the interior of the property they needed an additional 10 feet. They do have Right-of-Way that was grass and a sidewalk. They do have 30 feet of Right-of-Way and 10 additional feet dedicated by the plat but was outside the property.

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

- e) Request of Ismael Gonzalez for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing wooden storage building measuring 20 ft. by 10 ft. at Lot 123, Eagle's Crossing Subdivision, Hidalgo County, Texas; 2717 York Avenue. **(ZBA2020-0081)**

Mr. Garza stated Mr. Ismael Gonzalez is requesting a variance to allow an encroachment into the 10 ft. side yard setback for an existing wooden storage building. The applicant stated that the basis for the request is that he wants to store household goods and to allow space for the safety and enjoyment of the applicant's children.

The property is located at the south side of York Avenue. The lot had 81.84 ft. of frontage on York Avenue with a depth of 120 ft. for a lot size of 9,735.61 square feet. The property was zoned R-1 (single family residential) District. Surrounding land uses were single family residential.

Eagle's Crossing Subdivision was recorded on June 29, 2007. A general note on the subdivision plat indicated a rear yard setback of 10 ft. and 10 ft. utility and electrical easement. Building Inspection Department records show that a stop work order was

issued by staff on November 09, 2020 for the construction of the storage building without a building permit. The application for the variance request and abandonment were submitted on November 16, 2020.

The variance request was for a wooden storage building measuring 10 ft. by 20 ft. that was encroaching 5 ft. into the 10 ft. rear yard setback along the south property line. There was a 10 ft. utility and electrical easement that runs along the rear yard setback that impacts the existing storage building encroachment. On November 16, 2020, the applicant applied to abandon the 10 ft. utility and electrical easement. The application was currently in process and requires the approval of utility companies and city departments. Storage buildings that are 200 square feet or less in size do not require a building permit, but must respect the zoning district setbacks and easements in which they are located.

Storage buildings used as an accessory to the residential use and not for living quarters are permitted in an R-1 District.

An approved abandonment by City Commission was required prior to building permit issuance.

The Planning Department had received one call in opposition to the request.

Staff recommended disapproval of the variance request.

Vice-Chairperson Millin clarifying the only encroachment that was to the rear yard setback not the side yard setback. Mr. Garza stated yes. Vice-Chairperson Millin asked if the structure could be moved or was it slab foundation. Mr. Garza stated the structure could be moved.

Mr. Ismael Gonzalez, the applicant stated the only place where the storage shed could move to would be in the area where his children play. If he moved the storage shed, he would only have about 6 to 8 feet of play area. He stated the storage shed was movable and sat on blocks. Chairperson Diaz asked Mr. Gonzalez if he had heard from the utility companies for abandonment. Mr. Gonzalez stated he had not heard from them.

Chairperson Diaz explained to the applicant that this was a variance and would have to show a high burden of hardship. Also, in the future the applicant or someone else can build or enclose it.

Mr. Gonzalez stated when he went through the process of getting the shed he made it to the size where he would not need a permit. But he wasn't aware of the location and how it was encroaching into the setback.

Chairperson Diaz asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was a person in favor of the variance request.

Dr. Steve Larsen, 2721 York Avenue, stated he was in favor of the variance request. He stated they were great neighbors.

Chairperson Diaz asked if there was anyone else present or on Zoom in favor of the variance request other than the applicant. There was a person in favor of the variance request.

Ms. Oliva Sony, 2704 York Avenue, stated she was in favor of the variance request. She stated they were wonderful neighbors.

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

Ms. Margaret Kendall, 2713 York Avenue, President of the Homeowners Association. She stated the storage shed had depreciated her home value. She stated he did have a place to relocate the storage shed for his children to play but wanted to keep the storage shed there.

Chairperson Diaz asked Ms. Kendall where did she reside. She stated she lived to east of the applicant.

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

- f) Request of Jorge Herrera for the following variance to the City of McAllen Off-Street Parking and Loading Ordinance to allow 8 parking spaces instead of the required 9 parking spaces at Lot 3, Block 54, McAllen Addition Subdivision, Hidalgo County, Texas; 612 South 15<sup>th</sup> Street. **(ZBA2020-0083)**

Mr. Victor Flores suggested this item be tabled for time to make a determination on the type of request that the application should be processed as.

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

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

- a) 800 East Pineridge Avenue
- b) 2502 South 43<sup>rd</sup> Avenue

### **ADJOURNMENT**

There being no further business to come before the Zoning Board of Adjustment and Appeal, Mr. John Millin **moved** to adjourn the meeting. Ms. Sylvia Hinojosa 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: December 29, 2020

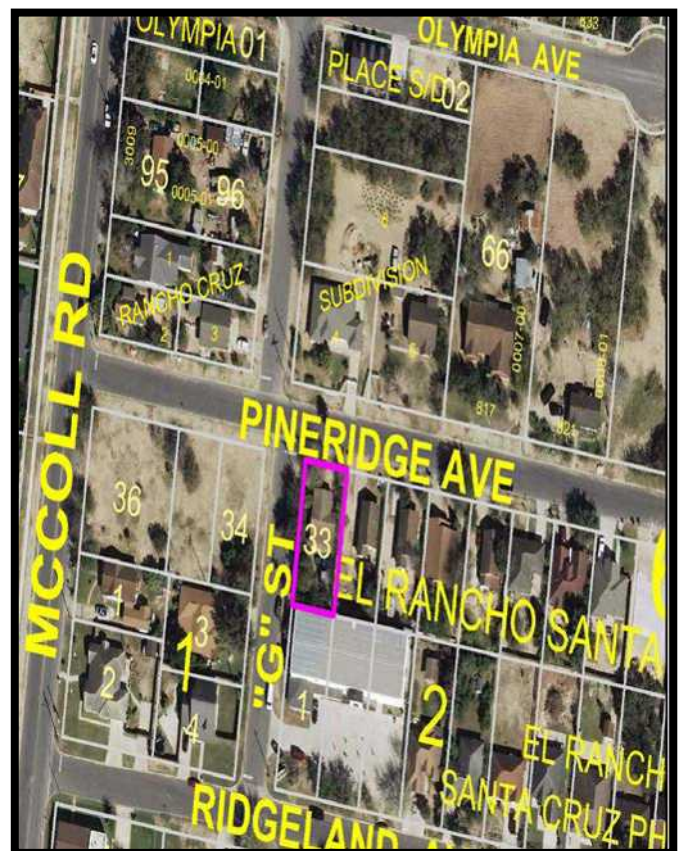
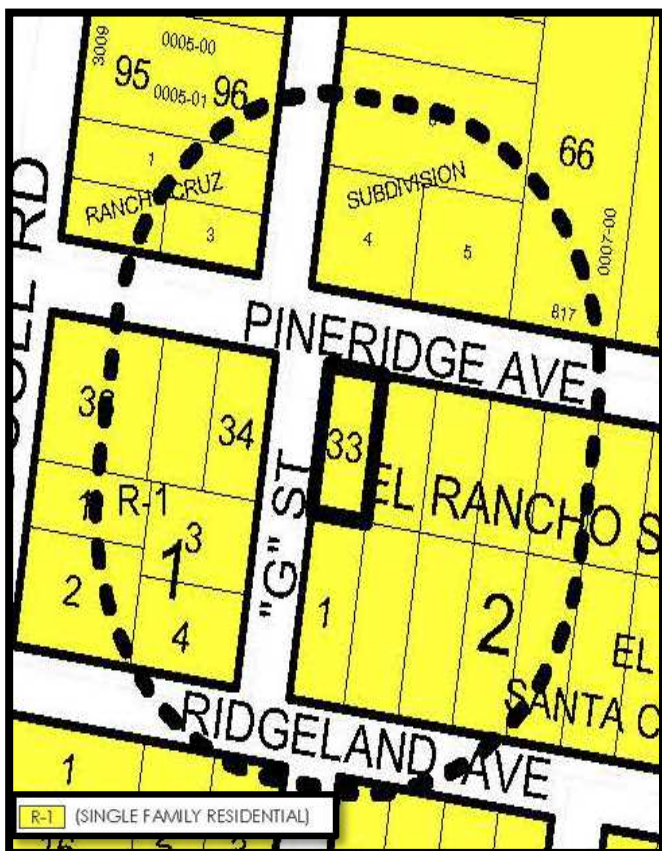
SUBJECT: REQUEST OF DOUGLAS AND ROSALIA LAROQUE FOR THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 10 FT. INTO THE 20 FT. FRONT YARD SETBACK FOR AN EXISTING WOODEN CARPORT WITH AN ALUMINUM ROOF MEASURING 10 FT. BY 10 FT. AT LOT 33, EL RANCHO SANTA CRUZ SUBDIVISION PHASE I, HIDALGO COUNTY, TEXAS; 800 EAST PINERIDGE AVENUE. (ZBA2020-0084)

REASON FOR APPEAL:

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

PROPERTY LOCATION AND VICINITY:

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



**BACKGROUND AND HISTORY:**

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.

**ANALYSIS:**

The variance request is 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 has 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 has not received any phone calls in opposition to the request.

**RECOMMENDATION:**

Staff recommends approval of the special exception request.





# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

<b>Project</b>	Legal Description <u>El Rancho Santa Cruz Ph 1 Lot 32</u> <u>800 E. Pineridge AVE</u>
	Subdivision Name <u>El Rancho Santa Cruz Phase 1</u> Street Address <u>800 E. Pineridge AVE</u> Number of lots <u>1</u> Gross acres _____ Existing Zoning <u>Residential</u> Existing Land Use <u>Single family</u> Reason for Appeal (please use other side if necessary) <u>To encroach 10ft in the 20ft front yard set back for an existing (gazebo) measuring 10x10ft</u> <input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
<b>Applicant</b>	Name <u>Douglas P Rosalia LaRoque</u> Phone <u>(956) 688-9854</u> Address <u>800 E. Pineridge</u> E-mail <u>LAROQUE 69@ymail.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78503</u>
	Name <u>SAME AS ABOVE</u> Phone _____ Address _____ E-mail _____ City _____ State _____ Zip _____
<b>Authorization</b>	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization. Signature <u>Douglas A LaRoque</u> Date <u>11/19/20</u> Print Name <u>Douglas LaRoque</u> <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent
	Accepted by _____ Payment received by _____ Date _____ Rev 10/18 <u>CA</u>
<b>Office</b>	Accepted by _____ Payment received by _____ Date _____ Rev 10/18 <u>CA</u>



25



# 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:

Since property is on a corner lot were giving up more space than the other residents lots.

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

Due to my service connected disabilities from serving in combat and suffering from PTSD, self isolation, anxiety and depression and other medical problems.

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:

Special Acceptance is not affecting the public or neighbors. It is not blocking anyones view it sets back enough and does not interfere with traffic on both streets.

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

Due to my medical issues doctor and psychiatric recommend this for me to distract myself from every day triggers

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date

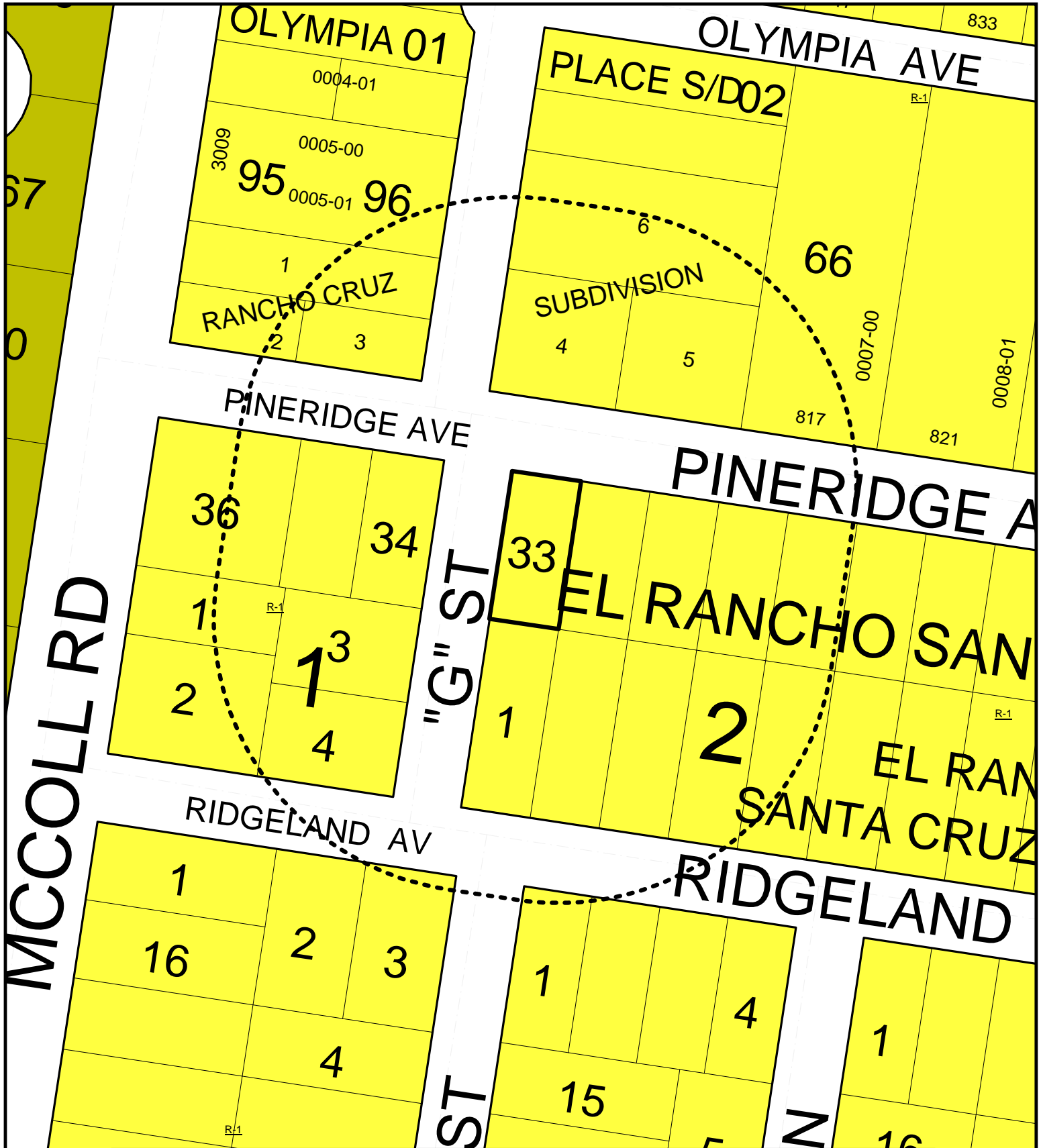



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*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 <b>any combination</b> of the following: (Please use an additional page if necessary to complete responses)</p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>
	<p>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:</p> <p>Since property is on a corner lot were giving up more space than the other residents lots.</p>
	<p>2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</p> <p>Due to my service connected disabilities from serving in Combat and suffering from PTSD, self isolation, anxiety, and depression and other medical problems.</p>
	<p>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:</p> <p>Variance is not affecting the public or neighbors. It is not blocking anyones view it sets back enough and does not interfere with <sup>traffic</sup> either on both street</p>
Board Action	<p>4. Describe special conditions that are unique to this applicant or property:</p> <p>Due to my medical issues doctor and psychiatrist recommend this for me to distract myself from every day triggers.</p>
	<p>Chairman, Board of Adjustment Signature _____</p> <p>Date _____</p>






**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

**AREA MAP**



**SUBJECT PROPERTY**

**200 FT. NOTIFICATION BOUNDARY**

**ZONING LEGEND**

<p><b>A-0</b> (AGRICULTURAL &amp; OPEN SPACE)</p> <p><b>R-1</b> (SINGLE FAMILY RESIDENTIAL)</p> <p><b>R-2</b> (DUPLIX-FOURPLEX)</p>	<p><b>R-3A</b> (APARTMENTS)</p> <p><b>R-3C</b> (CONDOMINIUMS)</p> <p><b>R-3I</b> (TOWNHOUSES)</p>	<p><b>R-4</b> (MOBILE HOMES)</p> <p><b>C-1</b> (OFFICE BUILDING)</p> <p><b>C-2</b> (NEIGHBORHOOD COMMERCIAL)</p>	<p><b>C-3</b> (GENERAL BUSINESS)</p> <p><b>C-3L</b> (LIGHT COMMERCIAL)</p> <p><b>C-4</b> (COMMERCIAL INDUSTRIAL)</p>
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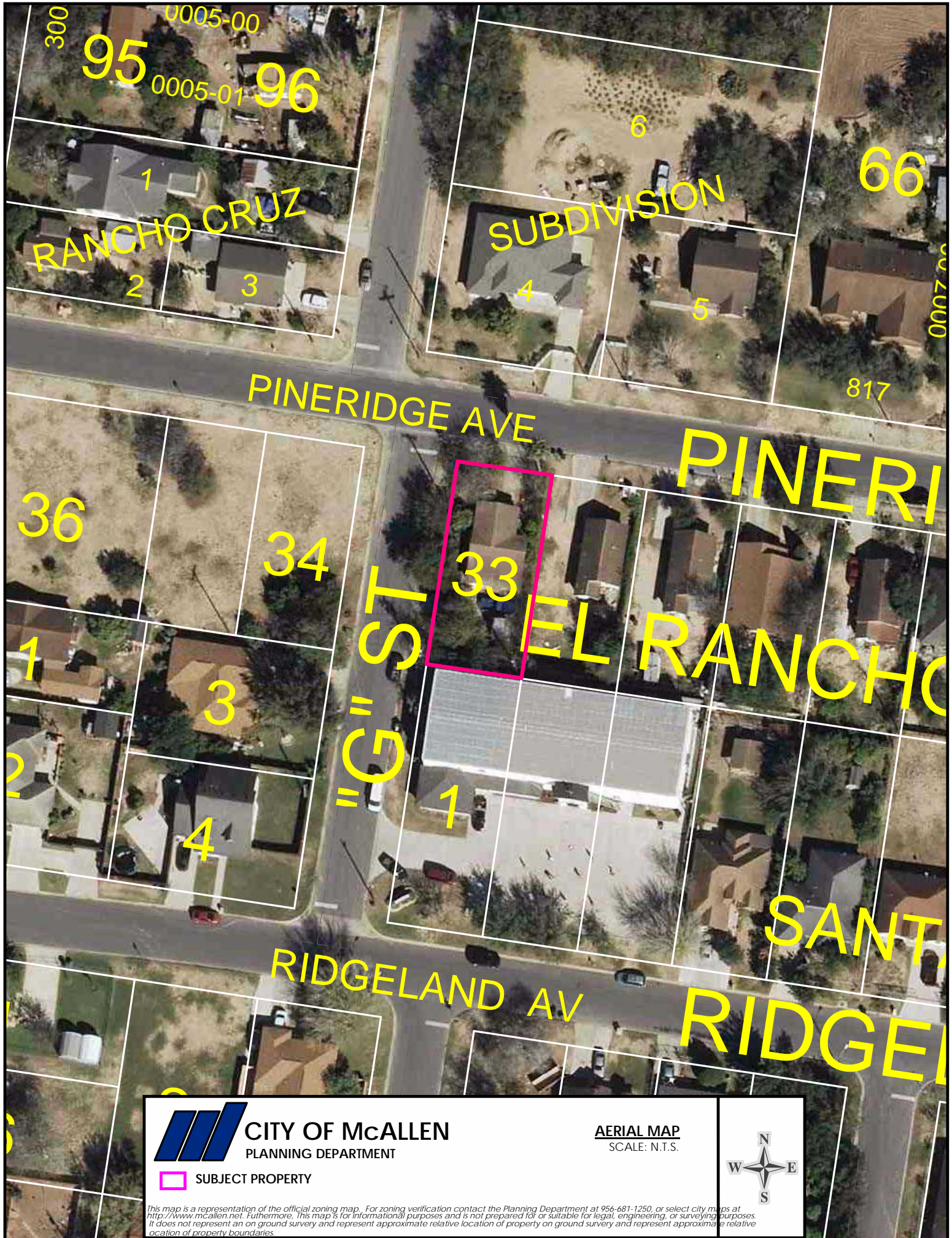
**I-1** (LIGHT INDUSTRIAL)

**I-2** (HEAVY INDUSTRIAL)

**(SPECIAL DISTRICT)**

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6



**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

 **SUBJECT PROPERTY**



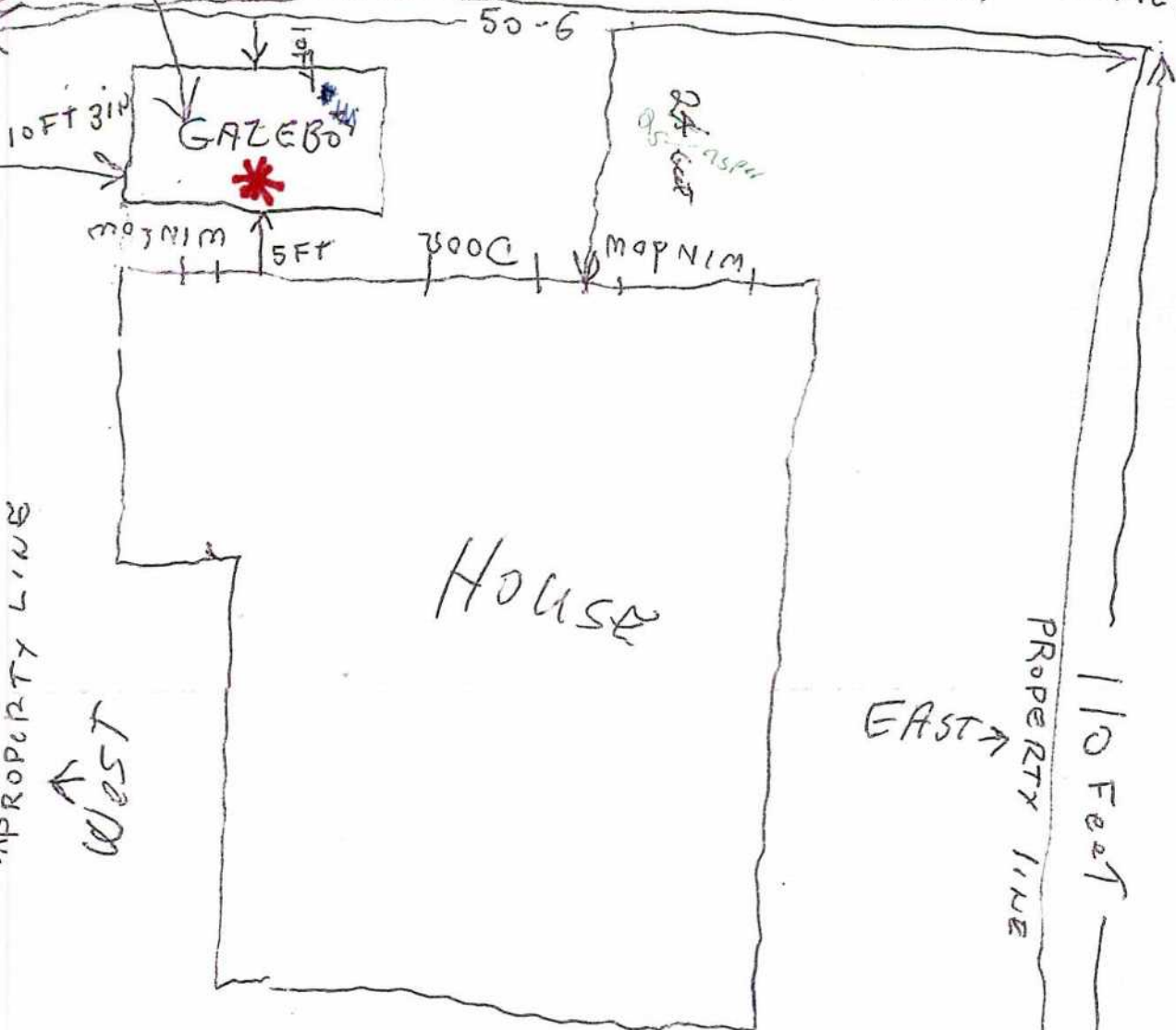
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THE GAZERO IS  
STANDING ON A  
CEMENT TILED FLOOR  
CEMENT IS 4 IN THICK  
EACH LEG IS BOLTED  
IN CEMENT

(South West  
CORNER) LOT #33 NORTH  
EAST

PINE RIDGE AVE PROPERTY LINE

140 FT



110 Feet  
PROPERTY LINE  
West  
SG STREET  
HEIGHT 12 feet  
10/0

110 Feet  
PROPERTY LINE  
EAST

South  
↓

50.6 Feet



NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2020-0084

RN

Michelle  
LaRoque

BSN

GRADUATE  
CLASS OF 2020



VIETNAM  
VETERAN

Fiesta

SPARK



EDINBURG, TEXAS  
TEXAS  
MXC-1682  
FiestaChevy.com





VETERAN  
TEARS  
MXC-1682  
U.S. NAVY

01-22

01-22



TEXAS  
MXC-1682  
FiestaChevy.com

SPARK

Fiesta  
CHEVROLET

VIETNAM  
VETERAN

**Memo**

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

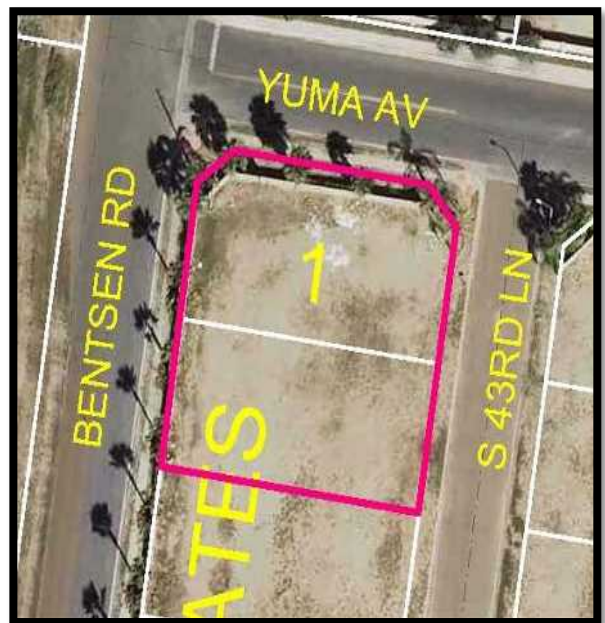
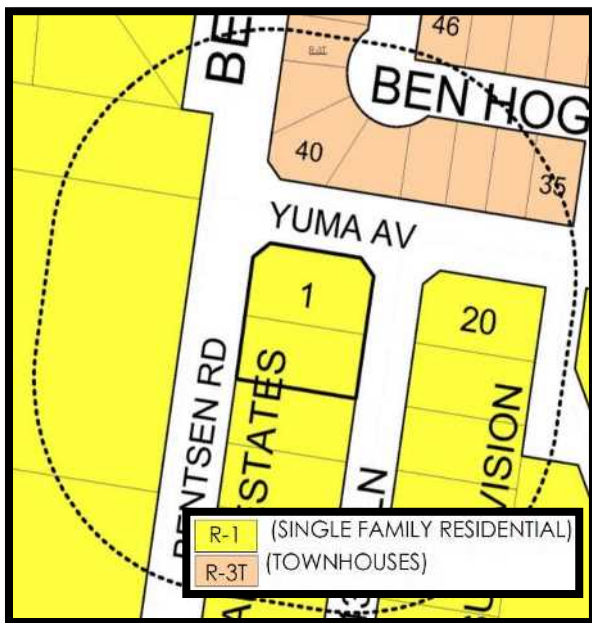
**FROM:** Planning Staff

**DATE:** December 21, 2020

**SUBJECT: REQUEST OF KARELY OCHOA FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 10.09 FT. INTO THE 25 FT. REAR YARD SETBACK FOR A PROPOSED POOL MEASURING 20 FT. BY 30 FT. AND 2) AN ENCROACHMENT OF 10.09 FT. INTO THE 25 FT. REAR YARD SETBACK FOR A PROPOSED GAZEBO MEASURING 20 FT. BY 10 FT. AT LOTS 1 & 2, CORONADO ESTATES SUBDIVISION PHASE I, HIDALGO COUNTY, TEXAS; 2502 SOUTH 43<sup>RD</sup> LANE. (ZBA2020-0085)**

**REASON FOR APPEAL:**

The applicant is requesting a variance to allow a proposed pool that is encroaching into the rear setback of two double fronting lots. The applicant states that the approval of this request would allowed them to fully enjoy their backyard and be able to fulfill their toddlers' wish of having a swimming pool in their backyard.



**PROPERTY LOCATION AND VICINITY:**

The property is located on the southwest corner of South 43<sup>rd</sup> Lane and Yuma Avenue. The lots have approximately 115 ft. of frontage along South 43<sup>rd</sup> Lane and approximately 120 ft. of depth

for lot size of 15,375 sq. ft. The properties are zoned R-1 (single-family residential) District. The adjacent zoning is R-1 (Single Family Residential) to the east, west, and south and R-3T (Multifamily Townhouses) District to the north. The surrounding land uses include single-family residences and vacant land.

**BACKGROUND AND HISTORY:**

Coronado Estates Subdivision Phase I was recorded on July 17, 2017. As per plat notes, Lots 1 through 10 are consider double fronting lots, as it fronts S. 43<sup>rd</sup> Lane and South Bentsen Road. Rear setback for double fronting lots its 25 ft. A swimming pool application has not been submitted; however, a building permit for the residence was submitted on December 2, 2020. Additionally a gazebo was proposed, however, the gazebo was not part of the original building permit. An additional building permit will be needed. The proposed swimming pool is straddling both lots hence the variance request is for both Lots 1 & 2. The proposed Gazebo is only encroaching into rear setback of Lot 2.

**ANALYSIS:**

Variance #1:

The variance request is to allow an encroachment of 10.09 into the 25 ft. rear setback for a proposed swimming pool measuring 20 ft. by 30 ft.

Variance #2:

The variance request is to allow an encroachment of 10.09 ft. into the 25 ft. rear setback for a proposed gazebo measuring 20 ft. by 10 ft.

As per plat, there is a 10 ft. Utility Easement at the rear of all lots in this subdivision and an existing 60 ft. ROW to the east of the subject's property line. Double fronting lots are not to be considered unique since 10 lots have this setback as per plat note. The pool and gazebo are an accessory structure and not a primary building.

An 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 uses of buildings are located on a lot occupied by the main use conforming with setbacks and other regulations concerning the location.

There seem to be existing structures to be encroaching into setbacks, however no variances have been requested around the area.

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

**RECOMMENDATION:**

Staff recommends disapproval of the variance request. If the Board chooses to grant the variance, it should be limited to the footprint of the submitted site plan and the uses shown on the proposed site plan.

ZBA 2020 - 0085

ZBA

01-06-21

# City of McAllen

## Planning Department

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

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

#### Project

Legal Description Coronado Estates PH 1 Lot 1 and 2.

Subdivision Name Coronado Estates

Street Address 2502 S 43rd St McAllen TX 78503

Number of lots 2 Gross acres 14,400 sq ft

Existing Zoning RS Existing Land Use single family residential

Reason for Appeal (please use other side if necessary) Appeal the double fronting rear setback of 25ft. for the proposed pool & gazebo. K.O. 12-18-2020

\$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 Karely Ochoa Phone 956-483-5943

Address 612 New Orleans Cir E-mail De.leon\_8a@icloud.com

City Pharr State TX Zip 78577

#### Owner

Name Isaac Ochoa and Karely Ochoa Phone 956-483-5943

Address 612 New Orleans Circle E-mail De.leon\_8a@icloud.com

City Pharr State TX Zip 78577

#### 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 12/01/2020

Print Name karely ochoa  Owner  Authorized Agent

#### Office

Accepted by LG. Payment received by \_\_\_\_\_

REVISÉD 9/11

Date 12-21-20

RECEIVED

DEC 02 2020

By CM



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

\*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:

I am requesting a variance to change the 25ft setback into just ~~10ft~~ <sup>14ft</sup> ~~K.O. 12-17-2020~~ as this prevents

us from building a pool <sup>and gazebo K.O. 12/18/2020</sup> and enjoying our backyard.

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

My husband and I sacrificed a lot to buy two lots at Coronado Estates to be able to have a bigger backyard and build a pool for the kids however this 25ft setback

takes most of our back yard leaving us with no room for such desiree. When we decided to build a home the one thing our kids asked for was to please make sure the house had a pool.

As a mother of 3 toddlers i ask of your approval so we can full-fill their wish.

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 variance will not cause any harm to safety or leagal rights to other property owners as there is a fence already in the rear dividing the street with the lot and granted the variance i will also fence the whole back yard. Attached are the detailed plans of the proposed house and pool.

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

Far from unique i think that this application is just one of the possible 8

applications that the city might get because all my neighbors that reside at Coronado

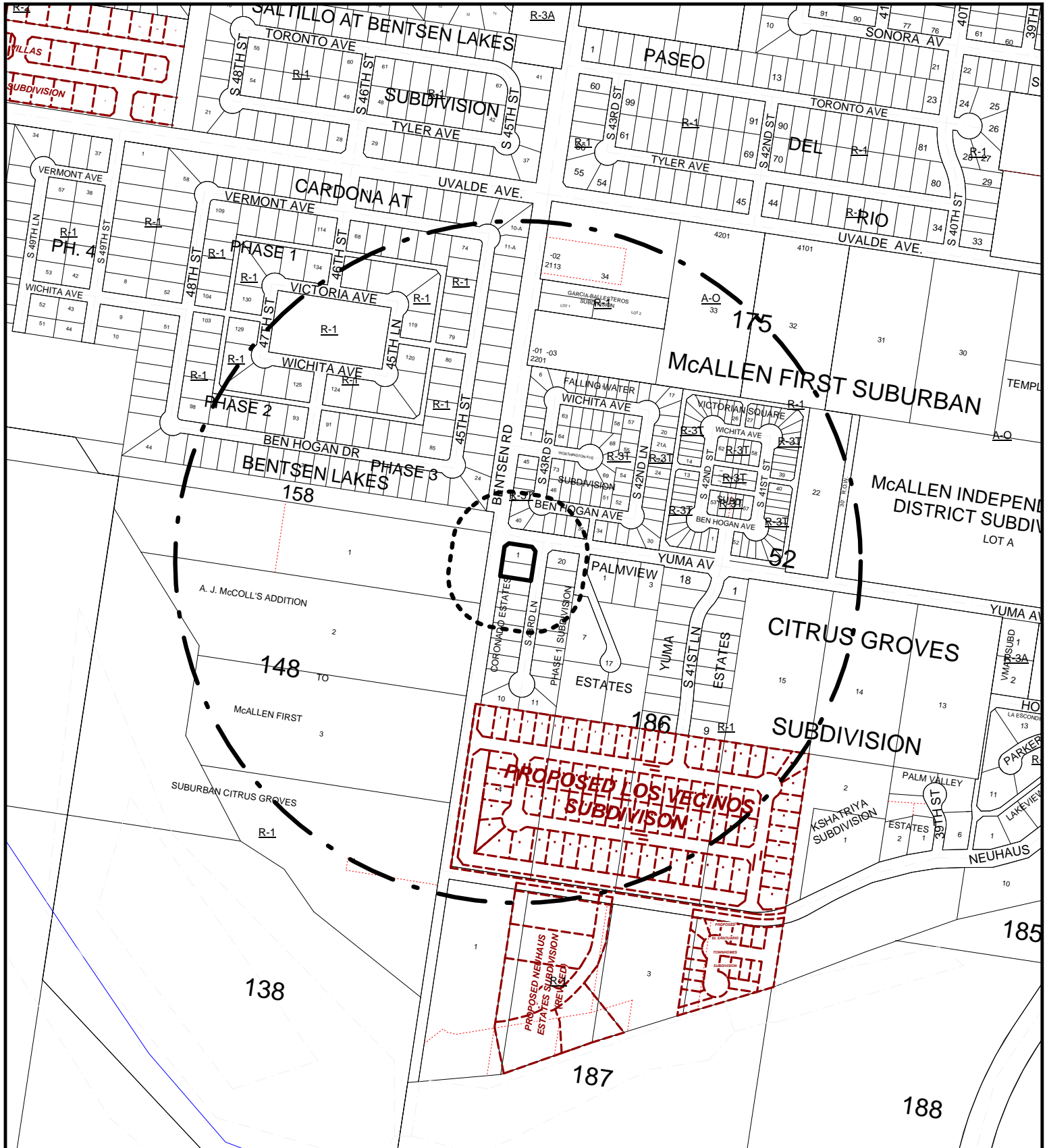
Estates are suffering from this 25 ft setback and loosing most of their backyard.


Board Action

Chairman, Board of Adjustment  
Signature

Date








**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

**AREA MAP**



**SUBJECT PROPERTY**

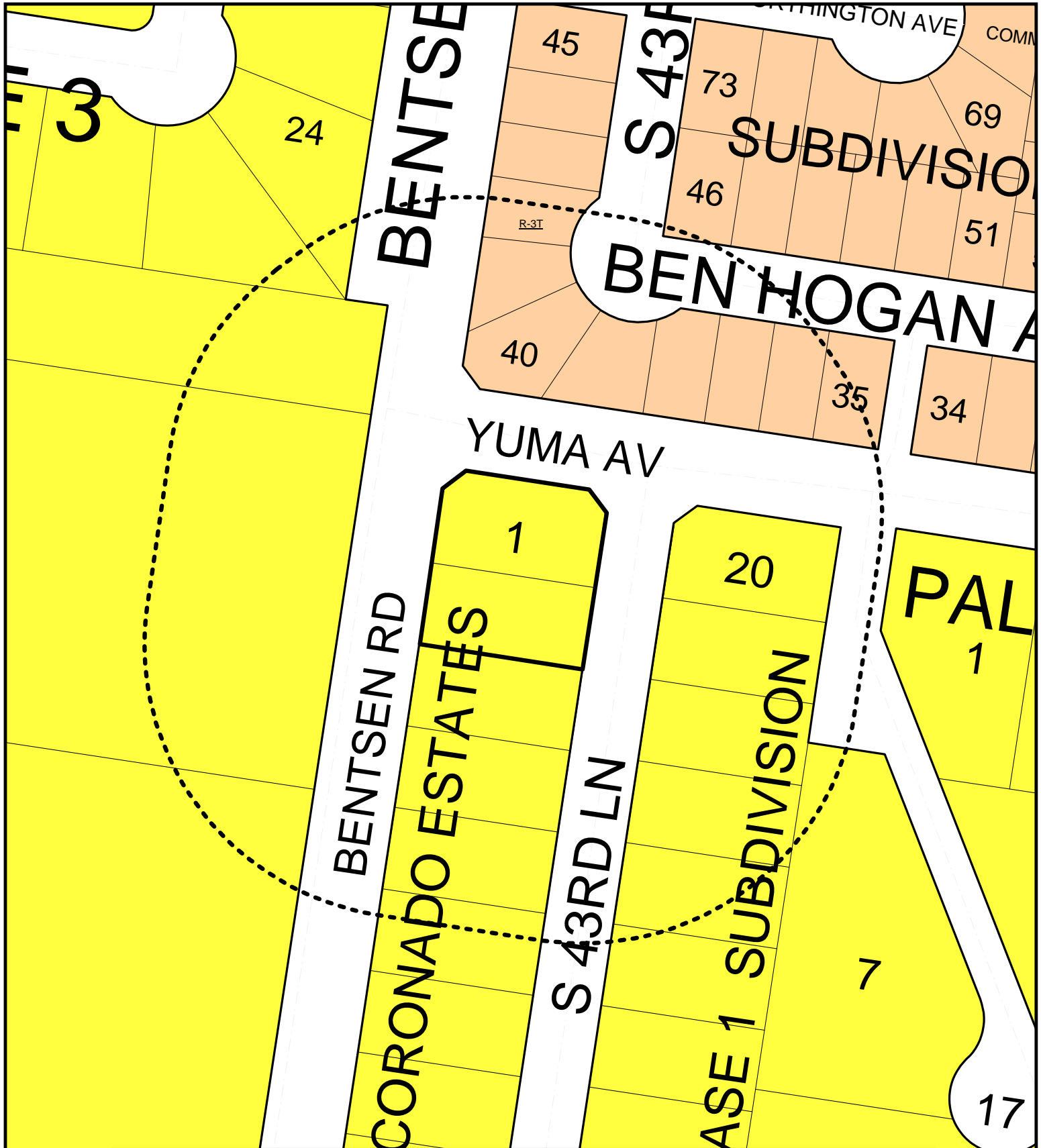
**200 FT. NOTIFICATION BOUNDARY**


**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



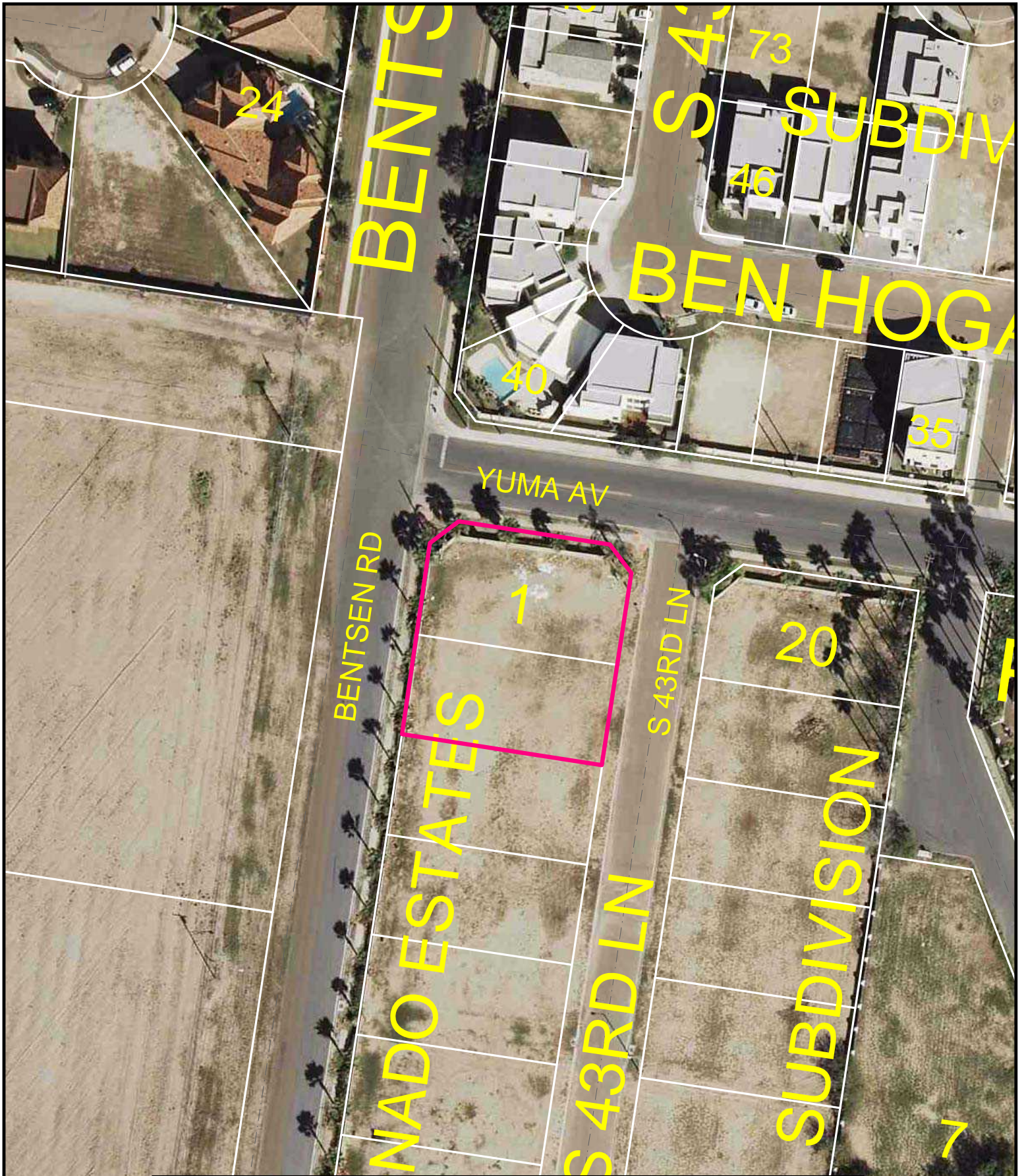
 SUBJECT PROPERTY

 200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND			
 (AGRICULTURAL & OPEN SPACE)	 (APARTMENTS)	 (MOBILE HOMES)	 (GENERAL BUSINESS)
 (SINGLE FAMILY RESIDENTIAL)	 (CONDOMINIUMS)	 (OFFICE BUILDING)	 (LIGHT COMMERCIAL)
 (DUPLEX-FOURPLEX)	 (TOWNHOUSES)	 (NEIGHBORHOOD COMMERCIAL)	 (COMMERCIAL INDUSTRIAL)
			 (LIGHT INDUSTRIAL)
			 (HEAVY INDUSTRIAL)
			 (SPECIAL DISTRICT)


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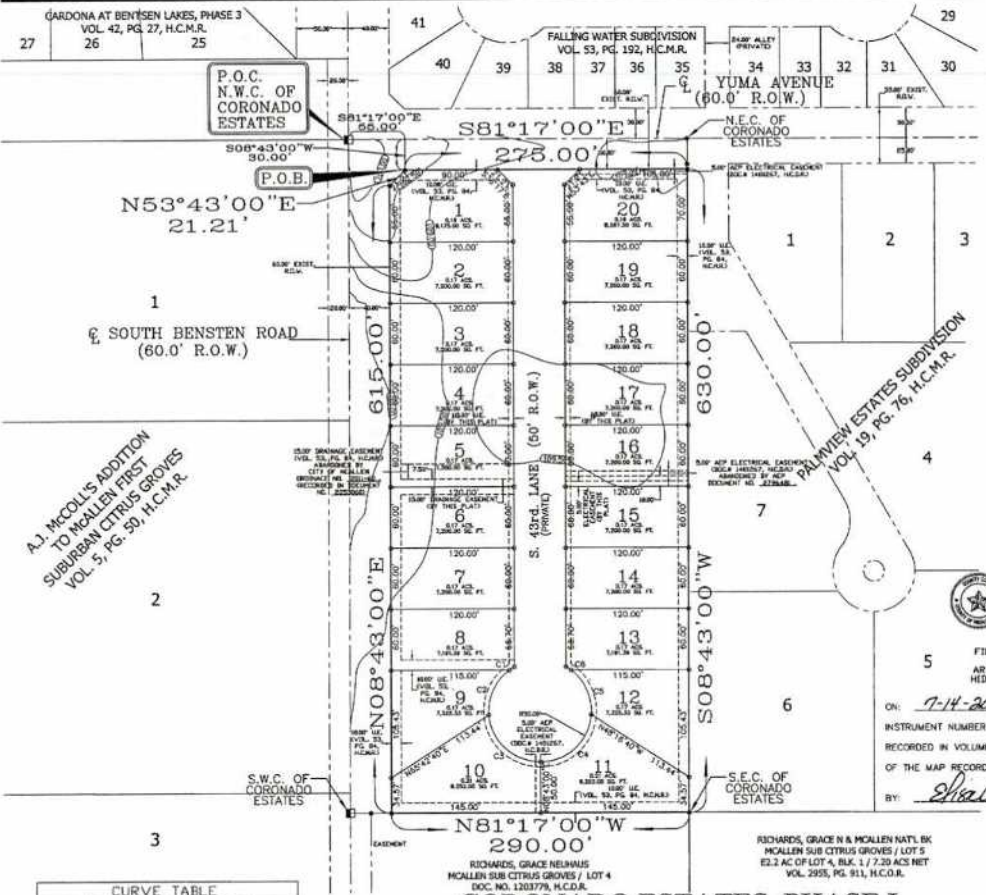
 **CITY OF McALLEN**  
 PLANNING DEPARTMENT

**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.



CURVE	LENGTH	RADIUS	BEARING
C1	6.00'	50.00'	S65°16'54\"/>

### CORONADO ESTATES, PHASE I

(PRIVATE SUBDIVISION)  
AN ADDITION TO THE CITY OF MCALELL,  
HIDALGO COUNTY, TEXAS

BEGING A 4.19 NET ACRE TRACT OF LAND, MORE OR LESS, CONSISTING OF ALL OF THOSE LANDS KNOWN AS CORONADO ESTATES, AN ADDITION TO THE CITY OF MCALELL, HIDALGO COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 83, PAGE 84, MAP RECORDS OF HIDALGO COUNTY, TEXAS, EXCEPTING ALL OF THOSE LANDS LOCATED IN THE RIGHTS-OF-WAY OF YUMA AVE. (30.0 FEET) AND BENTSEN ROAD (40.0 FEET).

- GENERAL PLAT NOTES:**
- MINIMUM SETBACK LINES: FRONT: 25.0' REAR: 10.0' OR GREATER FOR EASEMENTS, EXCEPT 20.0' FOR DOUBLE FRONTAGE LOTS. INTERIOR SIDE: 6.0' OR GREATER FOR EASEMENT CORNER: 10.0' OR GREATER FOR EASEMENT GARAGE: 18.0' EXCEPT WHERE GREATER SETBACK REQUIRED, GREATER SETBACK APPLIES.
  - LANDS CONTAINED WITHIN THIS SUBDIVISION LIE IN ZONE "B" ACCORDING TO THE FIRM (FLOOD INSURANCE RATE MAP) DATED 11/16/82, COMMUNITY PANEL NO. 480334 0400 C.
  - MINIMUM FINISHED FLOOR ELEVATION ON ALL NEW CONSTRUCTION SHALL BE 18.0 INCHES ABOVE THE TOP OF CURB AS MEASURED FROM THE CENTER OF EACH LOT.
  - 4 FT. WIDE MINIMUM SIDEWALK REQUIRED ON S. BENTSEN ROAD, YUMA AVENUE, AND ON BOTH SIDES OF S. 43RD LANE.

- THIS SUBDIVISION PLAT SHALL BE REQUIRED TO DETAIN A TOTAL OF 0.294 ACRE-FEET OF DRAINAGE RUNOFF VOLUME. EACH LOT SHALL BE REQUIRED TO DETAIN A MINIMUM OF 1,293.73 CUBIC FEET (ROUNDED).
- THE CONSTRUCTION OF ANY STRUCTURES ON OR WITHIN ANY EASEMENTS SHALL BE PROHIBITED.
- NO POTABLE DRINKING WATER WELL IS LOCATED WITHIN 150.0 FEET FROM THIS SUBDIVISION.
- 6 FT. OPAQUE BUFFER REQUIRED FROM ADJACENT/BETWEEN MULTI-FAMILY RESIDENTIAL AND COMMERCIAL OR INDUSTRIAL ZONES/USES, AND ALONG S. BENTSEN ROAD AND YUMA AVE. AN 8 FT. MASONRY WALL REQUIRED BETWEEN SINGLE FAMILY RESIDENTIAL AND COMMERCIAL, INDUSTRIAL, OR MULTI-FAMILY RESIDENTIAL ZONES/USES.
- AN ENGINEERED DRAINAGE DETENTION PLAN FOR EACH LOT, APPROVED BY THE ENGINEERING DEPARTMENT, IS REQUIRED PRIOR TO ISSUANCE OF BUILDING PERMITS.
- NO CURB CUT, ACCESS OR LOT FRONTAGE PERMITTED ON S. BENTSEN ROAD AND YUMA AVENUE.

- MCALELL SURVEY CONTROL POINT NO. 86, IS LOCATED INSIDE THE GOLF COURSE "PALM VIEW", IT IS APPROXIMATELY 1 MILE SOUTH FROM THE EXPRESSWAY 83. MC BE ELEV. = 96.69.
- PRIVATE STREETS MUST BE MAINTAINED BY THE LOT OWNERS AND NOT THE CITY OF MCALELL.
- DEVELOPER/HOMEOWNER'S ASSOCIATION/OWNER, THEIR SUCCESSORS AND ASSOCIATES, AND NOT THE CITY OF MCALELL SHALL BE RESPONSIBLE FOR THE COMPLIANCE OF INSTALLATION AND MAINTENANCE AND OTHER REQUIREMENTS PER SECTION 134-168 OF THE SUBDIVISION ORDINANCE, INCLUDING BUT NOT LIMITED TO COMMON AREAS AND ITS PRIVATE STREETS.
- AS PER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CORONADO ESTATES, PHASE I SUBDIVISION, RECORDED AS DOCUMENT NUMBER 28316439, HIDALGO COUNTY, DEED RECORDS, DEVELOPER/HOMEOWNER ASSOCIATION/OWNER, THEIR SUCCESSORS AND/OR ASSIGNS, AND NOT THE CITY OF MCALELL SHALL BE RESPONSIBLE FOR INSTALLATION, MAINTENANCE AND OTHER REQUIREMENTS AS PER SECTION 134-168 OF THE CODE OF ORDINANCE OF THE CITY OF MCALELL, INCLUDING BUT NOT LIMITED TO COMMON AREAS AND PRIVATE STREETS. ANY AMENDMENT TO DECLARATIONS THAT CONFLICT WITH THE REQUIREMENTS OF SECTION 134-168 SHALL BE NULL AND VOID.
- RIGHT-OF-WAY EASEMENT GRANTED TO SOUTHWESTERN BELL TELEPHONE CO. BY INSTRUMENT RECORDED IN VOLUME 474, PAGE 439, MAP RECORDS OF HIDALGO COUNTY, TEXAS. (THIS EASEMENT DOES NOT APPEAR TO AFFECT THIS SUBDIVISION AND IS NOT SHOWN HEREIN.)

**PRINCIPAL CONTACTS**

NAME	ADDRESS	CITY & ZIP	PHONE	FAX
OWNER: CASTELLETO CONSTRUCTION, LLC	109 LAKE VIEW DR.	BOERNE, TEXAS 78006	(956) 308-6561	(956) 308-6561
ENGINEER: DAVID O. SALINAS	2221 DARTFORD AVE.	MCALELL, TEXAS 78051	(956) 682-9081	(956) 682-1489
SURVEYOR: DAVID O. SALINAS	2221 DARTFORD AVE.	MCALELL, TEXAS 78051	(956) 682-9081	(956) 682-1489

STATE OF TEXAS  
COUNTY OF HIDALGO

I, THE UNDERSIGNED OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS CORONADO ESTATES, PHASE I, DO HEREBY GRANT AN EASEMENT TO THE CITY OF MCALELL AND THOSE WHO MAY NOW OR HEREAFTER HOLD FRANCHISE UNDER SAID CITY, THE USE OF THE STREETS AND EASEMENTS THEREON SHOWN, SURFACE USE OF THE STREETS IS RESTRICTED TO THE EMPLOYEES OR AGENTS OF THE CITY OF MCALELL, EMPLOYEES OF UTILITIES OPERATING UNDER FRANCHISE TO THE CITY OF MCALELL AND RESIDENTS OF THE SUBDIVISION AND THEIR GUESTS, EXCEPT YUMA AVENUE AND SOUTH BENTSEN ROAD WHICH ARE FOR PUBLIC USE.

OWNER: CASTELLETO CONSTRUCTION, LLC  
ANA CAROLINA BUENO FLORES, MEMBER AND MANAGER  
109 LAKE VIEW DR.  
BOERNE, TEXAS 78006

STATE OF TEXAS  
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED THE PERSON OR PERSONS, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 17<sup>TH</sup> DAY OF MAY, 2017.

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS  
MY COMMISSION EXPIRES July 13, 2019

STATE OF TEXAS  
CITY OF MCALELL

I, THE UNDERSIGNED, MAYOR OF THE CITY OF MCALELL, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THE CITY WHEREIN MY APPROVAL IS REQUIRED.

*James E. Decker* MAYOR DATE 5/17/17

STATE OF TEXAS  
CITY OF MCALELL

I, THE UNDERSIGNED CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF MCALELL HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.

*Shirley M. McMillan* CHAIRMAN DATE 5/17/17

STATE OF TEXAS  
COUNTY OF HIDALGO

I, DAVID O. SALINAS, P.E., A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, REGISTRATION NUMBER TX 71973, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.

I CERTIFY THAT THE WATER AND SEWER SERVICE FACILITIES FOR LOTS INTENDED FOR RESIDENTIAL PURPOSES DESCRIBED ABOVE, ARE IN COMPLIANCE WITH THE MODEL RULES ADOPTED UNDER SECTION 19.343, WATER CODE, THE ESTIMATED COST TO INSTALL UNCONSTRUCTED WATER AND SEWAGE FACILITIES DESCRIBED ABOVE ARE AS FOLLOWS:

WATER FACILITIES: THESE FACILITIES WILL BE CONSTRUCTED.

SEWAGE FACILITIES: (SEWER SERVICE CONNECTION/INSTALLATION OF SEPTIC SYSTEMS) ARE ESTIMATED TO COST \$ 1,220.00 PER LOT (ALL INCLUSIVE), FOR A TOTAL OF \$ 25,000.00 FOR THE SUBDIVISION. THE SUBDIVIDER HAS PAID A TOTAL OF \$ 110.00 TO MCALELL, TEXAS TO COVER THE COST OF (SEWER SERVICE CONNECTION/INSTALLATION OF SEPTIC SYSTEMS).

DAVID O. SALINAS, P.E.  
REG. PROFESSIONAL ENGINEER #71973

STATE OF TEXAS  
COUNTY OF HIDALGO

I, DAVID O. SALINAS, THE UNDERSIGNED A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

DAVID O. SALINAS, P.L.S.  
REG. PROFESSIONAL LAND SURVEYOR #5782

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 CERTIFICATION

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH THE MINIMUM STANDARDS OF THE DISTRICT ADOPTED UNDER TEXAS WATER CODE 49.211(C). THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE DRAINAGE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION, BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA. IT IS THE RESPONSIBILITY OF THE DEVELOPER AND HIS ENGINEER TO MAKE THEIR DETERMINATIONS.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

*Raul E. Segal* DATE 5/17/17



LOCATION MAP  
SCALE: 1" = 1000'

**METES AND BOUNDS DESCRIPTION**

BEGING A 4.19 NET ACRE TRACT OF LAND, MORE OR LESS, CONSISTING OF ALL OF THOSE LANDS KNOWN AS CORONADO ESTATES, AN ADDITION TO THE CITY OF MCALELL, HIDALGO COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 83, PAGE 84, MAP RECORDS OF HIDALGO COUNTY, TEXAS, EXCEPTING ALL OF THOSE LANDS LOCATED IN THE RIGHTS-OF-WAY OF YUMA AVE. (30.0 FEET) AND BENTSEN ROAD (40.0 FEET). SAID 4.19 ACRE TRACT OF LAND IS MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID CORONADO ESTATES SUBDIVISION LOCATED AT THE INTERSECTION OF YUMA AVE. AND BENTSEN ROAD; THENCE, AS FOLLOWS:

- SOUTH 81 DEGREES 17 MINUTES EAST, CONCORDANT WITH THE NORTH LINE OF SAID CORONADO ESTATES LOCATED IN THE CENTER OF SAID YUMA AVE. A DISTANCE OF 30.0 FEET TO A POINT; THENCE;
- SOUTH 81 DEGREES 17 MINUTES EAST, CONCORDANT WITH THE NORTH LINE OF SAID CORONADO ESTATES, A DISTANCE OF 30.0 FEET TO A 1/2 INCH DIAMETER IRON ROD FOUND ON THE SOUTH EAST CORNER OF SAID CORONADO ESTATES; THENCE, AS FOLLOWS:
- SOUTH 81 DEGREES 43 MINUTES WEST, ALONG A LINE PARALLEL TO THE WEST LINE OF SAID CORONADO ESTATES, A DISTANCE OF 275 FEET TO A 1/2 INCH DIAMETER IRON ROD FOUND ON THE NORTH CORNER OF A 15.0 FOOT ROADWAY CORNER CLIP BEING THE SOUTH RIGHT-OF-WAY LINE OF YUMA AVE. FOR THE NORTHWEST CORNER AND POINT OF BEGINNING OF THIS HEREBY DESCRIBED TRACT;
- THENCE, SOUTH 81 DEGREES 17 MINUTES EAST, CONCORDANT WITH THE SOUTH RIGHT-OF-WAY LINE OF SAID YUMA AVE, A DISTANCE OF 275 FEET TO A 1/2 INCH DIAMETER IRON ROD FOUND ON INTERSECTION WITH THE EAST LINE OF SAID CORONADO ESTATES FOR THE NORTHEAST CORNER OF THIS HEREBY DESCRIBED TRACT;
- THENCE, SOUTH 08 DEGREES 43 MINUTES WEST, COINCIDENT WITH THE EAST LINE OF SAID CORONADO ESTATES, A DISTANCE OF 630.0 FEET TO A 1/2 INCH DIAMETER IRON ROD FOUND ON THE SOUTH CORNER OF SAID CORONADO ESTATES FOR THE SOUTHEAST CORNER OF THIS HEREBY DESCRIBED TRACT;
- THENCE, NORTH 81 DEGREES 17 MINUTES WEST, COINCIDENT WITH THE SOUTH LINE OF SAID CORONADO ESTATES, A DISTANCE OF 290.0 FEET TO A 1/2 INCH DIAMETER IRON ROD FOUND ON THE SOUTH CORNER OF SAID CORONADO ESTATES FOR THE SOUTHWEST CORNER OF THIS HEREBY DESCRIBED TRACT;
- THENCE, NORTH 81 DEGREES 43 MINUTES EAST, CONCORDANT WITH THE EAST RIGHT-OF-WAY LINE OF SAID BENTSEN ROAD, A DISTANCE OF 40.0 FEET TO A 1/2 INCH DIAMETER IRON ROD FOUND ON THE SOUTH CORNER OF SAID CORONADO ESTATES FOR AN OUTSIDE CORNER OF THIS HEREBY DESCRIBED TRACT;
- THENCE, NORTH 81 DEGREES 43 MINUTES EAST, COINCIDENT WITH THE EAST RIGHT-OF-WAY LINE OF SAID BENTSEN ROAD, A DISTANCE OF 615.0 FEET TO A 1/2 INCH DIAMETER IRON ROD FOUND ON THE SOUTH CORNER OF SAID CORONADO ESTATES; THENCE, AS FOLLOWS:

PREPARED BY: SALINAS ENGINEERING & ASSOC.  
DATE OF PREPARATION: MAY 17, 2017  
JOB NUMBER: SE-04-20163  
OWNER: CASTELLETO CONSTRUCTION, LLC  
109 LAKE VIEW DR.  
BOERNE, TEXAS 78006

**SEA**

**SALINAS ENGINEERING & ASSOC.**  
(P-6875) (10089700)  
CONSULTING ENGINEERS & SURVEYORS  
2221 DARTFORD AVE. BOERNE, TEXAS 78006  
(956) 682-9081 (956) 682-1489 (FAX)  
MAY 17, 2017 2:00 PM

**GENERAL NOTES:**

ALL STATE AND LOCAL CODES, REGULATIONS, ORDINANCE, FOR ALL TRADES SHALL BE CONSIDERED AS PART OF DRAWINGS AND FOR THIS BUILDING AND SHALL TAKE PREFERENCE OVER ANYTHING SHOWN, DESCRIBED OR IMPLIED WHERE VARIANCES OCCUR.

SUBCONTRACTORS SHALL VERIFY ALL CONDITIONS/DIMENSIONS IN BIDDING ON JOB SITE. NOTIFY THE OWNER/DESIGNER IMMEDIATELY OF ANY DISCREPANCIES BEFORE BEGINNING OR CONTINUING ANY WORK.

SUBCONTRACTORS SHALL CONFORM TO RELATED DRAWINGS AND SPECIFICATIONS MENTION ON DRAWINGS. ALL DEVIATION SHALL BE OWNER APPROVED. THE LACK OF OWNER APPROVAL WILL BE SUFFICIENT TO REFUSE ACCEPTANCE OF THE WORK.

ANY WORK NOT MENTION IN THE DRAWINGS AND AS SPECIFIED SHALL BE PERFORMED IN A MANNER, DEEMED GOOD PRACTICE OF THE TRADE INVOLVED.

FOLLOW DIMENSIONS INDICATED, DO NOT SCALE.

GENERAL CONTRACTOR TO CONSULT WITH OWNER, PRIOR TO PRICING PROJECT TO VERIFY ALL OF THE OWNERS SPECIAL REQUESTS AT ALL ELEVATIONS.

GENERAL CONTRACTOR TO CONSULT WITH OWNER ON SELECTION OF ALL EXTERIOR LIGHTING FIXTURES.

ALL DOORS AND WINDOWS TO BE SELECTED BY OWNER AT NO ADDITIONAL COST TO THEM - CONTRACTOR TO INCLUDE THEM IN HIS/HER PROPOSAL.

1'-4" ROOF OVERHANG SOFFITS TO BE SOFFIT GRADE PAINTED WOOD WITH NECESSARY SOFFIT / ATTIC VENTS.

PROVIDE ADEQUATE RIDGE VENTS AND ONE (1) ELECTRIC OPERATED RIDGE VENT TO BE PLACED AT BACK SIDE OF HIGHEST RIDGE.

**SITE PLAN GENERAL NOTES:**

A. CONTRACTOR SHALL FIELD VERIFY ALL DIMENSIONS & CONDITIONS PRIOR TO COMMENCING ANY WORK.

B. GRADE AREAS AROUND NEW BUILDING UNIFORMLY SO AS TO PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING.

C. PROVIDE 4" MINIMUM TOPSOIL IN AND AROUND NEW BUILDING. GRADE UNIFORMLY SO AS TO PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING.

D. THERE SHALL BE 6" DROP FROM THE SLAB FINISH FLOOR ELEVATION TO FINISH GRADE. THEN A 5% SLOPE FOR THE FIRST 10' AND FINALLY A 1% SLOPE TO THE STREET OR REAR YARD.

E. PROVIDE SWALES AS REQUIRED AND PROVIDE SUFFICIENT SLOPE TO PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDING.

1. VERIFY JOINT LAYOUT FOR SIDEWALKS WITH CONTRACTOR PRIOR TO CONSTRUCTION

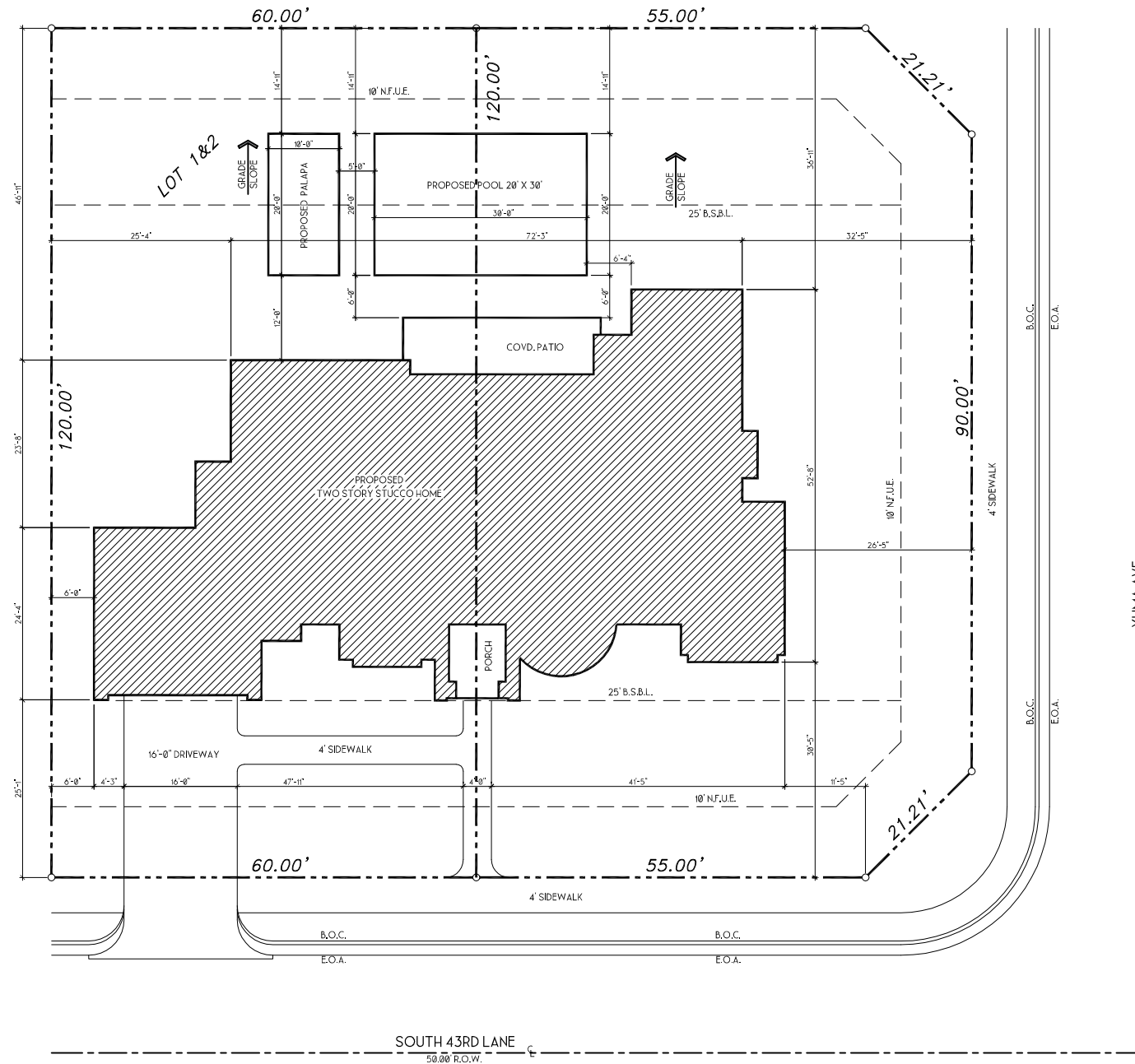
2. ALL SITE WORK, INCLUDING LOCATION OF TRASH DUMPSTER TEMPORARY TOILET FACILITIES, TEMPORARY CONSTRUCTION BARICADE/FENCING CONSTRUCTION TRAILER, CLEARING PROCEDURE GRADING, DRAINAGE, CONFORMANCE TO POLLUTION AND PREVENTION CONTROL, AND TEMPORARY UTILITY FACILITIES, ETC. SHALL BE IN ACCORDANCE WITH THE CITY AS WELL AS SUBDIVISION PROPERTY OWNERS ASSOCIATION GUIDELINES

3. BUILDER AND OWNER SHALL BE RESPONSIBLE FOR ALL TEMPORARY UTILITIES TO THE CONSTRUCTION SITE

4. CONTRACTOR SHALL BE RESPONSIBLE FOR FINAL GRADING ONLY OWNER SHALL PROVIDE ALL LANDSCAPING, SOD, AND IRRIGATION SYSTEM

**DRIVEWAY AND SIDEWALK NOTES:**

- 1- DRIVEWAY SHALL BE 4" THICK FOR SINGLE FAMILY USE AND 6" THICK FOR ALL OTHERS (I.E. COMMERCIAL, INDUSTRIAL, ETC.)
- 2- DRIVEWAYS AND SIDEWALKS SHALL BE CONSTRUCTED WITH PORTLAND CEMENT CONCRETE AND INCLUDE 5-1/2" SACKS OF CEMENT PER CUBIC YARD OF CONCRETE
- 3- 6X6-W 2.9 X 2.9 WELDED WIRE FABRIC MAY BE USED IN LIEU OF THE REINFORCING STEEL



**SITE PLAN**

SCALE: 1/8"

**NOTES:**

- OWNER, BUILDER, AND SURVEYOR TO APPROVE LOCATION OF HOUSE ON LOT, AND TO VERIFY ALL EASEMENTS AND BUILDING LINES PRIOR TO START OF CONSTRUCTION. DESIGNER SHALL BE NOTIFIED OF ANY DEVIATION FROM THIS SITE PLAN.

- DRAINAGE DESIGN IS BEYOND THE SCOPE OF WORK OF THIS FIRM. GREAT CARE SHOULD BE TAKEN IN EVALUATING THE DRAINAGE REQUIREMENTS.

**SITE PLAN KEYED NOTES:**

- ① ROUTE DOMESTIC WATER LINE AS SHOWN ON PLAN PER OWNERS REQUEST.
- ② EXTEND AND CONNECT TO NEW WATER METER.
- ③ ROUTE SANITARY SEWER LINE AS SHOWN ON PLAN PER OWNERS REQUEST.
- ④ EXTEND AND CONNECT TO MAIN SANITARY SEWER LINE.
- ⑤ NEW WOOD FENCE BY OWNER.
- ⑥ COORDINATE WITH OWNER FOR LOCATION OF ACCUS.



**LDG**  
LUCAS DESIGN GROUP  
COMMERCIAL & RESIDENTIAL DESIGNS  
WWW.LDGPLANS.COM

**FAMIRO LUCAS JR., PBD**  
MOBILE: 956.639.1664

735 MEDIA LUNA RD.  
78270 KALLARTA SUITE  
BROWNSVILLE, TX 78520  
LUCAS@LDGPLANS.COM

**FIND US ON:**

**NOTES:**

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Lucas Design Group, Inc.  
2017

**NEW RESIDENCE FOR:**  
**MR. & MRS. OCHOA**  
LOTS 1 & 2 CORONADO ESTATES PHASE I  
MCALLEN, TEXAS

AREA TABULATION	AREA
COVERED LIVING AREA	3223.51
OPEN LIVING AREA	1071.25
TOTAL LIVING AREA	4294.77
CARAGE AREA	419.11
COVERED ENTRY AREA	78.74
COVERED PATIO AREA	215.80
BALCONY	27.22
TOTAL AREA	5305.32

DATE: 08/31/2020 PRO. #: 20-643

DRAWN BY: JAG REVISED BY: RLJR

DRAWING NAME:  
SITE PLAN

SHEET: 1 OF: 11



NextEra  
Residential & Commercial  
nexteraconstruction@yahoo.com  
956-929-0069

NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0085

# Planning Department

## Memo

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

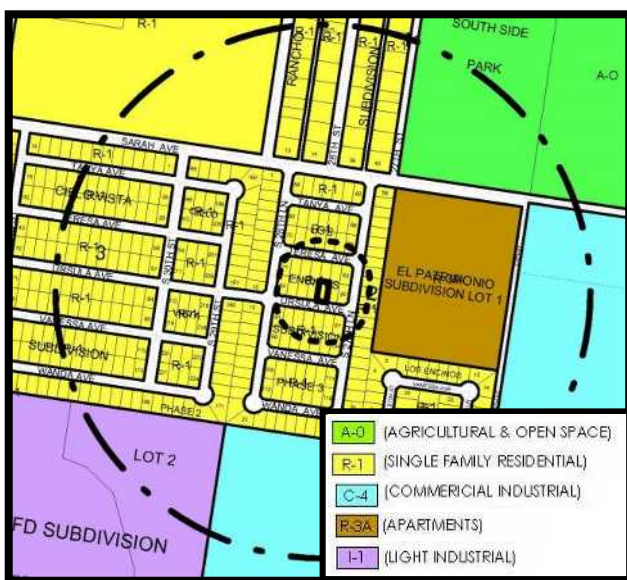
**FROM:** Planning Staff

**DATE:** December 8, 2020

**SUBJECT: REQUEST OF ALEJANDRO REYES JR., FOR THE FOLLOWING VARAINCE TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) TO NOT PROVIDE ONE REQUIRED PARKING SPACE BEYOND THE FRONT YARD SETBACK LINE AN 2) TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE SETBACK FOR AN EXISTING METAL CANOPY MEASURING 6 FT, BY 10 FT. AT LOT 88, LOS ENCINOS III SUBDIVISION, HIDALGO COUNTY, TEXAS; 2716 URSULA AVENUE. (ZBA2020-0079)**

### REASON FOR APPEAL:

The applicant is requesting a variance request 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 an additional bedroom for one of his four children since the house only has four bedrooms. The bedrooms in his home are too small and enclosing the garage will help with additional space so that his son can have his own room. The applicant enclosed a single car garage and by doing so eliminated the one parking space beyond the front yard setback line. The applicant is also requesting an encroachment of 6 ft. into the 6 ft. east side setback for an existing metal canopy.



**PROPERTY LOCATION AND VICINITY:**

The subject property is located on the north side of Ursula Avenue, approximately 105 ft. west of South 27<sup>th</sup> Lane. The property has 50 ft. of frontage along Ursula Avenue and a depth of 100 ft. with a lot size of 5,000 square feet. The adjacent zoning is R-1 (single family residential) District in all directions. Surrounding land use include single-family residential.

**BACKGROUND AND HISTORY:**

Los Encinos III Subdivision was recorded on December 4, 2006. 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. The application for the variance request was submitted on November 12, 2020 after building Inspection staff noticed the enclosed garage during an inspection for a different building permit for subject property.

**ANALYSIS:**

The variance request #1 is 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 21 ft. by 20 ft. accommodating the number of two required parking spaces. The intent for the requirement of locating one parking space beyond the front yard setback line is 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.

There are no variance requests on file for garage enclosures in the subdivision; a site inspection confirmed that there are two visible garage enclosures on the same street and three more visible garage enclosures around the neighborhood (one on S 27<sup>th</sup> Ln. and two on Wanda Ave.)

- There was a Building Permit for a garage enclosure at 2701 Ursula Ave and was approved by the Planning Department on June 29, 2017 with the condition that a driveway be built in the back of the property along S. 27<sup>th</sup> Street to comply with the one vehicle beyond the front yard setback requirement.
- The rest of the visible garage enclosures in the neighborhood do not have any building permits on file.

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

The variance request #2 is to allow an encroach of 6 ft. into the 6 ft. side yard setback along the east property line for an existing metal canopy measuring 6 ft. by 10 ft. The standard side yard setback for a lot in R-1 (single family residential) district is 6 ft. A site inspection indicated that the existing canopy extends all the way to the east property line. As per City's ordinance no structures are allowed to be built on any setbacks.

Staff has not received any phone calls or concerns in regards to the variances requests.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request.

ZBA 2020-0079



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

ZBA  
12-17-20

**Project**

Legal Description Los Encinos #III Lota 88

Subdivision Name Los Encinos III

Street Address 2716 UTSUB AV. McAllen, TX. 78503

Number of lots ~~88~~ Gross acres \_\_\_\_\_

Existing Zoning R1 Existing Land Use Residencial unifamiliar

Reason for Appeal (please use other side if necessary) Estoy Apelando la Seccion 17B-394 (1) de la ordenanza de la ciudad.

\$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 Alexandro Reyes Jr. Phone 956-659-1944

Address 2716 UTSUB AV. E-mail alex.r4570@gmail.com

City McAllen State TX Zip 78503

**Owner**

Name Alexandro Reyes Jr. Phone 956-659-1944

Address 2716 UTSUB AV. E-mail alex.r4570@gmail.com

City McAllen State Texas Zip 78503

**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 11-12-20

Print Name Alexandro Reyes Jr  Owner  Authorized Agent

**Office**

Accepted by L.G. Payment received by \_\_\_\_\_ Date NOV 12 2020

Rev 10/18

By CM



OS Rct# 748620



# 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:

My house has 4 bedrooms, but I have 4 kids. Seeing that my family has barely room to accommodate us, I made a bedroom so my son doesn't have to sleep in the sofa anymore.

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

It's necessary because my son needs a room, & a garage isn't as necessary. It will not affect my neighbors nor expand the original plan. If the room isn't made, it may affect my son's health.

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:

It cannot affect anyone because it would be inside the garage, which was already in the plan of the house.

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

It is just an extra room where my son has somewhere to sleep in, nothing more.

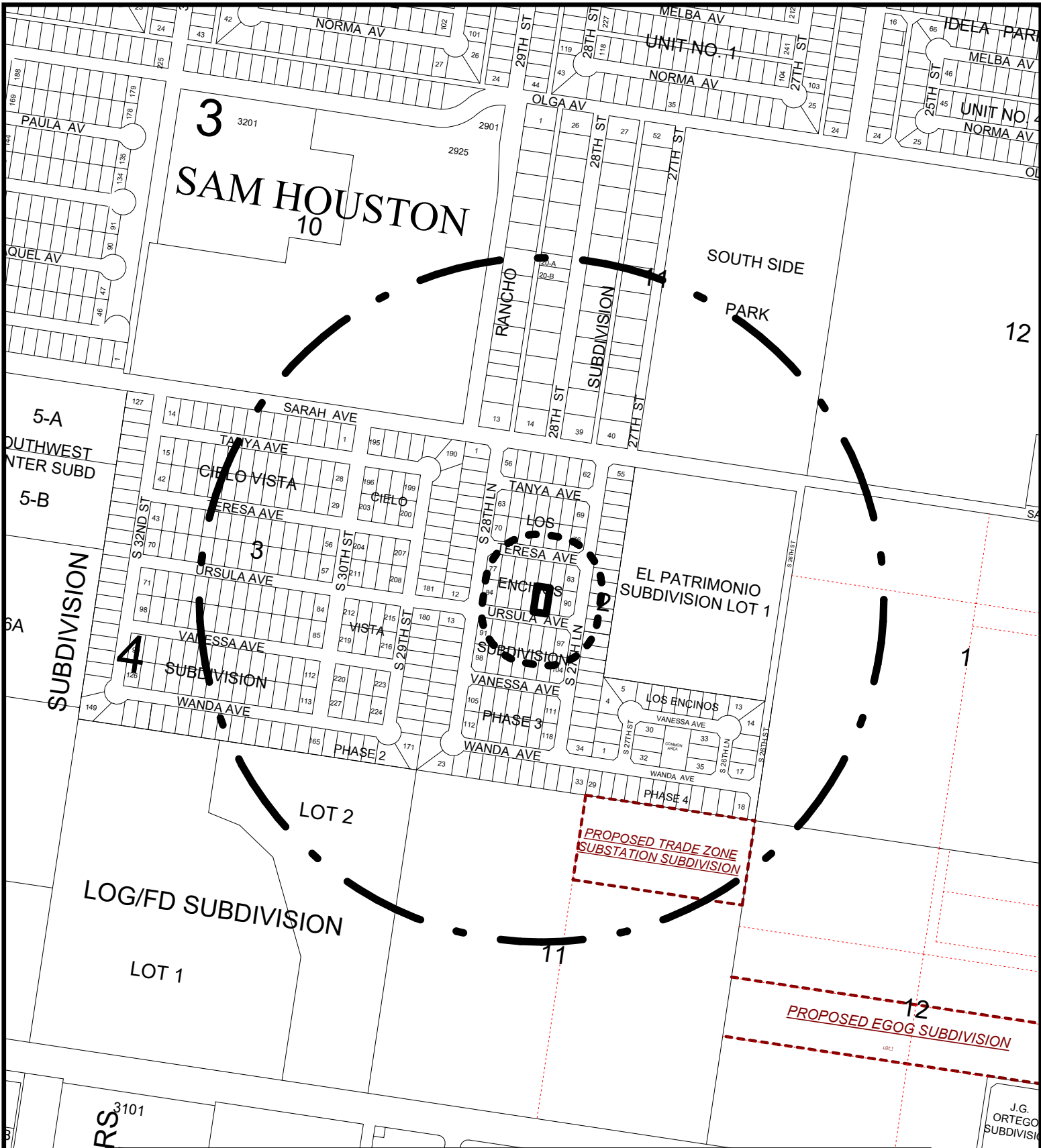
Board Action

Chairman, Board of Adjustment  
Signature

Date

11-12-2020





**CITY OF McALLEN**  
PLANNING DEPARTMENT

AREA MAP

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




 SUBJECT PROPERTY

 200 FT. NOTIFICATION BOUNDARY

 1/4 MILE RADIUS

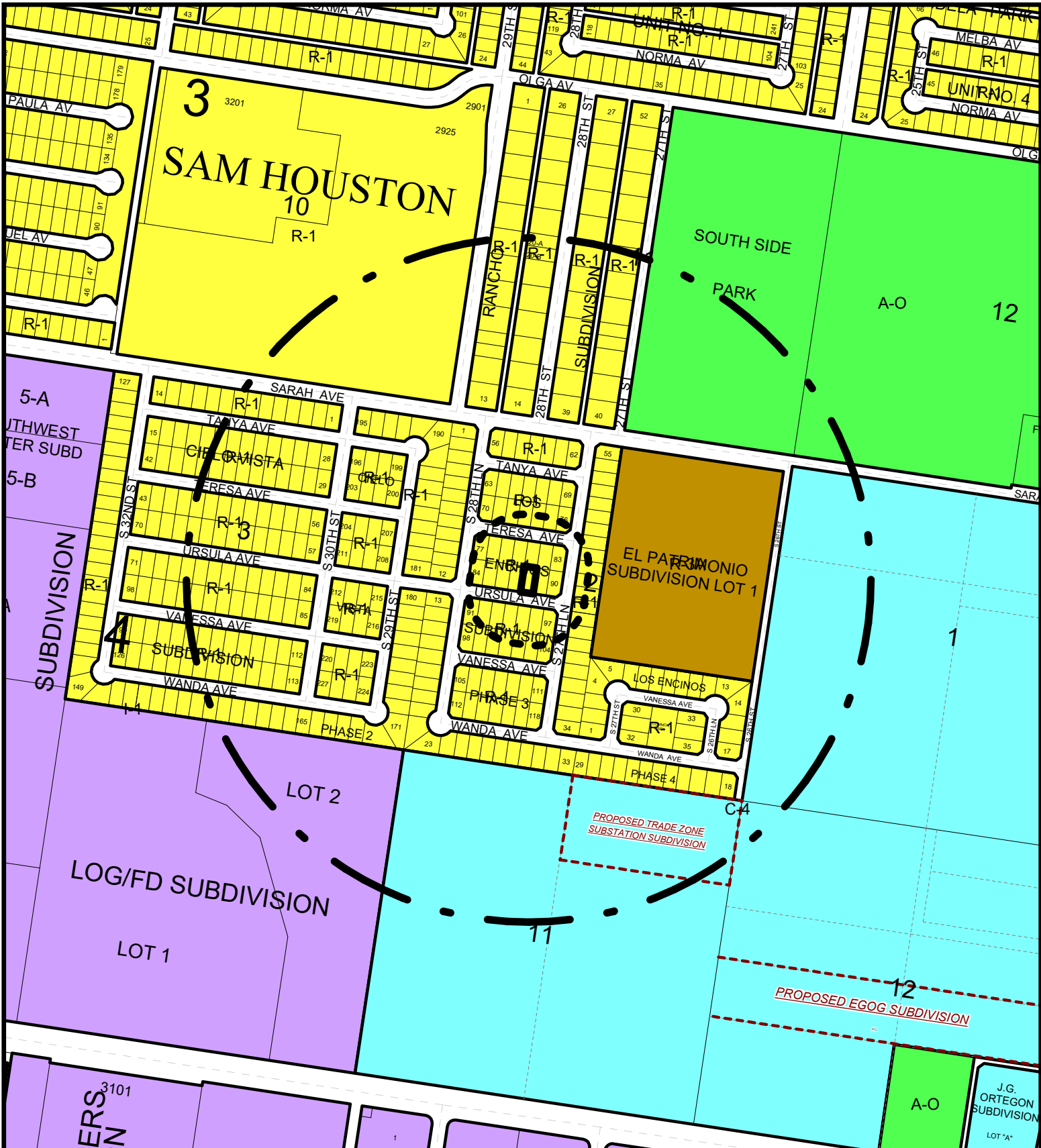
**ZONING LEGEND**

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.

U.S.A. CARRIERS

J.G. ORTEGO SUBDIVISION LOT "A"  
HIGHWAY  
5-A 6450  
5-B 6400  
5-C 6420  
7



**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)

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**CITY OF McALLEN**  
PLANNING DEPARTMENT

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



**SUBJECT PROPERTY**



**200' NOTIFICATION BOUNDARY**



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STATE OF TEXAS  
COUNTY OF HIDALGO  
OWNER'S DEDICATION, CERTIFICATION, AND ATTESTATION

I, PAUL SCHWAB, AS THE BOARD PRESIDENT OF THE MCALLEN AFFORDABLE HOMES, INC. AND AS THE ACTING OWNER OF THE 20.00 ACRE OF LAND ENCOMPASSED WITHIN THE PROPOSED LOS ENCINOS III SUBDIVISION SUBDIVIDES THE LAND AS DEPICTED IN THIS SUBDIVISION PLAT AND DEDICATE TO PUBLIC USE THE STREET, PARK, AND EASEMENTS SHOWN HEREIN.

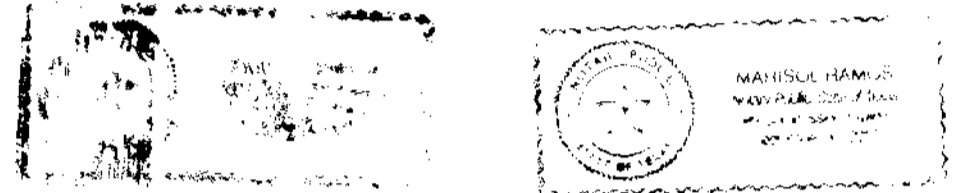
CERTIFY THAT I HAVE COMPLIED WITH THE REQUIREMENTS OF TEXAS LOCAL GOVERNMENT CODE § 232.032 AND THAT (A) THE WATER QUALITY AND CONNECTIONS TO THE LOTS MEET, OR WILL MEET, THE MINIMUM STATE STANDARDS; (B) SEWER CONNECTIONS TO THE LOTS OR SEPTIC TANKS MEET, OR WILL MEET, THE MINIMUM REQUIREMENTS OF STATE STANDARDS; (C) ELECTRICAL CONNECTIONS PROVIDED TO THE LOTS MEET, OR WILL MEET, THE MINIMUM STATE STANDARDS; AND (D) GAS CONNECTIONS, PROVIDED TO THE LOTS MEET, OR WILL MEET, THE MINIMUM STATE STANDARDS.

*Paul Schwab*  
PAUL SCHWAB  
MCALLEN AFFORDABLE HOMES, INC.  
BOARD PRESIDENT  
1420 ERIE AVE  
MCALLEN, TEXAS 78501  
DATE: 10/3/06

STATE OF TEXAS  
COUNTY OF HIDALGO

BEFORE ME THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED PAUL SCHWAB KNOWN TO ME TO BE THE PERSON WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGE TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED, GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 3rd DAY OF October, A.D. 2006.

*Milanes*  
NOTARY PUBLIC COUNTY OF HIDALGO, TEXAS



CITY OF MCALLEN

I, THE UNDERSIGNED MAYOR OF THE CITY OF MCALLEN, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED, GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 17th DAY OF October, 2006.

*Paul Schwab*  
Mayor of the City of McAllen  
*Annita Villalobos*  
Secretary of the City of McAllen

CITY OF MCALLEN - PLANNING DEPARTMENT

I, THE UNDERSIGNED CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF MCALLEN, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THE CITY WHEREIN MY APPROVAL IS REQUIRED, GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS THE 17th DAY OF October, 2006.

*Paul Schwab*  
CHAIRMAN, PLANNING COMMISSION

NOTE: HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH THE MINIMUM STANDARDS OF THE DISTRICT ADOPTED UNDER TEXAS WATER CODE NO. 49.211(c). THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE DRAINAGE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION, BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA. IT IS THE RESPONSIBILITY OF THE DEVELOPER OF THE SUBDIVISION AND ITS ENGINEER TO MAKE THESE DETERMINATIONS.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1

BY: *Paul Schwab* 10/23/06

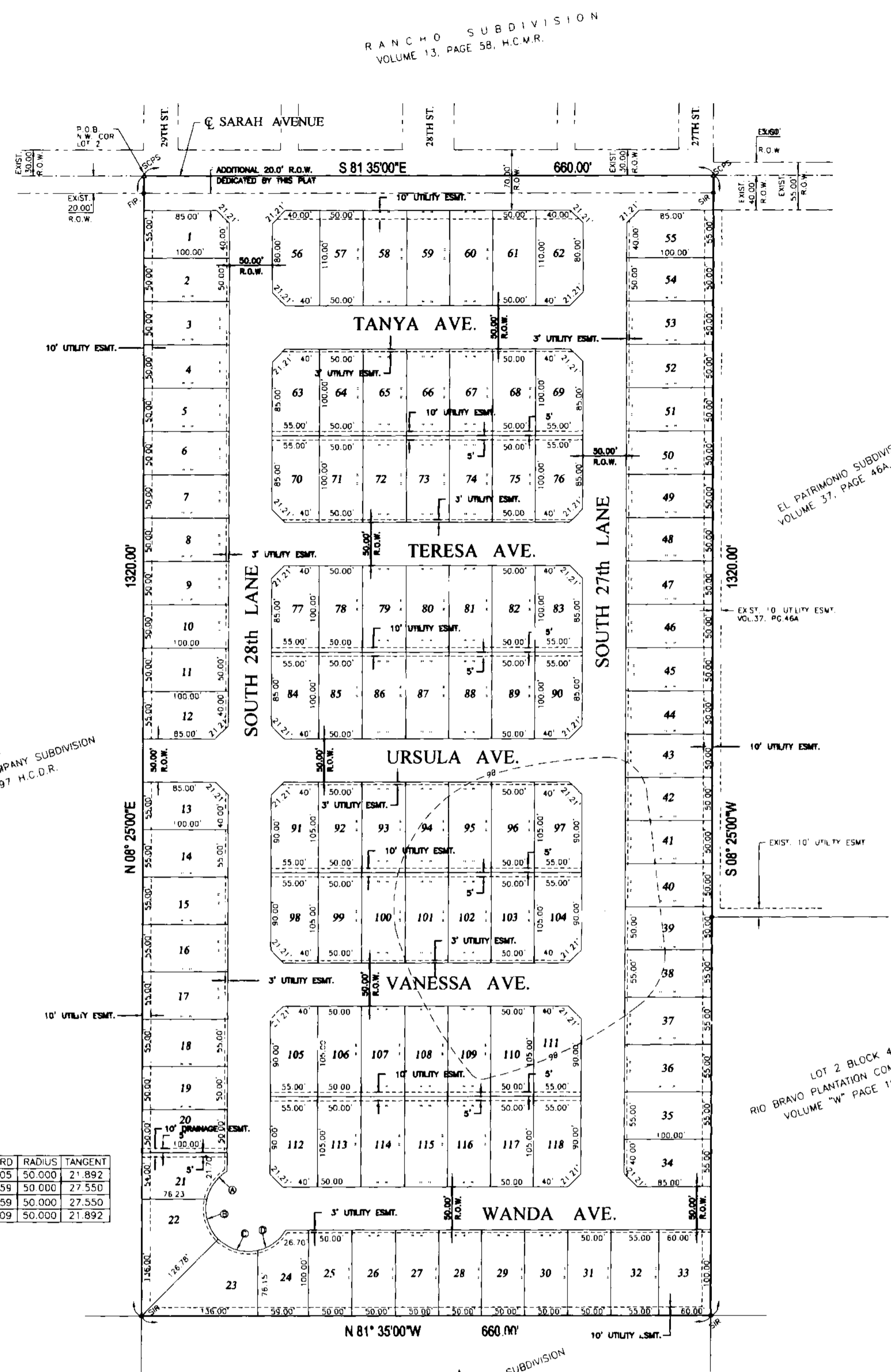
COUNTY CLERK'S RECORDING CERTIFICATE

I, \_\_\_\_\_, COUNTY CLERK OF HIDALGO COUNTY, CERTIFY THAT THE PLAT BEARING THIS CERTIFICATE WAS FILED FOR RECORD AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. ON \_\_\_\_\_ AND WAS RECORDED IN BOOK \_\_\_\_\_ SHEET(S) \_\_\_\_\_ THE PLAT RECORDS OF HIDALGO COUNTY AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. ON \_\_\_\_\_

\_\_\_\_\_, HIDALGO COUNTY CLERK

PRINCIPAL CONTACTS:

Name	Address	City & Zip	Phone	Fax
OWNER: PAUL SCHWAB	1420 ERIE AVE.	MCALLEN, TX 78501	(956) 687-6263	(956) 682-9751
ENGINEER: ROLANDO CRUZ	600 E. Violet Ave.	McAllen, Tx 78504	(956) 682-5022	(956) 682-5089
SURVEYOR: REY ROBLES	P.O. Box 476	Weslaco, Texas 78596	(956) 968-2422	(956) 969-2011



LOT 3 BLOCK 4  
RIO BRAVO PLANTATION COMPANY SUBDIVISION  
VOLUME "W" PAGE 197 H.C.D.R.

LOT 2 BLOCK 4  
RIO BRAVO PLANTATION COMPANY SUBDIVISION  
VOLUME "W" PAGE 197 H.C.D.R.

LOT 11 BLOCK 4  
RIO BRAVO PLANTATION COMPANY SUBDIVISION  
VOLUME "W" PAGE 197 H.C.D.R.

LOT	ARC	CHORD	RADIUS	TANGENT
A	41.269	40.105	50.000	21.892
B	50.361	48.259	50.000	27.550
C	50.361	48.259	50.000	27.550
D	41.269	40.109	50.000	21.892

- NOTES:
- MINIMUM FRONT SETBACK LINE 25 FEET  
MINIMUM CORNER LOTS SIDE SETBACK ADJACENT TO STREET 10 FEET  
MINIMUM SIDE SET BACK LINE 6 FEET ALONG PROPERTY LINE OR EASEMENT LINE, WHICHEVER REQUIRES GREATEST SETBACK.  
MINIMUM REAR SETBACK -10' EXCEPT 25' FOR LOTS 56-62 ALONG SARAH AVE. OR GREATER FOR EASEMENTS.
  - THIS SUBDIVISION IS IN ZONE "B" AS PER F.E.M.A.'S COMMUNITY No. 480343 FLOOD INSURANCE RATE MAP PANEL 480334 0400 C, NOVEMBER 16, 1982.
  - MINIMUM FINISH FLOOR ELEVATION SHALL BE 99.80 OR 18" ABOVE TOP OF CURB AT CENTER OF LOT WHICHEVER IS GREATER AS PER CLOMR-F. ELEVATION CERTIFICATE MAY BE REQUIRED FOR LOTS LOCATED OUTSIDE A DESIGNATED FLOOD ZONE AT THE TIME FOR APPLICATION FOR CONSTRUCTION TO VERIFY PRE AND POST CONSTRUCTION FINISH FLOOR ELEVATIONS. AN ELEVATION CERTIFICATE SHALL BE REQUIRED FOR ALL LOTS WITHIN A DESIGNATED FLOOD ZONE AT THE TIME FOR A DEVELOPMENT PERMIT APPLICATION.
  - ONE SINGLE FAMILY RESIDENTIAL DWELLING PER LOT.
  - THIS SUBDIVISION IS REQUIRED TO DETAIN 2.52 AC-FI. THE DETENTION WILL BE 798 CU.FI. OR .018 AC-FI. PER LOT.
  - A 6' BUFFER IS REQUIRED FROM ADJACENT MULTI-FAMILY AND COMMERCIAL ZONE/USE AND ALONG SARAH AVENUE.
  - 4' SIDEWALK IS REQUIRED ON SARAH AVENUE & BOTH SIDES OF ALL INTERIOR STREETS.

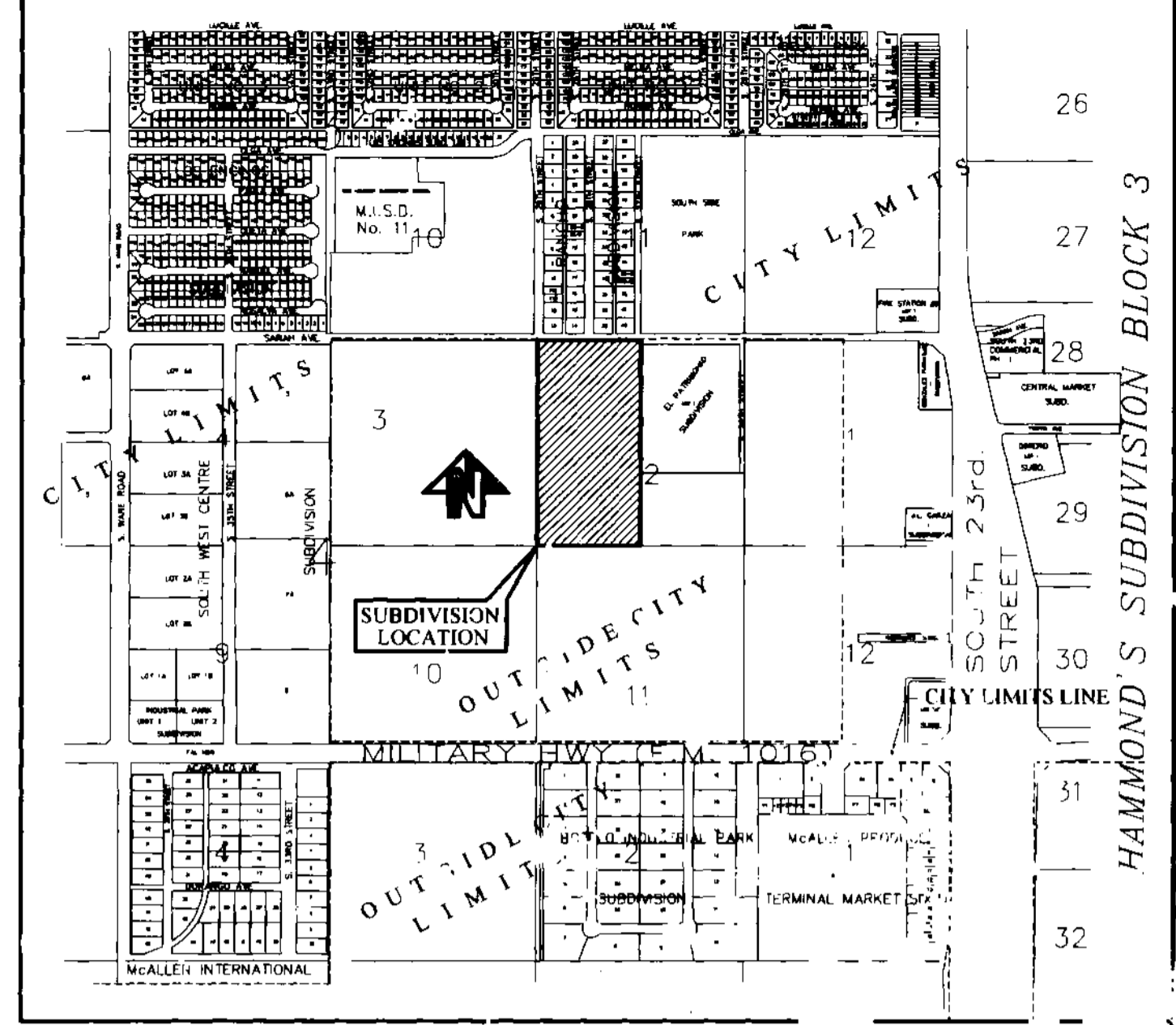
- BENCH MARK:  
COTTON PICKER SPINDLE FOUND ON THE CENTERLINE OF SARAH AVENUE LOCATED 20 FEET WEST OF THE NORTHEAST CORNER OF THIS SURVEY.  
ELEVATION= 99.96  
HICKLEY2 USGS TRIANGULATION MONUMENT LOCATED ON TOP OF LEVEE ABOUT 50 FEET EAST OF SOUTH WARE ROAD.  
ELEVATION= 112.22
- THE DEVELOPER WILL PROVIDE AN ENGINEERED DETENTION PLAN APPROVED BY THE ENGINEERING DEPARTMENT PRIOR TO APPLICATION FOR A BUILDING PERMIT.
- NO CURB CUT, ACCESS, OR LOT FRONTAGE PERMITTED ON SARAH AVE. FOR LOTS 1, 56-62 AND 55.

FILED FOR RECORD IN:  
HIDALGO COUNTY  
BY ENGINEERING  
COUNTY CLERK  
ON October 17, 2006  
AS A RECORDING NUMBER 107342  
\_\_\_\_\_, DEPUTY

SCALE: 1" = 100'  
LEGEND  
△ SCPS Set cotton picker spindle  
● FIP Found 1" iron pipe  
● SIR Set 1/2" iron rod with a plastic cap stamped "RRR"

SUBDIVISION PLAT OF  
**LOS ENCINOS III**

BEING A 20.00 ACRE TRACT OF LAND OUT OF THE WEST ONE HALF OF LOT 2, BLOCK 4, RIO BRAVO PLANTATION COMPANY'S SUBDIVISION, HIDALGO COUNTY, TEXAS  
PER MAP RECORDED IN VOLUME W, PAGE 197, H.C.D.R.



SCALE 1" = 1000'  
METES AND BOUNDS DESCRIPTION:

DESCRIPTION OF 20.00 ACRES OF LAND OUT OF LOT 2, BLOCK 4, RIO BRAVO PLANTATION COMPANY'S SUBDIVISION, HIDALGO COUNTY, TEXAS  
Being 20.00 acres of land situated in Hidalgo County, Texas, and being the west one half of Lot 2, Block 4, Rio Bravo Plantation Company's Subdivision as per map recorded in Volume W, Page 197 of the Hidalgo County Deed Records, and said 20.00 acre tract being more particularly described by metes and bounds as follows: BEGINNING at a cotton picker spindle set for the northwest corner of said Lot 2 and the northwest corner of said tract herein described:  
THENCE, South 81° 35' 00" East, 660.00 feet, with the north line of said Lot 2 to a cotton spindle set for the northeast corner of said tract herein described;  
THENCE, South 08° 25' 00" West, with a line that is parallel to the west line of said Lot 2 and with the west line of El Patrimonio Subdivision as per map recorded in Volume W, page 46A of the Hidalgo County Map Records, at a distance of 20.00 feet pass a 1/2-inch rod with a plastic cap stamped "RRR" set for reference on the south right of way line of Sarah Avenue, at a distance of 858.00 feet pass the southwest corner of said El Patrimonio Subdivision and continuing for a total distance of 1320.00 feet to a 1/2-inch iron rod with a plastic cap stamped "RRR" set for the southeast corner of said tract herein described;  
THENCE, South 81° 35' 00" East, 660.00 feet, with the north line of said Lot 2 to a 1/2-inch iron rod with a stamped "RRR" set for the southwest corner of said tract herein described;  
THENCE, North 08° 35' 00" East, with the west line of said Lot 2, distance of 1300.00 feet pass a 1-inch iron pipe found for reference on the south right of way line of said Sarah Avenue and continuing for a total distance of 1320.00 feet to the Point of Beginning and containing 20.00 acres of land more or less.

STATE OF TEXAS  
COUNTY OF HIDALGO

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY DIRECTION ON THE GROUND.

*Reynaldo Robles*  
REYNALDO ROBLES  
REGISTERED PROFESSIONAL LAND SURVEYOR  
NO. 40332  
WESLACO, TEXAS 78596

STATE OF TEXAS  
COUNTY OF HIDALGO

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT AND THAT ALL ASPECTS OF IT ARE IN ACCORDANCE WITH THE STATUS GOVERNING ENGINEERING.

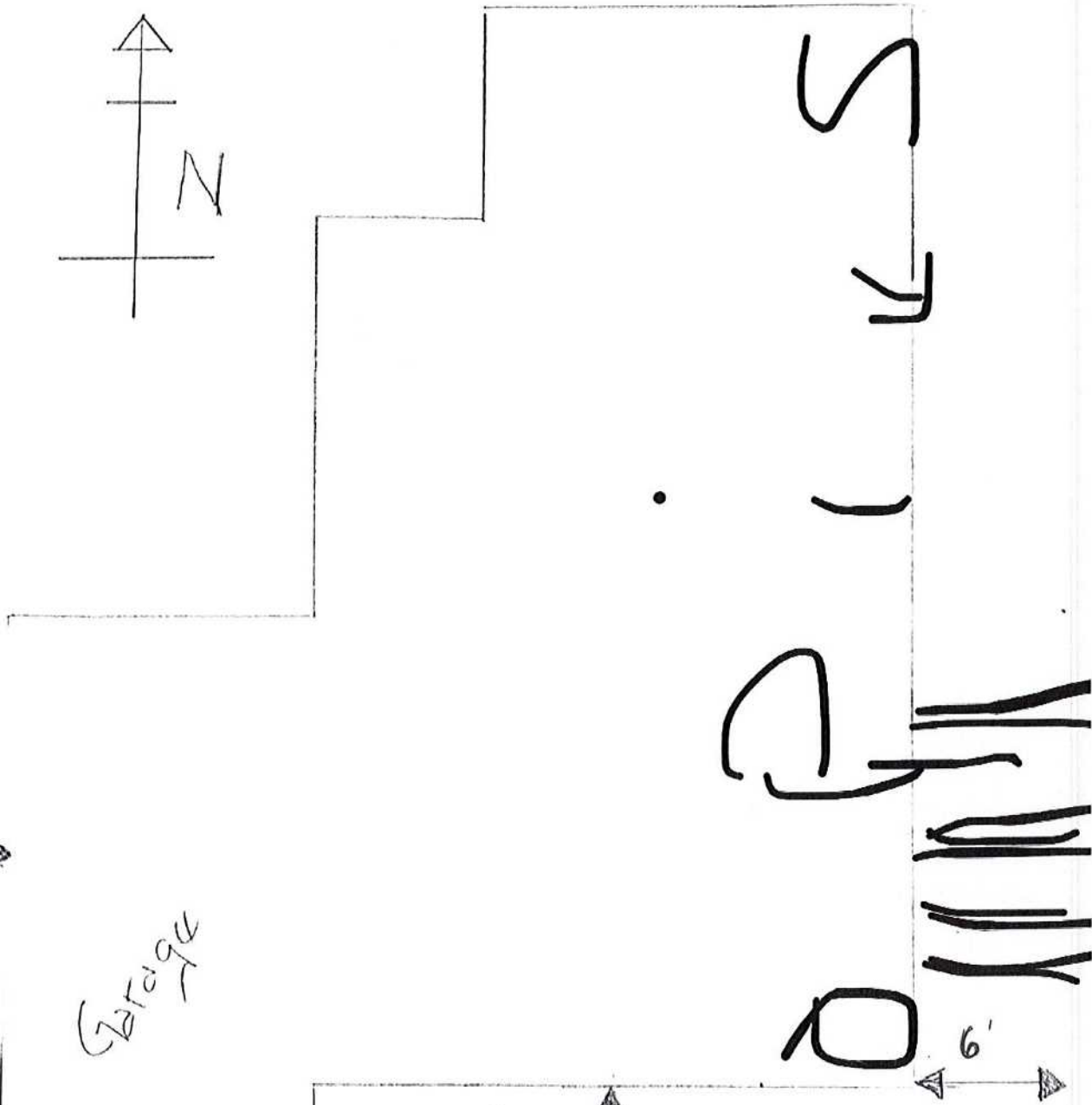


*Rolando Cruz*  
ROLANDO CRUZ  
REGISTERED PROFESSIONAL ENGINEER  
NO. 55459  
MCALLEN, TEXAS 78504

LOS ENCINOS III  
MCALLEN AFFORDABLE HOMES  
REVISED: October 2, 2006

**CRUZ-HOGAN Consultants, Inc.**  
Engineers • Planners • Consultants  
Harlingen • McAllen  
1221 E. Tyle, Suite A Harlingen Tx 78550 office 425-8968 fax 423-5083  
605 E. Violet Ave. Suite 5 McAllen Tx 78504 office 682 5022 fax 682-5089

side plan.



6 Pies.

Garage

Front Entrance

21 Pies  
29 Pies  
21 Pies  
Driveway

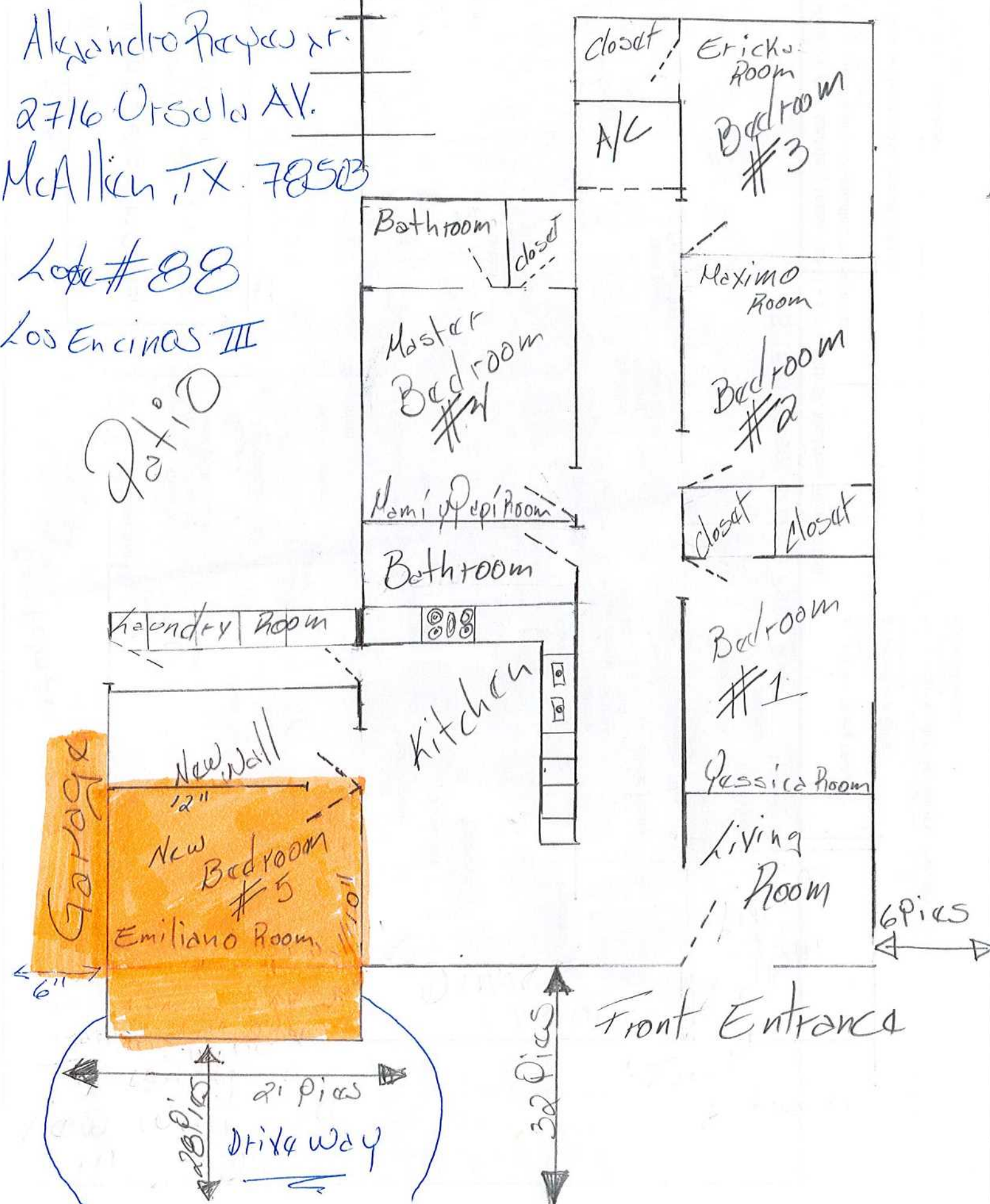
32 Pies

6'

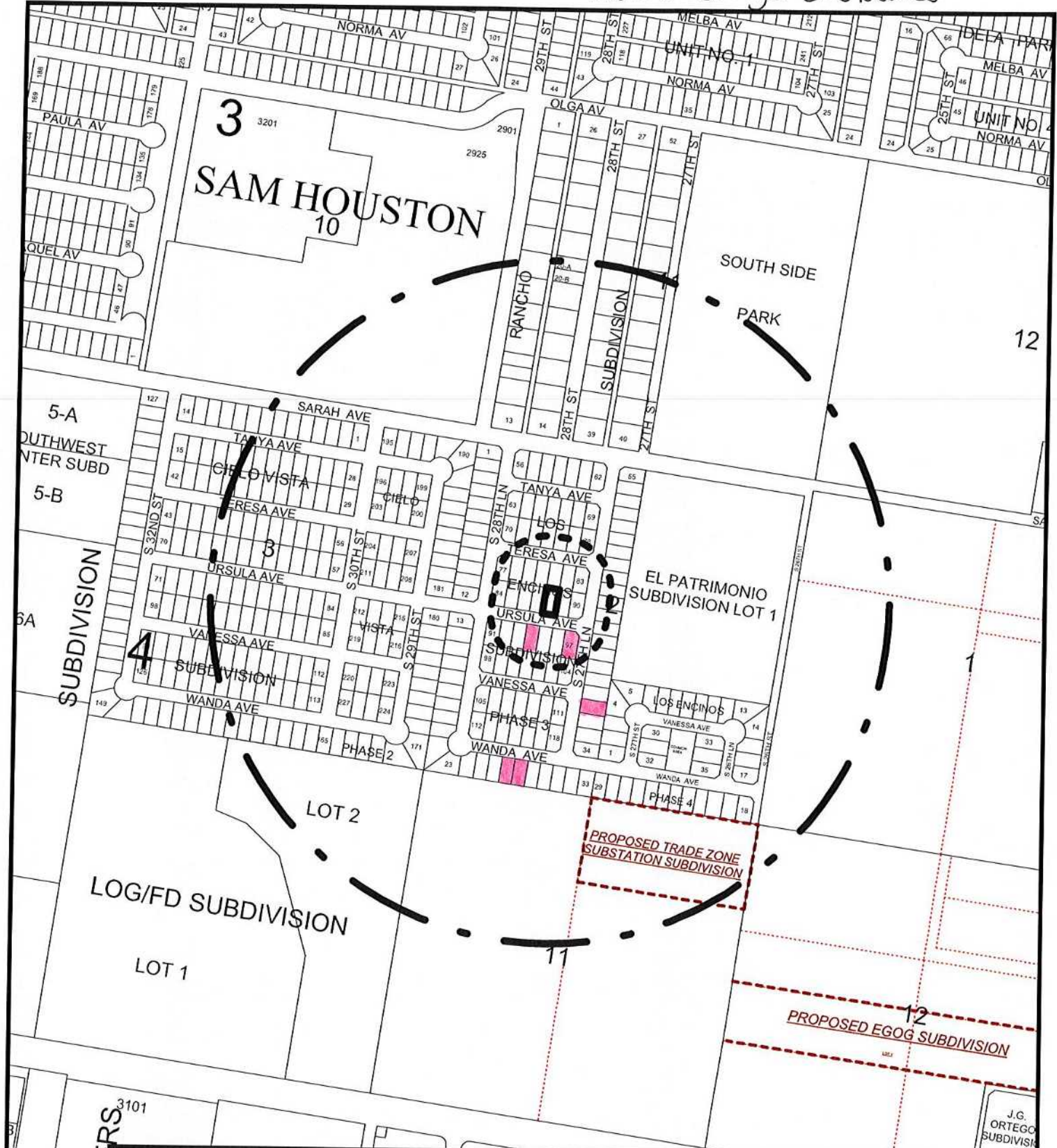
Back Yard.

Alexandro Reyes Jr.  
2716 Ursula Av.  
McAllen, TX. 78503

Lot # 88  
Los Encinos III  
Q<sub>2</sub> 10



Visible Garage Enclosures \*



**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

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U.S.A. CARRIERS

J.G. ORTEGO SUBDIVISION  
LOT 'A'

6450  
6400  
6420

2716 Ursula Ave  
Canopy on East Side from Rear











EXISTING GARAGE



PROPOSED GARAGE





NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0079  
CITY OF MCKINNEY PLANNING DEPT  
936.561.1336  
WWW.MCKINNEY.TX

Memo

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

**FROM:** Planning Staff

**DATE:** December 29, 2020

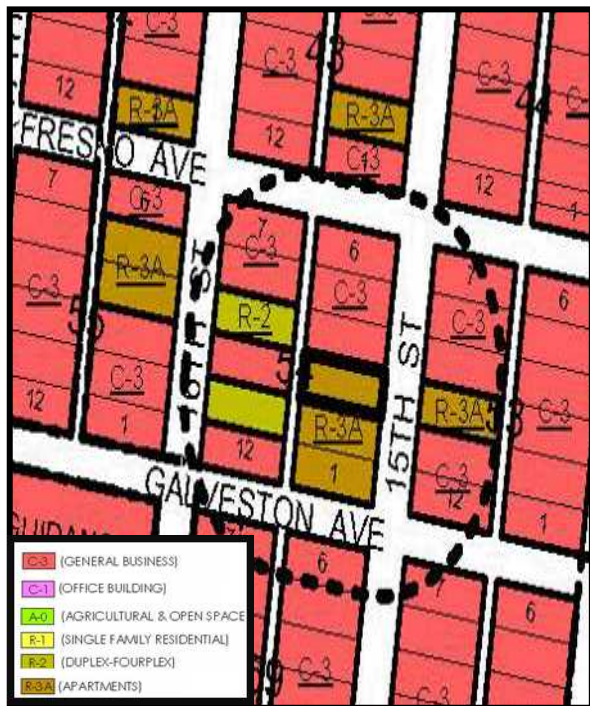
**SUBJECT: REQUEST OF JORGE HERRERA FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN OFF-STREET PARKING AND LOADING ORDINANCE TO ALLOW 8 PARKING SPACES INSTEAD OF THE REQUIRED 9 PARKING SPACES AT LOT 3, BLOCK 54, MCALLEN ADDITION SUBDIVISION, HIDALGO COUNTY, TEXAS; 612 SOUTH 15TH STREET. (ZBA2020-0083)**

**REASON FOR APPEAL**

Jorge Herrera on behalf of Ron Surprise, requests the following variance to allow 8 parking spaces instead of the required 9 parking spaces. The applicant indicated that he is requesting the above variance in order to comply with the city ordinance dumpster requirement.

**PROPERTY LOCATION AND VICINITY:**

The property is located on the west side of South 15<sup>th</sup> Street, 100 ft. north of Galveston Avenue. The property has 50 ft. of frontage along South 15<sup>th</sup> Street and 140 ft. of depth for a tract size of 7,000 sq. ft. The property is zoned R-3A (multifamily residential apartments) District. The adjacent zoning is C-3 (general business) District to the north and west, R-3A District to the east and south, and R-2 (duplex-fourplex residential) District to the northwest and southwest. The property is currently vacant.



**BACKGROUND AND HISTORY:** The recorded map is McAllen Addition Subdivision. A variance application for the proposed 8 parking spaces instead of the required 9 was received on November 18, 2020.

On April 9, 2003, the Zoning Board of Adjustments & Appeals voted to grant a variance to allow 8 parking spaces instead of the required 9 parking spaces at Lot 10, Block 53, 613 South 15<sup>th</sup> Street in order to be used for trash pickup purposes.

**ANALYSIS:**

The variance request is to allow 8 parking spaces instead of the required 9 spaces. Currently the lot is vacant, the owner is planning to build a six one-bedroom unit apartment complex on the lot. Based on the number of bedrooms the applicant is required to provide 9 parking spaces. Section 138-395 requires for an apartment/condominium building with five or more unites to provide 1.5 parking spaces for each efficiency, studio apartment, and on bedroom living unit.

The required parking is not being met because there is a dumpster occupying one of the parking spaces. Section 110-49 requires a buffer to be provided to screen refuse areas (including refuse dumpsters, compactors and contained compactors) from public streets. The trash pickup is along the alley. In order to accommodate this arrangement, the applicant is proposing to occupy 1 parking space.

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

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF DECEMBER 17, 2020:**

At the Zoning Board of Adjustment and Appeals meeting of December 17, 2020, no one appeared in opposition to the variance request. The applicant was present. The Board unanimously voted to table the variance request in order allow Victor Flores, City Attorney, time to make a determination on the type of request that the application should be processed as. There were five members present and voting.

**RECOMMENDATION:**

Staff recommends approval of the special exception request.

ZBA 2020-0083

ZBA-12/17/20



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

**Project**

Legal Description LOT 3 BLOCK 54  
MCALLEN ADDITION SUBDIVISION

Subdivision Name \_\_\_\_\_

Street Address 612 S 15th St

Number of lots 1 Gross acres 7000 SQ. FT

Existing Zoning R3 A Existing Land Use PROPOSED APARTMENTS

Reason for Appeal (please use other side if necessary) \_\_\_\_\_  
APPEAL FOR PARKING SPACE REQUIREMENTS  
9 SPACES REQUIRED - APPEAL FOR 15 SPACE

\$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 JORGE HERRERA Phone 956-624-1065

Address 6701 N 8th ST. D E-mail jgeherrera4712@gmail.com

City MCALLEN State TX Zip 78504-4712

**Owner**

Name RON SURPRISE Phone 956-682-4488

Address 211 S BROADWAY ST E-mail \_\_\_\_\_

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 11/17/20

Print Name JORGE HERRERA  Owner  Authorized Agent

**Office**

Accepted by L.G. Payment received by \_\_\_\_\_ Date \_\_\_\_\_

Rev 10/18

RECEIVED  
NOV 18 2020

BY: [Signature]

OS





# 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:

THIS PROJECT IS 6-UNITS - 1 BEDROOM  
9-PARKING SPACE REQUIRED - APPEL FOR 1 SPACE  
THE AREA FOR THE 9 SPACE IS USED FOR TRASH CAN AREA

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

THE REASON FOR APPEAL (VARIANCE)  
WE DON'T HAVE ENOUGH AREA TO  
PROVIDE FOR THE # 9 PARKING 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:

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

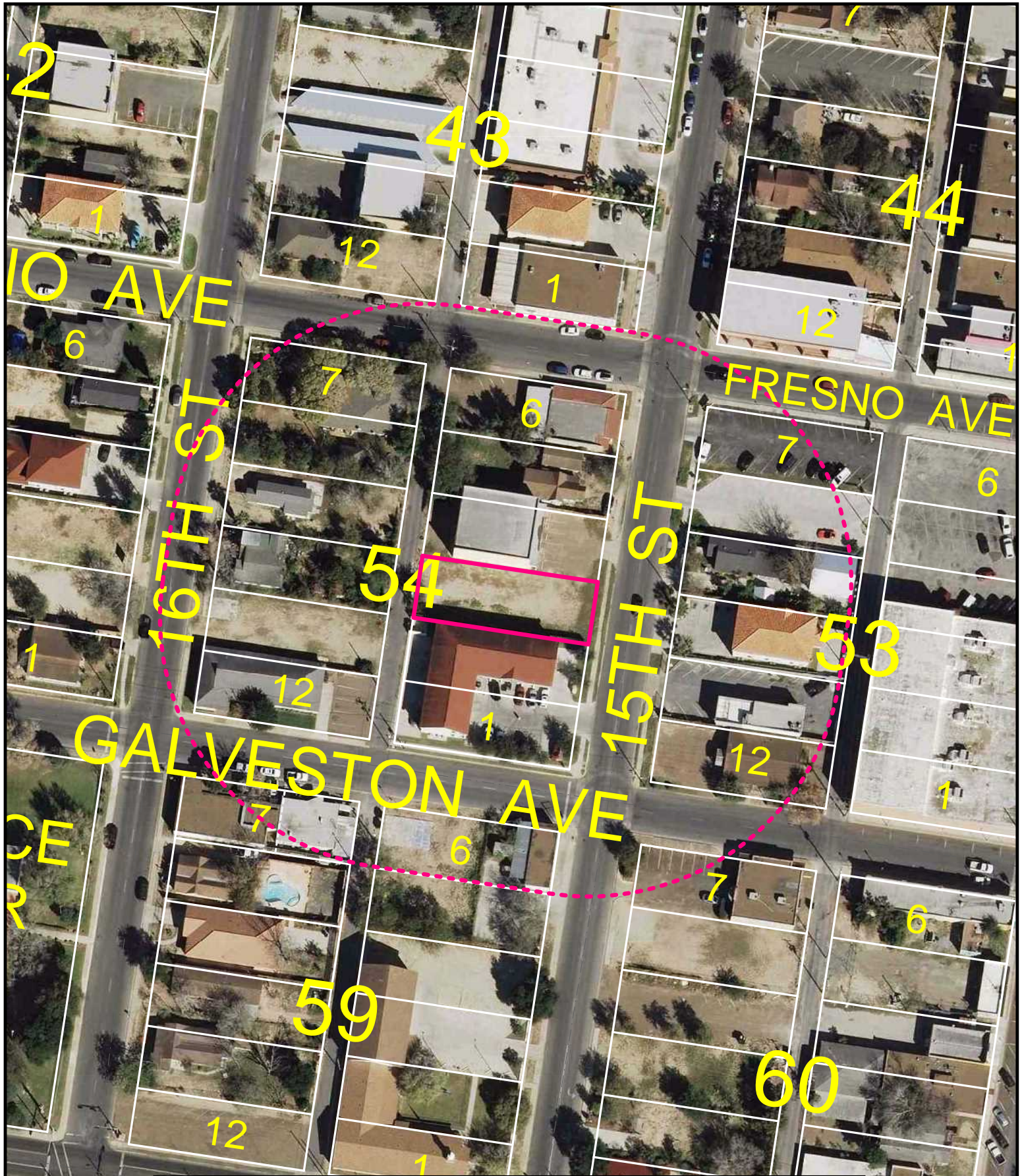
Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date





**CITY OF McALLEN**  
PLANNING DEPARTMENT

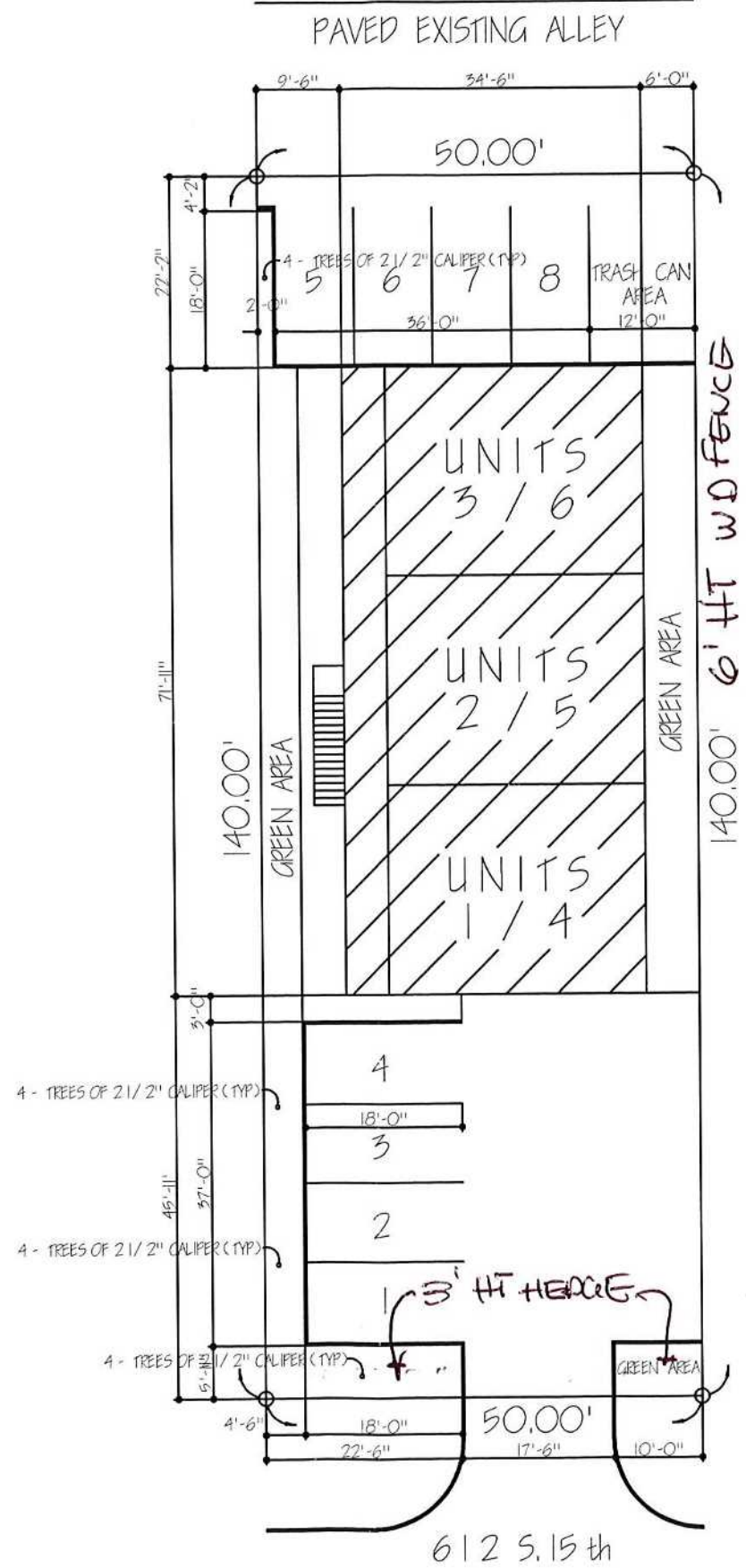
**AERIAL MAP**  
SCALE: N.T.S.

 SUBJECT PROPERTY

 200' NOTIFICATION BOUNDARY



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.



### LEGEND

TWO STORY APARTMENT BUILDING - 18' HEIGHT  
 TOTAL BUILDING AREA = 4,962.0 SQ. FT.  
 SIX (6) UNITS  
 EIGHT (8) PARKING SPACES  
 1,163 SQ. FT. APPROX OF GREEN AREA  
 ALL LANDSCAPE WILL HAVE IRRIGATION SYSTEM  
 AND ROW WILL HAVE DRIP IRRIGATION

### LEGAL DESCRIPTION

LOT 3  
 BLOCK 54  
 McALLEN ADDITION SUBDIVISION  
 CITY OF McALLEN, HIDALGO COUNTY, TEXAS

ANY COPYING, REPRODUCTION OR USE OF THESE PLANS WITHOUT FIRST OBTAINING WRITTEN PERMISSION FROM "TODAY'S HOMES" IS ILLEGAL.

**TODAY'S HOMES**  
 (956) 664-2111  
 6211 N 42nd Ln. McAllen, Texas 78504

Client: <b>MR. RON SURPRISE</b>	Drawn by: J. A. H.
Project: <b>APARTMENTS PROJECT</b>	Scale: 1/8" = 1'-0"
Title: <b>SITE PLAN</b>	Date: 10/28/20

**RECEIVED**  
 NOV 18 2020  
 BY: *[Signature]*



NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
(28A2020-008)

FOR SALE

# Definitions

## Table of Contents

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## Chapter 138-Zoning

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Footnotes:

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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**



**ORDINANCE NO. 2018- 70**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**CITY OF McALLEN**

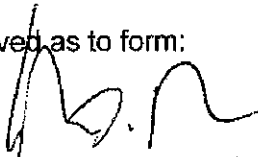
\_\_\_\_\_  
John Ingram, City Commissioner

Attest:



\_\_\_\_\_  
Perla Lara, TRMC/CMC, CPM  
City Secretary

Approved as to form:



\_\_\_\_\_  
Austin W. Stevenson, Assistant City Attorney



## 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	
<b>ERICK DIAZ-VICE-CHAIRPERSON</b>	P	P	NM	P	NM	P	P	NM	A	P	P	P	P	P	P	loq	P	P	A	P	P	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	P	P	
<b>DAVID SALINAS-CHAIRPERSON</b>	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	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	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	P	A	
HUGO AVILA (ALT 1)																	P	P	P	P	P	P	P	
ROGELIO RODRIGUEZ(ALT 2)																	P	P	P	P	A	P	A	
REBECCA MILLAN (ALT 3)																	P	P	P	P	P	P	P	

P - PRESENT

A - ABSENT

NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION

## 2021 CALENDAR

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

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

### JANUARY 2021

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

### FEBRUARY 2021

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

### MARCH 2021

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

### APRIL 2021

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

### MAY 2021

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

### JUNE 2021

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

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

## 2021 CALENDAR

### Meetings:

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

### Deadlines:

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

### JULY 2021

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

### AUGUST 2021

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

### SEPTEMBER 2021

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

### OCTOBER 2021

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

### NOVEMBER 2021

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

### DECEMBER 2021

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