

AGENDA

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

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

CALL TO ORDER - CHAIRPERSON, DAVID SALINAS

1. MINUTES:

- a) Minutes for Regular Meeting held on February 5, 2020.

2. PUBLIC HEARINGS:

- a) Request of Hamlin Pools (Joshua Stansberry) on behalf of Roger Bradshaw, for a variance to the City of McAllen Zoning Ordinance to allow an encroachment 7 ft. into the 10 ft. rear yard setback for an existing storage shed measuring 10 ft. by 14 ft., at Lot 9, Orangewood Subdivision Unit 1, Hidalgo County, Texas; 3325 Sandy Lane **(ZBA2020-0007)**
- b) Request of Oscar Buentello for the following variances to the City of McAllen Zoning Ordinance and to the City of McAllen Vegetation Ordinance: **1)** to the minimum lot size requirement for a duplex, **2)** to allow an encroachment of 3 ft. into the 6 ft. south side yard setback for the existing building, **3)** to allow an encroachment of 10 ft. into the north side yard setback for the existing building, **4)** to allow an encroachment of 15 ft. into the 20 ft. front yard setback for the existing building **5)** to allow to exceed the 10% replacement value for a nonconforming structure, **6)** to not provide the required 50% of landscape within the front yard, **7)** to not provide the required 5 ft. landscape strip with 3 ft. hedge in height, and **8)** to not provide the required landscape in the side yards located within the front yard setback, at Lots 39 & 40, Block 5, D. Guerra's Addition Subdivision, Hidalgo County, Texas; 401 South 21st Street. **(ZBA2020-0005)**
- c) Request of Juan A. Ruiz on behalf of San Juanita Ruiz for the following special exception and variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 7.5 ft. into the 10 ft. rear yard setback for an existing carport measuring 17 ft. by 31 ft., **2)** to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing storage building measuring 10 ft. by 12 ft., and **3)** to allow an encroachment of 3 ft. into the 6 ft. north side yard setback for an existing storage building measuring 10 ft. by 12 ft., at Lot 2, Block 1, El Rancho Santa Cruz Subdivision Phase IV, Hidalgo County, Texas; 3113 South McColl Road. **(ZBA2019-0060) (TABLED: 01/15/2020) (REMAIN TABLED: 02/05/2020)**
- d) Request of Oralía Rodríguez for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 ft. into the 25 ft. front yard setback for a wooden carport with decorative columns measuring 25.0 ft. by 20.0 ft., at Lot 131, Plantation Gap Subdivision Phase 1, Hidalgo County, Texas; 4400 Sandpiper Avenue **(ZBA2019-0057) (TABLED: 01/15/2020) (TABLED: 02/05/2020)**

3. FUTURE AGENDA ITEMS

- a)** 5017 South 33rd Street
- b)** 2000 Redbud Avenue

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, February 5, 2019 at 5:30 p.m. in the City Commission Meeting Room with the following present:

Present:	David Salinas	Chairperson
	Erick Diaz	Vice-Chairperson
	Sylvia Hinojosa	Member
	Sonia Falcon	Member
	Jose Gutierrez	Alternate
	Juan F. Jimenez	Alternate
Absent:	John Millin	Member
Staff Present:	Austin Stevenson	Assistant City Attorney
	Edgar Garcia	Planning Director
	Kimberly Guajardo	Senior Planner – Long Range
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Planner II
	Jose H. De la Garza	Planner II
	Liliana Garza	Planner II
	Carlos Garza	Planner I
	Juan Martinez	Development Coordinator
	Porfirio Hernandez	Technician II
	Carmen White	Secretary

CALL TO ORDER – Chairperson, David Salinas

1. MINUTES:

- a) Minutes for Regular Meeting held on January 15, 2020.

The minutes for the meeting held on January 15, 2020 were approved. The motion to approve the minutes was made by Ms. Sonia Falcon. Mr. Juan Jimenez seconded the motion, which carried unanimously with five members present and voting.

2. ELECTION OF OFFICERS:

- a) Chairperson
- b) Vice-Chairperson

Ms. Sonia Falcon nominated to keep the current Chairperson, Mr. David Salinas and Vice-Chairperson, Erick Diaz in place for one year. Mr. Juan Jimenez seconded the motion. The board voted unanimously to keep current Chairperson and Vice-Chairperson in place for one year with four members present and voting.

3. PUBLIC HEARINGS:

- a) Request of Hamlin Pools (Joshua Stansberry) on behalf of Travis and Allegra Stansberry, for the following variances to the City of McAllen Zoning Ordinance:

1) to allow an encroachment of 8 ft. into the 10 ft. rear yard setback for a proposed swimming pool with landing area measuring 16 ft. by 39 ft., and 2) to allow an encroachment of 7.25 ft. into the 10 ft. rear yard setback for a proposed jacuzzi measuring 13 ft. by 16 ft., at Lot 29, Fairway Acres Subdivision, Hidalgo County, Texas; 316 Byron Nelson Drive. **(ZBA2020-0004)**

Ms. Garza stated the property was located on the north side of Byron Nelson Drive, 600 ft. west of South 2nd Street and adjacent to the McAllen Country Club Golf Course. The lot had 100 ft. of frontage along Byron Nelson Drive and 100 ft. of depth for a lot size of 10,000 sq. ft. The property was zoned R-1 (single family residential) District. The surrounding land uses include single-family residences to the south, east, and west and the McAllen Country Club was located to the north.

Fairway Acres Subdivision was recorded on June 21, 1966. A building permit application was submitted on January 6, 2020 for a variance application for the proposed swimming pool and spa was submitted on January 8, 2020. The site plan submitted shows the proposed distance from the rear property line to the outside wall of the swimming pool at 2 ft. and the distance from the rear property line to the proposed spa at 2.75 ft.

The variance request was for a proposed swimming pool and spa, which is an accessory structure and not a primary building. The standard rear yard setback for a standard lot in the R-1 (single family residential) district is 10 ft. In the past, the Board has approved variances for accessory buildings.

The site plan showed a proposed rectangular pool encroaching 8 ft. into the 10 ft. rear yard setback and a proposed spa encroaching 7.25 ft. into the 10 ft. rear yard setback. There are no utility easements inside the property boundary along the rear property line. However, as per plat, there was a 15 ft. utility easement adjacent to the property along the rear yard that serves as a buffer to the property to the north. In the past, swimming pools were allowed to be built within setbacks however, a subsequent determination by City legal staff included swimming pools as structures, which require compliance with setbacks.

Staff had not received any phone calls from the surrounding property owners in opposition to these variance requests.

Staff recommended disapproval of the variance request. If the Board chooses to grant the variance, it should be limited to the footprint of the pool plan as submitted.

Mr. Joshua Stansberry, the applicant, stated his brother at Fairway Acres Subdivision, Lot 29 and wanted to put in a swimming pool behind his house. He stated there was no setback on the original survey as it dated before when all yards were now an assumed setback in the rear yard. They applied for a permit without having a setback in the rear yard based on the engineer's survey. The utility easement was outside the property and the City had been able to access it in the past.

Ms. Sonia Falcon inquired if it encroached on the easement. Mr. Stansberry stated it did not encroach into the 15 ft. utility.

Chairperson David Salinas inquired if the setbacks were indicated the recorded plat. No one answer.

Ms. Falcon inquired how long had his brother lived there. Mr. Stansberry stated 3 ½ years.

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

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

Ms. Sonia Falcon **moved** to approve the variance requests #1 and #2 subject limited to the footprint of the proposed improvements. Mr. Juan Jimenez seconded the motion. The board voted unanimously to approve with five members present and voting.

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

Mr. Garza stated this item would remain tabled.

At this time, Ms. Sylvia Hinojosa arrived.

- c) Request of Ruben H. Laurel for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 6 ft. into the 6 ft. side yard setback for an existing wooden storage room measuring 9 ft. by 16 ft., and **2)** to allow an encroachment of 4.58 ft. into the 10.0 ft. rear yard setback for an existing covered patio measuring 26.25 ft. by 13.83 ft. at Lot 30, Parkwood Manor Subdivision, Phases 1, 2 & 3, Hidalgo County, Texas; 2508 Swallow Avenue. **(ZBA2019-0058)**

Mr. Garza stated the applicant indicated that he was requesting the above variances to store household items, and have a gathering place for his family respectively.

The property was located on the north side of Swallow Avenue, approximately 69 ft. east of North 25th Lane. The property had 69 ft. of frontage along Swallow Avenue and a depth of 104 ft. for a tract size of 7,176 sq. ft. The property is zoned R-1 (single family residential) District. The surrounding zoning is R-1 in all directions.

Parkwood Manor Subdivision Phases 1, 2 & 3 was recorded on July 25, 1983. The plat specified a front yard building setback of 20 ft.; 6 ft. side yard setbacks and a 10 ft. rear yard setback. The Environmental Health and Code Enforcement Department issued a Notice of Violation on October 15, 2019 based on the storage room encroaching into the side yard setback. A variance application for the existing wooden storage room was received on October 18, 2019. An application for a building permit was submitted to the Building Permits & Inspections Department on October 16, 2019 for an existing wooden storage room. Subsequently, on January 6, 2020 an application for a building permit was submitted to the Building Permits & Inspections Department for an existing covered patio.

Variance request # 1 is to allow an encroachment of 6 ft. into the 6 ft. side yard setback for an accessory building. The standard setback for the side yard for a lot in the R-1 zone is 6 ft. Any attempt to relocate for setback compliance will create a disruption of access into the garage.

Variance request # 2 is to allow an encroachment of 4.58 ft. into the 10 ft. rear yard setback for an existing covered patio. The standard setback for the rear yard for a lot in the R-1 zone is 10 ft. There was an existing 7 ft. utility easement that runs concurrent with the 10 ft. rear yard setback and the patio encroaches 1.7ft into the utility easement. The applicant will need to undertake the utility easement abandonment process.

Variance request # 3 is to allow a building separation of 4.3 ft. instead of the required 5 ft. from the existing residence for an existing wooden storage room measuring 9 ft. by 16 ft. Any attempt to relocate for setback compliance will create an encroachment with the rear yard setback.

On June 19, 1984, the board approved a variance for 2505 Swallow Avenue (lot 26), which requested an encroachment of 4 in. into the 6 ft. side yard setback for an existing residence.

Staff had not received any phone calls in opposition from surrounding property owners regarding this variance request.

Staff recommended disapproval of the variance requests. However, if the Board chooses to approve the variances as requested, it should be limited to the proposed encroachments as shown on the submitted site plan.

At the Zoning Board of Adjustment and Appeals meeting of January 15, 2020 the Board unanimously voted to table the variance request to allow the staff time to re-notice the variance request. There were five members present and voting.

Ms. Sonia Falcon inquired if there was any oppositions. Mr. Garza stated there was none.

Mr. Ruben Laurel, the applicant, stated the difference of the measurement of 4 feet into 5 feet, a difference of 8 inches.

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

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

Ms. Sonia Falcon inquired how this came before the board. Mr. Garza stated it came through a stop work order. He was building a storage building for his wife's household items.

Chairperson David Salinas asked to explain the building separation of 4.3 feet and asked if it was from the residence to the storage building. Mr. Garza stated it was from the residence overhang to the storage building not the overhang.

Chairperson Salinas inquired if there was any way he could move the storage shed. Mr. Garza stated if he did, he would be encroaching into the rear yard setback. Moreover, if

he moved it the side, it would be in the way of the driveway.

Chairperson Salinas inquired the storage building was not being connected to any utilities. Mr. Garza there was no electrical connections.

Ms. Sonia Falcon inquired if it was going to remain on blocks. Mr. Garza stated yes.

Ms. Sonia Falcon **moved** to approve the variance requests #1, #2 and #3 subject to the footprint of the encroachments. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to approve with five members present and voting.

- d) Request of Rosauro Palomo for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 ft. into the 25 ft. rear yard setback for a proposed wooden pergola, at Lot 53, Brisas del Norte Subdivision, Hidalgo County, Texas; 9215 North 28th Lane. **(ZBA2020-0002)**

Mr. Garza stated the applicant was requesting a variance to allow an encroachment of 10 ft. into the 25 ft. rear yard setback for a proposed wooden pergola measuring 10 ft. by 27 ft.

The property was located at the Northwest side of North 28th Lane near the intersection with North West Avenue. The lot was a double fronting lot with a frontage of 60 ft. on North 28th Lane and North 29th Street Right of Way. The lot had a depth of 110.68 ft. for a lot size of 6,640.80 square feet. The property was zoned R-1 (single-family residential) District. Surrounding land uses are single family residential.

Brisas Del Norte Subdivision was recorded on January 26, 2005. A general note on the subdivision plat indicates a rear yard setback of 25 ft. An application for a building permit was submitted on December 31, 2019 for a proposed pergola. The submitted site plan shows a proposed structure with a size of 27 ft. by 10 ft. and was encroaching 10 ft. into the 25 ft. rear yard setback. The submitted site plan shows that the proposed pergola is approximately 15 ft. from the west side lot line and had a 2 ft. overhang.

The variance request was for a proposed wooden pergola measuring 27 ft. by 10 ft. that w encroaching into the 25 ft. rear yard setback along the west property line. There is a 15 ft. utility and irrigation easement adjacent the rear yard setback that will not be impacted by the construction.

- 1) In 2015, the Board approved a variance request for a porch at 9223 North 28th Lane (Lot 51) for an 8 ft. encroachment into the 25 ft. rear yard setback.
- 2) In 2011, the Board approved a variance request for a porch at 9219 North 28th Lane (Lots 52) for a 10 ft. encroachment into the 25 ft. rear yard setback.

The pergola will have a wood frame construction and will be attached to the rear of the house.

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

Staff recommended approval of the variance request.

Ms. Sonia Falcon inquired how can staff recommended approval. Mr. Garza stated there

had been similar requests approved in the lots right next to the applicants. They have a unique condition since they have a double frontage lot causing setbacks to increase. Chairperson Salinas inquired if there was double frontage. Mr. Garza stated yes.

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

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

Ms. Sonia Falcon **moved** to approve the variance request. Ms. Sylvia Hinojosa seconded the motion. The board voted unanimously to approve with five members present and voting.

- e) Request of Craig Longenecker for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of up to 4.5 ft. into the east 6 ft. side yard setback for an existing wooden addition with metal roof measuring 19 ft. by 10.42 ft., and **2)** to allow an encroachment of up to 3.25 ft. into the east 6 ft. side yard setback for an existing vinyl storage building measuring 5.66 ft. by 7.83 ft., at Lot 395, Woodhollow Subdivision Phase X, Hidalgo County, Texas; 1929 Duke Avenue. **(ZBA2020-0001)**

Mr. Garza stated the applicant was requesting a variance to allow an encroachment into 6 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. The applicant is also requesting a variance for an encroachment into the side yard setback for a separate vinyl storage building that was used for the storage of swimming pool accessories and yard tools.

The property was located at the south side of Duke Avenue. The lot has 61.63 ft. of frontage on South McColl Road with a depth of 164.55 ft. for a lot size of 10,729 square feet. The property was zoned R-1 (single family residential) District. Surrounding land uses are single family residential.

Woodhollow Subdivision Phase X was recorded on June 07, 2000. A general note on the subdivision plat indicates a side yard setback of 6 ft., and rear yard setback of 26.55 on the West and 25.42 on the East. Building Inspection Department records show that a stop work order was issued by staff on January 06, 2020 for the construction of the storage building without a building permit. Subsequently, an application for a building permit for an attached storage building was submitted on January 6, 2020. The application for the variance request was submitted on January 06, 2020.

Variance #1: The variance request is for a wooden storage building with a metal roof measuring 10.5 ft. by 19 ft. that is encroaching 4.5 ft. into the 6 ft. rear yard setback along the east property line. There are no utility easements within the side yard setback that impact the existing storage building encroachment.

Variance #2: The variance request is for a vinyl storage building measuring 5.66 ft. by 7.83 ft. that is encroaching 3.25 ft. into the 6 ft. side yard setback along the east property line. There are no utility easements within the side yard setback that impacted the existing storage building encroachment. Storage buildings that are 200 square feet or less in size do not require a building permit, but must respect the zoning district setbacks in which

they are located.

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

The Planning Department has received one call in opposition to the request on January 28, 2020.

Staff recommended approval of the variance requests

.Chairperson Salinas inquired if the person opposing was an anonymous call. Mr. Garza stated yes.

Ms. Sylvia Hinojosa asked why. Mr. Garza stated they did not like the appearance of it.

Chairperson Salinas inquired if there was a fence line. Mr. Garza stated yes.

Mr. Craig Longenecker, the applicant, stated they put a wooden cedar fence inside their property line because the existing fence in Phase 9 was falling apart. They put a foot and a half in on their property. When they put the shed in they took the fence adjacent down. They left the other fence in place and put a diagonal between the fence and the storage shed to complete the fenced in property. The storage was used for storing household items, furniture, etc. Mr. Longenecker stated they put in electricity for security purposes. They applied for an electrical permit but could not obtain it until the variance was approved. It was on a concrete foundation.

Mr. Jose Gutierrez inquired if Mr. Longenecker knew who called in opposition. Mr. Longenecker had no knowledge of who called.

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

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

Ms. Sonia Falcon **moved** to approve the variance requests. Mr. Jose Gutierrez seconded the motion. The board voted unanimously to approve with five members present and voting.

- f) Request of Miguel Cobos for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 6.5 ft. into the 10 ft. rear yard setback for an existing wooden porch measuring 21.5 ft. by 18 ft., **2)** to allow an encroachment of 7 ft. into the 10 ft. rear yard setback for an existing storage building measuring 10 ft. by 10 ft., and **3)** to allow an encroachment of 3.5 ft. into the south 6 ft. side yard setback for an existing storage building measuring 10 ft. by 10 ft., at Lot 22, Hackberry Creek Unit 2 Subdivision, Hidalgo County, Texas; 8414 North 18th Lane. **(ZBA2019-0065)**

Mr. Sotelo stated that Miguel Cobos, owner of the property, was requesting variances to allow encroachments #1, #2 and #3 to allow the structures to remain.

The subject property had frontage on N. 18th Lane and future N. Bicentennial Blvd. and

is located between Fairmount Ave and Grambling Ave. The lot had 62 ft. of frontage on N. 18th Lane and an average depth of 74.28 ft. The property was zoned R-1 (single family residential) District. The surrounding land uses are single-family residences and construction of N. Bicentennial Blvd. has started.

Hackberry Creek Unit 2 was recorded on September 18, 2000. The applicant submitted for building permit on July 29, 2013 and an application for easement abandonment was disapproved by the ROW Department on March 13, 2014.

Variance request # 1 is to allow an encroachment of 6.5 ft. into the 10 ft. rear yard setback and 10 ft. utility easement for an existing covered patio. The standard setback for the rear yard for a lot in the R-1 zone is 10 ft.

Variance request # 2 is to allow an encroachment of 7 ft. into the 10 ft. rear yard setback and 10 ft. utility easement for an existing storage building. The standard setback for the rear yard for a lot in the R-1 zone is 10 ft. Storage buildings that are 200 sq. ft. or less in size do not require a building permit but must comply with the setback requirements.

Variance request # 3 is to allow an encroachment of 3.5 ft. into the 6 ft. side yard setback for an accessory building. The standard setback for the side yard for a lot in the R-1 zone was 6 ft. Storage buildings that are 200 sq. ft. or less in size do not require a building permit but must comply with the setback requirements.

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

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

Mr. Austin Stevenson stated he was speaking as the Municipal Court prosecutor and not as Zoning Board of Adjustment and Appeals legal counsel. He stated he had been working since 2014 with Mr. Cobos. He has made every appearance in Municipal Court for the past five years and tried everything to get these utility easements abandoned. If the City was to grant the variance, Mr. Cobos understood that it needed the companies Magic Valley and the Irrigation District could come and tear up what he has already had there 7 years. At this point, Mr. Cobos was looking for a resolution to this matter.

Mr. Miguel Cobos, the applicant, stated he had a hearing with the Judge yesterday and the case was closed. Chairperson Salinas asked if there was anything new. Mr. Cobos stated no. Chairperson Salinas also mentioned to the applicant that if his variance was granted, the utility companies had the right to go onto this property and have the porch torn down at the applicant's cost.

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

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

Ms. Sonia Falcon **moved** to approve the variance requests subject to the footprint of the existing encroachments into the setbacks. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to approve with five members present and voting.

- g) Request of Carolina Custom Homes, LLC, for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 ft. into the south 10 ft. corner yard setback for a proposed residence, at Lot 13, Auburn Hills Subdivision, Hidalgo County, Texas; 7903 North 25th Lane. (ZBA2019-0066)**

Mr. Sotelo stated the applicant requests variances to encroach 4 ft. into the south 10 ft. corner yard setback for the construction of a single-family residence. The encroachment proposed is in order to have enough room to park a boat on the north side, side yard of the proposed house.

The subject property was located at the northwest corner of North 25th Lane and Auburn Ave. The tract had 60 ft. of frontage along North 25th Lane with a tract size of 10,976 sq. ft. Surrounding land uses are single-family residents, a feed store and vacant lots. The lot is vacant at this time.

Auburn Hills Subdivision was recorded on November 9, 2016. The applicant is proposing a new residential house on the property. An application for building permit had not been submitted. An application for a variance was submitted on December 17, 2019

A 5 ft. utility easement runs concurrently with the 10 ft. corner set back. The proposed 4 ft. encroachment into the 10 ft. corner yard setback will not impact the 5 ft. utility easement.

The purpose of the corner setback is to provide an open space along the street for light and air, and to separate the building form the street. A corner setback of 10 ft. is required in all residential districts.

If the request was approved it may encourage other property owners on corner lots to request a variance to encroach into the corner setback. Approval of the variance request will allow the proposed construction as depicted on the site plan.

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

Staff recommended disapproval of the variance request.

Chairperson Salinas inquired if the encroachment was for the entire setback along the property or a portion. Mr. Sotelo stated it was along the entire setback.

Ms. Sylvia Hinojosa inquired if it was a gated area. Mr. Sotelo stated no but had a masonry wall along Auburn Avenue. Currently, Auburn Avenue was a two lane and had room for expansion. Ms. Hinojosa asked if this was going to come up in any of the other property developments. Mr. Sotelo stated if this was approved then yes.

Vice-Chairperson inquired if there was room on one side to move the house. Mr. Sotelo stated the reason for the proposal was to store a boat to the north side of the property. That is why they want to shift everything to the south to relief room for an access for the boat.

Mr. Sotelo stated on all corner lots when in the subdivision process they make the lots wider. Usually they are 50 feet this one was a 60-foot lot. On the front of 25th Lane, it was 60 feet but in the middle of the lot, it was larger about 79 feet.

Mr. Ariel Salinas, owner of Carolina Homes, stated there were no more corner lots available only a few regular lots. Originally, they thought about doing the left side for the boat. However, it had a huge clip it took up 20 some feet, the only way to do this was to slide the home four feet to that side, which allowed access. The Homeowners Associations and City Engineering Department had given them the greenlight to go ahead with the process. He stated concerning the corner, the street was very close to the side. There was plenty of space between the side yard wall and the street. The wall was 7 feet tall so no one would be able see the inside from the street.

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

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

Ms. Sonia Falcon **moved** to approve the variance request subject to the footprint of the proposed encroachment for the front of the building. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to approve with five members present and voting.

- h) Request of Enrique Reynoso for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 7 ft. into the 25 ft. rear yard setback for a proposed residence, at Lot 33, Orangewood North Subdivision, Hidalgo County, Texas; 404 Grayson Avenue. (ZBA2020-0003)**

Mr. De la Garza stated that Enrique Reynoso, owner of the property, was requesting a variance to allow an encroachment of 7 ft. into the 25 ft. rear yard setback for a proposed single-family residence.

The subject property had frontage on Grayson Avenue and Frontera Road, and is located 132 ft. west of North 4th Street in a private (gated) subdivision. The lot has 120.42 ft. of frontage along Grayson Avenue and 162.55 ft. of depth for a lot size of 19,574 sq. ft. The property is zoned R-1 (single family residential) District. The surrounding land uses include single-family residences and vacant lots.

The Orangewood North Subdivision was recorded on April 20, 2016. An application for the variance request was submitted on January 8, 2020. An application for a building permit for the construction of a single-family residence on this property had not been submitted. The issuance of a future building permit will depend on the outcome of this variance request.

The plat for this subdivision indicates a 25 ft. rear yard setback for double fronting lots along Frontera Road (Lots 30-34). The applicant decided to pursue the option of the variance request in order to accommodate the home construction plan. There is a 10 ft. utility easement at the rear of the lot parallel to Frontera Road that will not be impacted by the proposed construction.

Access to the lot is limited to Grayson Avenue. An 8 ft. solid face fence had been erected along the rear of the properties fronting Grayson Avenue, which serves to mitigate traffic

noise in the event that the variance request was approved.

Staff had not received any phone calls from surrounding property owners in opposition to the variance request.

In the past, the ZBOA had approved variance requests in rear yards of double fronting lots for accessory uses, but not for living areas.

Staff recommended disapproval of the variance request.

Ms. Sonia Falcon inquired how many square feet was the house. Mr. De la Garza stated 5000 square feet.

Mr. Enrique Reynoso, the applicant, stated he was working with the designer for the floor plans for his house. It would encroach on seven feet of the 25-foot rear setback. There was another eight feet to the north and then the 10-foot utility easement. It did not encroach on the full 25 foot only about 50 feet of a total 120 foot that went from east to west.

Ms. Falcon inquired of the applicant how many square feet was the house. Mr. Reynoso stated it was 5100 living square feet, 7000 in total.

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

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

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

- i) Request of Jacob Alvarado to allow the following special exception to the City of McAllen Off-Street Parking and Loading Ordinance: to not provide one parking space beyond the front yard setback for an existing single family residence, at Lot 160, Saddle Creek Unit 2 Subdivision, Hidalgo County, Texas; 3421 Ozark Avenue. **(ZBA2019-0064)**

Mr. De la Garza stated that Jacob Alvarado, owner of the property, is requesting a special exception to not provide one parking space beyond the front setback line for the existing single-family residence. Mr. Alvarado is proposing to enclose the existing garage and use this area for a master bedroom.

The property was located along the south side of Ozark Avenue. The tract had 62.53 ft. of frontage along Ozark Avenue and 83 ft. of depth at its deepest point for a lot size of approximately 5,100 sq. ft. The property was zoned R-1 (single family residential) District and there was a single-family residence on the subject property. The surrounding land use is single family residential in all directions.

Saddle Creek Unit 2 Subdivision was recorded on February 10, 2003. The Board of Commissioners amended the Zoning ordinance in 1999 to require one parking space beyond the front setback in order to enhance the appearance of single-family residential

areas. The subject property and subdivision is subject to compliance with the zoning requirement of one parking space beyond the front setback line. An application for the special exception was submitted on December 13, 2019.

A variance for the subject property to allow an encroachment of 7 ft. into the 15 ft. rear yard setback for a porch canopy measuring 12 ft. by 30 ft. was approved by the Zoning Board of Adjustments and Appeals in October 3, 2018.

The applicant was requesting a special exception to not provide one parking space beyond the front setback line for the existing single-family residence. The applicant was proposing to enclose the garage and turn it into a master bedroom.

The intent for the requirement of location one parking space beyond the front setback line is to improve the street yard appearance of single-family residential areas by reducing the number of cars parked along the street and within the front yard. In 1999, the City Commission amended the ordinances in order to improve streetscape of neighborhoods. Amendments included 1) parking requirement of two parking spaces beyond the front yard setback (later reduced to one parking space beyond the front yard setback), 2) front yard setbacks were increased from 20 ft. to 25 ft., 3) 50% landscaping requirement for front yard, 4) landscape areas required for side yards in the front yard, 5) 1 tree or the first 50 feet of lot width and 1 additional tree for every additional 25 feet of lot width, and 6) sidewalks were required. Approval of the request may encourage other property owners to enclose their garage.

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

Staff recommended disapproval of the special exception request.

Chairperson David Salinas inquired if there were any other houses in that neighborhood enclosing their garage. Mr. De la Garza stated not to his knowledge that have been approved.

Vice-Chairperson Erick Diaz inquired if two cars could be parked in the driveway. Mr. De la Garza stated it was a two-car driveway. Asked why they were requesting to enclose their garage. Mr. De la Garza stated the driveway was within the front yard setback.

Mr. Jacob Alvarado, the applicant, stated he wanted to enclose the garage for a bedroom. They have a two story home puts a strain on his wife's knees. He stated the driveway was big enough to park four vehicles if encloses the garage.

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

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

Chairperson David Salinas inquired staff if it was possible for them to provide additional concrete to the driveway to increase parking area. Mr. De la Garza stated they would have to obtain a ROW permit and Planning Department would have to get involved because of the landscaping requirements, which would be affected.

Ms. Sonia Falcon inquired of the applicant what would he do with his vehicles. Mr. Alvarado stated he was aware of the damages of leaving the vehicles out in the elements. Ms. Falcon inquired how long had they lived at their residence. Mr. Alvarado stated 14 years.

Vice-Chairperson Erick Diaz **moved** to approve the special exception. Ms. Sonia Falcon seconded the motion. The board voted unanimously to approve with five members present and voting.

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

Mr. De la Garza stated this item was to remain tabled.

FUTURE AGENDA ITEMS: NONE

INFORMATION ONLY:

Mr. Edgar Garcia, Planning Director, mentioned to the board if they would consider moving the meeting time from 5:30 p.m. to 4:30 p.m. After a brief discussion, the board agreed to the new time of 4:30 p.m.

ADJOURNMENT

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

Chairperson
David Salinas

Carmen White, Secretary

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: February 19, 2020

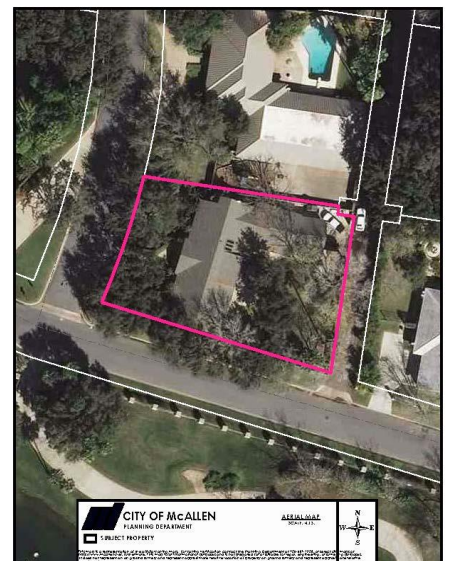
SUBJECT: REQUEST OF HAMLIN POOLS (JOSHUA STANSBERRY) ON BEHALF OF ROGER BRADSHAW, FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 7 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING STORAGE SHED MEASURING 10 FT. BY 14 FT., AT LOT 9, ORANGEWOOD SUBDIVISION UNIT 1, HIDALGO COUNTY, TEXAS; 3325 SANDY LANE (ZBA2020-0007)

REASON FOR APPEAL:

The applicant is requesting a special exception to allow an encroachment of 7 ft. into the 10 ft. rear yard setback for an existing storage shed.

PROPERTY LOCATION AND VICINITY:

The property is located at the northeast corner of Sandy Lane and East Burns Drive. The lot has 97.86 ft. of frontage on Sandy Lane with a depth of 168.28 ft. for a lot size of 16,384.88 square feet. The property is zoned R-1 (single family residential) District. Surrounding zoning is R-1 in all directions.



BACKGROUND AND HISTORY:

Orangewood Subdivision Unit 1 was recorded on August 16, 1973. Per Building Permits and Inspections, no permit was issued for the construction of this storage shed. Appraisal District records indicate the shed was built in 2009. The storage shed was already existing when the current property owner acquired the property in 2016.

ANALYSIS:

Section 138-369 of the Zoning Ordinance indicates any accessory building should not exceed 25 ft. in height and it shall be no closer than five feet to the main building. The height of this storage shed is approximately 8 ft., and a site plan provided by the applicant shows the storage shed 10 ft. from the residence. The Planning Department has not received any calls in opposition of the request.

RECOMMENDATION:

Staff recommends approval of the variance request, subject to the footprint of the building.

ZBA 2020-0007

ZBOA
3/4/2020



City of McAllen Planning Department

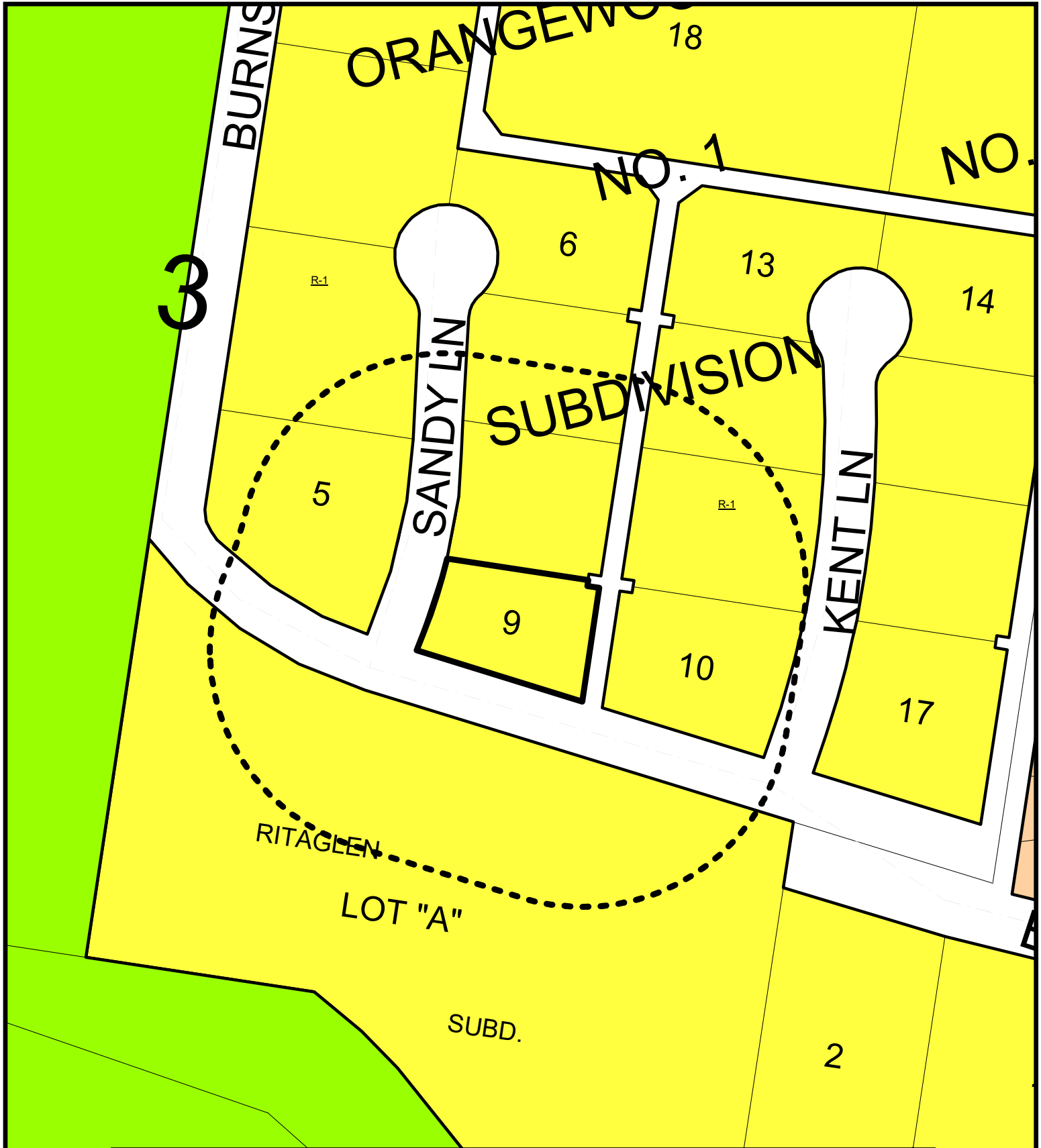
1300 Houston Avenue
McAllen, TX 78501
P. O. Box 220
McAllen, TX 78505-0220
(956) 681-1250
(956) 681-1279 (fax)


APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

Project	Legal Description <u>Lot 9 Orangewood Subd. Unit 1</u> Subdivision Name <u>Orangewood</u> Street Address <u>3325 Sandy Ln McAllen Tx</u> Number of lots <u>1</u> Gross acres _____ Existing Zoning <u>R1</u> Existing Land Use <u>House</u> Reason for Appeal (please use other side if necessary) <u>Swimming Pool & 12ft water feature</u> <u>TO ENCROACH ON 25 FT SETBACK BY 6 FT (SEE PLAN)</u> <input checked="" type="checkbox"/> \$300.00 non-refundable filing fee <input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
	Applicant Name <u>Hamlin Pools Joshua Stansberry</u> Phone <u>787-3291</u> Address <u>300 W Eldora</u> City <u>Pharr</u> State <u>Tx</u> Zip <u>78577</u>
Owner Name <u>Roger Bradshaw</u> Phone _____ Address <u>3325 Sandy Ln</u> City <u>McAllen</u> State <u>Tx</u> Zip <u>78503</u>	
Authorization To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input type="checkbox"/> No I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization. Signature <u>Jose Selva</u> Date <u>2/5/20</u> Print Name <u>Joshua Stansberry</u> <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent	
Office Accepted by <u>[Signature]</u> Payment received by _____ <div style="text-align: right;"> Date _____ REVISED 9/11 </div>	

ACT# 695798

BY: [Signature]








CITY OF McALLEN
PLANNING DEPARTMENT


LEGEND
SCALE: 1" = 500'
















AREA MAP



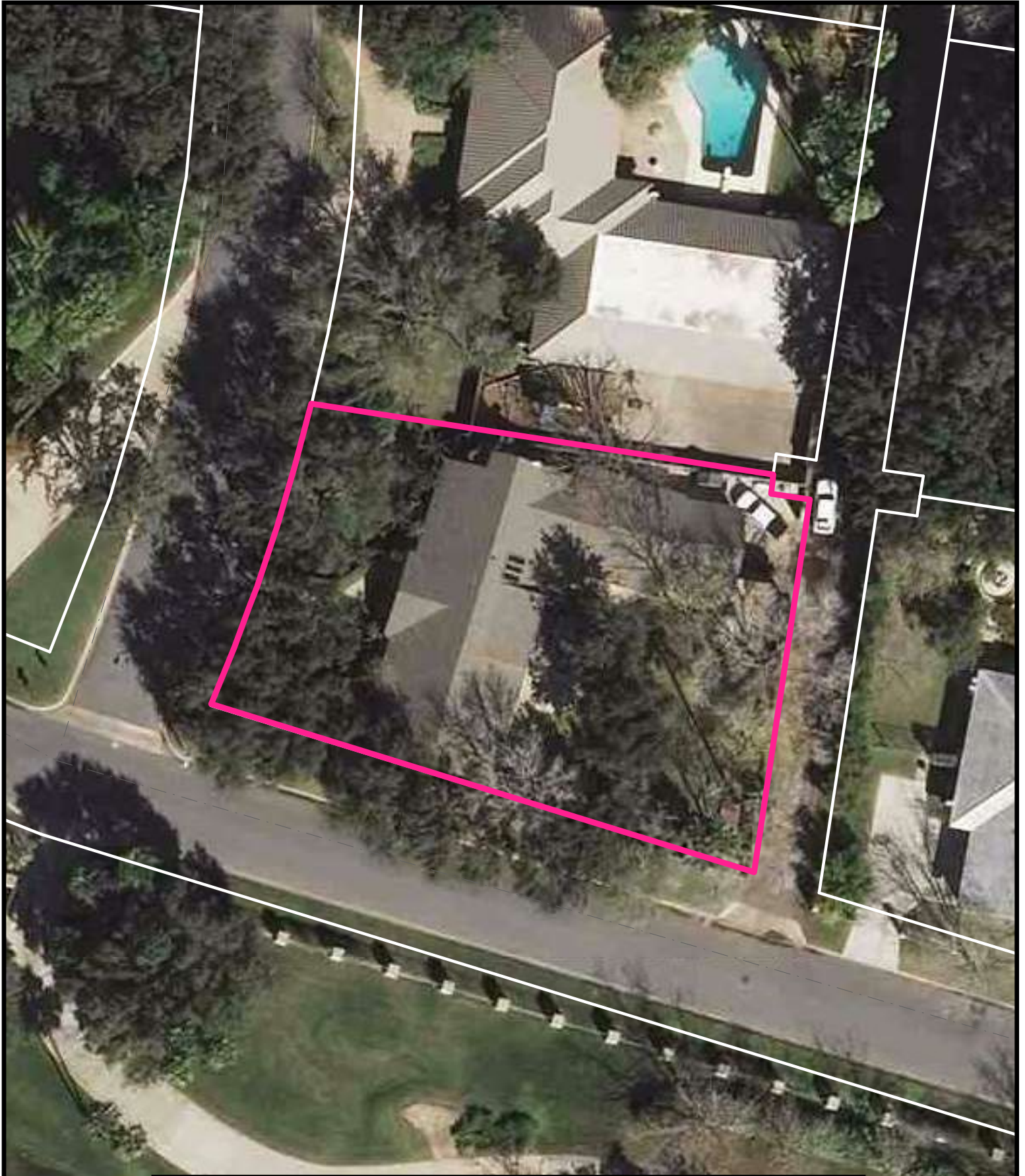
 **SUBJECT PROPERTY**

 **200 FT. NOTIFICATION BOUNDARY**

 **SUN**

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

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

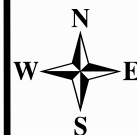


CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.

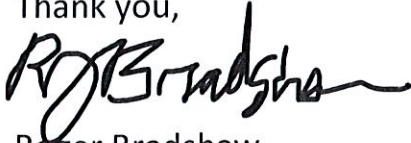


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Mr. Beto De La Garza,

I give Joshua Stansberry with Hamlin Pools authorization to represent me at the variance meeting.

Thank you,

A handwritten signature in black ink that reads "Roger Bradshaw". The signature is written in a cursive style with a long horizontal flourish at the end.

Roger Bradshaw

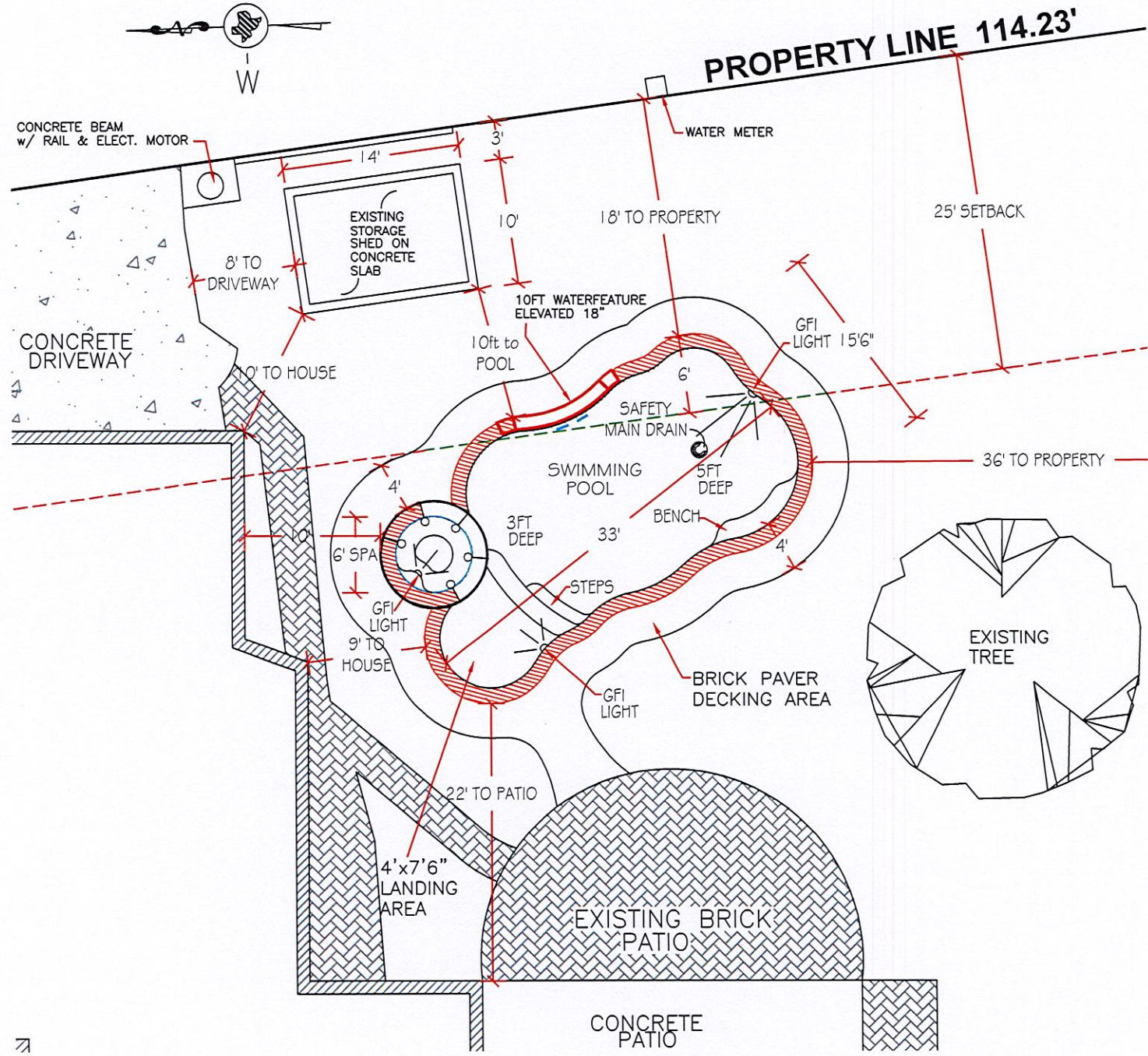
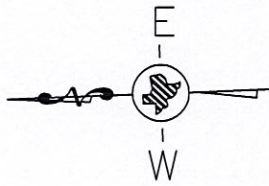
(832) 925-0656

3325 Sandy Ln.

McAllen, TX



SITE PLAN



MEMO

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: February 28, 2020

SUBJECT: REQUEST OF OSCAR BUENTELLO FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE AND TO THE CITY OF MCALLEN VEGETATION ORDINANCE: 1) TO THE MINIMUM LOT SIZE REQUIREMENT FOR A DUPLEX, 2) TO ALLOW AN ENCROACHMENT OF 3 FT. INTO THE 6 FT. SOUTH SIDE YARD SETBACK FOR THE EXISTING BUILDING, 3) TO ALLOW AN ENCROACHMENT OF 10 FT. INTO THE NORTH SIDE YARD SETBACK FOR THE EXISTING BUILDING, 4) TO ALLOW AN ENCROACHMENT OF 15 FT. INTO THE 20 FT. FRONT YARD SETBACK FOR THE EXISTING BUILDING 5) TO ALLOW TO EXCEED THE 10% REPLACEMENT VALUE FOR A NONCONFORMING STRUCTURE, 6) TO NOT PROVIDE THE REQUIRED 50% OF LANDSCAPE WITHIN THE FRONT YARD, 7) TO NOT PROVIDE THE REQUIRED 5 FT. LANDSCAPE STRIP WITH 3 FT. HEDGE IN HEIGHT, AND 8) TO NOT PROVIDE THE REQUIRED LANDSCAPE IN THE SIDE YARDS LOCATED WITHIN THE FRONT YARD SETBACK, AT LOTS 39 & 40, BLOCK 5, D. GUERRA'S ADDITION SUBDIVISION, HIDALGO COUNTY, TEXAS; 401 SOUTH 21ST STREET. (ZBA2020-0005)

REASON FOR APPEAL

The applicant is requesting a variance to the minimum lot size requirement for a duplex, variances to allow encroachments into the front, north and south side yard setbacks for an existing building, a variance to allow to exceed the 10% replacement value for a nonconforming structure, a variance to not provide the required 50% of landscape within the front yard, a variance to not provide the required 5 ft. landscape strip with 3 ft. hedge in height, and a variance to not provide the required landscape in the side yards located within the front yard setback. The applicant proposes to remodel the existing building for use as a duplex.

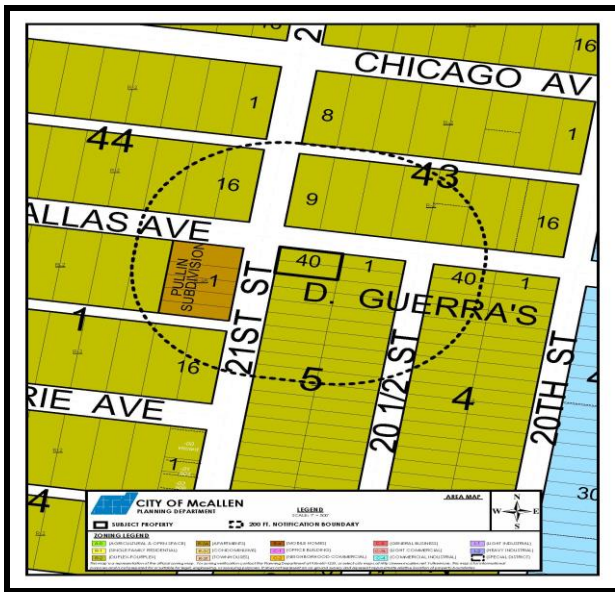
PROPERTY LOCATION AND VICINITY:

The property is located at the southeast corner of Dallas Avenue and South 21st Street. The tract comprises two lots and has 50 ft. of frontage along South 21st Street and 88.75 ft. of depth for a total area of 4,437 sq. ft. The property is zoned R-2 (duplex-fourplex residential) District. The adjacent zoning is R-2 District to the north, east, south, and R-3A (multifamily residential apartments) District to the west. Surrounding land uses include single family residences and duplexes.

BACKGROUND AND HISTORY:

The property owner proposes to remodel an existing building approximately 1,500 sq. ft. in size for use as a duplex. In December 2019 an application for a building permit was submitted for proposed

remodeling of the building. An application for the requested variances was submitted on February 5, 2020. According to Hidalgo County Appraisal District records, construction of the existing building was 1940 and has had commercial and residential uses.



ANALYSIS:

Variance request # 1 is for the minimum lot size requirement for a duplex. The City of McAllen Zoning Ordinance indicates that the required minimum lot size for a duplex is 5,600 sq. ft. The combined area of the two lots that comprise the subject property is 4,437 sq. ft. The existing building is constructed over the two lots and will not be increased in size.

Variance request #2 is for an encroachment of 3 ft. into the required 6 ft. side yard setback along the south property line. The submitted site plan shows the distance from the side property line to the existing building at 3 ft. Compliance with required setbacks would necessitate a reduction of the existing building.

Variance request #3 is for an encroachment of 10 ft. into the side yard setback along the north property line. The submitted site plan shows the existing building constructed almost to the property line. Compliance with required setback would necessitate reduction of the existing building to the required setback line.

Variance request #4 is for an encroachment of 15 ft. into the required 20 ft. front yard setback. The site submitted plan shows the distance from the property line to the existing building at 5 ft. The building was constructed within the setback under the applicable zoning district setback when that allowed a 0 ft. front yard setback.

Variance request #5 is to allow to exceed the 10 % replacement value for a nonconforming structure. As per Section 138-89 Repairs and Maintenance (a), on any nonconforming structure or portion of a structure containing a nonconforming use, no work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing to an extent exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure. Current improvement value of the building is \$34,041 (10% of this amount is \$3,404). The applicant estimates that the proposed improvements

involved in the building permit are \$30,000.

Variance request #6 is to not provide the required 50% of landscape within the front yard. The applicant is proposing not provide any landscape within the front yard and the existing concrete to remain. The building was built in 1940 under a zoning district that allowed a 0 ft. front yard setback and is unable to comply with current Vegetation Ordinance requirements, unless the building is demolished.

Variance request #7 is to not provide the required 5 ft. landscape strip with 3 ft. hedge in height as required by the Vegetation Ordinance. According to the site plan submitted, the existing building sits on the north side property line and the applicant is proposing for the existing building to remain at the same place.

Variance request #8 is to not provide the required landscape areas in the side yards located within the front yard. The existing structure was built almost to the property line as allowed by the applicable zoning district, and cannot fully comply with the Vegetation Ordinance requirement unless unless the building is reduced to comply with setbacks.

Variances 6 through 8 are withdrawn as per staff determination. Section 110-66 of the Vegetation Ordinance states that the Planning Director has the power to grant exceptions in special cases where the paved area is less 10,000 sq. ft. and where there are unusual and practical difficulties or unnecessary hardships created in meeting with the requirements of this article. After review, staff determined that criteria for exception applies since the building is existing since 1940 and compliance would require demolition of the structure.

The building would be improved from its current state and any new improvements would need to comply with applicable building codes, thus, the building would be brought up to standard (depending on the type of work to be performed). The issuance of any building permit depend on the outcome of variance requests.

Staff has not received any calls in opposition of the variance requests.

RECOMMENDATION:

Staff recommends approval of variance requests #1, #2, #3, #4, and #5. Variance requests #6, #7, and #8 are withdrawn as per Staff.

ZBOA
3.4.20



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Guerra Lots 39 & 40 BIK 5

Subdivision Name Guerra

Street Address 401 S. 21st St.

Number of lots 2 Gross acres .1022

Existing Zoning R-2 Existing Land Use retail building Bakery

Reason for Appeal (please use other side if necessary) Convert existing building into Duplex

\$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 Oscar Buentello Phone 956-460-1001

Address 1312 CANtera Rd E-mail Buentello@yahoo.com

City Pharr State TX Zip 78527

Owner

Name SAME AS ABOVE Phone _____

Address _____ E-mail _____

City _____ State _____ Zip _____

Authorization

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?

Yes No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature Oscar Buentello Date _____

Print Name Oscar Buentello Owner Authorized Agent

Office

Accepted by JHG Payment received by _____ Date _____

Rev 10/18

RECEIVED
FEB 05 2020

BY: CM

City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

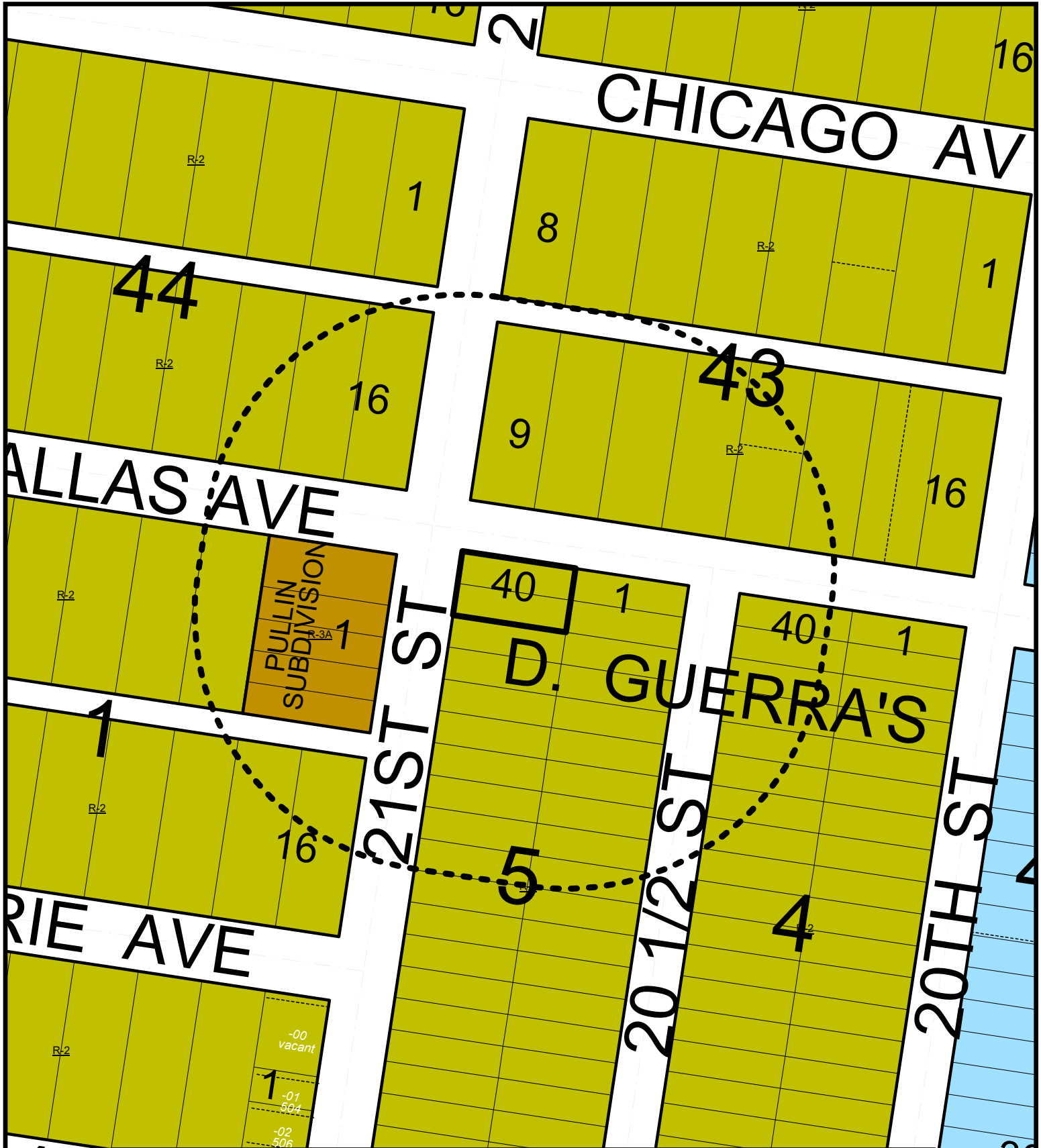
Reason for Appeal

Lot size and number of units (2)
109% replacement value for Non-Conforming structure
to not provide required 50% Landscaping Front yard
to not provide required 5 ft. Landscape strip 3ft hedge in height
Encroachment of 3ft into 6ft. south side setback
encroachment of 6ft. into 10ft. North side setback
encroachment of 15ft. into 20ft. Front yard setback
to not provide the required landscaped ~~area~~ area
in the side yards located with in front yard

Board Action

Chairman, Board of Adjustment
Signature

Date



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: 1" = 500'



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

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

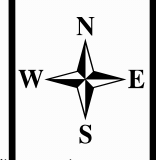
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 **CITY OF McALLEN**
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.

 **SUBJECT PROPERTY**



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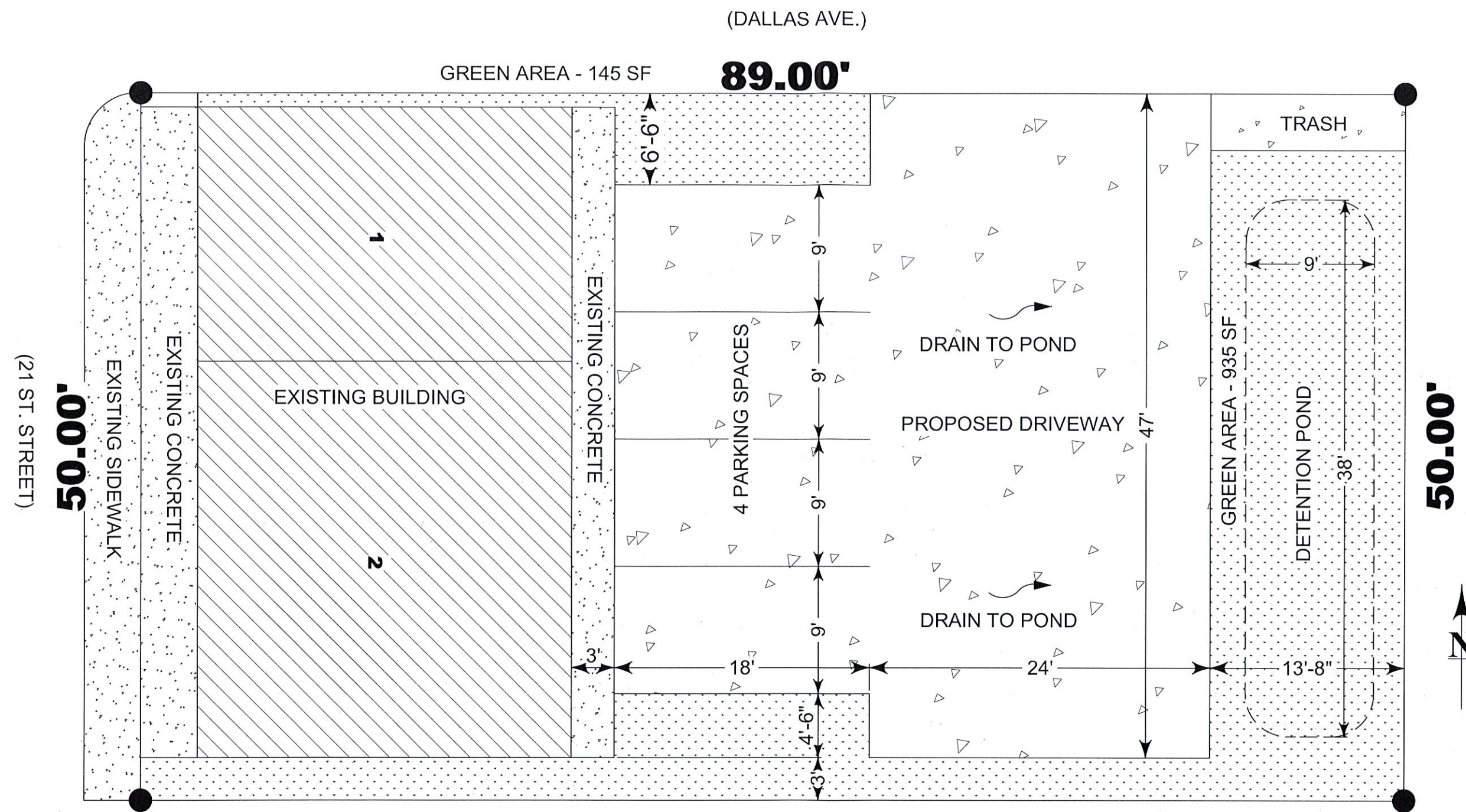
NO.	DESCRIPTION	DATE

SHEET TITLE: **SITE PLAN**
 401 S. 21st St
 McALLEN TX
 GUERRA LOTS 39 & 40 BLK 5

BUILDER/CONTRACTOR:
 OBTI CONSTRUCTION
 OSCAR BUENTELLO
 956-460-1001

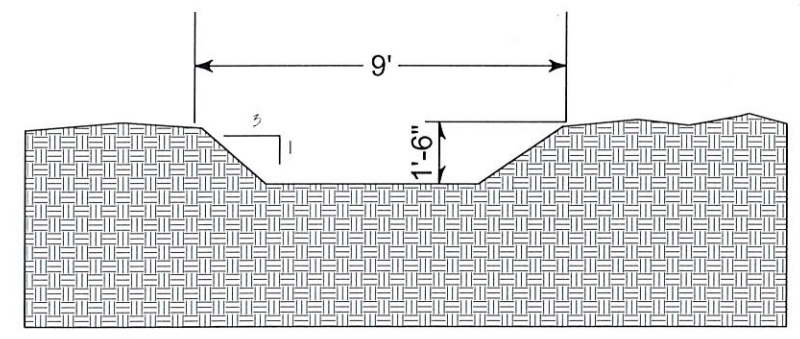
DRAWINGS PROVIDED BY:
 PENNA'S DRAFTING & DESIGN
 5401 N 10TH ST. SUITE 236
 McALLEN TX 78504
 956-776-3858

DATE:	2/4/2020
SCALE:	
SHEET:	A-2

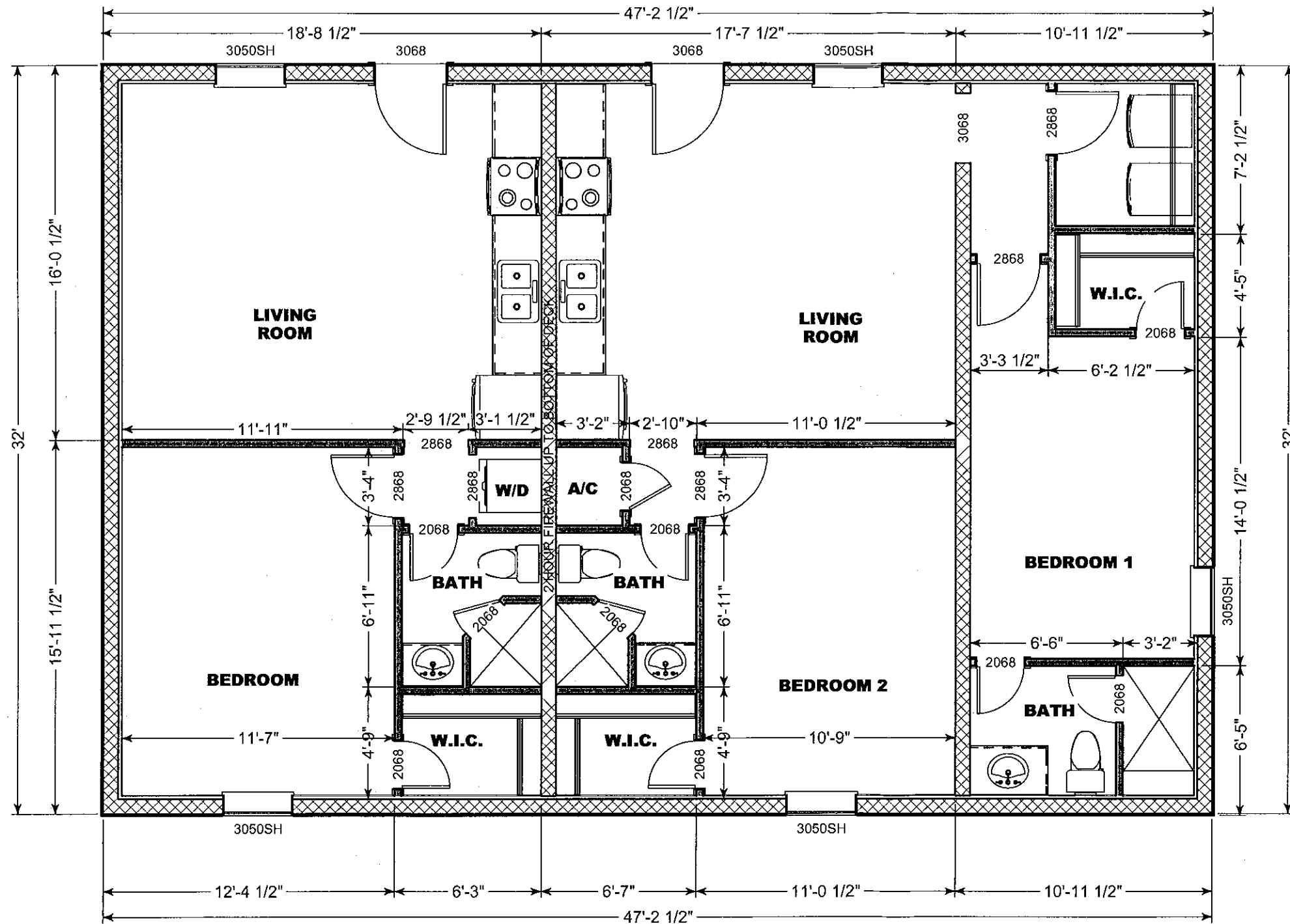


89.00' TOTAL GREEN AREA - 1080 SF = 24.2% OF LOT

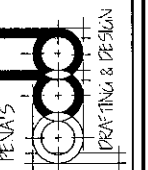
4,450 sq. ft.



DETENTION POND SECTION



AREA	
UNIT 1	605 SQ. FT.
UNIT 2	891 SQ. FT.
TOTAL AREA	1496 SQ. FT



NO.	DESCRIPTION	DATE

SHEET TITLE: **FLOOR PLAN**
 401 S. 21st St
 McALLEN TX
 GUERRA LOTS 39 & 40 BLK 5

BUILDER/CONTRACTOR:
 OB1 CONSTRUCTION
 OSCAR BUENTELLO
 956-460-1001

DRAWINGS PROVIDED BY:
 PENAS DRAFTING & DESIGN
 5401 N 10TH ST. SUITE 236
 McALLEN TX 78504
 956-776-3858

DATE:
 2/4/2020

SCALE:
 3/16"=1'-0"

SHEET:
A-3

T ST 400 →

SAVE W 2100 ←

STOP



NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0005





S 21st St

DALLAS AVE

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: January 31, 2020

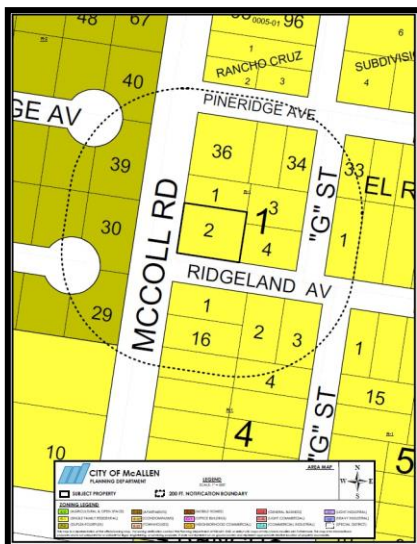
SUBJECT: REQUEST OF JUAN A. RUIZ ON BEHALF OF SAN JUANITA RUIZ FOR THE FOLLOWING SPECIAL EXCEPTION AND VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE 1) TO ALLOW AN ENCROACHMENT OF 7.5 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING CARPORT MEASURING 17 FT. BY 31 FT., 2) TO ALLOW AN ENCROACHMENT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

REASON FOR APPEAL:

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

PROPERTY LOCATION AND VICINITY:

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



1



BACKGROUND AND HISTORY:

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

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

ANALYSIS:

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

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

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

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

RECOMMENDATION:

Staff recommends the requests remain tabled.

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

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

ZBA 2019-0060

ZBDA
12/4/19



City of McAllen

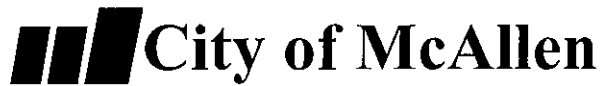
Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

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



City of McAllen Planning Department

REASON FOR APPEAL & BOARD ACTION

10-29-2019

5:17pm

J.R.

Carport Property

Wanting 5' Encroachment into
the 10' rear Setback

+

3' Encroachment into the 6' Side

Setback.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date


October 28, 2019

TO WHOM IT MAY CONCERN:

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

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

Sincerely,



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

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

APPLICATION MUST BE COMPLETE
(Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER

RES 2019-04947

06103436 APPLICANT

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

OWNER

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

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

PROJECT

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

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

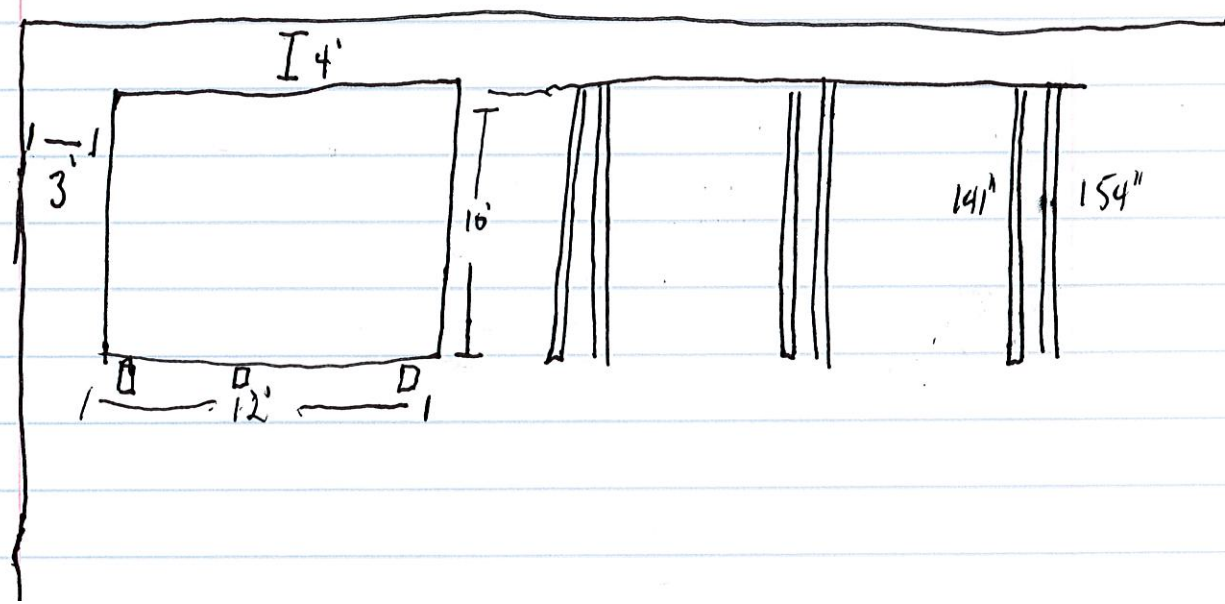
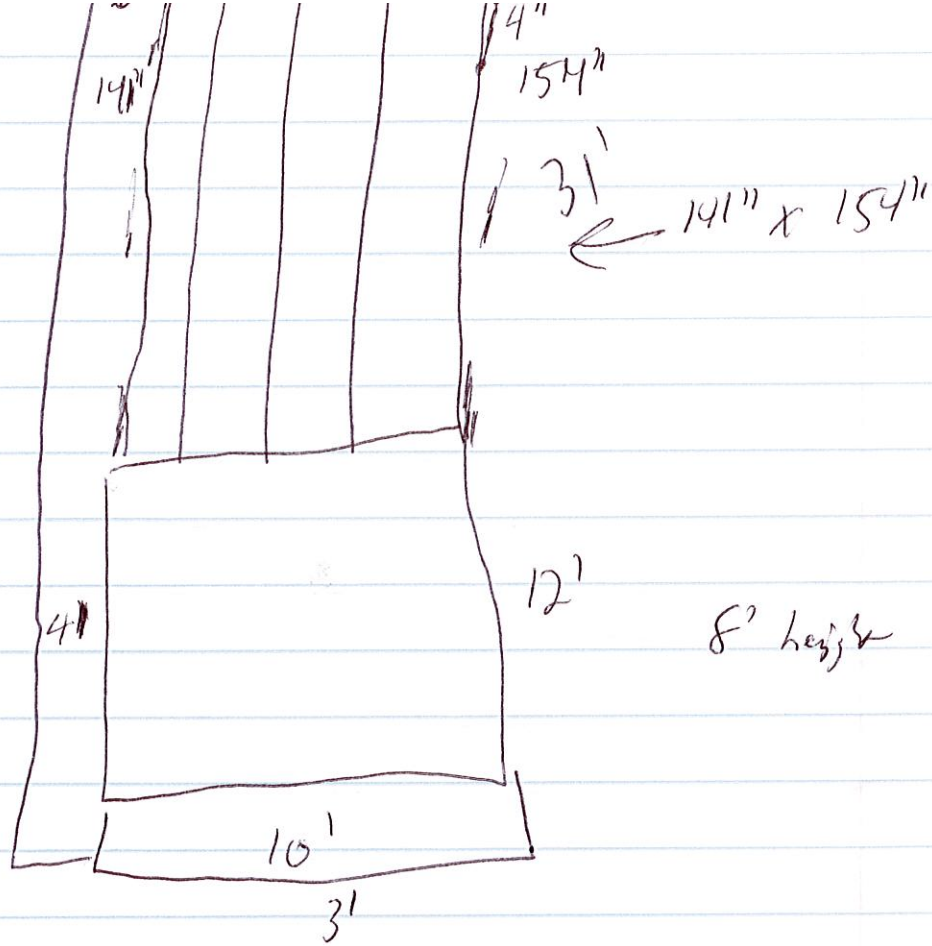
LOT _____ BLOCK _____ SUBDIVISION _____
 SITE ADDRESS ST. NO. 3113 ST. NAME S. McCOY RD

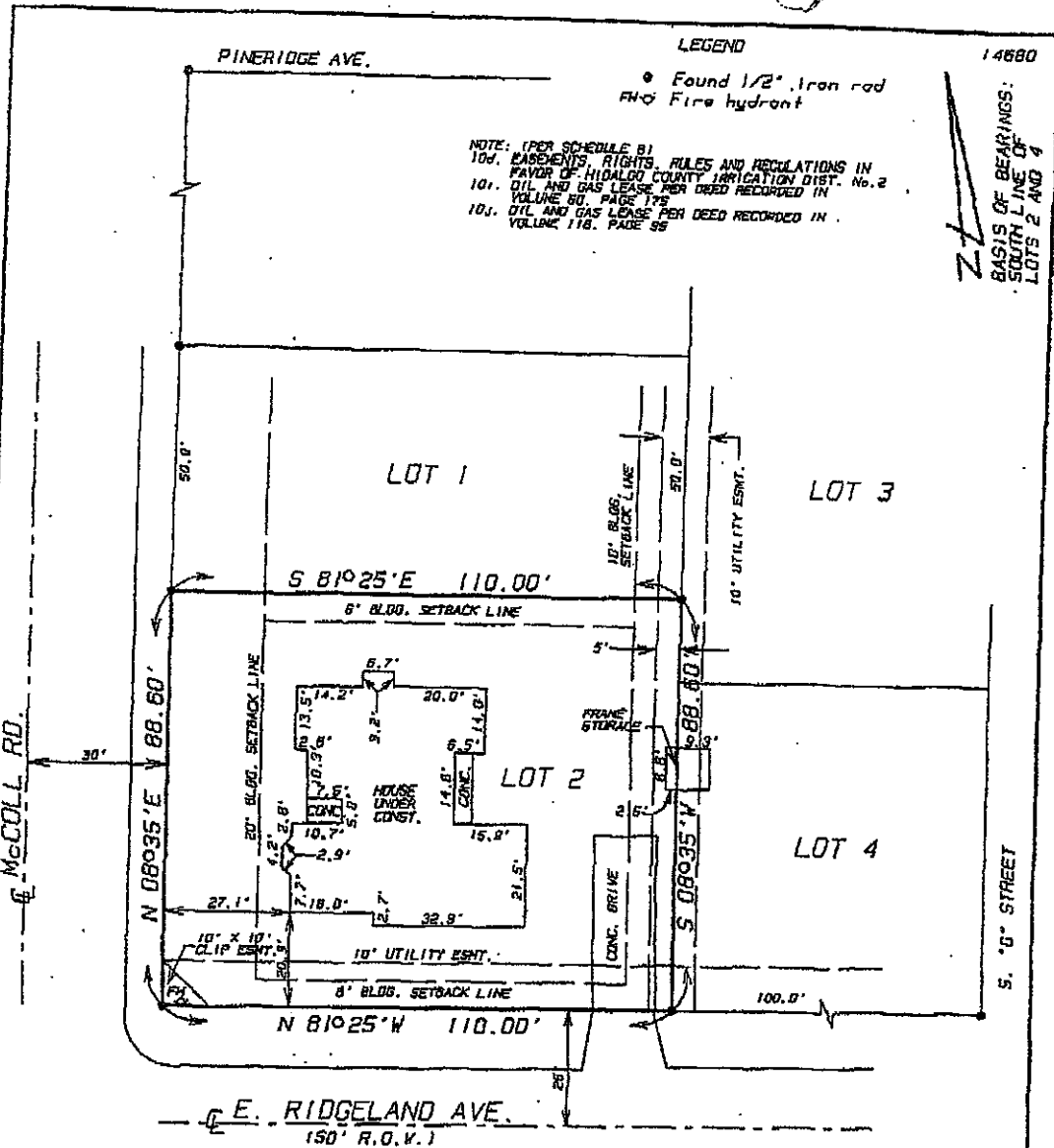
CITY USE ONLY

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

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

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





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

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

PREPARED FOR: AMPARO RUIZ AND
 SAN JUANITA RUIZ

RRA R. ROBLES &
 ASSOCIATES, PLLC
 PROFESSIONAL LAND SURVEYORS

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

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

SCALE: 1"=30' JOB No. 14680

TITLE COMMITMENT No. REVISED:

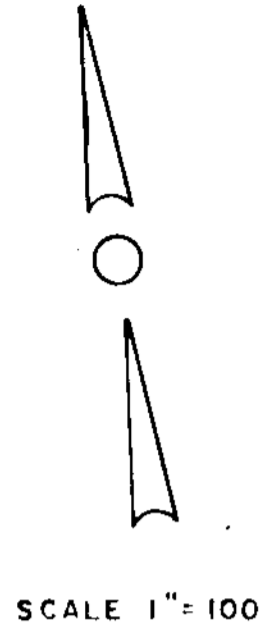
SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL
 EMBOSSED SEAL OF SURVEYOR OF RECORD.

THIS SURVEY WAS PREPARED WITH THE USE OF A TOTAL STATION PROVIDED BY BRUNNER, NUNN & ASSOCIATES, NOR THE SURVEYOR OF RECORD. THE SURVEYOR OF RECORD ASSUMES NO LIABILITY FOR THE ABOVE PROPERTY.

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

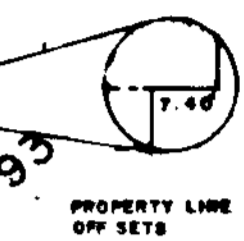
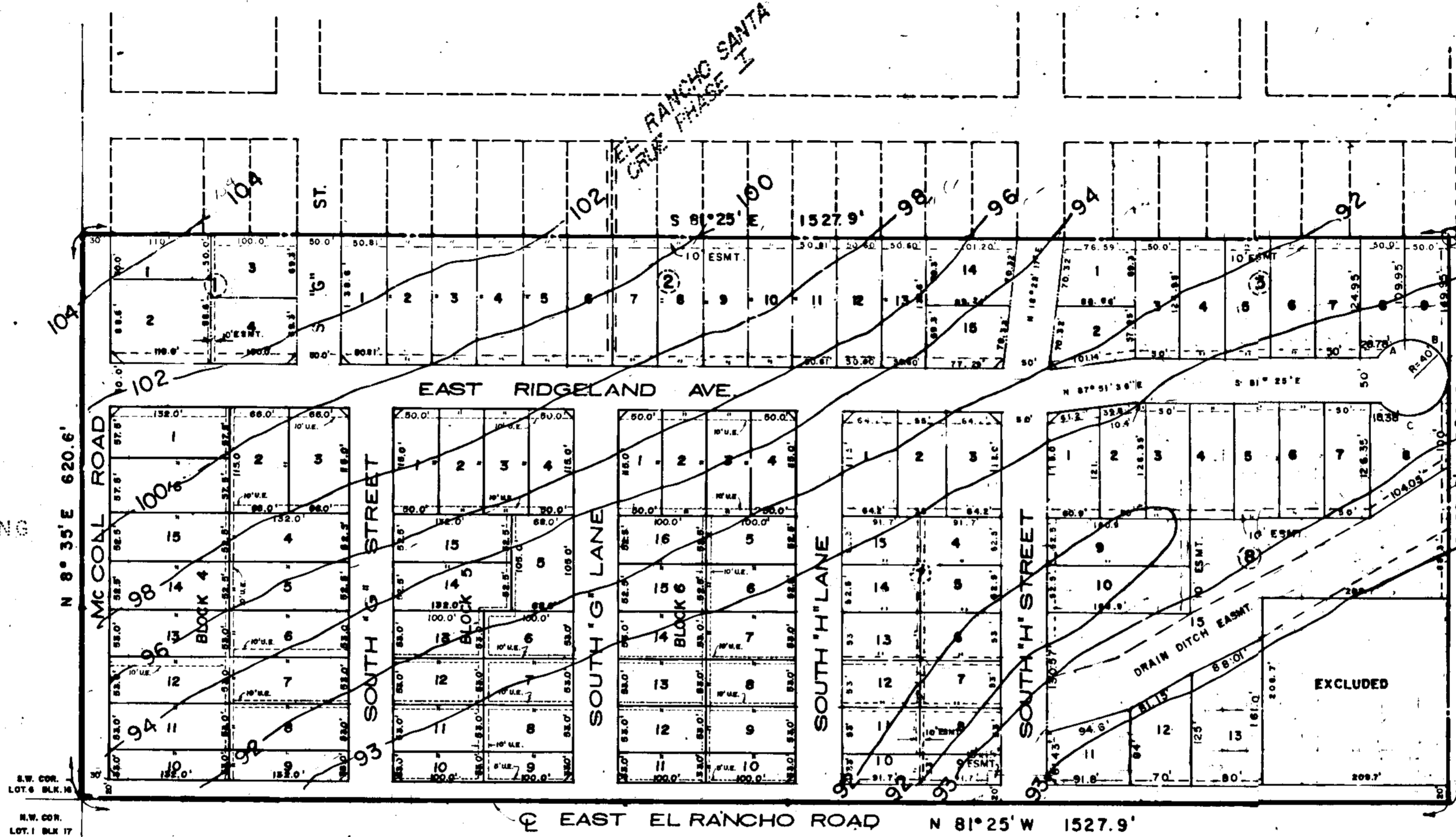
J Ruiz

COPYRIGHT 2005



SCALE 1" = 100'

LOT 5 BLK. 16
STEELE & PERSHING
SUBDIVISION



PROPERTY LINE
OFF SETS

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

S.W. COR.
LOT 6 BLK. 16

N.W. COR.
LOT 1 BLK. 17

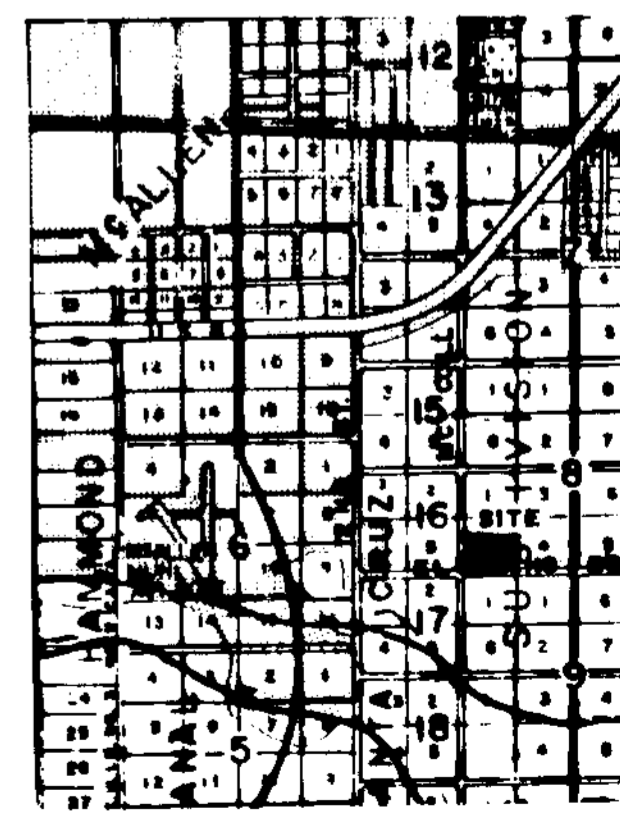
EL RANCHO SANTA CRUZ
PHASE III

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

MAP SHOWING EL RANCHO SANTA CRUZ SUBD. PHASE IV

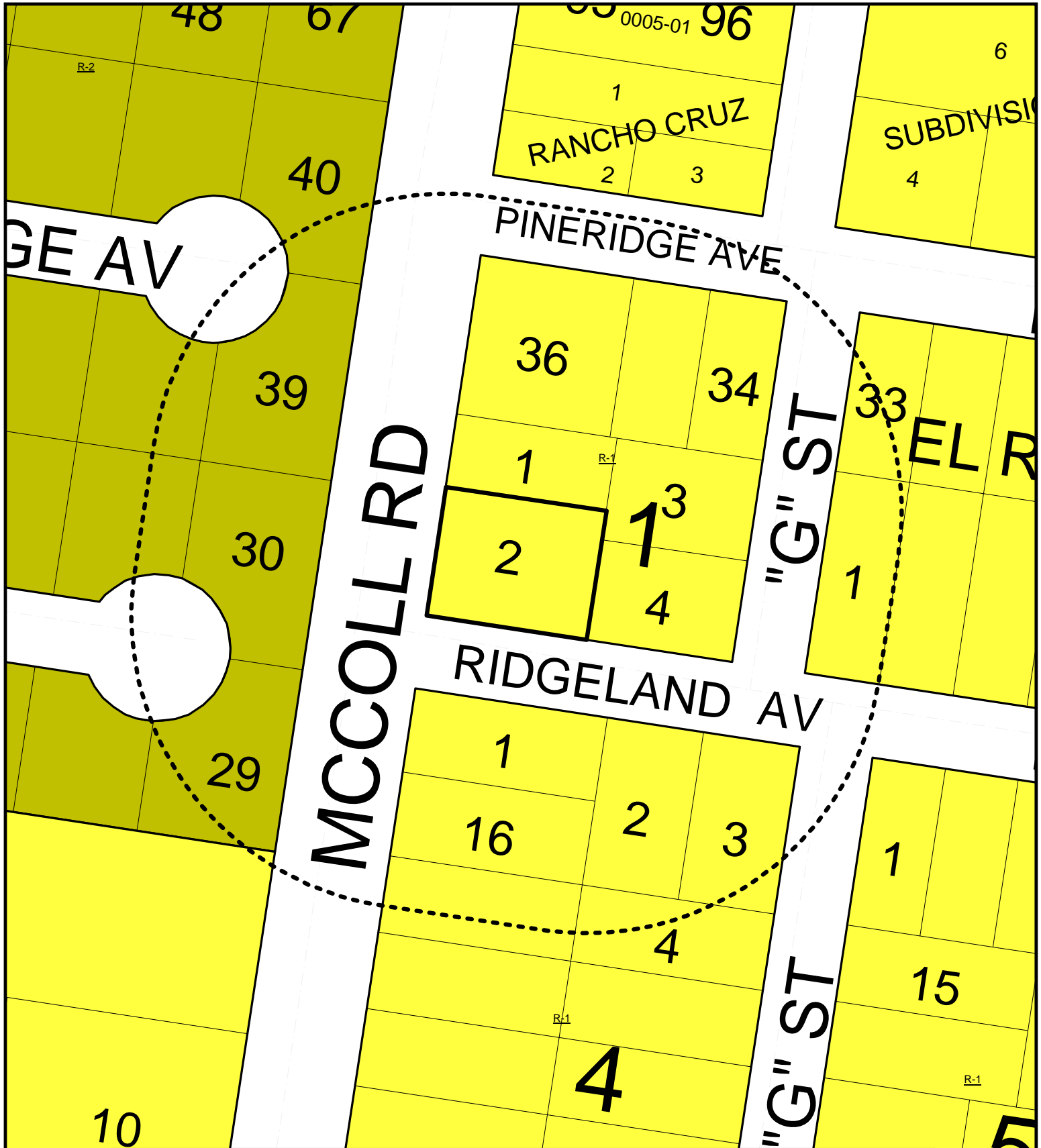
Being A Resubdivision Of 20.76 Acres Of The South 620.6 FT OF The West 1527.9 FT. OUT. Of Lot 6 Block 16
Steele and Pershing Subdivision out of Porciones 66 and 67 of
Hidalgo County, Texas.


96014



LOCATION MAP

NOTE






CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: 1" = 500'

AREA MAP



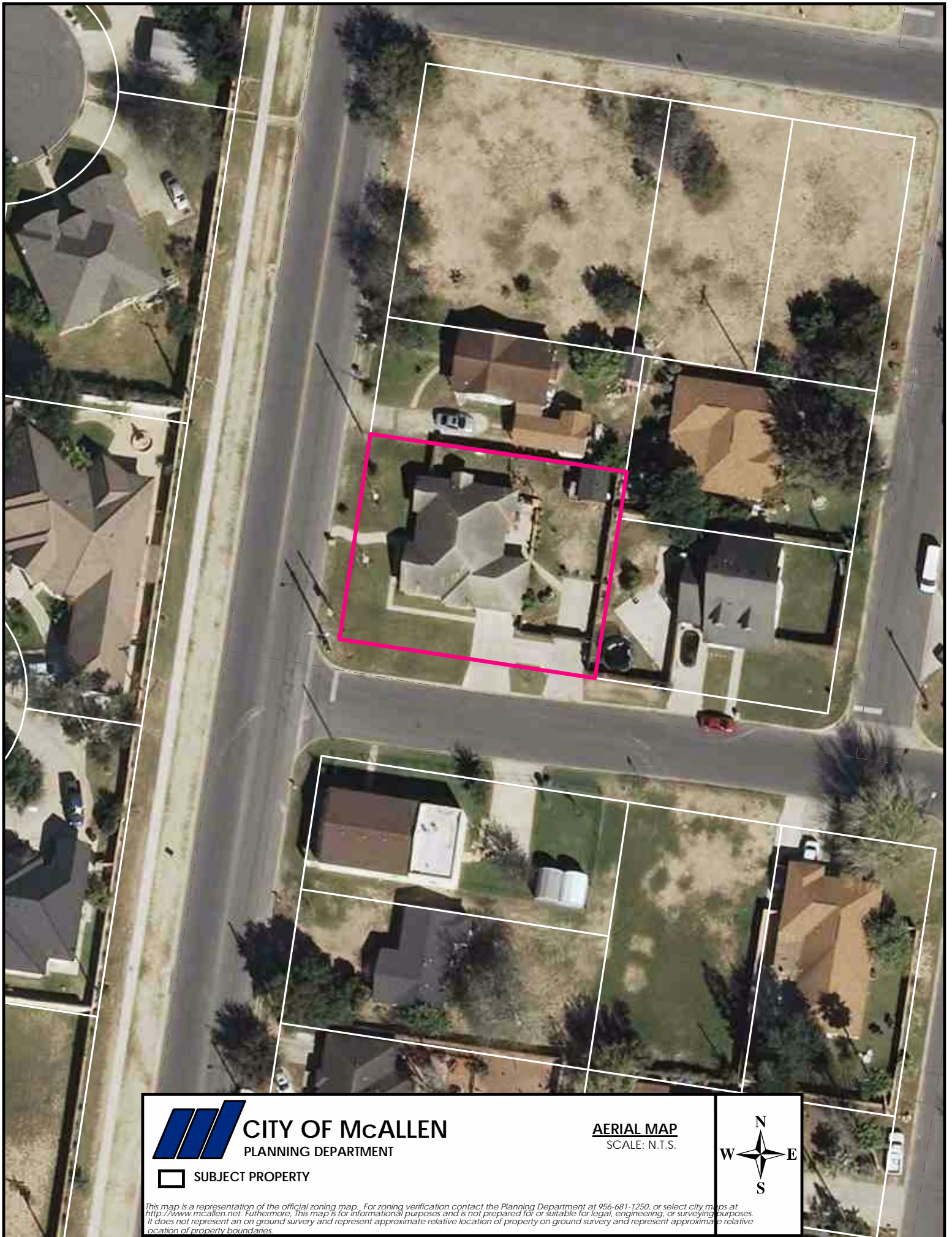
□ SUBJECT PROPERTY

⋯ 200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

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

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

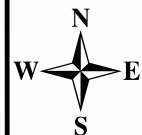


CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.



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NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2019-0060

3113



MEMO

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: February 28, 2020

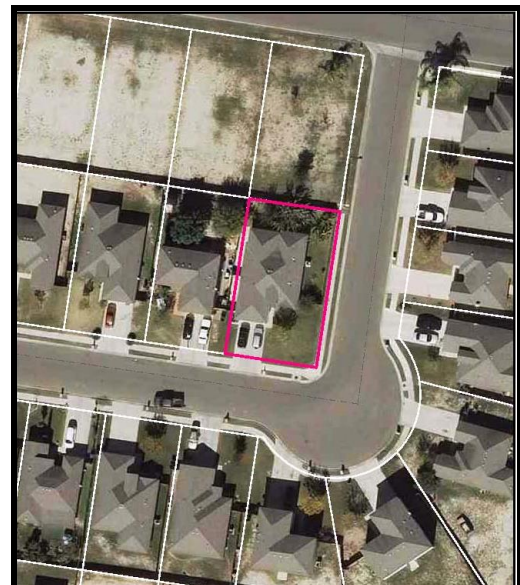
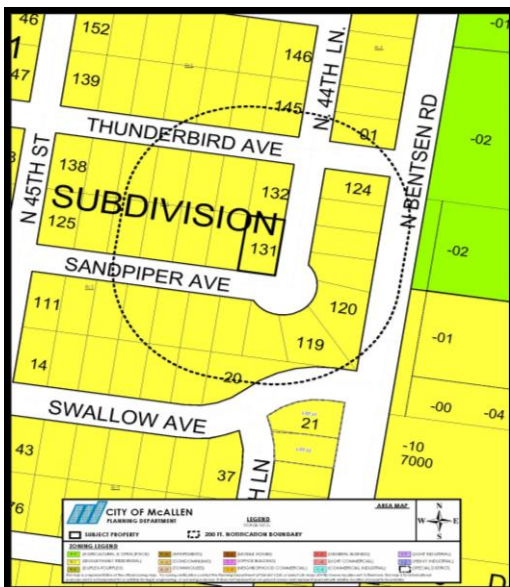
SUBJECT: REQUEST OF ORALIA RODRIGUEZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 25 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR A WOODEN CARPORT WITH DECORATIVE COLUMNS MEASURING 25.0 FT. BY 20.0 FT., AT LOT 131, PLANTATION GAP SUBDIVISION PHASE 1, HIDALGO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

REASON FOR APPEAL:

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

PROPERTY LOCATION AND VICINITY:

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



BACKGROUND AND HISTORY:

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

ANALYSIS:

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

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

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

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

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

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

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

RECOMMENDATION:

Staff recommends to table item as requested by the applicant.

ZBA 2019-0007

ZBA
11/20/19.



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

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

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

Ret # 226701 Pd \$350



City of McAllen Planning Department

REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

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

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

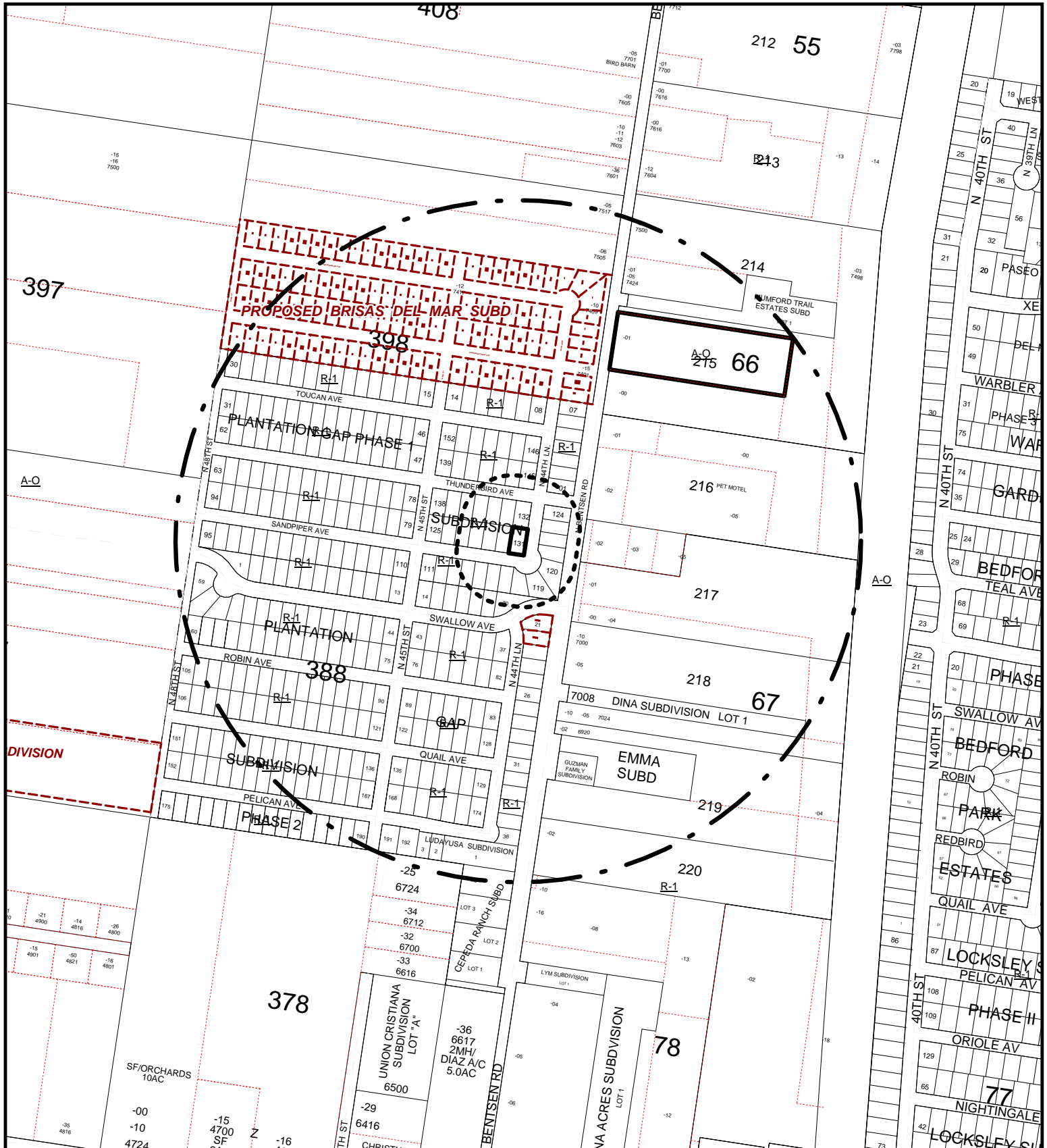
De antemano, muchas gracias por atencion a mi solicitud.

Rufo Rodriguez

Board Action

Chairman, Board of Adjustment
Signature

Date



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND

SCALE: 1" = 500'

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

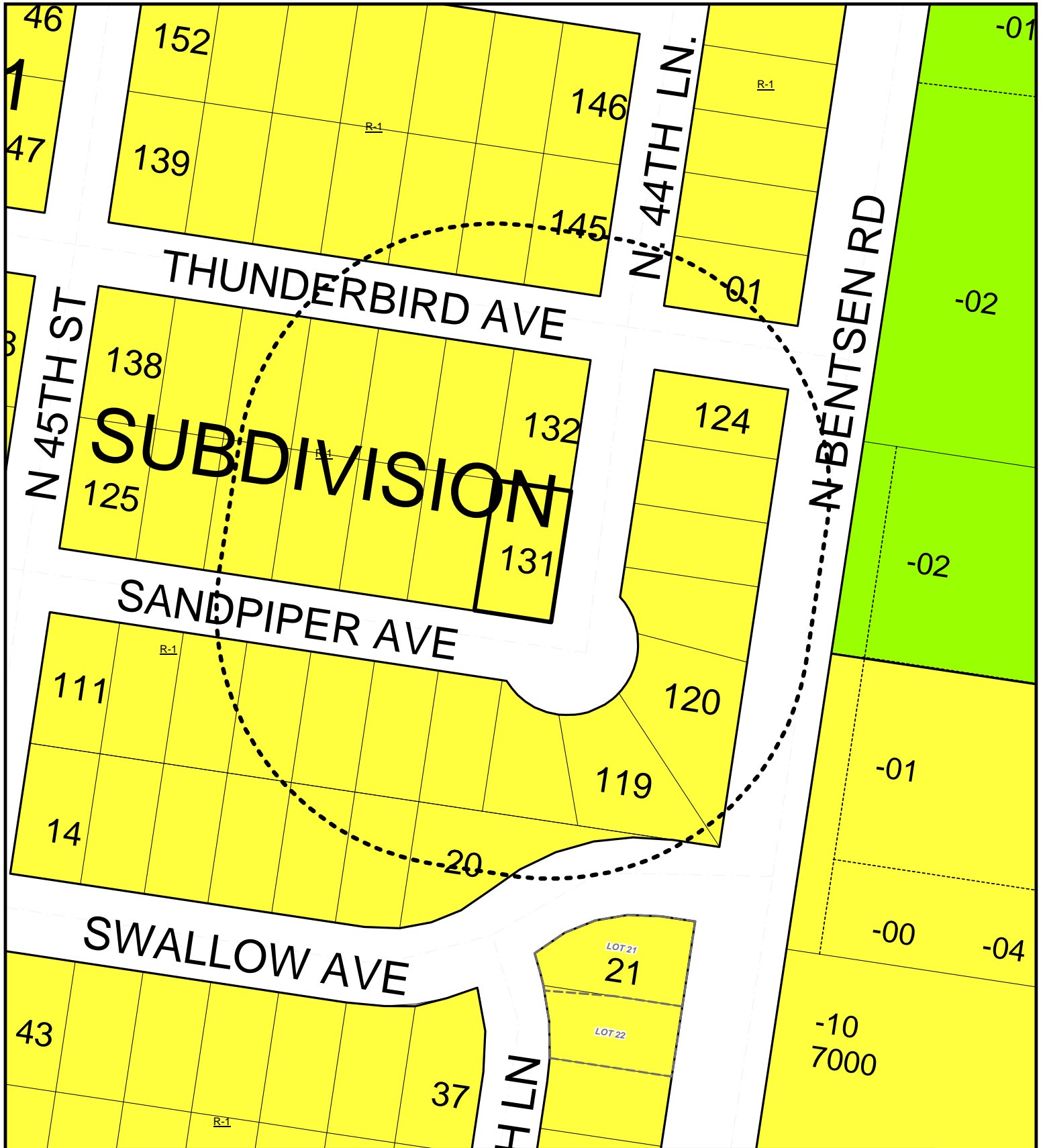
1/4 MILE RADIUS




ZONING LEGEND

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

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






CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

A-0 (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)
R-2 (DUPLIX-FOURPLEX)	R-31 (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)
			I-1 (LIGHT INDUSTRIAL)
			I-2 (HEAVY INDUSTRIAL)
			(SPECIAL DISTRICT)

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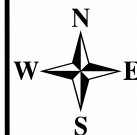


CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.

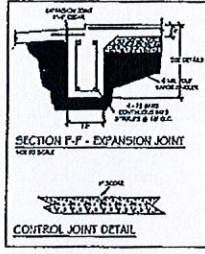
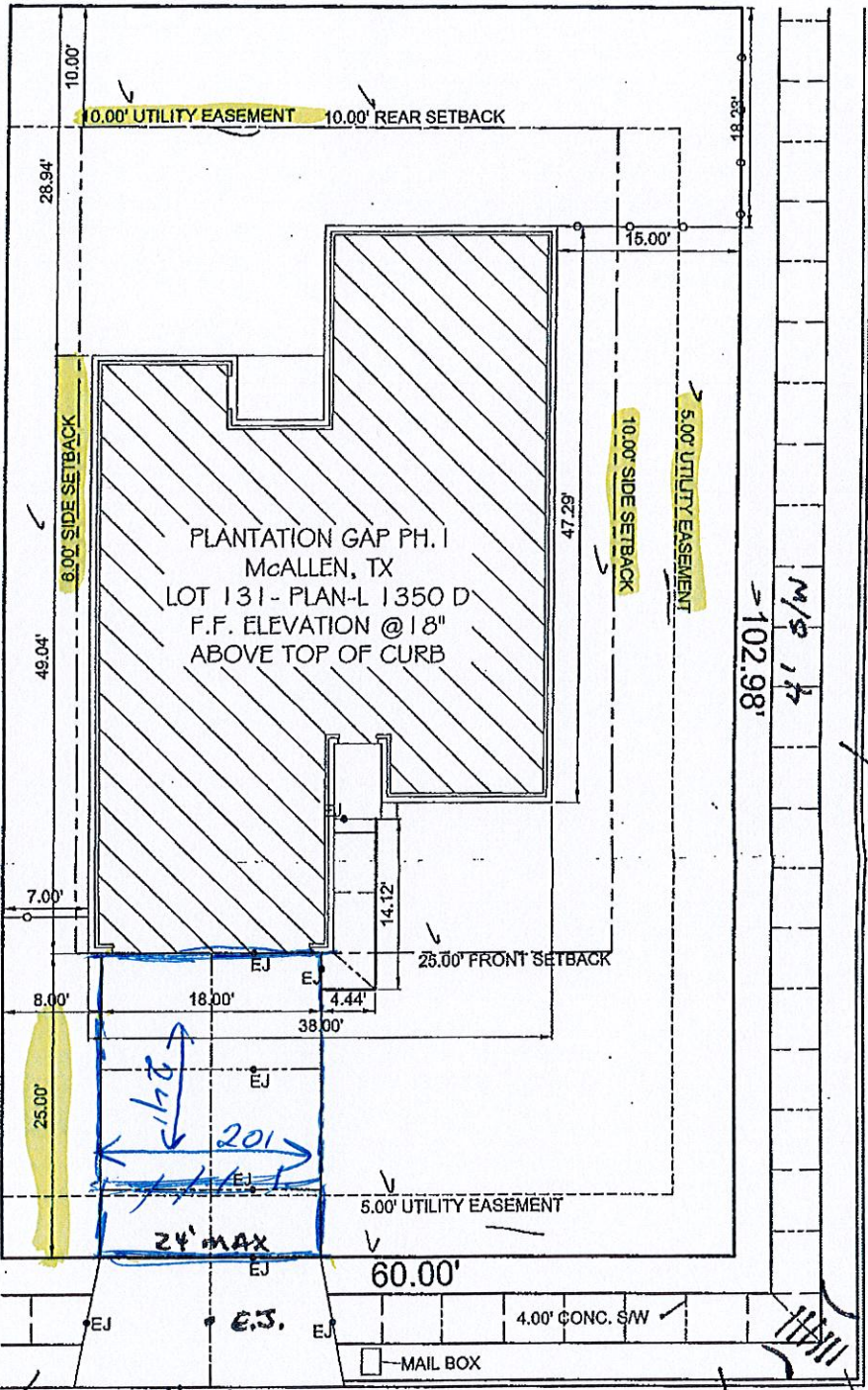


SUBJECT PROPERTY



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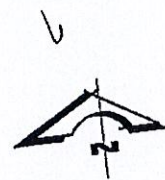
60.00



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

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

RECEIVED
 OCT 16 2019
 BY: L.G.

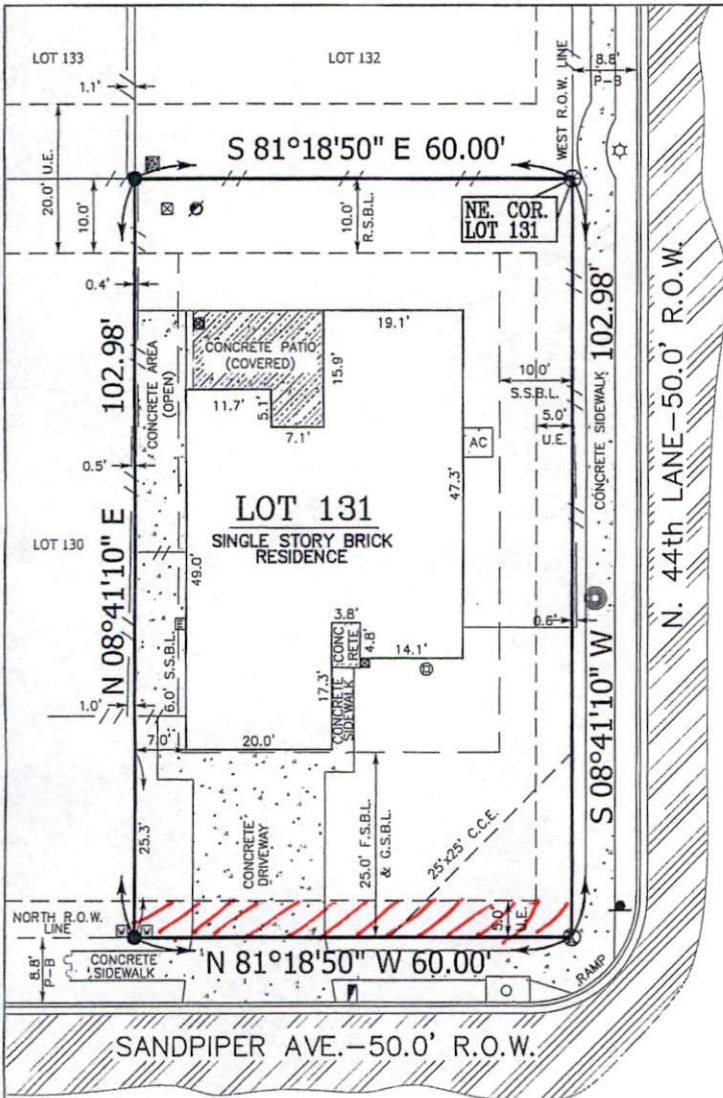


3' B.O.C. SANDPIPER AVENUE 3' B.O.C.

SITE PLAN
 SCALE: 1"=10'

ADA
 RR
 RAMP

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



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

SCALE: 1"=20'

LEGEND

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

FLOOD ZONE

ZONE "C"

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

NOTES:

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

ADDRESS: 4400 SANDPIPER AVE.
 McALLEN, TEXAS 78504

BORROWER:

ALFREDO RODRIGUEZ

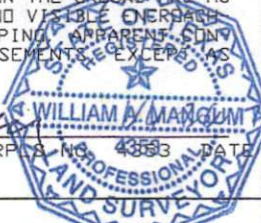
BORROWER:

ORALIA RODRIGUEZ

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

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

William A. Mangum
 WILLIAM A. MANGUM, R.P.A. NO. 4353 DATE



W & L MANGUM SURVEYING

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

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

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

© COPYRIGHT 2017 W & L MANGUM SURVEYING ALL RIGHTS RESERVED



4400

NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2019-0057

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









CITY OF McALLEN

JAMES E. DARLING, Mayor
VERONICA WHITACRE, Mayor Pro Tem & Commissioner District 6
JAVIER VILLALOBOS, Commissioner District 1
JOAQUIN J. ZAMORA, Commissioner District 2
J. OMAR QUINTANILLA, Commissioner District 3
TANIA RAMIREZ, Commissioner District 4
VICTOR "SEBY" HADDAD, Commissioner District 5

ROEL "ROY" RODRIGUEZ, P.E., City Manager

LEGAL NOTICE

You are hereby notified that there will be a public hearing before the Zoning Board of Adjustment and Appeals, created under the McAllen Zoning Ordinance (Chapter 138 of the McAllen Code of Ordinances) to be held at McAllen City Hall Commission Room, 3rd Floor, 1300 Houston Avenue, McAllen, Texas on **March 18, 2020 at 4:30 p.m.** to consider the following:

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

All interested citizens are invited to appear and be heard. If any accommodations for disability are required, please notify the Planning Department at (956) 681-1250 prior to the date of the meeting.

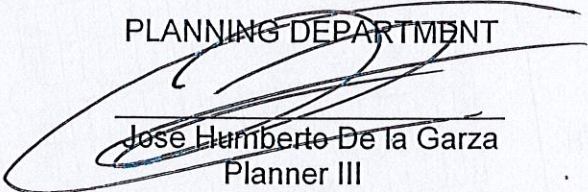
WITNESS MY HAND this 26th day of February, 2020.

Shape
your future
START HERE >

United States
Census
2020

Be Counted on
Census Day
April 1, 2020

PLANNING DEPARTMENT


Jose Humberto De la Garza
Planner III

AVISO LEGAL

Por medio de este aviso queda usted notificado que habrá una audiencia publica ante La Mesa Directiva De Ajustes Y Apelaciones, creado bajo la Ordenanza de Zonificación (Capítulo 138 del Código de Ordenanzas de la Ciudad De McAllen) que se llevará a cabo en el Palacio Municipal, en el tercer piso situado en la dirección 1300 Avenida Houston, McAllen, Texas, el **18 de marzo 2020**, a las **4:30 p.m.** para considerar lo siguiente:

Steve Barajas, a nombre Rodrigo Martinez Rodriguez ha solicitado una varianza a la Ordenanza de la Ciudad de McAllen que permita una invasión de 1.08 pies dentro del límite fijado de enfrente de la propiedad de 25 pies para una residencia unifamiliar en el Lote 46, Subdivisión "Idela Park Unit 2", Condado de Hidalgo, Texas; 5017 Calle 33 Sur (ZBA2020-0008)

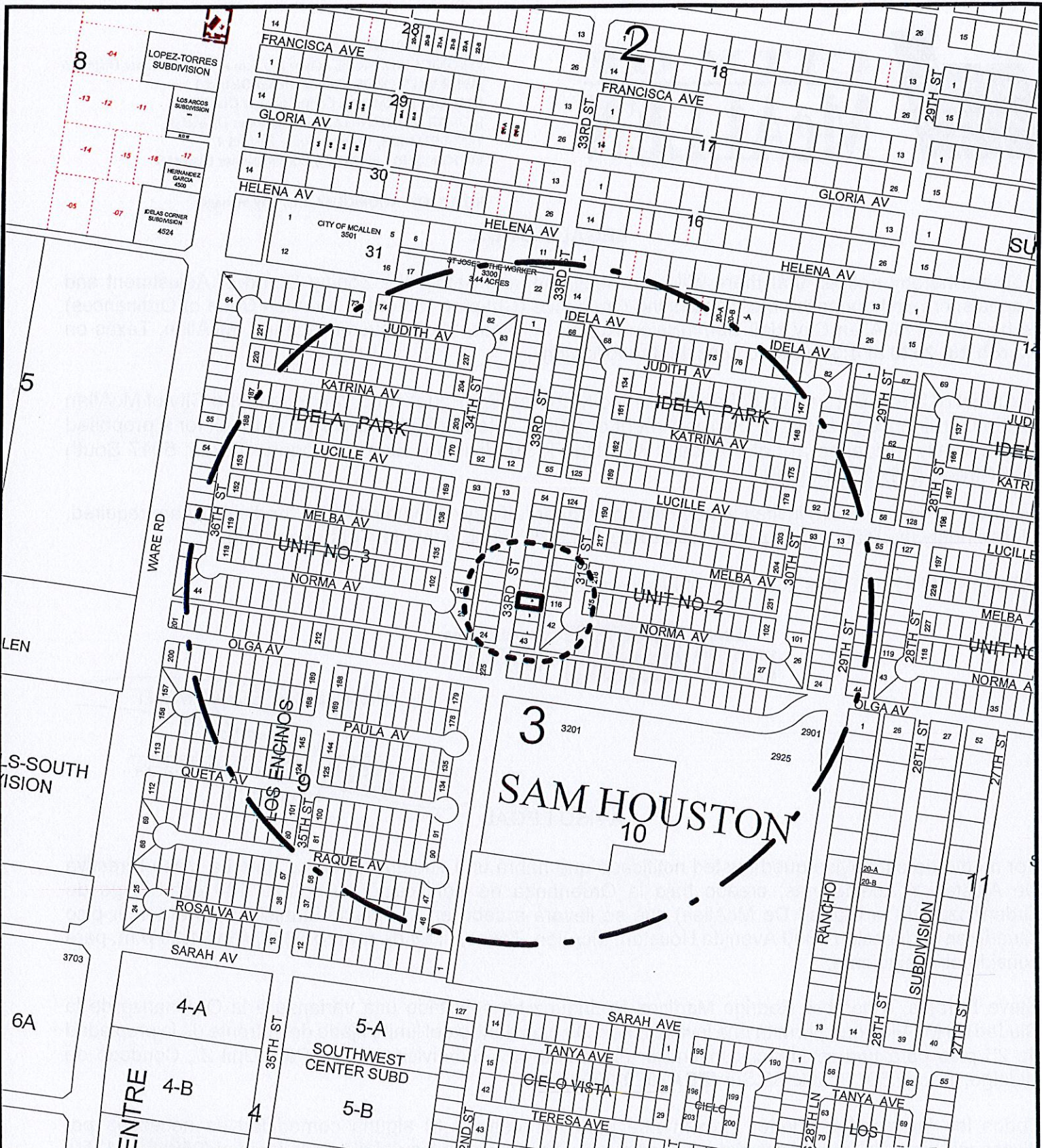
Todos los interesados pueden presentarse para expresarse. Si alguna comodidad es necesaria por discapacidad favor de notificar al departamento de Planeación antes del día de la junta al (956) 681-1250.


DOY FE FIRMANDO POR MI PUÑO Y LETRA este día 26 de febrero, 2020.

Forma
tu futuro
COMIENZA AQUÍ >

Censo
2020

Se Contado el Día Del Censo
1^{ero} de Abril 2020







CITY OF McALLEN
PLANNING DEPARTMENT


LEGEND
SCALE: 1" = 500'

AREA MAP






SUBJECT PROPERTY



200 FT. NOTIFICATION BOUNDARY



1/4 MILE RADIUS

ZONING LEGEND

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

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SOUTH...

EL PATRI...



CITY OF McALLEN

JAMES E. DARLING, Mayor
VERONICA WHITACRE, Mayor Pro Tem & Commissioner District 6
JAVIER VILLALOBOS, Commissioner District 1
JOAQUIN J. ZAMORA, Commissioner District 2
J. OMAR QUINTANILLA, Commissioner District 3
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VICTOR "SEBY" HADDAD, Commissioner District 5

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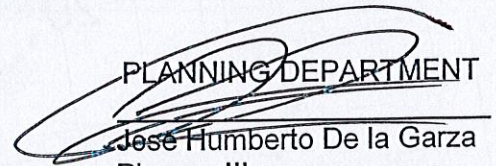
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Request of Jake Beasley on behalf of Glazer's Real Estate, LLC for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6.41 ft. into the 20 ft. setback required along Fox Avenue for a canopy measuring 150 ft.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

All interested citizens are invited to appear and be heard. If any accommodations for disability are required, please notify the Planning Department at (956) 681-1250 prior to the date of the meeting.

WITNESS MY HAND this 26th day of February, 2020.


PLANNING DEPARTMENT
Jose Humberto De la Garza
Planner III

Shape
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START HERE >



Be Counted on
Census Day
April 1, 2020

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Jake Beasley, a nombre Glazer's Real Estate, LLC ha solicitado las siguientes varianzas a la Ordenanza de la Ciudad de McAllen que permita una invasión de 6.41 pies dentro de límite fijado de 20 pies al lado Avenida Fox para un techo midiendo 150 pies por 55 pies, al Lote 5A, Lotes 4, 5, 6 y 7, Subdivisión "Map of International Center Block 3 Phase II", Condado de Hidalgo, Texas; 2000 Avenida Redbud **(ZBA2020-0010)**

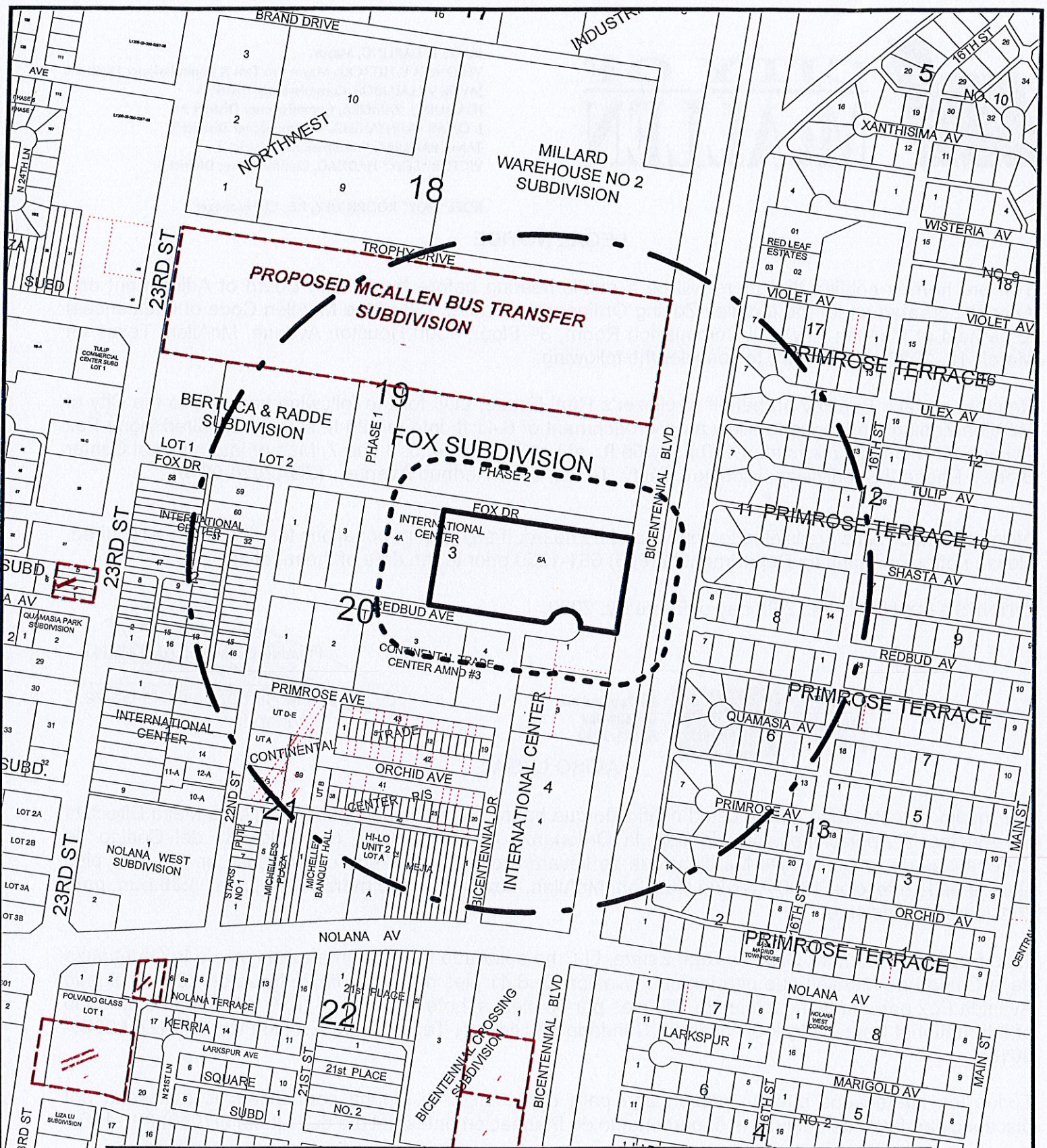
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DOY FE FIRMANDO POR MI PUÑO Y LETRA este día 26 de febrero, 2020.

Forma
tu futuro
COMIENZA AQUÍ >



Se Contado el Día Del Censo
1^{er}o de Abril 2020

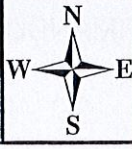




CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: 1" = 500'

AREA MAP



□ SUBJECT PROPERTY

⋮ 200 FT. NOTIFICATION BOUNDARY

○ 1/4 MILE RADIUS

ZONING LEGEND

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ORDINANCE NO. 2018- 70

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SIGNED this 9th day October, 2018.

CITY OF McALLEN

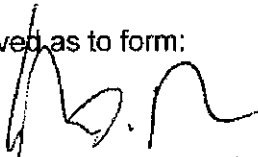
John Ingram, City Commissioner

Attest:



Perla Lara, TRMC/CMC, CPM
City Secretary

Approved as to form:



Austin W. Stevenson, Assistant City Attorney



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**.

Definitions

Table of Contents

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

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.

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.

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

2018 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

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

P - PRESENT

A - ABSENT

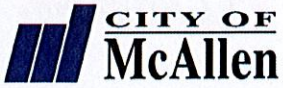
NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO REGULAR MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION



PLANNING DEPARTMENT

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



2020 CALENDAR

Meetings:

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

Deadlines:

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

* Holiday - Office is closed

JANUARY 2020

FEBRUARY 2020

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

MARCH 2020

APRIL 2020

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

MAY 2020

JUNE 2020

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

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

2020 CALENDAR

Meetings:

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

Deadlines:

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

* **Holiday** - Office is closed

JULY 2020

AUGUST 2020

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

SEPTEMBER 2020

OCTOBER 2020

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

NOVEMBER 2020

DECEMBER 2020

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

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.