

AGENDA

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING
WEDNESDAY, OCTOBER 5, 2016 - 5:30 PM
MCALLEN CITY HALL, 1300 HOUSTON AVENUE
CITY COMMISSION CHAMBERS, 3RD FLOOR**

CALL TO ORDER - JORGE SALINAS, CHAIRPERSON

1. MINUTES:

- a) Minutes for regular meeting held on September 21, 2016.

2. PUBLIC HEARINGS:

- a) Request of Frank X. Castaneda to allow a variance to the City of McAllen Zoning Ordinance: a front yard setback of 23.4 feet instead of 25 feet for a single family residence for Lot 55, Frontera Estates Subdivision Phase II, Hidalgo County, Texas; 8808 North 21st Street. **(ZBA2016-0055)**

- b) Request of Juan Reyes to allow the following special exception to the City of McAllen Off-Street Parking and Loading Ordinance: to allow 37 parking spaces instead of the required 58 parking spaces for a mixed commercial development, Lot 1, Rooth Crossing Subdivision, Hidalgo County, Texas; 2825 Pecan Boulevard. **(ZBA2016-0054)**

- c) Request of Halff Associates, Inc. to allow a variance to the City of McAllen Zoning Ordinance: a side yard setback of 25 feet instead of 50 feet for a proposed building addition and equipment installation within an area of 25 feet by 293.16 feet, for Lot 1, Sharyland Business Park Phase 1 Subdivision, Hidalgo County, Texas; 6800 South International Parkway. **(ZBA2016-0053) (TABLED UNTIL 10/5/2016)**

3. DISCUSSION:

4. INFORMATION ONLY:

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

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, September 21, 2016 at 5:35 p.m. in the City Commission Meeting Room with the following present:

Present:	Jorge Salinas	Chairperson
	Mike Harms	Vice-Chairperson
	Erick Diaz	Member
	Terry Perez	Member
	Jose R. Gutierrez	Alternate
Absent:	Rolando Ayala	Member
	Sylvia Hinojosa	Alternate
Staff Present:	Julianne Rankin	Director of Planning
	Michelle Leftwich	Assistant City Manager
	Victor Flores	Assistant City Attorney
	Rodrigo Sanchez	Planner II
	Allan Garces	Planner I
	Carmen White	Secretary

CALL TO ORDER – Jorge Salinas, Chairperson

1) MINUTES:

- a) Minutes for Regular Meeting held on September 7, 2016.

The minutes for the meeting held on September 7, 2016 were approved. The motion to approve the minutes was made by Ms. Terry Perez. Mr. Jose Gutierrez seconded the motion which carried unanimously with five members present and voting.

2) PUBLIC HEARINGS:

- a) Request of Jose Pena for the following variance to the City of McAllen Zoning Ordinance: a front yard setback of 20.2 feet instead of 30 feet for an existing two story apartment complex, for Lot 1, Block 8, Larkspur Subdivision Unit No. 2, Hidalgo County, Texas; 1519 Nolana Avenue. **(ZBA2016-0051)**

Mr. Sanchez stated the applicant requested a variance to provide a front yard setback of 20.2 feet instead of 30 feet for an existing two story apartment building. The front yard setback complied with building permit requirements issued in 1975. The applicant was requesting a variance in order to finance the sale of the property. The property was located at the southeast corner of Nolana Avenue and 16th Street. The property had 93.7

feet of frontage along Nolana Avenue and a depth of 120 feet for a tract size of 11,244 square feet. The property was zoned R-2 (duplex-fourplex residential) District. The adjacent zoning was R-2 (duplex-fourplex residential) District to the east, west, and north and R-1 (single family residential) District to the south. Surrounding land uses were apartments, duplex, and single family residence. The subject property contained a 4 unit apartment building and a 6 unit apartment building. Larkspur Subdivision, Unit No. 2 was recorded on February 12, 1962. The front yard building setback shown on the plat was 30 feet. The property was originally zoned Residence "B" District "B" area district under the 1945 Zoning Ordinance which permitted apartment use. A building permit was issued in 1975 with a front yard setback of 20 feet for the 6 unit apartment building. An application for a variance request to allow a front yard setback of 20.2 feet instead of 30 feet for the 6 unit apartment building was submitted on August 20, 2016. The front yard setback for the subdivision was 30 feet as per plat. The property was zoned Residential B-B District under the 1945 Zoning Ordinance as amended with a required front yard setback of 30 feet. No variances are on file for the property with front yard setback of 20 feet. A building permit was issued with a front yard setback of 20 feet. Public response from property owners in the notice area consisted of 2 calls to city staff with concerns regarding lack of property maintenance and possible unauthorized vehicles on the property.

Staff recommended approval of the variance request limited to the footprint of the encroachment on the survey.

Board member Jose Gutierrez inquired of staff the request for the petition. Staff responded it may be requirement for financing but stated the applicant would explain further.

Board member Jose Gutierrez inquired of staff if the buyer of the property had intentions of building more apartments in addition to what was already there. Staff responded that no such intention had been stated.

Board member Erick Diaz inquired of staff the property was zoned in 1945 with a 30 foot setback, the building permit was issued in 1975 with a 20 foot setback, at that time they didn't have any variance process. Staff responded they were not able to find any variances for this.

Mr. Jose Pena, the applicant, stated he bought the property 10-15 years ago and his bank never required any variance for survey. He stated he was selling the property and the bank which was financing to a new buyer indicated there was a 10 foot encroachment. In order for the bank to finance they need to get a variance in order not to tear down the front of the apartment.

Chairperson Jorge 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 Jorge Salinas inquired if there was anyone present to speak against the

variance request.

Mr. Michael Fallek, 1606 Marigold Avenue, lived behind the property. He stated he was not opposed to the request but wanted to state on record to not allow any increase in density. The property was not well cared for and needed better maintenance.

Board member Terry Perez inquired of staff as to the building permit that was issued at 20 feet instead of 30 feet. Staff stated they couldn't find records related to the reason behind the 20 foot setback. Staff stated the approval for this variance request was recommended because of previous approval of the building permit.

Staff stated the zoning did not allow further increase in density and as it stands now it was non-conforming to the current zoning. At that time, the zoning did allow opt use.

The applicant, Mr. Jose Pena, stated they didn't have much space and could not increase the density or build more apartments.

Ms. Terry Perez **moved** to approve the variance request subject to the footprint of the existing structure. Mr. Erick Diaz seconded the motion. The board voted unanimously to approve the variance request with five members present and voting. Vice-Chairperson Mike Harms voted nay. 4 voted aye.

- b) Request of Walid Haidar to allow the following variance to the City of McAllen Zoning Ordinance: to allow work within 12 consecutive months to an extent exceeding ten percent of the current replacement cost of the non-conforming structure or the nonconforming portion of the structure for the East 152 feet of Lot 6, Country Club Acres Subdivision, Hidalgo County, Texas; 1900 South 10th Street. **(ZBA2016-0052)**

Mr. Sanchez stated the applicant requested a variance to permit work within 12 consecutive months to an extent exceeding ten percent of the current replacement cost of the non-conforming structure in order to repair damage caused by a fire to the International House of Pancakes (IHOP) restaurant. The subject property was located at the southwest corner of South 10th Street and Savannah Avenue. The lot had 124 feet of frontage on 10th Street and a depth of 152 feet for a total size of 18,848 square feet or .43 acres. The property was currently zoned C-3 (general business) District. Adjacent zoning is C-3 (general business) District in all directions. The International House of Pancakes (IHOP) restaurant was located on the property. Adjacent land uses are Santa Fe Steak House, Montalvo Jewelers, D'Nails Salon, Casa de Cambio, National Capital Bank, McDonald's, and La Parral Adult Day Care. Country Club Acres Subdivision was recorded on December 2, 1926. The existing building was constructed in 1972 under the 1945 zoning ordinance in compliance with setback requirements. The existing building was damaged due to a fire and reconstruction needs to be undertaken. An application for a demolition permit for a roof structure was submitted on August 16, 2016. An application for a building permit for the proposed reconstruction has not been submitted. Article III Nonconforming structures – Section 138-89(a). Repairs and Maintenance. 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, as the case may be. The repair cost estimate provided by the applicant was \$333,000. The destruction damage incurred in terms of cost will exceed more than 10% of its replacement cost.

Staff recommended approval of the variance request.

Vice-Chairperson Mike Harms abstained from this item.

Chairperson Jorge Salinas stated to the applicant since there were only four board members present he would be given the opportunity to be either heard by four board members or wait to be heard by a full board.

Mr. Fred Harms, the applicant, stated he would like to move forward. The applicant stated he didn't have much to add since the request was well described by staff.

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

Ms. Terry Perez **moved** to approve the variance request as per staff's recommendation. Mr. Erick Diaz seconded the motion. The board voted to approve the variance request with four members present and voting.

- c) Request of Rafael Sanchez to allow the following variances to the City of McAllen Zoning Ordinance: **1)** a rear yard setback of 12 feet instead of 25 feet for a proposed canopy measuring 15 feet by 10 feet, and **2)** a separation of 5 feet instead of 12 feet between an accessory building and the main building in the rear yard, for Lot 43, Paseo del Rio Subdivision, Hidalgo County, Texas; 4113 Tyler Avenue. **(ZBA2016-0050)**

Mr. Garces stated the applicant was requesting variances for 1) a rear yard setback of 10.5 feet instead of 25 feet and 2) a separation between an accessory building and the main building of 5 feet instead of the required 12 feet in order to construct a canopy structure. The subject property is located along the south side of Tyler Avenue, 67 feet east of South 42nd Street. The property had 64 feet of frontage along Tyler Avenue, and has a depth of 130 feet for a tract size of 8,320 square feet. The property was zoned R-1 (single family residential) District. Adjacent zoning was R-1 District in all directions and A-O (agriculture-open space) District to the south. A single family residence was located on the property. Surrounding land uses were single family residences and vacant lots. The subdivision plat for Paseo Del Rio Subdivision was recorded on June 2, 2005. The

subdivision plat indicated a rear yard setback of 25 feet for the subject property since the lot has frontage on Ulvade Avenue. A variance application was submitted on August 4, 2016 for a proposed canopy in the rear yard setback. At the meeting of July 20, 2016, the Board voted to approve a rear yard setback of 10 feet instead of 25 feet for a swimming pool measuring 10 feet by 24 feet on the subject property as shown in the submitted site plan. At the meeting of September 7, 2011, the Board approved a rear yard encroachment of 11 feet for a canopy measuring 12 feet by 24 feet for Lot 39 Paseo del Rio Subdivision. The Zoning Ordinance required the front yard setback on both streets for lots having double frontage. The purpose of the front yard setback on both street was to separate the residential structure from traffic and noise from collector roadways. The front and rear yard setback for Lot 43 was 25 feet. A 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. A 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 (Section 138-1 Definitions).

An accessory building, however, shall be no closer than 12 feet to the main building and must maintain the required rear setback of the district in which it was located (Section 138-369 Rear yards). The applicant submitted a site plan showing a canopy structure 10 feet in width and 15 feet in length. Variance #1 was required as the canopy structure addition to the main building cannot be in compliance with the rear yard setback due to the current building coverage of the rear yard. The proposed canopy will not encroach into the side yard setback and will not encroach into the 10 feet utility easement on the south side. The applicant met the minimum R-1 District rear yard setback of 10 feet. Variance #2 was required as the proposed canopy structure is 5 feet from the main building and did not comply with the required accessory building separation of 12 feet. Staff spoke with the applicant and suggested modifications to connect the canopy structure in order to be in substantial compliance requiring only variance #1. The applicant stated that the variances requested will stay as proposed.

Staff recommended approval of variance #1 and variance #2 since it met minimal R-1 District requirement and the utility easement prohibited construction to the south.

Chairperson Jorge Salinas inquired of staff of the tabling of variance request #2. Staff stated at the time when the memo was sent there was to be discussion on variance request #2 of possibly changing ordinance from 12 feet to 5 feet for the separation by Board of Commissioners. But staff changed the recommendation to approval since the discussion meeting changed to another date.

At this time, Board member Jose Gutierrez will translate for the board.

Mr. Rafael Sanchez, the applicant, stated he wanted a gazebo in addition to the swimming pool which he had built and to retire there with their grandson.

Chairperson Jorge 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.

Ms. Terry Perez **moved** to approve the variance request as recommended by staff. Mr. Jose Guterrez seconded the motion. The board voted unanimously to approve the variance request with five members present and voting.

- d) Request of Halff Associates, Inc. to allow a variance to the City of McAllen Zoning Ordinance: a side yard setback of 39.86 feet instead of 50 feet for a proposed building addition measuring 68.8 feet by 40.5 feet, for Lot 1, Sharyland Business Park Phase 1 Subdivision, Hidalgo County, Texas; 6800 South International Parkway. **(ZBA2016-0053) (TABLED: 10/5/2016)**

Mr. Sanchez stated this item had been requested to be tabled by the applicant.

Ms. Terry Perez **moved** to table the item until the meeting of October 5, 2016. Vice-Chairperson Mike Harms seconded the motion. The board voted unanimously with five members present and voting.

- e) Request of Jose G. Figueroa to allow a variance to the City of McAllen Zoning Ordinance: a front yard setback of 0 feet instead of 15 feet for a proposed carport measuring 15 feet by 18 feet for Lot 22, Fairway Grande Village Unit No. 1 Subdivision, Hidalgo County, Texas; 3000 South Casa Linda Street. **(ZBA2016-0047) (TABLED: 9/7/2016 UNTIL 9/21/2016)**

Mr. Jose Gutierrez made a motion to remove the item from the table. Ms. Terry Perez seconded the motion. The board voted unanimously to remove the item from the table with five members present and voting.

Mr. Sanchez stated the applicant requested a variance to allow front yard setback of 0 feet instead of 15 feet for Lot 22 as required by plat note in order to build a steel and canvass carport. The reason for the carport stated by the applicant was health problems by his daughter whom needs protection from the changes in temperature and protection from inclement weather. The carport construction was started and the metal frame was built. The property was located along the west side of South Casa Linda Street at Nassau Avenue. The property had 50 feet of frontage along South Casa Linda Street and a depth of 90 feet for a tract size of 4,500 square feet. The property was zoned R-3T (multifamily residential townhouse) District. The adjacent zoning w R-3T District to the south and east, A-O (agriculture-open space) District to the west, and R-1 (single family residential) District to the north. Surrounding land use is townhomes and single family residences. The subject property contained a townhouse residence. The plat for Amended Map of Fairway Grande Village Unit No.1 Subdivision was recorded on April 18, 1977. The plat for this subdivision indicates a 6 foot side yard setback and 15 foot front yard setback. The zoning for Lots 1-22 and 27 to 57 was R-3T (multifamily residential townhouse) District and for lots 23 to 26 was R-1 (single family residential) District. At a retreat on July 11,

2014, the Board of Commissioners held a lengthy discussion on carport variances within the front yard emphasizing greater enforcement to reduce carports in the front yard. The Board of Commissioners held a joint workshop with the Zoning Board of Adjustment on September 8, 2014 and discussed greater enforcement, citations, fines and public information to reduce the number of carport variances in the front yard. The applicant states he hired a contractor to build the proposed carport and the contractor did not inform him that a building permit was required. A stop work order was posted by Building Inspection staff on July 19, 2016. A building permit application and a variance request application were submitted on July 27, 2016. A townhouse with a carport to the property line was not in character with the townhouse development of the subdivision. The front yard setbacks are important in establishing the character of a residential neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. There were no other carports currently constructed within the front yard in this subdivision along South Casa Linda Street. A two car garage was available and provides parking for a vehicle for the daughter and provide protection from inclement weather. Setbacks shown on the subdivision plat could only be changed by a "vacate and replat" process approved by the Planning and Zoning Commission.

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF SEPTEMBER 7, 2016:

At the Zoning Board of Adjustment and Appeals meeting of September 7, 2016 no one appeared in opposition of the variance request. The Board unanimously voted to table the variance request until the meeting of September 21, 2016 in order to allow time for the applicant to consider a reduction in the encroachment of the proposed carport. There were five members present and voting.

Staff recommended disapproval of the variance request.

Board member Mr. Jose Gutierrez inquired of staff if they had seen the new proposal. Staff stated the applicant did not submit a revised site plan but verbally stated before the meeting his intentions.

Mr. Jose G. Figueroa, the applicant, stated he was proposing to reduce the request for the carport by 3 feet from 15 feet to 12 feet.

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

Board member Mr. Jose Gutierrez inquired of staff if there were any other carports in the vicinity. Staff stated he drove along South Casa Linda Street and had not noticed any other carports.

Mr. Jose Gutierrez **moved** to disapprove the variance request. Ms. Terry Perez seconded the motion. The board voted unanimously to disapprove the variance request with five members present and voting.

3. DISCUSSION: None

ADJOURNMENT

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

The meeting was adjourned at 6:15 p.m.

Chairperson
Jorge Salinas

Carmen White, Secretary

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: October 5, 2016

SUBJECT: REQUEST OF FRANK X. CASTANEDA TO ALLOW A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE: A FRONT YARD SETBACK OF 23.4 FEET INSTEAD OF 25 FEET FOR A SINGLE FAMILY RESIDENCE FOR LOT 55, FRONTERA ESTATES SUBDIVISION PHASE II, HIDALGO COUNTY, TEXAS; 8808 NORTH 21ST STREET. (ZBA2016-0055)

GOAL:

The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. McAllen Code of Ordinances Section 138-43(4).

REASON FOR APPEAL

The applicant requests a variance to allow a front yard setback of 23.4 feet and 24.6 feet instead of 25 feet for two encroachments into the front yard setback. The encroachments were determined by a survey during construction of the single family residence.

PROPERTY LOCATION AND VICINITY:

The subject property is located along North 21st Street, 126 feet north of Jefferson Avenue. The property has 88.66 feet of frontage along North 21st Street and a depth up to 124 feet for a tract size of 10,090 square feet. The property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. A single family residence is currently under construction on the subject property. The surrounding land use is single family residential.

BACKGROUND AND HISTORY:

Frontera Estates Phase II Subdivision was recorded on May 4, 2006. The plat for this subdivision indicates a front yard of 25 feet. A building permit was issued July 18, 2016 and variance application was submitted September 7, 2016 for an inadvertent encroachment into the front yard setback.

ANALYSIS:

The first encroachment is located at the northwest corner of the garage and encroaches 1.5 feet or approximately 12 square feet into the front yard setback. The second encroachment is located at the southwest corner of the residence where bedroom #3 is located, and encroaches 5 inches into the front yard setback. The building's foundation inspection was approved on July 21, 2016 by the Building and Inspections Department.

The encroachments are not noticeable from North 21st Street. The variance is a minor encroachment and does not alter the character of the R-1 District or the intent of the ordinance. Staff has not received any calls in of opposition for the variance.

RECOMMENDATION:

Staff recommends approval of the variance as requested limited to the footprint of the building shown on the survey.

ZBA 1015114

ZBA 2016-0055

City of McAllen Planning Department

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

APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

Project	Legal Description <u>LOT 55</u>
	Subdivision Name <u>Frontera Estates^{Subdivision} Phase II</u>
Applicant	Street Address <u>8808 N 21 ST</u>
	Number of lots <u>1</u> Gross acres <u>.10</u>
	Existing Zoning <u>Residential R-1</u> Existing Land Use <u>Home / House</u>
	Reason for Appeal (please use other side if necessary) <u>Asking for acceptance of 1'6" encroachment along with 5" encroachment of Residence constructed</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
Owner	Name <u>Frank X. Castañeda</u> Phone <u>956-225-4191</u>
	Address <u>4708 Buddy Owens Suite F</u> E-mail <u>frankxcastaneda@yahoo.com</u>
	City <u>McAllen</u> State <u>TX</u> Zip <u>78504</u>
Authorization	Name <u>Jorge Gutierrez</u> Phone <u>956-227-2099</u>
	Address <u>413 Kiwi St</u> E-mail <u>jorgegp128@hotmail.com</u>
Office	City <u>McAllen</u> State <u>TX</u> Zip <u>78504</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>8/7/16</u> Print Name <u>Frank X. Castañeda</u> <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent
Office	Accepted by <u>[Signature]</u> Payment received by _____ Date _____
	RECEIVED SEP 07 2016 BY: <u>600415</u>



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

Front Yard Setback of 23.4' and 24.6' instead of 25'

Board Action

Chairman, Board of Adjustment
Signature

Date

Hidalgo CAD

Property Search Results > 704105 CASTANEDA FRANCISCO X for Year 2016

Property

Account

Property ID: 704105 Legal Description: FRONTERA ESTATES PH 2 LOT 55
 Geographic ID: F7550-02-000-0055-00 Agent Code:
 Type: Real
 Property Use Code:
 Property Use Description:

Location

Address: 8808 N 21ST ST MCALLEN, TX Mapsco:
 Neighborhood: FRONTERA ESTATES & FRONTERA ESTATES PH 2 Map ID: CML VOL 50 PG 107
 Neighborhood CD: F755000

Owner

Name: CASTANEDA FRANCISCO X Owner ID: 1029116
 Mailing Address: 601 TRENTON STE D NO 149 MCALLEN, TX 78504-2107 % Ownership: 100.0000000000%
 Exemptions:

Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$54,754	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0

(=) Market Value:	=	\$54,754	
(-) Ag or Timber Use Value Reduction:	-	\$0	

(=) Appraised Value:	=	\$54,754	
(-) HS Cap:	-	\$0	

(=) Assessed Value:	=	\$54,754	

Taxing Jurisdiction

Owner: CASTANEDA FRANCISCO X
 % Ownership: 100.0000000000%
 Total Value: \$54,754

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$54,754	\$54,754	\$0.00
CML	CITY OF MCALLEN	0.476300	\$54,754	\$54,754	\$260.79
DR1	DRAINAGE DISTRICT #1	0.095100	\$54,754	\$54,754	\$52.07
GHD	HIDALGO COUNTY	0.590000	\$54,754	\$54,754	\$323.05
JCC	SOUTH TEXAS COLLEGE	0.185000	\$54,754	\$54,754	\$101.29
R15	ROAD DIST 15	0.000000	\$54,754	\$54,754	\$0.00
SML	MCALLEN ISD	1.155000	\$54,754	\$54,754	\$632.41
SST	SOUTH TEXAS SCHOOL	0.049200	\$54,754	\$54,754	\$26.94
Total Tax Rate:		2.550600			
Taxes w/Current Exemptions:					\$1,396.55
Taxes w/o Exemptions:					\$1,396.56

Improvement / Building

No improvements exist for this property.

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.2372	10331.00	0.00	0.00	\$54,754	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2017		\$0	\$54,754	0	54,754	\$0 \$54,754
2016		\$0	\$54,754	0	54,754	\$0 \$54,754
2015		\$0	\$51,655	0	51,655	\$0 \$51,655
2014		\$0	\$51,655	0	51,655	\$0 \$51,655

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	7/8/2016 12:00:00 AM	WDV	WARRANTY DEED/VENDORS LIEN	CASTANEDA FRAN	GUTIERREZ JORGI			2730069
2	5/19/2014 12:00:00 AM	SAW	SPECIAL ASSUMPTION WD	CASTANEDA FRAN	CASTANEDA FRAN			2514371
3	12/1/2006 12:00:00 AM	WDV	WARRANTY DEED/VENDORS LIEN	MOFFITT JAMES M	CASTANEDA FRAN			1693047

Tax Due

Property Tax Information as of 09/12/2016

Amount Due if Paid on: 

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
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NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

Questions Please Call (956) 381-8466

Website version: 1.2.2.2

Database last updated on: 9/11/2016 11:52 PM

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Date: 9/7/16

To whom it may concern,

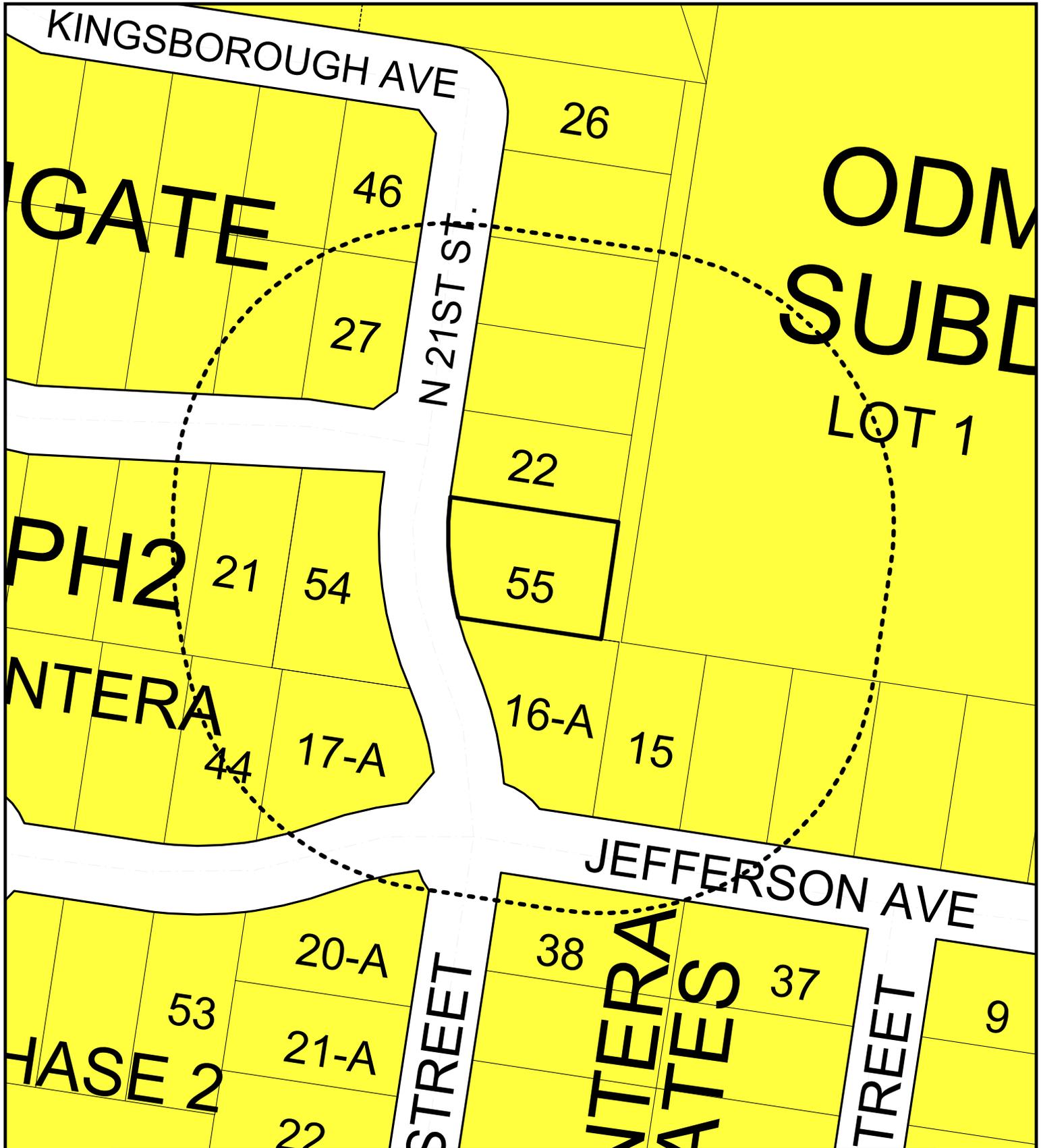
I Jorge Gutierrez owner of Lot 55 at Frontera Estates Phase 2 , address 8808 N 21 Street. Hereby allow Frank Castaneda to submit for variance, and to represent us at any time needed, also fully allow him to make any decisions to facilitate the application of variance acceptance .

Kind Regards,

A handwritten signature in black ink, appearing to read 'Jorge Gutierrez', written over a horizontal dashed line.

Jorge Luis Gutierrez

RECEIVED
SEP 07 2016
BY: CCO4.15





CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP

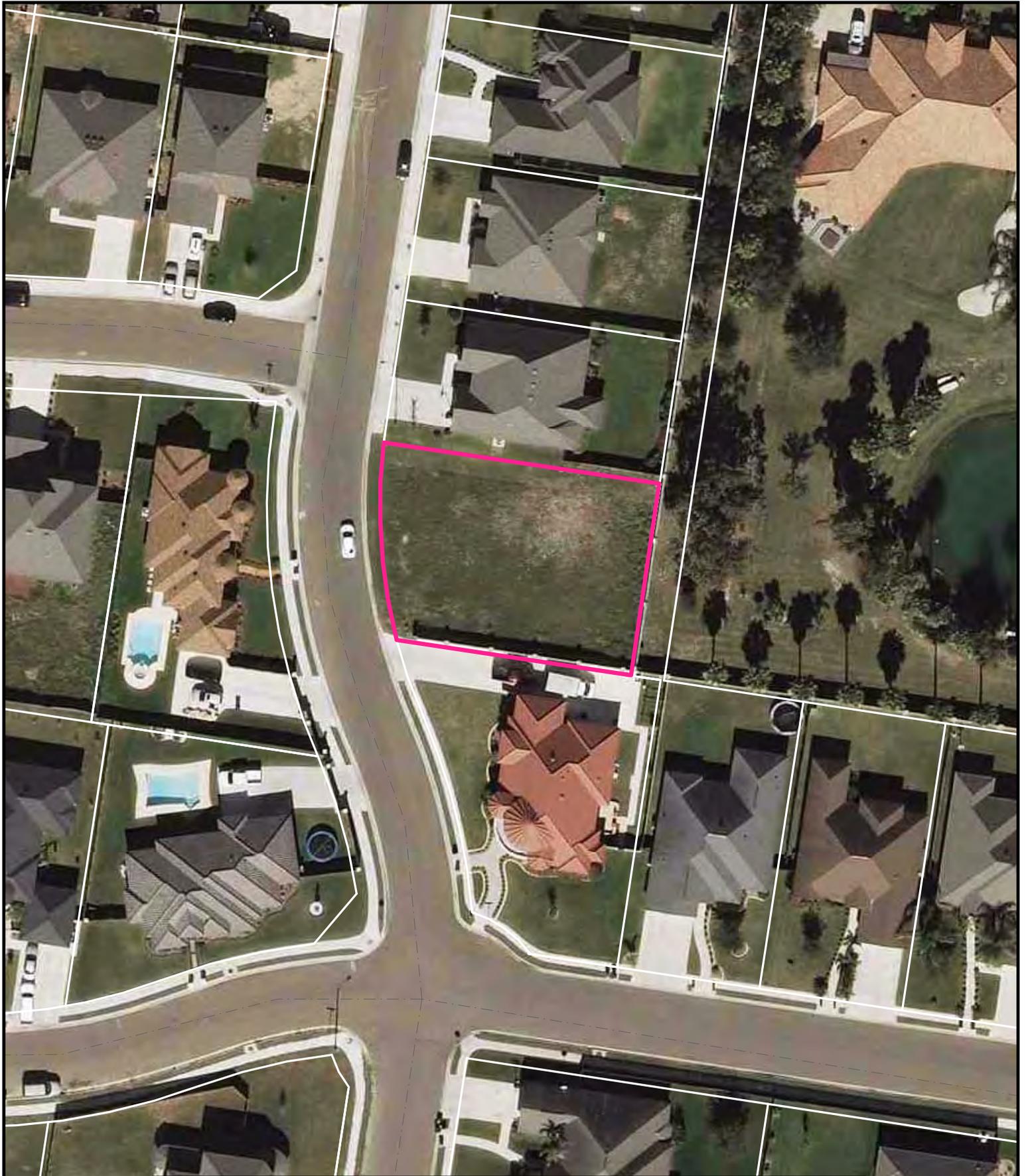


□ SUBJECT PROPERTY

⋯ 200 FT. NOTIFICATION BOUNDARY

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

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CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.



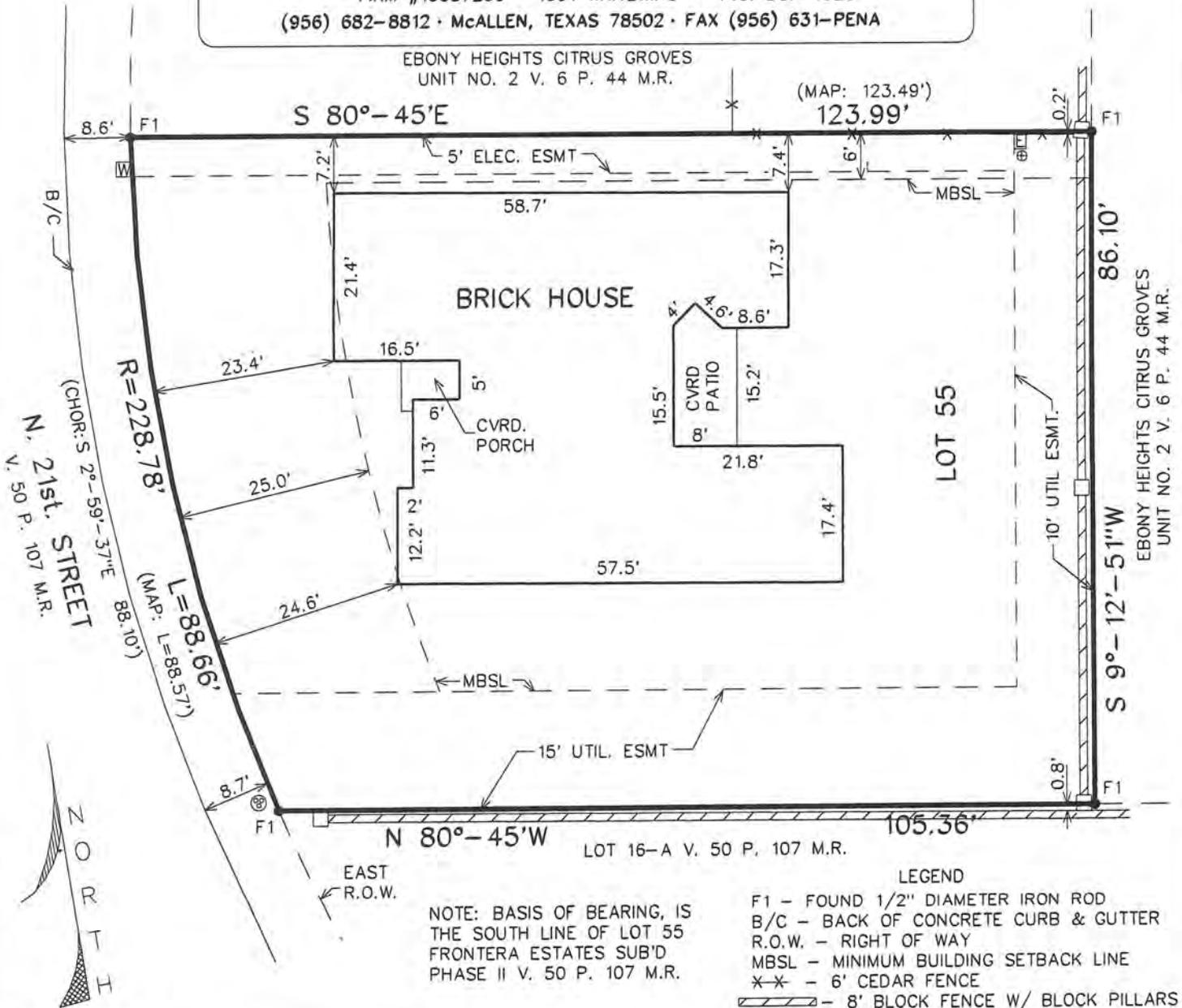
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PEÑA ENGINEERING

FIRM #10087200 • 1001 WHITEWING • P.O. BOX 4320
(956) 682-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA

EBONY HEIGHTS CITRUS GROVES
UNIT NO. 2 V. 6 P. 44 M.R.



SCALE: 1"=20'
CAD: FRONTERAEST2-55
JOB: 57852

EASEMENTS AS PER G.F. No. 0003167059
EFFECTIVE DATE: JUNE 6, 2016
ISSUED DATE: JUNE 14, 2016

NOTE: BASIS OF BEARING, IS
THE SOUTH LINE OF LOT 55
FRONTERA ESTATES SUB'D
PHASE II V. 50 P. 107 M.R.

LEGEND

- F1 - FOUND 1/2" DIAMETER IRON ROD
- B/C - BACK OF CONCRETE CURB & GUTTER
- R.O.W. - RIGHT OF WAY
- MBSL - MINIMUM BUILDING SETBACK LINE
- *-* - 6' CEDAR FENCE
- ▬ - 8' BLOCK FENCE W/ BLOCK PILLARS
- ⊕ - SANITARY SEWER MANHOLE
- ⊞ - ELEC. PEDESTAL
- ⊕ - TELEPHONE PEDESTAL
- ⊞ - WATER METER

10-B & H: BLANKET PIPELINE EASEMENT V. 386 P. 117 D.R. AND V. 396 P. 108 D.R.
10-N: EASEMENTS, RIGHTS, RULES, AND REGULATIONS IN FAVOR OF HIDALGO COUNTY
IRRIGATION DISTRICT NO. 1

BUYER'S NAME: Jorge Luis Gutierrez
Elizabeth Aranda Gutierrez

FLOOD ZONE: By GRAPHICAL PLOTTING Community Panel Number 480334 0325 D
Map Revised: June 6, 2000 LOMR May 17, 2001

- Zone "A" - This is to certify that this property is in a flood prone area.
- Zone "X" - This is to certify that this property is not in a flood prone area. However limits between the 100 year and 500 year flood are subject to flooding with average depths less than one foot.
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I certify that this plat represents the facts found on the ground at the time of survey and that there are no visible or apparent easements, discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements or visible easements except as shown on this plat. No subsurface utilities or service connections are shown, © copyright 2016 PENA ENGINEERING this survey was provided in multiple originals solely for the borrower named hereon, in conjunction with the original transaction which shall take place within 6 months after the survey was provided. No license has been created or implied to copy this Survey. Survey valid only if print has original seal and signature.

ADDRESS: 8808 N. 21st. St. McAllen, TX

LEGAL DESCRIPTION: Lot 55, FRONTERA ESTATES SUBDIVISION, PHASE II,
an addition to the City of McAllen, Hidalgo County, Texas

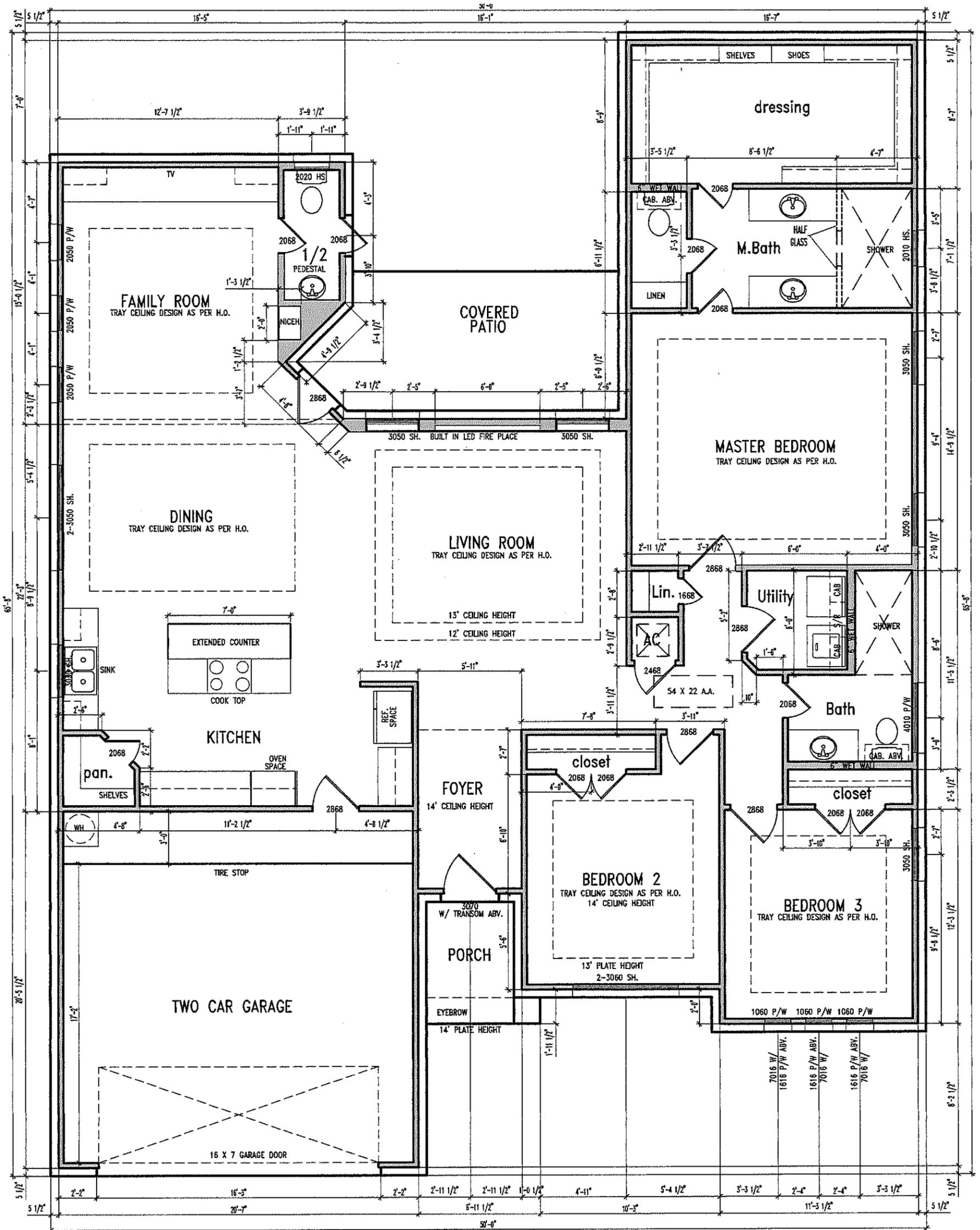
ACCORDING TO THE MAP RECORDED IN VOLUME 50 PAGE 107
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

Pablo Peña III

09/06/2016
DATE

PABLO PEÑA III
REG. PROFESSIONAL LAND SURVEYOR No. 5242

RECEIVED
SEP 07 2016
BY: SC04:15



AREAS				TOTAL SQUARE FEET : 2,695	
LIVING	2,092	SQ. FT.	PATIO	121	SQ. FT.
PORCH	37	SQ. FT.	GARAGE	446	SQ. FT.

Floor Plan

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

DATE: _____

DRAWN BY: Frank X. Castañeda
 Email address: frankccastaneda@yahoo.com
 Cell #: 956-225-4191

REVISED BY: _____

APPROVED BY: _____

AUDITED BY: _____

Mr. And . Mrs.
 Gutierrez
 Home Design



SHEET:

3

86.00'

10' REAR SETBACK

10' UTILITY EASEMENT

7.00'

50.00'

29.00'

123.49'

65.50'

6' SIDE SETBACK

PROPOSED

15' UTILITY EASEMENT

15' SIDE SETBACK

105.36'

3.00'

25' FRONT SETBACK

3.00'

DRIVEWAY / APRON
735 SF

3' CONC. WALK 253 SF

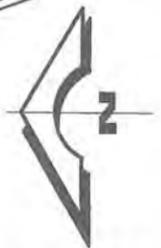
19.00'

88.57'

4' CONC. WALK 251 SF

28.00'

8808 N 21ST



SITE PLAN

SCALE: 1"=10'

SHEET:

1



Subdivision: Frontera Estates
Phase 2 Lot #55
McAllen, Texas

DRAWN BY: FRANK X CASTANEDA

CELL: 956-225-4191

EMAIL: FRANKXCASTANEDA@YAHOO.COM

APPROVED BY:

REVISED BY:

AUDITED BY:

RECEIVED

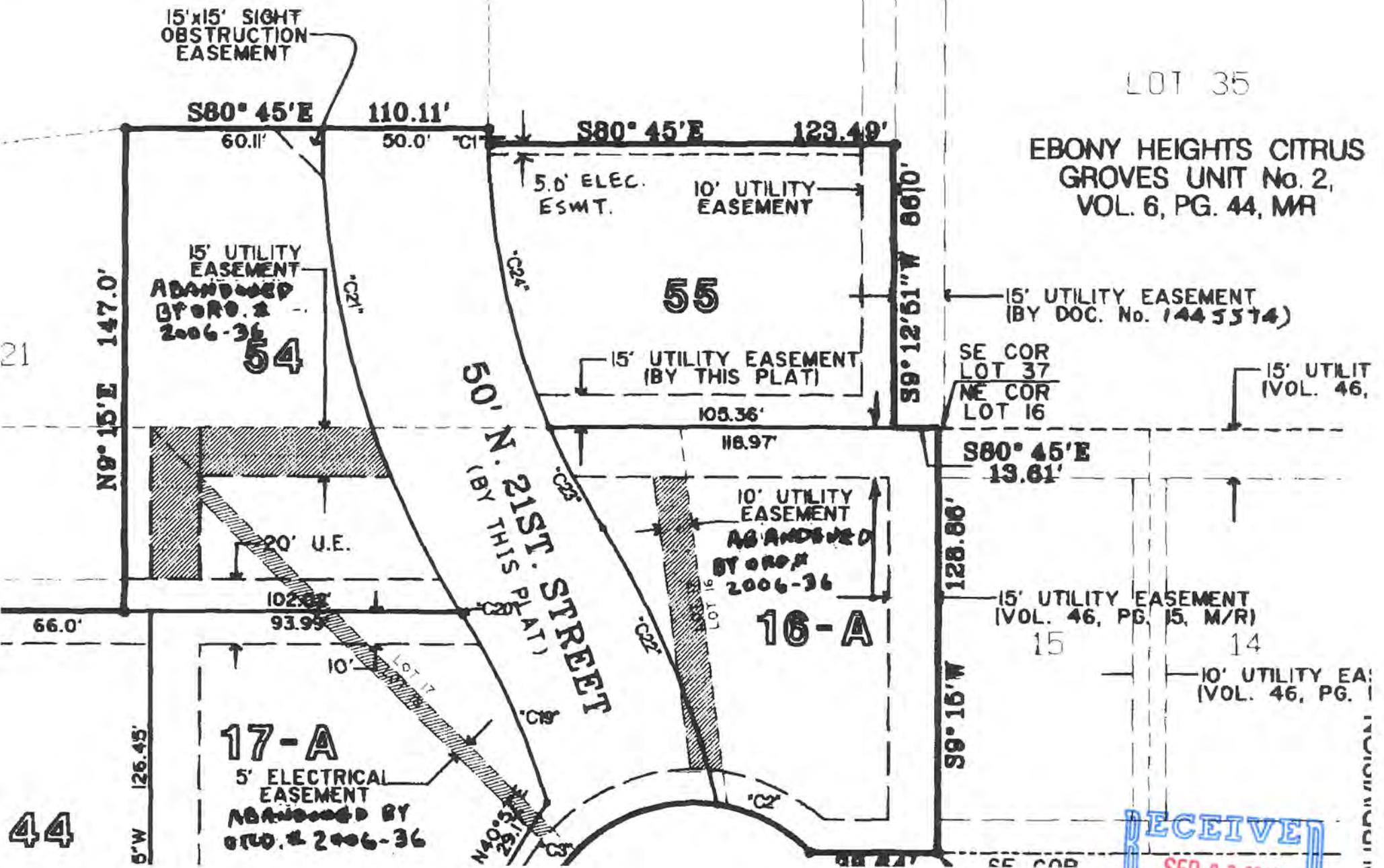
SEP 07 2016

BY: *OC 4.15*

DATE

LOT 35

EBONY HEIGHTS CITRUS GROVES UNIT No. 2, VOL. 6, PG. 44, MR



21

44

RECEIVED

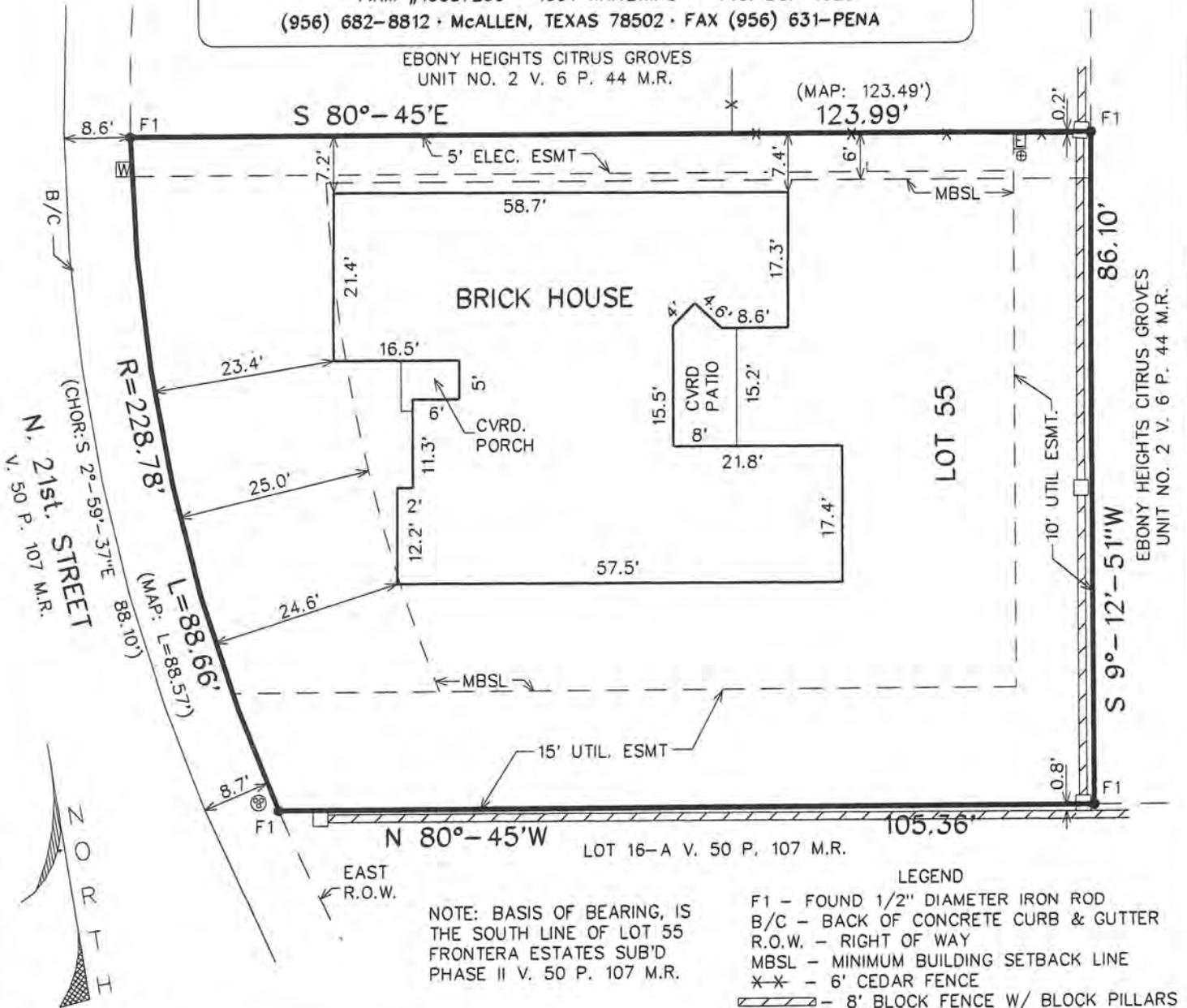
SEP 07 2016 BY: GCO4:15pm



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Pablo Peña III

09/06/2016
DATE

PABLO PEÑA III
REG. PROFESSIONAL LAND SURVEYOR No. 5242

RECEIVED
SEP 07 2016
BY: SC04:15

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 29, 2016

SUBJECT: REQUEST OF JUAN REYES TO ALLOW THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF MCALLEN OFF-STREET PARKING AND LOADING ORDINANCE: TO ALLOW 37 PARKING SPACES INSTEAD OF THE REQUIRED 58 PARKING SPACES FOR A MIXED COMMERCIAL DEVELOPMENT, LOT 1, Rooth Crossing Subdivision, HIDALGO COUNTY, TEXAS; 2825 PECAN BOULEVARD (ZBA2016-0054).

GOAL:

The Board may grant a 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. McAllen Code of Ordinances Section 138-43(2) (c).

REASON FOR APPEAL:

The applicant requests a special exception to reduce the required parking spaces from 58 to 37 parking spaces in order to establish an office use at 2825 Pecan Boulevard Suite E which will go by the name of RST office and will be used to provide public information for driving instruction services provided at other locations.

PROPERTY LOCATION AND VICINITY:

The subject property is located at the southeast corner of Pecan Boulevard and North 29th Street. The lot has 155 feet of frontage on Pecan Boulevard and a depth of 190 feet for a total size of 29,450 square feet or .67 acres. The property is currently zoned C-3L (light commercial) District. Businesses within the property are Blimpie Subs and Salads, Del Sol Salon Spa, UTRGV Transfer, Victoria's Coffee Shop. One suite listed as E is currently vacant. Surrounding land uses are South Texas College, South Texas College parking lot, single family residential, and Ivy Terrace Apartments.

BACKGROUND AND HISTORY:

Rooth Crossing Subdivision was recorded on August 6, 2007. An application for a building permit was submitted on August 3, 2016 with a site plan showing 1,326 square feet for a proposed office. An application for a special exception was submitted on September 6, 2016 to allow the existing 37 parking spaces instead of the required 58 parking spaces. The Board of Adjustment approved a special exception of 37 parking spaces instead of 47 parking spaces for a coffee shop on July 6, 2016.

ANALYSIS:

The parking requirement for office use is four parking spaces for the first 200 square feet and one parking space for each additional 200 square feet of floor area thereafter. Suite E comprises 1,326

square feet or 10 parking spaces based upon square footage. The approved site plan provided 37 parking spaces that allowed a mixture of restaurant and retail use. Additional office uses exceeds the capacity of the parking lot.

All parking and maneuvering space shall be provided on private property unless otherwise stated in Article VII - Off-street Parking and Loading. When, in the opinion of the city, the provisions of this article are not adequate, such additional requirements as may be necessary and desirable may be required.

The existing 37 parking spaces is 63 percent of the 58 required parking spaces for the commercial plaza.

RECOMMENDATION:

Staff recommends disapproval of the special exception. If the Board considers approving the special exception, the special exception should be limited to the floor plan as submitted with the building permit. The special exception expires upon the closing of the business.

ZBA-10510

ZBA-2010-0054



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 See ATTACHED
Subdivision Name ROOTH CROSSING
Street Address 2825 POLO BLVD McAllen TX
Number of lots 1 Gross acres .72 acres
Existing Zoning Commercial Existing Land Use Shopping Center
Reason for Appeal (please use other side if necessary) Parking Variance

- \$300.00 non-refundable filing fee
- Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name JUAN PEYER Phone _____
Address _____ E-mail _____
City _____ State _____ Zip _____

Owner

Name 57TH STREET PARTNERS Phone 323-821-4737
Address 1168 S. SAMUEL BLVD STE M E-mail DANARAND@MSJ.COM
City Rossmore State CA Zip 91770

Authorization

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?
 Yes NO
I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature [Signature] Date 8/29/16
Print Name DAN RANER Owner Authorized Agent

Office

Accepted by _____ Payment received by [Signature] Date _____
REVISÉ 9/11

11/14

RC# 403332 Pd \$300

RECEIVED
SEP 06 2016

BY: [Signature] 3:49pm
Via email

September 6, 2016

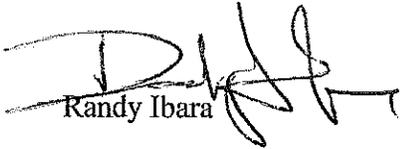
Rod Sanchez
City of McAllen
McAllen, Texas

RE: Right of Representation

Rod,

Please allow our tenant, Juan Reyes, to represent us on our behalf for the parking variance application at 2825 Pecan Ave Suite E, McAllen, TX.

Sincerely,


Randy Ibara





McALLEN

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

REV 11/2013

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

PERMIT APPLICATION REFERENCE NUMBER Cmm2016-04698

APPLICANT

NAME RST Driving School PHONE 956-458-6189
 ADDRESS 2002 N Conway Ave
 CITY Mission STATE TX ZIP 78572
 CONTACT NAME: Juan Reyes PHONE 956-458-6189
 OWNER CONTRACTOR TENANT OTHER

OWNER

NAME Randy Ibara PHONE 323-646-9079
 ADDRESS 1168 San Gabriel Blvd.
 CITY Rosemead STATE CA ZIP 91770

NEW ADDITION REMODELING REPAIR MOVE REMOVE BLDG. HGT. 1 NO. OF FLOORS 1
 BLDG SQ. FT. 1326 NO. PARKING SPACES 32 SQ. FT. LOT LOT FRONT FLOOR EL ABOVE CURB
 EXISTING USE OF LOT Retail NEW USE Driving School Office use IMPROVEMENT VALUE \$ 01.00

SCOPE OF WORK TO BE DONE No Construction

PROJECT

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

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

LOT BLOCK SUBDIVISION
 SITE ADDRESS ST. NO. 2825 ST NAME Pecan Ave

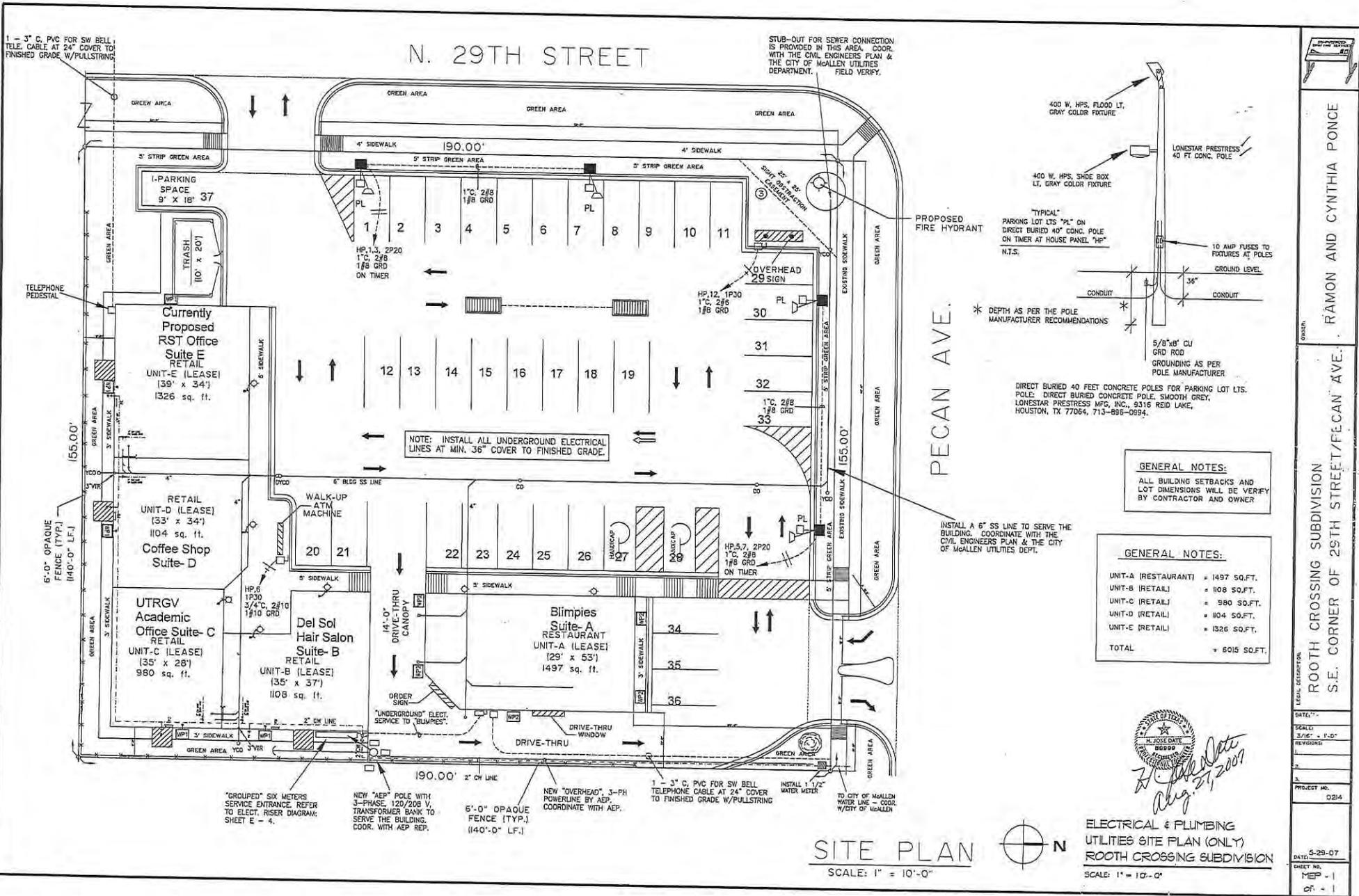
CITY USE ONLY

ZONING C-3 PERMIT FEE \$ 40.00 DOUBLE FEE \$
 PERMIT REVIEW FEE \$ 6.00
 TOTAL PERMIT FEE \$
 PARK DEV. ZONE # PARK DEVELOPMENT FEE \$

REC'D BY J.G.
 DATE 8/14 AM
 TIME 8/3/16
 E-mail 8/11/16

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 R. Reyes PRINT (AUTHORIZED AGENT/OWNER) Juan R. Reyes SIGNATURE juanreyess@hotmail.com EMAIL ADDRESS (required) DATE



N. 29TH STREET

PECAN AVE.

STUB-OUT FOR SEWER CONNECTION IS PROVIDED IN THIS AREA. COOR. WITH THE CIVIL ENGINEERS PLAN & THE CITY OF McALLEN UTILITIES DEPARTMENT.

TYPICAL* PARKING LOT LITS "PL" ON DIRECT BURIED 40" CONC. POLE ON TIMER AT HOUSE PANEL "HP" N.T.S.

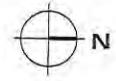
GENERAL NOTES:
ALL BUILDING SETBACKS AND LOT DIMENSIONS WILL BE VERIFIED BY CONTRACTOR AND OWNER

GENERAL NOTES:

UNIT-A (RESTAURANT)	= 1497 SQ.FT.
UNIT-B (RETAIL)	= 108 SQ.FT.
UNIT-C (RETAIL)	= 980 SQ.FT.
UNIT-D (RETAIL)	= 904 SQ.FT.
UNIT-E (RETAIL)	= 1326 SQ.FT.
TOTAL	= 6015 SQ.FT.

APPROVED
 ALJOSSE DATE: 8/27/07
 REVISIONS:
 1.
 2.
 3.
 PROJECT NO. 0214

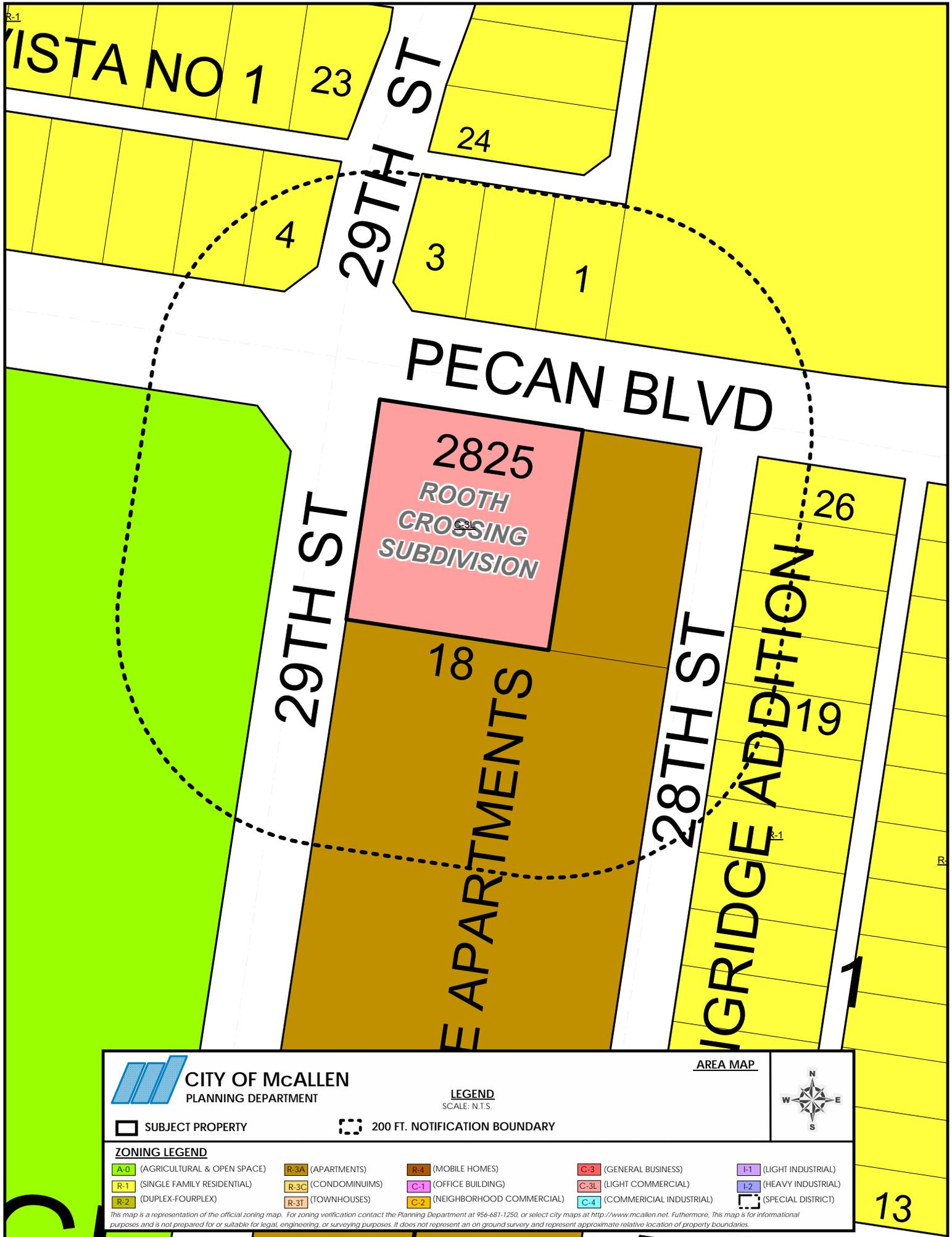
SITE PLAN
 SCALE: 1" = 10'-0"



ELECTRICAL & PLUMBING UTILITIES SITE PLAN (ONLY)
 ROOTH CROSSING SUBDIVISION
 SCALE: 1" = 10'-0"

LEGAL DESCRIPTION: ROOTH CROSSING SUBDIVISION S.E. CORNER OF 29TH STREET/PECAN AVE.
 DRAWN BY: RAMON AND CYNTHIA PONCE
 DATE: 5-29-07
 SHEET NO. MEP - 1
 OF - 1

5/11/07 2:28:31 PM 17 2007



CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP



SUBJECT PROPERTY

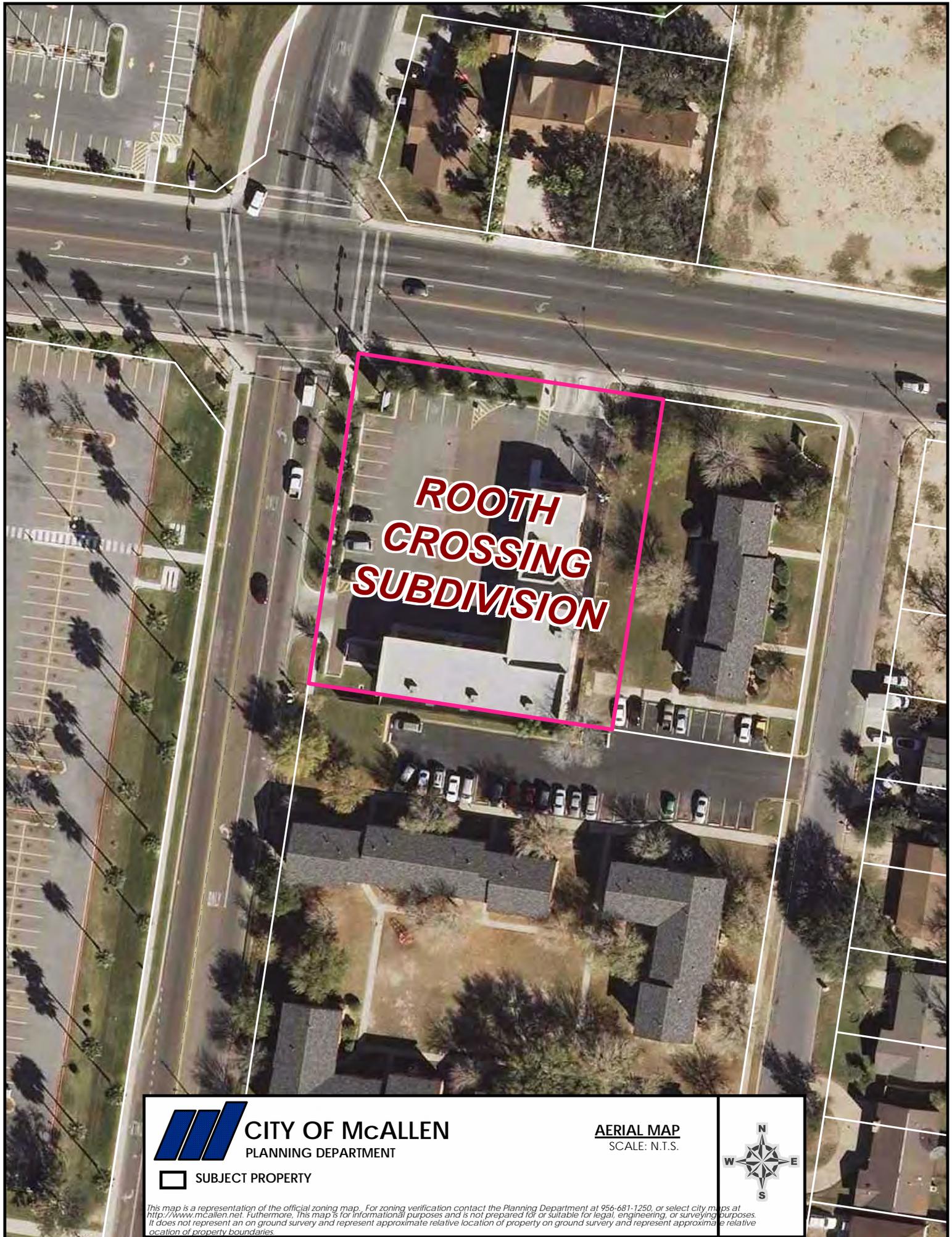
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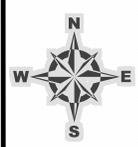
**ROOTH
CROSSING
SUBDIVISION**



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Hidalgo CAD

Property Search Results > 720087 DAN & JACKIE DAMON FMLY TRUST for Year 2016

Property

Account

Property ID: 720087 Legal Description: ROOTH CROSSING LOT 1
 Geographic ID: R3855-00-000-0001-00 Agent Code: A0079354
 Type: Real
 Property Use Code:
 Property Use Description:

Location

Address: 2825 PECAN BLVD Mapsco:
 MCALLEN, TX
 Neighborhood: ROOTH CROSSING Map ID: CML VOL 53 PG 159
 Neighborhood CD: R385500

Owner

Name: DAN & JACKIE DAMON FMLY TRUST Owner ID: 1032356
 Mailing Address: THE IBARRA FAMILY TRUST 2002 % Ownership: 100.0000000000%
 1168 SAN GABRIEL B1 STE M
 ROSEMEAD, CA 91770-4236

Exemptions:

Values

(+) Improvement Homesite Value: + \$0
 (+) Improvement Non-Homesite Value: + \$426,450
 (+) Land Homesite Value: + \$0
 (+) Land Non-Homesite Value: + \$323,950 Ag / Timber Use Value
 (+) Agricultural Market Valuation: + \$0 \$0
 (+) Timber Market Valuation: + \$0 \$0

 (=) Market Value: = \$750,400
 (-) Ag or Timber Use Value Reduction: - \$0

 (=) Appraised Value: = \$750,400
 (-) HS Cap: - \$0

 (=) Assessed Value: = \$750,400

Taxing Jurisdiction

Owner: DAN & JACKIE DAMON FMLY TRUST
 % Ownership: 100.0000000000%
 Total Value: \$750,400

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$750,400	\$750,400	\$0.00
CML	CITY OF MCALLEN	0.476300	\$750,400	\$750,400	\$3,574.16
DR1	DRAINAGE DISTRICT #1	0.095100	\$750,400	\$750,400	\$713.63
GHD	HIDALGO COUNTY	0.590000	\$750,400	\$750,400	\$4,427.36
JCC	SOUTH TEXAS COLLEGE	0.185000	\$750,400	\$750,400	\$1,388.24
R12	ROAD DIST 12	0.000000	\$750,400	\$750,400	\$0.00
SML	MCALLEN ISD	1.155000	\$750,400	\$750,400	\$8,667.12
SST	SOUTH TEXAS SCHOOL	0.049200	\$750,400	\$750,400	\$369.20
Total Tax Rate:		2.550600			
Taxes w/Current Exemptions:					\$19,139.71
Taxes w/o Exemptions:					\$19,139.70

Improvement / Building

Improvement #1: COMMERCIAL State Code: F1 Living Area: 1496.0 sqft Value: \$146,084

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
FFRST	FAST FOOD RST	60	STU	2007	1496.0
CAN	CANOPY	*		2007	36.0
CAN	CANOPY	*		2007	108.0
ASP2	ASPHALT 2	*		2007	28070.0
CON1	CONCRETE 1	*		2007	2566.0

Improvement #2: COMMERCIAL State Code: F1 Living Area: 4571.0 sqft Value: \$280,366

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
NHC	NEIGHBORHOOD CENTER	44N	STU	2007	4571.0
CAN	CANOPY	*		2007	175.0
CAN	CANOPY	*		2007	48.0
CAN	CANOPY	*		2007	57.0
CAN	CANOPY	*		2007	84.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.6761	29450.00	155.00	190.00	\$323,950	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2017	\$415,586	\$323,950	0	739,536	\$0	\$739,536
2016	\$426,450	\$323,950	0	750,400	\$0	\$750,400
2015	\$391,780	\$323,950	0	715,730	\$0	\$715,730
2014	\$380,572	\$235,600	0	616,172	\$0	\$616,172

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	7/15/2014 12:00:00 AM	WDV	WARRANTY DEED/VENDORS LIEN	PONCE RAMON &	DAN & JACKIE DAN			2531054

Tax Due

Property Tax Information as of 09/12/2016

Amount Due if Paid on: 

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
------	---------------------	---------------	----------	-----------------	--------------	-------------------------------	---------------	------------

NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

Questions Please Call (956) 381-8466

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 29, 2016

SUBJECT: REQUEST OF HALFF ASSOCIATES, INC. TO ALLOW A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE: A SIDE YARD SETBACK OF 25 FEET INSTEAD OF 50 FEET FOR A PROPOSED BUILDING ADDITION AND EQUIPMENT INSTALLATION WITHIN AN AREA OF 25 FEET BY 293.16 FEET, FOR LOT 1, SHARYLAND BUSINESS PARK PHASE 1 SUBDIVISION, HIDALGO COUNTY, TEXAS; 6800 SOUTH INTERNATIONAL PARKWAY. (ZBA2016-0053)

GOAL:

The Board shall have the power to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done. McAllen Code of Ordinances Section 138-43(4).

REASON FOR APPEAL:

The applicant is requesting a variance for a side yard setback of 25 feet instead of 50 feet for an area of 25 feet by 293.16 feet to construct an addition and install equipment used in their food processing operations. The addition is essential to accommodate the required food processing equipment. Other locations were considered, but the proposed location was the most practical option. Abandonment of easements is in process.

PROPERTY LOCATION AND VICINITY:

The property is located along the east side of South International Parkway, at George McVay Drive. The subject property has 795 feet of frontage along South International Parkway and a depth of 660 feet for a tract size of 12.045 acres. The property is zoned I-1 (light industrial) District. The subject property is the site for ScanTech, a food preservative treatment facility for perishable food. The surrounding land use is industrial warehousing.

BACKGROUND AND HISTORY:

Sharyland Business Park Phase 1, Lot 1, Subdivision was recorded on October 21, 1997. The subdivision plat indicates a side yard setback of 50 feet and a 25 foot underground utility easement. A building permit application has not been submitted and a variance application was submitted on August 16, 2016. The applicant is in the process of contacting utility companies to abandon the 25 foot underground utility easement.

ANALYSIS:

A 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. A 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. (Section 138-1)

Side yard setbacks from all lot lines shall be one foot back for each two feet in height, except a building may be built to a lot line when not adjacent to a residential zone and where a firewall is provided between uses. Building height of the existing building is 33.7 feet. Side yard setback based upon building height is 16.85 feet. The variance request complies with the minimum side yard setback as required in the zoning ordinance. Equipment shown on the site plan are allowed within the setbacks but not the utility easement.

RECOMMENDATION:

Staff recommends approval of the variance request limited to the footprint of the submitted site plan and subject to the abandonment of the 25 foot underground utility easement.

ZBA 9/21/16

ZBA 2016-005

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

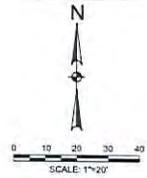
Project	Legal Description <u>Sharyland Business Park Phase 1, Lot 1, Vol. 32</u> <u>Pg. 184, M.R.H.C.T.</u>
	Subdivision Name <u>Sharyland Business Park Phase 1</u> Street Address <u>6800 S. International Parkway</u> Number of lots <u>1</u> Gross acres <u>12.05</u> Existing Zoning <u>Light Industrial</u> Existing Land Use <u>Light Industrial</u> Reason for Appeal (please use other side if necessary) <u>See other side -></u>
Applicant	<input type="checkbox"/> \$300.00 non-refundable filing fee <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
	Name <u>Halff Associates Inc.</u> Phone <u>956-445-5224</u> Address <u>5000 West Military Highway, Suite 100</u> City <u>McAllen</u> State <u>Texas</u> Zip <u>78503</u>
Owner	Name <u>IBS Warehousing LLC</u> Phone _____ Address <u>6800 S. International Parkway</u> City <u>McAllen</u> State <u>Texas</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 _____ Date <u>8/11/16</u> Print Name <u>Joaquin Spauler</u> <input type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
Office	Accepted by <u>[Signature]</u> Payment received by _____ Date _____

CLEMENTE MENA 445-5824
RAUL GARCIA 445-5235

REVISED 9/11
RECEIVED
AUG 16 2016
BY: [Signature]

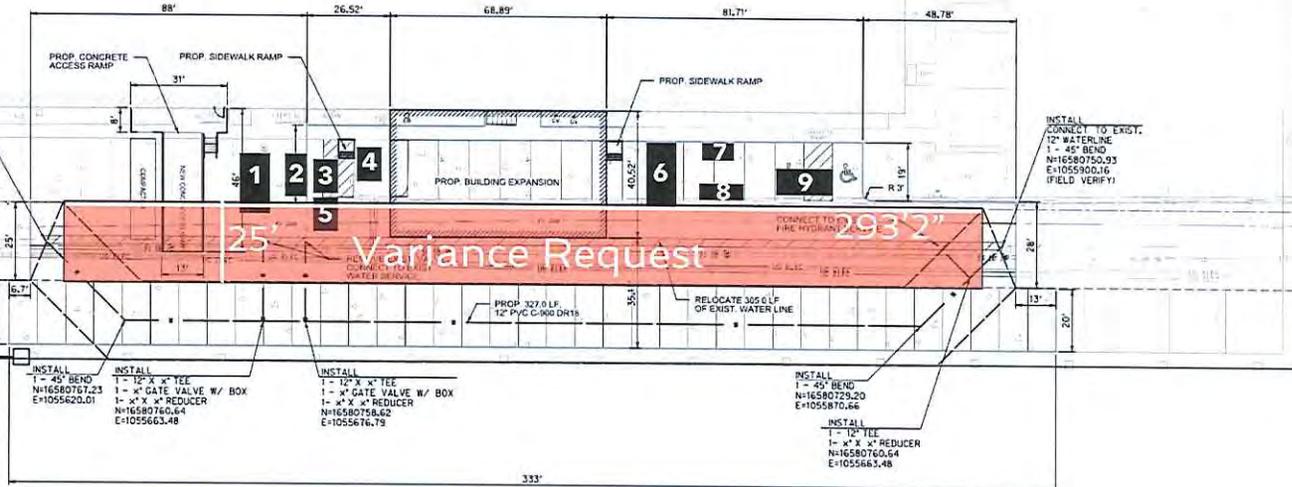
TRACT 1
 LOT 1
 12.05 AC.
 (524,898 S.F.)

SHAWFORD BUSINESS PARK TRACT 1, LOT 1
 1001.322 PG. 101
 WILCOX



LEGEND

PROPOSED	EXISTING	DESCRIPTION
■	□	INLET
□	□	GRATE INLET
○	○	MANHOLE
○	○	GATE VALVE & BOX
○	○	WATER METER
○	○	FIRE HYDRANT
○	○	SANITARY CLEAN OUT
○	○	LIGHT POLE
○	○	ELECTRIC BOX
○	○	POWER POLE
○	○	TELEPHONE PEDESTAL
---	---	FENCE
---	---	TRAFFIC SIGN
---	---	OVERHEAD ELECTRIC
---	---	UNDERGROUND ELECTRIC
---	---	GAS LINE
---	---	FIBER OPTIC LINE
---	---	TELEPHONE LINE
---	---	ASPHALT PAVEMENT
---	---	SAN. SEWER
---	---	WATER
---	---	FIRE PROTECTION
---	---	STORM SEWER
---	---	CONTOUR
---	---	DRAINAGE FLOW ARROW
---	---	TOP OF PAVEMENT
---	---	TOP OF CURB
---	---	GUTTER
---	---	TOP OF WALK
---	---	FINISHED GRADE
---	---	PROPOSED PAVEMENT
---	---	CONCRETE
---	---	CAUTION
---	---	UTILITY CROSSING



- 1. Pad and Hook Up for Roll Up Emergency Generator
- 2. Pad and Hook Up for Local Emergency Generator
- 3 & 4. New Transformers
- 5. Outdoor MV Switchgear

- 6. New Chiller for Cell
- 7. New Air Compressor for Cell
- 8. New Nitrogen Generator for Cell
- 9. New Cooling Tower for Cell Chiller

6800 International
 Expansion
 McAllen, Texas

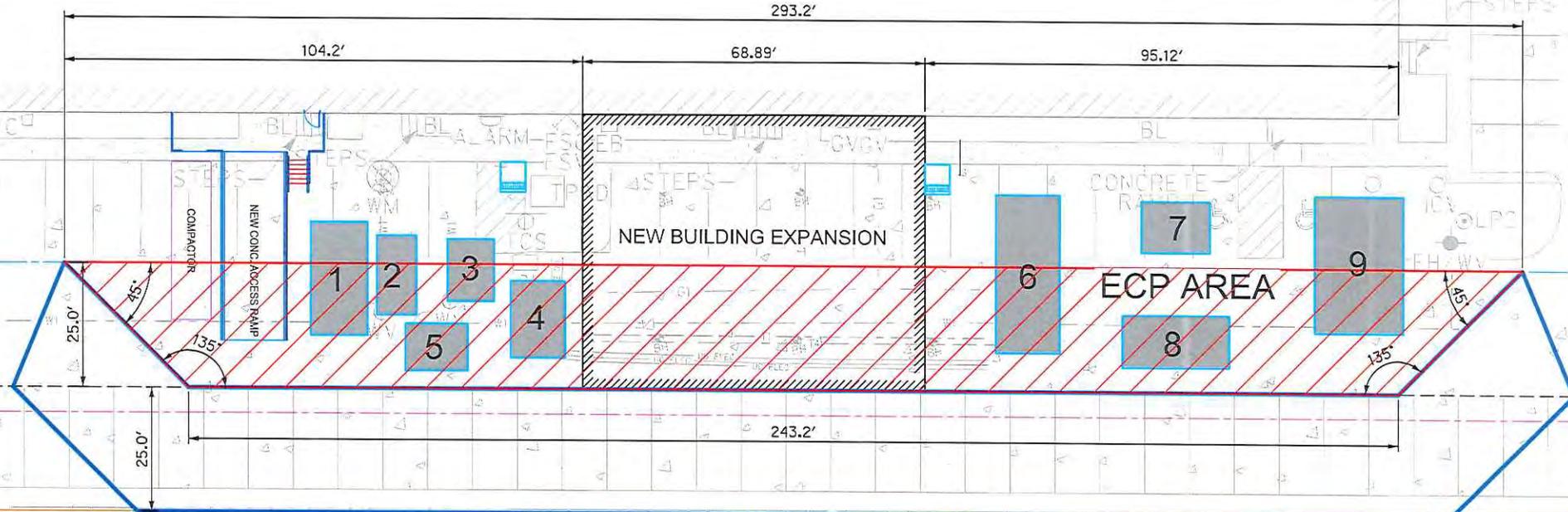
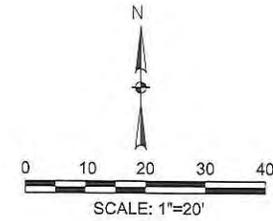


Revision	Date	Description

PRELIMINARY
 FOR INTERIM REVIEW ONLY
 THESE DOCUMENTS ARE FOR INTERIM REVIEW PURPOSES ONLY AND NOT INTENDED FOR CONSTRUCTION. THEY WERE PREPARED BY OR UNDER THE SUPERVISION OF:

HAUL OFFICE, P.O. BOX 14915, DALLAS, TX 75215

SHARYLAND BUSINESS PARK PHASE I, LOT 1
VOL. 32, PG. 184
M.R.H.C.T.



EQUIPMENT

1. PAD FOR ROLL UP EMERGENCY GENERATOR
2. PAD FOR LOCAL EMERGENCY GENERATOR
3. NEW TRANSFORMER
4. NEW TRANSFORMER
5. OUTDOOR MV SWITCHGEAR
6. NEW CHILLER FOR CELL
7. NEW AIR COMPRESSOR FOR CELL
8. NEW NITROGEN GENERATOR FOR CELL
9. NEW COOLING TOWER FOR CELL CHILLER

SCAN TECH
BUILDING SOUTH SIDE
VARIANCE REQUEST

DATE: 09-27-2016 AVO: 31767



5000 WEST MILITARY, SUITE 100
MCALLEN, TX 78503
TEL (956) 664-0285
FAX (956) 664-0282

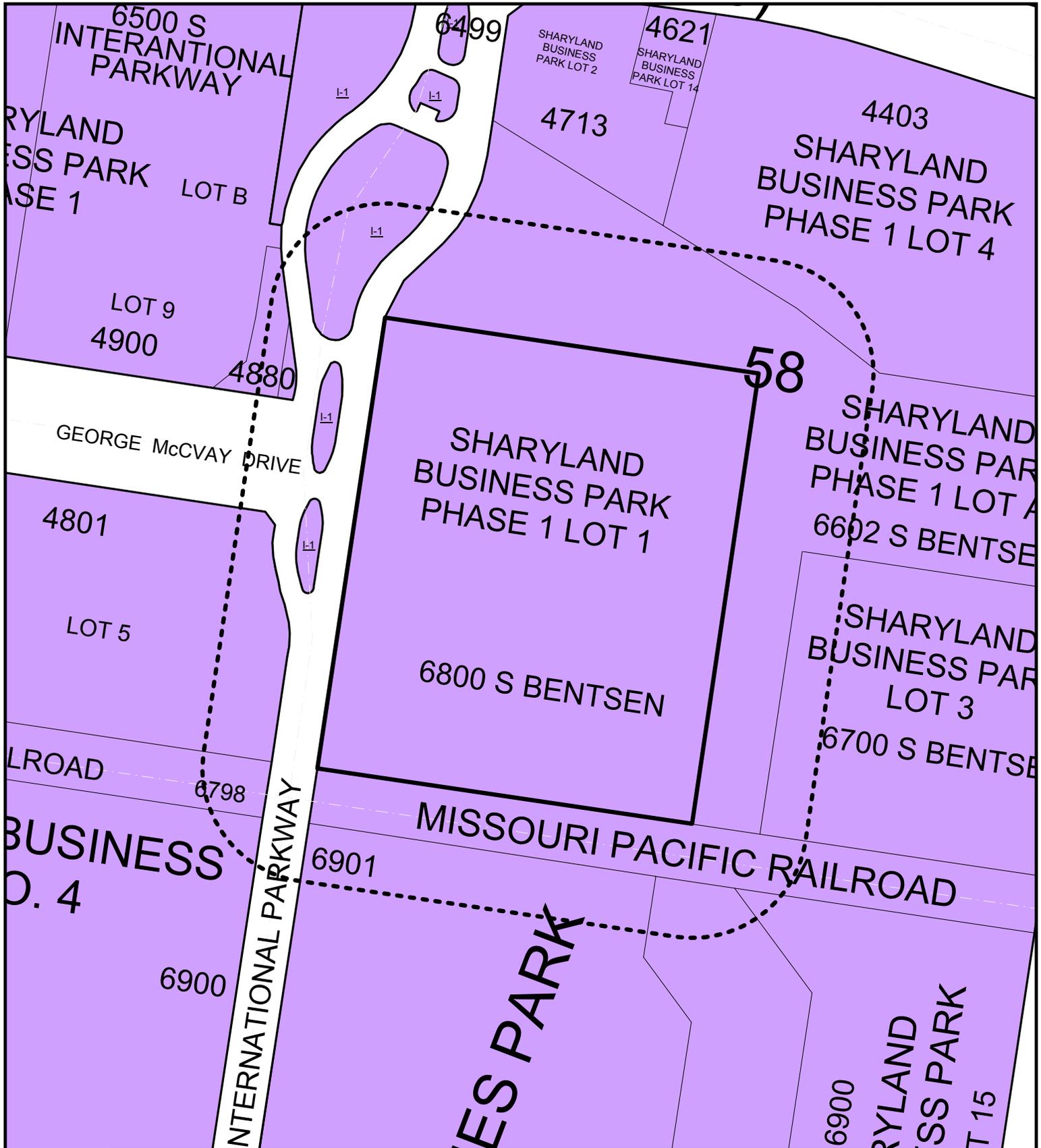
NCS
CORTEZ/1004

HALFF
03/10/2016 11:57:00 AM
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09/27/2016 11:57:00 AM

HALFF

09/27/2016 11:57:00 AM





CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP



 **SUBJECT PROPERTY**

 **200 FT. NOTIFICATION BOUNDARY**

ZONING LEGEND

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

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.



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

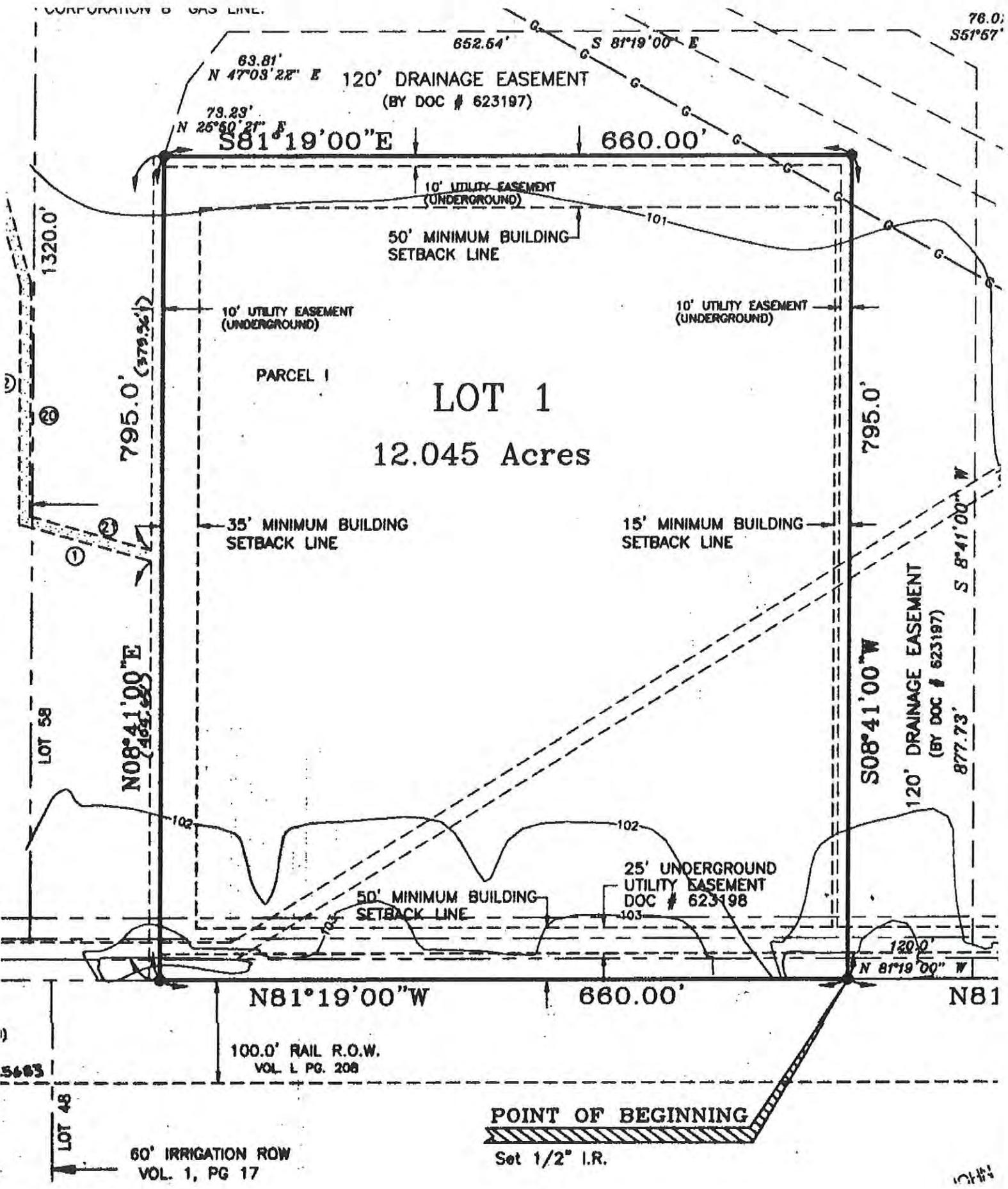
LOT 48
JOHN H. SHARY SUBDIVISION
OF PORCIONES 58, 59, & 60
VOL. 1 PG. 17

APPROVED:

Donald Walker
Hidalgo County SOA DEPT.

GENERAL NOTES

1. BY GRAPHICAL PLOTTING, THIS AREA'S FLOOD ZONE DESIGNATION: FIRM MAP HIDALGO COUNTY, TEXAS PANEL 400 OF 525 COMM--PANEL #480334 0400 C NOV. 16, 1982 ZONE "B".
2. MINIMUM FINISH FLOOR ELEVATION: 105.00 OR APPROXIMATELY 48" ABOVE CURB LINE ALONG WEST PROPERTY.
3. MINIMUM BUILDING SETBACK LINES SHALL BE: THE MORE RESTRICTIVE OF THE ZONING ORDINANCE OR RECORDED COVENANTS OR AS SHOWN.
4. STORM WATER DETENTION REQUIRED FOR THIS DEVELOPMENT IS 1.66 AC-FT. UNLESS MORE RESTRICTIVE BY RECORDED COVENANTS.
5. BENCHMARK INFORMATION: 60D NAIL SET ON POWERPOLE @ NORTHEAST CORNER OF BENTSEN & FM 1016. Elevation = 102.53
6. UTILITY & TEMPORARY ACCESS EASEMENT FOR PUBLIC USE.
7. 6 FT BUFFER REQUIRED FROM ANY ADJACENT RESIDENTIAL ZONE/USE.
8. DEVELOPER TO PROVIDE AN ENGINEERED DETENTION PLAN, APPROVED BY THE ENGINEERING DEPT, PRIOR TO APPLICATION FOR A BUILDING PERMIT.



CORPORATION & GAS LINE.

76.0'
S51°57'

63.81'
N 47°03'28" E 120' DRAINAGE EASEMENT
(BY DOC # 623197)

73.23'
N 25°50'21" E

S 81°19'00" E

660.00'

10' UTILITY EASEMENT
(UNDERGROUND)

50' MINIMUM BUILDING
SETBACK LINE

10' UTILITY EASEMENT
(UNDERGROUND)

10' UTILITY EASEMENT
(UNDERGROUND)

PARCEL 1

LOT 1

12.045 Acres

795.0'

35' MINIMUM BUILDING
SETBACK LINE

15' MINIMUM BUILDING
SETBACK LINE

N 08°41'00" E

S 08°41'00" W

120' DRAINAGE EASEMENT
(BY DOC # 623197)

877.73'

50' MINIMUM BUILDING
SETBACK LINE

25' UNDERGROUND
UTILITY EASEMENT
DOC # 623198

N 81°19'00" W

660.00'

N 81

100.0' RAIL R.O.W.
VOL. L PG. 208

60' IRRIGATION ROW
VOL. 1, PG 17

POINT OF BEGINNING

Set $1/2^{\circ}$ I.R.

12/14/14

CRITERIA FOR ZBOA DETERMINATIONS

APPEALS

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

SPECIAL EXCEPTIONS

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

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

Ord. Sec. 138-86. – GENERAL POLICY.

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

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

VARIANCES

Authorized only when ALL of the following applies:

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

Exceptions Cited within the Zoning Ordinance

Exceptions pertaining to front yard setbacks:

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

Exceptions pertaining to rear yard setbacks:

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

Exceptions pertaining to side yard setbacks:

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

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

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

Exceptions as per Planning Department Policy

By policy the following are permitted:

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

Legal opinions:

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

ZONING BOARD OF ADJUSTMENT AND APPEALS

RULES AND PROCEDURES

CITY OF MCALLEN

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

I. ORGANIZATION AND OFFICERS

A. Members

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

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

B. Officers

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

C. Duties and Officers

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

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

II. POWERS OF THE BOARD

A. General Powers

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

B. Specified Powers

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

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

III. DUTIES OF BOARD MEMBERS

A. General Duties of Members

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

B. Disqualification/Conflict of Interest

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

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

IV. A BASIS FOR ACTION

The Board shall decide each case based on the following:

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

V. APPLICANTS

A. Legally Vested Interest

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

B. Applications

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

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

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

C. Meetings

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

D. Evidence

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

VI. HARDSHIP

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

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

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

VII. MEETINGS

A. Texas Public Information Act and Open Meetings Act.

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

B. Quorum

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

C. Regular Meetings

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

D. Special Meetings

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

E. Order of Business

The usual order of business shall be:

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

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

F. Staff Recommendations

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

G. Action by the Board

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

H. Minutes of the Board

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

VIII. DECISIONS OF THE BOARD

A. Precedent

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

B. Public Statements

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

B. Parliamentary Procedure

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

IX. WITHDRAWAL OF APPEAL

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

X. ATTENDANCE

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

XI. AMENDEMENT PROCEDURE

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

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

Executive Secretary

2016 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/06/16	01/20/16	02/03/16	02/17/16	03/02/16	03/16/16	04/06/16	04/20/16	05/04/16	05/18/16	06/01/16	06/15/16	07/06/16	07/20/16	08/03/16	08/17/16	09/07/16	09/21/16	10/05/16	10/19/16	11/02/16	11/17/16	12/07/16	12/21/16
ROBERT MOREHEAD	A	P	A																					
MIKE HOVAR	A																							
MIKE HARMS - VICE-CHAIRPERSON	A	A	P	P	P	A	P	A	P	LOQ	A	P	P	P	A	LOQ	P	P						
ROLANDO AYALA	P	P	P	P	P	A	P	P	P	LOQ	P	P	P	P	A	LOQ	P	A						
JORGE SALINAS - CHAIRPERSON	P	A	P	P	P	P	P	P	P	LOQ	P	P	P	A	P	LOQ	A	P						
ERICK DIAZ			P	P	P	P	P	A	P	LOQ	P	P	P	P	P	LOQ	P	P						
TERRY PEREZ	P	P	P	P	A	P	P	P	A	LOQ	P	P	A	P	P	LOQ	P	P						
SYLVIA HINOJOSA (ALTERNATE 3)	A	P	P	P	A	P	P	A	A	LOQ	A	P	A	A	P	LOQ	P	A						
JOSE R. GUTIERREZ (ALTERNATE 1)	P	P	P	P	P	P	P	P	P	LOQ	P	P	P	P	P	LOQ	P	P						
SHAVI MAHTANI (ALTERNATE 2)	A	A	P	P	A	A	A	A	A	LOQ	P	A	A											
(ALTERNATE 4)																								

P - PRESENT

A - ABSENT

■ NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO REGULAR MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION

2016 CALENDAR

Meetings:

- City Commission
- ▲ Public Utility Board
- Planning & Zoning Board
- Zoning Board of Adjustment
- HPC - Historical Preservation Council

Deadlines:

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

JULY 2016

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

AUGUST 2016

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

SEPTEMBER 2016

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

OCTOBER 2016

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

NOVEMBER 2016

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

DECEMBER 2016

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

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.