

AGENDA

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING
OCTOBER 7, 2015 - 5:30 PM
MCALLEN MUNICIPAL BUILDING - 1300 HOUSTON AVENUE
CITY COMMISSION CHAMBERS, 3RD FLOOR**

CALL TO ORDER – ROBERT MOREHEAD, CHAIRPERSON

ZBOA – 10/07/15

1. MINUTES:

- a) Minutes for regular meeting held on September 17, 2015

2. PUBLIC HEARINGS:

- a) Request of David O. Salinas to allow the following special exception to the City of McAllen Off-Street Parking and Loading Ordinance: To not provide 6 paved parking spaces, for Lot 2, Judco Subdivision, Unit No. 2, Hidalgo County, Texas; 3025 Expressway 83. **(ZBA2015-0041)**
- b) Request of Jose Luis Galindo to allow the following variance requests to the City of McAllen Zoning Ordinance: **1)** side yard setback of 2.25 feet instead of 5 feet for a carport measuring 24.16 feet by 25.25 feet, **2)** front yard setback of 2.41 feet instead of 25 feet for a carport measuring 24.16 feet by 25.25, for Lot 18, Block 3, McAllen Heights Subdivision, Hidalgo County, Texas; 1009 South 27th Street. **(ZBA2014-0026) (TABLED: 11/19/2014 UNTIL MEETING OF 1/21/2015) (TABLED UNTIL JULY 15, 2015) (TABLED: 7/15/2015) (REMAIN TABLED UNTIL 9/2/2015) (REMAIN TABLED UNTIL 9/17/2015) (REMAIN TABLED UNTIL 10/21/2015)**
- c) Request of Daniel R. Valdez to allow the following variance requests to the City of McAllen Zoning Ordinance: **1)** a front yard setback of .5 feet instead of 20 feet for a carport measuring 19.75 feet by 19.66 feet, **2)** a side yard setback of 0 feet instead of 6 feet for a storage building measuring 10 feet by 12.83 feet, **3)** a side yard setback of 0 feet instead of 6 feet for a pool pump storage building measuring 7 feet by 4.16 feet, **4)** a rear yard setback of 0 feet instead of 15 feet for a water fountain measuring 4 feet by 4.41 feet, for Lot 94, Oak Terrace Subdivision, Hidalgo County, Texas; 1924 North 34th Street. **(ZBA2014-0041) (TABLED: UNTIL JANUARY 7, 2015) (ITEM #1: TABLED: 1/7/2015 UNTIL JULY 15, 2015) (TABLED: 7/15/2015 UNTIL 9/17/2015) (REMAIN TABLED UNTIL 10/21/2015)**
- d) Request of Armando Sotelo for a variance request to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 11.83 feet instead of 60 feet for a storage building measuring 8 feet by 40 feet, **2)** a special exception for 51 parking spaces instead of 56 parking spaces for Lot 2, Jackson Triangle Subdivision, Hidalgo County, Texas; 1409 East Expressway 83. **(ZBA2015-0035) (TABLED: 8/19/2015 UNTIL 10/21/2015)**

3. DISCUSSION:

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

ADJOURNMENT

IF ANY ACCOMMODATION FOR A DISABILITY IS REQUIRED, NOTIFY THE PLANNING DEPARTMENT AT (956) 681-1250 SEVENTY-TWO (72) HOURS PRIOR TO THE MEETING DATE. WITH REGARD TO ANY ITEM, THE ZONING BOARD OF ADJUSTMENT AND APPEALS MAY TAKE VARIOUS ACTIONS INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR A FUTURE DATE OR TIME.

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF McAllen**

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, September 17, 2015 at 5:45 p.m. in the City Commission Meeting Room with the following present:

Present:	Mike Hovar	Vice-Chairperson
	Mike Harms	Member
	Rolando Ayala	Member
	Jorge Salinas	Member
	Jose R. Gutierrez	Alternate
	Sylvia Hinojosa	Alternate
Absent:	Robert Morehead	Chairperson
	Shavi Mahtani	Alternate
	Terry L. Perez	Alternate
Staff Present:	Austin Stevenson	Assistant City Attorney
	Rodrigo Sanchez	Planner II
	Carmen White	Secretary

CALL TO ORDER – Mike Hovar, Vice-Chairperson

1. MINUTES:

a) Minutes for Regular Meeting held on September 2, 2015.

The minutes for the meeting held on September 2, 2015 were approved with corrections made on Item 2b. The motion to approve the minutes was made by Mr. Mike Harms. Mr. Jorge Salinas seconded the motion which carried unanimously with five members present and voting.

2) PUBLIC HEARINGS:

- a)** Request of Ariel Salinas for a variance to the City of McAllen Zoning Ordinance to allow a side yard setback of 6 feet instead of 10 feet for a residential structure encroachment measuring 4 feet by 64.17 feet, for lot 27, Frontera Estates Subdivision, Hidalgo County, Texas; 2017 Harvard Avenue **(ZBA2015-0037)**

Mr. Sanchez stated the applicant requested a variance to allow a side yard setback of 6 feet instead of 10 feet for the east side yard setback for a proposed residence. The property was located at the southwest corner of North 21st Street and Harvard Avenue and along the north side of Frontera Avenue. The property was an irregularly shaped lot and

has 50 feet of frontage along Harvard Avenue. The depth for this property was 191.74 feet at its deepest point for a tract size of approximately 14,200 square feet. The property was zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. Surrounding land use was single family residential. The subject property was vacant and a single family structure was proposed. Frontera Estates Subdivision was recorded on September 21, 2004. The plat for this subdivision indicated a 10 foot side yard setback for Lot 27 and a 10 foot utility easement runs concurrently along the east side. A request for abandonment of the west 4 feet of a 10 foot utility easement was approved on August 24, 2015 by the Board of Commissioners. An application for a building permit had been submitted August 4, 2015 with a side yard setback of 6 feet for the construction of a 5,310 square feet single family residence. An application for the variance was submitted August 12, 2015. Standard side yard setbacks as per zoning ordinance was 6 feet. The plat note for a side yard setback of 10 feet was based upon the 10 foot utility easement. The abandonment of the west 4 feet of the easement reduces the necessity of a 10 foot side yard setback by 4 feet.

Staff recommended approval of the variance request.

Vice-Chairperson Mike Hovar indicated this development complies with the side yard setback required by the zoning ordinance. The 10 foot side yard setback was designated because of the 10 foot utility easement.

Mr. Jorge Salinas **moved** to approve the variance request. Mr. Rolando Ayala seconded the motion. The board voted with five members present and voting.

- b) Request of Jake Trevino for variances to the City of McAllen Zoning Ordinance to allow: 1) a rear yard setback of 22 feet instead of 25 feet for an existing porch measuring 12 feet by 14.41 feet, 2) a rear yard setback of 10 feet instead of 25 feet for a proposed swimming pool measuring 19 feet by 30 feet, for Lot 57, Tiffany Estates Subdivision, Hidalgo County, Texas; 6102 North 44th Lane. (ZBA2015-0040)**

Mr. Sanchez stated the applicant requested rear yard setback variances to allow rear yard setback of 22 feet instead of 25 feet for an existing porch as required per plat and a rear yard setback of 10 feet instead of 25 feet for a proposed swimming pool. The subject property was located along the east side of North 44th Lane and was a double fronting lot between with frontage along North Bentsen Road. The properties was zoned R-1 (single family residential) District. The surrounding land use was single family residential. There was an existing home on the subject property. Tiffany Estates Subdivision was recorded in July 2006. The plat indicated a 25 foot front yard setback and a 25 foot rear yard setback for as required for double fronting lots. A building permit application with double fees for construction without a permit was pending the variance request. The actual construction was with a setback of 22 feet. The building permit application did not include a swimming pool as this was a future project. In September 2012 several properties in this subdivision received a variance request to reduce the front yard setback from 25 feet to 15 feet in order to allow for more buildable

area. The patio cover supports were located 22 feet from the rear property line or an encroachment of 3 feet. The applicant was requesting a variance to allow a future planned swimming pool located with a setback of 10 feet or an encroachment of 15 feet. In September 2012 several properties in this subdivision received a variance request to reduce the front yard setback from 25 feet to 15 feet in order to allow for more buildable area. Setbacks shown on the subdivision plat could only be changed by a vacate and resubdivision process approved by the Planning and Zoning Commission.

Staff recommended disapproval of the variance requests.

Mr. Jake Trevino, the applicant, stated he bought the house February 2014 with a large slab of concrete in the backyard. He stated he had two dogs and wanted to provide shade. Mr. Trevino began to construct the concrete slab and afterward received a stop work order. He originally went to obtain a permit but was told by staff he needed to go through the variance process. He constructed it himself with the help of a friend. Vice-Chairperson Mike Hovar inquired of the applicant if he agreed to keep the swimming pool at that location.

Vice-Chairperson Mike Hovar 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.

Vice-Chairperson Mike Hovar inquired if there was anyone else present to speak against the variance requests. There was no one else to speak against the variance requests.

Mr. Mike Harms moved to approve the variance requests limited to the footprint of the existing structure and proposed swimming pool. Mr. Jose Gutierrez seconded the motion. The board voted with five members present and voting

- c) Request of Gladys and Guadalupe Silva for variance requests to the City of McAllen Zoning Ordinance to allow: 1) a front yard setback of 0 feet instead of 20 feet for a carport measuring 12.5 feet by 14.25 feet, 2) a front yard setback of 16 feet instead of 20 feet for a porch measuring 5.75 feet by 5.83 feet, 3) a side yard setback of 1 foot instead of 6 feet for an aluminum carport measuring 18 feet by 20 feet, 4) a side yard setback of 4.08 feet instead of 6 feet for a storage building measuring 8.16 feet by 8.08 feet, for the east 57 feet and 7 ½ inches of the south 58 feet 3 inches of Lot 4, Block 2, Golden Acres Retirement Subdivision No. 1, Hidalgo County, Texas; 405 North 37th½ Street. (ZBA2015-0032) (TABLED: 8/19/2015 UNTIL 9/2/2015) (REMAIN TABLED UNTIL 9/17/2015)

Mr. Sanchez stated the applicant was requesting variance requests in order allow a carport, and porch to encroach into the front yard setback. The request was also to allow an aluminum carport and storage building to encroach into the side yard setback. The applicant would like to keep the carport and porch structures to serve as an area for

shade for family member with a medical situation. The property was located along the west side of North 37 1/2 Street west of Ware Road. Each tract had 57.63 feet of frontage along North 37 1/2 Street with a depth of 58.25 feet for a tract size of 3,356.9 square feet each. The property was zoned R-2 (duplex-fourplex residential) District. The surrounding land use included fourplexes that had been sold as single unit "townhouse" and duplexes. There was an existing "townhouse" on the subject property. Golden Acres Retirement Subdivision No. 1 was recorded on March 7, 1981 with a shared 5 foot utility easement along the south side of Lot 4 and setbacks as per zoning ordinance are 20 foot front yard and 6 foot side yard. A citation (#20175) for construction of a carport without a building permit and encroachment was issued on June 3, 2015. A carport shown on the survey had been previously enclosed. An application for abandonment of the 2 1/2 foot utility easement had not been submitted. This was a property which was bought as a split property and was not a complete lot. Variance #1: The existing carport encroaches into the front yard setback. Front yard setbacks help keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision. The carport would have to be demolished in order to be in compliance with the required front setback. Variance #2: The porch encroaches 4 feet into the 20 foot front yard setback. This lot resembles a townhouse residential lot in size and which have a 10 foot front yard setback. To reduce the setback, the structure would have to be modified by cutting back 4 feet. Variances #3 & #4: The applicant had indicated that they are willing to move the storage building and aluminum carport to be in compliance with the required setback.

Staff recommended disapproval of the variance requests.

Mr. Mike Harms made a motion to remove item from the table. Mr. Jorge Salinas seconded the motion. The board voted unanimously with five members present and voting.

Board member, Mr. Jose Gutierrez would be translating for the applicant.

Ms. Gladys Silva, the applicant, stated she needed the carport for her child who had special medical needs and she had a signatures from her neighbors stating they had no complaints against the carport. The carport was built 5 years ago. She stated before the construction the contractor advised her he would be taking care of all the permits and necessary paperwork. She was unaware permits were not issued two month and a half months ago when she got cited by the City.

Vice-Chairperson Mike Hovar inquired of the applicant if she would like to withdraw variance requests #3 and #4. She responded yes.

Mr. Hollis Rutledge, representative, was assisting the applicant with her petition for the variance request. He stated they've had meetings with City's staff and legal department in reference to her variance requests.

Vice-Chairman Mike Hovar inquired of the applicant if the porch was going to be used

as a carport or garage. Mr. Rutledge responded the applicant would use the porch as protection during inclement weather when transporting her invalid son from the vehicle into the house. She will continue to park her vehicle in the open area next to the porch

Vice-Chairperson Mike Hovar inquired if there was anyone else present to speak in favor to the variance requests. There was no one else to speak in favor of the variance requests.

Vice-Chairperson Mike Hovar inquired if there was anyone else present to speak against the variance requests. There was no one else to speak against the variance requests.

Staff indicated to the board there was a phone call from an opposition but were not present at the meeting.

Mr. Rolando Ayala inquired of City staff in regards to the medical hardship issue.

Mr. Austin Stevenson, legal counsel, stated the City Commission that would allow to was considering medical hardships as part of the variance proceedings.

Mr. Jorge Salinas **moved** to approve the variance requests limited to the footprint of the existing structure. Mr. Mike Harms seconded the motion. The board voted with five members present and voting. Mr. Rolando Ayala voted against the variance requests. 4 ayes and 1 nay.

- d)** Request of Patricia Hernandez for variance requests to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 0 feet instead of 10 feet for a covered patio measuring 50 feet by 10 feet for Lot 8, **2)** a side yard setback along the east property line of 0 feet instead of 6 feet for a covered patio measuring 50 feet by 10 feet for Lot 8, **3)** a side yard setback along the west property line of 0 feet instead of 6 feet for a covered patio measuring 50 feet by 10 feet for Lot 8, **4)** A rear yard setback of 0 feet instead of 10 feet for a storage building measuring 6 feet by 6 feet for Lot 8, **5)** A side yard setback of 0 feet instead of 6 feet along the east lot line for a storage building measuring 6 feet by 6 feet for Lot 8, **6)** 1 foot instead of 12 feet building separation for an accessory structure to the main building for a covered patios on Lots 8 & 9, **7)** A rear yard setback of 0 feet instead of 10 feet for a covered patio measuring 44 feet by 10 feet, for Lot 9, **8)** A side yard setback along the east property line of 0 feet instead of 6 feet for a covered patio measuring 44 feet by 10 feet, for Lot 9, Idela Park Unit No. 4, Hidalgo County, Texas; 2429 & 2433 Lucille Avenue. **(ZBOA2015-0028) (TABLED: 8/19/2015 UNTIL 9/17/2015)**

Mr. Sanchez stated the applicant was requesting variance requests in order allow covered patios on lots 8 and 9. The applicant indicated that the covered patio on Lot 8 was built in 2003 but was damaged by the hail storm and reconstructed in 2012 without a permit. The covered patio on Lot 9 was built in 2014 without a building permit. They

did not know a permit was required. The porch structures serve as an area for shade and security. The properties were located along the south side of Lucille Avenue between South 26th Street and South 24th Street. Each tract had 50 feet of frontage along Lucille Avenue with a depth of 90 feet for a tract size of 4,500 square feet each. The property was zoned R-1 (single family residential) District. The surrounding land use includes single family residences. There was an existing single family residence on the subject properties. Idela Park Unit No. 4 Subdivision was recorded on February 25, 1980 with a rear setback of 10 feet and side yard setbacks of 6 feet. A citation (#17434) for construction of a covered patio without a building permit was issued on March 21, 2014. An application for abandonment of the 10 foot utility easement was submitted in March 2014. The abandonment was not approved by AT&T however they were granted an encroachment letter. The proposed covered patio encroached 10 feet into the rear yard setback for the entire length of Lot 8, as well as into the side yard setbacks. The porch on Lot 9 covers a width of the east 44 feet of the rear property line and the 6 feet into the east side yard setback. The structures also did not maintain the 12 foot building separation for an accessory building to the main structure but may be connected to the main building. The storage building at the southeast corner of Lot 8 may be relocated out of the east side yard setback and attached to the residence to provide a 4 foot rear yard setback.

Staff recommended disapproval of the variance requests.

Staff stated to the board the applicants would like to withdraw variance requests #2, #3, #4, #5, and #6.

Vice-Chairperson Mike Hovar inquired if there was anyone else present to speak in favor to the variance requests. There was no one else to speak in favor of the variance requests.

Vice-Chairperson Mike Hovar inquired if there was anyone else present to speak against the variance requests. There was no one else to speak against the variance requests.

Mr. Jorge Salinas **moved** to approve variance request #1 as stated with the exception of reducing the measurement from 50 feet to 38 feet for Lot 8. Mr. Mike Harms seconded the motion. The board voted unanimously with five members present and voting.

Vice-Chairperson Mike Hovar inquired of the applicant regarding the storage building. The applicant stated when they bought the house the storage building already existed. They were planning on moving the storage building 6 feet from east side leaving 6 feet space along the side yard setback to be in compliance. There was no other place to relocate it and needs it store necessary items.

Mr. Jorge Salinas **moved** to disapprove variance request #4. Mr. Rolando Ayala seconded the motion. The board voted unanimously to disapprove variance request #4

with five members present and voting.

Mr. Hernandez, the applicant, stated to the board they were relocating the storage building 6 feet from the side yard setback.

Vice-Chairperson Mike Hovar asked legal counsel if they could rescind on the vote in order for applicant to withdraw variance request #4. Legal counsel responded yes.

Mr. Mike Harms **moved** to rescind the vote disapproving variance request #4. Mr. Jorge Salinas seconded the motion. The board voted unanimously with five members present and voting.

Vice-Chairperson Mike Hovar inquired of the applicant to withdraw variance request #4. The applicant responded yes.

Mr. Jorge Salinas **moved** to approve variance requests #7 and #8 limited to the footprint of the existing structures. Mr. Mike Harms seconded the motion. The board voted unanimously with five members present and voting.

- e) Request of Jose Luis Galindo to allow the following variance requests to the City of McAllen Zoning Ordinance: **1)** side yard setback of 2.25 feet instead of 5 feet for a carport measuring 24.16 feet by 25.25 feet, **2)** front yard setback of 2.41 feet instead of 25 feet for a carport measuring 24.16 feet by 25.25, for Lot 18, Block 3, McAllen Heights Subdivision, Hidalgo County, Texas; 1009 South 27th Street. **(ZBA2014-0026) (TABLED: UNTIL 1/21/2015) (TABLED UNTIL JULY 15, 2015) (TABLED: 7/15/2015 UNTIL SEPTEMBER 2, 2015) (REMAIN TABLED UNTIL 9/17/2015)**

At the request of the applicant this item was to remain tabled until the meeting of October 21, 2015. Applicant not present.

- f) Request of Daniel R. Valdez to allow the following variance requests to the City of McAllen Zoning Ordinance: **1)** a front yard setback of .5 feet instead of 20 feet for a carport measuring 19.75 feet by 19.66 feet, **2)** a side yard setback of 0 feet instead of 6 feet for a storage building measuring 10 feet by 12.83 feet, **3)** a side yard setback of 0 feet instead of 6 feet for a pool pump storage building measuring 7 feet by 4.16 feet, **4)** a rear yard setback of 0 feet instead of 15 feet for a water fountain measuring 4 feet by 4.41 feet, for Lot 94, Oak Terrace Subdivision, Hidalgo County, Texas; 1924 North 34th Street. **(ZBA2014-0041) (TABLED: 12/3/2014) (ITEM #1 TABLED: 1/7/2015 UNTIL JULY 15, 2015) (REMAIN TABLED UNTIL 9/17/2015)**

At the request of the applicant, this item was to remain tabled until the meeting of October 21, 2015. Applicant was present.

- h) Request of Armando Sotelo for a variance request to the City of McAllen Zoning Ordinance to allow: **1)** a rear yard setback of 11.83 feet instead of 60

feet for a storage building measuring 8 feet by 40 feet, **2)** a special exception for 51 parking spaces instead of 56 parking spaces for Lot 2, Jackson Triangle Subdivision, Hidalgo County, Texas; 1409 East Expressway 83. **(ZBA2015-0035) (TABLED: 8/29/2015 UNTIL 10/21/2015)**

DISCUSSION:

ADJOURNMENT

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

The meeting was adjourned at 7:20 p.m.

Vice-Chairperson
Mike Hovar

Carmen White, Secretary

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: September 29, 2015

SUBJECT: REQUEST OF DAVID O. SALINAS TO ALLOW THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING OFF-STREET PARKING AND LOADING ORDINANCE: TO NOT PROVIDE 6 PAVED PARKING SPACES, FOR LOT 2, JUDCO SUBDIVISION, UNIT NO. 2, HIDALGO COUNTY, TEXAS; 3025 EXPRESSWAY 83.

[\(ZBA2015-0041\)](#)

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 special exception to not provide the required 6 paved parking spaces for a temporary portable building measuring 12 feet by 48 feet for 6 months to be used as a sales office. The applicant indicates that trucks and heavy equipment will tear up the paved area during construction.

PROPERTY LOCATION AND VICINITY:

The subject property is located along the south side of Expressway 83, approximately 1,560 feet east of South Ware Road. The property is zoned C-4 (commercial industrial) District. The tract has 115 feet of frontage along Frontage Road of Expressway 83 and a depth of 820.74 feet for a tract size of 2.06 acres. Surrounding land uses include commercial uses, Escandon Elementary School and single family residential. The subject property is caliche parking lot. A portable building is allowed in a C-4 District with a Conditional Use Permit and in compliance with requirements to include parking, landscaping, and setbacks.

BACKGROUND AND HISTORY:

Unity Center PUD site plan was approved by the City Commission in 2013. The site plan for the portable building received approval from the Planning and Zoning Commission on March 3, 2015. A Conditional Use Permit for the placement of a portable building was also granted approval for six months (subject to variance approval by the Zoning Board of Adjustment and Appeals) by the Planning and Zoning Commission on March 3, 2015. On September 16, 2015 the Conditional Use Permit received a disapproval with a favorable recommendation from the Planning and Zoning Commission since a special exception request to not provide 6 paved

parking spaces is pending consideration by the Zoning Board of Adjustments.

ANALYSIS:

The portable sales office is located on the heavy equipment parking lot of Art's Truck and Equipment that was approved at the time of occupancy of the building located in Lot 1, Judco Subdivision Unit 1. The parking of heavy equipment is shown on the aerial photography. The Conditional Use Permit for a portable sales office was approved subject to compliance with paved parking requirement. Paved parking is not required for a portable building for a construction office. The special exception to paved parking could be limited to 6 months that corresponds with the Conditional Use Permit. The proposed parking area is located 75 feet from the front property line.

RECOMMENDATION:

Staff recommends approval of the special exception to paved parking for 6 months.

10-7-15
ZBOA MEET

ZBA 2015-0041

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>ALL OF LOT 2,</u>
	Subdivision Name <u>JUDCO SUBD. UNIT No. 2</u>
	Street Address <u>3025 W. U.S. EXP. 83</u>
	Number of lots <u>1</u> Gross acres <u>2.06</u>
	Existing Zoning <u>C-4</u> Existing Land Use <u>OPEN</u>
	Reason for Appeal (please use other side if necessary) <u>TRAILER - PORTABLE /</u> <u>TEMPORARY</u>
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant	Name <u>DAVID O. SHELWIS</u> Phone <u>682-9081</u>
	Address <u>2221 DAFFODIL AVE.</u>
	City <u>MCALLEN</u> State <u>TX</u> Zip <u>78501</u>

Owner	Name <u>UNITCRESTER PARTNERS LTD.</u> Phone <u>956-682-9081</u>
	Address <u>c/o DAVID O. SHELWIS</u>
	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? <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>9/1/15</u>
	Print Name <u>DAVID O. SHELWIS</u> <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent

Office	Accepted by _____ Payment received by _____ Date _____

REVISOR 09/11
SEPT 1 2015
BY: [Signature]

SALINAS ENGINEERING & ASSOCIATES
CONSULTING ENGINEERS & SURVEYORS

David Omar Salinas, P.E., RPLS
Masters of Environmental Engineering

September 01, 2015

Mr. Rodrigo Sanchez, Planner
City of McAllen
P.O. Box 220
McAllen, Texas, 78501

RE: Variance Requests
Paved Parking on Lot 2, JUDCO Subdivision No. 2, McAllen

Dear Rod,

Rod, we are requesting re-approval of a Variance previously approved by the Zoning Board of Adjustments and Appeals for a variance to Paved Parking/6-Spaces for a proposed sales trailer on Lot 2, JUDCO Subdivision Unit No. 2.

Lot 2 is located at 3025 W. Expressway 83 and is a recorded commercial lot having 115 feet of frontage along the eastbound frontage lane of U.S. Expressway 83. Lots 1 and 2 of JUDCO Subdivision Unit No. 2 are being re-platted into a 2 lot plat – Lots 1 and 2, Unitycenter – which has received final plat approval from the City but has not yet been recorded.

This variance request is part of a Conditional Use Permit **RENEWAL** scheduled for consideration by the planning and zoning commission on September 16, 2015. The trailer is temporary and it is anticipated that the sales trailer will remain for a period of 6 months and then relocated and converted to a construction trailer on the same property.

If you have any questions, please let me know and I am available at your convenience to meet and discuss this matter. On behalf of the developers of Unitycenter I thank you in advance.

Sincerely,

SALINAS ENGINEERING & ASSOCIATES
Consulting Engineers & Surveyors

David Omar Salinas, P.E., RPLS, MSEE, CFM

Attachments

Xc: file: n:\subdivisionplatse\unitycenter\mcallen.ltr.003.090115
Jose Mireles and Norma Hinojosa (Via Email Only)

2221 Daffodil Ave., McAllen, Texas, 78501
(956) 682-9081 - (956) 686-1489 FAX
dsalinas@salinasengineering.com

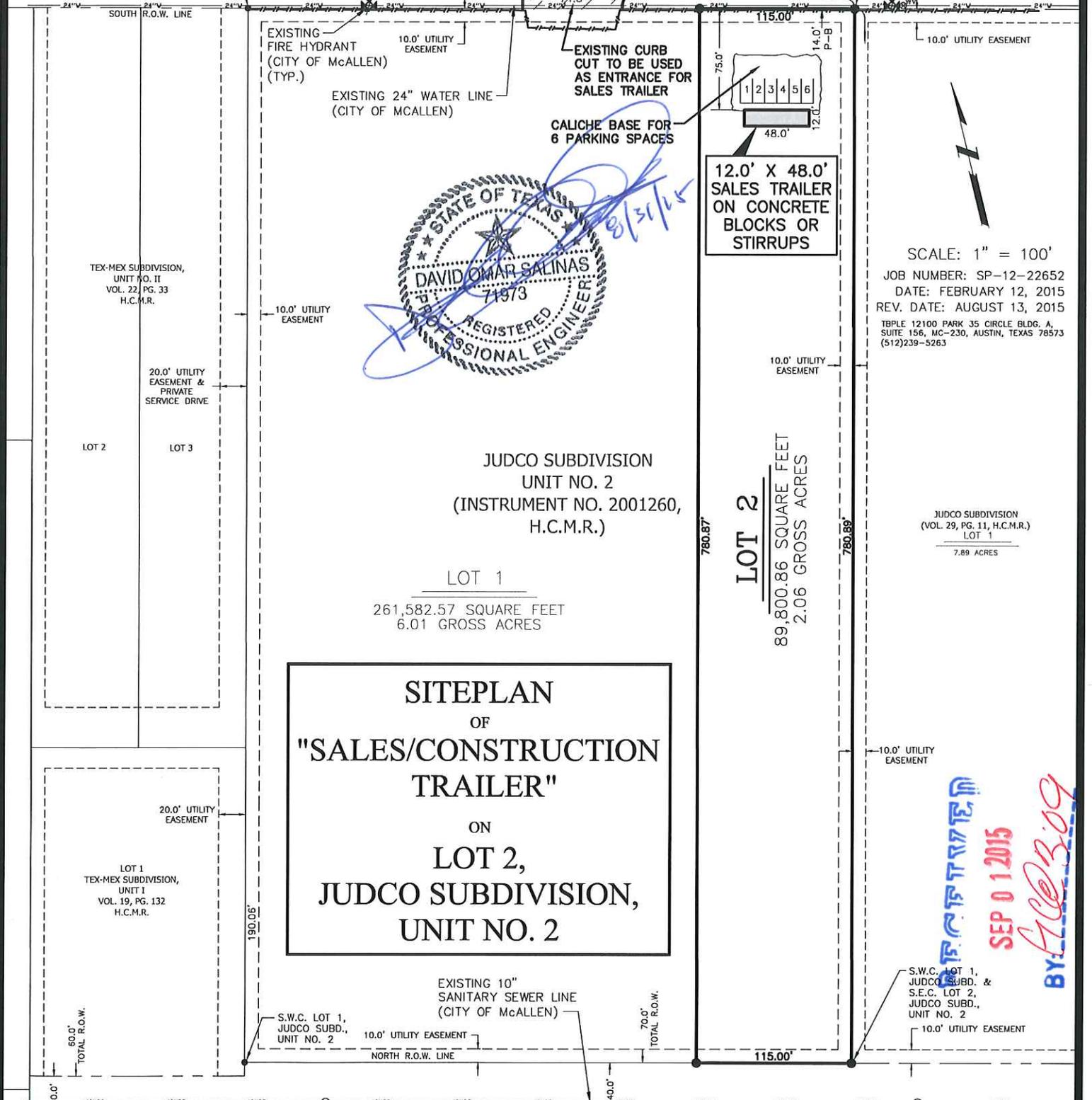
RECEIVED
SEP 01 2015
BY: GCO@3:09

**SALINAS ENGINEERING & ASSOCIATES
CONSULTING ENGINEERS & SURVEYORS**
2221 DAFFODIL AVE. - MCALLEN, TEXAS 78501
(956) 682-9081 (956) 686-1489 (FAX)
dsalinas@salinasengineering.com

**U.S. EXPRESSWAY 83
(300.0' R.O.W.)**

N.W.C. LOT 1,
JUDCO SUBD. &
N.E.C. LOT 2,
JUDCO SUBD.,
UNIT NO. 2

N.W.C. LOT 1,
JUDCO SUBD.,
UNIT NO. 2



**12.0' X 48.0'
SALES TRAILER
ON CONCRETE
BLOCKS OR
STIRRUPS**

SCALE: 1" = 100'
JOB NUMBER: SP-12-22652
DATE: FEBRUARY 12, 2015
REV. DATE: AUGUST 13, 2015
TBPL 12100 PARK 35 CIRCLE BLDG. A,
SUITE 156, MC-230, AUSTIN, TEXAS 78573
(512)239-5263

**SITEPLAN
OF
"SALES/CONSTRUCTION
TRAILER"
ON
LOT 2,
JUDCO SUBDIVISION,
UNIT NO. 2**

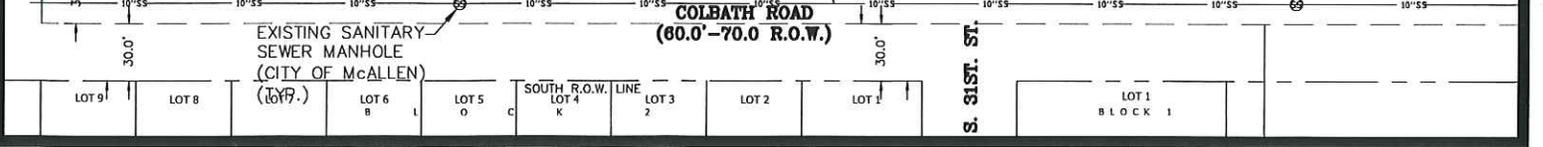
JUDCO SUBDIVISION
UNIT NO. 2
(INSTRUMENT NO. 2001260,
H.C.M.R.)

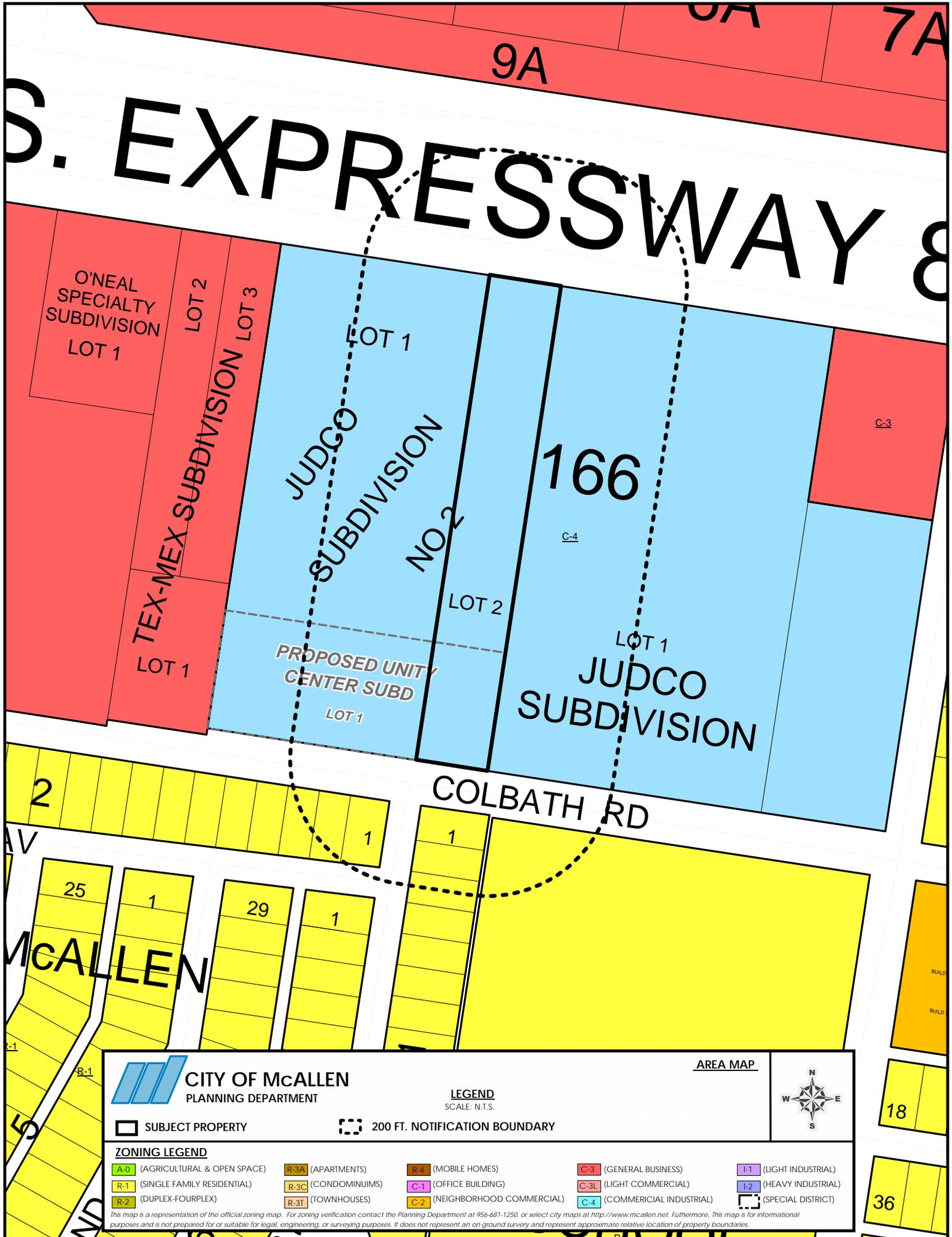
LOT 1
261,582.57 SQUARE FEET
6.01 GROSS ACRES

LOT 2
89,800.86 SQUARE FEET
2.06 GROSS ACRES

JUDCO SUBDIVISION
(VOL. 29, PG. 11, H.C.M.R.)
LOT 1
7.89 ACRES

**FOR FUTURE
SEP 01 2015
BY: A. Cole**





CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP



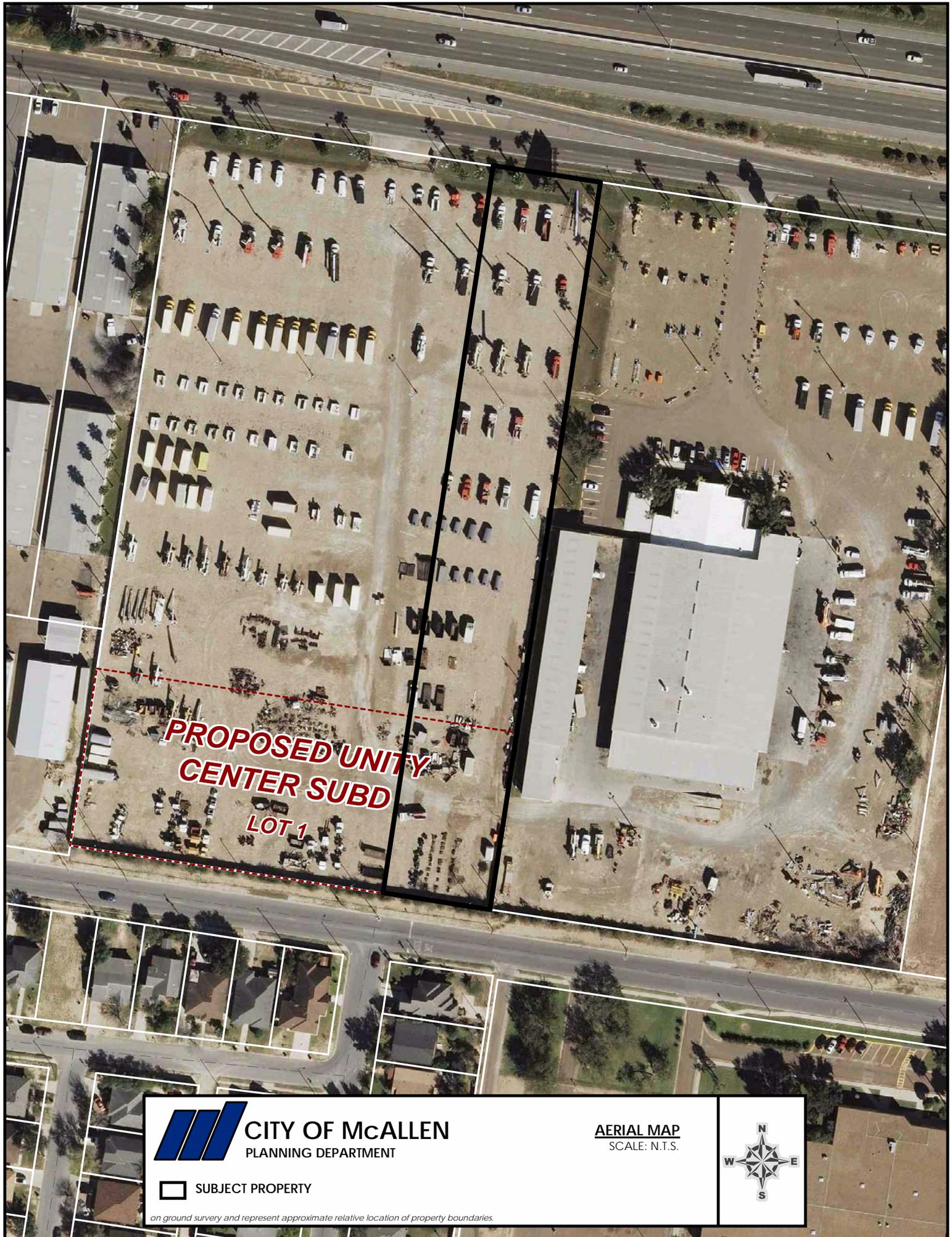
SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

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

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



**PROPOSED UNITY
CENTER SUBD
LOT 1**



CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.

 SUBJECT PROPERTY



on ground survey and represent approximate relative location of property boundaries.



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3025

**NOTICE
VARIANCE
For
This Property
ZBA2015-0041**

City of McAllen Planning Dept • 681-1256
www.mcalen.net



**2b) 1009 SOUTH 27TH STREET
(ZBA2014-0026)**

TABLED UNTIL OCTOBER 21, 2015

**2c) 1924 NORTH 34TH STREET
(ZBA2014-0041)**

TABLED UNTIL OCTOBER 21, 2015

**2d) 1409 EAST EXPRESSWAY 83
(ZBA2015-0035)**

TABLED UNTIL OCTOBER 21, 2015

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.

Unified Development Ordinance

Section 3-1-1 specifies that the Unified Development Ordinance would allow for alternative development standards for residential lots within the Neighborhood Conservation and Neighborhood Transition Districts. These alternatives would allow expansions and reconfigurations of existing building when such alterations would normally not comply with the general standards.

Exceptions within the Front Yard Setback:

1. Enclosure of Front Porches
2. Building Cladding Upgrade
3. Front yard setbacks can be reduced to the average setback along the same side of the same street

4. Overhangs for Solar Protection
5. 36 square feet of the overhang encroaching in the setback may be enclosed
6. Addition of a Front Porch not located closer than 10 feet from the property line
7. Front Yard Setback can be reduced by 12 feet if vehicular access is from the alley
8. Front Yard Setback can be reduced by 8 feet if the garage is behind the principal building.
9. Front Yard Setback can be reduced by 10 feet for a side loaded garage on a lot with a width of at least 85 feet.

Exceptions within the Side Yard and Rear Yard Setback:

1. Building Cladding Upgrade
2. Wide Planting Strip
3. Subdivision Fencing

Alternative Height Standards:

1. Height may be increased to 35 feet but not three full stories.

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

2015 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

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

P - PRESENT

A - ABSENT

■ NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO REGULAR MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION

2015 CALENDAR

Meetings:  City Commission  Planning & Zoning Board  Public Utility Board  Zoning Board of Adjustment HPC - Historical Preservation Council							Deadlines: D- Zoning/CUP Application N - Public Notification						
JULY 2015							AUGUST 2015						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
			1 N - 7/21 P&Z	2	3 HOLIDAY	4							1
5	6	7 	8 D - 8/4 & 8/5	9	10	11	2	3	4 	5 D - 9/1 & 9/2	6	7	8
12	13	14 	15 	16	17	18	9	10	11 	12 	13	14	15
19	20	21 	22 HPC D - 8/18 & 8/19	23	24	25	16	17	18 	19 D - 9/16 & 9/17	20	21	22
26	27	28 	29 	30	31		23	24 AD - 9/16 & 9/17	25 	26 HPC N - 9/16 & 9/17	27	28	29
							30	31					
SEPTEMBER 2015							OCTOBER 2015						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1 	2 D - 10/6 & 10/7	3	4 AD 10/6 & 10/7	5					1	2	3
5	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 	15 	16 	17	18	19	11	12	13 	14 	15	16	17
20	21	22	23 HPC N 10/20&10/21	24	25	26	18	19	20 	21 D - 11/17&11/18	22	23	24
27	28 	29 	30				25	26	27 	28 HPC N 11/17 & 11/18	29	30	31
NOVEMBER 2015							DECEMBER 2015						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
1	2	3 	4 D 12/1 & 12/2	5	6	7			1 	2 HPC D - 1/5 & 1/6	3	4	5
8	9	10 	11 	12	13	14	6	7	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 	17	18	19
22	23	24 	25 	26 HOLIDAY	27	28	20	21	22	23	24	25	26
29	30						27	28	29	30	31 HOLIDAY		

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.