

## AGENDA

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING  
OCTOBER 21, 2015 - 5:30 PM  
MCALLEN MUNICIPAL BUILDING - 1300 HOUSTON AVENUE  
CITY COMMISSION CHAMBERS, 3<sup>RD</sup> FLOOR**

**CALL TO ORDER – ROBERT MOREHEAD, CHAIRPERSON**

[ZBOA – 10/21/15](#)

**1. MINUTES:**

- a) Minutes for regular meeting held on September 17, 2015 and October 7, 2015

**2. PUBLIC HEARINGS:**

- a) Request of El Pistalon, LLP c/o Ramon Garcia to allow the following variance requests: to not provide 50 percent of the 10% landscaping rule in the front or “visible” for 2.410 acre out of Lot 1A, Lot 1A & 1B, Plaza Las Fuentes Subdivision, Hidalgo County, Texas; 5800 North 10<sup>th</sup> Street. **(ZBA2015-0048)**
- b) Request of Dynasty Custom Homes, LLC c/o Ivan Guajardo to allow the following variance: A rear yard setback of 10 feet instead of 25 feet for an irregularly shaped swimming pool measuring 14.83 feet by 30 feet for Lot 62, Frontera Village Subdivision, Hidalgo County, Texas; 1825 Harvard Avenue. **(ZBA2015-0046)**
- c) Request of Elida Reyes for a special exception to the City of McAllen Zoning Ordinance to provide 44 parking spaces instead of 60 required spaces for Lot 1, Alonzo Barrera Subdivision, Hidalgo County, Texas; 2711 South 23<sup>rd</sup> Street. **(ZBA2015-0045)**
- d) Request of Carlos Luna for a variance request to the City of McAllen Zoning Ordinance to allow: a front yard setback of 8 feet instead of 20 feet for a carport measuring 22 feet by 23.33 feet for Lot 20, Block 9, Colonia Hermosa Subdivision No. 2, Hidalgo County, Texas; 2124 El Rancho Avenue. **(ZBA2015-0042)**
- e) Request of Ramiro Hinojosa for a variance to the City of McAllen Zoning Ordinance to allow: a front yard setback of 3 feet instead of 20 feet for a carport measuring 18 feet by 21 feet for Lot 18, Block 9, Colonia Hermosa Subdivision No. 2, Hidalgo County, Texas; 2116 El Rancho Avenue. **(ZBA2015-0043)**
- f) Request of Ramiro Hinojosa for a variance to the City of McAllen Zoning Ordinance to allow: a front yard setback of 2.41 feet instead of 20 feet for a carport measuring 17 feet by 22 feet for Lot 19, Block 9, Colonia Hermosa Subdivision No. 2, Hidalgo County, Texas; 2120 El Rancho Avenue. **(ZBA2015-0044)**
- g) 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 27<sup>th</sup> 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)**

- h) 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 34<sup>th</sup> 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)**
- i) 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; 1420 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 Wednesday, October 7, 2015 at 5:38 p.m. in the City Commission Meeting Room with the following present:

<b>Present:</b>	<b>Robert Morehead</b>	<b>Chairperson</b>
	<b>Mike Hovar</b>	<b>Vice-Chairperson</b>
	<b>Rolando Ayala</b>	<b>Member</b>
	<b>Jose R. Gutierrez</b>	<b>Alternate</b>
	<b>Shavi Mahtani</b>	<b>Alternate</b>
	<b>Terry L. Perez</b>	<b>Alternate</b>
<b>Absent:</b>	<b>Mike Harms</b>	<b>Member</b>
	<b>Jorge Salinas</b>	<b>Member</b>
	<b>Sylvia Hinojosa</b>	<b>Alternate</b>
<b>Staff Present:</b>	<b>Victor Flores</b>	<b>Assistant City Attorney</b>
	<b>Ed Taylor</b>	<b>Senior Planner</b>
	<b>Rodrigo Sanchez</b>	<b>Planner II</b>
	<b>Susana de la Cerda</b>	<b>Secretary</b>

**CALL TO ORDER – Robert Morehead, Chairperson**

**1. MINUTES:**

a) Minutes for Regular Meeting held on September 17 2015.

The minutes for the meeting held on September 17, 2015 were tabled due to lack of board members. The motion to table the minutes was made by Ms. Terry Perez. Vice-Chairperson Mike Hovar seconded the motion which carried unanimously with five members present and voting.

**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)**

Mr. Sanchez stated the applicant requested 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 indicated that trucks and heavy equipment will tear up the paved area during construction. The subject property

was located along the south side of Expressway 83, approximately 1,560 feet east of South Ware Road. The property was zoned C-4 (commercial industrial) District. The tract had 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 was caliche parking lot. A portable building was allowed in a C-4 District with a Conditional Use Permit and in compliance with requirements to include parking, landscaping, and setbacks. 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 was pending consideration by the Zoning Board of Adjustments. The portable sales office was 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 was 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 was 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 was located 75 feet from the front property line.

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

Vice-Chairperson, Mike Hovar inquired of staff if they would have all weather parking for vehicles to drive over. Staff stated the existing caliche was made of a hard caliche surface suitable for emergency equipment and egress.

Mr. David Salinas, the applicant, was not present.

Chairperson, Robert Morehead, inquired of Victor Flores, legal counsel if staff had authorization of Mr. David Salinas on behalf of Unity Center Partners Limited. Legal counsel responded yes.

Staff stated to the board the special exception was tied into the Conditional Use Permit which would run for six months. The Conditional Use Permit was pending until the special exception was approved by the board.

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

Chairperson Robert Morehead inquired if there was anyone else present to speak for or

against the special exception. There was no one else to speak for or against the special exception.

Ms. Terry Perez **moved** to approve the special exception. Vice-Chairperson Mike Hovar seconded the motion. The board voted unanimously to approve the special exception request with five members present and voting.

- 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 27<sup>th</sup> 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 was not present.

- 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 34<sup>th</sup> 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 not present.

- 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: 8/29/2015 UNTIL 10/21/2015)**

This item remained tabled.

**DISCUSSION:** Vice-Chairperson, Mike Hovar met briefly with staff prior to the meeting pertaining to three specific exceptions on the front and back yard setbacks. Mr. Ed Taylor made note to look into it further and get back to the board.

**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. Rolando Ayala seconded the motion which carried unanimously with five members present and voting.

The meeting was adjourned at 5:49 p.m.

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Chairperson  
Robert Morehead

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Susana de la Cerda, Secretary

**2a) 5800 North 10<sup>th</sup> Street**

**ZBA2015-0048**

**WITHDRAWN**

**Memo**

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

**FROM:** Planning Staff

**DATE:** October 16, 2015

**SUBJECT: REQUEST OF ELIDA REYES FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO PROVIDE 44 PARKING SPACES INSTEAD OF 60 REQUIRED SPACES FOR LOT 1, ALONZO BARRERA SUBDIVISION, HIDALGO COUNTY, TEXAS; 2711 SOUTH 23RD STREET. (ZBA2015-0045)**

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**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 for Plaza 23, a commercial development, from 60 to 44 parking spaces for a deficiency of 16 parking spaces. The applicant submitted a site plan that proposes to lease 2 suites for a tortilleria and a restaurant. The proposed use is a restaurant for Suite 8 and a tortilleria for Suite 7, requiring additional parking spaces

**PROPERTY LOCATION AND VICINITY:**

The subject property is located along the east side of South 23rd Street, southeast of the intersection of South 23<sup>rd</sup> Street and Jordan Road. The property is zoned C-3 (general business) District. Existing tenants are Cricket, Prestige Boutique, Connect Insurance, and Angel's Day Care. Surrounding land uses are J. Ramon Auto Sales, McAllen Glass Company, Valero convenience store, and other commercial uses.

**BACKGROUND AND HISTORY:**

Alonzo Barrera Subdivision was recorded on August 2, 1990. A building permit for a commercial building with 15,617 square feet was issued in January 2009 with parking requirement of 42 spaces and site plan providing 44 parking spaces.

**ANALYSIS:**

The parking requirement for commercial development is 4 parking spaces for the first 400 square feet and 1 parking space for each additional 400 square feet. The parking requirement for a restaurant is 1 parking space for each 75 square feet. Commercial development and office use requires a parking requirement of 43 parking spaces. The proposed restaurant use in the shopping center is 1,219 square feet for a parking requirement of 17 parking spaces. Total parking requirement for commercial development, office, and restaurant is 60 parking spaces. Total parking provided is 44 parking spaces for a deficiency of 16 spaces or 73%

compliance. The requirement for restaurant parking increases the required parking amount above the parking spaces to be provided.

The parking ordinance establishes minimum parking requirements. Actual parking demand will vary by the type, peak hour, season and success of the business. Parking shortages may impact adjacent available parking areas and may discourage customers to seek other less crowded comparable businesses.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request.

#12  
10/24/15

ZBA 2015-0045

# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

**Project**

Legal Description ~~Suite 738~~ Lot 1

Subdivision Name Alonso Barrera

Street Address 2711 S. 23<sup>rd</sup> St. McAllen TX 78503 Ste 738

Number of lots ~~738~~ 1 Gross acres ~~0~~

Existing Zoning C-3 Existing Land Use Commercial

Reason for Appeal (please use other side if necessary) I am appealing because I am short 7 parking spaces.

\$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 Elida Reyes Phone 432-6014

Address 2605 S. 27th St Apt D E-mail elidareyes06@gmail.com

City McAllen State TX Zip 78503

**Owner**

Name ALONSO BARRERA Phone 956 5220696

Address 5815 N 3RD L E-mail \_\_\_\_\_

City McAllen State TX Zip 78504

**Authorization**

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?  
 Yes  No

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

Signature [Signature] Date 9-15-15

Print Name ALONSO BARRERA  Owner  Authorized Agent

**Office**

Accepted by [Signature] Payment received by \_\_\_\_\_ Date SEP 15 2015

RECEIVED  
BY [Signature] HM



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

Suite 7 will be used for a tortilleria and Suite 8 will be used for a taqueria, and for me to establish them I am required led parking spaces and there are only 53.

Board Action

Chairman, Board of Adjustment  
Signature

Date

\_\_\_\_\_

\_\_\_\_\_

A QUIEN CORRESPONDA:

Yo Alonso Barrera le doy permiso y/o autorizacion ala Sra. Elida Reyes para que termine de construir la suite # 7 y # 8 .

Ubicada dentro de la Plaza 23 S. en la direccion:

2711 S. 23<sup>RD</sup> ST,

MCALLEN TX 78503

Segun dependiendo las necesidades de sus negocios.

Asi mismo le manifiesto que las suites rentadas no usan los estacionamientos por mucho tiempo y no vemos el inconveniente de que la Sra. Elida Reyes instale su negocio de Taqueria ya que por el dia cocinara ordenes TO GO y por la noche abra el negocio a los clientes para comer dentro de la suite.

Gracias por su Atencion.



Alonso Barrera

OWNER OF PLAZA 23<sup>RD</sup>

9-8-15

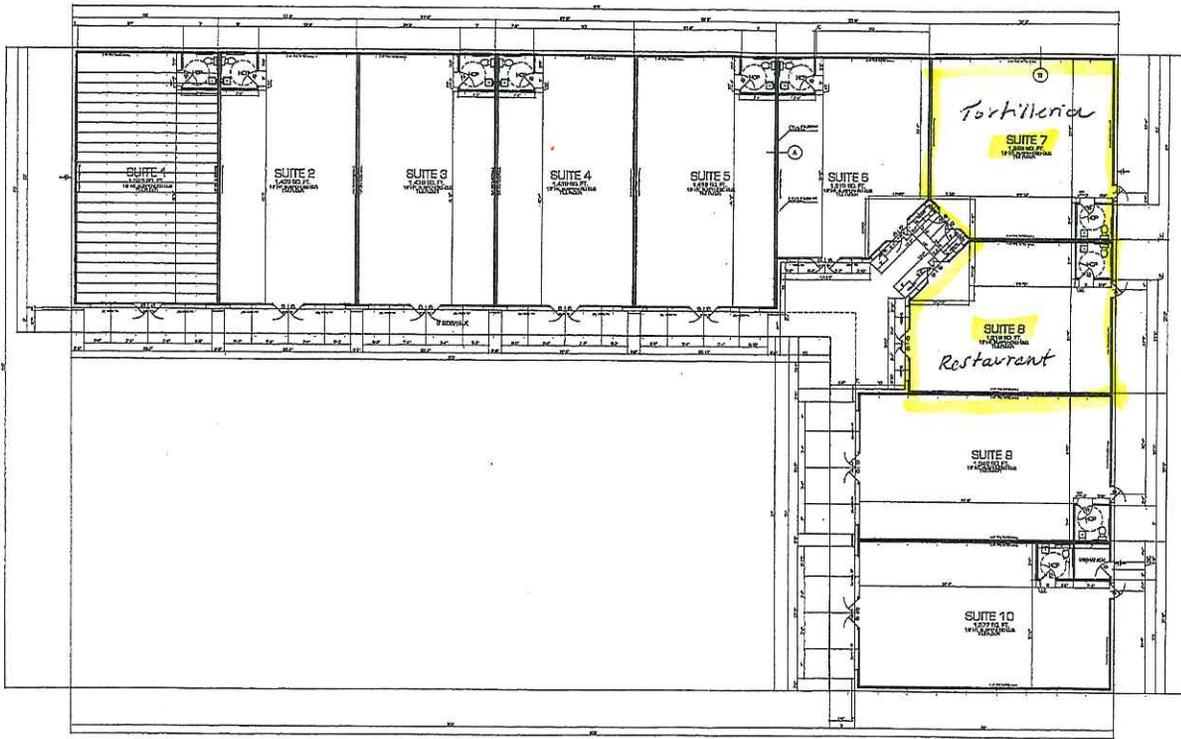
Fecha



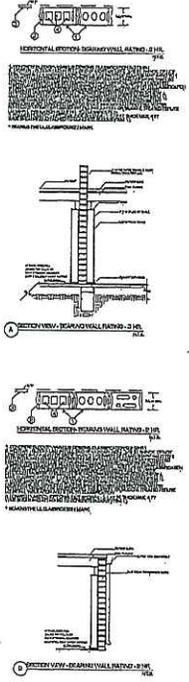
Elida Reyes

9-8-15

Fecha



FLOOR PLAN  
SCALE: 3/32" = 1'



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AREA	SUITE 1	SUITE 2	SUITE 3	SUITE 4	SUITE 5	SUITE 6	SUITE 7	SUITE 8	SUITE 9	SUITE 10	TOTAL AREA
DATA	1,400 SQ. FT.	13,772 SQ. FT.									

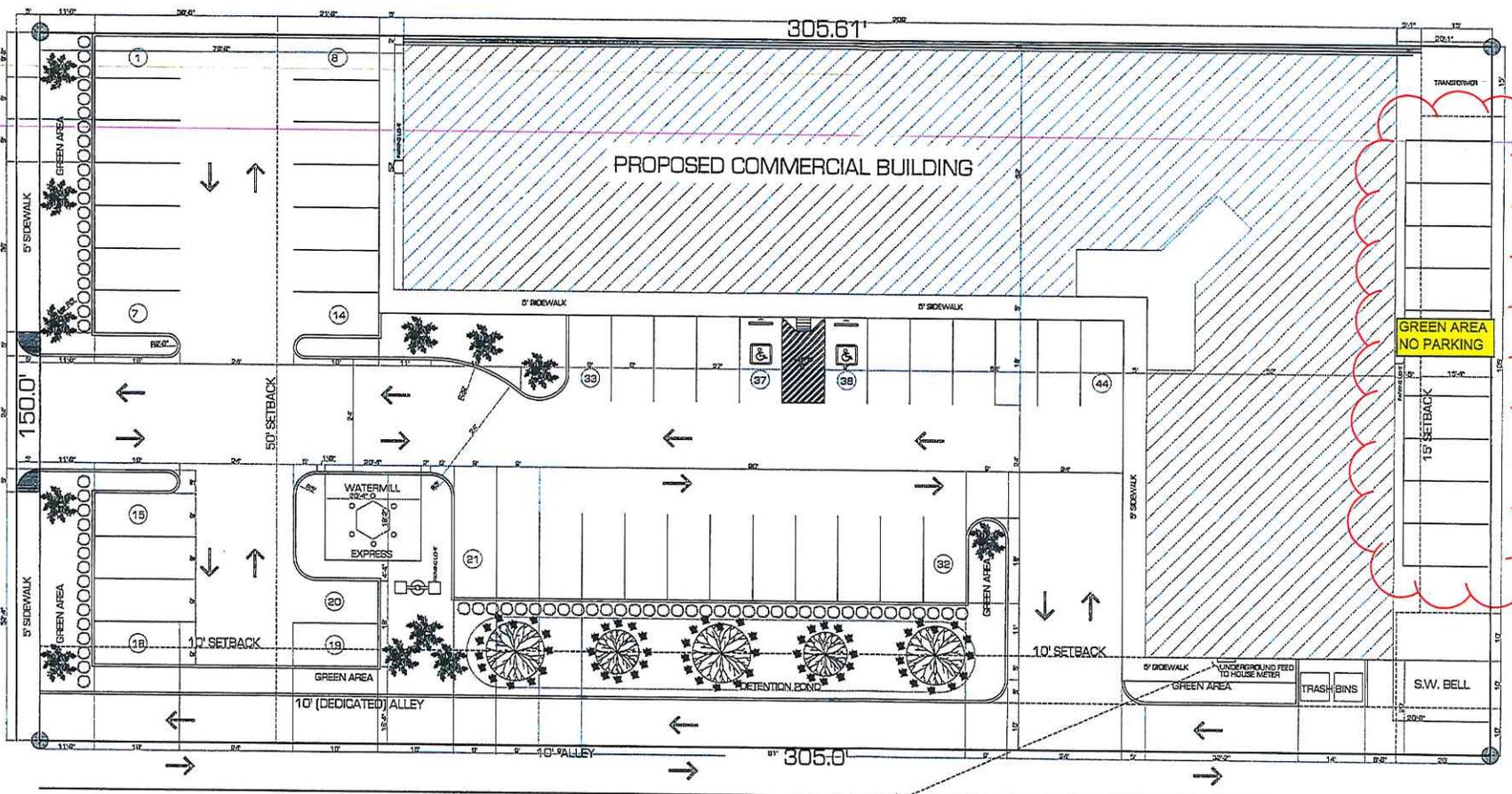
DE LA VEGA PLAN DESIGN & CONTRACTORS  
4905 N. 10TH ST. SUITE B  
MCKALEN, TEXAS 78504  
PH: (856) 533-6137  
dvl@delavegadesign.com

PROJECT: COMMERCIAL  
SITE: LOT 1 ALONZO BARRERA SUBDIVISION MCKALEN, TEXAS 78504  
OWNER: MFR. RAUL PABELA

DATE: 10/19/2007  
SHEET: 4  
FLOOR PLAN



RECEIVED  
SEP 15 2015  
BY: [Signature]  
AM



**SITE PLAN**  
SCALE: 3/32" = 1'

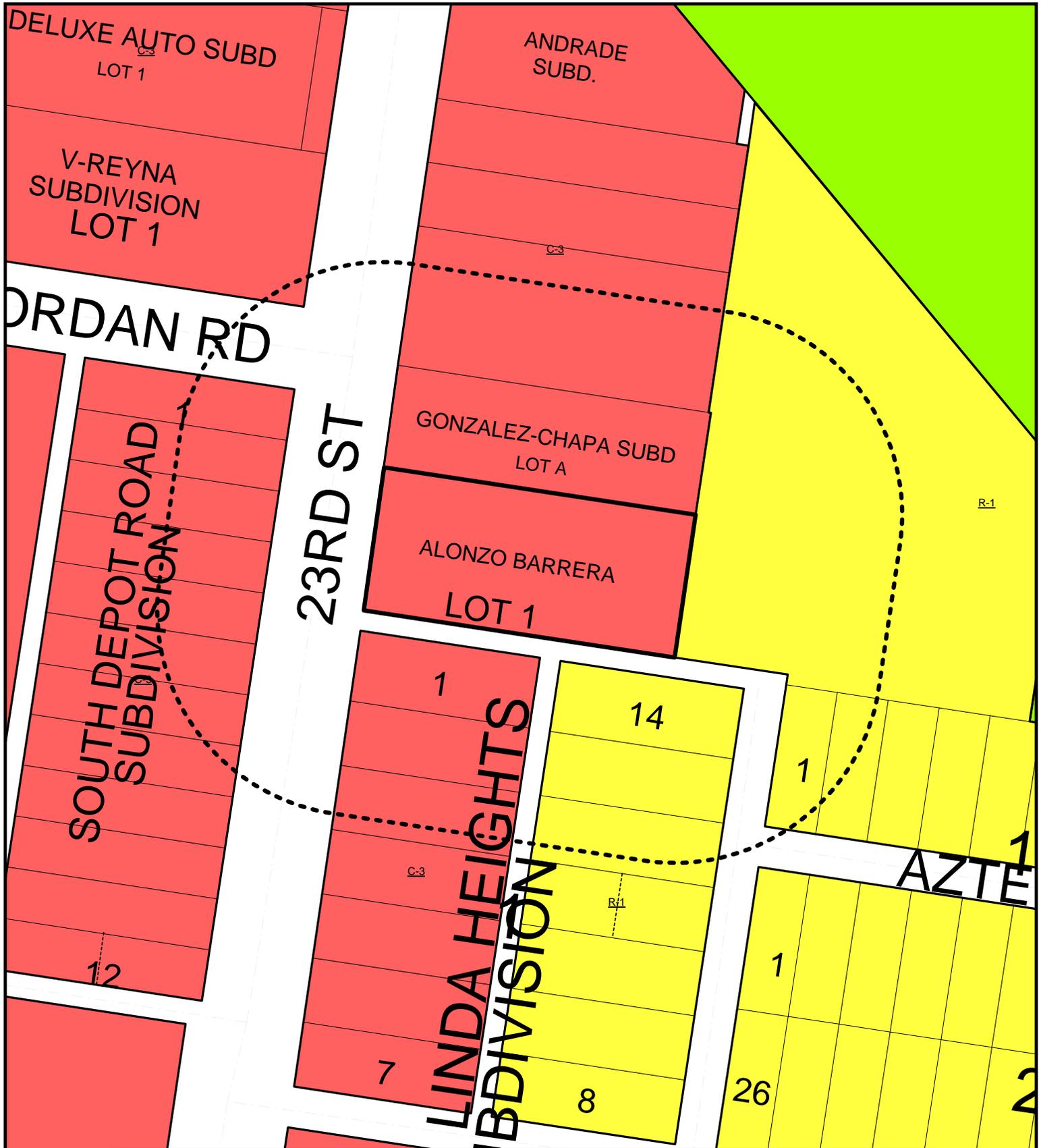
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AREA	DATA
SITE 1	1,420 SQ. FT.
SITE 2	1,420 SQ. FT.
SITE 3	1,420 SQ. FT.
SITE 4	1,420 SQ. FT.
SITE 5	1,420 SQ. FT.
SITE 6	1,420 SQ. FT.
SITE 7	1,420 SQ. FT.
SITE 8	1,420 SQ. FT.
SITE 9	1,420 SQ. FT.
SITE 10	1,420 SQ. FT.
TOTAL AREA	14,200 SQ. FT.

DE LA VEGA PLAN DESIGN & CONTRACTORS  
4305 N. 10 TH ST. SUITE B  
MCCALLEN, TEXAS 78504  
PH. (361) 533-8137  
dplandesign@yahoo.com

PROJECT: COMMERCIAL  
DATE: 10/10/2007  
SHEET: 1  
SITE: LOT 1 ALONZO BARRERA SUBDIVISION MCCALLEN, TEXAS 78504  
OWNER: MR. RAUL FABELA







**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

**AREA MAP**

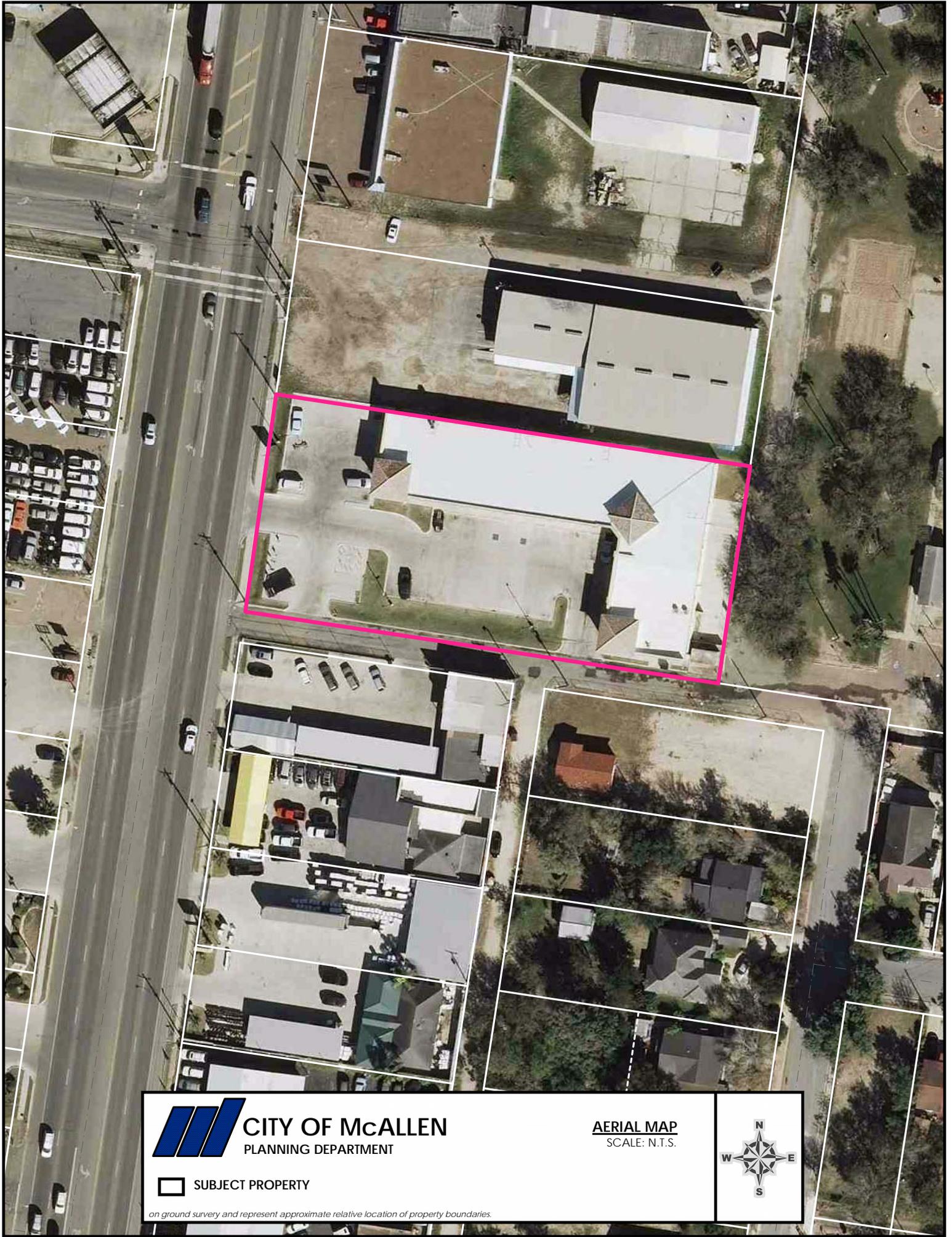


**SUBJECT PROPERTY** 

**200 FT. NOTIFICATION BOUNDARY** 

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

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



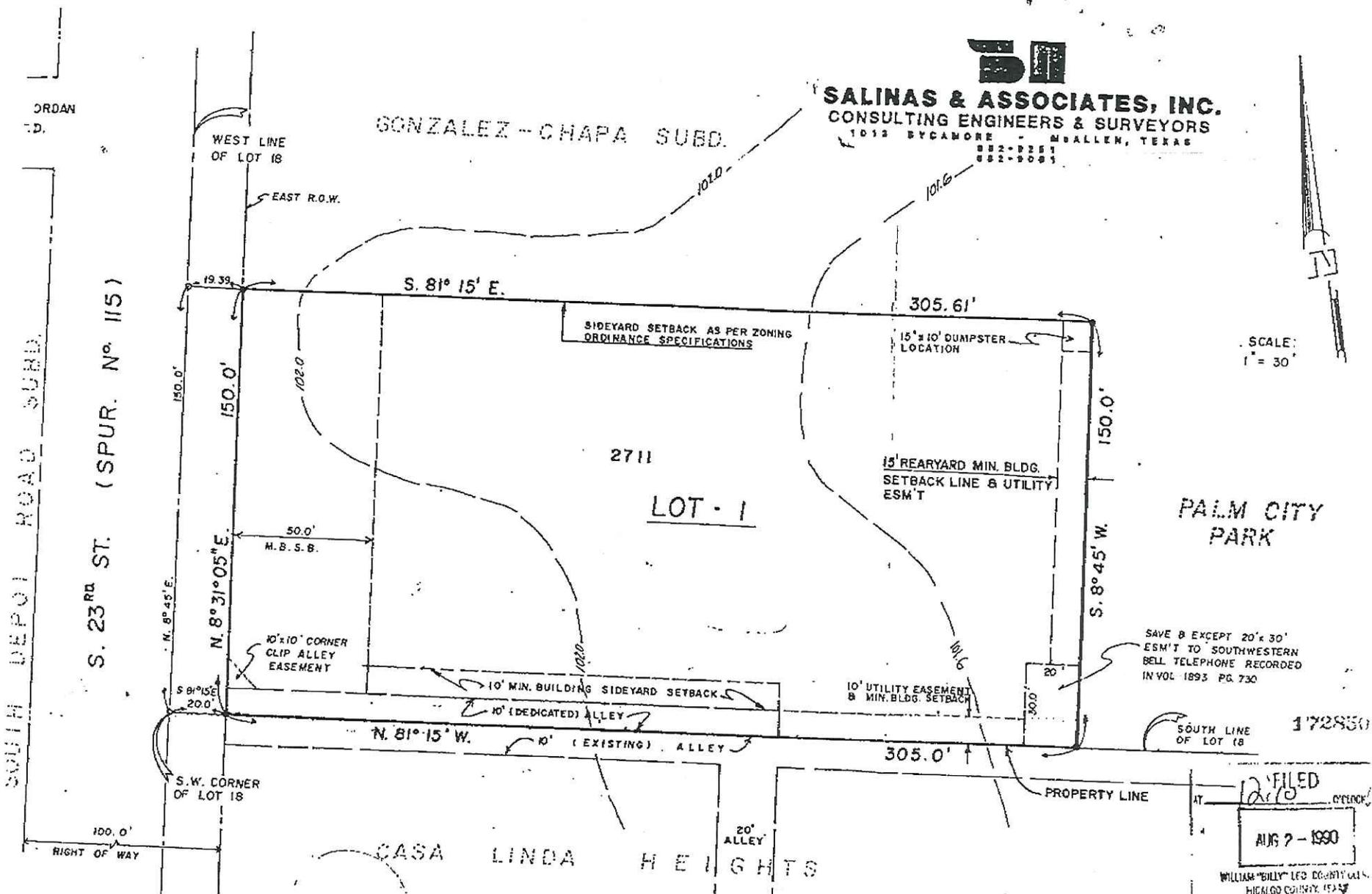
**SUBJECT PROPERTY**



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



**SALINAS & ASSOCIATES, INC.**  
 CONSULTING ENGINEERS & SURVEYORS  
 1012 BYCAMORE - MALLEN, TEXAS  
 832-2251  
 832-2081



SCALE:  
1" = 30'

PALM CITY PARK

SONZALEZ - CHAPA SUBD.

2711

LOT - 1

CASA LINDA HEIGHTS

SAVE & EXCEPT 20'x30' ESM'T TO SOUTHWESTERN BELL TELEPHONE RECORDED IN VOL 1893 PG. 730

SOUTH LINE OF LOT 18 172850

APPROVED FOR RECORDING  
 BY  
 COMMISSIONERS' COURT  
 This the 2<sup>nd</sup> day of Oct. 1990  
 WILLIAM "BILLY" LEO, County Clerk  
 Hidalgo County, Texas

**ALONZO BARRERA SUBDIVISION**

PE 8 - 26 - 135 B

FILED  
 AT Del Rio COUNTY CLERK  
 AUG 7 - 1990  
 WILLIAM "BILLY" LEO COUNTY CLERK  
 HIDALGO COUNTY, TEXAS  
 BY [Signature]

SOUTH DEPOT ROAD SUBD.  
 S. 23<sup>RD</sup> ST. (SPUR. N<sup>o</sup> 115)  
 RIGHT OF WAY

ORDAN T.D.

## Memo

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

**FROM:** Planning Staff

**DATE:** October 15, 2015

**SUBJECT:** REQUEST OF DYNASTY CUSTOM HOMES, LLC C/O IVAN GUAJARDO TO ALLOW THE FOLLOWING VARIANCE: A REAR YARD SETBACK OF 10 FEET INSTEAD OF 25 FEET FOR AN IRREGULARLY SHAPED SWIMMING POOL MEASURING 14.83 FEET BY 30 FEET FOR LOT 62, FRONTERA VILLAGE SUBDIVISION, HIDALGO COUNTY, TEXAS; 1825 HARVARD AVENUE. ZBA2015-0046

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### **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 rear yard setback of 10 feet instead of 25 feet for a proposed swimming pool.

### **PROPERTY LOCATION AND VICINITY:**

The property is located at the southeast corner of Harvard Avenue and 19th Street. The property has 67 feet of frontage and a depth of 107.24 feet for a tract size of 7,185 square feet. The property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. Surrounding land use is single family residential. The subject property contains a proposed single family structure currently under construction.

### **BACKGROUND AND HISTORY:**

Frontera Village Subdivision was recorded on April 13, 2005. The plat indicates a rear yard setback of 25 feet for Lot 62. Based on submitted site plan (see attached site plan) the applicant proposes to construct a swimming pool to encroach into the 25 foot rear yard setback but will be out of a 10 foot utility easement that runs concurrently at the rear of the property. The applicant decided to pursue a variance in order to construct the swimming pool encroaching into the 25 foot rear yard setback. A building permit has been issued for the construction of a single family residence on this property that complied with the double frontage building setback line of 25 feet. The policy of the Planning and Zoning Commission is to consider a double frontage setback of 20 feet for lots with the adjacent right-of-way of 60 feet or less and 25 feet for lots adjacent to right-of-way greater than 60 feet. Frontera Road has a right of way of 80 feet.

**ANALYSIS:**

Access to the lots is limited to Harvard Avenue as per plat note. A masonry wall has been erected along the rear of the properties adjacent to Frontera Road. If the request is approved, it may encourage adjacent property owners to request variances to encroach into the rear yard setback. The approval of the variance request will allow the proposed construction as depicted on the feasibility plan (see attached) to be constructed. On September 2, 2009 a variance request to allow an encroachment of 13.5 feet into the 25 foot rear yard setback for Lots 60-61 of this subdivision was approved by the Zoning Board of Adjustment & Appeals.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request.

ZBA 2015-0040

10/21/15



# City of McAllen

## Planning Department

### APPEAL TO ZONING BOARD OF

### ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

<b>Project</b>	<p>Legal Description <u>lot # 62</u></p> <p>Subdivision Name <u>Frontera Village</u></p> <p>Street Address <u>1825 Harvard St</u></p> <p>Number of lots <u>1</u> Gross acres _____</p> <p>Existing Zoning _____ Existing Land Use _____</p> <p>Reason for Appeal (please use other side if necessary) <u>Want to build a pool</u> <u>Neighbor has pool and palapa on top of set back</u></p> <p><input checked="" type="checkbox"/> \$300.00 non-refundable filing fee</p> <p><input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required</p>
<b>Applicant</b>	<p>Name <u>Ivan Guajardo</u> <u>Dynasty Custom Homes llc</u> Phone <u>956-424-5571</u></p> <p>Address <u>817 Rancho La Joya St</u> E-mail <u>ivan@dynastycustomhomes.com</u></p> <p>City <u>McAllen La Joya</u> State <u>TX</u> Zip <u>78560</u></p>
<b>Owner</b>	<p>Name <u>Dynasty Custom Homes llc</u> Phone _____</p> <p>Address _____ E-mail _____</p> <p>City _____ State _____ Zip _____</p>
<b>Authorization</b>	<p>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?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>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.</p> <p>Signature <u>Ivan Guajardo</u> Date <u>8-26-15 9-15-15</u></p> <p>Print Name <u>Ivan Guajardo</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
<b>Office</b>	<p>Accepted by <u>[Signature]</u> Payment received by _____ Date _____</p> <p>REVISED 9/11</p>



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

I would like to build a pool to make the process of selling home more convenient and attractive. Neighboring home has a gazebo & pool over the 25 ft setback.

25 Foot Set back limits the amount of space to build.

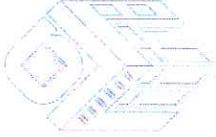
Board Action

Chairman, Board of Adjustment  
Signature

Date

\_\_\_\_\_

\_\_\_\_\_



**M/A**  
**Custom Plans**  
365 HARRY REALLERS  
1950 GALEBERRY  
MCKINNEY - DALLAS, TX  
WWW.MACUSTOMPLANS.COM

THIS DRAWING IS THE PROPERTY OF M/A CUSTOM PLANS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, REPRODUCED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM. WITHOUT THE WRITTEN PERMISSION OF M/A CUSTOM PLANS, ANY REPRODUCTION OR TRANSMISSION OF THIS DRAWING IS STRICTLY PROHIBITED. THE USER OF THIS DRAWING AGREES TO HOLD M/A CUSTOM PLANS HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST M/A CUSTOM PLANS BY ANY THIRD PARTY AS A RESULT OF THE USER'S USE OF THIS DRAWING. THE USER OF THIS DRAWING AGREES TO HOLD M/A CUSTOM PLANS HARMLESS FROM ANY AND ALL CLAIMS, DAMAGES, LOSSES, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST M/A CUSTOM PLANS BY ANY THIRD PARTY AS A RESULT OF THE USER'S USE OF THIS DRAWING.

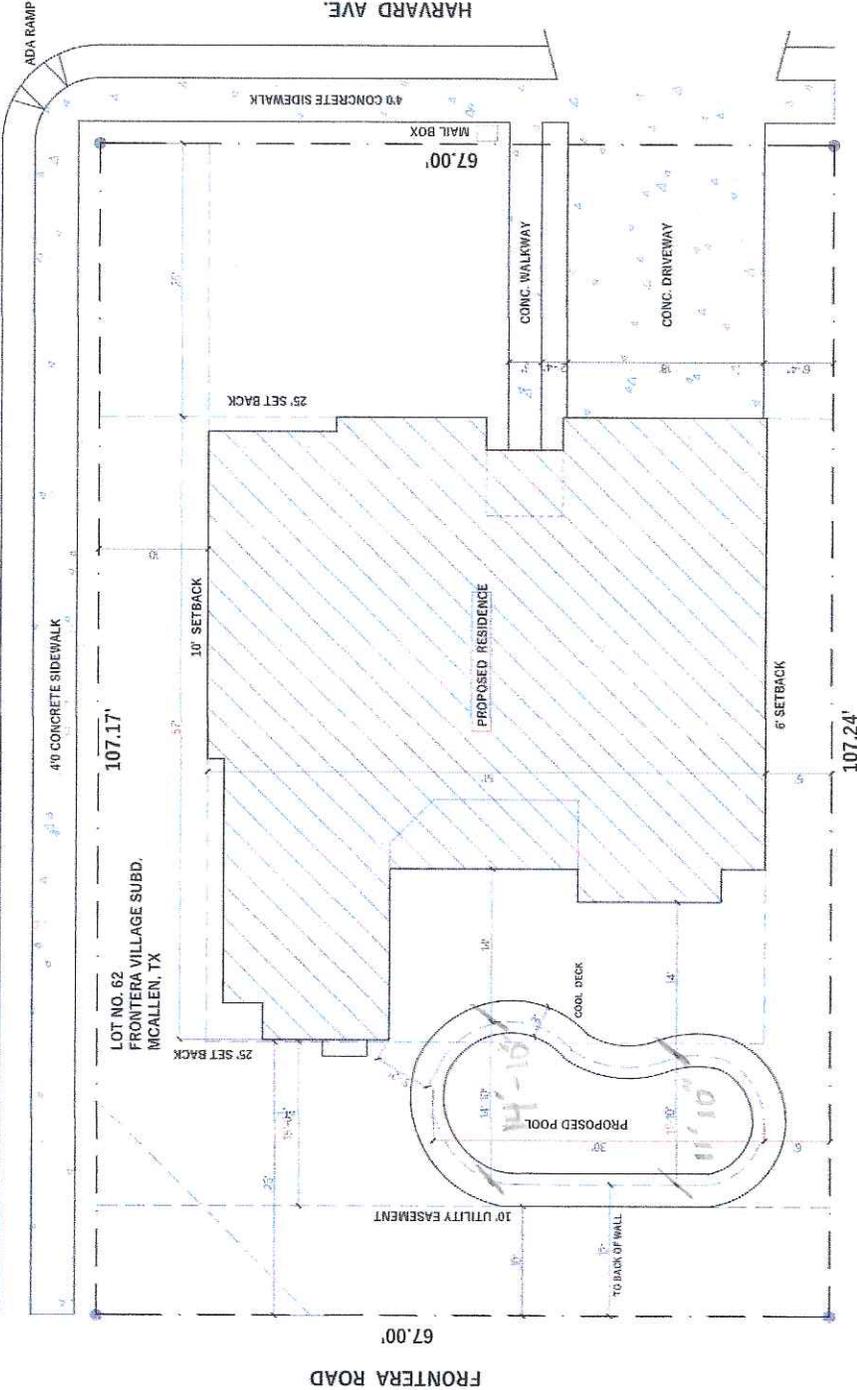
**PROJECT INFORMATION**  
DATE: JULY 12, 2015  
PSDM No.: RES. 2015-07-086  
OWNER: BETHA ANNELES  
SITE: LOT 62  
FRONTIER VILLAGE SUBD.  
MCKINNEY, TEXAS

**PROJECT DATA**  
LIVING: 1,803.0 SF  
GARAGE: 376.0 SF  
PORCH: 42.0 SF  
PATIO: 105.0 SF  
TOTAL AREA: 2,326.0 SF  
WWW.MACUSTOMPLANS.COM

SHEET No. **1 of 6**  
M/A CUSTOM PLANS  
IS AN EQUAL OPPORTUNITY AND  
AFFIRMATIVE ACTION EMPLOYER.  
A EQUAL OPPORTUNITY  
AND AFFIRMATIVE ACTION  
EMPLOYER.



NORTH 19TH STREET

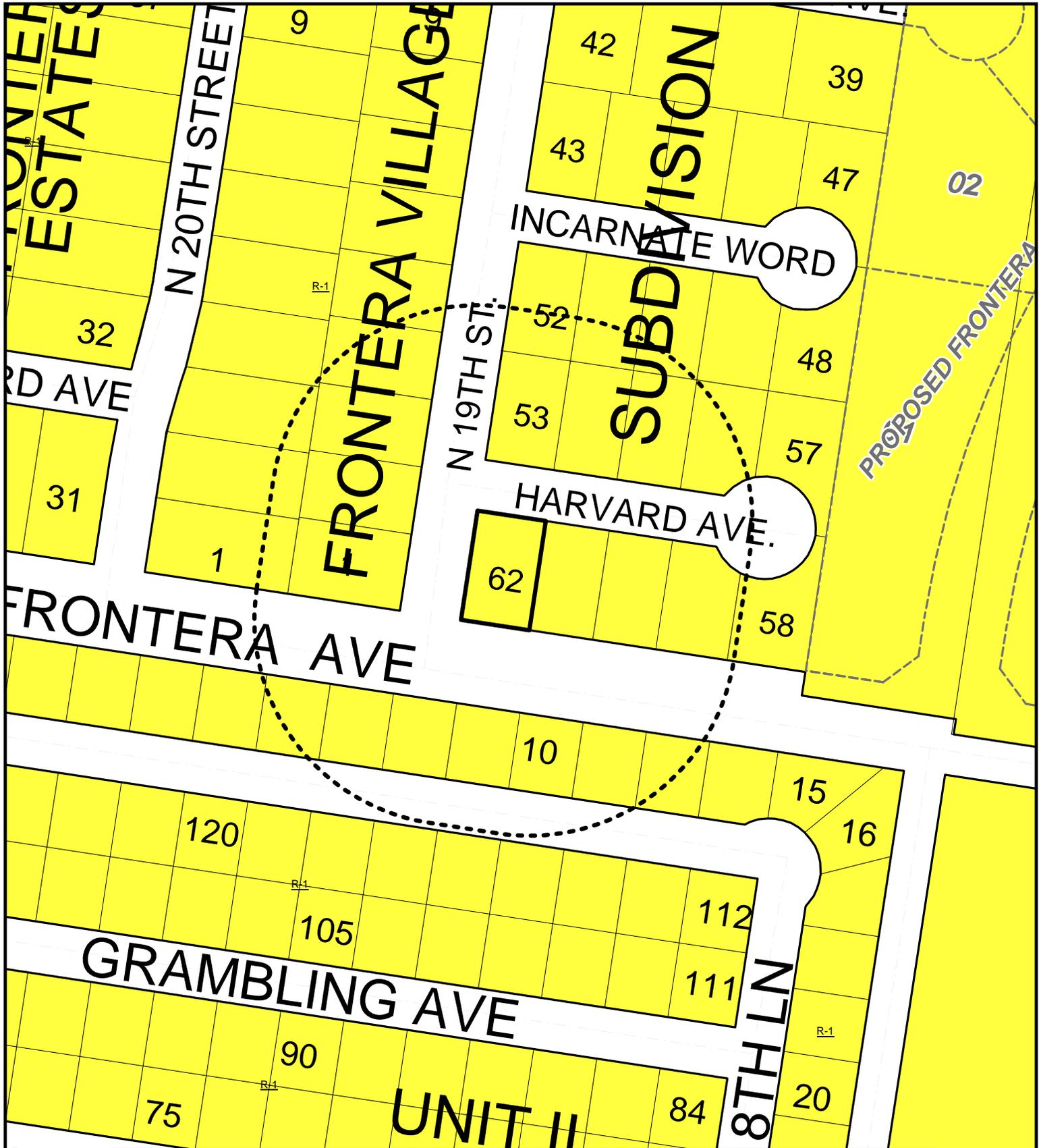


**SITE PLAN**

SCALE: 3/16" = 1'

**SITE PLAN NOTE:**  
PROVIDE EXT. LIGHTING, SPRINKLER SYSTEM, AND LANDSCAPING AS PER CONTRACT.  
PROVIDE 4" CONCRETE SIDEWALK AS PER SUBDIVISION REQUIREMENTS.

M/A CUSTOM PLANS COPYRIGHT © 2015



**CITY OF McALLEN**  
PLANNING DEPARTMENT

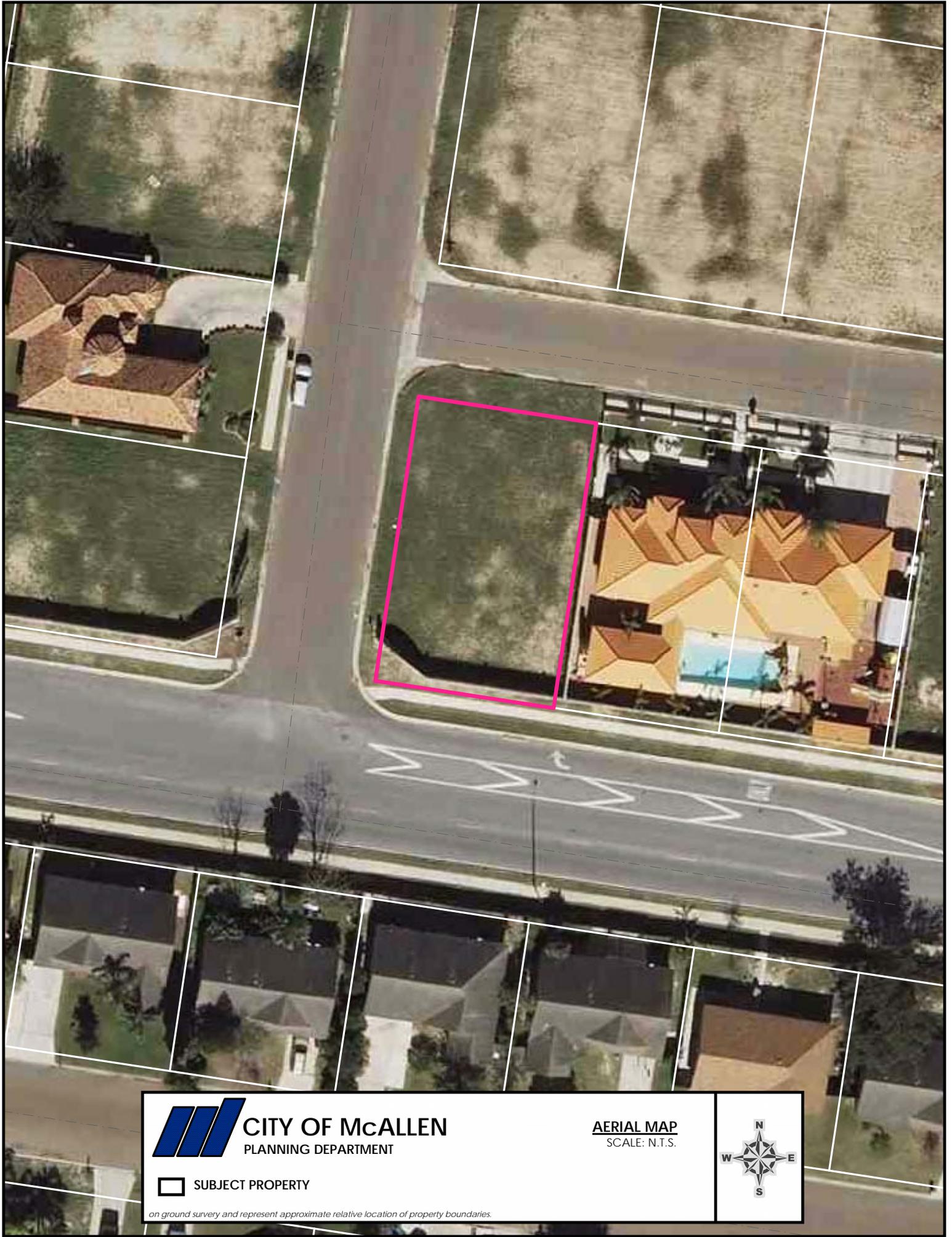
**LEGEND**  
SCALE: N.T.S.

**AREA MAP**

N  
W E  
S

SUBJECT PROPERTY	200 FT. NOTIFICATION BOUNDARY	(AGRICULTURAL & OPEN SPACE)	(APARTMENTS)	(MOBILE HOMES)	(GENERAL BUSINESS)	(LIGHT INDUSTRIAL)
(SINGLE FAMILY RESIDENTIAL)	(CONDOMINIUMS)	(OFFICE BUILDING)	(LIGHT COMMERCIAL)	(HEAVY INDUSTRIAL)	(COMMERCIAL INDUSTRIAL)	(SPECIAL DISTRICT)
(DUPLEX-FOURPLEX)	(TOWNHOUSES)	(NEIGHBORHOOD COMMERCIAL)				

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

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



**SUBJECT PROPERTY**



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

Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
FAX: 512/463-5709



**Certificate of Formation  
Limited Liability Company**

 Filed in the Office of the  
Secretary of State of Texas  
Filing #: 801726911 02/01/2013  
Document #: 464048190002  
Image Generated Electronically  
for Web Filing

Filing Fee: \$300

**Article 1 - Entity Name and Type**

The filing entity being formed is a limited liability company. The name of the entity is:

**Dynasty Custom Homes, LLC**

**Article 2 - Registered Agent and Registered Office**

A. The initial registered agent is an organization (cannot be company named above) by the name of:

OR

B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

**RICARDO VILLARREAL**

C. The business address of the registered agent and the registered office address is:

Street Address:

**817 RANCHO LA JOYA TX 78560**

**Consent of Registered Agent**

A. A copy of the consent of registered agent is attached.

OR

B. The consent of the registered agent is maintained by the entity.

**Article 3 - Governing Authority**

A. The limited liability company is to be managed by managers.

OR

B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Managing Member 1: **IVAN GUAJARDO**

Title: **Managing Member**

Address: **2713 XAVIER MCALLEN TX, USA 78504**

Managing Member 2: **RICARDO VILLARREAL**

Title: **Managing Member**

Address: **817 RANCHO LA JOYA TX, USA 78560**

**Article 4 - Purpose**

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

**Supplemental Provisions / Information**

## Hidalgo CAD

### Property Search Results > 692673 ESPONJAS DEVELOPMENT LTD for Year 2015

#### Property

##### Account

Property ID: 692673 Legal Description: FRONTERA VILLAGE LOT 62  
 Geographic ID: F7672-00-000-0062-00 Agent Code:  
 Type: Real  
 Property Use Code: 23.01e  
 Property Use Description: ARB METHOD ONE YEAR

##### Location

Address: 1825 HARVARD AVE Mapsco:  
 MCALLEN, TX  
 Neighborhood: FRONTERA VILLAGE Map ID: CML VOL 47 PG 150  
 Neighborhood CD: F767200

##### Owner

Name: ESPONJAS DEVELOPMENT LTD Owner ID: 1041541  
 Mailing Address: 2912 S JACKSON RD % Ownership: 100.000000000000%  
 MCALLEN, TX 78503-1870  
 Exemptions:

#### Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$25,141	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
<hr/>			
(=) Market Value:	=	\$25,141	
(-) Ag or Timber Use Value Reduction:	-	\$0	
<hr/>			
(=) Appraised Value:	=	\$25,141	
(-) HS Cap:	-	\$0	
<hr/>			
(=) Assessed Value:	=	\$25,141	

#### Taxing Jurisdiction

Owner: ESPONJAS DEVELOPMENT LTD  
 % Ownership: 100.000000000000%  
 Total Value: \$25,141

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$25,141	\$25,141	\$0.00
CML	CITY OF MCALLEN	0.476300	\$25,141	\$25,141	\$119.75
DR1	DRAINAGE DISTRICT #1	0.095700	\$25,141	\$25,141	\$24.06
GHD	HIDALGO COUNTY	0.590000	\$25,141	\$25,141	\$148.33
JCC	SOUTH TEXAS COLLEGE	0.185000	\$25,141	\$25,141	\$46.51
R15	ROAD DIST 15	0.000000	\$25,141	\$25,141	\$0.00
SML	MCALLEN ISD	1.165000	\$25,141	\$25,141	\$292.89
SST	SOUTH TEXAS SCHOOL	0.049200	\$25,141	\$25,141	\$12.37

Total Tax Rate:	2.561200		
		Taxes w/Current Exemptions:	\$643.91
		Taxes w/o Exemptions:	\$643.91

**Improvement / Building**

No improvements exist for this property.

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1649	7183.00	0.00	0.00	\$25,141	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2016	N/A	N/A	N/A	N/A	N/A	N/A
2015	\$0	\$25,141	0	25,141	\$0	\$25,141
2014	\$0	\$23,345	0	23,345	\$0	\$23,345
2013	\$0	\$23,345	0	23,345	\$0	\$23,345

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	8/7/2015 12:00:00 AM	WD	WARRANTY DEED	ESPONJAS DEVEL	DYNASTY CUSTOM			2635794
2	12/2/2014 12:00:00 AM	CGW	CRTN GENERAL DEED	ESPONJAS DEVEL	ESPONJAS DEVEL			2568046
3	3/6/2013 12:00:00 AM	GWD	GEN. W/D	MONARCA CONST	ESPONJAS DEVEL			2389026

**Tax Due**

Property Tax Information as of 09/23/2015

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:** October 9, 2015

**SUBJECT: REQUEST OF CARLOS LUNA FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: A FRONT YARD SETBACK OF 8 FEET INSTEAD OF 25 FEET FOR A CARPORT MEASURING 22 FEET BY 23.33 FEET FOR LOT 20, BLOCK 9, COLONIA HERMOSA SUBDIVISION NO. 2, HIDALGO COUNTY, TEXAS; 2124 EL RANCHO AVENUE. ZBA2015-0042**

---

### **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 an existing metal carport to encroach 17 feet within the front yard setback. The carport is used to protect the family vehicle from rain and sun. The property owner indicates that the carport was there when he purchased the property in 2012.

### **PROPERTY LOCATION AND VICINITY:**

The property is located along the north side of El Rancho Avenue between 21<sup>st</sup> and 22<sup>nd</sup> Street. The property has 50 feet of frontage along El Rancho Avenue and a depth of 139 feet for a tract size of 6,950 square feet. The property is zoned R-1 (single family residential) District. The surrounding land uses are single family residences. There is an existing single family residence located on the subject property.

### **BACKGROUND AND HISTORY:**

Colonia Hermosa Subdivision No. 2 was recorded on June 8, 1948. The front yard setback is 25 feet. A stop work order was issued on August 31, 2015 and a citation (#20188) was issued on September 8, 2015 for building a carport measuring 22 feet by 23.33 feet without a permit. 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 Board held workshop on exceptions to setbacks and a special exception for carport within the front setback for medical purposes. An Ordinance Committee is reviewing a carport for medical purposes special exception.

**ANALYSIS:**

The existing carport building is setback 8 feet from the property line as shown on the submitted site plan page. Front yard setbacks are important in establishing the character of a single family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Approval of a variance allowing a carport within the front yard may encourage future carports to be constructed in the front yard. Two variance requests for carports constructed within the front yard setback without a building permit on adjacent properties are separate agenda items. The property is adjacent to an alley and there is sufficient rear yard to construct a carport.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request.

ZBOA  
MHEP  
10/2/15

ZBA2015-004A

# City of McAllen Planning Department

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

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

**Project**

Legal Description Lot 20 BIK 9  
Subdivision Name Colonia Hermosa #2  
Street Address 2124 el rancho Ave McAllen Tx. 78503  
Number of lots 1 Gross acres \_\_\_\_\_  
Existing Zoning R1 Existing Land Use house  
Reason for Appeal (please use other side if necessary) el porche ya estaba  
ahi desde la compra de la casa esta a 8ft y debe  
estar a 20ft.  
 \$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 Carlos Luna Phone 956-562-9847  
Address 2124 el rancho Ave E-mail Carlosluna973@gmail.com  
City McAllen State Texas Zip 78503

**Owner**

Name Carlos Luna Phone 956-562-9847  
Address 2124 el rancho Ave E-mail carlosluna973@gmail  
City McAllen State Texas Zip 78503

**Authorization**

To the best of your knowledge are there any deed restrictions, restrictive covenants,  
etc. which would prevent the utilization of the property in the manner indicated?  
 Yes  No  
I certify that I am the actual owner of the property described above and this  
application is being submitted with my consent (include corporate name if applicable)  
OR I am authorized by the actual owner to submit this application and have  
attached written evidence of such authorization.  
Signature [Signature] Date 9/9/15  
Print Name Carlos Luna  Owner  Authorized Agent

**Office**

Accepted by [Signature] Payment received by \_\_\_\_\_ Date \_\_\_\_\_  
REVISED 9/11

RECEIVED  
SEP 09 2015  
BY: [Signature]



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

The reason for this appeal is because I was unaware that a permit was not in place at the time of purchase, since the front porch has been installed as of a couple years back I thought there was no problem. I am a ~~son~~<sup>father</sup> of 2 and I am the only one maintaining my family at this time so I can not afford any of this financially. I am trying to sort all of this out hoping you may understand my situation. Me proteje los carros y ayuda a proteger del sol, lluvia etc.

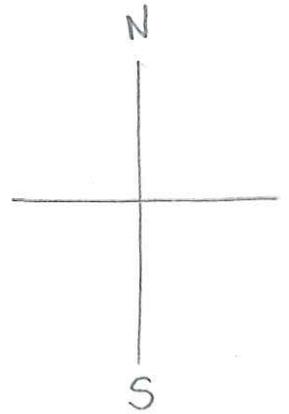
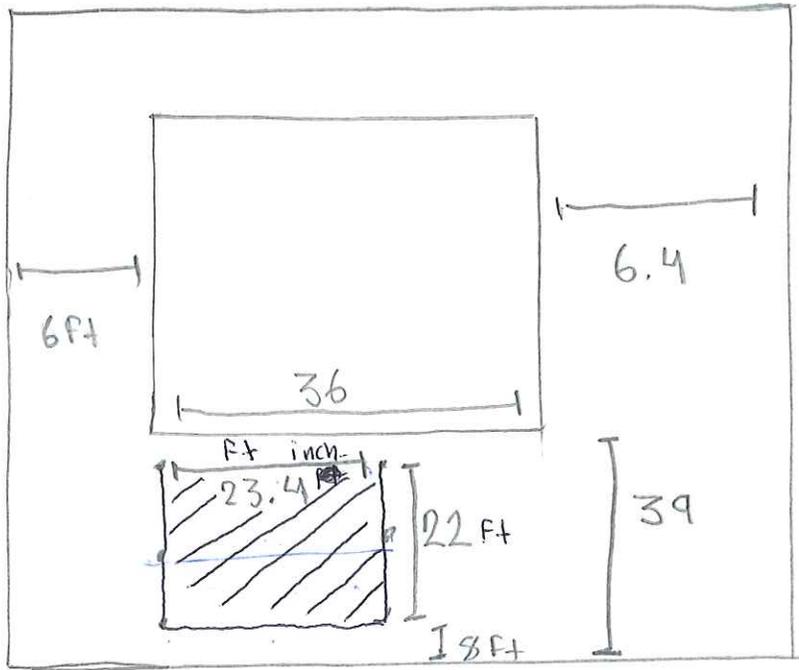
Board Action

Chairman, Board of Adjustment  
Signature

Date

\_\_\_\_\_

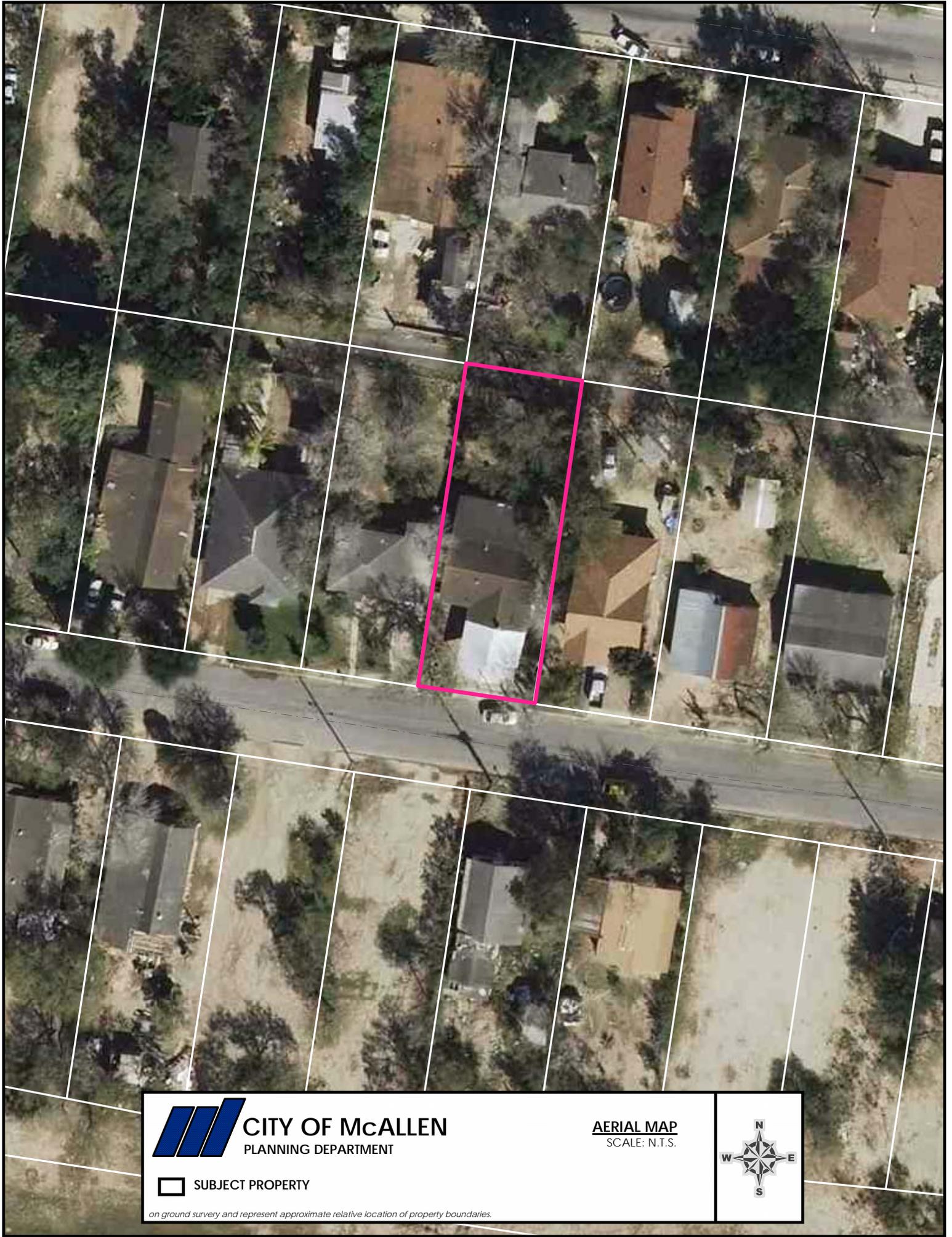
\_\_\_\_\_



2124 El rancho Ave  
McAllen Tx 78503.

19.88.

RECEIVED  
SEP 09 2015  
BY: *GC*



**CITY OF McALLEN**  
PLANNING DEPARTMENT

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



**SUBJECT PROPERTY**



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





**Hidalgo CAD**

**Property Search Results > 151532 LUNA CARLOS JR & VANESSA C for Year 2015**

**Property**

**Account**

Property ID: 151532 Legal Description: COLONIA HERMOSA #2 LOT 20 BLK 9  
 Geographic ID: C7150-02-009-0020-00 Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

**Location**

Address: 2124 EL RANCHO RD Mapsco:  
 MCALLEN, TX  
 Neighborhood: COLONIA HERMOSA #2 Map ID: CML  
 Neighborhood CD: C715002

**Owner**

Name: LUNA CARLOS JR & VANESSA C Owner ID: 994635  
 Mailing Address: 2124 EL RANCHO RD % Ownership: 100.0000000000%  
 MCALLEN, TX 78503

Exemptions:

**Values**

(+) Improvement Homesite Value: + \$0  
 (+) Improvement Non-Homesite Value: + \$16,917  
 (+) Land Homesite Value: + \$0  
 (+) Land Non-Homesite Value: + \$24,325 Ag / Timber Use Value  
 (+) Agricultural Market Valuation: + \$0 \$0  
 (+) Timber Market Valuation: + \$0 \$0  
 -----  
 (=) Market Value: = \$41,242  
 (-) Ag or Timber Use Value Reduction: - \$0  
 -----  
 (=) Appraised Value: = \$41,242  
 (-) HS Cap: - \$0  
 -----  
 (=) Assessed Value: = \$41,242

**Taxing Jurisdiction**

Owner: LUNA CARLOS JR & VANESSA C  
 % Ownership: 100.0000000000%  
 Total Value: \$41,242

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	
CAD	APPRAISAL DISTRICT	0.000000	\$41,242	\$41,242	\$0.00	
CML	CITY OF MCALLEN	0.476300	\$41,242	\$41,242	\$196.44	
DR1	DRAINAGE DISTRICT #1	0.095700	\$41,242	\$41,242	\$39.47	
GHD	HIDALGO COUNTY	0.590000	\$41,242	\$41,242	\$243.33	
JCC	SOUTH TEXAS COLLEGE	0.185000	\$41,242	\$41,242	\$76.30	
R12	ROAD DIST 12	0.000000	\$41,242	\$41,242	\$0.00	
SML	MCALLEN ISD	1.165000	\$41,242	\$41,242	\$480.47	
SST	SOUTH TEXAS SCHOOL	0.049200	\$41,242	\$41,242	\$20.29	
Total Tax Rate:		2.561200				
					Taxes w/Current Exemptions:	\$1,056.30
					Taxes w/o Exemptions:	\$1,056.29

**Improvement / Building**

Improvement #1: RESIDENTIAL State Code: A1 Living Area: 973.0 sqft Value: \$16,917

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	WDFA	DWD	1983	720.0
POR	PORCH (COVERED)	WDFA		1983	72.0
ENC	ENCLOSED ADD	WDFA		1983	253.0
UTY	UTILITY ROOM	WDFA		1983	49.0
POR	PORCH (COVERED)	WDFA		1983	66.0
CPT	CARPORT	*		0	624.0

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1596	6950.00	50.00	139.00	\$24,325	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2016	N/A	N/A	N/A	N/A	N/A	N/A
2015	\$16,917	\$24,325	0	41,242	\$0	\$41,242
2014	\$19,123	\$24,325	0	43,448	\$0	\$43,448
2013	\$19,467	\$24,325	0	43,792	\$0	\$43,792

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	11/26/2012 12:00:00 AM	WDV	WARRANTY DEED/VENDORS LIEN	ALVARADO JOSE /	LUNA CARLOS JR .			2361471
2	11/20/1992 12:00:00 AM	CONV	CONVERSION	MCALLEN HOUSIN	ALVARADO JOSE /	3370	201	
3		CONV	CONVERSION	MARTINEZ HILDA	MCALLEN HOUSIN	2581	72	

**Tax Due**

Property Tax Information as of 09/23/2015

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 30, 2015

**SUBJECT: REQUEST OF RAMIRO HINOJOSA FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: A FRONT YARD SETBACK OF 3 FEET INSTEAD OF 25 FEET FOR A CARPORT MEASURING 18 FEET BY 21 FEET FOR LOT 18, BLOCK 9, COLONIA HERMOSA SUBDIVISION NO. 2, HIDALGO COUNTY, TEXAS; 2116 EL RANCHO AVENUE. ZBA2015-0043**

---

### **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 an existing carport to encroach 22 feet within the front yard setback. The carport is used to protect the family vehicle from rain and sun.

### **PROPERTY LOCATION AND VICINITY:**

The property is located along the north side of El Rancho Avenue between 21<sup>st</sup> and 22<sup>nd</sup> Street. The property has 50 feet of frontage along El Rancho Avenue and a depth of 139 feet for a tract size of 6,950 square feet. The property is zoned R-1 (single family residential) District. The surrounding land uses are single family residences. There is an existing single family residence located on the subject property.

### **BACKGROUND AND HISTORY:**

Colonia Hermosa Subdivision No. 2 was recorded on June 8, 1948. The front yard setback is 25 feet. A stop work order was issued on August 31, 2015 and a citation (#20190) was issued on September 8, 2015 for building a carport measuring 18 feet by 21 feet without a permit. 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 Board held workshop on exceptions to setbacks and a special exception for carport within the front setback for medical purposes. An Ordinance Committee is reviewing a carport for medical purposes special exception.

**ANALYSIS:**

The existing carport building is setback 3 feet from the property line as shown on the submitted site plan page. Front yard setbacks are important in establishing the character of a single family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Approval of a variance allowing a carport within the front yard may encourage future carports to be constructed in the front yard. Two variance requests for carports constructed within the front yard setback without a building permit on adjacent properties are separate agenda items. The property is adjacent to an alley and there is sufficient rear yard to construct a carport.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request.

ZBA 2015-0043

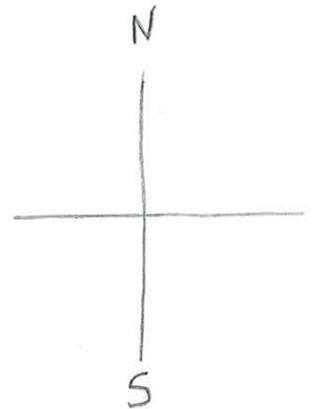
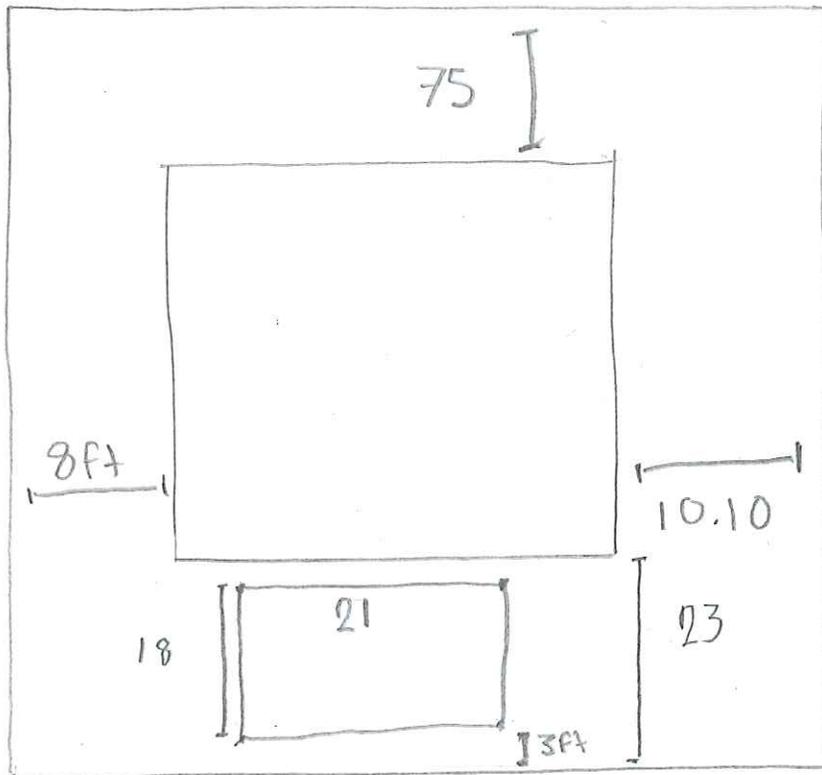
# City of McAllen Planning Department

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

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

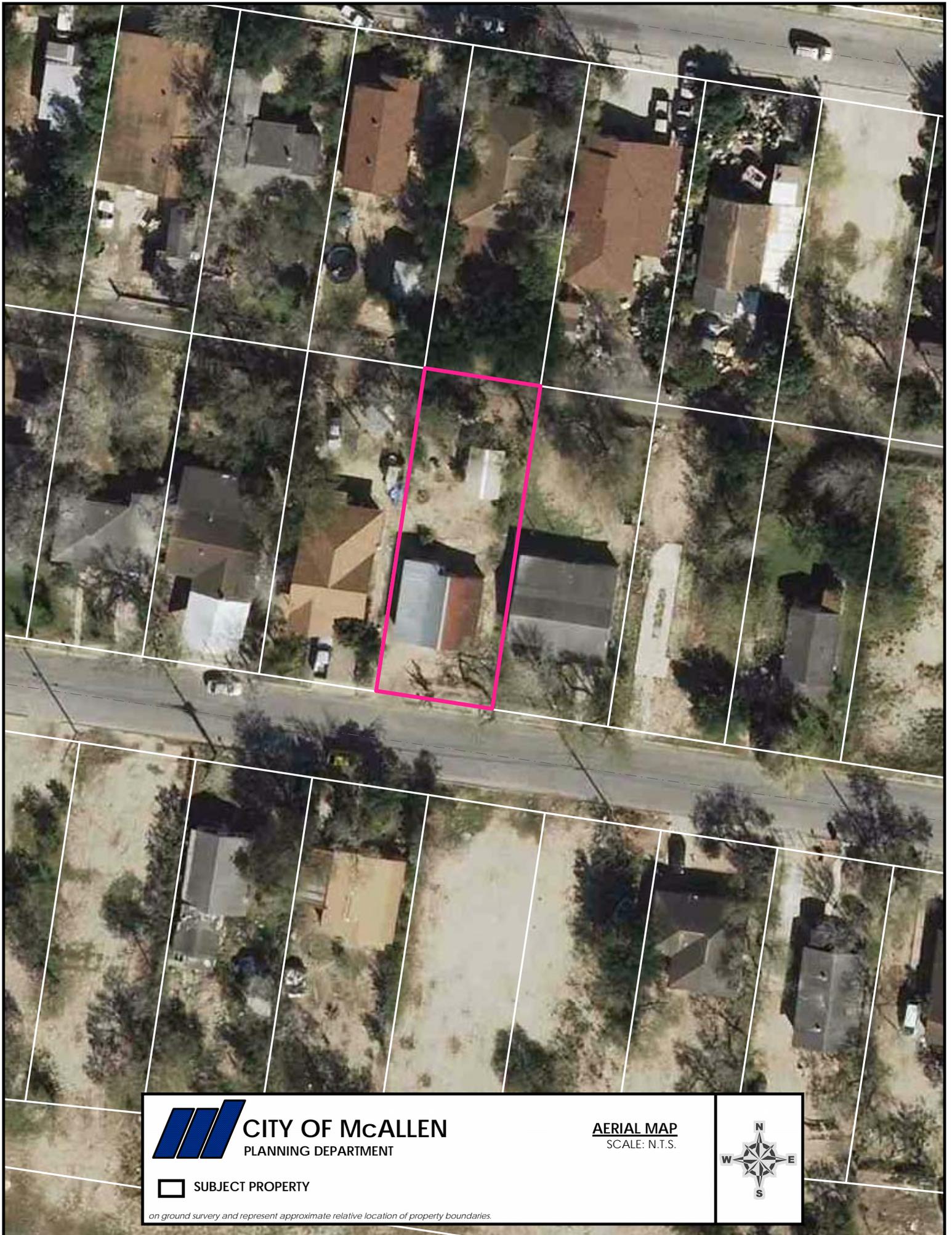
<b>Project</b>	Legal Description <u>Lot 18 blk 9</u> Subdivision Name <u>Colonia Hermosa #2</u> Street Address <u>2116 el rancho Ave McAllen Tx 78503</u> Number of lots <u>1</u> Gross acres _____ Existing Zoning <u>R1</u> Existing Land Use <u>house.</u> Reason for Appeal (please use other side if necessary) <u>Proteger el corra de la lluvia, sol.</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
	<b>Applicant</b> Name <u>Ramiro Hingajosa</u> Phone <u>956-821-5878</u> Address <u>2116 el rancho Ave</u> E-mail _____ City <u>McAllen</u> State <u>Texas</u> Zip <u>78503</u>
<b>Owner</b> Name <u>Ramiro Hingajosa</u> Phone <u>956-821-5878</u> Address <u>2116 el rancho Ave</u> E-mail _____ City <u>McAllen</u> State <u>Texas</u> Zip <u>78503</u>	
<b>Authorization</b> To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization. Signature <u>Ramiro Hingajosa</u> Date <u>9/9/15</u> Print Name <u>Ramiro Hingajosa</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	
<b>Office</b> Accepted by <u>[Signature]</u> Payment received by _____ Date _____ REVISÉD 9/11	

SEP 09 2015  
BY: [Signature]



2116 el rancho Ave  
McAllen Tx 78503

SEP 09 2015  
BY: *GC*



**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

 SUBJECT PROPERTY



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





## Hidalgo CAD

### Property Search Results > 151530 HINOJOSA RAMIRO G for Year 2015

#### Property

##### Account

Property ID: 151530      Legal Description: COLONIA HERMOSA #2 LOT 18 BLK 9  
 Geographic ID: C7150-02-009-0018-00      Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

##### Location

Address: 2116 EL RANCHO RD      Mapsco:  
 MCALLEN, TX  
 Neighborhood: COLONIA HERMOSA #2      Map ID: CML  
 Neighborhood CD: C715002

##### Owner

Name: HINOJOSA RAMIRO G      Owner ID: 487165  
 Mailing Address: 2120 EL RANCHO AVE      % Ownership: 100.0000000000%  
 MCALLEN, TX 78503-5630

Exemptions:

#### Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$10,798	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$24,325	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
-----			
(=) Market Value:	=	\$35,123	
(-) Ag or Timber Use Value Reduction:	-	\$0	
-----			
(=) Appraised Value:	=	\$35,123	
(-) HS Cap:	-	\$0	
-----			
(=) Assessed Value:	=	\$35,123	

#### Taxing Jurisdiction

Owner: HINOJOSA RAMIRO G  
 % Ownership: 100.0000000000%  
 Total Value: \$35,123

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$35,123	\$35,123	\$0.00
CML	CITY OF MCALLEN	0.476300	\$35,123	\$35,123	\$167.29
DR1	DRAINAGE DISTRICT #1	0.095700	\$35,123	\$35,123	\$33.61
GHD	HIDALGO COUNTY	0.590000	\$35,123	\$35,123	\$207.23
JCC	SOUTH TEXAS COLLEGE	0.185000	\$35,123	\$35,123	\$64.98
R12	ROAD DIST 12	0.000000	\$35,123	\$35,123	\$0.00
SML	MCALLEN ISD	1.165000	\$35,123	\$35,123	\$409.18
SST	SOUTH TEXAS SCHOOL	0.049200	\$35,123	\$35,123	\$17.28

Total Tax Rate:	2.561200		
		Taxes w/Current Exemptions:	\$899.57
		Taxes w/o Exemptions:	\$899.57

**Improvement / Building**

Improvement #1:	RESIDENTIAL	State Code:	A1	Living Area:	956.0 sqft	Value:	\$10,798
Type	MA	Description	MAIN AREA	Class CD	WDLW	Exterior Wall	DWD
				Year Built	1973	SQFT	956.0

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1596	6950.00	50.00	139.00	\$24,325	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2016	N/A	N/A	N/A	N/A	N/A	N/A
2015	\$10,798	\$24,325	0	35,123	\$0	\$35,123
2014	\$12,218	\$24,325	0	36,543	\$0	\$36,543
2013	\$12,218	\$24,325	0	36,543	\$0	\$36,543

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	3/25/2002 12:00:00 AM	WD	WARRANTY DEED	MEDINA CONSUEL	HINOJOSA RAMIRC			1065689
2		CONV	CONVERSION	TREVINO LEOCADI	MEDINA CONSUEL			

**Tax Due**

Property Tax Information as of 09/23/2015

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 30, 2015

**SUBJECT: REQUEST OF RAMIRO HINOJOSA FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: A FRONT YARD SETBACK OF 2.41 FEET INSTEAD OF 25 FEET FOR A CARPORT MEASURING 17 FEET BY 22 FEET FOR LOT 19, BLOCK 9, COLONIA HERMOSA SUBDIVISION NO. 2, HIDALGO COUNTY, TEXAS; 2120 EL RANCHO AVENUE. ZBA2015-0044**

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**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 an existing carport to encroach 22.59 feet within the front yard setback. The carport is used to protect the family vehicle from rain and sun.

**PROPERTY LOCATION AND VICINITY:**

The property is located along the north side of El Rancho Avenue between 21<sup>st</sup> and 22<sup>nd</sup> Street. The property has 50 feet of frontage along El Rancho Avenue and a depth of 139 feet for a tract size of 6,950 square feet. The property is zoned R-1 (single family residential) District. The surrounding land uses are single family residences. There is an existing single family residence located on the subject property.

**BACKGROUND AND HISTORY:**

Colonia Hermosa Subdivision No. 2 was recorded on June 8, 1948. The front yard setback is 25 feet. A stop work order was issued on August 31, 2015 and a citation (#20189) was issued on September 8, 2015 for building a carport measuring 17 feet by 22 feet without a permit. 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 Board held workshop on exceptions to setbacks and a special exception for carport within the front setback for medical purposes. An Ordinance Committee is reviewing a carport for medical purposes special exception.

**ANALYSIS:**

The existing carport building is setback 2.5 feet from the property line as shown on the submitted site plan page. Front yard setbacks are important in establishing the character of a single family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Approval of a variance allowing a carport within the front yard may encourage future carports to be constructed in the front yard. Two variance requests for carports constructed within the front yard setback without a building permit on adjacent properties are separate agenda items. The property is adjacent to an alley and there is sufficient rear yard to construct a carport.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request.

ZBOA  
10/21/15

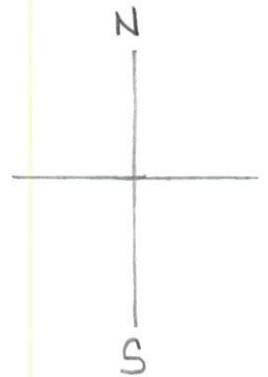
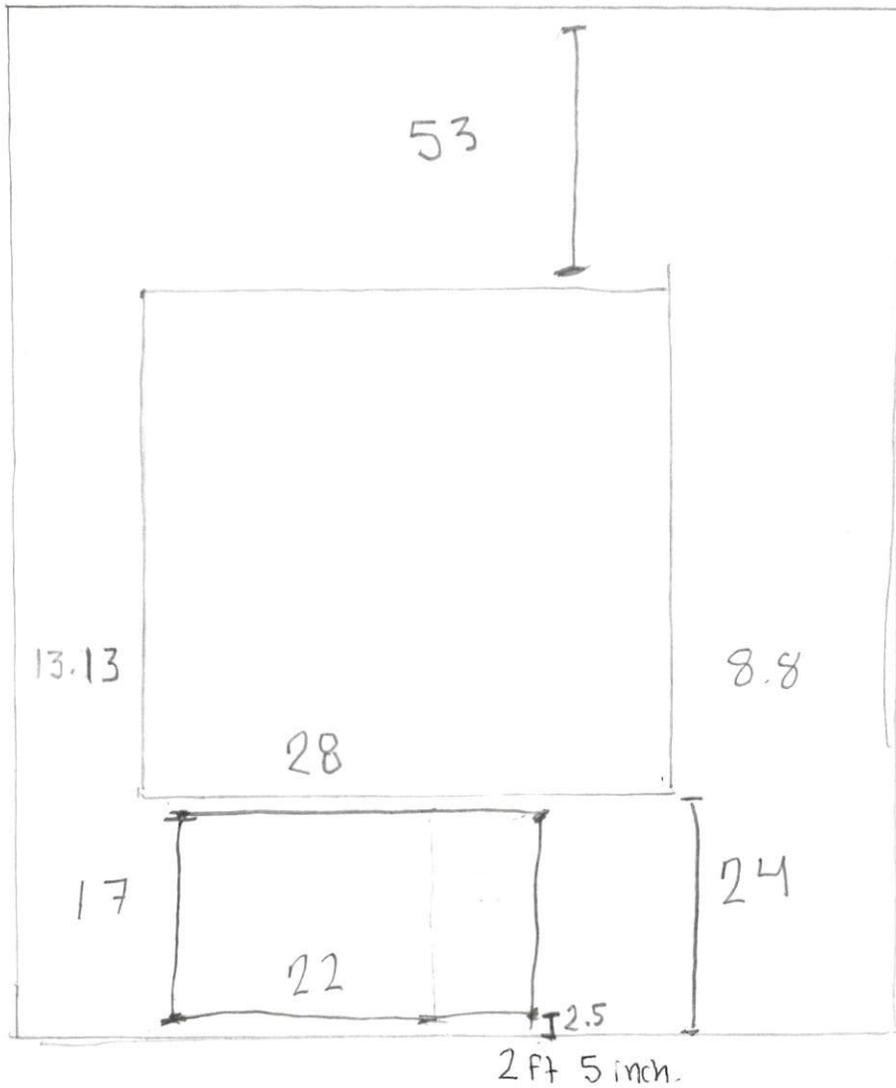
ZBA 2015-0044

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

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

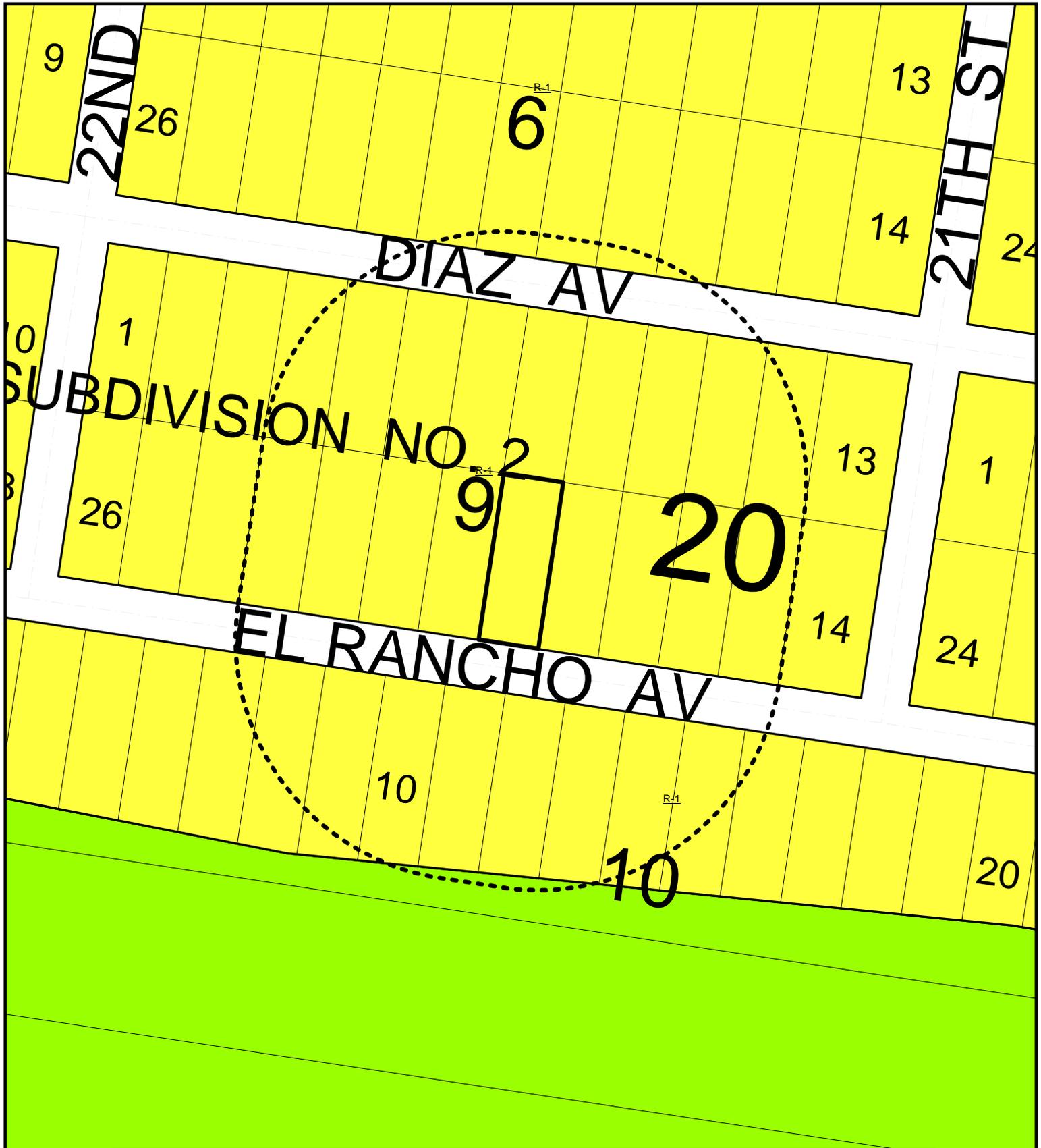
<b>Project</b>	Legal Description <u>Lot 19 blk 9</u> Subdivision Name <u>Colonia Hermosa #2</u> Street Address <u>2120 el rancho Ave McAllen Tx 78503</u> Number of lots <u>1</u> Gross acres _____ Existing Zoning <u>R1</u> Existing Land Use <u>house</u> Reason for Appeal (please use other side if necessary) <u>Proteccion del carro y proteger del Sol, lluvia</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
<b>Applicant</b>	Name <u>Ramiro Hingjosa</u> Phone <u>956-821-5878</u> Address <u>2120 el rancho Ave</u> E-mail _____ City <u>McAllen</u> State <u>Texas</u> Zip <u>78503</u>
<b>Owner</b>	Name <u>Ramiro Hingjosa</u> Phone <u>956-821-5878</u> Address <u>2120 el rancho Ave</u> E-mail _____ City <u>McAllen</u> State <u>Texas</u> Zip <u>78503</u>
<b>Authorization</b>	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization. Signature <u>Ramiro Hingjosa</u> Date <u>9/9/15</u> Print Name <u>Ramiro Hingjosa</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
<b>Office</b>	Accepted by <u>[Signature]</u> Payment received by _____ Date _____ REVISED 9/11

RECEIVED  
SEP 09 2015  
BY: [Signature]



2120 el rancho Ave  
 McAllen Tx 78503

**RECEIVED**  
 SEP 09 2015  
 BY: *GC*





**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

**AREA MAP**



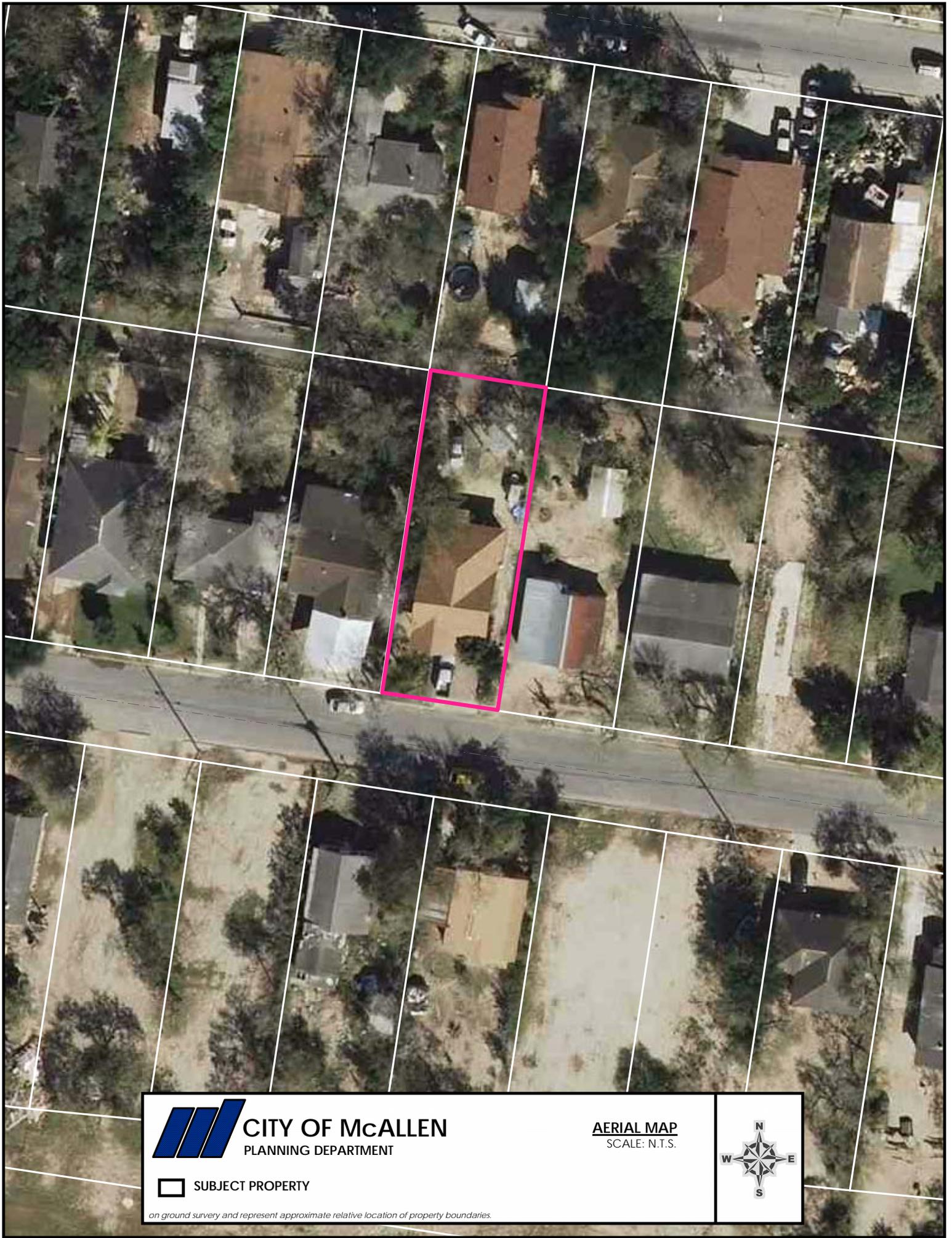
**□** SUBJECT PROPERTY

**⋮** 200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

<p><b>A-0</b> (AGRICULTURAL &amp; OPEN SPACE)</p> <p><b>R-1</b> (SINGLE FAMILY RESIDENTIAL)</p> <p><b>R-2</b> (DUPLEX-FOURPLEX)</p>	<p><b>R-3A</b> (APARTMENTS)</p> <p><b>R-3C</b> (CONDOMINIUMS)</p> <p><b>R-31</b> (TOWNHOUSES)</p>	<p><b>R-4</b> (MOBILE HOMES)</p> <p><b>C-1</b> (OFFICE BUILDING)</p> <p><b>C-2</b> (NEIGHBORHOOD COMMERCIAL)</p>	<p><b>C-3</b> (GENERAL BUSINESS)</p> <p><b>C-3L</b> (LIGHT COMMERCIAL)</p> <p><b>C-4</b> (COMMERCIAL INDUSTRIAL)</p>	<p><b>I-1</b> (LIGHT INDUSTRIAL)</p> <p><b>I-2</b> (HEAVY INDUSTRIAL)</p> <p><b>⋮</b> (SPECIAL DISTRICT)</p>
---	---	--	--	--

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



**CITY OF McALLEN**  
PLANNING DEPARTMENT

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



**SUBJECT PROPERTY**



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





© 2015 Google  
© 2015 Google  
© 2015 INEGI

Goog

RR NO.	1	2	3	4	5	6	7	8	7	10	11	12	13
	6' E 20' EASEMENT												
	26	25	24	23	22	21	20	19	18	17	16	15	14

DIAZ

RR NO.	1	2	3	4	5	6	7	8	9	10	11	12	13
	9' E 20' EASEMENT												
	26	25	24	23	22	21	20	19	18	17	16	15	14

EL RANCHO

50'	"	"	"	"	"	"	"	"	"	"	"	50'	69.5'	40'
-----	---	---	---	---	---	---	---	---	---	---	---	-----	-------	-----

**Hidalgo CAD**

**Property Search Results > 151531 HINOJOSA RAMIRO G for Year 2015**

**Property**

**Account**

Property ID: 151531 Legal Description: COLONIA HERMOSA #2 LOT 19 BLK 9  
 Geographic ID: C7150-02-009-0019-00 Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

**Location**

Address: 2120 EL RANCHO RD Mapsco:  
 MCALLEN, TX  
 Neighborhood: COLONIA HERMOSA #2 Map ID: CML VOL 9 PG 37  
 Neighborhood CD: C715002

**Owner**

Name: HINOJOSA RAMIRO G Owner ID: 437887  
 Mailing Address: COLONIA HERMOSA % Ownership: 100.0000000000%  
 2120 EL RANCHO AVE  
 MCALLEN, TX 78503-5630  
 Exemptions: HS, OTHER

**Values**

(+) Improvement Homesite Value:	+	\$23,896	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$24,325	
(+) Land Non-Homesite Value:	+	\$0	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
-----			
(=) Market Value:	=	\$48,221	
(-) Ag or Timber Use Value Reduction:	-	\$0	
-----			
(=) Appraised Value:	=	\$48,221	
(-) HS Cap:	-	\$0	
-----			
(=) Assessed Value:	=	\$48,221	

**Taxing Jurisdiction**

Owner: HINOJOSA RAMIRO G  
 % Ownership: 100.0000000000%  
 Total Value: \$48,221

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	Tax Ceiling
CAD	APPRAISAL DISTRICT	0.000000	\$48,221	\$48,221	\$0.00	
CML	CITY OF MCALLEN	0.476300	\$48,221	\$38,221	\$119.33	\$119.33
DR1	DRAINAGE DISTRICT #1	0.095700	\$48,221	\$48,221	\$46.15	
GHD	HIDALGO COUNTY	0.590000	\$48,221	\$33,221	\$137.61	\$137.61
JCC	SOUTH TEXAS COLLEGE	0.185000	\$48,221	\$48,221	\$57.14	\$57.14
R12	ROAD DIST 12	0.000000	\$48,221	\$48,221	\$0.00	
SML	MCALLEN ISD	1.165000	\$48,221	\$13,221	\$38.72	\$38.72
SST	SOUTH TEXAS SCHOOL	0.049200	\$48,221	\$48,221	\$23.72	
Total Tax Rate:		2.561200				
					Taxes w/Current Exemptions:	\$422.67
					Taxes w/o Exemptions:	\$1,235.04

**Improvement / Building**

Improvement #1:	RESIDENTIAL	State Code:	A1	Living Area:	1232.0 sqft	Value:	\$23,896
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
MA	MAIN AREA	WDFA	DWD	1968	1232.0		
POR	PORCH (COVERED)	WDFA		1968	112.0		
POR	PORCH (COVERED)	WDFA		1968	72.0		
STG	STORAGE	*		2006	100.0		

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1596	6950.00	50.00	139.00	\$24,325	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2016	N/A	N/A	N/A	N/A	N/A	N/A
2015	\$23,896	\$24,325	0	48,221	\$0	\$48,221
2014	\$21,581	\$24,325	0	45,906	\$0	\$45,906
2013	\$21,581	\$24,325	0	45,906	\$2,323	\$43,583

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	6/23/2000 12:00:00 AM	WDV	WARRANTY DEED/VENDORS LIEN	CASTILLO BACILIC	HINOJOSA RAMIRC			883211
2	4/19/2000 12:00:00 AM	WD	WARRANTY DEED	TREVINO LEOCAD	CASTILLO BACILIO			865429

**Tax Due**

Property Tax Information as of 09/23/2015

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:** August 14, 2015

**SUBJECT:** 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 FEET, FOR LOT 18, BLOCK 3, MCALLEN HEIGHTS SUBDIVISION, HIDALGO COUNTY, TEXAS; 1009 SOUTH 27<sup>TH</sup> STREET. (ZBA2014-0026)

---

### **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 side yard setback of 2.25 feet instead of 5 feet for a metal carport measuring 24.16 feet by 25.25 feet and a front yard setback of 2.41 feet instead of 25 feet for a carport measuring 24.16 feet by 25.25 feet. The property owner has built the 610 square foot carport in front of the residence.

### **PROPERTY LOCATION AND VICINITY:**

The property is located along the east side of South 27<sup>th</sup> Street 255 feet north of Lindberg Avenue. The property is zoned R-1 (single family residential) District. The surrounding land use is single family residences. There is an existing single family residence on the subject property.

### **BACKGROUND AND HISTORY:**

McAllen Heights Subdivision was recorded on January 28, 1959. The front yard setback is 20 feet or in line with existing structures as per ordinance. An existing carport is built 2.5 feet from the front property line. The applicant indicates that the carport was built

in May 2014. The applicant built the carport himself. The construction was noticed by Building Permit and Inspections staff while in the area. The applicant received a stop work order and a citation (#12727) for construction without a permit on May 30, 2014 from the Building Permit and Inspections Department. A building permit application was submitted June 2, 2014 and is pending the variance request.

**ANALYSIS:**

The purpose of the front yard setback is to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties within the subdivision.

Variance #1 is a side yard setback of 2.25 feet. The roof has a pitch that will cause rainfall runoff to spill into the neighboring property.

Variance #2 is the front yard setback of 2.41 feet. The carport is of metal construction unlike the house. The size and height of the carport is not compatible with the single family construction along the street.

The variance request is not due to special conditions nor is the plight of the owner unique. The request does not meet the criteria for approval.

**RECOMMENDATION:**

Staff recommends disapproval of the variance request. At the Zoning Board of Adjustment and Appeals meeting of November 19, 2014 no one appeared in opposition of the variance requests. Jose Luis Galindo, the applicant, stated that during the hailstorm of 2012 his vehicles had been damaged and this was one of the reasons for constructing his carport. The applicant stated that the carport remains unfinished. Ms. Gloria Galindo stated that the carport had also been constructed for her since she needed the protection from inclement weather due to medical reasons. The applicant presented pictures of other carport structures in the area. Chairman Jose Gonzalez left the meeting at approximately 6 PM and board member Rolando Ayala stated that he would have to abstain from the consideration of this case. The number of members remaining would not constitute a full board. The Board unanimously voted with 5 members present and voting, to table the variance requests until the meeting of January 21, 2015 so that the requests may be heard by a full Board and to provide additional information with regards to the applicant's medical need for the carport. At the Zoning Board of Adjustments and Appeals meeting of January 21, 2015 the Board voted to table the variance requests until the meeting of July 15, 2015 in order to allow the City Commission to consider a medical reason as a special exception. At the Zoning Board of Adjustment and Appeals meeting of July 15, 2015 no one appeared in opposition of the variance requests. The Board voted to table the variance requests until the meeting of August 5, 2015 in order for the requests to be heard by a full Board.

There were three members present and voting. At the meeting of August 5, 2015 no one appeared to speak in opposition of the variance request. The Board unanimously voted to table the variance requests in order to allow the applicant time to consider a reduction in the building setback encroachments. There were five members present and voting.

ZBA 2014-0026

# 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

<b>Project</b>	Legal Description <u>Carport 24 X 24</u> <u>Lot 18 BIK3</u>
	Subdivision Name <u>McAllen Heights</u>
	Street Address <u>1009 S. 27th St.</u>
	Number of lots <u>1</u> Gross acres _____
	Existing Zoning <u>R1</u> Existing Land Use <u>House</u>
	Reason for Appeal (please use other side if necessary) <u>Carport already</u> <u>Build cost \$3000 due to damage to cars during</u> <u>hail storm.</u>

- \$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

<b>Applicant</b>	Name <u>Jose Luis Galindo</u> Phone <u>956-537-9254</u>
	Address <u>1009 S. 27th St</u>
	City <u>McAllen</u> State <u>Tx</u> Zip <u>78501</u>

<b>Owner</b>	Name <u>Jose Luis &amp; Gloria Galindo</u> Phone <u>537-9254</u>
	Address <u>1009 S. 27th St</u>
	City <u>McAllen</u> State <u>Tx</u> Zip <u>78501</u>

<b>Authorization</b>	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.
	Signature <u>[Signature]</u> Date <u>6-6-14</u>
	Print Name <u>Jose Luis Galindo</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent

<b>Office</b>	Accepted by <u>[Signature]</u> Payment received by _____ Date _____

Scanned + approved

RECEIVED  
JUL 18 2014  
BY: aw

Rct # 218, 588 ✓



# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

Front yard, ~~feet~~ of set back of 3 feet  
in steal of 20 feet

Board Action

Chairman, Board of Adjustment  
Signature

Date



9-4

McAllen Municipal Court  
1601 N. Bicentennial Blvd.  
McAllen, TX 78501  
(956) 681-2900

Warning

Ticket #  
12727

Date: May 30/14 Time: 10:09 Issuer: José Daniel Gonzalez ID: 9099  
Location/Block/Street: 1009 S. 27th License Plate:

<input checked="" type="checkbox"/> Permits	<input type="checkbox"/> Health	<input type="checkbox"/> Zoning
<input type="checkbox"/> Building	<input type="checkbox"/> Weedy Lot	<input type="checkbox"/> Sign Placed in ROW
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Accumulation of trash	<input type="checkbox"/> Signs w/o Permit
<input checked="" type="checkbox"/> Electrical	<input type="checkbox"/> Stagnant Water	<input type="checkbox"/> Erecting Signs w/o Permit
<input type="checkbox"/> Mechanical	<input type="checkbox"/> Illegal Dumping	<input type="checkbox"/> Proh. Portable Signs
<input type="checkbox"/> Work w/o Inspection	<input type="checkbox"/> Gross Unsanitary Cond.s	<input type="checkbox"/> Front Yard Parking
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Deposit of Wastes	<input type="checkbox"/> Fail to Obtain C.U.P.
<input type="checkbox"/> Electrical	<input type="checkbox"/> Food/Retail	<input type="checkbox"/> Expired C.U.P.
<input type="checkbox"/> Mechanical	<input type="checkbox"/> No Certified Manager	<input type="checkbox"/> Violation of C.U.P. Cond.
<input type="checkbox"/> Construction (com./res)	<input type="checkbox"/> No Food Handling Cert.	<input type="checkbox"/> Animal
<input type="checkbox"/> Performing Work w/o Lic.	<input type="checkbox"/> Hazardous Foods	<input type="checkbox"/> Leash Law
<input type="checkbox"/> Plumbing	<input type="checkbox"/> Selling Food w/o Permit	<input type="checkbox"/> No Vaccinations
<input type="checkbox"/> Electrical	<input type="checkbox"/> Business on Sidewalks	<input type="checkbox"/> Fire
<input type="checkbox"/> Mechanical	<input type="checkbox"/> Display/Sale on S/Sidewalk	<input type="checkbox"/> Exceed Occupancy
	<input type="checkbox"/> Proh. Outdoor Display/Sale of Merch.	<input type="checkbox"/> Blocked Exits
	<input type="checkbox"/> No Garage Sale Permit	<input type="checkbox"/> Fail to Maintain Fire Alarm

Violation/Offense: Construction of Cartport

Violation/Offense:

Last Name: Galindo First Name: José Middle: Luis  
 Street Address: 1009 S. 27th City: McAllen State: TX Zip: 78501  
 Res. Phone: \_\_\_\_\_ Sex: M DOB: 8/12/45 Age: \_\_\_\_\_ D.L. #: 09487493 State: TX  
 Occupation: Self Employer: \_\_\_\_\_ Phone: \_\_\_\_\_  
 Business Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

I HEREBY PROMISE TO APPEAR BEFORE THE MUNICIPAL COURT ON OR BEFORE: 10th June, 20 14

Signature: [Handwritten Signature]

YOUR FAILURE TO APPEAR MAY CAUSE A CRIMINAL COMPLAINT TO BE FILED AGAINST YOU AND A WARRANT FOR YOUR ARREST WILL BE ISSUED.



CITY OF McALLEN BUILDING PERMIT APPLICATION

REV. 11/2013

P.O. BOX 220 McALLEN, TEXAS 78505-0220
APPLICATION MUST BE COMPLETE
(Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER RES201408593

APPLICANT

NAME Jose Luis Galindo PHONE 956 537 9254
ADDRESS 1009 S. 27th St
CITY McAllen STATE TX ZIP 78501
CONTACT NAME Jose Luis Galindo PHONE 956 227 6127
OWNER CONTRACTOR TENANT OTHER

OWNER

NAME Jose Luis & Glorja Galindo PHONE 956 537 9254
ADDRESS 1009 S. 27th St
CITY McAllen STATE TX ZIP 78501

NEW ADDITION REMODELING REPAIR MOVE REMOVE BLDG. HGT. NO. OF FLOORS
BLDG SQ. FT 24x24 NO. PARKING SPACES SQ. FT LOT FLOOR EL ABOVE CURB
EXISTING USE OF LOT House NEW USE IMPROVEMENT VALUE \$ 3,000 1.00

SCOPE OF WORK TO BE DONE Carport

PROJECT

FOR RESIDENTIAL USE ONLY NO. OF UNITS 1 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, EABPR/JAB#, CONDEMNED STRUCTURE

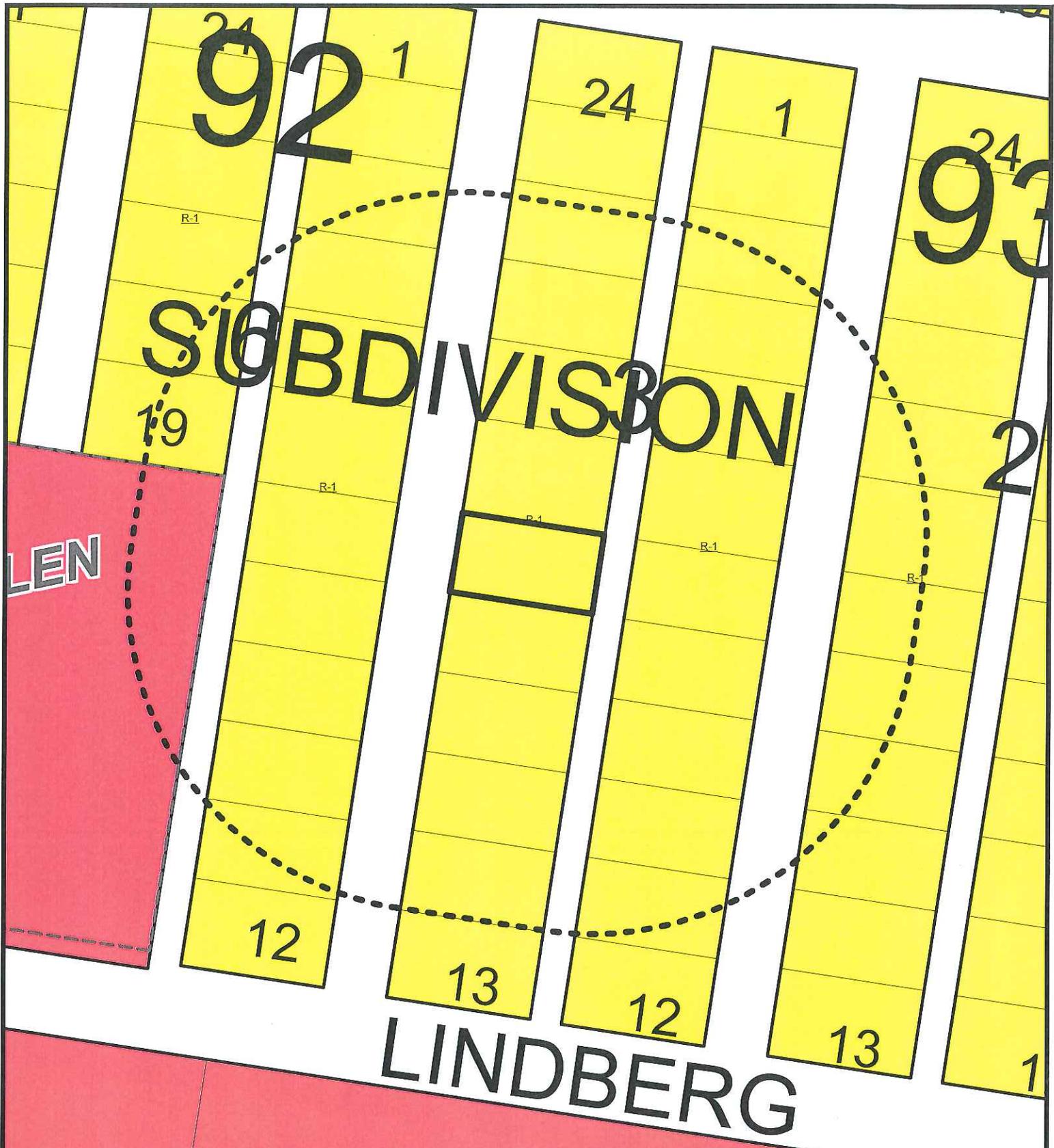
Carport
LOT 18 BLOCK 5 SUBDIVISION McAllen Heights
SITE ADDRESS 1009 S. ST. NO. 27th ST. NAME 27th St.

CITY USE ONLY

ZONING PERMIT FEE \$ 74.88 DOUBLE FEE \$ 74.88 REC'D BY
PARK DEV. PERMIT REVIEW FEE \$ TOTAL PERMIT FEE \$ 149.76 DATE 6/2/14
ZONE # PARK DEVELOPMENT FEE \$ TIME 1:00

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.

PRINT (AUTHORIZED AGENT/OWNER) Signature: Jose L. Galindo EMAIL ADDRESS (required): jlgalindo715e@sbcglobal.net DATE: 6/2/14





**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

**AREA MAP**



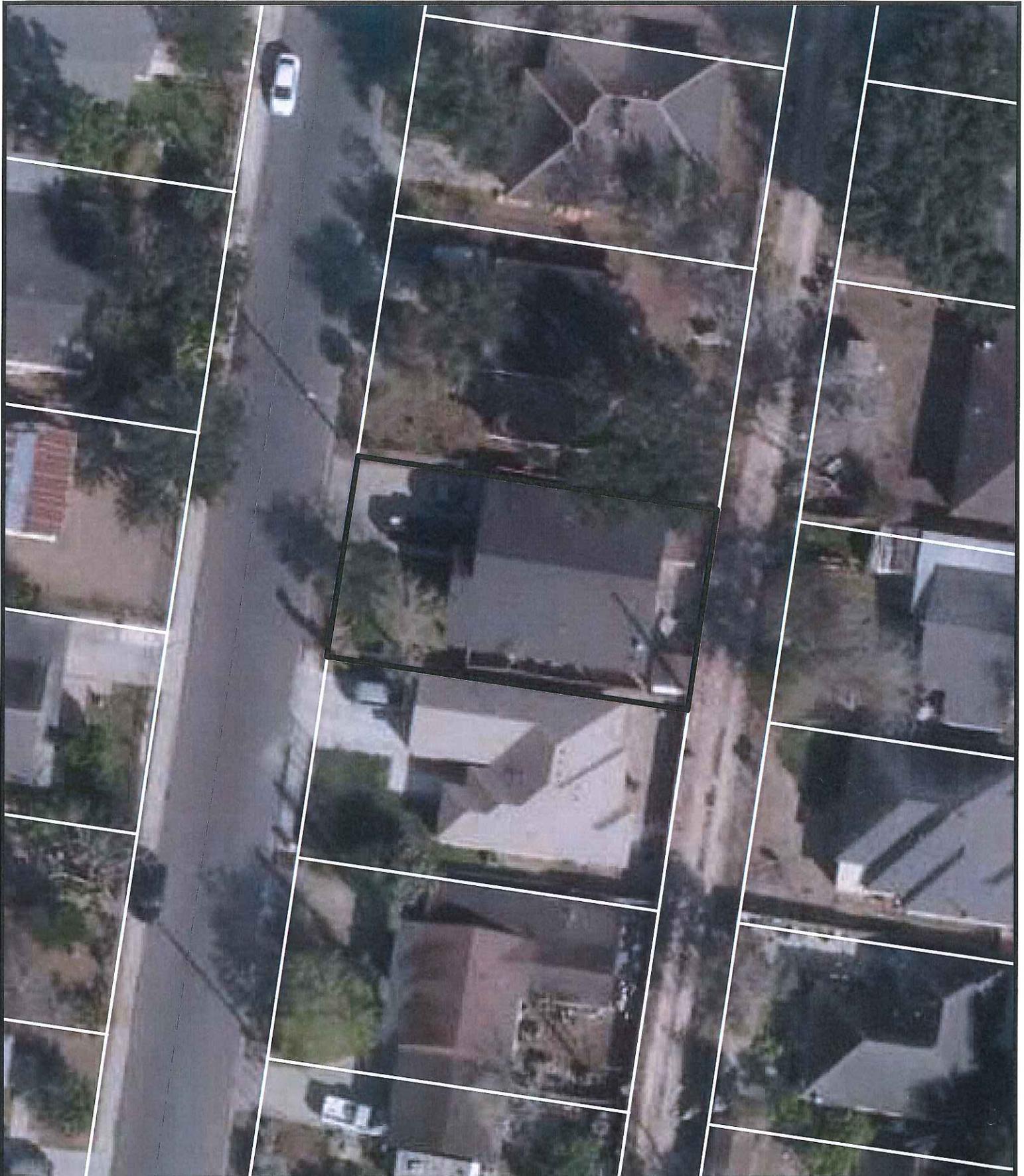
 SUBJECT PROPERTY

 200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

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

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

 **SUBJECT PROPERTY**



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







## Hidalgo CAD

### Property Search Results > 230316 GALINDO JOSE LUIS & GLORIA for Year 2014

#### Property

##### Account

Property ID: 230316 Legal Description: MCALLEN HEIGHTS LOT 18 BLK 3  
 Geographic ID: M2150-00-003-0018-00 Agent Code:  
 Type: Real  
 Property Use Code:  
 Property Use Description:

##### Location

Address: 1009 S 27TH ST Mapsco:  
 MCALLEN, TX  
 Neighborhood: MCALLEN HEIGHTS Map ID:  
 Neighborhood CD: M215000

##### Owner

Name: GALINDO JOSE LUIS & GLORIA Owner ID: 139070  
 Mailing Address: 1009 S 27TH ST % Ownership: 100.0000000000%  
 MCALLEN, TX 78501-8322  
 Exemptions: DP, HS

#### Values

(+) Improvement Homesite Value:	+	\$35,820	
(+) Improvement Non-Homesite Value:	+	\$0	
(+) Land Homesite Value:	+	\$13,500	
(+) Land Non-Homesite Value:	+	\$0	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0
-----			
(=) Market Value:	=	\$49,320	
(-) Ag or Timber Use Value Reduction:	-	\$0	
-----			
(=) Appraised Value:	=	\$49,320	
(-) HS Cap:	-	\$0	
-----			
(=) Assessed Value:	=	\$49,320	

#### Taxing Jurisdiction

Owner: GALINDO JOSE LUIS & GLORIA  
 % Ownership: 100.0000000000%  
 Total Value: \$49,320

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax	Tax Ceiling
CAD	APPRAISAL DISTRICT	0.000000	\$49,320	\$49,320	\$0.00	
CML	CITY OF MCALLEN	0.431300	\$49,320	\$39,320	\$125.52	\$125.52
DR1	DRAINAGE DISTRICT #1	0.095700	\$49,320	\$49,320	\$47.20	
GHD	HIDALGO COUNTY	0.590000	\$49,320	\$49,320	\$234.78	\$234.78
JCC	SOUTH TEXAS COLLEGE	0.150000	\$49,320	\$49,320	\$59.33	\$59.33
R12	ROAD DIST 12	0.000000	\$49,320	\$49,320	\$0.00	
SML	MCALLEN ISD	1.165000	\$49,320	\$24,320	\$172.34	\$172.34
SST	SOUTH TEXAS SCHOOL	0.049200	\$49,320	\$49,320	\$24.27	

Total Tax Rate:	2.481200	Taxes w/Current Exemptions:	\$663.44
		Taxes w/o Exemptions:	\$1,223.73

**Improvement / Building**

<b>Improvement #1:</b>	<b>RESIDENTIAL</b>	<b>State Code:</b>	<b>A1</b>	<b>Living Area:</b>	<b>1666.0 sqft</b>	<b>Value:</b>	<b>\$35,820</b>
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
MA	MAIN AREA	BRKFA	DBRK	1960	1468.0		
POR	PORCH (COVERED)	BRKFA		1960	112.0		
ENC	ENCLOSED ADD	BRKFA		1960	198.0		

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1033	4500.00	50.00	90.00	\$13,500	\$0

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2015	N/A	N/A	N/A	N/A	N/A	N/A
2014	\$35,820	\$13,500	0	49,320	\$0	\$49,320
2013	\$35,820	\$13,500	0	49,320	\$0	\$49,320
2012	\$37,235	\$13,500	0	50,735	\$0	\$50,735
2011	\$37,235	\$13,500	0	50,735	\$2,586	\$48,149
2010	\$37,235	\$13,500	0	50,735	\$6,963	\$43,772
2009	\$37,234	\$13,500	0	50,734	\$10,941	\$39,793
2008	\$37,234	\$13,500	0	50,734	\$14,559	\$36,175
2007	\$41,055	\$13,500	0	54,555	\$21,669	\$32,886
2006	\$22,021	\$7,875	0	29,896	\$0	\$29,896
2005	\$22,820	\$7,875	0	30,695	\$0	\$30,695
2004	\$25,400	\$7,875	0	33,275	\$0	\$33,275
2003	\$24,366	\$7,875	0	32,241	\$0	\$32,241

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	6/8/1979 12:00:00 AM	WD	WARRANTY DEED	GALINDO JOSE LU	GALINDO JOSE LU			18452
2		CONV	CONVERSION	Unknown	GALINDO JOSE LU			

**Tax Due**

Property Tax Information as of 08/12/2014

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:** July 9, 2014

**SUBJECT:** REQUEST OF DANIEL R. VALDEZ TO ALLOW THE FOLLOWING VARIANCE REQUEST TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) A FRONT YARD SETBACK OF 0.5 FEET INSTEAD OF 20 FEET FOR CARPORT MEASURING 19.75 FEET BY 19.66 FEET, 2) A SIDE YARD SETBACK OF 0 FEET INSTEAD OF 6 FEET FOR A STORAGE UNIT MEASURING 10 FEET BY 12.83 FEET, AND 3) A SIDE YARD SETBACK OF 0 FEET INSTEAD OF 6 FEET FOR A POOL PUMP STORAGE UNIT 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 34<sup>TH</sup> STREET (ZBA2014-0041)

---

**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 VARIANCE REQUEST**

The applicant requested a variance for an existing carport encroaching 19.5 feet into the front yard setback and wishes to keep the structure as currently constructed.

**PROPERTY LOCATION AND VICINITY:**

The property is located along the east side of North 34<sup>th</sup> Street approximately 50 feet south of Tamarack Avenue. The tract has 50 feet of frontage along North 34<sup>th</sup> Street with a depth of 123.42 feet. The property is zoned R-1 (single family residential) District. The surrounding land uses include single family residences. There is an existing single family residence on the subject property.

**BACKGROUND AND HISTORY:**

Oak Terrace Subdivision was recorded in November 1990. The plat indicates a 20 foot front yard setback, a 6 foot side yard setback, and a 15 foot rear yard setback. According to the tax records the applicant obtained the residence in 1991. The applicant received a Stop Work Order on October 13, 2014 from the Building Inspections and Permit Department for

construction of a carport without a permit. A building permit application has not been submitted at this time. The metal carport encroaches 19.5 feet into the front yard setback with the posts located 5.25 feet from the property line with an overhang of 4.75 feet. There is a 5 foot utility easement in the front of the property. There are two wooden storage units encroaching 6 feet into the side yard setbacks, one used for household objects and the other houses the pool pump. An application for the swimming pool was submitted in 1998 but was never finalized. A structure referred to as an incomplete water fountain encroaches 15 feet into the rear yard setback and rear utility easement.

**ANALYSIS:**

Variance #1: The metal carport is currently encroaching into the front yard setback and front utility easement. The overhang could be eliminated to clear the encroachment of the 5 foot utility easement. Front yard setbacks help to keep the character of single family residential areas by maintaining the street yard and curb appeal of properties in a subdivision. The metal carport as constructed is not in character with the existing wood and brick residence therefore it does not maintain the curb appeal of the subdivision.

Variance #2 and #3: The two storage buildings encroach 6 feet into the side yard setback. The storage unit measuring 10 feet by 12.83 feet is attached to an existing covered patio which is attached to the residence. The pool pump storage unit measuring 7 feet by 4.16 feet could be removed. Pool equipment is permitted within the side yard setback however by enclosing the pool pump with walls and a ceiling the structure is not in compliance. A building permit is not required for an accessory structure less than 200 square feet.

Variance #4: The water fountain encroaches in the 15 foot rear yard setback and 15 foot utility easement. The structure would have to be removed completely without an abandonment of the utility easement. The applicant has been advised by staff that an abandonment of both easements would be required should the variance be approved as requested. Setbacks shown on the subdivision plat can only be changed by a vacate and replat process approved by the Planning and Zoning Commission.

**RECOMMENDATION:**

Staff recommends disapproval of the variance requests.

At the Zoning Board of Adjustment and Appeals meeting of December 3, 2014 the applicant was present and there was no one in opposition of the variance requests. After a brief discussion the Board voted to table the request for one month to allow the applicant time to meet with staff to consider alternative options for Variances #3 and #4 with five members present and voting. At the Zoning Board of Adjustment and Appeals meeting of January 7, 2015 variance #1 was tabled in order to allow the City Commission to discuss the issue of medical conditions as special exceptions. Variance #2 was approved with a side yard setback of 5 feet instead of 6 feet limited to the footprint of the storage building. Variances #3 and #4 were withdrawn by the applicant.

11/19/14  
ZBA

ZBA 2014-0041



# 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 \_\_\_\_\_

Subdivision Name OAK Terrace Lot 94

Street Address 1924 N 34th

Number of lots 1 Gross acres \_\_\_\_\_

Existing Zoning \_\_\_\_\_ Existing Land Use \_\_\_\_\_

Reason for Appeal (please use other side if necessary) car port see back

\$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 Daniel R Valdez Phone 956-821-8278

Address 1924 North 34th

City Mc Allen State Tx Zip 78501

**Owner**

Name Same Phone \_\_\_\_\_

Address Same

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Authorization**

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

Yes  No

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

Signature Daniel R Valdez Date 10-20-2014

Print Name Daniel R Valdez  Owner  Authorized Agent

**Office**

Accepted by \_\_\_\_\_ Payment received by \_\_\_\_\_ Date \_\_\_\_\_

02/13  
K# 239105

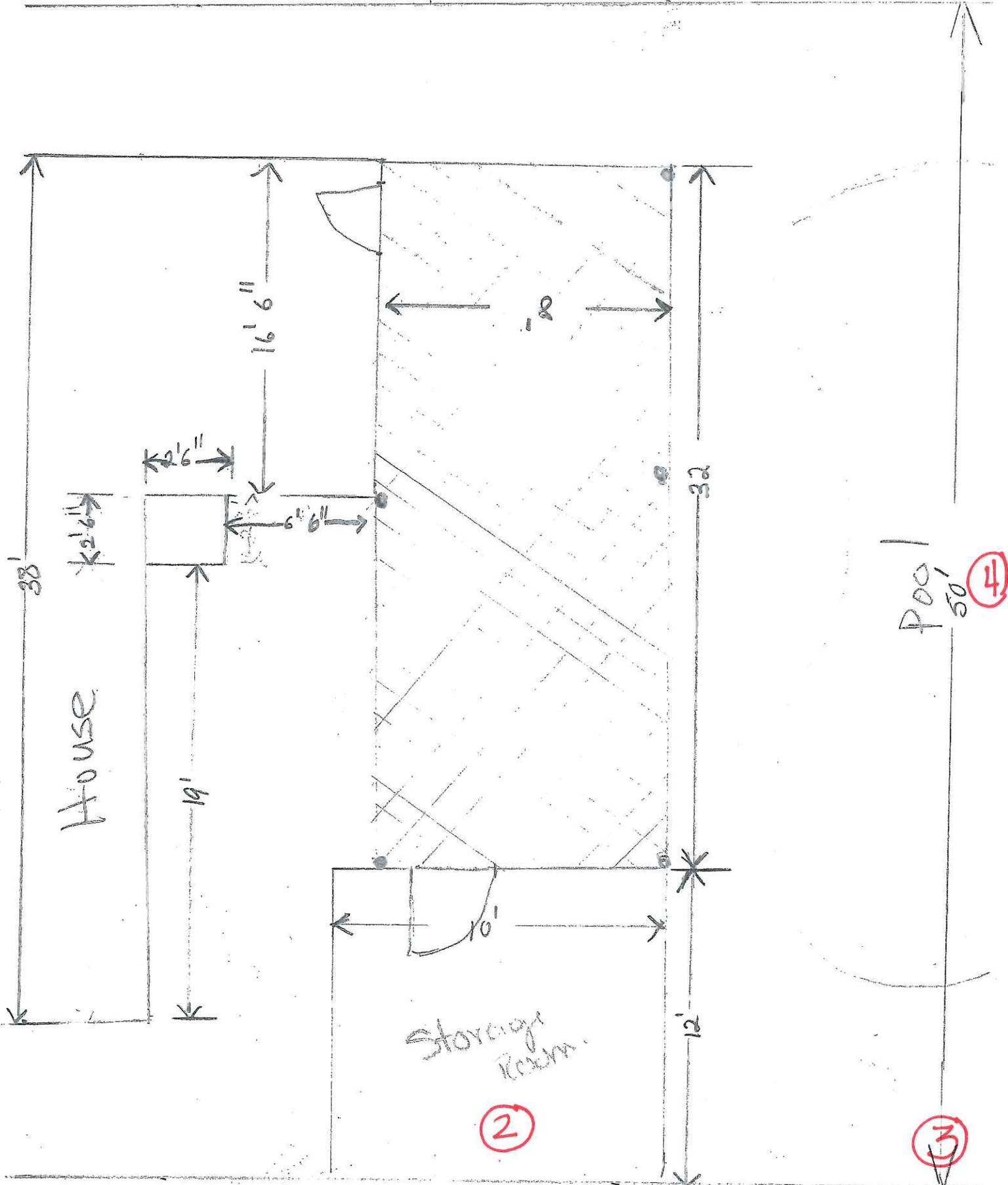
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OCT 20 2014  
BY:



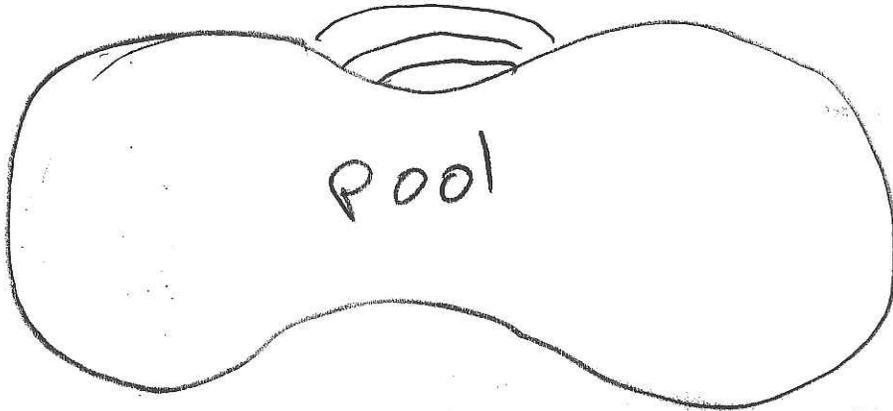
Daniel Valdez

1924 W. 34<sup>th</sup>

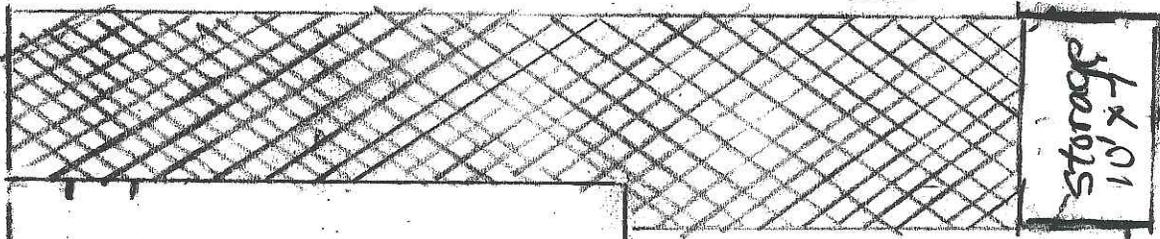
McAllen Tx 78501



Water fall  
4x4



7x4  
Pool pump 4'



10' x 10'

5'

6' 38' 6'



19' 8"

15'

Car port

5'

Handwritten blue text, possibly a signature or initials.

JAN 06 2015

Handwritten red signature or initials.



**CITY OF McALLEN**  
PLANNING DEPARTMENT

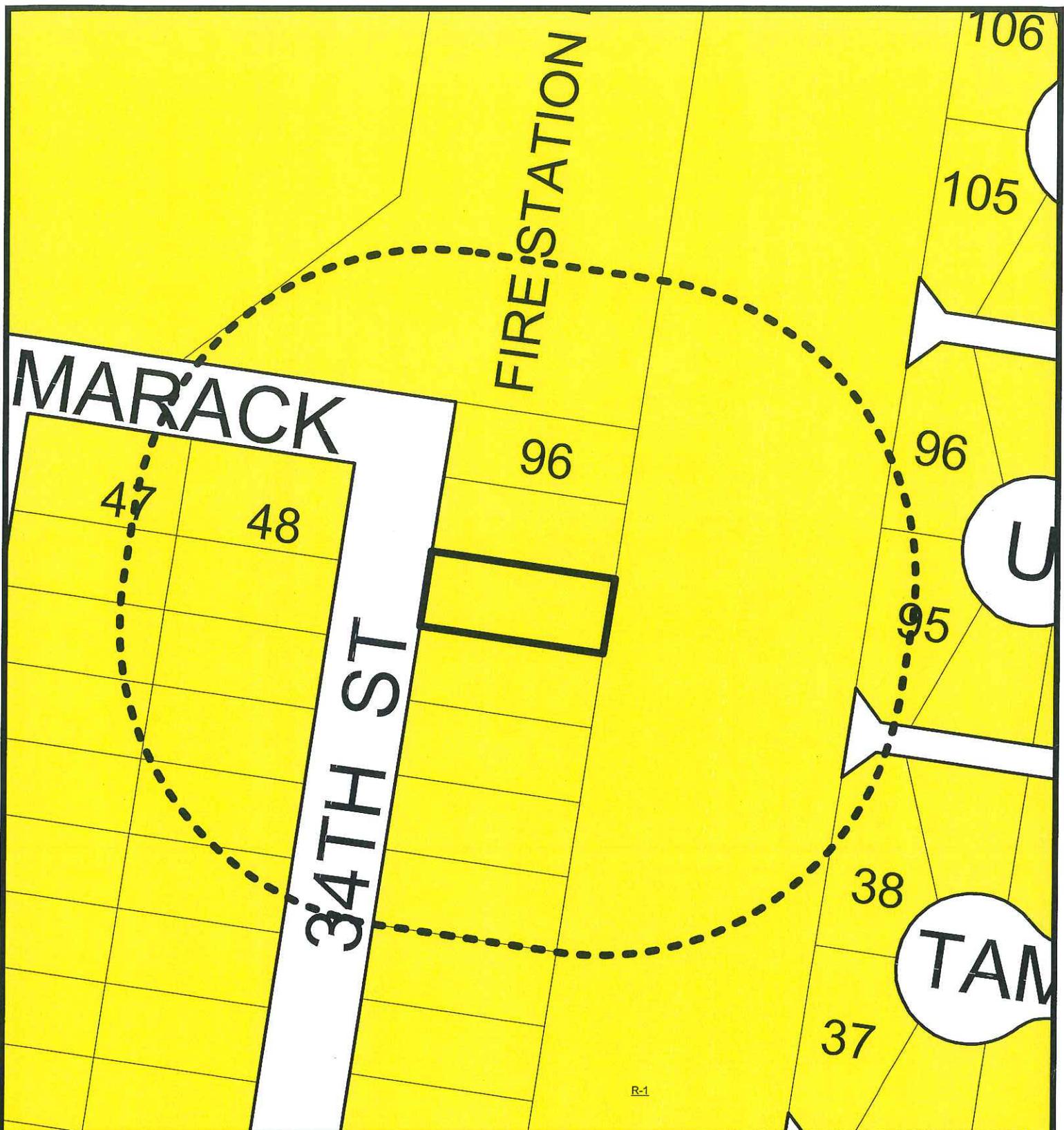


**SUBJECT PROPERTY**

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



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**CITY OF McALLEN**  
PLANNING DEPARTMENT

AREA MAP

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



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

**ZONING LEGEND**

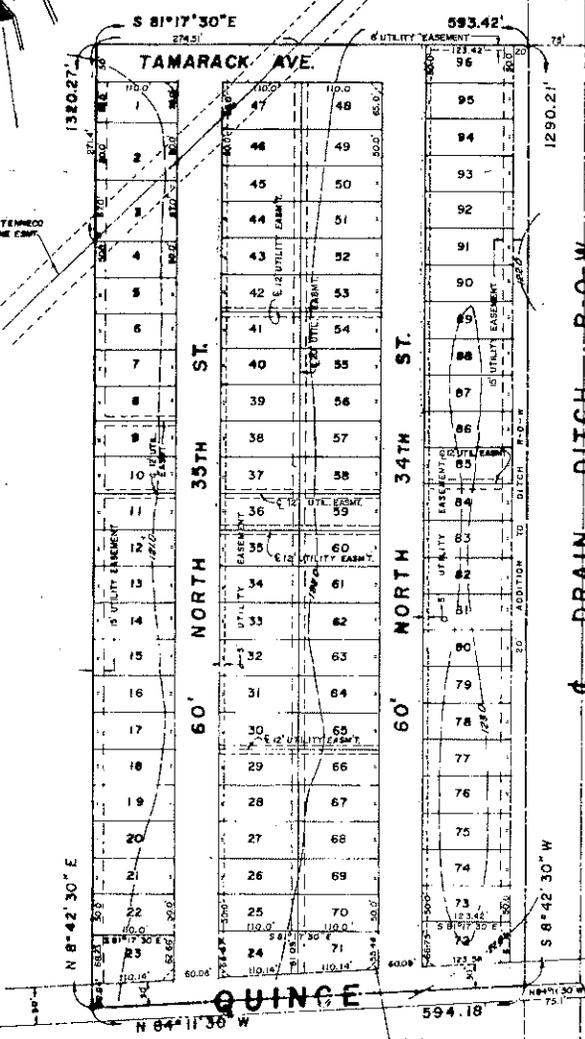
A-D (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLIX-FOURPLEX)	R-3T (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)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

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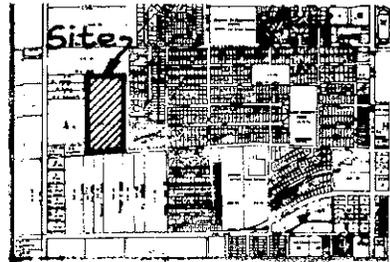
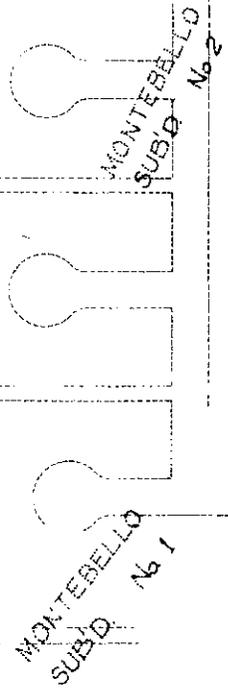
LOT 141  
LA LOMITA IRRIG. & CONST.  
CO. SUBDIVISION

LOT 141 LA LOMITA IRRIG. & CONST. CO.



DRAIN DITCH R-O-W

MONTEBELLO  
SUB'D. No. 3



**SITES & EASEMENTS**  
A PARCEL OF LAND OUT OF LOT 141, LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY'S SUBDIVISION, BEING PARCELS 41, 42 & 43, HIDEALGO COUNTY, TEXAS.

COMMENCING at a point in 40 foot Quince Avenue; said point being the Southeast corner of Lot 141 and the Southwest corner of Lot 142;

THENCE, with the South line of Lot 141, in Quince Avenue, North 84 Deg. 11 Min. 30 Sec. West, 75.1 feet for the point of beginning of this parcel and Southwest corner hereof;

THENCE, with the South line of Lot 141, in Quince Avenue, North 84 Deg. 11 Min. 30 Sec. West, 396.28 feet to a point for the Southwest corner hereof;

THENCE, parallel to the East line of Lot 141, North 8 Deg. 42 Min. 30 Sec. East, 593.42 feet to the North right-of-way line of Quince Avenue and at 1320.27 feet a point for the Northeast corner hereof;

THENCE, parallel to the North line of Lot 141, South 81 Deg. 17 Min. 30 Sec. East, 593.42 feet to a point for the Northeast corner hereof; said point being South 8 Deg. 42 Min. 30 Sec. West, 842.23 feet and North 81 Deg. 17 Min. 30 Sec. West, 75.0 feet from the Northeast corner of Lot 141;

THENCE, parallel to the East line of Lot 141, South 8 Deg. 42 Min. 30 Sec. West, 1290.21 feet to a point for the PLACE OF BEGINNING. Containing 17.78 acres, of which 0.27 acre is in Quince Avenue right-of-way.

- NOTES:**
- MINIMUM BUILDING SETBACKS SHALL BE AS FOLLOWS:  
A. FRONT - 20 FT.  
B. SIDE - 6 FT. EXCEPT WHERE ADJACENT TO STREET, INCREASE TO 10 FT.  
C. REAR - 15 FT.
  - RAINFALL DETENTION REQUIRED ON THIS SUBDIVISION SHALL BE 0.69 AC. FT., AS APPROVED BY CITY COMMISSIONER.
  - DEVELOPER TO PROVIDE AN ENGINEERED DETENTION PLAN APPROVED BY THE ENGINEERING DEPT. PRIOR TO APPLICATION FOR A BUILDING PERMIT.
  - 4' SIDEWALK REQUIRED ON BOTH SIDES OF 34TH & 35TH ST., SOUTH SIDE OF TAMARACK AVE., AND NORTH SIDE OF QUINCE AVE.
  - LOTS 23, 24, 71, AND 72 SHALL HAVE NO ACCESS OR FRONTAGE ON QUINCE AVE.
  - LOTS 1, 47, AND 48 SHALL HAVE NO ACCESS OR FRONTAGE ON TAMARACK AVE.
  - THIS PROPERTY FALLS IN ZONE "B" OF THE FLOOD INSURANCE RATE MAP COMMUNITY - PANEL NUMBER 480343 OODS C. DATED NOVEMBER 7, 1982.

LOT 4, BLOCK 2  
C. E. HAMMOND'S SUB'D.

MAP  
OF  
OAK TERRACE  
McALLEN, TEXAS.



Property Search Results > 498302 VALDEZ DANIEL & MARIA G for Year 2015

**Property**

**Account**

Property ID: 498302 Legal Description: OAK TERRACE, LOT 94  
 Geographic ID: O0650-00-000-0094-00 Agent Code: ID:931438  
 Type: Real  
 Property Use Code: WD  
 Property Use Description: WITHDRAWALS

**Location**

Address: 1924 N 34TH ST Mapsco:  
 MCALLEN, TX  
 Neighborhood: OAK TERRACE Map ID: CML VOL 26 PG 174  
 Neighborhood CD: O065000

**Owner**

Name: VALDEZ DANIEL & MARIA G Owner ID: 257107  
 Mailing Address: 1924 N 34TH ST % Ownership: 100.000000000000%  
 MCALLEN, TX 78501-3528  
 Exemptions: HS

**Values**

(+) Improvement Homesite Value: + N/A  
 (+) Improvement Non-Homesite Value: + N/A  
 (+) Land Homesite Value: + N/A  
 (+) Land Non-Homesite Value: + N/A Ag / Timber Use Value  
 (+) Agricultural Market Valuation: + N/A N/A  
 (+) Timber Market Valuation: + N/A N/A  
 -----  
 (=) Market Value: = N/A  
 (-) Ag or Timber Use Value Reduction: - N/A  
 -----  
 (=) Appraised Value: = N/A  
 (-) HS Cap: - N/A  
 -----  
 (=) Assessed Value: = N/A

**Taxing Jurisdiction**

Owner: VALDEZ DANIEL & MARIA G  
 % Ownership: 100.000000000000%  
 Total Value: N/A

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	N/A	N/A	N/A	N/A
CML	CITY OF MCALLEN	N/A	N/A	N/A	N/A
DR1	DRAINAGE DISTRICT #1	N/A	N/A	N/A	N/A
GHD	HIDALGO COUNTY	N/A	N/A	N/A	N/A
JCC	SOUTH TEXAS COLLEGE	N/A	N/A	N/A	N/A
R12	ROAD DIST 12	N/A	N/A	N/A	N/A
SML	MCALLEN ISD	N/A	N/A	N/A	N/A
SST	SOUTH TEXAS SCHOOL	N/A	N/A	N/A	N/A
Total Tax Rate:		N/A			
Taxes w/Current Exemptions:					N/A

Taxes w/o Exemptions: N/A

**Improvement / Building**

<b>Improvement #1:</b>	RESIDENTIAL	<b>State Code:</b>	A1	<b>Living Area:</b>	1965.0 sqft	<b>Value:</b>	N/A
Type	Description	Class CD	Exterior Wall	Year Built	SQFT		
MA	MAIN AREA	BRKAV	DBRK	1991	1181.0		
GAR	GARAGE	BRKAV		1991	462.0		
ENC	ENCLOSED ADD	BRKAV		1991	148.0		
UTY	UTILITY ROOM	BRKAV		1991	60.0		
POR	PORCH (COVERED)	BRKAV		1991	35.0		
MA2	MAIN 2ND FL	BRKAV		1991	636.0		
SWPA8-9	SWP AVG CL 8M-9P	BRKAV		1998	80.0		
STG	STORAGE	*		2012	100.0		

**Land**

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1417	6171.00	50.00	123.42	N/A	N/A

**Roll Value History**

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2015	N/A	N/A	N/A	N/A	N/A	N/A
2014	\$76,921	\$19,747	0	96,668	\$0	\$96,668
2013	\$79,002	\$19,747	0	98,749	\$0	\$98,749
2012	\$92,295	\$19,747	0	112,042	\$4,122	\$107,920

**Deed History - (Last 3 Deed Transactions)**

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	7/12/1991 12:00:00 AM	CONV	CONVERSION AFFORDABLE HOM	VALDEZ DANIEL & J		3103	241	

**Tax Due**

Property Tax Information as of 10/29/2014

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**

**This year is not certified and ALL values will be represented with "N/A".**

**2i) 1420 East Expressway 83**

**ZBA2015-0035**

**REMAIN TABLED**

## 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

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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

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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	P					
MIKE HOVAR	P	A	P	P	P	A	P	P	A	P	P	P	P	A	P	P	P	P	P					
MIKE HARMS	P	P	A	P	P	A	P	A	P	A	P	P	P	A	P	P	A	P	A					
ROLANDO AYALA	P	P	A	A	P	P	A	A	P	A	P	A	A	P	P	P	P	P	P					
JORGE SALINAS						P	P	P	P	P	P	A	P	P	P	A	P	P	A					
SYLVIA HINOJOSA (ALTERNATE 3)	P	P	P	P	P	P	P	P	A	A	A	P	A	A	P	P	A	P	A					
JOSE R. GUTIERREZ (ALTERNATE 1)	P	P	P	P	P	P	P	P	P	P	P	P	A	A	P	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	P					
TERRY L. PEREZ (ALTERNATE 4)	A	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P					

P - PRESENT

A - ABSENT

■ NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO REGULAR MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION

## 2015 CALENDAR

<b>Meetings:</b>  City Commission  Planning & Zoning Board  Public Utility Board  Zoning Board of Adjustment HPC - Historical Preservation Council							<b>Deadlines:</b> 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 <b>HOLIDAY</b>	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	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 <b>HOLIDAY</b>	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 	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 D - 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 <b>HOLIDAY</b>	27	28	20	21	22	23 AD 1/19&1/20	24	25 <b>HOLIDAY</b>	26 <b>HOLIDAY</b>
29	30						27	28	29	30	31		

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