

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, APRIL 6, 2022 - 4:30 PM MCALLEN DEVELOPMENT CENTER, 311 NORTH 15TH STREET EXECUTIVE CONFERENCE ROOM

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

CALL TO ORDER – CHAIRPERSON SYLVIA HINOJOSA

1. MINUTES:

- a) Minutes for the meeting held on March 3, 2022.
- b) Minutes for the meeting held on March 17, 2022.

2. PUBLIC HEARINGS:

- a) Request of Maria Carmen Salazar for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 23.73 feet into the 37.73 feet front yard setback for a proposed wooden porch addition measuring 15.25 feet by 17.20 feet at Lots 10 and 11, Block 1, Monterrey Subdivision, Hidalgo County, Texas; 1410 Mobile Avenue. **(ZBA2022-0008)**
- b) Request of Joyce Landwehr on behalf of Black Bear Diner for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4.17 feet into the 75 feet front yard setback for a covered porch measuring 12.83 feet by 20 feet at Lot 1, T.M.J.C. Subdivision, Hidalgo County, Texas; 602 Expressway 83. **(ZBA2022-0009)**

3. FUTURE AGENDA ITEMS

- a) 2021 Ebony Avenue
- b) 3224 South Rose Ellen Avenue

ADJOURNMENT:

IF ANY ACCOMMODATIONS FOR A DISABILITY ARE REQUIRED, PLEASE NOTIFY THE PLANNING DEPARTMENT (681-1250) 72 HOURS BEFORE THE MEETING DATE. WITH REGARD TO ANY ITEM, THE ZONING BOARD OF ADJUSTMENTS AND APPEALS MAY TAKE VARIOUS ACTIONS, INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR PARTICULAR ACTION AT A FUTURE DATE.

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN**

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, March 3, 2022 at 4:30 p.m. in the McAllen Development Center, 311 North 15th Street, Executive Conference Room with the following present:

Present:	Jose Gutierrez	Vice-Chairperson
	Ann Tafel	Member
	Hugo Avila	Member
	Rogelio Rodriguez	Member
	Rebecca Millan	Alternate
	Mark Talbot	Alternate
	Sam Saldivar, Jr.	Alternate
	Juan Mujica	Alternate
Absent:	Sylvia Hinojosa	Chairperson
Staff Present:	Austin Stevenson	Assistant City Attorney
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Garcia	Senior Planner
	Mario Escamilla, Jr.	Planner II
	Marco Rivera	Planner I
	Jose Luis Flores	Planner I
	Julian Hernandez	Planning Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER – Vice-Chairperson Jose Gutierrez

At this time, the Board members adjourned to Executive Session for Item 2C.

Mr. Mark Talbot **moved** to adjourn for Executive Session. Ms. Ann Tafel seconded the motion. The Board voted unanimously with five members present and voting.

The Board had reconvened after Executive Session.

1. MINUTES:

- a)** Minutes for the meeting held on February 2, 2022 and February 17, 2022.

The minutes for the meeting held on February 2, 2022 and February 17, 2022 were approved. The motion to approve the minutes was made by Mr. Mark Talbot. Ms. Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a)** Request of Teresa C. Gutierrez and Jose M. Gutierrez, Jr. for the following special

exception to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 20 ft. into the 20 ft. front yard setback for an existing metal carport measuring 11.41 ft. by 22.25 ft. 2) to not provide one required parking space beyond the front setback at Lot 43, La Lomita Estates Subdivision, Hidalgo County, Texas; 3008 La Vista Avenue. **(ZBA2022-0002)**

Mr. Flores stated the applicant was requesting a special exception for an encroachment into the front yard setbacks in order to allow an existing metal carport to remain in its current location. The carport measured 11.41 feet by 22.25 feet. According to the applicant, the carport was built to accommodate their child who is disabled and often times needs the assistance of a wheelchair to get off the vehicle. The applicant was informed by her next-door neighbor that no permit was required. The applicant was also unsure as to how to proceed with the application process due to the COVID-19 pandemic. The applicant has a child with underlying health issues that could put him at a higher risk of severe symptoms of COVID-19. The applicant would like the structure to remain because the existing carport provides protection from the weather elements.

The subject property was located on the North side of La Vista Avenue. The property is located 50 feet from 31st Street the lot size is 5,500 sq. feet according to the subdivision plat. The surrounding land use is single-family residential, duplex - fourplex, apartments and agriculture open space and agriculture open space.

The property was located along the north side of La Vista Avenue, approximately 50 feet east of North 31st Street. The property has 50 feet of frontage along La Vista Avenue with a depth of 110 feet for a total area of 5,500 square feet. There is a single-family residence on the subject property. The property is zoned R-1 (single family residential) District. Adjacent zoning is R-1 (single family residential) District in all directions and R-3A (multifamily apartments) District to the northwest. The surrounding land use is single family residential. In 2015, a building permit was approved for this address to install spray insulation in the attic.

Request was for a special exception to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing metal carport measuring 11.5 feet by 22.3 feet over an existing driveway. The carport is not enclosed which allows for visibility when entering or exiting the property, since the car port is located 11 feet from the curb it does not pose any obstruction to traffic.

The current garage was closed off 25 years ago and converted into living space, a common characteristic of the homes in the neighborhood. As per applicant, the extra living space is used to keep the child's hospital bed and medical equipment due to his health conditions. The applicant has since widened the driveway to meet the 18-foot requirement by placing concrete pavers, and has proposed to widen the driveway with concrete in the future.

There was no alley access on the subject property.

During the site visit, staff noticed other similar encroachments, specifically carports located at the front yard, along La Vista Avenue; there are four other encroaching carports, along with three carports in the neighboring streets of Walnut Avenue and N 31st Street. The metal carport on the subject property is a characteristic of construction along the area. A review of the Planning Department records did reveal four special exceptions on La Vista the most

recent on January 2022 and the other on December 2021, the other two date back to 2016 and 2019.

There were no utility easements along the front side of the property.

Special exceptions are issued to an individual and recorded, however if new owner purchases the home they will have to apply as new owner.

Staff recommended approval of the special exception request of the existing carport since it is a common characteristic within the neighborhood. However, if the Board approves the request it should be limited to the encroachment shown in the submitted site plan.

Mr. Jose M. Gutierrez, the applicant stated he normally had difficult times walking in which he uses a wheelchair or walker. The carport would help utilize during inclement weather for not his vehicle but for his use of medical equipment.

Board member Hugo Avila asked staff if he had explained to the applicant the difference between a variance and a special exception. Mr. Flores stated he had explained it to the applicant.

Board member Ann Tafel asked staff if item #2 was still required for the parking space. Mr. Flores stated they had withdrew item #2 since they had widened their driveway to meet requirement.

Vice-Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Vice-Chairperson Jose Gutierrez asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Mr. Mark Talbot **moved** to approve the special exception. Mr. Hugo Avila seconded the motion. The Board voted to approve the special exception with five members present and voting.

- b)** Request of James Joseph Granchelli on behalf of Granchelli Development Group, LTD for the following Special Exception to the City of McAllen Zoning Ordinance: to allow an encroachment of 58.42 feet into the 136 feet front yard setback for a carport measuring 18.5 feet by 74 feet, at Lots 11-14, McAllen Industrial Dr. Subdivision, Hidalgo County, Texas; 2017, 2013, 2009, and 2005 Industrial Drive. **(ZBA2022-0004) WITHDRAWN**

Staff stated this item had been withdrawn.

- c)** Request of Daryl J. Minor for the following Special Exception to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 35 ft. into the 35 ft. front yard setback along the west property line and **2)** to allow an encroachment of 7 ft. into the 7 ft. side yard setback along the south property line for an existing metal carport measuring 11 ft. by 35 ft., at Lot 16, Block 6, Milmor Addition to McAllen Subdivision, Hidalgo County, Texas; 1106 North 17th Street. **(ZBA2022-0005)**

Mr. Escamilla stated the applicant was requesting a special exception to allow an

encroachment of 35 ft. into the 35 ft. front yard setback and 7 ft. into the 7 ft. side yard setback along the south property line for an existing metal carport. The existing carport was used to protect the applicant from inclement weather because of his medical conditions.

The subject property was located on the east side of North 17th Street. The lot has 50 ft. of frontage along North 17th Street with a depth of 152.5 ft., for a lot size of 7,625 sq. ft. The surrounding land use is single-family residences.

Milmor Subdivision was recorded on May 26, 1927. The plat does not indicate setbacks. The applicable setbacks were subject to the 1945 Zoning Ordinance as has been the practice in the past when applying setbacks to subdivisions recorded prior to 1979. The front yard setback shall be 35 feet. The side yard setbacks are 5 feet on the north side and 7 feet along the south side yard. The rear yard setback under the 1945 Zoning Ordinance was 3 feet for accessory buildings; however, the rear yard setback requirement changed to 10 feet under the 1979 zoning ordinance.

A stop work order for building without a permit was issued on December 09, 2020. The applicant submitted an application for a building permit on December 14, 2020. An application for a variance request was submitted on December 10, 2020. The requests were presented before the Zoning Board of Adjustments and Appeals at their meeting of February 03, 2021, where the requests were disapproved. The Board cited concerns with the variance request classification and visibility, as variances go with the land and approval would allow for future construction on the requested footprint. Since then the applicant has submitted a new application to be considered as a special exception request.

At the time the case was initially presented carports that were placed in the front yard and that encroached into side yard setbacks were considered to be variances and could not be classified as special exceptions however, a subsequent determination by the City's Legal Department has now included carports with side yard encroachments as special exception requests.

The special exception request was to allow an encroachment of 35 ft. into the 35 ft. front yard setback and an encroachment of 7 ft. into the 7 ft. side yard setback along the south property line for an existing metal carport measuring 11 ft. by 35 ft.

An inspection by the Planning Department staff revealed there are existing carports and structures with encroachments into the side yard and rear yards built around Milmor Addition to McAllen Subdivision.

The applicant stated that the reason for the carport was his health.

There were no utility easements inside the property.

Staff had not received any emails or phone calls in opposition of the request.

Staff recommended approval of the special exception request. If the Board chooses to approve the request, the approval should be limited to the encroachments shown on the submitted site plan.

Mr. Daryl J. Minor, the applicant was not present at the meeting.

Vice-Chairperson Jose Gutierrez asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Vice-Chairperson Jose Gutierrez asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Mr. Mark Talbot **moved** to approve the special exception. Mr. Sam Saldivar seconded the motion. The Board voted to approve the special exception with five members present and voting.

- d) Request of Robert Fountila, MD on behalf of Fountila Investments, LLC for the following Variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 7 feet into the 25 feet front yard setback for an existing metal gazebo (porch) measuring 10 feet by 10 feet and **2)** to allow an encroachment of 10.5 feet into the 25 feet front yard setback for an existing metal gazebo (porch) measuring 10 feet by 16 feet, at Lot 101, Fairway Grande Village Unit No. 2 Subdivision, Hidalgo County, Texas; 416 East Ridgeland Avenue. **(ZBA2022-0003)**

Mr. Rivera stated the applicant was requesting variances for two existing metal frame gazebos (porches) that encroach in the front yard. The applicant is requesting that the placement of the gazebos be allowed to remain since they provide shade and rain protection for the occupants of the residence.

The subject property was located at the Southwest corner of the intersection of South Rose Ellen Boulevard and Ridgeland Avenue. The property has a lot size of 7,373 square feet. The zoning for the property is R-1 (single family residential) District. The adjacent District in all directions. Surrounding land use include residential homes and townhomes.

Fairway Grande Village Unit No. 2 was recorded in April 1977. An application for a building permit was submitted in March of 2021. A stop work order was issued by Building and Inspections Department staff on October 22, 2021 for the construction of two gazebos without a permit since the permit had not been issued for the construction. An updated site plan was submitted to Building and Inspections Department in December 2021 showing only (2) gazebos. An application for a variance request was submitted in February 2022.

Variance request #1 was to allow an encroachment of 7 feet into the 25 feet front yard setback. The existing metal covered gazebo (porch) measures 10 feet by 10 feet for a total area of 100 square feet. The applicant would like to keep the structure in the front yard. The gazebo (porch) will provide shade and rain protection for the occupants of the residence. The structure can be relocated to the rear of the property for setback compliance. However, applicant would like to reserve the rear yard for landscaping purposes.

Variance request #2 was to allow an encroachment of up to 10.5 feet into the 25 feet front yard setback. The existing metal cover gazebo (porch) measures 10 feet by 16 feet for a total area of 160 square feet. According to the applicant, the existing metal covered gazebo (porch) is an area that the applicant and her family use for recreational purposes. The applicant would like to keep the existing structure in the front of the house since he would like to reserve the rear yard for landscaping purposes.

A review of aerials of the rear yard shows that the structure can be relocated to the rear of the property to be in compliance with setbacks.

The Zoning Board of Adjustments and appeals approved a similar variance request on October 10, 2014 for Lot 16 of the same subdivision ownership (by the same applicant) for a front yard setback of 0 feet instead of 25 feet for an existing pergola.

There were no utility easements along the front of the subject property.

Measurements provided were without benefit of a survey.

Staff had not received a phone call in support or opposition of the variance requests.

Staff recommended disapproval of the variance requests since the structures could be relocated to the rear of the property to be in compliance with setbacks. If the Board grants approval of the requests, it should be limited to the encroachments shown on the submitted site plan.

Mr. Carlos Navarro is the representative the applicant Mr. Robert Fountila, M.D. He stated staff recommended putting the structures in the back. The applicant wanted to conserve the back for the green area. In addition, when it rains the water tends to go to the side, which overflows onto Rose Ellen Avenue.

Vice-Chairperson Gutierrez asked the representative when the structures were built. Mr. Navarro stated they were there in October 2021. These structures could be purchased at the store and fabricated prior to installing into the ground. Vice-Chairperson Gutierrez explained to Mr. Navarro the difference between a variance request and special exception.

Board member Mark Talbot stated he felt the variance request did not follow a hardship.

Board member Ann Tafel and Rebecca Millan agreed with Mr. Avila's previous comments of hardship.

Vice-Chairperson Jose Gutierrez asked if there was anyone present in favor of the variance requests. There was no one else in favor of the variance request.

Vice-Chairperson Jose Gutierrez asked if there was anyone present in opposition of the variance request. There was no one in opposition of the variance request.

Ms. Ann Tafel **moved** to disapprove the variance request. Mr. Juan Mujica seconded the motion. The Board voted to disapprove the variance request with five members present and voting.

4. FUTURE AGENDA ITEMS:

- a)** 1600 Oakland Avenue
- b)** 1410 Mobile Avenue
- c)** 602 West Expressway 83

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Vice-Chairperson Jose Gutierrez **moved** to adjourn the meeting.

Vice-Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

**STATE OF TEXAS
COUNTY OF HIDALGO
CITY OF MCALLEN**

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, March 17, 2022 at 4:30 p.m. in the McAllen Development Center, 311 North 15th Street, Executive Conference Room with the following present:

Present:	Jose Gutierrez	Vice-Chairperson
	Ann Tafel	Member
	Hugo Avila	Member
	Rogelio Rodriguez	Member
	Rebecca Millan	Alternate
	Juan Mujica	Alternate
Absent:	Sylvia Hinojosa	Chairperson
	Mark Talbot	Alternate
	Sam Saldivar, Jr.	Alternate
Staff Present:	Evaristo Garcia	Assistant City Attorney
	Rodrigo Sanchez	Senior Planner
	Omar Garcia	Senior Planner
	Katia Sanchez	Planner I
	Julian Hernandez	Planning Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER – Vice-Chairperson Jose Gutierrez

1. MINUTES:

- a)** Minutes for the meeting held on March 3, 2022.

Minutes will be added to the meeting of April 6, 2022.

2. PUBLIC HEARINGS:

- a)** Request of David Karam for the following Variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 2 feet into the 7 feet side yard setback along the east property line for an irregular shaped proposed bedroom closet addition measuring 10 feet by 20 feet, and **2)** to allow a triangular shaped encroachment of 2 feet into the 7 feet side yard setback along the east property line for an existing bedroom closet at Lot 1, Block 12, Primrose Terrace Unit No. 6 Subdivision, Hidalgo County, Texas; 1512 Tulip Avenue. **(ZBA2022-0006)**

Ms. Sanchez stated the applicant was requesting a variance for an irregularly shaped proposed bedroom closet addition that would encroach into the side yard setback, and a variance for a triangular shaped encroachment into the side yard setback for an existing bedroom closet. The applicant was requesting Variance #1 to construct a proposed irregular shaped bedroom closet addition, and Variance #2 to allow the existing encroachment to remain.

The subject property was located at the northeast corner of Tulip Avenue and North 16th Street. The subject property had 90 feet of frontage along Tulip Avenue and has a depth of 125 feet for a total lot size of 11,250 square feet. The zoning for the property was R-1 (single-family residential) District. The adjacent zoning was R-1 (single-family residential) District in all directions. Surrounding land uses are single-family residences.

Primrose Terrace Unit No. 6 Subdivision was recorded in August 1967. A stop work order was issued by Building and Inspections Department staff on January 26, 2022 for remodeling and construction without a building permit since the building permit had not been issued for the construction. An application for a building permit was submitted on February 11, 2022 and an application for a variance request was submitted on February 17, 2022.

Variance request #1 was to allow an encroachment of 2 feet into the 7 feet side yard setback. The proposed bedroom closet addition will measure approximately 10 feet by 20 feet. The applicant was requesting to allow the proposed addition in the side yard along the east property line, as it would allow for expansion of an existing bedroom closet. As per the applicant, the proposed bedroom closet would square the existing home design, and help to maximize living area.

Variance request #2 was to allow a triangular shaped encroachment of 2 feet into the 7 feet side yard setback along the east property line. The applicant was requesting to allow the existing bedroom closet encroachment to remain. The existing bedroom closet was constructed in 1970 according to the Hidalgo County Appraisal District as part of the original house. The house may have been originally constructed in accordance with setbacks as per a deed restriction document to the subdivision.

There were no utility easements along the side of the subject property.

Staff had not received a phone call in support or opposition of the variance requests.

Staff recommended approval of the variance requests since the proposed and existing encroachments are minimal and there are no utility easements along the east side of the subject property. If the Board grants approval of the requests, it should be limited to the encroachments shown on the submitted site plan.

Vice-Chairperson Gutierrez mentioned to staff that the house might have been originally built according to the setbacks, and asked staff if they had any knowledge if the constructed on those permitted terms at that time. Ms. Sanchez stated as confirmed by the Hidalgo County Appraisal District it was constructed in 1970. Staff believed that it may have been constructed utilizing the Homeowners Association document which stated it was five foot setback along the east side. It had been built like that and that it encroached into the side setback on the east side.

Board member Mujica stated that with a 2-foot overhang it would still have an overhang; how much of the overhang will it be. Ms. Sanchez stated the overhang would not be expanded it would stay as is. The applicant was squaring off the wall (as staff pointed it out on the picture screen) it would be aligned with the overhang.

Board member Avila asked staff if it was going to remain at 5 feet. Ms. Sanchez stated yes. Mr. David Karam, the applicant stated before he purchased the house he wanted to clear

up the survey concerning the measurements. He stated there were two setbacks. One setback stated a 7-foot setback and an additional 5-foot setback. The house was originally built in line with the 5-foot setback. He stated he was going to install a gutter system. The house was designed as a midcentury style house. He was salvaging the exterior and interior to have it a modern midcentury style. Mr. Karam passed around a picture of how the way the house will be designed.

Vice-Chairperson Jose Gutierrez asked if there was anyone present in favor of the variance request. There was no one else in favor of the variance request.

Vice-Chairperson Jose Gutierrez asked if there was anyone present in opposition of the variance request. There was no one in opposition of the variance request.

Ms. Ann Tafel **moved** to approve the variance request. Mr. Hugo Avila seconded the motion. The Board voted to approve the variance request with five members present and voting.

4. FUTURE AGENDA ITEMS:

- a) 1600 Oakland Avenue
- b) 1410 Mobile Avenue
- c) 602 West Expressway 83

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Vice-Chairperson Jose Gutierrez **moved** to adjourn the meeting.

Vice-Chairperson Jose Gutierrez

Carmen White, Administrative Assistant

Other surrounding land uses include single-family residences, Rose Lawn Cemetery to the east, and a vacant property to the north.

BACKGROUND AND HISTORY:

The subdivision was recorded on February 14, 1938. The property is zoned R-2 (duplex-fourplex residential) District.

A variance request to allow a zero-foot rear yard setback instead of the required five-foot rear setback for Lots 1-5 of this same subdivision was granted by the Zoning Board of Adjustment and Appeals Board on June 17, 1999.

On February 20, 2019 the Zoning Board of Adjustment and Appeals approved a variance request to allow an encroachment of 43.66 feet into the 52.66 feet front yard setback for a wooden porch measuring 15.5 feet by 20.25 feet for the subject property. An application for a building permit was submitted on March 01, 2022 for a proposed porch addition to the existing porch structure. An application for a variance request for the proposed porch addition was submitted on March 01, 2022.

ANALYSIS:

The house is made of brick construction and there is an existing wooden porch along the east side of the property. The plat does not include plat notes regarding building setbacks. However, Section 138-367 on the Zoning Ordinance (Front Yards) states that when 50 percent or more of the frontage on one side of a street on any one block is improved with buildings that have a front yard which is greater than the required front yard in the district, no new building shall project beyond the average front yard so established. Based on the average of the existing front yard setbacks on this block for the lots that have a structure on them, the average building set back is 37.73 feet.

The variance request is to allow the construction of a wooden porch addition measuring 15.25 feet by 17.20 feet that would encroach 23.73 feet into the 37.73 feet front yard setback. The applicant is interested in constructing the wooden porch addition to enjoy time outside her house under a roof structure.

The contractor and the applicant are aware that there is a triangular area at the corner of the property (bounded by South Main Street and Mobile Avenue) where structures are not permitted since it may impair visibility of traffic at the intersection. Sight visibility triangles are intended to provide a clear line of sight at intersections. They have acknowledged in writing that the proposed construction will not encroach into this area.

There are no utility easements along the front of the subject property.

Staff has not received a phone call in support or opposition of the variance requests.

RECOMMENDATION:

Staff recommends disapproval of the variance request as the request since it is not due to any special conditions of the property. However, if the Board chooses to grant the variance, it should be limited to the encroachment shown on the submitted site plan.

Mara C. S. 2022

ENTERED

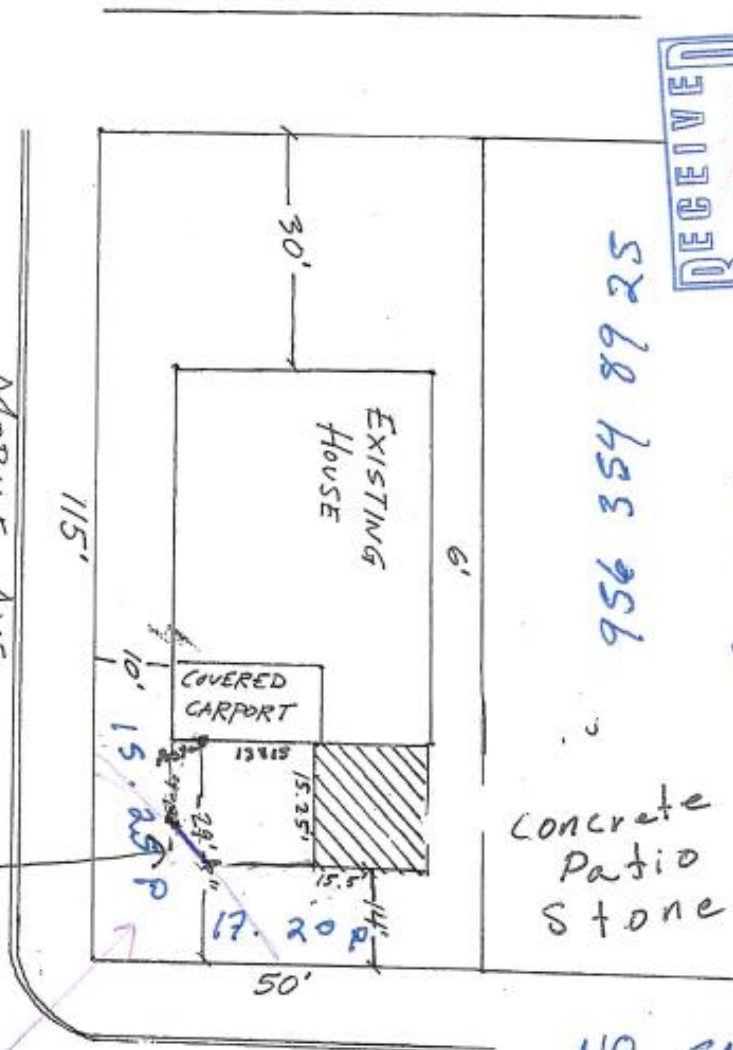
MAR 25 2022

Initial: UK

2 Pies de Volado
abierto

en este triángulo
no va a girar nada
Mauricio 3 25.10.20

MOBILE AVE



Concrete
Patio
Stone

5268 355 8925

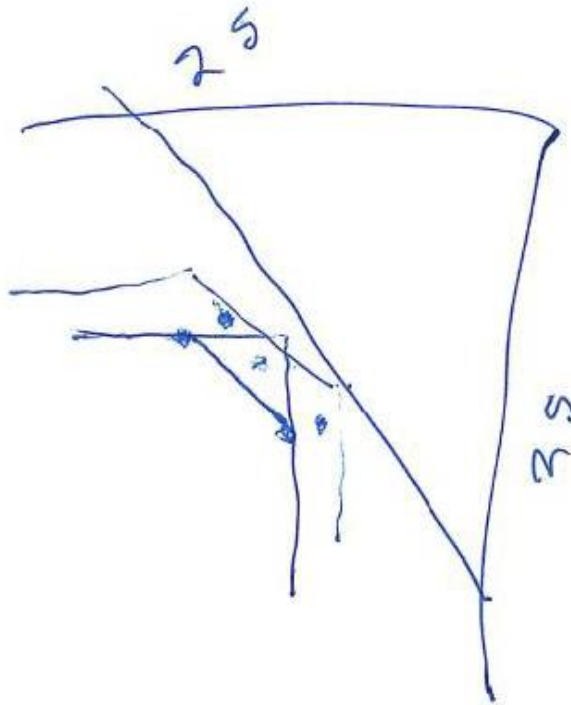


Site Plan

21 de marzo

NO ENTRA EN EL
TRIANGULO de
LA ESQUINA

RECEIVED
MAR 21 2022
By *MM*



Corner clip







NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2022-0008

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

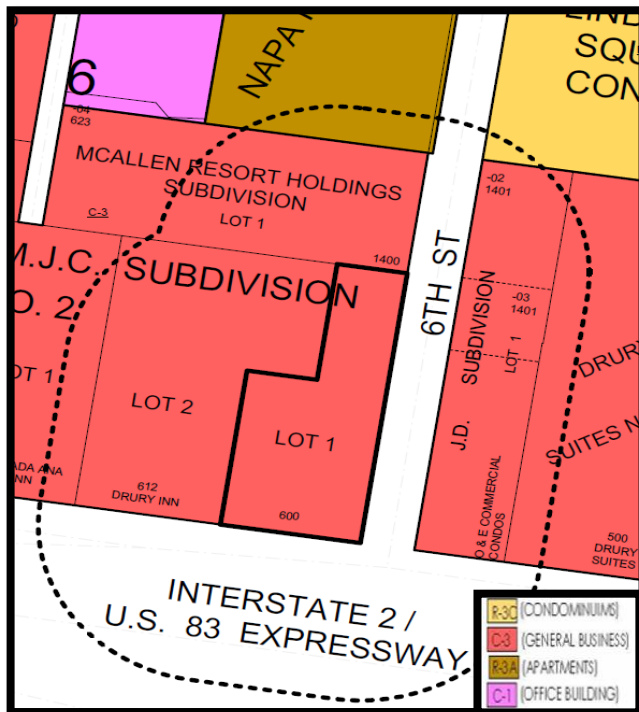
FROM: Planning Staff

DATE: March 22, 2022

SUBJECT: Request of Joyce Landwehr on behalf of Black Bear Diner for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4.17 feet into the 75 feet front yard setback for a covered porch measuring 12.83 feet by 20 feet at Lot 1, T.M.J.C. Subdivision, Hidalgo County, Texas; 602 Expressway 83. (ZBA2022-0009)

REASON FOR APPEAL:

The applicant requests a variance to encroach 4.17 feet into the 75 feet front yard setback for a proposed covered porch. As per the applicant, the proposed covered porch will provide Black Bear Diner a branding feature to the existing structure, and will provide protection to the patrons of the restaurant from inclement weather.



PROPERTY LOCATION AND VICINITY:

The subject property is located at the northwest corner of U. S. Expressway 83, and South 6th Street. The property is zoned C-3 (general business) District. Adjacent zoning is C-3 District in all directions.

BACKGROUND AND HISTORY:

T.M.J.C. Subdivision was recorded on January 8, 1986. The site is the former location for two restaurants, Shoney's and El Pastor Grill. An application for a building permit was submitted on February 08, 2022. An application for the variance request was submitted to the Planning Department on March 02, 2022.

ANALYSIS:

The variance request is to allow an encroachment of 4.17 feet into the 75 feet front yard setback for a proposed covered porch. The proposed covered porch measures 12.83 feet by 20 feet.

The proposed covered porch will not extend into the parking lot, and will serve as a covering for a waiting area for restaurant patrons and is intended to provide protection to the patrons of the restaurant during inclement weather.

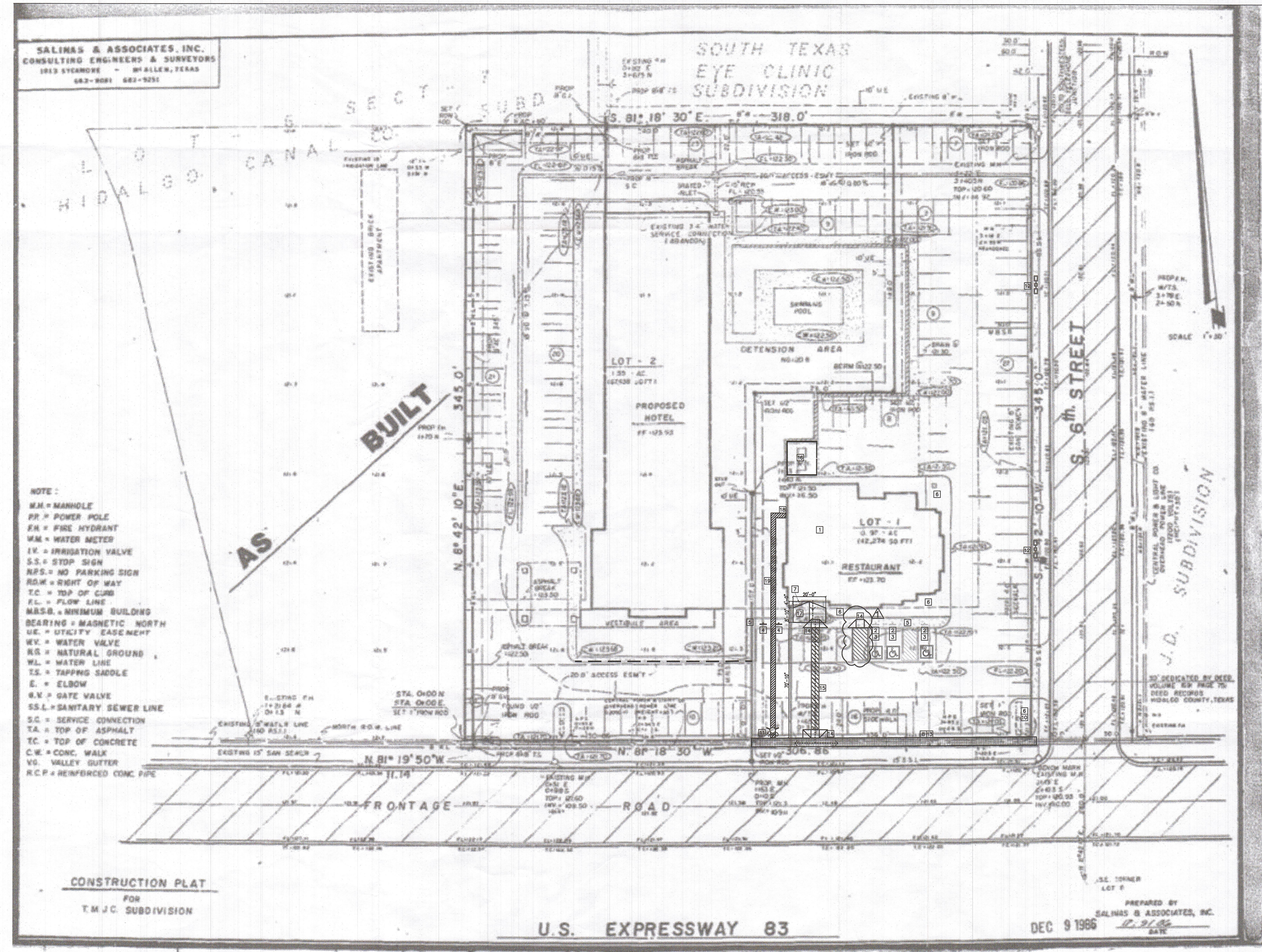
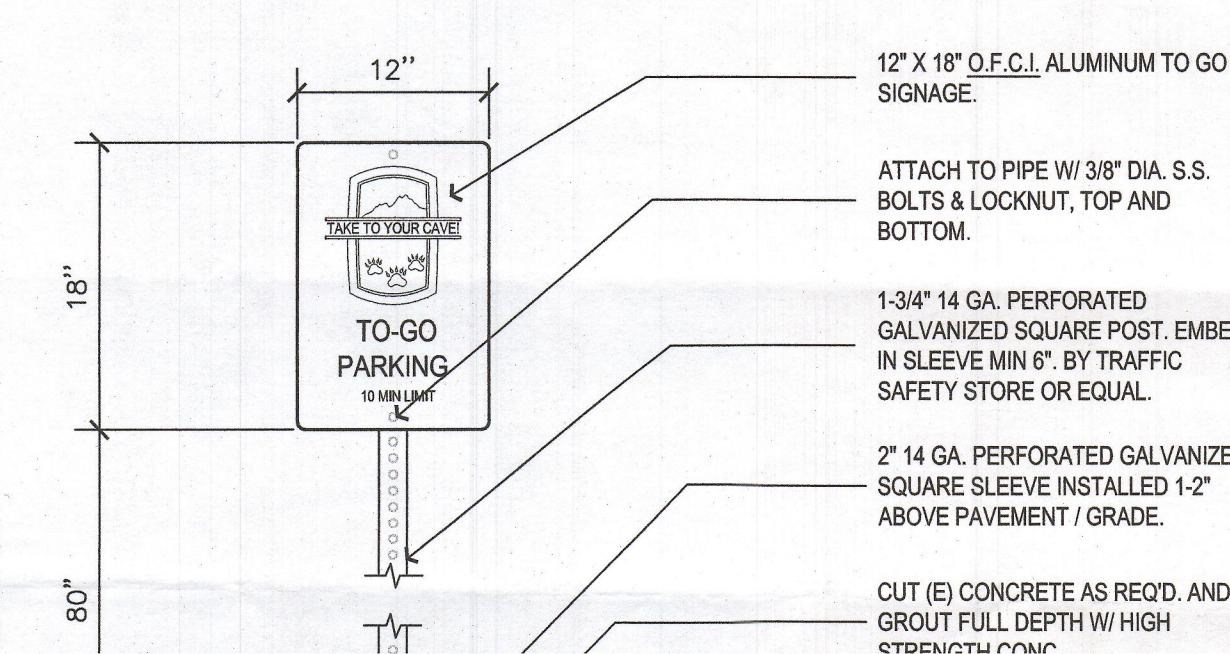
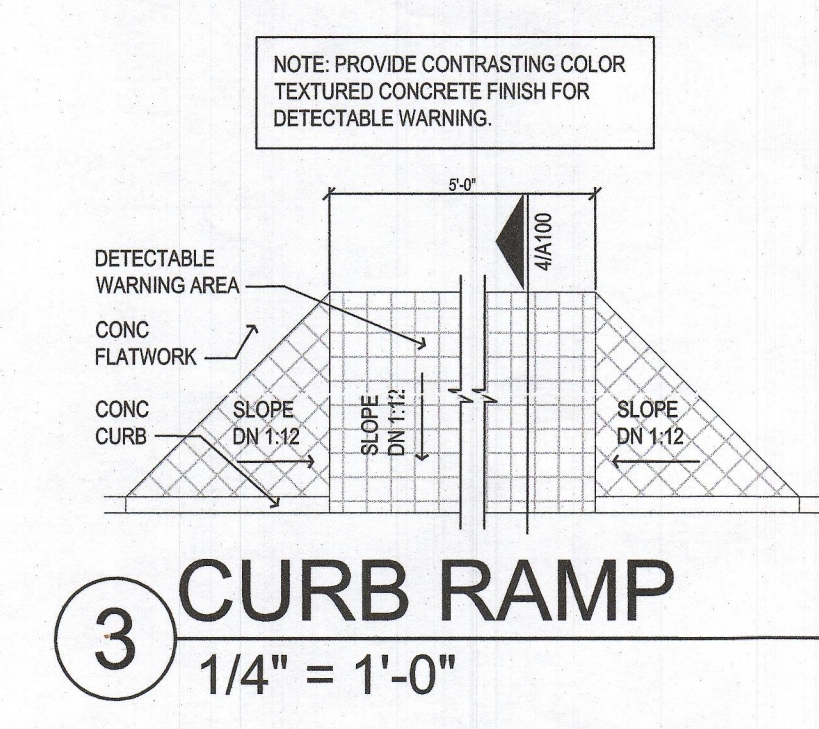
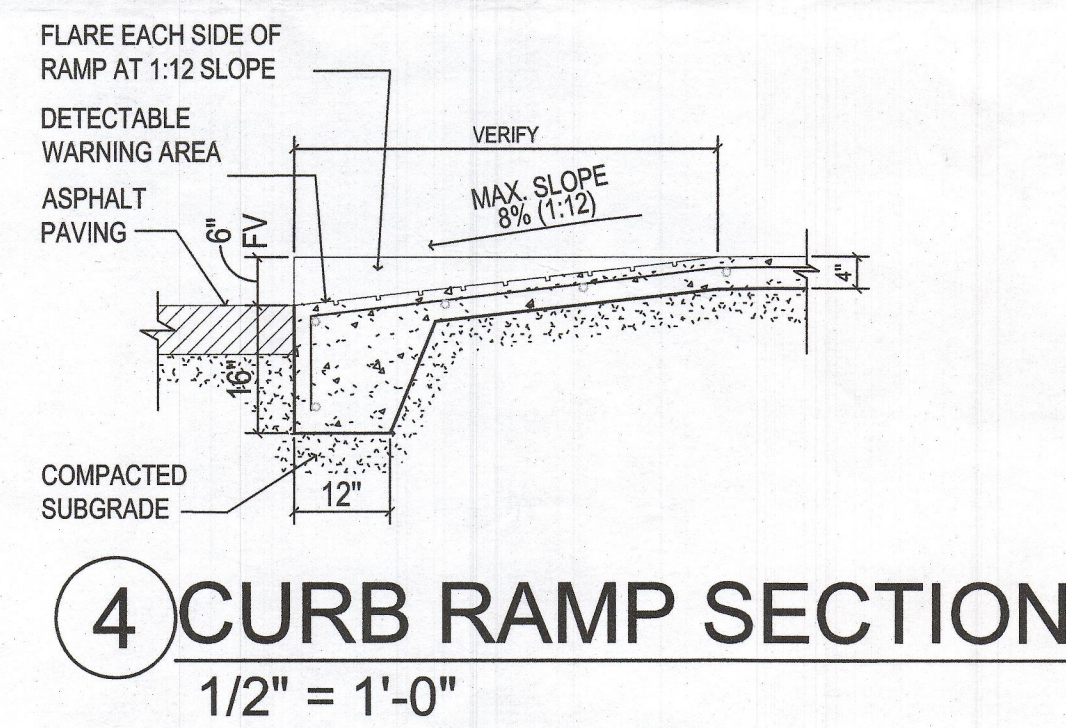
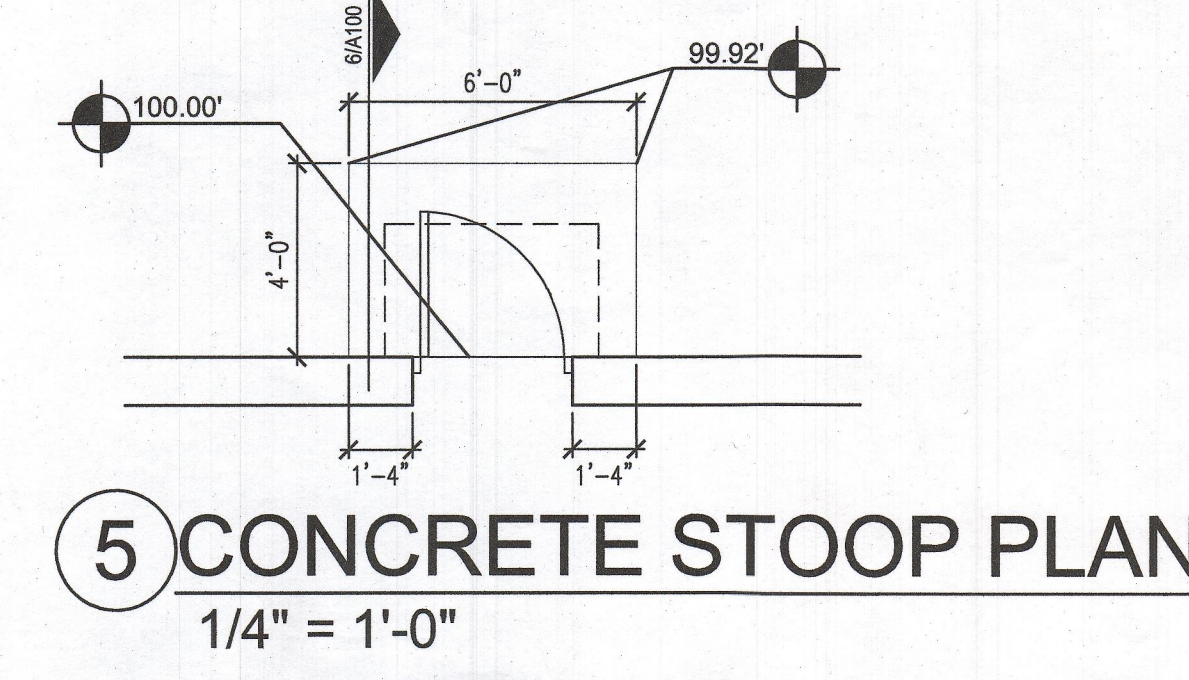
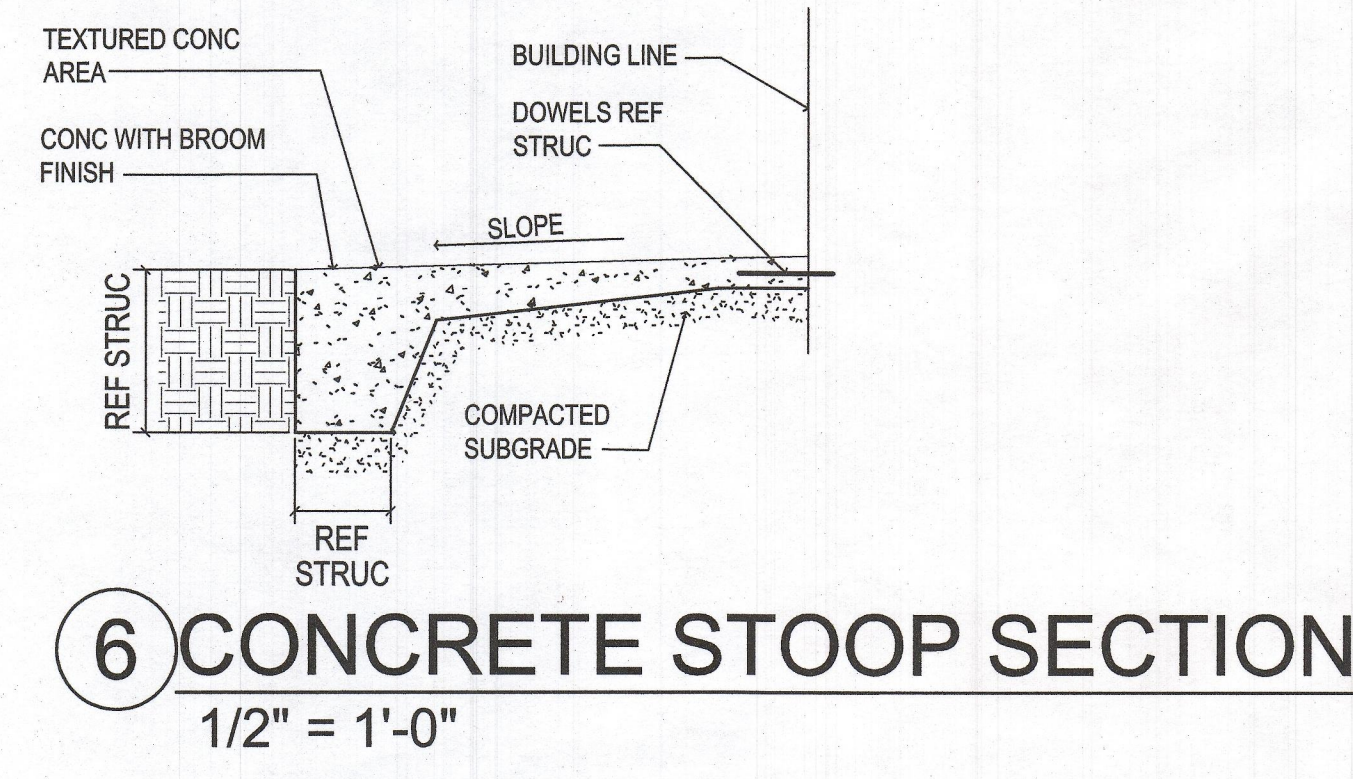
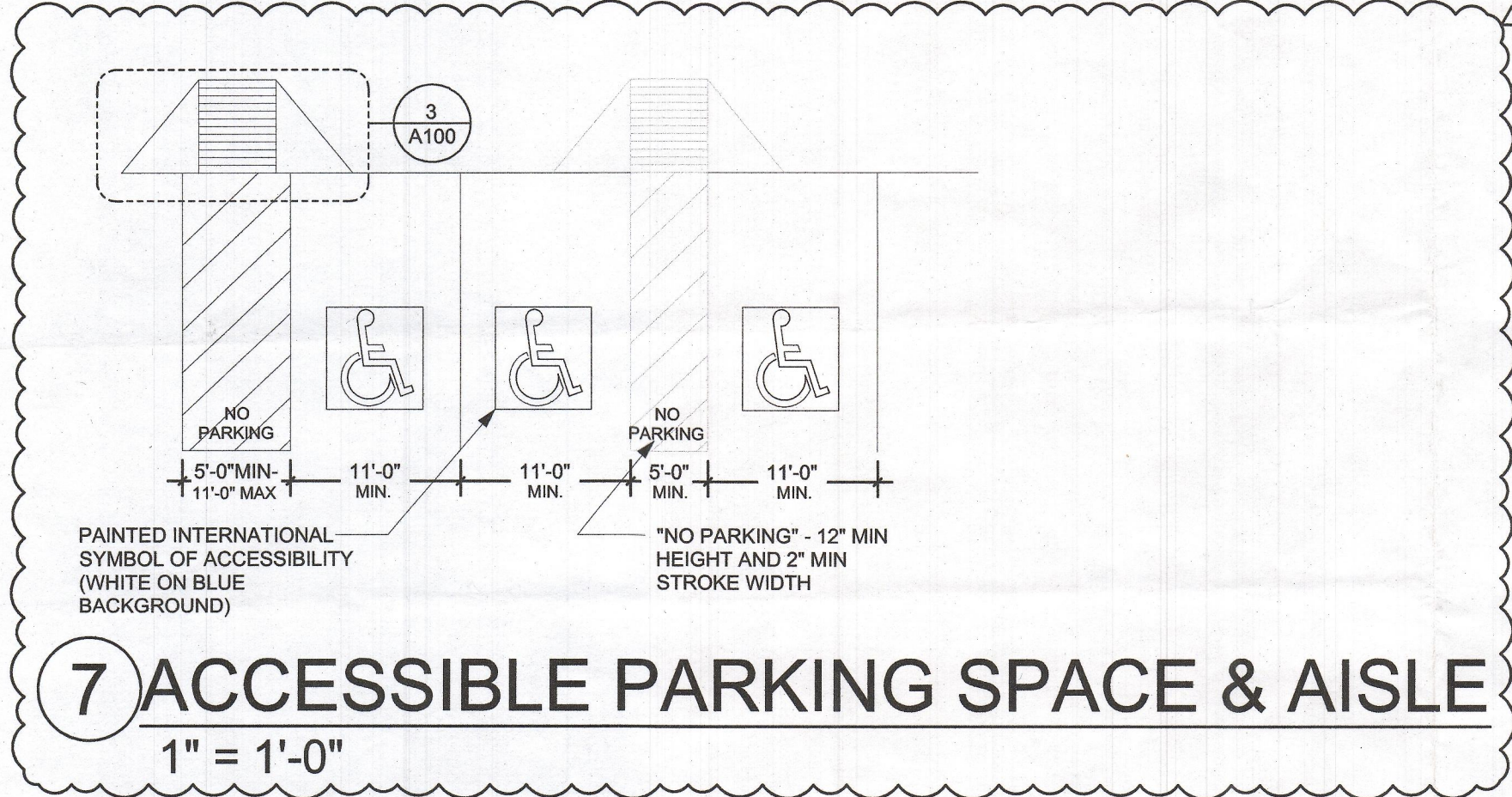
The covered porch serves as a distinctive exterior feature to the Black Bear Diner restaurants. The restaurant is a bear-themed dining concept serving home-style food.

At the meeting of September 17, 2022, the Zoning Board of Adjustment and Appeals approved an encroachment of 27 feet into the 75 feet front yard setback for a new meeting room addition to the Drury Inn and Suites hotel located at Lot 2, T.M.J.C Subdivision (west of the subject property).

Staff has not received any phone call or email in opposition of the variance request.

RECOMMENDATION:

Staff recommends approval of the variance request since the encroachment is minimal.



1 AS-BUILT SITE PLAN
1/32" = 1'-0"

SITE KEYNOTES

- 1 SHELL BUILDING. SEE A200 FLOOR PLAN.
- 2 ACCESSIBLE SIGNAGE POST, REF 8/A100.
- 3 ACCESSIBLE PARKING SPACES & AISLE. COMPLY WITH ACCESSIBILITY REQUIREMENTS. MAX SLOPE IN ANY DIRECTION, 2% REF 7/A100.
- 4 (N) TO GO SIGNAGE. SEE 2/A100. UNDER SEPARATE SUBMITTAL (WITH SIGN PACKAGE)
- 13 (N) CONCRETE SIDEWALK, REF. GENERAL NOTE #3.
- 14 (N) ACCESSIBLE CURB RAMP. REF 3/A100 AND GENERAL NOTE #1 & #4.
- 15 (N) STRIPED ACCESSIBLE PATH OF TRAVEL REFERENCE GENERAL NOTE #1.
- 16 (E) TRASH ENCLOSURE

LEGEND

- (E) ACCESSIBLE PARKING SPACE
- SIGNAGE PER KEY NOTE
- ACCESSIBLE PATH OF TRAVEL
- TRENCHING OF FLATWORK AND LANDSCAPE
- (N) STRIPED ACCESSIBLE PATH OF TRAVEL WITH 2" MINIMUM

GENERAL NOTES

1. PATH OF TRAVEL (P.O.T.) AS INDICATED IS A BARRIER FREE ACCESS ROUTE WITHOUT ANY ABRUPT VERTICAL CHANGES EXCEEDING 1/4" BEVELED AT 1:2 MAXIMUM SLOPE, EXCEPT THAT LEVEL CHANGES DO NOT EXCEED 1/4" VERTICAL AND IS AT LEAST 48" WIDE. SURFACE IS SLIP RESISTANT, STABLE, FIRM, AND SMOOTH. CROSS SLOPE DOES NOT EXCEED 2% AND SLOPE IN THE DIRECTION OF TRAVEL IS LESS THAN 5% UNLESS OTHERWISE INDICATED. P.O.T. SHALL MAINTAIN FREE OF OVERHANGING OBSTRUCTIONS TO 80" MINIMUM (ADA 307.4) AND PROTRUDING OBJECTS GREATER THAN 4" PROJECTION FROM WALL AND ABOVE 27" AND LESS

STIPULATION FOR REUSE
THIS DRAWING WAS PREPARED FOR USE ON A SPECIFIC SITE AT MCALEN, TX CONTEMPORANEOUSLY WITH ITS ISSUE DATE ON 01-15-20 AND IS NOT SUITABLE FOR USE ON A DIFFERENT PROJECT SITE OR AT A LATER TIME. USE OF THIS DRAWING FOR REFERENCE OR EXAMPLE ON ANOTHER PROJECT REQUIRES THE SERVICES OF PROPERLY LICENSED ARCHITECTS AND ENGINEERS. REPRODUCTION OF THIS DRAWING FOR REUSE ON ANOTHER PROJECT IS NOT AUTHORIZED AND MAY BE CONTRARY TO THE LAW.



ARCHITECT OF RECORD:
BRR ARCHITECTURE, INC.
8131 METCALF AVENUE
SUITE 300
OVERLAND PARK, KS 66204

www.brrarch.com
TEL: 913-262-9095
FAX: 913-262-9044

CONSULTANTS

LICENSE STAMPS

PROJECT NAME

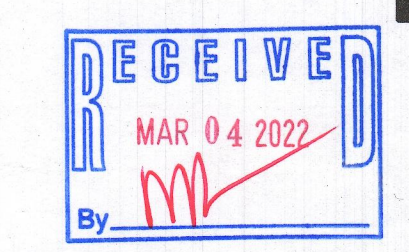
MCALEN, TEXAS

602 W. EXPY 83
MCALEN, TX 78501

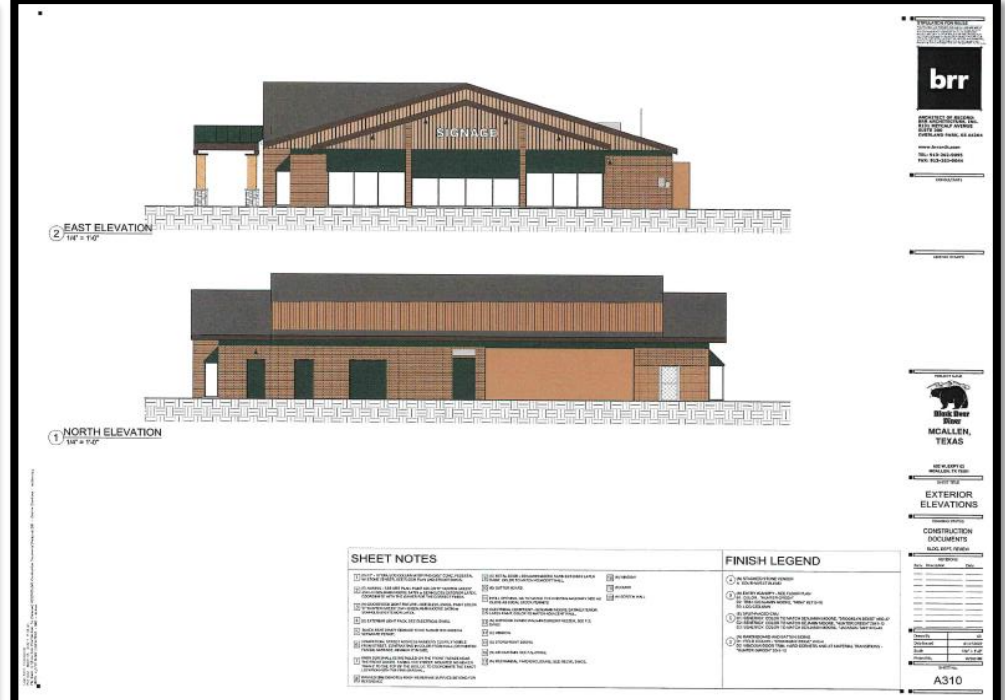
SHEET TITLE
SITE PLAN

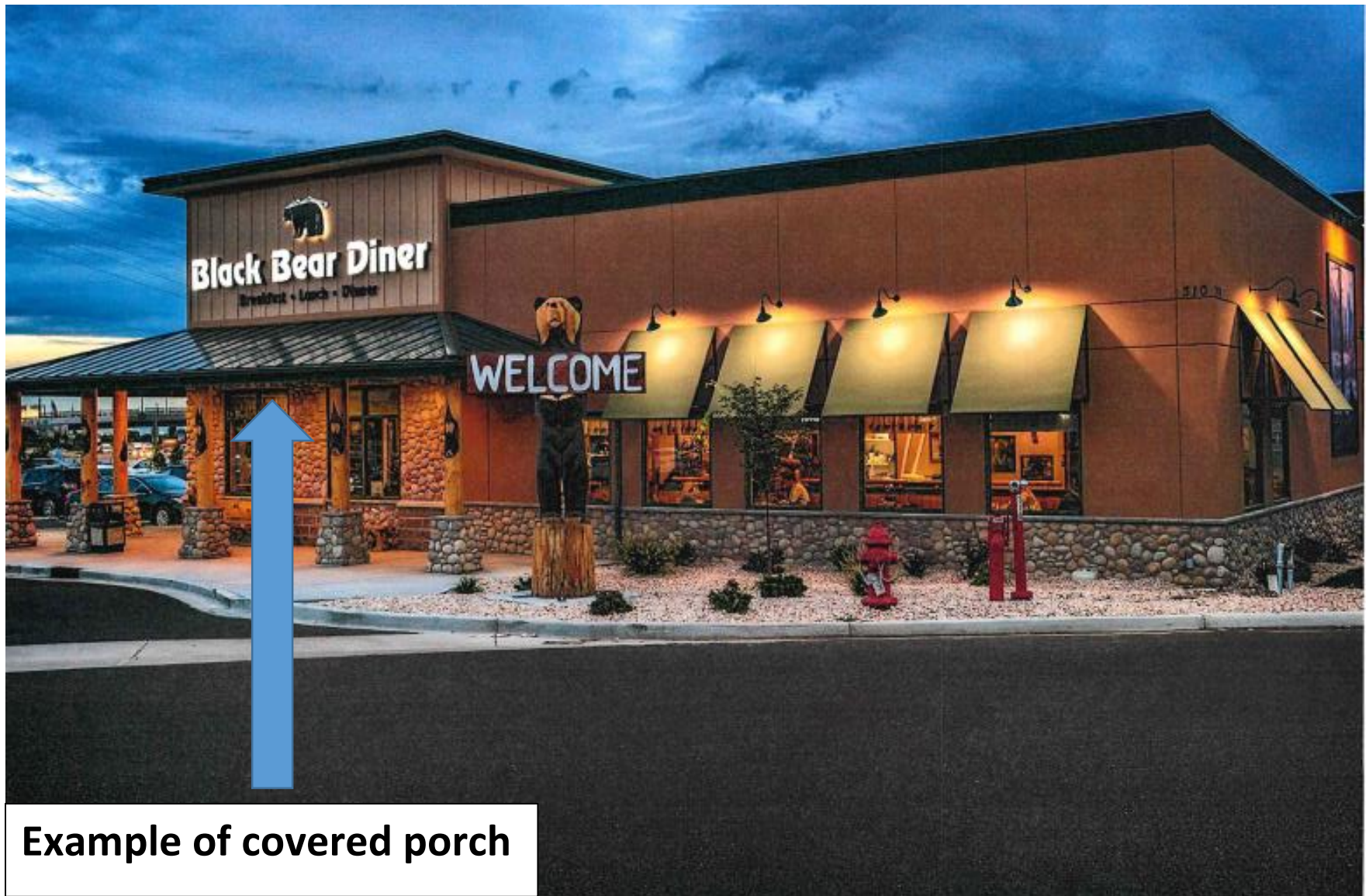
DRAWING STATUS
CONSTRUCTION DOCUMENTS
BLDG. DEPT. REVIEW

REVISIONS		
Sym.	Description	Date
REV #1		03-02-22



Elevations of Black Bear Diner





Example of covered porch

MAIN
SULTS
BYER
CUMENT



**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2022-0009**



CITY OF MCALLEN PLANNING DEPT.
956-681-1250
WWW.MCALLE.NET



2022 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/05/22	01/19/22	02/02/22	02/17/22	03/03/22	03/17/22	04/06/22	04/20/22	05/04/22	05/18/22	06/01/22	06/15/22	07/07/22	07/20/22	08/03/22	08/17/22	09/08/22	09/21/22	10/05/22	10/19/22	11/02/22	11/16/22	12/07/22	12/21/22
ERICK DIAZ- CHAIRPERSON	P																							
SYLVIA HINOJOSA-CHAIRPERSON	P	P	P	P	A	A																		
JOSE GUTIERREZ-VICE-CHAIR	P	P	P	P	P	P																		
ANN TAFEL	A	P	P	P	P	P																		
HUGO AVILA	P	P	P	P	P	P																		
ROGELIO RODRIGUEZ	P	P	P	P	P	P																		
REBECCA MILLAN (ALT 1)	P	P	P	P	P	P																		
MARK TALBOT (ATL 2)				P	P	A																		
SAM SALDIVAR (ALT 3)				P	P	A																		
JUAN MUJICA (ALT 4)				P	P	P																		

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION







PLANNING DEPARTMENT

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



2022 CALENDAR

Meetings:

-  City Commission
-  Planning & Zoning Board
-  Public Utility Board
-  Zoning Board of Adjustment

HPC - Historic Preservation Council

Deadlines:

D- Zoning/CUP Application N - Public Notification

* **Holiday** - Office is closed

JANUARY 2022

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

FEBRUARY 2022

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

MARCH 2022

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

APRIL 2022

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

MAY 2022

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





JUNE 2022

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

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.

2022 CALENDAR

Meetings:





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

Deadlines:






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

* **Holiday** - Office is closed





JULY 2022

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






AUGUST 2022

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





SEPTEMBER 2022

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




OCTOBER 2022

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

NOVEMBER 2022

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

DECEMBER 2022

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