

## **AGENDA**

### **ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, FEBRUARY 5, 2020 - 5:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3<sup>RD</sup> FLOOR**

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

#### **CALL TO ORDER - CHAIRPERSON, DAVID SALINAS**

##### **1. MINUTES:**

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

##### **2. ELECTION OF OFFICERS:**

- a) Chairperson
- b) Vice-Chairperson

##### **3. PUBLIC HEARINGS:**

- a) Request of Hamlin Pools (Joshua Stansberry) on behalf of Travis and Allegra Stansberry, for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 8 ft. into the 10 ft. rear yard setback for a proposed swimming pool with landing area measuring 16 ft. by 39 ft., and **2)** to allow an encroachment of 7.25 ft. into the 10 ft. rear yard setback for a proposed jacuzzi measuring 13 ft. by 16 ft., at Lot 29, Fairway Acres Subdivision, Hidalgo County, Texas; 316 Byron Nelson Drive. **(ZBA2020-0004)**
- b) Request of Juan A. Ruiz on behalf of San Juanita Ruiz for the following special exception and variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 7.5 ft. into the 10 ft. rear yard setback for an existing carport measuring 17 ft. by 31 ft., **2)** to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for an existing storage building measuring 10 ft. by 12 ft., and **3)** to allow an encroachment of 3 ft. into the 6 ft. north side yard setback for an existing storage building measuring 10 ft. by 12 ft., at Lot 2, Block 1, El Rancho Santa Cruz Subdivision Phase IV, Hidalgo County, Texas; 3113 South McColl Road. **(ZBA2019-0060) (TABLED: 01/15/2020)**
- c) Request of Ruben H. Laurel for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 6 ft. into the 6 ft. side yard setback for an existing wooden storage room measuring 9 ft. by 16 ft., **2)** to allow an encroachment of 4.58 ft. into the 10.0 ft. rear yard setback for an existing covered patio measuring 26.25 ft. by 13.83 ft., and **3)** to allow a building separation of 4.3 ft. instead of the required 5 ft. from the existing residence for an existing wooden storage room measuring 9 ft. by 16 ft. at Lot 30, Parkwood Manor Subdivision, Phases 1, 2 & 3, Hidalgo County, Texas; 2508 Swallow Avenue. **(ZBA2019-0058)**



- d) Request of Rosauro Palomo for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 ft. into the 25 ft. rear yard setback for a proposed wooden pergola, at Lot 53, Brisas del Norte Subdivision, Hidalgo County, Texas; 9215 North 28th Lane. **(ZBA2020-0002)**
- e) Request of Craig Longenecker for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of up to 4.5 ft. into the east 6 ft. side yard setback for an existing wooden addition with metal roof measuring 19 ft. by 10.42 ft., and **2)** to allow an encroachment of up to 3.25 ft. into the east 6 ft. side yard setback for an existing vinyl storage building measuring 5.66 ft. by 7.83 ft., at Lot 395, Woodhollow Subdivision Phase X, Hidalgo County, Texas; 1929 Duke Avenue. **(ZBA2020-0001)**
- f) Request of Miguel Cobos for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 6.5 ft. into the 10 ft. rear yard setback for an existing wooden porch measuring 21.5 ft. by 18 ft., **2)** to allow an encroachment of 7 ft. into the 10 ft. rear yard setback for an existing storage building measuring 10 ft. by 10 ft., and **3)** to allow an encroachment of 3.5 ft. into the south 6 ft. side yard setback for an existing storage building measuring 10 ft. by 10 ft., at Lot 22, Hackberry Creek Unit 2 Subdivision, Hidalgo County, Texas; 8414 North 18th Lane. **(ZBA2019-0065)**
- g) Request of Carolina Custom Homes, LLC, for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 ft. into the south 10 ft. corner yard setback for a proposed residence, at Lot 13, Auburn Hills Subdivision, Hidalgo County, Texas; 7903 North 25th Lane. **(ZBA2019-0066)**
- h) Request of Enrique Reynoso for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 7 ft. into the 25 ft. rear yard setback for a proposed residence, at Lot 33, Orangewood North Subdivision, Hidalgo County, Texas; 404 Grayson Avenue. **(ZBA2020-0003)**
- i) Request of Jacob Alvarado to allow the following special exception to the City of McAllen Off-Street Parking and Loading Ordinance: to not provide one parking space beyond the front yard setback for an existing single family residence, at Lot 160, Saddle Creek Unit 2 Subdivision, Hidalgo County, Texas; 3421 Ozark Avenue. **(ZBA2019-0064)**
- j) Request of Oralía Rodriguez for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 25 ft. into the 25 ft. front yard setback for a wooden carport with decorative columns measuring 25.0 ft. by 20.0 ft., at Lot 131, Plantation Gap Subdivision Phase 1, Hidalgo County, Texas; 4400 Sandpiper Avenue **(ZBA2019-0057)**  
**(TABLED: 01/15/2020)**

#### **4. FUTURE AGENDA ITEMS - NONE**



STATE OF TEXAS  
COUNTY OF HIDALGO  
CITY OF MCALLEN

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, January 15, 2019 at 5:30 p.m. in the City Commission Meeting Room with the following present:

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

**CALL TO ORDER – Chairperson, David Salinas**

**1. MINUTES:**

- a) Minutes for Regular Meeting held on December 18, 2019.

The minutes for the meeting held on December 18, 2019 were approved. The motion to approve the minutes was made by Ms. Sylvia Hinojosa. Vice-Chairperson Erick Diaz seconded the motion, which carried unanimously with five members present and voting.

**2. PUBLIC HEARINGS:**

- a) Request of Juan Solano for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 ft. into the 25 ft. front yard setback for a metal carport measuring 12 ft. by 21 ft., at Lot 48, Tejas Subdivision Unit No. 2, Hidalgo County, Texas; 2737 Fir Avenue. **(ZBA2019-0056) (TABLED: 11/20/2019) (TABLED: 12/4/2019) (TABLED: 12/18/2020)**

Ms. Sylvia Hinojosa **moved** the remove the item from the table. Mr. Jose Gutierrez seconded the motion with five members present and voting.

Mr. Garza stated the property was located on the south side of Fir Avenue, 450 ft. east of North 29<sup>th</sup> Street. The lot had 50 ft. of frontage along Fir Avenue and a depth of 125 ft. for a lot size of 6,250 sq. ft. The property was zoned R-1 (single-family residential) District and a single-family residence was located on the property. The surrounding land uses are single-family residences in all directions.

Tejas Subdivision Unit No. 2 was recorded on March 2, 1965 and the subdivision plat indicates a front yard setback of 25 feet. An application for a building permit was



submitted on October 15, 2019, and was undergoing the review process. The applicant applied for the special exception on October 15, 2019. A revised site plan was submitted by the applicant on November 18, 2019 with modified measurements for the carport. The subdivision plat indicated that there are no utility easements along the front of the property.

The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Approval of a special exception request allowing a carport within the front yard may encourage future carports to be constructed in the front yard.

The submitted site plan showed the proposed carport to be 5 ft. behind the property line; however, measurements provided are without the benefit of a survey.

There were three existing carports on the same block that were approved by the Zoning Board of Adjustment and Appeals:

- 1) In April 03, 2019, the Board approved a special exception request for an existing carport at 2820 Fir Avenue (Lot 37) for a 18 ft. encroachment into the 25 ft. front yard setback and an encroachment of 4.75 ft. into the 5 ft. west side yard setback.
- 2) In October 17, 2018, the Board approved a variance request for an existing carport at 2717 Fir Avenue (Lots 53 and 54) for a 25 ft. encroachment into the 25 ft. front yard setback and an encroachment of 5 ft. into the 5ft side yard setback.
- 3) In November 21, 2018, the Board approved a variance request for an existing carport at 2801 Fir Avenue (Lot 45) for a 15 ft. encroachment into the 25 ft. front yard setback and an encroachment of 2.5 ft. into the 5 ft. west side yard setback.

The house did not have a garage for car storage.

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

Staff recommended disapproval of the special exception request since the request is not due to special conditions nor is the plight of the owner unique. However, if the board chooses to approve the request it should be limited to the encroachment show in the submitted site plan.

At the Zoning Board of Adjustment and Appeals, meeting of December 04, 2019 the item was tabled at the request of the applicant in order for the request to be heard by a full board at a future meeting. The board unanimously voted to table the request. There were four members present and voting.

Mr. Juan Solano, the applicant stated he wanted to put a carport to protect his vehicle.

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

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



Ms. Sylvia Hinojosa **moved** to approve the special exception limited to the footprint of the structure. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to approve with five members present and voting.

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

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

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

Variance request # 1 is to allow an encroachment of 6 ft. into the 6 ft. side yard setback for an accessory building. The standard setback for the side yard for a lot in the R-1 zone is 6 ft.

Variance request # 2 is to allow an encroachment of 4.58 ft. into the 10 ft. rear yard setback for an existing covered patio. The standard setback for the rear yard for a lot in the R-1 zone is 10 ft.

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

On August 6, 2009, the board approved a variance for 2421 Swallow Avenue (lot 24), which requested an encroachment of 4 ft. into the 10 ft. rear yard setback for an existing carport.

There were no utility easements inside the property.

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

Staff recommended disapproval of the variance requests since this may encourage additional structures encroaching into the building setbacks. In addition, the storage building is not on a foundation and can be relocated to meet the building setback



requirements. However, if the Board chooses to approve the variances as requested, it should be limited to the proposed encroachments as shown on the submitted site plan.

Chairperson David Salinas inquired if the storage shed was on a concrete slab. Mr. Garza stated it was on blocks.

Ms. Hinojosa had concerns with the utility lines there with a slab concrete. Mr. Garza stated the applicant was not aware there was a utility easement were there. He stated the applicant was currently going to apply for an abandonment. Staff had noticed after taking in the applicant that the utility easement was there. So now, they were running the variance and recommending for the board to approve with subject to compliance with the abandonment.

Chairperson Salinas asked legal counsel if it could be done that way. Mr. Stevenson stated the board could table the item. Mr. Stevenson stated now we notify the Public Utilities out of courtesy for a situation like this and would charge the City to do a review. He encouraged the Board to not factor it in too much into the Board's consideration today what utilities were there.

Mr. Juan Ruiz, the applicant stated he had lived there most of his life. He stated the easement was no longer used. Chairperson Salinas inquired what it before was. Mr. Ruiz stated he believed it was for sewage but for a septic tank and was taken out years ago. He stated he built the carport but did not obtain a permit.

Chairperson Salinas mentioned to the applicant if he wanted to keep the encroachment, the applicant would have had to request an abandonment of the easement prior to applying for a variance. However, the applicant was not aware of this process. Chairperson Salinas suggested to table the item and to get with staff on further details.

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

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

Ms. Sylvia Hinojosa **moved** to table the variance requests until the next meeting. Mr. Jose Gutierrez seconded the motion. The board voted unanimously to table with five members present and voting.

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

Mr. Garza the property was located on the north side of Swallow Avenue, approximately 69 ft. east of North 25<sup>th</sup> Lane. The property had 69 ft. of frontage along Swallow Avenue and a



depth of 104 ft. for a tract size of 7,176 sq. ft. The property was zoned R-1 (single family residential) District. The surrounding zoning was R-1 in all directions.

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

Variance request # 1 is to allow an encroachment of 6 ft. into the 6 ft. side yard setback for an accessory building. The standard setback for the side yard for a lot in the R-1 zone is 6 ft.

Variance request # 2 is to allow an encroachment of 4.58 ft. into the 10 ft. rear yard setback for an existing covered patio. The standard setback for the rear yard for a lot in the R-1 zone is 10 ft.

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

On August 6, 2009, the board approved a variance for 2421 Swallow Avenue (lot 24), which requested an encroachment of 4 ft. into the 10 ft. rear yard setback for an existing carport.

There are no utility easements inside the property.

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

Staff recommended disapproval of the variance requests since this may encourage additional structures encroaching into the building setbacks. In addition, the storage building is not on a foundation and can be relocated to meet the building setback requirements. However, if the Board chooses to approve the variances as requested, it should be limited to the proposed encroachments as shown on the submitted site plan.

Mr. Jose Gutierrez commented those approvals made many years ago; they did not set a precedent into any possible present situation. He asked that staff no longer add past carport approvals in memos prior to ordinance change.

Mr. Garza stated the reason for tabling the item, when inspecting there was an indication on the site plan of a separation between the house and storage building of 4 feet and 4 inches. The requirement was to be 5 feet. It needed to be added and advertised for a variance request.

Chairperson Salinas inquired if the five feet was measured to the wall of the structure or overhang. Mr. Garza stated it was measured to wall of structure of the storage building.

Mr. Ruben Laurel, the applicant stated the eight inches between the car, the garage and



the storage did not make a difference to him. He stated he did not have an issue waiting until the next meeting.

Chairperson David Salinas inquired if there was anyone else present to speak in favor of the variance requests.

Mr. Juan Lopez, 7013 N. 25<sup>th</sup> Lane, President of the Homeowners Association for Parkwood Manor, stated Planning Department told him he did not need a permit for a storage building. Mr. Laurel then started constructing the storage building. Mr. Lopez stated Code Enforcement came and put a hold to it. He stated the only thing they had asked was to put a lining over the wood so as not to be damaged by the rain. Then they began the variance process.

Chairperson Salinas inquired if the applicant was required to file for a permit for the wood. Mr. Lopez stated the Planning Department informed him he did not need a permit because it was under the limit of the size building but it was best to get one.

Chairperson David Salinas inquired if there was anyone else present to speak in favor of the variance requests.

Mrs. Rosario Laurel stated it was her idea to build the shed. It did not have any water, electricity nor any sheet rock just the basic shelves to store household items.

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

Ms. Sylvia Hinojosa **moved** to the table the variance requests until the next meeting. Mr. Juan Jimenez seconded the motion. The board voted unanimously to approve with five members present and voting.

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

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

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

The subdivision plat indicated there was a 5 ft. utility easement that runs along the front property line. The front yard setbacks are important in establishing the character of a



single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Approval of a variance allowing a carport within the front yard may encourage future carports to be constructed in the front yard

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

No phone calls had not been received in opposition to the special exception request.

Staff recommended to table item due to abandonment being under review.

Ms. Oralia Rodriguez, the applicant stated she had the built to protect her vehicle from inclement weather. She was not aware of obtaining a building permit. The person who built the carport did not mention anything about obtaining a permit as well.

Chairperson Salinas inquired when the carport was built. Ms. Rodriguez stated August 2019.

Chairperson Salinas mentioned to the applicant that staff recommended tabling the item until the abandonment issue was cleared before making the decision on the carport.

Mr. Jose Gutierrez inquired of the applicant who constructed the carport. Ms. Rodriguez stated it was a person who did these types of work.

Vice-Chairperson Erick Diaz **moved** to the table the special exception until the abandonment had cleared. Mr. Juan Jimenez seconded the motion. The board voted unanimously to approve with five members present and voting.

- e) Request of Ramon I. Pecina, III on behalf of Armando Contreras for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of up to 2.5 ft. into the north 6 ft. side yard setback for an existing residence, at Lot 158, Saddle Creek Unit 2 Subdivision, Hidalgo County, Texas; 9315 North 34th Lane.  
**(ZBA2019-0063)**

Mr. De la Garza stated the property was located at the intersection of North 34<sup>th</sup> Lane and Ozark Avenue. It is zoned R-1 (single family residential) District. The subject property had a frontage of 38.82 ft. along North 34<sup>th</sup> Lane with a total lot area of 6,643 sq. ft. Surrounding areas are zoned R-1 to the north, west and south and property to the west was outside city limits.

Saddle Creek Unit 2 Subdivision was recorded on February 10, 2003. The applicant applied for the variance on December 11, 2019. A certificate of occupancy was issued by the Building Department on July 29, 2003. A survey done in November 2019 shows the residence encroaching up to 2.5 ft. into the north 6 ft. side yard setback.

The subdivision plat indicated that there was a 5 ft. utility easement that runs along the north side of the single-family structure concurrently with a 6 ft. side yard setback. The applicant submitted a survey that showed an encroachment of up to 2.5 ft. into the north side yard



setback. The applicant submitted an application for an abandonment on December 11, 2019 and it is under review.

The encroachment in question does not appear to be intentional but rather an error on the ground due to improper marking of lot corners, lot lines, or improper setting of string lines. This property may be considered an irregular shaped lot as it is on a partial cul-de-sac making it more difficult to pinpoint property lines and having higher propensity for error in this. A site plan submitted with the building permit was approved showing compliance with the 6 ft. side yard setback. Subsequently, a certificate of occupancy was issued on April 2003. The owner is attempting to clear the title in order to sell the property. The variance request is unique and would not alter the character of the neighborhood. Approval of the variance would clear the title as required for some mortgage companies.

No phone calls had not been received in opposition to the variance request.

Staff recommended approval of the variance request.

Chairperson David Salinas inquired if there was anyone else present to speak in favor of the variance request.

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

Mr. Robert Ortiz, 9319 N. 34<sup>th</sup> Lane, wanted to make sure his current boundaries for his lot or his fence was not going to be removed. Chairperson Salinas stated nothing would be removed. This was an issue for a building encroaching into an easement on the applicant's side.

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

### **3. FUTURE AGENDA ITEMS:**

- a)** 3421 Ozark Avenue
- b)** 8414 North 18<sup>th</sup> Lane
- c)** 7903 North 25<sup>th</sup> Lane
- d)** 1929 Duke Avenue
- e)** 9215 North 28<sup>th</sup> Lane
- f)** 316 Byron Nelson Drive
- g)** 404 Grayson Avenue



## **ADJOURNMENT**

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

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Chairperson  
David Salinas

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Carmen White, Secretary



# **ELECTIONS OF OFFICERS**

**a) Chairperson**

**b) Vice-Chairperson**



## Memo

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

**FROM:** Planning Staff

**DATE:** January 29, 2020

**SUBJECT: REQUEST OF HAMLIN POOLS (JOSHUA STANSBERRY) ON BEHALF OF TRAVIS AND ALLEGRA STANSBERRY, FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) TO ALLOW AN ENCROACHMENT OF 8 FT. INTO THE 10 FT. REAR YARD SETBACK FOR A PROPOSED SWIMMING POOL WITH LANDING AREA MEASURING 16 FT. BY 39 FT., AND 2) TO ALLOW AN ENCROACHMENT OF 7.25 FT. INTO THE 10 FT. REAR YARD SETBACK FOR A PROPOSED JACUZZI MEASURING 13 FT. BY 16 FT., AT LOT 29, FAIRWAY ACRES SUBDIVISION, HIDALGO COUNTY, TEXAS, 316 BYRON NELSON DRIVE. (ZBA2020-0004)**

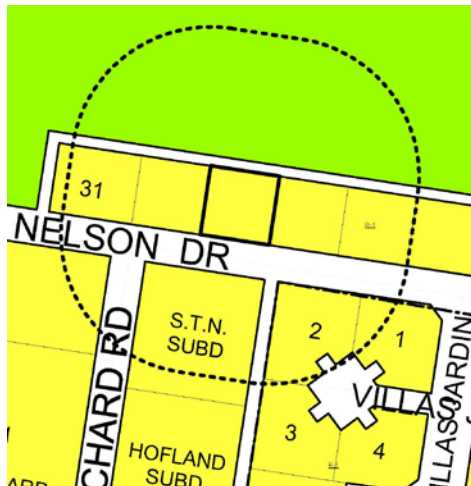
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### REASON FOR APPEAL:

On behalf of Travis and Allegra Stansberry, Hamlin Pools (Joshua Stansberry), is requesting the following variances: 1) to allow an encroachment of 8 ft. into the 10 ft. rear yard setback for a proposed pool with landing area measuring 16 ft. by 39 ft., and 2) to allow an encroachment of 7.25 ft. into the 10 ft. rear yard setback for a proposed jacuzzi measuring 13 ft. by 16 ft.

### PROPERTY LOCATION AND VICINITY:

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





**BACKGROUND AND HISTORY:**

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

**ANALYSIS:**

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

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

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

**RECOMMENDATION:**

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



ZBA  
02/05/20

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 29, Fairway Acre Sub'd.</u></p> <p>Subdivision Name _____</p> <p>Street Address <u>316 <sup>Byron</sup> <del>Bryon</del> Nelson DR. *</u></p> <p>Number of lots <u>1</u> Gross acres _____</p> <p>Existing Zoning <u>R1</u> Existing Land Use <u>Existing</u></p> <p>Reason for Appeal (please use other side if necessary) <u>Permission to encroach pool onto 10' rear setback (2FT away from property)</u></p> <p><input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)</p> <p><input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required</p>
<b>Applicant</b>	<p>Name <u>Hamlin Pools (Joshua Stansberry)</u> Phone <u>(956) 787-3231</u></p> <p>Address <u>300 West Eldora Rd.</u> E-mail <u>romanjimenez@hamlinpools.com</u></p> <p>City <u>Pharr</u> State <u>TX</u> Zip <u>78577</u></p>
<b>Owner</b>	<p>Name <u>Travis &amp; Allegra Stansberry</u> Phone <u>(956) 212-0873</u></p> <p>Address <u>316 <sup>Byron</sup> <del>Bryon</del> Nelson DR. *</u> E-mail <u>travisstansberry@hamlinpools.com</u></p> <p>City <u>McAllen</u> State <u>TX</u> Zip <u>78503</u></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 type="checkbox"/> Yes <input checked="" 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>[Signature]</u> Date <u>1/8/20</u></p> <p>Print Name <u>Travis Stansberry</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
<b>Office</b>	<p>Accepted by <u>L.G. <sup>RS</sup></u> Payment received by _____</p> <p>Rev 10/18</p> <p style="text-align: right;">         JAN 08 2020        BY: <u>CM</u> </p>





**City of McAllen**  
***Planning Department***  
**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

Hamlin Pools is requesting permission to encroach swimming pool onto the 10FT rear setback line. The proposed pool will be 2FT away from the property line. (See Plan)

Swimming Pool Dimensions 16' x 35'

Board Action

Chairman, Board of Adjustment  
Signature

Date



Beto De La Garza,

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

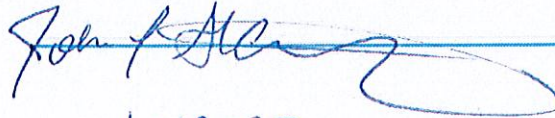
Thank you,

Travis Stansberry

(956) 212-0873

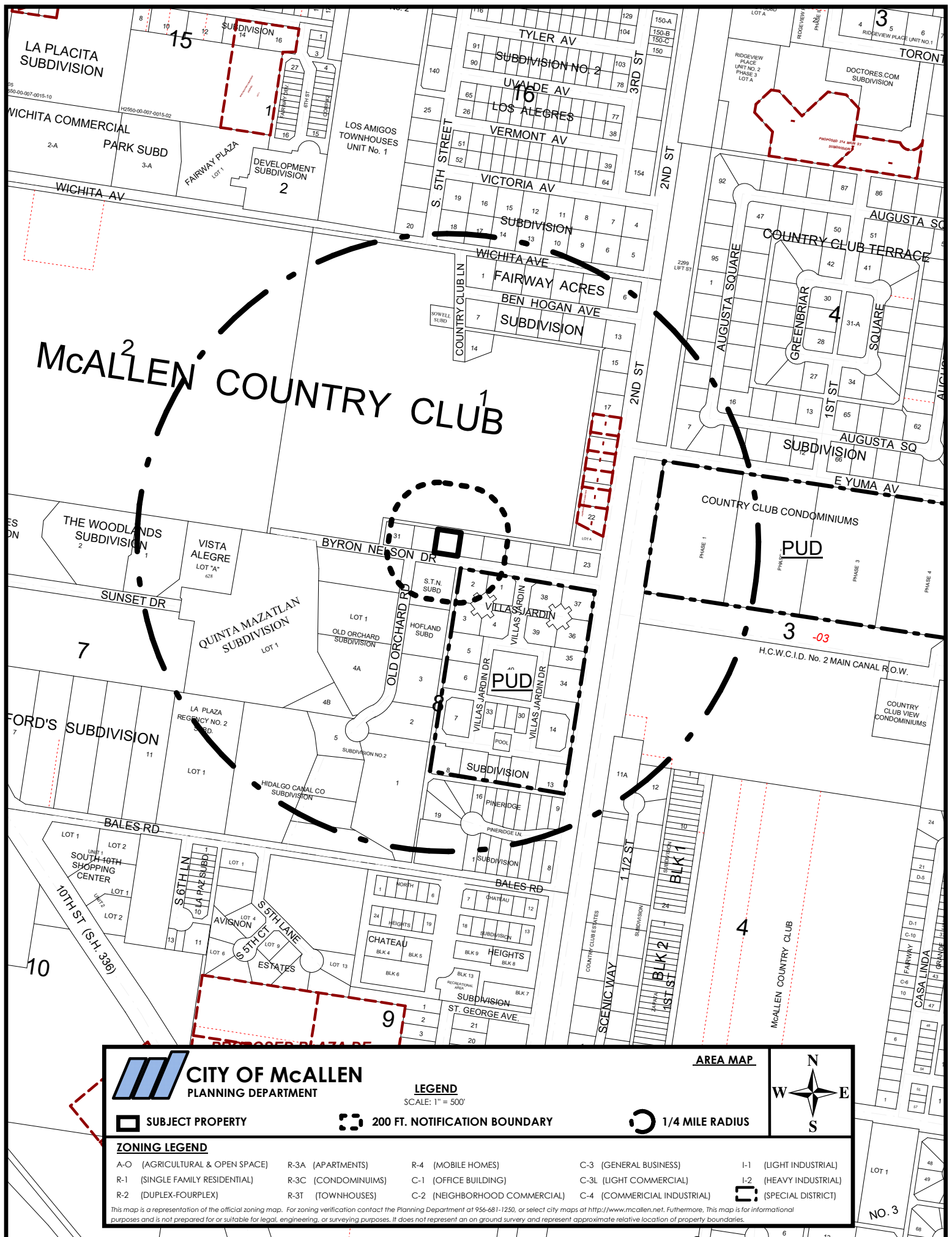
316 Byron Nelson

McAllen, TX

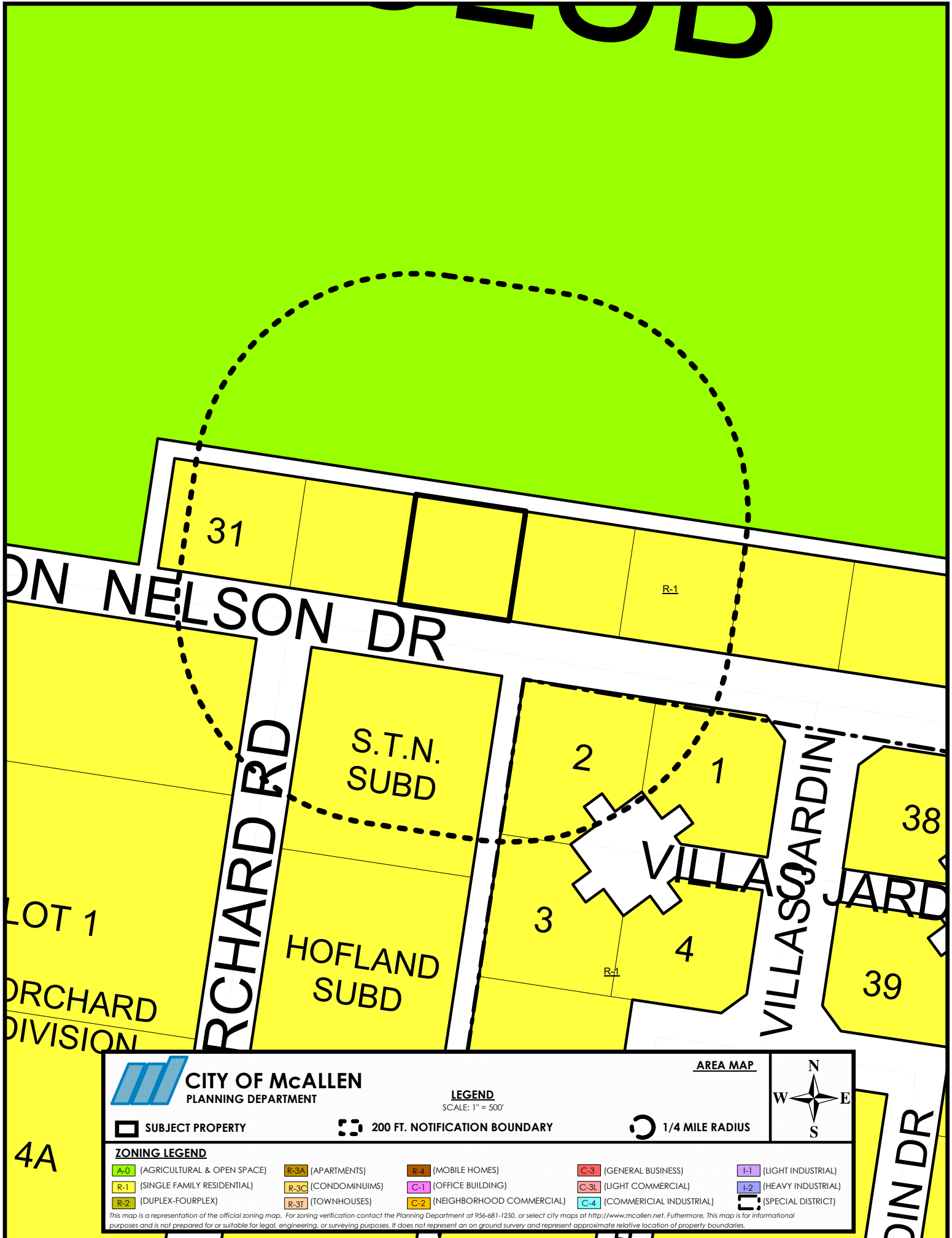
  
1-13-20

RECEIVED  
JAN 13 2020  
BY: JHG









**CITY OF McALLEN**  
PLANNING DEPARTMENT

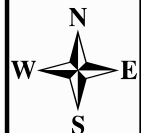
**LEGEND**  
SCALE: 1" = 500'

**AREA MAP**

**SUBJECT PROPERTY**

**200 FT. NOTIFICATION BOUNDARY**

**1/4 MILE RADIUS**



**ZONING LEGEND**

<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>I-1</b> (LIGHT INDUSTRIAL)
<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>I-2</b> (HEAVY INDUSTRIAL)
<b>R-2</b> (DUPLEX-FOURPLEX)	<b>R-3T</b> (TOWNHOUSES)	<b>C-2</b> (NEIGHBORHOOD COMMERCIAL)	<b>C-4</b> (COMMERCIAL INDUSTRIAL)	<b>(SPECIAL DISTRICT)</b>

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

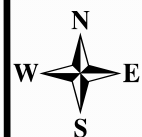
**AERIAL MAP**  
SCALE: N.T.S.



**SUBJECT PROPERTY**

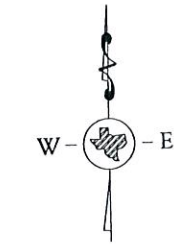


**200 FT. NOTIFICATION BOUNDARY**

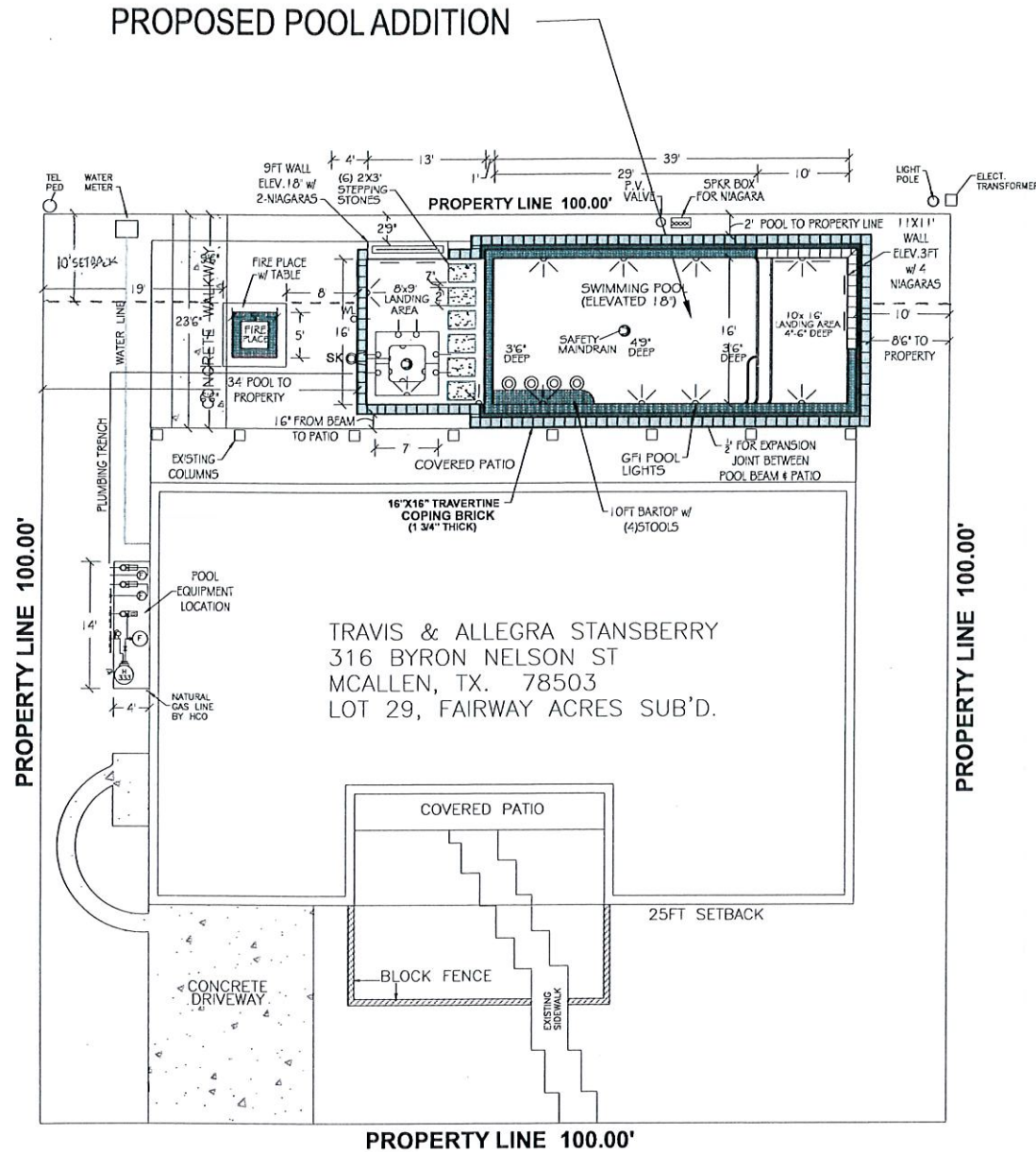


This map is a representation of the official zoning map. For zoning verification contact the Planning Department at 956-681-1250, or select city maps at <http://www.mcallen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying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





POOL SITE PLAN  
SCALE: 1"=20'

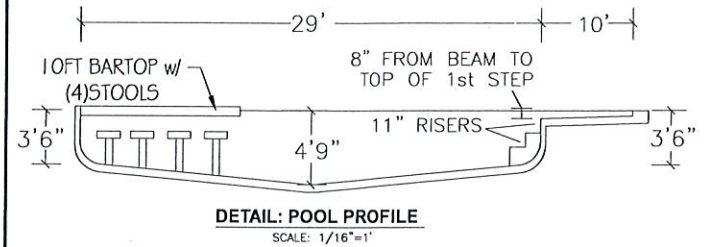


## RESIDENTIAL SPEC. SHEET HAMLIN POOLS

PERMIT: McALLEN ELECT. (YES/NO) PLMNG (YES/NO) DATE: 12/19/19  
NAME: TRAVIS & ALLEGRA STANSBERRY  
ADDRESS: 316 BYRON NELSON McALLEN, TX  
LEGAL: LOT 29, FAIRWAY ACRES SUB'D.  
HOME.: 212-0873 Mob.:   
E-MAIL ADDRESS: TRAVISSTANSBERRY@HAMLINPOOLS.COM

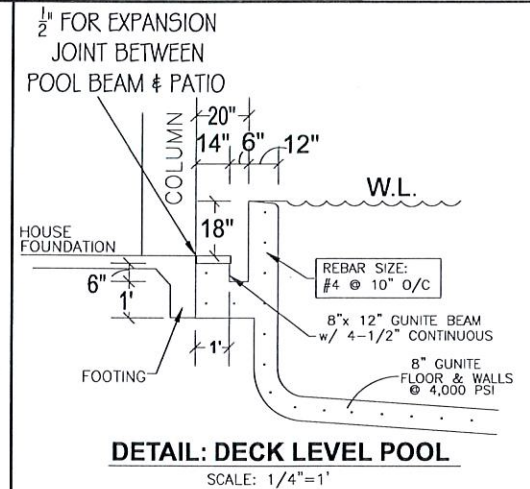
### POOL

SIZE 16' x 39'  
AREA 624 s.f.  
PERIMETER 110'  
INT. SURF. 1,092 s.f.  
VOLUME 17,000 gl  
DEPTHS 3'6" - 4'9" - 3'6"



### POOL SPECIFICATIONS

**PUMP:** VSF PUMP WHISPERFLOW  
FLOW RATE: 40 gpm  
TURN OVER RATE: 6 hrs.  
**FILTRATION:** FNS NAUTILUS  
SIZE: 60 s.f./D.E.  
**HEATER:** STA-RITE  
SIZE: 400,000 BTU  
MAKE-UP WATER: WATER LEVELER, CONNECTED TO A BACKFLOW PREVENTER THAT IS TIED TO THE MAIN WATER LINE



CONTRACTOR SHALL TAKE CARE NOT TO CAUSE DAMAGE TO EXISTING PERIMETER BEAMS AND FOOTINGS. EXCAVATION OF FOUNDATION BEARING SOIL IS PROHIBITED. CONTRACTOR SHALL TAKE FULL RESPONSIBILITY FOR ALL AFFECTS TO LOSS OF SOIL BEARING PRESSURE FOR THE STRUCTURAL FOUNDATION OF THE BUILDING DUE TO THE CONSTRUCTION OF THE POOL

\*\* NOTE: THE INTEGRITY OF THE PROPOSED STRUCTURE IS DETERMINED NOT TO BE COMPROMISED WITH THE PROPOSED LOCATION OF THE SWIMMING POOL. CONTRACTOR SHALL HIRE LAND SURVEYOR TO STAKE POOL, AND ENSURE THAT THERE ARE NO ENCROACHMENTS ONTO EXISTING EASEMENTS.

## POOL SITE PLAN

316 BYRON NELSON  
LOT 29 FAIRWAY ACRES SUBDIVISION  
MCALLEN, TEXAS  
SCALE: 1"=20'



BARRERA INFRASTRUCTURE GROUP, INC.  
3525 WEST FREDDY GONZALEZ DRIVE  
SUITE B-2, McALLEN, TEXAS 78504  
956-687-3355  
FAX: 956-992-8801



SWIMMING POOL PLOT PLAN

316 BYRON NELSON  
LOT 29 FAIRWAY ACRES SUBDIVISION  
MCALLEN, TEXAS

DATE

REVISION

CHECKED BY: R.B.

DRAWN BY: R.B.

PROJ. NO:

FILE:

SHEET NO. S-1 OF 1

SCALE: N.T.S.





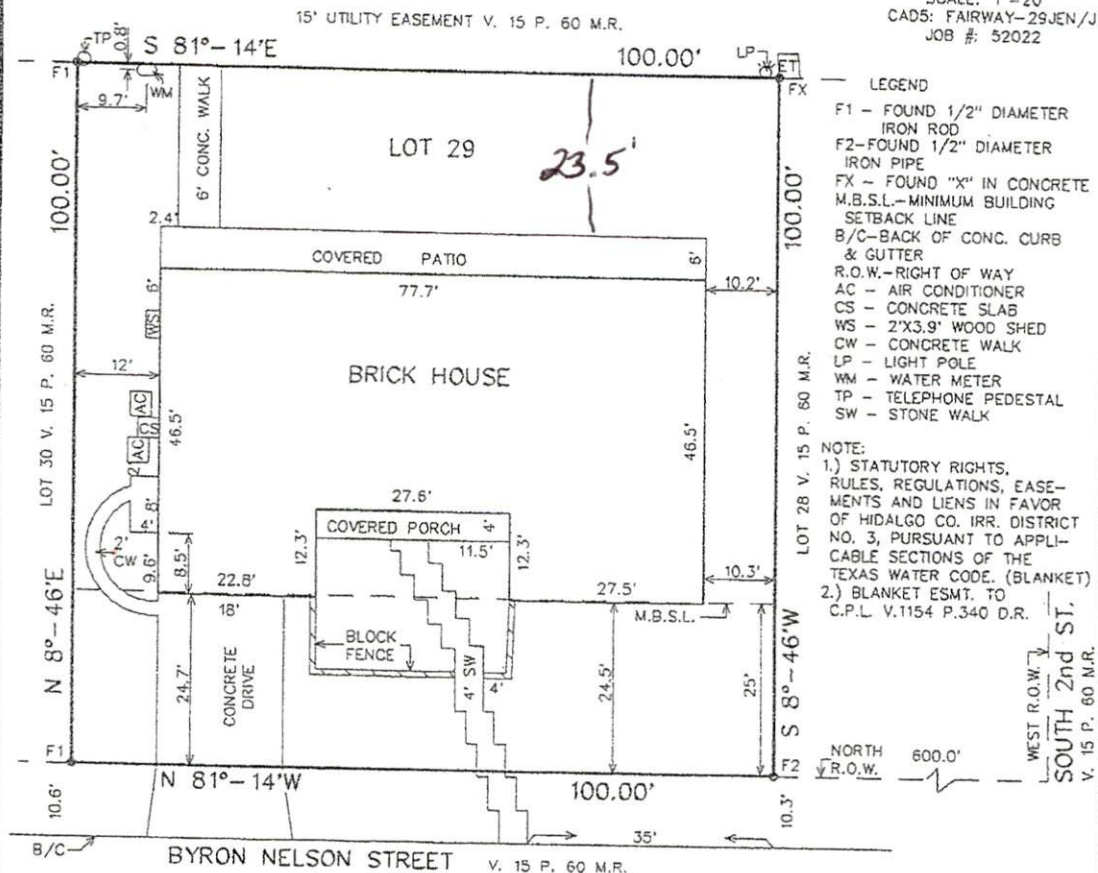
# PEÑA ENGINEERING

1001 WHITEWING • P.O. BOX 4320  
(956) 652-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA

NOTE: BASIS OF BEARING, IS THE SOUTH  
LINE OF LOT 29, FAIRWAY ACRES SUB'D.,  
V. 15 P. 60 M.R.



SCALE: 1"=20'  
CAD5: FAIRWAY-29JEN/J  
JOB #: 52022



BUYER'S NAME: DANIEL LEE

FLOOD ZONE: By GRAPHICAL PLOTTING COMMUNITY PANEL NO. 480343 0010 C  
MAP REVISED: NOVEMBER 2, 1982

- ☐ Zone "A" - This is to certify that this property is in a flood prone area.  
☒ Zone "B" - This is to certify that this property is not in a flood prone area. However limits between the 100 year and 500 year flood are subject to flooding with average depths less than one foot.  
☐ Zone "C" - This is to certify that this property is not in a flood prone area.

I certify that this plat represents the facts found on the ground at the time of survey and that there are no visible discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements except as shown on this plat. © copyright 2013 PENA ENGINEERING this survey was provided in multiple originals solely for the borrower named hereon. In conjunction with the original transaction which shall take place within 6 months after the survey was provided. No license has been created or implied to copy this survey. Survey valid only if print has original seal and signature.

ADDRESS: 316 BYRON NELSON STREET McALLEN, TX 78503

LEGAL DESCRIPTION: LOT TWENTY-NINE (29), FAIRWAY ACRES SUBDIVISION, AN ADDITION  
TO THE CITY OF McALLEN, HIDALGO COUNTY, TEXAS

ACCORDING TO THE MAP RECORDED IN VOLUME 15 PAGE 60  
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

06-21-13  
DATE

PABLO PEÑA, III  
REG. PROFESSIONAL LAND SURVEYOR No. 5242



*Jan 1 2014*

*[Signature]*



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

APPLICATION MUST BE COMPLETE

PERMIT APPLICATION REFERENCE NUMBER

**SWM2020-10133**

(Please type or print in black or blue ink)

APPLICANT

NAME Hamlin Pools PHONE 956. 787. 3281

ADDRESS 300 W. Eldora Rd

CITY Pharr, STATE TX ZIP 78501

CONTACT NAME: Roman Jimenez PHONE 787 3281

☐ OWNER

☒ CONTRACTOR

☐ TENANT

☐ OTHER

OWNER

NAME Travis & Allegra Stansberry PHONE 956 212 0873

ADDRESS 316 Bryon Nelson E-MAIL: travisstansberry@hamlinpools.com

CITY McAllen STATE TX ZIP 78501

☒ BLDG NEW ☐ BLDG ADDITION ☐ BLDG REMODELING ☐ CHANGE OF USE ☐ SIGN ☐ MOVE ☐ DEMO ☒ SWM POOL BLDG HGT \_\_\_\_\_ NO. OF FLOOR \_\_\_\_\_

BLDG/SPACE/SIGN SQ. FT. size 16'x39' NO. PARKING SPACES 624sf. LOT SQ. FT. Perimeter: 110' LOT FRONT \_\_\_\_\_ FLOOR EL ABOVE CURB \_\_\_\_\_

EXISTING USE OF LOT/BLDG Residential NEW USE OF LOT/BLDG Swimming Pool IMPROVEMENT VALUE \$ 40,000 .00

SCOPE OF WORK TO BE DONE NEW POOL & SPA (Inground)

PROJECT

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

FOR SIGN USE ONLY TYPE OF SIGN \_\_\_\_\_ MIN. WIND LOAD 105 MPH HEIGHT O.A. \_\_\_\_\_ FT ☐ ILLUMINATED SIGN ☐ NON-ILLUMINATED SIGN

FOUNDATION ☒ CONCRETE SLAB ☐ CONCRETE PIER ☐ CONCRETE BLOCK ☐ CONCRETE BEAM ☐ WOOD POSTS ☐ \_\_\_\_\_

EXT WALL ☐ MASONRY VENEER ☐ MASONRY SOLID ☐ METAL SIDING ☐ COMPOSITION ☐ WOOD ☐ 8" walls & Floor ☐ \_\_\_\_\_

ROOF ☐ WOOD SHINGLE ☐ COMPOSITION ☐ METAL ☐ BUILD UP ☐ \_\_\_\_\_

SPECIAL CONDITIONS ☐ FIRE SPRINKLER SYSTEM ☐ FIRE ALARM SYSTEM ☐ TYPE OF CONSTRUCTION \_\_\_\_\_ ☐ ASBESTOS SURVEY ☐ EABPRJA/B# \_\_\_\_\_ ☐ CONDEMNED \_\_\_\_\_

LOT 29 BLOCK \_\_\_\_\_ SUBDIVISION Fairway Acres Sub'd.

SITE ADDRESS ST. NO. 316 ST. NAME Bryon Nelson

**Bryon**

CITY USE ONLY

ZONING \_\_\_\_\_ PARK DEV. ZONE # ☐

PERMIT FEE \$ 5586

PERMIT REVIEW FEE \$ \_\_\_\_\_

PARK DEVELOPMENT FEE \$ \_\_\_\_\_

REC'D BY RL

DATE 1/8/20

TIME 9:42

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) Roman Jimenez SIGNATURE Roman Jimenez EMAIL ADDRESS (required) romanjimenez@hamlinpools.com DATE 1/8/20





NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0004  
CITY OF BEALL CITY PLANNING DEPT.  
1000 N. 10TH ST.  
BEALL CITY, MO 64601

316

316



## Planning Department

### Memo

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

**FROM:** Planning Staff

**DATE:** January 31, 2020

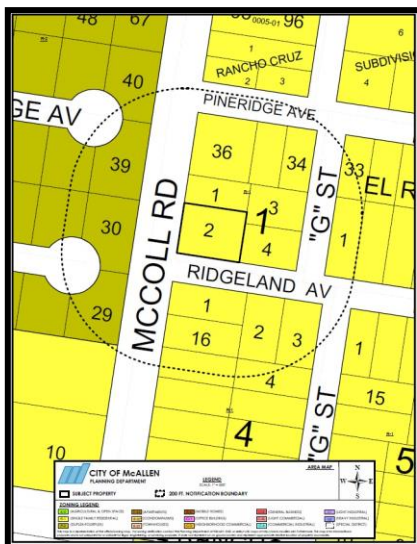
**SUBJECT:** REQUEST OF JUAN A. RUIZ ON BEHALF OF SAN JUANITA RUIZ FOR THE FOLLOWING SPECIAL EXCEPTION AND VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE 1) TO ALLOW AN ENCROACHMENT OF 7.5 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING CARPORT MEASURING 17 FT. BY 31 FT., 2) TO ALLOW AN ENCROACHMENT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

#### REASON FOR APPEAL:

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

#### PROPERTY LOCATION AND VICINITY:

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





**BACKGROUND AND HISTORY:**

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

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

**ANALYSIS:**

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

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

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

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

**RECOMMENDATION:**

Staff recommends the requests remain tabled.

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

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



ZBA 2019-0060

ZBDA  
12/4/19

City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

 311 North 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 <u>El Rancho Santa Cruz PH4 Lot 2 B1K 1</u> Subdivision Name <u>El Rancho Santa Cruz</u> Street Address <u>3113 S. McColl Rd - McAllen, TX 78503</u> Number of lots <u>1</u> Gross acres <u>0.2034</u> Existing Zoning <u>R-1</u> Existing Land Use <u>Single Family Home</u> Reason for Appeal (please use other side if necessary) _____ <input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
	Applicant
Owner	Name <u>San Juanita Ruiz</u> Phone <u>(956) 225-6481</u> Address <u>3113 S. McColl Rd.</u> E-mail <u>sjruiz270@hotmail.com</u> City <u>McAllen</u> State <u>Tx.</u> Zip <u>78503</u>
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization. Signature <u>[Signature]</u> Date <u>10-25-19</u> Print Name <u>Juan A. Ruiz</u> <input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent
Office	Accepted by <u>[Signature]</u> Payment received by _____ Date _____ Rev 10/18 <div style="text-align: right;">         BY: <u>CW</u> </div>

BY: CW





**City of McAllen**

**Planning Department**

**REASON FOR APPEAL & BOARD ACTION**

10-29-2019

5:17pm

J.R.

Carport Property

Wanting 5' Encroachment into  
the 10' rear Setback

+

3' Encroachment into the 6' Side

Setback.

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date



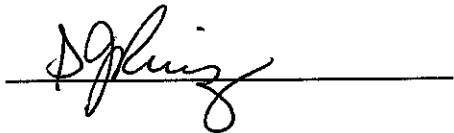
October 28, 2019

TO WHOM IT MAY CONCERN:

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

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

Sincerely,

A handwritten signature in black ink, appearing to read "SJ Ruiz", is written over a horizontal line.



RES 2019-04947

06103436

APPLICANT  
NAME Juan Ruiz PHONE 956-212-8689  
ADDRESS 3113 S. McCall Rd  
CITY McAllen STATE TX ZIP 78503  
CONTACT NAME: \_\_\_\_\_ PHONE \_\_\_\_\_  
☐ OWNER ☐ CONTRACTOR ☐ TENANT ☐ OTHER \_\_\_\_\_

OWNER

NAME San Juanita Ruiz PHONE 956-225-6481  
ADDRESS 3113 S. McCall Rd \*EMAIL: \_\_\_\_\_  
CITY McAllen STATE TX ZIP 78503  
REQ'D \_\_\_\_\_

\*OWNER INFORMATION NOT PROVIDED, INITIAL: \_\_\_\_\_

☐ NEW ☒ ADDITION ☐ REMODELING ☐ REPAIR ☐ MOVE ☐ REMOVE BLDG. HGT. \_\_\_\_\_ NO. OF FLOORS \_\_\_\_\_  
BLDG SQ. FT. 595 NO. PARKING SPACES \_\_\_\_\_ SQ. FT. LOT \_\_\_\_\_ LOT FRONT \_\_\_\_\_ FLOOR EL. ABOVE CURB \_\_\_\_\_  
EXISTING USE House NEW USE House IMPROVEMENT VALUE \$ 2,700 |.00

SCOPE OF WORK TO BE DONE Add car port

PROJECT

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

### FOUNDATION

- ☐ CONCRETE SLAB
- ☐ CONCRETE PIER
- ☐ CONCRETE BLOCK
- ☐ CONCRETE BEAM
- ☐ WOOD POSTS
- ☐ \_\_\_\_\_

### EXT WALL

- ☐ MASONRY VENEER
- ☐ MASONRY SOLID
- ☐ METAL SIDING
- ☐ COMPOSITION
- ☐ WOOD
- ☐ \_\_\_\_\_

### ROOF

- ☐ WOOD SHINGLE
- ☐ COMPOSITION
- ☒ METAL
- ☐ BUILD UP
- ☐ \_\_\_\_\_

### SPECIAL CONDITIONS

- ☐ FIRE SPRINKLER SYSTEM
- ☐ FIRE ALARM SYSTEM
- ☐ TYPE OF CONSTRUCTION \_\_\_\_\_
- ☐ ASBESTOS SURVEY
- ☐ EABPRJA/B#:
- ☐ CONDEMNED STRUCTURE

LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ SUBDIVISION \_\_\_\_\_

SITE ADDRESS ST. NO. 3113 ST. NAME S. McCall Rd

CITY USE ONLY

ZONING \_\_\_\_\_ PERMIT FEE \$ 95.20 DOUBLE FEE \$ 95.20  
PERMIT REVIEW FEE \$ \_\_\_\_\_  
TOTAL PERMIT FEE \$ 190.40  
ZONE # \_\_\_\_\_ PARK DEVELOPMENT FEE \$ \_\_\_\_\_

REC'D BY [Signature]  
DATE 7-31-19  
TIME 5:41 PM

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

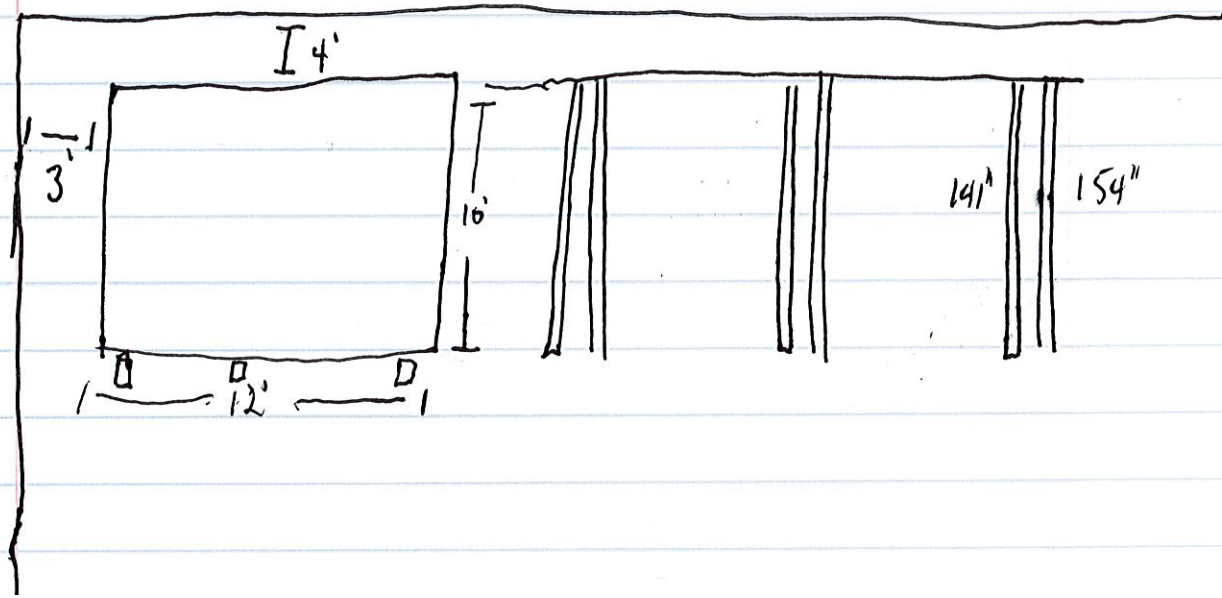
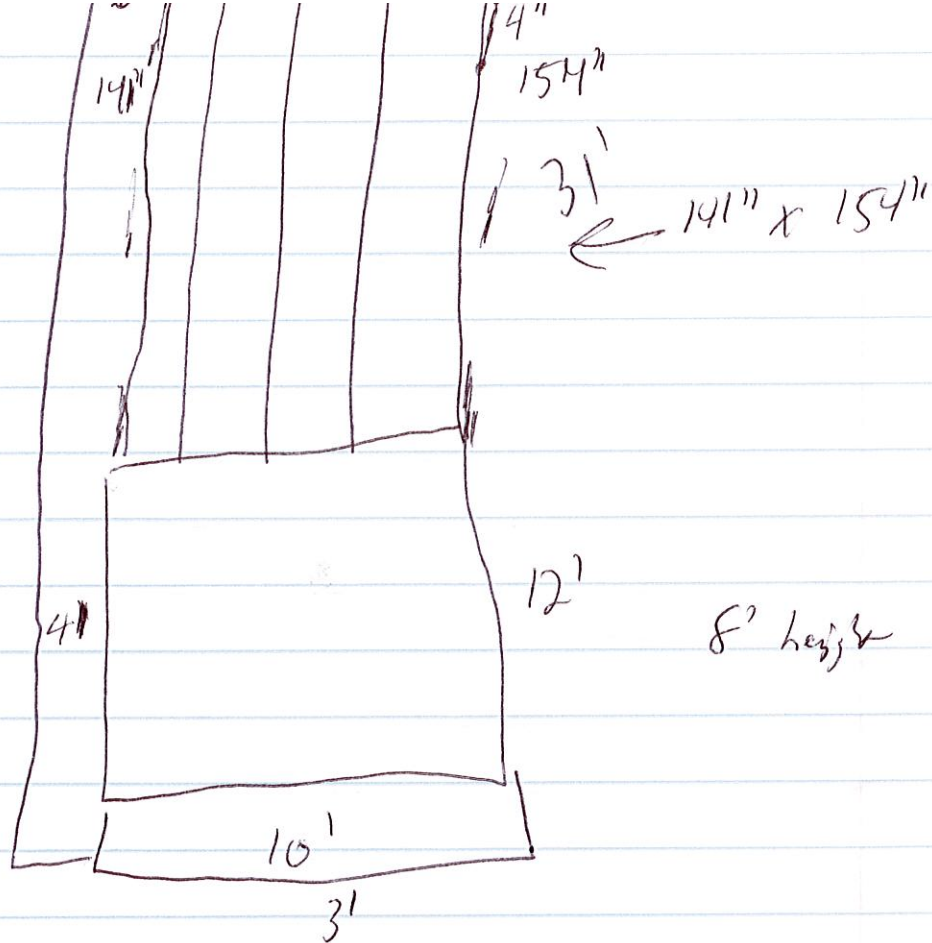
Juan Ruiz  
PRINT (AUTHORIZED AGENT/OWNER)

[Signature]  
SIGNATURE

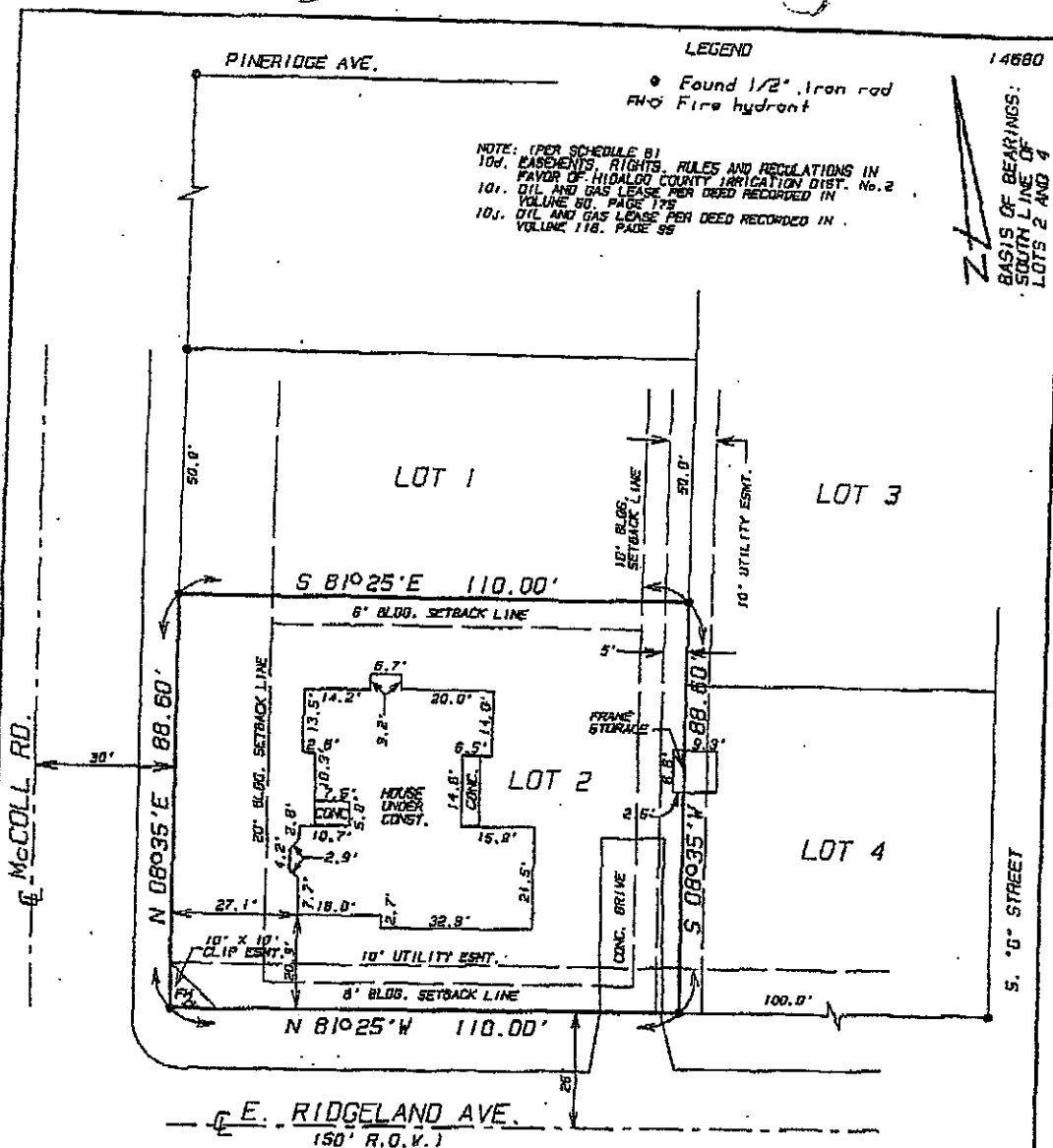
EMAIL ADDRESS (required)

7/31/19  
DATE









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

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

PREPARED FOR: AMPARO RUIZ AND  
 SAN JUANITA RUIZ

**RRA** R. ROBLES &  
 ASSOCIATES, PLLC

PROFESSIONAL LAND SURVEYORS

P.O. BOX 478  
 107 HAUHADE ST.  
 MESLADO, TEXAS 78566

PHONE (361) 868-2422  
 FAX (361) 868-2011

SURVEYED: 03-02-05

DRAWN BY: VL/03-07-05

SCALE: 1"=30'

JOB No. 14580

TITLE COMMITMENT No.

REVISED:

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

THIS SURVEY WAS PREPARED WITH THE USE OF A TITLE COMMITMENT PROVIDED BY ORRIS R. ROBLES & ASSOCIATES, PLLC. THE SURVEYOR OF RECORD HAS REVIEWED AND APPROVED THE TITLE REPORT OF ASSISTANCE OF TITLE IN THE ABOVE PROPERTY.

*Reynaldo Robles*  
 REYNALDO ROBLES, RPLS 44032

COPYRIGHT 2005



*JP Ruiz*





S.W. COR. -  
LOT 6 BLK. 10

N.W. COR.  
LOT. 1 BLK 17

EL RANCHO SANTA CRUZ  
PHASE III.

**MAP SHOWING**

EL RANCHO SANTA CRUZ SUBD.  
PHASE IV

Being A Resubdivision Of 20.76 Acres Of The South 620.6 FT OF The West 1527.3 FT. OUT Of Lot 6 Block 16  
Steele and Parshing Subdivision out of Porciones 66 and 67 of  
Hidalgo County, Texas.

96014

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

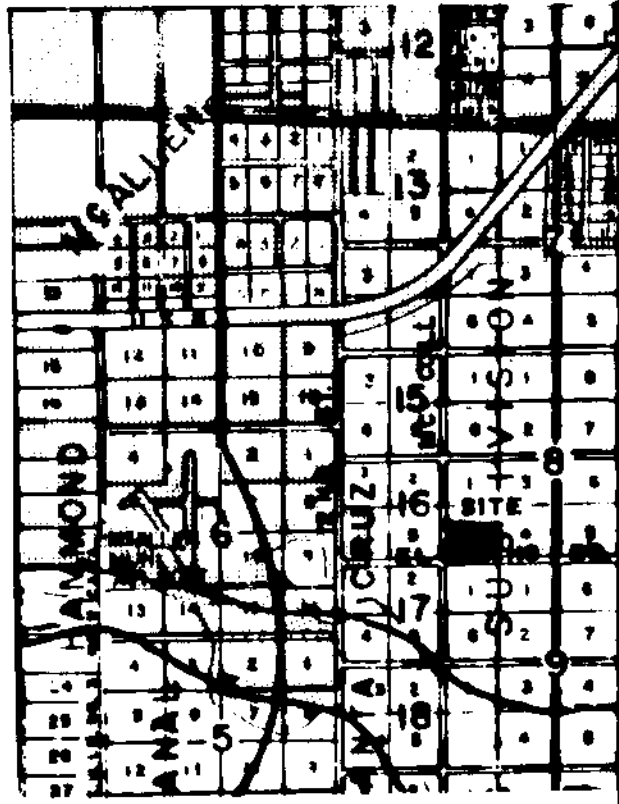
CURVE DATA

A - R = 40'  
A = 51°19'04"  
L = 35.82

B - R = 40'  
A = 104°28'39"  
L = 72.94'

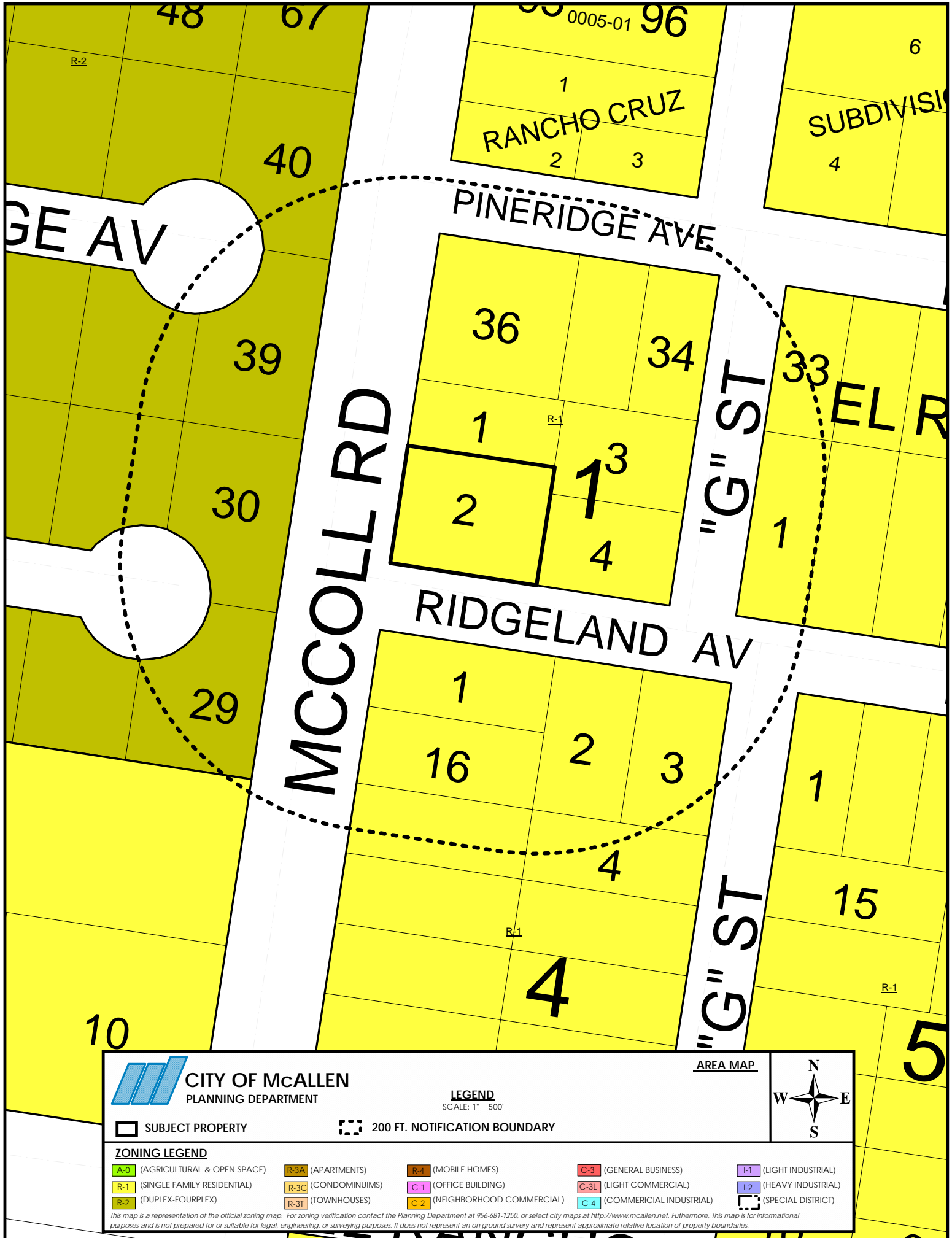
C - R = 40'  
A = 155°19'04"  
L = 108.76'

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



**LOCATION MAP**

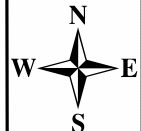




**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: 1" = 500'

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)

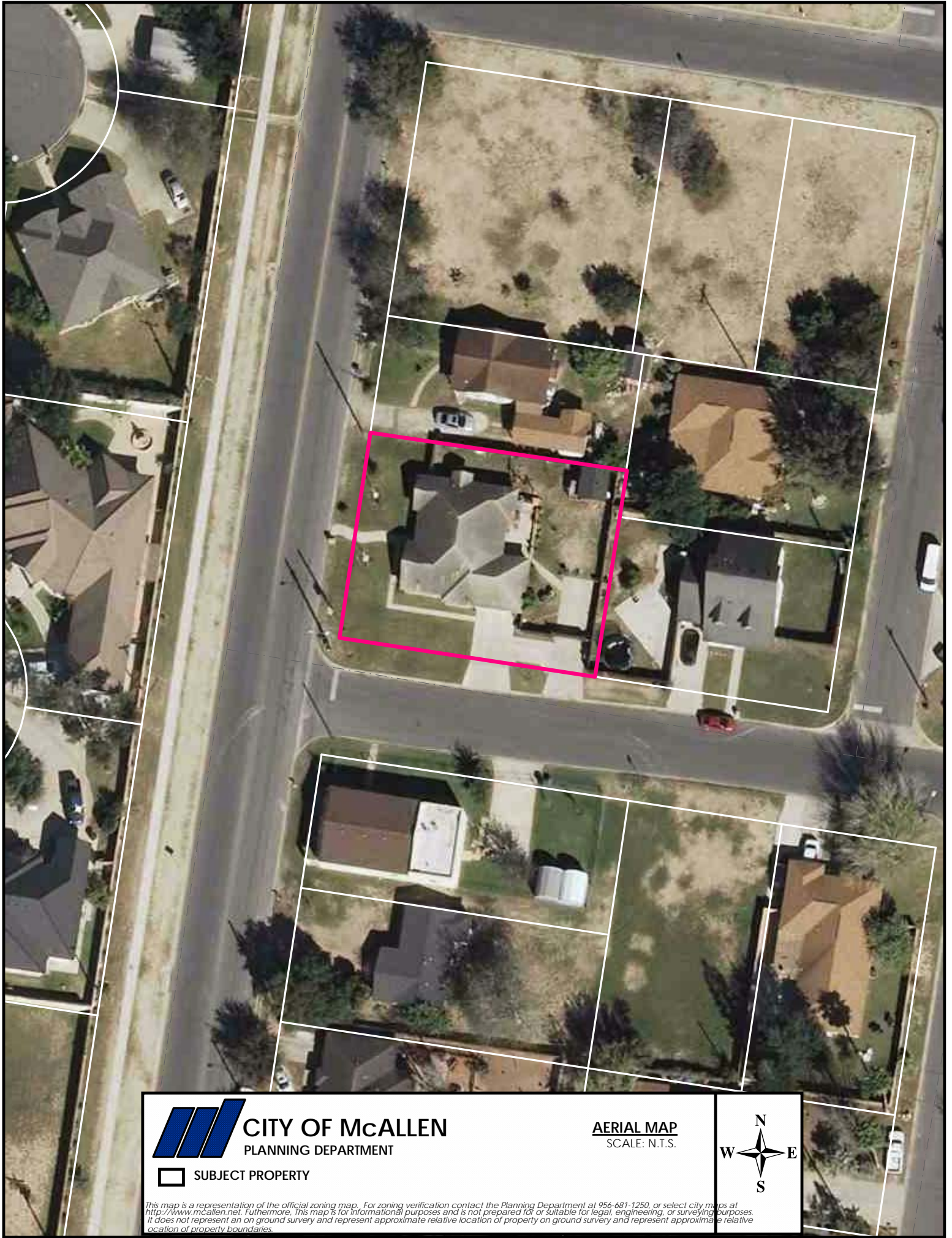
(NEIGHBORHOOD COMMERCIAL)

(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.



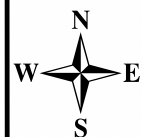


**CITY OF McALLEN**  
PLANNING DEPARTMENT



SUBJECT PROPERTY

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



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NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2019-0060

3112







## **MEMO**

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

**FROM:** Planning Staff

**DATE:** January 31, 2020

**SUBJECT: REQUEST OF RUBEN H. LAUREL FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE YARD SETBACK FOR AN EXISTING WOODEN STORAGE ROOM MEASURING 9 FT. BY 16 FT., 2) TO ALLOW AN ENCROACHMENT OF 4.58 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING COVERED PATIO MEASURING 26.25 FT. BY 13.83 FT., AND 3) TO ALLOW A BUILDING SEPARATION OF 4.3 FT. INSTEAD OF THE REQUIRED 5 FT. FROM THE EXISTING RESIDENCE FOR AN EXISTING WOODEN STORAGE ROOM MEASURING 9 FT. BY 16 FT. AT LOT 30, PARKWOOD MANOR SUBDIVISION, PHASES 1, 2 & 3, HIDALGO COUNTY, TEXAS; 2508 SWALLOW AVENUE. (ZBA2019-0058)**

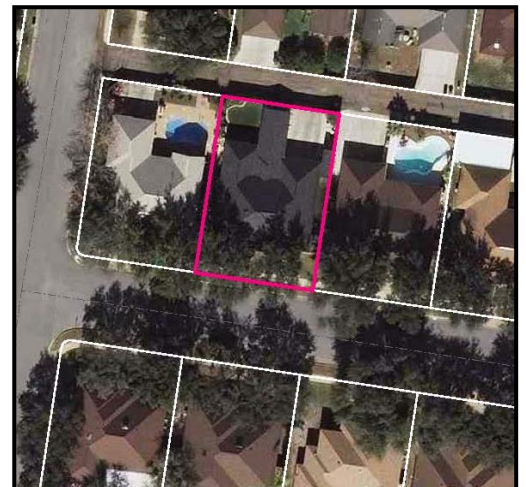
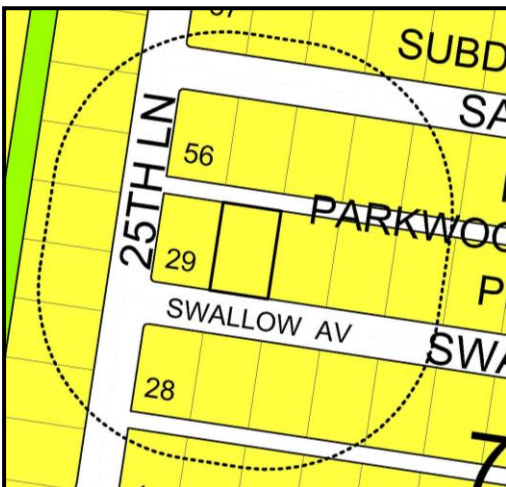
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### **REASON FOR APPEAL**

Mr. Ruben H. Laurel, owner and applicant requests the following variances: 1) to allow an encroachment of 6 ft. into the 6 ft. side yard setback for an existing wooden storage room measuring 9 ft. by 16 ft., and 2) to allow an encroachment of 4.58 ft. into the 10 ft. rear yard setback for an existing covered patio measuring 26.25 ft. by 13.83 ft. on the subject property. The applicant indicated that he is requesting the above variances to store household items, and have a gathering place for his family respectively.

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

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





**BACKGROUND AND HISTORY:**

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

**ANALYSIS:**

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

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

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

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

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

**RECOMMENDATION:**

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

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

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



ZBA 2019-0058

ZBA  
12/4/19



# 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 <u>Lot 30</u>
	Subdivision Name <u>PARKWOOD MANOR SUB'D.</u>
Project	Street Address <u>2508 SWALLOW AVE., McALLEN, TX 78504</u>
	Number of lots <u>1</u> Gross acres _____
Project	Existing Zoning _____ Existing Land Use <u>House</u>
	Reason for Appeal (please use other side if necessary) <u>encroachment into 6th side yard set back. in order to provide clear of driveway to garage</u>
Project	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)
	<input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
Applicant	Name <u>RUBEN H. LAUREL</u> Phone <u>956-450-0111</u>
	Address <u>2508 SWALLOW AVE.</u> E-mail <u>RUBENHLAUREL1948@GMAIL.CO</u>
Applicant	City <u>McALLEN</u> State <u>TX</u> Zip <u>78504</u>
Owner	Name <u>RUBEN H. LAUREL</u> Phone <u>956-450-0111</u>
	Address <u>2508 SWALLOW AVE.</u> E-mail <u>RUBENHLAUREL1948@GMAIL.CO</u>
Owner	City <u>McALLEN</u> State <u>TX</u> Zip <u>78504</u>
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input 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>Ruben H. Laurel</u> Date <u>10/18/19</u> Print Name <u>RUBEN H. LAUREL</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
Office	Accepted by <u>[Signature]</u> Payment received by _____ Date _____
	Rev 10/18

RECEIVED  
OCT 18 2019  
BY [Signature] 5:25pm





**City of McAllen**  
***Planning Department***  
**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

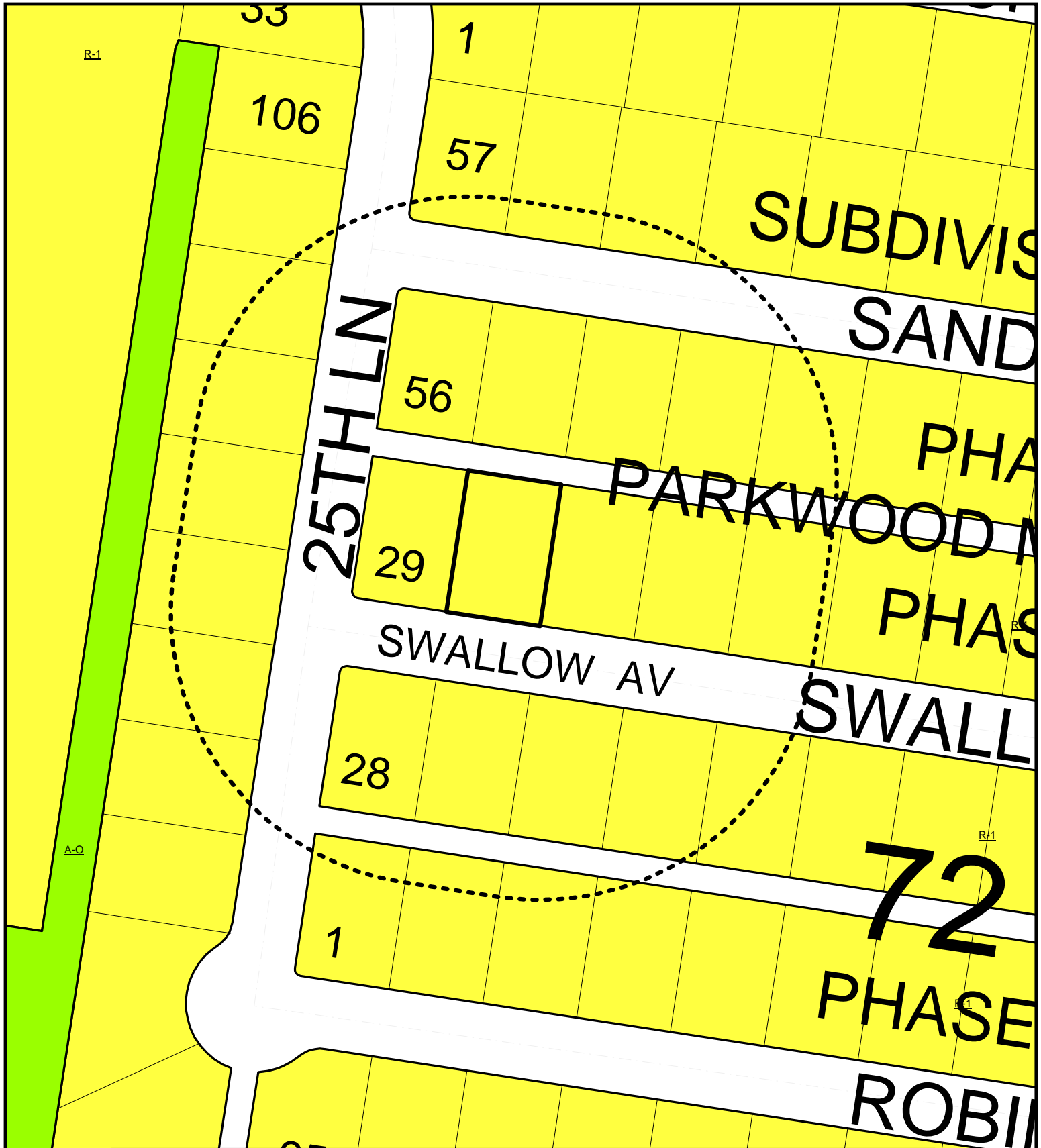
For my <sup>wood frame</sup> tool room 9x16

Board Action

Chairman, Board of Adjustment  
Signature

Date





**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: 1" = 500'

AREA MAP

**SUBJECT PROPERTY**

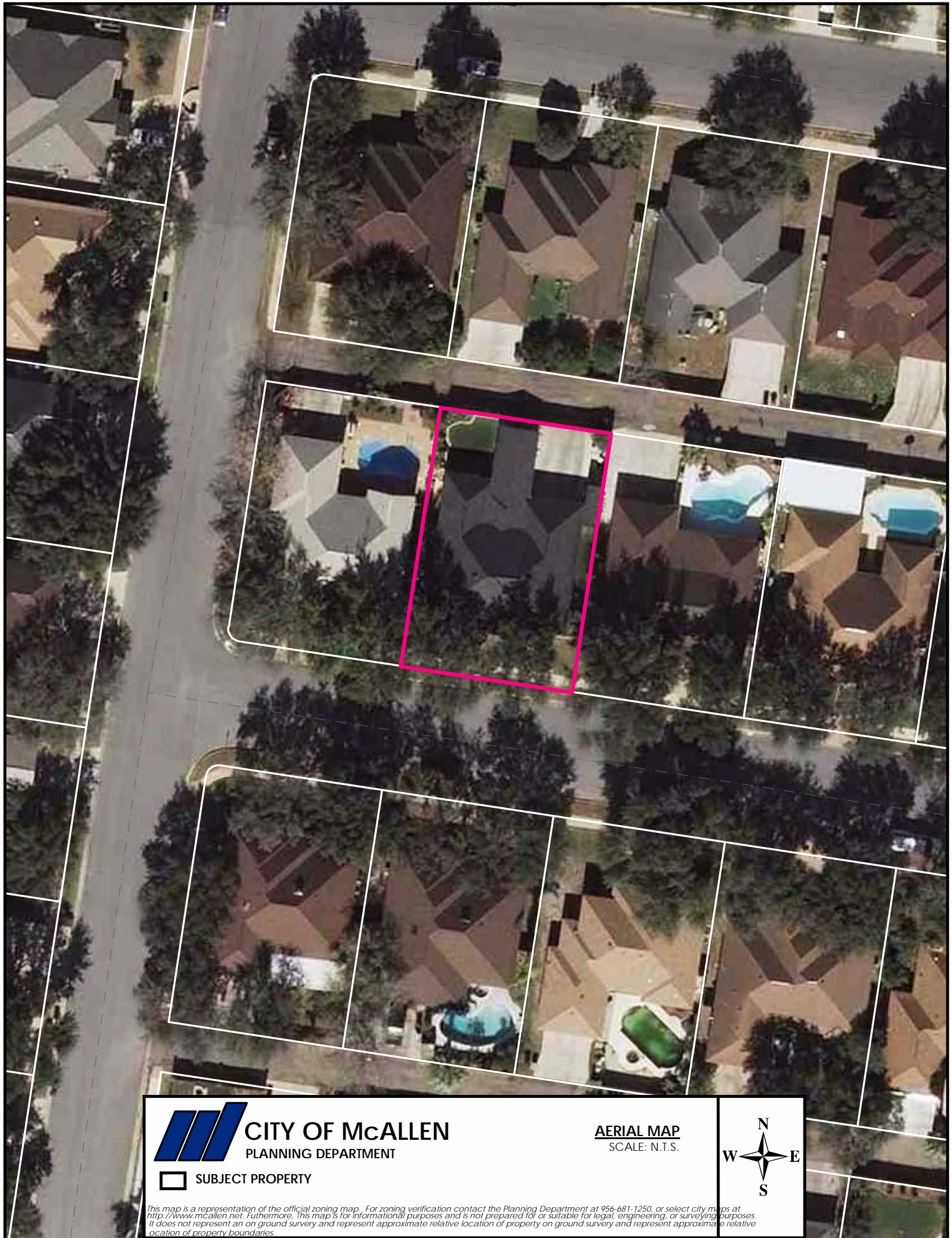
**200 FT. NOTIFICATION BOUNDARY**

**ZONING LEGEND**

<div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <b>A-0</b> (AGRICULTURAL &amp; OPEN SPACE)</div> <div style="width: 33%;"> <b>R-3A</b> (APARTMENTS)</div> <div style="width: 33%;"> <b>R-4</b> (MOBILE HOMES)</div> </div> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <b>R-1</b> (SINGLE FAMILY RESIDENTIAL)</div> <div style="width: 33%;"> <b>R-3C</b> (CONDOMINIUMS)</div> <div style="width: 33%;"> <b>C-1</b> (OFFICE BUILDING)</div> </div> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <b>R-2</b> (DUPLEX-FOURPLEX)</div> <div style="width: 33%;"> <b>R-3I</b> (TOWNHOUSES)</div> <div style="width: 33%;"> <b>C-2</b> (NEIGHBORHOOD COMMERCIAL)</div> </div>	<div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <b>C-3</b> (GENERAL BUSINESS)</div> <div style="width: 33%;"> <b>I-1</b> (LIGHT INDUSTRIAL)</div> </div> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <b>C-3L</b> (LIGHT COMMERCIAL)</div> <div style="width: 33%;"> <b>I-2</b> (HEAVY INDUSTRIAL)</div> </div> <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <b>C-4</b> (COMMERCIAL INDUSTRIAL)</div> <div style="width: 33%;"> <b>(SPECIAL DISTRICT)</b></div> </div>
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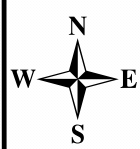




**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

 **SUBJECT PROPERTY**



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2

Alley

Thick wall

10

Alley  
10x14

7"

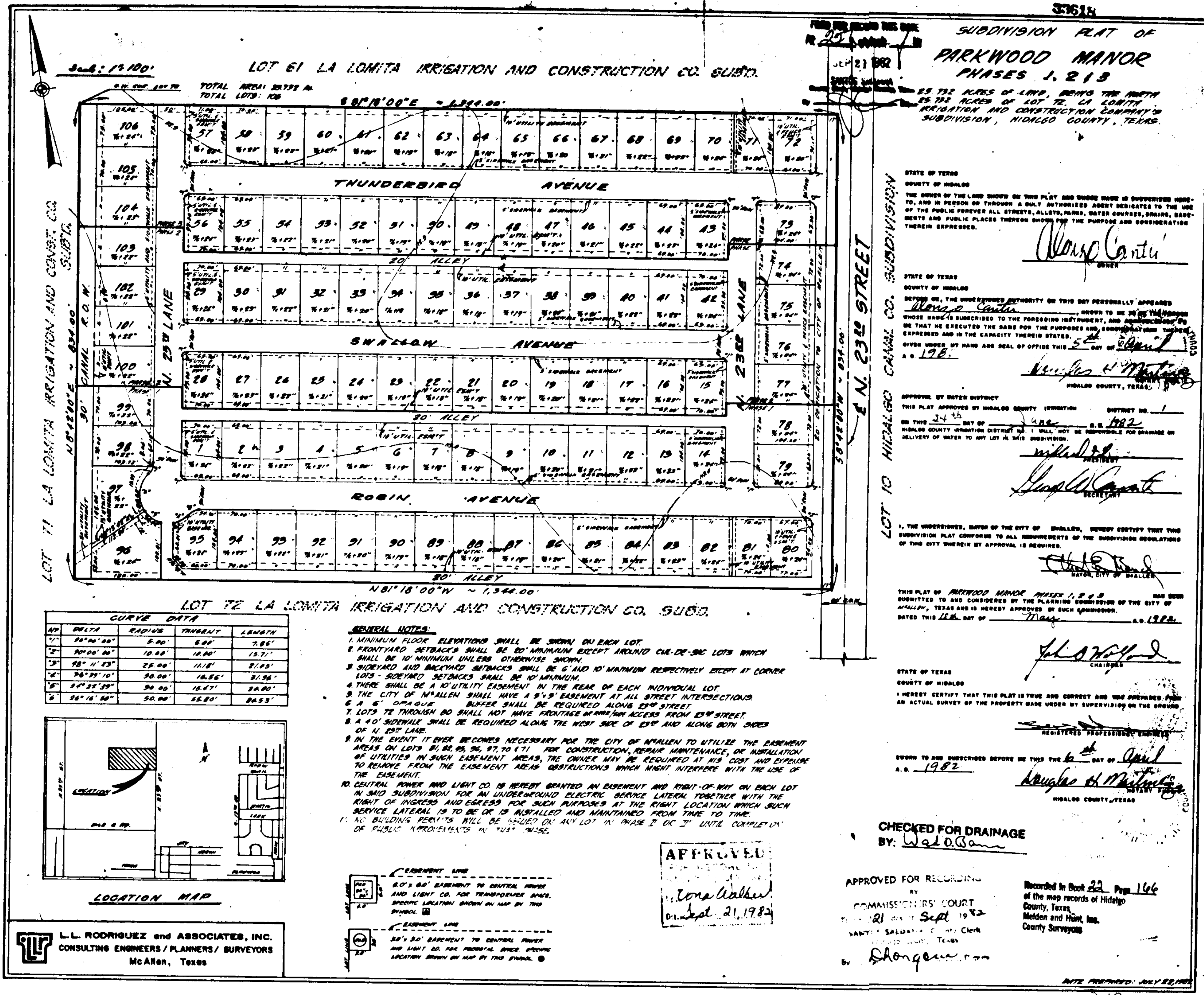
INCHES

4

Home

SWALLOW AVE





























NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2019-0058

CITY OF HOUSTON PLANNING DEPT.  
800.681.1230  
WWW.HOUSTON.MET

2508



## Planning Department

### Memo

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

**FROM:** Planning Staff

**DATE:** January 31, 2020

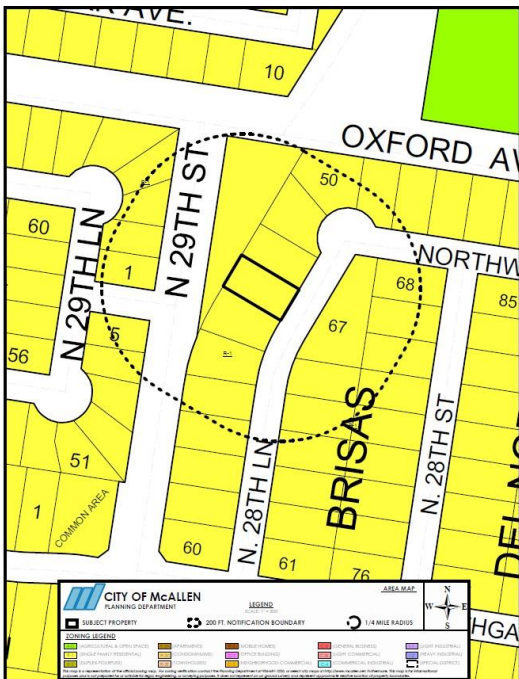
**SUBJECT: REQUEST OF ROSAURO PALOMO FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 10 FT. INTO 25 FT. REAR YARD SETBACK FOR A PROPOSED WOODEN PERGOLA., AT LOT 53, BRISAS DEL NORTE SUBDIVISION, HIDALGO COUNTY, TEXAS; 9215 NORTH 28<sup>TH</sup> LANE. (ZBA2020-0002)**

#### REASON FOR APPEAL:

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

#### PROPERTY LOCATION AND VICINITY:

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





**BACKGROUND AND HISTORY:**

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

**ANALYSIS:**

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

1) In 2015, the Board approved a variance request for a porch at 9223 North 28<sup>th</sup> Lane (Lot 51) for an 8 ft. encroachment into the 25 ft. rear yard setback.

2) In 2011, the Board approved a variance request for a porch at 9219 North 28<sup>th</sup> Lane (Lots 52) for a 10 ft. encroachment into the 25 ft. rear yard setback.

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

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

**RECOMMENDATION:**

Staff recommends approval of the variance request.



ZBA 2020-0002

ZBA: 2/5/20.



# 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>Brisas del Norte Lot 53</u>		
	Subdivision Name	<u>Brisas del Norte</u>		
	Street Address	<u>9215 N. 28th LN</u>		
	Number of lots	<u>53</u>	Gross acres	<u>3</u>
	Existing Zoning	<u>R1</u>	Existing Land Use	<u>House</u>
	Reason for Appeal (please use other side if necessary)	<u>Encroach 10 ft in to 25ft rear yard setback for a pergola</u>		
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)			
	<input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required			
<b>Applicant</b>	Name	<u>Rosaura Palomo</u>	Phone	<u>(956) 720 6829</u>
	Address	<u>9215 N. 28th LN</u>	E-mail	<u>Ropal082575@yahoo.com</u>
	City	<u>McAllen</u>	State	<u>TX</u> Zip <u>78504</u>
<b>Owner</b>	Name	<u>Rosaura Palomo</u>	Phone	<u>(956) 720 6829</u>
	Address	<u>9215 N. 28th LN</u>	E-mail	<u>Ropal082575@yahoo.com</u>
	City	<u>McAllen</u>	State	<u>TX</u> Zip <u>78504</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 checked="" 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>Rosaura Palomo</u>	Date	<u>1-7-20</u>
	Print Name	<u>Rosaura Palomo</u>	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	
<b>Office</b>	Accepted by	<u>C.G.</u>	Payment received by	<u>                    </u>
	Rev 10/18		Date	<u>JAN 07 2020</u> <u>12:52pm</u>

Rct# 230999 pd \$300 - G.C.





**City of McAllen**  
**Planning Department**  
**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

of treated wood material for family  
recreational area

Board Action

Chairman, Board of Adjustment  
Signature

Date



28th LN

#9215

Garege

front

Existing House

Door

Pergola

15

12'ft over hang

10'

27'

13

18'

15

25'

← 60' →

29th







## RESIDENTIAL PERMIT APPLICATION

REV. 10/16

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

APPLICATION MUST BE COMPLETE

(Please type or print in black or blue ink)

PERMIT APPLICATION REFERENCE NUMBER

Res 2019-08821

NAME

Rosaura Palomo

PHONE

956-720-6829

ADDRESS

9215 N. 28th LN

CITY

McAllen

STATE

TX ZIP 78504

CONTACT NAME:

PHONE

☒ OWNER☐ CONTRACTOR☐ TENANT☐ OTHER

OWNER

NAME

Rosaura Palomo

PHONE

956-720-6829

ADDRESS

9215 N. 28th LN

CITY

McAllen

\*EMAIL:

Ropal082570@yahoo.com

REQ'D

STATE

TX ZIP 78504

\*OWNER INFORMATION NOT PROVIDED, INITIAL:

☐ NEW☒ ADDITION☐ REMODELING☐ REPAIR☐ MOVE☐ REMOVE

BLDG. HGT.

NO. OF FLOORS

BLDG

SQ. FT.

378

NO. PARKING

SPACES

SQ. FT.

LOT

LOT

FRONT

FLOOR EL.

ABOVE CURB

EXISTING USE  
OF LOTNEW  
USE

SCOPE OF WORK TO BE DONE

Agregando Pergola

PROJECT

FOR RESIDENTIAL  
USE ONLYNO. OF  
UNITSNO  
BDRMSNO  
BATHRMSSQ. FT.  
NON-LIVINGSQ. 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  
☐ TYPE OF CONSTRUCTION  
☐ ASBESTOS SURVEY  
☐ CONDEMNED STRUCTURE

LOT 53

BLOCK

SUBDIVISION

Baisas del norte

SITE ADDRESS

ST. NO.

9215

ST. NAME

N. 28th LN

CITY USE ONLY

ZONING

PERMIT FEE \$

100.48

DOUBLE FEE \$

REC'D BY

PERMIT REVIEW FEE \$

DATE

12/31/19

TOTAL PERMIT FEE \$

TIME

10:22

PARK  
DEV.

ZONE #

PARK DEVELOPMENT FEE \$

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

Rosaura palomo

PRINT (AUTHORIZED AGENT/OWNER)

SIGNATURE

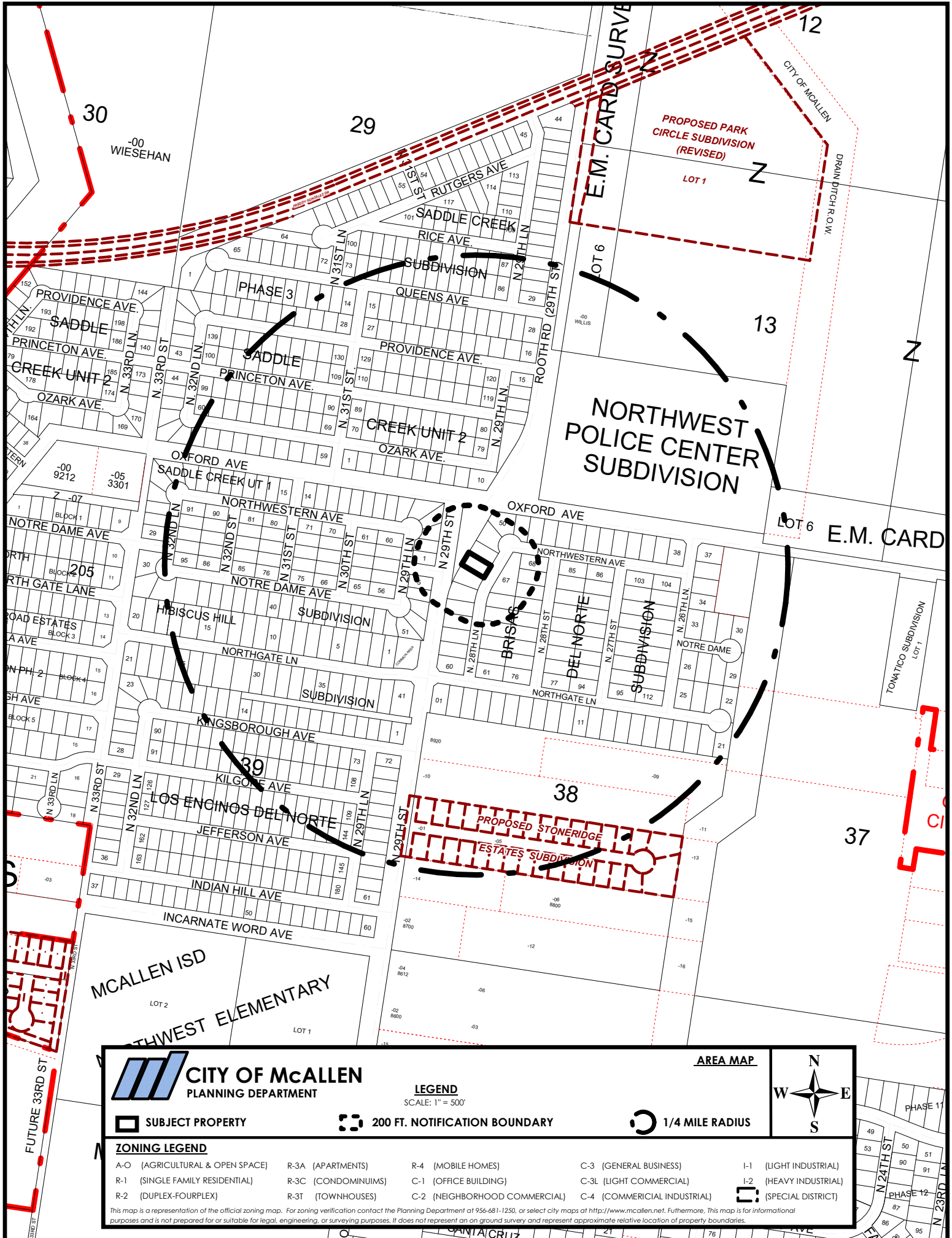
Ropal082570@yahoo.com

EMAIL ADDRESS (required)

DATE

12-31-19





**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: 1" = 500'

**SUBJECT PROPERTY**

**200 FT. NOTIFICATION BOUNDARY**

**1/4 MILE RADIUS**

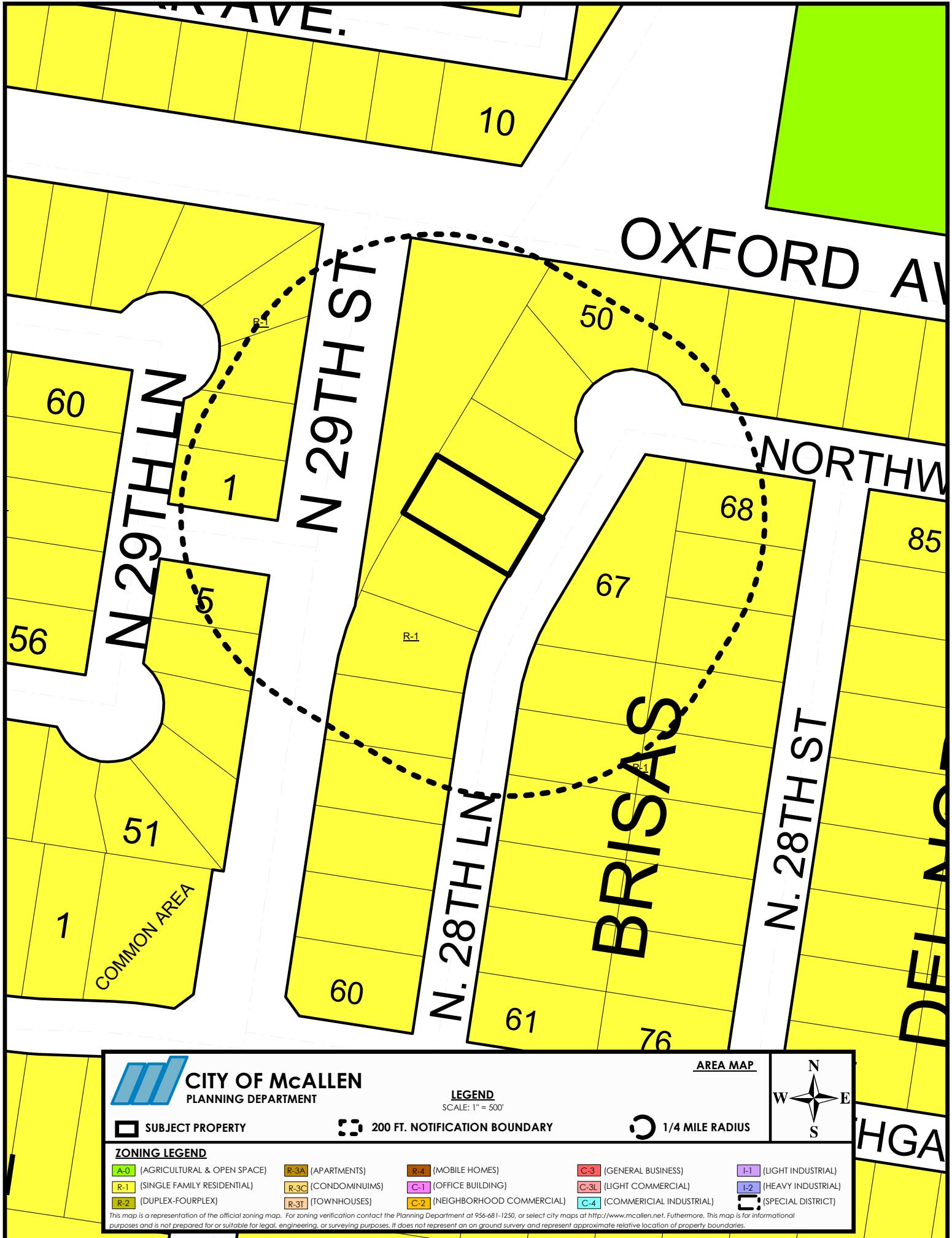


**ZONING LEGEND**

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

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





**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: 1" = 500'

**SUBJECT PROPERTY**

**200 FT. NOTIFICATION BOUNDARY**

**1/4 MILE RADIUS**



**ZONING LEGEND**

**A-0** (AGRICULTURAL & OPEN SPACE)  
**R-1** (SINGLE FAMILY RESIDENTIAL)  
**R-2** (DUPLEX-FOURPLEX)

**R-3A** (APARTMENTS)  
**R-3C** (CONDOMINIUMS)  
**R-3T** (TOWNHOUSES)

**R-4** (MOBILE HOMES)  
**C-1** (OFFICE BUILDING)  
**C-2** (NEIGHBORHOOD COMMERCIAL)

**C-3** (GENERAL BUSINESS)  
**C-3L** (LIGHT COMMERCIAL)  
**C-4** (COMMERCIAL INDUSTRIAL)

**I-1** (LIGHT INDUSTRIAL)  
**I-2** (HEAVY INDUSTRIAL)  
 (SPECIAL DISTRICT)

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**CITY OF McALLEN**  
PLANNING DEPARTMENT

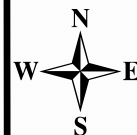
**AERIAL MAP**  
SCALE: N.T.S.



**SUBJECT PROPERTY**



**200 FT. NOTIFICATION BOUNDARY**



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9215

NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0002

CITY OF MCALLEN PLANNING DEPT.  
800.881.1100  
WWW.MCALLE.NET



## Planning Department

### Memo

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

**FROM:** Planning Staff

**DATE:** January 31, 2020

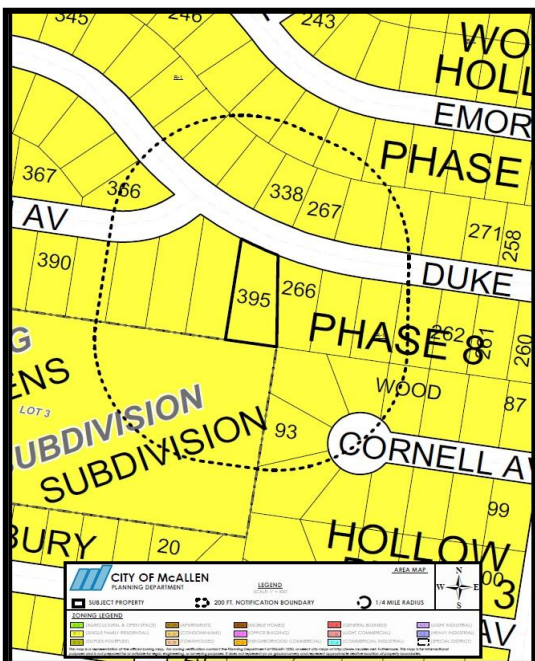
**SUBJECT:** REQUEST OF CRAIG LONGENECKER FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE 1) TO ALLOW AN ENCROACHMENT OF UP TO 4.5 FT. INTO THE EAST 6 FT. SIDE YARD SETBACK FOR AN EXISTING WOODEN ADDITION WITH METAL ROOF MEASURING 19 FT. BY 10.42 FT., AND 2) TO ALLOW AN ENCROACHMENT OF UP TO 3.25 FT. INTO THE EAST 6 FT. SIDE YARD SETBACK FOR AN EXISTING VINYL STORAGE BUILDING MEASURING 5.66 FT. BY 7.83 FT., AT LOT 395, WOODHOLLOW SUBDIVISION PHASE X, HIDALGO COUNTY, TEXAS; 1929 DUKE AVENUE. (ZBA2020-0001)

#### REASON FOR APPEAL:

The applicant is requesting a variance to allow an encroachment into 6 ft. side yard setback for an existing wooden storage building. The applicant stated that the basis for the request is that he wants to store household goods. The applicant is also requesting a variance for an encroachment into the side yard setback for a separate vinyl storage building that is used for the storage of swimming pool accessories and yard tools.

#### PROPERTY LOCATION AND VICINITY:

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





**BACKGROUND AND HISTORY:**

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

**ANALYSIS:**

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

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

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

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

**RECOMMENDATION:**

Staff recommends approval of the variance request.



ZBA  
2-5-2020

ZBA 2020-0001



# 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	<u>woodhollow Subdivision phase 10 # 395</u>		
	Subdivision Name	<u>woodhollow Subdivision phase 10</u>		
	Street Address	<u>1929 Duke Ave</u>		
	Number of lots	<u>1</u>	Gross acres	<u>          </u>
	Existing Zoning	<u>R1</u>	Existing Land Use	<u>House</u>
	Reason for Appeal (please use other side if necessary)	<u>wooden storage Bldg</u> <u>metal roof 10.8' By 19' # 1044444 Sec 6-6</u>		
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)			
	<input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required			
Applicant	Name	<u>CRAIG LUNGECKER</u>	Phone	<u>956-821-8313</u>
	Address	<u>1929 Duke Ave</u>	E-mail	<u>CRAIG@CS-TX.COM</u>
	City	<u>McAllen</u>	State	<u>TX</u> Zip <u>78504</u>
Owner	Name	<u>SAM G</u>	Phone	<u>          </u>
	Address	<u>          </u>	E-mail	<u>          </u>
	City	<u>          </u>	State	<u>          </u> Zip <u>          </u>
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input 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>1-6-2020</u>
	Print Name	<u>CRAIG LUNGECKER</u>	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Authorized Agent
Office	Accepted by	<u>CS</u>	Payment received by	<u>          </u>
	Rev 10/18		Date <u>JAN 06 2020</u> By <u>SC 5:28pm</u>	

Act # 684426





**City of McAllen**

***Planning Department***

**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

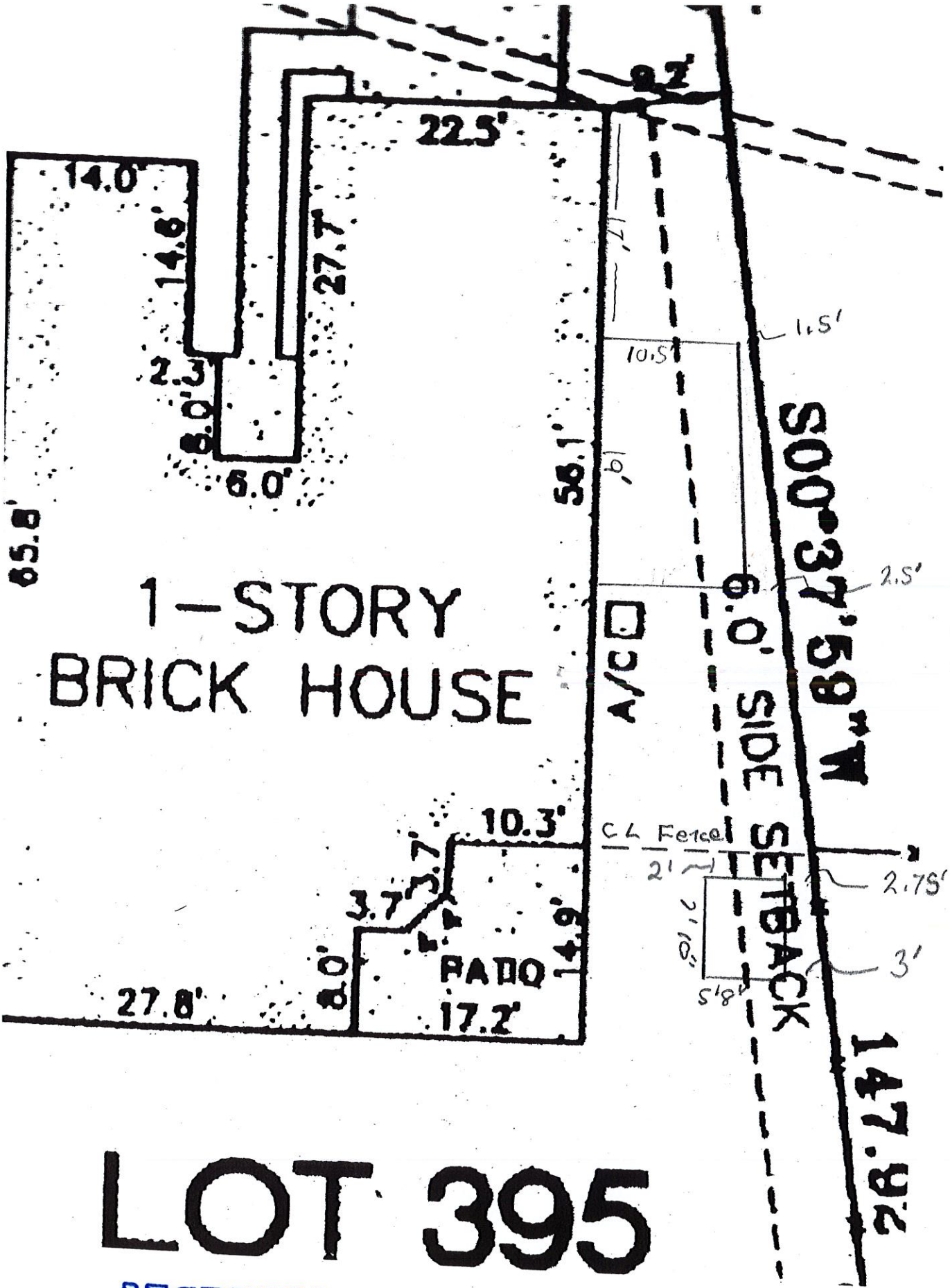
ENCLOSURE CP TO 4.8' INTO E-SIDE  
YARD SETBACK OF 6'

Board Action

Chairman, Board of Adjustment  
Signature

Date





LOT 395

RECEIVED  
JAN 10 2020

BY: JHG



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

APPLICATION MUST BE COMPLETE

PERMIT APPLICATION REFERENCE NUMBER

RES2020-00132

(Please type or print in black or blue ink)

APPLICANT

NAME CRAIG LONGENECKER PHONE 956-821-8313  
ADDRESS 1929 Duke Ave  
CITY McAllen STATE TX ZIP 78504  
CONTACT NAME: CRAIG LONGENECKER PHONE 956-821-8313  
☒ OWNER ☐ CONTRACTOR ☐ TENANT ☐ OTHER

OWNER

NAME \_\_\_\_\_ PHONE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ \*EMAIL: \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_  
\*OWNER INFORMATION NOT PROVIDED, INITIAL: \_\_\_\_\_

☐ NEW ☐ ADDITION ☐ REMODELING ☐ REPAIR ☐ MOVE ☐ REMOVE BLDG. HGT. \_\_\_\_\_ NO. OF FLOORS \_\_\_\_\_  
BLDG SQ. FT. 199 NO. PARKING SPACES \_\_\_\_\_ SQ. FT. LOT \_\_\_\_\_ LOT FRONT \_\_\_\_\_ FLOOR EL. ABOVE CURB \_\_\_\_\_  
EXISTING USE \_\_\_\_\_ NEW USE \_\_\_\_\_  
SCOPE OF WORK TO BE DONE ATTACHED STORAGE ALREADY BUILT

PROJECT

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

FOUNDATION  
☐ CONCRETE SLAB  
☐ CONCRETE PIER  
☐ CONCRETE BLOCK  
☐ CONCRETE BEAM  
☐ WOOD POSTS  
☐ \_\_\_\_\_  
EXT WALL  
☐ MASONRY VENEER  
☐ MASONRY SOLID  
☐ METAL SIDING  
☐ COMPOSITION  
☐ WOOD  
☐ \_\_\_\_\_  
ROOF  
☐ WOOD SHINGLE  
☐ COMPOSITION  
☐ METAL  
☐ BUILD UP  
☐ \_\_\_\_\_  
SPECIAL CONDITIONS  
☐ FIRE SPRINKLER SYSTEM  
☐ TYPE OF CONSTRUCTION  
☐ ASBESTOS SURVEY  
☐ CONDEMNED STRUCTURE  
☐ \_\_\_\_\_  
☐ \_\_\_\_\_

LOT \_\_\_\_\_ BLOCK \_\_\_\_\_ SUBDIVISION \_\_\_\_\_

SITE ADDRESS ST. NO. 1929 ST. NAME Duke

CITY USE ONLY

ZONING \_\_\_\_\_ PERMIT FEE \$ 418- DOUBLE FEE \$ 218.00 REC'D BY [Signature]  
PERMIT REVIEW FEE \$ \_\_\_\_\_ DATE 1-6-2020  
PARK DEV. ☐ TOTAL PERMIT FEE \$ \_\_\_\_\_ TIME 9:28  
ZONE # \_\_\_\_\_ PARK DEVELOPMENT FEE \$ \_\_\_\_\_

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

CRAIG LONGENECKER  
PRINT (AUTHORIZED AGENT/OWNER)

SIGNATURE

EMAIL ADDRESS (required)

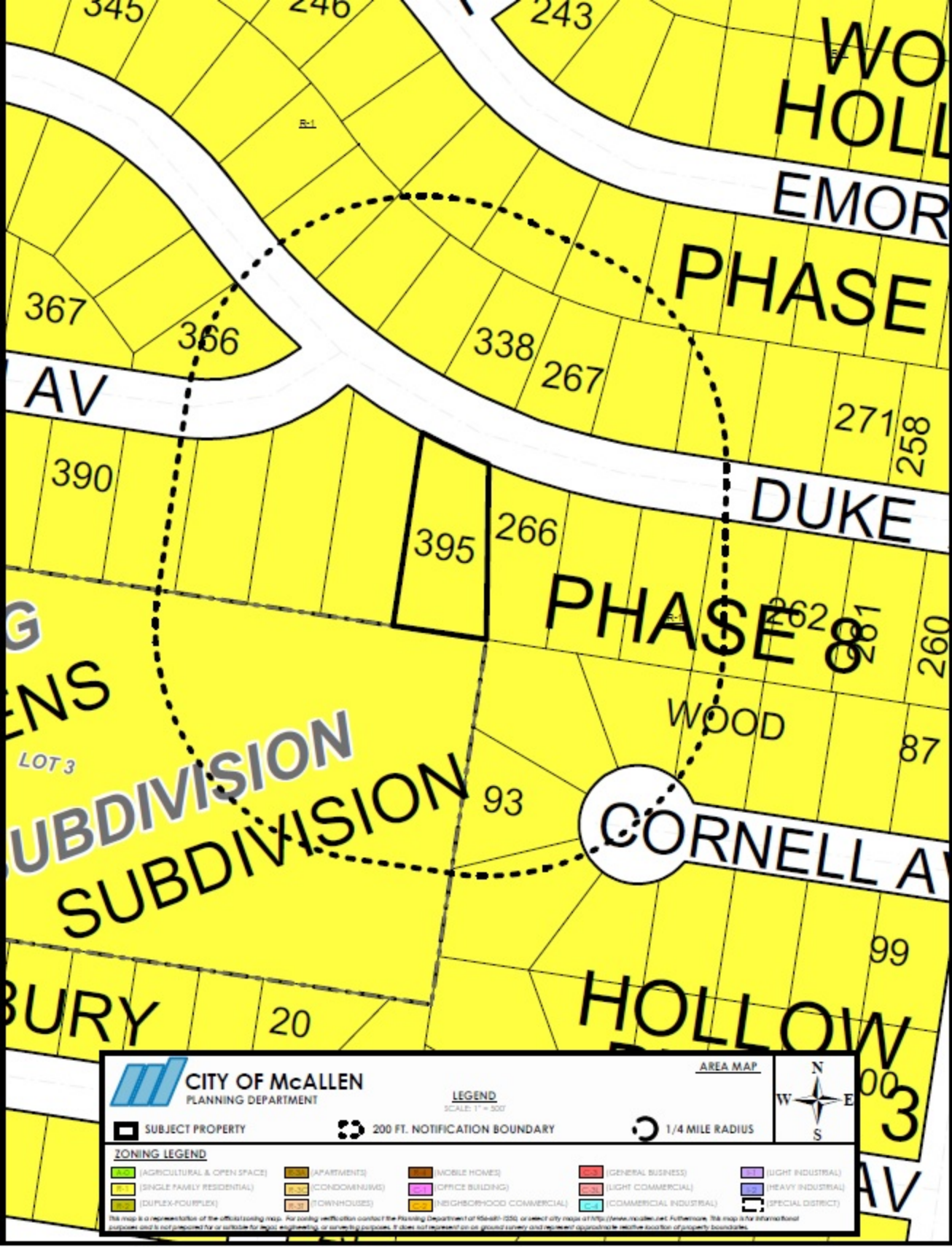
DATE

CRAIG CJ-TX.COM 1-6-2020









**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: 1" = 300'

AREA MAP



 SUBJECT PROPERTY

 200 FT. NOTIFICATION BOUNDARY

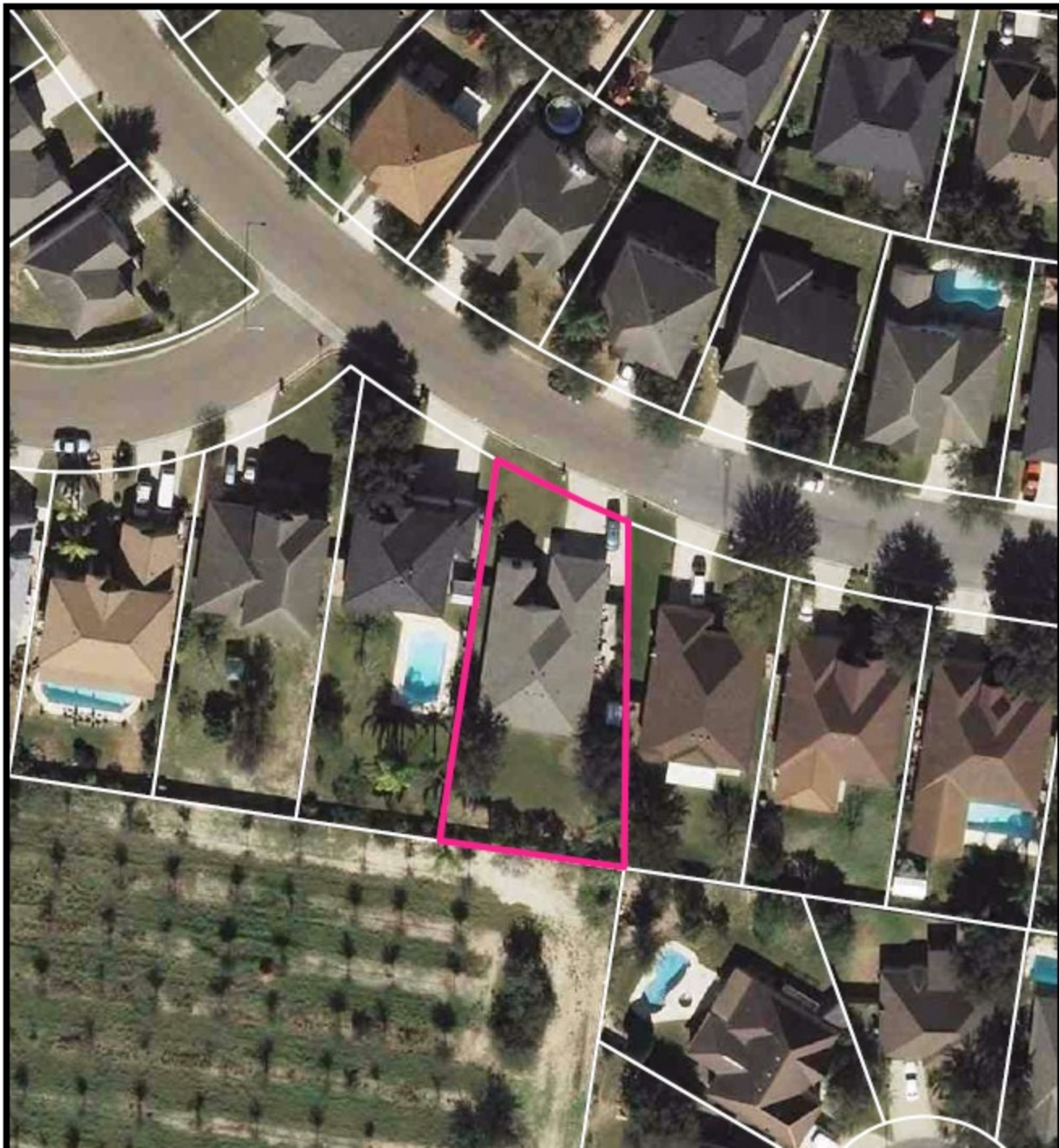
 1/4 MILE RADIUS

**ZONING LEGEND**

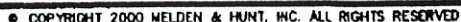
 (AGRICULTURAL & OPEN SPACE)	 (APARTMENTS)	 (MOBILE HOMES)	 (GENERAL BUSINESS)	 (LIGHT INDUSTRIAL)
 (SINGLE FAMILY RESIDENTIAL)	 (CONDOMINIUMS)	 (OFFICE BUILDING)	 (LIGHT COMMERCIAL)	 (HEAVY INDUSTRIAL)
 (DUPLEX-FOURPLEX)	 (TOWNHOUSES)	 (NEIGHBORHOOD COMMERCIAL)	 (COMMERCIAL INDUSTRIAL)	 (SPECIAL DISTRICT)

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RECEIVED  
JAN 10 2020  
BY: JHG









NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0001

1929







## **Memo**

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

**FROM:** Planning Staff

**DATE:** January 28, 2020

**SUBJECT: REQUEST OF MIGUEL COBOS FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) TO ALLOW AN ENCROACHMENT OF 6.5 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING WOODEN PORCH MEASURING 21.5 FT. BY 18 FT., 2) TO ALLOW AN ENCROACHMENT OF 7 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING STORAGE BUILDING MEASURING 10 FT. BY 10 FT., AND 3) TO ALLOW AN ENCROACHMENT OF 3.5 FT. INTO THE SOUTH 6 FT. SIDE YARD SETBACK FOR AN EXISTING STORAGE BUILDING MEASURING 10 FT. BY 10 FT., AT LOT 22, HACKBERRY CREEK UNIT 2 SUBDIVISION, HIDALGO COUNTY, TEXAS; 8414 NORTH 18<sup>TH</sup> LANE. (ZBA2019-0065)**

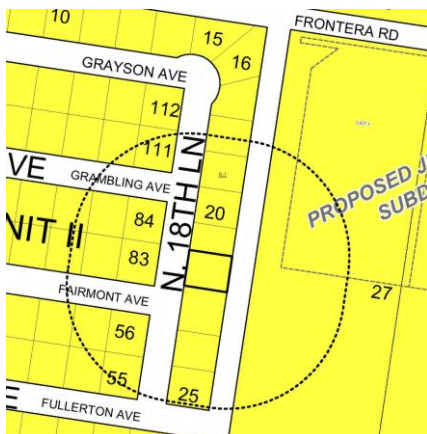
---

### **REASON FOR APPEAL:**

Miguel Cobos, owner of the property, is requesting variances to allow encroachments, 1) to allow an encroachment of 6.5 ft. into the 10 ft. rear yard setback for an for an existing wooden porch measuring 21.5 ft. by 18 ft., 2) to allow an encroachment of 7 ft. into the 10 ft. rear yard setback for an existing storage building measuring 10 ft. by 10 ft., and 3) to allow an encroachment of 3.5 ft. into the south 6 ft. side yard setback for an existing storage building measuring 10 ft. by 10 ft.. The request is to allow the structures to remain.

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

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





**BACKGROUND AND HISTORY:**

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

**ANALYSIS:**

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

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

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



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

**RECOMMENDATION:**

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





**City of McAllen**  
**Planning Department**  
**APPEAL TO ZONING BOARD OF**

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)

**ADJUSTMENT TO MCALLEN ZONING ORDINANCE**

**Project**

Legal Description Lot #22

Subdivision Name Hackberry Creek Unit II

Street Address 8414 N. 18 lane

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

Existing Zoning R1 Existing Land Use House

Reason for Appeal (please use other side if necessary) pose on techo (Porch)  
de madera de (18ft + 21 1/2 ft)

☒ \$300.00 non-refundable filing fee + ☐ \$50.00 Recording Fee for Special Exception (carport)

☒ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

**Applicant**

Name Miguel Cobos Phone 655-3904

Address 8414 N. 18 lane E-mail mcobos89@hotmail.com

City McAllen State TX Zip 78504

**Owner**

Name Sam Phone \_\_\_\_\_

Address \_\_\_\_\_ E-mail \_\_\_\_\_

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

**Authorization**

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

☐ Yes ☒ No

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

Signature [Signature] Date 12/13/19

Print Name Miguel Cobos ☒ Owner ☐ Authorized Agent

**Office**

Accepted by O.O. Payment received by \_\_\_\_\_ Date \_\_\_\_\_

Rev 10/18

**RECEIVED**  
DEC 13 2019  
aw

Uploaded:





**City of McAllen**  
**Planning Department**  
**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

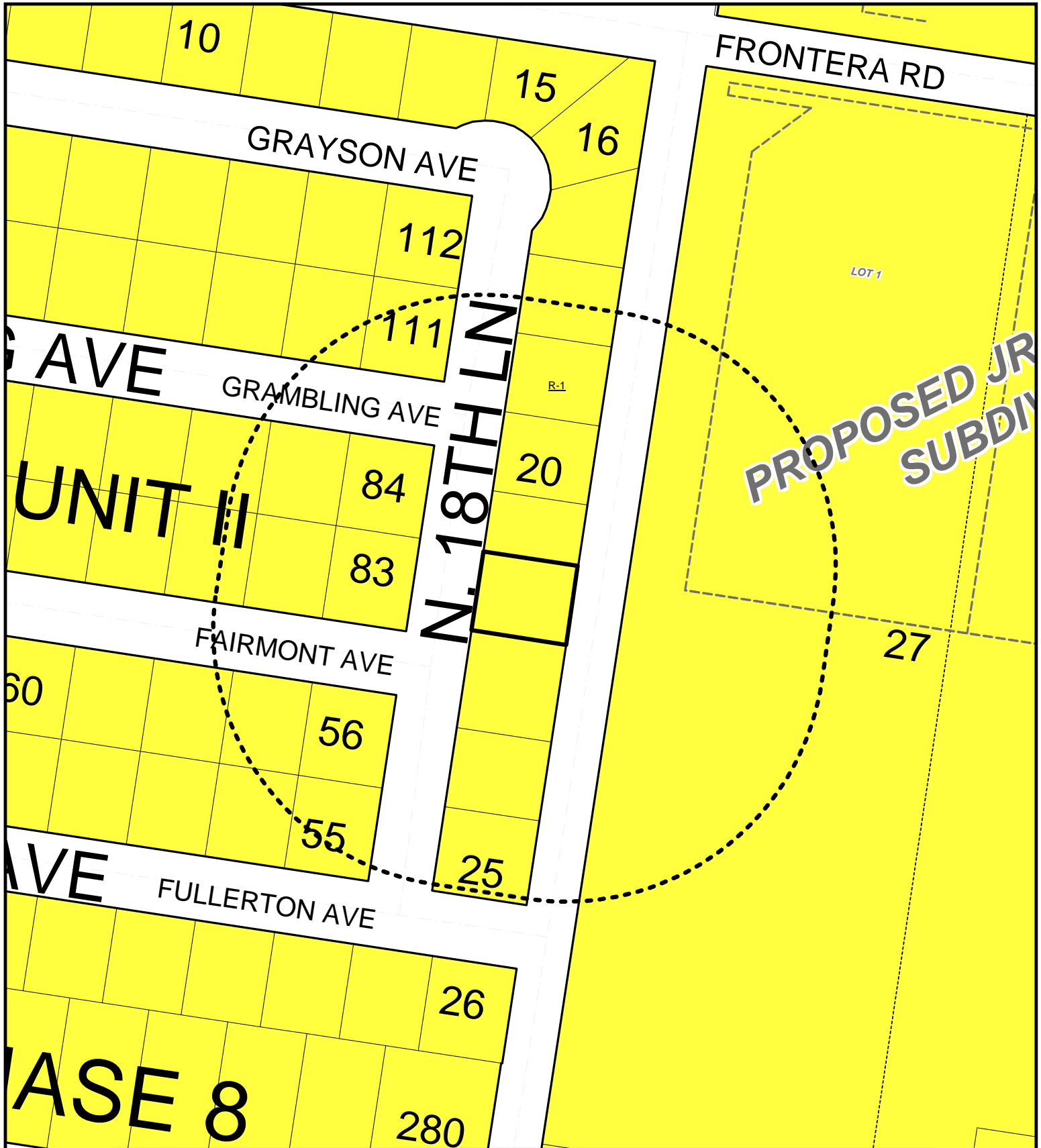
quedo invadiendo 6.5 pies adentro de los 10 de <sup>limite</sup> ~~2000~~  
~~casas~~ de construcción de atras de la casa


Board Action

Chairman, Board of Adjustment  
Signature

Date










**CITY OF McALLEN**  
PLANNING DEPARTMENT


**LEGEND**  
SCALE: 1" = 500'

AREA MAP



 **SUBJECT PROPERTY**

 **200 FT. NOTIFICATION BOUNDARY**

 **1/4 MILE RADIUS**

**ZONING LEGEND**

<div style="display: flex; justify-content: space-between;"> <div> <div style="background-color: #90EE90; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>A-0</b> (AGRICULTURAL &amp; OPEN SPACE)</div> <div> <div style="background-color: #FFDAB9; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>R-1</b> (SINGLE FAMILY RESIDENTIAL)</div> <div> <div style="background-color: #FFA500; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>R-2</b> (DUPLEX-FOURPLEX)</div> </div>	<div style="display: flex; justify-content: space-between;"> <div> <div style="background-color: #FFDAB9; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>R-3A</b> (APARTMENTS)</div> <div> <div style="background-color: #FFDAB9; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>R-3C</b> (CONDOMINIUMS)</div> <div> <div style="background-color: #FFDAB9; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>R-31</b> (TOWNHOUSES)</div> </div>	<div style="display: flex; justify-content: space-between;"> <div> <div style="background-color: #FFA500; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>R-4</b> (MOBILE HOMES)</div> <div> <div style="background-color: #FFA500; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>C-1</b> (OFFICE BUILDING)</div> <div> <div style="background-color: #FFA500; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>C-2</b> (NEIGHBORHOOD COMMERCIAL)</div> </div>	<div style="display: flex; justify-content: space-between;"> <div> <div style="background-color: #FF6347; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>C-3</b> (GENERAL BUSINESS)</div> <div> <div style="background-color: #FF6347; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>C-3L</b> (LIGHT COMMERCIAL)</div> <div> <div style="background-color: #4682B4; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>C-4</b> (COMMERCIAL INDUSTRIAL)</div> </div>	<div style="display: flex; justify-content: space-between;"> <div> <div style="background-color: #9370DB; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>I-1</b> (LIGHT INDUSTRIAL)</div> <div> <div style="background-color: #9370DB; border: 1px solid black; width: 20px; height: 10px; display: inline-block;"></div> <b>I-2</b> (HEAVY INDUSTRIAL)</div> <div> <div style="border: 1px dashed black; width: 20px; height: 10px; display: inline-block;"></div> <b>(SPECIAL DISTRICT)</b></div> </div>
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**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

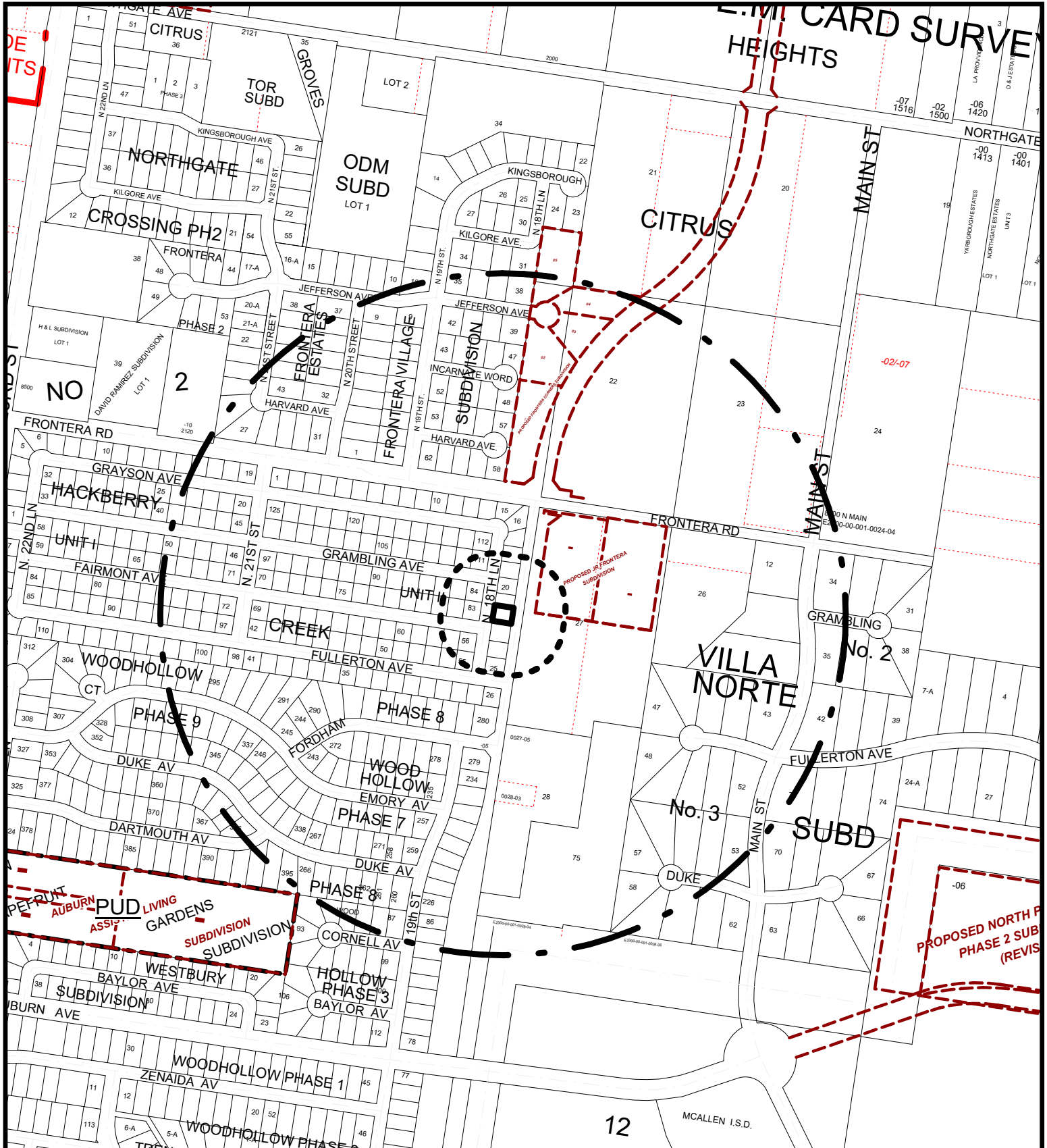
 **SUBJECT PROPERTY**

 **200 FT. NOTIFICATION BOUNDARY**



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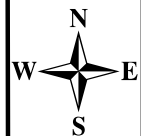
# CITY OF McALLEN PLANNING DEPARTMENT

LEGEND  
SCALE: 1" = 500'

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

1/4 MILE RADIUS



## ZONING LEGEND

A-O (AGRICULTURAL & OPEN SPACE)  
R-1 (SINGLE FAMILY RESIDENTIAL)  
R-2 (DUPLICATE-FOURPLEX)

R-3A (APARTMENTS)  
R-3C (CONDOMINIUMS)  
R-3T (TOWNHOUSES)

R-4 (MOBILE HOMES)  
C-1 (OFFICE BUILDING)  
C-2 (NEIGHBORHOOD COMMERCIAL)

C-3 (GENERAL BUSINESS)  
C-3L (LIGHT COMMERCIAL)  
C-4 (COMMERCIAL INDUSTRIAL)

I-1 (LIGHT INDUSTRIAL)  
I-2 (HEAVY INDUSTRIAL)  
 (SPECIAL DISTRICT)

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ENFRENTA

CERCA



mas de  
7 1/2

tubos

PORTA  
(Cerro)

2 1/2 ft

3000

ATRAS

18 ft

tubos

3 1/2 ft

387 ft's

Cerka

RECEIVED  
DEC 13 2019

BY: CW





# ART SALINAS

## ENGINEERING & SURVEYING

1524 DOVE AVENUE,

McALLEN, TEXAS 78504

PH: (956) 618-5565

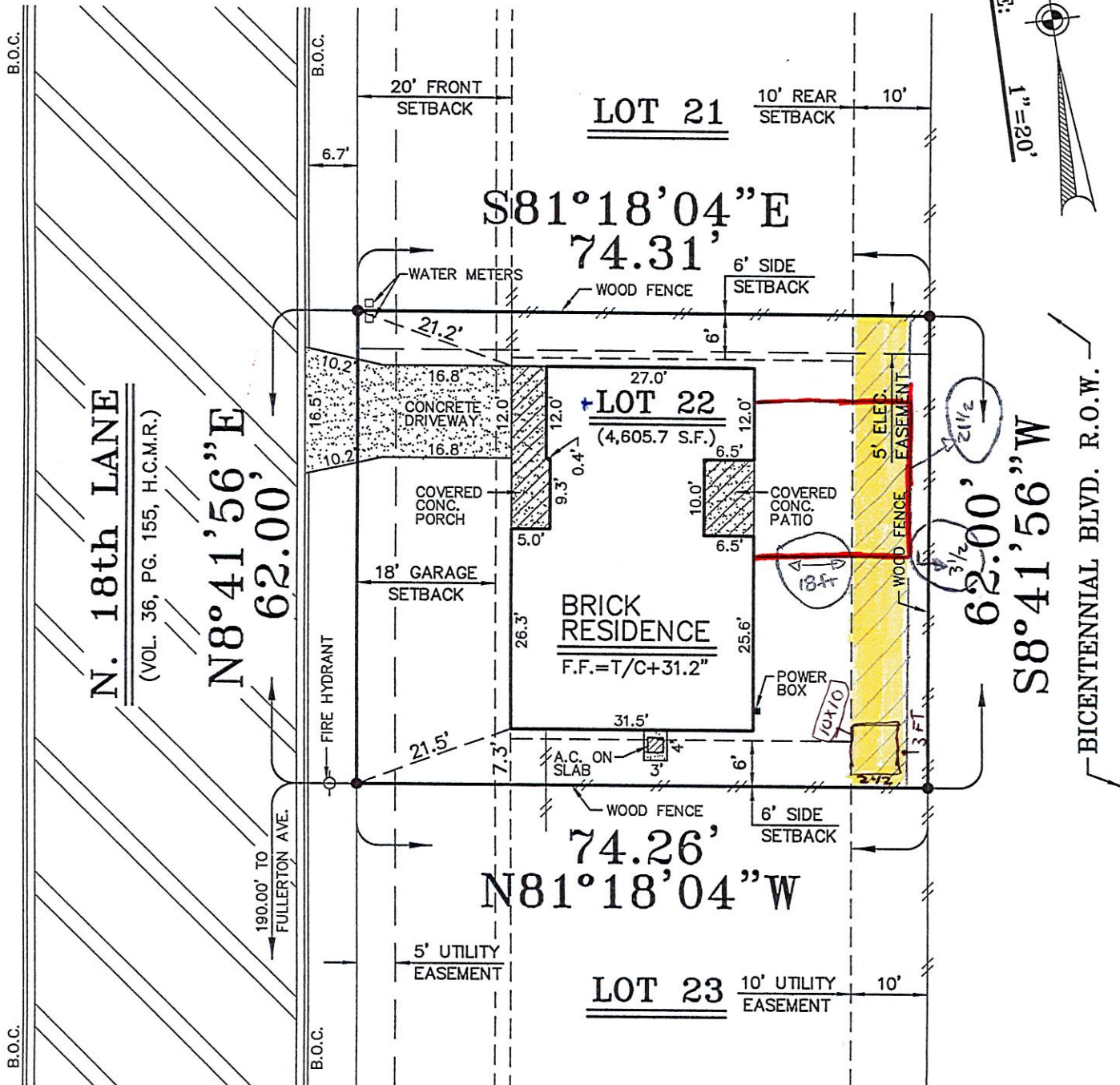
FAX: (956) 618-5540

### LEGEND

- - DENOTES FOUND 1/2" ROD
- - DENOTES NO MONUMENT

SCALE:

1"=20'



RECEIVED  
DEC 13 2019

BY: CW

Miguel C. Cobos

**FLOOD ZONE CERTIFICATION:** The property shown hereon lies in Zone "X". Zone "X" areas are areas determined to be outside 500-year flood-plain as per F.E.M.A. Flood Insurance Rate Map Panel No. 480334-0325-D dated 06-06-00.

### PLAT NOTES:

- There are no discrepancies, conflicts or shortages in area or boundary lines, encroachments, or any overlapping of improvements except as shown or noted hereon.
  - This survey plat is prepared in connection with Title Policy G.F. #3111306 and does not guarantee title. This survey is for the exclusive use of the client named hereon and may not be copied or transferred to another party without the express written consent of the surveyor.
  - If this survey does not bear an original seal and signature it is **INVALID** as per Section 661.46 and Section 663.19 of the "The Professional Land Surveying Practices Act" enacted under Article 5282c, Vernon's Texas Civil Statutes.
  - Easements, rights, rules, and regulations in favor of Hidalgo County Irrigation District No. 1. (Blanket)
  - Bearing Basis: "HACKBERRY CREEK UNIT II"
- BORROWER:** MIGUEL C. COBOS

THIS IS TO CERTIFY TO THAT I HAVE, THIS DATE, MADE A CAREFUL AND ACCURATE STANDARD LAND SURVEY ON THE GROUND OF PROPERTY WHICH IS LOCATED AT 8414 N. 18th LANE in McALLEN, TEXAS, DESCRIBED AS FOLLOWS: LOT 22, HACKBERRY CREEK UNIT II, AN ADDITION TO THE CITY OF McALLEN, HIDALGO COUNTY, TEXAS, ACCORDING TO MAP THEREOF RECORDED IN VOLUME 36, PAGE 155, MAP RECORDS OF HIDALGO COUNTY, TEXAS.

05-28373  
Job No.

06-08-05  
Date

© COPYRIGHT 2005 ART SALINAS ENGINEERING INC. THIS SURVEY WAS PROVIDED IN MULTIPLE ORIGINALS FOR A SINGLE TRANSACTION BY THE BORROWER NAMED HEREON. NO LICENSE HAS BEEN CREATED, EXPRESSED OR IMPLIED TO COPY THIS SURVEY.

RECEIVED

JUL 29 2013

Initial: SP

Registered Professional Land Surveyor No. 4802









8414

NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2019-0065



## **Memo**

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

**FROM:** Planning Staff

**DATE:** January 29, 2020

**SUBJECT:** REQUEST OF CAROLINA CUSTOMS HOMES, LLC, FOR A VARICANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 4 FT. INTO THE SOUTH 10 FT. CORNER YARD SETBACK FOR A PROPOSED RESIDENCE, AT LOT 13, AUBURN HILLS SUBDIVISION, HIDALGO COUNTY, TEXAS; 7903 NORTH 25<sup>TH</sup> LANE. (ZBA2019-0066)

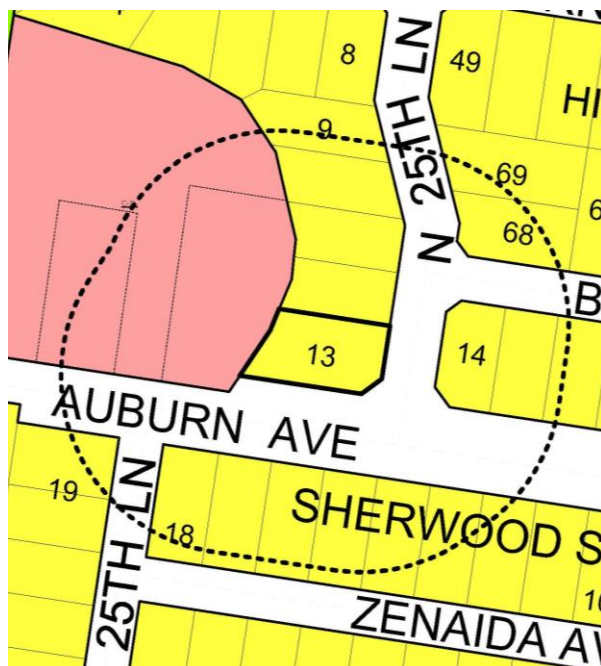
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### **REASON FOR APPEAL**

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

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

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





**BACKGROUND AND HISTORY:**

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

**ANALYSIS:**

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

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

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

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

**RECOMMENDATION:**

Staff recommends disapproval of the variance request.



ZBA  
2/15/20

ZBA2019-0000



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALEN 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 Lot 13 Auburn Hills Subdivision

Subdivision Name Auburn Hills

Street Address 7903 N. 25TH LN. McAllen TX 78504

Number of lots 1 Gross acres .252

Existing Zoning R-1 Existing Land Use empty residential

Reason for Appeal (please use other side if necessary) The south side (left) has a 40 ft. setback, we are asking for this setback to be changed to 6ft

☐ \$300.00 non-refundable filing fee + ☐ \$50.00 Recording Fee for Special Exception (carport)

☐ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name Carolina Custom Homes LLC Phone (956) 369-1024

Address 4325 N. 23rd STED E-mail carolina-homes@hotmail.com

City McAllen State TX Zip 78504

Owner

Name Carolina Custom Homes Phone (956) 369-1024

Address 4325 N. 23rd STED E-mail carolina-homes@hotmail.com

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 12-16-2019

Print Name Ariel Salinas ☒ Owner ☐ Authorized Agent

Office

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

Rev 10/18



RC#230180 pd \$300





**City of McAllen**  
**Planning Department**  
**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

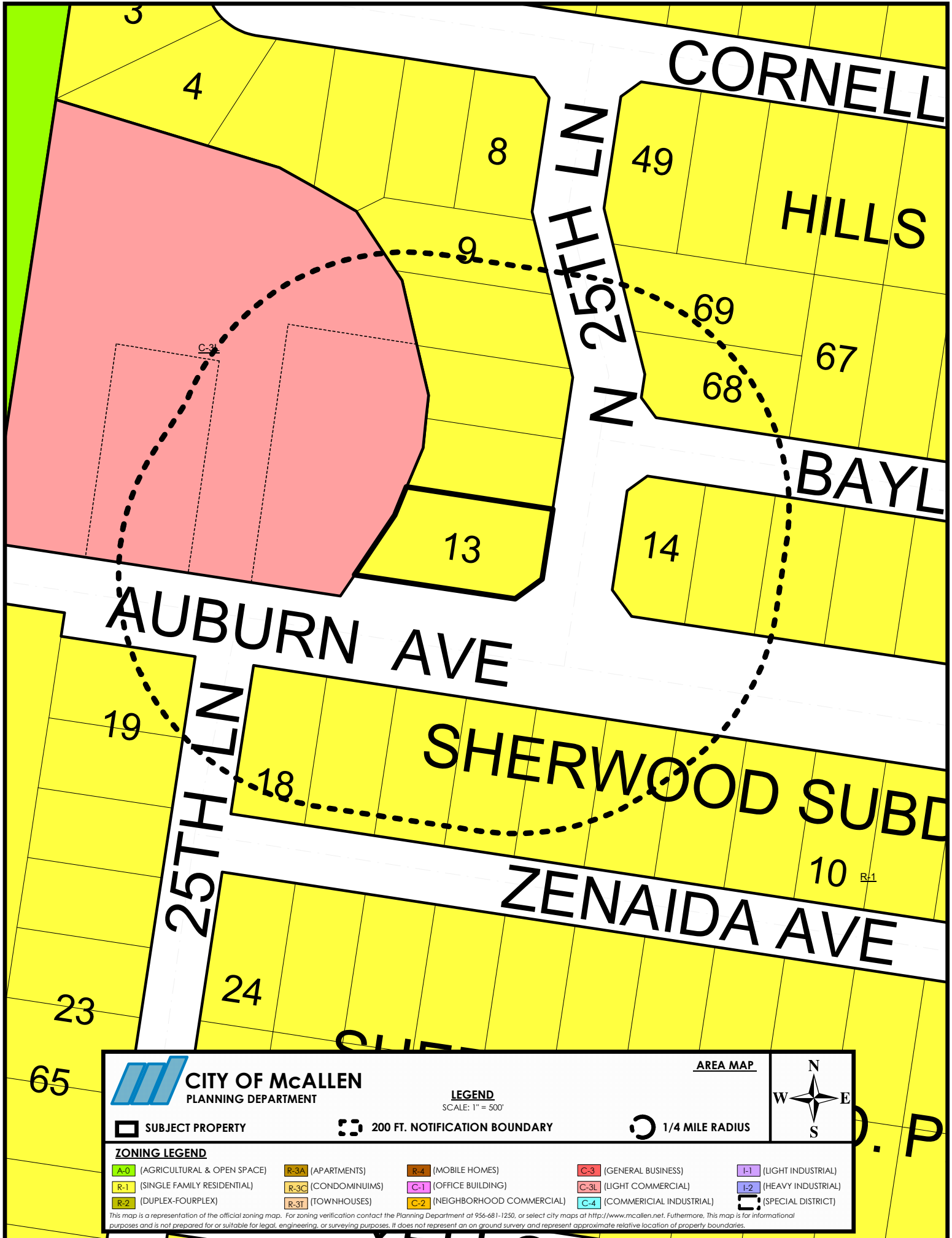
We are asking for the South side setback to be changed from 10 ft. to 6 ft. This change in setback will allow for the house to be built further to the left, therefore allowing more side yard on the right side of the property, allowing the homeowner to safely park his boat inside his front fence/property. This Subdivision does not allow the boats to be parked outside on the driveway and much less to park it on the street.

Board Action

Chairman, Board of Adjustment  
Signature

Date





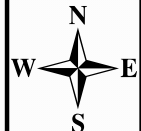
**CITY OF McALLEN**  
PLANNING DEPARTMENT

**LEGEND**  
SCALE: 1" = 500'

**SUBJECT PROPERTY**

**200 FT. NOTIFICATION BOUNDARY**

**1/4 MILE RADIUS**



**ZONING LEGEND**

**A-0** (AGRICULTURAL & OPEN SPACE)  
**R-1** (SINGLE FAMILY RESIDENTIAL)  
**R-2** (DUPLEX-FOURPLEX)

**R-3A** (APARTMENTS)  
**R-3C** (CONDOMINIUMS)  
**R-3T** (TOWNHOUSES)

**R-4** (MOBILE HOMES)  
**C-1** (OFFICE BUILDING)  
**C-2** (NEIGHBORHOOD COMMERCIAL)

**C-3** (GENERAL BUSINESS)  
**C-3L** (LIGHT COMMERCIAL)  
**C-4** (COMMERCIAL INDUSTRIAL)

**I-1** (LIGHT INDUSTRIAL)  
**I-2** (HEAVY INDUSTRIAL)  
 (SPECIAL DISTRICT)

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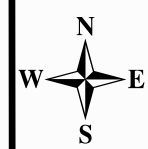


**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

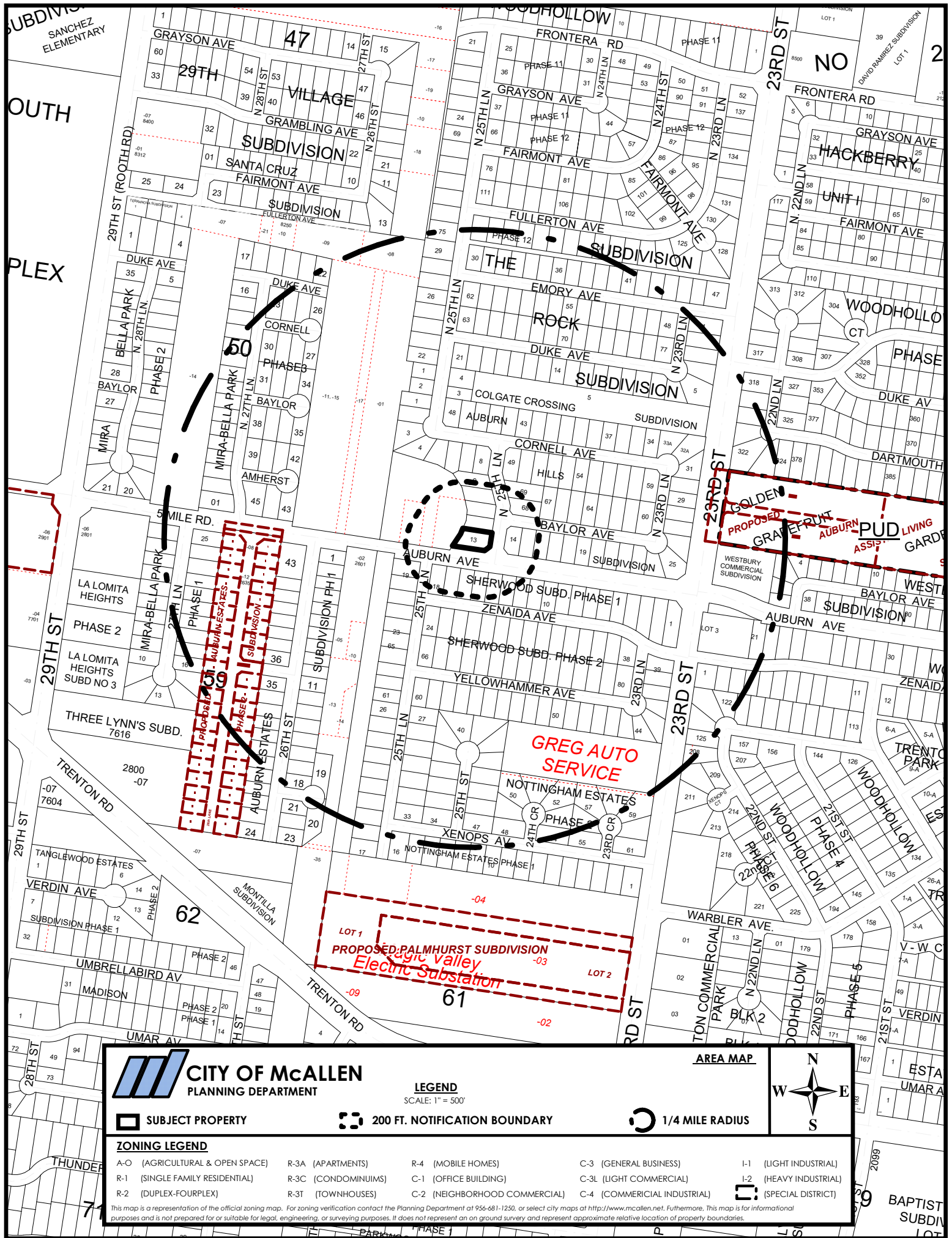
 **SUBJECT PROPERTY**

 **200 FT. NOTIFICATION BOUNDARY**



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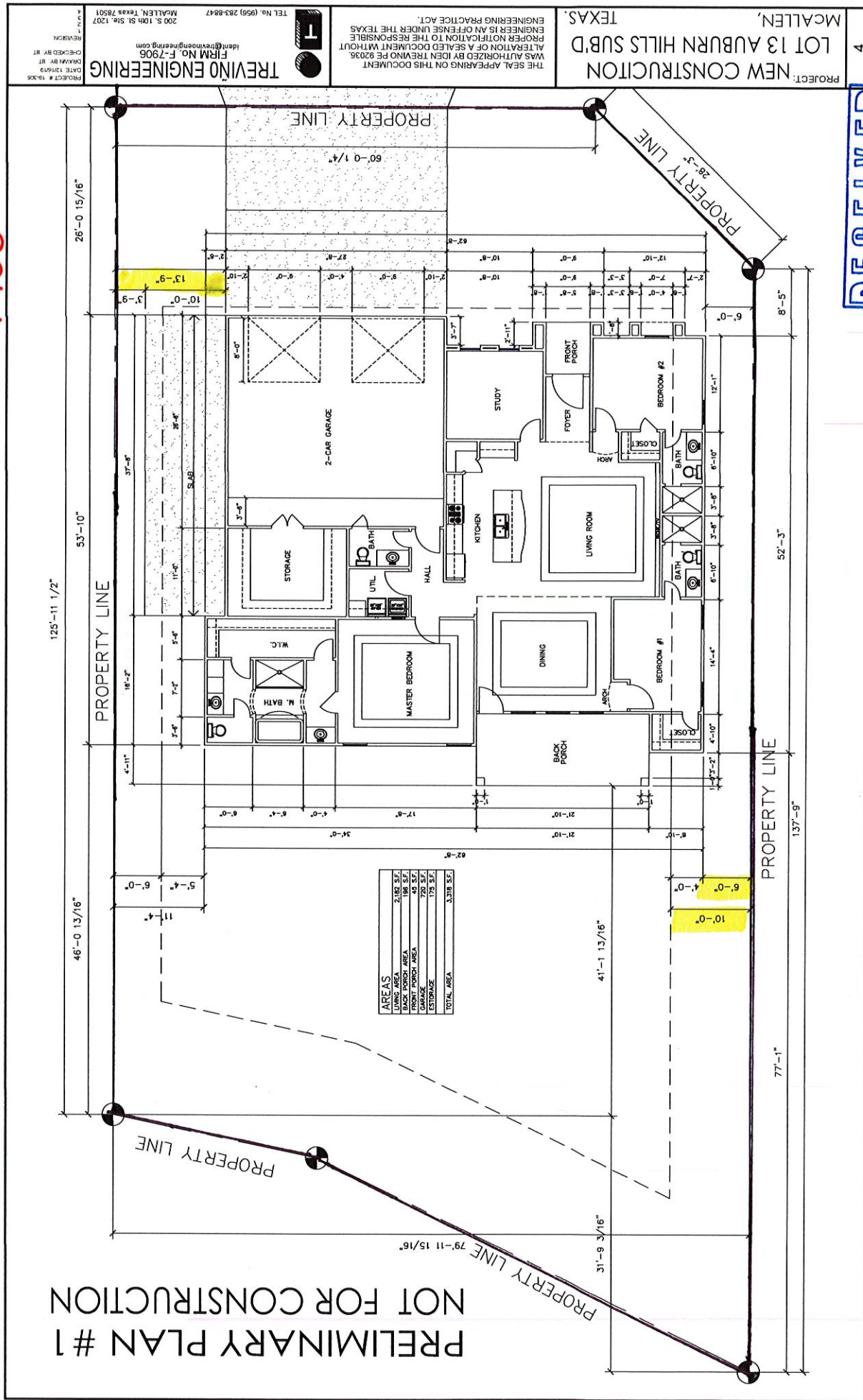






7903 N. 25th Ln.

PRELIMINARY PLAN #1  
NOT FOR CONSTRUCTION



TREVINO ENGINEERING

PROJECT # 19-005  
DATE 12/19/19  
DRAWN BY: BT  
CHECKED BY: BT  
REVISION:  
FIRM NO. F-7906  
Ident@trevingoengineering.com  
200 S. 10th St. Suite 1207  
McAllen, Texas 78501  
TEL No. (956) 283-8847

THE SEAL APPEARING ON THIS DOCUMENT  
WAS AUTHORIZED BY IDEN TREVINIO P.E. 93036.  
ALTERATION OF A SEALED DOCUMENT WITHOUT  
PROPER NOTIFICATION TO THE RESPONSIBLE  
ENGINEER IS AN OFFENSE UNDER THE TEXAS  
ENGINEERING PRACTICE ACT.

PROJECT: NEW CONSTRUCTION  
LOT 13 AUBURN HILLS SUB D  
MCALLEN, TEXAS.

4

RECEIVED  
DEC 17 2019  
11:53am  
Bx









NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2019-0066



## Memo

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

**FROM:** Planning Staff

**DATE:** January 31, 2020

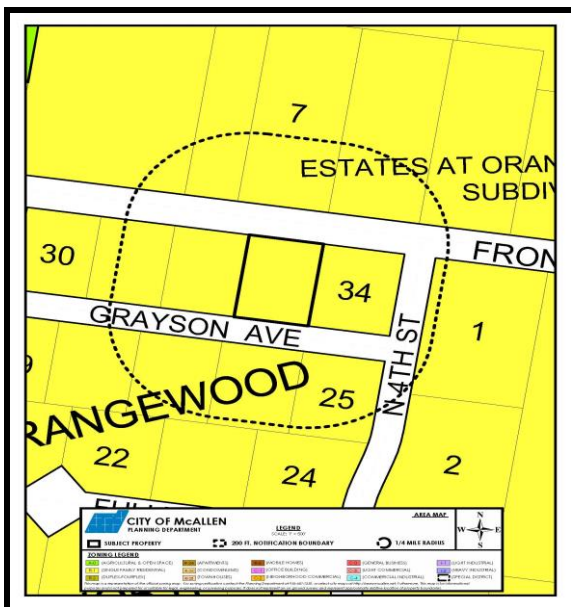
**SUBJECT: REQUEST OF ENRIQUE REYNOSO FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 7 FT. INTO THE 25 FT. REAR YARD SETBACK FOR A PROPOSED RESIDENCE, AT LOT 33, ORANGEWOOD NORTH SUBDIVISION, HIDALGO COUNTY, TEXAS; 404 GRAYSON AVENUE. (ZBA2020-0003)**

### REASON FOR APPEAL:

Enrique Reynoso, owner of the property, is requesting a variance to allow an encroachment of 7 ft. into the 25 ft. rear yard setback for a proposed single family residence.

### PROPERTY LOCATION AND VICINITY:

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



### BACKGROUND AND HISTORY:

The Orangetown North Subdivision was recorded on April 20, 2016. An application for the variance



request was submitted on January 8, 2020. An application for a building permit for the construction of a single family residence on this property has not been submitted. The issuance of a future building permit will depend on the outcome of this variance request.

**ANALYSIS:**

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

Access to the lot is limited to Grayson Avenue. An 8 ft. solid face fence has been erected along the rear of the properties fronting Grayson Avenue which serves to mitigate traffic noise in the event that the variance request was approved.

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

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

**RECOMMENDATION:**

Staff recommends disapproval of the variance request.



2004

ZBA 2020-0003

2/5/2020



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	<p>Legal Description <u>LOT 33, ORANGEWOOD NORTH</u> <u>404 GRAYSON AVE.</u></p> <p>Subdivision Name <u>McALLEN, TX 78504</u></p> <p>Street Address <u>404 GRAYSON AVE.</u></p> <p>Number of lots <u>1</u> Gross acres <u>.45</u></p> <p>Existing Zoning <u>RESIDENTIAL</u> Existing Land Use <u>VACANT LOT</u></p> <p>Reason for Appeal (please use other side if necessary) <u>SEE BACK + SITE CONSTRUCTION PLAN + SURVEY.</u></p> <p><input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)</p> <p><input checked="" type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required</p>
Applicant	<p>Name <u>ENRIQUE REYNOSO</u> Phone <u>956-929-4540</u></p> <p>Address <u>2311 S. 42ND LN</u> E-mail <u>EREYNOSO@CNDVALINKMX.COM</u></p> <p>City <u>McALLEN</u> State <u>TX</u> Zip <u>78503</u></p>
Owner	<p>Name <u>SAME</u> Phone _____</p> <p>Address _____ E-mail _____</p> <p>City _____ State _____ Zip _____</p>
Authorization	<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 type="checkbox"/> Yes <input checked="" 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>[Signature]</u> Date <u>1/8/2021</u></p> <p>Print Name <u>ENRIQUE REYNOSO</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by <u>JAG</u> Payment received by _____ Date <u>1/8/2021</u></p> <p>Rev 10/18</p>



Pct #685129





**City of McAllen**  
**Planning Department**  
**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

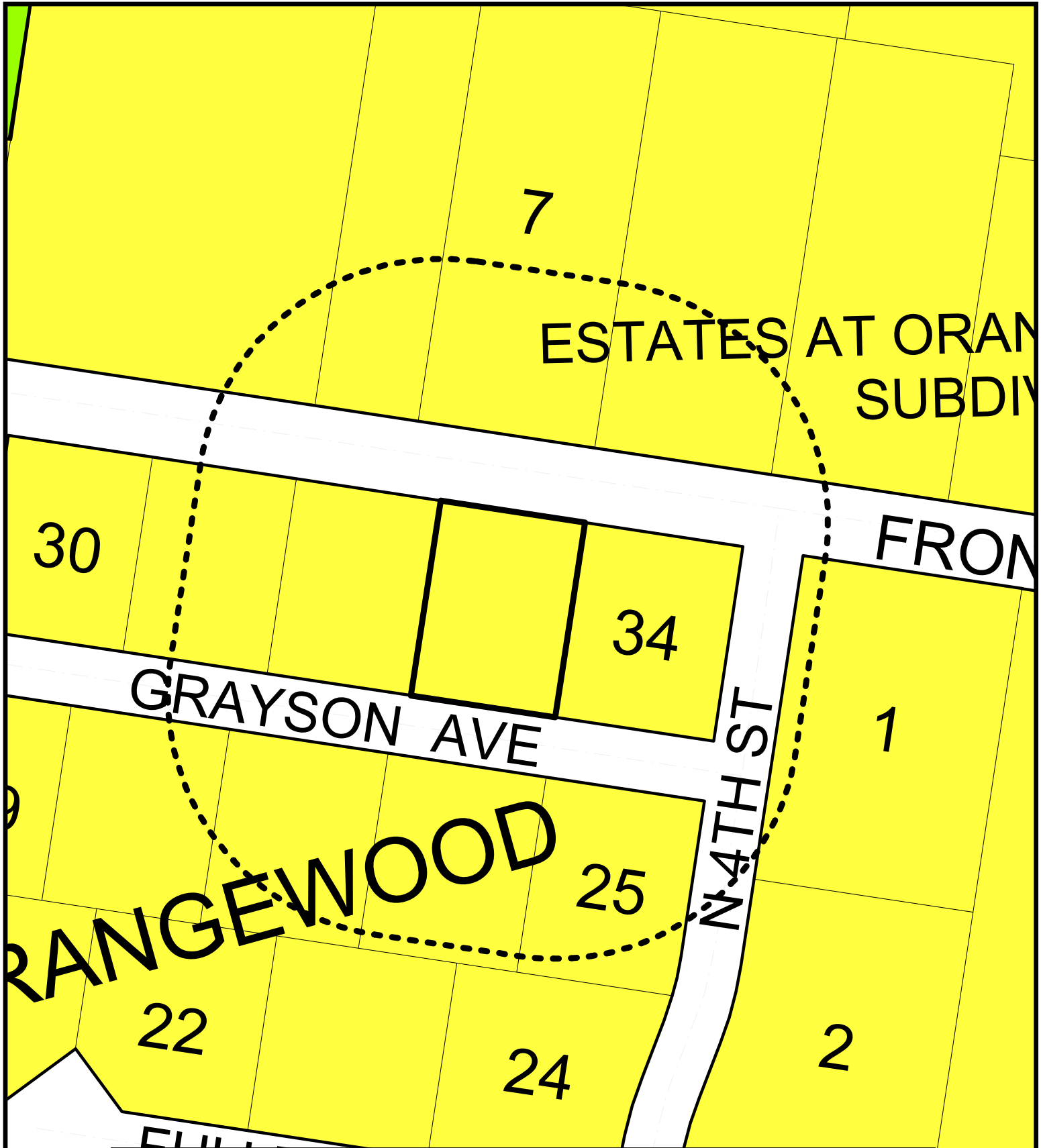
REQUEST 7 FOOT VARIANCE FROM EXISTING 25 FOOT REAR SETBACK LINE TO ACCOMMODATE HOME CONSTRUCTION PLAN. THIS VARIANCE WOULD STILL LEAVE A TOTAL OF 18 FEET OF REAR SETBACK. VARIANCE DOES NOT CREATE A SAFETY ISSUE WITH REAR FRONTING FRONTERA AVENUE SINCE THERE IS AN 8 FOOT CONCRETE BLOCK FENCE ON THE NORTH (REAR) PERIMETER OF THE SUBDIVISION.

Board Action

Chairman, Board of Adjustment  
Signature

Date





**CITY OF McALLEN**

PLANNING DEPARTMENT

**LEGEND**

SCALE: 1" = 500'

**AREA MAP**

**SUBJECT PROPERTY**

**200 FT. NOTIFICATION BOUNDARY**

**1/4 MILE RADIUS**

**ZONING LEGEND**

<p><span style="background-color: #90EE90; border: 1px solid black; padding: 2px;">A-0</span> (AGRICULTURAL &amp; OPEN SPACE)</p> <p><span style="background-color: #FFFFE0; border: 1px solid black; padding: 2px;">R-1</span> (SINGLE FAMILY RESIDENTIAL)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">R-2</span> (DUPLEX-FOURPLEX)</p>	<p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">R-3A</span> (APARTMENTS)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">R-3C</span> (CONDOMINIUMS)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">R-3T</span> (TOWNHOUSES)</p>	<p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">R-4</span> (MOBILE HOMES)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">C-1</span> (OFFICE BUILDING)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">C-2</span> (NEIGHBORHOOD COMMERCIAL)</p>	<p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">C-3</span> (GENERAL BUSINESS)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">C-3L</span> (LIGHT COMMERCIAL)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">C-4</span> (COMMERCIAL INDUSTRIAL)</p>	<p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">I-1</span> (LIGHT INDUSTRIAL)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">I-2</span> (HEAVY INDUSTRIAL)</p> <p><span style="background-color: #FFDAB9; border: 1px solid black; padding: 2px;">S</span> (SPECIAL DISTRICT)</p>
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**CITY OF McALLEN**  
PLANNING DEPARTMENT

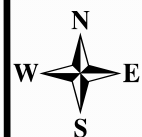
**AERIAL MAP**  
SCALE: N.T.S.



**SUBJECT PROPERTY**



**200 FT. NOTIFICATION BOUNDARY**



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



SHEET NO.

00-02

SITE PLAN

SCALE: 1/8" = 1'-0"

DATE: 01/08/2020

## CASA REYNOSO

LOCATION:  
Lot 53  
Orange Wood North  
McAllen, Texas.

LIVING AREA:  
5,200.12 SQ. FT.  
GARAGE & STO:  
828.10 SQ. FT.  
1,339 SQ. FT.  
1,111.11 SQ. FT.  
POOL, CLOSET  
64.33 SQ. FT.  
PUNCH  
62.23 SQ. FT.  
TOTAL  
7,312.21 SQ. FT.

THIS DRAWING IS THE PROPERTY OF LOPEZ RESENDEZ STUDIO. IT IS UNLAWFUL TO REPRODUCE, COPY, OR TRANSMIT THIS DRAWING IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN PERMISSION OF Lopez.

COMPLETION DRAWING

DRAWN BY:

CHECKED BY:

APPROVED BY:

REVISIONS:

## LOPEZ RESENDEZ STUDIO

609 PECAN BLVD, McALLEN TX. 78501  
PHONE: (956) 683 0649  
luisi@lopezresendez.com / luis@casalabdesign.com  
www.lopezresendez.com / www.casalabdesign.com

LRS

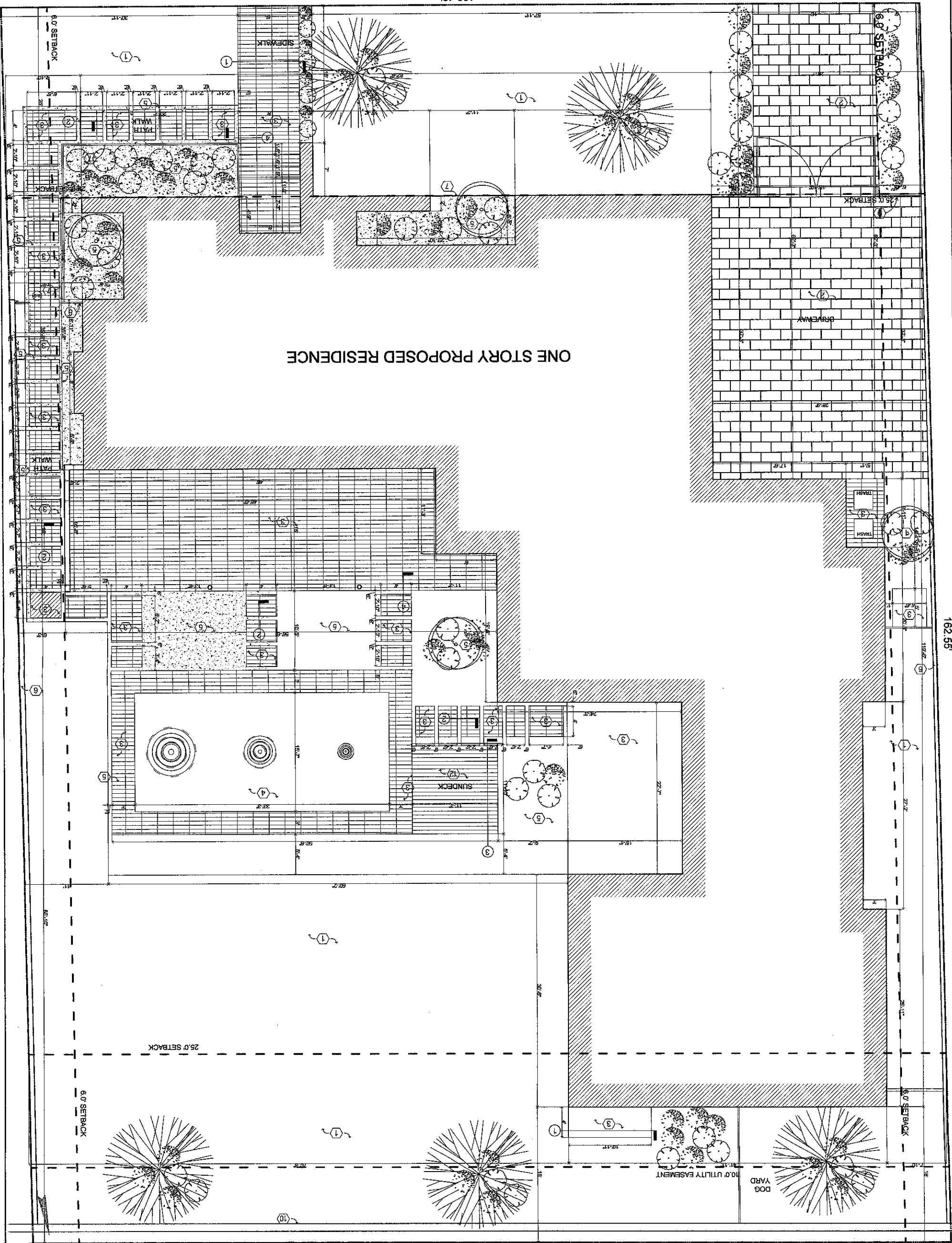
## ONE STORY PROPOSED RESIDENCE

GRAYSON AVE.

120.42'

120.42'

162.55'





SHEET NO.

01-01

FLOOR PLAN

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

DATE: 01/09/2020

CASA REYNOSO

LOCATION:  
Lot 33  
Orange Wood North  
McAllen, Texas

LIVING AREA:  
5,200.12 SQ.FT.  
GARAGE & STD.  
POOL DECK, TERRACE,  
1,157.40 SQ.FT.  
POOL CLOSET  
64.58 SQ.FT.  
TERRACE  
62.23 SQ.FT.  
TOTAL  
7,017.33 SQ.FT.

THIS DRAWING IS THE PROPERTY OF LRS. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. NO PART OF THIS DRAWING OR ANY OTHER DRAWING OR ANY OTHER PROJECT, OR TO COPY, REPRODUCE OR IN ANY OTHER MANNER, WITHOUT THE WRITTEN PERMISSION OF LRS.

COMPLETION DRAWING

DRAWN BY:

CHECKED BY:

APPROVED BY:

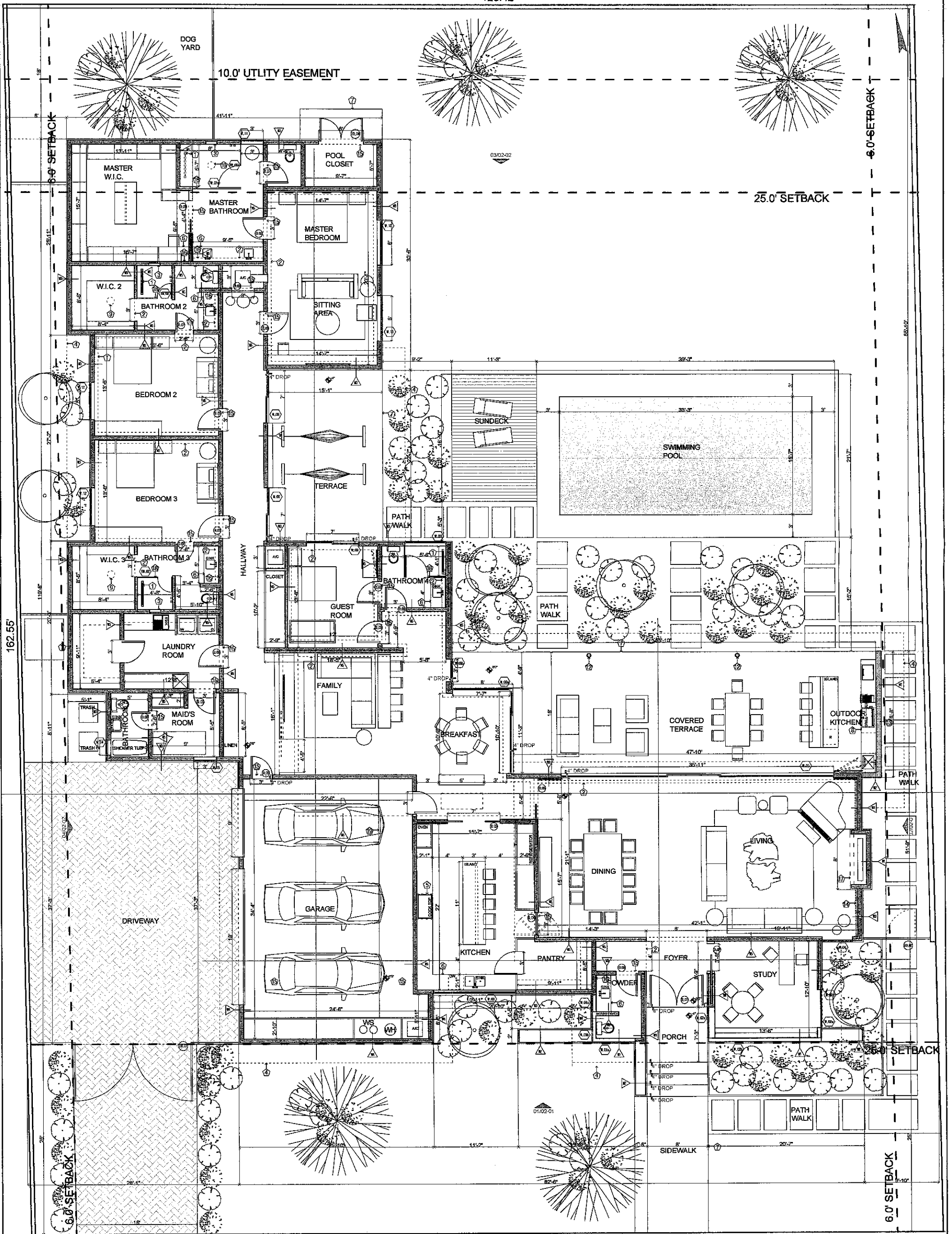
REVISIONS:

LOPEZ RESENDEZ STUDIO  
609 PECAN BLVD, McALLEN TX, 78501  
PHONE: (956) 683 0649  
luis@lopezresendez.com / www.casalabdesign.com  
www.lopezresendez.com

LRS

FRONTERA ROAD

120.42'



GRAYSON AVE.

120.42'





NOTICE  
VARIANCE  
FOR  
THIS PROPERTY  
ZBA2020-0003



## **Memo**

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

**FROM:** Planning Staff

**DATE:** January 31, 2020

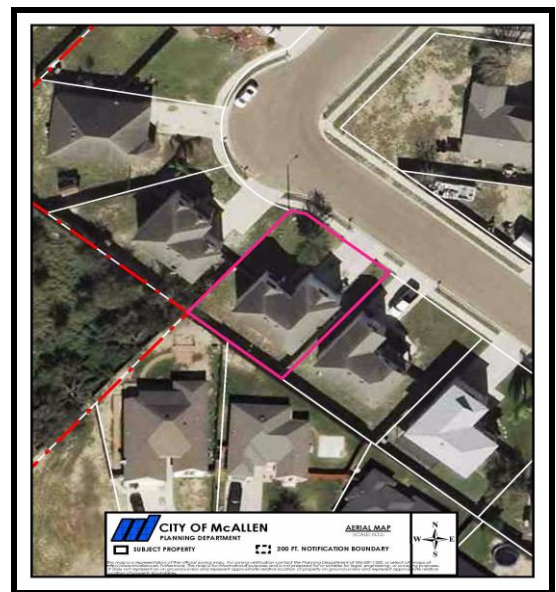
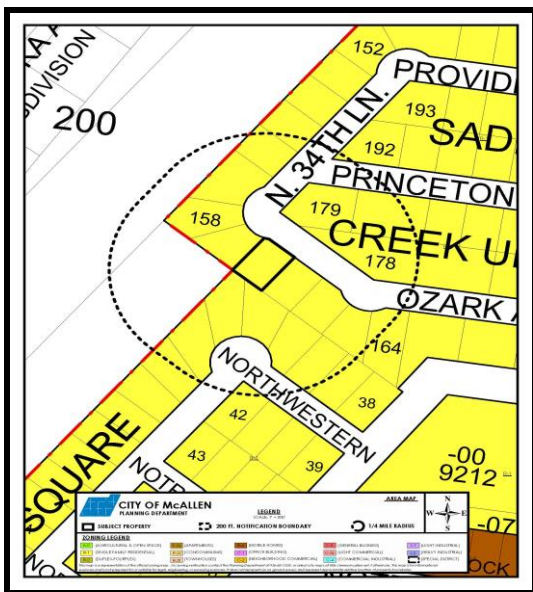
**SUBJECT: REQUEST OF JACOB ALVARADO TO ALLOW THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF MCALLEN OFF-STREET PARKING AND LOADING ORDINANCE: TO NOT PROVIDE ONE PARKING SPACE BEYOND THE FRONT YARD SETBACK FOR AN EXISTING SINGLE FAMILY RESIDENCE, AT LOT 160, SADDLE CREEK UNIT 2 SUBDIVISION, HIDALGO COUNTY, TEXAS; 3421 OZARK AVENUE. (ZBA2019-0064)**

### **REASON FOR APPEAL:**

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

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

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





**BACKGROUND AND HISTORY:**

Saddle Creek Unit 2 Subdivision was recorded on February 10, 2003. The Board of Commissioners amended the Zoning ordinance in 1999 to require one parking space beyond the front setback in order to enhance the appearance of single family residential areas. The subject property and subdivision is subject to compliance with the zoning requirement of one parking space beyond the front setback line. An application for the special exception was submitted on December 13, 2019.

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

**ANALYSIS:**

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

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

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

**RECOMMENDATION:**

Staff recommends disapproval of the special exception request.



ZBA 2019-00164

ZBA 2/5/20



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 Saddle creek No. 2 Lot 160

Subdivision Name Saddle creek No. 2

Street Address 3421 Ozark Ave

Number of lots 1 Gross acres

Existing Zoning R-1 Existing Land Use Residence

Reason for Appeal (please use other side if necessary) 204' x 204' Enclosed garage for a master bedroom. Due to medical reasons for my wife's knee & extra room for kids.

☒ \$300.00 non-refundable filing fee + ☒ \$50.00 Recording Fee for Special Exception (carport)

☐ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name Jacob Alvarado Phone 956-739-5285

Address 3421 Ozark Ave E-mail jacobalvarado@yahoo.com

City McAllen State TX Zip 78504

Owner

Name Jacob Alvarado Phone 956-739-5285

Address 3421 Ozark Ave 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 Jacob Alvarado Date 12-13-19

Print Name Jacob Alvarado ☒ Owner ☐ Authorized Agent

Office

Accepted by Bate

Payment received by

Date 12-13-19

Rev 10/18

RECEIVED  
DEC 13 2019  
BY: ow



15130-108745

11/15/18



**City of McAllen**

**Planning Department**

**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

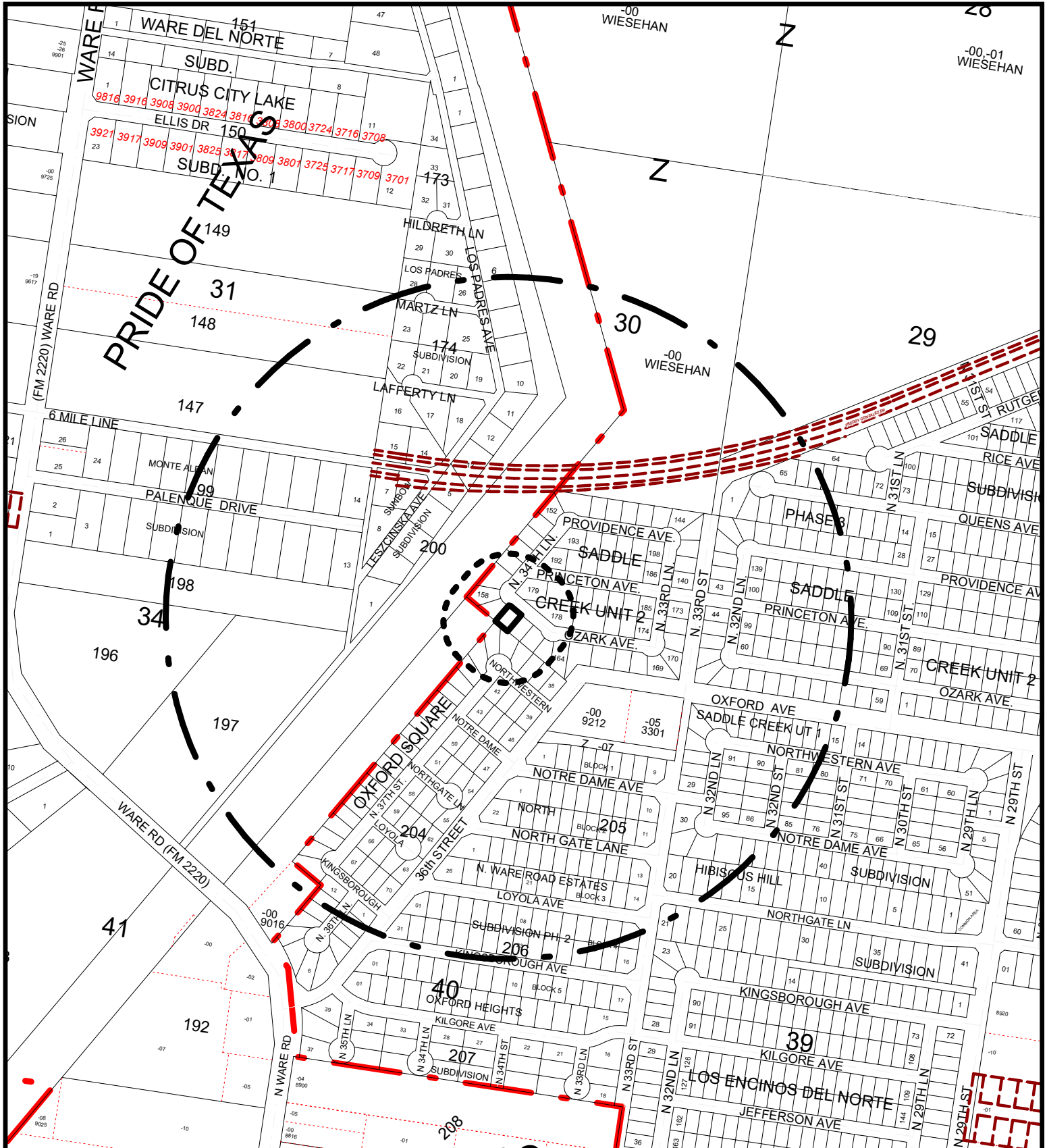
① Variance to not have to provide parking space beyond front set back line for purpose of enclosing the garage for a master bedroom.  
② Variance to build a storage shed with a building separation of only 1 foot away from building on the west side instead of the required 5 ft.

Board Action

Chairman, Board of Adjustment  
Signature

Date





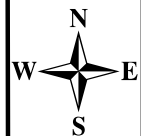
# CITY OF McALLEN PLANNING DEPARTMENT

LEGEND  
SCALE: 1" = 500'

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

1/4 MILE RADIUS

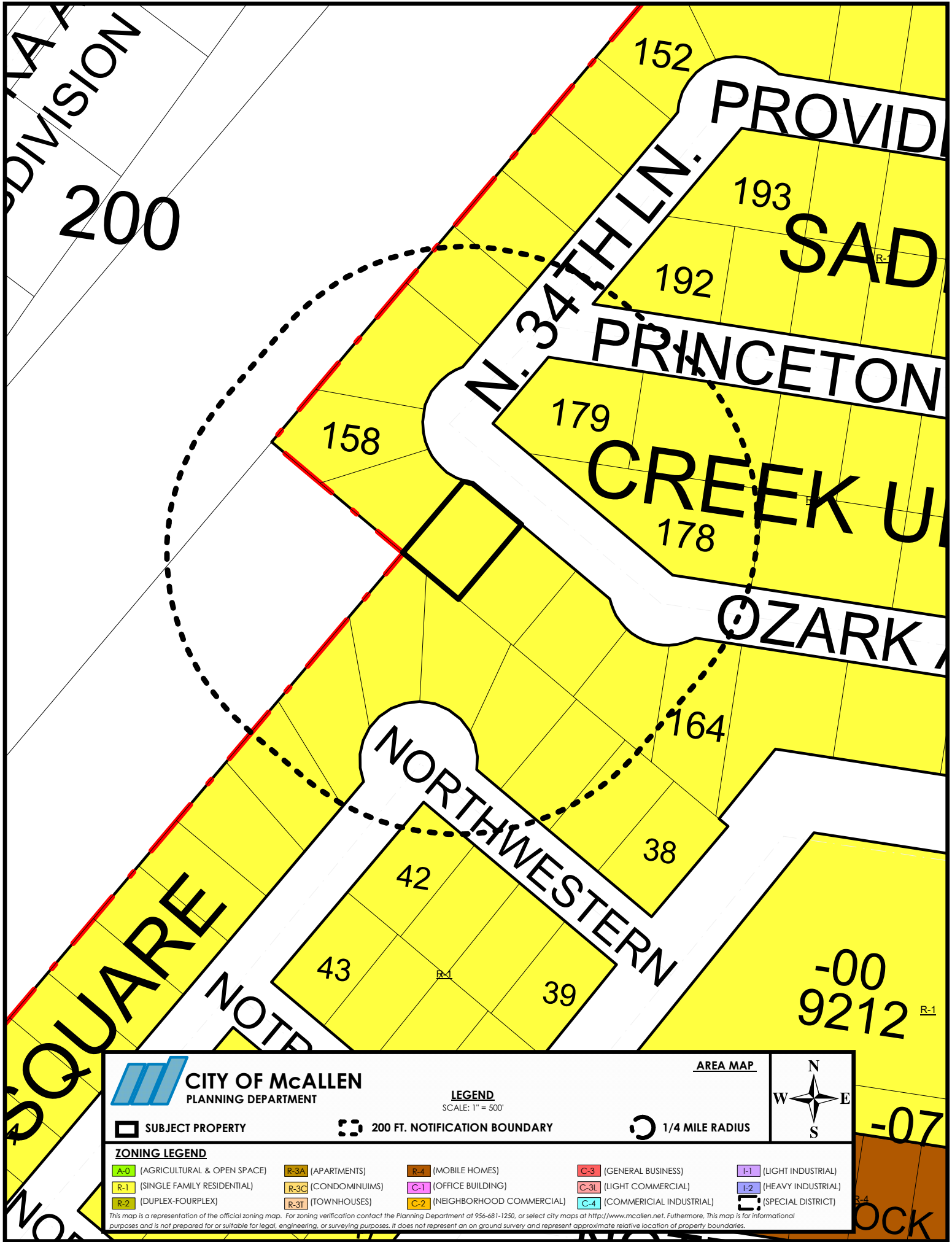
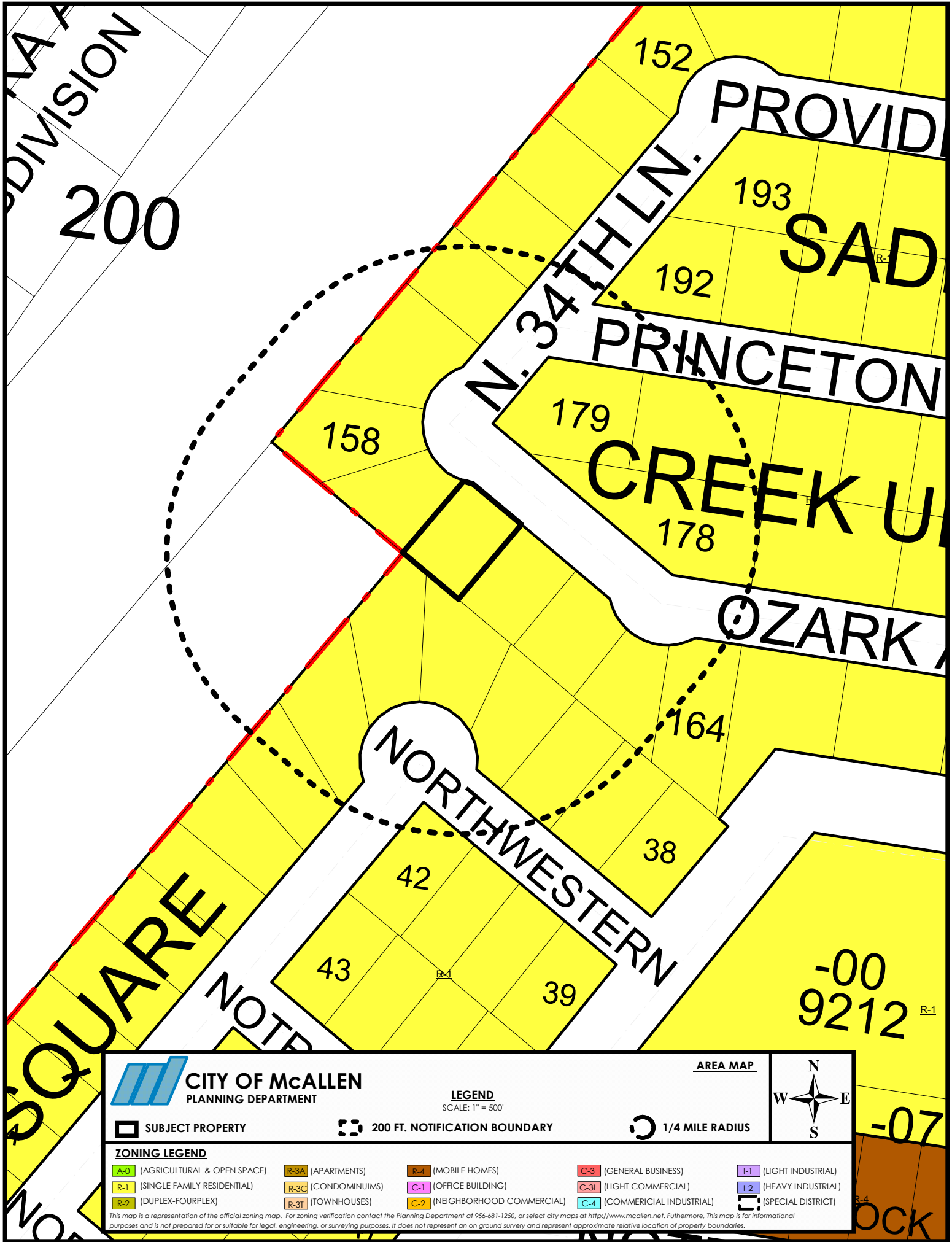


## ZONING LEGEND

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

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**CITY OF McALLEN**  
PLANNING DEPARTMENT

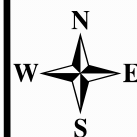


**SUBJECT PROPERTY**



**200 FT. NOTIFICATION BOUNDARY**

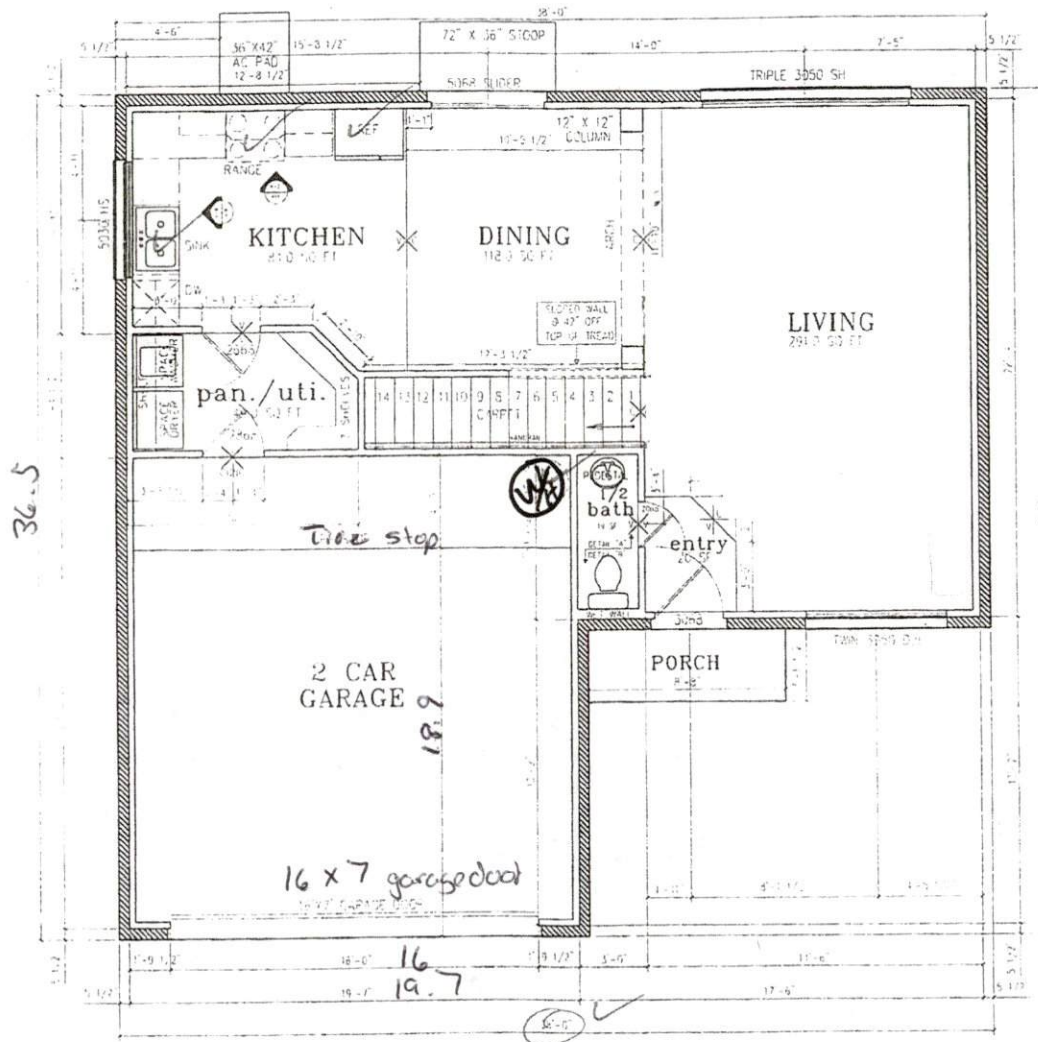
**AERIAL MAP**  
SCALE: N.T.S.



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# Existing Floor plan 1st floor



ACTIVITY 41200 D-WINDOWS				
RESOURCE	NAME	QUAN	USE	AUDIT ONLY
TRIPLE 3050	TRIPLE 3050 LOW E 1/1	1	LIVING RM	DELIVERED/INSTALLED
TWIN 3050 DL	TWIN 3050 LOW E 1/1	2	KITCHEN 1/2	
WLEC3050	3050 LOW E 1/1	1	MSTR RM	
WLEC5030	5030 LOW E 1/1	1	KITCHEN	
TWIN 3050 DL	TWIN 3050 LOW E 1/1	3	FRONT WINDS	
WLEC5068RD	5068 LOW E 1/1	1	REAR DOOR	
2020 LOW E	2020 LOW E 1/1	1	MSTR RM	

ACTIVITY 41300 D-EXT. DOORS				
RESOURCE	NAME	QUAN	USE	AUDIT ONLY
D56P3068	3068 6P WIL DR ONLY	1	LH	
D56P2868	2868 6P WIL DR ONLY	1	LH	
EJ3068	3068 EXT W	1	LH	
J2868FD	2868 FIRE DR JAM	1	LH	
WP1	WP1 CAULK	3	EXT DOORS	

ACTIVITY 60200 D-INT. DOORS				
RESOURCE	NAME	QUAN	USE	AUDIT ONLY
D2068TM	2068 TEX DOOR	4	RH	
D2068TM	2068 TEX DOOR	3	LH	
D2668TM	2668 TEX DOOR	2	LH	
D2668TM	2668 TEX DOOR	2	RH	
D2450TM	2450 TEX DOOR	1	LH	

ACTIVITY 60250 D-INT. TRIM				
RESOURCE	NAME	QUAN	USE	AUDIT ONLY
ASPTBR	1800 SPLY RDR	8		
CFJACASE	2 1/8 FJ CLOTHAL	1,275 LF		
CONDUIT EMT	1" CONDUIT	7		
WDT1216	1216 MDF	10		
WDT1416	1416 MDF	8		
WSPND107	10716 PINE WDM SLL	4		
HNDRL16	16 HAND RAIL W/ POST	1		
SHUTTERS	WINDOW SHUTTERS	2		

ACTIVITY 60600 D-INT. TRIM HDWR				
RESOURCE	NAME	QUAN	USE	AUDIT ONLY
BHPI	1P HOLDER CHROME	3		
BHTB18	18" TOWEL BAR	2		
BHTBTS	TOWEL BAR POSTS	2		
DKPAB8	DR KNOB BED/BATH	7		
DKPAHC	DR KNOB HALL/CLO	5		
MSOSS	SPRING DR STOPS	9		
MSHS	HINGE DR STOPS	5		

ACTIVITY 60650 D-EXT. DOOR LOCKS				
RESOURCE	NAME	QUAN	USE	AUDIT ONLY
DLKCOMB	KWICKSET TYLO	2	ENTRY/GARAGE	

AREAS		
1ST FLOOR LIVING	734.0	SQ. FT.
2ND FLOOR LIVING	1,117.0	SQ. FT.
TOTAL LIVING	1,851.0	SQ. FT.
GARAGE	420.0	SQ. FT.
PORCH SLAB	27.0	SQ. FT.
SO. FT. ADDED ONLY ON ELEVATIONS "B" AND "C"	TOTAL "A" 2,244.0	SQ. FT.
TOTAL "B" & "C"	2,271.0	SQ. FT.

MODEL: INCLESIDE  
LEFT HAND  
SUBDIVISION  
LOT  
BLOCK

ObrA Homes  
TOGETHER WE BUILD EXCELLENCE

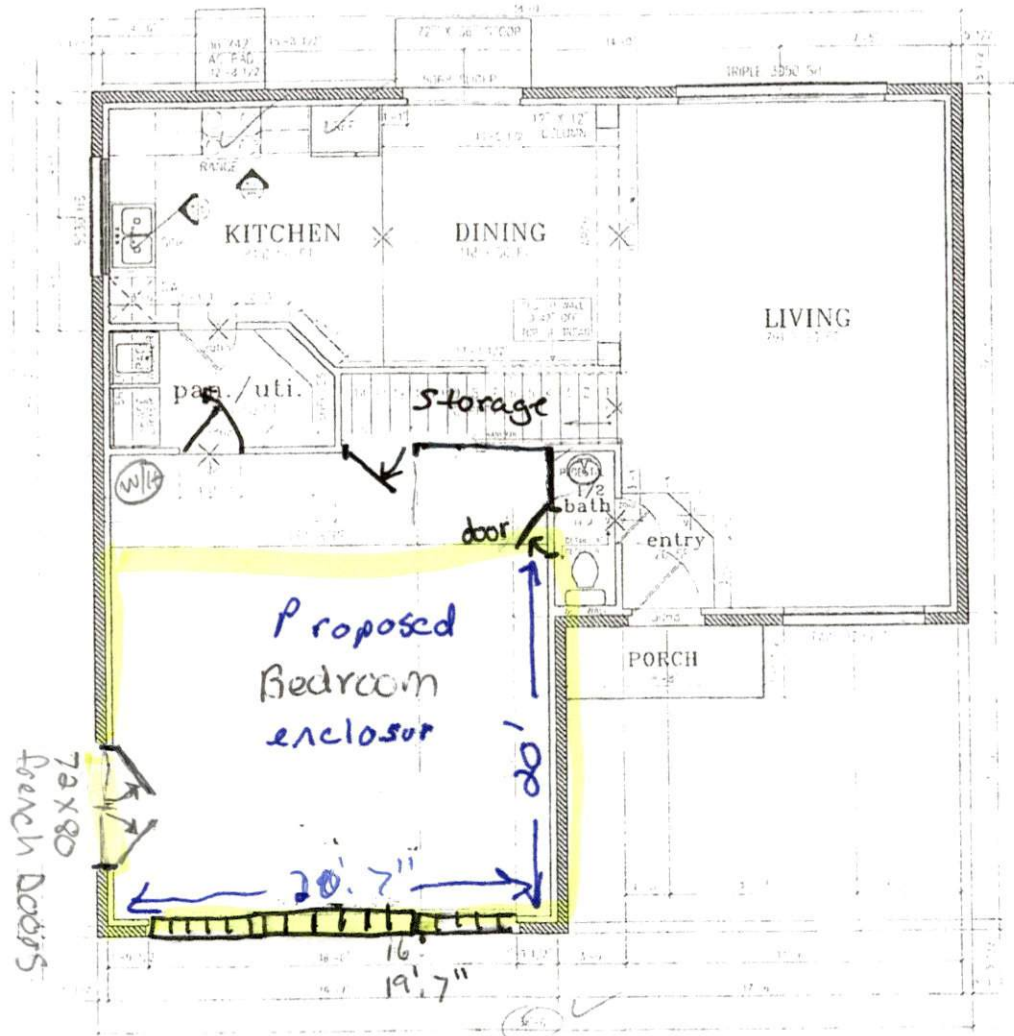
POST AUDIT PLAN  
AUDIT APPROVAL  
DAVID C.  
ENRIQUE G.  
CONSTRUCTION  
DAVID C.  
ENRIQUE G.  
REVISIONS APPROVAL  
BY DAVID C.  
DATE 5/21/03  
EDIT DATE: 5/21/03  
POST AUDIT PLAN

P-3/24/03  
SHEET:  
A5  
OF  
A20

1ST FLOOR PLAN  
RECEIVED  
DEC 13 2019  
By [Signature]



# Proposed 1st floor plan.



- \* leave gate doors
- \* build interior wall

ACTIVITY 41200 D-WINDOWS					
RESOURCE	NAME	QUAN	STANDARD	UNIT/STORY	USE
TRIPLE 3050	TRIPLE 3050 LOW E 1/2"	1			LIVING RM
TWIN 3050 DL	TWIN 3050 LOW E 1/2"	2			BEHIND TV
WLG3050	3050 LOW E 1/2"	1			MASTER RM
WLG5030	5030 LOW E 1/2"	1			KITCHEN
TWIN 3050 DL	TWIN 3050 LOW E 1/2"	3			FRONT BEDRM
WLG5050BHD	5050 LOW E 1/2"	1			REAR DOOR
2020 LOW E	2020 LOW E	1			ENTRY RM
ELEVATIONS B/C	ELEVATIONS B/C				

ACTIVITY 41300 D-EXT. DOORS					
RESOURCE	NAME	QUAN	STANDARD	UNIT/STORY	USE
DSBP3068	3068 BP W/L DR ONLY	1			LH
DSBP2868	2868 BP W/L DR ONLY	1			LH
EJ3068	3068 EXT W/L	1			LH
J2868FD	2868 FIRE DR JAM	1			LH
MP1	MP1 CAULK	3			EXT DOORS

ACTIVITY 60200 D-INT. DOORS					
RESOURCE	NAME	QUAN	STANDARD	UNIT/STORY	USE
D2068TM	2068 TEX DOOR	4			SH
D2068TM	2068 TEX DOOR	3			LH
D2688TM	2688 TEX DOOR	2			LH
D2688TM	2688 TEX DOOR	2			RH
D2450TM	2450 TEX DOOR	1			LH

ACTIVITY 60250 D-INT. TRIM					
RESOURCE	NAME	QUAN	STANDARD	UNIT/STORY	USE
ASPTBR	4800 CASEY BRD BRACKLE	8			
CTJACASE	2 1/2" F. CROWN	1,275	LF		
CONDUIT EMT	1" CONDUIT	7			
MOF1216	1216X16 MOF	10			
MOF1416	1416X16 MOF	8			
WSPND7	1818 PINE WOOD SILL	4			
WSPND16	16 HAND RAIL W/ POS	1			
SHUTTERS	WINDOW SHUTTERS	2			

ACTIVITY 60600 D-INT. TRIM HDWR					
RESOURCE	NAME	QUAN	STANDARD	UNIT/STORY	USE
BHPH	BP HOLDER CHROME	3			
BH1818	18" TOWEL BAR	2			
BH1818	TOWEL BAR POSIS	2			
DKPAB	DR KNOB BED/BATH	2			
DKPAC	DR KNOB HALL/CLO	5			
MOSS	SPRING DR STOPS	9			
MSHS	HANCE DR STOPS	5			

ACTIVITY 60650 D-EXT. DOOR LOCKS					
RESOURCE	NAME	QUAN	STANDARD	UNIT/STORY	USE
DLK100MH	KWICKSET TPO	2			ENTRY/CARAGE

AREAS		
1ST FLOOR LIVING	734.0	SQ FT
2ND FLOOR LIVING	1,117.0	SQ FT
TOTAL LIVING	1,851.0	SQ FT
CARAGE	420.0	SQ FT
PORCH SLAB	27.0	SQ FT
SQ FT ADDED ONLY ON ELEVATIONS "B" AND "C"	TOTAL "A" 2,244.0	SQ FT
TOTAL "B" & "C"	2,271.0	SQ FT

1ST FLOOR PLAN



MODEL: INCLESIDE  
LEFT HAND  
SUBDIVISION  
LOT: , BLOCK:

ObrA Homes  
TOGETHER WE BUILD EXCELLENCE

PREL AUDIT PLAN  
AUDIT APPROVAL  
DAVID C  
ENRIQUE G  
CONSTRUCTION APPROVAL  
DAVID C  
ENRIQUE G  
REVISIONS APPROVAL  
BY DAVID C AND ENRIQUE G  
PREP DATE 5/21/03  
POST AUDIT PLAN

P-5/24/03  
SHEET  
A5  
OF  
A20

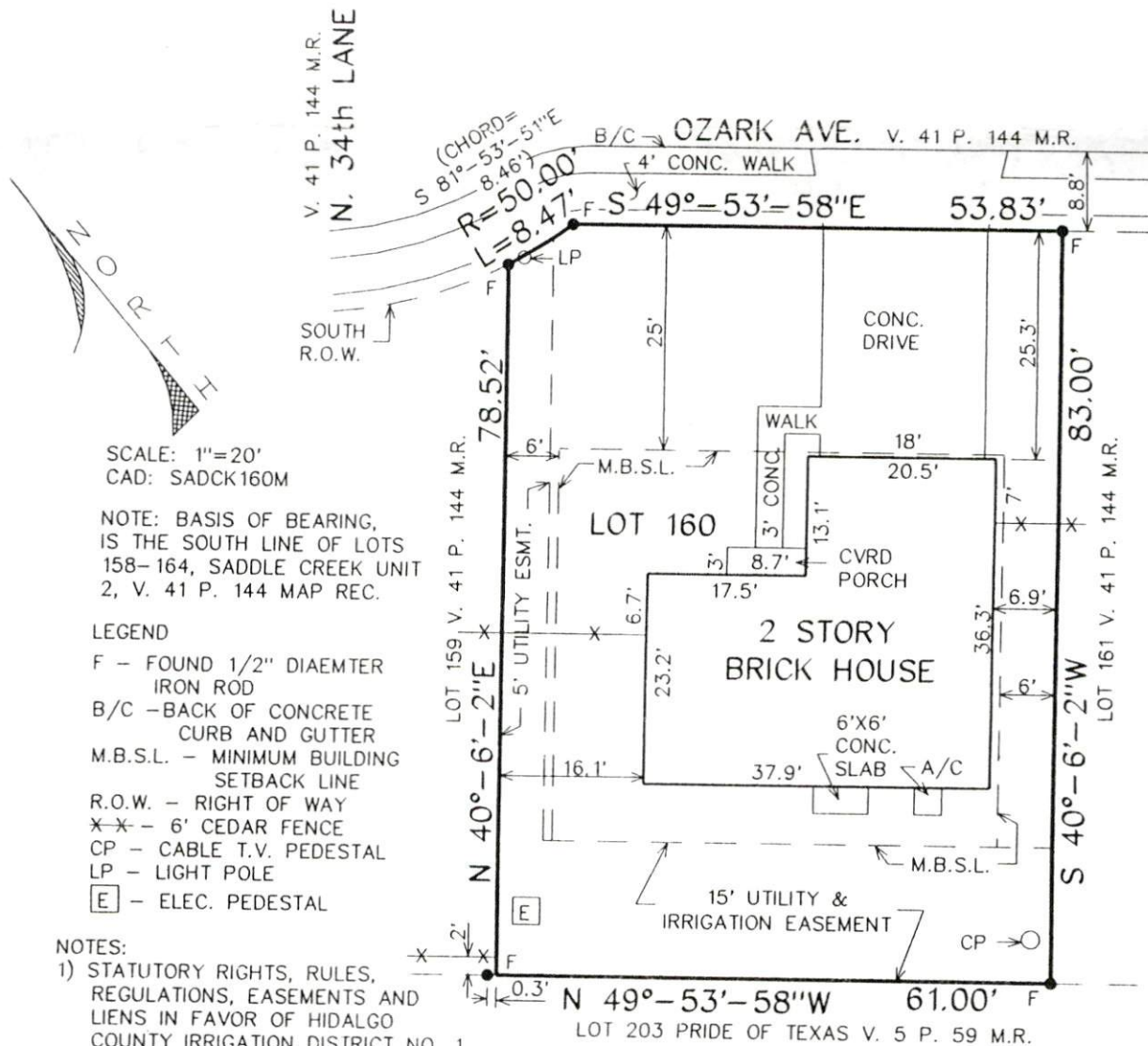




# PEÑA ENGINEERING

1001 WHITEWING • P.O. BOX 4320

(956) 682-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA



BUYER'S NAME: Jacob E. Alvarado  
Teresa C. Alvarado

FLOOD ZONE: By GRAPHICAL PLOTTING

Community Panel Number 480334 0295 D  
Map Revised: June 6, 2000

- ☐ Zone "A" - This is to certify that this property is in a flood prone area.  
☐ Zone "B" - This is to certify that this property is not in a flood prone area. However limits between the 100 year and 500 year flood are subject to flooding with average depths less than one foot.  
☒ Zone "X" - This is to certify that this property is not in a flood prone area.

I certify that this plat represents the facts found on the ground at the time of survey and that there are no visible discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements except as shown on this plat. © copyright 2005 PENA ENGINEERING this survey was provided in multiple originals solely for the borrower named hereon, In conjunction with the original transaction which shall take place within 6 months after the survey was provided. No license has been created or implied to copy this survey. Survey valid only if print has original seal and signature.

ADDRESS: 3421 Ozark Avneue McAllen, Texas 78504

LEGAL DESCRIPTION: Lot One hundred sixty (160), SADDLE CREEK UNIT NO. 2,  
an addition to the City of McAllen, Hidalgo County, Texas,

ACCORDING TO THE MAP RECORDED IN VOLUME 41 PAGE 144  
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

02-15-05  
DATE

REG. PROFESSIONAL LAND SURVEYOR







NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2019-0064  
CITY OF MCALLEN PLANNING DEPT.  
WWW.MCALLEX.NET

★ 3421



## MEMO

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

**FROM:** Planning Staff

**DATE:** January 30, 2020

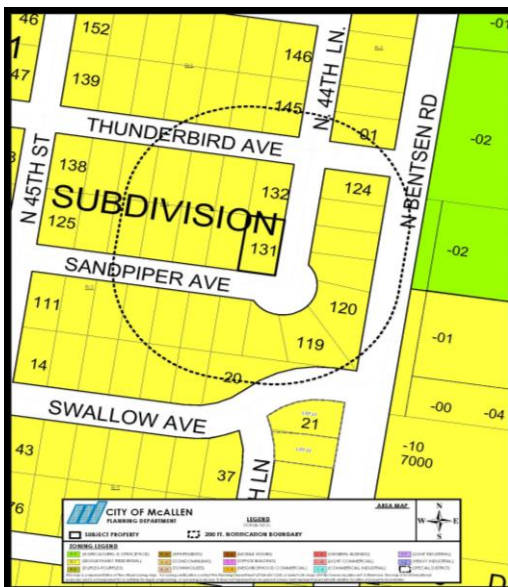
**SUBJECT:** REQUEST OF ORALIA RODRIGUEZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 25 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR A WOODEN CARPORT WITH DECORATIVE COLUMNS MEASURING 25.0 FT. BY 20.0 FT., AT LOT 131, PLANTATION GAP SUBDIVISION PHASE 1, HIDALGO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

### REASON FOR APPEAL:

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

### PROPERTY LOCATION AND VICINITY:

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





**BACKGROUND AND HISTORY:**

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

**ANALYSIS:**

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

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

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

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

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

**RECOMMENDATION:**

Staff recommends to table item as requested by the applicant.



ZBA2019-0007

ZBA  
11/20/19.

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	<u>Plantation Gap PH 1 lots 131</u>		
	Subdivision Name	<u>Plantation Gap PH 1</u>		
	Street Address	<u>4400 Sandpiper Ave McAllen tx 78504</u>		
	Number of lots	<u>131</u>	Gross acres	
	Existing Zoning	<u>R 1 Single Family</u>	Existing Land Use	<u>Residential</u>
	Reason for Appeal (please use other side if necessary)	<u>Estoy haciendo este tramite por no haber sacado permiso para construir antes de hacerlo</u>		
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required			
Applicant	Name	<u>Oralia Rodriguez</u>	Phone	<u>915 867 0305</u>
	Address	<u>4400 Sandpiper Ave.</u>	E-mail	<u>orilavizquez@hotmail.com</u>
	City	<u>McAllen</u>	State	<u>tx</u> Zip <u>78504</u>
Owner	Name	<u>Oralia Rodriguez</u>	Phone	<u>915 867 0305</u>
	Address	<u>4400 Sandpiper Ave.</u>	E-mail	<u>orilavizquez@hotmail.com</u>
	City	<u>McAllen</u>	State	<u>tx</u> Zip <u>78504</u>
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input type="checkbox"/> No			
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.			
	Signature	<u>Oralia Rodriguez</u>	Date	<u>10/16/2019</u>
	Print Name	<u>ORALIA RODRIGUEZ</u>	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Authorized Agent
Office	Accepted by	<u>L.G.</u>	Payment received by	
	Rev 10/18			RECEIVED Date <u>OCT 16 2019</u> BY: <u>SC 4:27pm</u>

Ret-# 226701 Pd \$350





**City of McAllen**  
**Planning Department**  
**REASON FOR APPEAL & BOARD ACTION**

Reason for Appeal

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

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

De antemano, muchas gracias por atencion a mi solicitud.

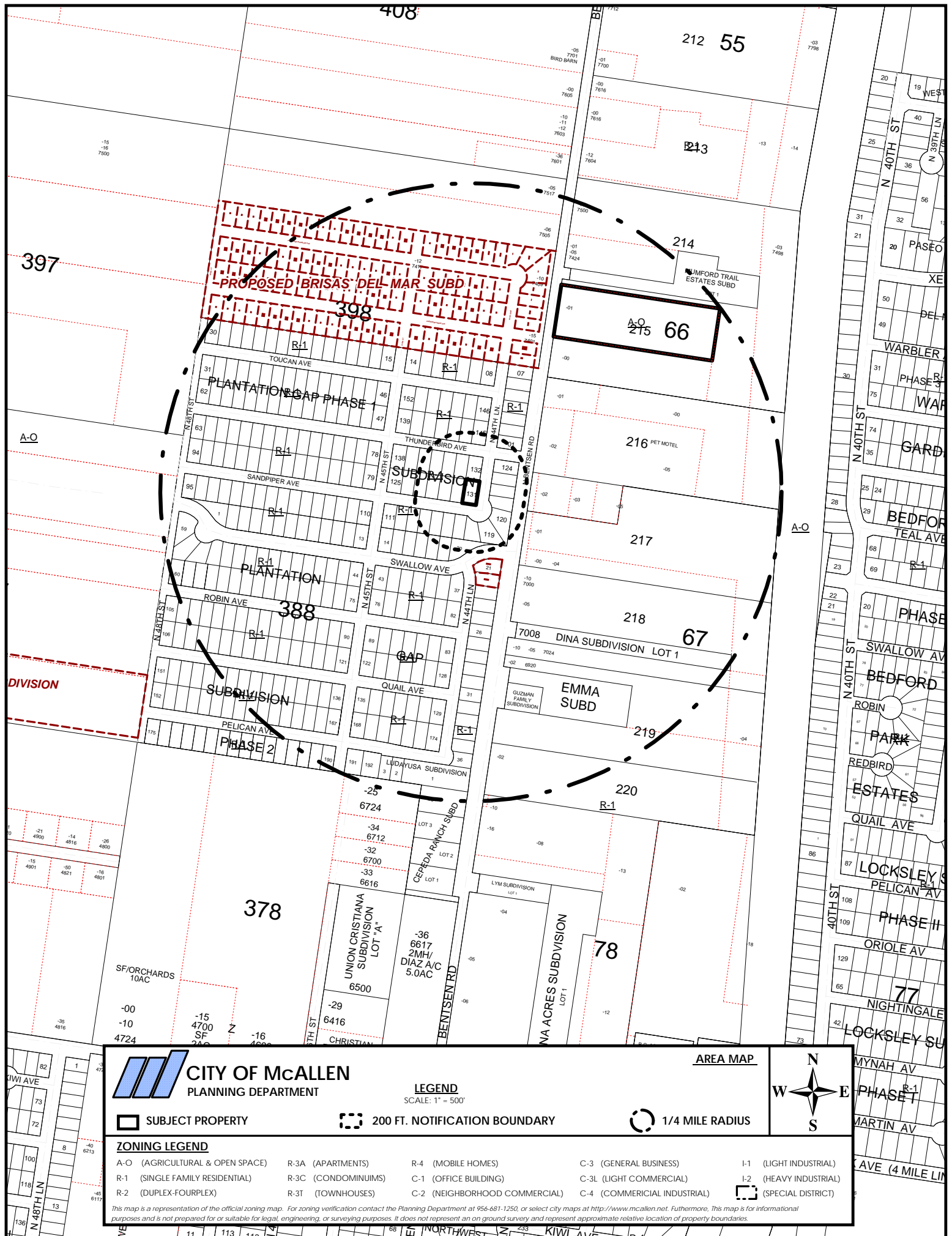
Ruaha Rodriguez

Board Action

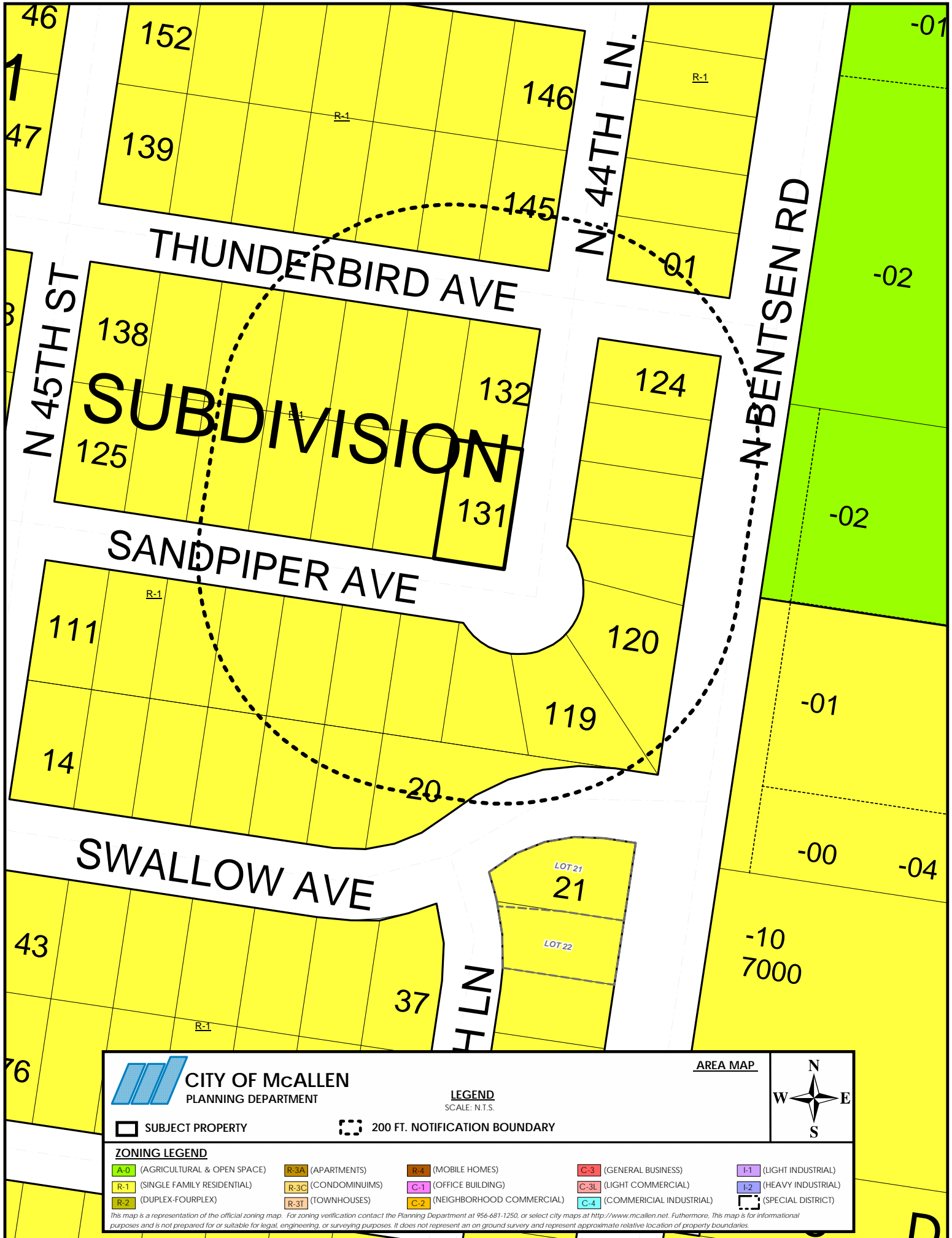
Chairman, Board of Adjustment  
Signature

Date





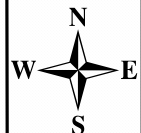




**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

**AREA MAP**



**SUBJECT PROPERTY**

**200 FT. NOTIFICATION BOUNDARY**

**ZONING LEGEND**

**A-0** (AGRICULTURAL & OPEN SPACE)

**R-1** (SINGLE FAMILY RESIDENTIAL)

**R-2** (DUPLEX-FOURPLEX)

**R-3A** (APARTMENTS)

**R-3C** (CONDOMINIUMS)

**R-31** (TOWNHOUSES)

**R-4** (MOBILE HOMES)

**C-1** (OFFICE BUILDING)

**C-2** (NEIGHBORHOOD COMMERCIAL)

**C-3** (GENERAL BUSINESS)

**C-3L** (LIGHT COMMERCIAL)

**C-4** (COMMERCIAL INDUSTRIAL)

**I-1** (LIGHT INDUSTRIAL)

**I-2** (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.

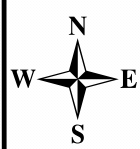




**CITY OF McALLEN**  
PLANNING DEPARTMENT

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

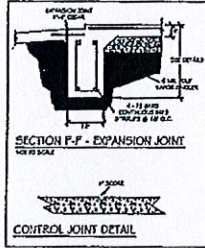
 **SUBJECT PROPERTY**



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



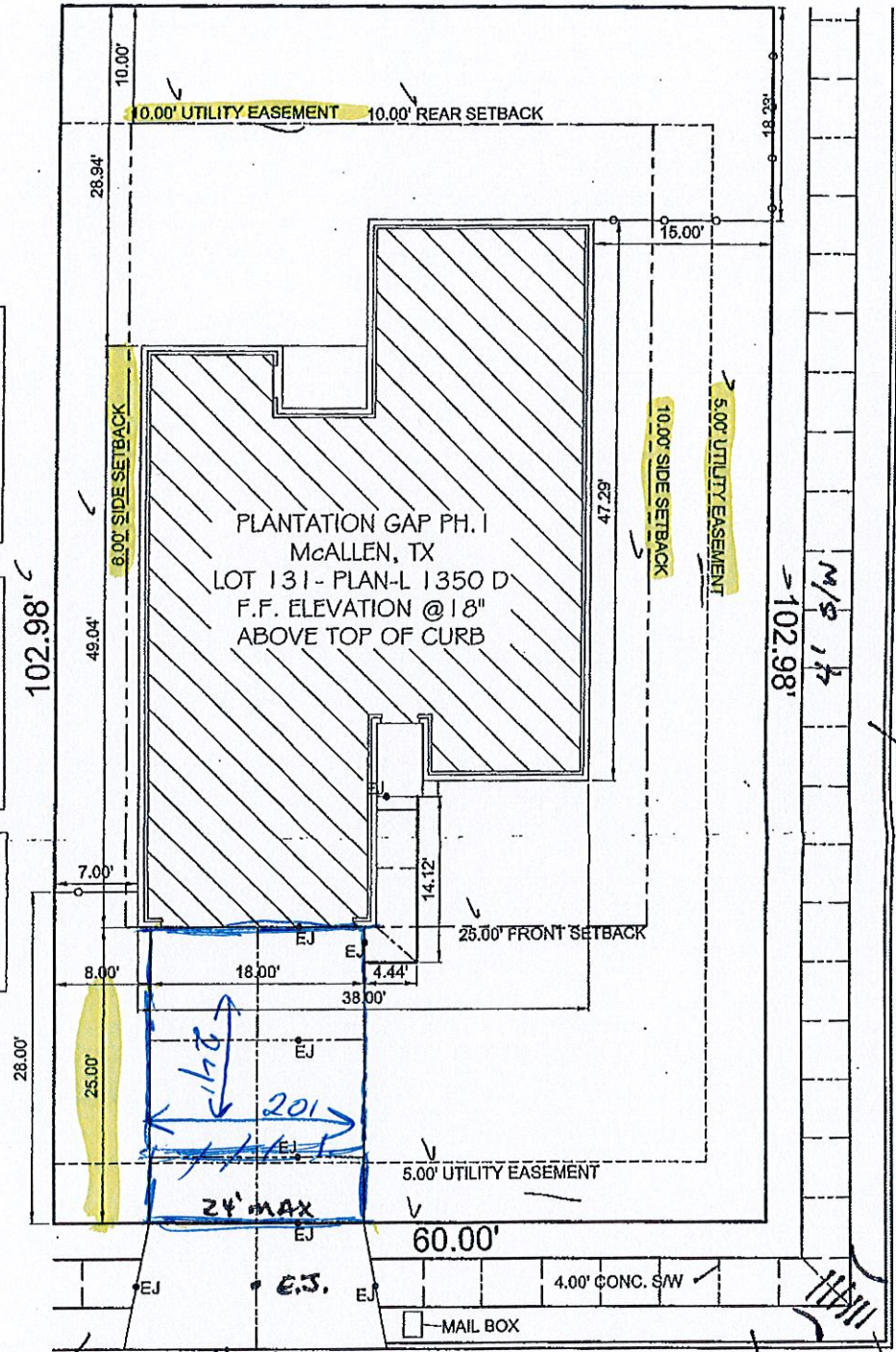
60.00



LEGEND/NOTES

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

DRIVEWAY: 660 sq.ft. = 0.1 cu.yds.  
SIDEWALKS: 664 sq.ft. = 0.2 cu.yds.  
AC SLAB: 12.5 sq.ft. = 0.2 cu.yds.  
TOTAL CONCRETE = 16.5 cu.yds.  
FENCE: 41 lin.ft.  
GRASS: 3054 sq.ft. = 0.0 pallets  
CEDAR 1x4 10'-0" = 22 PIECES



RECEIVED  
OCT 16 2019

BY: L.G.



SITE PLAN

SCALE: 1"=10'

SANDPIPER AVENUE

ADA  
Ramp

SHEET:  
Site  
Plan

CasaLinda  
HOMES

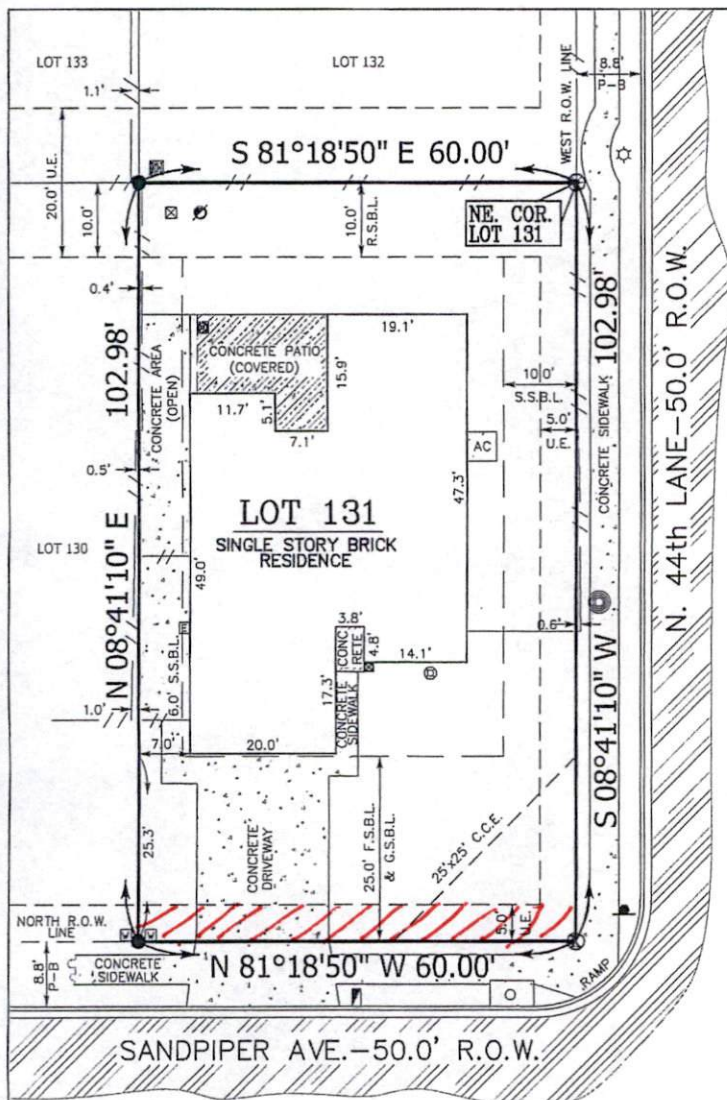
1609 N. MAIN ST. McALLEN, TX OFFICE (957) 431-6000 FAX (957) 435-9531

Subdivision: PLANTATION GAP  
PHASE 1  
PLAN ID# L-1350D  
ELEV: D 4 SIDE BRICK  
LEFT DRIVE

DRAWN BY:  
AUDITED BY:  
REVISED BY:  
APPROVED BY:  
APPROVED BY:  
APPROVED BY:

DATE:





BASIS  
 BEARING OF LOT 131,  
 SOUTHERN GAP SUBDIVISION  
 PLANTATION PHASE I, H.C.M.R.  
 VOL. 46, PG. 181.  
 SCALE: 1"=20'

### LEGEND

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

### FLOOD ZONE

ZONE "C"

AREAS DETERMINED TO BE OUTSIDE  
 500-YEAR FLOODPLAIN.  
 COMMUNITY-PANEL NUMBER: 480334 0400 C  
 MAP REVISED: NOVEMBER 16, 1982.

### NOTES:

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

ADDRESS: 4400 SANDPIPER AVE.  
 McALLEN, TEXAS 78504

BORROWER:

ALFREDO RODRIGUEZ

BORROWER:

ORALIA RODRIGUEZ

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

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

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

### W & L MANGUM SURVEYING

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

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

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

© COPYRIGHT 2017 W & L MANGUM SURVEYING ALL RIGHTS RESERVED





4400

NOTICE  
VARIANCE  
SPECIAL EXCEPTION  
FOR  
THIS PROPERTY  
ZBA2019-0057  
CITY OF DALLAS PLANNING DEPT.  
1000 MARSH LANE  
DALLAS, TEXAS 75201  
WWW.DALLAS-TEXAS.GOV











**ORDINANCE NO. 2018- 70**

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

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

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

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

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

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

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

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



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

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

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

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



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

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

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

**SIGNED** this 9<sup>th</sup> day October, 2018.

**CITY OF McALLEN**

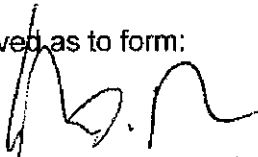
John Ingram, City Commissioner

Attest:



Perla Lara, TRMC/CMC, CPM  
City Secretary

Approved as to form:



Austin W. Stevenson, Assistant City Attorney





Definitions

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    Section 110-26 Definitions .....6



## Chapter 138-Zoning

### Sec. 138-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building* means a subordinate building, located on the same lot as the main building, the use of which is clearly incidental to and customarily found in connection with the main building or principal use of the property.

*Accessory use* means a use which is clearly incidental to and customarily found in connection with the principal use of the premises and which is located on the same lot as the principal use.

*Accessory use of building* means a subordinate use or structure customarily incident to and located on the lot occupied by the main use or structure and conforming with setback and other regulations concerning location.

*Alley* means a minor public right-of-way which is used primarily for vehicular and utility service access to the backs or sides of properties otherwise abutting on a public street.

*Apartment* means a room or suite of rooms located in a building with other such rooms or suites arranged, designed, or to be occupied as a residence by a family. (See Dwelling unit.)

*Associated recreation* means recreational uses which are an integral part of a common ownership or associated or high density residential development (example: homeowners' association with a private club or facility).

*Authorized agent* means an architect, builder, developer or other person empowered to act on behalf of such persons.

*Base station.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below, except for new base stations that are not eligible for Section 6409, need not be existing at the time of the application, nor does subsection 138-1.A(a)1.c. apply to a new base station.

*Boardinghouse* means a building other than a hotel where lodging and meals are provided for compensation.

*Building* means any structure designed to be built for the support, enclosure, shelter or protection of persons, animals, chattel or property of any kind. The word "building" includes the word "structure."

*Carrier on wheels or cell on wheels ("COW").* A portable self-contained mobile facility moved to a location and set up to provide wireless services on a temporary or emergency basis.

*Concealed or stealth design elements.* A design elements of any tower, base station or transmission equipment that allows it to be integrated as an architectural feature of a tower or base station or so that it is not readily apparent to a casual observer. It may be screened, disguised, concealed or otherwise camouflaged as a natural structure, structure or part of a structure so that it is not easily recognizable from other natural structures.

*Conditional use* means a use which may be suitable in certain locations in a zoning district if developed and operated under specific conditions and/or for a limited period of time.

*Depth of lot* means the mean horizontal distance between the front and rear lot lines. (See definitions of Front and Rear lot lines.)

*District* means a section of the city for which the regulations governing the areas, heights or uses of buildings are uniform.

*Dwelling unit* means any building or portion thereof which is designed for or used primarily for residential occupancy, but not including hotels, boardinghouses or mobile homes.

- (1) *Single-family* means a building designed for and/or occupied exclusively by one family as a separate dwelling unit.



- (2) *Duplex* means a building designed for and/or occupied exclusively by two families living independently of each other.
- (3) *Triplex* means a building designed for and/or occupied exclusively by three families living independently of each other.
- (4) *Fourplex* means a building designed for and/or occupied exclusively by four families living independently of each other.
- (5) *Multiple* means a building designed for and/or occupied exclusively by five or more families living independently of each other.

The determination of whether one family is living independent of another is based on one or more of the following criteria: separate sanitary facilities; separate kitchen facilities; separate entrances; or separate utilities.

*Eligible facilities request.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Eligible support structure.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Existing.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Family* means one or more persons living together as a single housekeeping unit with common sanitary and kitchen facilities.

*Garage, commercial* means a building or premises used for storage, repair, rental or servicing of motor vehicles.

*Garage, private* means an accessory building, attached or detached, designed or used for the storage of motor-driven vehicles owned and used only by the occupants of the building to which it is accessory.

*Guesthouse* means an accessory building designed for the temporary occupancy of guests of the primary dwelling for which there is no remuneration. "Maids' quarters" means a portion of a dwelling unit, within the same enclosure and not a separate accessory building attached to the primary building, that may contain separate sanitary and/or kitchen facilities which is designed for or used for residential occupancy by an employee of the primary residence.

*Height* means, for a building or portion of a building, the vertical distance from grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, and the mean height level between eaves and ridge for hip, gable or gambrel roofs. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, mechanical rooms, tanks, water towers, radio towers, television antennas, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height. Heights authorized in this chapter are subordinate to the airport zoning ordinance, appendix A.

*Loading space* means a space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks and having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

*Lot* means an undivided tract or parcel of land having frontage on a public street, and which is, or in the future may be, offered for sale, conveyance, transfer or improvement, which is designated as a distinct and separate tract, and which is identified by a tract or lot number or symbol in a duly approved subdivision plat which has been properly filed of record. The word "lot" includes the word "plot."

- (1) *Corner lot* means a lot abutting upon two or more public streets at their intersection.
- (2) *Building coverage* means percentage of the lot that is occupied by the ground area of a building and its accessory buildings.
- (3) *Lot, double frontage* means a lot abutting on two nonintersecting public streets as distinguished from a corner lot.



- (4) *Lot lines* means the lines bounding a lot as defined in this section.
- a. *Front lot line* means the property line between the front yard and the contiguous street right-of-way boundary.
  - b. *Rear lot line* means the property line between the rear yard and the adjacent property or right-of-way, and contiguous with the legal boundary of such use.
  - c. *Side lot line* means the property between two adjacent lots or between the side yard and the contiguous street right-of-way boundary on corner lots.

*Lot of record* means a parcel of land which is part of a subdivision, the map or plat of which has been recorded in the office of the county clerk; or a tract of land not a part of an urban or town lot subdivision, the deed of which has been recorded in the office of the county clerk prior to October 15, 1973, which has not been divided since recording.

*Maneuvering space* means the space entirely on private property required for maneuvering vehicles in such a manner as to preclude the backing of any vehicle into any street right-of-way.

*Mobile home* means a movable or portable dwelling originally constructed to be towed, on its own chassis, by a motor vehicle over public roads.

*Mobile home and modular home park* means a unified development of five acres or more for mobile homes arranged on a tract of land owned by an individual or a single business entity for the purpose of renting or leasing lots, and meeting the requirements of chapter 122, article II of this Code.

*Mobile home and modular home subdivision* means a unified development of five acres or more for mobile homes arranged on a tract of land in such a manner as to provide an individual lot (see definition of Lot) for each of the mobile homes.

*Modular home* means a dwelling unit in which more than 50 percent of the structure is constructed at other than the construction site, brought to the site in modules, and set on a permanent foundation.

*Ornamental feature* means an addition to a structure designed to enhance the appearance of the structure, in compliance with all of the following criteria:

- (1) Any space occupied by or enclosed by the ornamental feature should not be included in or made a part of the air conditioned, heated, or enclosed portion of the structure;
- (2) The feature should serve no purpose or function for the structure other than ornamentation. The building should be equally functional without the feature as with the feature; and
- (3) The feature shall extend no further than 24 inches into a required yard.

*Parking area* means a space used exclusively for the parking of vehicles and where no other business is conducted.

*Parking space* means an area, not closer than six feet from the back edge of the curb, the width and length of which shall exceed by a minimum of two feet the dimensions of the type of vehicle normally to be parked in the space, and connected with a street or alley by a driveway affording satisfactory ingress and egress. The minimum dimension of a parking space shall be in accordance with the city off-street parking requirements in article VII of this chapter.

*Planned unit development (PUD)* means and includes a combination of different dwelling types and/or a variety of land uses which creatively complement each other and harmonize with existing and proposed land uses in the vicinity, and which comply with the Planned Unit Development provisions of chapter 134, article IV of this Code.

*Portable building* means a temporary building that does not have a foundation and is transportable.

*Recreational vehicle or travel trailer* means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified as a travel trailer by the manufacturer of the trailer and, when factory-equipped for the road, it shall have a body width not exceeding eight feet and a body length not exceeding state maximums.



*Residential storage building* means any building, either portable or constructed onsite, utilized for storage purposes and not requiring plumbing and electrical wiring, and not used for living quarters.

*Restaurant* means a building or portion of a building where the primary business is the on-premises sale of prepared food, with adequate kitchen facilities for the preparation of the food to be sold, the adequacy of such kitchen facilities to be based upon the seating capacity of the restaurant and the type of menu offered, and where alcoholic beverages may be sold under the following conditions:

- (1) At least 51 percent of the gross income shall be derived from the sale of prepared food.
- (2) Any outside entrances, outside separate identification, outside signs or other separate advertising for lounge or bar areas shall be permitted only as an accessory or secondary feature of the restaurant.
- (3) Live entertainment may be permitted.
- (4) Whenever the director of planning on the basis of a sworn complaint from any person determines that a violation of this section exists, he may require any person serving alcoholic beverages as an incidental use to provide the city, within 30 days of notification, a verified audit for each quarter of the calendar year, showing the gross income derived from the sale of food.

*Retail* means the sale of goods directly to a consumer; engaged in, pertaining to or relating to the sale of merchandise at retail; or selling by individual items, or by the piece, directly to a consumer.

*Right-of-way line* means a dividing line between a lot, tract or parcel of land and the public right-of-way.

*Street* means a public or private thoroughfare which affords the principal means of access to abutting property, excluding alleys.

*Structural alteration* means any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

*Structure* means anything constructed, erected or artificially built up; or composed of parts and joined together in a permanent manner.

*Substantial change.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Tower.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below, except for new towers that are not eligible for Section 6409, they need not be existing at the time of the application.

*Townhouse* means a single-family dwelling unit constructed in a series or a group of units having common walls, each on a separate lot.

*Transmission equipment.* As defined in section 138-1.A - Eligible facilities request (Section 6409) Definitions, below.

*Yard* means an open space between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided in the definitions of "yard" set out in this section. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

- (1) *Front yard* means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the right-of-way line and wall of the main building or any projections thereof other than projections of the usual uncovered steps, uncovered balconies or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension, except where corner lots may be square in dimension and/or have double frontage, in which case the front yard shall correspond to the lot's side adjacent to the longest block face in which it occurs and to which the majority of the existing structures front.



- (2) *Rear yard* means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than projections of uncovered steps, uncovered balconies or uncovered porches. On all lots, the rear yard shall be in the rear of the front yard.
- (3) *Side yard* means a yard between the main building and the side line of the lot, and being the minimum horizontal distance between a side lot line and the sides of the main buildings or any projections thereof.

(Code 1966, § 32-2; Ord. No. 1996-8, § I, 1-22-96; Ord. No. 1996-70, § I, 11-18-96; Ord. No. 1998-68, § 1, 2-27-98; Ord. No. 1999-69, § 1, 8-9-99; Ord. No. 2004-15, § 5, 2-9-04; Ord. No. 2015-38, § II, 5-11-15)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Footnotes:

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**Note**— 47 U.S.C. § 332(c)(7)(C) Definitions. For purposes of this paragraph—(i) the term "personal wireless services" means commercial mobile services [cellular service], unlicensed wireless services, and common carrier wireless exchange access services..."; 47 U.S.C. § 332(d) ....(1) the term "commercial mobile service" means any mobile service (as defined in section 153 of this title) that is provided for profit and makes interconnected service available (A) to the public or (B) to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the Commission;..."

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**Note**— 47 U.S.C. § 332(c)(7)(C) Definitions for purposes of this paragraph... (ii) the term "personal wireless service facilities" means facilities for the provision of personal wireless services..."

## Chapter 110-Vegetation

### Sec. 110-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Buffer* means a screen constructed of wood, concrete block, masonry, a combination of wood and masonry, or landscape material with a chain link fence in such a manner that adjacent property is visually screened, and so that noise, solid waste or other objectionable influences will be avoided. Such buffer shall be perpendicular to the ground, a minimum of six feet in height, continuous and uninterrupted, and 100 percent opaque except where extraordinary circumstances exist where additional height will more adequately accomplish the desired end.

*Caliper* means the diameter of a tree measured 12 inches above the ground for trees up to and including eight inches in diameter and four and one-half feet above the ground for trees having a diameter of more the eight inches. The diameter of a multi-stem tree shall be measured at the point below branching or the sum of the two largest stems measured at four and one-half feet above the ground which ever is greater.



*Contiguous* means adjacent property whose property lines are shared, or are separated by only a street, alley, easement or right-of-way.

*Developed property* means that portion of a lot or parcel upon which a building, structure, pavement, or other improvements have been or are proposed to be placed.

*Diameter-at-breast-height (DBH)* means the tree trunk diameter measured in inches at a height of four and one-half feet (54 inches) above natural grade or the DBH measurement according to the latest edition of the Guide for Plant Appraisal as published by the Council of Tree and Landscape Appraisers, when the tree trunk branches out at a point lower than four and one-half feet.

*Frontage* means lineal distance measured along abutting street rights-of-way.

*Ground cover* means low growing plants planted in such a manner as to form a continuous cover over the ground, typical horizontal growth form with a maximum height of 24 inches, such as lirioppe, low growing varieties of honeysuckle, confederate jasmine, English ivy or others.

*Landscape material* means trees, shrubs, ground cover, vines or grass installed in planting areas, including but not limited to those installed for the purpose of fulfilling the requirements of this article.

*Landscape strip area* means a planting area within the property lines of specified width and parallel to a public street, excluding driveways for ingress and egress.

*Paved ground surface area* (also referred to in this article as paved area or paved ground area) means any paved ground surface area (excepting public rights-of-way) used for the purpose of driving, parking, storing or displaying of vehicles, boats, trailers and mobile homes, including new and used car lots and other open lot uses. Parking structures, covered drive-in parking areas to the drip line of the covering or garages shall not be considered as paved ground surface areas.

*Planting area* means an area intended or used for landscaping that has a minimum of 40 square feet of actual plantable area and an inside dimension on any side of at least 36 inches.

*Reconstruction* means rehabilitation or replacement of structures on nonresidential or multifamily property to an extent exceeding 50 percent of the assessed valuation of such structures as shown on the most recent tax roll of the city.

*Shrub* means any woody plant of relatively low height, having several stems arising from the base and lacking a single trunk.

*Stormwater detention facility* means an impoundment on a lot or parcel reserved for detaining and controlling the release of stormwater runoff as required by City of McAllen Drainage Policy.

*Street line* means that line separating the right-of-way from any adjacent property.

*Tree* means any self-supporting woody plant of a single trunk and of a species which normally grows to an overall mature height of a minimum of 15 feet in the lower Rio Grande Valley of the state.

*Vine* means any of a group of woody or herbaceous plants which may climb by twining, by means of aerial rootlets or tendrils, or which may simply sprawl over the ground or other plants.

*Xeriscape* means landscape methods which conserve water through the use of drought-tolerant plants and planting techniques.

(Code 1966, § 17 3/8 -4; Ord. No. 1993-88, § I, 12-13-93; Ord. No. 2006-118, § 1, 11-13-06; Ord. No. 2007-28, § 1, 3-26-07)

**Cross reference**— Definitions and rules of construction generally, § 1-2.



## CRITERIA FOR ZBOA DETERMINATIONS

### APPEALS

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

### SPECIAL EXCEPTIONS

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

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

#### **Ord. Sec. 138-86. – GENERAL POLICY.**

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

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



## **VARIANCES**

Authorized only when ALL of the following applies:

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



## Exceptions Cited within the Zoning Ordinance

### Exceptions pertaining to front yard setbacks:

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

### Exceptions pertaining to rear yard setbacks:

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



Exceptions pertaining to side yard setbacks:

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

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

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



## Exceptions as per Planning Department Policy

By policy the following are permitted:

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

Legal opinions:

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



# **ZONING BOARD OF ADJUSTMENT AND APPEALS**

## **RULES AND PROCEDURES**

### **CITY OF MCALLEN**

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

#### **I. ORGANIZATION AND OFFICERS**

##### **A. Members**

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

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

##### **B. Officers**

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

##### **C. Duties and Officers**

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

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



## **II. POWERS OF THE BOARD**

### **A. General Powers**

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

### **B. Specified Powers**

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

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

## **III. DUTIES OF BOARD MEMBERS**

### **A. General Duties of Members**

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

### **B. Disqualification/Conflict of Interest**

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



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

#### **IV. A BASIS FOR ACTION**

The Board shall decide each case based on the following:

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

#### **V. APPLICANTS**

##### **A. Legally Vested Interest**

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

##### **B. Applications**

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

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



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

#### **C. Meetings**

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

#### **D. Evidence**

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

### **VI. HARDSHIP**

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

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

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

### **VII. MEETINGS**

#### **A. Texas Public Information Act and Open Meetings Act.**

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



## **B. Quorum**

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

## **C. Regular Meetings**

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

## **D. Special Meetings**

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

## **E. Order of Business**

The usual order of business shall be:

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



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

#### **F. Staff Recommendations**

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

#### **G. Action by the Board**

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

#### **H. Minutes of the Board**

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

### **VIII. DECISIONS OF THE BOARD**

#### **A. Precedent**

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

#### **B. Public Statements**

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



**B. Parliamentary Procedure**

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

**IX. WITHDRAWAL OF APPEAL**

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

**X. ATTENDANCE**

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

**XI. AMENDEMENT PROCEDURE**

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

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

\_\_\_\_\_  
**Executive Secretary**





# PLANNING DEPARTMENT

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



## 2020 CALENDAR

### Meetings:

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

### Deadlines:

D- Zoning/CUP Application      N - Public Notification

\* Holiday - Office is closed

### JANUARY 2020

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

### FEBRUARY 2020

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

### MARCH 2020

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

### APRIL 2020

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

### MAY 2020

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

### JUNE 2020

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

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



## 2020 CALENDAR

### Meetings:

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

### Deadlines:

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

\* Holiday - Office is closed

### JULY 2020

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

### AUGUST 2020

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

### SEPTEMBER 2020

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

### OCTOBER 2020

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

### NOVEMBER 2020

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

### DECEMBER 2020

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



## 2018 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

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

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO REGULAR MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION