

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, JANUARY 18, 2023 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD 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 Sylvia Hinojosa

1. MINUTES:

- a) Minutes for the meeting held on January 5, 2023

2. PUBLIC HEARINGS:

- a) Request of Lauro Perez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 24 feet into the 30 feet front yard setback for an existing carport measuring 24 feet by 26.8 feet, at the West ½ of Lot 3 & all of Lot 4, Block 4, Milmor Subdivision, Hidalgo County, Texas; 1713 Maple Avenue. **(ZBA2022-0136)**
- b) Request of Mireya Espinoza for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 25-foot front yard setback for a proposed single family home, at the North 131' Lot 1, Block 6, Bryan's Addition Subdivision, Hidalgo County, Texas; 208 North 4th Street. **(ZBA2022-0135)**
- c) Request of Martin Saavedra for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 18 feet into the 20 feet front yard setback for an existing carport measuring 18 feet by 20 feet, on Lot 78, Arrowhead Subdivision Phase II, Hidalgo County, Texas; 2921 North 40th Street. **(ZBA2022-0128) (TABLED: 01/05/2023)**
- d) Request of Carlos and Ma Elva Flores on behalf of Ramon Rodriguez (owner) for the following Special Exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 3.95 feet into the 3.95 feet east side yard setback for a proposed metal carport measuring 12 feet by 40 feet, at Lot 9, Block 9, D. Guerra's Addition to McAllen, Hidalgo County, Texas; 2005 Galveston Avenue. **(ZBA2022-0112)**
WITHDRAWN
- e) Request of David Omar Salinas on Behalf of Maria Eugenia Zabaleta (owner) for the following Variance request to the City of McAllen Off-Street Parking and Loading Ordinance to allow 5 parking spaces instead of the required 10 parking spaces for proposed commercial use at Lot 8, Floyd Bennet Subdivision, Hidalgo County, Texas; 1605 North 6th Street. **(ZBA2022-0118) (TABLED: 12/21/2022) (TABLED: 01/05/2023)**
- f) Request of Luis D. Waldo on Behalf of Rene Castellanos (owner) for the following Variance request to the City of McAllen Vegetation Ordinance to allow the required landscaped area to be synthetic grass instead of natural grass at Lot 17, Vineyard Estates Subdivision Phase 1A, Hidalgo County, Texas; 3817 Cosentino Drive. **(ZBA2022-0126) (TABLED: 12/21/2022) (REMAIN TABLED: 01/05/2023)**

3. FUTURE AGENDA ITEMS

- a) 5912 North 35th Street
- b) 100 East Kerria Avenue
- c) 2732 Norma Avenue
- d) 3005 Sycamore Avenue
- e) 1701 Kerria Avenue

ADJOURNMENT:

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

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Thursday, January 5, 2023 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

Present:	Sylvia Hinojosa Jose Gutierrez Ann Tafel Hugo Avila Rebecca Millan Sam Saldivar Juan Mujica	Chairperson Vice-Chairperson Member Member Alternate Alternate Alternate
Absent:	Rogelio Rodriguez Mark Talbot	Member Alternate
Staff Present:	Austin Stevenson Edgar Garcia Rodrigo Sanchez Omar Sotelo Katia Sanchez Adriana Solis Marco Rivera Samantha Trevino Porfirio Hernandez Julian Hernandez Carmen White	Assistant City Attorney Planning Director Senior Planner Senior Planner Planner II Planner II Planner I Planner I Planning Technician II Planning Technician I Administrative Assistant

CALL TO ORDER –Chairperson Sylvia Hinojosa

1. MINUTES:

- a)** Minutes for the special meeting held on December 21, 2022.

The minutes for the special meeting held on December 21, 2022 were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Vice-Chairperson Jose Gutierrez seconded the motion, which carried unanimously with five members present and voting.

As per Chairperson Sylvia Hinojosa’s suggestion, the following items had been recommended for approval by staff. They are as follows:

2. PUBLIC HEARINGS:

- a)** Request of Maria Villasenor for the following Special Exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 25 feet into the 25 feet front yard setback for an existing canvas cover carport with metal supports measuring 20 feet by 23 feet, at Lot 72, Cielo Vista Subdivision Phase I, Hidalgo County, Texas; 3121 Ursula Avenue. **(ZBA2022-0119)**

- b) Request of Rolando Cedillo for the following Special Exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 23 feet into the 25 feet front yard setback for an existing metal carport measuring 18 feet by 20 feet, at Lot 185, Idela Park Unit 3 Subdivision, Hidalgo County, Texas; 3524 Lucille Avenue. **(ZBA2022-0127)**
- c) Request of Miguel Cedillo, Jr. for the following Special Exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 24 feet into the 25 feet front yard setback, and 4 feet into the 6 feet north side yard setback for an existing metal carport measuring 22.33 feet by 22.5 feet, at Lot 10, Idela Park Unit 2 Subdivision, Hidalgo County, Texas; 4804 South 29th Street. **(ZBA2022-0130)**
- d) Request of Irma Hermida on behalf of Jose Cervera for the following Variance request to the City of McAllen Zoning Ordinance to allow issuance of a building permit in excess of 10% replacement value for a non-conforming structure at 1.096 acres out of Lot 56, La Lomita Irrigation & Construction Company Subdivision (El Rancho Deluxe Condominiums), Hidalgo County, Texas; 7809 North Ware Road. **(ZBA2022-0131)**
- e) Request of Melden & Hunt, Inc. for the following Variance Request to the City of McAllen Zoning Ordinance to allow 10 ft. separation between the dwelling units on individual lots instead of the required 12 ft., at 6.427 acres out of Lot 308, John H. Shary Subdivision (proposed Brier Village Subdivision), Hidalgo County, Texas; 3901 North Bentsen Road. **(ZBA2022-0133)**

Mr. Sam Saldivar **moved** to approve the previously outlined special exception and variance requests as per staff's recommendation, limited to the submitted plans correspondent to each item. Ms. Ann Tafel seconded the motion. The Board voted to approve with five members present and voting.

- f) Request of Mark Hanna on behalf of Odon Capital Property Holdings, LLC, for the following Variance request to the City of McAllen Zoning Ordinance to allow issuance of a building permit in excess of 10% replacement value for a non-conforming structure, at Lot 4, Block 1, Poorbaugh's Subdivision, Hidalgo County, Texas; 301 North 3rd Street. **(ZBA2022-0123) (WITHDRAWN)**

This item had been withdrawn by the applicant.

- g) Request of Maximo and Rita Campos for the following Special Exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 25 feet into the 25 feet front yard setback for an existing canvas cover carport with metal supports measuring 20 feet by 23 feet, at Lot 75, Cielo Vista Subdivision Phase I, Hidalgo County, Texas; 3109 Ursula Avenue. **(ZBA2022-0120)**

Mr. Rivera stated the applicant was requesting a special exception for an encroachment into the 25 feet front yard setback for an existing canvas cover carport with metal supports having dimensions of 20 feet x 23 feet. The applicant states a contractor was hired to construct the carport but did not get the required building permit. The carport is to provide protection for the family vehicles from inclement weather events.

The subject property is located along the south side of Ursula Avenue, 212.5 feet east of South 32nd Street. The lot has 52 feet of frontage along Ursula Avenue and a depth of

103 feet for a lot size of 5,356 square feet. The property is zoned R-1 (single-family residential) District and a single-family residence is located on the property. Adjacent zoning is R-1 District in all directions. The surrounding land use is single family residential.

Cielo Vista Subdivision Phase I was recorded in March 2007. The required front yard setback as per plat is 25 feet. A Stop Work order was posted by Building Permits and Inspections Department on November 12, 2022 for construction work without a building permit. An application for a building permit was submitted to Building Permits and Inspections Department on November 21, 2022 and an application for a Special Exception request was submitted to the Planning Department on November 21, 2022.

The request is for a special exception to allow an encroachment of 25 feet into the 25 feet front yard setback for an existing canvas cover carport with metal supports measuring 20 feet by 23 feet and constructed over an existing concrete driveway.

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.

There is an existing two-car garage currently being used for storage space. The applicant states the existing car garage is too small to fit the family vehicles due to the size of the vehicles.

There is no alley at the rear of the property that may allow for relocation of the structure out of the front yard setback.

During the site visit, staff noticed other similar structures with encroachments in the front yard. At the Zoning Board of Adjustments and Appeals meeting of December 07, 2022, the Board approved an encroachment of 24 feet into the 25 feet front yard setback for an existing canvas carport measuring 24 feet by 21 feet at Lot 20, Cielo Vista Subdivision Phase I. Lot 20 is located to the north along Tanya Avenue.

There have been no calls or emails received in opposition of the Special Exception request.

Measurements provided are without the benefit of a survey.

Special exceptions are issued to a property owner and recorded, however a change of ownership requires the new owner to apply for their own Special Exception.

Staff recommends **disapproval** of the Special Exception request, since the character of the neighborhood would be impacted and the garage can be cleared to be used for parking.

Mr. Maximo Campos, the applicant stated he did not know he had to obtain a building permit nor the person who built his carport. He stated he built the carport because his vehicles did not fit in the garage.

Vice-Chairperson Gutierrez asked the applicant when the carport was built. Mr. Campos stated it was built a year and half ago.

Vice-Chairperson Gutierrez asked staff was this a complaint based. Mr. Rivera stated it was a stop work order placed on the property. There were several stop work orders

placed on properties on that street.

Planning Director, Mr. Garcia stated that the City started doing Saturday inspections since there was many constructions on the weekends.

Chairperson Sylvia Hinojosa asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Chairperson Sylvia Hinojosa asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Mr. Hugo Avila **moved** to approve the special exception subject to the site plan as submitted. Vice-Chairperson Jose Gutierrez seconded the motion. The Board voted unanimously to approve the special exception with five members present and voting.

- h) Request of Maria C. Valdez De Zamora for the following Special Exception and Variance requests to the City of McAllen Zoning Ordinance: **1)** A Special Exception to allow an encroachment of 16 feet into the 25 feet front yard setback for an existing metal carport measuring 11.16 feet by 15.66 feet, and **2)** a Variance to allow an encroachment of 16 feet into the 25 feet front yard setback for an existing metal porch cover measuring 10.41 feet by 15.66 feet, at Lot 111, Idela Park Unit No. 1 Subdivision, Hidalgo County, Texas; 2728 Norma Avenue. **(ZBA2022-0121)**

Mr. Rivera stated the applicant was requesting a special exception and a variance for an encroachment into the front yard setback for an existing metal carport and porch cover having combined dimensions of 21.57 feet x 15.66 feet. The applicant states a contractor was hired to construct the carport but did not get the required building permit. The carport was to provide protection for the family vehicles from inclement weather events and for the porch was to be used for shade for one of the family members with health issues.

The subject property was located along the north side of Norma Avenue, between South 27th and 28th Streets. The Lot has 50 feet of frontage along Norma Avenue and a depth of 90 feet for a lot size of 4,500 square feet. The property was zoned R-1 (single-family residential) District and a single-family residence is located on the property. The adjacent zoning is R-1 District in all directions. The surrounding land use is single family residential.

Idela Park Unit No. 1 Subdivision was recorded on February 13, 1978. The required front yard setback as per plat is 25 feet. A Stop Work order was posted by Building Permits and Inspections Department on November 09, 2022 for doing work without a building permit. An application for a building permit was submitted to Building Permits and Inspections Department on November 11, 2022 and an application for a Special Exception request was submitted to the Planning Department on November 21, 2022.

Special Exception #1: This request is for an existing metal carport encroaching 16 feet into the 25 feet front yard setback measuring 11.16 feet by 15.66 feet. There is an existing one-car carport located at the front of the property, the request is essentially for the extension of the existing carport and would allow protection for the two family vehicles from inclement weather events. There is an existing caliche alley that appears to not be traversable during rainy weather. Any relocation to the rear yard may not be feasible since the rear yard area appears to be limited by an existing 10 feet utility easement located at the rear of the property.

Variance request #2: This request is for an existing metal porch cover encroaching 16 feet in to the 25 feet front yard setback measuring 10.41 feet by 15.66 feet. According to the applicant, the structure would provide shade protection for one of the family members with health related concerns.

During the site visit, staff noticed other similar structures with encroachments in the front yard.

A review of Planning Department did not show any records for special exceptions granted in the area.

A review of Planning Department records revealed a variance granted in 1979 for an encroachment of 5 feet into the 25 feet front yard setback for a porch measuring 5 feet by 21 feet, at Lot 40, Idela Park Unit No. 1.

There have been no calls or emails received in opposition of the Special Exception request.

Measurements provided are without the benefit of a survey.

Special Exception #1: Staff recommends **approval** of the Special Exception request, since relocation would not be feasible due to limited space in the rear yard.

Variance request #2: Staff recommends **disapproval** for Variance request #2, since variances run with the land.

Board member Avila asked staff if the variance request was for the front yard. Mr. Rivera stated yes. The structure was attached but separating the request because one was for the porch and the other was for carport.

Mr. Jesus Amaya, speaking on behalf of the applicant, Maria C. Valdez De Zamora. He stated he did not have an issue with the carport. She had the carport built due to the medical condition of her son.

Chairperson asked the applicant that she was adding an extension to the side of the existing carport. The applicant stated yes. She was going to put a picnic table so that her son could sit outside under the patio.

Vice-Chairperson Gutierrez asked the applicant when the carport was built. She stated it was built last year.

Board member Mujica asked the applicant who built the carport. Mr. Amaya stated it was a neighbor but has since then moved. He stated there were others in the neighborhood that had carports.

Chairperson Sylvia Hinojosa asked if there was anyone present in favor of the special exception/variance request. There were several neighbors in favor of the special exception/variance request.

Chairperson Sylvia Hinojosa asked if there was anyone present in opposition of the special exception/variance request. There was no one in opposition of the special exception/variance request.

Board member Millan explained to the audience that each circumstances was done separately and taken into consideration. Board member Mujica explained the difference

between the special exception and a variance.

Mr. Juan Mujica **moved** to approve the special exception. Ms. Ann Tafel seconded the motion. The Board voted unanimously to approve the special exception with five members present and voting.

Mr. Juan Mujica **moved** to disapprove the variance request. Mr. Hugo Avila seconded the motion. The Board voted unanimously to disapprove the variance request. The Board voted to disapprove the variance request with four members voting aye and one member-voting nay, Vice-Chairperson Jose Gutierrez.

- i) Request of Lucero Mendoza for the following Special Exception request to the City of McAllen Zoning Ordinance to allow an encroachment of 25 feet into the 25 feet front yard setback for an existing carport measuring 16 feet by 29 feet, at Lot 78, Cielo Vista Subdivision Phase I, Hidalgo County, Texas; 3025 Ursula Avenue. **(ZBA2022-0122)**

Ms. Trevino stated the applicant was requesting a special exception in order to allow an encroachment of 25 feet into the front yard setback of 25 feet for an existing carport measuring 16 feet by 29 feet. The applicant stated the existing carport is for protection of her vehicles and her family from the weather elements.

The subject property was located along the north side of 40th Street. The property has 52 feet of frontage along Ursula Avenue and a depth of 103 feet, for a lot size of 5,356 square feet. There was an existing single-family residence on the subject property. The surrounding land use was single-family residential.

The plat for Cielo Vista Phase I was recorded in March 2, 2007. The plat states a 25 feet front yard setback. A stop work order was issued for non-compliance on April 14, 2022. An application for a building permit for the carport was submitted on November 28, 2022. An application for the special exception request was submitted on November 22, 2022.

Approval of the special exception request would allow an encroachment of 25 feet into the 25 feet front yard setback as shown in the applicant's submitted site plan. The reason for this is for safety and protection of the applicant's vehicles and family from the weather elements. The applicant stated that the one car garage that they have was used for storage.

During the site visit, staff noticed other (carports) similar encroachments along the Block. A special exception for a carport in the front was approved at the meeting of December 7, 2022 for an encroachment of 24 feet into the 25 feet front yard setback at lot 20.

The property does not have an alley, so relocation of the carport would not be possible.

Special exceptions are issued and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Staff had not received any phone calls, emails, or letters in opposition to the special exception request.

Staff recommended disapproval of the special exception request since approval of the request may encourage other neighbors to construct similar structures.

Board member Avila asked staff if there were lights under the carport. Staff stated yes. Board member Avila asked if there was electrical and did they obtain a permit. Staff stated yes there was electrical but did not have a permit for electrical installation.

Ms. Lucero Mendoza, the applicant stated she saw others in the neighborhood that had carports. She stated at the time of buying the house there was no carport or patio neither the front nor the back. Ms. Mendoza stated they had three vehicles and one a one-car garage. She did have two small children and need protection for her vehicles as well. She stated she asked someone to build it and never asked if he had a permit.

Vice-Chairperson Gutierrez asked the applicant when carport was built. She stated it was built a year ago after she bought the house.

Board member Mujica mentioned to the applicant that they had concerns with the electrical. If the contractor were licensed by the State, they would have known to have a permit. Without the license, it could cause damage to the structure and house.

Mr. Austin Stevenson, Legal stated if the request were approved, the applicant would still have to obtain the building permit and a citation for an electrical work without a permit. If the original person who did the work were not an electrician, before dismissing the case, a licensed electrician would have to go and inspect it and verify the work.

Chairperson Sylvia Hinojosa asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Chairperson Sylvia Hinojosa asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

The applicant fulfills Mr. Sam Saldivar moved to approve the special exception request as submitted with all requirements by the applicant. Vice-Chairperson Jose Gutierrez seconded the motion. The Board voted unanimously to approve the special exception with five members present and voting.

- j) Request of Onesimo Pulido for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 10 feet into the 10 feet rear yard setback for an existing carport measuring 13 feet by 23 feet at Lot 56, Cielo Vista Subdivision Phase I, Hidalgo County, Texas; 3001 Teresa Avenue. **(ZBA2022-0124)**

Ms. Trevino stated the applicant was requesting a special exception in order to allow an encroachment of 10 feet into the 10 feet rear yard setback and utility easement of for an existing carport measuring 13 feet by 23 Feet. The applicant stated the existing carport is for safety and protection of his vehicles and his family from the heat and weather elements.

The subject property was located along the south side of Teresa Avenue. The property had 56.50 feet of frontage along Teresa Avenue and a depth of 103 feet, for a lot size of 5,819.5 square feet. There was an existing single-family residence on the subject property. The surrounding land use is single-family residential.

The plat for Cielo Vista Subdivision Phase I was recorded in March 2, 2007. The Subdivision plat note state a 10 feet rear yard setback. A stop work order was issued

September 15, 2022. An application for a building permit for the carport was submitted on September 22, 2022. An application for the Abandonment of the easement was submitted on November 2, 2022. An application for the special exception request was submitted on November 30, 2022.

Approval of the special exception request would allow an encroachment of 10 feet into the 10 feet rear yard setback as shown in the applicant's submitted site plan (carport is built all the way to the property line). The reason for this request is for the safety and protection of the applicant vehicles and family when they are outside.

During the site visit, staff noticed other (carports) similar encroachments along the Block. A special exception for a carport in the front was approved at the meeting of December 7, 2022 for an encroachment of 24 feet into the 25 feet front yard setback at lot 20.

There was a 10 feet utility easement adjacent to the rear property line and the carport encroaches in to this utility easement. An application for utility abandonment has been submitted and was being processed.

Special exceptions are issued and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Staff had not received any phone calls, emails, or letters in opposition to the special exception request.

Staff recommended disapproval of the special exception request pending the result of the abandonment application request. Approval of the special exception request may encourage other property owners to build similar structures.

Board member Tafel asked if they could table it until the issue with utility abandonment was resolved. Planning Director, Mr. Edgar Garcia stated the abandonment process takes up to 4 to 6 months. If the utility easement was abandoned sooner than 6 months, they would allow the applicant to reapply. Even if the Board chooses to approve it, they would not be able to get a building permit because of the easement.

Board member Saldivar asked staff if the carport had gutters. Ms. Trevino stated there was a 6 inch gap and the applicant stated the rain would fall into their property and not the neighbor.

Mr. Onesimo Pulido, the applicant stated he built the carport for protection for vehicles and a play area for his children since he did not have much of front yard. He did not know he needed to obtain a building permit. He stated a contractor built the carport.

Board member Mujica stated he had concerns regarding the drainage of the water. Did it go to the street? Mr. Pulido stated it was not concrete they were pavers.

Ms. Yesenia Ramirez, 3105 Tanya Avenue. She stated when the residents bought their lots the back part of the grass would go down into a ditch. Therefore, they decided to fill it up with dirt so that the water would flow towards the street. She stated they do not have alleys. They have one-car garages.

Chairperson Sylvia Hinojosa asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Chairperson Sylvia Hinojosa asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Following discussion, Ms. Ann Tafel moved to disapprove the special exception. Vice-Chairperson Jose Gutierrez seconded the motion. The Board voted unanimously to disapprove the special exception with four members voting aye and one member-voting nay, Mr. Hugo Avila.

- k) Request of Martin Saavedra for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 18 feet into the 20 feet front yard setback for an existing carport measuring 18 feet by 20 feet, on Lot 78, Arrowhead Subdivision Phase II, Hidalgo County, Texas; 2921 North 40th Street. **(ZBA2022-0128)**

Ms. Trevino stated the applicant was requesting a special exception in order to allow an encroachment of 18 feet into the front yard setback of 20 feet for an existing carport measuring 18 feet by 20 feet. The applicant stated the existing carport was for safety and protection of a disabled elderly person.

The subject property was located along the north side of 40th Street. The property has 51 feet of frontage along North 40th Street and a depth of 100 feet, for a lot size of 5,100 square feet. There was an existing single-family residence on the subject property. The surrounding land use is single-family residential.

The plat for Arrowhead Subdivision Phase 2 was recorded in March 5, 1999. The plat state a 20 feet front yard setback. A stop work order was issued April 20, 2022. An application for a building permit for the carport was submitted on April 20, 2022. An application for the special exception request was submitted on December 6, 2022.

Approval of the special exception request would allow an encroachment of 18 feet into the 20 feet front yard setback as shown in the applicant's submitted site plan. The reason for this is for safety and protection of a disabled elderly person. The applicant stated that the infrastructure company performed an inspection on the property and determined that gas pipes do not exist on the property and no other cables or drainage pipes would be affected by the carport location. An abandonment application was still pending submission at this time.

During the site visit, staff noticed two other (carports) similar encroachments in the Block, however there are no permits, variances or special exceptions on file.

The property does not have a garage nor an alley, so relocation of the carport would not be possible.

Special exceptions are issued and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Staff had not received any phone calls, emails, or letters in opposition to the special

exception request.

Staff recommended disapproval of the special exception request pending abandonment application.

Mr. Martin Saavedra, the applicant stated he built the carport for the protection of his elderly mother-in-law who lives with them. He asked someone to build his carport not knowing he needed a building permit. Mr. Saavedra stated it was built February 2022.

Chairperson Sylvia Hinojosa asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Chairperson Sylvia Hinojosa asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Mr. Juan Mujica **moved** to table the special exception until the next meeting providing modifications. Mr. Hugo Avila seconded the motion. The Board voted unanimously to table the variance request with five members present and voting.

- I) Request of Bellanira W. Murillo for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 1 foot in the 10 feet rear yard setback, and 5 feet in to the 10 feet side yard setback at Lot 47, Northgate Crossing Subdivision Phase II, Hidalgo County, Texas; 9002 North 22nd Lane. **(ZBA2022-0129)**

Ms. Trevino stated the applicant was requesting a special exception in order to allow an encroachment of 1 foot into the rear yard setback, and 5 feet into the 10 feet side yard setback 26 for an existing carport measuring 8 feet by 30 feet. The applicant stated that the carport is used for protection of her vehicles, as it is difficult due to the layout of the home for her to park her vehicles in the garages and for her children to have a shaded area to play.

The subject property was located along the North side of Kingsborough Avenue. The property has 74.89 feet of frontage along North 22nd Lane and a depth of 126 feet, for a lot size of 9,436.14 square feet. There is an existing single-family residence on the subject property. The surrounding land use is single-family residential.

The plat for Northgate Crossing Subdivision Phase II was recorded in April 11, 2006. A stop work order was issued for non-compliance for the carport on August 29, 2022. An application for a building permit for the carport was submitted on August 29, 2022. An application for the special exception request was submitted on December 7, 2022.

Approval of the special exception request would allow an encroachment of 1 foot into the 10 feet rear yard setback and 5 feet into the 10 feet side yard setback as shown in the applicant's submitted site plan. The reason for this request is to allow the applicant to provide protection for her vehicles and her children.

During the site visit, staff did not notice any other similar encroachments in the Block, additionally; there are no permits, variances or special exceptions on file.

The property does not have an alley so relocation of the carport would not be possible.

Measurements provided are without the benefit of a survey.

Special exceptions are issued and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Staff had not received any phone calls, emails, or letters in opposition to the special exception request.

Staff recommended disapproval of the special exception request since it may encourage other property owners to construct similar structures.

Chairperson Hinojosa asked staff if there were any utility issues. Ms. Trevino stated there was none.

Chairperson Sylvia Hinojosa asked if there was anyone present in favor of the special exception. There was no one else in favor of the special exception.

Chairperson Sylvia Hinojosa asked if there was anyone present in opposition of the special exception. There was no one in opposition of the special exception.

Following discussion, Mr. Sam Saldivar **moved** to approve the special exception request providing the requirements. Mr. Hugo Avila seconded the motion. The Board voted unanimously to approve the special exception with five members present and voting.

- m)** Request of David Omar Salinas on Behalf of Maria Eugenia Zabaleta (owner) for the following Variance request to the City of McAllen Off-Street Parking and Loading Ordinance to allow 5 parking spaces instead of the required 10 parking spaces for proposed commercial use at Lot 8, Floyd Bennet Subdivision, Hidalgo County, Texas; 1605 North 6th Street. **(ZBA2022-0118)**

Vice-Chairperson Jose Gutierrez **moved** to remove the item from the table. Mr. Hugo Avila seconded the motion. The Board voted unanimously to remove the item from the table with five members present and voting.

Ms. Sanchez stated the applicant requests the following variance to allow five parking spaces instead of the required ten parking spaces. The applicant indicated that he is requesting the above variance to “permit orderly development of existing commercial building”.

The property was located on the west side of North 6th Street, approximately 100 feet north of Pecan Boulevard. The property had 65 feet of frontage along North 6th Street and 113.63 feet of depth for a tract size of 7,385.95 square feet. The property was zoned C-1 (office building) District. The zoning was C-1 District to the north and south, and R-1 (single-family residential) District to the east and west.

The recorded plat was Floyd Bennett Subdivision. A variance application for the proposed five parking spaces instead of the required 10 was received on November 16, 2022.

The variance request was to allow five parking spaces instead of the required 10 parking spaces. The proposed facility will consist of two-floors with the total square footage being 2,522. Based on the square footage of the floor area, 10 parking spaces are required. Section 138-395 requires four parking spaces for up to 400 square feet of floor area plus one parking space for each additional 400 square feet of floor area.

The submitted site plan reveals ten parking spaces; however, the five parking spaces located at the rear of the property are located in the 50-foot canal right-of way, which is under Hidalgo County Irrigation District #3 ownership. The irrigation district will permit parking spaces to be located within the canal right-of-way; however, will not provide a letter indicating consent of the use of the canal right-of-way.

Planning Department had received one phone call in opposition to the request as the citizen expressed concern that the reduction in parking spaces will cause customers to park in their driveways or block alleys.

Staff recommended disapproval of the variance request since the Hidalgo County Irrigation District will not provide a letter to use the canal right-of-way, and approval of the variance request may encourage others to not comply with the parking and maneuvering requirement.

Ms. Sanchez stated that she handed images to Chairperson Hinojosa provided by the applicant. The images were to depict what was currently on site as well as the adjacent property, which had similar characteristics of the parking lot he was requesting to have for subject property.

Chairperson Hinojosa asked staff if the picture she had was the property next door. Ms. Sanchez stated it was a mixture of both. The first two pictures are neighbors near Pecan Boulevard. The third picture was the front of the client, which was 1615 North 6th Street. The applicant also provided pictures of the neighbors on the south side along with pictures of the subject property, which did have a fence in the back yard.

Mr. David Omar Salinas, representative for Maria Eugenia Zabaleta. He stated the site plan showed it had parking in the rear and parking in the front. In order to meet the parking requirements, the applicant needed 10 parking spaces. Mr. Salinas stated the property to the south was another size building with the exact same parking lot as theirs. The issue was the access to the rear was a long canal right-of-way. It ran from Pecan Boulevard to Redwood Avenue. He stated it looked like an alley; City vehicles go and pick up trash. There were utilities and power lines. However, it was an irrigation district right-of-way. He stated north of the property, there were residential lots. Mr. Salinas stated the business was going to be spa and by appointment. There would be 2 or 3 employees.

Board member Tafel asked Mr. Salinas if the 5 parking spaces in front were going to be used for customers, employees or both. Mr. Salinas stated the rear parking might be used for the employees.

Board member Avila asked Mr. Garcia those other buildings that are existing now next to the subject property, if they tore it down they would have to comply with all new ordinances. Mr. Garcia stated the property to the south did receive a permit recently. They were meeting all their parking off Pecan Boulevard. The reason they had pavement in the back through the alley and was being used it was permitted. In addition, the variance request that is to be taken action on was would it fine for the property owner to have 5 parking spaces instead of 10.

Following discussion, Mr. Hugo Avila moved to table the variance request until . Ms. Ann Tafel seconded the motion. The Board voted unanimously to table the variance request with five members present and voting.

- n) Request of Luis D. Waldo on Behalf of Rene Castellanos (owner) for the following Variance request to the City of McAllen Vegetation Ordinance to allow the required landscaped area to be synthetic grass instead of natural grass at Lot 17, Vineyard Estates Subdivision Phase 1A, Hidalgo County, Texas; 3817 Cosentino Drive. **(ZBA2022-0126) (TABLED: 12/21/2022)**

This item was to remain tabled until the next meeting.

4. FUTURE AGENDA ITEMS:

- a) 2005 Galveston Avenue
- b) 5912 North 35th Street
- c) 100 East Kerria Avenue
- d) 2732 Norma Avenue
- e) 208 North 4th Street
- f) 1718 Maple Avenue

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Chairperson Sylvia Hinojosa **moved** to adjourn the meeting.

Chairperson Sylvia Hinojosa

Carmen White, Administrative Assistant

Memo

TO: Zoning Board of Adjustment & Appeals

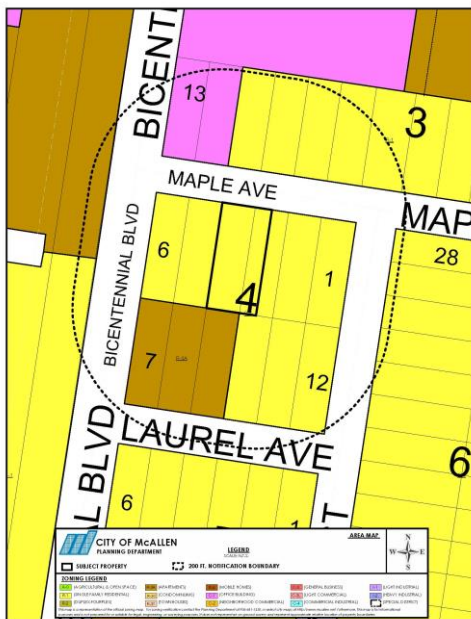
FROM: Planning Staff

DATE: January 12, 2023

SUBJECT: REQUEST OF LAURO PEREZ FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 24 FEET INTO THE 30 FEET FRONT YARD SETBACK FOR AN EXISTING CARPORT MEASURING 24 FEET BY 26.8 FEET, AT THE WEST ½ OF LOT 3, & ALL OF LOT 4, BLOCK 4, MILMOR SUBDIVISION, HIDALGO COUNTY, TEXAS; 1713 MAPLE AVENUE. (ZBA2022-0136)

REASON FOR APPEAL:

The applicant is requesting a special exception in order to allow an encroachment of 24 feet into the front yard setback of 30 feet for an existing metal carport measuring 24 feet by 26.8 feet. The applicant is appealing to keep his metal carport to protect his vehicles from the inclement weather events.



PROPERTY LOCATION AND VICINITY:

The subject property is located along the south side of Maple Avenue, between Bicentennial Boulevard and 17th street. According to the subdivision plat, the property has 75 feet of frontage along Maple Avenue with a depth of 160 feet, for a lot size of 12,000 square feet. The surrounding land use is single-family residential with commercial use to the north across Maple Avenue and apartment use adjacent to the south.

BACKGROUND AND HISTORY:

The plat for Milmor Addition was recorded on May 26, 1927. According to Hidalgo County Appraisal District, the existing home was built in 1999. A stop work order was issued by the Building Permits and Inspections Department on August 14, 2022 for construction of a carport without a permit. A Building Permit application was submitted on December 2, 2022. The application for the special exception request was submitted on December 21, 2022.

ANALYSIS:

According to Section 138-367 (a), “when 50 percent or more of the frontage on one side of a street on any one block is improved with buildings that have front yard which is greater than the required front yard in the district, no new building shall project beyond the average front yard so established...” Approval of the special exception request would allow an encroachment of 24 feet into the 30 feet front yard setback as shown in the applicant’s submitted site plan.

According to the subdivision plat, there are no dedicated easements adjacent to the front property line of the subject property.

During the site visit, staff noticed similar encroachments, namely carports, located at the front yard within the area (including the adjacent property). The existing carport on the subject property would be characteristic of construction within the area.

At the Zoning Board of Adjustment and Appeals meeting of September 21, 2022 a special exception request was approved for a carport encroachment of 26 feet in to the 31 feet front yard setback at Lot 5, Block 4, Milmor Addition.

There is an existing garage as part of the residence. According to the applicant, the existing garage is used for storage of his motorcycle and household items.

Special exceptions are issued and recorded for the present property owner. A new property owner would need to apply for their own special exception request.

All measurements were taken without the benefit of a survey.

Staff has not received any phone calls, emails, or letters in opposition to the special exception request.

RECOMMENDATION:

Staff recommends approval of the special exception request, limited to the encroachment shown on the submitted site plan. There are other carports within the area. The existing carport would not be breaking with the existing character of the subdivision.

1-18-23
ZBA



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Milmor w 1/2 - Lot 3 & All Lot 4 Bk 4
Subdivision Name Milmor
Street Address 1713 W Maple Ave
Number of lots 1 Gross acres —
Existing Zoning R-1 Existing Land Use Residential
Reason for Appeal (please use other side if necessary) Carport encroaching into Frontyard Set back
☒ \$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 LAURO PEREZ Phone (956) 240-4701
Address 1713 W MAPLE AVE E-mail biglar113@sbcglobal.net
City McAllen State — Zip 78501

Owner

Name Same 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 LAURO PEREZ

Date 12/21/22

Print Name LAURO PEREZ

☒ Owner ☐ Authorized Agent

Office

Accepted by SJT

Payment received by —

Date INTERED

Rev 09/20

DEC 21 2022

Initial: DP



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider **any combination of** the following: (Please use an additional page if necessary to complete responses)

**Information provided here by the applicant does not guarantee that the Board will grant a variance.

***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

Protect vehicles, from Hail, Heat, Tree damage, Elements

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

Again to Help protect my vehicles from the elements.

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

My neighbors have a carport as well and have no problem with ours.

4. Describe special conditions that are unique to this applicant or property:

We have 3 vehicles and a motorcycle and only the motorcycle fits ^{in garage} ~~in garage~~ our cars are left out with no protection from Elements.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

W. Maple Ave

Exist. 4' Sidewalk

EXIST.
R.O.W.
MAPLE
AVE.

2' - R.O.W.
TO CARPORT
OVERHANG

Exist. 4' Sidewalk

Exist. 4' Sidewalk

12.5'
R.O.W.
TO B/C

(4) 4"x4"
METAL COLUMN
W/ CONC.
ANCHORS

24'x26.8'
COVERED
CARPORT ON
CONCRETE

Existing
House

Prepared by:

Spoor Engineering Consultants, Inc.

Consulting Engineers - Civil Land Planning

FIRM # F-6003

202 South 4th. Street McAllen, Texas 78501

SEC@spooreng.com

(956) 683 1000



Date: 18 NOV 2022
Scale: 1"= 20'

MAP OF



1713 Maple Ave - All of Lot 4 and the West 1/2 of Lot 3, Block 4, Millmor
Addition to McAllen

Sheet No. C-1









NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA 2022-0136

1713

**ITEM
TABLED**

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: December 19, 2022

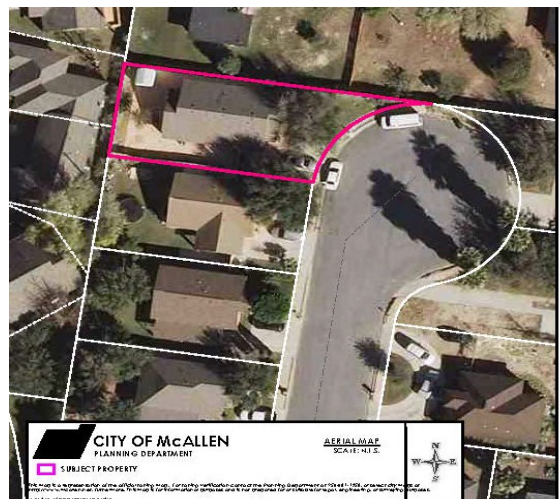
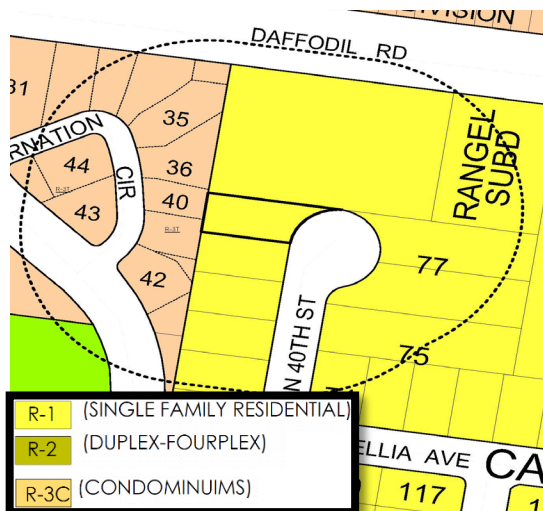
SUBJECT: REQUEST OF MARTIN SAAVEDRA FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 18 FEET INTO THE 20 FEET FRONT YARD SETBACK FOR AN EXISTING CARPORT MEASURING 18 FEET BY 20 FEET, AT LOT 78, ARROWHEAD SUBDIVISION PHASE II, HIDALGO COUNTY, TEXAS; 2921 NORTH 40TH STREET. (ZBA2022-0128)

REASON FOR APPEAL:

The applicant is requesting a special exception in order to allow an encroachment of 18 feet into the front yard setback of 20 feet for an existing carport measuring 18 feet by 20 feet. The applicant stated the existing carport is for safety and protection of a disabled elderly person.

PROPERTY LOCATION AND VICINITY:

The subject property is located along the north side of 40th Street. The property has 51 feet of frontage along North 40th Street and a depth of 100 feet, for a lot size of 5,100 square feet. There is an existing single-family residence on the subject property. The surrounding land use is single-family residential.



BACKGROUND AND HISTORY:

The plat for Arrowhead Subdivision Phase 2 was recorded in March 5, 1999. The plat state a 20 feet front yard setback. A stop work order was issued April 20, 2022. An application for a building permit for the carport was submitted on April 20, 2022. An application for the special exception request was submitted on December 6, 2022.

ANALYSIS:

Approval of the special exception request would allow an encroachment of 18 feet into the 20 feet front yard setback as shown in the applicant's submitted site plan. The reason for this is for safety and protection of a disabled elderly person. The applicant stated that the infrastructure company performed an inspection on the property and determined that gas pipes do not exist on the property and no other cables or drainage pipes would be affected by the carport location. An abandonment application is still pending submission at this time.

During the site visit, staff noticed two other (carports) similar encroachments in the Block, however there are no permits, variances or special exceptions on file.

The property does not have a garage nor an alley, so relocation of the carport would not be possible.

Special exceptions are issued and recorded for the present applicant/owner only. New owners would need to apply for a new special exception request.

Staff has not received any phone calls, emails, or letters in opposition to the special exception request.

RECOMMENDATION:

Staff recommends disapproval of the special exception request pending abandonment application.

ZBA 1/5/23



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

ZBA 2022-0128

Project

Legal Description

= Arrowhead PH 2 LOT 78

Subdivision Name

Arrowhead

Street Address

2921 N. 40th St

Number of lots

Lot 78

Gross acres

0

Existing Zoning

R.1

Existing Land Use

Single Family Residential

Reason for Appeal (please use other side if necessary)

Keep carport for safety and security of elderly disabled person while walking.

☒ \$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 Martin Saavedra

Phone (956) 342-8140

Address 2921 N. 40th St.

E-mail martin.savedra1001@gmail.com

City McAllen

State TX

Zip 78501

Owner

Name Martin Saavedra

Phone (956) 342-8140

Address 2921 N. 40th St.

E-mail martin.savedra1001@gmail.com

City McAllen

State TX

Zip 78501

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

Date 12/05/2022

Print Name

Martin Saavedra

☒ Owner☐ Authorized Agent

Office

Accepted by

Payment received by

Date DEC 06 2022

Rev 10/18

BY:



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider **any combination** of the following: (Please use an additional page if necessary to complete responses)

****Information provided here by the applicant does not guarantee that the Board will grant a variance.**

*****Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.**

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

There is an elderly disabled person living on property that requires carport as a safety measure.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

Due to the trees planted on both ends of property, carport is utilized to avoid seeds from trees falling on driveway and causing elderly disabled person to slip/fall.

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

Infrastructure company came to property to perform an inspection and determined that any drainage and cables are not affected and gas pipes do not exist on property.

4. Describe special conditions that are unique to this applicant or property:

The daily usage of driveway by elderly disabled person is the special condition to why we would like to preserve the carport.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date



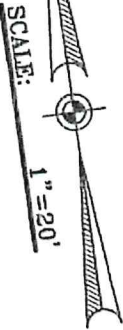
ART SALINAS
ENGINEERING & SURVEYING

1524 DOVE AVENUE,

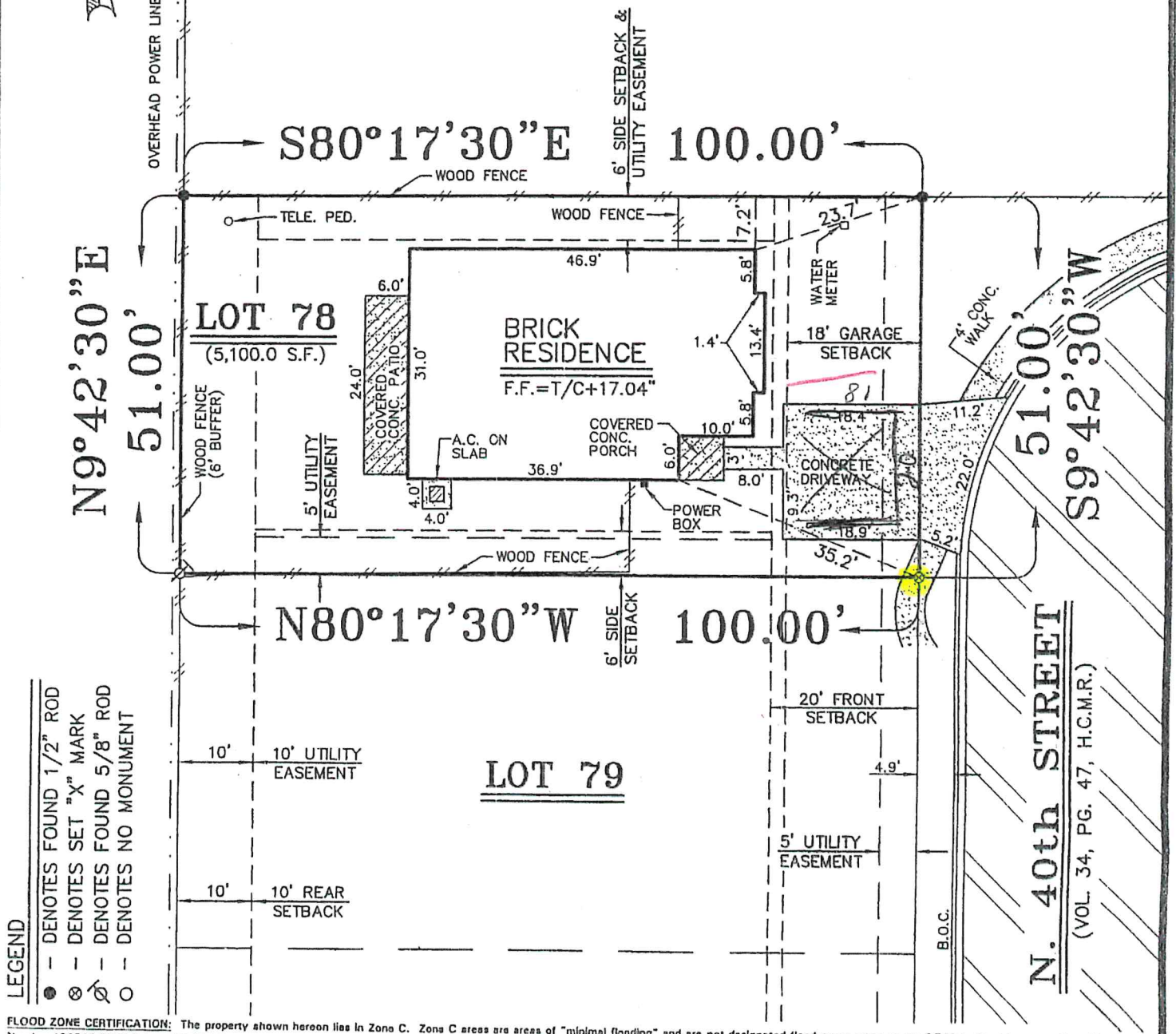
McALLEN, TEXAS 78504

PH: (956) 618-5565

FAX: (956) 618-5540



LA LOMITA IRR. & CONST. CO.
(VLO. 24, PG. 68, H.C.D.R.)







NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA 2022-0128
CITY OF MCALLEN PLANNING DEPT
956-681-1256
WWW.MCALLENNET

2921

WITHDRAWN

Memo

TO: Zoning Board of Adjustment & Appeals

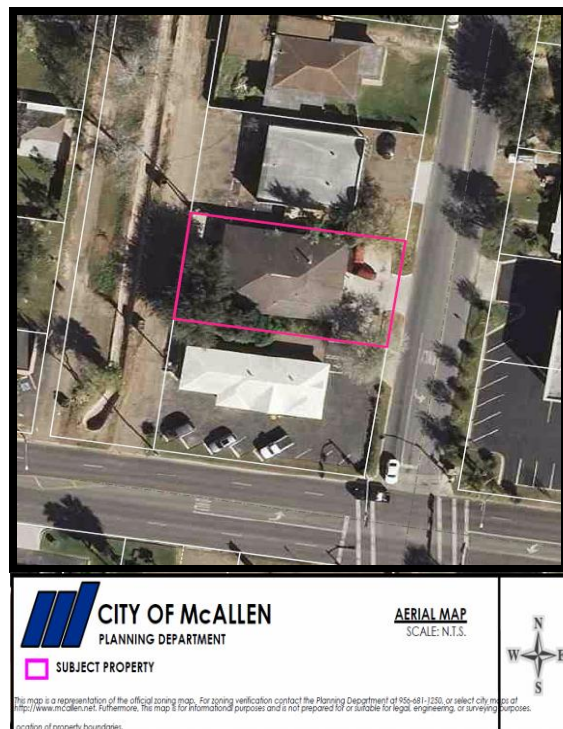
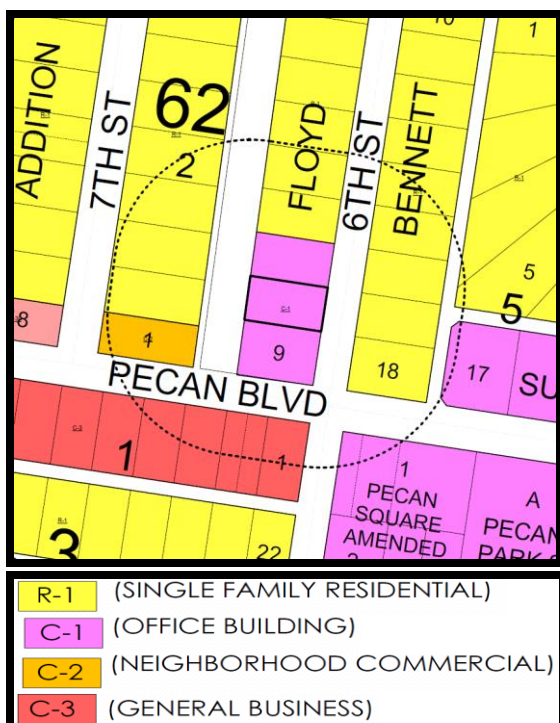
FROM: Planning Staff

DATE: December 12, 2022

SUBJECT: Request of David Omar Salinas on Behalf of Maria Eugenia Zabaleta (owner) for the following Variance request to the City of McAllen Off-Street Parking and Loading Ordinance to allow 5 parking spaces instead of the required 10 parking spaces for proposed commercial use at Lot 8, Floyd Bennet Subdivision, Hidalgo County, Texas; 1605 North 6th Street. (ZBA2022-0118)

REASON FOR APPEAL: The applicant requests the following variance to allow five parking spaces instead of the required ten parking spaces. The applicant indicated that he is requesting the above variance to “permit orderly development of existing commercial building”.

PROPERTY LOCATION AND VICINITY: The property is located on the west side of North 6th Street, approximately 100 feet north of Pecan Boulevard. The property has 65 feet of frontage along North 6th Street and 113.63 feet of depth for a tract size of 7,385.95 square feet. The property is zoned C-1 (office building) District. The zoning is C-1 District to the north and south, and R-1 (single-family residential) District to the east and west.



BACKGROUND AND HISTORY: The recorded plat is Floyd Bennett Subdivision. A variance application for the proposed five parking spaces instead of the required 10 was received on November 16, 2022.

ANALYSIS: The variance request is to allow five parking spaces instead of the required 10 parking spaces. The proposed facility will consist of two-floors with the total square footage being 2,522. Based on the square footage of the floor area, 10 parking spaces are required. Section 138-395 requires four parking spaces for up to 400 square feet of floor area plus one parking space for each additional 400 square feet of floor area.

The submitted site plan reveals ten parking spaces; however, the five parking spaces located at the rear of the property are located in the 50-foot canal right-of way, which is under Hidalgo County Irrigation District #3 ownership. The irrigation district will permit parking spaces to be located within the canal right-of-way; however, will not provide a letter indicating consent of the use of the canal right-of-way.

Planning Department has received one phone call in opposition to the request as the citizen expressed concern that the reduction in parking spaces will cause customers to park in their driveways or block alleys.

RECOMMENDATION: Staff recommends disapproval of the variance request since the Hidalgo County Irrigation District will not provide a letter to use the canal right-of-way, and approval of the variance request may encourage others to not comply with the parking and maneuvering requirement.

ZBA 2022-0118

ZBA: 12.21.22



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description ALL OF LOT 8,

Subdivision Name FLOYD BURNETT SUBD.

Street Address 1605 N. 6TH ST.

Number of lots 1 Gross acres 0.17

Existing Zoning C-1 Existing Land Use OFFICE BUILDING

Reason for Appeal (please use other side if necessary) NOT TO PROVIDE 10 PARKING SPACES - TO PERMIT ONLY 5 PARKING SPACES

☒ \$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 DAVID OMAR SALINAS Phone 682-9081

Address 2221 DAFFODIL AVE. E-mail hsalinas@salinasengineer

City MCALLEN State TX Zip 78501 146.COM

Owner

Name MARIA EUGENIA ZABALETA Phone 956-375-4695

Address 4909 JUND DR. E-mail MARUCABALETA@

City EDINBURG State TX Zip 78540 LIVE.COM

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 11/16/22Print Name DAVID OMAR SALINAS☐ Owner☒ Authorized Agent

Office

Accepted by _____

Payment received by _____

Date

ENTERED

Rev 10/18

NOV 16 2022

Initial: NM



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

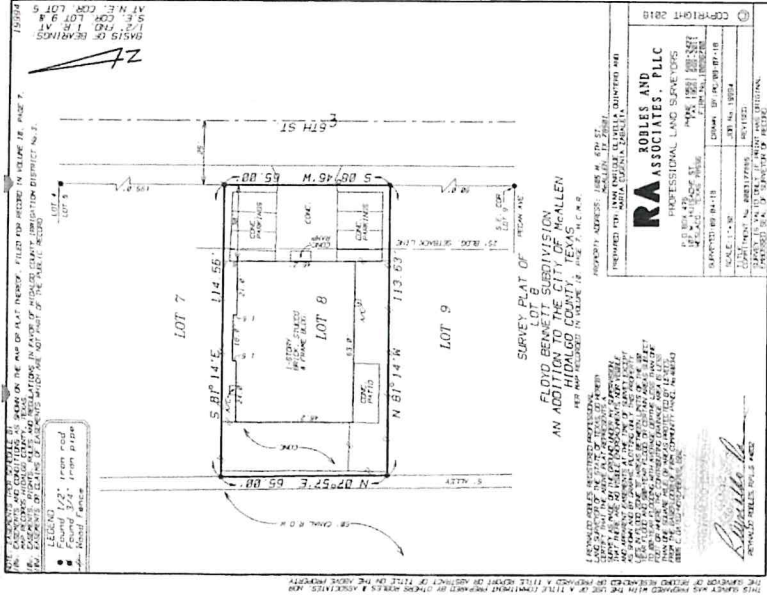
Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: (Please use an additional page if necessary to complete responses)</p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>	
	1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:	
	HCID #3 WILL PERMIT PARKING AT REAR OF LOT 8 BUT WILL NOT PROVIDE LETTER	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	APPROVAL OF VARIANCE WILL PERMIT ORDERLY DEVELOPMENT OF EXIST. COMMERCIAL BUILDING	
	3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:	
	APPROVAL OF VARIANCE DOES NOT AFFECT THE HEALTH, SAFETY OR WELFARE OF GENERAL PUBLIC	
	4. Describe special conditions that are unique to this applicant or property:	
	REAR OF PROPERTY IS ADJACENT TO HCID #3 CANAL ROW	
	Board Action	
Chairman, Board of Adjustment Signature _____		Date _____

Rev. 9/20

ENTERED

NOV 16 2022

Initial: NM



Engineer Plat Survey (Previous Existing Building)

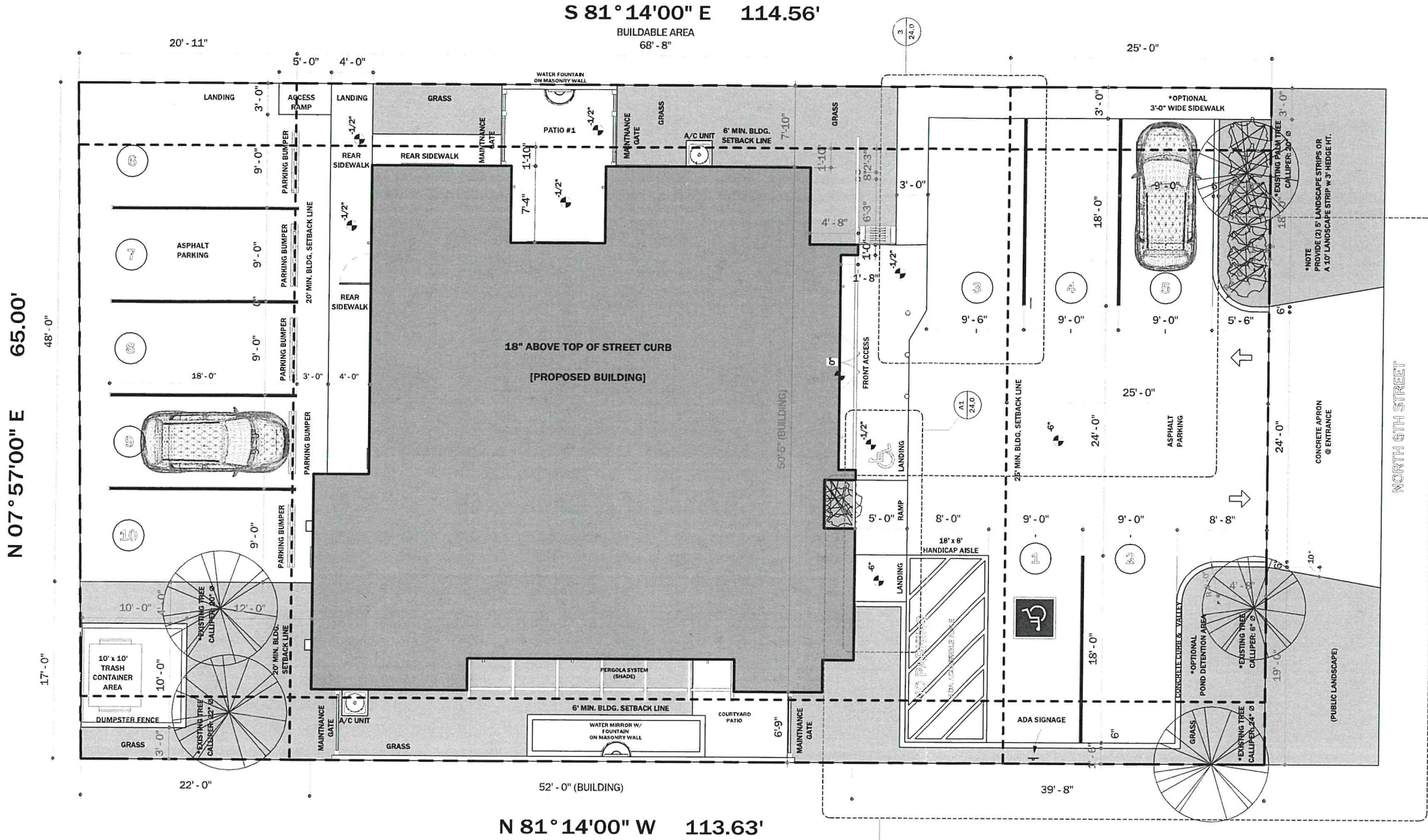


Property Information (123915)
Owner Name: QUINTERO IVAN E OLIVELLA
& MARIAE ZABALETA
Doing Business As: STRAWBERRY PATCH
ADULT DAYCARE
Property Identification Number: 123915
Geo Identification Number: B2500-00-000-0008-00
Legal Description: FLOYD BENNETT LOT 8
State Code: F1
Address: 1605 N 6TH ST MCALLEN, TX
Taxing Jurisdictions: DR1, CAD, SML, GHD
CIVIL, JCC, R12, SST
Appraised Value: \$106,512.00
Neighborhood: BENNETT
Abstract Code: B250000

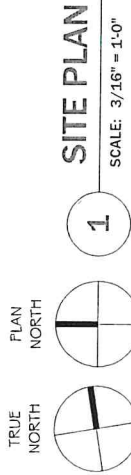
PROPERTY INFORMATION

BUILDING AREA	
AREA	SQ. FT.
1st Floor:	2,226
2nd Floor:	296
Total	2,522

LEGEND	
AREA	SQ. FT.
Lot Size:	7,410
Private Green Area:	20%
Public Green Area:	436
Concrete Apron:	292
Parking Area #1: (5 Slots)	1,818
Parking Area #2: (5 Slots)	996
Optional Sidewalk:	146
Front Building Access:	241
Rear Building Access:	158
Patio #1:	65
Patio #2:	156
Waste Container Pad:	60



S 08° 46'00" W 65.00' 6th Street



LOT 08
7410 SQ. FT.
0.1701 ACRE(S)

Legal Description: of Floyd Bennett Subdivision, Hidalgo County, McAllen, Texas

Address: 1605 N. 6th Street, McAllen, TX 78501

Legend	
PROPERTY LINE	---
SETBACK LINE	---
EASEMENT LINE	---
CALLOUT LINE	---

SHEET:

02

del Arq. Group LLC

Phone #: (956)209-2145 Email: arqu@delarq.com

This project design and specifications are and shall remain the property of del Arq. Group LLC. They shall not be reused, reproduced or altered in any way, without the prior written approval and with appropriate compensation to "del Arq. Group LLC".



houzz
I HEREBY CERTIFY THAT THIS DRAWING OR PLAN AND RELATED SPECIFICATIONS MEET ALL LOCAL CODES, REQUIREMENTS AND ARE IN CONFORMITY WITH A MINIMUM PROPERTY REQUIREMENTS.
ID # 16-1322-SAD CORNELIO RIOS
SBCCO PROFESSIONAL MEMBER #24573
MEMBER SINCE 1994

DATE: MAY 2022
PROJECT NO.: IM-COMM-03-22
REGISTRATION NO: 22526
ARCHITECTURAL DESIGNER: Cornelio Rios
ARCHITECTURAL DRAFTER: Alec Rios
REVISIONS: d A G
NOTES:
*REVISED - JUNE 2022
*PLANNING & ZONING REQUIREMENT:
- REAR SETBACK INCREASE BY 2'-0"
- TREE CALLIPER SIZE
- PERMIT FROM IRRIGATION DISTRICT FOR REAR PARKING ACCESS



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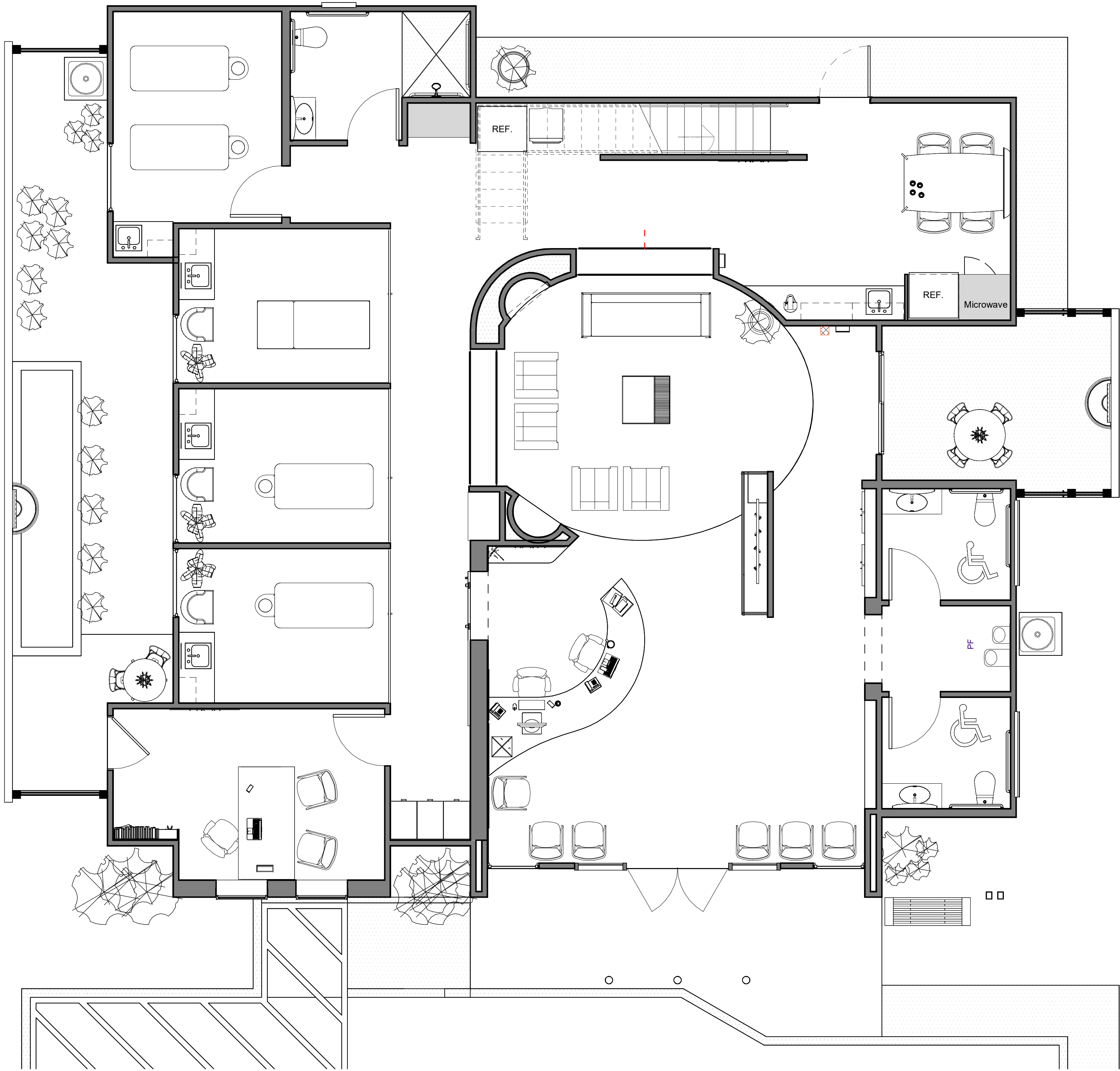
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 - Beauty Products
 - Creams
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For additional information call Owner, Architectural Designer for info.

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AREA	SQ. FT.
Lot Size:	7,410
Green Area:	1,444
Concrete Apron:	301
Parking Area #1: (5 Slots)	1,872
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Courtyard (Pavers):	61
Patio:	137
Waste Container Pad:	60

BUILDING AREA	
AREA	SQ. FT.
1st Floor:	2320
2nd Floor:	310
Total	2,630



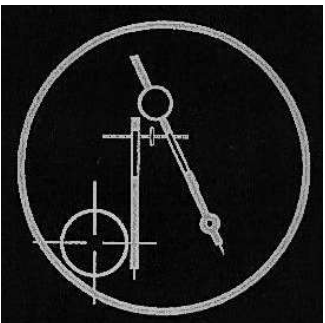
TRUE
NORTH

PLAN
NORTH

1

Arch. Floor Plan - 1F

SCALE: 1/4" = 1'-0"



houzz

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ID # VA-1322-SAO CORNELIO RIOS
SBCO PROFESSIONAL MEMBER #24973
MEMBER SINCE 1994

DATE: MARCH 2022

PROJECT NO.: IM-COMM-03-22

REGISTRATION NO 22525

ARCHITECTURAL DESIGNER Cornelio Rios

ARCHITECTURAL DRAFTER Alec Rios

REVISIONS d A G

NOTES:

Client Name(s):
Ivan Olivella & Maria Zabaleta

PROJECT:
Face Fresh Medspa & Boutique

ADDRESS
1605 N. 6th Street, McAllen, Tx.

del Arq. Group LLC

Phone #: (956)205-2145 Email: arquit@live.com
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SHEET:

04

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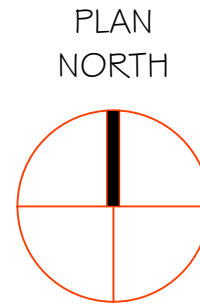
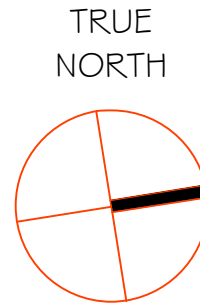
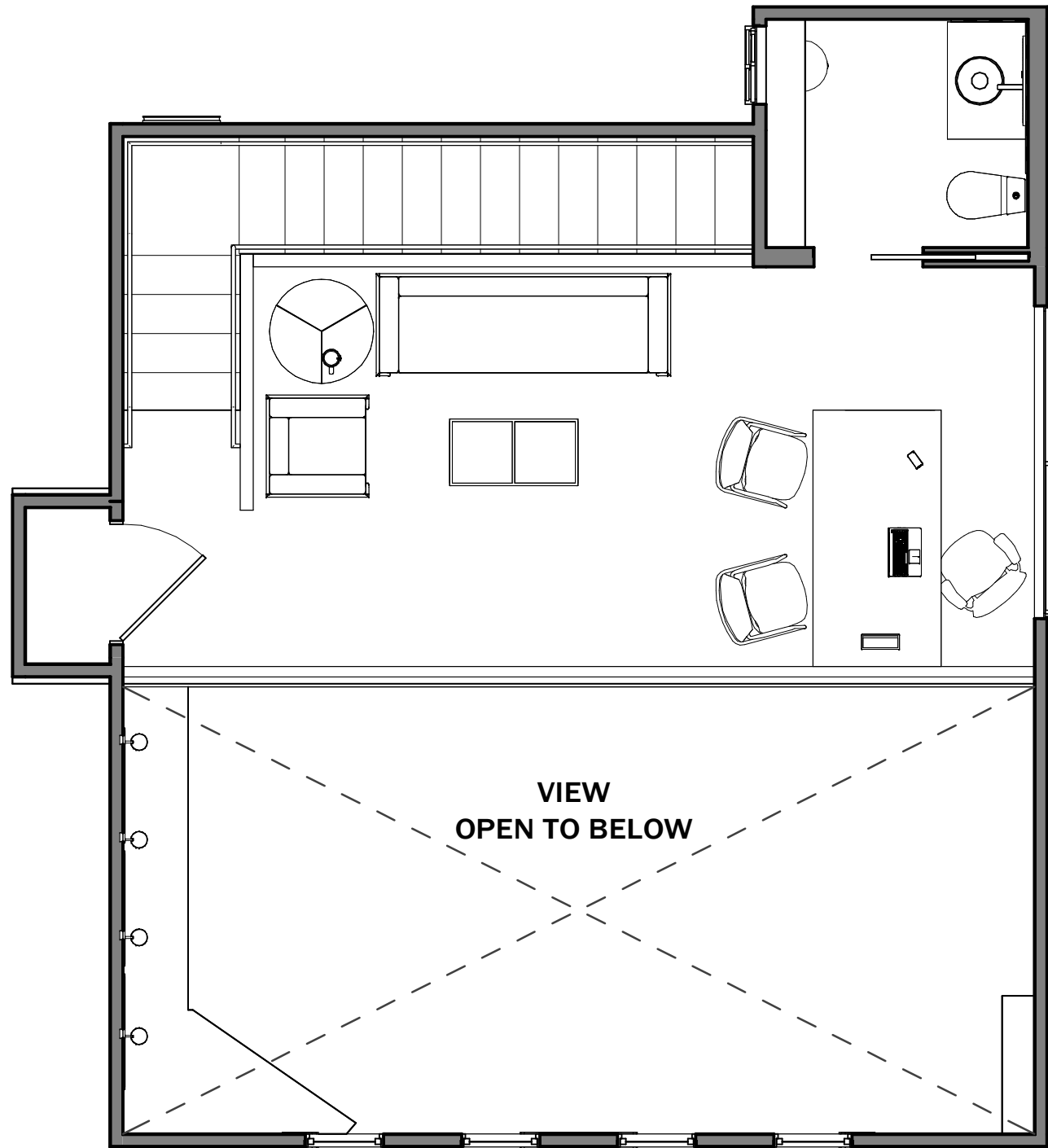
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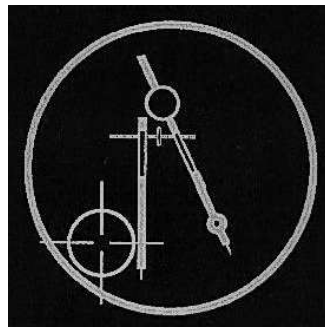
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1 Arch. Floor Plan - Mezzanine

SCALE: 1/4" = 1'-0"



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ID # VA-1322-SAO
CORNELIO RIOS
SBCCI PROFESSIONAL MEMBER #24973
MEMBER SINCE 1994

DATE: MARCH 2022

PROJECT NO.: IM-COMM-03-22

REGISTRATION NO 22525

ARCHITECTURAL DESIGNER Cornelio Rios

ARCHITECTURAL DRAFTER Alec Rios

REVISIONS d A G

NOTES:

Client Name(s): Ivan Olivella & Maria Zabaleta

PROJECT: Face Fresh Medspa & Boutique

ADDRESS 1605 N. 6th Street, McAllen, Tx.

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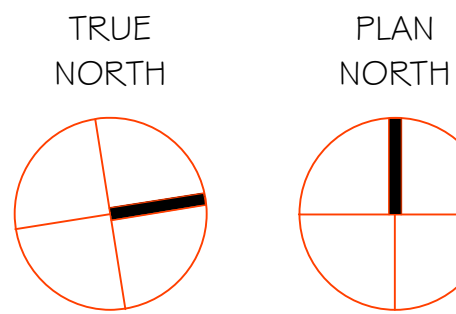
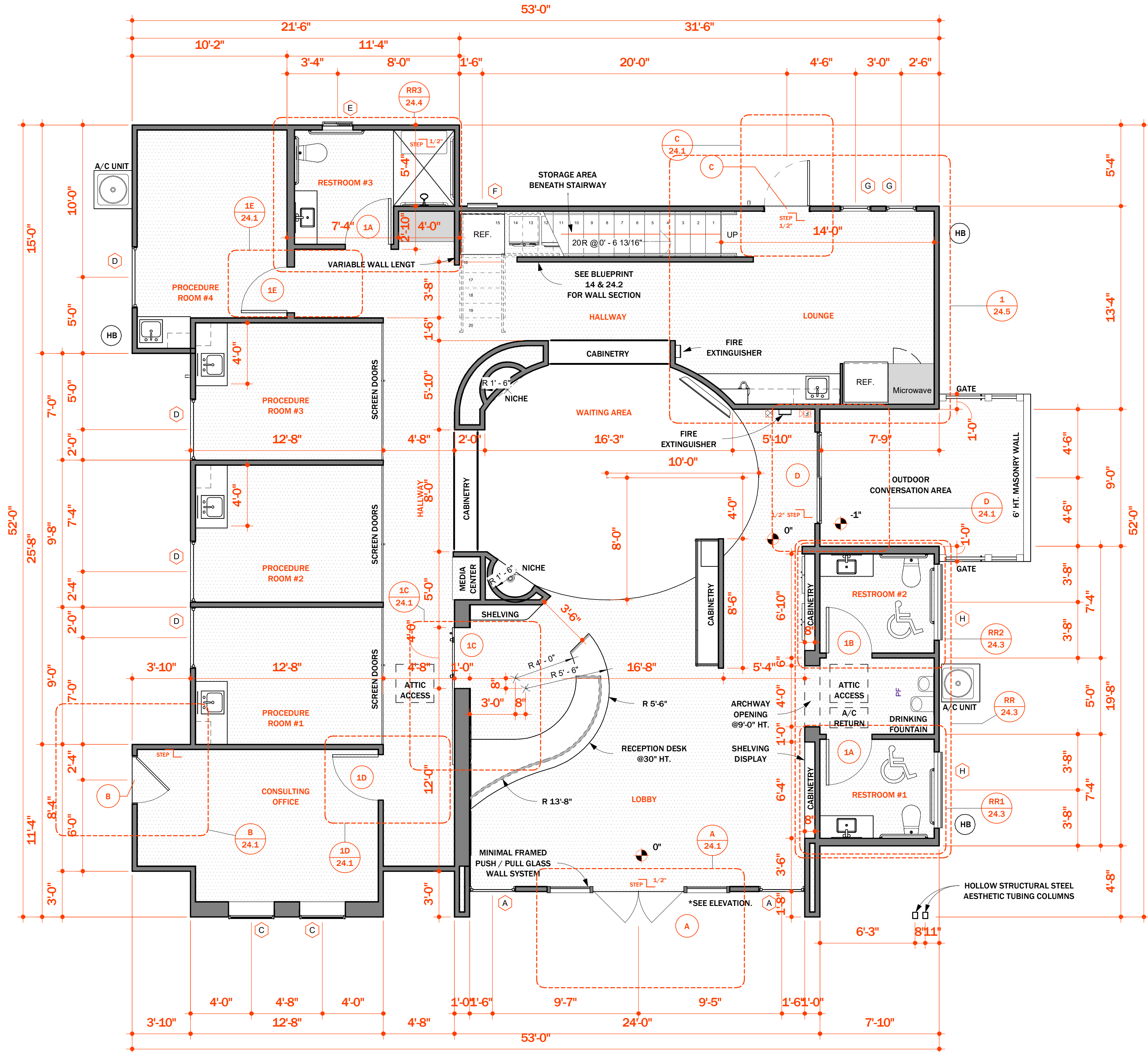
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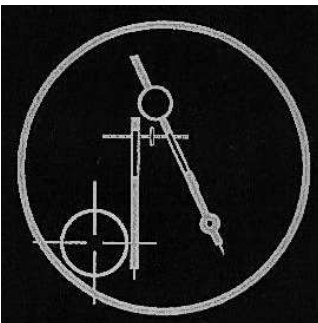
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DATE: MARCH 2022

PROJECT NO.: IM-COMM-03-22

REGISTRATION NO: 22525

ARCHITECTURAL DESIGNER: Cornelio Rios

ARCHITECTURAL DRAFTER: Alec Rios

REVISIONS: d A G

NOTES:

Client Name(s):
Ivan Olivella & Maria Zabaleta

PROJECT: Face Fresh Medspa & Boutique

ADDRESS

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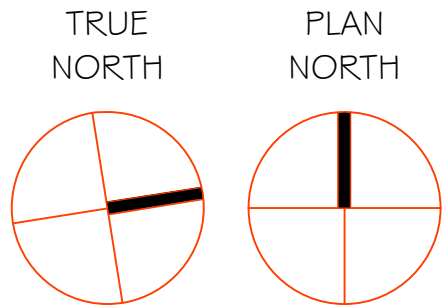
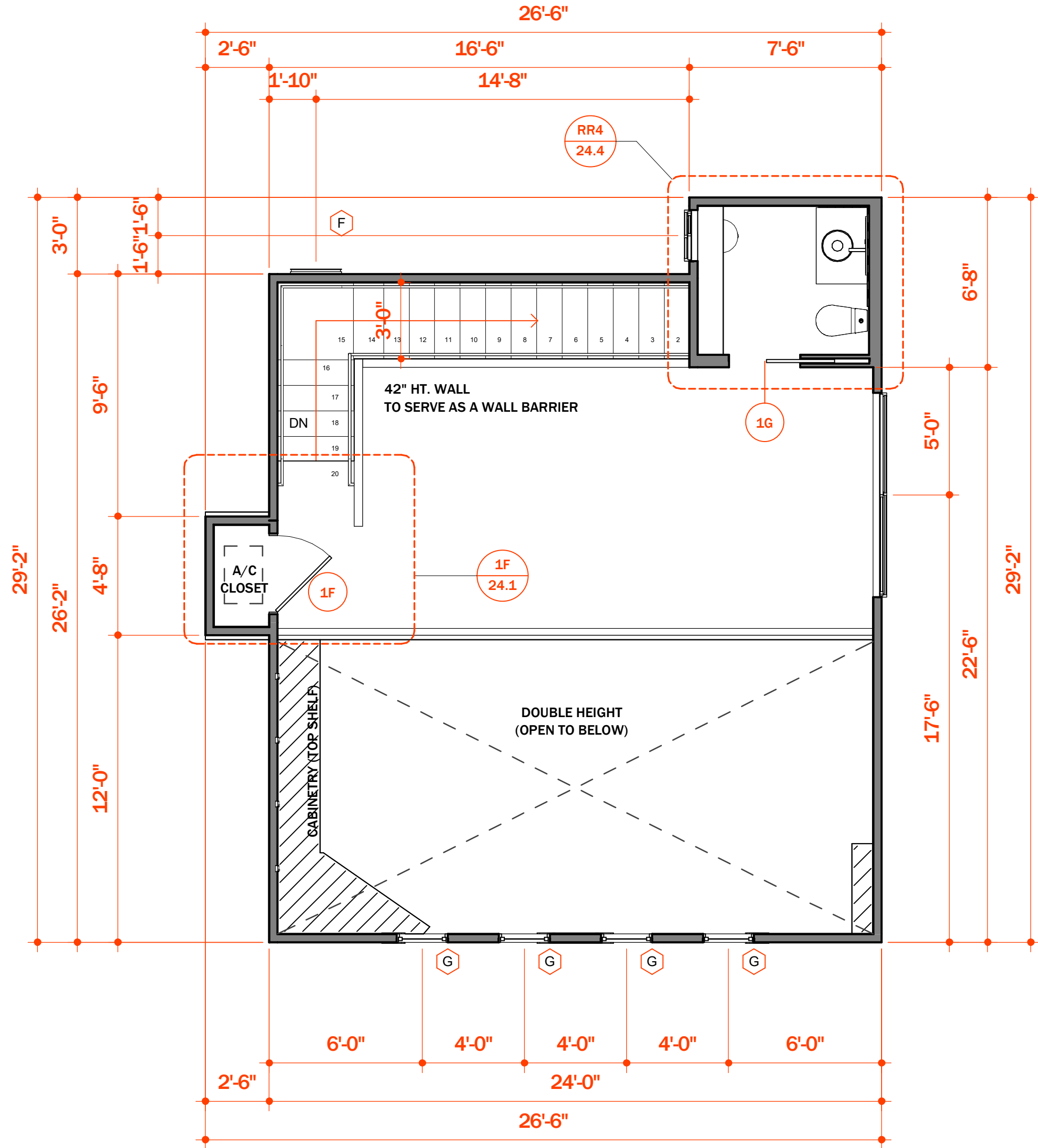
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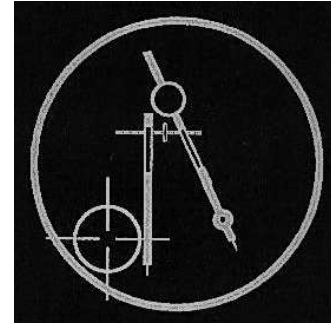
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1 Floor Plan - 2F
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07



MEMO

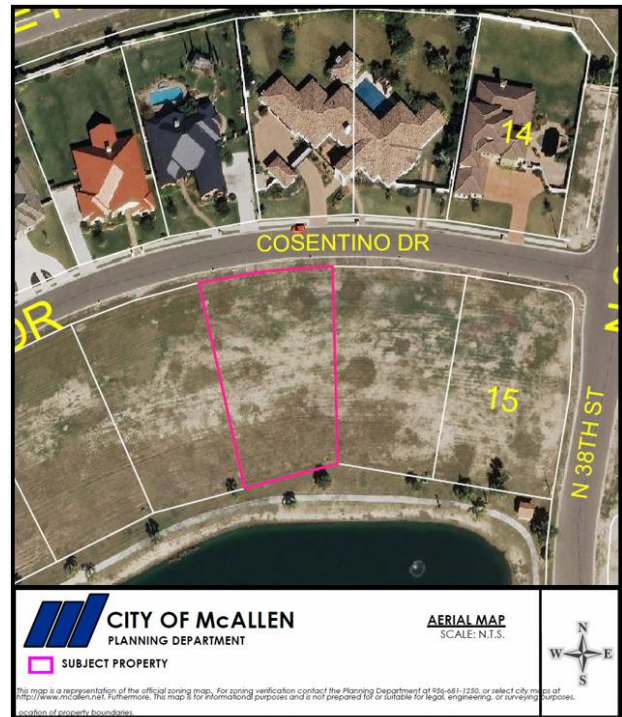
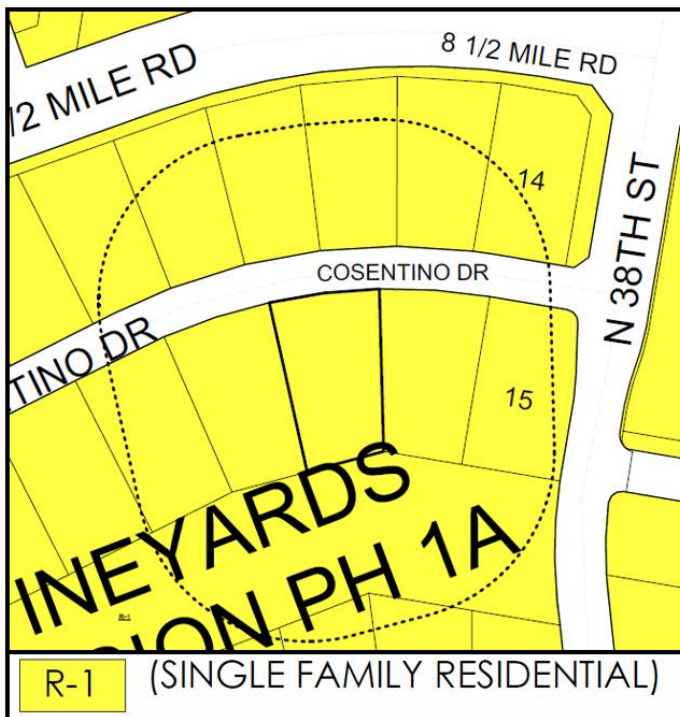
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: January 12, 2023

SUBJECT: Request of Luis D. Waldo on Behalf of Rene Castellanos (owner) for the following Variance request to the City of McAllen Vegetation Ordinance to allow the required landscaped area to be synthetic grass instead of natural grass at Lot 17, Vineyard Estates Subdivision Phase 1A, Hidalgo County, Texas; 3817 Cosentino Drive. (ZBA2022-0126)

REASON FOR APPEAL: Property owner is requesting a variance to the Vegetation Ordinance to reduce the cost of maintaining natural grass, to give the landscape better appearance year around, and to reduce the usage of water and chemicals.



PROPERTY LOCATION AND VICINITY: The property is located on the south side of Cosentino Drive, approximately 250 ft. west of North 28th Street. The property dimensions are 130.20 feet by 204.07 feet. The subject property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. Surrounding land uses include single-family residences and vacant land.

BACKGROUND AND HISTORY: A building permit was submitted in November 2020 for a 7,453 square feet single-family residence. An application for the variance request was received by the Planning

Department on December 2, 2022.

ANALYSIS: Upon submittal of the variance request, the applicant also submitted a landscape plan that indicates that synthetic grass is proposed to be used for the subject property to comply with the landscape requirements. Section 110-56 (f) of the Vegetation Ordinance states that synthetic or artificial lawns or plants shall not be used in lieu of plant requirements.

The variance to the vegetation ordinance to allow the synthetic grass instead of the required landscape area that is visible from the fronting street (Consentino Drive) is not being met. As per Section 110-48 indicates that a minimum of fifty percent of the area within the required front yard of any residential parcel shall be devoted to landscape material.

Under the Building Permit, the applicant signed the conditions requiring a certain amount of landscape square footage to be of “sod, including the side yard setback extending to the front property line...” in December 2020.

The Engineering Department has received and reviewed the proposed turf and have no objections as the turf would not have a noticeable impact on the drainage of the property. However, no comment or recommendation on the planning or landscaping aspect is being stated or implied by the Engineering Department.

The Planning Director reviewed landscaping codes for various cities across Texas, including Austin, Dallas, San Antonio, and El Paso, and none allowed synthetic materials to be used for compliance with landscaping requirements.

Staff received two phone calls in opposition to the variance request. The citizens expressed that everyone must comply with the landscaping requirements.

RECOMMENDATION: Staff recommends disapproval of the variance request as synthetic grass should not be used in lieu of plant requirements and approval of the variance request may encourage other property owners to not comply with landscaping requirements.

ZBA 2022-0126

ZBA: 12/21/22



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

311 North 15th Street

McAllen, TX 78501

P. O. Box 220

McAllen, TX 78505-0220

(956) 681-1250

(956) 681-1279 (fax)

Project

Legal Description

Lot 17 of the vineyards subdivision

Subdivision Name

The vineyards

Street Address

3817 Cosentino

Number of lots

10

Gross acres

50 Acre

Existing Zoning

Existing Land Use

Reason for Appeal (please use other side if necessary)

Synthetic Artificial turf instead of natural grass on entire lot.

☒ \$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

Luis D. Waldo

Phone

956-777-3677

Address

8904 N. 9th McAllen

E-mail

luiswaldo@yahoo.com

City

McAllen

State

TX

Zip

78504

Owner

Name

Rene Castellanos

Phone

956-369-4877

Address

N/A 4817 S Jackson

E-mail

City

Edinburg

State

TX

Zip

78539

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:

Date

Print Name

Rene Castellanos

☒ Owner

☐ Authorized Agent

Office

Accepted by

Payment received by

Date

ENTERED

DEC. 02 2022

Rev 09/20

Initial:

DM



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider **any combination of** the following: (Please use an additional page if necessary to complete responses)

**Information provided here by the applicant does not guarantee that the Board will grant a variance.

***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.

1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:

This house is in Compliance with Greenery, it has adequate amount of trees & plants & the grass is low maintenance & low of pest.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:

The Client cannot afford to water the property all of its lifetime, its a greater investment but grass will stay green all year

3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

The grass has the legal testis, and will be in compliance with larger municipalities.

4. Describe special conditions that are unique to this applicant or property:

This Artificial turf is compliance with all Drainage laws & will further cause a Savings in water consumption

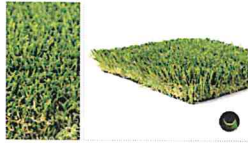
Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

ECO 94 GOLD



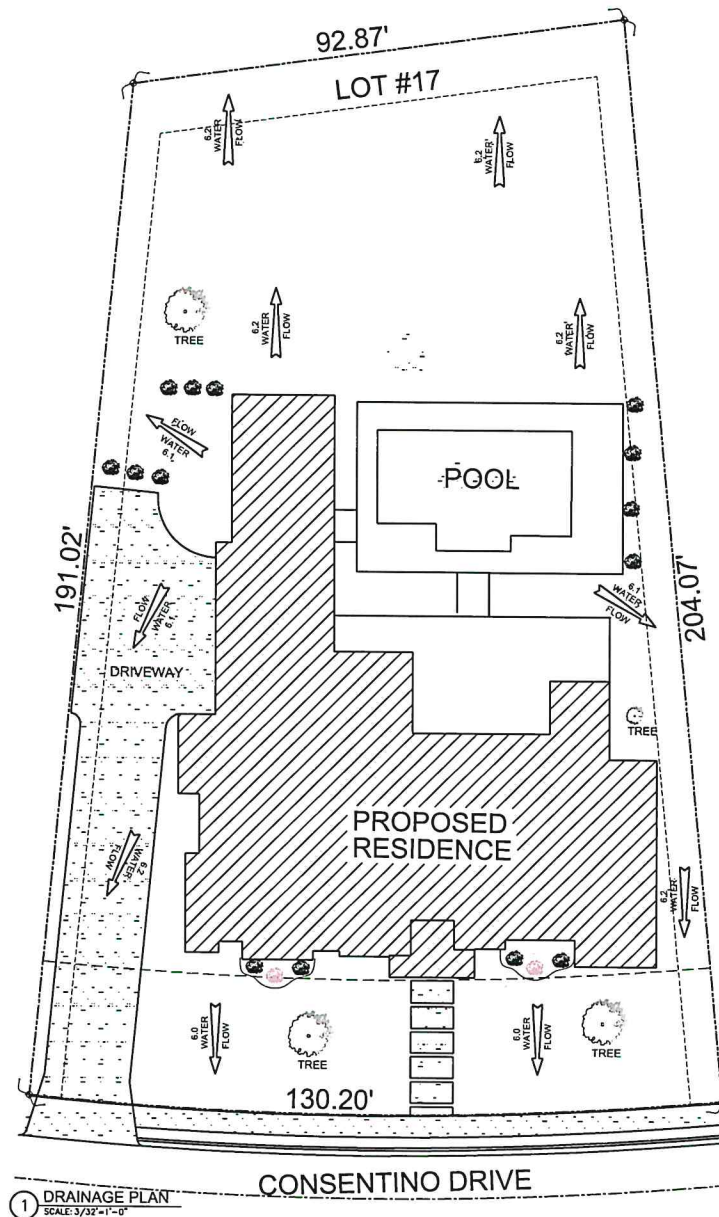
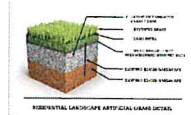
Yarn Type	Polyethylene - C Blade
Extruder	FE1500-493420
Approximate Pile Height	2.0 in.
Machine Gauge	3/8 in.
Roll Size	15 x 60 inches / roll
Approximate Inlet Amount	15.2 lbs / sq ft
Primary Backing	Polyurethane
Approx. Total Product Weight	56 lbs / sq ft
Pile Stem Weight	0.713 lbs / sq ft
Average Tuft Blade Strength	10 x 10 lb / sq ft
Total Load Capacity	< 0.5 in / sq ft
UV Resistance	8 out of 10 Pass
Water Permeability	100.0 in / sq ft
QUV Accelerated Weathering	Color: 9 / Texture: 10

Recommended Uses

- Landscapes
- Pet Areas
- Playgrounds
- Fences

Eco 94 Gold is a high-quality product ideal for moderate to high traffic. The jade and olive green blades have a natural coloring that can be installed in any neighborhood in any state. Whatever application you choose to use Eco 94 Gold it will look lush and natural while still being affordable.

- 10 Year Warranty
- DuraBlade™ Technology
- Lead Free



1 DRAINAGE PLAN
SCALE: 3/32" = 1'-0"

CONSENTINO DRIVE

Definitely Quality Homes

ALDO HOMES
LUIS WALDO
TERRE WALDO
(956) 466-8590
luiswaldo@alho.com

LOT #17

THE VINEYARDS
SUBDIVISION
MCALLEN, TEXAS.

NOTES:

DATE: 06-24-2020

SHEET
C-1





2023 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/05/23	01/18/23	02/08/23	02/22/23	03/08/23	03/22/23	04/05/23	04/20/23	05/03/23	05/17/23	06/07/23	06/21/23	07/13/23	07/27/23	08/09/23	08/17/23	09/07/23	09/20/23	10/04/23	10/18/23	11/01/23	11/15/23	12/06/23	12/20/23
SYLVIA HINOJOSA-CHAIRPERSON	P																							
JOSE GUTIERREZ-VICE-CHAIR	P																							
ANN TAFEL	P																							
HUGO AVILA	P																							
ROGELIO RODRIGUEZ	A																							
REBECCA MILLAN (ALT 1)	P																							
MARK TALBOT (ATL 2)	A																							
SAM SALDIVAR (ALT 3)	P																							
JUAN MUJICA (ALT 4)	P																							

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION







PLANNING DEPARTMENT

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



2023 CALENDAR

Meetings:

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





HPC - Historic Preservation Council

Deadlines:





D- Zoning/CUP Application N - Public Notification

* **Holiday** - Office is closed





JANUARY 2023

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





FEBRUARY 2023

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





MARCH 2023

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





APRIL 2023

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

MAY 2023

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



JUNE 2023

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

2023 CALENDAR








Meetings:

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









Deadlines:

- D- Zoning/CUP Application
- N - Public Notification
- * **Holiday** - Office is closed









JULY 2023

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









AUGUST 2023

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










SEPTEMBER 2023

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






OCTOBER 2023

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

NOVEMBER 2023

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

DECEMBER 2023

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