

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING THURSDAY, NOVEMBER 17, 2022 - 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 November 2, 2022

2. PUBLIC HEARINGS:

- a) Request of Ahyra Guerrero 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 17, Block 4, College Heights Subdivision, Hidalgo County, Texas; 817 South 22nd Street. **(ZBA2022-0095)**
- b) Request of Quincy McGill for the following Variances and Special Exception request to the City of McAllen Zoning Ordinance to allow **1)** an accessory use without a primary use for a storage building with a carport structure measuring 30 feet by 12 feet, **2)** to allow an encroachment of 4 feet into the 10 feet rear yard setback for an existing wooden storage building measuring 20 feet by 12 feet and, **3)** a Special Exception to allow an encroachment of 4 feet into the 10 feet rear yard setback for an existing wooden carport measuring 10 feet by 12 feet, at Lot 16, Hibiscus Hill Subdivision, Hidalgo County, Texas; 3200 Northgate Lane. **(ZBA2022-0096)**
- c) Request of Flamingo Pools (Marcos Ramirez III) on behalf of Chris Howard for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 25 feet rear yard setback for a proposed swimming pool measuring 14 feet by 35 feet at Lot 9, Vine Ridge Estates Subdivision, Hidalgo County, Texas; 3508 Upas Avenue. **(ZBA2022-0098)**
- d) Request of Diana Guerrero-Pena for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6.67 feet into the 10 feet corner side yard setback for an existing covered porch measuring 16 feet by 20 feet at Lot 30, Golden Acres Patio Homes Subdivision, Hidalgo County, Texas; 3620 Gumwood Avenue, Unit 30. **(ZBA2022-0099)**
- e) Request of Juan R. Dominguez for the following Variance Request to the City of McAllen Zoning Ordinance to allow an encroachment of 2.5 feet into the 6 feet east side yard setback for an existing wood storage building measuring 20 feet by 18 feet, at Lot 29, La Puerta Subdivision Phase I, Hidalgo County, Texas; 3221 La Puerta Avenue. **(ZBA2022-0097)**
- f) Request of Elizabeth L. Garza for the following Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 feet into the 10 feet South side yard setback for an existing single family home, at Lot 124, Vendome Subdivision Phase II, Hidalgo County, Texas; 13818 North 33rd Lane. **(ZBA2022-0037) (TABLED 07/07/2022, 07/20/2022, 08/03/2022, 08/17/2022, 8/31/2022, 09/08/2022, 09/21/2022, 10/05/2022, 10/19/2022, 11/02/2022)**

3. FUTURE AGENDA ITEMS

- a)** 3008 Sonora Avenue
- b)** 4509 Pelican Avenue
- c)** 6201 North 10th Street
- d)** 521 South 22nd Street
- e)** 2709 South 27th Street
- f)** 420 North 16th Street
- g)** 4411 North 26th Lane

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 Wednesday, November 2, 2022 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:

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

CALL TO ORDER –Chairperson Sylvia Hinojosa

1. MINUTES:

- a)** Minutes for the special meeting held on October 19, 2022.

The minutes for the special meeting held on October 19, 2022 were approved. The motion to approve the minutes were made by Vice-Chairperson Jose Gutierrez. Ms. Ann Tafel seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a)** Request of Maria Torres for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 10 feet rear yard setback for an existing metal porch structure measuring 25 feet by 32 feet at Lot 12, Block 14, Ewing's Addition Subdivision, Hidalgo County, Texas; 1022 North 17th Street. **(ZBA2022-0090)**

Ms. Trevino stated the applicant is requesting a variance in order to allow an encroachment of 6 feet into the rear yard setback of 10 feet for an existing metal porch structure measuring 25 feet by 32 feet. The applicant stated the existing metal structure is to help with a medical situation of a family member and to protect their vehicles.

The subject property is located at the southeast corner of North 17th Street and Kendlewood Avenue. The property has 50 feet of frontage along Kendlewood Avenue and a depth of 140 feet, for a lot size of approximately 7,000 square feet. There is an existing single-family residence on the subject property. The surrounding land use is single-family residential.

The plat for Ewings's Addition Subdivision was recorded on March 25, 1920. An application for a building permit for the porch was submitted September 15, 2021. An application for the variance request was submitted on September 23, 2022.

Approval of the variance request would allow an encroachment of 6 feet into the 10 feet rear yard setback as shown in the applicant's submitted site plan. The reason for this request according to the applicant is to help with a medical situation of a family member and to protect their vehicles.

A look at the pictures of this structure shows a resemblance in use to a carport especially since it has a driveway and the canopy may have a concrete foundation. The applicant further states in the application that the structure will be used to park cars. The structure may receive approval as a special exception except that storage or placement of items other than motor vehicles is prohibited in a carport for which a special exception has been granted however; the applicant elected to not pursue a special exception.

During the site visit by staff, other similar encroachments were observed along this block.

At the Zoning Board of Adjustments and Appeals meeting of December 4, 2013, the Board approved a variance to allow a side yard setback of 2 feet instead of 5 feet for a carport measuring 11 feet by 37 feet for Lot 3, Block 13, Ewing's Addition Subdivision.

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

Staff recommended approval of the variance request since there are other similar encroachments in the area, and it would not change the character of the neighborhood along this block.

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

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

Following discussion, Ms. Ann Tafel **moved** to approve the variance request as presented by staff. Vice-Chairperson Jose Gutierrez seconded the motion. The Board voted unanimously to approve the variance request with five members present and voting.

- b) Request of Hamlin Pools (Joshua Stansberry) on behalf of Jose and Sandra Cadena for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 13 feet into the 25 feet rear yard setback for a proposed swimming pool measuring 13.37 feet by 28 feet at Lot 248 , La Floresta Subdivision Phase II, Hidalgo County, Texas; 9400 North 17th Street. (ZBA2022-0093)**

Ms. Trevino stated the applicant is requesting to allow the above-mentioned encroachment for a proposed rectangular shaped swimming pool measuring 13.33 feet by 28 feet. The swimming pool is proposed to be located at the rear yard of the subject property within the 25 feet rear yard setback.

The subject property is located in La Floresta Phase II Subdivision, with frontage on North 17th Street and Bicentennial Boulevard. According to the subdivision plat, the property has an area of 7,774 square feet. The surrounding land use is single-family residential.

La Floresta Subdivision Phase II plat was recorded on June 8, 2016. According to Hidalgo County Appraisal District records, the existing residence was built in 2021. A swimming pool permit application has not yet been submitted. The variance request application was submitted on October 5, 2022.

Lots 246 through 253 along this block in La Floresta Subdivision Phase II have double frontage along North 17th Street and Bicentennial Boulevard. The recorded plat for the subdivision requires the double fronting Lots to have a 25 feet front and rear yard setbacks.

City Ordinance Section 138-367 (b) states, "where lots have double frontage...a required front yard shall be provided on one street only." The submitted site plan shows the existing residence in compliance with the 25 feet front yard setback along North 17th Street. However, an approved variance is still necessary to resolve the plat note setback requirement of 25 feet for the rear yard.

A 10 feet utility easement, adjacent to the rear property line of Lot 248, runs concurrently with the 25 feet rear yard setback and will not be impacted by the proposed encroachment. A 5 feet utility easement runs along the north side

A review of the Planning Department records revealed other similar variances along the block for Lots 61, 66, 71, and 72 for swimming pools.

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

Staff recommended approval of the variance request since the required front yard has 25 feet along North 17th Street and is in compliance with the City of McAllen Zoning Ordinance requirement for double fronting lots.

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

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

Following discussion, Ms. Ann Tafel **moved** to approve the variance request as presented by staff. Mr. Juan Mujica seconded the motion. The Board voted unanimously to approve the variance request with five members present and voting.

- c) Request of Ruben Flores for a variance to the City of McAllen Zoning Ordinance to allow a distance of 3 feet 3 inches instead of the required 5 feet from the main building for a proposed secondary structure (pool house and storage) measuring 15 feet by 20 feet at Lot 30, Spanish Oak Estates Subdivision, Hidalgo County, Texas; 5012 Redwood Avenue. **(ZBA2022-0094)**

Ms. Trevino stated the applicant is requesting to allow the above-mentioned encroachment for a proposed secondary structure measuring 15 feet by 20 feet. The pool house will be located at the rear yard of the subject property.

The subject property is located in Spanish Oak Estates Subdivision. According to the subdivision plat, the property has an area of 10,250 square feet. The surrounding land use is single-family residential and A-O (agriculture and open land).

Spanish Oak Estates Subdivision plat was recorded on February 25, 2003. According to Hidalgo County Appraisal District records, the existing residence was built in 2006. A building permit application was submitted October 3, 2022. The variance request application was submitted on October 6, 2022.

Section 138-369 states "...An accessory building shall be no closer than five feet to the main building except where a firewall is provided."

The applicant proposed to construct the building at 3 feet, 3 inches from the main house.

The applicant is requesting the variance in order to resolve the proposed non-compliance.

A review of Planning Department records revealed other encroachments in the immediate area. One other variance has been granted within this subdivision. The Board approved a rear yard setback encroachment in 2018 of 10 feet into the 10 feet rear yard setback for a storage building at Lot 37.

A 10 feet utility easement, adjacent to the rear property line, runs concurrently with the 10 feet rear yard setback and will not be impacted by the proposed construction.

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

Staff recommended approval of the variance request.

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

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

Following discussion, Vice-Chairperson Jose Gutierrez **moved** to approve the variance request. Ms. Ann Tafel seconded the motion. The Board voted unanimously to approve the variance request with five members present and voting.

- d) Request of Ezequiel Rios for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 20 feet front yard setback for an existing carport with a canvas roof measuring 18 feet by 21 feet on Lot 40, Los Encinos Subdivision, Hidalgo County, Texas; 3408 Rosalva Avenue. (ZBA2022-0089)**

Mr. Nunez stated the applicant is appealing to allow the above-mentioned encroachment for an existing canvas carport to remain. The carport will provide protection for his vehicles

from the weather elements.

The subject property is located along the north side of Rosalva Avenue, 155 feet east of South 35th Street. The property has 50 feet of frontage along Rosalva Avenue and a depth of 102.5 feet, for a Lot size of 5,125 square feet. The subject property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. The surrounding land use is single-family residential.

The plat for Los Encinos Subdivision was recorded on July 5, 1994. According to Hidalgo County Appraisal District records, the existing home was built in 1997. The applicant became the sole owner of the property in October, 2008. A building permit application for the carport was submitted on August 30, 2022; however, a permit was never issued. According to the applicant, the existing carport was finished around early October of 2022 without a building permit. The applicant submitted the special exception request on September 22, 2022.

Approval of the special exception request would allow an encroachment of 20 feet into the 20 feet front yard setback for an existing canvas carport. There is no alleyway along the rear yard property line.

According to the subdivision plat, there are no utility easements located in the front yard or side yard that are impacted by the existing carport.

During the site visit, staff noticed similar encroachments, namely carports, located on the front yard in the area. A review of Planning Department records revealed two special exception requests that were granted for carports within Los Encinos Subdivision at Lots 143 and 175 between 2018 and 2019 for encroachments of 20 feet into the 20 feet front yard setback.

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

All measurements were taken without the benefit of a survey.

Staff had not received any phone calls, email, or letters in opposition to this request.

Staff recommended approval of the special exception request since there have been other similar requests approved within the subdivision and there is no alley along the rear yard of the property that would allow for the relocation out of the setbacks. If approval is granted, it should be limited to the footprint shown on the submitted site plan.

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.

Vice-Chairperson Gutierrez asked staff if it was a garage. Mr. Nunez stated it was actually a patio area similar to a carport.

Following discussion, Mr. Juan Mujica moved to approve the special exception limited to the footprint of the submitted site plan. Vice-Chairperson Jose Gutierrez seconded the

motion. The Board voted unanimously to approve the special exception with five members present and voting.

- e) Request of Luis A. Ortiz for a special exception and a variance to the City of McAllen Zoning ordinance to allow: **1)** an encroachment of 16 feet into the 26 feet front yard setback for an existing wooden carport measuring 16 feet by 20 feet, and **2)** a variance to allow an encroachment of 8 feet into the 10 feet corner side yard setback for an existing porch with a wheelchair ramp measuring 8 feet by 13 feet on Lot 112, Rowland Addition No. 2, Hidalgo County, Texas; 1013 South 25th ½ Street East. **(ZBA2022-0092)**

Mr. Nunez stated the applicant was appealing to allow the above-mentioned encroachments for an existing wooden carport and an existing porch with a wheelchair ramp. The applicant has stated that the carport provides protection for his vehicles from hazardous weather conditions. The porch with wheelchair accessibility was built for the applicant's handicapped mother, whom he cares for on a regular basis.

The subject property was located at the southeast corner of South 25th ½ Street East and Kennedy Avenue. The property has 54 feet of frontage along South 25th ½ Street East and a depth of 109.63 feet at its deepest part for a total lot size of 5,853.60 square feet. The property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. The surrounding land use is single-family residential.

According to Hidalgo County Appraisal District records, the existing home was built in 1940, with additions made later between the years of 1985 and 2018. The applicant became the owner of the property in April of 2022. A stop work order was issued by the Building Permits and Inspections Department for a patio remodel with no permit on file on May 23, 2022. A building permit application for the porch was submitted that same day, and later updated to include the existing wooden carport. The applicant submitted this special exception request on September 30, 2022.

The existing wooden carport was along the front of the property, which faces South 25th ½ Street East, while the porch is located along Kennedy Avenue. The applicant states that there was an existing carport in the property when he purchased the home in 1998. The existing wooden carport was remodeled in 2022. The porch with a wheelchair ramp was built 10 years ago, and the porch cover was added in August of 2022 for the use by his handicapped mother.

Regarding the required front yard setback for the property, as per Section 138-367 (a) of the Zoning Ordinance, "when 50 percent or more of the frontage on one side of a street on any one block is improved with buildings that have a front yard which is greater than the required front yard in the district, no new building shall project beyond the average front yard so established...". The average front yard setback for this property is 26 feet.

According to the subdivision plat, there were no utility easements located in the front and side yards that are impacted by the existing carport and porch encroachments.

During the site visit, staff noticed similar encroachments, namely carports, located on the front yard along the block. A review of Planning Department records, however, did not reveal any approved variances or special exceptions for carports in the subdivision. Between the years of 2017 and 2021, the Board approved other variances in the subdivision at Lots 101 and 104 for encroachments into the rear yard and side yard

setbacks for a proposed swimming pool and an addition of a bathroom and existing storage building, respectively. The encroachments included 8 feet into the 10 feet rear yard setback for a proposed swimming pool and 5.5 feet into the 7 feet side yard setback for a proposed bathroom addition and an existing storage building.

The home does not have a built-in garage. There was a second metal carport along Kennedy Avenue located in the rear yard, which has access to the alley. According to the applicant, the metal carport at the rear yard only accommodates one of his three vehicles, hence the need for him to have two carports on his property. According to the applicant, the metal carport is 10 feet removed from the rear yard property line. However, the carport does appear to encroach into the corner side yard setback along Kennedy Avenue. The applicant proposes to move the metal carport away from the property lines in order to comply with the required setbacks.

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

All measurements were taken without the benefit of a survey.

Staff did not receive any phone calls, email, or letters in opposition to this request.

Staff recommended disapproval of the special exception request since there was already an existing metal carport on the property. Staff recommended approval of the variance request since the porch serves as protection when using the wheelchair accessible entrance.

Ms. Tafel had concerns with the carport being it was attached to the house being that it was made of wood.

Mr. Luis Ortiz, the applicant stated when they bought the house the carport already existed. They only replaced materials to refurbish it. He stated he built the metal carport in the back to protect his vehicles from inclement weather.

Chairperson Hinojosa stated she had concerns when remodeling if a person was not moving any walls or changes most of the time you may not need a permit. However, in reference to this item, which was not in the compliance of the space, was required by the City. Mr. Nunez stated whenever they were issued the Stop Work order it was for the porch. At the time, the inspector noticed they were doing remodeling work for the porch. It was noticed later that they had an existing wooden carport but did not have a building permit on file. It was renewed according to the applicant. The inspector initially issued a Stop Work order for the porch and told the applicant he might want to include the existing wooden carport.

Board member Rodriguez asked staff at what point would this be considered no longer an existing at a certain percentage remodeling. Mr. Nunez stated the ordinance did have a limit on nonconforming structures for maintenance via 10% but would still have to apply for a building permit for repairs and maintenance.

Board member Mujica asked staff if there were any other carport similar to this one in the area. Mr. Nunez stated yes but as mentioned in the memo they did not find any special exceptions or building permits granted for those.

Chairperson Sylvia Hinojosa asked if there was anyone present in favor of the variance

request. There was no one else in favor of the variance request.

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

Following discussion, Ms. Ann Tafel **moved** to approve the special exception. Vice-Chairperson Jose Gutierrez seconded the motion. The Board voted unanimously to approve the special exception with five members present and voting.

Following discussion, Ms. Ann Tafel **moved** to approve the #2-variance request. Ms. Rebecca Millan seconded the variance request. The Board voted unanimously to approve the #2-variance request with five members present and voting.

- f) Request of Hector Izaguirre for a special exception to the City of McAllen Zoning ordinance to allow an encroachment of 7 feet into the 7 feet south side yard setback for an existing wooden carport measuring 20 feet by 40 feet on Lot 4, Block, 25, North McAllen Addition, Hidalgo County, Texas; 413 North 17th Street. **(ZBA2022-0091)**

Mr. Nunez stated the applicant was appealing to allow the above-mentioned encroachment for an existing wooden carport. The applicant has stated that said carport will provide protection for his three vehicles from hazardous weather conditions.

The subject property was located along the west side of North 17th Street, 100 feet north of Date Palm Avenue. According to the subdivision plat, the property has 50 feet of frontage along North 17th Street and a depth of 140, for a lot size of 7,000 square feet. The property was zoned R-2 (duplex-fourplex residential) District. The surrounding land uses are single-family residential, apartments, and commercial uses.

According to Hidalgo County Appraisal District records, the existing home was built in 1978. The applicant became the owner of the property in September 1996. According to notes by the Building Permits and Inspections Department, a stop work order was issued on August 5, 2022 for a carport built without a permit. A building permit application for the carport was submitted on September 19, 2022. The applicant submitted the special exception request on September 27, 2022.

Approval of the special exception request would allow encroachments of 7 feet into the 7 feet south side yard setback for an existing wooden carport measuring 20 feet by 40 feet. The carport encroaches into the side yard at the rear of the property.

According to the subdivision plat, there are no utility easements located in the side yard that are impacted by the existing carport.

During the site visit, staff noticed similar encroachments, namely carports, located on the front and rear yards along the block. The existing carport on the subject property would be characteristic of construction in the subdivision. A review of Planning Department records revealed several variance requests in the North McAllen Addition. At the Zoning Board of Adjustments meeting of September 2, 2015, a variance request was granted to Lot 4 of Block 24 for encroachments of 10 feet into the 10 feet rear yard setback and 5 feet into the 7 feet south side yard setback for an existing carport measuring 22 feet by 22 feet. No other approved variances or special exceptions for carports were found in the area.

At the Zoning Board of Adjustments meeting of August 17, 2022, a proposed irregularly shaped wooden carport that would encroach 3 feet into the 5 feet side yard setback at Lot 9, Block 10 was disapproved in the subdivision. At the time, the Board was concerned with structures being built close, or at the zero side yard property line due to safety concerns.

An existing structure at the rear yard of the property is used for storage.

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

All measurements were taken without the benefit of a survey.

Staff did not receive any phone calls, email, or letters in opposition to this request.

Staff recommended disapproval of the special exception request since in the past similar requests have been disapproved for constructions built to the property line.

Board member Mujica mentioned to staff that it appeared to be an existing structure beyond the garage was that grandfathered in. Mr. Nunez stated now it was being used as a storage area.

Board member Tafel asked staff who owned the chain link fence. Mr. Nunez stated it shared between both property owners.

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. Hector Izaguirre, the applicant stated he bought the property in 1995. He built a carport to protect his vehicles. It had been recorded as a car garage but did not meet the specifications for a car garage the entrance was too narrow. To move it, he would have to go through the alley. He stated he requested a building permit to build the concrete driveway in 2003.

Board member Rodriguez asked when was the carport built. Mr. Izaguirre stated it was this year. He was not aware to obtain a building permit for the carport.

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 request with five members present and voting.

- g)** Request of Trevino Engineering on behalf of Sonia Salkinder for a variance to the City of McAllen Vegetation Ordinance to not provide a masonry wall 8 feet in height along the west property line for the south 2.06 acres out of Lot 17, Ebony Heights Citrus Groves Unit 1 Subdivision (Proposed Salkinder Plaza Subdivision), Hidalgo County, Texas; 8801 North 10th Street. **(ZBA2022-0082)**
(TABLED: 10/05/2022, 10/19/2022)

The applicant had withdrawn this item.

- h) Request of Villa Del Sol Construction LLC for the following Variance to the City of McAllen Zoning Ordinance to not provide one required parking space beyond the front yard setback line at Lot 41, Auburn Estates Phase II Subdivision, Hidalgo County, Texas; 7533 North 27th Street. (ZBA2022-0079) (TABLED: 10/19/2022)**

Vice-Chairperson Gutierrez moved to remove the item from the table. Mr. Rogelio Rodriguez seconded the motion. The Board voted to remove the item from the table with five members present and voting.

Mr. Rivera stated the applicant was requesting a variance request to the parking requirement of one off-street parking space for single-family use beyond the front yard setback; as required by the zoning ordinance. The applicant is proposing to build a residence with no garage, as it “will limit the owners to have comfortable living space”.

The property was located along the west side of North 27th Street, approximately 160 feet north of Trenton Road. The property had 71 feet of frontage along North 27th Street and 98.75 feet of depth for a tract size of approximately 7,011 square feet. The property is zoned R-1 (single family residential) District. The zoning is R-1 District to the north and east of the subject property. The property to the south is zoned R-3T (multifamily residential townhouse) District. The contiguous property to the west of the subject property is zoned C-3L (light commercial) District to the west. The property is currently vacant.

Auburn Estates Phase II Subdivision was recorded on March 5, 2020. The Board of Commissioners amended the zoning ordinance in 1999 to require 1 parking space beyond the front yard setback in order to enhance the appearance of single family residential area. The subject property and subdivision is subject to compliance with the zoning ordinance requirement of the one parking space beyond the front yard setback line. The application for the variance request was submitted on September 6, 2022.

The submitted site plan shows a driveway measuring 18 feet by 20 feet accommodating the number of two parking spaces. The intent for the requirement of locating one parking space beyond the front yard setback line was to improve the street yard appearance of single-family residence areas by reducing the number of cars parked along the street and within the front yard.

Should the request be approved, it may encourage other property owners to request a variance to enclose their garage or not provide a garage. Approval of the request will allow the proposed construction to remain as depicted on the site plan.

Planning Department staff had not received any calls in opposition to the request.

Staff recommended disapproval of the variance request as the subject property might encourage other property owners to request a variance to enclose their garage or not provide a garage. The objective of Zoning Ordinance Section 138-394(1) 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.

Mr. John Pogen, 409 Ulex Avenue. He stated the reason they did not change anything was that they were trying to contact Magic Valley. The only other option was to make an

addendum to the H.O.A. restrictions so that they could provide the parking on the driveway and notify the client that on Lot 41 they would not be allowed to have any structure or carport in the future. He tried to redesign but it would have to be two-story house but the appraisal would be higher. This property was the only one that would not have a garage.

Following discussion, Mr. Rogelio Rodriguez **moved** to disapprove the variance request. Vice-Chairperson Jose Gutierrez seconded the motion. The Board voted unanimously to disapprove the variance request with five members present and voting.

- i) Request of Rio Delta Engineering for the Variance to the City of McAllen Zoning Ordinance to be exempted from the 8-foot CMU buffer requirement along the west side of the subject property located at the 6.713 Acres out of Lot 7, E.M. Card Survey No. 1 and out of Lot 14, Section 279, Tex-Mex Railway Company Survey Subdivision, Hidalgo County, Texas; 2300 Oxford Avenue. **(ZBA2022-0081)**

Staff had withdrawn this item.

- j) Request of Baldemar Sanchez for the following Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 22 feet into the 25 feet front yard setback and 3.5 feet into the 7 feet south side yard setback for an existing metal carport measuring 20 feet by 30 feet, at Lot 46, Idela Park Unit No. 1 Subdivision, Hidalgo County, Texas; 5101 South 29th Street. **(ZBA2022-0080)**

Ms. Ann Tafel moved to remove the item from the table. Vice-Chairperson Jose Gutierrez seconded the motion. The Board voted unanimously to remove from the table with five members present and voting.

Mr. Rivera stated the applicant was requesting a special exception to allow an encroachment of 22 feet into the 25 feet front yard setback and 3.5 feet into the 7 feet south side yard setback for an existing metal carport measuring 20 feet by 30 feet. According to the applicant, the construction of the carport was for protection of their vehicles from inclement weather events and for personal health related reasons.

The subject property was located along the east side of South 29th Street 105 feet north of Olga Avenue. The Lot has 50 feet of frontage along South 29th Street and a depth of 90 feet for a Lot size of 4,500 square feet. The property is zoned R-1 (single-family residential) District. Adjacent zoning is R-1 District in all directions.

Idela Park Unit No. 1 Subdivision was recorded on February 13, 1978. The front yard setback is 25 feet as per plat. The plat does not indicate side yard setbacks, however side yard setbacks are 5 feet and 7 feet since the home appears to have been built with those setbacks. A stop work order was posted on August 16, 2022 for construction without a building permit. An application for a building permit was submitted to the Building Permits and Inspections Department on August 22, 2022, and an application for a Special Exception was submitted to the Planning Department on September 7, 2022.

The front yard setback is 25 feet, and south side yard setback is 7 feet. The existing carport encroaches 22 feet into the 25 feet front yard setback and 3.5 feet into the 7 feet

south side yard setback.

The front yard setbacks are important in establishing the character of a single family neighborhood by maintaining the street yard and curb appeal of the properties in a subdivision. Approval of the request to allow the carport within the front yard may encourage other property owners to construct carports within in the front yard setback.

The property does not have a car garage.

The property has an alley that may allow the structure to be relocated to the rear of the property.

During a site visit, staff noticed other similar structures in the area that appear to encroach into the front yard setbacks. A review of Planning Department records did not reveal any Special Exceptions approved along this Block of Idela Park Unit No. 1.

Measurements provided are without the benefit of a survey.

Staff had not received any phone calls, emails, or letters in opposition to this Special Exception request.

Staff recommended disapproval of the special exception request since the carport could be relocated out of the setbacks to the rear of the property and the approval of the carport may encourage other neighbors to build similar structures within the front yard setbacks. If the Board chooses to approve the request, it should be limited to the encroachment shown on the submitted site plan.

At the Zoning Board of Adjustment and Appeals, meeting of October 19, 2022 no one appeared in opposition of the Special Exception request. Chairperson Sylvia Hinojosa inquired regarding other similar encroachments in the area. She was concerned that only the carport on the subject property was contacted about construction without a permit since there are other similar structures in the area. She requested staff to obtain further information on existing carports in the area with encroachments into the front yard setback. The Board then voted to table the Special Exception request with 5 members present and voting.

Subsequent to the meeting, staff conducted a windshield survey within the boundary area of Lucille Avenue, Olga Avenue, South 26th Street, and east side of South 30th Street. Staff noticed 9 other existing carports within the area. A review of Planning Department records showed no variance/special exceptions granted and no related building permits were found.

Board member Rodriguez asked staff if the special exception was approved was it going to include the large driveway that it had or would that have to comply with certain standards from the City. Mr. Rivera stated the driveway already existed so this would just apply for the carport.

Mr. Pablo Sanchez, on behalf of his father, Baldemar Sanchez. He stated he had built the carport for his disabled mother. His father also uses it do his exercises. They use the carport to protect his vehicles. He stated he could not move it to the back the carport will

overtake the alleyway and would be costly. The carport was cemented and bolted down.

Board member Tafel asked the applicant if he did not know he had to obtain a building permit. Mr. Sanchez stated no. He stated he spoke with someone from the City and was told that as long as it was not attached to the house it would not pose a problem. He also mentioned that he had seen inspectors drive by but never stopped until recently.

Following discussion, Mr. Juan Mujica **moved** to disapprove the special exception. Mr. Ann Tafel seconded the motion. The Board voted to disapprove the special exception with five members present and voting.

- k) Request of Elizabeth L. Garza for the following Variance to the City of McAllen Zoning Ordinance to allow an encroachment of 4 feet into the 10 feet South side yard setback for an existing single family home, at Lot 124, Vendome Subdivision Phase II, Hidalgo County, Texas; 13818 North 33rd Lane. **(ZBA2022-0037) (TABLED: 07/07/2022, 07/20/2022, 08/03/2022, 08/17/2022, 8/31/2022, 09/08/2022, 09/21/2022, 10/05/2022, 10/19/2022, 11/02/2022)**

4. FUTURE AGENDA ITEMS:

- a) 3408 Rosalva Avenue
- b) 1022 North 17th Street
- c) 413 North 17th Street
- d) 1013 South 25th ½ Street
- e) 9400 North 17th Street
- f) 5012 Redwood 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

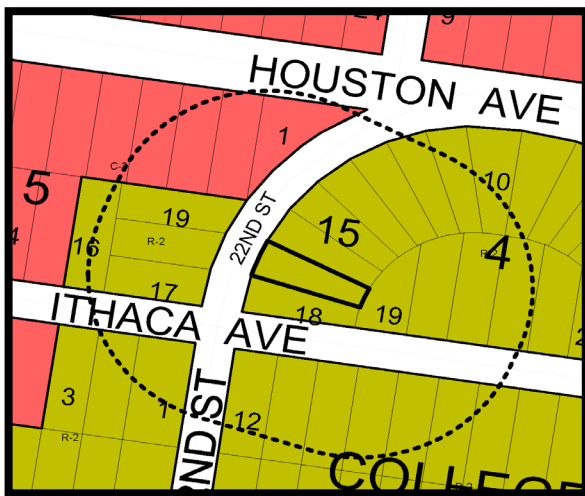
FROM: Planning Staff

DATE: November 09, 2022

SUBJECT: REQUEST OF AHYRA GUERRERO 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 17, BLOCK 4, COLLEGE HEIGHTS SUBDIVISION, HIDALGO COUNTY, TEXAS; 817 SOUTH 22ND STREET. (ZBA2022-0095)

REASON FOR APPEAL:

The applicant is requesting a variance to allow issuance of a building permit in excess of 10% replacement value for a non-conforming use in order to remodel an existing dwelling located on the subject property. The applicant claims that this variance is necessary to make the structure habitable. The structure is dilapidated and needs rehabilitation to make it habitable.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the east side of South 22nd Street, 50 feet north of Ithaca Avenue. The property has 50 feet of frontage along South 22nd Street and a depth of 140 feet, for a lot size of 5,299 square feet. The zoning for the subject property and the adjacent properties is R-2 (duplex-fourplex residential) in all directions. Surrounding land uses include single family residential.

BACKGROUND AND HISTORY:

College Heights Subdivision was recorded in November 1926. The applicant states that the house was constructed in 1948. The current owners acquired the property in 2021.

A Stop Work order was posted on September 1, 2022 for construction work without a building permit. A building permit application for the remodeling of the structure was submitted on September 9, 2022 and an application for the variance request was submitted on October 7, 2022.

ANALYSIS:

The variance request is to allow the continuation of the non-conforming structure as a single family residence. According to the submitted site plan, the dwelling measures a total size of approximately 1,130 square feet. According to the applicant. The applicant is proposing to remodel the current structure in order to make it livable and safe for the occupants.

According to Section 138-89 (a), "on any nonconforming structure or portion of a structure containing a nonconforming use, no work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing to an extent exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, as the case may be."

The proposed remodeling will not increase the square footage of the current structure. The proposed remodeling cost however, will exceed the replacement value of the non-conforming structure in excess of 10%.

According to Hidalgo County Appraisal District, the current value of the non-conforming structure is \$20,666. Moreover, 10% of said value would be \$2,066.60.

According to the applicant's submitted estimates, there will be a total expenditure of \$32,750 in the cost of the materials needed to remodel the dwelling structure. Out of the total submitted cost estimates, only \$26,450 in materials would require a building permit. This estimate total would exceed the 10% replacement value of the non-conforming structure by \$24,383.4.

If the variance request is approved, the applicant must comply with all other zoning ordinance and building code requirements.

Staff received has not received any calls or emails in opposition of the variance request.

RECOMMENDATION:

Staff recommends approval of the variance request since the proposed remodeling would make the structure habitable and bring the structure closer to compliance with City codes.

ZBA
11.17.22

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 Block 4

Subdivision Name College Heights

Street Address 817 S. 22nd Street

Number of lots 1 Gross acres _____

Existing Zoning R 2 Existing Land Use Vacant house

Reason for Appeal (please use other side if necessary) Vacant house to be removed will exceed 10% limitation

☒ \$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 Ahyra Guerrero Phone (956) 432-1277

Address 409 El Jay Dr E-mail Ahyra8@gmail.com

City Alamo State TX Zip 78516

Owner

Name Ahyra Guerrero Phone (956) 432-1277

Address 409 El Jay Dr E-mail Ahyra8@gmail.com

City Alamo State TX Zip 78516

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 FR☒ 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 10-5-2022Print Name Ahyra Guerrero☒ Owner☐ Authorized Agent

Office

 Accepted by _____ Payment received by _____ Date ENTERED

Rev 10/18

OCT 07 2022

McAllen [Signature]


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:

The property current conditions requires remodeling in order to make it liveable + safe for any occupants.

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

The property requires a full remodel which exceeds 10% amount of the value of the property.

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 property will not affect others because its a remodel of an existing structure.

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

The house was constructed in 1948.


Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date





PEÑA ENGINEERING

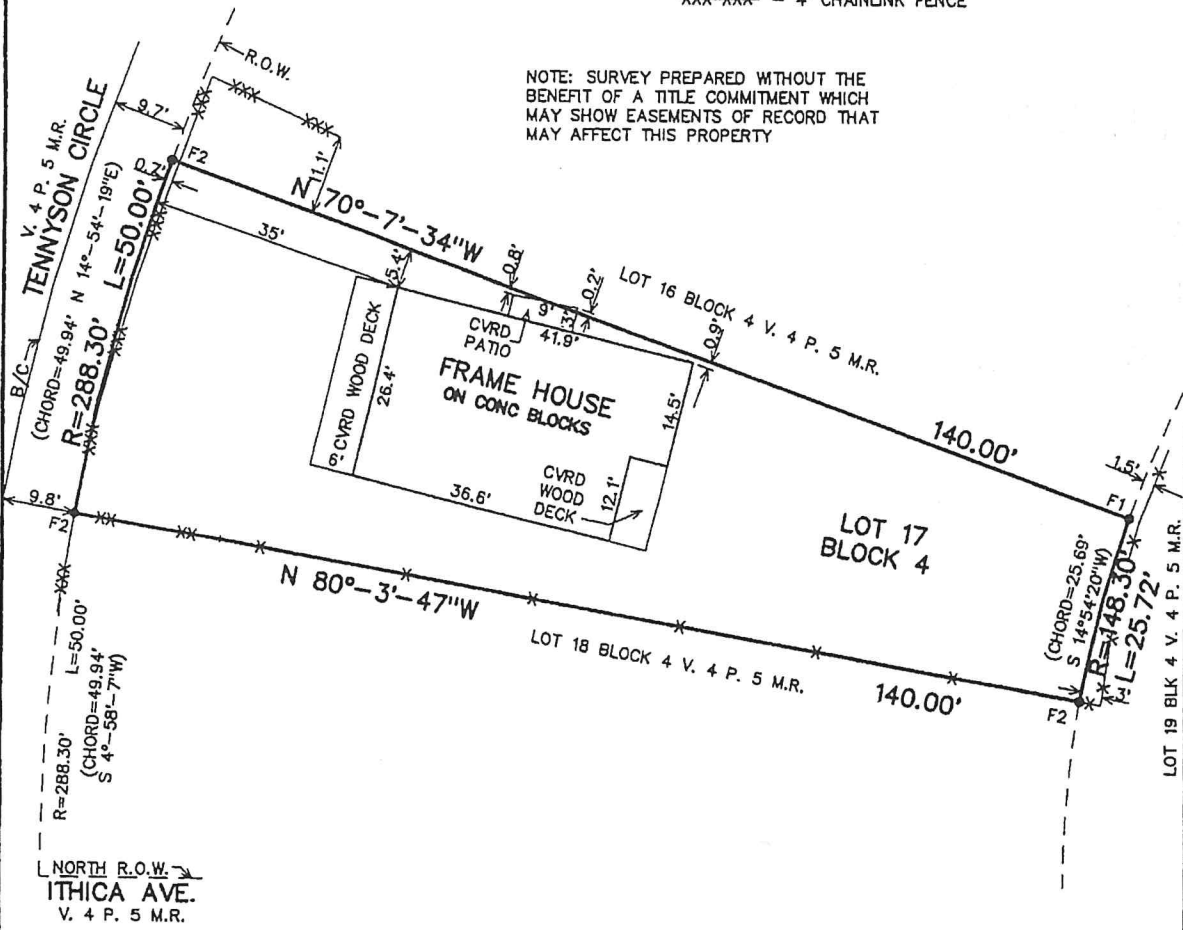
FIRM #10087200 • 1001 WHITEWING • P.O. BOX 4320
(956) 682-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA

SCALE: 1"=20'
CAD: COLLEGEHTS17M
JOB: 72599

NOTE: BASIS OF BEARING
IS THE SOUTH LINE OF LOT
17 COLLEGE HEIGHTS V. 4

- LEGEND
- F1 - FOUND 1/2" DIAMETER IRON ROD
 - F2 - FOUND 3/4" DIAMETER IRON PIPE
 - B/C - BACK OF CONCRETE CURB & GUTTER
 - R.O.W. - RIGHT OF WAY
 - *-* - 6' CEDAR FENCE
 - *-*-* - 4' CEDAR FENCE
 - *-*-*-* - 4' CHAINLINK FENCE

NOTE: SURVEY PREPARED WITHOUT THE
BENEFIT OF A TITLE COMMITMENT WHICH
MAY SHOW EASEMENTS OF RECORD THAT
MAY AFFECT THIS PROPERTY



BUYER'S NAME: Anyra Guerrero

FLOOD ZONE: By GRAPHICAL PLOTTING Community Panel Number 480343 0010 C
Map Revlaed: 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 or apparent easements, discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements or visible easements except as shown on this plat. No subsurface utilities or service connections are shown, © copyright 2021 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: 817 S. 22nd Street McAllen, TX

LEGAL DESCRIPTION: Lot 17, Block 4, COLLEGE HEIGHTS SUBDIVISION, an addition to the City of McAllen, Hidalgo County, Texas,

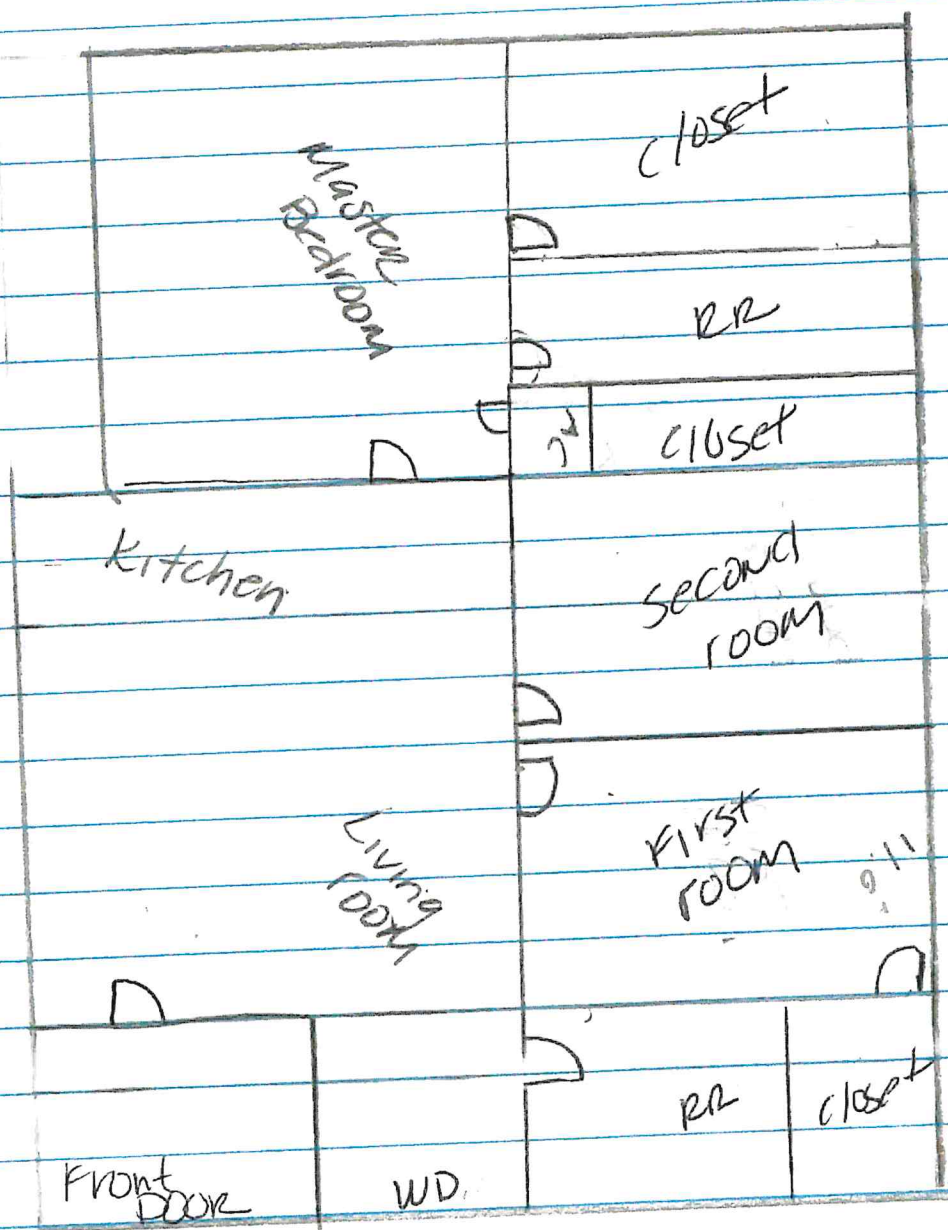
ACCORDING TO THE MAP RECORDED IN VOLUME 4 PAGE 5
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

Pablo Pera

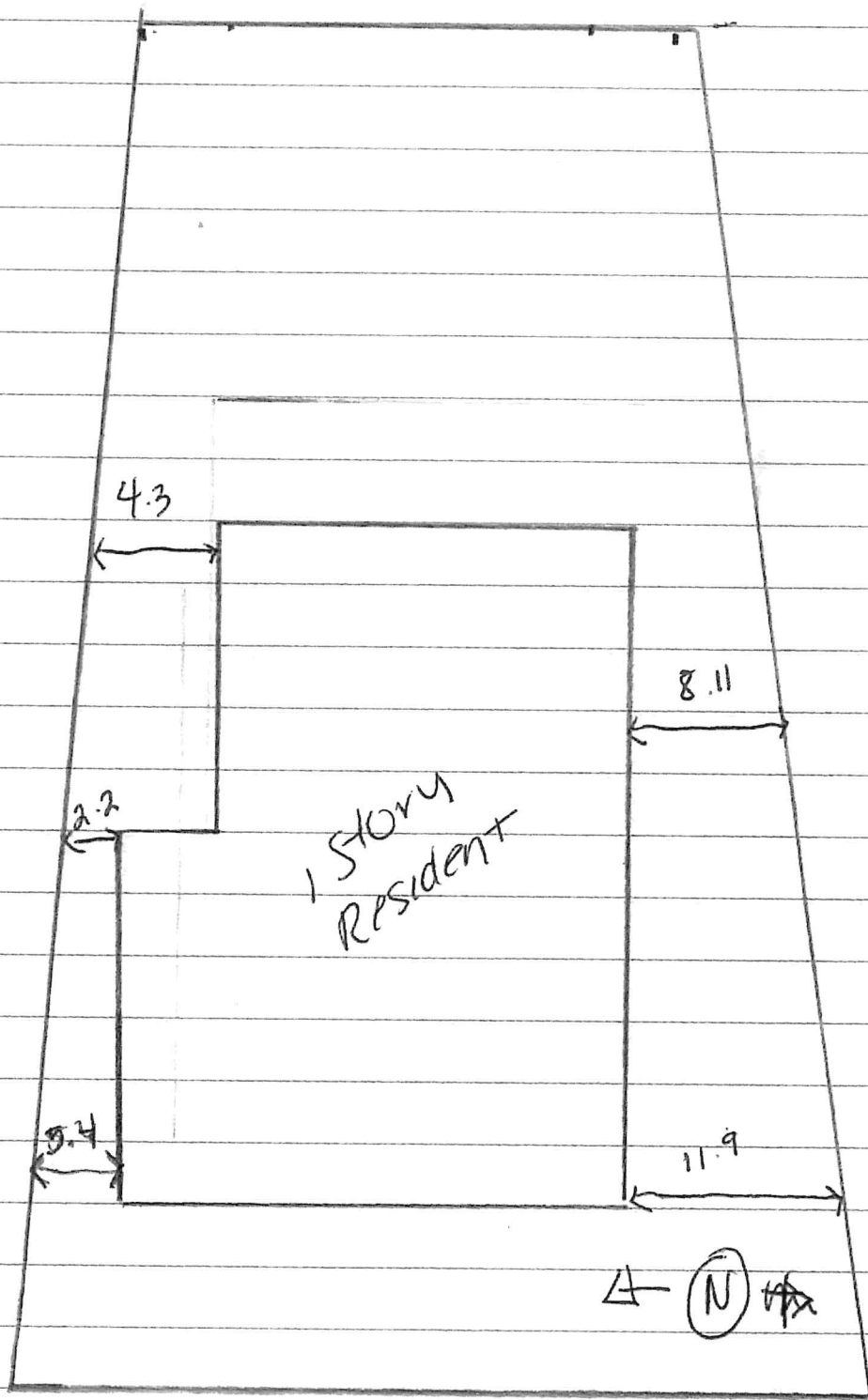
03/10/2021
DATE

PABLO PERA III
REG. PROFESSIONAL LAND SURVEYOR No. 5242





22nd St



22nd Street

I. E. M. Card, a surveyor do hereby
Certify that the foregoing Map of
COLLEGE HEIGHTS SUBDIVISION
Being a Resubdivision of Lots 2, 3, 4, 5, 6, 7, 8, 9,
10, 11, and 22, 66 Acres out of the NW Corner of Lot 13,
Block 3, of Hammonds Subdivision of
Porciones 61, 62, 63, 64 & 65 Hidalgo County
Texas is a true and correct Plot of said lands
as Surveyed and Subdivided by me this 30th
day of November 1926. *I. E. M. Card*
SURVEYOR.

Subscribed and sworn to before me
this 30 day of November 1926
V. G. Ramsauer
Notary Public in and for Hidalgo County, Texas.

Filed for Record this day
Dec. 28, 1926.
At 3:26 O'clock P. M.
Cam E. Hill,
Clark County Court, Hidalgo County, Texas.
By *Leah O. Dunning*
County Clerk.

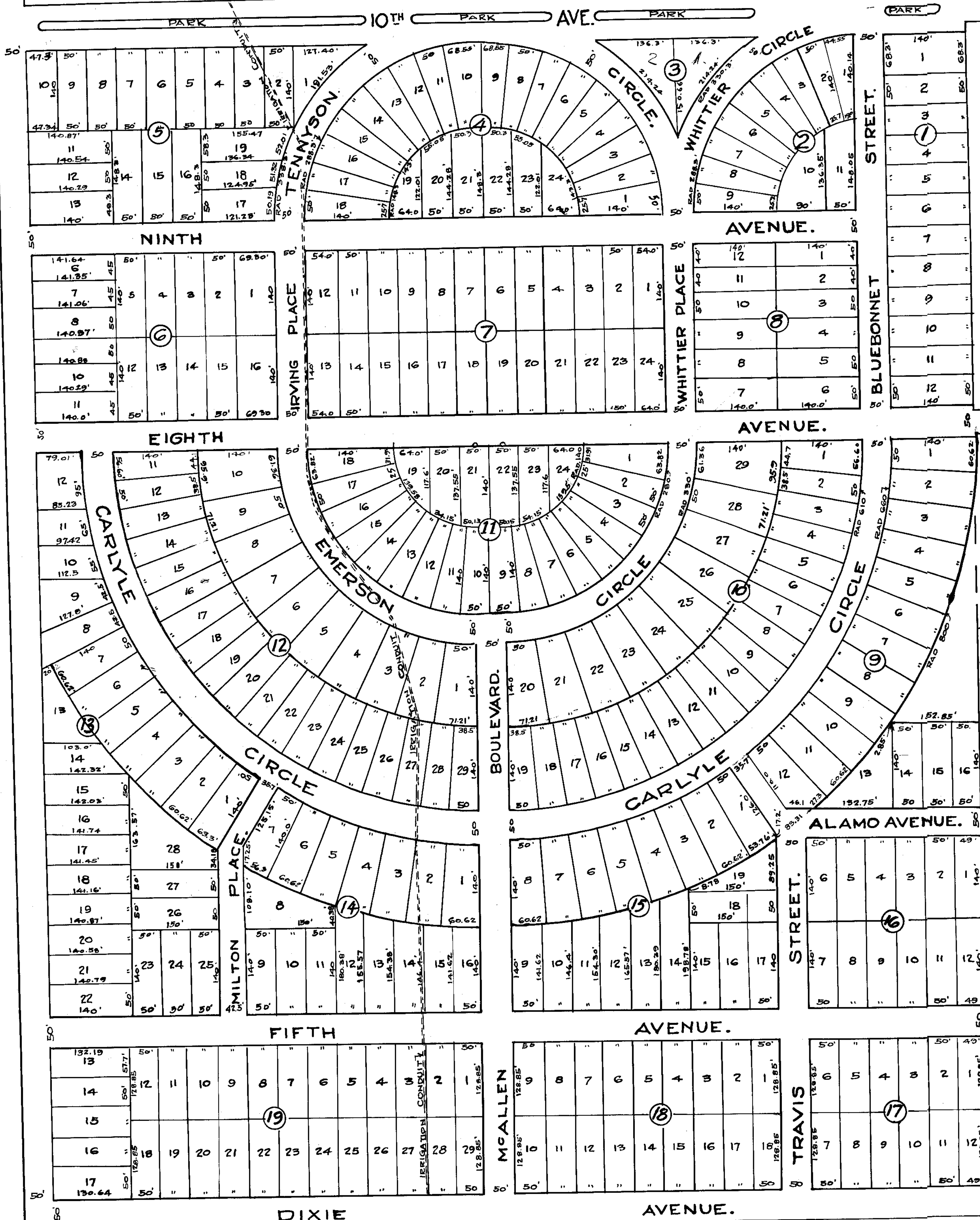
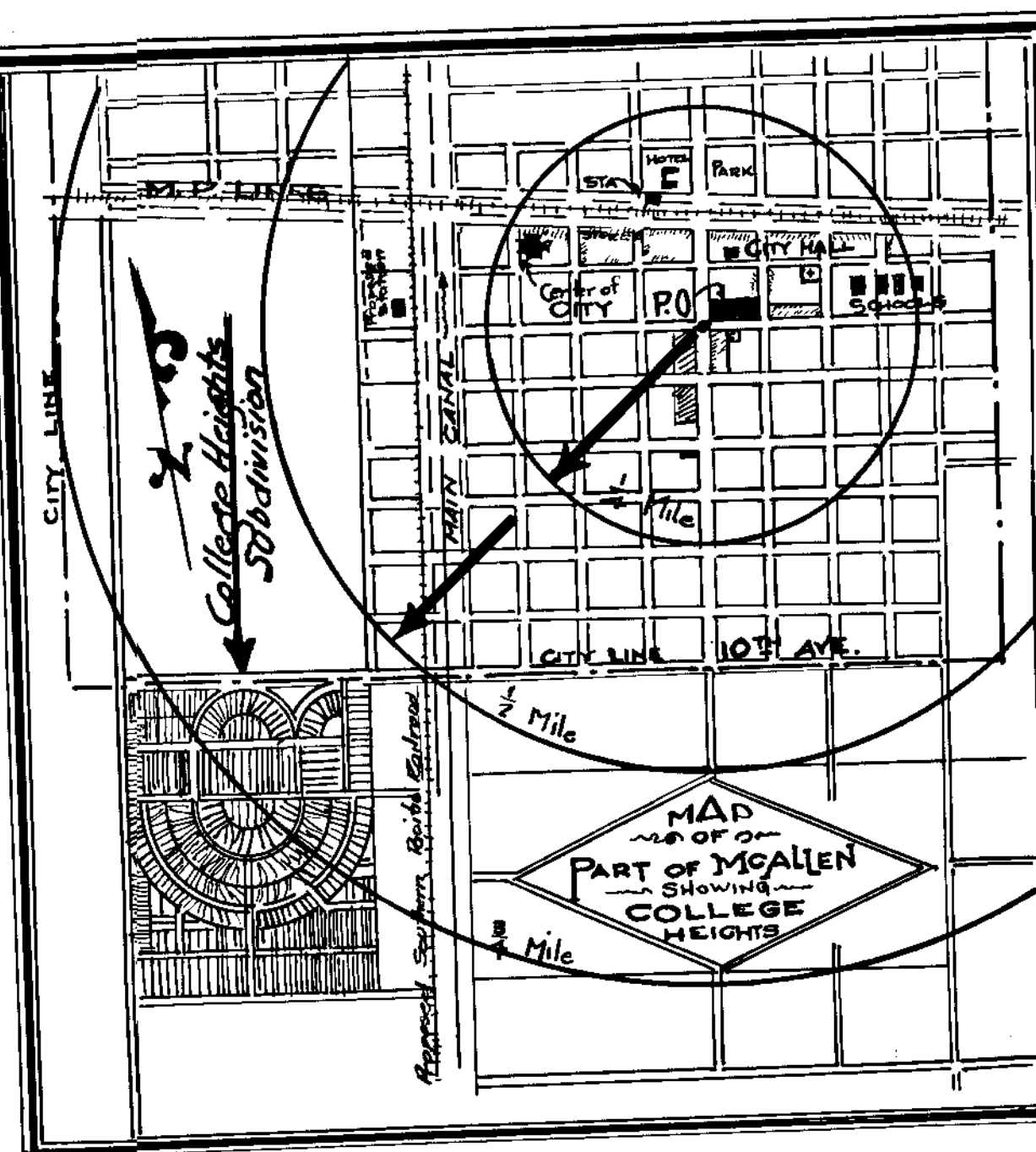
Recorded Dec. 29, 1926
At 4:00 O'clock P. M.

MAP

College Heights.

SUBDIVISION.

BEING A RESUBDIVISION OF LOTS 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, AND
22, 66 Acres out of the NW Corner of LOT 13, Block 3, of Hammonds Subdivision
of PORCIONES 61, 62, 63, 64 & 65 Hidalgo County, Texas. ~
Scale 1" = 100 ft. Nov. 1926





**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2022-0095**

CITY OF MCALLEN PLANNING DEPT.
956-688-1250
WWW.MCALLEN.NET

Memo

TO: Zoning Board of Adjustment & Appeals

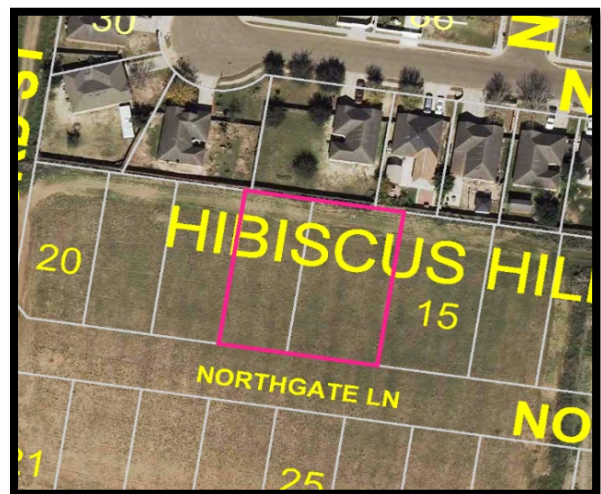
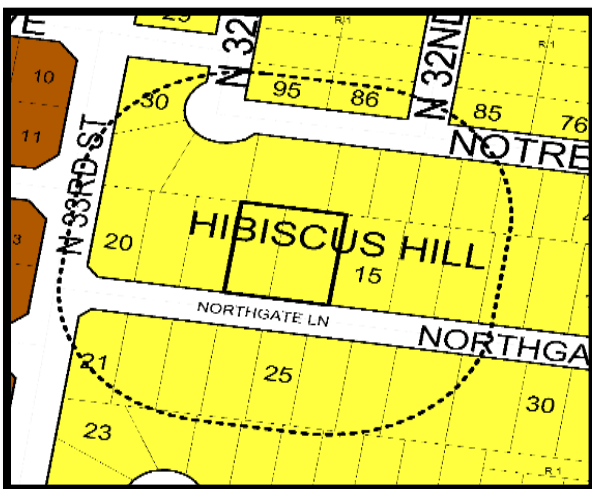
FROM: Planning Staff

DATE: November 10, 2022

SUBJECT: REQUEST OF QUINCY MCGILL FOR THE FOLLOWING VARIANCES AND SPECIAL EXCEPTION REQUEST TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW 1) AN ACCESSORY USE WITHOUT A PRIMARY USE FOR A STORAGE BUILDING WITH A CARPORT STRUCTURE MEASURING 30 FEET BY 12 FEET, 2) TO ALLOW AN ENCROACHMENT OF 4 FEET INTO THE 10 FEET REAR YARD SETBACK FOR AN EXISTING WOODEN STORAGE BUILDING MEASURING 20 FEET BY 12 FEET AND, 3) A SPECIAL EXCEPTION TO ALLOW AN ENCROACHMENT OF 4 FEET INTO THE 10 FEET REAR YARD SETBACK FOR AN EXISTING WOODEN CARPORT MEASURING 10 FEET BY 12 FEET, AT LOT 16, HIBISCUS HILL SUBDIVISION, HIDALGO COUNTY, TEXAS; 3200 NORTHGATE LANE. (ZBA2022-0096)

REASON FOR APPEAL:

The applicant is requesting variances to allow an accessory use without a primary use for a storage building with a carport structure measuring 30 feet by 12 feet in order for the structure to remain on a lot that does not have a primary use, and to allow an encroachment of 4 feet into the 10 foot rear yard setback for the same structure. The applicant built the wooden storage building in order to store household items. A portion of the structure consists of a carport measuring 10 feet by 12 feet for which a Special Exception is being requested. The wooden carport was built in order to protect one of his vehicles from inclement weather events. The applicant was not aware that building permits were required for the construction.



PROPERTY LOCATION AND VICINITY:

The subject property is located along north side of Northgate Lane and has a Lot area of 10,331 square feet. The property is zoned R-1 (single-family residential) District. The adjacent zoning is R-1 (single-family residential) District in all directions. The surrounding land use is single-family residential.

BACKGROUND AND HISTORY:

Hibiscus Hill Subdivision was recorded on December 22, 2015. On June 8, 2022, the Building and Inspections Department issued a stop work order for construction without a building permit for a wooden storage building with a carport. An application for a building permit was submitted on June 10, 2022, and an application for a variance request was submitted on October 10, 2022.

ANALYSIS:

Variance request #1: This request is for an existing wooden storage building with a carport structure measuring 30 feet by 12 feet to remain without a primary building on the 10,331 square feet subject property. The structure was constructed in 2022. The applicant owns the adjacent lot (Lot 17) which contains a single-family residence (the primary use). The properties are under the same ownership and enclosed with a cedar fence around the two lots in essence being used as one property. A replat consisting of both properties could be undertaken to resolve the separate uses.

Variance request #2: This request is for an existing wood storage building measuring 20 feet by 12 feet that encroaches 4 feet into the 10 feet rear yard setback. There is an existing 50 feet gas line easement that traverses of the property. According to the applicant the gas line easement hinders relocation to other areas of the property on Lot 16. The property has a 10 feet utility easement running concurrently with the rear yard setback of the property and the structure also encroaches into the utility easement. The applicant received a "letter of no objection" from the gas line company in order to allow the structure to remain within the easement. Relocating the structure out of the rear setback and 10 feet utility easement would increase proximity to the existing gas line.

Special Exception #3: This request is for an existing wooden carport measuring 10 feet by 12 feet that encroaches 4 feet into the 10 feet rear yard setback. The property has a 10 feet utility easement that runs concurrently with the rear yard setback of the property. The carport also encroaches into the utility easement. A 50 feet gas line easement traverses the property hindering relocation of the structure. The applicant received a "letter of no objection" from the gas line company in order to allow the structure to remain within the gas easement. Relocating the structure out of the rear setback and 10 feet utility easement would increase the proximity to the existing line. Carport parking area and related driveways shall be paved.

A request to abandon the 10 feet utility easement at the rear of the property needs to be undertaken in order to resolve the building encroachment into the utility easement.

Approval of the request allowing the structures within the rear yard of the property may encourage future structures in the rear of the property to be constructed.

There is also an existing swimming pool towards the front of the property that was approved in May, 2022

During a site visit, staff noticed other rear and side yard encroachments along Northgate Lane. A review of Planning Department records did not reveal any variance or special exceptions granted in the area.

The Planning Department has not received any emails or phone calls in opposition of the variance and special exception requests.

RECOMMENDATION:

Staff recommends:

Variance #1: Staff recommends Approval of the variance request to allow the secondary structures to remain on the lot, since the property is enclosed by an existing cedar fence surrounding the two Lots in essence both lots are used as one tract.

Variance #2 & Special Exception #3: Staff recommends Dissaproval of the variance request #2 and special exception #3, since the structures encroach 4 feet into the 10 feet rear yard setback and utility easement. However, if the Board approves the request it should be limited to the encroachment shown in the submitted site plan.

2BA022-0096

2BA-
11/17/22

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 HIBISCUS HILL LOT 16+17

Subdivision Name _____

Street Address 3204 NORTHGATE LANE, McALLEN TX 78504

Number of lots 2 Gross acres _____

Existing Zoning RESIDENTIAL Existing Land Use RESIDENTIAL

Reason for Appeal (please use other side if necessary) TO ALLOW 4 FT INTO THE 10 FT SETBACK FOR STORAGE SHED AND CARPORT W/ ACCESSORY USE WITHOUT MAIN HOUSE

☒ \$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 QUINCY MCGILL Phone 361-813-8927

Address 3204 NORTHGATE LANE E-mail QUINCYMCGILL@YAHOO.COM

City McALLEN State TX Zip 78504

Owner

Name SAME AS ABOVE 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 10-10-22

Print Name QUINCY MCGILL ☐ Owner ☐ Authorized Agent

Office

Accepted by [Signature] Payment received by _____ Date OCT 10 2022

Rev 10/18

 ENTERED
 Initial AM



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:

WITH THE 50 FOOT EASEMENT AND THE REAR SET BACK, NO OTHER STRUCTURE OR CONSTRUCTION WILL BE DONE IN THIS AREA.

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

OUR HOME BUILDER WESTWIND HOMES TOLD US THAT THE GAS LINE WAS INACTIVE IN 2020 DURING THE BUILDING OF OUR HOME

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 STRUCTURE SITS AT 6 FT, WHICH IS 4 FT SHORT OF THE SETBACK OF THE REAR FENCE ONLY

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

THE GAS LINE EASEMENT TAKES AWAY FROM THE FULL USE OF THE BACKYARD

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

Letter of No Objection

This instrument made and entered into this 29 day of September, 2022 by and between ETC Texas Pipeline, Ltd., a Delaware limited partnership (hereinafter referred to as "ETC"), with principal offices at 1300 Main Street, Houston, Texas 77002-5600, and Quincy McGill, (hereinafter referred to as the "Owner" whether one or more), whose mailing address is 3204 Northgate Lane, McAllen Texas, 78504.

WITNESSETH:

WHEREAS, ETC is the holder of a 50-foot Easement granted by Richard Wiesehan and wife, Virginia Wiesehan on June 19th, 1957, and recorded under Volume 893, Page 4 of the Record of Deeds of Hidalgo County, Texas, covering the following described premises in Hidalgo County, Texas, as further described below:

Being North 10 acres of Lot 39 La Lomita Irrigation and Construction Company's Subdivision of Porciones 61, 62 & 63 more fully described in WD from Texas Land Company to Richard W. Wiesehan recorded in Volume 721, Page 216 of the deed records of said county (hereinafter referred to as the "Premises");

WHEREAS, pursuant to the authority contained in said Easement, ETC has constructed and currently operates and maintains an 8-inch, (hereinafter referred to as the "ETC Pipeline Facilities"), across and through the above-described Premises; and

WHEREAS, Owners are the present owners of the following described real property, upon which the ETC Pipeline Facilities are situated, in Hidalgo County, Texas (hereinafter referred to as the "Owned Premises");

See Exhibit "A" attached hereto and made a part hereof for a description of the Owned Premises

WHEREAS, Owners wooden storage shed (hereinafter referred to as the "Encroachment") upon ETC's 50-foot right-of-way width (hereinafter referred to as the "Easement Area"), and such Encroachment is depicted on Exhibit "B" which is attached hereto and made a part hereof; and

WHEREAS, Owner has been advised by ETC that ETC is a natural gas transmission company; and

WHEREAS, Owner has requested permission from ETC to maintain, use, and enjoy the Encroachment upon a portion of the Easement; and

WHEREAS ETC is willing to grant such permission upon the terms and conditions set forth as follows.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. ETC hereby grants permission to Owner to maintain, operate and use the Encroachment, subject to the following conditions:

- A. Owner assumes all risks for damages, injuries, or loss to either property or persons, which may be incurred by Owner or its agents, invitees, or licensees present on or in the vicinity of the Easement Area and in any way associated with said Encroachment. Any maintenance or improvements to or repairs of the Encroachment shall be the sole responsibility, and performed at the sole cost and expense, of the Owner.

ENTERED
OCT 10 2022
Initial: Am

- B. The permission granted herein is limited exclusively to the Encroachment within the Easement Area. Owner shall not alter, or permit the alteration of, the grade of the Easement Area without the prior express written consent of ETC. Owner shall be solely responsible for, and shall bear the expense of repairs attributable to, any loss of subjacent or lateral support for ETC's Easement Area and/or the ETC Pipeline Facilities caused by the Encroachment.
- C. ET shall be notified at least 48 hours in advance of any construction or maintenance activity. You must contact the State approved notification center at "811", in addition to contacting ET's field representative before commencing any Crossing at or near ET's Pipeline Facilities.
- D. Owner shall at all times conduct all of their activities within the Easement Area in such a manner as not to interfere with or impede the operation, safety, or maintenance of the ETC Pipeline Facilities and activities in any manner whatsoever. In the event that ETC, in its sole discretion, determines that the safety, operation, or maintenance of the ETC Pipeline Facilities is affected by the Encroachment, Owner shall, at ETC's option and to ETC's satisfaction, either resolve the situation or reimburse ETC for its costs incurred in resolving the situation, including but not limited to lowering or relocating the ETC Pipeline Facilities.
- E. Owner shall not plant any trees within the Easement Area.
- F. That Owner shall construct and maintain said Encroachment as shown on Exhibit "B".

2. Owner agrees to indemnify, protect, and hold ETC, its parent, affiliates, subsidiaries, and their directors, officers, employees, representatives, and agents harmless from and against any and all actions or causes of action, claims, demands, liabilities, loss, damage, injury, suit, proceeding, judgment, cost (including the cost or expense of environmental response, removal or remediation activities) or expense of whatever kind or nature, including but not limited to reasonable attorneys' fees, arising from: (1) non-compliance with any laws, regulations and orders applicable to the ownership or the operation and maintenance of the Encroachment within the Easement Area described herein; (2) any incidents, acts, releases, negligence, transactions or omissions, or conditions on or affecting the Easement Area that would (i) contribute to or constitute a violation of any local, state or federal environmental rule, regulation, law or judicial order, (ii) result, in whole or in part, in any requirement to clean up or otherwise remedy or remediate a condition, (iii) give rise to any lien, liability, injunction, order, restriction, claim, expense, damage, fine or penalty, or (iv) adversely affect human health or the environment at or near the Easement Area; and (3) any incident, act, action, cause of action, negligence, transaction, or omission or in connection with, or incidental to the construction, operation, maintenance, presence, or use of the Encroachment, except where such loss, cost, liability, or expense was proximately caused solely by the gross negligence of ETC, its employees or agents.

3. Owner agrees that protection of the ETC Pipeline Facilities will be maintained at all times.

4. Should ETC desire to remove any portion of the Encroachment within the Easement Area in order to construct, maintain, operate, repair, replace, remove, or resize ETC's existing or additional Pipeline Facilities, Owner or its successors and assigns, shall pay the cost of removing and replacing or reinstalling such removed portion of the Encroachment. In addition, all repair and maintenance work performed by ETC on its existing or additional Pipeline Facilities located on the Owned Premises, shall be performed in a reasonable and workmanlike manner and ETC shall restore the surface and grade of the Owned Premises where the work is performed, but shall not be liable for loss, damage, or replacement to the Encroachment or any associated equipment and facilities that exist within the Easement Area, and in this regard, Owner does hereby release ETC, its employees, agents, officers, and directors from any and all liability for any such loss or damage.

5. The parties hereto understand that this Agreement in no way constitutes a waiver by ETC of its rights to enjoy the Premises or the Easement Area unencumbered by the construction and operation of the Encroachment.

6. It is expressly agreed to by and between the parties hereto that if Owner is in violation of any terms or conditions set forth in this Agreement, ETC may at any time terminate this Agreement upon ten (10) days' written notice to Owner. In the event of such termination, Owner shall immediately remove any and all of said Encroachment, which may be situated on the Easement Area, or if Owner fails to remove any and all of said Encroachment, ETC may, at its option, remove said Encroachment at the expense of Owner and without any liability whatsoever. It is further agreed that the failure by ETC to exercise such option as to any such violation shall not constitute a waiver of ETC's future right to exercise such option as to the same or any future violation.

7. Upon the termination of this Agreement, Owner shall remove from the Easement Area all of the Encroachment and restore the surface of the Easement Area to good condition and to ETC's satisfaction, including the leveling and grading of all ruts, excavations, depressions and mounds caused by, or resulting from, the Encroachment.

8. The provisions of the Easement, and all rights, powers, privileges, and duties, obligations, and liabilities created thereby, remain in full force and effect and are not affected hereby except to the extent and in the manner set forth above.

9. This Agreement may not be assigned by Owner, in whole or in part, without the prior express written consent of ETC, which consent shall not be unreasonably withheld so long as any such permitted assignee agrees to be bound by and to comply with all the terms and conditions of this Agreement. Any assignment made in contravention of this provision shall be deemed null and void and of no force and effect whatsoever.

10. Owner agrees, that should ETC need to utilize any portion of the Encroachment area, to perform any pipeline operations in the future, Owner shall allow ETC to utilize same without any compensation or payment due to any interference caused to Owner's business

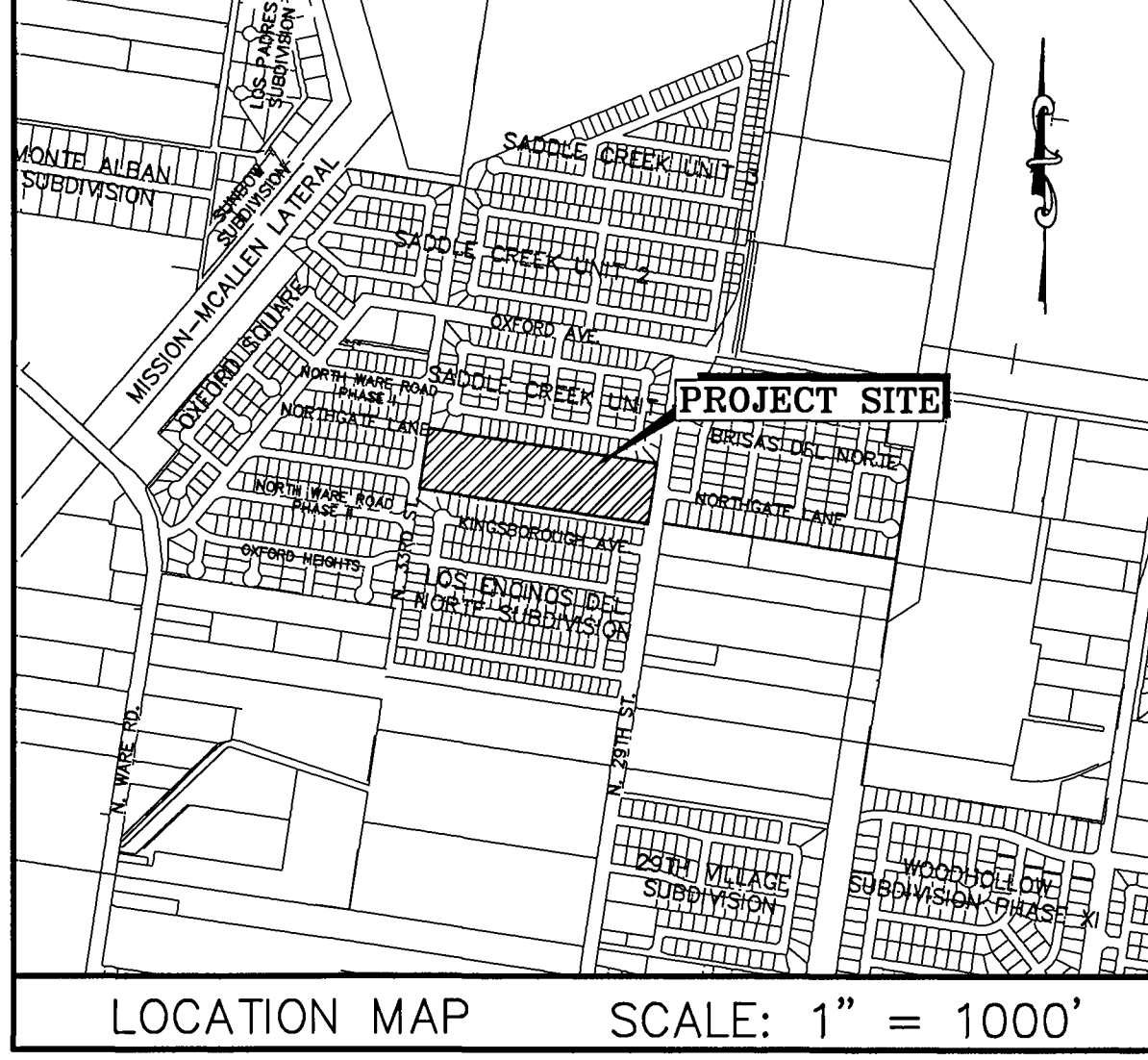
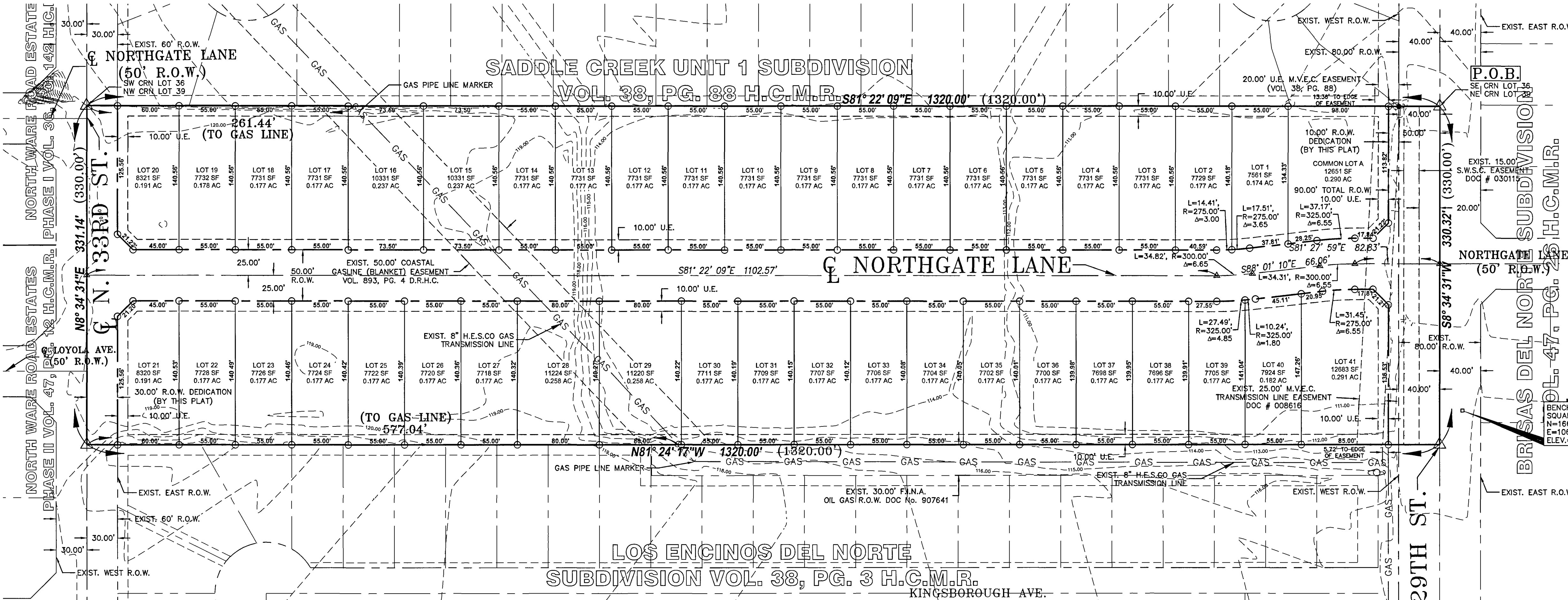
This instrument and the covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties and the benefits of this Agreement shall run with the land.

Erik Van Aller
Encroachments Project Manager
Energy Transfer
Erik.VanAller@energytransfer.com

Sign: 

HIBISCUS HILL SUBDIVISION

BEING THE NORTH 10.022 ACRES, MORE OR LESS OUT OF LOT 39 OF LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION OUT OF PORCIONES 61 AND 63, AS RECORDED IN VOL. 0, PG. 39, OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.



SCALE 1" = 60'
BASIS OF BEARING
TEXAS STATE PLANE COORDINATES
NAD 83
TEXAS SOUTH ZONE (4205)
WESTERN DATA SYSTEMS NETWORK

OWNER'S ACKNOWLEDGMENT
STATE OF TEXAS
COUNTY OF HIDALGO
I (WE), THE UNDERSIGNED, OWNER(S) OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS THE HIBISCUS HILL SUBDIVISION, TO THE CITY OF MCALLEN, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS, WATER LINES, SEWER LINES, STORM SEWERS, FIRE HYDRANTS, AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH I (WE) WILL CAUSE TO BE INSTALLED THEREON, SHOWN OR NOT SHOWN, IF REQUIRED OTHERWISE TO BE INSTALLED OR DEDICATED UNDER THE SUBDIVISION APPROVAL PROCESS OF THE CITY OF MCALLEN, ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED, EITHER ON THE PLAT HEREOF OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF MCALLEN.

STATE OF TEXAS
COUNTY OF HIDALGO
BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED OMAR FELIPE GARCIA, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR PURPOSES AND CONSIDERATIONS THEREIN STATED.
GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 4TH DAY OF DECEMBER, 2015.

MARILY BECERRA
Notary Public, State of Texas
My Commission Expires 05-12-2015

NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS
MY COMMISSION EXPIRES 05-12-2015

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 CERTIFICATE
HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH THE MINIMUM STANDARDS OF THE DISTRICT ADOPTED UNDER TEXAS WATER CODE NO. 49.211(C). THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE DRAINAGE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION, BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA. IT IS THE RESPONSIBILITY OF THE DEVELOPER OF THE SUBDIVISION AND ITS ENGINEER TO MAKE THESE DETERMINATIONS.

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1
RAUL E. SESIN, P.E., C.F.M.
GENERAL MANAGER
DATE 12/11/15

GENERAL PLAT NOTES:

- MINIMUM PERMISSIBLE FINISHED FLOOR ELEVATION SHALL BE 18" ABOVE TOP OF CURB IN FRONT OF THE CENTER-POINT OF THE LOT.
- MINIMUM BUILDING SETBACKS SHALL BE AS FOLLOWS:
FRONT: 25 FT. OR GREATER FOR EASEMENTS.
REAR: IN ACCORDANCE WITH THE ZONING ORDINANCE, OR GREATER FOR EASEMENTS.
INTERIOR SIDES: IN ACCORDANCE WITH THE ZONING ORDINANCE, OR GREATER FOR EASEMENTS.
CORNER: 10 FT. OR GREATER FOR EASEMENTS ALONG N. 29TH & N. 33RD STREETS.
GARAGE: 18 FT. EXCEPT WHERE GREATER SETBACK IS REQUIRED; GREATER SETBACK APPLIES.
- THE SUBDIVISION IS IN ZONE "X" (NON-SHADED) OF THE FLOODINSURANCE RATE, AREAS DETERMINED TO BE OUTSIDE OF THE 500-YEAR FLOOD-PLAIN, MAP COMMUNITY PANELS NO.: 480334 0325 D MAP REVISED: JUNE 6, 2000, AND 480334 0295 D MAP REVISED: JUNE 6, 2000
- A DRAINAGE DETENTION OF 25,447.12 CF OR 0.584 ACRE FEET IS REQUIRED FOR THIS SUBDIVISION. CURRENT RUNOFF WILL BE OBTAINED IN COMMON LOT A, COMMON LOT A* WILL BE DESIGNATED FOR DETENTION PURPOSES ONLY. DETENTION SHALL COMPLY WITH MASTER DRAINAGE PLAN. CITY OF MCALLEN WILL NOT MAINTAIN DETENTION AREA.
- ENGINEERED DRAINAGE DETENTION PLAN, APPROVED BY THE ENGINEERING DEPARTMENT, PRIOR TO ISSUANCE OF BUILDING PERMIT. GRADING MUST COMPLY WITH MASTER PLAN.
- EASEMENTS SHALL BE KEPT CLEAR OF FENCES, BUILDINGS, SHEDS, SHRUBS, TREES, AND OTHER PLANTINGS (EXCEPT LOW GROUND COVER, GRASS OR FLOWERS) AND OTHER OBSTRUCTIONS TO THE OPERATIONS AND MAINTENANCE OF THE EASEMENT.
- BENCHMARK: ELEV.=112.46, GRID COORDINATES N 16629780.87, E 1069514.97 NAVD 88.
- THE CITY OF MCALLEN TO HAVE A 15'X15' CORNER CLIP EASEMENT AT STREET INTERSECTIONS MEASURED FROM STREET CURB INTERSECTION.
- 4 FT. WIDE MINIMUM SIDEWALK REQUIRED ON N. 29TH & N. 33RD STREETS, AND ON BOTH SIDES OF NORTHGATE LANE
- NO CURB CUT, ACCESS, OR LOT FRONTAGE PERMITTED ALONG N. 29TH & N. 33RD STREETS.
- CITY OF MCALLEN BENCHMARK (MC48): ELEV.=115.79, GRID COORDINATES N 16630296.39, E 1072459.20 NAVD 88 (SE CORN OF WARE RD./MILE S LN. INTERSECTION) 1662459.31 1066370.95
- 6 FT. OPAQUE BUFFER REQUIRED FROM ADJACENT/BETWEEN MULTI-FAMILY RESIDENTIAL AND COMMERCIAL, OR INDUSTRIAL ZONES/USES AND ALONG N. 29TH & N. 33RD STREETS.
- 8 FT. MASONRY WALL REQUIRED BETWEEN SINGLE FAMILY RESIDENTIAL AND COMMERCIAL, INDUSTRIAL, OR MULTI-FAMILY RESIDENTIAL ZONES/USES.
- NO STRUCTURES CAN BE BUILT IN COMMON LOT A AND IT IS EXCLUSIVE TO DRAINAGE DETENTION ONLY.
- COMMON LOT A, IDENTIFIED AS A DETENTION AREA SHALL BE MAINTAINED BY THE DEVELOPER, WHO MAY TRANSFER SUCH MAINTENANCE OBLIGATION TO THE SUBDIVISION HOMEOWNER'S ASSOCIATION, HIBISCUS HILL HOMEOWNER'S ASSOCIATION, UPON CONVEYANCE OF TITLE TO THE SAME, THEIR SUCCESSORS AND ASSIGNS, AND NOT BY THE CITY OF MCALLEN, NO BUILDINGS OR OTHER STRUCTURES SHALL BE ERECTED IN COMMON LOT A, WHICH SHALL BE USED EXCLUSIVELY AS A DETENTION AREA. AFTER COMMON LOT A'S TRANSFER OF TITLE TO THE HIBISCUS HILL HOMEOWNER'S ASSOCIATION THE SUBDIVISION LOT OWNER'S PRO RATA SHARES OF THE COST OF MAINTENANCE SHALL BE DETERMINED BY THE HIBISCUS HILL HOMEOWNER'S ASSOCIATION. FAILING IN SUCH MAINTENANCE OBLIGATIONS, THE CITY OF MCALLEN MAY, BUT SHALL NOT BE REQUIRED TO MAINTAIN THE SAME AT THE LOT OWNER'S COST, WHICH COST MAY BECOME THE PROPERTY OF THE CITY. PRIOR TO THE IMPOSITION OF ANY LIEN, THE CITY SHALL FIRST COMPLY WITH NOTICE REQUIREMENTS SIMILAR TO THOSE UNDER EXISTING ORDINANCE SECTION 134-168(d), AS THE SAME MAY BE AMENDED. THE SPECIFIC AND EXCLUSIVE USE OF COMMON LOT A, THE OWNER'S MAINTENANCE OBLIGATION, AND THE CONSEQUENCES OF FAILURE TO MAINTAIN SHALL BE INCORPORATED INTO ANY DEED OR INSTRUMENT OF CONVEYANCE AS A DEED RESTRICTION, RECORDED IN INSTRUMENT NO. 47777440 OFFICIAL RECORDS, HIDALGO COUNTY, TEXAS.

- LEGEND**
- - SET 1/2 INCH IRON ROD
 - - FOUND 1/2 INCH IRON ROD
 - - FOUND 5/8 INCH IRON ROD
 - ▲ - FOUND COTTON PICKER SPINDLE
 - △ - FOUND 60-D NAIL
 - △ - SET COTTON PICKER SPINDLE
 - - POWER POLE
 - - GUY WIRE
 - - FOUND FENCE POST
 - - TRAFFIC SIGN
 - - WATER METER
 - - WATER VALVE
 - - IRRIGATION STAND PIPE
 - (XXXX) - MAP RECORD
 - XXXX - NATURAL GROUND
 - △ - CALCULATED POINT
 - - CAPPED IRON ROD SET

- ABBREVIATION LEGEND**
- F.B.S.L. - FRONT BUILDING SETBACK LINE
 - R.B.S.L. - REAR BUILDING SETBACK LINE
 - S.B.S.L. - SIDE BUILDING SETBACK LINE
 - R.O.W. - RIGHT-OF-WAY
 - P.O.B. - POINT OF BEGINNING
 - P.O.C. - POINT OF COMMENCING
 - S.W.C. - SOUTHWEST CORNER
 - F.T. - FARM TRACT
 - F.A.R.-TO-MARKET - FARM-TO-MARKET
 - S.T.E.C. - SOUTH TEXAS ELECTRIC CO-OP
 - U.E. - UTILITY EASEMENT
 - S.W.S.C. - SHARTLAND WATER SUPPLY CORP.
 - U.E. - UTILITY EASEMENT
 - C.L. - CENTER LINE
 - LOT LINE

METES AND BOUNDS DESCRIPTION.

BEING THE NORTH 10.022 ACRES, MORE OR LESS OUT OF LOT 39 OF LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION OUT OF PORCIONES 61 AND 63, AS RECORDED IN VOL. 0, PG. 39, OF THE MAP RECORDS OF HIDALGO COUNTY TEXAS, SAID 10.022 ACRES BEING THE SAME LAND DESCRIBED IN A WARRANTY DEED WITH VENDORS LIEN TO FORTIS LAND COMPANY, LLC, RECORDED IN INSTRUMENT #2603220, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS, AND SAID 0.62 ACRES BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:
BEGINNING AT A COTTON-PICKER-SPINDLE SET AT THE SOUTHEAST CORNER OF LOT 36, SAME BEING THE NORTHEAST CORNER OF LOT 39, SAME BEING A POINT ON THE CENTER LINE OF N. 29TH STREET, AND SAME BEING THE SOUTHEAST CORNER OF SADDLE CREEK UNIT 1 SUBDIVISION, RECORDED IN VOLUME 38, PAGE 88, MAP RECORDS OF HIDALGO COUNTY, TEXAS, FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT AND THE POINT OF BEGINNING;
THENCE S 08°34'31" W ALONG THE EAST BOUNDARY LINE OF LOT 39, SAME BEING THE CENTERLINE OF N. 29TH STREET, A DISTANCE OF 330.32 FEET TO A COTTON-PICKER-SPINDLE SET, THE NORTHEAST CORNER OF LOS ENCINOS DEL NORTE SUBDIVISION, RECORDED IN VOLUME 38, PAGE 3, MAP RECORDS OF HIDALGO COUNTY, TEXAS, FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT;
THENCE N 81°24'17" W, ALONG THE NORTH BOUNDARY LINE OF THE SAID LOS ENCINOS DEL NORTE SUBDIVISION, PASSING AT 40.00 FEET THE WEST RIGHT-OF-WAY LINE OF N. 29TH STREET, AND CONTINUING FOR A TOTAL DISTANCE OF 1320.00 FEET TO A COTTON-PICKER-SPINDLE SET AT THE CENTERLINE OF N. 33RD STREET, SAME BEING A POINT ON THE EAST LINE OF NORTHWARE ROAD ESTATES SUBDIVISION PHASE II, RECORDED IN VOLUME 47, PAGE 12, MAP RECORDS OF HIDALGO COUNTY, TEXAS, FOR THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;
THENCE N 08°34'31" E ALONG THE EAST BOUNDARY LINE OF THE SAID NORTH WARE ROAD ESTATES SUBDIVISION PHASE II, AND IN PART ALONG THE EAST BOUNDARY LINE OF NORTH WARE ROAD ESTATES SUBDIVISION PHASE I, RECORDED IN VOLUME 36, PAGE 42, MAP RECORDS OF HIDALGO COUNTY, TEXAS, SAME BEING THE CENTERLINE OF N. 33RD STREET, A DISTANCE OF 331.14 FEET TO A COTTON-PICKER-SPINDLE SET, THE SOUTHWEST CORNER OF LOT 36, SAME BEING THE NORTHWEST CORNER OF LOT 39, AND SAME BEING THE SOUTHWEST CORNER OF THE SAID SADDLE CREEK UNIT 1 SUBDIVISION, FOR THE NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT;

THENCE S 81°22'09" E, ALONG THE NORTH BOUNDARY LINE OF LOT 39, SAME BEING THE SOUTH BOUNDARY LINE OF LOT 36, AND SAME BEING THE SOUTH BOUNDARY LINE OF THE SAID SADDLE CREEK SUBDIVISION, PASSING AT 1,280.00 FEET AN IRON ROD FOUND AT THE WEST RIGHT-OF-WAY LINE OF N. 29TH STREET, AND CONTINUING FOR A TOTAL DISTANCE OF 1320.00 FEET TO THE POINT AND PLACE OF BEGINNING, SAID TRACT CONTAINING 10.022 ACRES OF LAND, MORE OR LESS.

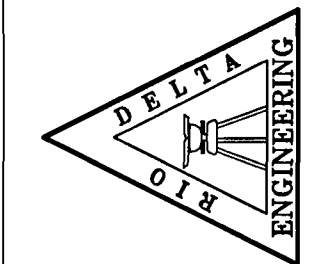
FILED FOR RECORD IN:
HIDALGO COUNTY
BY ARTURO GUJARDO, JR.
COUNTY CLERK
ON: 12-22-15 AT 12:06 AM (PM)
INSTRUMENT NUMBER: 47777440
BY: [Signature] DEPUTY

LIENHOLDER'S ACKNOWLEDGMENT
STATE OF TEXAS
COUNTY OF HIDALGO
I (WE), THE UNDERSIGNED, HOLDER(S) OR DULY AUTHORIZED OFFICERS OF THE HOLDER(S) OF A SECURITY INTEREST IN THE ABOVE DESCRIBED PROPERTY, BEING THE LAND SHOWN ON THIS PLAT AND THE DESIGNATED HEREIN AS THE HIBISCUS HILL SUBDIVISION OF THE CITY OF MCALLEN, TEXAS, DO HEREBY CONSENT TO THE SUBDIVISION OF THE PROPERTY AS PROVIDED FOR UNDER THE PLAT AND DO HEREBY PROVIDE THAT ANY FORECLOSURE RELATING TO THE SECURITY INTEREST ON THE ABOVE DESCRIBED PROPERTY SHALL BE SUBJECT TO THE PLATTING OF THE PROPERTY AS PROVIDED FOR HEREIN.

STATE OF TEXAS
COUNTY OF HIDALGO
PLANNING AND ZONING COMMISSION CHAIR CERTIFICATE
I, THE UNDERSIGNED, CHAIR OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF MCALLEN, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO THE REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.
DATE 12-16-15

NAME	ADDRESS	PHONE & FAX
OWNER(S): FORTIS LAND COMPANY, LLC OMAR FELIPE GARCIA (MANAGING MEMBER)	222 W. UNIVERSITY DRIVE EDINBURG, TX. 78539	(956) 292-0008 (956) 292-0896
SURVEYOR: IVAN GARCIA P.E. R.P.L.S.	921 S. 10TH AVENUE EDINBURG, TX. 78539	(956) 380-5152 (956) 380-5083
ENGINEER: IVAN GARCIA P.E. R.P.L.S.	921 S. 10TH AVENUE EDINBURG, TX. 78539	(956) 380-5152 (956) 380-5083

RIO DELTA ENGINEERING
FIRM REGISTRATION No. F-7628
SURVEY FIRM No. 10194027
921 S. 10TH AVENUE EDINBURG, TEXAS 78539
(TEL) 956-380-5152 (FAX) 956-380-5083



DRAWN: PETER HERMIDA E.I.T.
DESIGN: IVAN GARCIA P.E. R.P.L.S.
CHECKED: IVAN GARCIA P.E. R.P.L.S.
SURVEYOR: IVAN GARCIA P.E. R.P.L.S.
SCALE: 1" = 60'
DATE: NOVEMBER, 2015

ISSUED FOR:
FINAL

PLAT SHEET
HIBISCUS HILL SUBDIVISION
MCALLEN, TEXAS
HIDALGO COUNTY

PROJECT:
SUB 15 008
PAGE NO:
1 OF 1





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2022-0096
CITY OF MCALLEN PLANNING DEPT
374-5811/3206
WWW.MCALLEN.NET

3204

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 4, 2022

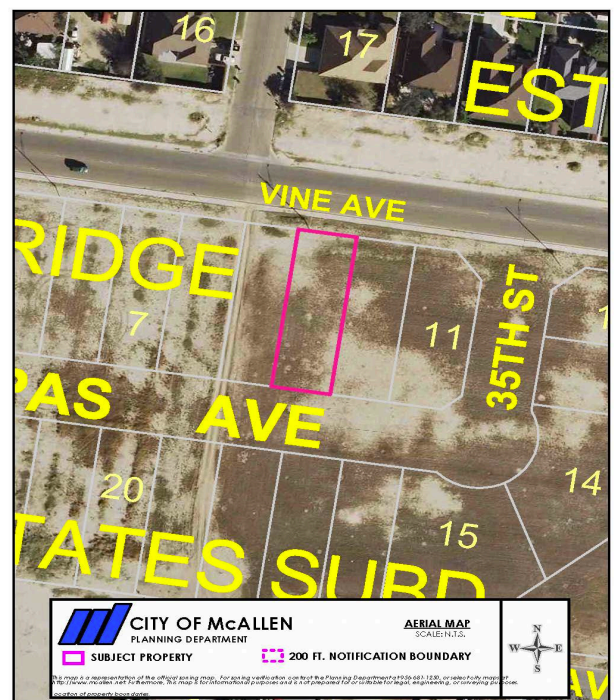
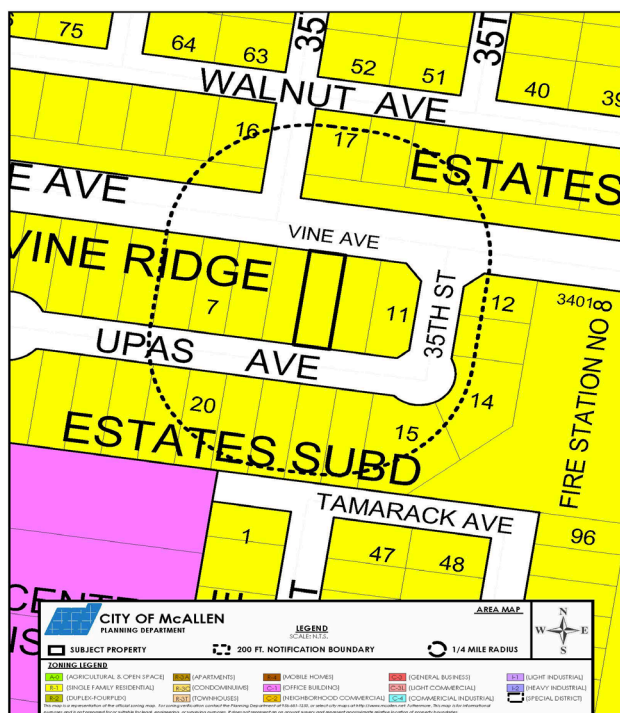
SUBJECT: REQUEST OF FLAMINGO POOLS (MARCOS RAMIREZ III) ON BEHALF OF CHRIS HOWARD FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 15 FEET INTO THE 25 FEET REAR YARD SETBACK FOR A PROPOSED SWIMMING POOL MEASURING 14 FEET BY 35 FEET AT LOT 9, VINE RIDGE ESTATES SUBDIVISION, HIDALGO COUNTY, TEXAS; 3508 UPAS AVENUE (ZBA2022-0098)

REASON FOR APPEAL:

The applicant is requesting a variance in order to allow an encroachment of 15 feet into the rear yard setback of 25 feet for a proposed swimming pool measuring 14 feet by 35 feet.

PROPERTY LOCATION AND VICINITY:

The subject property is located along the north side of Upas Avenue, west of North 35th Street and between Upas and Vine Avenues. The property has double frontage of 50 feet along Upas and Vine Avenues. It has a depth of 151.5 feet, for a lot size of approximately 7,565 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 Vine Ridge Estates Subdivision was recorded on March 12, 2019. An application for a swimming pool permit has not yet been submitted to the Building and Inspections Department. An application for the variance request was submitted on October 19, 2022.

ANALYSIS:

Approval of the variance request would allow an encroachment of 15 feet in to the 25 feet rear yard setback as shown in the submitted site plan. Lots 1 through 11 along this block in Vine Ridge Estates Subdivision Phase have double frontage along Upas Avenue and Vine Avenue. The recorded plat for the subdivision requires the double fronting Lots to have a 25 feet front and rear yard setbacks.

City Ordinance Section 138-367 (b) states, “where lots have double frontage...a required front yard shall be provided on one street only. “The submitted site plan shows the existing residence in compliance with the 25 feet front yard setback along Upas and Vine Avenue. However, an approved variance is still necessary to resolve the plat note setback requirement of 25 feet for the rear yard

Also, existing 10 feet utility easement will not be impacted by the proposed setback encroachment.

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

RECOMMENDATION:

Staff recommends approval of the variance request since the required front yard has 25 feet along Upas Avenue and is in compliance with the City of McAllen Zoning Ordinance requirement for double fronting lots.

ZBA- 11/17/22



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Lot 9

Subdivision Name Vine Ridge Estates

Street Address 3508 Upas Ave

Number of lots 1 Gross acres _____

Existing Zoning R-1 Existing Land Use Residence

Reason for Appeal (please use other side if necessary) proposed rectangular swimming pool 14' x 35' to encroach 15' into the 25' rear yard set back on double front 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 Flamingo Pools (Marcos Ramirez III) Phone 956-681-0101

Address 612 W. Nolana Ave Ste 425 E-mail markram69@gmail.com

City McAllen State TX Zip 78504

Owner

Name Chris Howard Phone 956-320-3300

Address 3508 Upas Ave E-mail how1973@comcast.net

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 [Signature]Date 10-18-2022Print Name Marcos Ramirez III☐ Owner☒ Authorized Agent

Office

Accepted by [Signature]

Payment received by _____

Date OCT 19 2022

Rev 10/18

Initial: CH

SCANNED



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:

The double fronting yard requires 25' rear yard setback as per plat

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

Due to the 25' rear yard setback limits the area in the rear yard to install pool

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 required yard setbacks will be observed

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

The rear yard requires a 25' rear yard setback

Reason for Appeal

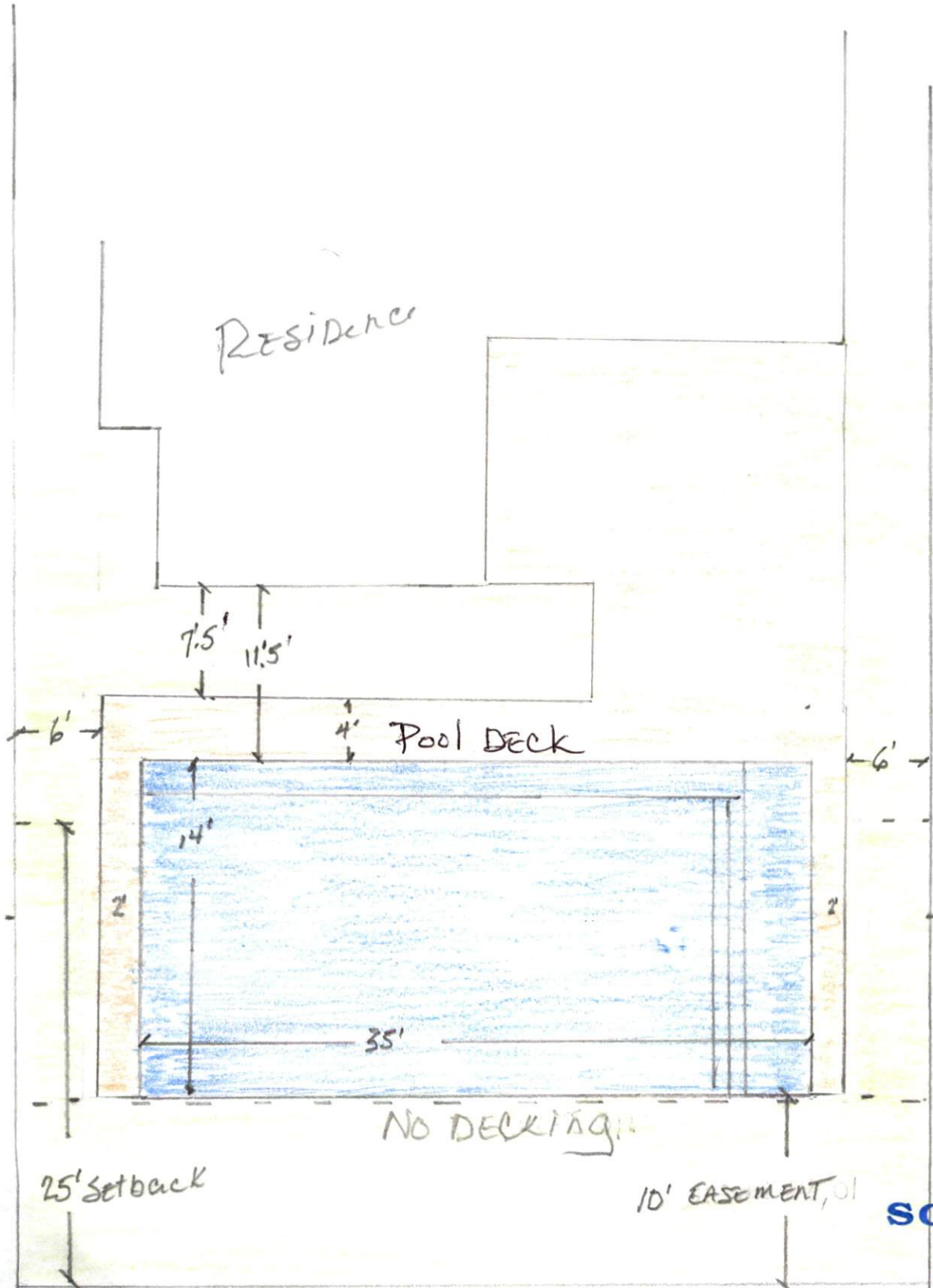
Board Action

Chairman, Board of Adjustment
Signature

Date

3508 Upas Ave

5



SCANNED

OCT 19 2022

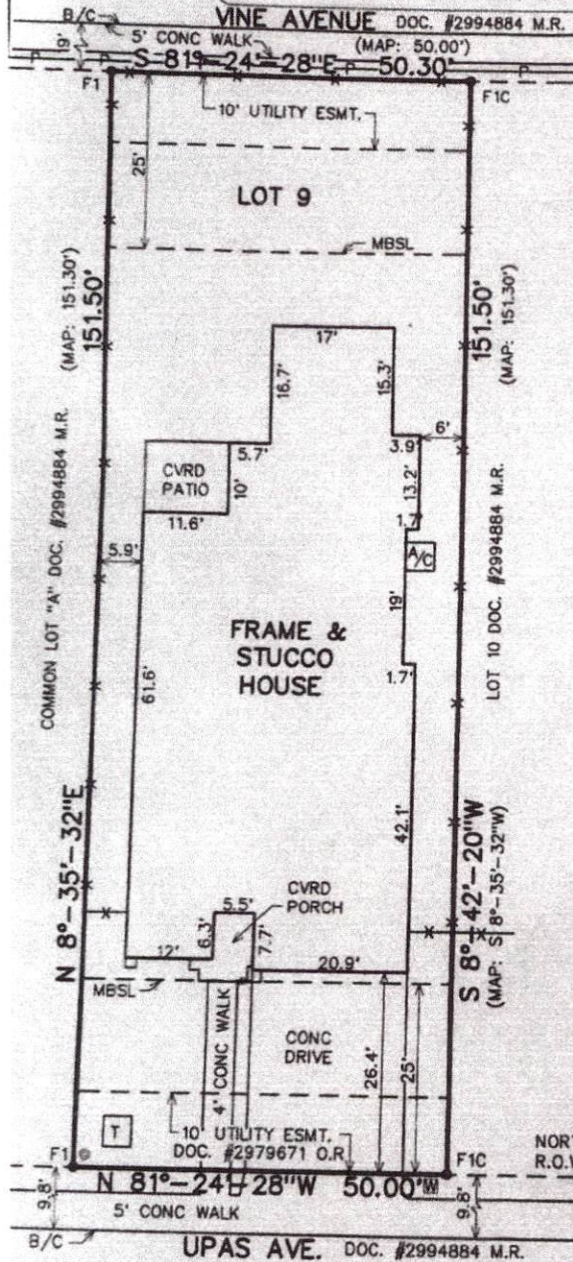
Pool depth 3'-5' Fiberglass construction

initial: On



PEÑA ENGINEERING

FIRM #10087200 - 1001 WHITEWING - P.O. BOX 4320
(956) 682-8812 - McALLEN, TEXAS 78502 - FAX (956) 631-PENA



SCALE: 1"
CAD: VINE
JOB: 7031

NOTE: BASIS OF BEARING IS THE WEST
OF LOT 9 VINE RIDGE ESTATES SUB'D I
NO. 2994884 MAP REC.

LEGEND

F1 - FOUND 1/2" DIAMETER IRON ROD
F1C - FOUND 1/2" DIAMETER IRON ROD
CAP STAMPED "RDE 6496"
B/C - BACK OF CONCRETE CURB & G
R.O.W. - RIGHT OF WAY
MBSL - MINIMUM BUILDING SETBACK LI
X-X - 6' CEDAR FENCE
P-P - POWER POLE LINE
T - CABLE T.V. PEDESTAL
T - ELEC. TRANSFORMER
W - WATER METER

NOTES:

- 1) BLANKET EASEMENT TO AEP TEXAS
DOC. #2979671 O.R.
- 2) EASEMENTS, RIGHTS, RULES, AND
REGULATIONS IN FAVOR OF HIDALGO
COUNTY IRRIGATION DISTRICT NO. 1

OWNER'S NAME: Christopher Howard

LOOD ZONE: By GRAPHICAL PLOTTING Community Panel No. 480343 0005 C Map Rev: 11/0

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

Verify that this plat represents the facts found on the ground at the time of survey a
no visible or apparent easements, discrepancies, conflicts, or shortages in area or bc
microachments, or overlapping of improvements or visible easements except as sho
bsurface utilities or service connections are shown, © copyright 2020 PENA ENGINE
vided in multiple originals solely for the borrower named hereon, in conjunction
tion which shall take place within 6 months after the survey was provided. No l
or implied to copy this Survey. Survey valid only if print has original seal and
3508 Upas Ave. McAllen, TX 78501

DESCRIPTION: Lot 9, VINE RIDGE ESTATES SUBDIVISION, an addition to the
City of McAllen, Hidalgo County, Texas,
ING TO THE MAP RECORDED IN DOCUMENT NUMBER 2994884
MAP RECORDS OF HIDALGO COUNTY, TEXAS.

Paul Peña

PABLO PEÑA JR.
REG. PROFESSIONAL LAND SURVEYOR NO. 5242

SCANNED

OCT 19 2022

Initial: *Ar*



NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2022-0098

SP100
ADP
TAPO

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 8, 2022

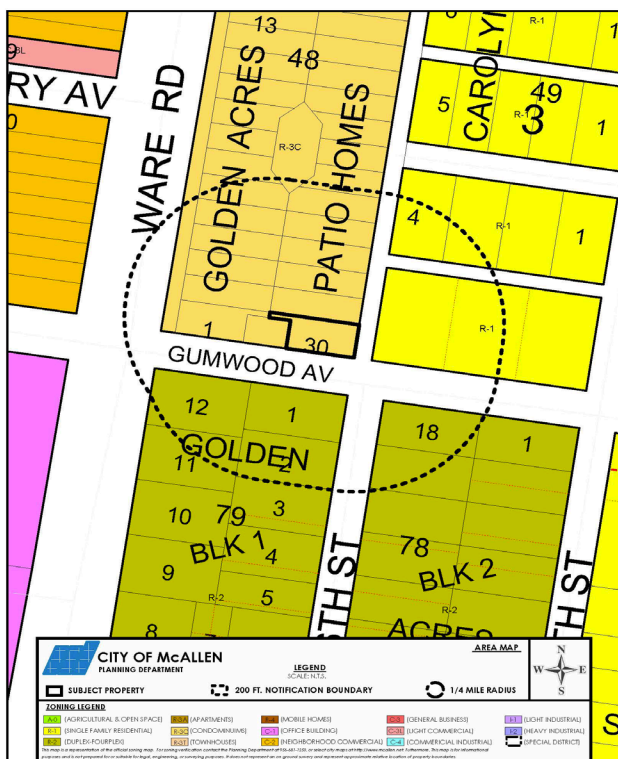
SUBJECT: REQUEST OF DIANA GUERRERO-PENA FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 6.67 FEET INTO THE 10 FEET CORNER SIDE YARD SETBACK FOR AN EXISTING COVERED PORCH MEASURING 16 FEET BY 20 FEET AT LOT 30, GOLDEN ACRES PATIO HOMES SUBDIVISION, HIDALGO COUNTY, TEXAS; 3620 GUMWOOD AVENUE, UNIT 30. (ZBA2022-0099)

REASON FOR APPEAL:

The applicant is requesting a variance in order to allow an encroachment of 6.67 feet into the corner side yard setback of 10 feet for an existing metal porch structure measuring 16 feet by 20 feet. The reason for this request according to the applicant is for shade and to provide protection for her parents from the weather elements when they visit.

PROPERTY LOCATION AND VICINITY:

The subject property is located at the northwest corner of North 36th Street and Gumwood Avenue. The property has 50 feet of frontage along North 36th Street and a depth of 95 feet, for a lot size of 4,750 square feet. There is an existing residence on the subject property, which is part of Golden Acres Patio Homes, a condominium development.



BACKGROUND AND HISTORY:

The plat for Golden Acres Patio Homes Subdivision was recorded on August 11, 1980. A stop work order was issued for building the porch without a permit on October 12, 2022. An application for a building permit for the porch was submitted October 13, 2022. An application for the variance request was submitted on October 19, 2022.

ANALYSIS:

Approval of the variance request would allow an encroachment of 6.67 feet into the 10 feet corner side yard setback as shown in the applicant's submitted site plan. The reason for this request according to the applicant is for shade and to provide protection for her parents from the weather elements when they visit.

Corner side yard setbacks are important in allowing for adequate building separation from road ways.

There is an existing brick wall mostly that surrounds the residence on the subject property that serves as a buffer and screens any visible encroachments.

Granting of a variance may allow a structure to be enclosed in the future.

During a site visit of the subject property, staff noticed other similar encroachments within this development. A review of the Planning Department records did not reveal other variances processed for this development.

Staff has received one phone call in opposition with a concern that it may encourage other similar encroachments. There were phone calls received in favor of the variance request.

RECOMMENDATION:

Staff recommends disapproval of the variance request since the plight of the owner is not unique. If the Board chooses to grant the variance, it should be limited to the encroachment shown on the submitted site plan.

ZBA 2022-0099

ZBOA
11.17.22

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 30

Subdivision Name

Green Acres Golden Acres Patio Homes

Street Address

3620 Gumwood Ave Unit 30

Number of lots

1

Gross acres

Existing Zoning

R-3C

Existing Land Use

Patio Home

Reason for Appeal (please use other side if necessary)

 Patio added (does not meet requirement (10 ft)
 corner side setback

☒ \$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

Diana Guerrero-Peña

Phone

361-455-9197

Address

3620 Gumwood

E-mail

dgpena123@gmail.com

City

McAllen

State

TX

Zip

78501

Owner

Name

Diana Guerrero-Peña

Phone

Address

3620 Gumwood Ave 30

E-mail

dgpena123@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

10/19/22

Print Name

Diana Guerrero-Peña

☒ Owner☐ Authorized Agent

Office

Accepted by _____

Payment received by _____

Date _____

Rev 10/18

ENTERED

OCT 19 2022

20-07-11-2020



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.

Reason for Appeal

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 is a common outdoor Patio as many of the tenants who reside at these condominiums have built in their Patios

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

The patio will serve ^{as} a place of comfort, enjoyment of my elderly parents. It will help protect them from (rain, sunshine) And provide opportunity for gardening

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:

- not affecting others as it's within my property. It's safe and not imposing of my neighbor property

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

- Protection of rain / sun
- Elderly parent protection.

Board Action

Chairman, Board of Adjustment
Signature

Date

3620 Gumwood
Unit 30

Diana Guerre
owner

McAllen, Tx 78501

Rafters - North



Front of Property

Garden Home

36th Street

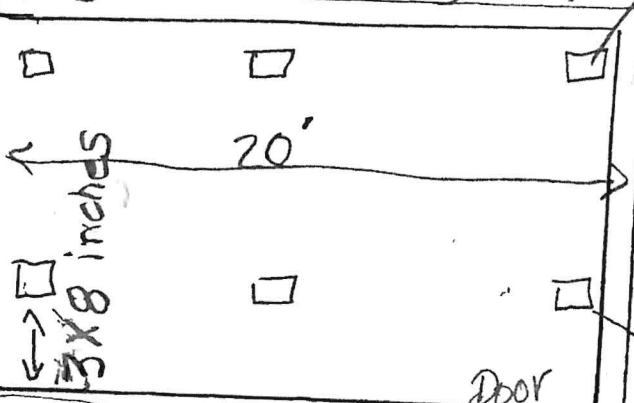
10

3'-4"

Ceiling
Flat cover
16 Ft

(Detached Patio)

6 inches



Columns
4x4 x 10

Garage

Door
Patio

Detached
10 inches
Columns
Depth
2ft

36 Street

Materials: Wood
Laminated









NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2022-0099

Memo

TO: Zoning Board of Adjustment & Appeals

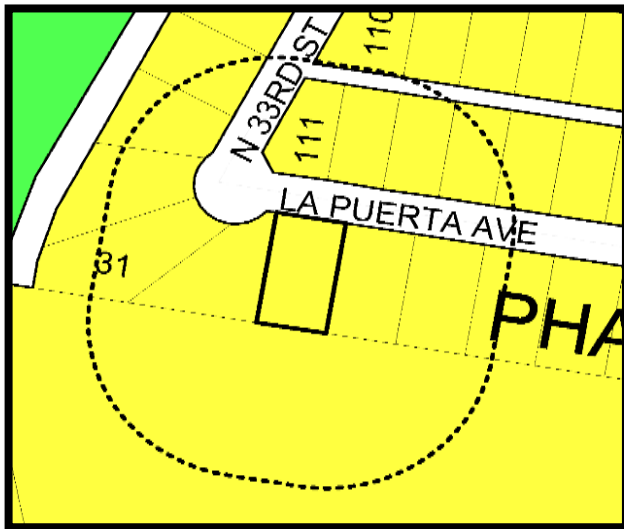
FROM: Planning Staff

DATE: November 10, 2022

SUBJECT: REQUEST OF JUAN R. DOMINGUEZ FOR THE FOLLOWING VARIANCE REQUEST TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 2.5 FEET INTO THE 6 FEET EAST SIDE YARD SETBACK FOR AN EXISTING WOOD STORAGE BUILDING MEASURING 20 FEET BY 18 FEET, AT LOT 29, LA PUERTA SUBDIVISION PHASE I, HIDALGO COUNTY, TEXAS; 3221 LA PUERTA AVENUE. (ZBA2022-0097)

REASON FOR APPEAL:

The applicant is requesting a variance to encroach 2.5 feet into the east side yard setback of the subject property for an existing wooden storage building measuring 20 feet by 18 feet. The applicant states that the storage shed would be used to store tools and yard work equipment.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the south side of La Puerta Avenue near the intersection with North 33rd Street. The property has 84 feet of frontage along La Puerta Avenue and a depth of 143.33 feet for a total lot size of 12,039.7 square feet. The zoning for the property and adjacent zoning is R-1 (single-family residential) District in all directions. Surrounding land use is single family residential.

BACKGROUND AND HISTORY:

La Puerta Subdivision Phase I was recorded in August 2006. A Stop Work order was issued by the Building Permits and Inspections Department on October 8, 2022 for doing construction without a building permit. A building permit application was submitted to the Building Permits and Inspections

Department on October 11, 2022 and a variance application was submitted to the Planning Department on October 14, 2022. The applicant hired a contractor to start construction on the wooden storage shed in 2022 in order to store his personal tools and yard work equipment. He was previously storing the items in the car garage. The storage building was constructed in order to move the equipment out of the garage and store the items in the storage shed.

ANALYSIS:

The request is to allow an encroachment of 2.5 feet into the 6 feet east side yard setback for an existing wooden storage building measuring 20 feet by 18 feet. As per the subdivision plat, there are no easements along the east side of the property.

The storage building was placed over a concrete foundation and compliance would involve relocation or demolition of the encroaching portion of the structure in order to achieve compliance.

During a site visit, staff noticed other encroachments along the rear and side yards within La Puerta Subdivision Phase I. A review of Planning Department records did not reveal other variances granted within the subdivision. Approval of the request allowing structures within the side yard of the property may encourage other similar encroachments.

During a site visit of the subject property, staff noticed a carport located on the adjacent property that appears to encroach into the side yard. A review of Planning Department records did not reveal any Building Permits or a Variance requests granted for the this structure.

Measurements provided were without benefit of a survey.

Staff has not received calls or emails in opposition of the variance request.

RECOMMENDATION:

Staff recommends disapproval of the variance request since, there is no history of other variances having been granted at La Puerta Subdivision Phase I, and approval may encourage other construction with encroachments. If the Board chooses to approve the variance request, it should be limited to the foot print shown in the site plan.

ZBA2022-0097

ZBA
11/17/22

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

La Puerta PH 2 Lot 29

Subdivision Name

R-1 - LA Puerta

Street Address

3221 La Puerta Edinburg TX 78541

Number of lots 1 Gross acres

Existing Zoning

R-1

Existing Land Use

R-1

Reason for Appeal (please use other side if necessary)

 Encroaching 2 Ft
 into the 6 ft Side Yard Set Back (tool shed)

☒ \$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 Juan R. DominguezPhone 956-607-1126Address 3221 La Puerta AveE-mail jrd93@hotmail.comCity EdinburgState TXZip 78541

Owner

Name SamePhone 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 Juan R. DominguezDate 10-14-22Print Name Juan R. Dominguez☒ Owner☐ Authorized Agent

Office

Accepted by STPayment received by Date

Rev 10/18

 RECEIVED
 OCT 14 2022
BY: JRD



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

55177

*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:

Building tool shed for tools and YARD
Equipment

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

to Allow the Encroachment of the 6 Ft
Side yard Set back

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:

No runoff to neighbor Area.
will not Interfere with Public Safety

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

The shed will allow to store YARD
Equipment and tools that are inside the car garage

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

MR. Dominguez



La Puerta Ave

Grass

10'

10' 10'

Proposed

3.5' 0" 10'

10'

10'




10'



RECEIVED
OCT 14 2022

Easement

BY: 





NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2022-0097
CITY OF MCALLEN PLANNING DEPT
505-881-1234
WWW.MCALLEN.NET

Memo

TO: Zoning Board of Adjustment & Appeals

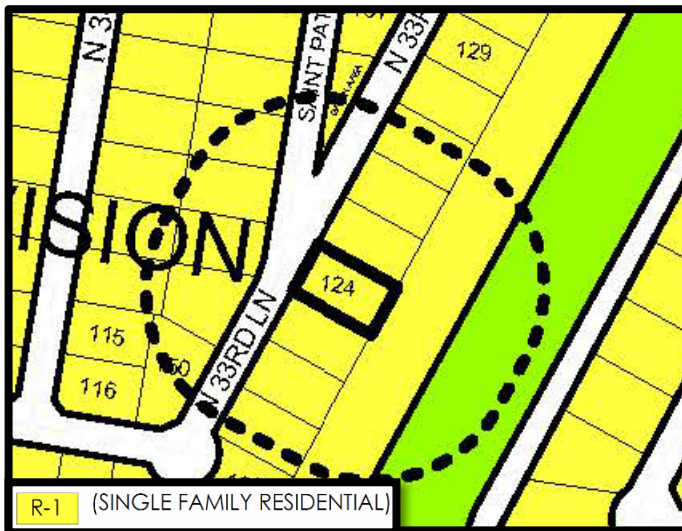
FROM: Planning Staff

DATE: July 29, 2022

SUBJECT: REQUEST OF ELIZABETH L. GARZA FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 4 FEET INTO THE 10 FEET SOUTH SIDE YARD SETBACK FOR AN EXISTING SINGLE FAMILY HOME, AT LOT 124, VENDOME SUBDIVISION PHASE II, HIDALGO COUNTY, TEXAS; 13818 NORTH 33RD LANE. (ZBA2022-0037)(TABLE 07/07/2022)

REASON FOR APPEAL:

The applicant is requesting to allow an existing single family residential structure with an encroachment of 4 feet into the 10 feet south side yard setback to remain.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the east side of North 33rd lane. The property has 74 feet. of frontage along North 33rd Lane and a depth of 125 feet for a lot size of 9,250 square feet. The subject property is zoned R-1 (single family residential) District. The surrounding land use is single-family residential, vacant land and Hidalgo Canal No. 1 Right of Way.

BACKGROUND AND HISTORY:

Vendome Subdivision Phase II was recorded on April 21, 2021. The original building permit application for the residential home was for Lot 126 however, a final survey of the construction revealed that the house was built on Lot 124 with an encroachment on the South side yard setback. A Certificate of Occupancy was issued April 28, 2022 for a single family home.

ANALYSIS:

The variance request is to allow an encroachment of 4 feet into the 10 feet side yard setback for an existing single family home. The survey provided indicates the structure was built with an encroachment of 3.8 feet into the south side yard setback. A 10 feet drainage easement runs concurrently with the setback. According Engineering Department plans, a 24-inch drain line runs through the middle of the 10 feet drainage easement. Any damage to the line may impact the structured integrity of the home and stability of its foundation. The actual construction of the home is approximately 1.2 feet from the drain line.

Staff has not received any phone calls or e-mails in regards to the variance requests.

RECOMMENDATION:

Staff recommends disapproval of the variance request since the documents for the relocation of the drainage easement are pending.

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF MAY 25, 2022:

At the Zoning Board of Adjustment and Appeals meeting of May 25, 2022 no one appeared in opposition of the variance request. Elizabeth Garza, the applicant, stated that a survey requested by their financial institution showed the recently constructed home encroaching into the 10 feet side yard setback and a drainage easement that run concurrently. Board member Mujica stated the proximity of the house to a drainage line within the easement was a cause for concern since potentially the line can leak, soften the soil, and thus impact the integrity of the foundation. The structure might also be impacted repair the line in the future. Felix Hernandez, the developer, provided a letter stating that if repairs were needed (caused by the proximity of the house to the drainage line) during a certain limited time period into the future, he would cover the expense of the repairs. Following further discussion, a motion to approve the request received three votes in the affirmative and two members voted nay thus, the motion did not pass due to the required supermajority vote.

Subsequent to the meeting, the applicant through their building contractor submitted a site plan as a request for relocation of the drainage line in order to provide greater distance from the already constructed house to the existing drainage line. The Engineering Department is in the process of reviewing the feasibility of the proposed drainage line relocation and a determination is pending this review process.

ZONING BOARD OF ADJUSTMENTS AND APPEALS MEETING OF JULY 07, 2022:

At the Zoning Board of Adjustments and Appeals, meeting of July 7, 2022 a rehearing of the request was tabled, since the applicant was in the process of preparing information for their case. The board voted to table the request with five members present and voting.

ZBA-5/18/22

ZBA 2022-0024



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 124

Subdivision Name

Vendome ph II

Street Address

13818 N. 33rd Ln

Number of lots

1

Gross acres

Existing Zoning

Residential

Existing Land Use

Residential

Reason for Appeal (please use other side if necessary)

4 ft. encroachment into the 10ft side yard/drainage.

☒ \$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 Elizabeth L. Garza

Phone (956) 605-8678

Address 1212 Lindberg St

E-mail elizabeth.louzada44@gmail.com

City Mission

State TX

Zip 78573

Owner

Name Elizabeth L. Garza

Phone (956) 605-8678

Address 1212 Lindberg St

E-mail elizabeth.louzada44@gmail.com

City Mission

State TX

Zip 78573

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

Elizabeth L. Garza

Date

5/2/2022

Print Name

Elizabeth L. Garza

☐ Owner

☐ Authorized Agent

Office

Accepted by MR

Payment received by

Date

ENTERED

Rev 10/18

MAY 02 2022

Initial:

AG



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:

The drainage easment runs alongside the property line, we left a 6'-2" easment.

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

We need the variance because the home has just been finished and having to demolish will a long & costly process.

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 variance will not affect anybody else it is inside our property line

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

There were some mistakes on the subdivision plats we started thinking it was lot 124 but on final plot it was 124. the house is finished and we were ready to close for the owner to move in.

Reason for Appeal

Board Action

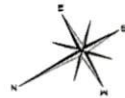
Chairman, Board of Adjustment
Signature

Date

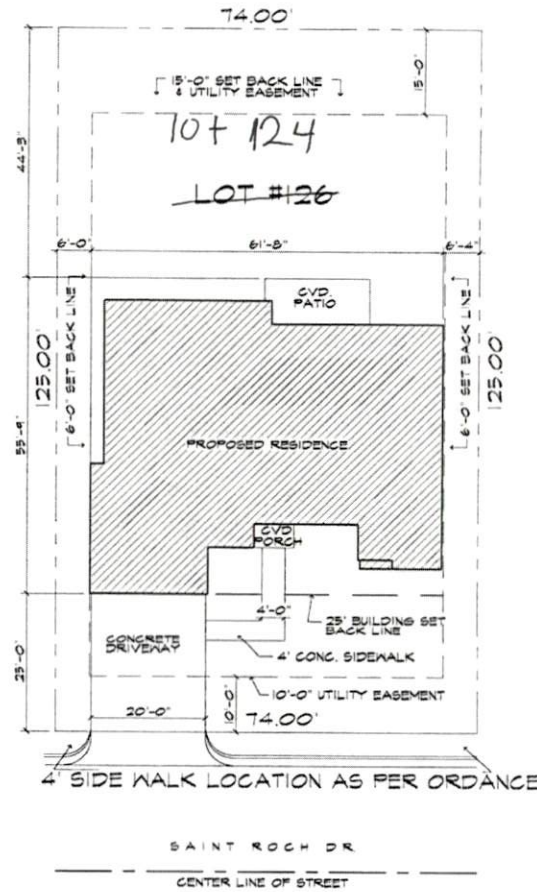
1. VERIFY JOINT LAYOUT FOR SIDEWALKS WITH CONTRACTOR PRIOR TO CONSTRUCTION.
2. ALL SITE WORK, INCLUDING LOCATION OF TRASH DUMPSTER, TEMPORARY TOILET FACILITIES, TEMPORARY CONSTRUCTION BARACADES, PENDING CONSTRUCTION TRAILER, CLEARING PROCEDURE, BRUSHING AND DRAINAGE, COMPLIANCE TO POLLUTION AND PREVENTION CONTROL, AND TEMPORARY UTILITY FACILITIES, ETC., SHALL BE IN ACCORDANCE WITH THE CITY AS WELL AS SUBDIVISION PROPERTY OWNERS ASSOCIATION GUIDELINES.
3. BUILDER AND OWNER SHALL BE RESPONSIBLE FOR ALL TEMPORARY UTILITIES TO THE CONSTRUCTION SITE.
4. CONTRACTOR SHALL BE RESPONSIBLE FOR FINAL BRUSHING ONLY. OWNER SHALL PROVIDE ALL LANDSCAPING, SOI, AND IRRIGATION SYSTEM.

LEGAL DESCRIPTION

LOT	126
PHASE	3
SUBDIVISION	VENDOME
CITY	HEALLEN, TX
CONC. DRIVE (SQ. FT.)	
APPROX. TOTAL DRIVE PAV.	400.0'
APPROX. TOTAL SIDEWALK	114.0'
TOTAL CONCRETE	514.0'
NORTH ARROW	



1 SITE PLAN
SCALE: 1"=10'-0"



PROJECT: *Gargo Residence*

DATE: 05-11-21

2312 S. EXPRESSWAY 53 SUITE # B
HARLINGEN, TX 78552
OFFICE: (956) 425-7040
FAX: (956) 425-7714

D DISTINCTIVE
DRAFTING & DESIGN L.L.C.

SHEET

C-1

ENTERED

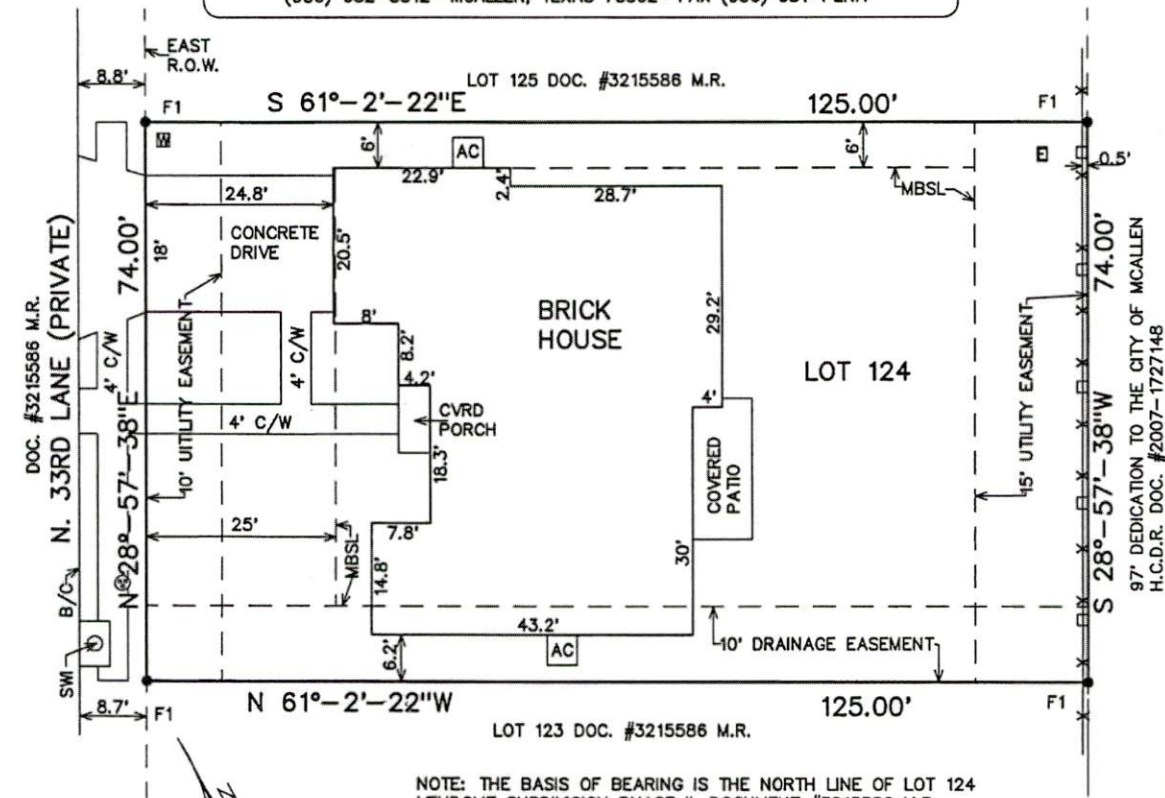
DISTINCTIVE DRAFTING & DESIGN HEREBY RESERVES ITS COMMON COPYRIGHT LAW & OTHER PROPERTY RIGHTS IN THESE PLANS & DESIGNS. THESE PLANS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY, WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION FROM DISTINCTIVE DRAFTING & DESIGN. DISTINCTIVE DRAFTING & DESIGN TAKES NO RESPONSIBILITY FOR THE CONSTRUCTION OF THE RESIDENCE OR BUILDING.

Initial: *CD*

02 2022

PEÑA ENGINEERING

FIRM #10087200 • 1001 WHITEWING • P.O. BOX 4320
(956) 682-8812 • McALLEN, TEXAS 78502 • FAX (956) 631-PENA



NOTE: THE BASIS OF BEARING IS THE NORTH LINE OF LOT 124
VENDOME SUBDIVISION PHASE II, DOCUMENT #3215586 M.R.

LEGEND

- F1 - FOUND 1/2" IRON DIAMETER IRON ROD
- B/C - BACK OR CONCRETE CURB & GUTTER
- R.O.W. - RIGHT OF WAY
- MBSL - MINIMUM BUILDING SETBACK LINE
- SW - STORM WATER INLET
- WM - WATER METER
- EP - ELECTRICAL PEDESTAL
- C/W - CONCRETE WALK
- X-X-X - 6' IRON FENCE W/ CONC BLOCK PILLARS
- ⊕ - MANHOLE

NOTE:

- 1.) BLANKET FOR IRRIGATION LINES, PUMPS AND FACILITIES DOC. #583227 O.R.
- 2.) EASEMENTS, RULES, REGULATIONS AND RIGHTS IN FAVOR OF HIDALGO COUNTY IRRIGATION DISTRICT NO. 1.

VENDOME DRIVE

DOC. #3215586 M.R.

BUYER'S NAME: John Mason Garza & Elizabeth Lima Louzada Garza

FLOOD ZONE: By GRAPHICAL PLOTTING Community Panel No. 480334 0325 D
Map Revised: June 6, 2000 LOMR May 17, 2001

- ☐ 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 or apparent easements, discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or overlapping of improvements or visible easements except as shown on this plat. No subsurface utilities or service connections are shown, © copyright 2022 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: 13902 N. 33RD. LANE, McALLEN, TEXAS 78504
LEGAL DESCRIPTION: LOT 124, VENDOME SUBDIVISION, PHASE II (PRIVATE SUBDIVISION)
HIDALGO COUNTY, TEXAS,

ACCORDING TO THE MAP RECORDED IN DOCUMENT NUMBER 3215586
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

Pablo Peña

02-14-2022
DATE

PABLO PEÑA III
REG. PROFESSIONAL LAND SURVEYOR No. 5242



ENTERED

MAY 02 2022

Initial: *AM*

STORM
L.F. S=0.67%
117.40
105.61

PROP. SEWER 24" RCP 162 L.F. STORM S=0.68%

PROP. CONC.
RIP-RAP
F.L.=110.45

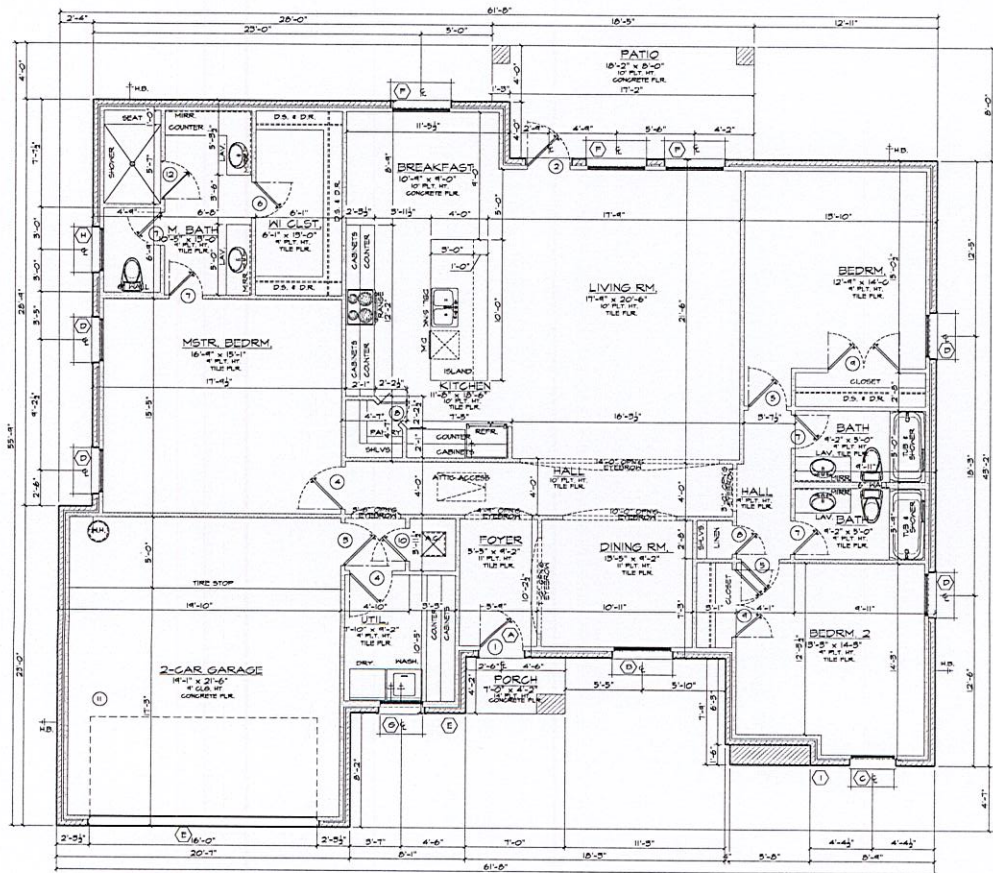
S 28°57'38" W

TO THE CITY OF McALLISTER

H.C.D.R. DEDICATION

DOC# 2007-172

S 28°57'39"



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

GENERAL NOTES:

- A. THESE PLANS ARE INTENDED TO PROVIDE THE BASIC INFORMATION FOR CONSTRUCTION. THESE PLANS MUST BE VERIFIED AND CHECKED COMPLETELY BY THE GENERAL CONTRACTOR. ANY DISCREPANCY, ERROR AND/OR OMISSION, IF FOUND, IS TO BE BROUGHT IMMEDIATELY TO THE OWNER BEFORE CONSTRUCTION WORK OR PURCHASE IS MADE.
- B. FEDERAL, STATE, COUNTY, AND LOCAL CITY ORDINANCES AND BUILDING CODES TAKE PRECEDENCE OVER ANY PART OF THESE DRAWINGS. ANY CONFLICT MUST BE ADHERED TO THE PROJECT BEFORE AND DURING CONSTRUCTION.

DOOR SCHEDULE					
SYM	W	H	T	MATL	NOTES
1	3'-0"	6'-0"	1-3/4"	S.C. WOOD	EXTERIOR ENTRY DOOR
2	3'-0"	6'-0"	1-3/4"	GLASS	FRENCH DOOR
3	3'-0"	6'-8"	1-3/4"	S.C. WOOD	EXTERIOR DOOR
4	3'-0"	6'-8"	1-3/8"	H.C. WOOD	INTERIOR DOOR
5	2'-8"	6'-8"	1-3/8"	H.C. WOOD	INTERIOR DOOR
6	2'-8"	6'-8"	1-3/8"	H.C. WOOD	INTERIOR DOOR
7	2'-4"	6'-8"	1-3/8"	H.C. WOOD	INTERIOR DOOR
8	2'-0"	6'-8"	1-3/8"	H.C. WOOD	INTERIOR DOOR
9	2'-8"	6'-8"	1-3/8"	H.C. WOOD	DEL. CLST. DOORS
10	2'-4"	6'-8"	1-3/8"	H.C. WOOD	A.G. DOOR
11	6'-0"	8'-0"			GARAGE DOOR
12	2'-8"	5'-0"			SHOWER DOOR

WINDOW SCHEDULE				
SYM	W	H	TYPE	NOTES
A	3'-0"	2'-0"	EYEDROH TRANSOM	
B	4'-0"	6'-0"	FIXED FRAME	DIVIDED LTB
C	3'-0"	6'-0"	EYEDROH SINGLE HUNG	DIVIDED LTB
D	3'-0"	5'-0"	SINGLE HUNG	
E	1'-6"	2'-0"	TRANSOM	SEE ELEVATION
F	4'-0"	6'-0"	FIXED FRAME	DIVIDED LTB
G	3'-0"	3'-0"	SINGLE HUNG	DIVIDED LTB
H	3'-0"	1'-0"	SLIDER	OBSCURED GLASS
I	1'-6"	1'-6"	FIXED FRAME	



NOTES UNLESS NOTED OTHERWISE (N.O.)
 01. 2" x 4" STUDS @ 16" O.C. IN BRICK-EXTERIOR
 02. 2" x 4" STUDS @ 16" O.C. INTERIOR
 03. TOP OF EYE-DROH CASED OPENINGS TO BE @ 5'-0" A.F.F.

PROJECT: *Garga Residence*

DATE: 05-11-21 PLAN #555-20

2312 S. EXPRESSWAY 83 SUITE # B
 HARLINGEN, TX 78552
 OFFICE: (956) 425-7040
 FAX: (956) 425-7714

D DISTINCTIVE
 DRAFTING & DESIGN L.L.C.

SHEET

A-1

DISTINCTIVE DRAFTING & DESIGN HEREBY RESERVES ITS COMMON COPYRIGHT LAW & OTHER PROPERTY RIGHTS IN THESE PLANS & DESIGNS. THESE PLANS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER, NOR ARE THEY TO BE ASSIGNED TO ANY THIRD PARTY, WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION FROM DISTINCTIVE DRAFTING & DESIGN. DISTINCTIVE DRAFTING & DESIGN TAKES NO RESPONSIBILITY FOR THE CONSTRUCTION OF THE RESIDENCE OR BUILDING.

13818 N 33rd Ln - UE Encroachment

Bilkis Olazaran <bolazaran@mcallen.net>

Mon 5/2/2022 10:18 AM

To: Marco Rivera <marco.rivera@mcallen.net>

Cc: Edgar Garcia <edgar.garcia@mcallen.net>; Mario Cruz <macruz@mcallen.net>

Marco,

Since this will be going before your board for consideration, we recommend disapproval. However, if the board decides to approve the encroachment, we recommend the following condition be included in the encroachment letter: *The home owner, not the City of McAllen, will be responsible for any damages related to the operation and/or maintenance of any utility lines within the 10ft utility easement along the south property line.*

Please let me know when this item will be taken for consideration. Thanks!

Bilkis



ENTERED

MAY 02 2022

Initial: am

AFFIDAVIT OF FELIX HERNANDEZ

STATE OF TEXAS

§

§

COUNTY OF HIDALGO

§

Before me, the undersigned authority, on this day personally appeared affiant Felix Hernandez who proved to me to be the person whose name is subscribed to this Affidavit and who acknowledged to me that he executed the same, and after he was duly sworn, upon his oath, he deposed and said:

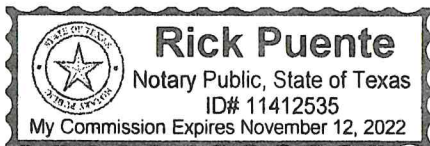
My name is Felix Hernandez. My address is 110 Becker St, Alamo, Texas 78516. I am over 18 years of age, of sound mind and capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.


I am the sole managing member of Treasure Builders LLC. We built a residential home at 13818 N. 33rd Ln, McAllen, Texas (Lot 124 Vendome Phase 2). The structure was built on the drainage easement because of an issue with the lot number. Treasure Builders LLC will be responsible for any damages to the home in the future caused by any repairs or maintenance to the drainage line within the easement part of the property. Treasure Builders LLC will restore the home to the condition it existed prior to the repairs and/or maintenance. This guarantee of repairs shall only be valid while the original owner is owner of the home and shall be voided once ownership is transferred. Once ownership of the home is transferred to another party, Treasure Builders LLC shall no longer bear any responsibility for this issue.

If you should have any questions or need any additional information, please feel free to contact me at 956-821-9710.


Felix Hernandez

SWORN TO and SUBSCRIBED before me by Felix Hernandez on this 18th day of May 2022.




Notary Public in and for the State of Texas
My Commission Expires on
November 12, 2022.



¹ Rick Puente-Notary Public: PO Box 1514, San Juan, TX 78589 (956) 782-8425

Treasure Builders LLC

110 Becker St.

Alamo, Texas 78516

May 18, 2022

To whom it may concerned:

This is an estimated cost bring the construction located at 13818 N. 33rd Ln. in McAllen, Texas into compliance.

Demolition of brick and lumber wall on the south side of the home

Removing all of the south portion of the roof

Cutting and excavating the slab foundation along the south side of the home

Removing all plumbing pipe, vents and water lines on both bathrooms

Removing all ac ducts and vents

Removing all electrical wiring

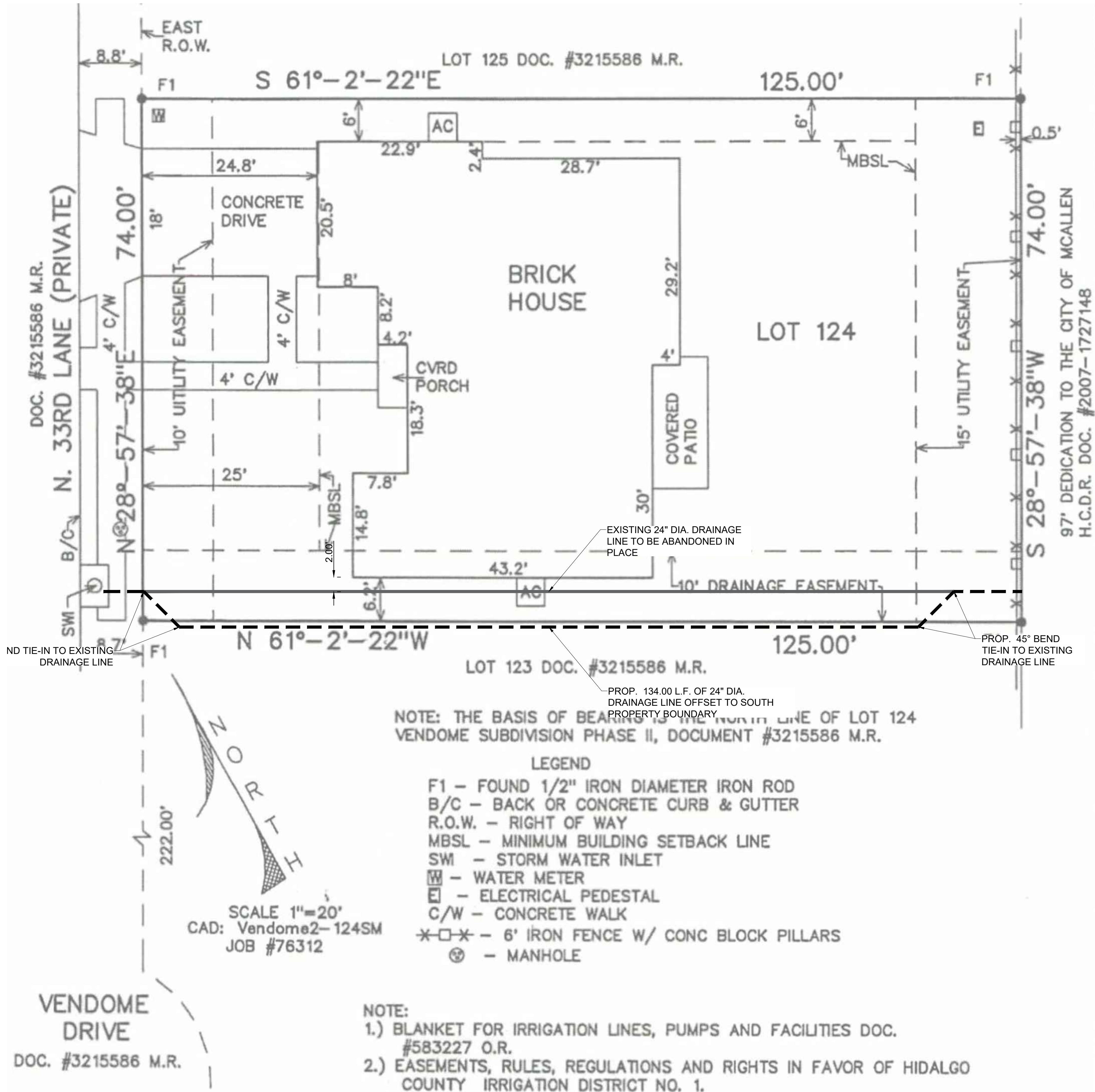
Rebuilding and reconfiguring everything back to the compliance line will leave the home without 2 bathrooms and without 2 bedrooms.

Total cost \$125,000.00



Felix Hernandez





GENERAL SITE NOTES

- SITE SURVEY PREPARED BY THIRD PARTY AND FOR THE SOLE RELIANCE OF ATLAS ENGINEERING CONSULTANTS LLC, FACILITY OWNER, AND ITS ASSIGNEES. ENGINEER SHALL NOT BE HELD RESPONSIBLE FOR THE COMPLETENESS OR ACCURACY OF DOCUMENTS PREPARED BY OTHERS.
- CIVIL SITE WORK COMPONENTS SHALL BE CONSTRUCTED IN ACCORDANCE WITH APPLICABLE INDUSTRY STANDARDS OR CITY STANDARDS, WITH THE MORE STRINGENT DESIGN CONSIDERED AS THE ACCEPTABLE SPECIFICATION.
- CONTRACTOR SHALL BE SOLE RESPONSIBLE PARTY FOR ENSURING COMPLIANCE WITH STATE AND FEDERAL LABOR, ENVIRONMENTAL, SAFETY, AND CONSTRUCTION GUIDELINES, RULES, AND REGULATIONS.
- CONTRACTOR SHALL BE RESPONSIBLE FOR REPORTING ANY CONFLICTS TO THE ENGINEER PRIOR TO CONSTRUCTION. ANY NECESSARY CHANGES OR MODIFICATIONS RESULTING FROM THE CONTRACTOR'S NEGLIGENCE, OR LACK OF WRITTEN COMMUNICATION WITH THE ENGINEER SHALL RESULT IN NON PAYMENT TO THE CONTRACTOR.
- CONTRACTOR SHALL BE SOLELY RESPONSIBLE FOR IDENTIFYING ANY BUILDINGS, ROADS, PARKING LOTS, BUILDING PADS, SIDEWALKS, SWALES, ETC. CONTRACTOR SHALL BE REQUIRED TO EMPLOY A STATE REGISTERED PROFESSIONAL LAND SURVEYOR FOR CONDUCTION CONSTRUCTION STAKING, WITH SAID SURVEYOR BEING RESPONSIBLE TO MAINTAIN SITE-BENCHMARK CONTROL POINTS THROUGHOUT THE DURATION OF THE PROJECT. SURVEYOR SHALL PROVIDE THE ENGINEER IN WRITING THE CUT SHEETS WHEN LAYING OUT UTILITIES, AND OR ROADWAYS. IN THE EVENT ANY CONSTRUCTION STAKING IS CONDUCTED BY NON-AUTHORIZED PERSONNEL, SAID STAKING ACTIVITIES WILL BE CONSIDERED NON COMPLIANT AND SUBJECT TO MONETARY RESTITUTION TO THE THE ENGINEER FOR REPAIRS.
- THE SURVEYOR SHALL PROVIDE IN WRITING TO THE ENGINEER DOCUMENTATION CERTIFYING THAT THE LAYOUT IN THE FIELD IS IN ACCORDANCE TO THE ENGINEER'S PLANS.
- CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL PERMITS, AND PAY ALL APPLICABLE PERMIT FEES. CONTRACTOR SHALL PROVIDE PROOF TO THE ENGINEER THAT THESE PERMITS HAVE BEEN OBTAINED PRIOR TO COMMENCEMENT OF WORK.
- ENGINEER PROVIDED INFORMATION ON THE PLANS FOR CONVENIENCE TO THE CONTRACTOR. THE CONTRACTOR SHALL ACCEPT ALL RESPONSIBILITY FOR MAINTAINING AND IMPLEMENTING SAFE WORKING CONDITIONS DURING THE CONSTRUCTION OF WORK UNDER THE CONTRACTOR'S RESPONSIBILITY. NEITHER THE OWNER NOR THE ENGINEER ACCEPTS ANY LIABILITY IMPLIED OR OTHERWISE FOR THE CONSTRUCTION METHODS AND PROCESSES OF CONSTRUCTION.
- CONTRACTOR SHALL NOT COMMENCE WORK WITHOUT WRITTEN APPROVAL FROM THE OWNER OR THE REGULATING ENTITIES. ANY WORK CONSTRUCTED WITHOUT OWNER'S AUTHORIZATION SHALL CONSTITUTE THE CONTRACTOR'S TRESPASS ONTO THE OWNER'S PROPERTY.
- CONTRACTOR SHALL BE RESPONSIBLE TO NOTIFY THE ONE-CALL SYSTEM FOR UTILITY IDENTIFICATION PRIOR TO CONSTRUCTION, AS WELL AS RESPONSIBLE FOR THE COST OF REPAIRS TO ANY DAMAGED UTILITIES.
- CONTRACTOR SHALL EMPLOY NECESSARY TRAFFIC CONTROL MEASURES NECESSARY FOR CONSTRUCTION. CONTRACTOR SHALL PRESENT THE ENGINEER COPIES OF THE TRAFFIC CONTROL PLAN PRIOR TO CONSTRUCTION. ANY TRAFFIC CONTROL MEASURES SHALL COMPLY WITH CURRENT MUTCD (MANUAL OF TRAFFIC CONTROL DEVICES) AND TXDOT REGULATIONS.

EXISTING UTILITIES

- LOCATION AND DEPTH OF EXISTING UTILITIES SHOWN WITHIN UTILITY LAYOUT ARE APPROXIMATE ONLY. ACTUAL LOCATIONS AND DEPTHS MUST BE VERIFIED BY THE CONTRACTOR PRIOR TO THE CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THEIR PROTECTION DURING CONSTRUCTION.
- IT IS ESSENTIAL THAT 48 HOURS PRIOR TO CONSTRUCTION, ALL UTILITY COMPANIES BE NOTIFIED TO LOCATE AND TAG THEIR UNDERGROUND FACILITIES PRIOR TO EXCAVATION.
- THE CONTRACTOR NEEDS TO ALLOW FOR THE POSSIBILITY OF UNDETECTED UNDERGROUND UTILITIES. THE CONTRACTOR MUST ALLOW FOR CHANGES DUE TO UTILITIES BEING IN LOCATIONS DIFFERENT FROM THOSE SHOWN ON THE UTILITY DRAWINGS. THE CONTRACTOR IS RESPONSIBLE FOR LOCATING AND EXPOSING CONFLICTS PRIOR TO CONSTRUCTION.
- TRENCHES OR EXCAVATIONS MAY NOT BE LEFT OPEN OVERNIGHT UNLESS AUTHORIZED IN WRITING BY THE ENGINEERING DEPARTMENT. IN SUCH CASES, THE CONTRACTOR MUST PROVIDE 1/2" STEEL COVER PLATES WITH ANCHORING OR AS PER SPECIFICATIONS TO BE PROVIDED BY THE CITY.
- ANY DAMAGE TO FENCES, SIDEWALKS OR PRIVATE PROPERTY SHALL BE REPAIRED BY THE CONTRACTOR AT THEIR EXPENSE.
- IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO REMOVE ALL EXCAVATED MATERIAL & DEBRIS FROM THE SITE AT NO ADDITIONAL EXPENSE TO THE OWNER.
- THE CONTRACTOR IS RESPONSIBLE FOR SCHEDULING CONSTRUCTION MATERIALS TESTING THROUGH THE CITY'S DESIGNATED FIELD REPRESENTATIVE 24 HOURS PRIOR TO TESTING. CONTRACTOR IS RESPONSIBLE FOR ADHERING CLOSELY TO TESTING SCHEDULE AND AVOID ANY DELAYS IN THE FIELD.
- THE CONTRACTOR SHALL PROVIDE ALL CONSTRUCTION STAKING AND SURVEYING.
- EXISTING POWER POLES, CONCRETE STAND PIPES, ETC., WILL NEED TO BE BRACED DURING ADJACENT CONSTRUCTION.
- CONTRACTOR SHALL KEEP ALL WATER & SANITARY SEWER SERVICES OPERATIONAL.
- THE ENGINEER WILL BE THE FINAL AUTHORITY OF ALL CONFLICTS, DISCREPANCIES, AND THE INTERPRETATIONS OF THE DRAWINGS OR SPECIFICATIONS.

UTILITY WARNING

THE UNDERGROUND UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND EXISTING DRAWINGS (IF ANY). THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE. IT IS THE CONTRACTORS RESPONSIBILITY TO VERIFY AND LOCATE ALL UNDERGROUND UTILITIES PRIOR TO COMMENCING WORK.

IF CULTURE MATERIALS ARE ENCOUNTERED DURING CONSTRUCTION WORK SHALL CEASE IN THE IMMEDIATE AREA AND THE CONTRACTOR SHALL NOTIFY THE OWNER OR ENGINEER. THE OWNER OR ENGINEER SHALL CONTACT THE SECRETARY OF THE INTERIOR, (202-343-4104) IN ACCORDANCE WITH 36 CFR800. THE STATE HISTORIC PRESERVATION OFFICER (512-463-6069) SHALL ALSO BE NOTIFIED.

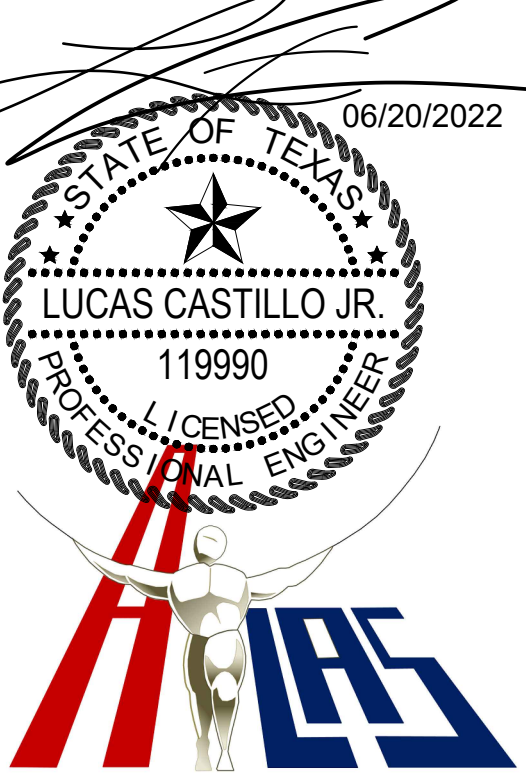
ALL SOILS ARE UNCLASSIFIED SOILS INCLUDING ROCK OR OTHER MATERIAL. NO SPECIAL PAYMENT WILL BE MADE TO THE CONTRACTOR FOR UNFORESEEN UNCLASSIFIED SOILS ENCOUNTERED. NO SPECIAL PROVISIONS ARE BEING MADE FOR UNCLASSIFIED SOILS.

PLAN NOTE:

- CONTRACTOR TO VERIFY EXISTING MATERIALS TO BE OFFSET AS SHOWN ON PLANS. INFORMATION REGARDING THE EXISTING MATERIALS WAS NOT AVAILABLE AT THE TIME THIS PLAN WAS PREPARED.
- CONTRACTOR MUST FOLLOW THE INSTALLATION REQUIREMENTS FOR THE NEW LINE IN ACCORDANCE WITH LOCAL CITY ORDINANCES AND REQUIREMENTS

ATLAS ENGINEERING CONSULTANTS

18PE FIRM NO. 17057
2820 GULL, McALLEN, TEXAS 78504
(956) 379-3852
lcastillo@atlaseng.com



THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY LUCAS CASTILLO JR. P.E. No. 119990. ALTERATION OF A SEALED DOCUMENT WITHOUT NOTIFICATION TO THE ENGINEER IS AN OFFENSE UNDER THE STATE OF TEXAS ENGINEERING PRACTICE ACT.

VENDOME SUBDIVISION
LOT 124
McALLEN, TEXAS

PROJECT:

DATE									
DESCRIPTION									
No.									


PROJECT No. CV22-034
DATE: 06/20/2022
DRAWN BY: L.C.
SCALE: AS NOTED

SITE PLAN
C1.0



13818

**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2022-0037**

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



2022 CALENDAR

Meetings:

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





HPC - Historic Pres Council

Deadlines:






D- Zoning/CUP Application N - Public Notification

* **Holiday** - Office is closed





JULY 2022

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






AUGUST 2022

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





SEPTEMBER 2022

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




OCTOBER 2022

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

NOVEMBER 2022

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

DECEMBER 2022

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

2022 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/05/22	01/19/22	02/02/22	02/17/22	03/03/22	03/17/22	04/06/22	04/20/22	05/04/22	05/18/22	06/01/22	05/25/22	06/15/22	06/29/22	07/07/22	07/20/22	08/03/22	08/17/22	09/08/22	09/21/22	10/05/22	10/19/22	11/02/22	11/16/22	12/07/22	12/21/22
ERICK DIAZ- CHAIRPERSON	P																									
SYLVIA HINOJOSA-CHAIRPERSON	P	P	P	P	A	A	P	P	P	P	P	P	P	LQ	P	P	P	A	P	P	P	P	P			
JOSE GUTIERREZ-VICE-CHAIR	P	P	P	P	P	P	P	P	P	P	P	P	A	LQ	P	P	P	P	P	P	P	P	P			
ANN TAFEL	A	P	P	P	P	P	P	P	P	P	P	A	P	LQ	P	P	P	P	P	P	P	P	P			
HUGO AVILA	P	P	P	P	P	P	P	P	A	P	P	P	P	LQ	P	P	P	P	P	P	P	A	A			
ROGELIO RODRIGUEZ	P	P	P	P	P	P	A	P	P	P	A	A	P	LQ	P	P	P	A	P	A	A	P	P			
REBECCA MILLAN (ALT 1)	P	P	P	P	P	P	P	A	P	P	P	P	P	LQ	P	P	A	P	P	P	P	P	P			
MARK TALBOT (ATL 2)				P	P	A	P	P	P	A	A	A	A	LQ	P	A	P	P	P	P	A	P	A			
SAM SALDIVAR (ALT 3)				P	P	A	P	P	P	A	P	A	A	LQ	P	P	P	A	P	P	P	P	A			
JUAN MUJICA (ALT 4)				P	P	P	P	P	P	P	P	P	A	LQ	P	P	P	P	A	P	P	P	P			

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION