

AGENDA

**ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING
WEDNESDAY, NOVEMBER 18, 2020 - 4:30 PM
MCALLEN CITY HALL, 1300 HOUSTON AVENUE
CITY COMMISSION CHAMBERS, 3RD FLOOR**

**Web: <https://zoom.us/join> or phone: (346) 248-7799
Meeting ID: 672 423 1883**

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 ERICK DIAZ

1. MINUTES:

- a) Minutes for meeting held on October 21, 2020
- b) Minutes for meeting held on November 4, 2020

2. PUBLIC HEARINGS:

- a) Request of Douglas and Rosalia LaRoque for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 ft. into the 20 ft. front yard setback for an existing gazebo measuring 10 ft. by 10 ft. at Lot 33, El Rancho Santa Cruz Subdivision Phase I, Hidalgo County, Texas; 800 East Pineridge Avenue. **(ZBA2020-0070) (TABLED: 11/4/2020)**
- b) Request of Derrick Munoz, for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an entrance of 5 ft. to a garage instead of the required 18 ft. for an existing garage structure measuring 20 ft. by 25 ft., and **2)** to allow an encroachment of 5 ft. into the 10 ft. west side yard setback for a proposed room addition measuring 19.67 ft. by 25 ft., on Lot 4, Block 20, Camellia Terrace Subdivision, Hidalgo County, Texas; 722 Harvey Drive. **(ZBA2020-0009)**
- c) Request of Alonzo Cantu for a variance to the City of McAllen Zoning Ordinance to allow a lot size of less than 2,000 sq. ft. with a minimum lot size of 1,580 sq. ft. for Lots 2-12, 1,705 sq. ft. for Lots 15-21, and 1,924.54 sq. ft. for Lot 13, for a 1.23-acre tract of land out of Lot 1, Section 11, Hidalgo Canal Company Subdivision (proposed 2nd and Dove Subdivision), Hidalgo County, Texas; 201 Dove Avenue. **(ZBA2020-0073)**
- d) Request of Maricela Galvan, for the following variances to the City of McAllen Zoning Ordinance: **1)** allow an accessory use without a primary use for a proposed swimming pool, **2)** to allow an encroachment of 4 ft. into the 6 ft. east side yard setback for an existing pergola measuring 10 ft. by 10 ft. on Lots 2 & 3, Oxford Heights Subdivision, Hidalgo County, Texas; 3504 and 3500 Kilgore Avenue. **(ZBA2020-0074)**

- e) Request of Brenda Castro to allow a special exception request to not provide one required parking space beyond the front yard setback line at Lot 131, Taylor Crossing Subdivision, Hidalgo County, Texas; 4905 Ibis Avenue. **(ZBA2020-0072)**

3. FUTURE AGENDA ITEMS

- a) 9505 North 22nd Lane
- b) 5812 North 39th Street
- c) 2600 Notre Dame

4. EXECUTIVE SESSION, CHAPTER 551, TEXAS GOVERNMENT CODE, SECTION 551.071 (CONSULTATION WITH ATTORNEY)

- a) Consultation with Attorney regarding Cause No. C-3589-20-H; Roberto Zamora v. City of McAllen (Section 551.071, T.G.C.)

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 PLANNING & ZONING COMMISSION 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, October 21, 2020 at 4:30 p.m. in the City Commission Meeting Room with the following present:

Present:	John Millin	Member (Acting Chairperson)
	Sylvia Hinojosa	Member
	Juan F. Jimenez	Member
	Jose Gutierrez	Alternate
	Rogelio Rodriguez	Alternate
	Rebecca Millan	Alternate
	Hugo Avila	Alternate
Absent:	Erick Diaz	Vice-Chairperson
Staff Present:	Victor Flores	Assistant City Attorney (teleconference)
	Michelle Rivera	Assistant City Manager
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Liliana Garza	Planner II
	Carlos Garza	Planner II
	Hebert Camacho	Planner I
	Iris Alvarado	Planner I (teleconference)
	Juan Martinez	Development Coordinator
	Porfirio Hernandez	GIS Technician II
	Carmen White	Secretary

CALL TO ORDER – Acting Chairperson John Millin

1. MINUTES:

- a) No Minutes were presented until the next meeting.

2. PUBLIC HEARINGS:

- a) Request of Humberto F. Nunez for the following Variance to the City of McAllen Zoning Ordinance to allow: an encroachment of 4.17 ft. into the 10 ft. rear yard setback for a proposed swimming pool, at Lot 26, Heritage Manor No. 2 Subdivision, Hidalgo County, Texas; 4508 North 5th Lane. **(ZBA2020-0057)**
(TABLED: 10/7/2020)

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

Mr. Garza stated at the Zoning Board of Adjustment and Appeals meeting of October 7, 2020 the applicant was not present. There was one person in opposition for the variance request. The person in opposition had concerns with the characteristic of the subdivision. After further discussion, the Board unanimously voted to table the variance request. There were 8 members present and voting. The applicant was present today to be able to discuss the case matter.

Acting Chairperson Millin asked if there was anyone present in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Mr. Humberto Nunez, the applicant stated the swimming pool was more for his children during the present pandemic. He stated they did not know they had to obtain a permit to build a pool after speaking with the architect.

Acting Chairperson Millin asked staff that there was a concern with the carport and if that going to come up under another variance request. Mr. Garza stated yes. The applicant had stated that after this request they wanted to do the carport separately. They started the process for the paperwork.

Ms. Hinojosa asked staff if the pool encroached on any utility easement. Mr. Garza stated no it did not encroach. He stated there was a utility line that ran along the side but was 13 feet from the area.

Acting Chairperson Millin asked if there anyone present or online via Zoom in opposition of the variance request. There was no present in opposition of the variance request.

Ms. Millan asked staff if there were any specific landscaping for the backyard that were required. Mr. Garza stated the amount for landscaping would be 10 percent for the property. The applicant was in compliance with the landscape requirement of 10 percent for the front of the property but still would have landscaping in the rear.

Mr. Rodriguez asked staff if the recorded plat indicated anything that one cannot build on the easement that would be encroaching. Mr. Garza stated the plat did not indicate anything about that area.

Ms. Sylvia Hinojosa **moved** to approve the variance request within the footprint of the encroachment. Mr. Hugo Avila seconded the motion. The board voted unanimously to approve the variance request with five members present and voting.

- b) Request of Raul De La Garza, on behalf of Jorge Gutierrez, for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of up to 6 feet into the west side yard setback for an existing irregularly shaped wooden deck measuring 41 ft. by 55 ft., **2)** to allow an encroachment of up to 3 feet into the west side yard setback for an existing circular above ground swimming pool measuring 11 ft. by 20 ft., **3)** to allow an encroachment of up to 10 ft. on the rear setback for an existing irregularly shaped wooden deck measuring 41 ft. by 55 ft., **4)** to allow an encroachment of up to 10 ft. on the rear setback for an existing

above ground swimming pool measuring 11 ft. by 20 ft., **5)** to allow an encroachment of up to 10 feet the rear side setback for an existing storage room measuring 6 ft. by 5 ft. at Lot 67, Falling Water Subdivision, Hidalgo County, Texas; 4204 Worthington Avenue. **(ZBA2020-0059)**

Ms. Alvarado this item was to remain tabled until the meeting of November 4, 2020.

- c)** Request of Aurora Pena for the following variances to the City of McAllen Zoning Ordinance to allow: 1) an encroachment of 5 ft. into the 5 ft. west side yard setback for an existing covered patio measuring 6.33 ft. by 56 ft.; 2) an encroachment of 9 ft. 9 in. into the rear yard setback for an existing wooden storage shed measuring 12.20 ft. by 12.25 ft.; 3) to allow an accessory building separation from the main building of 3.75 ft. instead of the required 5 ft.; at Lot 12, Block 3, Amigo Park 1 Subdivision, Hidalgo County, Texas; 4405 West Gardenia Avenue. **(ZBA2020-0067)**

Ms. Alvarado stated the applicant was requesting variances to allow a wooden canopy and wooden storage shed encroaching on the rear yard and side yard setback. The wooden shed would also require a variance for the distance from the main building.

The property was located approximately 130 ft. west of Bentsen Road, on the south side of Gardenia Avenue and has a total area of 4950 sq. ft. The property is zoned R-4 (residential mobile home) District. The surrounding land uses include townhomes.

Amigo Park 1 Subdivision was recorded on March 4, 1971. A note on the plat indicates that there is a 10 ft. utility easement on rear yard setback. The Zoning Ordinance states that the setbacks on the side yard is 6 ft. on each side. On August 27, 2020 the applicant was contacted by the building department for construction without a permit. On September 16, 2020 the applicant applied for a building permit and a variance request application for the wooden canopy and wooden shed.

Variance #1: To allow an encroachment of 5 ft. into the 5 ft. west side yard setback for an existing wooden canopy measuring 6.33 ft. by 56 feet. There is not enough room on the setback to allow the canopy.

Variance #2: To allow an encroachment of 9.75 feet into the rear yard setback for an existing wooden storage shed measuring 12.20 ft. by 12.25 ft. The site plan submitted shows the proposed distance from the rear property line to the outside wall of the wooden shed is approximately 1.25 ft. The 1.25 ft. comprises a 10 ft. rear utility easement. The storage shed is moveable.

Variance #3: To allow an encroachment of 3.75 ft. in the required 5 ft. separation from an accessory building to the main building for an existing wooden storage measuring 12.20 ft. by 12.25 ft. The storage shed is moveable.

A review of the site plan indicated that the existing house occupies most of the buildable area not allowing much space for the wooden canopy and wooden storage shed.

Setbacks were important in establishing the character of the residential mobile home district by promoting a desirable use of the land and direction of building development. They protect the character of the district and conserve the value of the land.

The planning department did not receive any phone calls in opposition to the variance request. There was one complaint by an anonymous caller made to the building department on August 14, 2020.

Staff recommended disapproval of the variance requests. If the Board chooses to grant the variances it should be limited to the footprint of the site plan submitted. In addition, the encroachment on the rear yard 10 ft. utility easement will require to applicant to apply for an abandonment.

Acting Chairperson Millin asked staff this was involving one shed but two setbacks that were requiring the variance. Mr. Alvarado stated yes. Mr. Millin asked about the covered patio went up to the fence. Ms. Alvarado stated it was 6.4 feet and it was at 6.33 feet.

Ms. Hinojosa asked if it was the second or the third variance request. Ms. Alvarado stated it was for the first variance, the wooden canopy. Variance request two and three was for the shed. The shed was on blocks and could be movable.

Acting Chairperson Millin asked staff if there anywhere else on the property to put the shed in order to bring it into compliance. Ms. Alvarado stated on the east side of the property there was 17 feet. But it would still have to keep the 5-foot separation and have to take into account the 6-foot side setback. The shed was 12.20 feet by 12.25 feet.

Ms. Melissa Pena, the applicant's daughter along with Ms. Aurora Pena. She stated her brother and family reside there with their mother.

Mr. Avila asked the applicant what the purpose of the wooden canopy. Mr. Pena stated it was to provide shade into the mobile home. Without the canopy it was direct sunlight into the windows on the side of the mobile home. There were more family members residing in the mobile home. Mr. Millin asked when the shed was put there and the canopy built. Ms. Pena stated it was always there and never had a problem. She stated there were other neighbors that had similar sheds as theirs.

Mr. Jimenez asked the applicant if they had applied for an abandonment on the utility. Ms. Pena stated she was not sure. Mr. Millin explained if they wanted to keep the shed where it was located you would have to apply for one in which they had not done.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Millin asked if there anyone present or on Zoom in opposition of the variance request. There was no present in opposition of the variance request.

Ms. Hinojosa asked staff about the time the shed and the wooden canopy had been there.

Ms. Alvarado stated she spoke with son who currently resides there that the shed and wooden canopy had been there over 20 years. She stated there was an anonymous caller who called through the Building Department then referred to the Planning Department. Ms. Hinojosa asked if there were similar situations in the neighborhood. Ms. Alvarado stated as far on side encroachments there were none. For the rear, almost all the neighbors had sheds over the easements.

Mr. Rodriguez variance if approved the storage could be converted into something else. Ms. Alvarado stated currently they use it to store their yard supplies. They were not proposing to use it as a livable space. They would have to go through the Building Department.

Mr. Edgar Garcia stated to answer Mr. Rodriguez's question, there were some water lines in the rear.

Mr. Garcia stated the city was made aware of this situation, site visits were made aware of other issues and could discuss with Code Enforcement on making sure they were handled.

Mr. Rogelio Rodriguez **moved** to disapprove all three variance requests. No one seconded it. The motion failed.

Ms. Hinojosa asked if they could give a recommendation to move the shed. Ms. Alvarado stated either way they move it would be encroaching. Ms. Hinojosa asked but not on a utility, would that be an issue.

Legal counsel, Victor Flores stated if that was the intent of the Board he recommended tabling the item to discuss with the applicant. It would be a different set of variances and it would have to be reposted.

Ms. Alvarado stated when speaking with the son, he stated he would like to keep the shed where it was located. Off to the side there was a play area for the children.

Ms. Melissa Pena stated her mother had mentioned that the water meter was outside the fence in the alley.

Following discussion, Ms. Sylvia Hinojosa **moved** to table the variance requests for further information from staff. Mr. Juan Jimenez seconded the motion. The board voted unanimously to table the variance requests with four members voting aye and one nay, Mr. Rogelio Rodriguez.

- d) Request of Fred Harms for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 ft. into the 5 ft. rear yard setback for a proposed commercial building measuring 147 ft. 6 in. by 53 ft. at south 230 ft., Lot 1, Block 1, Coddington Addition Subdivision, Hidalgo County, Texas; 601 N. 2nd Street. **(ZBA2020-0064)**

Ms. Alvarado stated the applicant was requesting a variance to encroach 5 ft. into the 5 ft. rear yard setback for a proposed commercial building measuring 147.50 ft. by 53 ft.

The subject property was located approximately 400 ft. south of Hackberry Avenue, and west of 2nd Street. The property had 230 ft. of frontage along 2nd Street and a depth of 110.68 ft. with a lot size of 25,456 square feet. The property's surrounding land uses are R-4 (residential mobile home) to the east and south, R-3A (residential apartment) to the west, and C-2 (neighborhood commercial) district to the north.

Coddington Addition was recorded on October 23, 1920. On August 26, 2020 the applicant applied for a building permit. After reviewing the proposed site plan within the building permit, it was determined that the applicant would encroach within the rear setback. The application for the variance was submitted on September 9, 2020.

The request was to allow an encroachment of 5 ft. into the 5 ft. rear yard setback for a proposed commercial building measured 147.50 ft. by 53 ft. There was an existing cedar fence along the south side of the property and the applicant was proposing to construct a cedar fence along the north side of the property. The applicant was informed that a fire wall would be required where the setback was at zero feet.

The subject property did not have to go through the subdivision process because the metes and bounds were prior to 1973.

Staff had not received any phone calls in opposition to the variance.

Staff recommended approval of the variance request. If the Board chooses to approve the request, the approval should be limited to the footprint as shown on the site plan.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Millin asked if there anyone present or on Zoom in opposition of the variance request. There was no present in opposition of the variance request.

Mr. Hugo Avila moved to approve the variance request as per submitted by staff. Mr. Sylvia Hinojosa seconded the motion. The board voted unanimously to approve the variance request with five members present and voting.

- e) Request of Hector Bosquez for the following Variance to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 3 ft. into the 6 ft. side yard setback for an existing L- Shaped porch with an area of 357 square feet. and **2)** an encroachment of 4 ft. into the 6 ft. side yard setback for an existing storage measuring 10 ft. by 18 ft., at Lot 25, Del Sol Subdivision Phase I, Hidalgo County, Texas; 2805 Quamasia Avenue. **(ZBA2020-0060) (TABLED: 10/7/2020)**

Ms. Sylvia Hinojosa moved to remove the item from the table. Ms. Rebecca Millan seconded the motion. The board voted unanimously to remove the item from the table

with five members present and voting.

Mr. Camacho stated the variance was to allow an existing L-Shaped porch with an area of 357 square feet that encroaches 3 ft. into the 6 ft. side yard setback along the east property line. The applicant stated that the porch was constructed in order to have shade and enjoy the evenings with the family and enjoy the rain on rainy days.

The subject property was located on the south side of Quamasia Avenue, approximately 300 ft. east of North 29th Street. The property has 50 ft. of frontage along Quamasia Avenue and a depth of 100 ft. with a lot size of 5,000 square feet. Surrounding land use are single-family houses and Walmart Super Center.

Del Sol Subdivision Phase I was recorded on November 6, 1998. A building permit was submitted on August 21, 2020. The application for the variance was submitted on September 2, 2020.

The request was to allow an encroachment of 3 ft. into the 6 ft. side yard setback for an existing porch with an area of 357 square feet. The porch has a length of 25 ft. on the rear and 21 ft. along the east property line.

A site inspection revealed that there was a storage measuring 10 ft. by 18 ft. that is encroaching 4 ft. out of the 6 ft. setback along the west property line and the 4 ft. out of the 10 ft. rear Utility Easement; however, the applicant is proposing to move the existing storage out of the Utility Easement and side setback, shown on the updated site plan.

There were existing structures around the neighborhood that seem to be encroaching into the side and rear setbacks, only one variance has been requested in the area (2705 Quamasia Avenue) in 2014 and got disapproved, the request was for a side and rear encroachment for an existing storage.

Side yard setbacks are important to maintain a safety separation in between structures (12 ft.) in case of a fire and slow down the spread. Having any kind of encroaching structures might speed up the fire within properties.

If the request is approved, it may encourage other property owners to apply for a variance to encroach into the setbacks. Approval of the request will allow the porch and storage to stay as depicted on the site plan.

Staff had not received phone calls of concern in regards to the variance request.

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

Mr. Camacho stated the applicant withdrew variance request #2. The applicant will be relocating shed. Once the variance was approved it would still need to be in compliance with building permit. After the inspection has been done they will see if the actual storage has been moved from the encroachments.

Ms. Hinojosa asked that staff had mentioned something similar to this and the Board had denied it. Mr. Camacho stated there was a variance request near. It was 2705 Quamasia Avenue for a storage on the side and rear yard in which it was disapproved back in 2014. There was a 10-foot utility in the rear.

Chairperson Mr. Millin asked if the 3 feet was measured from the fence to the post. Mr. Camacho responded yes.

Mr. Avila mentioned looking at the picture they had a window that sticks out assuming those columns or posts would need to be aligned with it to be in compliance. Mr. Camacho stated the far end window was the actual 6 feet.

Mr. Jimenez asked the applicant she spoke with her neighbor about the situation in opposition to it. Ms. Bosquez (via teleconference) stated yes they did and they did not have any opposition. The neighbor that would affect stated they also did not have any opposition.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Millin asked if there anyone present or on Zoom in opposition of the variance request. There was no present in opposition of the variance request.

Ms. Hinojosa asked staff if they were willing to cut back on the porch. Mr. Camacho stated at the beginning it was brought to the Planning Department as a building permit and was rejected by Planning because of the encroachment. They spoke with the applicants in order to approve the permit they would have to cut it back 3 feet to be on the line. That's when they proceeded with the variance process.

Ms. Sylvia Hinojosa **moved** to disapprove variance request #1. Mr. Jose Gutierrez seconded the motion. The board voted unanimously to disapprove variance request #1 with five members present and voting.

- f) Request of Jose Noe Herrera. for the following Variance to the City of McAllen Zoning Ordinance to allow: an encroachment of 6 ft. into the 6 ft. side yard setback for a proposed roof for an existing work area measuring 12.3 ft. by 43.6 ft. at Lot 78, Bedford Park Estates Subdivision, Hidalgo County, Texas; 3937 Swallow Avenue. **(ZBA2020-0063)**

Mr. Camacho stated the variance was to allow a proposed roof over a work area measuring 12.3 ft. by 43.6 ft. that encroaches 6 ft. into the 6 ft. side yard setback along the east property line. The applicant stated that the proposed roof is in order to work on his cars.

The subject property was located on the southeast corner of North 40th Street and Swallow Avenue. The property has 67.49 ft. of frontage along Swallow Avenue and a depth of 97.49 ft. on the west and 97.20 on the east with a lot size of 6196 square feet. Surrounding land use are single-family houses.

Bedford Park Estates Subdivision was recorded on May 9, 2003. A Stop Work Order ticket was issued for a construction without a permit on October 14, 2020. A renewal building permit was submitted on September 3, 2020. The application for the variance was submitted on September 9, 2020. An abandonment process was submitted on September 9, 2020 for a 5 ft. Utility Easement on the west side of the property. After abandonment request is approved, the applicant will apply for the existing structure on the west.

The request was to allow an encroachment of 6 ft. into the 6 ft. side yard setback for a proposed roof over an existing work area measuring 12.3 ft. by 43.6 ft.

There are existing structures around the neighborhood that seem to be encroaching into the rear setbacks, however no variances have been requested around the area

Side yard setbacks are important to maintain a safety separation in between structures (12 ft.) in case of a fire and slow down the spread. Having any kind of encroaching structures might speed up the fire within properties.

If the request was approved, it may encourage other property owners to apply for a variance to encroach into the setbacks. Approval of the request will allow the roof structure to be constructed as depicted on the site plan.

Staff had received a phone call in favor of the variance request.

Staff recommended disapproval of the variance. If the Board chooses to approve the request, the approval should be limited to the footprint as shown on the site plan.

Chairperson Millin stated looking at the side photo it appeared on the west side there was a canopy that extends out to the wall. Mr. Camacho stated that would be for another variance request currently it was going through the abandonment process.

And on the east side, was there anything built there currently. Mr. Camacho stated it was proposed.

Mr. Noe Herrera, the applicant stated with all the hurricanes he wanted to build the carport to protect his property as well as his vehicles. It was going to be galvanized metal. Mr. Herrera would eventually put a driveway. He stated he had a large window on that side that he wanted to cover. He also wanted to install solar panels on the roof. He had spoken to his neighbor and he said as long as Mr. Herrera put a gutter for the rain falling onto his property he was in favor.

Mr. Avila asked if the applicant was going all the way up to the property line. Mr. Camacho stated yes as per site plan. Mr. Avila asked if he would have enough greenery that the 10 percent was required afterwards. Mr. Camacho stated there was 10 percent requirement for the landscaping in the front. If approved, he would have to apply for a building permit to construct the driveway.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the variance

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

Chairperson Millin asked if there anyone present or on Zoom in opposition of the variance request. There was no present in opposition of the variance request.

Chairperson Millin asked staff if there were any other opposition. Mr. Camacho stated there was a call but in favor of the request. It was from one of the neighbors that lived in the 200-foot radius.

Ms. Millan asked staff if there were any other houses that had a driveway in which would take up much of the front yard. Mr. Camacho stated the other driveways were of normal size.

Ms. Hinojosa asked staff if they had an alley. Mr. Camacho stated no.

Mr. Rogelio Rodriguez **moved** to disapprove the variance request. Ms. Sylvia Hinojosa seconded the motion. The board voted unanimously to disapprove the variance request with five members present and voting.

- g)** Request of Enrique Flores, on behalf of Madhouse Development Service, Inc., for the following variance to the City of McAllen Zoning Ordinance Section 110-49(a) to not comply with the 8 ft. masonry wall required between single family residential and commercial, industrial, or multi-family residential zones/uses and along the south property line at Lot 1, 2, 3, 4, 5, 6, 7, 8, and 9, Phase One Office Park Subdivision, Hidalgo County; 201, 205, 209, 213, 217, 221, 225, 229, and 223 South 2nd Street. **(ZBA2020-0068)**

Ms. Garza stated the applicant was requesting variances to not comply with the 8 ft. masonry wall required between single family residential and commercial, industrial, or multifamily residential zones/uses and along the south property line.

The property was located on the south side of Beaumont Avenue and on the west side of South 1st Street. The proposed re-plat will have 100 feet of frontage along Beaumont Avenue and 347.96 feet of frontage along South 1st Street for a total area of 3.484 acres and was zoned R-3A (multifamily residential apartments) District. The adjacent zoning was R-1 (single family residential) District to the north, south, and east, C-3 (general business) District to the north, east and west, and R-4 (Mobile Home) District to the west. Surrounding land uses are single family residences, commercial uses, Hidalgo County Water District Canal, and vacant land.

The property was located in Phase One Office Park Subdivision, which was recorded on October 11, 2001. The owner had applied to re-plat all nine lots into one, the proposed subdivision plat, Avanti Legacy Valor Heights Subdivision, has received approval in Preliminary Form by the Planning and Zoning Board on May 19, 2020 meeting subject to conditions noted, Utilities and Drainage approvals. The applicant was proposing to construct a multifamily housing on the site.

The Variance request was to not comply with the 8 ft. masonry wall required between single family residential and commercial, industrial, or multifamily residential zones/uses and along the south property line. The applicant was proposing of use columns at the corners and entrance/exit point with 8 ft. cedar fencing instead of masonry.

Staff recommended approval of the variance request.

Chairperson Millin asked staff why recommended approval. Ms. Garza stated as she mentioned the south side on the proposed site plan for the apartment complex there was a 10-foot utility easement which will be landscaping. After 10 ft. landscaping strip they would have the 18 foot of parking, the 24-foot driveway and another 18 foot of parking for a total of 80 feet from the building. Acting Chairperson Millin asked about the north side. Ms. Garza stated on the north side where it said 131 feet, that was less than the 200 foot. As per Section 110-49 where such use had 200 ft. or less in common with any residential use or zone, the buffer shall be 8 ft. in height but may be cedar planks with masonry columns at every 10 ft. Lot 3 which was on the east side was C-3, general business however; it was residential use at the moment but it was less than the 200 foot. Acting Chairperson Millin asked about the other north side. Ms. Garza stated as previously Lot 3 was general business but was residential use. Lot 4 which was on the east side of Lot 3, was R-1 combining Lot 3 and 4 together it was 100 feet which less than the 200 feet. And then from Lots 5 to Lot 8 on the east corner those were C-3 zoned which was general business. All those lots were vacant. Acting Chairperson Millin asked about the east side. Ms. Garza stated the east side the blue part was not a part of the variance, but were proposing to use a 6-foot opaque buffer.

Chairperson Millin asked if there were any oppositions. Ms. Garza stated no.

Mr. Michael Tamez, agent for the applicant, (via Zoom) stated they were proposing to construct a multifamily housing called Avanti Legacy Valor Heights on this tract east side of 2nd Street and south of Business 83. Because it was a tax credit development they had to provide a minor type of grant plus a letter of resolution supporting this particular type of project. The City was requiring an 8-foot masonry wall. With regards to the columns every 10 feet, that was additional burden on the property. They were recommending an 8-foot cedar fence in lieu of the masonry wall and not providing columns every 10 feet but putting them at the exit and entrance points. Their resources were very limited. If they did the columns at every 10 feet they would need 80-81 columns and would cost \$1,000.00 per column. They would like to utilize other costs towards maintenance and other amenities such as club house, bike trail, etc. They know the significance of having a buffer between single family use and multifamily uses but having the cedar fence would be less costly.

Chairperson Millin asked Mr. Tamez what was the cost of the project overall. Mr. Tamez stated they were looking at 17 million dollars. Acting Chairperson Millin asked Mr. Tamez that he had mentioned the hardship that they found themselves was related to the cost and he relate any other hardship that relate to unique features of the property that created a problem. Mr. Tamez stated yes and the hardships that were outside of their control had a lot to do with COVID, the hurricane impacting the Rio Grande Valley recently had

increased the price of lumber and knocked down one of their buildings that was currently under construction.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the variance request other than the applicant. There was no one else in favor of the variance request.

Chairperson Millin asked if there was anyone present or on Zoom in opposition of the variance request. There was no one present in opposition of the variance request.

Mr. Victor Flores, legal counsel, stated on one of the other previous applicants today was allow the applicant to go back and consider the criteria of this Board should be charged with considering coming back and presenting a better argument as to why it met those criteria.

Chairperson Millin asked what good would it do if the applicant was to return and fashion some new argument regarding criteria will do when it would be different than what was told to us because it was related solely to cost.

Mr. Tamez stated he was trying to emphasize the things that staff did not elude to was cost but to their point there were buffers that were already created by the parking lot. They had received comments from the neighbors to the south that they were excited about the project.

Chairperson Millin asked Mr. Tamez what hardship was opposed by the fact was being used for single family that would not allow to put in these columns on the north side. No response from Mr. Tamez. Acting Chairperson Millin answered there was none.

Mr. Avila stated it was deviating from the masonry wall it was not so much the cedar fence that he's proposing. Staff was looking at the positive impact could have on the City. They would have Code Enforcement to make sure the cedar fence was well maintained and as well any noise.

Following discussion, Mr. Hugo Avila moved to disapprove the variance request until the next meeting per staff. Mr. Jose Gutierrez seconded the motion. The board voted unanimously to disapprove the variance request with five members present and voting.

- h) Request of Juan F. Valdez, for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 18 ft. into the 30 ft. front yard setback for a proposed wood carport measuring 18 ft. by 24 ft. at Lot 7, Block 8, Primrose Terrace Unit No. 4, Hidalgo County, Texas; 1719 Redbud Avenue.
(ZBA2020-0062)

Mr. Garza stated the applicant was requesting a special exception for a proposed wooden carport measuring 18 ft. by 24 ft. that will be encroaching 18 ft. into the 30 ft. front yard setback.

The property was located on the south side of Redbud Avenue, approximately 500 ft. west

of North 16th Street, and is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District in all directions. Surrounding land uses include single family residence and Hidalgo County Water District Canal.

The property was located in Primrose Terrace Unit No. 4 Subdivision, which was recorded on February 10, 1967. The plat indicated a 30 ft. front yard setback and property was a cul-de-sac lot. The site plan indicated that a proposed carport measuring 18 ft. by 24 ft. will be encroaching into the front yard setback.

The Special Exception was to allow an encroachment of 18 ft. into the 30 ft. front yard setback for a proposed carport measuring 18 t. by 24 ft.

The front yard setbacks help keep the character of single family residential areas by maintaining the street yard and curb approval of properties in a subdivision.

There are no existing carports that appear to be encroaching into the front yard setback around the area. Should the request be approved, it may encourage other property owners to request a special exception to encroach into the front setback.

Staff had not received any calls in opposition to the request.

Staff recommended disapproval of the special exception because no accessory structures are allowed to be built on any setbacks. If the Board chooses to grant the special exception, it should be limited to the foot print as shown on the site plan.

Mr. Tracy Bloom, the applicant, stated the size of their garage did not fit their trucks and cannot open the door to get into the house. Also, to protect the vehicles from inclement weather and acorns dropping from their oak trees onto the trucks. She had mentioned to the other neighbors and were in favor of the carport.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the special exception other than the applicant. There was a neighbor in favor of the special exception

Chairperson Millin asked if there anyone present or on Zoom in opposition of the special exception. There was no present in opposition of the special exception.

Michelle and Jason Gulley, 1706 Redbud Avenue, (teleconference) stated they were in favor of the special exception. She had mentioned that they were no others in the neighborhood but how far did staff go to see if others were or were none in the area. Ms. Garza stated they went from Redbud Avenue to Shasta Avenue to Quamasia Avenue. On the south side from Bicentennial Boulevard to Main Street and did not see any carports in the front. Ms. Gulley stated if one goes on their street through Main Street and 16th Street there were some in the front that were well established carports.

Chairperson Millin asked Ms. Gully if she had any addresses pertaining to these carports she had mentioned. Ms. Gully stated there was one possibly, at 1203 Jonquil Avenue, even though it was jumping Nolana Avenue. When they built their homes she didn't

believe they had setbacks back in 1967.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the special exception besides the applicant and Ms. Gully. There was no one else in favor of the special exception

Chairperson Millin asked if there was anyone present or on Zoom in opposition of the special exception. There was no present in opposition of the special exception.

Chairperson Millin asked legal counsel that a special exception did require necessarily a hardship. Mr. Flores stated correct. It was not an aggressive standard as a variance. Millin asked if we had to be consistent with the characteristic as the neighborhood. Mr. Flores stated correct.

Chairperson Millin asked staff if they had seen carports that were built in front. Ms. Garza indicated where she had gone in the neighborhood she did not see carports in the front.

Mr. Avila asked staff if they had discussed with the applicant regarding the process of the special exception if approved. Ms. Garza stated yes.

Following discussion, Mr. Jose Gutierrez **moved** to disapprove the special exception. Ms. Rebecca Millan seconded the motion. The board voted to disapprove the special exception with four members voting aye and one nay, Ms. Sylvia Hinojosa.

- i) Request of Narciso Palomera for the following special exception and variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 20 ft. into the 20 ft. front yard setback for a proposed wooden carport with brick columns measuring approximately 20 ft. by 20 ft., **2)** to allow an encroachment of 3.25 ft. into the 6 ft. side yard setback along the west property line for an existing wooden storage building measuring approximately 10 ft. by 12 ft., and **3)** to allow an encroachment of 0.33 ft. into the 10 ft. rear yard setback for an existing wooden storage building measuring approximately 10 ft. by 12 ft., at Lot 11, Apollo Gardens Subdivision, Hidalgo County, Texas; 2009 Iris Avenue. **(ZBA2020-0065)**

Mr. Forghanparast stated the applicant was requesting a special exception request in order to allow encroachment into the front yard setback for a proposed wooden carport with brick columns to protect his vehicles from the weather elements. He was also requesting two variance requests to allow encroachments into the rear and side yard setbacks for an existing wooden storage building. The applicant stated that when he bought the subject property in 2000, the house's garage had already been enclosed and the storage building had been built. He mentioned that he was not aware that the storage building was encroaching into the setbacks.

The subject property was located on the south side of Iris Avenue, 441 ft. west of North 19 ½ Street. The property had 72 ft. of frontage along Iris Avenue and 98 ft. of depth for a lot size of 7,056 sq. ft. The surrounding land use was single-family residence.

Apollo Gardens Subdivision was recorded on June 14, 1976. Hidalgo County Appraisal District records showed that the residential home was built in 1977 and the storage building was constructed in 2010. However, the applicant stated that the storage had been built before he bought the subject property in 2000. An application for a building permit for the proposed carport was submitted on April 24, 2020, which was disapproved during the building permit review process due to the encroachment into the front yard setback. In September 2020, when the applicant came to the Planning Department to ask about the proposed carport, staff discovered during the conversation that there was a storage building which might be encroaching into the setbacks. The application for a special exception request for the proposed carport and a variance request for the existing storage building was submitted on September 11, 2020.

Request #1 was for a special exception to allow an encroachment of 20 ft. into the 20 ft. front yard setback for a proposed wooden carport with brick columns measuring approximately 20 ft. by 20 ft. The carport was proposed to be constructed over the existing drive way, attached to the house, and extend to the property line, with no overhang over the street right of way. Front yard setbacks were important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view of properties in a subdivision. Carports were not permitted to be located within the front yard setbacks.

Request #2 was for a variance to allow an encroachment of 3.25 ft. into the 6 ft. side yard setback along the west property line for an existing wooden storage building measuring approximately 10 ft. by 12 ft. The applicant stated that the storage building was used to store a lawn mower, a weed eater, exercise equipment, and other general items. The storage building was located at the rear of the property and was built before the applicant bought the subject property in 2000. The storage building's foundation was concrete, making it difficult to relocate the building out of the setback. Storage buildings that are 200 sq. ft. or less in size do not require a building permit, but must respect the zoning district setbacks in which they are located.

Request #3 was for a variance to allow an encroachment of 0.33 ft. into the 10 ft. rear yard setback for an existing wooden storage building measuring approximately 10 ft. by 12 ft. During the site visit, staff noticed that the storage building is 9.67 ft. away from the rear fence; therefore, the applicant asked staff to process request #3 in addition to the original application. The storage building was located at the rear of the property and sat on a concrete foundation, making it difficult to move out of the setbacks.

Approval of the special exception and variance requests would allow the construction of the proposed carport as depicted on the submitted site plan and the storage building to remain. Approval of the building permit application was pending approval of this application.

During the site visit, staff noticed that there were other existing carports and storage buildings in the area that appear to be encroaching into the front, side and rear yard setbacks.

Staff received a letter of opposition to the special exception request on October 16, 2020, from Cassidy Leftwich. Ms. Leftwich's concerns included the consequences of the existing and proposed carports to the neighborhood's character, integrity, safety, and property values.

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

Chairperson Millin mentioned the letter of opposition had photos on Hibiscus Avenue which was one block over were those carports or the one that was in middle of construction, had they been approved or done without approval. Mr. Forghanparast stated there was no record showing they got approved. One of those was going to be heard as one of the last items that day. The letter of opposition was for both cases today.

Chairperson Millin asked staff if there were any other carports in the area that were in front. Mr. Forghanparast stated there were none in that area but at the back and side there seemed to have a lot of other properties that had encroachments with sheds. He stated the carports that the applicant stated were on Highland Avenue about a mile away from the subject property but in this area these were the only two.

Mr. Narcisco Palomera, the applicant stated the carport was to protect the vehicles because he did not have a garage. He wanted to make sure that it looked like part of the house. He stated he saw three other carports in the neighborhood in which he liked their style. The garage was enclosed when he bought the house. The shed had already existed.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the special exception other than the applicant. There was no one else in favor of the special exception.

Chairperson Millin asked if there anyone present or on Zoom in opposition of the special exception. There was no one present in opposition of the special exception.

Mr. Rodriguez asked staff if there were any utilities that ran on the rear where the storage was located. Mr. Forghanparast stated no utility easements.

Ms. Hinojosa commented where houses that have garages have been enclosed in the older neighborhoods. If they have an alley they can do a covered area in the rear. Mr. Forghanparast stated some other that have access to the alley were using the alley and have a driveway.

Mr. Rodriguez asked what was the distance from the storage to the fence line in the rear. Mr. Forghanparast stated it was 9.67 feet and then an alley that measured 20 feet.

Ms. Hinojosa asked if any options were discussed with the applicant as to the building of the carport possibly in the rear. Mr. Forghanparast stated option was not discussed with

the applicant.

Mr. Rodriguez asked staff if this area would allow an entrance through the rear. Mr. Forghanparast stated when an applicant wants to put an entrance or a carport in the back they were required to pave the alley up to their property line to use it.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the special exception other than the applicant. There was no one else in favor of the special exception

Chairperson Millin asked if there anyone present or on Zoom in opposition of the special exception. There was no one present in opposition of the special exception.

Mr. Gerardo Lopez, 2113 Hibiscus Avenue, stated he was one of the last cases. He was in favor of the applicant. He stated regarding their alleys, that one cannot drive through the alley but it happens. He stated he was the first one to build a carport and that if you went four blocks either way there were carports. Mr. Lopez stated they got hit hard twice and lost three cars due to the hurricanes back in 2012.

Chairperson Millin asked staff where in the neighborhood did staff go to see other carports and whether they were in character with the neighborhood. Mr. Forghanparast stated that on the streets to the north and south, there were structures that seemed to be encroaching. In this area they did not seem to have any permits for these structures and that putting a carport at front setback was not consistent with the character of the neighborhood.

Mr. Palomera stated he had photos of other carports to the south of him that looked aesthetically pleasant to the neighborhood.

Mr. Steve Herrera, 2000 Hibiscus Avenue, stated he was in favor of the applicant. There was no problem and was not an eyesore. There were other carports all over Highland Avenue both north and south.

Mr. Rogelio Rodriguez **moved** to approve the special exception and the variance request subject to the footprint of the encroachments as submitted in the site plan. Ms. Sylvia Hinojosa seconded the motion. The board voted unanimously to approve the special exception and variance request with five members present and voting.

- j) Request of Juan Lopez for the following Special Exception to the City of McAllen Zoning Ordinance to allow: an encroachment of 20 ft. into the 20 ft. front yard setback for an existing carport measuring 17 ft. by 23 ft. at Lot 44, Oak Terrace Subdivision, Hidalgo County, Texas; 1916 North 35th Street. **(ZBA2020-0056)**

This item was to remain tabled until the November 4, 2020 meeting.

- k) Request of Daniel Conde Jr. for the following Special Exception to the City of McAllen Zoning Ordinance to allow: an encroachment of 18 ft. into the 20 ft. front yard setback for a proposed carport measuring 18 ft. by 24 ft. at Lot 107, Shadow

Brook Subdivision Unit 1, Hidalgo County, Texas; 2021 Hawk Avenue. **(ZBA2020-0061)**

Mr. Camacho stated the applicant was requesting a variance to encroach 18 ft. into the 20 ft. front yard setback for a proposed carport measuring 18 ft. by 24 ft. The applicant is requesting a metal carport since he suffers from ESRD (End Stage Renal Disease) and his body cannot tolerate extreme heat. This would help his vehicles to be a bit more tolerable as outside temperature are extremely high most of the time.

The subject property was located on the south side of Hawk Avenue, approximately 100 ft. East of North 21st Street. The property has 50 ft. of frontage along Hawk Avenue and a depth of 102.75 ft. with a lot size of 5,137.5 square feet. Surrounding land use are single-family houses, Broadcast Tower and vacant land.

Shadow Brook Subdivision Unit 1 was recorded on April 30, 1980. On September 1, 2020 a building application was submitted for a carport. The application for the special exception was submitted on September 8, 2020.

The request was to allow an encroachment of 18 ft. into the 20 ft. front yard setback for a carport measuring 18 ft. by 24 ft. The standard front yard setback for R-1 Lots is 20 ft.

The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view of properties in a subdivision.

There are other existing carports and structures that appear to be encroaching into the front and side yard setback, there are several Variances and Special Exceptions submitted that have been approved (1920,1924,1916,1912,1909,1921,1933 Hawk Avenue) got approved and only one petition got denied (2028 Hawk Avenue).

Should the request be approved, it may encourage other property owners to request a special exception to encroach into the front setback. Approval of the request will allow the construction to be limited to the footprint shown on the site plan.

The Special Exception was compatible with the character of the neighborhood since carports are common in the area and the value of surrounding properties would not be adversely affected.

Staff had not received any phone calls or email in regards to the special exception.

Staff recommended approval of the special exception request.

Mr. Daniel Conde, Jr., the applicant, stated he wanted the carport to protect his vehicles. The second reason for the carport was for shade for his medical condition which the heat affects it.

Chairperson Millin asked staff if there were other carports in the area. Mr. Camacho most

of them had special exceptions and variances that had been approved in the area.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the special exception other than the applicant. There was no one else in favor of the special exception

Chairperson Millin asked if there anyone present or on Zoom in opposition of the special exception. There was no present in opposition of the special exception.

Ms. Rebecca Millan **moved** to approve the special exception. Mr. Jose Gutierrez seconded the motion. The board voted unanimously to approve the special exception with five members present and voting.

- I) Request of Gerardo Lopez for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 ft. into the 20 ft. front yard setback for an existing metal carport measuring 20 ft. by 30 ft., at Lot 50, Apollo Gardens Subdivision, Hidalgo County, Texas; 2113 Hibiscus Avenue. **(ZBA2020-0051) (TABLED: 10/7/2020)**

Mr. Rogelio Rodriguez **moved** to remove the item from the table. Ms. Sylvia Hinojosa seconded the motion. The board voted unanimously to remove the item from the table with five members present and voting.

Ms. Alvarado stated the applicant was requesting a variance to encroach 20 ft. into the 20 ft. front yard setback for an existing carport measuring 20 ft. by 30 ft. The applicant was requesting that the carport to remain there to protect his cars from vehicle damage.

The subject property was located on the south side of Hibiscus Avenue, approximately 1,000 ft. west of Bicentennial Boulevard. The property has 70 ft. of frontage along Hibiscus Avenue and a depth of 100 ft. with a lot size of 7,000 square feet. Surrounding land use are single-family houses.

Apollo Gardens was recorded on June 14, 1976. On July 31st, 2020 a Citation was given for a construction without a permit. On August 3, 2020 an application for a building permit was submitted for a carport. The application for the variance was submitted on August 18th, 2020.

The request was to allow and encroachment of 20 ft. into the 20 ft. front yard setback for a carport measuring 20 ft. by 30 ft. A site visit revealed that the structure is encroaching on the 20 ft. front yard setback.

The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view of properties in a subdivision.

There are no other existing carports and structures that appear to be encroaching into the front and side yard setback around the area. During a site visit, staff confirmed there is a garage at the residence.

Should the request be approved, it may encourage other property owners to request a special exception to encroach into the front setback. Approval of the request will allow the construction to remain.

The planning department received a letter of opposition on October 16, 2020 for the proposed carport.

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

At the Zoning Board of Adjustment meeting of September 17, 2020 no one appeared in opposition to the variance request. The Board voted unanimously to table the request in order to allow the applicant time to clarify the measurements on the submitted site plan.

Mr. Gerardo Lopez, the applicant, stated he had asked a co-worker about building his carport. He then asked about a building permit. He said no you did not don't worry about it. But if you need one he would get one for him. The carport was built. Shortly after the hurricane July 31st, Code Enforcement came by and was told he was in violation. Mr. Lopez stated the code enforcement officer told him if no one had complained against him he would not have gone by. Mr. Lopez mentioned he knew who complained. She made a call and complained because the contractor had put supplies in her driveway. He stated he had gone around the neighborhood and saw two other carports.

Mr. Avila mentioned to the applicant that the Board had tabled the item twice to give him an opportunity to speak with them and defend himself. Mr. Lopez stated he did a lot of research on his case and other cases just like his.

Chairperson Millin asked if there was anyone present or on Zoom in favor of the special exception other than the applicant. There was no one else in favor of the special exception

Chairperson Millin asked if there anyone present or on Zoom in opposition of the special exception. There was no present in opposition of the special exception.

Mr. Rogelio Rodriguez **moved** to approve the special exception. Mr. Juan Jimenez seconded the motion. The board voted unanimously to approve the special exception with five members present and voting.

FUTURE AGENDA ITEMS:

- a) 2400 North 25th Street
- b) 2108 Highland Avenue
- c) 800 East Pineridge Avenue
- d) 317 Uvalde Avenue

ELECTION OF OFFICERS:

a) Chairperson

Mr. John Millan nominated Erick Diaz as Chairperson. Mr. Jose Gutierrez seconded the nomination. The Board voted unanimously with five members present and voting.

b) Vice-Chairperson

Mr. Jose Gutierrez nominated Mr. John Millin for Vice-Chairperson. Ms. Rebecca Millan seconded the motion. The Board unanimously with five members present and voting.

ADJOURNMENT

There being no further business to come before the Zoning Board of Adjustment and Appeal, Mr. Hugo Avila **moved** to adjourn the meeting. Ms. Sylvia Hinojosa seconded the motion, which carried unanimously with five members present and voting.

Chairperson John Millin

Carmen White, Secretary

**Minutes for November 4, 2020
will uploaded on Monday**

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 12, 2020

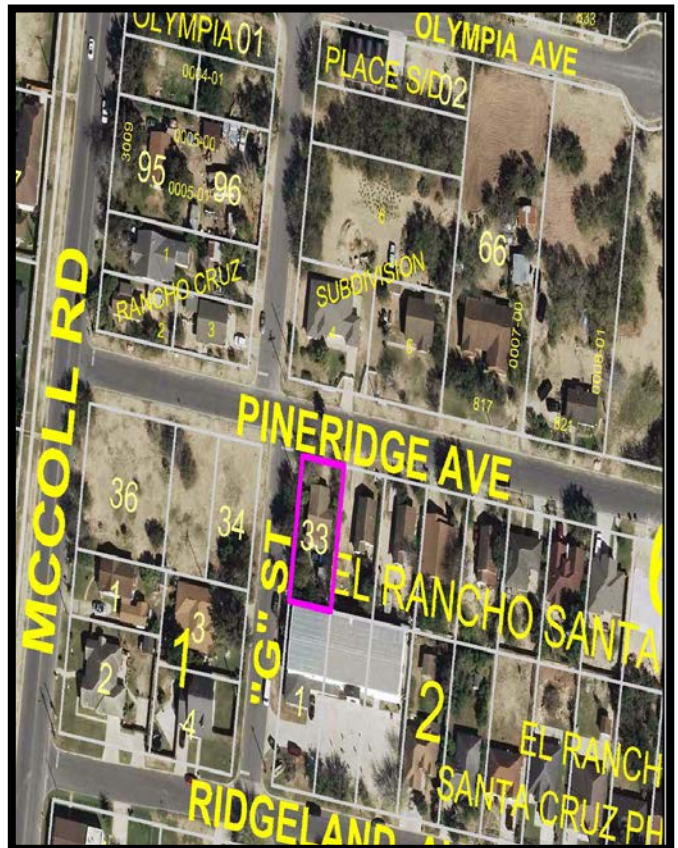
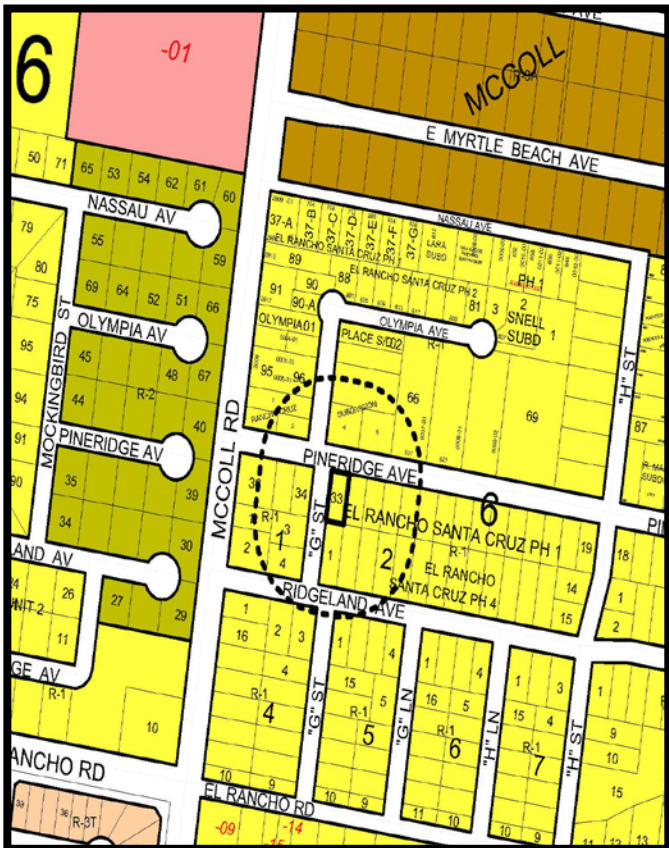
SUBJECT: REQUEST OF DOUGLAS AND ROSALIA LAROQUE FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 10 FT. INTO THE 20 FT. FRONT YARD SETBACK FOR AN EXISTING GAZEBO MEASURING 10 FT. BY 10 FT. AT LOT 33, EL RANCHO SANTA CRUZ SUBDIVISION PHASE I, HIDALGO COUNTY, TEXAS; 800 EAST PINERIDGE AVENUE. (ZBA2020-0070) (TABLED: 11/4/2020)

REASON FOR APPEAL:

Douglas and Rosalia LaRoque are requesting the following variance to allow an encroachment of 10 ft. into the 220 ft. front yard setback for an for an existing gazebo structure measuring 10 ft. by 10 ft. The existing gazebo is used as a sitting area that helps the applicant spend time outdoors in order to cope with a medical condition.

PROPERTY LOCATION AND VICINITY:

The subject property has 50.81 of frontage on Pineridge Avenue and a depth of 110 ft. for an area of 5,538 sq. ft. The property is zoned R-1 (single family residential) District. The surrounding land uses are single-family residences.



BACKGROUND AND HISTORY:

El Rancho Santa Cruz Subdivision was recorded on January 06, 1986. A stop work order for building without a permit was issued on September 29, 2020. The applicant submitted an application for a building permit on October 06, 2020. The variance request was submitted on October 07, 2020.

ANALYSIS:

The variance request is to allow an encroachment of 10 ft. into the 20 ft. front yard setback. There is a 5 ft. utility easement adjacent to the front property line. The existing gazebo does not encroach into the utility easement. The front yard setbacks are important in establishing the character of a single-family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view of properties in a subdivision.

The applicant has submitted a letter that relates to the request to keep the gazebo for medical reasons.

Accessory buildings are customarily located in the rear yard.

Staff has not received any phone calls in opposition to the request.

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING OF NOVEMBER 04, 2020:

At the Zoning Board of Adjustment and Appeals meeting of November 04, 2020, one person appeared in opposition to the variance request, but did not comment. The applicant was not present. The Board unanimously voted to table the variance request in order allow the applicant time to clarify the site plan information for the request. There were five members present and voting.

RECOMMENDATION:

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

ZBA 2020-0070

ZBOA
11/4/2020



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

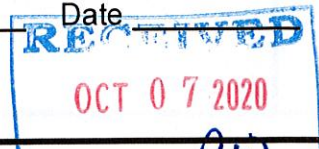
311 North 15th Street
McAllen, TX 78501
P. O. Box 220
McAllen, TX 78505-0220
(956) 681-1250
(956) 681-1279 (fax)

Project	Legal Description	<u>El Rancho Santa Cruz Ph 1 Lot 33</u>	
		<u>800 E Pineridge AVE</u>	
	Subdivision Name	<u>El Rancho Santa Cruz</u>	
	Street Address	<u>800 E Pineridge AVE</u>	
		Number of lots <u>1</u>	Gross acres _____
	Existing Zoning	<u>Residential</u>	Existing Land Use <u>Single family</u>
Reason for Appeal (please use other side if necessary)	<u>An existing gazebo that is nearly 10x10 and is encroaching into the front set back.</u>		
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)		
	<input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required		

Applicant	Name	<u>Douglas & Rosalia Laroque</u>	Phone	<u>(956) 648-9854</u>
	Address	<u>800 E. Pineridge AVE</u>	E-mail	<u>LAROQUE 69@yupoo.com</u>
	City	<u>McAllen</u>	State	<u>TX</u>
			Zip	<u>78503</u>

Owner	Name	<u>Douglas & Rosalia Laroque</u>	Phone	<u>(956) 648-9854</u>
	Address	<u>800 E. Pineridge AVE</u>	E-mail	<u>LAROQUE 69@yupoo.com</u>
	City	<u>McAllen</u>	State	<u>TX</u>
			Zip	<u>78503</u>

Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.	
	Signature	<u>Douglas Laroque</u> <u>Rosalia Laroque</u>
	Date	<u>10/6/20</u>
Print Name	<u>Douglas & Rosalia Laroque</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	

Office	Accepted by <u>H.C.</u>	Payment received by _____	Date _____
	Rev 10/18		

Act # 741428



City of McAllen Planning Department

REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

Due to my service connected disabilities from serving in the Vietnam War suffering from PTSD, self isolation, anxiety, depression. The majority of the time I sit outside and this was recommended by my doctors.

Board Action

Chairman, Board of Adjustment
Signature

Date



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:

Since property is on a corner lot were giving up more space than the other residents lots.

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

Due to my service connected disabilities from serving in Combat and suffering from PTSD, self isolation, anxiety, and depression and other medical problems.

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:

Variance is not affecting the public or neighbors. It is not blocking anyones view it sets back enough and does not interfere with ^{traffic} either on both streets

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

Due to my medical issues doctor and psychiatrist recommend this for me to distract myself from every day triggers.

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date



CITY OF McALLEN RESIDENTIAL PERMIT APPLICATION

REV. 3/2020

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

PERMIT APPLICATION REFERENCE NUMBER RES2020-07265

60104352

APPLICANT

NAME Rosalia LaRoque PHONE (956) 648-0341
ADDRESS 800 E. Pineridge AVE
CITY McAllen STATE TX ZIP 78503
CONTACT: NAME Rosalia LaRoque PHONE (956) 648-0341
OWNER CONTRACTOR TENANT OTHER

OWNER

NAME Douglas & Rosalia LaRoque PHONE 956 648 9854
ADDRESS 800 E. Pineridge AVE *EMAIL: LAROQUE69@yahoo.com
CITY McAllen STATE TX ZIP 78503

*OWNER INFORMATION NOT PROVIDED, INITIAL:

NEW ADDITION REMODELING REPAIR MOVE REMOVE 12ft BLDG. HGT. 0 NO. OF FLOORS
BLDG SQ. FT 100 NO. PARKING SPACES 0 SQ. FT LOT LOT FRONT FLOOR EL ABOVE CURB
EXISTING USE OF LOT NEW USE

SCOPE OF WORK TO BE DONE Gazebo come as a kit to be put assembled with bolts and screws.

PROJECT

Table with columns: RESIDENTIAL NEW, NO. OF UNITS, NO. BDRMS, NO. BATHRMS, SQ. FT NON-LIVING, SQ. FT LIVING

FOUNDATION: CONCRETE SLAB, PIER, BLOCK, BEAM, WOOD POSTS
EXT WALL: MASONRY VENEER, SOLID, METAL SIDING, COMPOSITION, WOOD, NONE
ROOF: WOOD SHINGLE, COMPOSITION, METAL, BUILD UP, CLAY OR CONCRETE TILE, NONE
UPGRADES/OTHER: GRANITE COUNTERTOPS, MARBLE TUBS/FLOORS, CUSTOM WINDOWS, POLYURETHANE INSULATION, OTHER UPGRADES, SEPTIC TANK

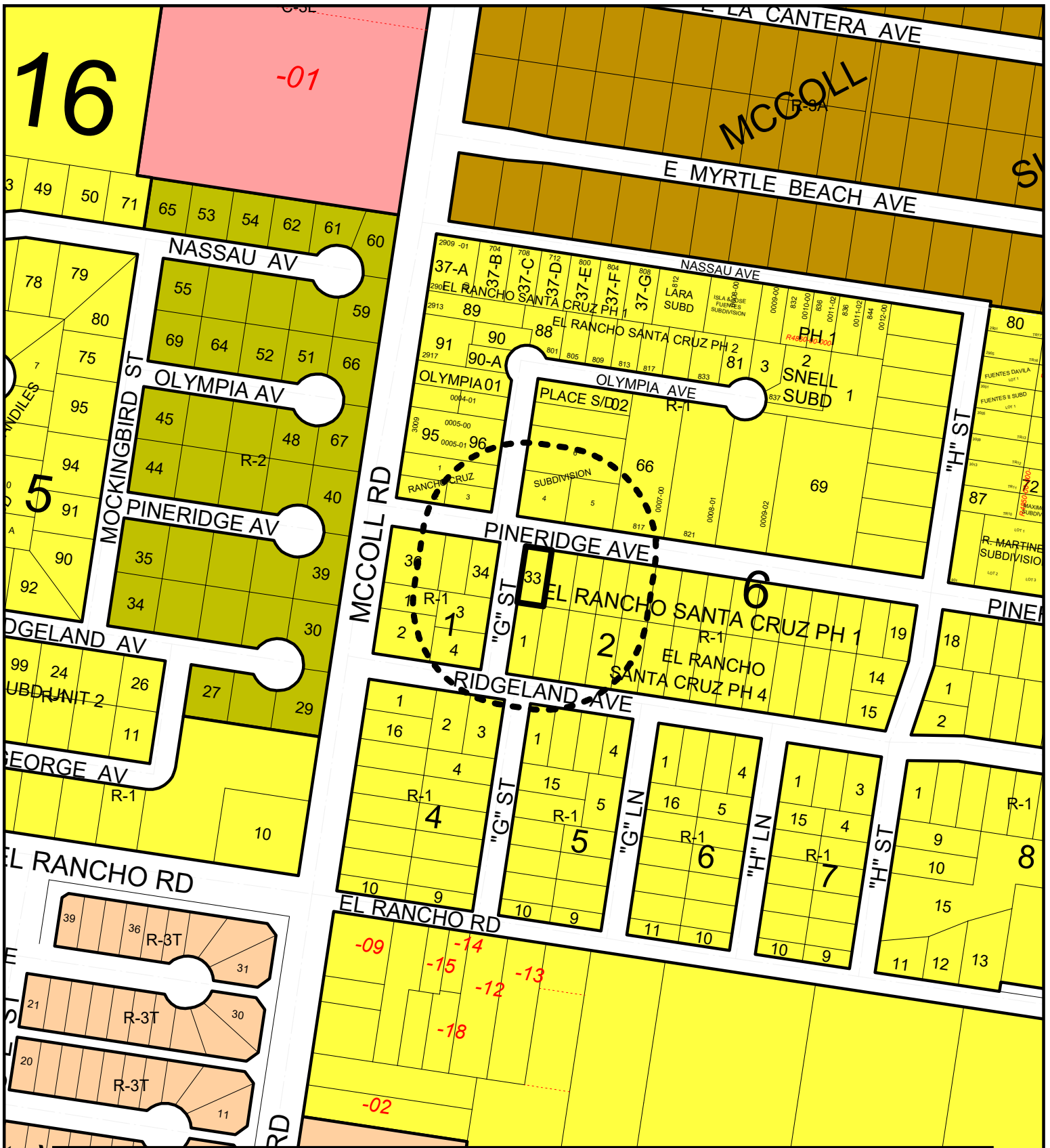
LOT 33 BLOCK SUBDIVISION El Rancho Santa Cruz Ph 1
SITE ADDRESS ST. NO. 800 ST. NAME Pineridge AVE

CITY USE ONLY

Construction Cost Permit Fee \$ 48 - Rec'd by [Signature]
Value \$ Double Fee \$ 48 - Date 10/6/20
Zoning Total Fee \$ Time 4:30
Park Development Fee \$ Park Zone

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

Rosalia LaRoque, Rosalia LaRoque LaROQUE69@yahoo.com 10/6/20
PRINT (AUTHORIZED AGENT/OWNER) SIGNATURE EMAIL ADDRESS (required) DATE



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: N.T.S.



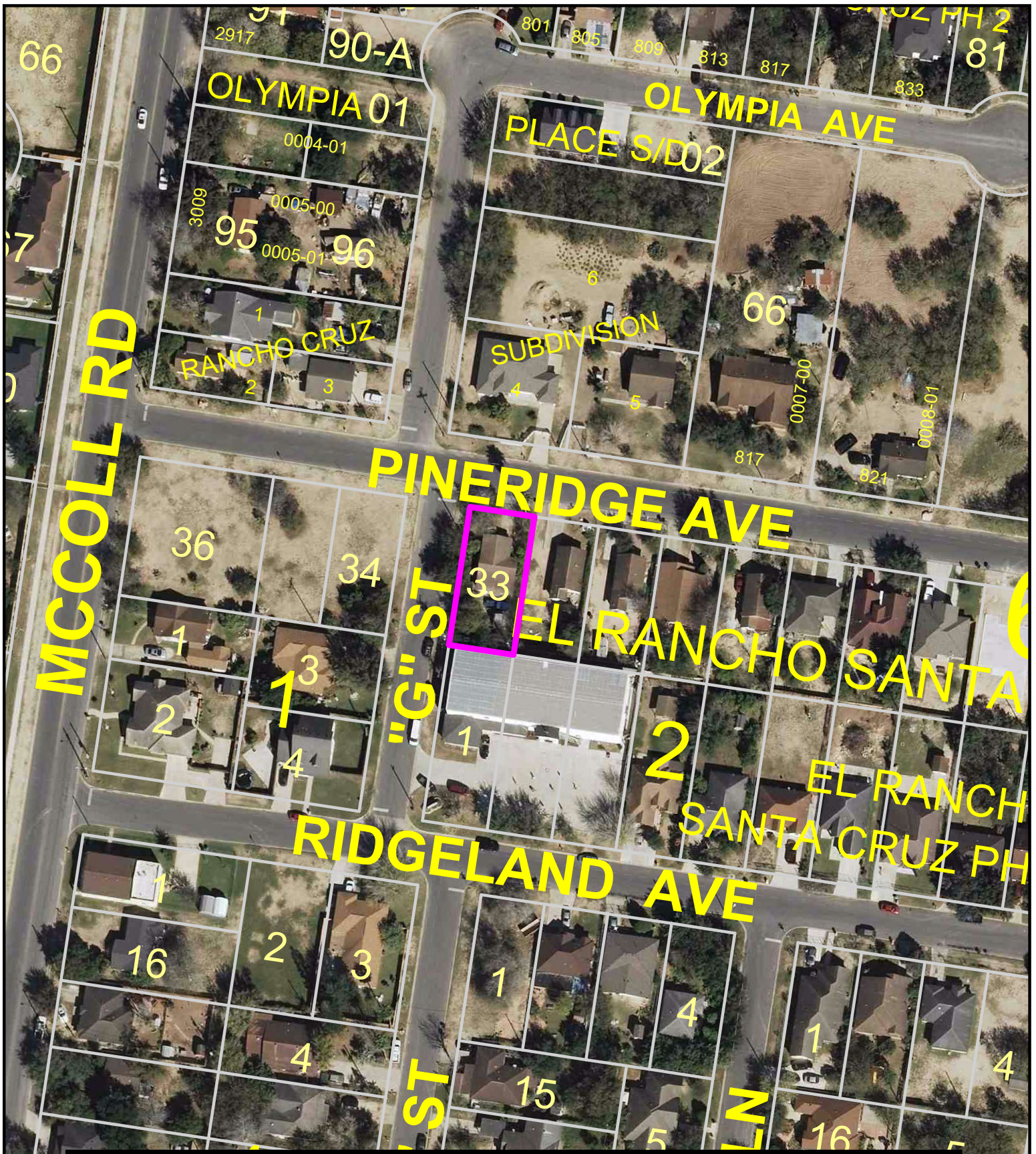
SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

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

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CITY OF McALLEN
 PLANNING DEPARTMENT

 SUBJECT PROPERTY

AERIAL MAP
 SCALE: N.T.S.



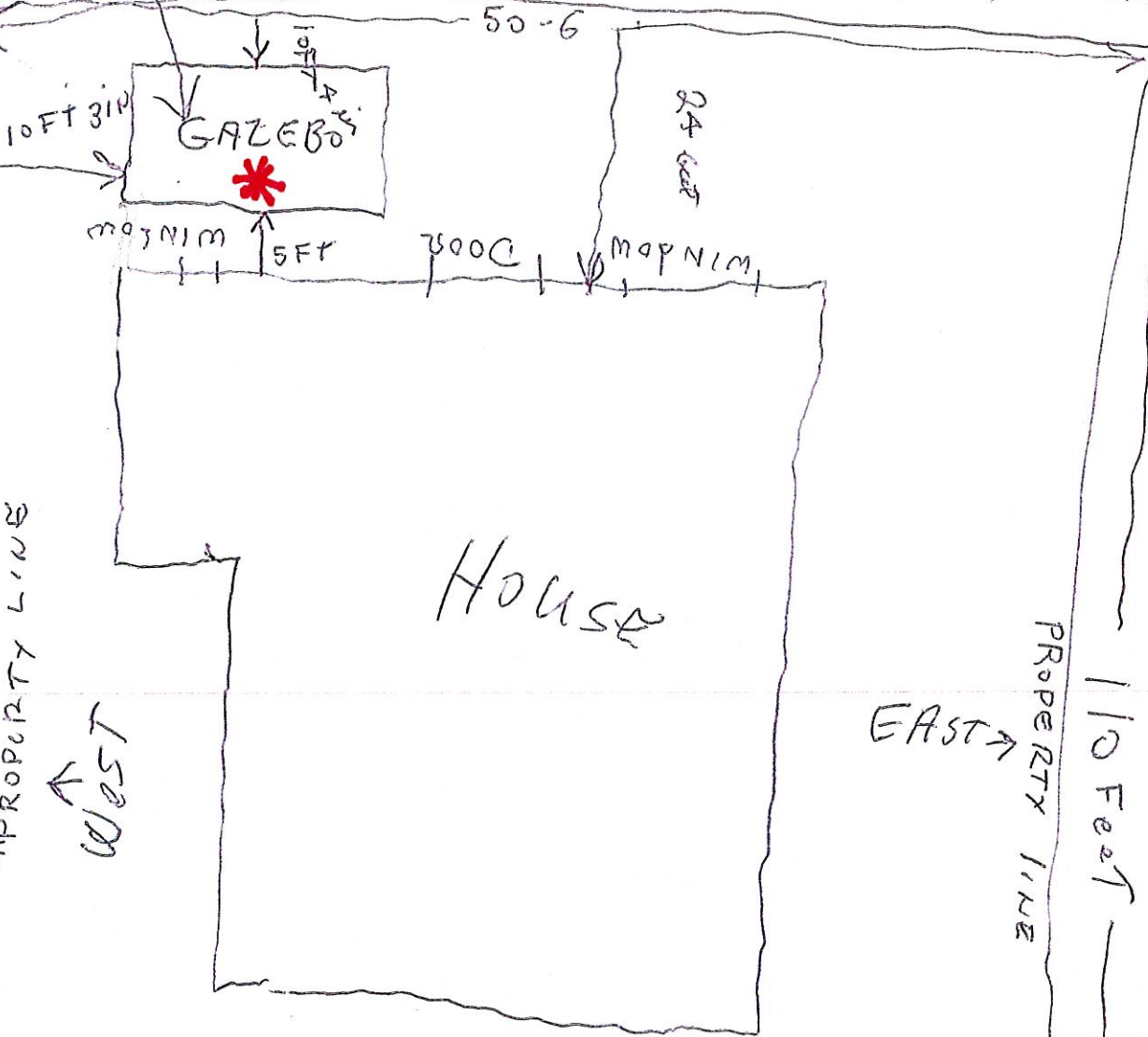
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THE GAZERO IS
STANDING ON A
CEMENT TILED FLOOR
CEMENT IS 4 IN THICK
EACH LEG IS BOLTED
IN CEMENT

SOUTH WEST
CORNER LOT #33
800 EAST NORTH

PINE RIDGE AVE PROPERTY LINE

140 FT ±



SG STREET
PROPERTY LINE
110 Feet
WEST
* GAZERO 10X10
CENTER HEIGHT 12 Feet

House

GAZERO

10 FT 3 IN

50.6

MAXIMUM

5 FT

DOOR

MAXIMUM

EAST

PROPERTY LINE

110 Feet

south



50.6 Feet

STAMPED
OCT 07 2020
BY: *Cen*



MCALLEN VET CENTER
2108 SOUTH "M" STREET UNIT 2
MCALLEN, TX 78503
(956) 631-2147
FAX (956) 631-2430



Date: September 30, 2020

RE: Mr. Douglas Laroque

To Whom It May Concern:

Mr. Laroque has been attended individual Counseling sessions at the McAllen Vet Center for well over 8yrs pertaining to his diagnosis of PTSD. With this type of diagnosis, medication is required to reduce his Anxiety, Depression, Anger, Irritability and Isolation. Another Psychotherapy treatment method that Mr. Laroque is utilizing to cope includes being outside when feeling overwhelmed.

Mr. Laroque when is feeling overwhelmed with his PTSD Symptoms is in his best interest to be outdoors in order to make him feel safer from his everyday triggers due to serving two Combat tours in Vietnam.

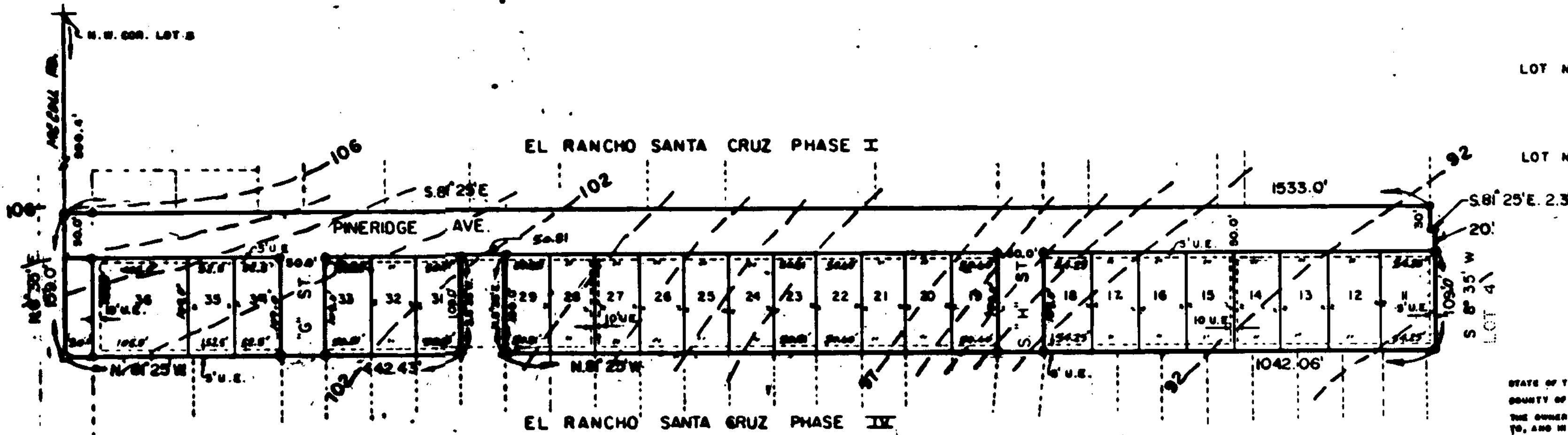
If the McAllen Vet Center can ever be of further assistance to you, please contact the Center at 956-631-2147. We are always here to assist you.

Sincerely,

A handwritten signature in black ink that reads "Noe Alvarez, MEd".

Noe Alvarez, MEd. VA Readjustment therapist
McAllen Vet Center
2108 South "M" St. Suite#2
McAllen, Texas 78503





LOT NO. 33 DOUGLAS LA ROQUE *Douglas LaRoque*

LOT NO. 11 DOMINGO MEDRANO *Domingo Medrano*

STATE OF TEXAS
 COUNTY OF HIDALGO
 THE OWNER OF THE LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED HERE-
 TO, AND IN PERSON OR THROUGH A DULY AUTHORIZED AGENT DEDICATED TO THE USE
 OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINAGE, EASE-
 MENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION
 THEREIN EXPRESSED.

Enrique Saldaña
 ENRIQUE SALDANA OWNER

STATE OF TEXAS
 COUNTY OF HIDALGO
 BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED
 ENRIQUE SALDANA, 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 THE PURPOSES AND CONSIDERATIONS THEREIN
 EXPRESSED AND IN THE CAPACITY THEREIN STATED.
 GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 5th DAY OF AUGUST
 A.D. 1985

Jack Headley
 JACK HEADLEY NOTARY PUBLIC
 HIDALGO COUNTY, TEXAS

APPROVAL BY WATER DISTRICT
 THIS PLAT APPROVED BY HIDALGO COUNTY IRRIGATION DISTRICT NO. 2
 ON THIS 17th DAY OF October A.D. 1985

J. R. Morris
 PRESIDENT
R. J. ...
 SECRETARY

I, THE UNDERSIGNED, MAYOR OF THE CITY OF DALLAS, HEREBY CERTIFY THAT THIS
 SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE ORDINANCES REGULATIONS
 OF THIS CITY WHEREIN BY APPROVAL IS REQUIRED.

[Signature]
 MAYOR OF DALLAS

THIS PLAT OF EL RANCHO SANTA CRUZ SUBDIVISION PHASE I HAS BEEN
 SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF
 DALLAS, TEXAS AND IS HEREBY APPROVED BY SUCH COMMISSION
 DATED THIS 28th DAY OF MARCH A.D. 1980

James ...
 1/19/85

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM
 A CORRECT SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

Joe Hernandez Jr.
 REGISTERED PROFESSIONAL ENGINEER
 AND SURVEYOR

GIVEN TO AND SUBSCRIBED BEFORE ME THIS 5th DAY OF AUGUST
 A.D. 1985

Jack Headley
 JACK HEADLEY NOTARY PUBLIC
 HIDALGO COUNTY, TEXAS

EL RANCHO SANTA CRUZ SUBD. PHASE I

LOTS 11-36 AND 31-36
 BEING A SUBDIVISION OF 9.476 ACRES OF LAND OWNED
 BY LOT 6, BLOCK 16, STEELE AND PNERIDGE SUB-
 DIVISION, HIDALGO COUNTY, TEXAS.

- - DENOTES 60 PENNY NAIL FOUND
- - DENOTES 1/2" IRON ROD FOUND

CHECKED FOR DRAINAGE
 BY: *[Signature]*

**APPROVED
 FOR RECORDING**
 Hidalgo Co. Right of Way Dept.
 by *Teresa Walker*
 Date Dec 31, 1985

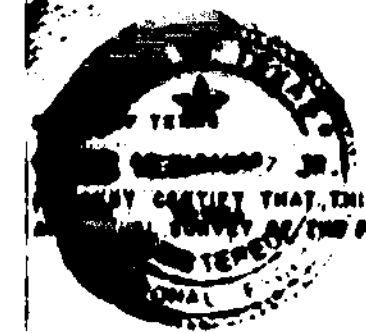
- NOTE:
1. FINISH FLOOR ELEVATION 10" ABOVE FROM TOP OF CURB
 2. MINIMUM BUILDING DETACK LINES FRONT 20', SIDE 6', REAR 10', CORNER 10'
 3. 10'X10' CLIP EASEMENT AT ALL STREET CORNER.

- MONUMENTS AND MARKERS
- A 9.476 ACRE TRACT OF LAND OUT OF LOT 6, BLOCK 16, STEELE AND PNERIDGE SUBDIVISION, HIDALGO COUNTY, TEXAS. SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY BEARS AND CORNERS AS FOLLOWS:
- CORNER OF A 60 PENNY NAIL FOUND ON THE WEST LINE OF LOT 6, SAID POINT BEING LOCATED 5 0/100' N. & 600.00 FEET FROM THE SOUTHWEST CORNER OF SAID LOT 6, SAID POINT ALSO BEING THE PLACE OF BEGINNING AND THE SOUTHWEST CORNER OF THIS TRACT.
- THENCE: S 81° 25' E AND PARALLEL TO THE NORTH LINE OF LOT 6, PASSING A 1/2" IRON ROD FOUND AT 30.0 FEET FROM THE EAST S.O.W. LINE OF MUGGILL ROAD, A TOTAL DISTANCE OF 1533.00 FEET TO A 1/2" IRON ROD FOUND, SAID POINT BEING THE SOUTHWEST CORNER OF THIS TRACT.
- THENCE: S 0° 30' W AND PARALLEL TO THE WEST LINE OF LOT 6, A DISTANCE OF 30.0 FEET TO A 1/2" IRON ROD FOUND, SAID POINT BEING AN INTERIOR CORNER OF THIS TRACT.
- THENCE: S 01° 20' E AND PARALLEL TO THE SOUTH LINE OF LOT 6, A DISTANCE OF 1.30 FEET TO A 1/2" IRON ROD FOUND, SAID POINT BEING AN INTERIOR CORNER OF THIS TRACT.
- THENCE: S 0° 30' W AND PARALLEL TO THE WEST LINE OF LOT 6, A DISTANCE OF 120.0 FEET TO A 1/2" IRON ROD FOUND, SAID POINT BEING THE SOUTHWEST CORNER OF THIS TRACT.
- THENCE: S 01° 20' E AND PARALLEL TO THE SOUTH LINE OF LOT 6, A DISTANCE OF 1042.06 FEET TO A 1/2" IRON ROD FOUND, SAID POINT BEING AN INTERIOR CORNER OF THIS TRACT.
- THENCE: S 0° 30' W AND PARALLEL TO THE WEST LINE OF LOT 6, A DISTANCE OF 109.0 FEET TO A 1/2" IRON ROD FOUND, SAID POINT BEING AN INTERIOR CORNER OF THIS TRACT.
- THENCE: S 01° 20' E AND PARALLEL TO THE SOUTH LINE OF LOT 6, A DISTANCE OF 30.01 FEET TO A 1/2" IRON ROD FOUND, SAID POINT BEING AN INTERIOR CORNER OF THIS TRACT.
- THENCE: S 0° 30' W AND PARALLEL TO THE WEST LINE OF LOT 6, A DISTANCE OF 100.0 FEET TO A 1/2" IRON ROD FOUND, SAID POINT BEING AN INTERIOR CORNER OF THIS TRACT.
- THENCE: S 01° 20' E AND PARALLEL TO THE SOUTH LINE OF LOT 6, PASSING A 1/2" IRON ROD FOUND AT 412.43 FEET FROM THE EAST S.O.W. LINE OF MUGGILL ROAD, A TOTAL DISTANCE OF 442.43 FEET TO A 60 PENNY NAIL FOUND, SAID POINT BEING THE SOUTHWEST CORNER OF THIS TRACT.
- THENCE: S 0° 30' E ALONG THE WEST LINE OF LOT 6, AND THE CENTERLINE OF MUGGILL ROAD, A DISTANCE OF 100.0 FEET TO THE PLACE OF BEGINNING. SAID TRACT CONTAINING THEREIN THREE ACRES AND SEVEN 476 ACRES OF LAND MORE OR LESS.

Recorded in Book 24 Page 155A
 of the map records of Hidalgo
 County, Texas
 Welden and Hunt, Inc.
 County Surveyors

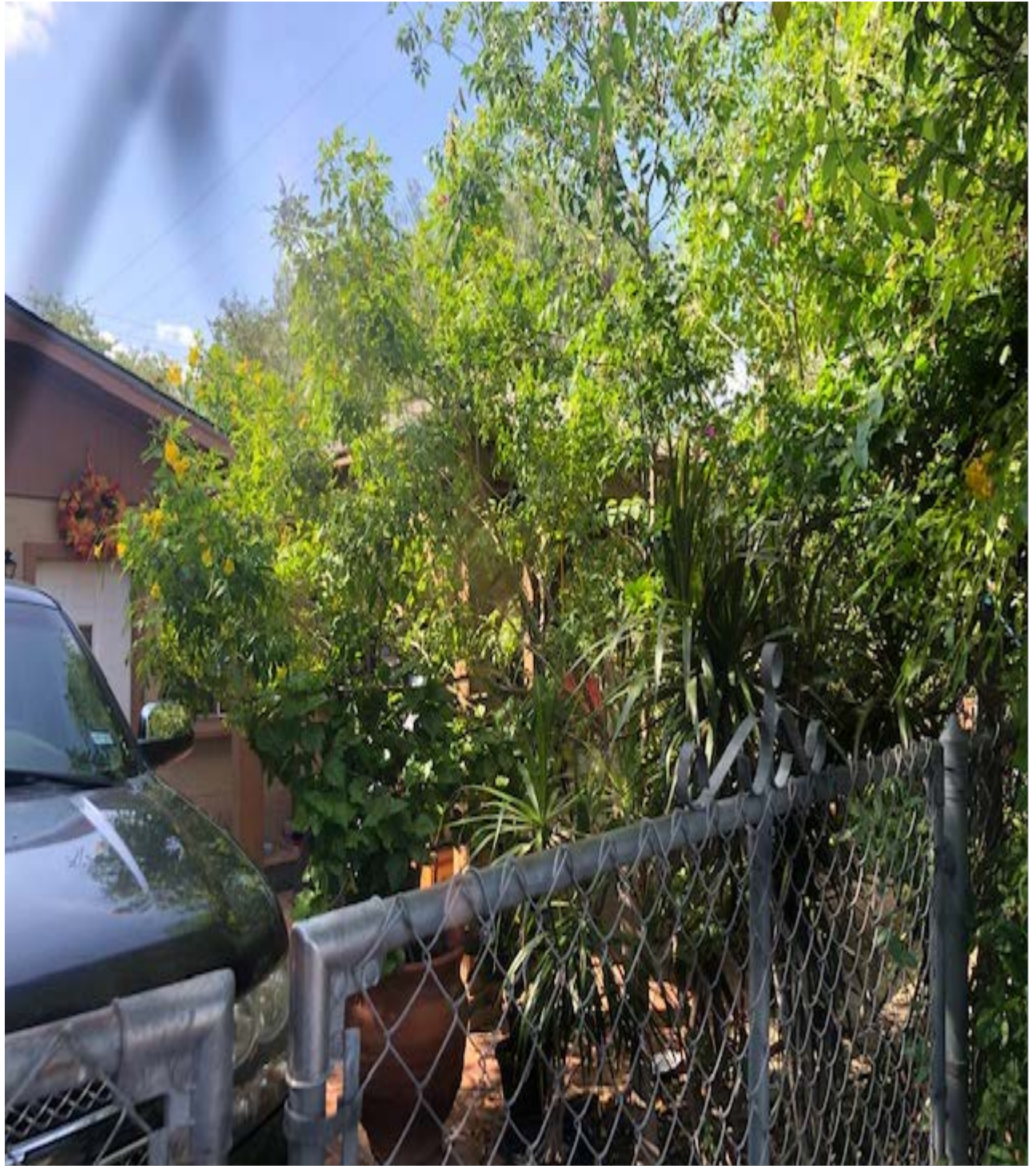
FILED
 JAN 6 1985

APPROVED FOR RECORDING
 BY
 COMMISSIONERS' COURT
 This the 31 day of Dec 1985
 J. EDGAR RUZ, County Clerk
 Hidalgo County, Texas
[Signature]
 Deputy



















OFFICE OF BUILDING OFFICIAL

NOTICE

THIS STRUCTURE HAS BEEN INSPECTED AND IS *PROHIBITED*
ACCEPTED / *PROHIBITED*

- GENERAL
- CONSTRUCTION
- ELECTRICAL
- MECHANICAL / HVAC
- PLUMBING
- GAS PIPING
- SECURITY

PLEASE CONTACT OUR OFFICE AT 630-231-1100 FOR FURTHER ASSISTANCE

NOTE

Front Garage - Enclosed
4/25/2020

DO NOT REMOVE THIS NOTICE

MEMO

TO: Zoning Board of Adjustment & Appeals

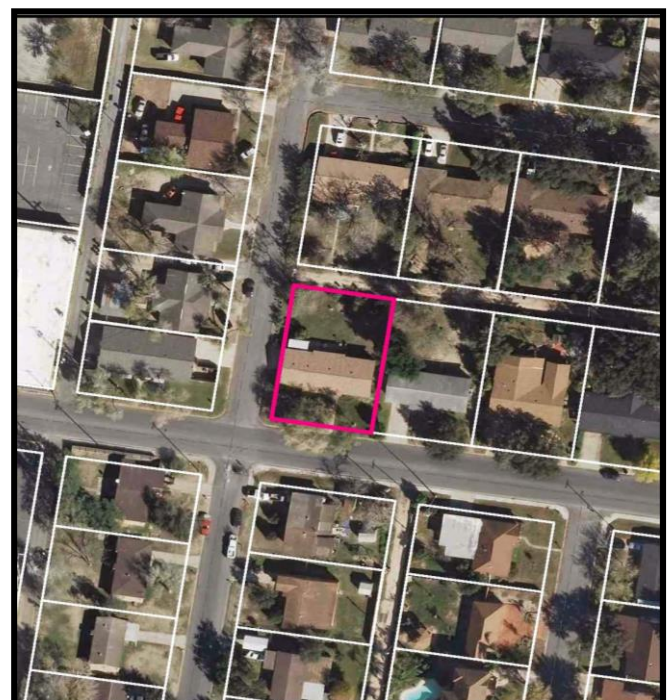
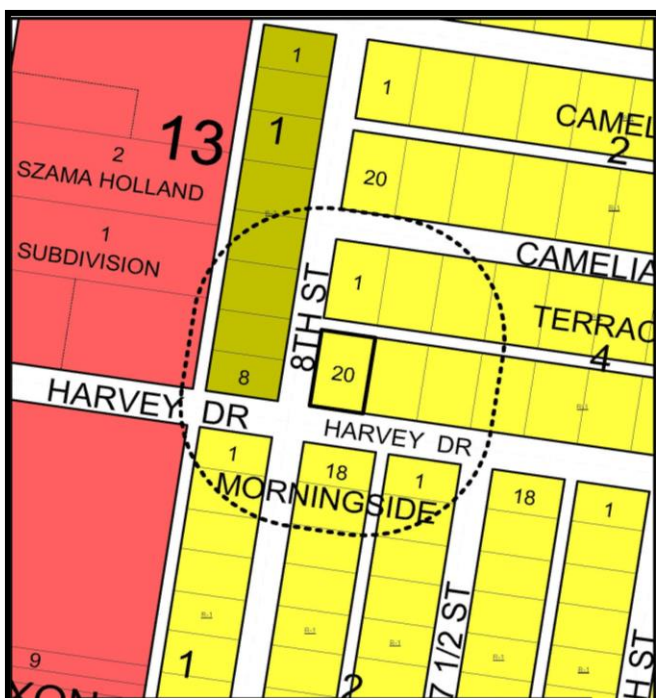
FROM: Planning Staff

DATE: November 12, 2020

SUBJECT: REQUEST OF DERRICK MUNOZ, FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) TO ALLOW AN ENTRANCE OF 5 FT. TO A GARAGE INSTEAD OF THE REQUIRED 18 FT. FOR AN EXISTING GARAGE STRUCTURE MEASURING 20 FT. BY 25 FT., AND 2) TO ALLOW AN ENCROACHMENT OF 5 FT. INTO THE 10 FT. WEST SIDE YARD SETBACK FOR A PROPOSED ROOM ADDITION MEASURING 19.67 FT. BY 25 FT., ON LOT 4, BLOCK 20, CAMELLIA TERRACE SUBDIVISION, HIDALGO COUNTY, TEXAS; 722 HARVEY DRIVE. (ZBA2020-0009)

REASON FOR APPEAL

Derrick Munoz, owner and applicant requests the following variances: 1) to allow an encroachment of 5 ft. to a garage instead of the required 18 ft. for an existing garage structure measuring 20 ft. by 25 ft. 2) to allow an encroachment of 5 ft. into the 10 ft. west side yard setback for a proposed room addition measuring 19.67 ft. by 25 ft. The applicant indicated that he is requesting the above variance #1 to allow the existing garage structure to remain since a previously existing garage was enclosed. The applicant would also like to add an addition to their existing home, this being the reason for variance #2.



PROPERTY LOCATION AND VICINITY:

The property is located at the northeast corner of Harvey Drive and North 8th street. The property has 84 ft. of frontage along Harvey Drive and a depth of 125 ft. for a tract size of 10,500 sq. ft. The property is zoned R-1 (single family residential) District. The adjacent zoning is R-1 District to the north, east, and south, and R-2 (duplex-fourplex residential) District to the west.

BACKGROUND AND HISTORY:

Camellia Terrace Subdivision was recorded on January 27, 1959. A variance application for an existing garage structure and addition to a room was received in March 2020. The Planning Department had this application on hold in order to allow the applicant time to submit a revised site plan and due to the applicants concerns with COVID-19.

ANALYSIS:

The first variance request is to allow an encroachment of 5 ft. instead of the 18 ft. entrance to a garage requirement. The wooden canopy has a composition shingle roof and metal supports. The structure is open on all sides. A site plan submitted shows an existing covered carport that has been modified by enclosing, the street side opening with a garage door essentially turning a covered carport into a "garage". The site plan further indicates that the garage door encroaches 13 ft. into the required 18 ft. entrance. The garage door was installed for security purposes. A building permit has not been applied for. No accessory building shall encroach into the required yard along any street. The zoning ordinance states that entrances to a garage or enclosed carport shall be a minimum of 18 ft. from streets or alleys. The purpose of the entrance to a garage of 18 ft. is to allow visibility to maneuvering into and out of the garage and additional parking for a garages used as storage.

The second variance request is to allow an encroachment of 5 ft. into the 10 ft. side yard setback for an addition to the existing home. Section 138-368(a) of the zoning ordinance states that the width of the side yard along the street shall not be less than ten feet on a corner lot in all districts, provided that the building width of such a lot of record shall not be reduced to less than 38 ft. The proposed encroachment into the corner side yard is 5 ft. by 19.67 ft. or 98.35 ft.

There is a shed and a metal roof that is encroaching into the side yard setback, but they will be removed as per applicant for the proposed addition to the existing home.

There are no utility easements inside the property.

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

RECOMMENDATION:

Staff recommends disapproval of the variance requests.

ZBOA
3-18-20

ZBA 2020-0009

City of McAllen Planning Department

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

APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

Project	Legal Description <u>Camellia Terrace lot 20 BLK 4</u>
	Subdivision Name <u>Camellia Terrace</u> Street Address <u>722 Harvey Dr</u> Number of lots <u>20 BLK 4 (1)</u> Gross acres <u>.24</u> Existing Zoning <u>R1</u> Existing Land Use _____ Reason for Appeal (please use other side if necessary) <u>I do construction I always</u> <u>know Tools in trucks and dont want to risk getting stolen</u> <input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input checked="" type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required
Applicant	Name <u>Derrick minor</u> Phone <u>956 821-7585</u> Address <u>722 Harvey St</u> E-mail <u>Derrick minor @ aol.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78501</u>
Owner	Name <u>Derrick minor</u> Phone <u>956 821-7585</u> Address <u>722 Harvey St</u> E-mail <u>Derrick minor @ aol.com</u> City <u>McAllen</u> State <u>TX</u> Zip <u>78501</u>
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization. Signature <u>[Signature]</u> Date <u>2-18-20</u> Print Name <u>Derrick minor</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
Office	Accepted by <u>LG.</u> Payment received by _____ Date <u>3-19-20</u> <u>RS</u> Rev 10/18

RECEIVED
FEB 19 2020
BY: CM

pd. by C.C.



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

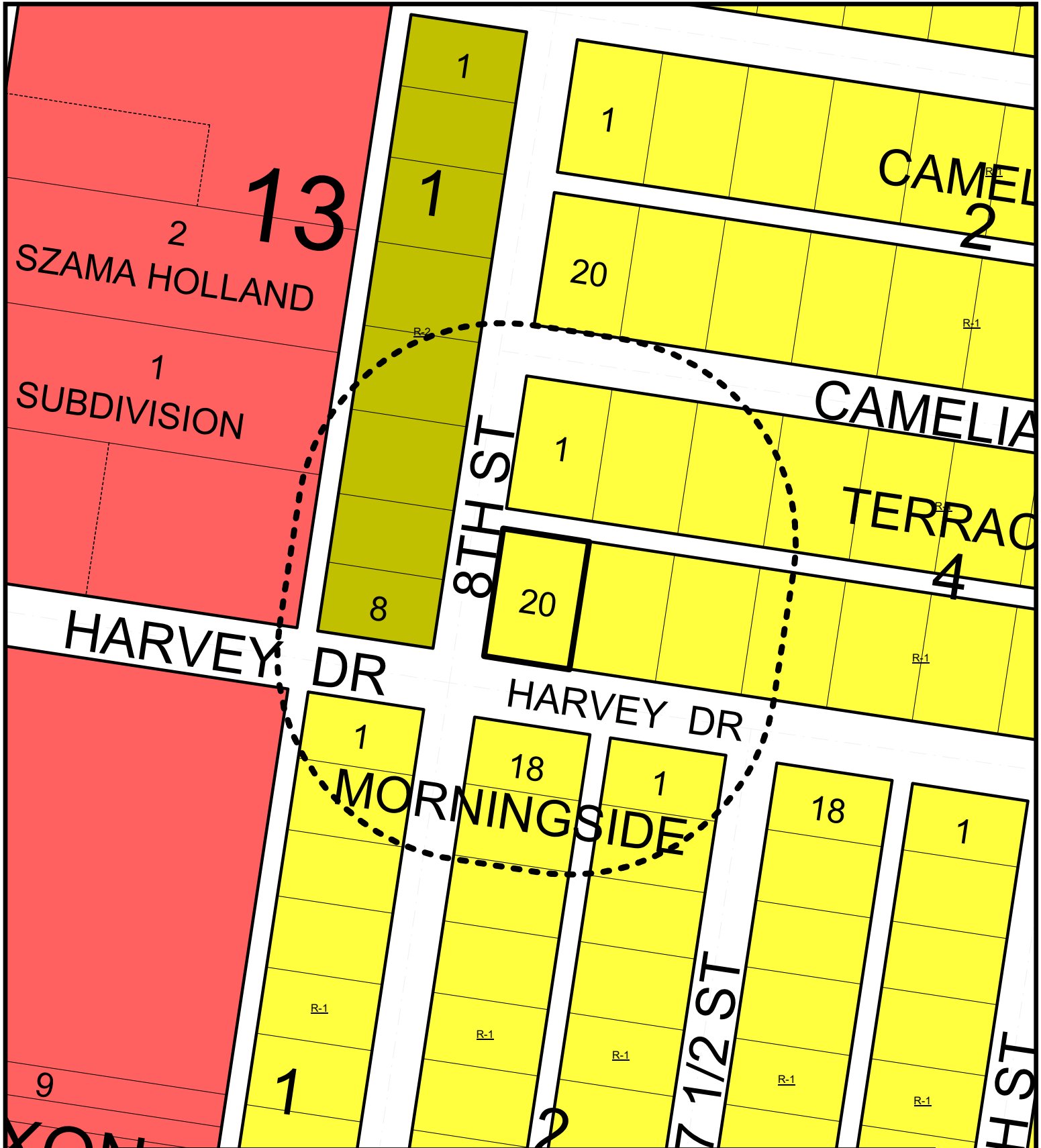
~~Carpet~~ Carpet is 2.7' from fence, I wanted to have more
Yard space for ~~family~~ family events. I would like to concrete my
Carpet to house in future construction. In time will explain
master bed room notes, east end of house.

Will be closing existing Carpet to make a room.

Board Action

Chairman, Board of Adjustment
Signature

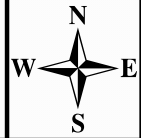
Date



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: 1" = 500'



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

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

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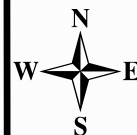


CITY OF McALLEN
PLANNING DEPARTMENT



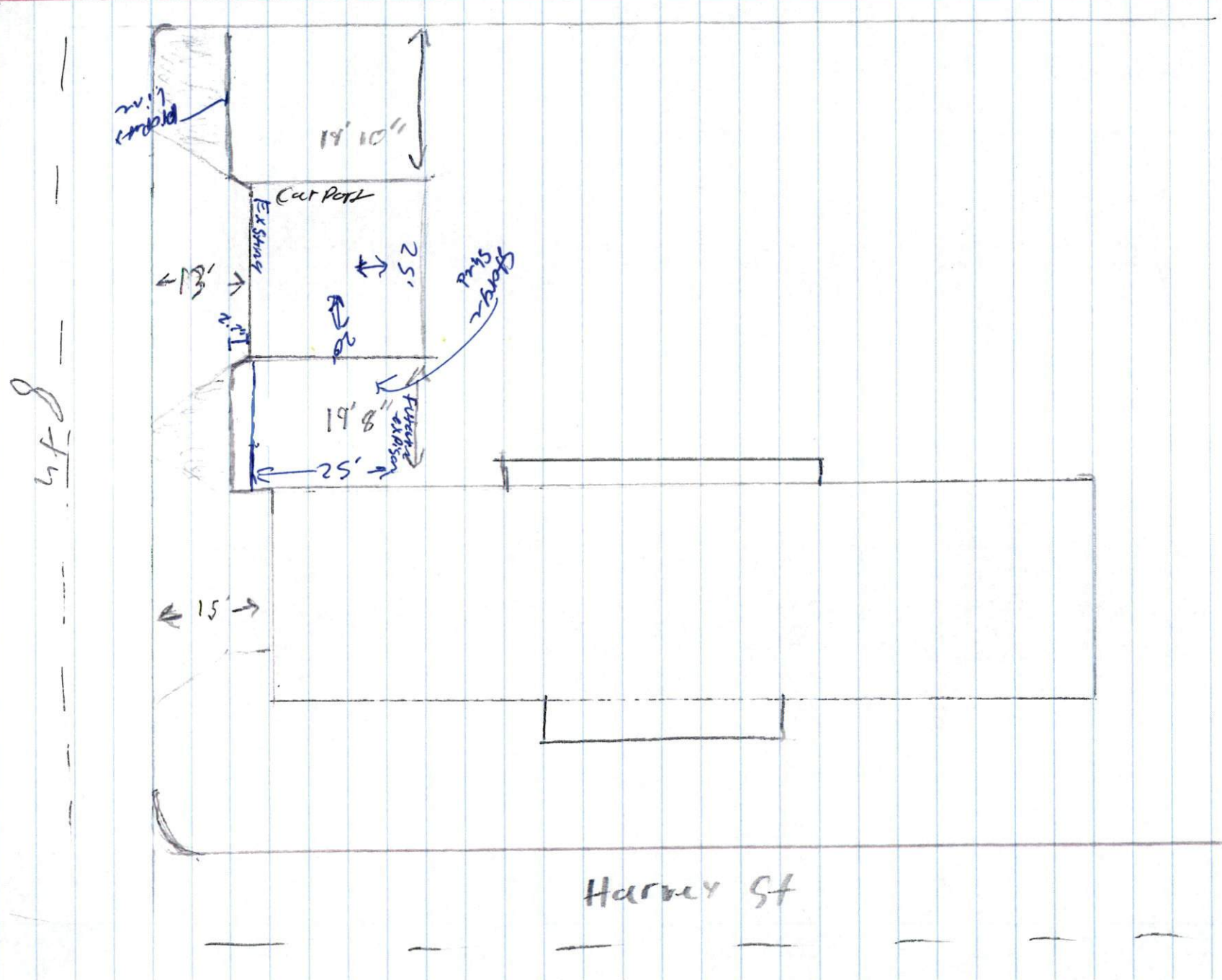
SUBJECT PROPERTY

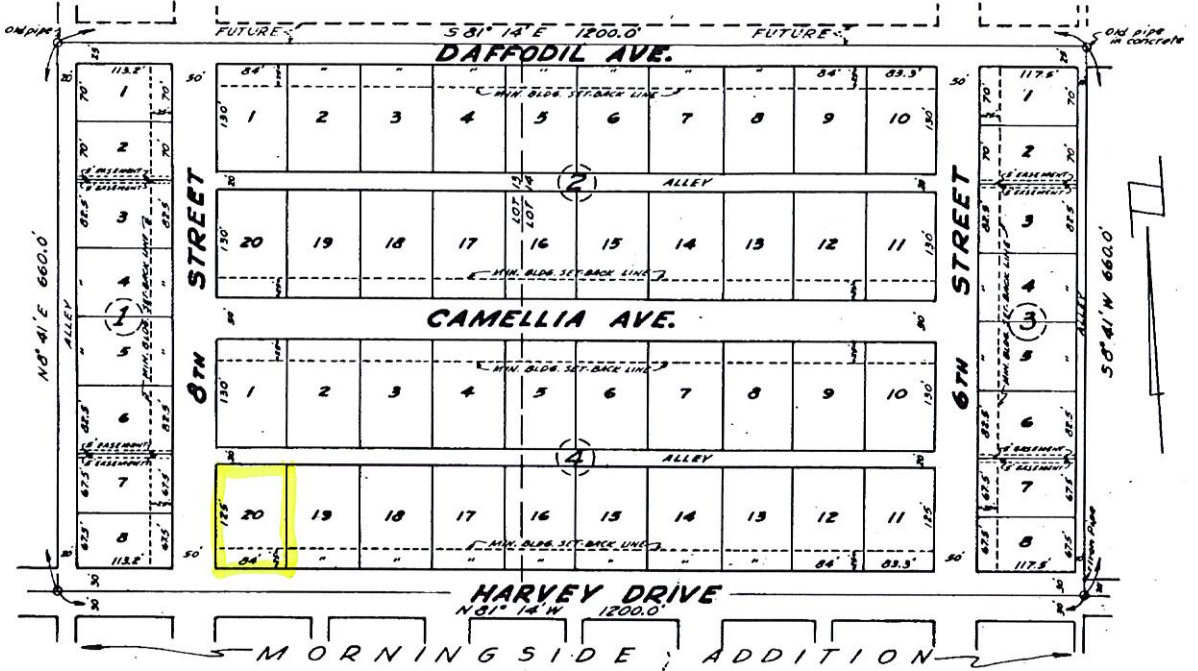
AERIAL MAP
SCALE: N.T.S.



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122 Harvey St
78501





**MAP
OF
CAMELLIA TERRACE
MC ALLEN, TEXAS**

BEING A SUBDIVISION OF THE EAST 8400 FEET
OF LOT 13 & ALL OF LOT 14, SOUTHEAST 1/4 OF
SECTION 10, HIDALGO CANAL CO.'S SUBDIVISION,
OF PORCIONES 49, 55 & 56, HIDALGO COUNTY, TEXAS,
CONTAINING 18.18 ACRES

Scale: 1"=100' DATE: 9-27-58

FILED FOR RECORD THIS DATE
At 3:00 o'clock P.M.
JAN 27 1959

GEO. L. ANDERSON
County Clerk, Hidalgo County, Texas

I, C. L. FABIAN, A REGISTERED PUBLIC SURVEYOR, DO HEREBY CERTIFY THE FOREGOING MAP TO BE A TRUE AND CORRECT REPRESENTATION OF THE LANDS HEREON DESCRIBED AS PLATTED BY ME FROM THE OUTSIDE BOUNDARIES OF SAME.

C. L. Fabian
C. L. FABIAN
REGISTERED PUBLIC SURVEYOR
MC ALLEN, TEXAS



STATE OF TEXAS;
COUNTY OF HIDALGO;

KNOW ALL MEN BY THESE PRESENTS:
THAT I, ALFRED A. VOHS, OWNER OF THE PROPERTY HEREON DESCRIBED, DO HEREBY ADOPT, DEDICATE AND CONFIRM THE FOREGOING MAP AND DO HEREBY DEDICATE TO THE PUBLIC THE SURFACE USE OF THE STREETS, ALLEYS AND EASEMENTS THEREON SHOWN.

Alfred A. Vohs
ALFRED A. VOHS

STATE OF TEXAS;
COUNTY OF HIDALGO;

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED ALFRED A. VOHS, OWNER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT HE EXECUTED THE SAME FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED. GIVEN UNDER MY HAND AND SEAL OF OFFICE ON THIS THE 11 DAY OF October A.D. 1958.

J. F. Ewers, Jr.
NOTARY PUBLIC IN AND FOR
HIDALGO COUNTY, TEXAS

THIS PLAT APPROVED BY THE MC ALLEN ZONING AND PLANNING BOARD ON THIS THE 18th DAY OF September A.D. 1958.

MC ALLEN ZONING AND PLANNING BOARD
BY: *V. E. Cook, Jr.*
V. E. COOK, JR., CHAIRMAN

THIS PLAT APPROVED BY THE CITY COMMISSION OF THE CITY OF MC ALLEN, TEXAS, ON THIS THE 13th DAY OF October A.D. 1958.

ATTEST:
H. H. Hensley
H. H. HENSLEY, CITY SECRETARY

Phillip Boeye
PHILLIP BOEYE, MAYOR

**APPROVED
FOR RECORDING**
Hidalgo Co. Right of Way Dept.
By: *[Signature]*
Date: 1/26/59



















NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0009

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 12, 2020

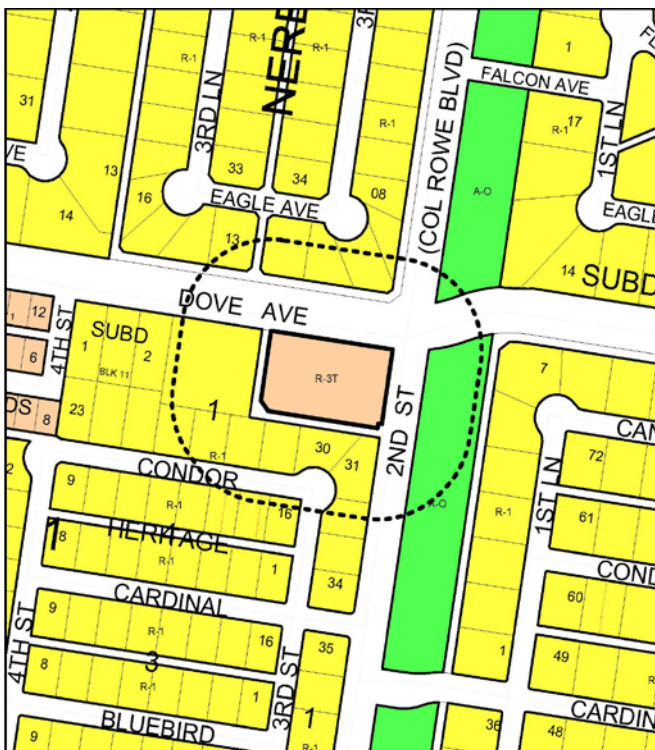
SUBJECT: REQUEST OF ALONZO CANTU FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW A LOT SIZE OF LESS THAN 2,000 SQ. FT. WITH A MINIMUM LOT SIZE OF 1,580 SQ. FT. FOR LOTS 2-12, 1,705 SQ. FT. FOR LOTS 15-21, AND 1,924.54 SQ. FT. FOR LOT 13, FOR A 1.23 ACRE TRACT OF LAND OUT OF LOT 1, SECTION 11, HIDALGO CANAL COMPANY SUBDIVISION (PROPOSED 2ND AND DOVE SUBDIVISION), HIDALGO COUNTY, TEXAS; 201 DOVE AVENUE. (ZBA2020-0073)

REASON FOR APPEAL:

Alonzo Cantu is requesting the following variance to allow a lot size of less than 2,000 sq. ft. with a minimum lot size of 1,580 sq. ft. for lots 2-12, 1,705 sq. ft. for lots 15-21, and 1,924.54 sq. ft. for lot 13. The proposed request is in order to establish a 21- lot townhouse subdivision.

PROPERTY LOCATION AND VICINITY:

The subject property is located at the southeast corner of Dove Avenue and 2nd Street. The lot has 277 ft. of frontage on Dove Avenue and 174.58 ft. along 2nd Street. The property is zoned R-3T (multifamily residential townhouse) District. The adjacent zoning is R-1 (single family residential) District to the north, south, and west, and A-O (agriculture and open space) District to the east. The subject property is vacant.



BACKGROUND AND HISTORY:

On August 10, 2020 the subject property was rezoned from R-1 District to R-3T District. 2nd and Dove (Proposed) Subdivision has been submitted and is currently under review. The variance request application was submitted on October 16, 2020.

ANALYSIS:

The variance request is to allow a lot size of less than 2,000 sq. ft. The minimum lot area includes internal sidewalks, recreation areas, floor space, parking area, open space and utility easements, but does not include any public right of way street easements or alley easements. Section 138-356 of the zoning ordinance shows the required lot size for lots in the R-3T District is 2,000 sq. ft. The lot size requirements are established to conserve and enhance the environment and character of a given use district, and to protect the health, safety and general welfare of the residents of that district.

A proposed subdivision plat shows Lots 2-12 are proposed to be at 1,580 sq. ft. or 420 sq. ft. less than the required 2,000 sq. ft. lot size, Lots 15-21 are proposed to be at 1,705 sq. ft. or 295 sq. ft. less than the required 2,000 sq. ft. lot size, and Lot 13 is proposed to be at 1,924.54 sq. ft. or 76 sq. ft. less than the required 2,000 sq. ft. lot size. The proposed subdivision 2nd and Dove is currently in the review process. They are proposing 21 lots (Lots 1 and 14) and 2 of those lots will be in compliance with the minimum lot size requirements.

The plight of the owner in regards to meet the lot size is not unique since a reduction in the number of proposed lots may enable the property to achieve compliance.

Staff has received one phone call in opposition to the request.

RECOMMENDATION:

Staff recommends disapproval of the variance request.

ZBA 2020-0073

ZBDA
11/18/2020

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 <u>lot 1 2nd Dove subdivision</u>
	Subdivision Name <u>2nd Dove subdivision</u>
	Street Address <u>201 Dove</u>
	Number of lots <u>21</u> Gross acres <u>1.231</u>
	Existing Zoning <u>T3</u> Existing Land Use <u>Vacant</u>
	Reason for Appeal (please use other side if necessary) <u>Minimum sq.ft. of lots</u>
<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required	

Applicant	Name <u>Alonzo Canto</u> Phone <u>956-631-1273</u>
	Address <u>5221 N. McCall</u> E-mail <u>oscar@cantocoststruction.com</u>
	City <u>McAllen,</u> State <u>TX</u> Zip <u>78502</u>

Owner	Name <u>Alonzo Canto</u> Phone <u>956-631-1273</u>
	Address <u>5221 N. McCall</u> E-mail <u>Alonzo@cantocoststruction.com</u>
	City <u>McAllen</u> State <u>TX</u> Zip <u>78503</u>

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

Office	Accepted by _____ Payment received by _____ Date _____
	REVISID 9/11

RECEIVED
OCT 16 2020

Act # 743497

Accela / L.F.

BY: [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.

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:

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

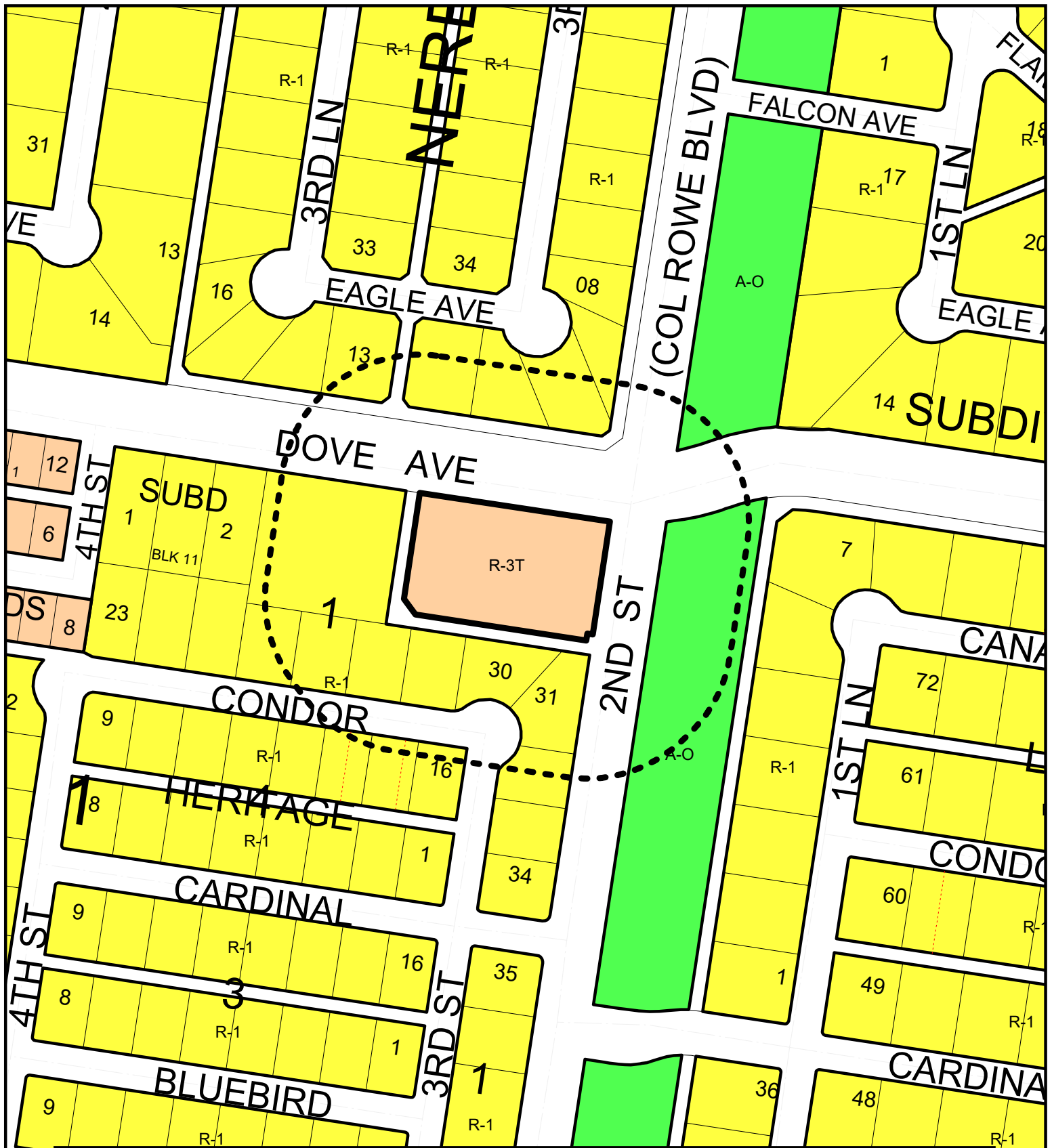
3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:

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

Board Action

Chairman, Board of Adjustment
Signature

Date



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: N.T.S.



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

A-0 (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLEX-FOURPLEX)	R-3T (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	(SPECIAL DISTRICT)

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



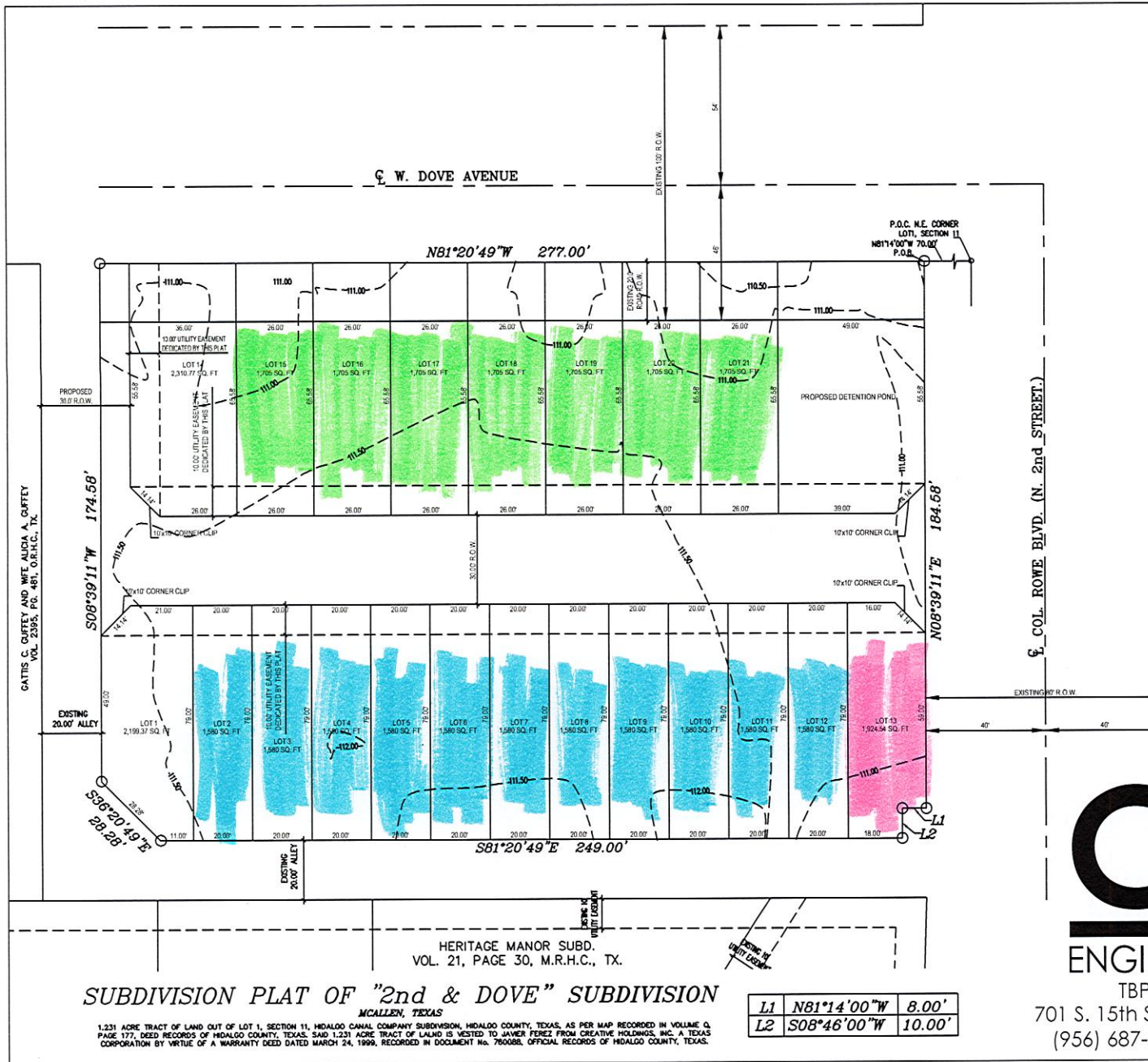
CITY OF McALLEN
PLANNING DEPARTMENT

 **SUBJECT PROPERTY**

AERIAL MAP
SCALE: N.T.S.



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CATTIS C. GUFFEY AND WIFE ALICIA A. GUFFEY
VOL. 2395, PG. 481, O.R.H.C., TX.

SUBDIVISION PLAT OF "2nd & DOVE" SUBDIVISION
MCALEN, TEXAS

1.231 ACRE TRACT OF LAND OUT OF LOT 1, SECTION 11, HIDALGO CANAL COMPANY SUBDIVISION, HIDALGO COUNTY, TEXAS, AS PER MAP RECORDED IN VOLUME Q, PAGE 177, DEED RECORDS OF HIDALGO COUNTY, TEXAS. SAID 1.231 ACRE TRACT OF LAND IS VESTED TO JAVIER FEREZ FROM CREATIVE HOLDINGS, INC. A TEXAS CORPORATION BY VIRTUE OF A WARRANTY DEED DATED MARCH 24, 1999, RECORDED IN DOCUMENT No. 760088, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS.

HERITAGE MANOR SUBD.
VOL. 21, PAGE 30, M.R.H.C., TX.

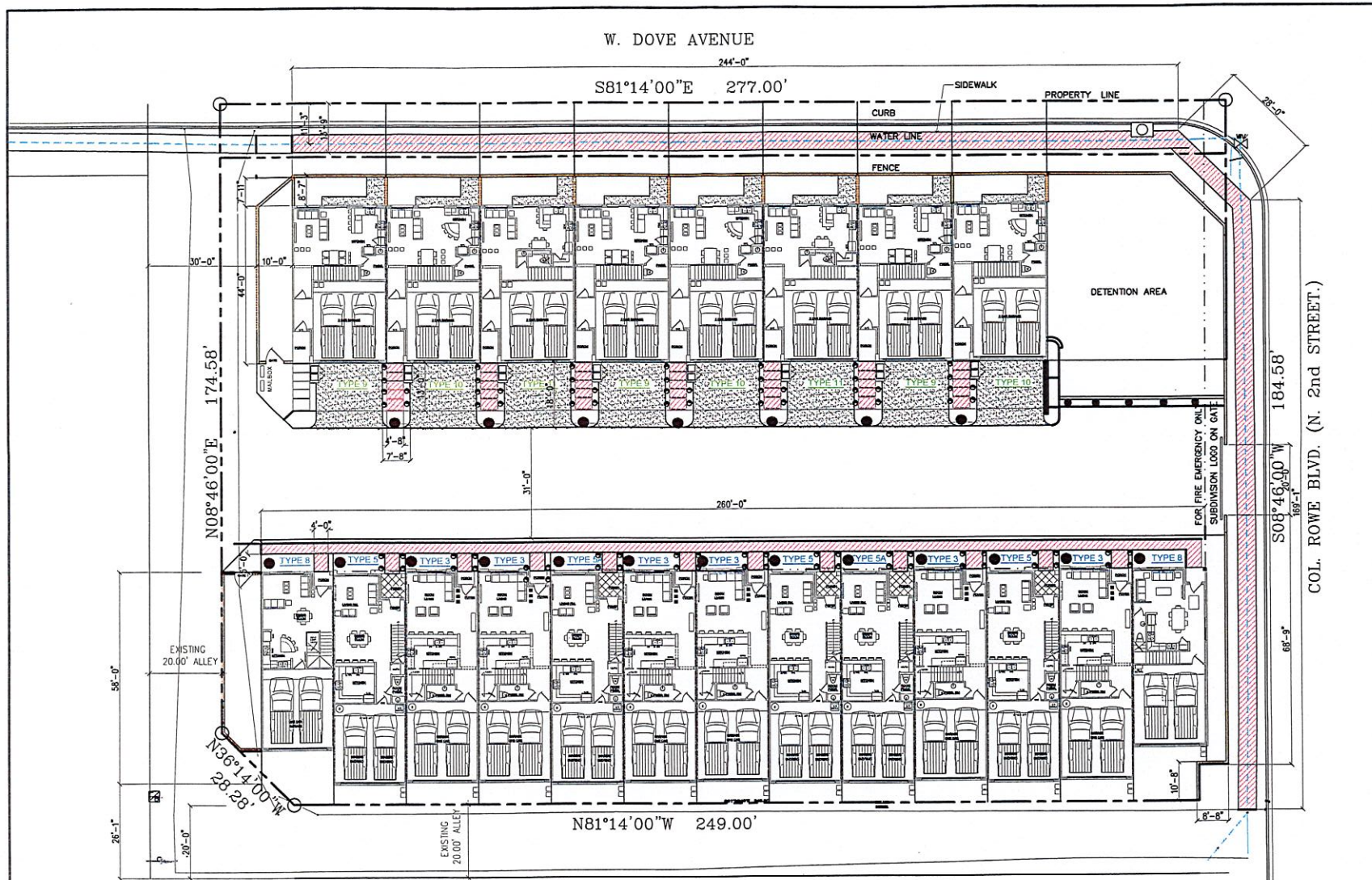
L1	N81°14'00"W	8.00'
L2	S08°46'00"W	10.00'

CLH
ENGINEERING, INC.

TBPE FIRM No. F-8719
701 S. 15th STREET McALLEN, TX. 78501
(956) 687-5560 (956) 687-5561

RECEIVED
NOV 12 2020

BY: _____



FLOOR PLAN TYPE

REAR ENTRY UNITS

TYPE	QTY.	SQUARE FOOTAGE
NO.3	6	2,096.00 SQ.FT. EACH — 12,576.00 SQ.FT.
NO.5	3	2,211.00 SQ.FT. EACH — 6,633.00 SQ.FT.
NO.5A	2	2,202.00 SQ.FT. EACH — 4,404.00 SQ.FT.
		TOTAL
		27,235.00 SQ.FT.

FRONT ENTRY UNITS

TYPE	QTY.	SQUARE FOOTAGE
NO.9	3	2,012.00 SQ./FT. EACH — 6,036.00 SQ.FT.
NO.10	3	2,207.00 SQ./FT. EACH — 6,621.00 SQ.FT.
NO.11	2	2,248.00 SQ./FT. EACH — 4,496.00 SQ.FT.
		TOTAL
		17,153.00 SQ./FT.





RECEIVED
NOV 12 2020

BY: AC



12345
67890

NOTICE
OF VARIANCE
FOR
THIS PROPERTY
(2/23/2018)

Item 2 d)

**Tabled until the meeting of
December 2, 2020**

Memo

TO: Zoning Board of Adjustment & Appeals

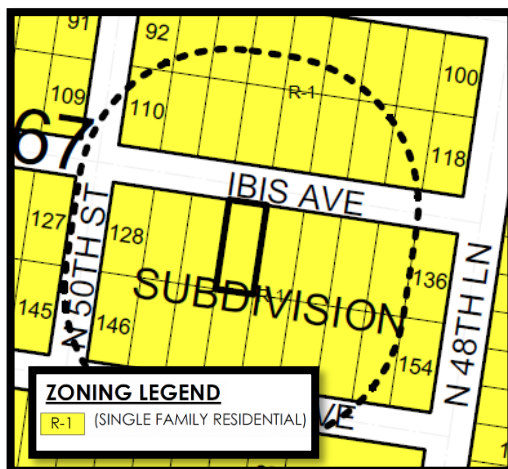
FROM: Planning Staff

DATE: November 18, 2020

SUBJECT: REQUEST OF BRENDA CASTRO TO ALLOW A SPECIAL EXCEPTION REQUEST TO NOT PROVIDE ONE REQUIRED PARKING SPACE BEYOND THE FRONT YARD SETBACK LINE AT LOT 131, TAYLOR CROSSING SUBDIVISION, HIDALGO COUNTY, TEXAS; 4905 IBIS AVENUE. (ZBA2020-0072)

REASON FOR APPEAL:

The applicant is requesting a special exception to the parking requirement of one off-street parking space for single family uses beyond the front yard setback; as required by section 138-394(1) of the zoning ordinance. The applicant enclosed the garage to make a storage and work space for her family. The rooms in her home are too small and due to the pandemic her home is being occupied for distant learning and working from home. Enclosing the garage will help with additional space so that her family can work and attend online classes. The applicant also stated that it would prevent weather damage to instruments and furniture. The applicant enclosed a single car garage and by doing so eliminated the one parking space beyond the front yard setback line.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the south side of Ibis Avenue, approximately 255 ft. west of North 48th Lane. The property has 50 ft. of frontage along Ibis Avenue and a depth of 119.41 ft. with a lot size of 5,970.5 square feet. The adjacent zoning is R-1 (single family residential) District in all directions. Surrounding land use is single-family residential.

BACKGROUND AND HISTORY:

Taylor Crossing Subdivision was recorded on January 6, 2010. 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 areas. 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. A building permit application was submitted on July 23, 2020 for the enclosure of the garage. The application for the special exception request was submitted on October 20, 2020. Building Inspection staff noticed the enclosed garage during an inspection for a different building permit for subject property.

The application for the special exception was submitted on October 20, 2020. A building permit was submitted on July 23, 2020.

ANALYSIS:

The request is to not provide a parking space beyond the front yard setback by enclosing the garage measuring 11 ft. by 18 ft. The submitted site plan shows a driveway measuring 18 ft. by 27 ft. accommodating the number of two required parking spaces.

There are no special exception requests on file for garage enclosures in the subdivision; a site inspection confirmed that there are no other visible garage enclosures.

The intent for the requirement of locating one parking space beyond the front yard setback line is 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 special exception to enclose their garage. Approval of the request will allow the proposed construction to remain as depicted on the site plan.

Staff has not received any phone calls or concerns in regards to the special exception request.

RECOMMENDATION:

Staff recommends disapproval of the special exception request.

ZBCA
11/18/2020

2BA 2020-0072



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 Taylor Crossing Lot 131

Subdivision Name Taylor Crossing

Street Address 4905 Ibis Ave. McAllen, TX 78504

Number of lots 1 Gross acres 5970.50 sq ft.

Existing Zoning Residential Existing Land Use Residential

Reason for Appeal (please use other side if necessary) Requesting the approval to close garage for Air-conditioned storage area as well as Studio for work at home -

\$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 Brenda Castro Phone (956) 588-8487

Address 4905 Ibis Ave. E-mail brenda.kstro10@gmail.com

City McAllen State TX Zip 78504

Owner

Name Brenda Castro Phone (956) 588-8487

Address 4905 Ibis Ave E-mail brenda.kstro10@gmail.com

City McAllen State TX Zip 78504

Authorization

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

Yes No

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

Signature [Signature] Date 10/20/2020

Print Name Brenda Castro Owner Authorized Agent

Office

Accepted by [Signature] Payment received by _____

Rev 10/18 H.C.

RECEIVED
Date 10 20 2020
BY: CW

pd. C.C.



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:

N/A

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

The original rooms in the house have been accommodated for work-at-home and home-school due to Covid-19. The garage is closed to be used as storage space (air conditioned) as well as studio office area.

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:

Closing the garage does not extend or cross any area outside of what was originally designed when the house was built.

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

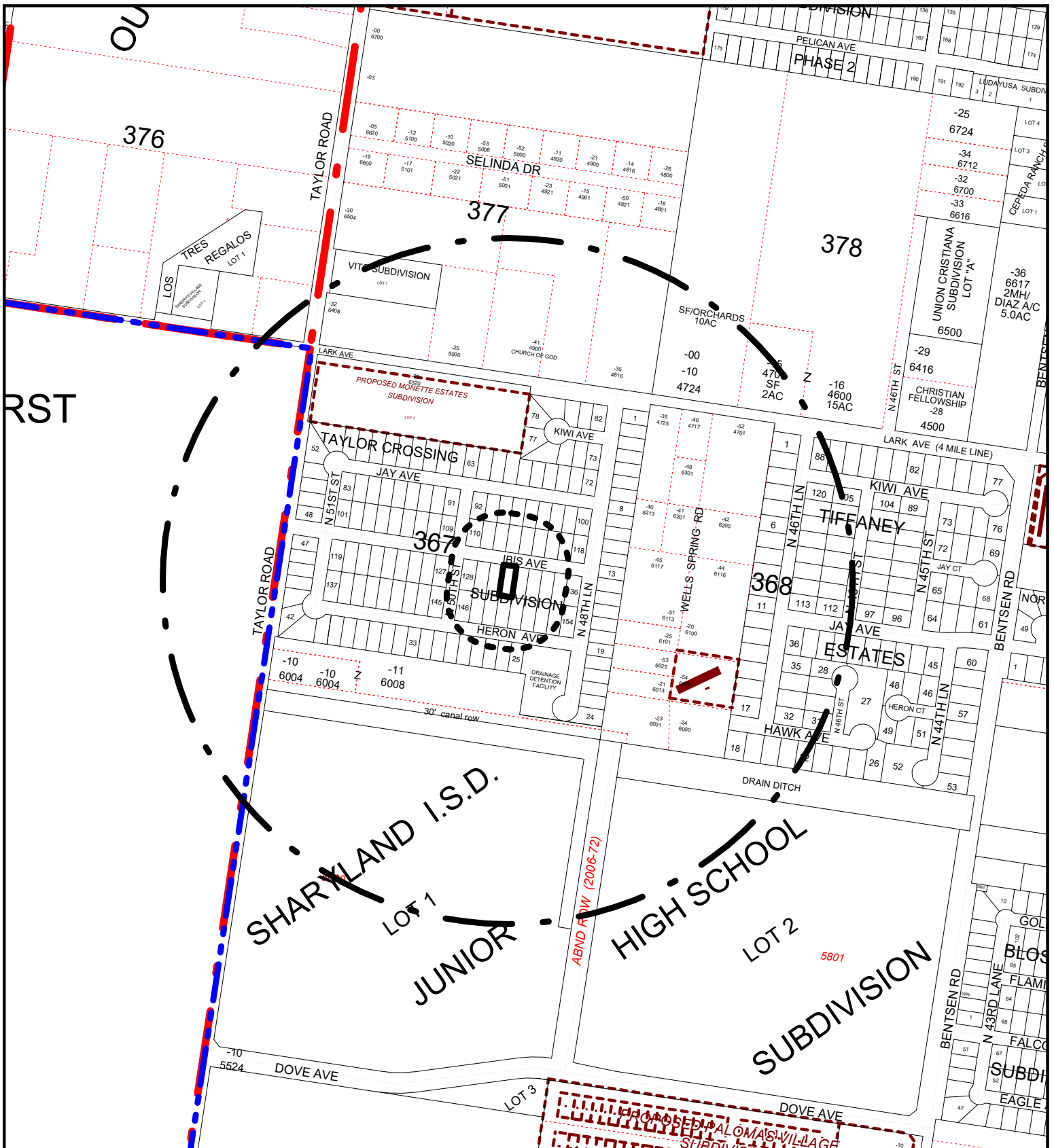
Due to covid-19, in april 2020, the family was in need to make adjustments to have additional storage space in the house as well as to have adequate studio/office area with air condition. Suitable for work-at-home

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: N.T.S.



SUBJECT PROPERTY

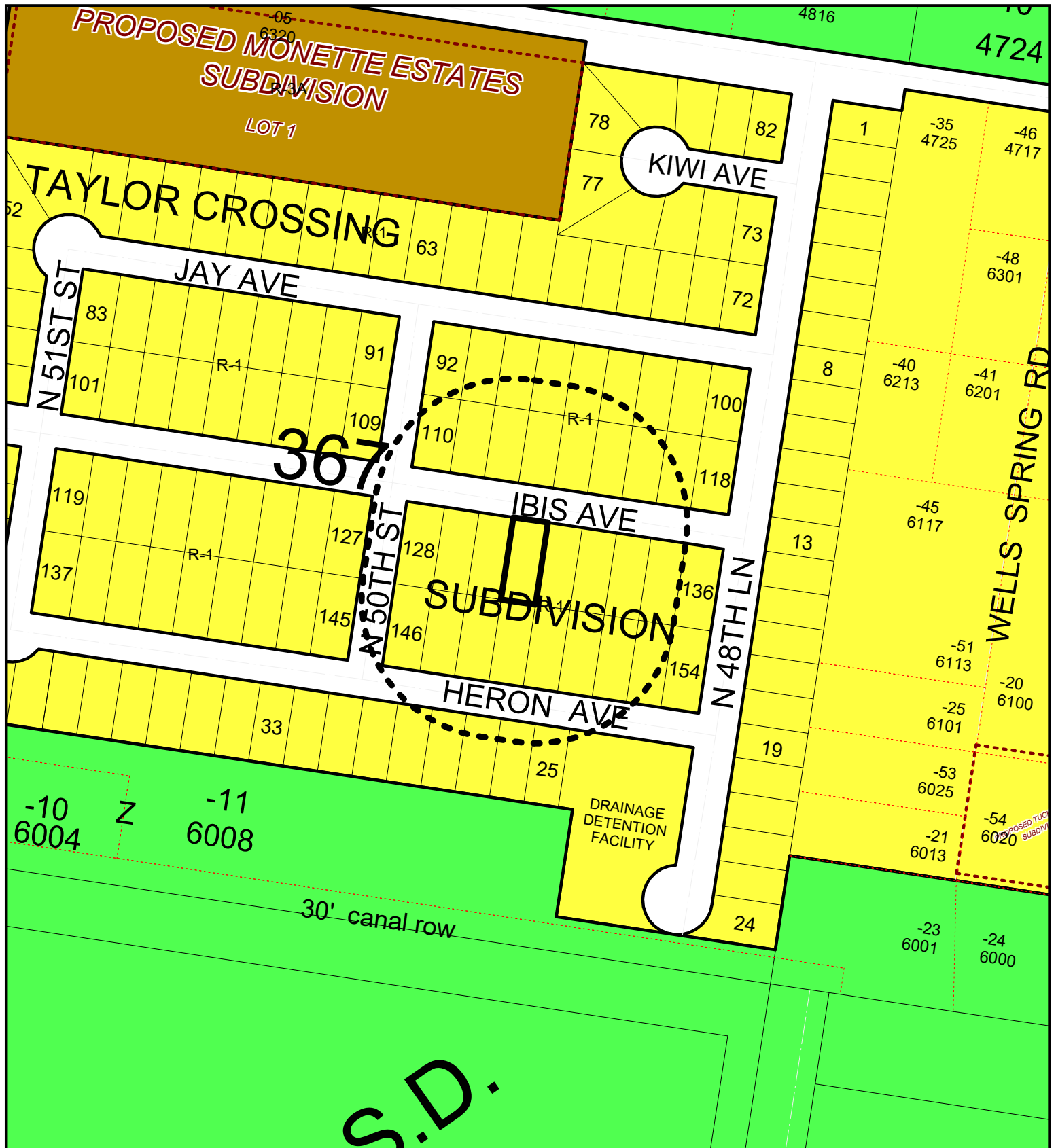
200 FT. NOTIFICATION BOUNDARY

1/4 MILE RADIUS

ZONING LEGEND

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

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CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: N.T.S.



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

A-0 (AGRICULTURAL & OPEN SPACE)	R-3A (APARTMENTS)	R-4 (MOBILE HOMES)	C-3 (GENERAL BUSINESS)	I-1 (LIGHT INDUSTRIAL)
R-1 (SINGLE FAMILY RESIDENTIAL)	R-3C (CONDOMINIUMS)	C-1 (OFFICE BUILDING)	C-3L (LIGHT COMMERCIAL)	I-2 (HEAVY INDUSTRIAL)
R-2 (DUPLEX-FOURPLEX)	R-3T (TOWNHOUSES)	C-2 (NEIGHBORHOOD COMMERCIAL)	C-4 (COMMERCIAL INDUSTRIAL)	(SPECIAL DISTRICT)

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367

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19

IBIS AVE
SUBDIVISION

HERON AVE

N 50TH ST

N 48TH LN

DRAINAGE
DETENTION
FACILITY



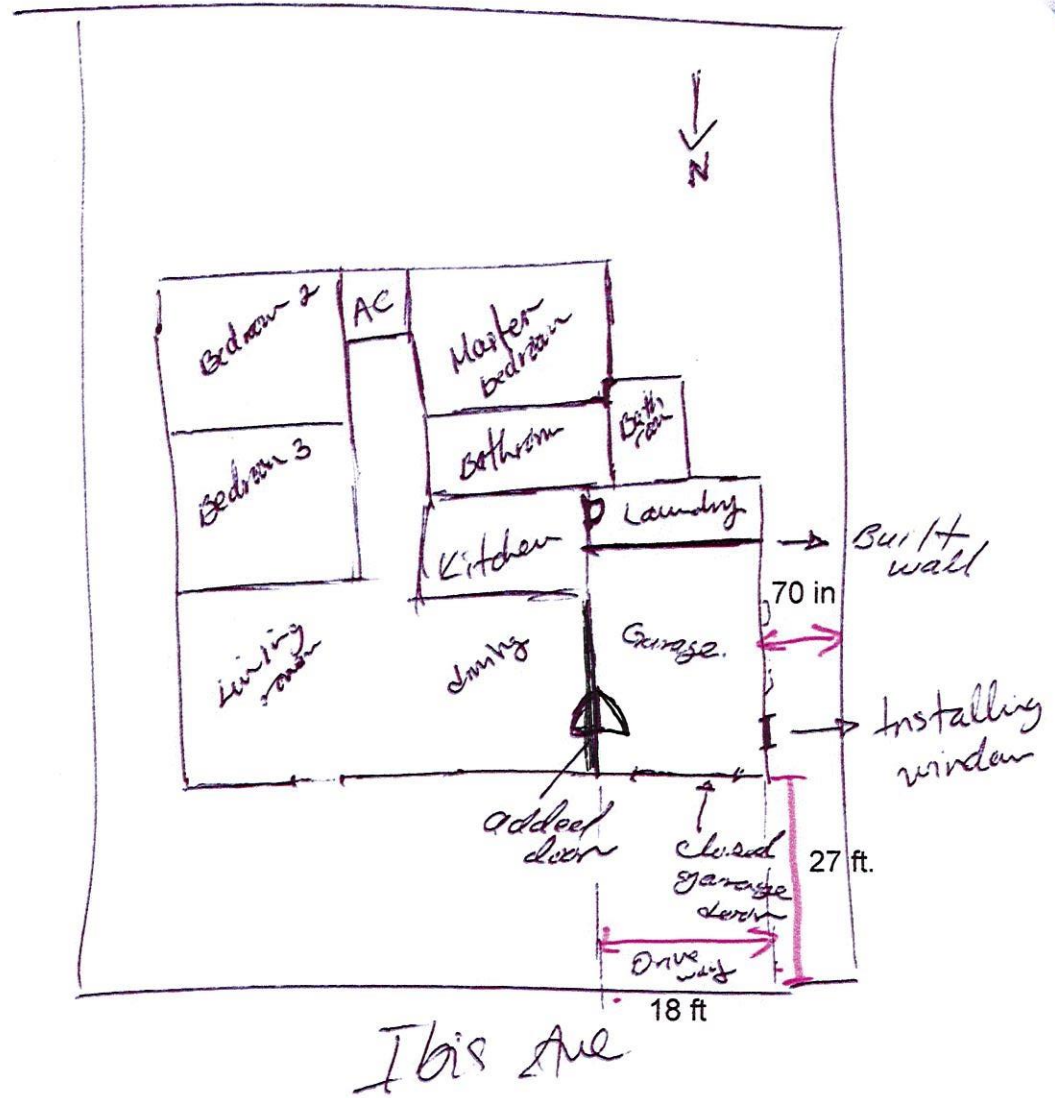
CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.

 SUBJECT PROPERTY



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STATE OF TEXAS
COUNTY OF HIDALGO
OWNER'S DEDICATION, CERTIFICATION, AND ATTESTATION

I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT AND DESIGNATED HEREIN AS THE TAYLOR CROSSING 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, EASEMENT, WATER LINE, SEWER LINES, STORM SEWERS, FIRE HYDRANTS AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH I 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.

Luis Figueroa
LUIS FIGUEROA
AFFORDABLE HOMES OF SOUTH TEXAS, INC
BOARD PRESIDENT
1420 ERIE AVE
McALLEN, TEXAS 78501

11-24-09
DATE

STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED **LUIS FIGUEROA** KNOWN TO ME TO BE THE PERSON WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGE TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED, GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 24th DAY OF NOVEMBER, 2009.

Claudia A. Lopez
CLAUDIA A. LOPEZ
NOTARY PUBLIC COUNTY OF HIDALGO, TEXAS



CITY OF McALLEN

I, THE UNDERSIGNED, MAYOR OF THE CITY OF McALLEN, HEREBY CERTIFY THAT THIS SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.

Deirdre King
Deirdre King
Mayor of the City of McAllen
12/17/09

Antonio Manuel
Antonio Manuel
Secretary of the City of McAllen

CITY OF McALLEN - PLANNING AND ZONING COMMISSION

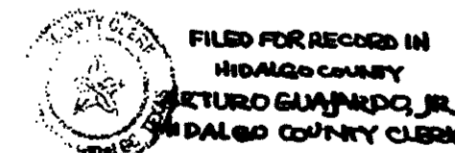
CERTIFICATION BY THE CHAIRMAN OF THE COMMISSION:
I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THE CITY OF McALLEN HEREBY CERTIFY THAT THE SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.

Sanjiv A. Patel
Sanjiv A. Patel
CHAIRMAN, PLANNING COMMISSION
12-18-09
DATED

NOTE:
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

By: *Gilley Garcia Jr.* 06/10



FILED FOR RECORD IN
HIDALGO COUNTY
COUNTY CLERK
ON 11/16/2009 AT 4:40 AM
INSTRUMENT NUMBER 2004559
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS
BY: *Agnes A. Spertory*

UNITED IRRIGATION DISTRICT

THIS PLAT IS HEREBY APPROVED BY UNITED IRRIGATION DISTRICT SUBJECT TO THE CONDITION THAT IF IRRIGATION FROM SAID SUBDIVISION IS DESIRED TO THE INDIVIDUAL LOTS IN SAID SUBDIVISION, PROVISION SHALL BE MADE FOR APPROPRIATE EASEMENTS FOR THE INSTALLATION OF NECESSARY IRRIGATION FACILITIES TO SUCH LOTS FROM CLOSEST WATER DISTRICT DELIVERY POINT AND IT SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE OWNER OF THE PROPERTY TO INSTALL AND MAINTAIN SUCH NECESSARY FACILITIES.

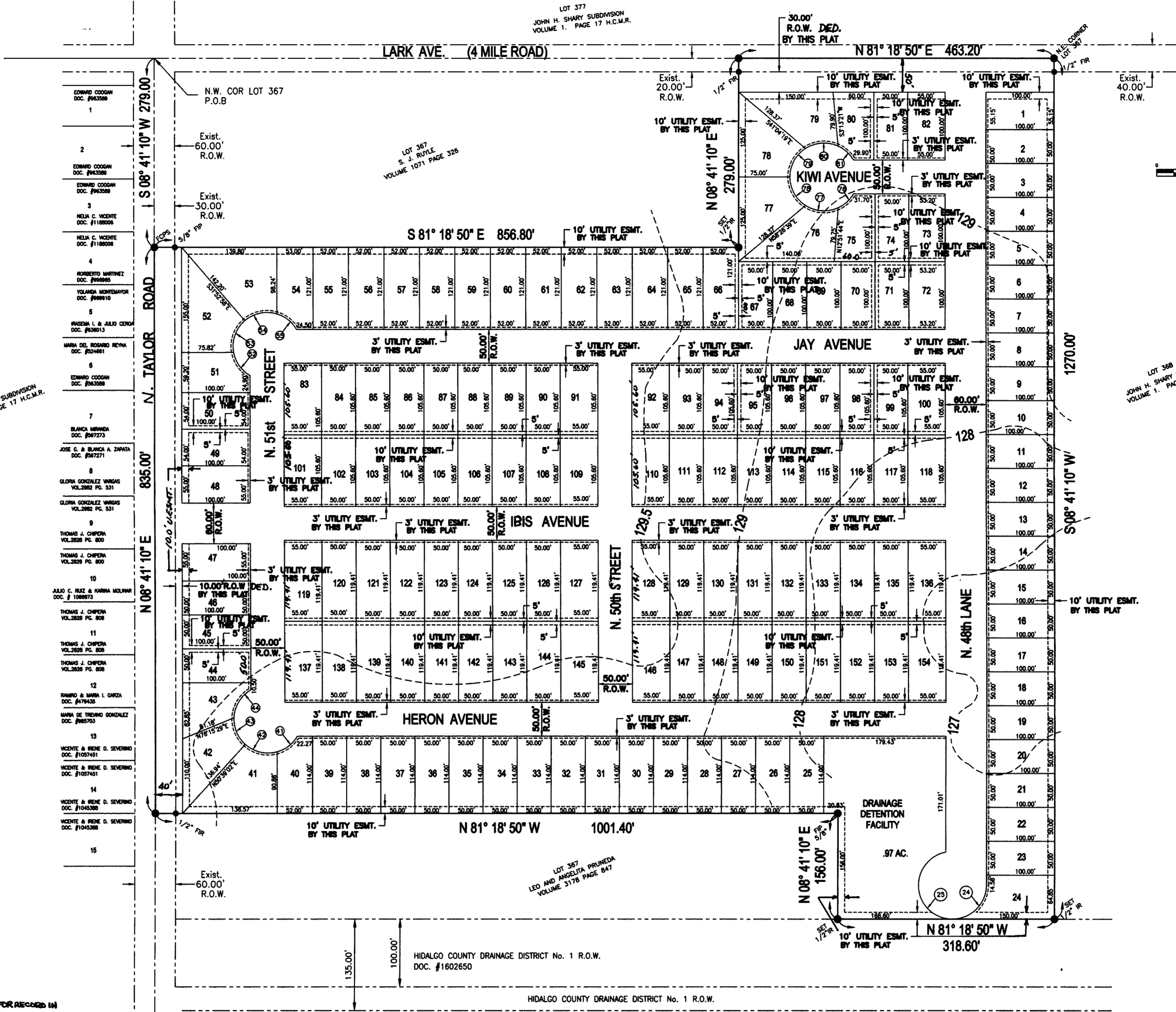
DATED THIS THE 29th DAY OF October, 2009

ATTEST:
M. J. Walsh
M. J. Walsh
BOARD PRESIDENT

Amanda Lamb
Amanda Lamb
SECRETARY

PRINCIPAL CONTACTS:

Name	Address	City & Zip	Phone	Fax
OWNER: LUIS FIGUEROA	1420 ERIE AVE.	McALLEN, TX 78501	(956) 687-6263	(956) 682-9751
ENGINEER: ROLANDO CRUZ	605 E. Violet Ave. Suite 5	McAllen, Tx. 78504	(956) 682-5022	(956) 682-5089
SURVEYOR: REY ROBLES	P.O. Box 476	Weslaco, Texas 78596	(956) 968-2422	(956) 969-2011



SUBDIVISION PLAT
OF
TAYLOR CROSSING

29.41 ACRE TRACT OF LAND OUT OF LOT 367
JOHN H. SHARY SUBDIVISION
HIDALGO COUNTY, TEXAS
PER MAP RECORDED IN VOLUME 1, PAGE 17, H.C.M.R.

NOTES:

- FRONT: MINIMUM FRONT SETBACK LINE 25 FEET
REAR: 10 FEET OR GREATER FOR EASEMENTS EXCEPT 25' FOR DOUBLE FRONTING LOTS ALONG LARK AVE AND NORTH TAYLOR ROAD.
- INTERIOR SIDE SETBACK LINE 6 FEET OR GREATER FOR EASEMENTS
CORNER: LOTS ALONG STREET 10 FEET OR GREATER FOR EASEMENTS
GARAGE: 18 FEET GARAGE EXCEPT WHERE GREATER SETBACK IS REQUIRED.
- THIS SUBDIVISION IS IN ZONE "C" AS PER F.C.M.A.'S COMMUNITY NO. 480337 0400 C NOVEMBER 18, 1982.
- MINIMUM FINISH FLOOR ELEVATION SHALL BE 18" ABOVE TOP OF CURB AT CENTER OF LOT WHICHEVER IS GREATER.
- ONE SINGLE FAMILY RESIDENTIAL DWELLING PER LOT.
- THIS SUBDIVISION IS REQUIRED TO DETAIN 139,711 FT³ OR 3.21 AC-FT.
- A 6' BUFFER MINIMUM HEIGHT REQUIRED BETWEEN MULTIFAMILY RESIDENTIAL & COMMERCIAL AND INDUSTRIAL ZONE/USE, ALONG LARK AVENUE AND N. TAYLOR ROAD
A 8' MASONRY BUFFER REQUIRED BETWEEN SINGLE FAMILY RESIDENTIAL AND COMMERCIAL, INDUSTRIAL, OR MULTIFAMILY RESIDENTIAL ZONE/USES.
- 4' WIDE MINIMUM SIDEWALK IS REQUIRED ON LARK AVENUE, NORTH TAYLOR ROAD, AND ON BOTH SIDES OF ALL INTERIOR STREETS.
- BENCH MARK:
BRASS CAP STAMPED "MC 52" SET IN CONCRETE LOCATED 106.8' NORTH OF THE CENTERLINE OF MILE 4 RD. AND 29' EAST OF CENTERLINE OF TAYLOR RD. ELEVATION = 132.9'
- THE DEVELOPER WILL PROVIDE AN ENGINEERED DETENTION PLAN APPROVED BY THE ENGINEERING DEPARTMENT PRIOR TO ~~ISSUANCE~~ FOR A BUILDING PERMIT.
- NO CURB CUT, ACCESS, OR LOT FRONTAGE PERMITTED ON N. TAYLOR ROAD AND LARK AVENUE.
- N/A
- 25' x 25' SIDE OBSTRUCTION EASEMENT AT ALL STREET INTERSECTIONS.
- A. ALL IRRIGATION EASEMENTS ARE EXCLUSIVE UNITED IRRIGATION DISTRICT, AND THE DISTRICT ALLOWS NO OTHER UTILITIES OR USE WITHOUT EXPRESS APPROVAL.
B. NO UTILITY COMPANY OR OTHER PERSON IS ALLOWED TO CROSS ABOVE OR BELOW GROUND ANY DISTRICT EASEMENT OR RIGHT OF WAY WITH LINES, POLES, OPEN DITCHES OR OTHER USE WITHOUT FIRST OBTAINING A CROSSING PERMIT FROM THE DISTRICT.
C. NO PERMANENT STRUCTURE, (EXAMPLE, FENCES, OR DRIVEWAYS OF ANY CONSTRUCTION) WILL BE ALLOWED TO BE CONSTRUCTED OR EXIST ON ANY DISTRICT EASEMENT OR RIGHT OF WAY WITHOUT WRITTEN APPROVAL BY THE DISTRICT. ANY UNAUTHORIZED STRUCTURE IN THE EASEMENT AREA IS SUBJECT TO REMOVAL.
D. NO UTILITY COMPANY OR OTHER PERSON IS ALLOWED TO CONNECT TO ANY DISTRICT FACILITY WITHOUT FIRST OBTAINING A PERMIT FROM THE IRRIGATION DISTRICT. ANY CONNECTION NOT AUTHORIZED BY THE DISTRICT IS SUBJECT TO REMOVAL.
- (A) THE AREA IDENTIFIED AS ("DETENTION FACILITY") SHALL BE HELD IN COMMON IN PRO-RATA SHARES BY ALL SUBDIVISION LOT OWNERS. EACH LOT OWNER'S PRO RATA SHARE SHALL BE DETERMINED ON THE BASIS OF THE FOLLOWING FORMULA: THE SQUARE FOOTAGE OF THE OWNER'S LOT, AS NUMERATOR OVER THE TOTAL SQUARE FOOTAGE OF ALL LOTS OTHER THAN THE DETENTION FACILITY, AS DENOMINATOR.
(B) EACH LOT OWNER'S PRO RATA SHARE, AS A PERCENTAGE, SHALL BE SPECIFIED IN THE DEED OR INSTRUMENT OF CONVEYANCE.
(C) NO BUILDINGS OR OTHER STRUCTURES SHALL BE ERRECTED IN THE DETENTION FACILITY, WHICH SHALL BE USED EXCLUSIVELY AS A DETENTION AREA TO BE MAINTAINED EXCLUSIVELY BY DEVELOPER, SUCCESSORS AND ASSIGNS, AND NOT BY THE CITY OF McALLEN. (D) FALLING SUCH MAINTENANCE OBLIGATIONS, THE CITY OF McALLEN MAY, BUT SHALL NOT BE REQUIRED TO MAINTAIN THE SAME AT THE DETENTION FACILITY OWNERS' COST, WHICH COST MAY BECOME A LIEN AGAINST THEIR PROPERTIES. PRIOR TO THE IMPOSITION OF ANY LIEN THE CITY SHALL FIRST COMPLY WITH NOTICE REQUIREMENTS SIMILAR TO THOSE UNDER ORD. SEC. 134-168(D). (E) THE SPECIFIC AND EXCLUSIVE USE OF DETENTION FACILITY, THE OWNERS' MAINTENANCE OBLIGATION, AND THE CONSEQUENCES OF FAILURE TO MAINTAIN SHALL BE INCORPORATED INTO ANY DEED OR INSTRUMENT OF CONVEYANCE AS A DEED RESTRICTION.

LOT	ARC	CHORD	RADIUS	TANGENT
24	78.54	70.71	50.000	90°00'00"
25	147.01	99.49	50.000	168°27'47"
41	38.62	37.67	50.000	44°15'09"
42	50.36	48.26	50.000	57°42'43"
43	50.00	43.89	50.000	57°17'45"
44	50.39	48.28	50.000	57°44'23"
52	43.31	41.97	50.000	49°37'43"
53	52.19	49.85	50.000	59°48'03"
54	50.43	48.23	50.000	57°47'11"
55	37.33	28.50	50.000	42°46'57"
76	30.90	30.41	50.000	35°24'30"
77	50.00	47.94	50.000	57°17'45"
78	50.00	47.94	50.000	57°17'45"
79	50.00	47.94	50.000	57°17'45"
80	50.00	47.92	50.000	57°17'45"
81	30.90	30.41	50.000	35°24'30"

STATE OF TEXAS
COUNTY OF HIDALGO

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY DIRECTION ON THE GROUND.



Reynaldo Robles
REYNALDO ROBLES
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 4032
WESLACO, TEXAS 78596

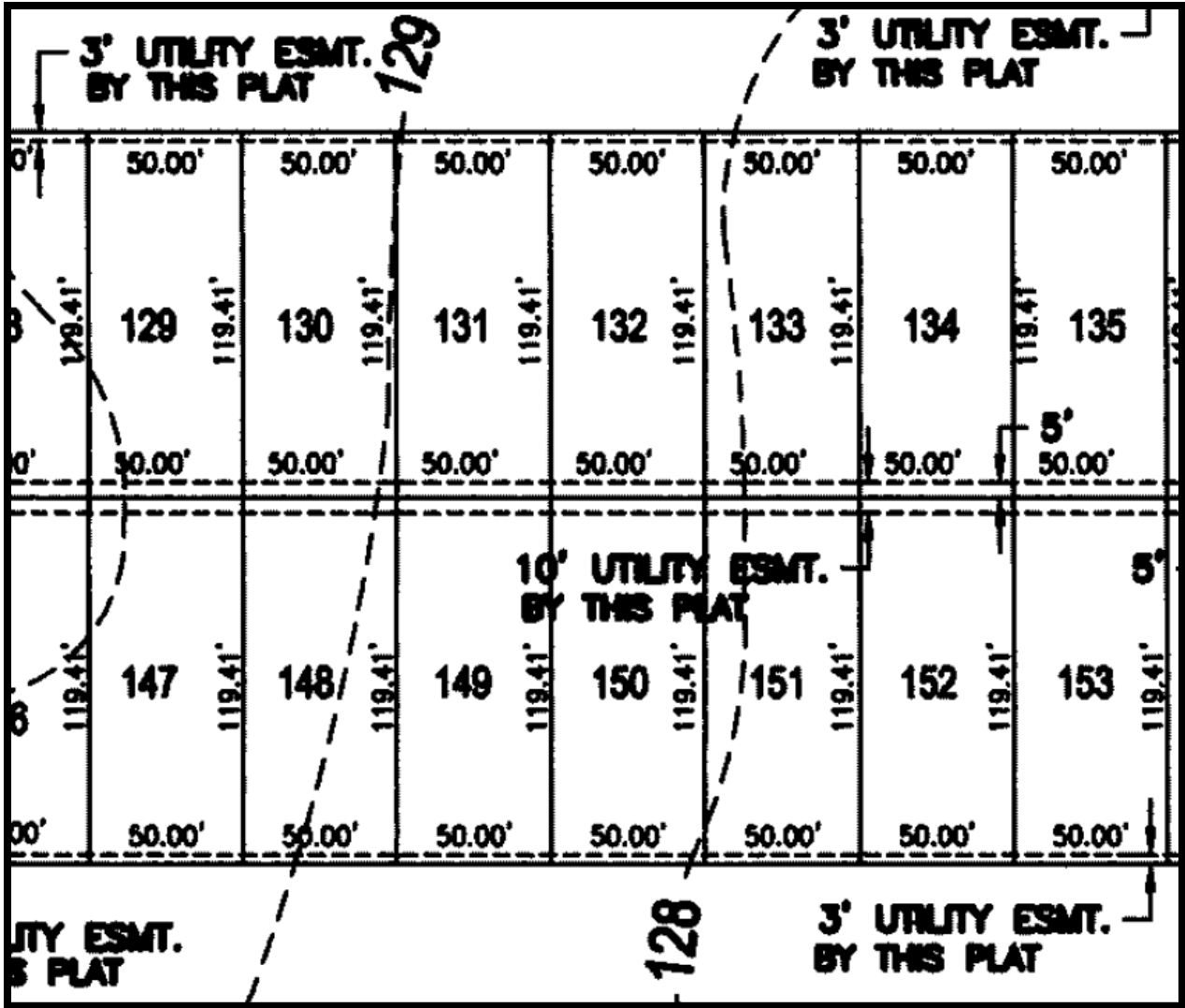
STATE OF TEXAS
COUNTY OF HIDALGO

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT AND THAT ALL ASPECTS OF IT ARE IN ACCORDANCE WITH THE STATUS GOVERNING ENGINEERING.



Rolando Cruz
ROLANDO CRUZ
REGISTERED PROFESSIONAL ENGINEER
NO. 55459
McALLEN, TEXAS 78504

TAYLOR CROSSING
AFFORDABLE HOMES OF SOUTH TEXAS
REVISE OCTOBER 29, 2009
CRUZ-HOGAN Consultants, Inc.
Engineers • Planners • Consultants
Harglingen
1221 E. Tyler, Suite A
Harglingen, Tx. 78550
McAllen
605 E. Violet Ave. Suite 5
McAllen, Tx. 78504
Office (956)425-8968 Fax (956)423-5083 Office (956)682-5022 Fax (956)682-5089
FIRM REGISTRATION NUMBER: F004860



NOTES:

1. **FRONT:** MINIMUM FRONT SETBACK LINE 25 FEET

REAR: 10 FEET OR GREATER FOR EASEMENTS EXCEPT 25' FOR DOUBLE FRONTING LOTS ALONG LARK AVE AND NORTH TAYLOR ROAD.

SIDES: INTERIOR SIDE SETBACK LINE 6 FEET OR GREATER FOR EASEMENTS

CORNER: LOTS ALONG STREET 10 FEET OR GREATER FOR EASEMENTS

GARAGE: 18 FEET GARAGE EXCEPT WHERE GREATER SETBACK IS REQUIRED.

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

PERMIT APPLICATION REFERENCE NUMBER RES2020-052160

6/10/20
APPLICANT

NAME Brenda Castro PHONE 956-588-8487
 ADDRESS 4905 Ibis Ave.
 CITY McAllen Tx. STATE Tx ZIP 78504
 CONTACT NAME: _____ PHONE _____
 OWNER CONTRACTOR TENANT OTHER

OWNER

NAME Same PHONE _____
 ADDRESS _____ *EMAIL: _____
 CITY _____ STATE _____ ZIP _____

*OWNER INFORMATION NOT PROVIDED, INITIAL: _____

NEW ADDITION REMODELING REPAIR MOVE REMOVE _____ BLDG. HGT. _____ NO. OF FLOORS

BLDG SQ. FT. 300 NO. PARKING SPACES _____ SQ. FT LOT _____ LOT FRONT _____ FLOOR EL ABOVE CURB _____

EXISTING USE OF LOT _____ NEW USE _____

SCOPE OF WORK TO BE DONE Enclosed garage without a permit.

PROJECT

RESIDENTIAL NEW NO. OF UNITS _____ NO. BDRMS _____ NO. BATHRMS _____ SQ. FT NON-LIVING _____ SQ. FT LIVING _____

FOUNDATION <input type="checkbox"/> CONCRETE SLAB <input type="checkbox"/> CONCRETE PIER <input type="checkbox"/> CONCRETE BLOCK <input type="checkbox"/> CONCRETE BEAM <input type="checkbox"/> WOOD POSTS <input type="checkbox"/> _____	EXT WALL <input type="checkbox"/> MASONRY VENEER <input type="checkbox"/> MASONRY SOLID <input type="checkbox"/> METAL SIDING <input type="checkbox"/> COMPOSITION <input type="checkbox"/> WOOD <input type="checkbox"/> _____	ROOF <input type="checkbox"/> WOOD SHINGLE <input type="checkbox"/> COMPOSITION <input type="checkbox"/> METAL <input type="checkbox"/> BUILD UP <input type="checkbox"/> CLAY OR CONCRETE TILE <input type="checkbox"/> _____	UPGRADES/OTHER <input type="checkbox"/> GRANITE COUNTERTOPS <input type="checkbox"/> MARBLE TUBS/FLOORS <input type="checkbox"/> CUSTOM WINDOWS <input type="checkbox"/> POLYURETHANE INSULATION <input type="checkbox"/> OTHER UPGRADES _____ <input type="checkbox"/> _____ <input type="checkbox"/> SEPTIC TANK EXISTING OR PROPOSED <input type="checkbox"/> YES <input type="checkbox"/> NO
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LOT _____ BLOCK _____ SUBDIVISION Taylor Crossing.
 SITE ADDRESS ST. NO. 4905 ST. NAME Ibis Ave.

CITY USE ONLY

Construction Cost _____ Permit Fee \$ 48.00 Rec'd by [Signature]
 Value \$ 1500 Double Fee \$ 48.00 Date 7-23-2020
 Zoning _____ Total Fee \$ 96.00 Time 1:55
 Park Development Fee \$ _____ Park Zone _____

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

Brenda Castro [Signature] brenda.kstro10@gmail.com
 PRINT (AUTHORIZED AGENT/OWNER) SIGNATURE EMAIL ADDRESS (required) DATE

7/23/20

Hidalgo CAD

Property Search > 20827703 JUAREZ JOACIM & BRENDA CASTRO for Year 2020

Tax Year:

Property

Account

Property ID:	20827703	Legal Description:	TAYLOR CROSSING LOT 131
Geographic ID:	T1014-00-000-0131-00	Zoning:	RS
Type:	Real	Agent Code:	
Property Use Code:			
Property Use Description:			

Location

Address:	4905 IBIS AVE MCALLEN, TX	Mapsco:	
Neighborhood:	TAYLOR CROSSING	Map ID:	CML DOC 2064559
Neighborhood CD:	T101400		

Owner

Name:	JUAREZ JOACIM & BRENDA CASTRO	Owner ID:	1019814
Mailing Address:	4905 IBIS AVE MCALLEN, TX 78504-9831	% Ownership:	100.0000000000%
		Exemptions:	

Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$74,508	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$35,823	Ag / Timber Use Value
(+) Agricultural Market Valuation:	+	\$0	\$0
(+) Timber Market Valuation:	+	\$0	\$0

(=) Market Value:	=	\$110,331	
(-) Ag or Timber Use Value Reduction:	-	\$0	

(=) Appraised Value:	=	\$110,331	
(-) HS Cap:	-	\$0	

(=) Assessed Value:	=	\$110,331	

Taxing Jurisdiction

Owner: JUAREZ JOACIM & BRENDA CASTRO

% Ownership: 100.0000000000%

Total Value: \$110,331

Entity	Description	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
CAD	APPRAISAL DISTRICT	0.000000	\$110,331	\$110,331	\$0.00
CML	CITY OF MCALLEN	0.495677	\$110,331	\$110,331	\$546.89
DR1	DRAINAGE DISTRICT #1	0.105100	\$110,331	\$110,331	\$115.96
GHD	HIDALGO COUNTY	0.575000	\$110,331	\$110,331	\$634.40
JCC	SOUTH TEXAS COLLEGE	0.173300	\$110,331	\$110,331	\$191.20
R12	ROAD DIST 12	0.000000	\$110,331	\$110,331	\$0.00
SSL	SHARYLAND ISD	1.298700	\$110,331	\$110,331	\$1,432.87
SST	SOUTH TEXAS SCHOOL	0.049200	\$110,331	\$110,331	\$54.28
W14	UNITED IRR WTR DIST	0.000000	\$110,331	\$110,331	\$0.00
Total Tax Rate:		2.696977			
Taxes w/Current Exemptions:					\$2,975.60
Taxes w/o Exemptions:					\$2,975.60

Improvement / Building

Improvement #1:	RESIDENTIAL	State Code:	A1	Living Area:	1158.0 sqft	Value: \$74,508
------------------------	-------------	-------------	----	--------------	-------------	-----------------

Type	Description	Class CD	Exterior Wall	Year Built	SQFT
MA	MAIN AREA	BRKFA - 5	DBRK	2013	1158.0
GAR	GARAGE	*		2013	294.0
POR	PORCH (COVERED)	*		2013	36.0
UTY	UTILITY ROOM	*		2013	98.0

Land

#	Type	Description	Acres	Sqft	Eff Front	Eff Depth	Market Value	Prod. Value
1	L	LOT	0.1371	5970.50	50.00	119.41	\$35,823	\$0

Roll Value History

Year	Improvements	Land Market	Ag Valuation	Appraised	HS Cap	Assessed
2021	N/A	N/A	N/A	N/A	N/A	N/A
2020	\$74,508	\$35,823	0	110,331	\$0	\$110,331
2019	\$72,204	\$35,823	0	108,027	\$0	\$108,027
2018	\$72,972	\$23,882	0	96,854	\$0	\$96,854
2017	\$73,739	\$23,882	0	97,621	\$0	\$97,621
2016	\$65,418	\$23,882	0	89,300	\$0	\$89,300
2015	\$66,092	\$21,494	0	87,586	\$0	\$87,586
2014	\$69,094	\$21,494	0	90,588	\$0	\$90,588
2013	\$0	\$21,494	0	21,494	\$0	\$21,494
2012	\$0	\$18,509	0	18,509	\$0	\$18,509
2011	\$0	\$18,509	0	18,509	\$0	\$18,509

Deed History - (Last 3 Deed Transactions)

#	Deed Date	Type	Description	Grantor	Grantee	Volume	Page	Deed Number
1	12/26/2013	SVD	SPEC WD/VEN LIEN	AFFORDABLE HOMES OF SOUTH TEXAS INC	JUAREZ JOACIM & BRENDA CASTRO			2474070

Tax Due

Property Tax Information as of 10/26/2020

Amount Due if Paid on:  ↓

Year	Taxing Jurisdiction	Taxable Value	Base Tax	Base Taxes Paid	Base Tax Due	Discount / Penalty & Interest	Attorney Fees	Amount Due
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NOTE: Penalty & Interest accrues every month on the unpaid tax and is added to the balance. Attorney fees may also increase your tax liability if not paid by July 1. If you plan to submit payment on a future date, make sure you enter the date and RECALCULATE to obtain the correct total amount due.

Questions Please Call (956) 381-8466.



4905

4905

**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0072**



CITY OF MCALLEN PLANNING DEPT.
361-481-1230
WWW.MCALLE.NET



Definitions

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Chapter 138-Zoning

Sec. 138-1. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Footnotes:

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

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

Chapter 110-Vegetation

Sec. 110-26. - Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CRITERIA FOR ZBOA DETERMINATIONS

APPEALS

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

SPECIAL EXCEPTIONS

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

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

Ord. Sec. 138-86. – GENERAL POLICY.

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

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

VARIANCES

Authorized only when ALL of the following applies:

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

Exceptions Cited within the Zoning Ordinance

Exceptions pertaining to front yard setbacks:

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

Exceptions pertaining to rear yard setbacks:

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

Exceptions pertaining to side yard setbacks:

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

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

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

Exceptions as per Planning Department Policy

By policy the following are permitted:

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

Legal opinions:

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

ZONING BOARD OF ADJUSTMENT AND APPEALS

RULES AND PROCEDURES

CITY OF MCALLEN

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

I. ORGANIZATION AND OFFICERS

A. Members

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

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

B. Officers

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

C. Duties and Officers

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

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

II. POWERS OF THE BOARD

A. General Powers

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

B. Specified Powers

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

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

III. DUTIES OF BOARD MEMBERS

A. General Duties of Members

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

B. Disqualification/Conflict of Interest

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

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

IV. A BASIS FOR ACTION

The Board shall decide each case based on the following:

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

V. APPLICANTS

A. Legally Vested Interest

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

B. Applications

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

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

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

C. Meetings

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

D. Evidence

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

VI. HARDSHIP

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

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

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

VII. MEETINGS

A. Texas Public Information Act and Open Meetings Act.

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

B. Quorum

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

C. Regular Meetings

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

D. Special Meetings

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

E. Order of Business

The usual order of business shall be:

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

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

F. Staff Recommendations

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

G. Action by the Board

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

H. Minutes of the Board

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

VIII. DECISIONS OF THE BOARD

A. Precedent

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

B. Public Statements

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

B. Parliamentary Procedure

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

IX. WITHDRAWAL OF APPEAL

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

X. ATTENDANCE

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

XI. AMENDEMENT PROCEDURE

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

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

Executive Secretary

ORDINANCE NO. 2018- 70

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SIGNED this 9th day October, 2018.

CITY OF McALLEN

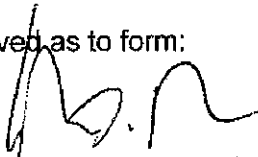
John Ingram, City Commissioner

Attest:



Perla Lara, TRMC/CMC, CPM
City Secretary

Approved as to form:



Austin W. Stevenson, Assistant City Attorney



2020 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/15/20	02/05/20	02/19/20	03/04/20	03/18/20	04/01/20	04/15/20	05/06/20	05/20/20	06/03/20	06/17/20	07/01/20	07/15/20	08/05/20	08/19/20	09/02/20	09/17/20	10/07/20	10/21/20	11/04/20	11/18/20	12/02/20	12/17/20
ERICK DIAZ- VICE-CHAIRPERSON	P	P	NM	P	NM	P	P	NM	A	P	P	P	P	P	P	loq	P	P	A	P			
SYLVIA HINOJOSA	P	P	NM	P	NM	A	A	NM	A	P	P	A	P	A	P	loq	P	P	P	P			
DAVID SALINAS- CHAIRPERSON	P	P	NM	P	NM	P	P	NM	P	P	P	P	P	P	P								
JOHN MILLIN, III	A	A	NM	P	NM	P	P	NM	P	A	P	P	P	P	P	loq	P	P	P	P			
SONIA FALCON	A	P	NM	A	NM	A	A	NM	A	P	A	A	P	P	A	loq	P						
JOSE R. GUTIERREZ	P	P	NM	P	NM	P	P	NM	P	P	P	P	P	P	P	loq	P	P	P	P			
JUAN F. JIMENEZ	P	P	NM	P	NM	P	A	NM	P	A	P	A	P	A	P	loq	A	P	P	P			
HUGO AVILA (ALT 1)																	P	P	P	P			
ROGELIO RODRIGUEZ(ALT 2)																	P	P	P	P			
REBECCA MILLAN (ALT 3)																	P	P	P	P			

P - PRESENT

A - ABSENT

NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION