

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, AUGUST 19, 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](https://zoom.us/join)

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

CALL TO ORDER - CHAIRPERSON DAVID SALINAS

1. MINUTES:

- a) Minutes for the meeting held on August 5, 2020.

2. PUBLIC HEARINGS:

- a) Request of Adrian Melendez for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 8.5 ft. into the 10 ft. rear yard setback for an existing frame garage measuring 20.3 ft. by 20.3 ft. at Lot 16, Block 4, Orange Terrace Subdivision No.3, Hidalgo County, Texas; 1018 Orange Avenue. **(ZBA2020-0038)**
- b) Request of Hector Leal for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 16 ft. into the 25 ft. rear yard setback for a proposed carport measuring 16 ft. by 24 ft. at East 18' of Lot 6 and W 7' of Lot 7, Wilson Subdivision No.2, Hidalgo County, Texas; 300 Nolana Avenue. **(ZBA2020-0037)**
- c) Request of Robert Zamora for the following special exception and variance to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 6 ft. into the 6 ft. side yard setback along the west property line for an existing carport with an encroachment area measuring 2.9 ft. by 25 ft. and, **2)** to allow an encroachment of 6 ft. into the 6 ft. side yard setback along the west property line for an existing wooden storage building measuring 12.4 ft. by 19 ft., at Lot 3, Block 1, Colonia McAllen Unit No. 4, Hidalgo County, Texas; 2612 Uvalde Avenue. **(ZBA2020-0041)**
- d) Request of Juana L. De Leon for the following special exceptions and variances to the City of McAllen Zoning Ordinance **1)** to allow an encroachment of 6 ft. into the 6 ft. side yard setback along the east property line for an existing carport measuring 21 ft. by 25 ft., **2)** to allow an encroachment of 6 ft. into the 6 ft. side yard setback for an existing porch along the east property line measuring 6 ft. by 58.5 ft., **3)** to allow an encroachment of 20 ft. into the 20 ft. front yard setback for an existing wooden carport, **4)** to allow an encroachment of .58 ft. into the 3 ft. rear yard setback for an existing storage room measuring 16.4 ft. by 13 ft., **5)** to allow an encroachment of 6 ft. into the 6 ft. side yard setback along the east property line for an existing storage room measuring 16.4 ft. by 13 ft., **6)** to allow an encroachment of 3 ft. into the 3 ft. rear yard setback for an existing wooden porch measuring 16.66 ft. by 20.33 ft., and **7)** to allow an encroachment of 6 ft. into the 6 ft. side yard setback along the west property line for an existing wooden porch measuring 16.66 ft. by 20.33 ft. at Lot 4, Block 1, Colonia McAllen Unit No. 4, Hidalgo County, Texas; 2616 Uvalde Avenue. **(ZBA2020-0042)**

- e) Request of Esthela de Hoyos for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for a proposed swimming pool measuring 17.5 ft. by 8.44 ft. at Lot 63, Santa Yesenia Subdivision, Hidalgo County, Texas; 2308 North 48th Street. **(ZBA2020-0036)**
- f) Request of San Juanita San Miguel for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 5 ft. into the 6 ft. side yard setback along the north property line for an existing covered patio measuring 12 ft. by 24 ft., **2)** an existing covered patio measuring 12 ft. by 24 ft. with a distance of 3 ft. instead of 5 ft. to the main building, and **3)** an encroachment of 3 ft. into the 6 ft. side yard setback along the south property line for an existing storage building measuring 10 ft. by 13 ft., at Lot 154, Colonia McAllen Unit No. 6 Subdivision, Hidalgo County, Texas; 2121 South 31st Street. **(ZBA2020-0034) (TABLED: 08/05/2020)**
- g) Request of America I. Lopez for the following special exceptions and variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 7 ft. into the 7 ft. side yard setback on the east property line for an existing storage building measuring 7 ft. by 17 ft., **2)** to allow an encroachment of 5 ft. into the 5 ft. side yard setback on the west property line for an existing storage building measuring 8 ft. by 10 ft., **3)** to allow an encroachment of 23 ft. into the 30 ft. front yard setback for a proposed carport measuring 19 ft. by 20 ft., **4)** to allow an encroachment of 7 ft. into the 7 ft. side yard setback on the east side for a proposed carport measuring 19 ft. by 20 ft., **5)** to allow an encroachment of 23 ft. into the 30 ft. front yard setback for a proposed carport measuring 20 ft. by 30 ft., and **6)** to allow an encroachment of 5 ft. into the 5 ft. side yard setback on the west property line for a proposed carport measuring 20 ft. by 30 ft. at Lot 17, Block 1, Western Acres Subdivision, Hidalgo County, Texas; 1508 Upas Avenue. **(ZBA2020-0040)**
- h) Request of Blanca I. Cantu for the following special exception to the City of McAllen Off-Street Parking and Loading Ordinance to allow 5 parking spaces instead of the required 7 parking spaces, at Lot 18, Block 1, Redwood Park Addition, Hidalgo County, Texas; 1601 North 7th Street. **(ZBA2020-0039)**

3. FUTURE AGENDA ITEMS

- a) 1909 South 33rd Street
- b) 1607 Nolana Avenue
- c) 3209 Guadalupe Avenue
- d) 612 Expressway 83

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, August 5, 2020 at 4:30 p.m. in the City Commission Meeting Room with the following present:

Present:	David Salinas	Chairperson
	Erick Diaz	Vice-Chairperson (teleconference)
	John Millin	Member
	Sonia Falcon	Member (teleconference)
	Jose Gutierrez	Alternate (teleconference)
Absent:	Sylvia Hinojosa	Member
	Juan F. Jimenez	Alternate (teleconference)
Staff Present:	Austin Stevenson	Assistant City Attorney (teleconference)
	Michelle Rivera	Assistant City Manager
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Kaveh Forghanparast	Planner II (teleconference)
	Carlos Garza	Planner I
	Porfirio Hernandez	GIS Technician II
	Carmen White	Secretary

CALL TO ORDER –Chairperson David Salinas

1. MINUTES:

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

The minutes for the meeting held on July 15, 2020 were approved. The motion to approve the minutes was made by Vice-Chairperson Erick Diaz. Mr. John Millin seconded the motion, which carried unanimously with four members present and voting.

2. PUBLIC HEARINGS:

- a) Request of San Juanita San Miguel for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 5 ft. into the 6 ft. side yard setback along the north property line for an existing covered patio measuring 12 ft. by 24 ft., **2)** an existing covered patio measuring 12 ft. by 24 ft. with a distance of 3 ft. instead of 5 ft. to the main building, and **3)** an encroachment of 3 ft. into the 6 ft. side yard setback along the south property line for an existing storage building measuring 10 ft. by 13 ft., at Lot 154, Colonia McAllen Unit No. 6 Subdivision, Hidalgo County, Texas; 2121 South 31st Street. **(ZBA2020-0034)**

Mr. Garza stated this item was to be tabled until the next meeting.

Vice-Chairperson Erick Diaz **moved** to table the item until the next meeting. Mr. John Millin seconded the motion. The board voted unanimously to table the item with 4 members present and voting.

- b) Request of J & J Perez Pools for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 10 ft. into the 25 ft. rear yard setback on a double fronting lot for a proposed swimming pool measuring 14 ft. by 24 ft. at Lot 4, Vendome Subdivision, Hidalgo County, Texas; 3605 Vendome Drive. **(ZBA2020-0035)**

Mr. Forghanparast stated Mr. Luis Perez, on behalf of J & J Perez Pools, was requesting the following variance: to allow an encroachment of 10 ft. into the 25 ft. rear yard setback for a proposed pool measuring 14 ft. by 24 ft.

The property was located on the north side of El Pacifico Ave., approximately 270 ft. east of North 38th Street. The lot had 75 ft. of frontage along Vendome Drive and 113.45 ft. of depth for a lot size of 8,508.75 sq. ft. The property was zoned R-1 (single-family residential) District. The adjacent zoning was R-1 District in all directions. The surrounding land uses included single-family residences and vacant lots.

Vendome Subdivision was recorded on November 17, 2017. A swimming pool permit application, showing compliance with the setbacks was submitted on January 10, 2020. The pool permit was reviewed and approved on February 24, 2020, based on the site plan showing compliance with the setbacks. A subsequent inspection by the Building Department staff revealed that the pool being built was encroaching into the rear yard setback. The applicant was informed of the need to apply for a variance. The application for a variance request for the swimming pool was submitted on June 25, 2020. The site plan submitted with the variance request showed the distance from the rear property line to the swimming pool as 15 ft.

The variance request was for a proposed swimming pool, which was an accessory structure and not a primary building. The rear setback for the subject property was 25 ft. because it was a double fronting lot. In the past, the Board had approved variances for accessory buildings in the rear yard on a double fronting lot.

The site plan showed a proposed rectangular pool encroaching 10 ft. into the 25 ft. rear yard setback. There was a 15 ft. utility easement adjacent to the rear property line that ran concurrently along the rear yard setback. The submitted site plan showed that the pool would not encroach into the 15 ft. utility easement.

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

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

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

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

Ms. Kassandra Ovalle, homeowner of 3605 Vendome Drive, stated she wanted to understand the recommendation by the Board and staff. Chairperson Salinas explained that staff recommended disapproval of the variance request as a matter of policy. However, the Board could grant approval of the variance request but any approval to the

variance request would be limited to the actual encroachment only of the pool.

Chairperson Salinas asked staff if the proposed encroachment into the setback was not encroaching into the utility easement. Mr. Forghanparast stated what was shown on the site plan was not encroaching into the utility easement and was a double fronting lot.

Chairperson Salinas asked staff if there were any other approved variance requests in the general area such as this request. Mr. Forghanparast stated this was the only type of variance request for the area.

Mr. Jose Gutierrez **moved** to approve the variance request limited to the footprint of the site plan submitted. Mr. John Millin seconded the motion. The board voted unanimously to approve the variance request with four members present and voting

- c) Request of Alexis Salinas for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 9.84 ft. into the 20 ft. front yard setback for a proposed single family residence measuring 18 ft. by 64.83 ft. at Lot 12, South McAllen Addition, Hidalgo County, Texas; 825 South Bicentennial Boulevard. **(ZBA2020-0043)**

Mr. Forghanparast stated Alexis Salinas was requesting the following variance: to allow an encroachment of 9.84 ft. into the 20 ft. front yard setback for a proposed single-family residence measuring 18 ft. by 64.83 ft.

The property was located on the northeast corner South Bicentennial Boulevard and Ithaca Avenue. The lot had 25 ft. of frontage along South Bicentennial Boulevard and 95 ft. of depth for a lot size of 2,375 sq. ft. The property was zoned R-2 (duplex-fourplex residential) District. The adjacent zoning was R-2 District in all directions. The surrounding land uses included single-family residences, retail stores, commercial, and vacant lots.

South McAllen Addition Subdivision was recorded on October 22, 1923. The subject property was currently vacant. An application for a building permit was submitted on June 23, 2020. The application for a variance request was submitted on July 17, 2020. The site plan submitted with the variance request showed the distance from the rear property line to the house as 10.17 ft. Issuance of the building permit was pending the variance approval and some other documents and revisions.

The proposed encroachment was part of the primary building. The standard front yard setback for a lot in the R-2 zone is 20 ft. The applicant submitted a site plan that indicated the layout of the proposed single-family residence measuring 18 ft. by 64.83 ft. The proposed site plan could be modified by complying with the front yard setback. However, due to the lot size limitations, the applicant could not provide the two required off-street parking spaces.

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

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

Ms. Alexis Salinas, the applicant, stated she did not have enough room in the rear to maneuver her vehicle and to have a parking area as well.

Chairperson Salinas asked the applicant if access to the property would be from the rear. Ms. Salinas stated yes. Chairperson Salinas asked if there was an alley. Ms. Salinas stated yes and it was 12 feet wide. Chairperson Salinas asked if up and down the alley were there others who had access to their property in the rear. Ms. Salinas responded no.

Mr. Forghanparast stated to the Chairperson was that entrance would be from Ithaca Avenue driveway not from the alley. Chairperson asked if they were going to use the alley in any way. Mr. Forghanparast stated site plan was just to enter from Ithaca Avenue not from the alley. Chairperson Salinas asked if the alley was being used in any way. Mr. Forghanparast stated it did not seem to be when he visited the site.

Ms. Sonia Falcon asked how long the applicant had lived at that location. Ms. Salinas stated it was a vacant lot. Ms. Falcon asked how long she had owned the lot. Ms. Salinas stated her father gifted it recently to her. Her father had owned the property for two years.

Chairperson Salinas asked the applicant how big the lot was and how wide the proposed building. Ms. Salinas stated it was 25 feet wide and the proposed building was 18 feet wide.

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

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

Ms. Falcon asked if there was any opposition. Mr. Forghanparast stated there was none.

Mr. John Millin **moved** to approve the variance request. Vice-Chairperson Erick Diaz seconded the motion. The board voted unanimously to approve the variance request with five members present and voting

- d) Request of Jose Alfredo Vargas on behalf of Maria Romana Vargas for the following variances to the City of McAllen Zoning Ordinance to allow: **1)** an encroachment of 15.75 ft. into the 25 ft. front yard setback for an existing treehouse structure measuring 12 ft. by 11.83 ft., and **2)** an encroachment of 3.25 ft. into the 5 ft. side yard setback along the west property line for an existing treehouse structure measuring 12 ft. by 11.83 ft., at Lot 18, Block 3, Metz Subdivision, Hidalgo County, Texas; 2229 Ivy Avenue. **(ZBA2020-0029) (TABLED: 07/01/2020) (REMAIN TABLED: 07/15/2020)**

Mr. John Millin **moved** to remove the item from the table. Vice-Chairperson Erick Diaz seconded the motion with five board members present and voting.

Mr. Austin Stevenson, legal counsel, stated they have now the Special Exception to the treehouse, which was approved by the City Commission. It was advertised as a variance request but did not need to re-advertise. It was a special exception was less rights going to the applicant.

Mr. Jose Alfredo Vargas was present.

Vice-Chairperson **moved** to approve the special exceptions #1 and #2. Ms. Sonia Falcon

seconded the motion. The board voted unanimously to approve the special exceptions with five members present and voting.

FUTURE AGENDA ITEMS:

- a) 2308 North 48th Street
- b) 300 Nolana Avenue
- c) 1018 Orange Avenue
- d) 1601 North 7th Street
- e) 1508 Upas Avenue
- f) 2612 Uvalde Avenue
- g) 2616 Uvalde Avenue

ADJOURNMENT

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

Chairperson
David Salinas

Carmen White, Secretary

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: August 10, 2020

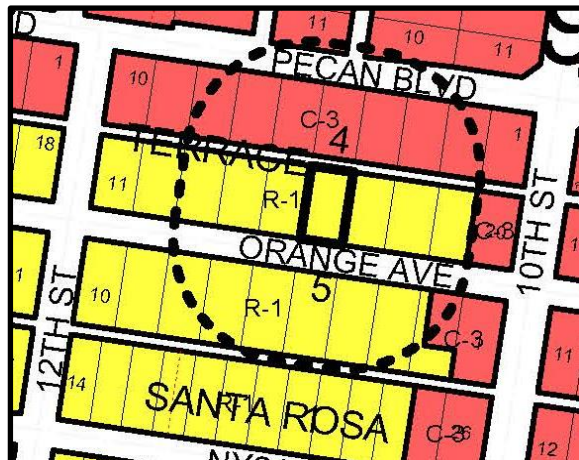
SUBJECT: REQUEST OF ADRIAN MELENDEZ FOR THE FOLLOWING VARIANCE TO THE CITY MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 8.5 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING FRAME GARAGE MEASURING 20.3 FT. BY 20.3 FT. AT LOT 16, BLOCK 4, ORANGE TERRACE SUBDIVISION NO. 3, HIDALGO COUNTY, TEXAS; 1018 ORANGE AVENUE. (ZBA2020-0038)

REASON FOR APPEAL:

The applicant is requesting a variance to encroach 8.5 ft. into the 10 ft. rear yard setback for an existing garage measuring 20.3 ft. by 20.3 ft., in order to undertake improvements to existing structure and to allow the structure to remain with the encroachments.

PROPERTY LOCATION AND VICINITY:

The subject property is located on the north side of Orange Avenue between North 12th Street and North 10th Street. The tract has 67 ft. of frontage along Orange Avenue with lot size of 7,906 square feet. Surrounding land uses to the west, east, and south are single-family residential, and commercial uses to the north.



BACKGROUND AND HISTORY:

Orange Terrace Subdivision No. 3 Blocks 4 & 5 was recorded on June 30, 1945. The residential home and garage were built around 1976 according to the Hidalgo County Appraisal records. An application for a building permit for remodeling has not been submitted. An application for a variance was submitted on July 13, 2020. The variance request is to allow 8.5 ft. encroachment into the 10 ft. rear yard setback.

ANALYSIS:

Variance request is to allow an encroachment of 8.5 ft. into the 10ft. rear yard setback. According to the applicant in order to achieve compliance with the required setback, the garage would have to be relocated and reconstructed outside of the required setback and would be costly. There is an alley to the north of the property that serves as a buffer, so no building will ever be built adjacent to the garage.

The neighbor to the east at 1016 Orange Avenue has a carport at 5 ft. from rear property line, which was approved by the Zoning Board of Adjustment at the meetings of April 18, 2018.

In the past the Zoning Board of Adjustments has approved variance request for accessory uses, but not for living areas.

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

RECOMMENDATION:

Staff recommends approval of the variance request.

7B0A
8/19/2020

ZBA 2020-0038



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Lot 16, Blk 4
Orange Terrace No. 3, Hidalgo County, TX
Subdivision Name Orange Terrace
Street Address 1018 Orange Ave, McAllen, TX. 78501
Number of lots 1 Gross acres 1.1815
Existing Zoning HS R-1 Existing Land Use HS Residential
Reason for Appeal (please use other side if necessary) Repairing Existing backyard
Shed. See back
☒ \$300.00 non-refundable filing fee + ☐ \$50.00 Recording Fee for Special Exception (carport)
☐ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

Applicant

Name Adrian Melendez Phone 956-605-4142
Address 1018 Orange Ave E-mail amelendez956@gmail.com
City McAllen, TX State TX Zip 78501

Owner

Name Adrian Melendez & Diana Phone 956-605-4142
Address 1018 Orange Ave E-mail amelendez956@gmail.com
City McAllen State TX Zip 78501

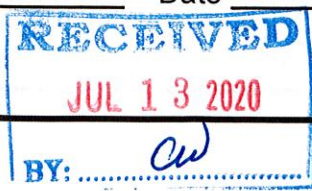
Authorization

To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?
☐ Yes ☐ No
I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable)
OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.
Signature [Signature] Date 7/3/20
Print Name Adrian Melendez ☒ Owner ☐ Authorized Agent

Office

Accepted by _____ Payment received by _____ Date _____

Rev 10/18



pd. by E.C.



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

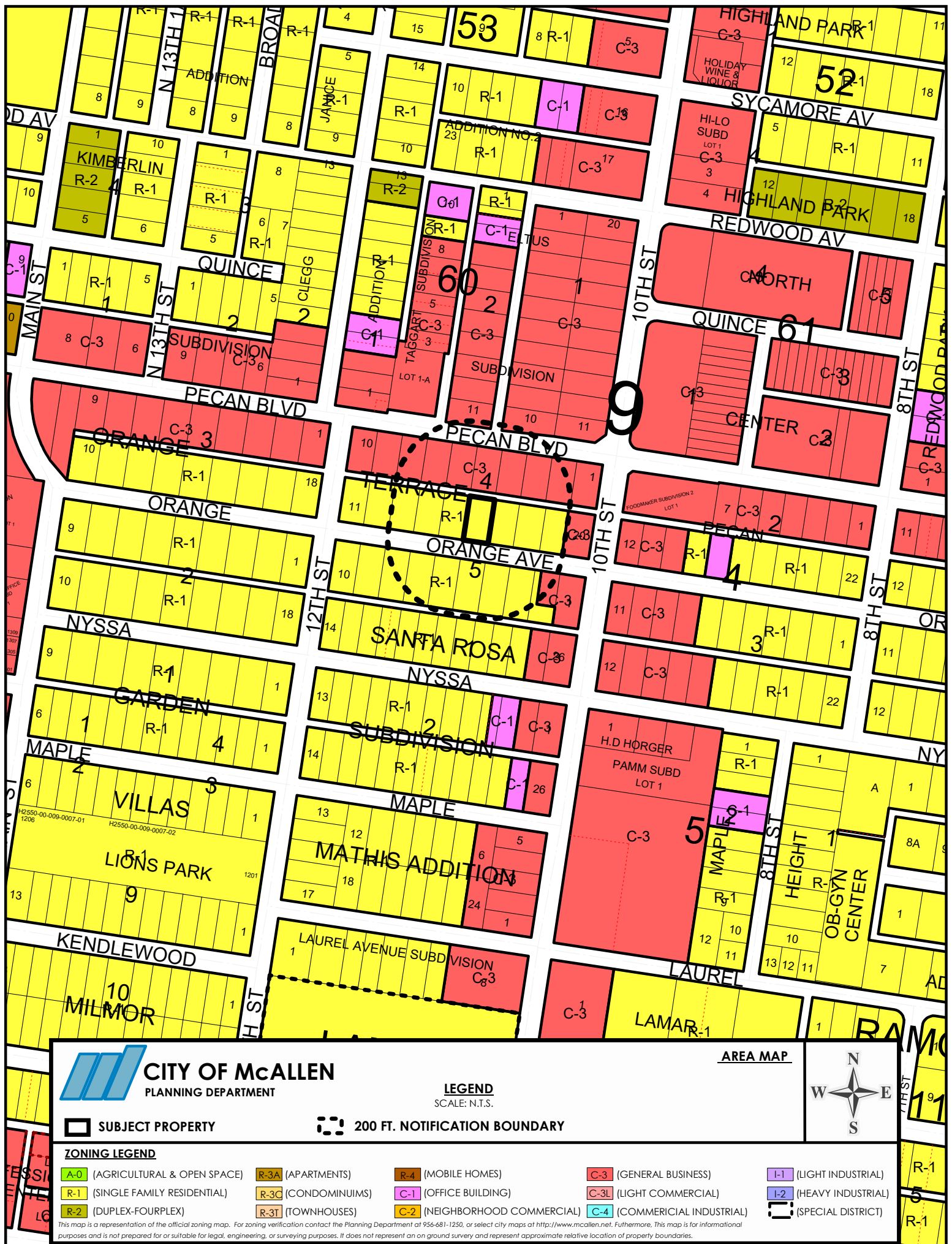
Reason for Appeal

My wife and I purchased this house about six years ago and have slowly repaired the existing structure to bring not only value to our house but also to our neighborhood. Our wishes are to be able to repair the existing shed where it lies. This will minimize the cost of the repairs. If this appeal is declined, the cost of the demolition and to erect a new shed would be four times the initial cost. Please consider the approval of our appeal. Thank you.

Board Action

Chairman, Board of Adjustment
Signature

Date





ART SALINAS

ENGINEERING & SURVEYING

1524 DOVE AVENUE,

McALLEN, TEXAS 78504

PH: (956) 618-5585

FAX: (956) 618-5540

LOT 6**LOT 5****LOT 4**

EOP

EOP

17' ALLEY ROW
(VOL. 8, PG. 7, H.C.M.R.)

(ASPHALT PVMT.)

EAST**67.0'**

EOP

EOP

10' REAR
SETBACK

WOODEN FENCE

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WATER METER

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WOODEN FENCE

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7' SIDE SETBACK

LOT 17**LOT 15**

5' SIDE SETBACK

CHAIN LINK FENCE

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WATER METER

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WOODEN FENCE

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WOODEN FENCE

7' SIDE SETBACK

LOT 17**LOT 15**

5' SIDE SETBACK

CHAIN LINK FENCE

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WATER METER

GAS METER

WOODEN FENCE

WOODEN FENCE

118.0'

WOODEN FENCE

7' SIDE SETBACK

LOT 17**LOT 15**

5' SIDE SETBACK

CHAIN LINK FENCE

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NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0038

1018

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: August 14, 2020

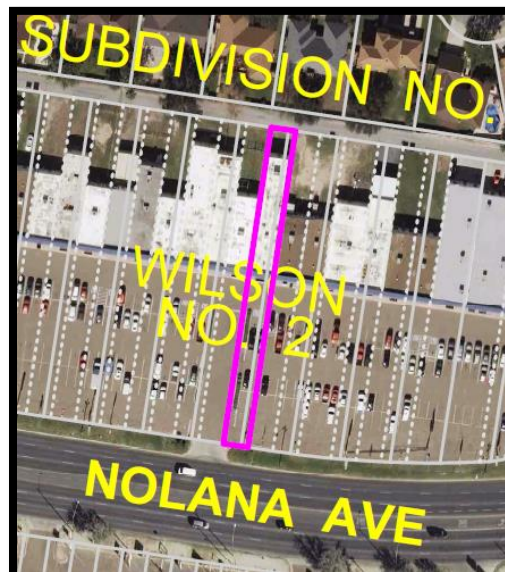
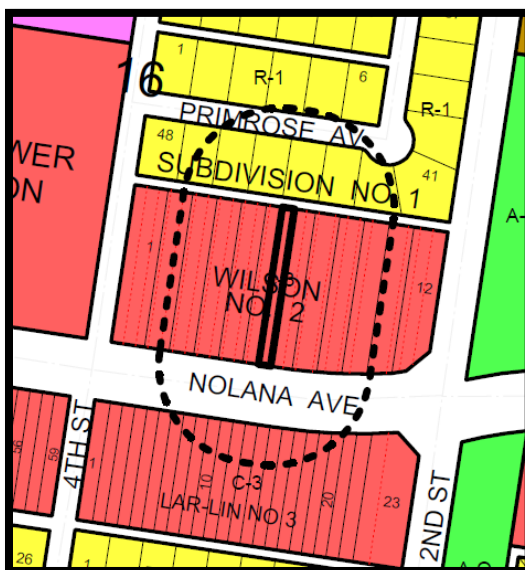
SUBJECT: REQUEST OF HECTOR LEAL FOR THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 16 FT. INTO THE 25 FT. REAR YARD SETBACK FOR A PROPOSED CARPORT MEASURING 16 FT. BY 24 FT. AT EAST 18' OF LOT 6 AND W 7' OF LOT 7, WILSON SUBDIVISION NO.2, HIDALGO COUNTY, TEXAS; 300 NOLANA AVENUE. (ZBA2020-0037)

REASON FOR APPEAL:

The applicant is requesting to allow an encroachment of 16 ft. into the 25 ft. rear yard setback for a proposed carport measuring 16 ft. by 24 ft. The business owners would like to use the carport to protect themselves and their vehicle from harsh weather conditions.

PROPERTY LOCATION AND VICINITY:

The property is located on the north side of Nolana Ave., approximately 300 ft. east of 4th Street. The lot has 25 ft. of frontage along Nolana Avenue and 320 ft. of depth for a lot size of 8,000 sq. ft. The property is zoned C-3 (general business) district. The adjacent zoning is R-1 (single family residential) district to the north, A-0 (agricultural & open space) district to the east, C-3 (general business) district to the south and west. The surrounding land uses include single-family residences, open space, and commercial businesses.



BACKGROUND AND HISTORY:

Wilson No. 2 was recorded on April 23, 1977. According to the Hidalgo County Appraisal district the commercial building was built in 1978. A right of way permit was issued on September 6, 2016, to build a 20 ft. by 25 ft. slab which is used as parking.

ANALYSIS:

The subdivision plat does not indicate any utility easements along the rear side of the property.

The request is for a special exception for a carport to be built over the existing concrete slab that is used as parking. The rear setback for the subject property is 25 ft. The submitted site plan shows the proposed carport to be encroaching 16 ft. into the 25 ft. rear setback. The existing business is called Fully Promoted and is an embroidery and print shop. The business does not have a need for a loading areas at the rear of the property, which would need a 25 ft. clearance. The standard rear yard setback in a C3 (general business) is 5 ft.

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

RECOMMENDATION:

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

ZBA
8/19/2020

ZBA 2020-0037



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 Wilson No. 2 E 18' Lot 6 & W 7' Lot 7

Subdivision Name Wilson No. 2

Street Address 300 W. NOLANA AVE

Number of lots 6 & 7 Gross acres 0.1837

Existing Zoning C3 Existing Land Use Commercial

Reason for Appeal (please use other side if necessary) ONE OF OUR MOST VALUABLE INVESTMENTS AFTER A HOME IS OUR VEHICLE. (OTHER SIDE)

☒ \$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 Hector Leal Phone 956-457-1219

Address 100 W MOORE RD. #10 E-mail hector.leal@fullypromoted.com

City Pharr State TX Zip 78577

Owner

Name Hector Leal Phone 956-457-1219

Address 100 W. MOORE RD. #10 E-mail hector.leal@fullypromoted.com

City Pharr State TX Zip 78577

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 Hector Leal

Date 7-13-2020

Print Name Hector Leal

☒ Owner ☐ Authorized Agent

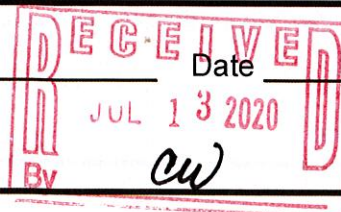
Office

Accepted by [Signature]

Payment received by [Signature]

Date 7-13-2020

Rev 10/18



Rct# 725380



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

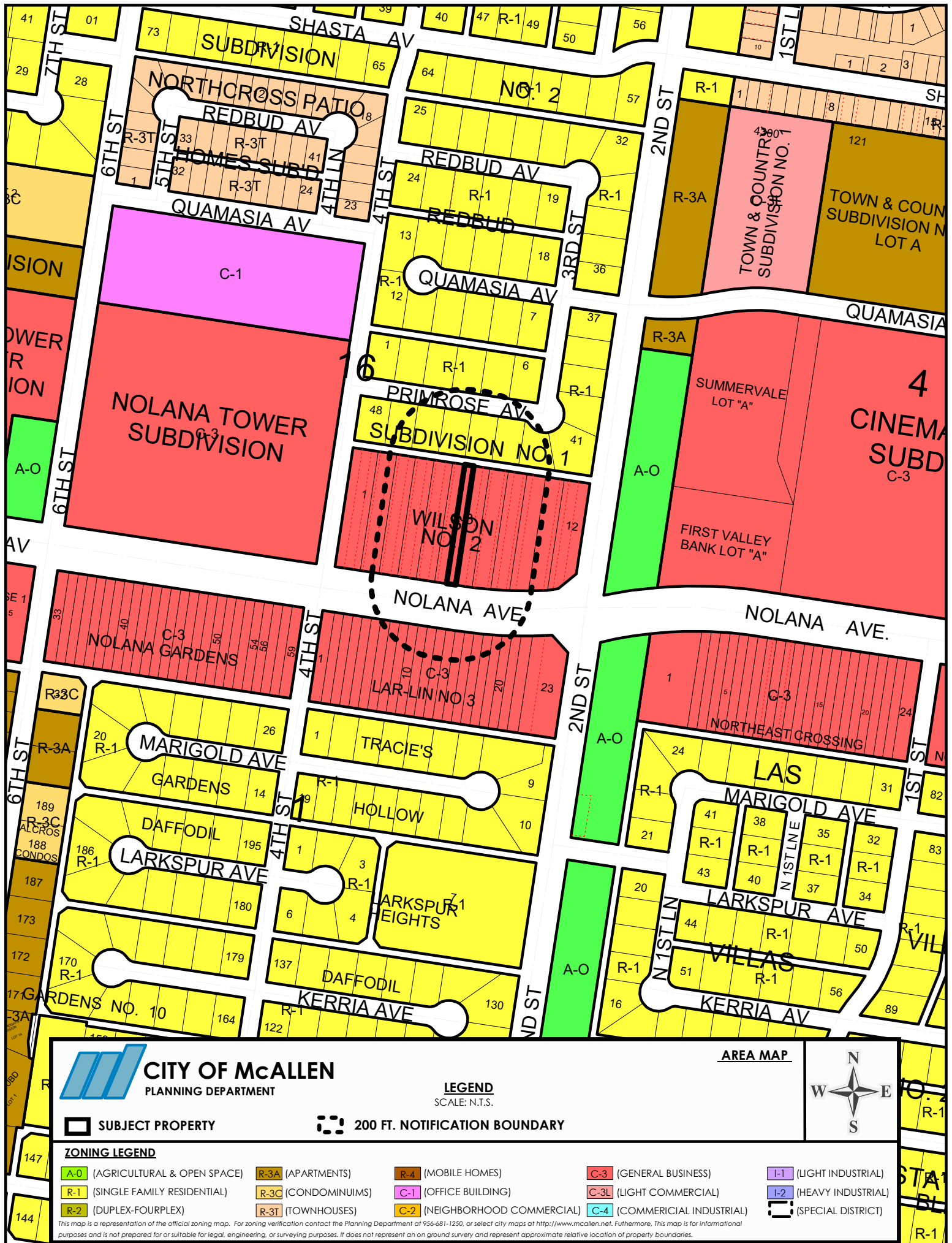
Reason for Appeal

As I am sure you would agree, the weather in the Rio Grande Valley is scorching hot with most summer days above 100°F. The facility runs north to south not providing any shade to the vehicles at any point in the day, with such temperatures it is not only damaging to the vehicles but making difficult and sometimes painful to get inside. We are requesting for a carport to be allowed to be built to protect the health of both our investment and our own physical health.

Board Action

Chairman, Board of Adjustment
Signature _____

Date _____



16

PRIMROSE AV
SUBDIVISION NO. 1

WILSON
NO. 2

NOLANA AVE

4TH ST

LAR-LIN NO 3

TRACIE'S

2ND ST



CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.



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



Engineering Department

Right-of-Way Permit Application / Solicitud Para Permiso de Construcción en Vía Publica

Applicant's Name: ALFREDO AREVALO Phone No: (956) 792-7847
Nombre Completo del Solicitante Teléfono

Address: 300 W. MOLANA
Domicilio (Calle / Numero)

Site Information / Información del Predio

Owner's Name / Nombre del Propietario:

Hector Leal

Address / Dirección:

300 MOLANA AVE

Lot No. / No. del Lote:

6

Block No. / No. de Cuadra:

Subdivision / Nombre del Fraccionamiento:

WILSON #2

Phone / Teléfono:

Email / Correo Electrónico:

Contractor Information / Datos del Constructor

Name / Nombre Completo:

ALFREDO AREVALO Constructor

Phone / Teléfono:

(956) 792-7847

Address / Domicilio:

P.O. Box 514

Description of Work / Descripción de su Solicitud: ☐ Driveway / Entrada de Cochera ☐ Sidewalk / Banqueta ☒ Other / Otro

CONCRETE SLAB

Please attach a dimensioned site plan indicating the existing and proposed improvements.
Favor incluir un plano que incluya el estado actual y las propuestas de la obra.

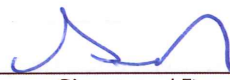
PERMIT CONDITIONS / CONDICIONES PARA EL PERMISO

- 1] **A new permit must be obtained if work is not completed within 12 months from date of permit. The permit does not grant any permanent right, claim, title, or easement in or upon the right-of-way. The City of McAllen may require the owner to relocate and/or remove lines, facilities, structures installed subject to provisions of governing laws.**
Se deberá renovar el permiso si la obra no se termina dentro de 12 meses de la fecha de emisión del permiso. El permiso no otorga ningún derecho permanente, demanda, título, o derecho de paso sobre o dentro del derecho de vía. Si es necesario la Ciudad de McAllen se reserva el derecho de pedir al propietario la reubicación de tuberías, instalaciones y/o estructuras según lo marca la ley.
- 2] **The City of McAllen is not responsible for any damages or accidents caused by contractor while performing authorized work in the right-of-way.** La Ciudad de McAllen no se hace responsable de ningún accidente causados por el constructor durante la construcción de la obra en la vía pública.
- 3] **PRE-POUR and FINAL inspections must be requested 24 hrs. in advance by calling (956) 681-1328.**
Please note there is an assessed fee for re-inspections, which must be paid at the Building Inspections Department prior to re-inspection.
Las inspecciones PREVIA A LOS COLADOS DE CONCRETO y FINALES deberán solicitarse con 24 hrs. de anticipación al (956) 681-1328. Habrá un cargo por cada re-inspección, el cual deberá pagarse previamente en el Departamento de Inspecciones.
- 4] **All site improvements of driveway, sidewalk, handicap ramps, utilities, alley paving, street paving, grading, and on-site detention, must conform to City of McAllen Engineering Department Standard Design Guide for Subdivision Improvements & Capital Improvements Projects, latest edition, and applicable City of McAllen Code Chapters 94, 110, 188, 134, and 138. The Standard Design Guide is available at www.mcallen.net**
Todas las construcciones como, entrada de cochera, banqueta, rampas para minusválidos, servicios públicos, pavimentación en calles o callejones, re-nivelación, o almacén de excedentes de escurrimiento de agua pluvial, deberán adherirse a la edición mas reciente de La Guía Para Diseño de Fraccionamientos y Proyectos Municipales del Departamento de Ingeniería de la Ciudad de McAllen bajo las clausulas 94, 110, 188, 134, y 138. La Guía Para Diseño esta disponible en www.mcallen.net
- 5] **All proposed site improvements require approval from the City of McAllen Engineering Department prior to construction.**
Todas las construcciones deberán ser previamente aprobadas por el Departamento de Ingeniería de la Ciudad de McAllen.
- 6] **All driveway, sidewalk and handicap ramps must meet Texas Accessibility Standards.** Todas las entradas de cochera, banquetas y rampas para minusválidos deberán adherirse a los Estándares de Accesibilidad del Estado de Texas (Texas Accessibility Standards).
- 8] **Contractor shall be responsible for maintaining traffic flow and construction area safety in accordance with the Texas Manual on Uniform Traffic Control Devices, latest edition.** El constructor es responsable por la seguridad de la vialidad y construcción según lo establece el Manual de Dispositivos de Control de Vialidad y Transito del Estado de Texas.
- 9] **All pavement and curb cuts must be saw cut.** Los cortes en el pavimento y cordón deberán ser hechos con sierra.
- 10] **Property boundaries must be marked appropriately; all existing utilities must be located and marked prior to site construction.**
Antes de la construcción, se deberá marcar las líneas de la propiedad y todas las líneas subterráneas de servicio publico existentes.
- 11] **Landscaping shall not cause any sight obstructions in accordance with Ordinance 94-56, 57, and 58.** La jardinería no deberá obstruir la visibilidad en las intersecciones según la Ordenanza 94-56, 57, y 58.
- 12] **No trees shall be installed between sidewalks and curb; trees shall be permitted outside this area.** No se permite plantar arboles entre la banqueta y el cordón de la calle. Los arboles se permiten fuera de esta área.
- 13] **Drip irrigation is the only accepted method for watering landscaping within the ROW: all irrigation systems shall be installed by a licensed irrigator.** El sistema de riego por goteo es el único método que se permite en las áreas verdes dentro de la vía publica y deberá ser instalado por una persona con licencia de riego.
- 14] **Stormwater management erosion control measures that comply with city, state, and federal guidelines must be provided.**
Deberá entregar un plano de control de sedimento para la prevención de contaminación de aguas pluviales que se adhiera a los requerimientos federales, estatales y municipales.
- 15] **All right-of-way residential and commercial work must be completed prior to issuance of a final. The City of McAllen Engineering Department reserves the right to change this policy.**
La obra deberá ser terminada por completo antes de la aprobación final. La Ciudad de McAllen se reserva el derecho de hacer cambios a esta póliza.

I have reviewed the conditions noted above. / He leído y entendido las condiciones para el permiso:

ALFRED ARRIAS

Print Name / Nombre Completo



Signature / Firma

9/1/2016

Date / Fecha

MAP

~~E 120' NOLANA AVE.~~

300
NOLANA

E. LINE N. 42° S.

300.0'

Rod 25.0'

180.0'

320.0'

320.0'

25.0'

WALK

PORCH

BLOCK

BLDG.

2875 sq. ft.

115.0'

10' WALK

MIN. BLDG. SET-BACK LINE

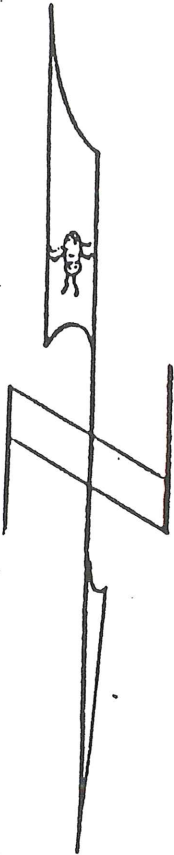
25.0'

Rod 25.0'

20' ALLEY

9' x 5' 20' 10'

6328



Wilson #2

Cut 6 { 4 7' 0 + 6 7'

25
20
500

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20
400

25

City of McAllen

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

RIGHT OF WAY PERMIT

PERMIT NO. ROW2016-05428

DATE ISSUED 09/06/2016

GENERAL
CONTRACTOR

PHONE

OWNER

PHONE

LOT 0006

BLOCK 000

SUBDIVISION WILSON #2 - SML

SITE ADDRESS 300 NOLANA Ave

ZONING F1

L.U. CODE Engineering/ROW

GENERAL USE Commercial

PERMIT TYPE General

The foregoing is a true and correct description of the improvements proposed by the undersigned applicant, and the applicant states that he will have full authority over construction of same.

The 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 or State law or be a waiver by the City of such violation. Alterations, changes, or deviations from the plans authorized by the permit is unlawful without written authorization from the Building Inspection Department.

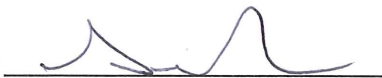
The applicant hereby agrees to comply with all City ordinances, codes, subdivision restrictions and State laws and assume all responsibility for such compliance.

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.

Authorized Agent/Owner



Date

9/9/2016

City of McAllen

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

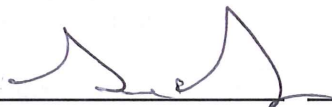
PERMIT CONDITIONS

#	CONDITION DESCRIPTION
18	<p>PERMIT NOTE APPROVAL:</p> <p>**A set of plans and a copy of the Construction Permit and Conditions must be in the Construction Site at the time of inspection.</p> <p>Please call (956) 681-1328 to schedule an engineering inspection for formed sidewalk, driveways or improvements within the right of way. There are two inspections:</p> <ol style="list-style-type: none">1. Engineering Pre-pour (before concrete is poured and forms are ready to inspect)2. Engineering Final (after concrete is poured; entire site must be free of construction debris for approval.) <p>NO CONSTRUCTION DEBRIS ON CITY ROADS, GUTTERS OR CITY ROW. NO CONSTRUCTION DEBRIS ON CITY ROADS, GUTTERS OR CITY ROW.</p>

By signing and dating this form, I acknowledge that I have carefully read and fully understand the foregoing conditions of this Permit.

ALFREDO AREVALO

NAME (PRINT)



SIGNATURE

9/9/2016

DATE

☐ OWNER

☐ APPLICANT

☐ CONTRACTOR

City of McAllen

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

PERMIT CONDITIONS

PERMIT NO: **ROW2016-05428**

PERMIT TYPE: **ROW / ROW**

ADDRESS: **300 NOLANA Ave**

LOT: **0006**

BLOCK: **000**

SUBDIVISION: **WILSON #2 - SML**

#	CONDITION DESCRIPTION
Engineering Inspection Permit Conditions	
1	At least 24 hours prior to any construction within the right-of-way, notice MUST be given to the City of McAllen Engineering Department at (956) 681-1150.
2	If work is not started within 60 days or completed within 90 DAYS from date of permit, a new permit must be obtained. This permit does not grant any permanent right, claim, title, or easement in or upon the right-of-way. The City of McAllen may require the owner to relocate and/or remove lines, facilities, structures installed subject to provisions of governing laws.
3	The City of McAllen is not responsible for any damages or accidents caused by contractor while performing authorized work in the Right-of-Way.
4	To schedule rough-in inspections and final R.O.W. inspections, contact City of McAllen Engineering Department at (956) 681-1150.
5	Owner or authorized representative must be present at all rough-in inspections or a re-inspection will be required.
6	All site improvements of driveway, sidewalk, handicap ramps, utilities, alley paving, street paving, grading, and on-site detention, must conform to City of McAllen Engineering Department Standard Design Guide for Subdivision Improvements & Capital Improvement Projects, latest edition, and applicable City of McAllen Code Chapters 94, 110, 188, 134, and 138.
7	All proposed site improvements require approval from the City of McAllen Engineering Department prior to construction.
8	All driveway, sidewalk and handicap ramps must meet Texas Accessibility Standards.
9	Ramps are not to be located on curves.
10	Contractor will be responsible for maintaining traffic flow and construction area safety in accordance with Texas Manual on Uniform Traffic Control Devices, latest edition.
11	All pavement cuts must be saw cut.
12	Property boundaries must be marked appropriately; all existing utilities must be located and marked prior to site construction.
13	Landscaping shall not cause any sight obstructions in accordance with Ordinance 94-56, 57, 58.
14	No trees shall be installed between sidewalks and curb; trees will be permitted outside this area.
15	Drip irrigation is the only accepted method for watering landscaping within the ROW; all irrigation systems shall be installed by a licensed irrigator.
16	Stormwater management erosion control measures that comply with city, state, and federal guidelines must be provided.
17	All right-of-way residential and commercial work must be completed prior to issuance of a final. The City of McAllen Engineering Department reserves the right to change this policy if it is in the best interest of the City.

Memo

TO: Zoning Board of Adjustment & Appeals

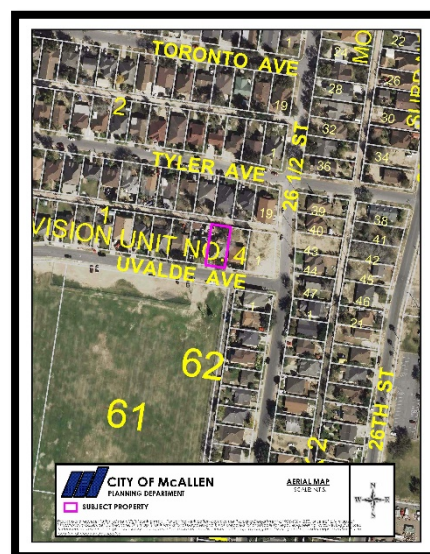
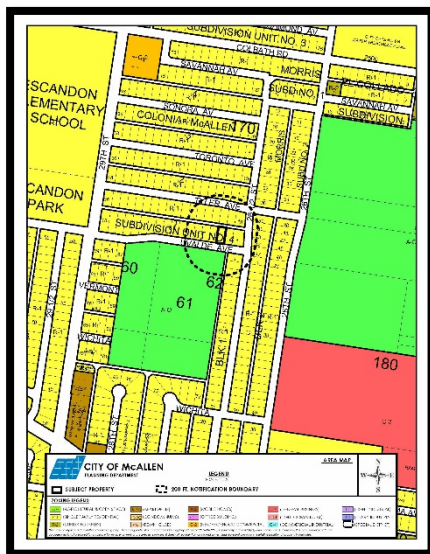
FROM: Planning Staff

DATE: August 14, 2020

SUBJECT: REQUEST OF ROBERT ZAMORA FOR THE FOLLOWING SPECIAL EXCEPTION AND VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE 1) TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE YARD SETBACK ALONG THE WEST PROPERTY LINE FOR AN EXISTING CARPORT WITH AN ENCROACHMENT AREA MEASURING 2.9 FT. BY 25 FT. AND, 2) TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE YARD SETBACK ALONG THE WEST PROPERTY LINE FOR AN EXISTING WOODEN STORAGE BUILDING MEASURING 12.4 FT. BY 19 FT., AT LOT 3, BLOCK 1, COLONIA MCALLEN UNIT NO. 4, HIDALGO COUNTY, TEXAS; 2612 UVALDE AVENUE. (ZBA2020-0041)

REASON FOR APPEAL: The applicant is requesting a special exception for an existing carport area that is encroaching into the front and west side setbacks. The applicant is also requesting a variance request for an existing storage on the rear of the property encroaching into the west side setback of the property.

PROPERTY LOCATION AND VICINITY: The property is located on the north side of Uvalde Avenue, approximately 130 ft. west of South 26th ½ Street, and is zoned R-1 (single-family residential) District. The tract has a frontage along Uvalde Avenue of 50 ft. with a depth of 106 feet. Adjacent zoning is zoned R-1 (single family residential) District to the north, west, and east, and A-O (agricultural open space) District to the south. Surrounding land uses are single family residential and a park.



BACKGROUND AND HISTORY: The property is located in Colonia McAllen Unit. No. 4 Subdivision, which was recorded on June 30, 1975. The plat indicates a 20 ft. front yard setback, a 6 ft. side yard setback, and a 3 ft. rear yard setback. The site plan indicates that an existing carport area in the front and existing porch on the rear and east side has been built encroaching into the setbacks. The encroaching area of the carport is actually part of the existing carport of the neighbor to the west. The neighbor received a citation and stop work order by Code Compliance staff on June 29, 2020 for the existing carport without a permit. The neighbor applied for a building permit on July 1, 2020 and after it was determined that there was an encroachment of the existing carport, the neighbor and applicant applied for a Special Exception and Variance request on July 14, 2020.

ANALYSIS:

Special Exception request #1 is to allow an encroachment of 6 ft. into the 6 ft. side yard setback along the west property line for an existing carport with an encroachment area measuring 2.9 ft. by 25 ft. The standard side yard setback for a lot in R-1 (single family residential) District is 6 ft. The applicant allowed the neighbor to the west to build the 2.9 ft. by 25 ft. area of the existing carport into their property encroaching onto the 6 ft. side setback. The neighbor has applied for a Special Exception for the carport.

Variance request #2 is to allow an encroachment of 6 ft. into the 6 ft. side setback along the west property line for an existing porch measuring 12.4 ft. by 19 ft. The standard side yard setback for a lot in R-1 (single family residential) District is 6 ft. The site plan indicates that the existing porch extends all the way to the west property line. As per the City's ordinance no structures are allowed to be built on any setbacks.

An anonymous neighbor did call in opposition for the special exception.

RECOMMENDATION:

Staff recommends to table the item due to it need needs to be re-noticed.

ZBA
8/19/2020

ZBA 2020-0041



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project

Legal Description Lot 3 Block 1

Subdivision Name Colonia McAllen #4

Street Address 2612 Uvalde

Number of lots 1 Gross acres 0

Existing Zoning yes R1 Existing Land Use Household

Reason for Appeal (please use other side if necessary) Estamos apelando los 2.10P. del lado oeste para un carport.

☒ \$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 Robert Zamora Phone 956 638 7340

Address 2612 Uvalde E-mail _____

City McAllen State TX Zip 78503

Owner

Name Robert Zamora Nirma Zamora Phone 956 638 7340

Address 2612 Uvalde E-mail _____

City McAllen State TX Zip 78503

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.

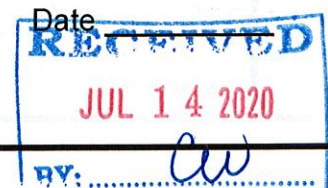
Signature Robert Nirma Zamora Date 7-14-20

Print Name Robert Zamora Nirma Zamora ☒ Owner ☐ Authorized Agent

Office

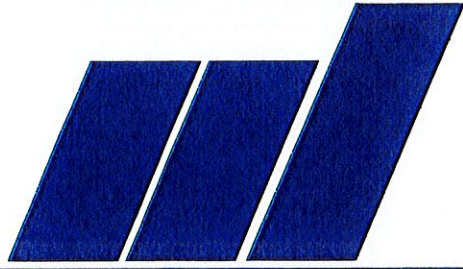
Accepted by LG. Payment received by _____

Rev 10/18



Ref # 725977

Cicela/L.F.



CITY OF MCALLEN

Planning Department

Variance request

LEGAL DESCRIPTION: Lot 3 Block 1

Colonia McAllen #4

PROPERTY ADDRESS: 2612 Uvalde

CASE NUMBER: _____

HOLD HARMLESS AGREEMENT

MUST BE SIGNED BY THE PROPERTY OWNER

TO THE FULLEST EXTENT PERMITTED BY LAW, THE UNDERSIGNED APPLICANT AGREES TO INDEMNIFY, DEFEND AND SAVE HARMLESS THE CITY OF MCALLEN AND ITS COMMISSIONERS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, ACTIONS, LOSSES, DAMAGES, EXPENSES, COSTS, INJURIES AND LIABILITIES OF ANY NATURE (INCLUDING BUT NOT LIMITED TO CLAIMS FOR BODILY INJURY, DEATH, BUSINESS INTERRUPTION AND/OR PROPERTY DAMAGE) RELATING TO, ARISING OUT OF OR RESULTING FROM THE GRANTING AND/OR IMPLEMENTATION OF THE VARIANCE REQUESTED HEREIN.

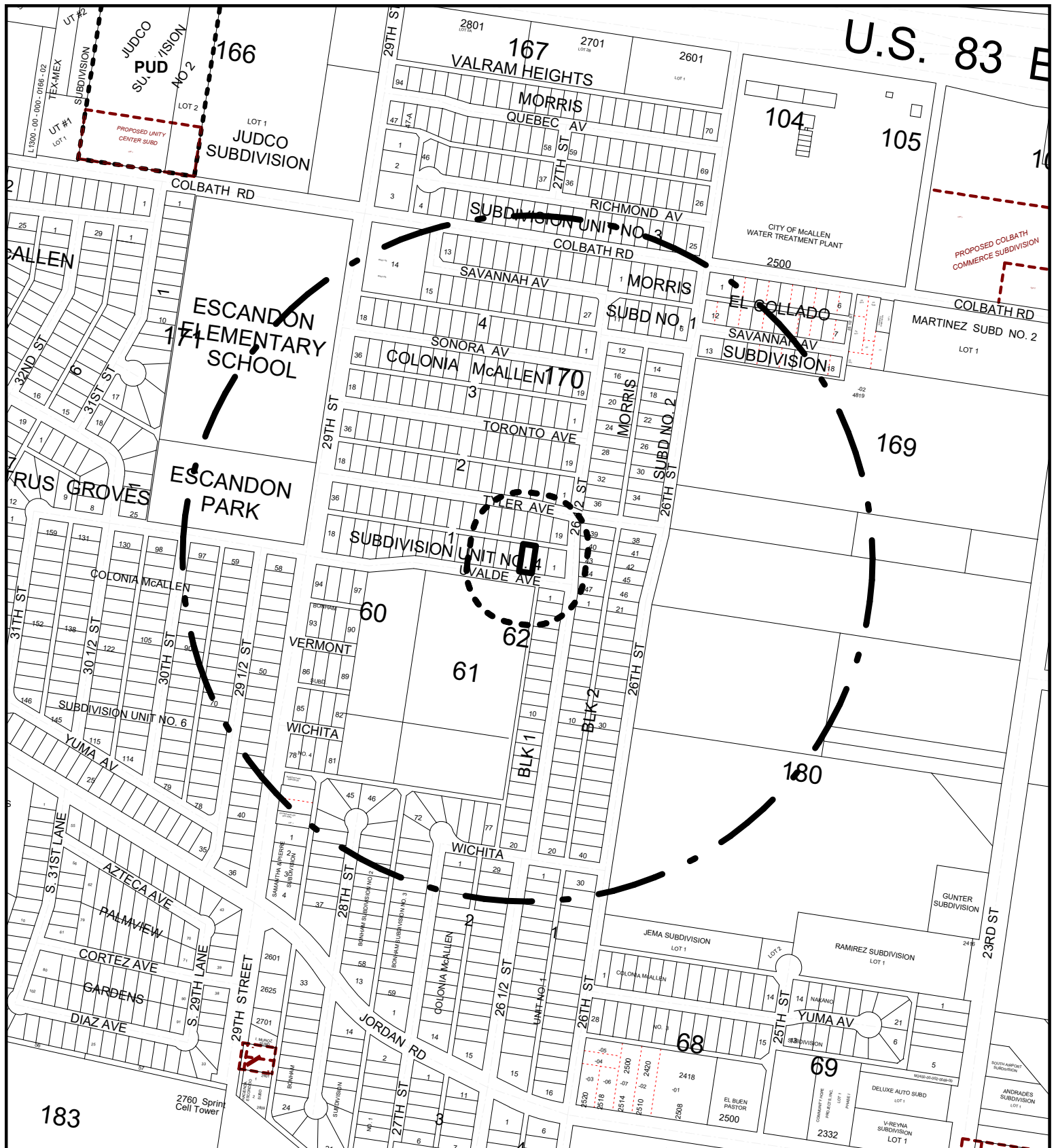
Applicant's Signature [Signature] Niufa Zamora

Print Name Robert Zamora Niufa Zamora

Address 2612 Uvalde McAllen TX

Phone 956 638 7340 e-mail _____





CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

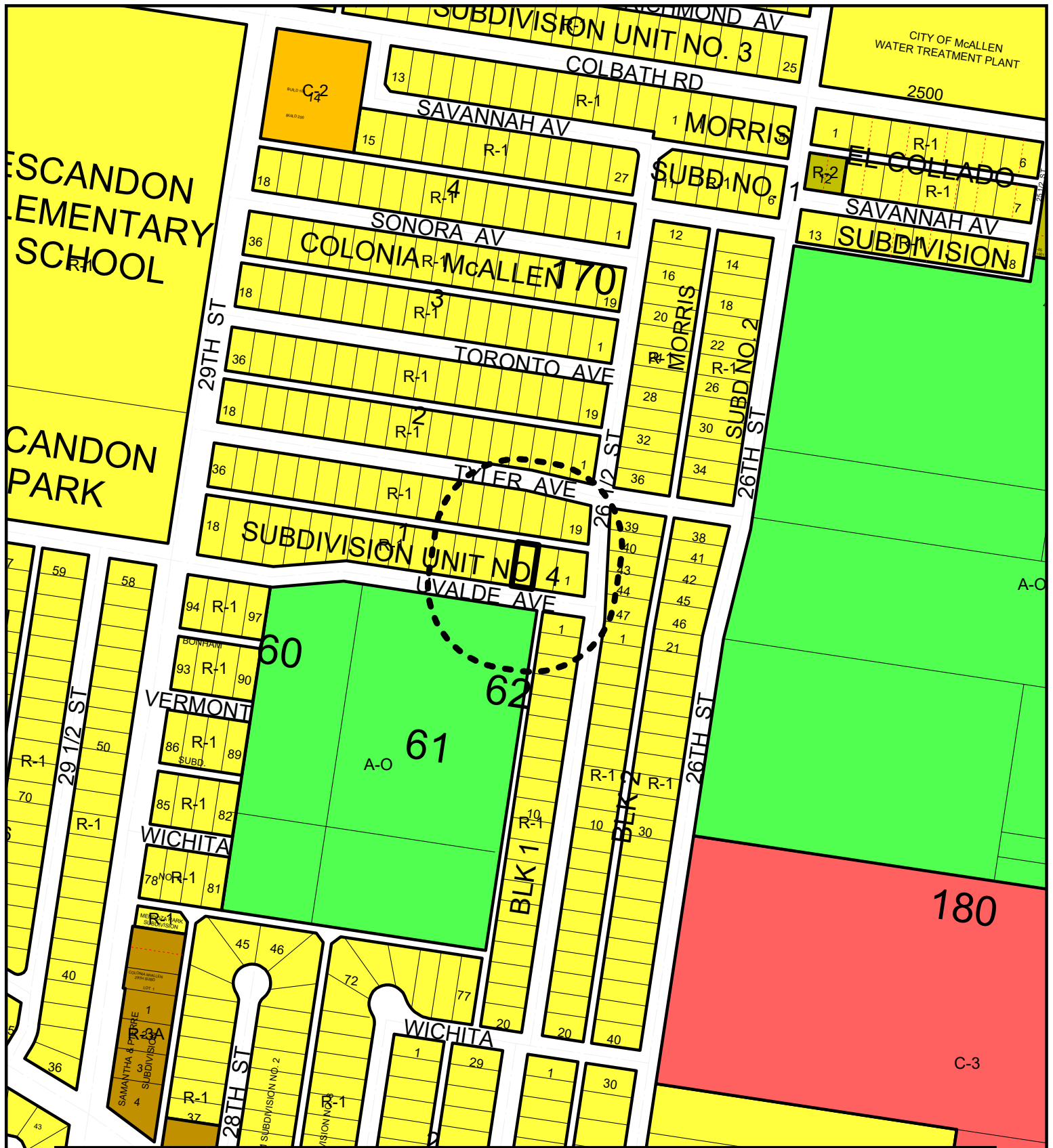
1/4 MILE RADIUS



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

LEGEND
SCALE: N.T.S.

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

AREA MAP



ZONING LEGEND

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

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

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

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

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

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CITY OF McALLEN
PLANNING DEPARTMENT

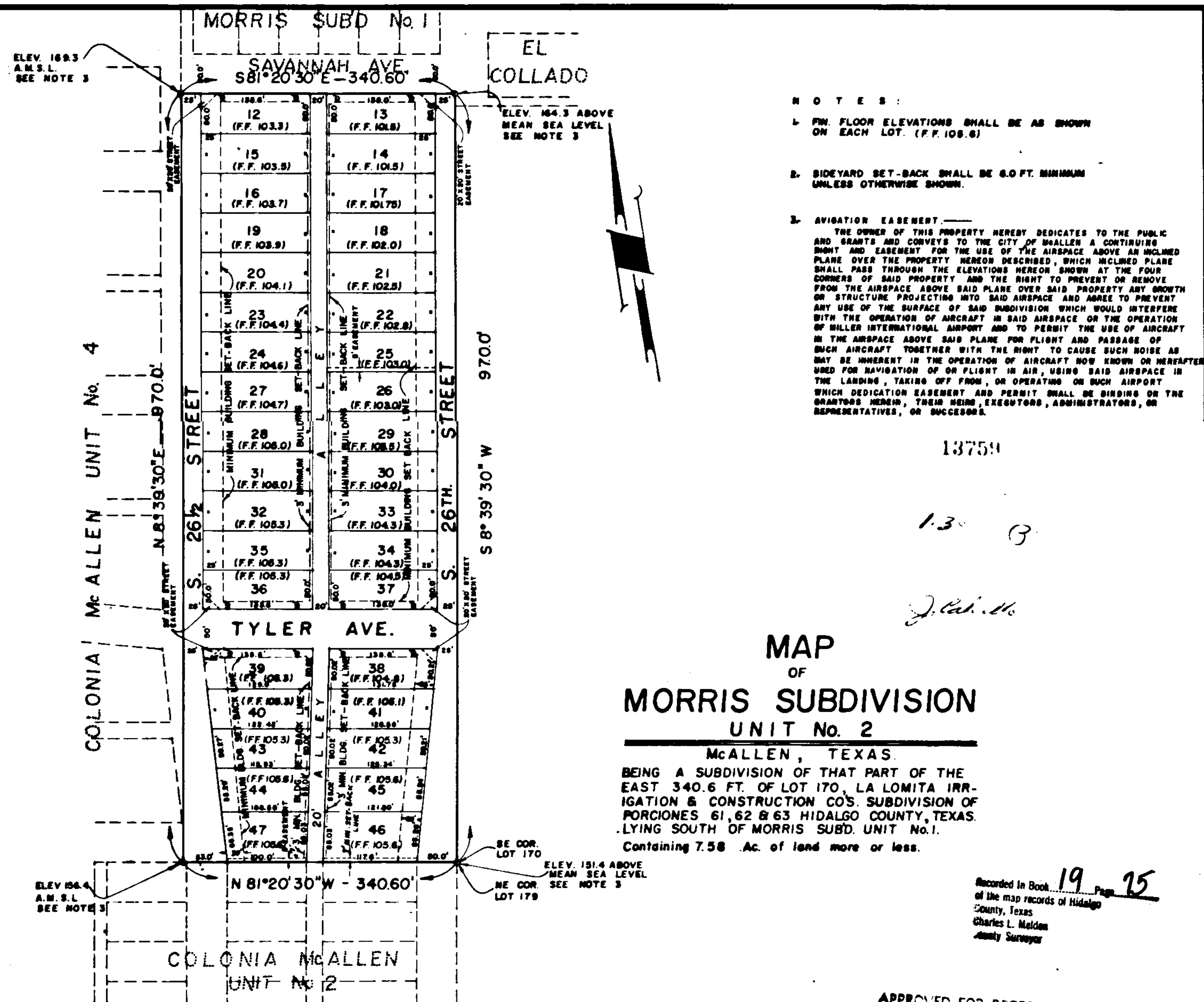


SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.



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STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE "MORRIS SUBDIVISION UNIT No. 2" 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, WATER COURSES, DRAINS, EASEMENTS, AVIGATION EASEMENT AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

STATE OF TEXAS:
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED VAL MORRIS 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 CONSIDERATION THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 11th DAY OF May, 1975.

I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION 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.

STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, A REGISTERED PUBLIC 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 SUPERVISION ON THE GROUND.

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

THIS PLAT APPROVED BY THE HIDALGO COUNTY WATER IMPROVEMENT DISTRICT No. 2 ON THIS 5th DAY OF June, 1975 A.D. 1975

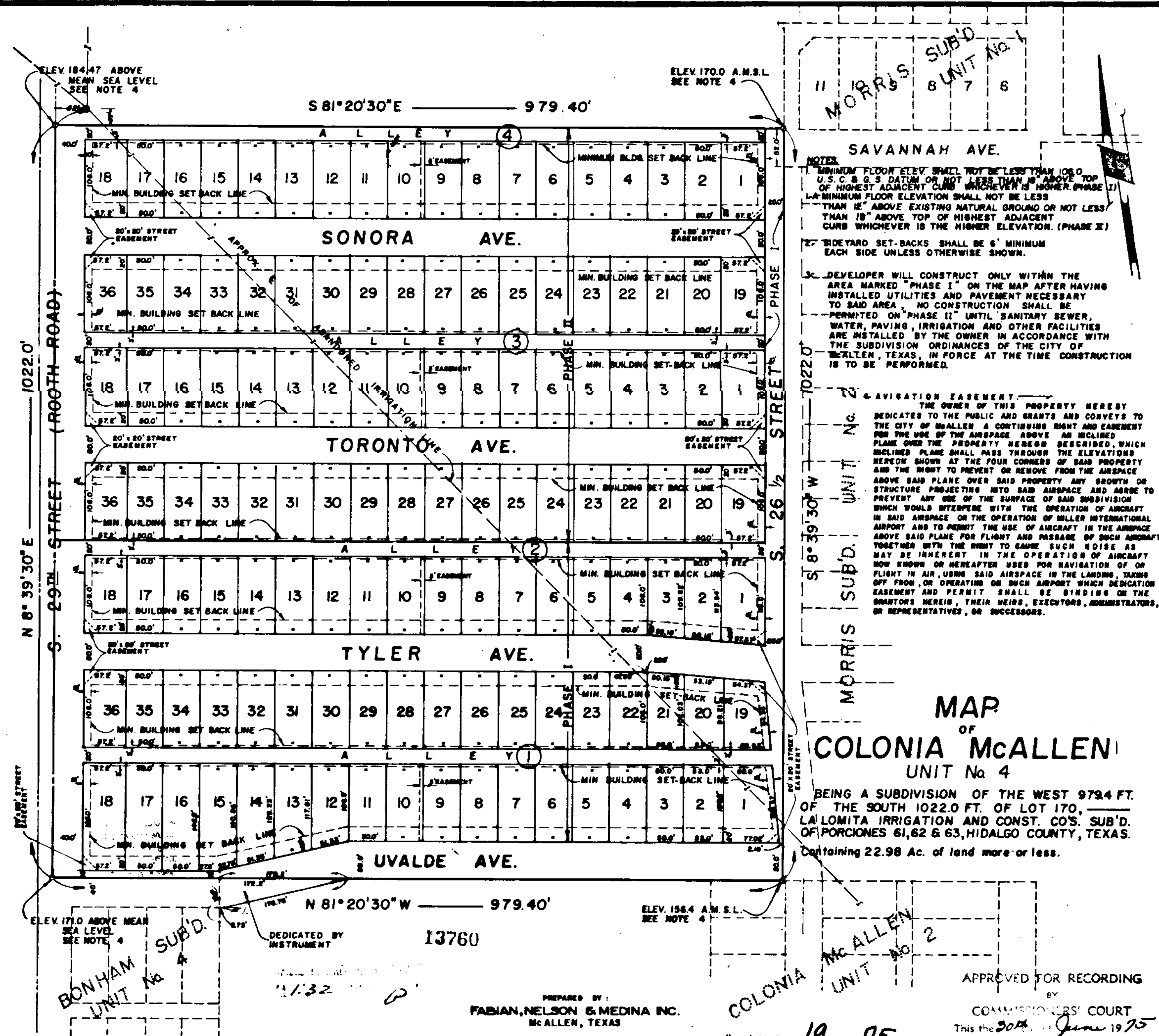
Am W. C. C. Secretary

Mayor, City of McAllen

President

Richard W. C. C.

6.30.75



STATE OF TEXAS:
COUNTY OF HIDALGO:

WE, THE UNDERSIGNED, OWNERS OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE "COLONIA McALLEN UNIT No. 2" SUBDIVISION TO THE CITY OF McALLEN, TEXAS, AND WHOSE NAMES ARE SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, AVIGATION EASEMENT AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

STATE OF TEXAS:
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED THE ABOVE NAMED OWNERS, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 29th DAY OF May, 1975.

I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION 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.

STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, A REGISTERED PUBLIC 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 SUPERVISION ON THE GROUND.

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

THIS PLAT APPROVED BY THE HIDALGO COUNTY WATER IMPROVEMENT DISTRICT No. 2 ON THIS 2nd DAY OF June, 1975 A.D. 1975

Am W. C. C. Secretary

Mayor, City of McAllen

President

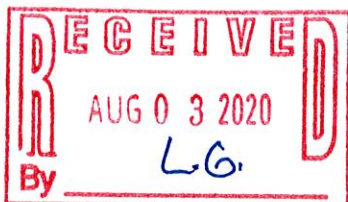
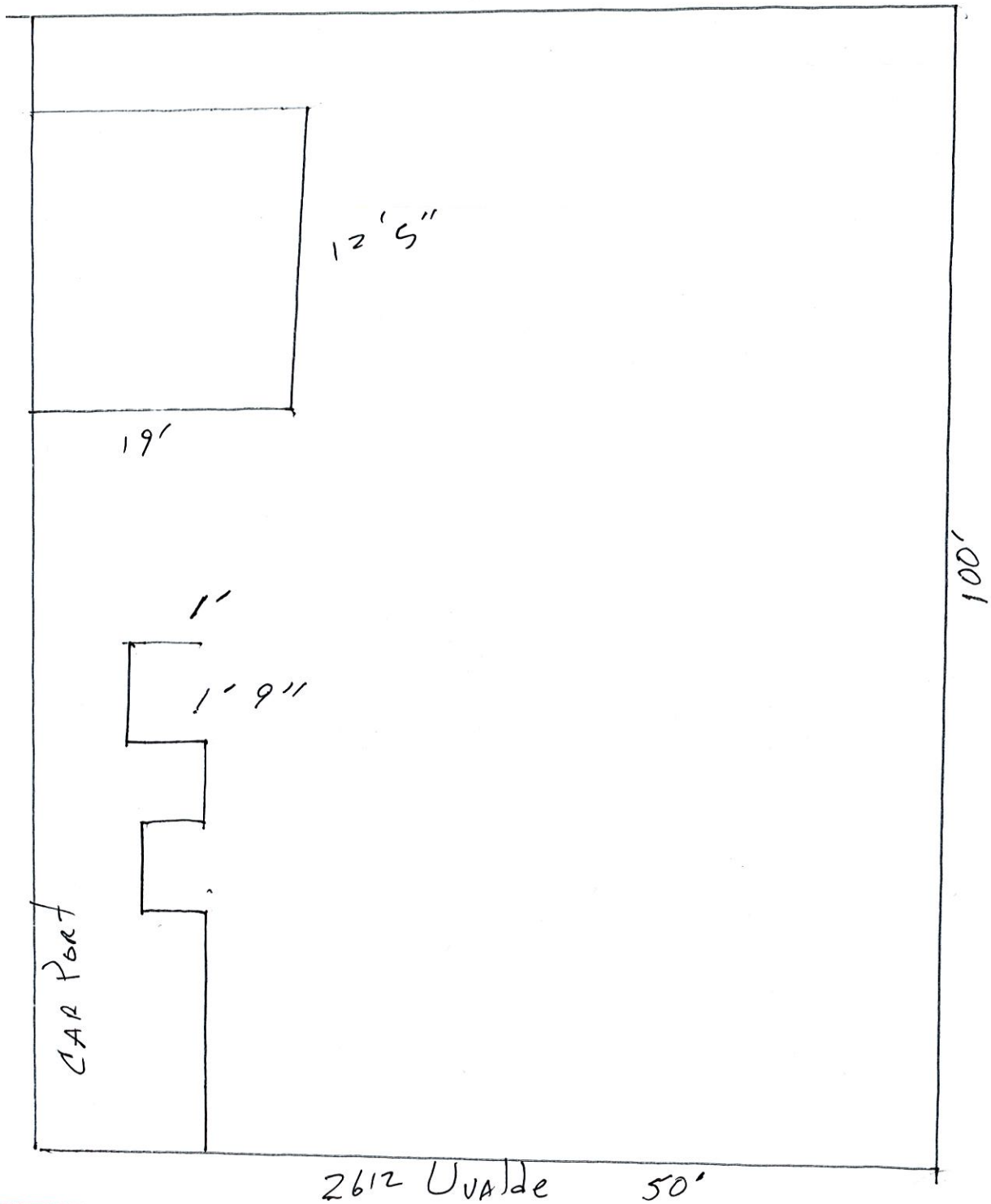
Richard W. C. C.

6.30.75

Robert Zamora

6387340

N

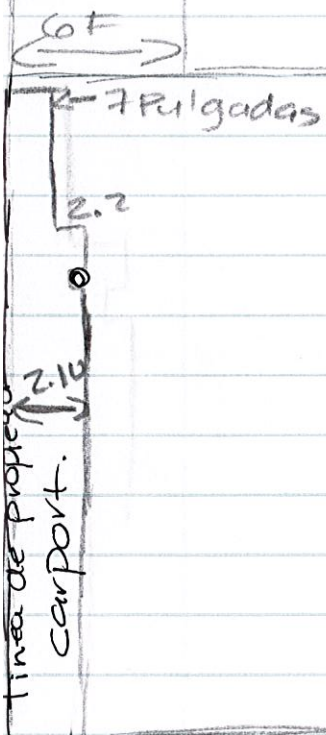


S



NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2020-0041

★2612★



25 F

RECEIVED
JUL 14 2020
CE

60 F

2612 uvalde

Memo

TO: Zoning Board of Adjustment & Appeals

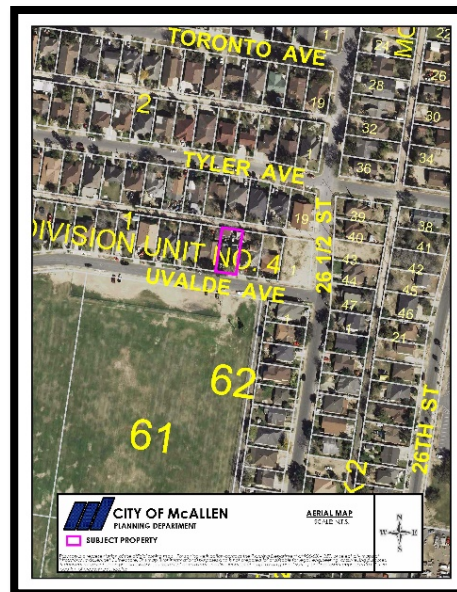
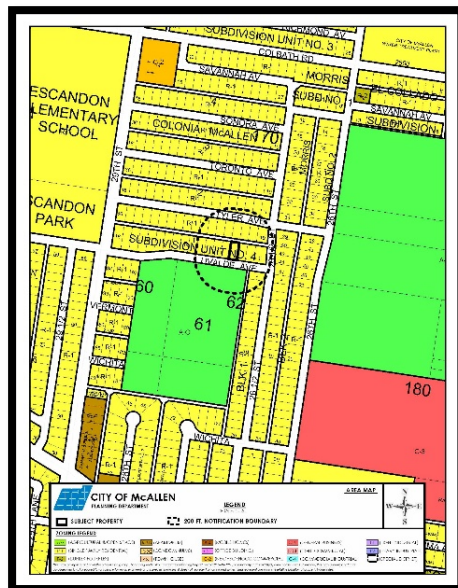
FROM: Planning Staff

DATE: August 12, 2020

SUBJECT: REQUEST OF JUANA L. DE LEON FOR THE FOLLOWING SPECIAL EXCEPTIONS AND VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE 1) TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE YARD SETBACK ALONG THE EAST PROPERTY LINE FOR AN EXISTING CARPORT MEASURING 21 FT. BY 25 FT., 2) TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE YARD SETBACK FOR AN EXISTING PORCH ALONG THE EAST PROPERTY LINE MEASURING 6 FT. BY 58.5 FT., 3) TO ALLOW AN ENCROACHMENT OF 20 FT. INTO THE 20 FT. FRONT YARD SETBACK FOR AN EXISTING WOODEN CARPORT, 4) TO ALLOW AN ENCROACHMENT OF .58 FT. INTO THE 3 FT. REAR YARD SETBACK FOR AN EXISTING STORAGE ROOM MEASURING 16.4 FT. BY 13 FT., 5) TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE YARD SETBACK ALONG THE EAST PROPERTY LINE FOR AN EXISTING STORAGE ROOM MEASURING 16.4 FT. BY 13 FT., 6) TO ALLOW AN ENCROACHMENT OF 3 FT. INTO THE 3 FT. REAR YARD SETBACK FOR AN EXISTING WOODEN PORCH MEASURING 16.66 FT. BY 20.33 FT., AND 7) TO ALLOW AN ENCROACHMENT OF 6 FT. INTO THE 6 FT. SIDE YARD SETBACK ALONG THE WEST PROPERTY LINE FOR AN EXISTING WOODEN PORCH MEASURING 16.66 FT. BY 20.33 FT. AT LOT 4, BLOCK 1, COLONIA MCALLEN UNIT NO. 4, HIDALGO COUNTY, TEXAS; 2616 UVALDE AVENUE. (ZBA2020-0042)

REASON FOR APPEAL: The applicant is requesting a special exception for an existing carport that is encroaching into the front and east side yard setbacks. The applicant is also requesting a variance request for an existing porch on the rear of the property, an existing storage room on the rear, and an existing porch attached to the east side of the house that are encroaching into the setbacks of the property.

PROPERTY LOCATION AND VICINITY: The property is located on the north side of Uvalde Avenue, approximately 180 ft. west of South 26th ½ Street, and is zoned R-1 (single-family residential) District. The tract has a frontage along Uvalde Avenue of 50 ft. with a depth of 106 feet. Adjacent zoning is zoned is R-1 (single family residential) District to the north, west, and east, and A-O (agricultural open space) District to the south. Surrounding land uses are single family residential and a park.



BACKGROUND AND HISTORY: The property is located in Colonia McAllen Unit. No. 4 Subdivision, which was recorded on June 30, 1975. The plat indicates a 20 ft. front yard setback, a 6 ft. side yard setback, and a 3 ft. rear yard setback. In 2011, the applicant applied for a variance request to allow an encroachment of 3.5 ft. by 16 ft. into the side yard setback and the request was approved at the Zoning Board of Adjustment and Appeal meeting of June 15, 2011 restricted to the existing site plan. However, as per inspection done by Planning staff and site plan submitted on August 3, 2020, it was determined that the storage room had been built encroaching 6 ft. into the 6 ft. east side yard setback and encroaching .58 ft. into the 3 ft. rear yard setback. The site plan also indicates that an existing carport in the front and porch on the rear and east side have been built encroaching into the setbacks. Applicant received a citation and stop work order by Code Compliance staff on June 29, 2020 for the existing carport, east porch, and reconstruction of washroom without a permit. The applicant applied for a building permit on July 1, 2020 and after it was determined that there was an encroachment of the existing carport and existing east porch, the applicant applied for a Special Exception and Variance request on July 14, 2020.

ANALYSIS:

Special Exception request #1 is to allow an encroachment of 6 ft. into the 6 ft. side yard setback along the east property line for an existing wooden carport measuring 21 ft. by 25 ft. The standard side yard setback for a lot in R-1 (single family residential) District is 6 ft. A site plan submitted shows a portion of the existing carport on the subject property encroaches into the adjacent property to the east side. As per applicant, the neighbor allowed them to build 2.9 ft. by 25 ft. portion of the carport into their property. The neighbor has also applied for a Special Exception for the portion of the carport that is on their property because it is also encroaching into the west side setback and front setback.

Variance request #2 is to allow an encroachment of 6 ft. into the 6 ft. side setback along for an existing wooden porch along the east property line measuring 6 ft. by 58.5 ft. Two feet of overhang of a roof is allowed into setbacks; however, the existing porch attached to the east side of the house extends 6 ft. to the east property line.

Special exception request #3 is to allow an encroachment of 20 ft. into the 20 ft. front yard setback for an existing wooden carport measuring 21 ft. by 25 ft. As per the City's ordinance no structures are allowed to be built on any setbacks.

Variance request #4 is to allow an encroachment of .58 ft. into the 3 ft. rear yard setback for an existing storage room measuring 16.4 ft. by 13 ft.

Variance request #5 is to allow an encroachment of 6 ft. into 6 ft. side yard setback along the east property line for an existing storage room measuring 16.4 ft. by 13 ft. In 2011, the applicant applied for a variance request to allow an encroachment of 3.5 ft. by 16 ft. into the side yard setback; however, as per inspection done by Planning staff and site plan submitted on August 3, 2020, it was determined that the storage room had been built encroaching the 6 ft. into the 6 ft. east side yard setback.

Variance request #6 is to allow an encroachment of 3 ft. into the 3 ft. rear yard setback for an existing wooden porch measuring 16.66 ft. by 20.33 ft. As per the City's ordinance no structures are allowed to be built on any setbacks.

Variance request #7 is to allow an encroachment of 6 ft. into the 6 ft. side yard setback along the west property line for an existing wooden porch measuring 16.66 ft. by 20.33 ft. As per the City's ordinance no structures are allowed to be built on any setbacks.

An anonymous neighbor did call in opposition for the special exception.

RECOMMENDATION:

Staff recommends disapproval of the special exception #1 and #3 and the variance request #2, #6, and #7 because no accessory structures nor buildings are allowed to be built on any setbacks. Staff is recommending approval of variance request #4 and #5 because applicant is amending the variance request that was approved in 2011 to add the additional 2.5 ft. of the storage encroaching into 6 ft. east side yard setback. If the Board chooses to grant the special exception and variances, it should be limited to the foot print as shown on the site plan.

ZBA 7020-0042

ZBA
8/19/2020

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>Lote 4 Block 1</u>		
	Subdivision Name	<u>Colonia McAllen #</u>		
	Street Address	<u>2616 uvalde</u>		
	Number of lots	<u>1</u>	Gross acres	<u>0</u>
	Existing Zoning	<u>yes R1</u>	Existing Land Use	<u>Household</u>
	Reason for Appeal (please use other side if necessary)	<u>Estoy apelando los 20 F de enfrente y los 6 F del lado E.</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>Juana L. De Leon</u>	Phone	<u>(956) 400 95 71</u>
	Address	<u>2616 uvalde</u>	E-mail	
	City	<u>Mc Allen</u>	State	<u>TX</u> Zip <u>78503</u>
Owner	Name	<u>Porfirio De Leon</u>	Phone	<u>(956) 278 60 69</u>
	Address	<u>2616 uvalde</u>	E-mail	
	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 checked="" 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>Porfirio De Leon</u>	Date	<u>7-14-20</u>
	Print Name	<u>Porfirio De Leon</u>	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	
Office	Accepted by	<u>L.G.</u>	Payment received by	
	Rev 10/18 <div style="float: right;"> </div>			

Act # 725977

661



CITY OF MCALLEN
Planning Department

Variance request

LEGAL DESCRIPTION: Lote 4 Block 1

Colonia McAllen #4

PROPERTY ADDRESS: 2616 uvalde

CASE NUMBER: _____

HOLD HARMLESS AGREEMENT

MUST BE SIGNED BY THE PROPERTY OWNER

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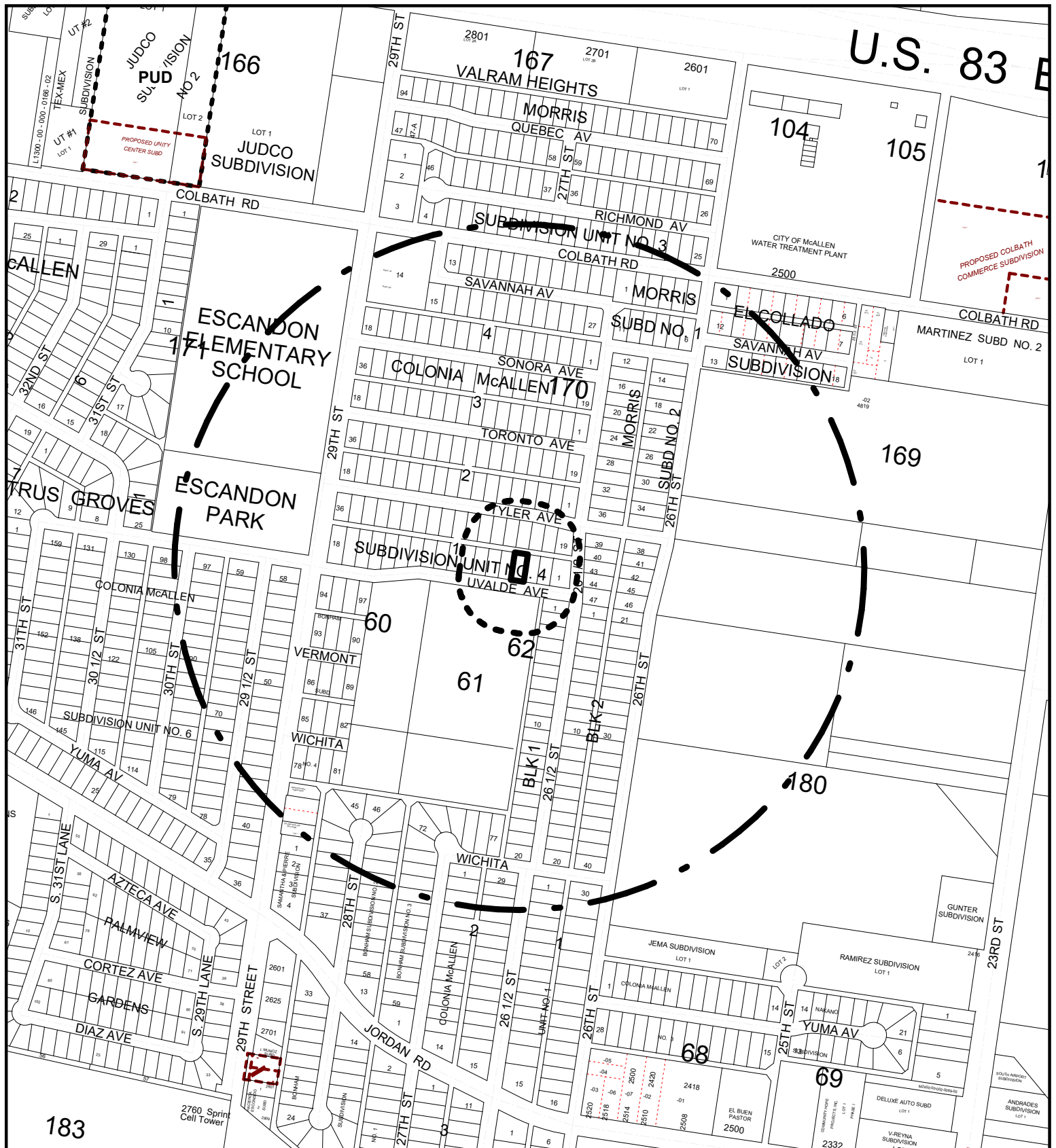
Applicant's Signature Juana L. De Leon


Print Name Juana L. De Leon

Address 2616 uvalde McAllen, TX

Phone (956) 400 9571 e-mail _____










CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP

 **SUBJECT PROPERTY**

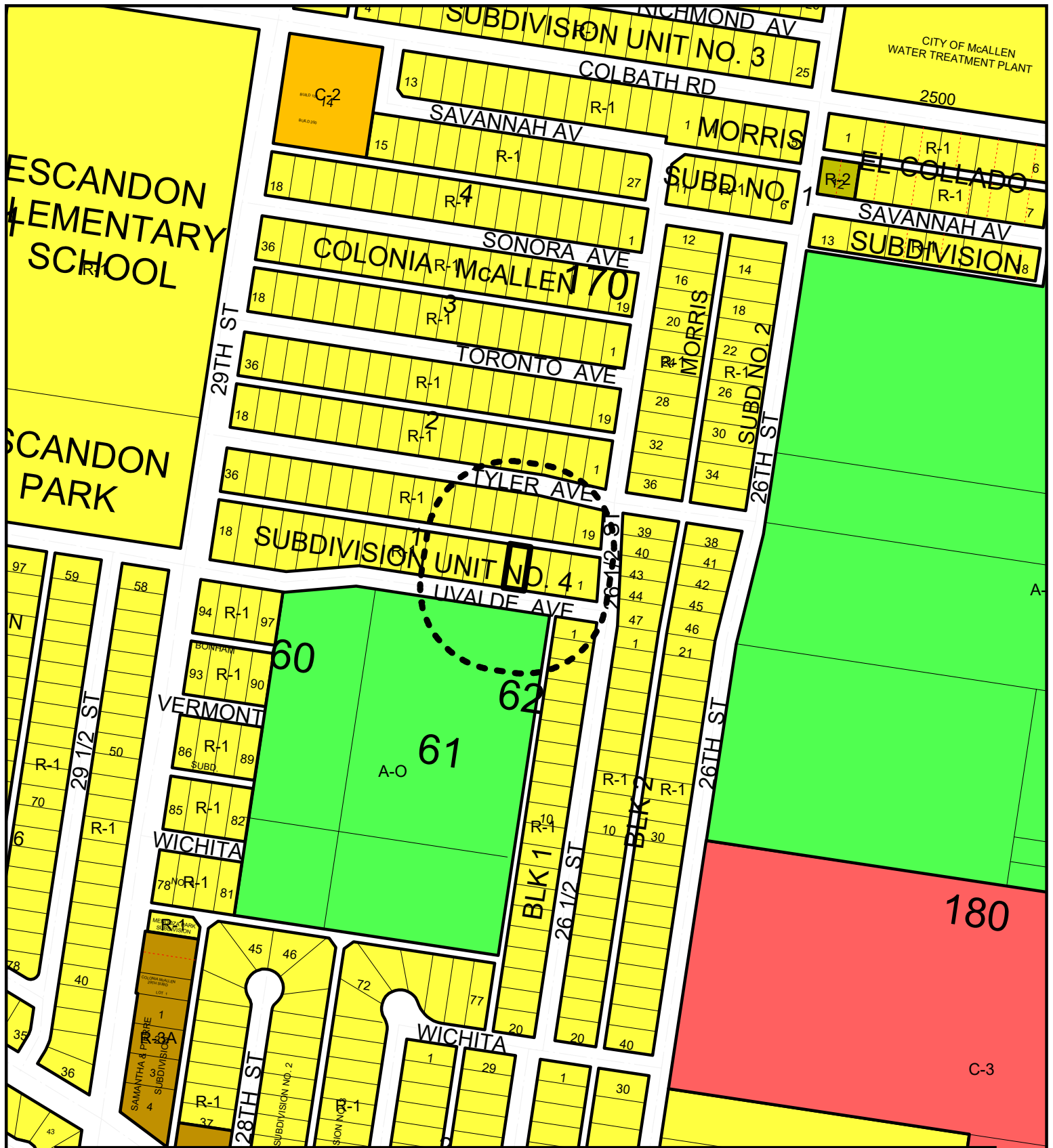
 **200 FT. NOTIFICATION BOUNDARY**


 **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

LEGEND
SCALE: N.T.S.

AREA MAP



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

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

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CITY OF McALLEN
PLANNING DEPARTMENT



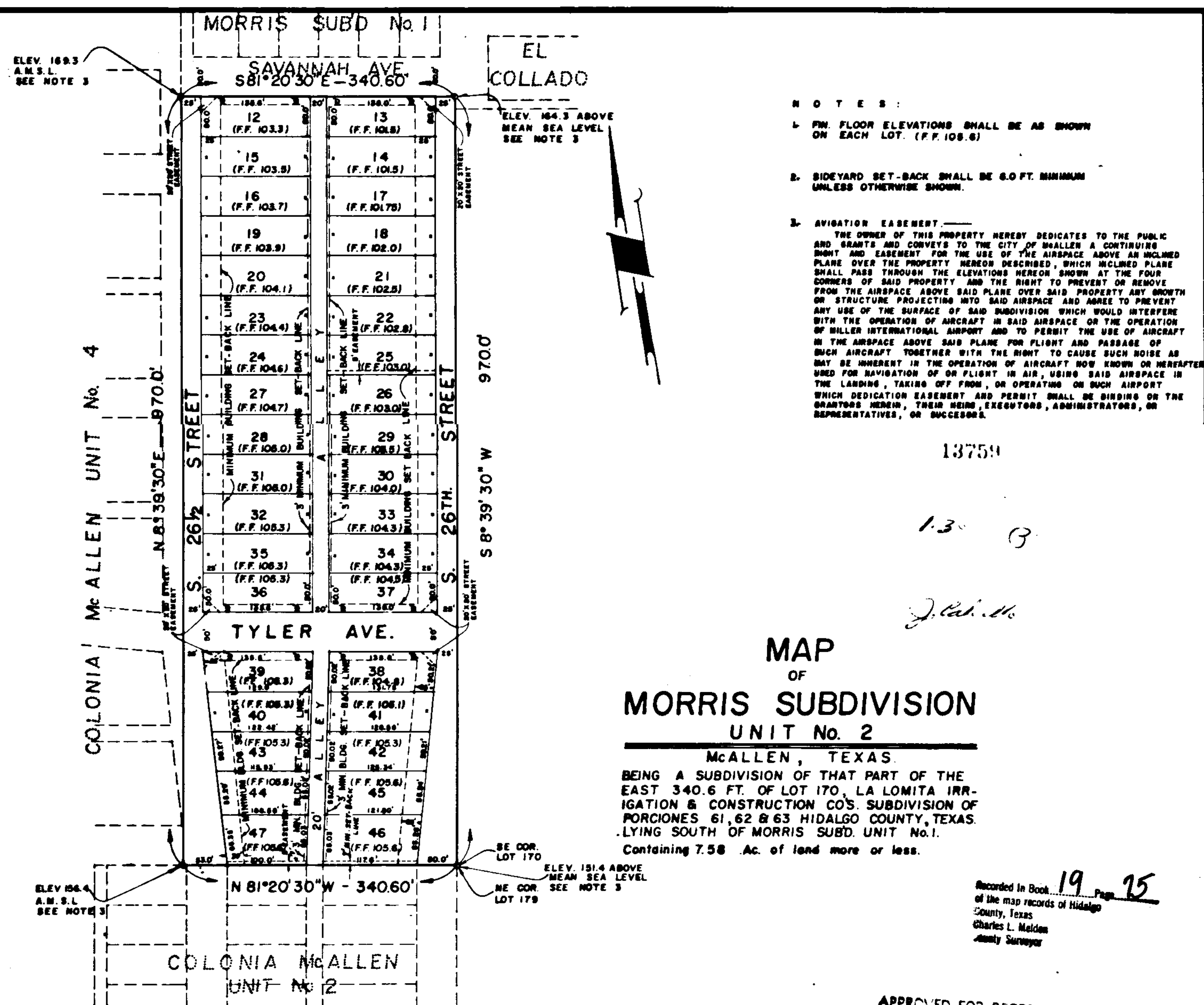
SUBJECT PROPERTY

AERIAL MAP

SCALE: N.T.S.



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STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE "MORRIS SUBDIVISION UNIT No. 2" 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, WATER COURSES, DRAINS, EASEMENTS, AVIGATION EASEMENT AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

STATE OF TEXAS:
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED VAL MORRIS 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 CONSIDERATION THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 11th DAY OF May, 1975.

I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION 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.

STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, A REGISTERED PUBLIC 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 SUPERVISION ON THE GROUND.

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

THIS PLAT APPROVED BY THE HIDALGO COUNTY WATER IMPROVEMENT DISTRICT No. 2 ON THIS 5th DAY OF June, 1975 A.D. 1975

Am W. C. C. Secretary

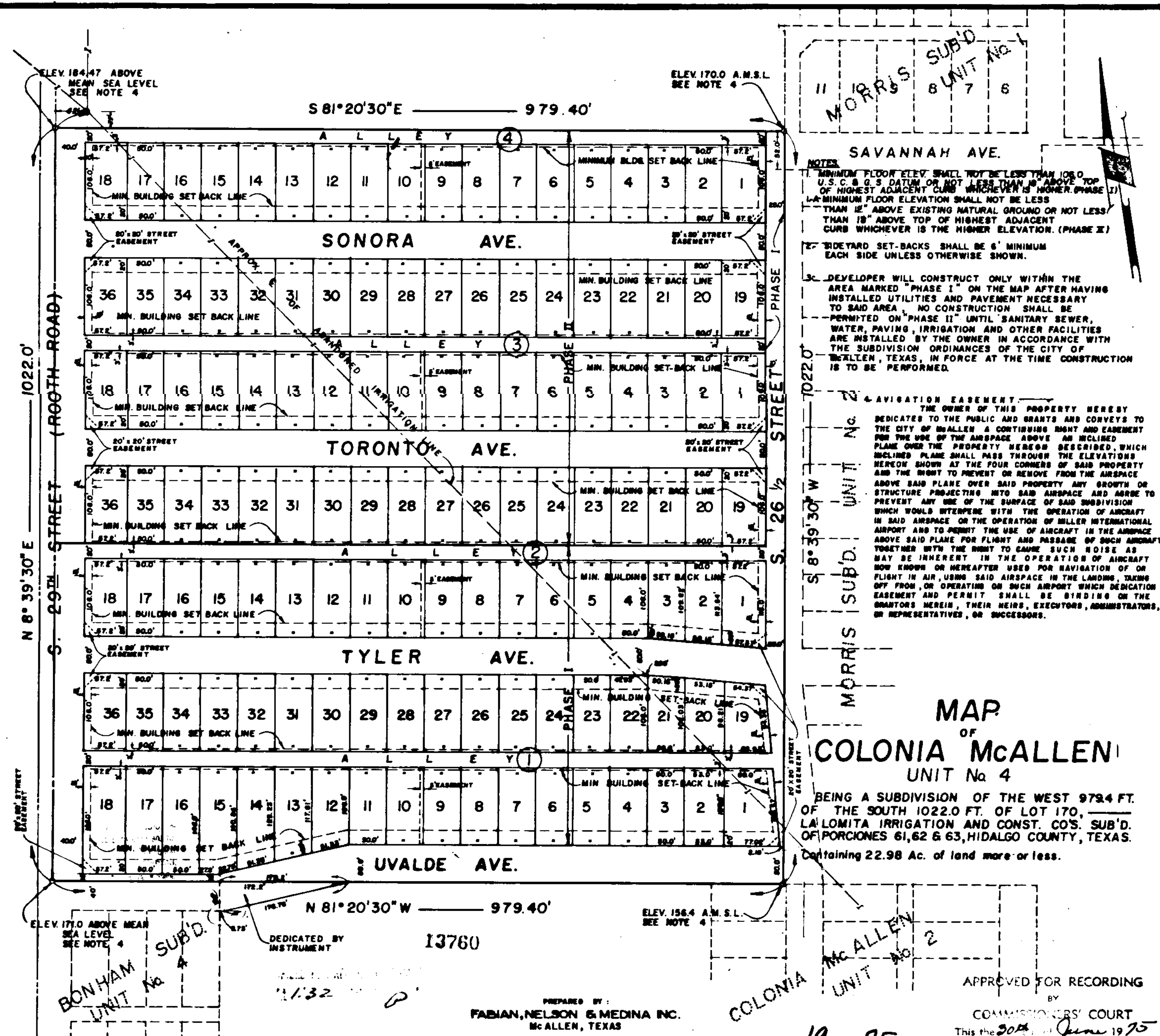
Mayor, City of McAllen

President

Beatrice Garga
Notary Public

Chairman, Planning Commission

PLINIO C. MEDINA
REGISTERED PUBLIC SURVEYOR
McAllen, Texas



STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, OWNERS OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE "COLONIA McALLEN UNIT No. 2" SUBDIVISION TO THE CITY OF McALLEN, TEXAS, AND WHOSE NAMES ARE SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, AVIGATION EASEMENT AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

STATE OF TEXAS:
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED THE ABOVE NAMED OWNERS, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 24th DAY OF May, 1975.

I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION 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.

STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, A REGISTERED PUBLIC 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 SUPERVISION ON THE GROUND.

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

THIS PLAT APPROVED BY THE HIDALGO COUNTY WATER IMPROVEMENT DISTRICT No. 2 ON THIS 2nd DAY OF June, 1975 A.D. 1975

Am W. C. C. Secretary

Mayor, City of McAllen

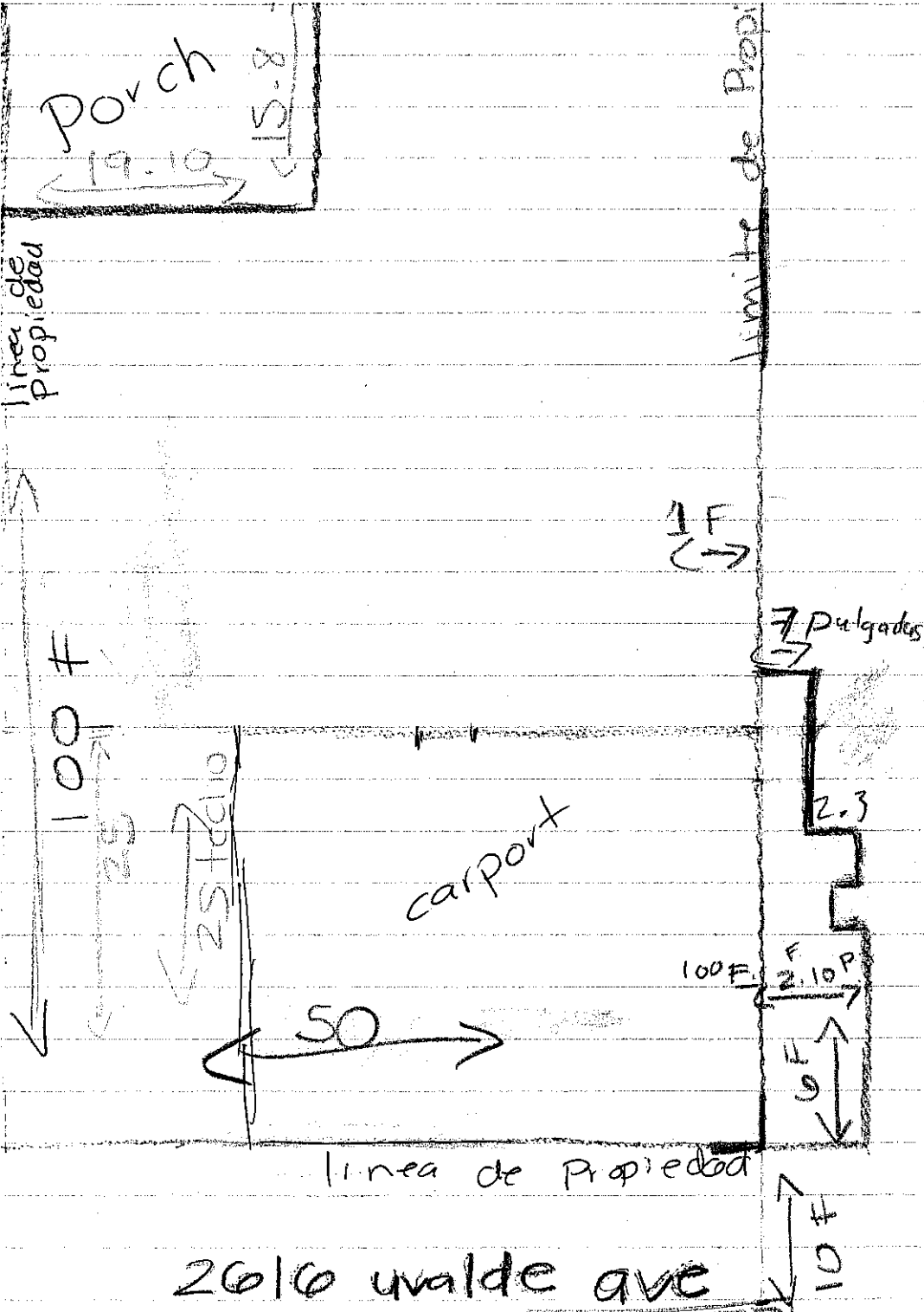
President

Beatrice Garga
Notary Public

Chairman, Planning Commission

PLINIO C. MEDINA
REGISTERED PUBLIC SURVEYOR
McAllen, Texas

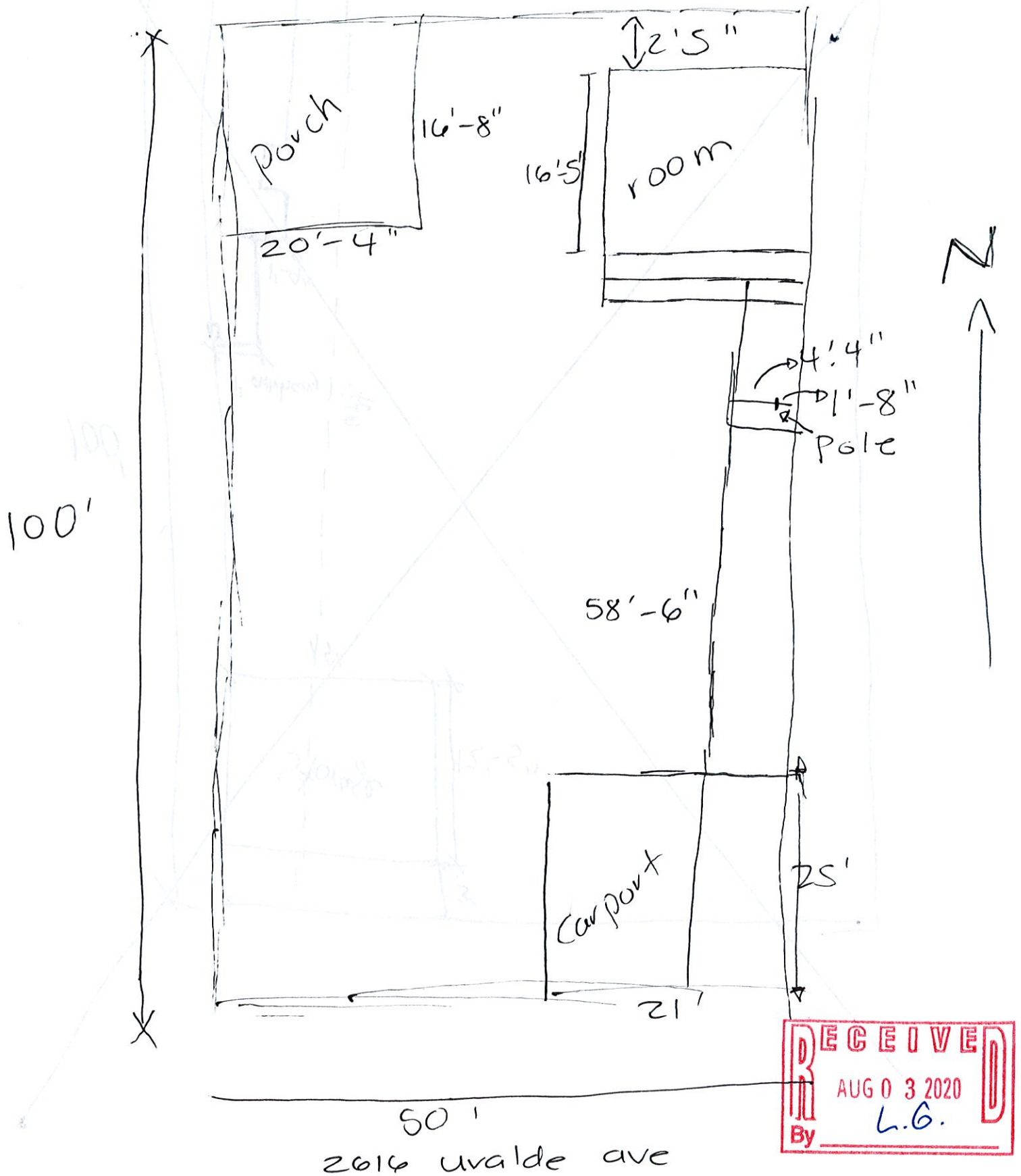
APPROVED FOR RECORDING
This the 30th day of June 1975
BARTHOLOMEW, County Clerk
Luis P. Buehler
County Surveyor



RECEIVED

JUL 14 2020

Juana L. De Leon 8/3/20



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

RES2020-04614

6/10/20

APPLICANT

NAME Juana L. De Leon PHONE 956-400-9571

ADDRESS 2616 uvalde ave.

CITY Mc Allen STATE TX ZIP 78503

CONTACT NAME: (956) 400 95 71 PHONE _____

☒ OWNER ☐ CONTRACTOR ☐ TENANT ☐ OTHER _____

OWNER

NAME _____ PHONE _____

ADDRESS _____ *EMAIL: _____

CITY _____ STATE _____ ZIP _____

*OWNER INFORMATION NOT PROVIDED, INITIAL: _____

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

BLDG 1008 NO. PARKING _____ SQ. FT. LOT _____ LOT _____ FLOOR EL. ABOVE CURB _____

EXISTING USE OF LOT _____ NEW USE _____

Citation

SCOPE OF WORK TO BE DONE Addition of laundry room and bathroom, closet existing front capport. Se usara como cuarto de almacenamiento

PROJECT

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

FOUNDATION

- ☐ CONCRETE SLAB
- ☐ CONCRETE PIER
- ☐ CONCRETE BLOCK
- ☐ CONCRETE BEAM
- ☐ WOOD POSTS
- ☐ _____

EXT WALL

- ☐ MASONRY VENEER
- ☐ MASONRY SOLID
- ☐ METAL SIDING
- ☐ COMPOSITION
- ☐ WOOD
- ☐ _____

ROOF

- ☐ WOOD SHINGLE
- ☐ COMPOSITION
- ☐ METAL
- ☐ BUILD UP
- ☐ CLAY OR CONCRETE TILE
- ☐ _____

UPGRADES/OTHER

- ☐ GRANITE COUNTERTOPS
- ☐ MARBLE TUBS/FLOORS
- ☐ CUSTOM WINDOWS
- ☐ POLYURETHANE INSULATION
- ☐ OTHER UPGRADES _____
- ☐ _____
- ☐ SEPTIC TANK EXISTING OR PROPOSED
- ☐ YES ☐ NO

LOT _____ BLOCK _____ SUBDIVISION _____

SITE ADDRESS ST. NO. 2616 ST. NAME uvalde ave

CITY USE ONLY

Construction Cost _____ Permit Fee \$ 161.28 Rec'd by [Signature]

Value \$ 10,000 Double Fee \$ _____ Date 7/1/20

Zoning _____ Total Fee \$ _____ Time 11:43

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.

Juana L. De Leon Juana L. De Leon J 7/01/20
PRINT (AUTHORIZED AGENT/OWNER) SIGNATURE EMAIL ADDRESS (required) DATE







NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2020-0042
CITY OF HOUSTON PLANNING DEPT.
HOUSTON, TEXAS
HOUSTON, TEXAS

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: August 14, 2020

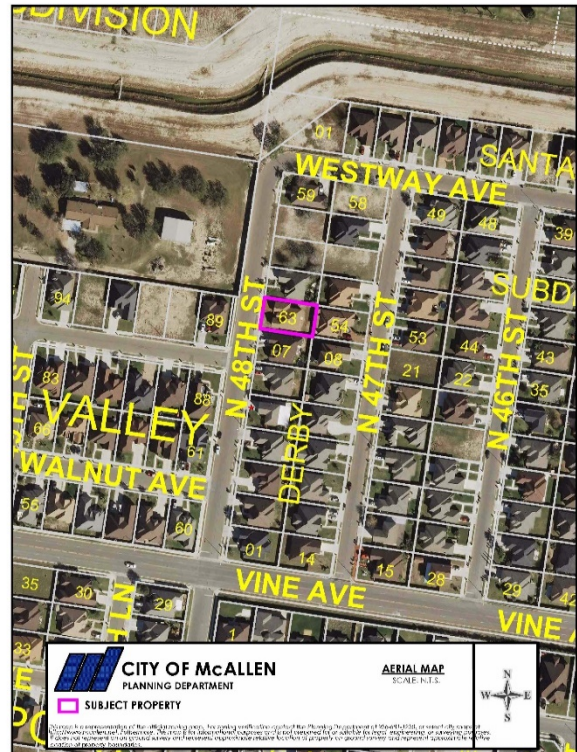
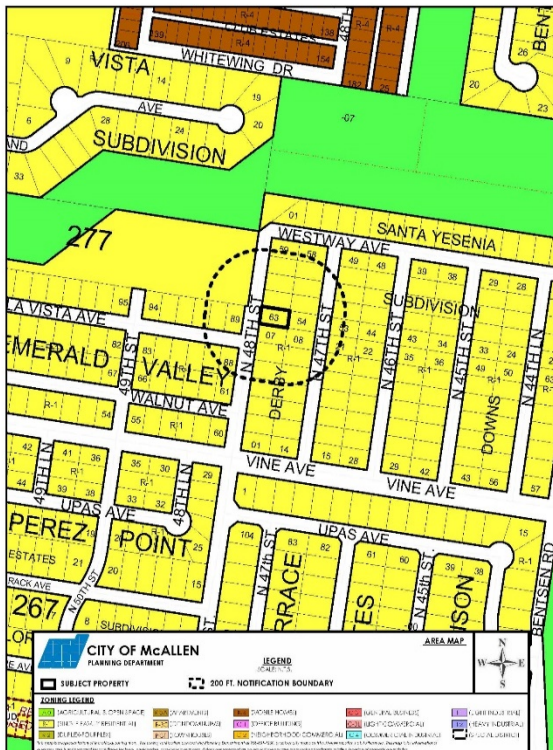
SUBJECT: REQUEST OF ESTHELA DE HOYOS FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 5 FT. INTO THE 10 FT. REAR YARD SETBACK FOR A PROPOSED SWIMMING POOL MEASURING 17.5 FT. BY 8.44 FT. AT LOT 63, SANTA YESENIA SUBDIVISION, HIDALGO COUNTY, TEXAS; 2308 NORTH 48TH STREET. (ZBA2020-0036)

REASON FOR APPEAL:

Esthela de Hoyos is requesting the following variance to allow an encroachment of 5 ft. into the 10 ft. rear yard setback for a proposed pool measuring 17.5 ft. by 8.44 ft.

PROPERTY LOCATION AND VICINITY:

The property is located on the east side of North 48th Street. The lot has 61.03 ft. of frontage North 48th Street and a depth of 103.44 ft. for a lot size of 6,312.94 sq. ft. The property is zoned R-1 (single family residential) District. The surrounding land uses include single family residential uses.



BACKGROUND AND HISTORY:

Santa Yesenia Subdivision was recorded on February 22, 2005. A note on the plat indicates that the rear yard setback requirement for the lot is 10 ft. A variance application for the proposed swimming pool was submitted on July 06, 2020. The swimming pool permit application for a proposed swimming pool was submitted on July 07, 2020.

ANALYSIS:

The variance request is for a proposed swimming pool, which is an accessory structure and not a primary building. The site plan submitted shows the proposed distance from the rear property line to the outside wall of the swimming pool at 5 ft. The remaining 5 ft. comprise of a 5 ft. utility easement that runs concurrently with the 10 ft. rear yard setback. In the past, the Board has approved variances for accessory buildings.

The site plan shows a proposed swimming pool encroaching 5 ft. into the 10 ft. rear yard setback. In the past, swimming pools were allowed to be built within setbacks; however, a subsequent determination by the City's Legal Department included swimming pools as structures, which require compliance with setbacks.

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

RECOMMENDATION:

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

ZBA 2020-0036

ZBA
8.19.20

City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

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

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

Project	<p>Legal Description <u>Santa Yesenia Subdivision</u> <u>Lot #63</u></p> <p>Subdivision Name <u>Santa Yesenia Subdivision</u></p> <p>Street Address <u>2308 N 48th Street</u></p> <p>Number of lots <u>1</u> Gross acres <u>6312.94</u></p> <p>Existing Zoning <u>R1 residential</u> Existing Land Use <u>residential</u></p> <p>Reason for Appeal (please use other side if necessary) <u>in the back</u></p> <p><input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport)</p> <p><input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required</p>
	Applicant
Owner	<p>Name <u>Esthela de Hoyos</u> Phone <u>956 8900986</u></p> <p>Address <u>2308 N 48th St</u> E-mail <u>esluso777@yahoo.com</u></p> <p>City <u>McAllen</u> State <u>TX</u> Zip <u>78501</u></p>
Authorization	<p>To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?</p> <p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.</p> <p>Signature <u>[Signature]</u> Date <u>7-6-20</u></p> <p>Print Name <u>Esthela de Hoyos</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by <u>CG.</u> Payment received by _____ Date _____</p> <p>Rev 10/18</p> <div style="border: 2px solid red; padding: 5px; display: inline-block;"> <p style="text-align: center; margin: 0;">RECEIVED</p> <p style="text-align: center; margin: 0;">JUL 06 2020</p> <p style="text-align: center; margin: 0;">BY <u>CM</u></p> </div>



City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

to encroach 5 ft into the 10^m ft
rear yard setback for a
swimming pool measuring 17.5 feet
by 8.44 feet.

We will not be encroaching into the
utility easement

Board Action

Chairman, Board of Adjustment
Signature

Date

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 SUM2020-04741

GC 10/12/20
APPLICANT

NAME Esthela de Hoyos PHONE 956 890 0986
ADDRESS 2308 N 48th St
CITY McAllen STATE TX ZIP 78501
CONTACT: NAME: Arturo Valbuena PHONE 956 310 6230
☒ OWNER ☐ CONTRACTOR ☐ TENANT ☐ OTHER

OWNER

NAME Esthela de Hoyos PHONE 956 890 0986
ADDRESS 2308 N 48th St *EMAIL: esluso777@yahoo.com
CITY McAllen REQ'D STATE TX ZIP 78501

*OWNER INFORMATION NOT PROVIDED, INITIAL:

☒ NEW ☐ REMODELING ☐ REPAIR
SQ. FT. 17.57 X 8.36 NO. OF GALLONS 2,872 SQ. FT. LOT 1,200
EXISTING USE residencia NEW USE _____

PLUMBING CONTRACTOR _____ ELECTRICAL CONTRACTOR _____

Applied for Variance

PROJECT

ENCLOSURE/ BARRIER NEW ☐ EXISTING ☐ MATERIAL _____ HEIGHT _____

POOL
☒ IN-GROUND
☐ ABOVE-GROUND
☐ HOT TUB/SPA
☐ OTHER
☐ _____

DECKING
☐ COOL DECK
☐ PAVERS
☐ WOOD
☐ CONCRETE
☐ OTHER
☐ _____

ADDITIONAL FEATURES
☐ SLIDE
☐ WATER FALL
☐ POOL FIRE BOWL
☐ HEATING SYSTEM
☐ OTHER
☐ _____

LOT 63 BLOCK _____ SUBDIVISION Santa Yesenia
SITE ADDRESS: ADDRESS NUMBER 2308 STREET NAME N 48th St

CITY USE ONLY

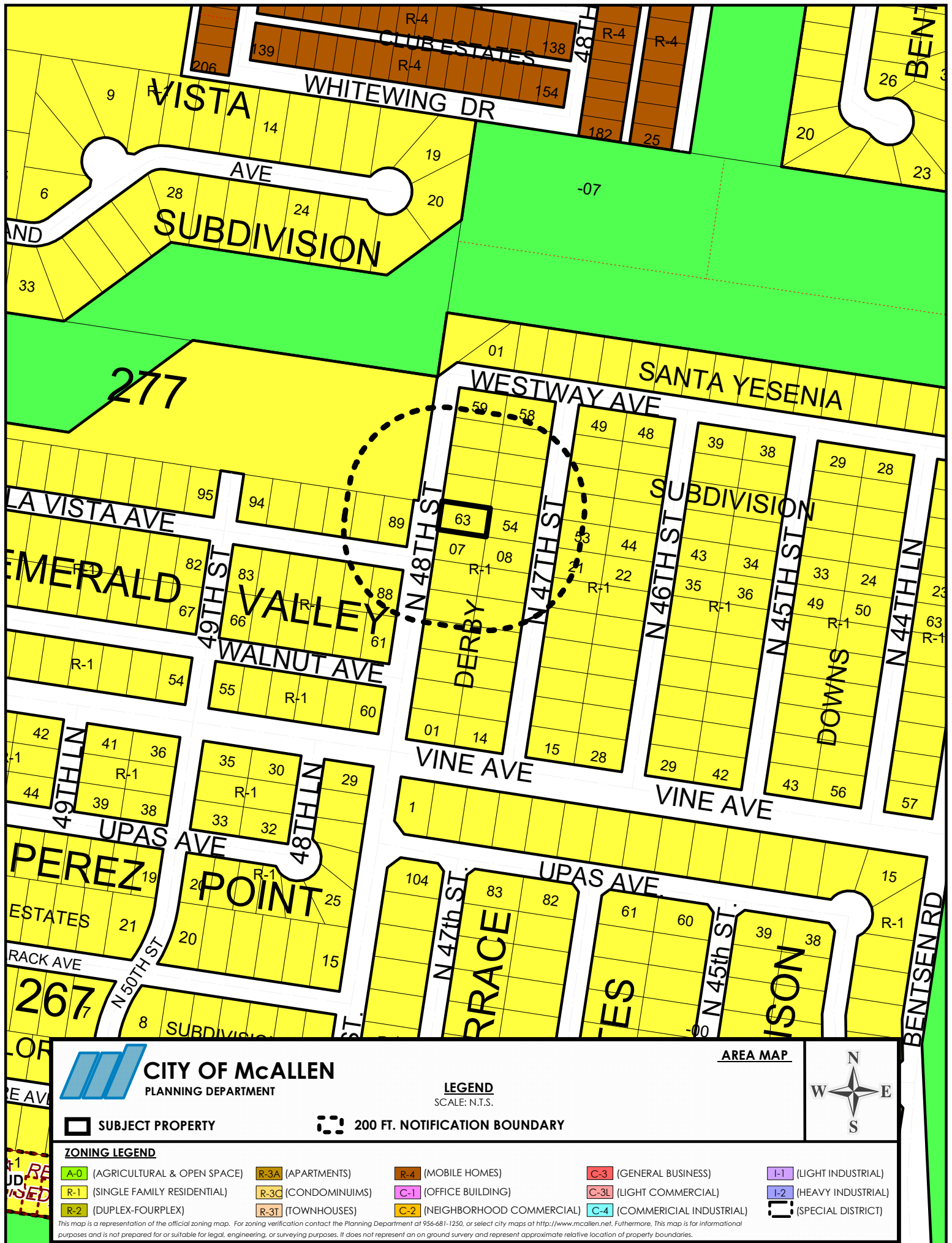
ZONING _____ Permit Fee \$ 55.86 Rec'd by [Signature]
Double Fee \$ _____ Date 7/6/20
Total Fee \$ _____ Time 2:59

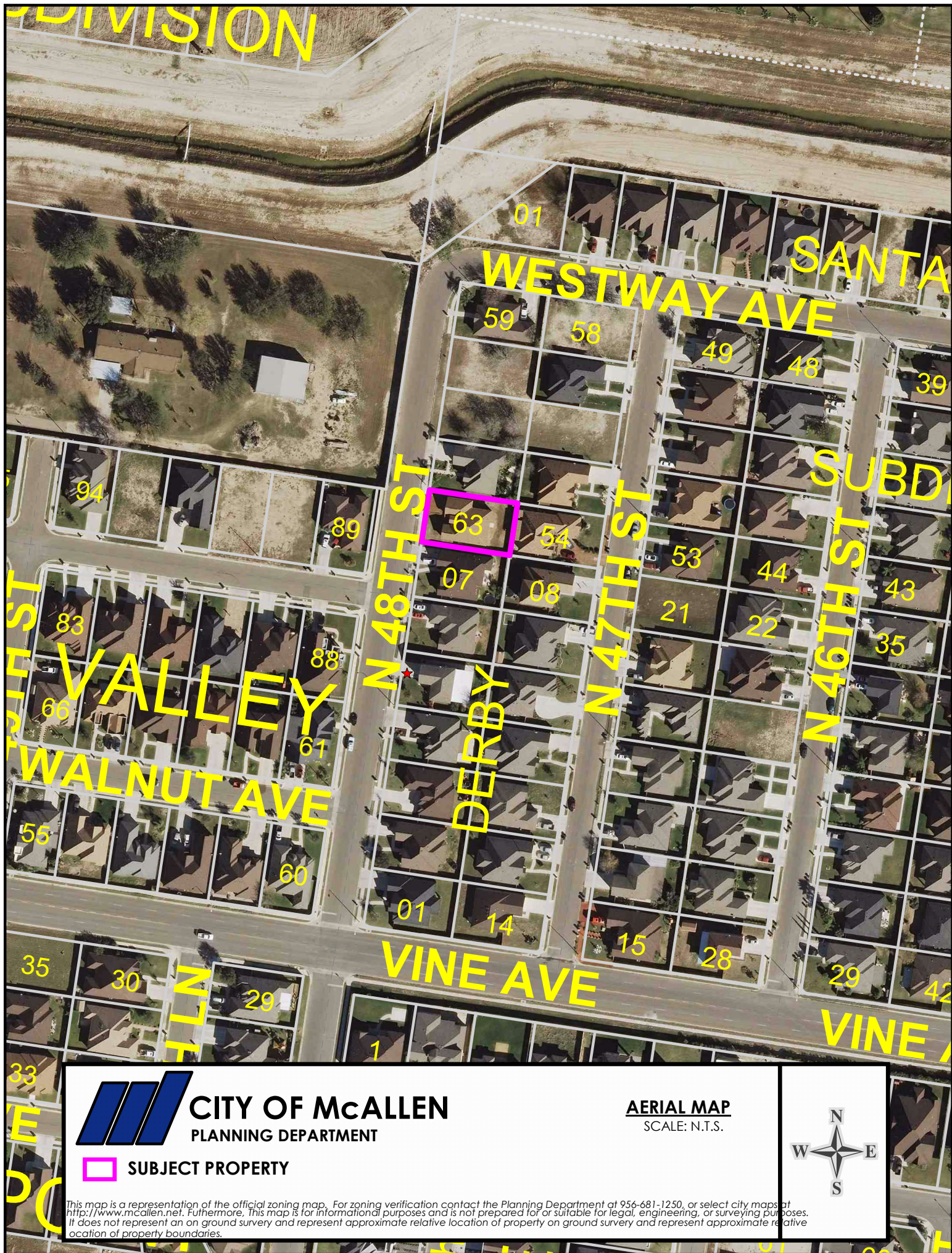
The foregoing is a true and correct description of the improvement proposed by the undersigned applicant and the applicant states that he will have full authority over construction of same. The building permit shall not be held to permit or be an approval of the violation or modification of any provisions 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.

Esthela de Hoyos
PRINT (AUTHORIZED AGENT/OWNER)

[Signature]
SIGNATURE

esluso777@yahoo.com
EMAIL ADDRESS (required) 7-6-2020
DATE





CITY OF McALLEN
PLANNING DEPARTMENT



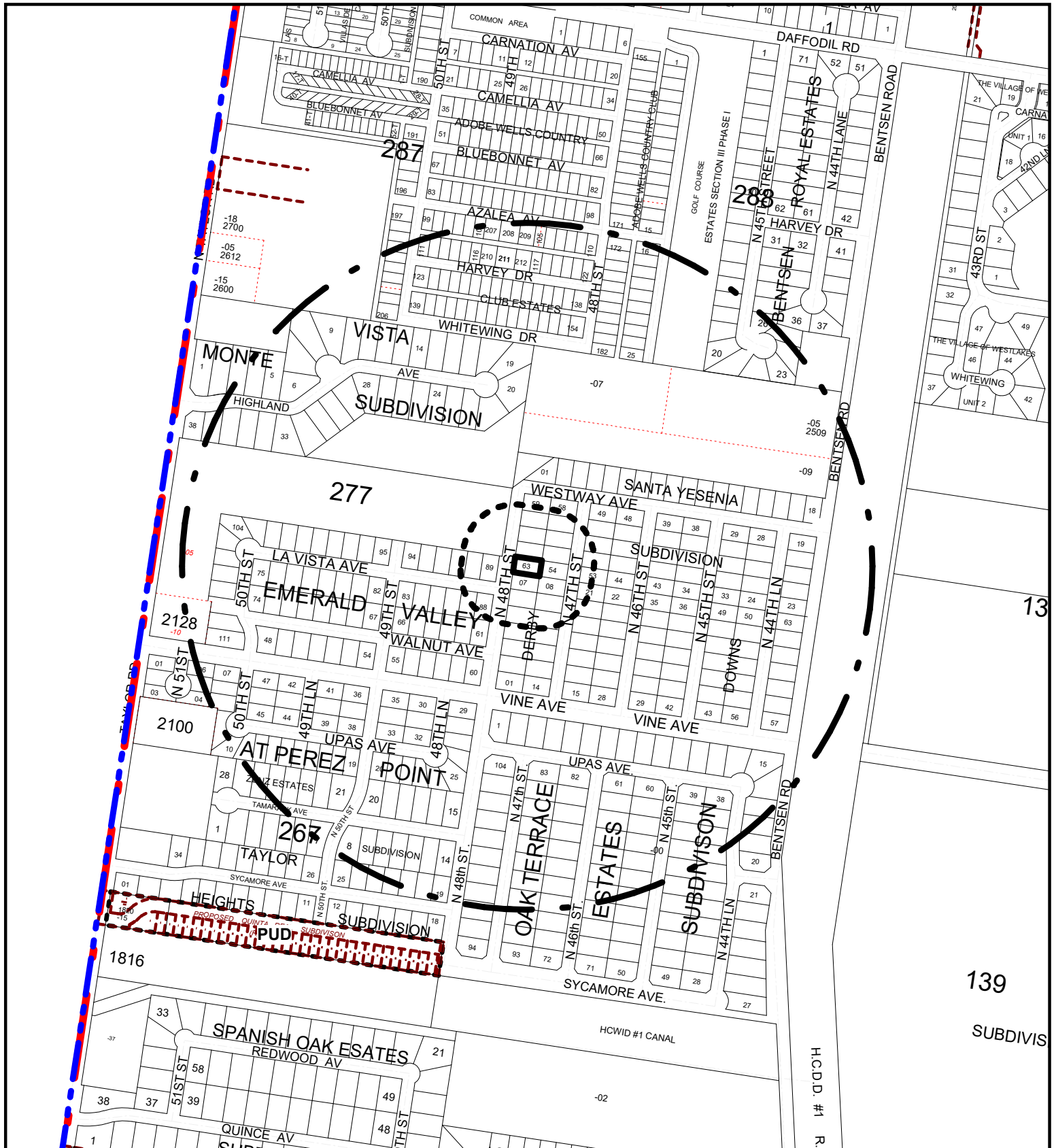
SUBJECT PROPERTY

AERIAL MAP

SCALE: N.T.S.



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



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: N.T.S.



SUBJECT PROPERTY

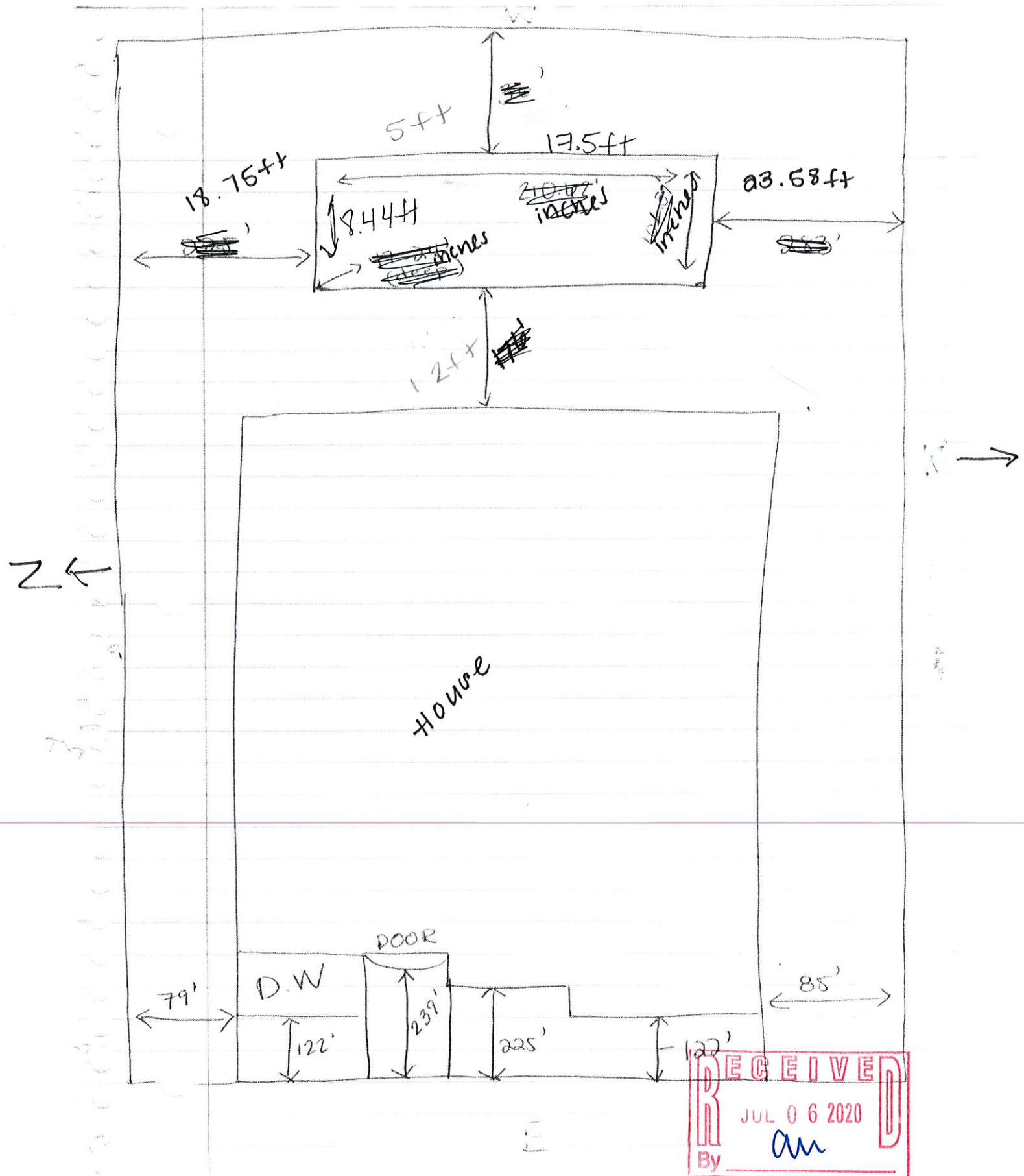
200 FT. NOTIFICATION BOUNDARY

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)

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.mcalen.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.



SANTA YESENIA SUBDIVISION

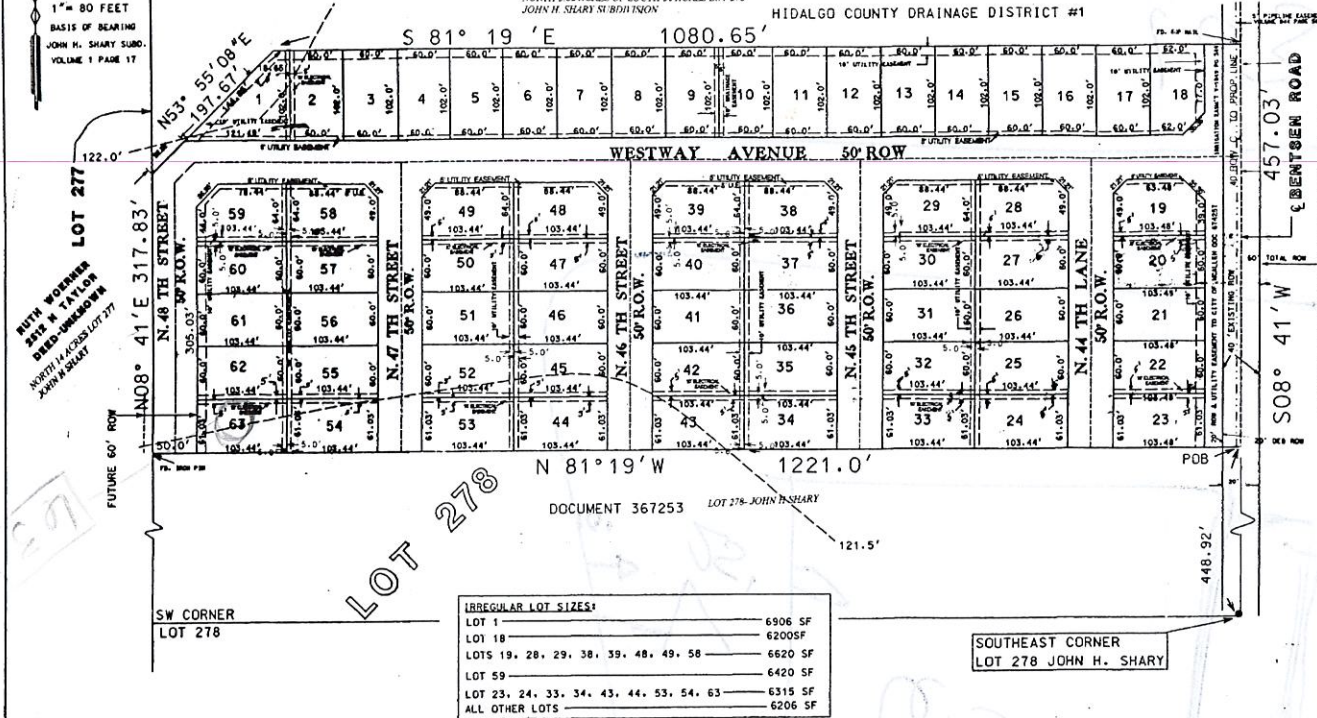
12.58 ACRES OUT OF LOT 278, JOHN H. SHARY SUBDIVISION, VOLUME 1 PAGE 17

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1
NORTH 3 82 ACRES OF SOUTH 30 ACRES LOT 278
JOHN H. SHARY SUBDIVISION

(APPROVED AS BENTSEN GARDENS SUBDIVISION)

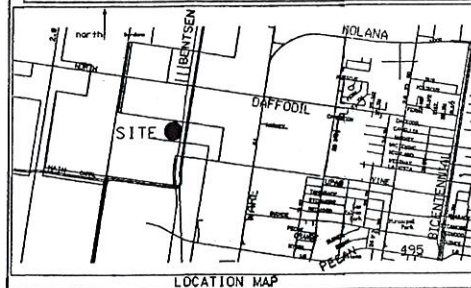
HIDALGO COUNTY DRAINAGE DISTRICT #1

1" = 80 FEET
BASIS OF BEARING
JOHN H. SHARY SUBD.
VOLUME 1 PAGE 17



GENERAL NOTES

- ONLY ONE SINGLE FAMILY PER LOT ALLOWED.
- NO STRUCTURES PERMITTED OVER ANY EASEMENTS.
- BETBACK: REAR = 10' OR GREATER FOR EASEMENTS - FRONT-25' / 10' ON CORNER LOTS. SIDE 60' EXCEPT 10' ON WEST SIDE OF LOT 1. GARAGE - IF EXCEPT WHERE GREATER BETBACK REQUIRED, GREATER BETBACK APPLIES.
- FINISHED FLOOR ELEV. 18" ABOVE CURB AT CENTER OF LOT.
- REQUIRED DETENTION 0.25 ACRE-FEET PER LOT & A TOTAL OF 0.36 ACRE FEET FOR THIS SUBDIVISION.
- TBM BENCHMARK ELEV. = 72" ON NORTH SIDE OF DAPFOOL - CENTER OF TWO CANALS ON CONCRETE COLUMN. ELEVATION = 129.07. MCALLEN BENCHMARK (MCBS) SOUTHEAST CORNER OF TAYLOR AND DAPFOOL. MC 63 BENCHMARK ELEV. = 123.30 30" PIPE CONCRETE ENCASED.
- FLOOD ZONE ELEVATION 10" FEMA MAP 430 334 0400 CDAT OF MAP NOVEMBER 16, 1982.
- FOUR FOOT SIDEWALK REQUIRED ON BENTZEN ROAD AND ON BOTH SIDES OF ALL INTERIOR STREETS.
- NO CURB CUTS, ACCESS, OR LOT FRONTAGE PERMITTED ON BENTZEN ROAD.
- SIX FOOT BUFFER REQUIRED ALONG BENTZEN ROAD, AND FROM ADJACENT COMMERCIAL ZONE/USE.
- ENGINEERING DETENTION PLAN APPROVED BY ENGINEERING DEPARTMENT IS REQUIRED PRIOR TO APPROVAL OF BUILDING PERMIT.



HIDALGO DRAINAGE DISTRICT NO. ONE
CERTIFIES THAT THE DRAINAGE PLANS FOR
THIS SUBDIVISION COMPLY WITH THE
MINIMUM STANDARDS OF THE DISTRICT
ADOPTED UNDER TEXAS WATER CODE 49.111(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 CRITERIA.
IT IS THE RESPONSIBILITY OF THE
DEVELOPER OF THE SUBDIVISION AND HIS
ENGINEER TO MAKE THESE DETERMINATIONS.

BY: *Goofrey Garza*
GOOFREY GARZA, DIRECTOR

SOUTHEAST CORNER
LOT 278 JOHN H. SHARY

FILED FOR RECORD #1
HIDALGO COUNTY
CLERK OF COURTS
ON: 8-22-05 9:43 AM
JESUS M. GARCIA, CLERK

Recorded in Volume 47 Page 44
of the map records of Hidalgo
County, Texas
J.D. Salinas Jr.
County Clerk

METES AND BOUNDS

BEING A 12.58 ACRE TRACT OUT OF LOT 278 JOHN H. SHARY SUBDIVISION AS RECORDED IN VOLUME 1 PAGE 17 OF THE MAP AND DEED RECORDS OF HIDALGO COUNTY, TEXAS, AND BEING MORE FULLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF LOT 278, N08°41'E AND A DISTANCE OF 448.92' FROM THE SOUTHEAST CORNER OF LOT 278, FOR THE SOUTHEAST CORNER OF THE HEREIN DESCRIBED TRACT, SAID POINT BEING IN 40 FOOT BENTZEN ROAD.

THENCE PARALLEL TO THE SOUTH LINE OF LOT 278, N81°19'W, AT 20' PASS AN IRON PIPE ON THE WEST LINE OF BENTZEN ROAD AND A TOTAL DISTANCE OF 1221.0' TO AN IRON ROD FOUND ON THE WEST LINE OF LOT 278, SAID POINT BEING THE SOUTHWEST CORNER OF THE HEREIN DESCRIBED TRACT.

THENCE ALONG THE WEST LINE OF LOT 278 N08°41'E A DISTANCE OF 317.83' TO AN IRON PIPE FOUND ON THE SOUTH PROPERTY LINE OF HIDALGO COUNTY DRAINAGE DISTRICT #1 ROW FOR THE MOST SOUTHERLY NORTHWEST CORNER OF THE HEREIN DESCRIBED TRACT.

THENCE WITH THE SOUTH BOUNDARY LINE OF SAID DRAIN DITCH ROW, N53°55'08"E A DISTANCE OF 197.67' TO AN IRON ROD FOR THE MOST NORTHERLY NORTHWEST CORNER.

THENCE PARALLEL TO THE SOUTH LINE OF LOT 278, S81°19'E, AT 1060.65' PASS AN IRON PIPE ON THE WEST LINE OF BENTZEN ROAD AND A TOTAL DISTANCE OF 1080.65' TO A POINT ON THE EAST LINE OF LOT 278, SAID POINT BEING THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT.

THENCE ALONG THE EAST LINE OF LOT 278, S08°41'W, A DISTANCE OF 457.03' TO THE POINT OF BEGINNING, AND CONTAINING 12.58 ACRES, MORE OR LESS, OF WHICH THE EAST 20 FEET ARE IN BENTZEN ROAD ROW.

I, WE, THE UNDERSIGNED, OWNERS OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS SANTA YESENIA TO THE CITY OF MCALLEN, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATED TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE OF CONSIDERATION THEREIN EXPRESSED.

JAMES DESIGNERS, HOMES, INC.
JAIME LOPEZ, PRESIDENT

STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED

JAIME LOPEZ, PRESIDENT JAMES DESIGNERS, HOMES, INC.

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 STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS 31ST DAY OF December, 2004.



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



MAYOR, CITY OF MCALLEN
Leo Montalvo, Mayor

THIS PLAT IS HEREBY APPROVED BY THE UNITED IRRIGATION DISTRICT SUBJECT TO:

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 EACH LOT FROM THE CLOSEST WATER DISTRICT DELIVERY POINT AND IT SHALL BE THE RESPONSIBILITY OF THE OWNER OF THE PROPERTY TO INSTALL AND MAINTAIN SUCH NECESSARY FACILITIES.

ALL EASEMENTS OF THE UNITED IRRIGATION DISTRICT ARE EXCLUSIVE TO THE IRRIGATION DISTRICT, AND NO OTHER UTILITIES OR USE IS ALLOWED WITHOUT THE EXPRESSED APPROVAL OF THE DISTRICT.
NO UTILITY CO. OR OTHER PERSON IS ALLOWED TO CROSS ABOVE OR BELOW GROUND ON ANY DISTRICT EASEMENT NO PERMANENT STRUCTURE, EXAMPLE, FENCES OF ANY KIND WILL BE ALLOWED TO BE CONSTRUCTED OR EXIST ON ANY DISTRICT EASEMENT OR ROW OR UTILITY LINES WITH POLES, OPEN DITCHES, OR OTHER USE WITHOUT WRITTEN APPROVAL OF THE DISTRICT. ANY UNAUTHORIZED STRUCTURE IN THE EASEMENT AREA IS SUBJECT TO REMOVAL.

DATED THIS THE 9TH DAY OF December, 2004 A.D.

Raul P. Flores
SECRETARY

Raul P. Flores
PRESIDENT

I, THE UNDERSIGNED, CHAIRMAN OF THE PLANNING AND ZONING COMMISSION OF THIS 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.

CHAIRMAN, PLANNING COMMISSION
Raul P. Flores

I, THE UNDERSIGNED, RAUL P. FLORES, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.



RAUL P. FLORES, P.E. # 39278
REGISTERED PROFESSIONAL ENGINEER
519 W. UNIVERSITY DRIVE
EDINBURG, TX 78539

STATE OF TEXAS
COUNTY OF HIDALGO

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

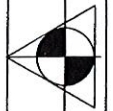


ELIAS AGUILAR
REGISTERED PROFESSIONAL LAND SURVEYOR

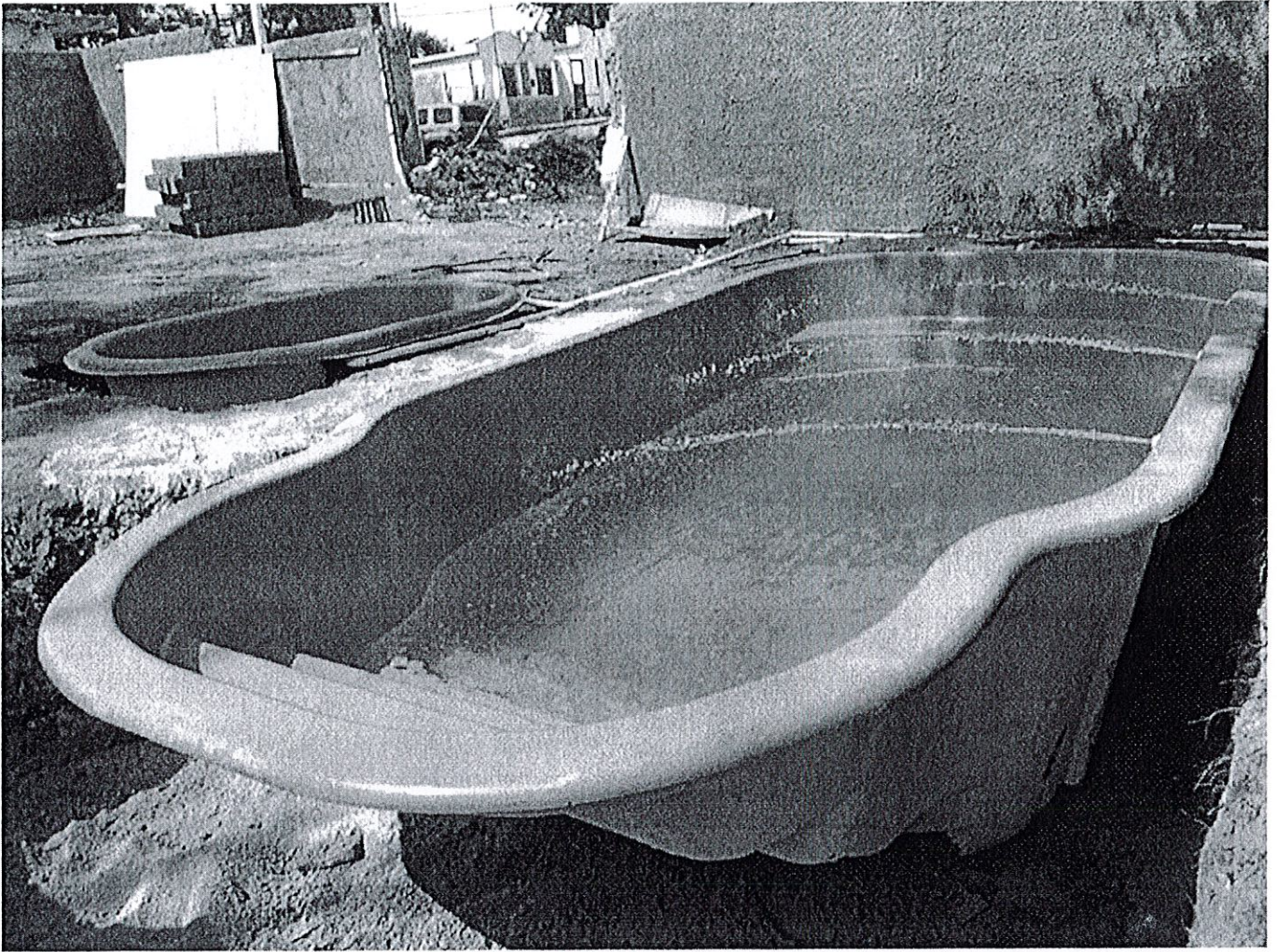
DATE OF PREPARATION: 11/15/2004

SANTA YESENIA
SUBDIVISION

FLORES ENGINEERS
519 W. UNIVERSITY DRIVE, EDINBURG, TX 78539
PH: 361-267700 FX: 361-267706



DATE
2/15/2002
REVISED
4/15/2003
9-1-04
10-1-04



example



MEMO

TO: Zoning Board of Adjustment & Appeals

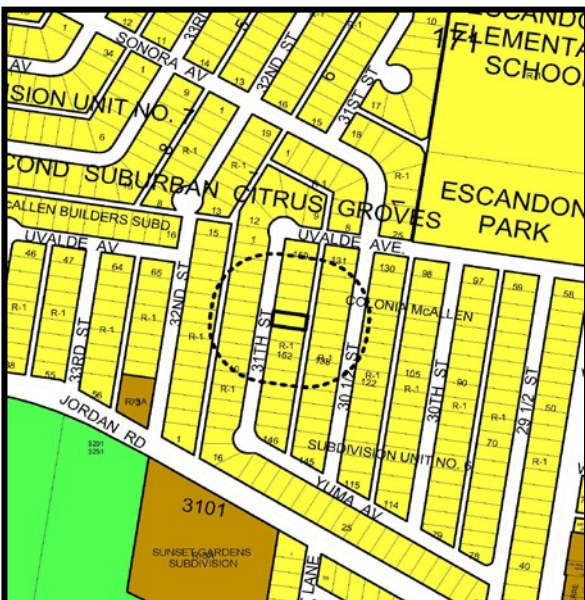
FROM: Planning Staff

DATE: August 14, 2020

SUBJECT: REQUEST OF SAN JUANITA SANMIGUEL FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 5 FT. INTO THE 6 FT. SIDE YARD SETBACK ALONG THE NORTH PROPERTY LINE FOR AN EXISTING COVERED PATIO MEASURING 12 FT. BY 24 FT., 2) AN EXISTING COVERED PATIO MEASURING 12 FT. BY 24 FT. WITH A DISTANCE OF 3 FT. INSTEAD OF 5 FT. TO THE MAIN BUILDING, AND 3) AN ENCROACHMENT OF 3 FT. INTO THE 6 FT. SIDE YARD SETBACK ALONG THE SOUTH PROPERTY LINE FOR AN EXISTING STORAGE BUILDING MEASURING 10 FT. BY 13 FT., AT LOT 154, COLONIA MCALLEN UNIT NO. 6 SUBDIVISION, HIDALGO COUNTY, TEXAS; 2121 SOUTH 31ST STREET. (ZBA2020-0034)

REASON FOR APPEAL

San Juanita San Miguel, owner and applicant requests the following variances: 1) to allow an encroachment of 5 ft. into the 6 ft. side yard setback along the north property line for an existing covered patio measuring 12 ft. by 24 ft., 2) to allow a building separation of 3 ft. instead of the required 5 ft. from the accessory building to the main building, and 3) to allow an encroachment of 3 ft. into the 6 ft. side yard setback along the south property line for an existing storage building measuring 10 ft. by 13 ft. The applicant indicated that she is requesting the above variances to allow the existing structures to remain. The applicant would like the structures to remain because the storage buildings are used to store household items, and the existing patio serves as gathering place for the family and it provides shade, which helps her with health conditions.



PROPERTY LOCATION AND VICINITY:

The property is located on the east side of South 31st Street. The property has 50 ft. of frontage along South 31st Street and a depth of 111 ft. for a tract size of 5,550 sq. ft. The property is zoned R-1 (single family residential) District. The surrounding zoning is R-1 in all directions.

BACKGROUND AND HISTORY:

Colonia McAllen Subdivision No. 6 was recorded on August 2, 1976. The plat specifies a front yard-building setback of 20 ft., 6 ft. side yard setbacks, and a 3 ft. rear yard setback. An application for a building permit was submitted to the Building Permits & Inspections Department on June 15, 2020 for an existing covered patio and existing storage building. A stop work order was issued by Buildings and Inspection on June 11, 2020. A variance application for an existing covered patio and an existing storage room was received on June 22, 2020. The applicant stated that the porch and storage room were built in 2017.

ANALYSIS:

Upon a site visit to the subject property by staff, it appeared that the encroachments were different than as shown on the submitted site plan.

Variance request #1 is to allow an encroachment of 5 ft. into the 6 ft. side yard setback for an accessory building. The standard setback for the side yard for a lot in the R-1 zone is 6 ft.

Variance request #2 is to allow building separation of 3 ft. instead of the required 5 ft.

Variance request #3 is to allow an encroachment of 3 ft. into the 6 ft. side yard setback for an accessory building.

There are no utility easements inside the property.

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

A review of Planning Department records did not reveal any other variances granted along this block.

In the past, the Zoning Board of Adjustment has approved variance requests for accessory uses, but not for living areas.

RECOMMENDATION:

Staff recommends tabling of the variance request in order to allow the applicant time to submit a revised site plan.

ZBA 2020-0034

ZBA
8/5/2020

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>Colonia McAllen N 6 Subdivision</u>		
		<u>Lot 154</u>		
	Subdivision Name	<u>Colonia McAllen N 6</u>		
	Street Address	<u>2121 Sur 31 St</u>		
	Number of lots <u>1</u>	Gross acres _____		
Applicant	Existing Zoning	<u>R 1</u>	Existing Land Use	<u>Residencia</u>
	Reason for Appeal (please use other side if necessary)	<u>Estoy Apelando Los 6 Pies Del hadonorte el piso tiene 27 Años y el cho tiene</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			
	Name	<u>San Juan Te Saurmel</u>	Phone	_____
Owner	Address	<u>2121 Sur 31 St</u>	E-mail	_____
	City	<u>McAllen</u>	State	<u>Tex</u>
	Zip	<u>78503</u>		
	Name	<u>San Juan Te Saurmel</u>	Phone	<u>956 5371483</u>
	Address	<u>2121 Sur 31 St</u>	E-mail	_____
Authorization	City	<u>McAllen</u>	State	<u>Tex</u>
	Zip	<u>78503</u>		
	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>San Juan Te Saurmel</u>	Date	<u>6-22-20</u>
Office	Print Name	<u>San Juan Te Saurmel</u>	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	
	Accepted by	<u>L.G.</u>	Payment received by	_____
	Rev 10/18	<u>18</u>	Date	_____
	<div style="border: 2px solid red; padding: 5px; display: inline-block;"> RECEIVED JUN 22 2020 By <u>CW</u> </div>			
	RCH# 722397			



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

13 Años hecho
Mi hijo Me lo hizo Por que tengo Mucha
Ansiedad Deprecion Azucar Alta Precion
Desahitadu estoy Apelando hos 5 Pies de la
Casa al techo para de Jarlo 3 Pies 0 Pulgadas
e techo es de Teja

24 x 12 Covered Palode Madera
Patio

Estoy apelando hos 6 Pies Sur para un
8 forch para de Jarlo 3 Pies ~~una pulgada~~

Board Action

Chairman, Board of Adjustment
Signature

Date

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

PES2020-04129

GCP4965
APPLICANT

NAME San Juanita San miguel PHONE 956 - 537 - 1483
ADDRESS 2121 S. 31st
CITY McAllen TX 78503 STATE TX ZIP 78503
CONTACT: NAME: Edgar San miguel PHONE 956 655 5404
☐ OWNER ☐ CONTRACTOR ☐ TENANT ☒ OTHER son

OWNER

NAME San Juanita San miguel PHONE 956 537 1483
ADDRESS 2121 S. 31st *EMAIL: sanmykol@gmail.com
CITY McAllen STATE TX ZIP 78503

*OWNER INFORMATION NOT PROVIDED, INITIAL:

☐ NEW ☒ ADDITION ☐ REMODELING ☐ REPAIR ☐ MOVE ☐ REMOVE BLDG. HGT. 1 NO. OF FLOORS
BLDG 418 NO. PARKING SQ. FT LOT 5000 LOT FLOOR EL
SQ. FT 288 SPACES ABOVE CURB
EXISTING USE NEW USE

SCOPE OF WORK TO BE DONE (12'x24') covered patio for owner to use in times
Build permit of anxiety and storage for sentimental items (10'x13')

PROJECT

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

FOUNDATION EXT WALL ROOF UPGRADES/OTHER
☒ CONCRETE SLAB ☐ MASONRY VENEER ☐ WOOD SHINGLE ☒ GRANITE COUNTERTOPS
☐ CONCRETE PIER ☒ MASONRY SOLID ☒ COMPOSITION ☐ MARBLE TUBS/FLOORS
☐ CONCRETE BLOCK ☐ METAL SIDING ☐ METAL ☐ CUSTOM WINDOWS
☐ CONCRETE BEAM ☐ COMPOSITION ☐ BUILD UP ☐ POLYURETHANE INSULATION
☒ WOOD POSTS ☐ WOOD ☐ CLAY OR CONCRETE TILE ☐ OTHER UPGRADES
☐ SEPTIC TANK EXISTING OR PROPOSED
☐ YES ☐ NO

LOT BLOCK SUBDIVISION McAllen

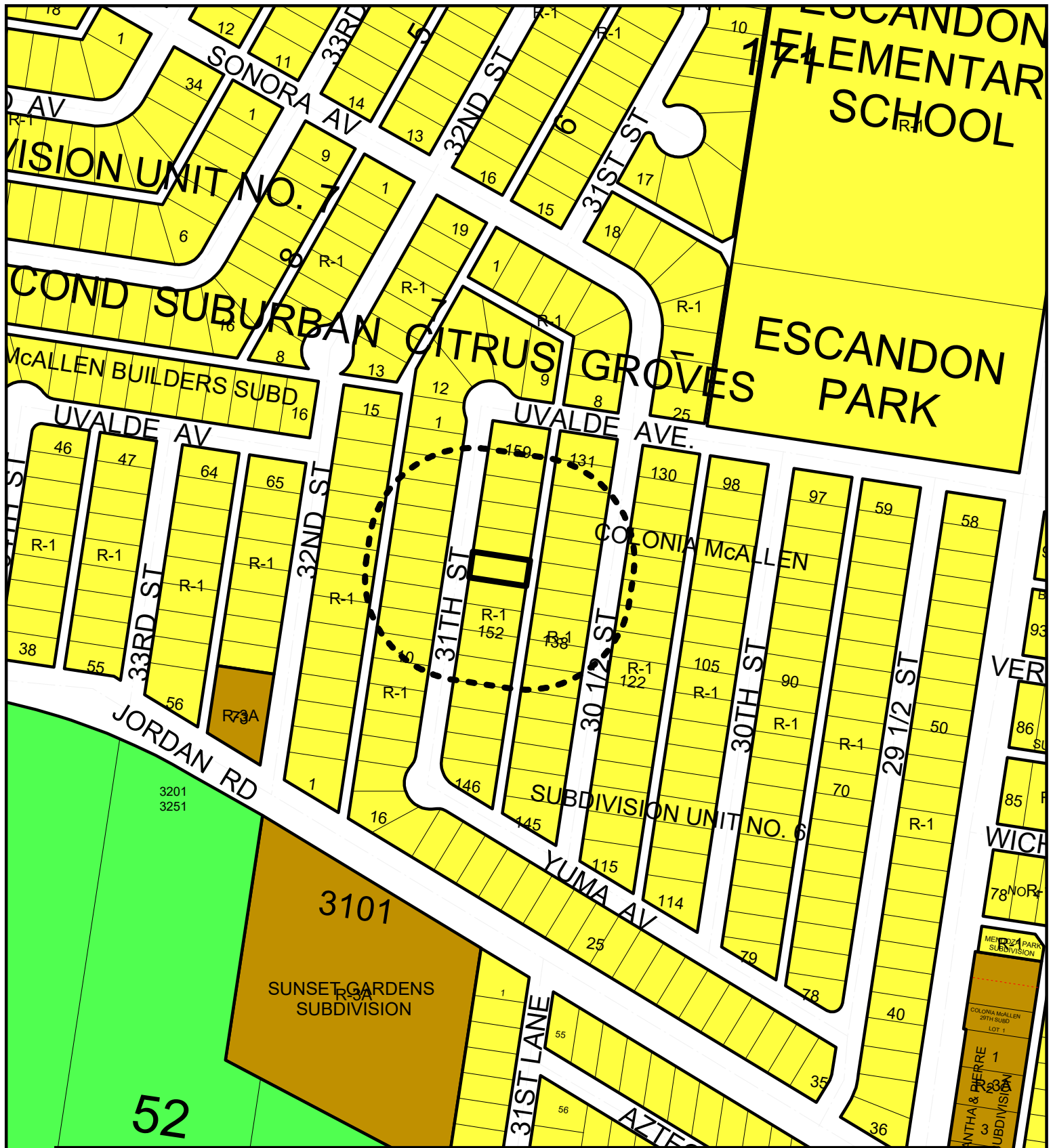
SITE ADDRESS ST. NO. 31st ST. NAME 31st
2121

CITY USE ONLY

Construction Cost Permit Fee \$ 6688 Rec'd by CA
Value \$ Double Fee \$ 6688 Date 6/15/20
Zoning Total Fee \$ 13376 Time 2:58
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.

San Juanita San miguel San Juanita San miguel 6-15-20
PRINT (AUTHORIZED AGENT/OWNER) SIGNATURE EMAIL ADDRESS (required) DATE



CITY OF McALLEN PLANNING DEPARTMENT
















AREA MAP



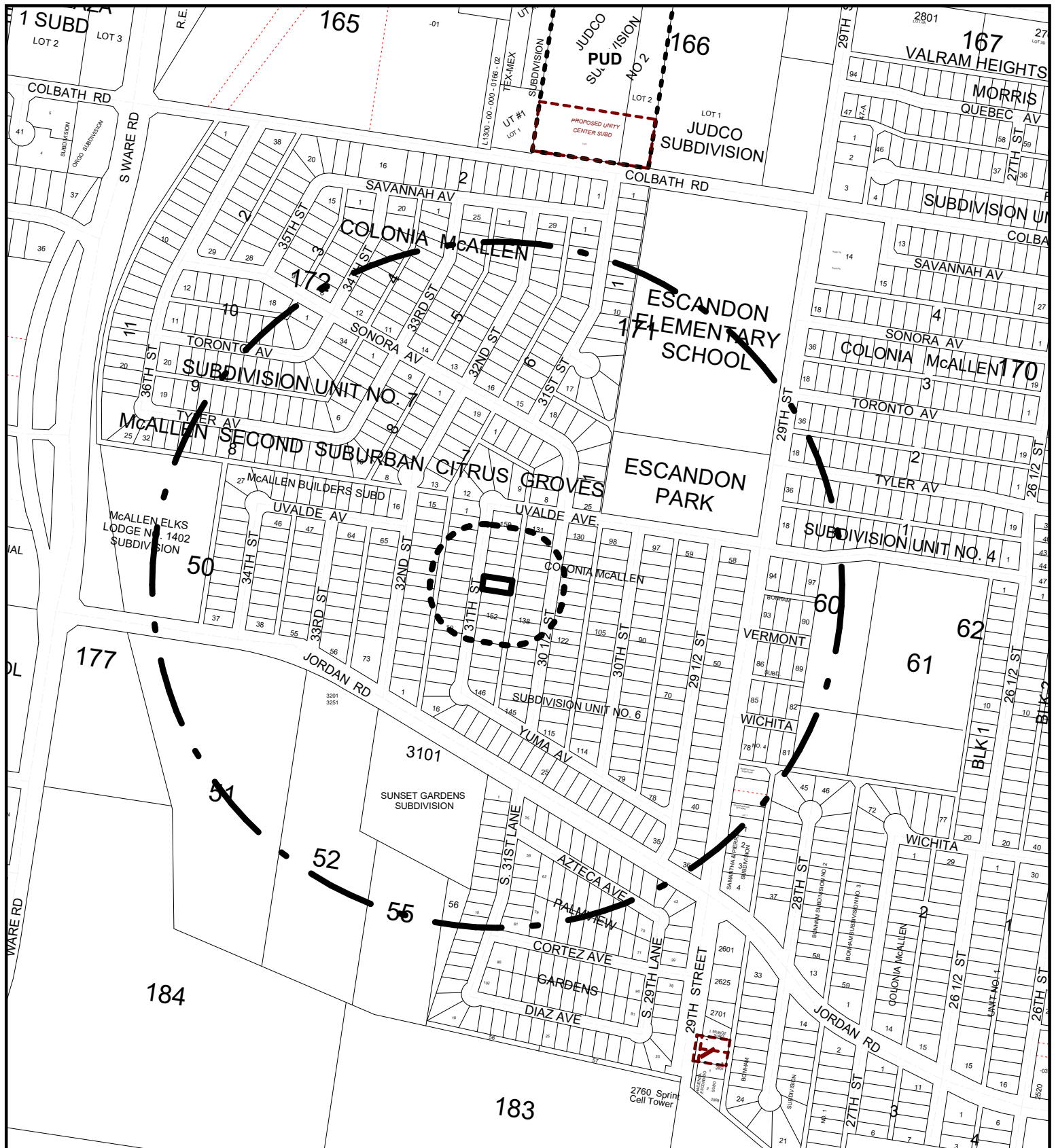
 **SUBJECT PROPERTY**

 **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.mcalen.net>. Furthermore, this map is for informational purposes and is not prepared for or suitable for legal, engineering, or surveying purposes. It does not represent an on ground survey and represent approximate relative location of property boundaries.



CITY OF McALLEN PLANNING DEPARTMENT

LEGEND SCALE: N.T.S.

AREA MAP



SUBJECT PROPERTY

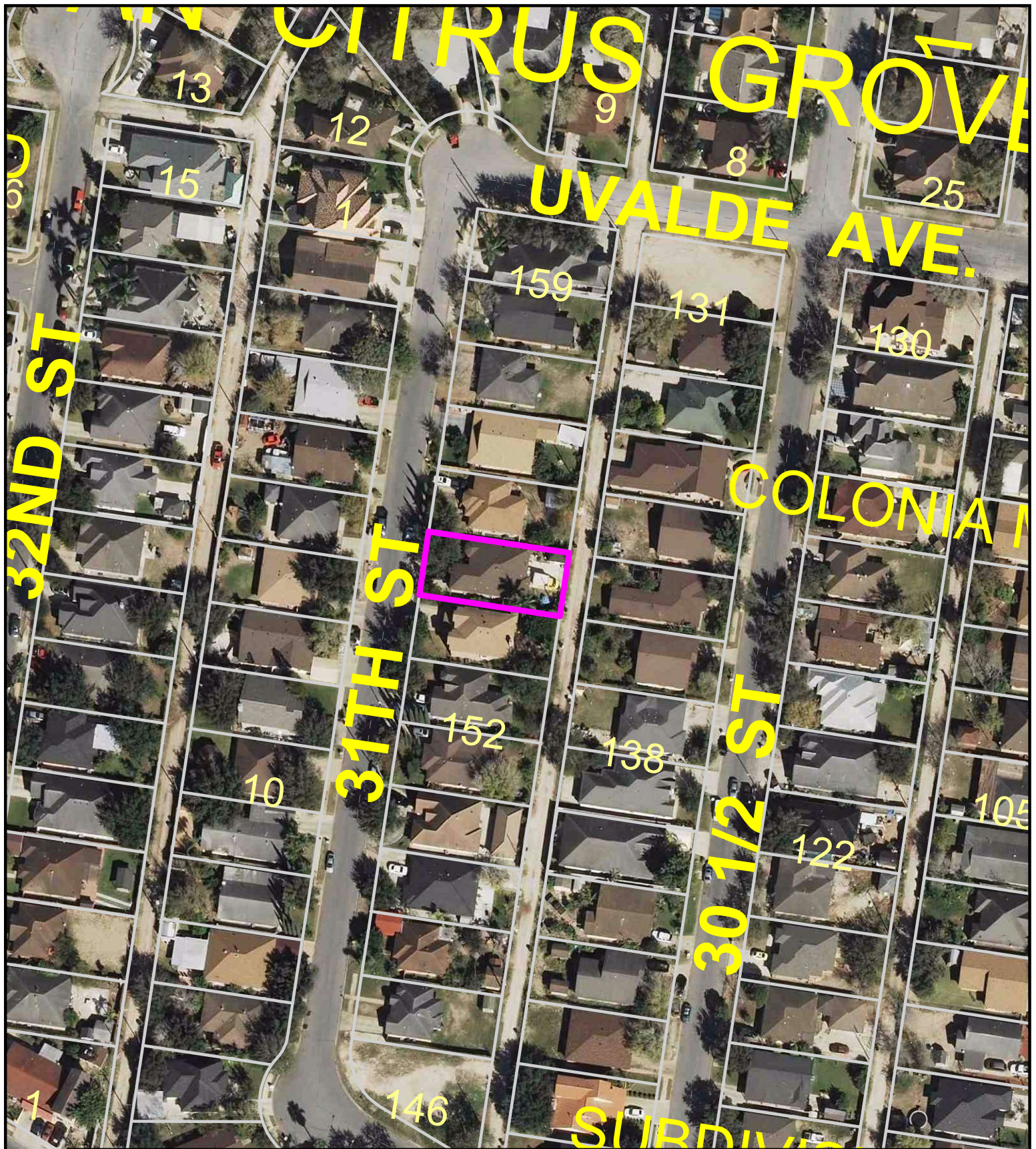
200 FT. NOTIFICATION BOUNDARY

1/4 MILE RADIUS

ZONING LEGEND

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

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CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

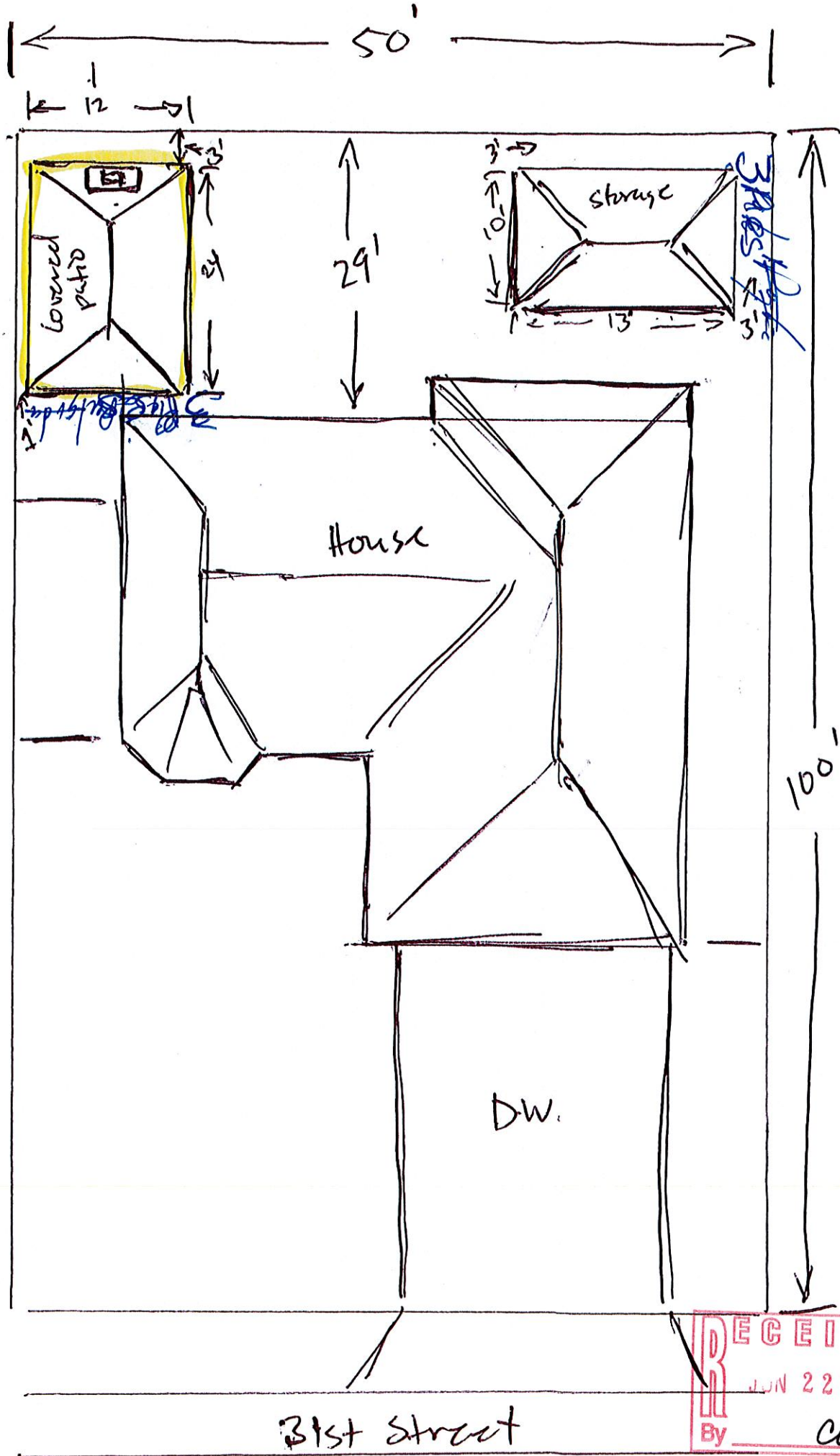
AERIAL MAP
SCALE: N.T.S.



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SALINAS & CASTILLO, INC.
CONSULTING ENGINEERS & SURVEYORS
1813 SYCAMORE - MC ALLEN, TEXAS

6-22-20
SSN



RECEIVED
JUN 22 2020
By CW







Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: August 14, 2020

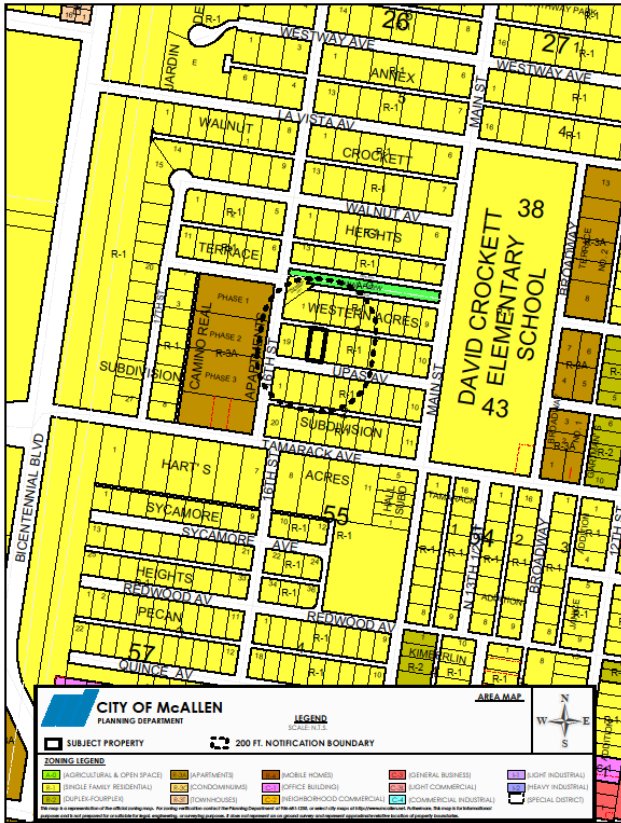
SUBJECT: REQUEST OF AMERICA I. LOPEZ FOR THE FOLLOWING SPECIAL EXCEPTIONS AND VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW: 1) AN ENCROACHMENT OF 7 FT. INTO THE 7 FT. SIDE YARD SETBACK ON THE EAST PROPERTY LINE FOR AN EXISTING STORAGE BUILDING MEASURING 7 FT. BY 17 FT., 2) TO ALLOW AN ENCROACHMENT OF 5 FT. INTO THE 5 FT. SIDE YARD SETBACK ON THE WEST PROPERTY LINE FOR AN EXISTING STORAGE BUILDING MEASURING 8 FT. BY 10 FT., 3) TO ALLOW AN ENCROACHMENT OF 23 FT. INTO THE 30 FT. FRONT YARD SETBACK FOR A PROPOSED CARPORT MEASURING 19 FT. BY 20 FT., 4) TO ALLOW AN ENCROACHMENT OF 7 FT. INTO THE 7 FT. SIDE YARD SETBACK ON THE EAST SIDE FOR A PROPOSED CARPORT MEASURING 19 FT. BY 20 FT., 5) TO ALLOW AN ENCROACHMENT OF 5 FT. INTO THE 5 FT. SIDE YARD SETBACK ON THE WEST PROPERTY LINE FOR A PROPOSED CARPORT MEASURING 20 FT. BY 30 FT. AND 6) TO ALLOW AN ENCROACHMENT OF 5 FT INTO THE 5 FT. SIDE YARD SETBACK ON THE WEST PROPERTY LINE FOR A PROPOSED CARPORT MEASURING 20 FT. BY 30 FT. AT LOT 17, BLOCK 1, WESTERN ACRES SUBDIVISION, HIDALGO COUNTY, TEXAS; 1508 UPAS AVENUE. (ZBA2020-0040)

REASON FOR APPEAL:

America Lopez, is requesting a variance to allow encroachments into the front yard and side yard setbacks for 2 existing storage buildings and 2 proposed carports. The applicant stated that she had a recent knee replacement surgery and the carports would help her and her husband get to their vehicles safely for their medical appointments in inclement weather. In addition, it would help their cars; their cars suffer damage from hail and from a sap that falls into their cars from a neighboring tree.

PROPERTY LOCATION AND VICINITY:

The subject property has frontage on Upas Avenue and is approximately 430 ft. away from Main Street. The lot has 61.5 ft. of frontage on Upas Avenue and a depth of 130 ft. The property is zoned R-1 (single family residential) District. The surrounding land uses are single-family residences, El Camino Real Apartments and David Crocket Elementary School.



BACKGROUND AND HISTORY:

Western Acres was recorded on March 4, 1952. According to Building Permit records, a Stop Work Order was issued on June 16, 2020 for construction without a permit. The applicant submitted an application for a building permit on June 18, 2020. The variance request application was submitted on July 14, 2020.

The Zoning Board of Adjustments and Appeals approved variances at 1515 Vine Avenue (2116 N. 16th St) and 1409 Vine Avenue for buildings encroachments into the rear and front setbacks lines in 1973.

ANALYSIS:

Variance # 1 is to allow an encroachment of 7 ft. into the 7 ft. east side yard setback, for an existing storage building measuring 7 ft. by 17 ft. for an area of 119 sqft. Storage building is located at the northeast section of the property. According to County records, the improvement was built in 2012.

Variance #2 is to allow and encroachment of 5 ft. into the 5 ft. west side yard setback, for an existing storage building measuring 8 ft. by 10 ft. for an area of 80 sqft. Storage building is located at the northwest section of the property. According to County records, the improvement was built in 2015.

Variance #3 is to allow an encroachment of 23 ft. into the 30 ft. front yard setback, for a proposed carport measuring 19 ft. by 20 ft. for an area 380 sqft.

Variance #4 is to allow an encroachment of 7 ft. into the 7 ft. east side yard setback for a proposed carport measuring 19 ft. by 20 ft. The carport will not have an overhang, at the property line the carport will go straight down.

Variance request # 5 is to allow an encroachment of 23 ft. into the 30 ft. front yard setback, for a proposed carport measuring 20 ft. by 30 ft. with an area of 600 sqft.

Variance #6 is to allow an encroachment of 5 ft. into the 5 ft. west side yard setback, for a proposed carport measuring 20 ft. by 30 ft. as in variance #4 there will not be an overhang. However, staff recommends to relocate, if approved, column #1, to be align with the rest of the columns in the driveway.

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

The submitted site plan indicates the proposed carports to be 7 foot from the property line; however, measurements provided are without the benefit of a survey. Approval of the variance request will allow the proposed construction as depicted on the site plan.

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

There are other existing carports in the area that appear to be encroaching into the front and side yard setbacks.

There are no utility easements shown on the plat.

RECOMMENDATION:

Staff recommends disapproval of variance #1 and #2 and approval of the two special exceptions since reasons of appeal are health related. If the Board chooses to approve the variances, the approval should be limited to the footprint as shown on the site plan.

ZBA2020-0040

ZBA
8/19/2020

City of McAllen

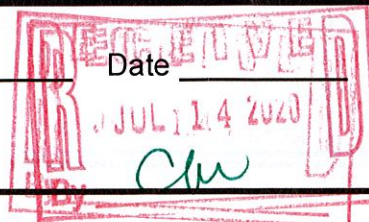
Planning Department

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>Western Acres</u>		
	Subdivision Name	<u>MO-TEX Subdivision</u>		
Project	Street Address	<u>1508 Upas Ave.</u>		
	Number of lots	<u>ONE</u>	Gross acres	<u>7995 sq. ft.</u>
	Existing Zoning	<u>The North 165 Feet of Lot 12 Block 95</u>	Existing Land Use	
	Reason for Appeal (please use other side if necessary)	<u>The Reasons are written on the back of this form please read and try to understand but I will respect your decision.</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>America I. López</u>		
	Address	<u>1508 Upas Ave.</u>		
Applicant	City	<u>McAllen</u>	State	<u>TX.</u>
	Phone	<u>956-681-2555</u>	E-mail	<u>America Lopez@122.com</u>
Owner	Name	<u>Roel M. Garza, Antonio R. Garza</u>		
	Address	<u>Monterrey, N.L. Jacksonville</u>		
Owner	City	<u>Jacksonville, FL.</u>	State	<u>FL.</u>
	Zip	<u>32259</u>	<u>1410 Roberts Rd. St. Johns, FL.</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.			
Authorization	Signature	<u>A. López</u>		
	Print Name	<u>America López</u>		
Office	Accepted by	_____		
	Payment received by	_____		
Office	Date	<u>07-14-2020</u>		
Office	Rev 10/18	<input type="checkbox"/> Owner <input checked="" type="checkbox"/> Authorized Agent		



Rct# 725764

upload:



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal

Saved from our budget for two years to have these carports for necessary reasons such as;

- ① To Enter, and exit to and from our home in a helpful and safety daily basis.
- ② Doctors Appt. After having three knee replacement surgeries last one recent 06-27-20 due to injuries at Vietnam in the military and worked at Texas Dept. of Corrections walking on concrete stairs for 30 years.
- ③ Walks with a cane or walker and has a scooter with bracket attached to the back of his vehicle and needs the space wide enough to hook and unhooked to his vehicle between five cars we have in our household.
- ④ My husband has fallen two times due to wet driveways after rain, bad weather myself I have fallen one time slipping on wet concrete. Has V.A. meeting for PTSD diagnosis.
- ⑤ Groceries and medicine pickups is also an important to leave our home. Librarys for Activity programs and check out books which he likes to read.
- ⑥ No SHADE to enjoy family gatherings to sit or grandkids cause its to hot.

⑦ We have one ramp on one driveway and will eventually get another one on the the second driveway for myself. We don't like to bother anyone and try to do whatever we have to do.

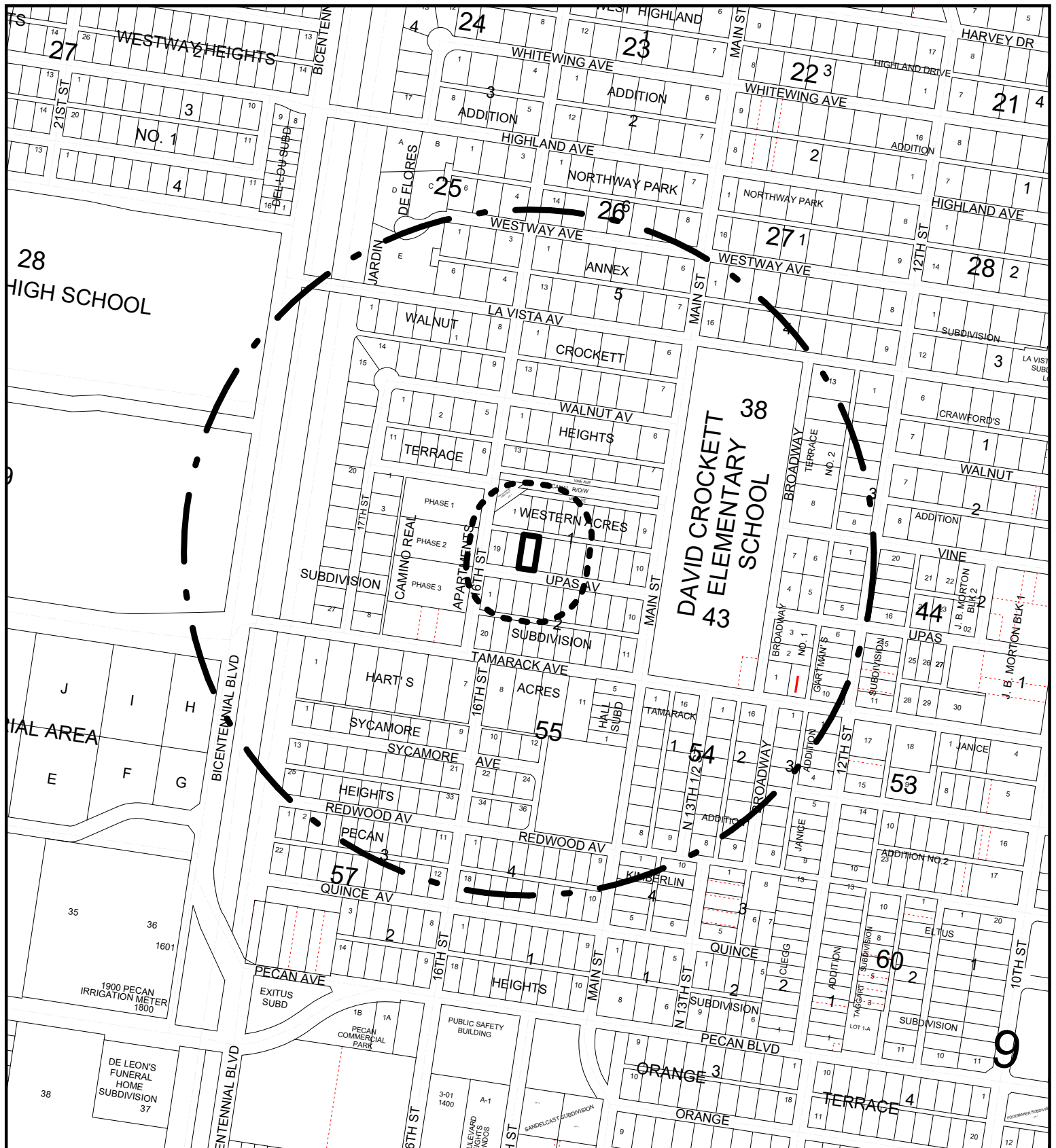
⑧ We both walk slow and get all wet from rain by the we get to our porch trying to rush carrying stuff inside. I have spoken to some neighbors about it and say they don't mind. They will be nice matching my house nothing tacky.

⑨ Last but not least we have had three damage due to hail also my neighbor has a tree that a sticky fluid falls on one car that parks by it and eventually will damage the paint on it. has to be rinse every two days.

Board Action

Chairman, Board of Adjustment
Signature

Date



CITY OF McALLEN PLANNING DEPARTMENT

LEGEND SCALE: N.T.S.

AREA MAP

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

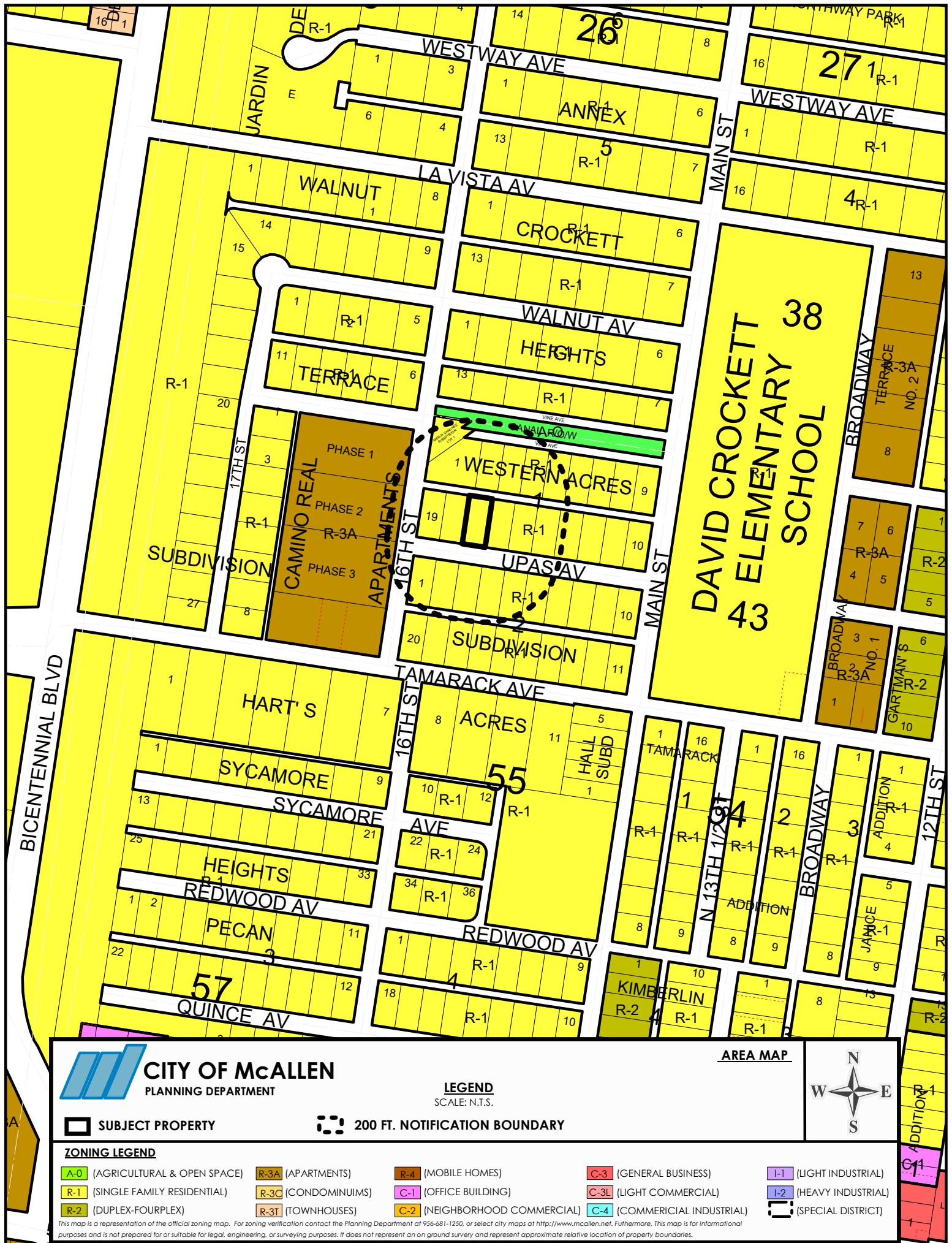
1/4 MILE RADIUS



ZONING LEGEND

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

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





CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.



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

6/22/2020

City of Mc Allen Planning Department
Appeal to Zoning Board of Adjustments to
Mc Allen Zoning Ordinance

To whom it may concern,
I Jeannie L. Garza widow of Roel M. Garza
give authorization to my sister in law America
L. Lopez for any repairs adding a construction
to fix the house as needed. It was a gift
deed on my behalf. This was decided in 1995.
If you need to contact me my address is
1810 B Williams Lane Harlingen, TX 78552.
Cell phone (956) 493-1815

Thank You
Jeannie L. Garza

Texas Department of Health — Bureau of Vital Statistics

1. NAME OF DECEASED (a) FIRST (b) MIDDLE (c) LAST (d) MAIDEN		2. SEX	3. DATE OF DEATH
Roel Martin Garza		Male	12-26-1997
4. DATE OF BIRTH	5. AGE (IN YEARS)	6. BIRTH PLACE (CITY & STATE OR FOREIGN COUNTRY)	7. SOCIAL SECURITY NO.
10-28-1959	38	Mexico	465-37-9680
8. RACE	9a. WAS THE DECEASED OF HISPANIC ORIGIN?	9b. IF YES, SPECIFY MEXICAN, CUBAN, PUERTO RICAN, ETC.	10. WAS DECEASED EVER IN U.S. ARMED FORCES?
White	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Mexican	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
12. MARITAL STATUS	13. SURVIVING SPOUSE (IF WIFE, GIVE MAIDEN NAME)	14a. DECEASED'S USUAL OCCUPATION	14b. KIND OF BUSINESS OR INDUSTRY
<input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> NEVER MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> DIVORCED	Jeannie Lea	Manager	Wal-Mart
15a. RESIDENCE STREET ADDRESS		15b. CITY OR TOWN	
1810 B. Williams Lane		Harlingen	
15c. COUNTY	15d. STATE	15e. ZIP CODE	15f. INSIDE CITY LIMITS
Cameron	Texas	78550	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
16. FATHER'S NAME		17. MOTHER'S MAIDEN NAME	
Rogelio Garza		America Rivera	
18. PLACE OF DEATH (CHECK ONLY ONE)			
HOSPITAL: <input checked="" type="checkbox"/> INPATIENT <input type="checkbox"/> ER/OUTPATIENT <input type="checkbox"/> DOA OTHER: <input type="checkbox"/> NURSING HOME <input type="checkbox"/> RESIDENCE <input type="checkbox"/> OTHER (SPECIFY)			
19. COUNTY OF DEATH	20. CITY OR TOWN (IF OUTSIDE CITY LIMITS, GIVE PRECINCT NO.)	21. NAME OF HOSPITAL OR INSTITUTION (If not in institution, show street address)	
Cameron	Harlingen	Valley Baptist Medical Center	
22. INFORMANT - SIGNATURE & RELATIONSHIP		23. MAILING ADDRESS OF INFORMANT	
Rogelio Garza Brother		P.O. Box 738 Maynor, Texas 78653	
24. METHOD OF DISPOSITION	25a. PLACE OF DISPOSITION (NAME OF CEMETERY, CREMATORY OR OTHER PLACE)	25b. Section	28. NAME & ADDRESS OF FUNERAL HOME
<input checked="" type="checkbox"/> BURIAL	Valley Memorial Gardens	H	Rivera Funeral Home
<input type="checkbox"/> CREMATION	25c. LOCATION (CITY, STATE)	Block	1901 Pecan
<input type="checkbox"/> REMOVAL FROM STATE	McAllen, Texas	Lot	McAllen, Texas 78501
<input type="checkbox"/> DONATION	27. SIGNATURE OF FUNERAL DIRECTOR OR PERSON ACTING AS SUCH	Space	
<input type="checkbox"/> OTHER (SPECIFY)	Ralph [Signature] #9910	Unknown <input type="checkbox"/>	
30. CERTIFIER		29. DATE OF DISPOSITION	
<input checked="" type="checkbox"/> CERTIFYING PHYSICIAN TO THE BEST OF MY KNOWLEDGE DEATH OCCURRED AT THE TIME, DATE, AND PLACE, AND DUE TO THE CAUSE(S) AND MANNER AS STATED.		12-27-1997	
<input type="checkbox"/> MEDICAL EXAMINER ON THE BASIS OF EXAMINATION AND/OR INVESTIGATION, IN MY OPINION, DEATH OCCURRED AT THE TIME, DATE, PLACE, AND DUE TO THE CAUSE(S) AND MANNER AS STATED.			
<input type="checkbox"/> JUSTICE OF THE PEACE			
31. SIGNATURE & TITLE OF CERTIFIER		32. DATE SIGNED	33. TIME OF DEATH
[Signature]		1/16/98	7:00 A. M.
34. PRINTED NAME & ADDRESS OF CERTIFIER			
Todd Shenkenberg M.D. 2121 Pease Harlingen, Texas 78550			
35. PART 1 ENTER THE DISEASES, INJURIES OR COMPLICATIONS THAT CAUSED THE DEATH. DO NOT ENTER THE MODE OF DYING SUCH AS CARDIAC OR RESPIRATORY ARREST, SHOCK, OR HEART FAILURE. LIST ONLY ONE CAUSE ON EACH LINE.			Approximate Interval Between Onset and Death
IMMEDIATE CAUSE (Final disease or condition resulting in death)			week 7
a. Meningitis			
b. pneumonia			days
c. immediate stroke syndrome years			
d. DUE TO (OR AS A LIKELY CONSEQUENCE OF):			
Sequitely list conditions, if any, leading to immediate cause. Enter UNDERLYING CAUSE (disease or injury that initiated events resulting in death) LAST			
PART 2 OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RESULTING IN THE UNDERLYING CAUSE GIVEN IN PART 1 (e.g., substance abuse, diabetes, smoking, etc.)			
36a. AUTOPSY?			36b. AUTOPSY FINDINGS AVAILABLE PRIOR TO COMPLETION OF CAUSE OF DEATH?
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			<input type="checkbox"/> YES <input type="checkbox"/> NO
37. DID TOBACCO USE CONTRIBUTE TO DEATH	38. DID ALCOHOL USE CONTRIBUTE TO DEATH	39. WAS DECEASED PREGNANT	
<input type="checkbox"/> YES <input type="checkbox"/> PROBABLY <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN	<input type="checkbox"/> YES <input type="checkbox"/> PROBABLY <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNKNOWN	AT TIME OF DEATH <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK WITHIN LAST 12 MO <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> UNK	
40. MANNER OF DEATH	41a. DATE OF INJURY	41b. TIME OF INJURY	41c. INJURY AT WORK
<input checked="" type="checkbox"/> NATURAL <input type="checkbox"/> ACCIDENT <input type="checkbox"/> SUICIDE <input type="checkbox"/> HOMICIDE <input type="checkbox"/> PENDING INVESTIGATION <input type="checkbox"/> COULD NOT BE DETERMINED		M.	<input type="checkbox"/> YES <input type="checkbox"/> NO
42a. REGISTRAR FILE NO.	41d. PLACE OF INJURY — AT HOME, FARM, STREET, FACTORY, OFFICE, ETC. (SPECIFY)		
03-919			
42b. DATE RECEIVED BY LOCAL REGISTRAR	42c. SIGNATURE OF LOCAL REGISTRAR		
01-26-98	[Signature]		

WARNING

The penalty for knowingly making a false statement in this form can be 2-10 years in prison and a fine of up to \$10,000. (Health and Safety Code, Sec. 195, 1999)

VS-112 REV. 9/95

STATE OF TEXAS

COUNTY OF CAMERON

CERTIFIED COPY OF VITAL RECORDS

DATE ISSUED

1/27/98

TO: City of McAllen
PLANNING DEPARTMENT
APPEAL TO ZONING BOARD OF ADJUSTMENT
TO McALLEN ZONING ORDINANCE

FROM: ANTONIO R. GARZA
(281) 216-6388

To whom it may concern

I, Antonio R. Garza, brother of America J. Lopez,
give authorization to do repairs or construction to
this home at 1508 Upar Ave, McAllen, TX 78501. It
was a gift to her from me and brothers on the year of 1995.

Thank you

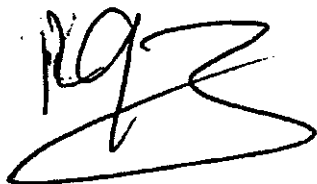
Antonio R. Garza
14914 Wellington Ln.
Houston, TX 77049
(281) 216-6388

Dear Board,

My name is Rosbel Rey Garza and I writing in reference to the resident, my sister America Lopez, on 1508 Upas Street. This home was originally our mother's in the early 70's and was deeded to her sons. My sister and her husband have been residing at his home for nearly 30 years. Over the years, my sister America Lopez and her husband, Wilfredo Lopez have made many improvement to their home. As a son listed on the resident deed or title, I authorized America and Wilfredo Lopez, full Autonomy to make home improvements on the property.

If you have any questions, please feel free to call me at 904-657-8050.

Kind regards,

A handwritten signature in black ink, appearing to be 'R. Garza', with a large, stylized flourish at the end.

Rosbel Rey Garza


**CITY OF MCALLEN
PLANNING DEPARTMENT
APPEAL TO ZONING BOARD OF
ADJUSTMENT TO MCALLEN ZONONG
ORDINANCE**

I, Rogelio Guillermo Garza Rivera, with Personal ID No. GARR511129HTSRVG01, and legal address at Camino de los Gavilanes No. 113, San Jemo, Monterrey, Nuevo Leon, Mexico; of marital status married, as the older brother, state by means of this herein the authorization to my sister América I. Lopez to remodel, expand and / or build the property located at 1508 Upas Ave., McAllen, Tx., 78501. Likewise, she is authorized to carry out all the procedures in order to obtain the corresponding authorizations for the purposes described above.

I declare that my sister America I. Lopez is the one who currently lives in the property, therefore owns the legal address of this property

Without further ado, I remain at your disposal for any questions or clarifications in this regard.

Respectfully,



ROGELIO G. GARZA RIVERA
Camino de los Gavilanes No. 113
Col. San Jemo
Monterrey, N.L. CP 64630
Tel. (52) 81 8315 0015

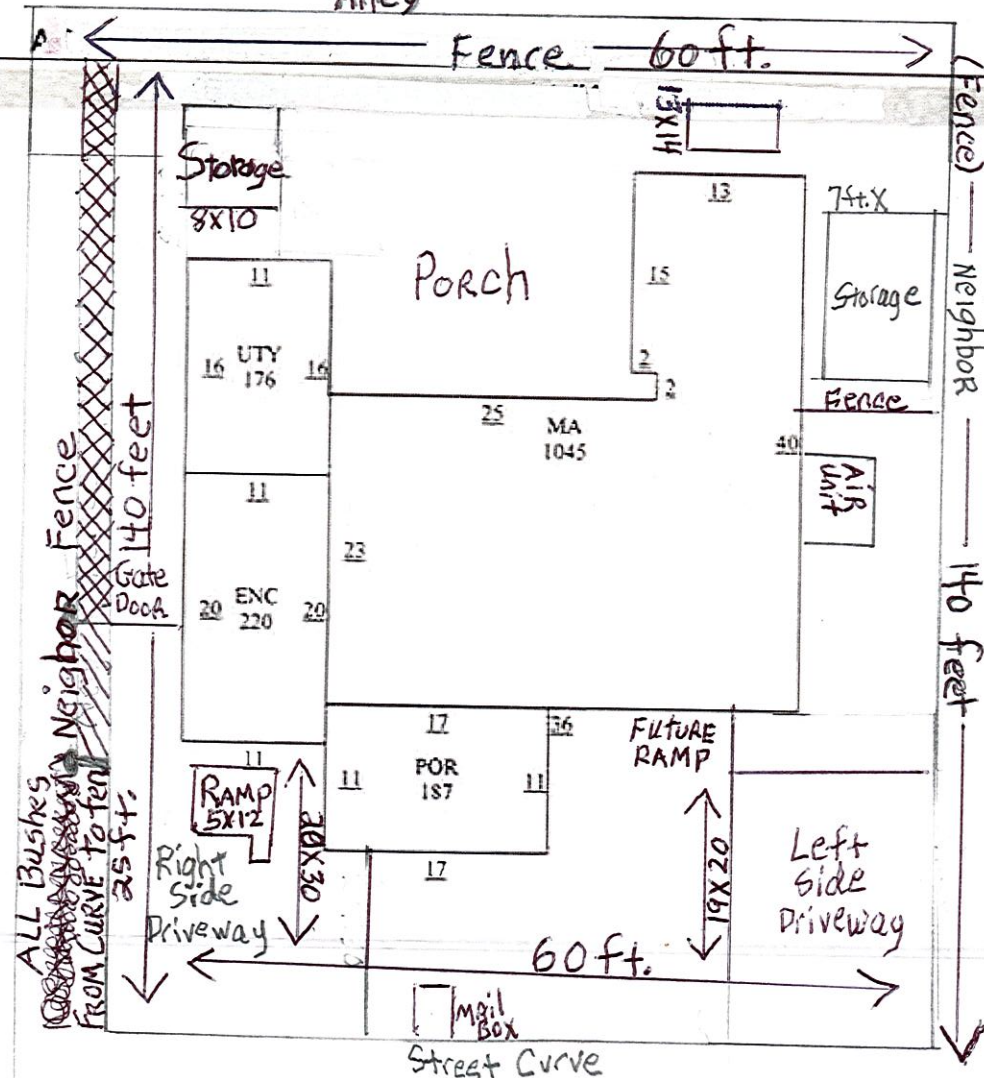
ERSHIP
0.00%

ROGELIO G GARZA&ROSBEL R GARZA
1508 UPAS AVE
MCALLEN, TX 78501-3110-08

ACRES:

EFF. ACRES:

Alley



CAD	100%
CML	100%
DR1	100%
GHD	100%
JCC	100%
R12	100%
SML	100%
SST	100%

IMPROVEMENTS		35,964
LAND MARKET	+	25,184
MARKET VALUE	=	61,148
PRODUCTIVITY LOSS	-	0
APPRAISED VALUE	=	61,148

HS CAP LOSS -

ASSESSED VALUE = 61,148

EXEMPTIONS

PICTURE



07-12-2020

To The City of McAllen Planning Department
of zoning board of ordinance

To Whom it may concern MAAM'S AND SIRS,

My name is America Lopez my husband Wilfredo Lopez and three other family members live at 1508 Upas Ave. in McAllen.

This home has been in our family since 1973 that's 47 years. My mother America Rivera was original second owner when she purchase it she became ill and decided to put it the title of the house to my four brothers at that time, between 1980-1985 but was given to me as a gift on 1995, I trust my brothers and for various reasons on my behalfs have not transfer the title to my name. Mainly just raising my 5 children, working, going to school and also the cost. I have Always payed my taxes on time and kept up with all the needed repair such as New plumbing, fuse box, installed central air, put stucco on the brick, fenced the back yard, install New tile, and windows.

I have never had problems with the city ordidance so I am not familiar with the city rules and procedures.

Your decisions I will respect but will you please read on the back of your form why I need this 2 carports.

Thank-you
Mrs. America Lopez

Neighbor Signatures

2009

30 THURSDAY

Sabinio Dela Cruz

150 UPAS

956 618 43 41

MCALLEN TX. 78501

31 FRIDAY

Jennifer R. Pedroza

1504 Upas Ave

McAllen, Tx 956-627-3363
78501

I approve that my
neighbor America Lopez
uses 2 inches of our
property.

1 SATURDAY

AUGUST

2 SUNDAY

1509 Upas Ave.
McAllen, 78501

Neighbor Across
the street. No
issue with carport

Jesus Hernandez being built at
Disabled Veteran 1508 Upas Ave.

NOTES:

281-509-1864 - Nark Paz

RAMON MEDRANO

1408 UPAS AVE

MCALLEN TX

APPROVE OF ANY CARPORT BUILT
ON HER PROPERTY

Kayla Cruz 1501 Upas Avenue
I approve that my neighbor America
Lopez gets two carports.

Kayla Cruz



NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2020-0040
CITY OF MCALLEN PLANNING DEPT.
986-467-1130
WWW.MCALLE.NET

ACRES:

EFF. ACRES:

SML 100%
SST 100%

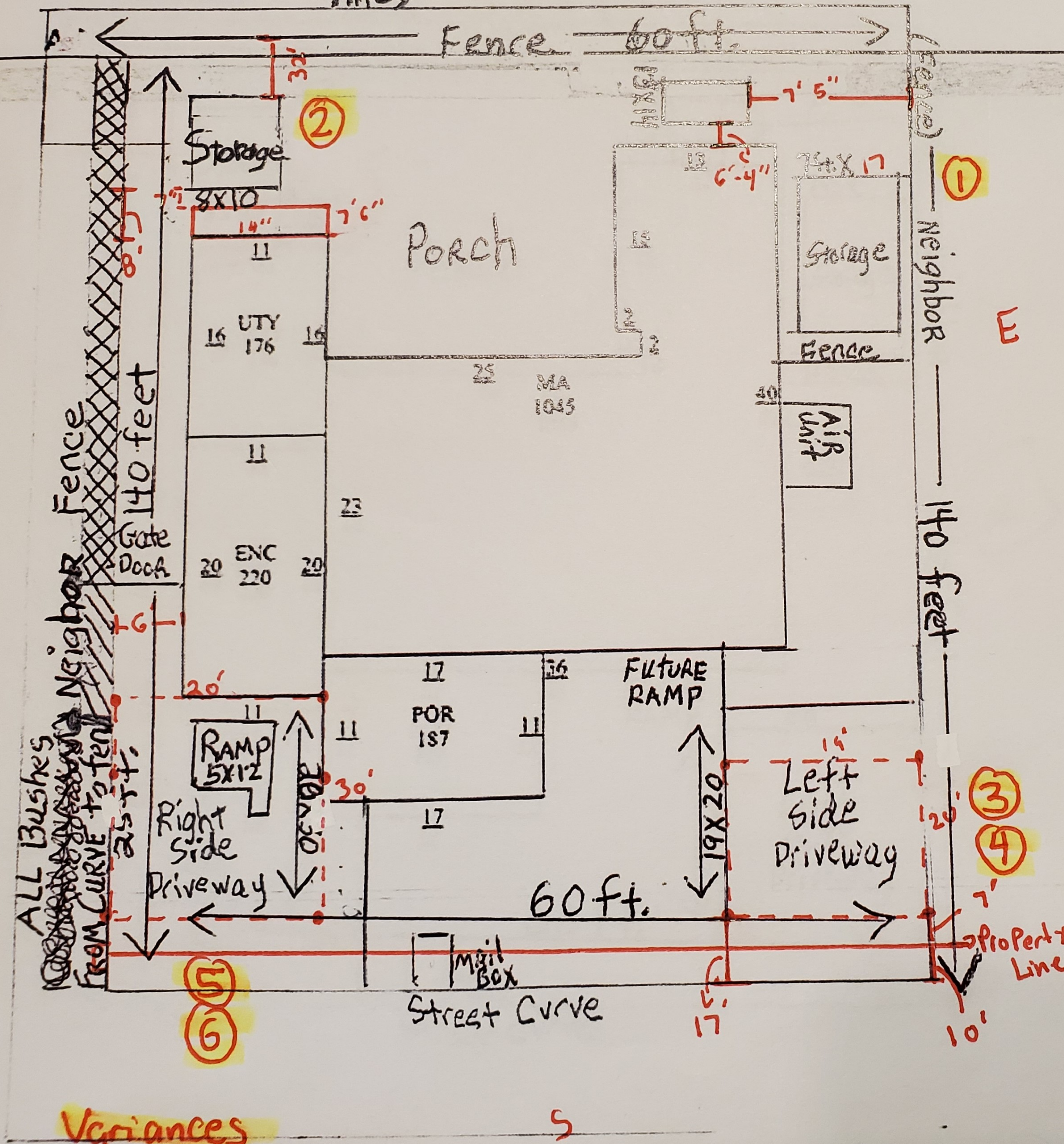
APPRaised VALUE

HS CAP LOSS

ASSESSED VALUE

EXEMPTION

PICTURE











NISSAN

PALACIOS-GARZA
CORTEZ-FARIAS

PULP

ACRES:

EFF. ACRES:

R12
SML 100%
SST 100%

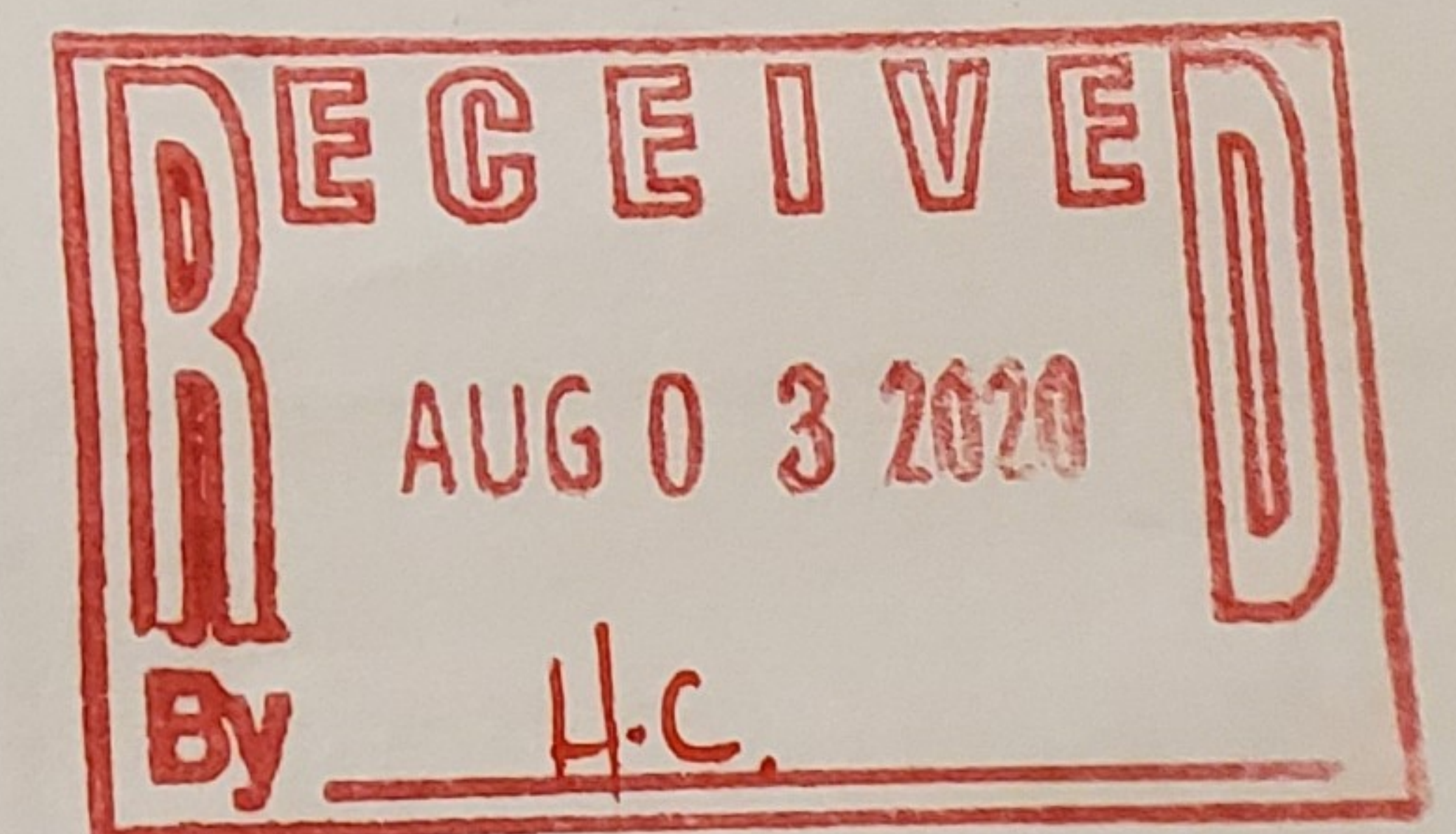
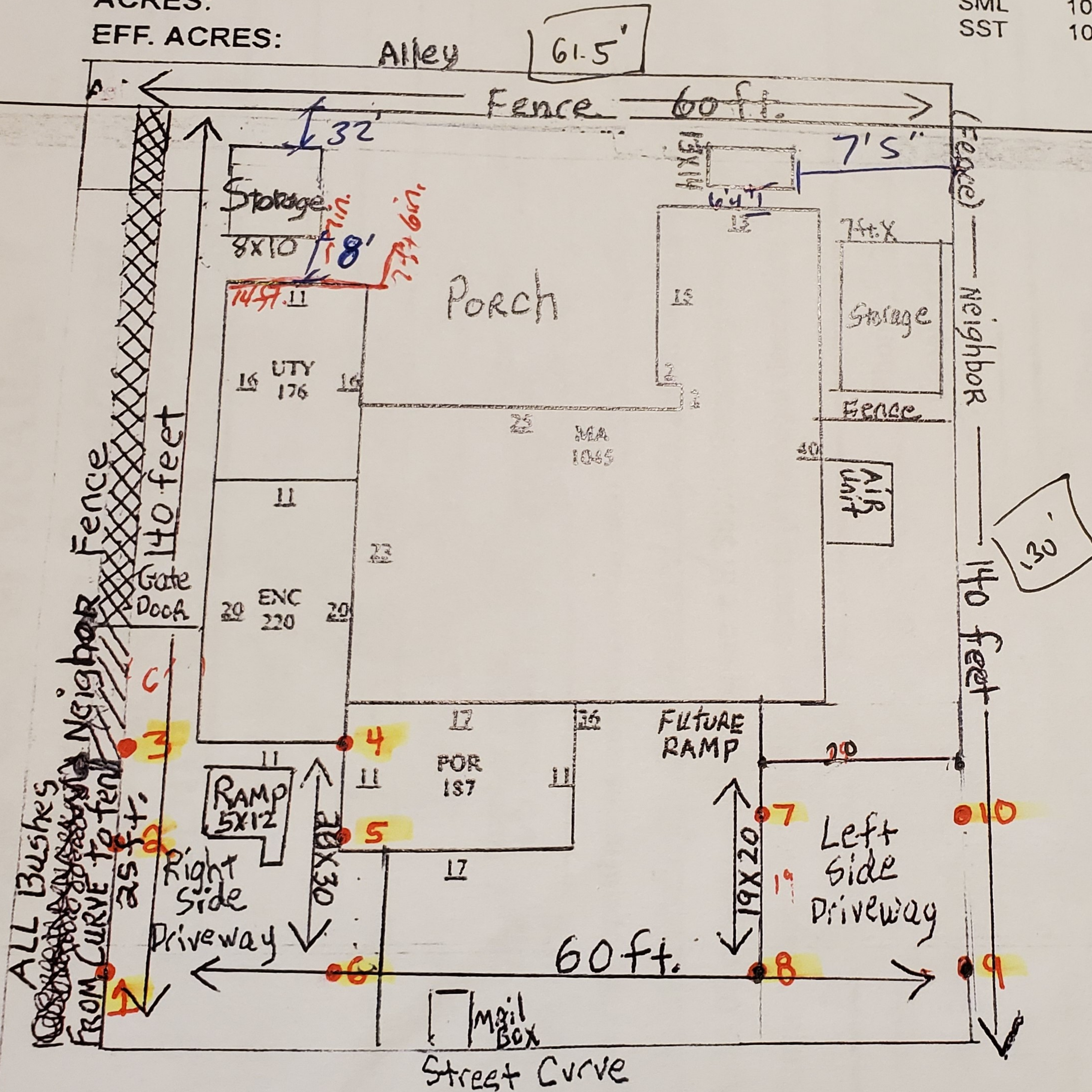
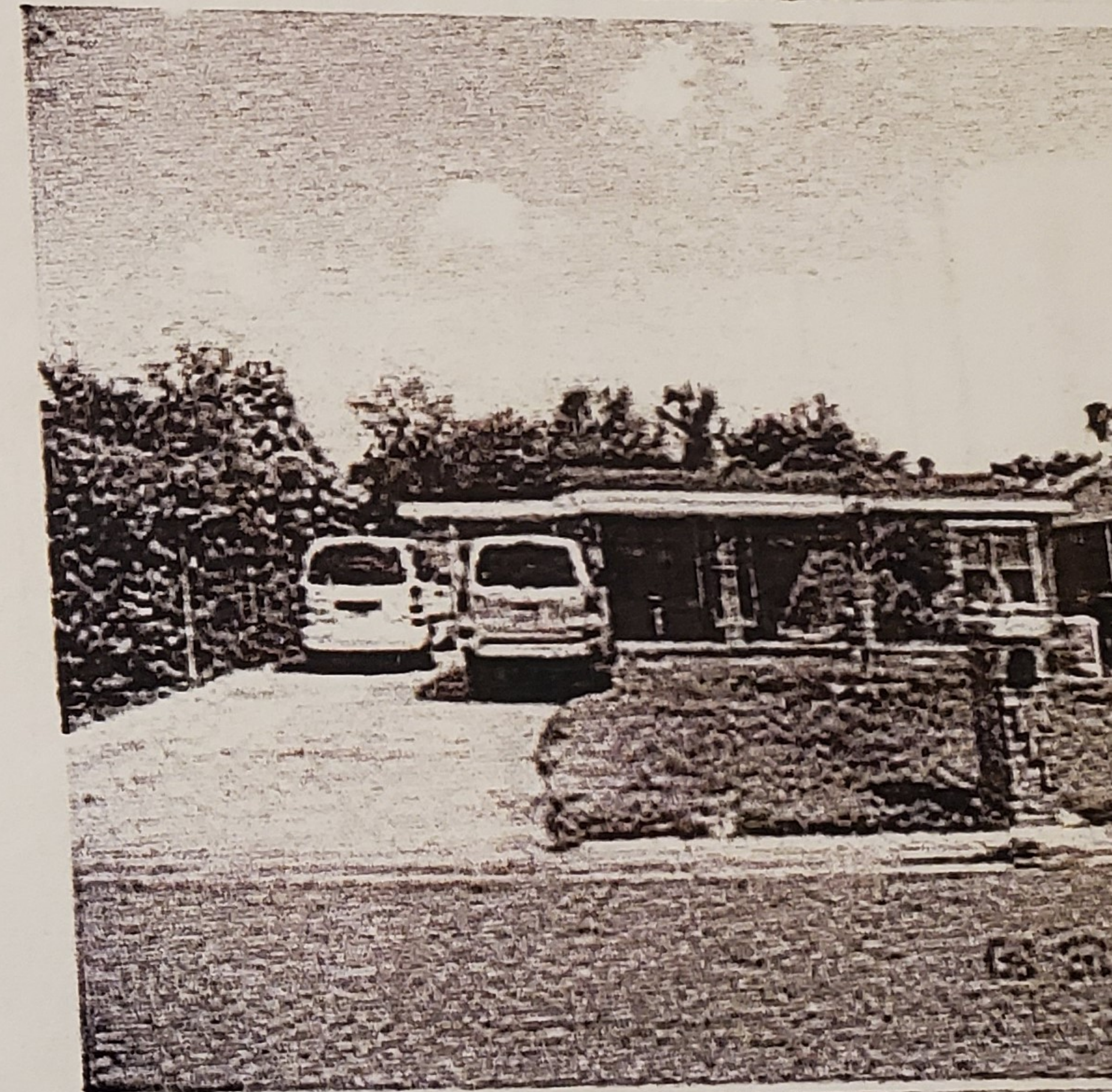
PRODUCTIVITY LOSS = 0
APPRaised VALUE = 61,148

HS CAP LOSS = -

ASSESSED VALUE = 61,148

EXEMPTIONS

PICTURE





Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: August 14, 2020

SUBJECT: REQUEST OF BLANCA I. CANTU FOR THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF McALLEN OFF-STREET PARKING AND LOADING ORDINANCE TO ALLOW 5 PARKING SPACES INSTEAD OF THE REQUIRED 7 PARKING SPACES, AT LOT 18, BLOCK 1, REDWOOD PARK ADDITION, HIDALGO COUNTY, TEXAS; 1601 NORTH 7TH STREET. (ZBA2020-0039)

REASON FOR APPEAL:

The applicant is requesting a special exception from the City of McAllen Off-street Parking and Loading Ordinance to provide 5 parking spaces instead of the required 7 parking spaces for a commercial building due to space limitation.

PROPERTY LOCATION AND VICINITY:

The property is located on the northwest corner of 7th Street and Pecan Boulevard. The lot has 61 ft. of frontage along 7th Street and 135 ft. of depth for a lot size of 8,235 sq. ft. The property is zoned C-3L (light commercial) District. The adjacent zoning is C-2 (neighborhood commercial) District to the east, R-1 (single-family residential) District to the north, and C-3 (general business) District to the west and south. The surrounding land uses include single-family residences, retail stores, beauty salons, and offices.



BACKGROUND AND HISTORY:

Redwood Park Addition Subdivision was recorded on September 14, 1949. The subject property is being used as a flower shop and event design company under the name of Cantu's Special Events. An application for a building permit to add eight seats in the patio as a cyber café was submitted on April 23, 2020. The Planning Department rejected the request due to the deficiency of provided and proposed parking spaces. The application for a special exception request was submitted on July 14, 2020, with a revised site plan showing six seats outside.

ANALYSIS:

The establishment has 545 sq. ft. of retail space, and the applicant is willing to add six seats outside. Therefore, 5 parking spaces for the retail space and 2 for the outside seating area are required for a total of 7 required parking spaces. The request is to provide 5 parking spaces due to space limitation. The applicant has explored the possibility of borrowing parking spaces from the neighboring businesses, which was unsuccessful.

During the inspection, staff noticed that three out of the existing five parking spaces were occupied by the company's vehicles.

Staff has not received any phone calls in opposition to this special exception request.

RECOMMENDATION:

Staff recommends disapproval of the special exception request.

ZBA
8/19/2020

ZBA 2020-0039



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)

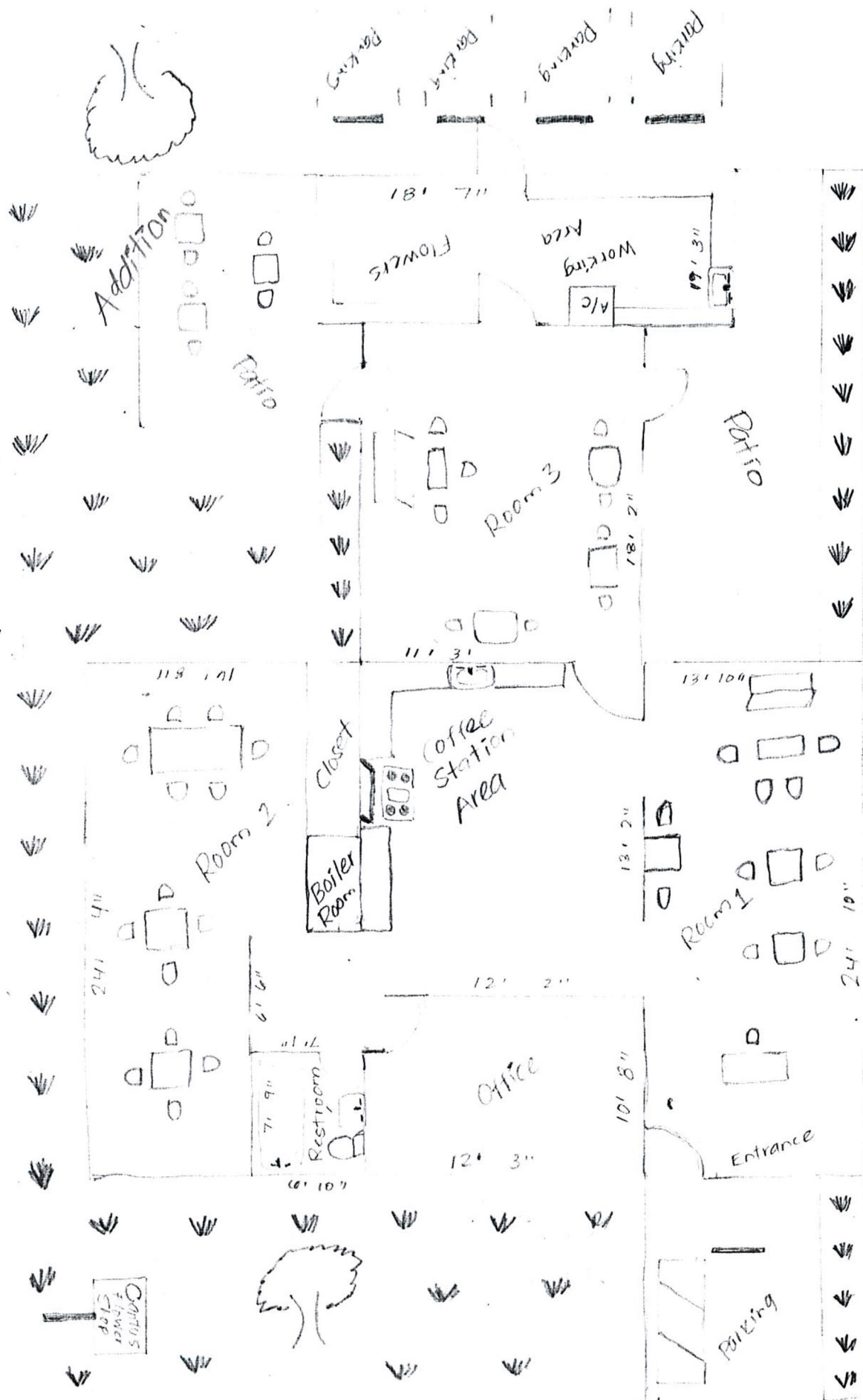
Project	Legal Description	<u>Redwood Park lot 18 B1K 1</u>		
	Subdivision Name			
	Street Address	<u>1601 N 7th St.</u>		
	Number of lots		Gross acres	<u>1.890</u>
	Existing Zoning	<u>C-3L</u>	Existing Land Use	<u>Retail</u>
	Reason for Appeal (please use other side if necessary)	<u>Requisito de 7 y queremos dejar 5 espacios</u>		
Applicant	<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			
Owner	Name	<u>Blanca I. Cantu</u>	Phone	
	Address		E-mail	
	City	<u>Mc Allen</u>	State	<u>TX</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 checked="" 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		Date	<u>7/14/20</u>
Office	Print Name	<u>Blanca I. Cantu</u>	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	
	Accepted by	<u>L.G.</u>	Payment received by	

estaciona-
miento

Rct# 725746



Cantu's Flower Shop





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

REV. 3/2020

Cmm2020-02746

GC103502
APPLICANT

NAME Blanca I. Cantu PHONE
ADDRESS 1601 N. 7th St.
CITY McAllen STATE TX ZIP 78501
CONTACT NAME: Blanca I. Cantu 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. 1,710 NO. PARKING SPACES 5 SQ. FT. LOT 2,860 LOT FRONT FLOOR EL. ABOVE CURB
EXISTING USE Flower Shop NEW USE Flower Shop & Gber Cafe IMPROVEMENT VALUE \$
SCOPE OF WORK TO BE DONE Add Wood Outside & Paint

PROJECT

ADDITION & DEMO USE DEMO SQ. FT. ADD'L BLDG SQ. FT. IMPROVEMENT VALUE \$ 3,000.00
FOUNDATION ☐ CONCRETE SLAB ☐ CONCRETE PIER ☐ CONCRETE BLOCK ☐ CONCRETE BEAM ☐ WOOD POSTS ☐
EXT WALL ☐ MASONRY VENEER ☐ MASONRY SOLID ☐ METAL SIDING ☐ COMPOSITION ☒ WOOD ☐ Paint
ROOF ☐ WOOD SHINGLE ☐ COMPOSITION ☐ METAL ☐ BUILD UP ☐ CLAY OR CONCRETE TILE ☐
SPECIAL CONDITIONS ☐ FIRE SPRINKLER SYSTEM ☐ FIRE ALARM SYSTEM ☐ TYPE OF CONSTRUCTION ☐ ASBESTOS SURVEY ☐ EABPRJAB#: ☐ CONDEMNED STRUCTURE ☐ SEPTIC TANK EXISTING OR PROPOSED ☐ YES ☐ NO

LOT 18 BLOCK 1 SUBDIVISION Redwood Park
SITE ADDRESS ST. NO. 1601 N. ST. NAME 7th St.

CITY USE ONLY

ZONING PERMIT FEE \$ 48.00 DOUBLE FEE \$
PARK DEV. ☐ PERMIT REVIEW FEE \$ 8.64
TOTAL PERMIT FEE \$ 56.64
ZONE # PARK DEVELOPMENT FEE \$
REC'D BY DATE TIME

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.

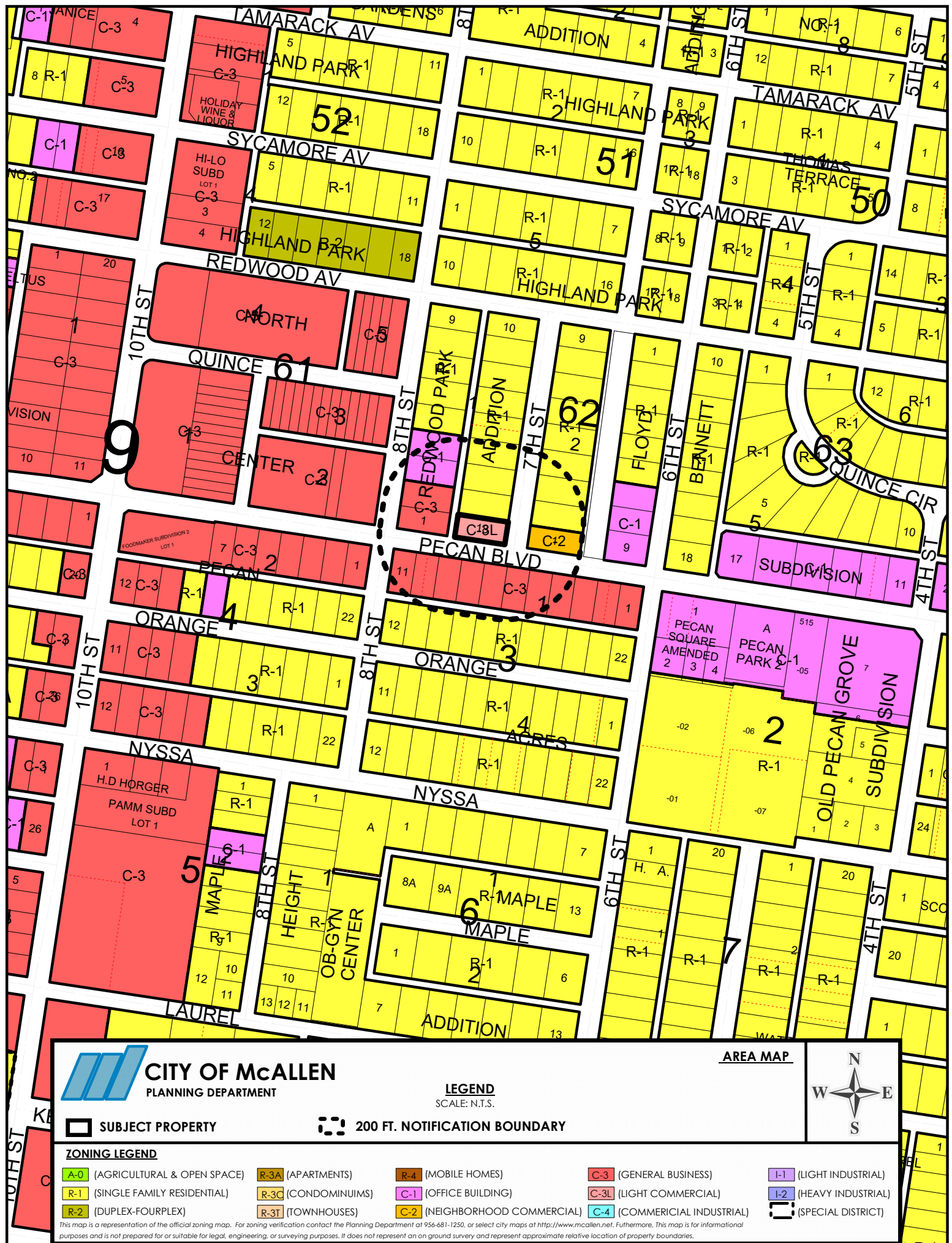
Blanca I. Cantu
PRINT (AUTHORIZED AGENT/OWNER)

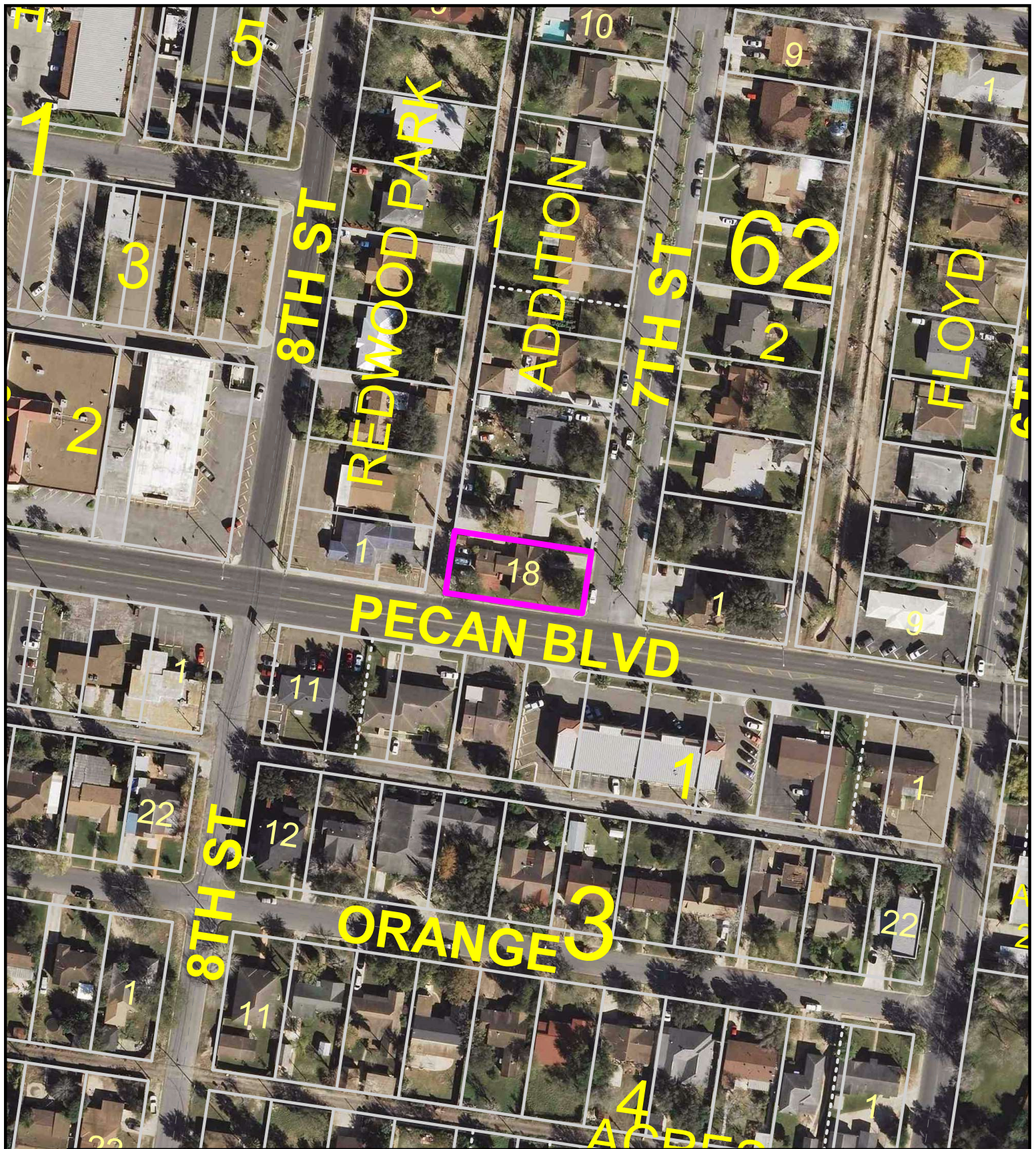
SIGNATURE

EMAIL ADDRESS (required)

DATE

4/23/20





CITY OF McALLEN
PLANNING DEPARTMENT



SUBJECT PROPERTY

AERIAL MAP
SCALE: N.T.S.



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



CT
36
TEXAS



BusWares
687-2645



NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2020-0039
CITY OF HOUSTON PLANNING DEPT
VARIANCE UNIT
WWW.MCALLER.NET





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

Perla Lara, TRMC/CMC, CPM
City Secretary

Approved as to form:

Austin W. Stevenson

Austin W. Stevenson, Assistant City Attorney



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**.

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 liriopse, 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.

Exceptions Cited within the Zoning Ordinance

Exceptions pertaining to front yard setbacks:

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

Exceptions pertaining to rear yard setbacks:

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

Exceptions pertaining to side yard setbacks:

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

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

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

Exceptions as per Planning Department Policy

By policy the following are permitted:

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

Legal opinions:

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

ZONING BOARD OF ADJUSTMENT AND APPEALS

RULES AND PROCEDURES

CITY OF MCALLEN

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

I. ORGANIZATION AND OFFICERS

A. Members

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

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

B. Officers

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

C. Duties and Officers

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

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

II. POWERS OF THE BOARD

A. General Powers

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

B. Specified Powers

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

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

III. DUTIES OF BOARD MEMBERS

A. General Duties of Members

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

B. Disqualification/Conflict of Interest

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

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

IV. A BASIS FOR ACTION

The Board shall decide each case based on the following:

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

V. APPLICANTS

A. Legally Vested Interest

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

B. Applications

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

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

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

C. Meetings

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

D. Evidence

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

VI. HARDSHIP

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

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

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

VII. MEETINGS

A. Texas Public Information Act and Open Meetings Act.

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

B. Quorum

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

C. Regular Meetings

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

D. Special Meetings

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

E. Order of Business

The usual order of business shall be:

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

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

F. Staff Recommendations

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

G. Action by the Board

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

H. Minutes of the Board

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

VIII. DECISIONS OF THE BOARD

A. Precedent

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

B. Public Statements

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

B. Parliamentary Procedure

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

IX. WITHDRAWAL OF APPEAL

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

X. ATTENDANCE

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

XI. AMENDEMENT PROCEDURE

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

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

Executive Secretary



PLANNING DEPARTMENT

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



2020 CALENDAR

Meetings:

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

Deadlines:

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

JANUARY 2020

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

FEBRUARY 2020

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

MARCH 2020

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

APRIL 2020

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

MAY 2020

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

JUNE 2020

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

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



PLANNING DEPARTMENT

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



2020 CALENDAR

Meetings:

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

Deadlines:

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

* **Holiday** - Office is closed

JULY 2020

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

AUGUST 2020

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

SEPTEMBER 2020

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

OCTOBER 2020

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

NOVEMBER 2020

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

DECEMBER 2020

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

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

2020 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									
SYLVIA HINOJOSA	P	P	NM	P	NM	A	A	NM	A	P	P	A	P	A									
DAVID SALINAS- CHAIRPERSON	P	P	NM	P	NM	P	P	NM	P	P	P	P	P	P									
JOHN MILLIN, III	A	A	NM	P	NM	P	P	NM	P	A	P	P	P	P									
SONIA FALCON	A	P	NM	A	NM	A	A	NM	A	P	A	A	P	P									
JOSE R. GUTIERREZ (ALT. 1)	P	P	NM	P	NM	P	P	NM	P	P	P	P	P	P									
JUAN F. JIMENEZ (ALT. 2)	P	P	NM	P	NM	P	A	NM	P	A	P	A	P	A									
(ALTERNATE 3)																							
(ALTERNATE 4)																							

P - PRESENT

A - ABSENT

 NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION