

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, DECEMBER 1, 2021 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

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

CALL TO ORDER – Chairperson Erick Diaz

1. MINUTES:

- a) Minutes for the meeting held on November 17, 2021

2. PUBLIC HEARINGS:

- a) Request of Jimmy Ring for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 13.67 feet into the 20 feet front yard setback for an existing metal carport at Lot 125, Harvey Terrace Subdivision Unit 2- Phase I & II, Hidalgo County, Texas; 2724 North 27th Street. **(ZBA2021-0057) (TABLED: 11/17/2021)**
- b) Request of Beatriz Sarinana for the following Special Exception to the City of McAllen Zoning Ordinance: to allow an encroachment of 20 ft. into the 20 ft. front yard setback for an existing carport measuring 20 ft. by 12 ft. at Lot 44, La Lomita Estates Subdivision, Hidalgo County, Texas; 3004 La Vista Avenue. **(ZBA2021-0061)**
- c) Request of Elizabeth Perez for the following variance to the City of McAllen Zoning Ordinance: to allow issuance of a building permit in excess of 10% replacement value for a non-conforming use at 1.58 (net) acres out of Lot 507, John H. Shary Subdivision, Hidalgo County, Texas; 11504 North Taylor Road. **(ZBA2021-0066)**
- d) Request of Eli Rene Ochoa for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 7 ft. into the 25 ft. front yard setback for a proposed single family residence at Lot 24, The Embers Subdivision (Gated Community), Hidalgo County, Texas; 8008 North 3rd Street. **(ZBA2021-0058)**
- e) Request of Issac Choutapalli & Xiaoqian Fang 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 for a proposed single family residence at Lot 5, The Embers Subdivision (Gated Subdivision), Hidalgo County, Texas; 417 Cornell Avenue. **(ZBA2021-0059)**
- f) Request of Gabriela Mosquera, on behalf of Interplan LLC for the following Variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 44 ft. into the 60 ft. front yard setback for a proposed canopy measuring 27 ft. by 48 ft. and **2)** to allow an encroachment of 19 ft. into 30 ft. the side setback for a proposed canopy measuring 32 ft. by 71 ft. at Lot 1, Nolana Crossing Subdivision, Hidalgo County, Texas; 2709 Nolana Avenue. **(ZBA2021-0063)**
- g) Request of Donato Pantoja for the following Variance to the City of McAllen Zoning Ordinance: to allow an encroachment of 3 ft. into the 10 ft. rear yard setback for an existing angled carport at Lot 81, Montebello Unit No. 3 Subdivision, Hidalgo County, Texas; 2116 North 32nd Street. **(ZBA2021-0060)**

3. FUTURE AGENDA ITEMS

- a) 2001 Hibiscus Avenue
- b) 2209 Bonham Avenue
- c) 2917 North 36th Street

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.

**MINUTES FOR THE
MEETING OF
NOVEMBER 17,
2021 WILL BE
UPLOADED ON
MONDAY**

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 22, 2021

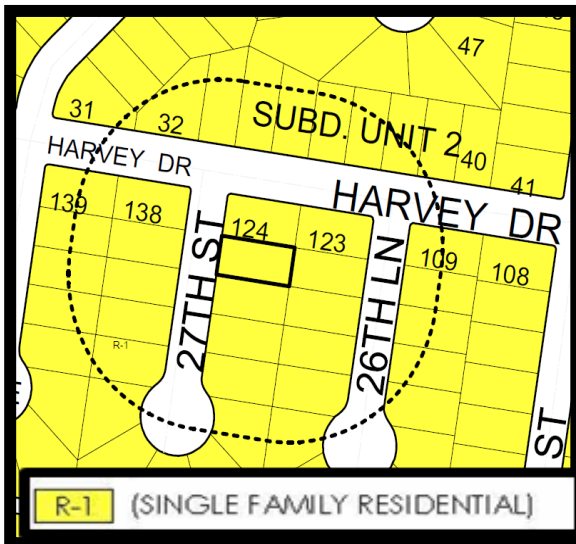
SUBJECT: Request of Jimmy Ring for the following special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 13.67 feet into the 20 feet front yard setback for an existing metal carport at Lot 125, Harvey Terrace Subdivision Unit 2-Phase I & II, Hidalgo County, Texas; 2724 North 27th Street. (ZBA2021-0057)

REASON FOR APPEAL:

The applicant is requesting the special exception for a metal carport to encroach 13.67 feet into the 20 feet front yard setback. The carport is used to shelter his vehicles from the inclement weather and potential damage from tree debris. The special exception request is to resolve an existing metal carport encroachment that existed on the property prior to the applicant purchasing the house in 2014.

PROPERTY LOCATION AND VICINITY:

The subject property is located along the east side of North 27th Street, south of Harvey Drive. The subject property has 50 feet of frontage on North 27th Street and a depth of 100 feet for a lot area of 5,000 square feet. The property is zoned R-1 (single family residential) District. The surrounding land uses are single-family residences.



BACKGROUND AND HISTORY:

Harvey Terrace Unit 2 Subdivision Phase 1 & 2 was recorded on March 9, 1981. The plat specifies a 20 feet front yard setback and 6 feet side yard setbacks. The Building and Inspection Department issued a stop work order on July 19, 2021 for a carport built without a building permit. An application for variance

request for a front yard setback encroachment for an existing carport was submitted to the Planning Department on October 14, 2021. According to the Hidalgo County Appraisal District, the carport was constructed in 2012.

ANALYSIS:

The variance request is to allow an encroachment of 13.67 feet into the 20 feet front yard setback for a metal carport.

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.

Approval of the special exception request will allow the proposed construction as depicted on the site plan, but would be in conflict with setback requirements for this subdivision.

The subject property does not have access to an alley that would allow for relocation of the carport. It does not have a garage available to store and protect their vehicles as the applicant purchased the home in 2014 with the “enclosed” garage. The applicant also purchased the house with the existing carport.

There is one approved special exception variance on file within Lot 9 in Harvey Terrace Unit 2 Subdivision Phase 1 & 2 for a similar front yard setback encroachment. The Zoning Board of Adjustment and Appeals approved the special exception variance on May 19, 2021. A site visit by the Planning Department staff revealed there are existing carports built around the Harvey Terrace Unit 2 Subdivision Phase 1 & 2.

The Planning Department has received a phone call in support of the variance request as they expressed “everybody has the right to protect their vehicles from the trees”.

RECOMMENDATION:

Staff recommends disapproval of the special exception request since buildings are not allowed within setbacks. However, if the Board approves the request it should be limited to the encroachment shown in the submitted site plan.

2BA-12.1.21

2BA 2021-0057



City of McAllen

Planning Department

APPEAL TO ZONING BOARD OF

ADJUSTMENT TO MCALLEN ZONING ORDINANCE

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

Project	Legal Description	<u>LOT # 125</u>	
	Subdivision Name	<u>Harvey Terrace UT 2 PH 1+2</u>	
	Street Address	<u>2724 N. 27th St</u>	
	Number of lots	<u>1</u>	Gross acres <u>0.114</u>
	Existing Zoning	<u>R-1</u>	Existing Land Use <u>HOUSE</u>
	Reason for Appeal (please use: <u>For existing metal carport. Measuring 9 ft by 15 ft Encroaching into Front yard setback.</u>)		
<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + <input type="checkbox"/> \$50.00 Recording Fee for Special Exception (carport) <input type="checkbox"/> Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required			
Applicant	Name	<u>Jimmy Ring</u>	Phone <u>(956) 605-5644</u>
	Address	<u>2724 N. 27th St</u>	E-mail <u>jimmy@strongsteel.com</u>
	City	<u>McAllen</u>	State <u>Texas</u> Zip <u>78501</u>
Owner	Name	<u>Jimmy Ring</u>	Phone <u>(956) 605-5644</u>
	Address	<u>2724 N. 27th St</u>	E-mail
	City	<u>McAllen</u>	State <u>Texas</u> Zip <u>78501</u>
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.		
	Signature	<u>[Signature]</u>	
	Date	<u>10-14-2021</u>	
Office	Print Name	<u>Jimmy Ring</u>	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent
	Accepted by	<u>K.F.</u>	Payment received by <u>_____</u> ENTERED Rev 09/20 OCT 19 2021 Initial: <u>AK</u>

23



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

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

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

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

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

When purchased house garage was enclosed. The property has no alley access. The carport is the only protection for my car.

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

Carport protects my car from the elements the sun, Acorns, ect...

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

No one has ever complained about carport

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

Garage was enclosed when I purchased property

Reason for Appeal

Board Action

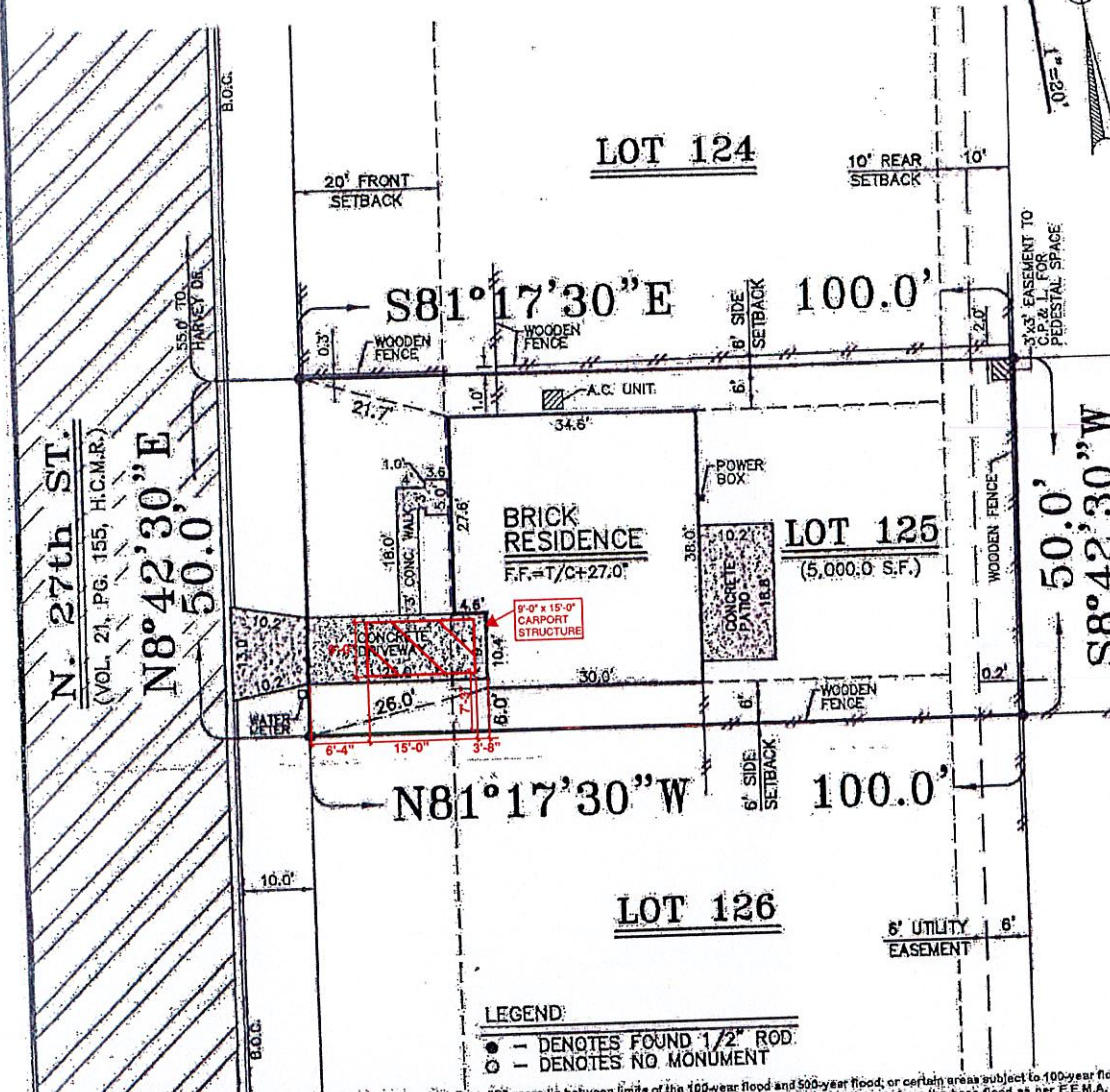
Chairman, Board of Adjustment
Signature

Date



ART SALINAS ENGINEERING & SURVEYING

1524 DOVE AVENUE, McALLEN, TEXAS 78504 PH: (956) 618-5585 FAX: (956) 618-5540



FLOOD CERTIFICATION: The property shown hereon lies in Zone "B", Zone "B" areas lie between limits of the 100-year flood and 500-year flood; or certain areas subject to 100-year flooding with average depth less than one (1) foot or where the contributing drainage area is less than one square mile; or areas protected by levees from the base flood as per F.E.M.A. Flood Insurance Rate Map Panel No. 480343-0005-0 dated 5-1-02/02.

- PLAT NOTES:**
1. There are no discrepancies, conflict or shortages in area or boundary lines; any encroachments, or any overlapping of improvements except as shown or noted hereon.
 2. This survey was prepared in connection with Title Policy G.P. #017309 and is for the exclusive use of the client named hereon. This survey and/or copies may not be transferred to another party without the express written consent of the surveyor.
 3. If this survey does not bear an original seal and signature it is INVALID as per Section 601.40 and Section 603.19 of the "The Professional Land Surveying Practices Act" enacted under Article 5226c, Vernon's Texas Civil Statutes.
 4. Zoning and building ordinances in favor of the City of McAllen.
 5. Statutory rights, rules, regulations, easements and liens in favor of Hidalgo County Irrigation District No. 1, pursuant to applicable sections of the Texas Water Code. (Blanket)
 6. Easement and Right of Way granted to Central Power and Light Company for an underground electric service lateral together with the right of ingress and egress as reflected on the map of plat thereof recorded in Volume 21, Page 155, Map Records, Hidalgo County, Texas. (Blanket)
 7. Contract, Easement and Use Restriction entered into by and between Central Power and Light Company and Homestead Land Development, Inc., recorded in Volume 1673, Page 230, Deed Records, Hidalgo County, Texas. (Blanket)
 8. Right of way easement granted to Continental Pipe Line Company, recorded in Volume 754, Page 17, Deed Records and in Volume 132, Page 42, Oil and Gas Records, Hidalgo County, Texas. (Blanket; Gas main does not cross the property shown hereon.)
 9. Right of way easement granted to Tennessee Gas Transmission Company, recorded in Volume 753, Page 292, Volume 769, Page 140 and in Volume 1381, Page 128, Deed Records, Hidalgo County, Texas. (Blanket; Gas main does not cross the property shown hereon.)
 10. Bearing Basis: HARVEY TERRACE SUBDIVISION UNIT 2, PHASE I AND II
- BORROWER: JUDITH R. PAISLEY

THIS IS TO CERTIFY TO THAT I HAVE, THIS DATE, MADE A CAREFUL AND ACCURATE STANDARD LAND SURVEY ON THE GROUND OF PROPERTY WHICH IS LOCATED AT: 2724 N. 27TH ST., IN McALLEN, TEXAS, DESCRIBED AS FOLLOWS: LOT ONE HUNDRED TWENTY FIVE (125), HARVEY TERRACE SUBDIVISION UNIT 2, PHASE I AND II AN ADDITION TO THE CITY OF McALLEN, HIDALGO COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 21, PAGE 155, MAP RECORDS, HIDALGO COUNTY, TEXAS, REFERENCE TO WHICH IS HERE MADE FOR ALL PURPOSES.

03-22878
Job No.

08-25-03
Revised

© COPYRIGHT 2003 ART SALINAS ENGINEERING INC. THIS SURVEY WAS PROVIDED IN MULTIPLE ORIGINALS SOLELY FOR THE USE OF THE BORROWER NAMED HEREON. NO LICENSE HAS BEEN CREATED, EXPRESSED OR IMPLIED TO COPY THIS SURVEY.

Registered Professional Land Surveyor No. 4802

ENTERED

OCT 19 2021

Initial: *AL*



2424

NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2021-0057
CITY OF MCALLEN PLANNING DEPT.
SQUARE FOOTAGE
WWW.MCALLENNET.NET

MEMO

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 17, 2021

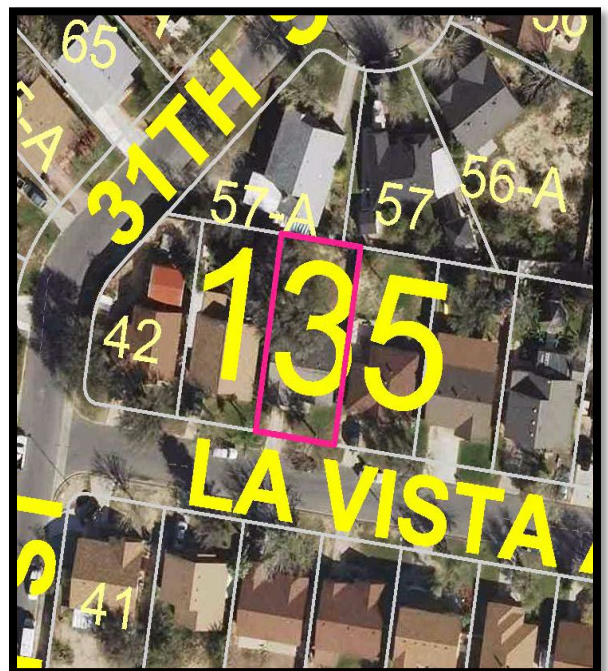
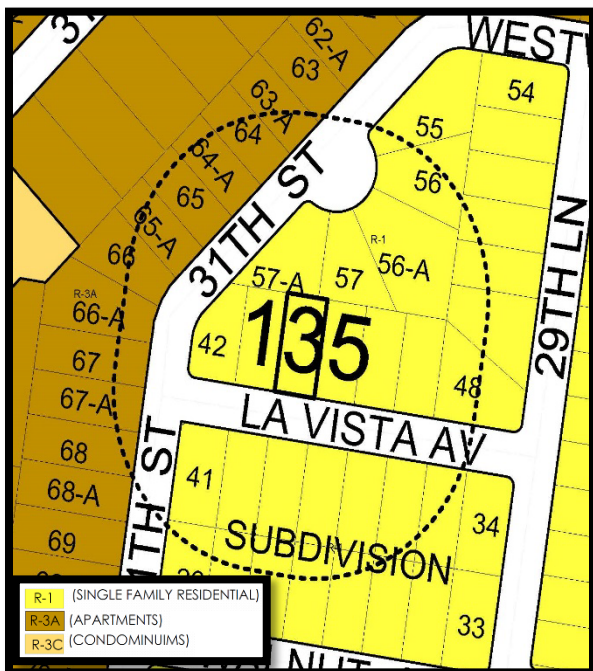
SUBJECT: REQUEST OF BEATRIZ SARINANA FOR THE FOLLOWING SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE: TO ALLOW AN ENCROACHMENT OF 20 FT. INTO THE 20 FT. FRONT YARD SETBACK FOR AN EXISTING CARPORT MEASURING 20 FT. BY 12 FT. AT LOT 44, LA LOMITA ESTATES SUBDIVISION, HIDALGO COUNTY, TEXAS; 3004 LA VISTA AVENUE. (ZBA2021-0061)

REASON FOR APPEAL:

The applicant is requesting a special exception to allow the existing carport to remain at its current location. The carport will serve as a garage, since the garage it is too small for her vehicle, additionally the carport will help the applicant's autistic grandson play outside and protect him from the sun and inclement weather.

PROPERTY LOCATION AND VICINITY:

The property is located along the north side of La Vista Avenue, approximately 100 feet east of North 31st Street. The property has 50 feet of frontage along La Vista Avenue with a depth of 110 feet for a total area of 5,500 SF. There is a single-family residence on the subject property. The property is zoned R-1 (single family residential) District. Adjacent zoning is R-1 (single family residential) District in all directions and R-3A (multifamily apartments) District to the northwest. The surrounding land use is single family residential.



BACKGROUND AND HISTORY:

La Lomita Estates Subdivision was recorded on July 20, 1982. A stop work order was issued on November 1, 2021. A building permit application was submitted to the Building Inspections Department on November 3, 2021. An application for the special exception request was submitted on November 2, 2021.

ANALYSIS:

The existing 20 ft. by 12 ft. carport is encroaching 20 ft. into the 20 ft. front yard setback. The submitted site plan shows a storage room that is encroaching into the rear setback; however the structure will be remove. The plat specifies a 20 ft. front yard setback. There is no utility easements on the subject property.

There is no alley access for the subject property.

During a site visit, staff noticed other structures that seem to be encroaching into setbacks.

All measurement are without the benefit of a survey or surveyor.

A review of Planning Department records revealed that there are some special exceptions that were approved in 2019 and 2016, while other case was withdrawn along this subdivision. There is a total of 7 front carports in the neighborhood.

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

RECOMMENDATION:

Staff recommends approval of the special exception request. If the Board grants approval of the request it should be limited to the footprint shown on the submitted site plan.

ZBA 2021-0061

ZBA
12/1/21



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>La Lomita Estates Lot #44</u>		
	Subdivision Name	<u>La Lomita</u>		
	Street Address	<u>3004 La Vista Ave</u>		
	Number of lots	_____	Gross acres	_____
	Existing Zoning	<u>R-1</u>	Existing Land Use	<u>Single family residence</u>
	Reason for Appeal (please use other side if necessary) <u>20 feet into encroachment of the 20 foot front yard set back</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>Beatriz Soriano</u>	Phone	<u>956-414-1287</u>
	Address	<u>3004 La Vista</u>	E-mail	<u>beatrizsorio2@aol.com</u>
	City	<u>McAllen</u>	State	<u>TX</u>
	Zip	<u>78501</u>		
Owner	Name	<u>Beatriz Soriano</u>	Phone	<u>956-414-1287</u>
	Address	<u>3004 La Vista</u>	E-mail	<u>beatrizsorio2@aol.com</u>
	City	<u>McAllen</u>	State	<u>TX</u>
	Zip	<u>78501</u>		
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.			
	Signature	<u>[Signature]</u>	Date	<u>11-2-21</u>
	Print Name	<u>Beatriz Soriano</u>	<input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent	
Office	Accepted by _____ Payment received by _____ Date _____			
	Rev 09/20			

KS ZC

NOV 02 2021
BY: [Signature]



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

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

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

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

Reason for Appeal

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

for my autistic grandson so he
will not be in the sun and ~~the~~
protection from the weather

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

enjoyment of my disabled
grandson who plays outside.
garage too small for my large vehicle

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

As per my knowledge no complaints
and no alley access. no where
to relocate car port.

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

for my disabled medical condition
of my husband and grandson, and
no alley access.

Board Action

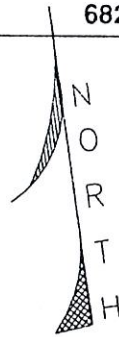
Chairman, Board of Adjustment
Signature

Date



PENA ENGINEERING

1000 WHITEWING • P.O. BOX 4320
682-8812 • McALLEN, TEXAS 78502 • FAX 631-PENA



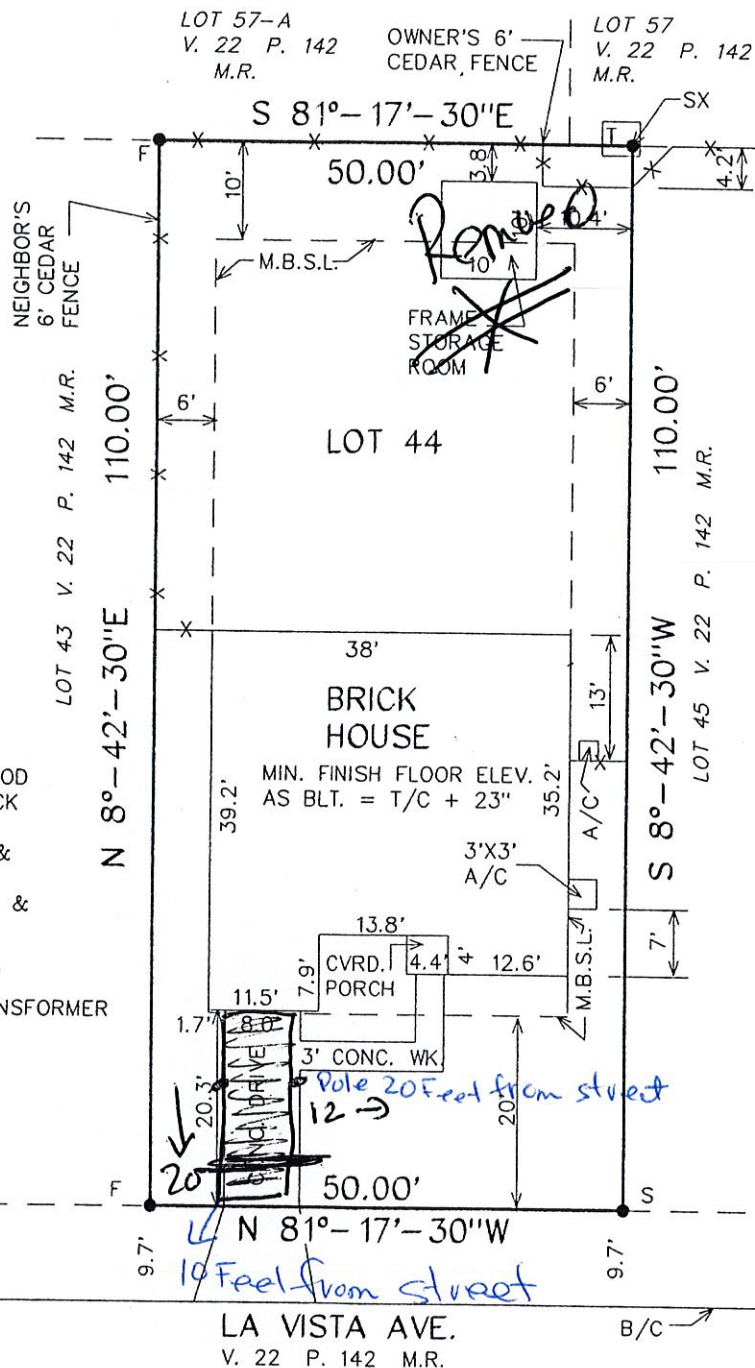
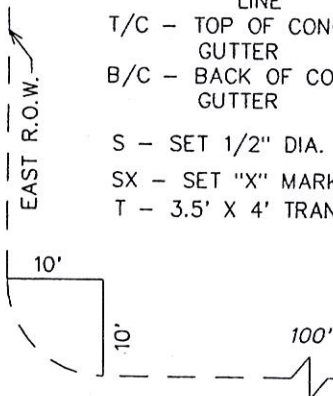
SCALE 1"=20'
CAD5-LOMITA44

NOTE: BASIS OF BEARING,
THE SOUTH LINE OF LOTS
42-48, LA LOMITA ESTATES
V. 22 P. 142 M.R.

LEGEND

F - FOUND 1/2" DIA. IRON ROD
M.B.S.L. - MIN. BLDG. SETBACK
LINE
T/C - TOP OF CONC. CURB &
GUTTER
B/C - BACK OF CONC. CURB &
GUTTER
S - SET 1/2" DIA. IRON ROD
SX - SET "X" MARK ON TRANSFORMER
T - 3.5' X 4' TRANSFORMER

31st STREET



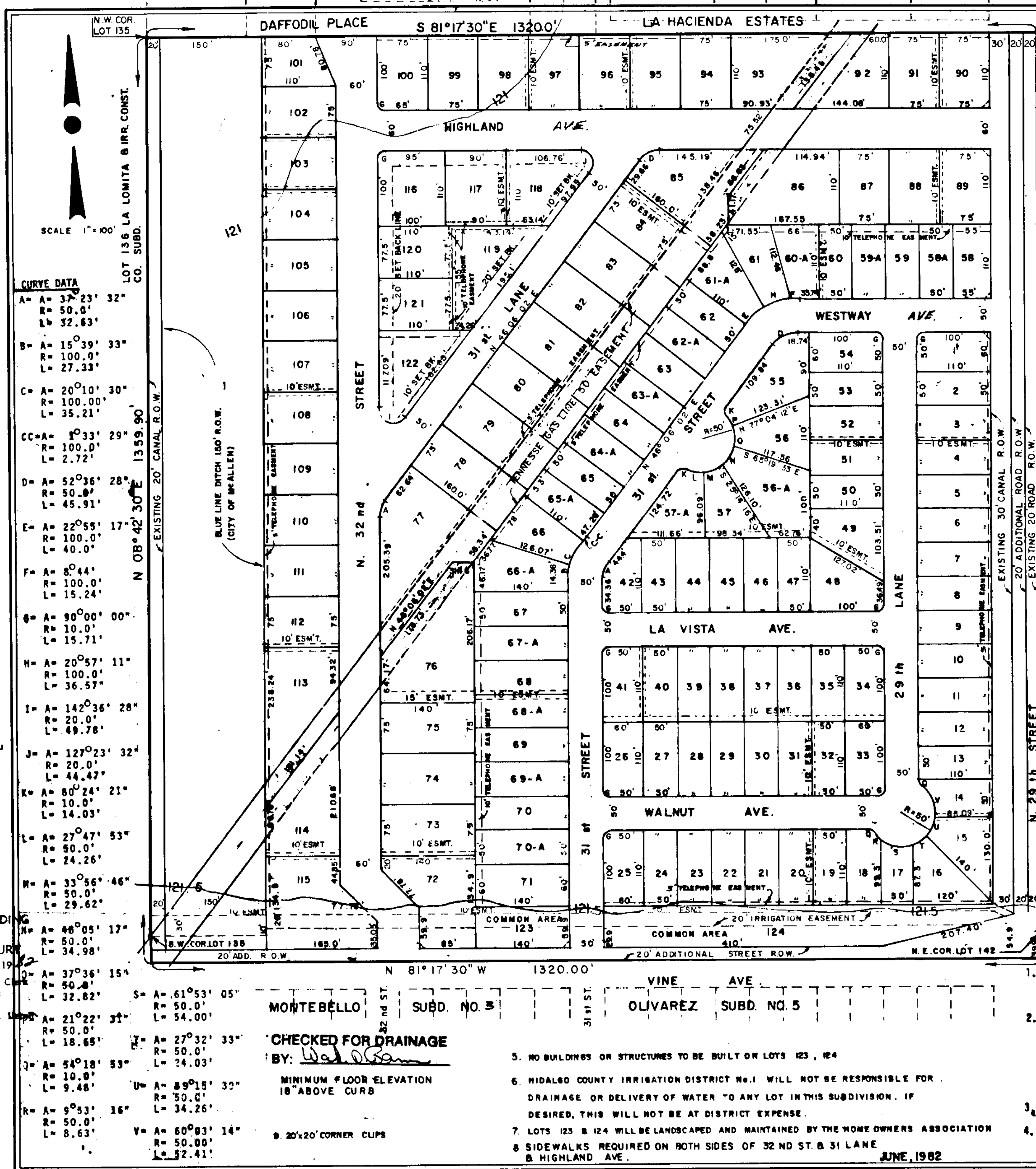
NOTE: BLANKET ESMT. TO C.P.L.
C.P.L. CO. IS HEREBY GRANTED AN ESMT. & R.O.W. ON EACH LOT IN SAID
SUBDIVISION FOR AN UNDERGROUND ELECTRIC SERVICE LATERAL TOGETHER
WITH THE RIGHT OF INGRESS AND EGRESS FOR SUCH PURPOSE AT THE
RIGHT LOCATION WHERE SUCH SERVICE LATERAL IS TO BE OR IS INSTALLED
AND MAINTAINED FROM TIME TO TIME. V. 1813 P. 330 DEED RECORDS

BUYER'S NAME: BERNARDO SARINANA

FLOOD ZONE:

Community Panel No. 480343 0005 C Map Rev: Nov. 2, 1982

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



LA LOMITA ESTATES

40.00 ACRES TRACT OF LOT 135 AND THE NORTH 121 ACRES OF LOT 142 LA LOMITA & IRRIGATION CONSTRUCTION CO. SUBD. HIDALGO COUNTY, TEXAS 25738

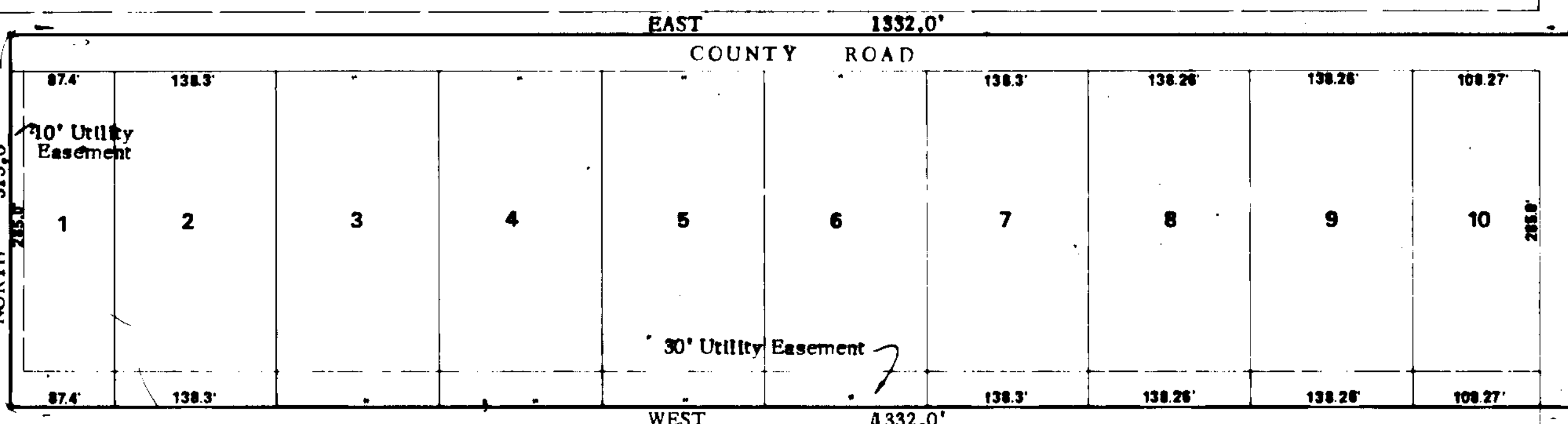
JUL 20 1982

STATE OF TEXAS
COUNTY OF HIDALGO
THE OWNER OF THE LAND SHOWN ON THE PLAT SUBSCRIBED HERE-
TO, AND IN PERSON OR THROUGH A DULY AUTHORIZED AGENT, HEREBY
DEDICATES TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, PAVES,
WATER COURSES, DRAINS, EASE-
MENTS AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION
THEREIN EXPRESSED.STATE OF TEXAS
COUNTY OF HIDALGO
BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED
RAFAEL JIMENEZ, KNOWN TO ME TO BE THE PERSON
WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO
ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN
EXPRESSED AND IN THE CAPACITY THEREIN STATED.
GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS 24th DAY OF December
A.D. 1981APPROVAL BY WATER DISTRICT
THIS PLAT APPROVED BY HIDALGO COUNTY IRRIGATION DISTRICT NO. 1
ON THIS 24th DAY OF June A.D. 1982WILLIAM D. DILL
PRESIDENT
JAMES B. BARR
SECRETARYI, THE UNDERSIGNED, MAYOR OF THE CITY OF SHALLEN, HEREBY CERTIFY THAT THIS
SUBDIVISION PLAT CONFORMS TO ALL REQUIREMENTS OF THE SUBDIVISION REGULATIONS
OF THIS CITY WHEREIN BY APPROVAL IS REQUIRED.THIS PLAT OF LA LOMITA ESTATES
SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF
SHALLEN, TEXAS AND IS HEREBY APPROVED BY SUCH COMMISSION.
DATED THIS 24th DAY OF July A.D. 1982STATE 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 UNDER MY SUPERVISION ON THE GROUND.J. H. HENNING
REGISTERED PROFESSIONAL ENGINEER
SWORN TO AND SUBSCRIBED BEFORE ME THIS 15th DAY OF December
A.D. 1981Gloria Chavez
NOTARY PUBLIC
HIDALGO COUNTY, TEXAS

NOTE:

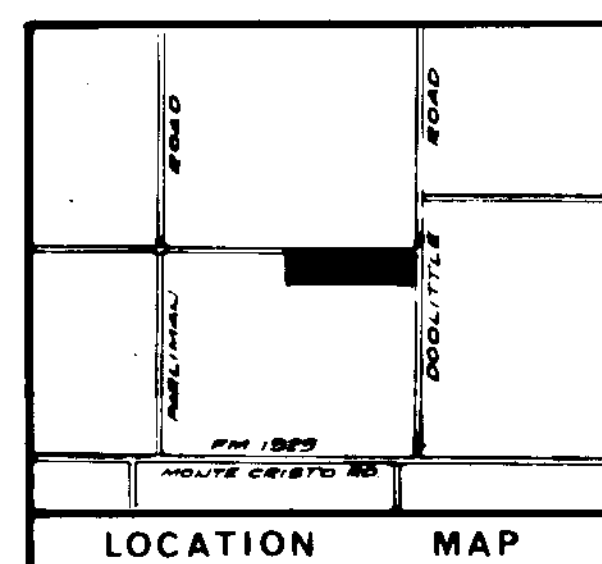
USE RESTRICTIONS:

1. Lot 1-71 shall be limited to single family dwellings.
2. Lots 72-122 shall be limited to multi-family dwellings.
3. Setbacks shall be not less than:
A. FRONT: 20' except Cul-de-sac may be 10'
B. SIDE: 6' - 12' between structures 10' or less exceeding 25' in height
Where a structure exceeds the 25' height, it shall be
setback 1 additional foot for each foot above 25 feet.
C. Corner Lots shall have a 10' side setback.
D. Rear setback shall be 10'
Individual lot access from 25' street and vine ave. is prohibited, and shall
be fenced along the street R.O.W. line.
4. Sidewalks shall be constructed on the west side of 29th and north side of Vine Street.



VACATING PLAT

HILDA SUBDIVISION

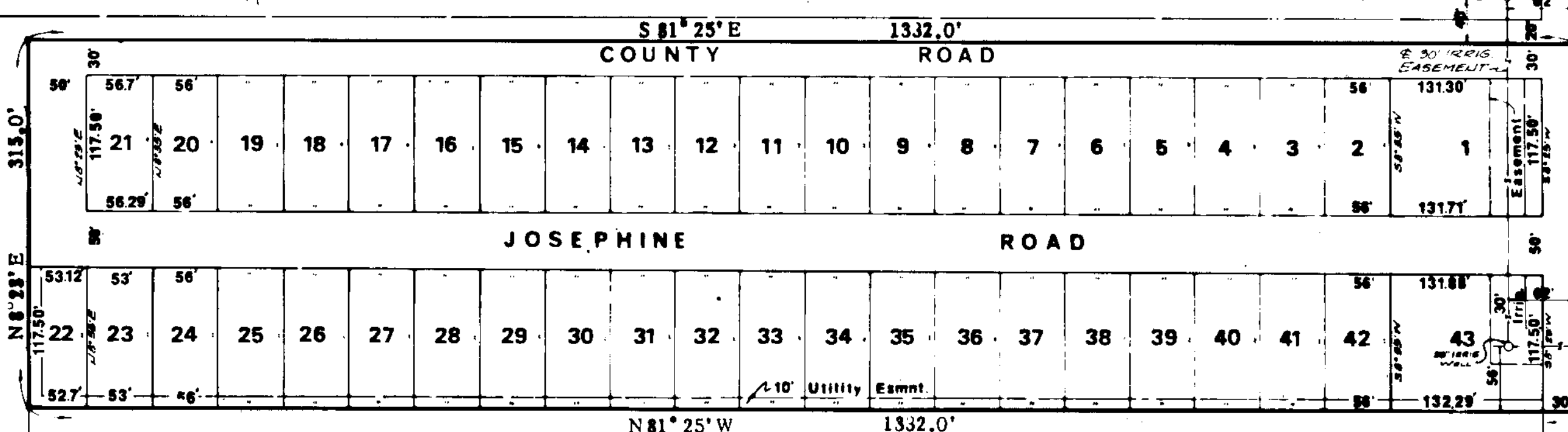
BEING A VACATING PLAT OF HILDA SUBDIVISION
AS RECORDED IN VOLUME 20, PAGE 168 OF THE
MAP RECORDS OF HIDALGO COUNTY, TEXAS,STATE OF TEXAS
COUNTY OF HIDALGO:I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THE
PLAT AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY
DEDICATE TO THE USE OF THE PUBLIC ALL STREETS,
ALLEY, DRAINS, EASEMENTS AND PUBLIC PLACES THEREON
SHOWN FOR THE PURPOSES AND CONSIDERATION THEREIN
EXPRESSED:5/4/82 DATE
A. C. CULLER OWNER;STATE OF TEXAS
COUNTY OF HIDALGO:BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY
PERSONALLY APPEARED A. C. CULLER, KNOWN TO ME
TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO ME THAT
HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDER-
ATION THEREIN STATED.GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 4th
DAY OF MAY, 1982.Hebert Garcia
NOTARY PUBLIC IN AND FOR
HIDALGO COUNTY, TEXASSTATE OF TEXAS
COUNTY OF HIDALGO:I, THE UNDERSIGNED, A REGISTERED ENGINEER AND SURVEYOR
IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT
IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL
SURVEY ON THE GROUND AND FURTHER CERTIFY THAT PROPER
ENGINEERING CONSIDERATION HAS BEEN GIVEN THIS PLAT.5/28/82 DATE
R. G. PROFESSIONAL ENGINEER 024164
R. G. PUBLIC SURVEYOR 02999APPROVED
FOR RECORDING
Hidalgo Co. Right of Way Dept.
By: *Shongue*
Date: 7-14-82CHECKED FOR DRAINAGE
BY: *W. O. O'Brien*

24867

AMENDED MAP

HILDA SUBDIVISION NO. 1

HIDALGO COUNTY, TEXAS

RESUBDIVISION OF LOT 6, BLOCK 2
BEING 9.63 ACRES OUT OF
SANTA CRUZ GARDENS SUBD. NO. 3
HIDALGO COUNTY, TEXASRESUBDIVISION PLAT
AMENDED MAP
OF
HILDA SUBDIVISION NO. 1BEING A RESUBDIVISION AS HILDA SUBDIVISION NO. 1
CONTAINING 9.63 ACRES AND BEING LOT 6, BLOCK 2,
OUT OF SANTA CRUZ GARDENS UNIT NO. 3,
HIDALGO COUNTY, TEXAS



**NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2021-0061**

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

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 22, 2021

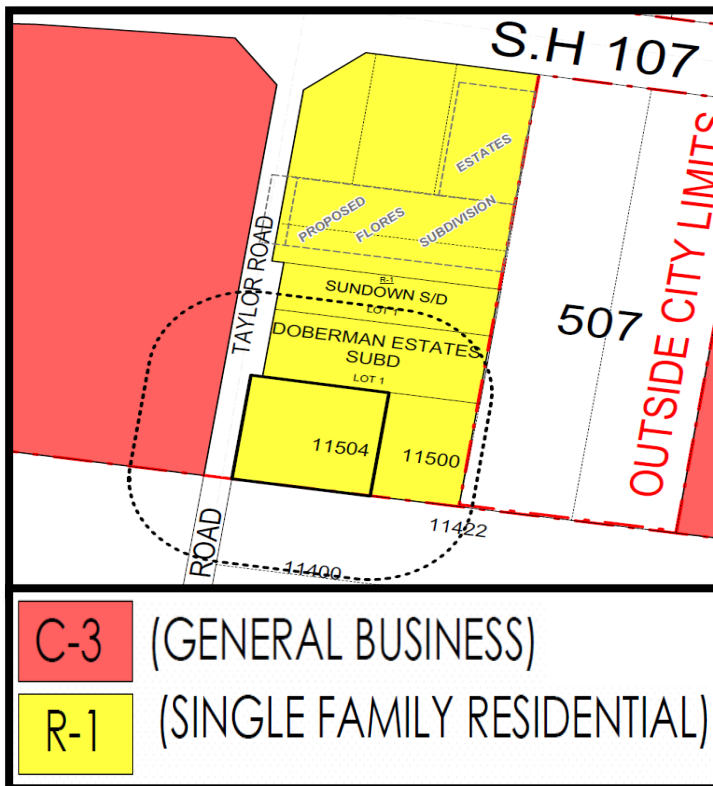
SUBJECT: Request of Elizabeth Perez for the following variance to the City of McAllen Zoning Ordinance: to allow issuance of a building permit in excess of 10% replacement value for a non-conforming use at 1.58 (net) acres out of Lot 507, John H. Shary Subdivision, Hidalgo County, Texas; 11504 North Taylor Road. (ZBA2021-0066)

REASON FOR APPEAL:

The applicant is requesting to allow issuance of a building permit in excess of 10% replacement value for a non-conforming use. The applicant is proposing to conduct repairs to an existing single family house on the subject property in order to preserve and restore their house to use it as a residence.

PROPERTY LOCATION AND VICINITY:

The subject property is located along the east side of North Taylor Road, south of State Highway 107. The property has a total lot size of 68,824.80 square feet or 1.58 acres (net). The property is zoned R-1 (single-family residential) District. The surrounding land uses include vacant land and single family homes.



BACKGROUND AND HISTORY:

There is an existing 1,893 square feet (living area) single family home on the subject property according to the Hidalgo County Appraisal District records. As per the Hidalgo County Appraisal District the single-family residence was constructed in 1984. The subject property was annexed into the City of McAllen on August 13, 2012. An application for a variance request to allow a building permit in excess of 10% replacement value for a non-conforming use was submitted on November 9, 2021. An application for a building permit was submitted on May 5, 2021 in order to add and extend portions of the house such as a master bedroom, kitchen, front and rear porch, bedroom, and other repairs.

ANALYSIS:

According to McAllen Code of Ordinances Section 138-89. Repairs and Maintenance (a) On any nonconforming structure or portion of a structure containing a nonconforming use, no work may be done in any period of 12 consecutive months on ordinary repairs or on repair or replacement of non-load-bearing walls, fixtures, wiring or plumbing to an extent exceeding ten percent of the current replacement cost of the nonconforming structure or nonconforming portion of the structure...". The submitted variance request is for the purpose of allowing the proposed repairs and additions to exceed ten percent of the current replacement cost. The issuance of any requested building permits depends on the outcome of the variance request.

According to the Hidalgo County Appraisal District records, the estimated improvement value of the subject building for the variance request is \$37,399 (10% of this amount is \$3,739.90). The proposed estimated improvements (as provided by the applicant) are \$40,700. The building would be improved from the current state and any such improvement would need to comply with applicable building codes.

As per the applicant, the residence is in "dire need of repair since it has water leaks from the roof itself, yet permits have not been obtained to be able to make this a safe and habitable home..."; the repairs and maintenance of the residence would allow for an issuance of a building permit to protect the health, safety, and public welfare of the residents living in the residence through regulation of construction in the City of McAllen.

RECOMMENDATION:

Staff recommends approval of the variance request as the repairs and maintenance of the residence are needed to make the residence safe and habitable.

ZBA-12/1/21

ZBA 2021-00466



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 11504 N. Taylor Road Mc Allen, Texas

Subdivision Name John H. Shary Subdivision

Street Address 11504 N. Taylor

Number of lots 1 Gross acres 1.75 Acres

Existing Zoning _____ Existing Land Use Residential

Reason for Appeal (please use other side if necessary) This is a residential property that requires repairs for an existing home. Subdividing the property at this time will incur an unnecessary financial burden as I'm not seeking to subdivide for real-estate profitable measures.

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

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

Applicant

Name Elizabeth Perez Phone 956-437-5049

Address 11504 N. Taylor E-mail Liza0201@msn.com

City Mc Allen, State Texas Zip 78504

Owner

Name Elizabeth Perez Phone 956-437-5049

Address Same as Above E-mail Liza0201@msn.com

City Same as Above State Texas Zip _____

Authorization

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

☐ Yes ☒ No

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

Signature Elizabeth Perez Date 11-9-21

Print Name Elizabeth Perez ☒ Owner ☐ Authorized Agent

Office

Accepted by [Signature] Payment received by _____ Date _____

Rev 10/18

ENTERED

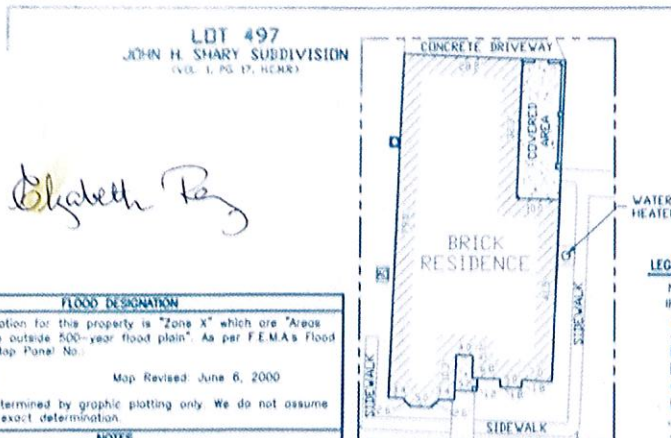
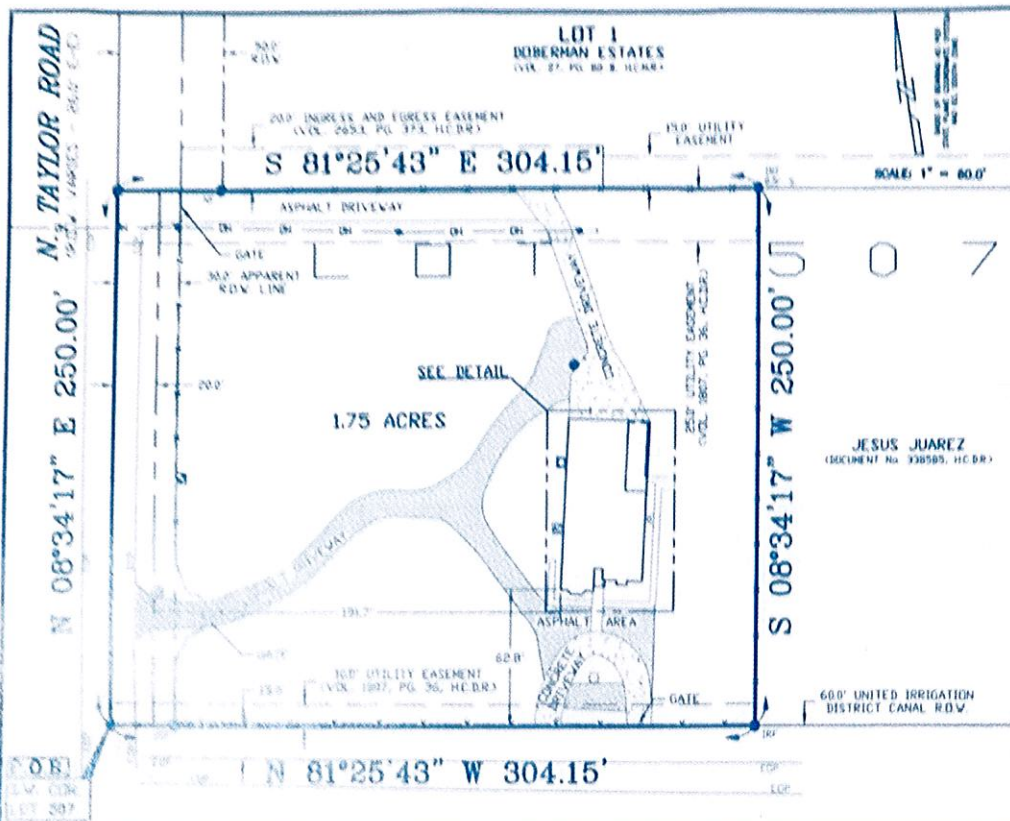
NOV 11 2021

Initial: APL



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: <i>(Please use an additional page if necessary to complete responses)</i></p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>		
	1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:		
	<p>This is a residential lot with a home built in 1984 before it became part of the City of McAllen. Home was purchased late Oct. of 2019 and was not previously subdivided. However, subdividing the land adds an unnecessary financial cost as we are not building a new home nor seeking future developments for profit in such land. Due to the pandemic, all construction labor and materials have increased in price, thus making minor repairs needed to make the home livable a financial strain on myself as the homeowner.</p>		
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:		
	<p>The variance would allow me to add some much needed living space which is equivalent to about 25% of the existing home.</p>		
	<p>The home is in dire need of repair since it has water leaks from the roof itself, yet permits have not been obtained to be able to make this a safe and habitable home that can accomodate my family.</p>		
	3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:		
	<p>This addition will not be detrimental in any form or fashion to the public health, safety or welfare of any other property owners. In contrast, it will improve the value of the surrounding homes if granted the variance.</p>		
	4. Describe special conditions that are unique to this applicant or property:		
	<p>I recently lost 2 family members (dad, brother) to Covid this past year thus placing a greater financial strain on me at the present time. Additionally, adding this additional living space (bedroom) is crucial as this would allow me to accomodate and care for my recently widowed mother and the rest of my family.</p>		
Board Action			
	<p>Chairman, Board of Adjustment Signature</p> <p>_____</p>	<p>Date</p> <p>_____</p>	



- LEGEND**
- NF = NAIL FOUND
 - IRF = FOUND 1/2" IRON ROD
 - = POWER POLE
 - = LIGHT POLE
 - = ELECTRIC METER
 - MB = MAIL BOX
 - ⊙ = POWER POLE/LIGHT POLE
 - WM = WATER METER
 - = GUY WIRE
 - RO = AIR CONDITION UNIT
 - X- = CHAIN LINK FENCE
 - OH- = OVERHEAD POWER LINE
 - TOP = EDGE OF PAVEMENT
 - E-E = EDGE OF PAVEMENT TO EDGE OF PAVEMENT DISTANCE
 - ROW = RIGHT OF WAY
 - H.C.M.R. = HIDALGO COUNTY MAP RECORDS
 - H.C.D.R. = HIDALGO COUNTY DEED RECORDS

FLOOD DESIGNATION

The flood designation for this property is "Zone X" which are "Areas determined to be outside 500-year flood plain". As per FEMA's Flood Insurance Rate Map Panel No. 480334 0295 D. Map Revised: June 6, 2000

Flood Zone is determined by graphic plotting only. We do not assume responsibility for exact determination.

NOTES

1. This survey plot is prepared in connection with OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY COMMITMENT OF No. 101241, with an effective date September 16, 2019 and an issued date September 23, 2019 and does not guaranty title. This survey is for the exclusive use of the client named herein and may not be copied or transferred to another party without the express written consent of the surveyor.
2. If this survey does not bear on original seal and signature, it is INVALID as per Section 663.19 of the "The Professional Land Surveying Practices Act" enacted under Article 5282c, Vernon's Texas Civil Statutes.
3. This certification is made to the herein named client, it is not transferable nor, certified to any owner or future owner or future lending institutions. Certification herein will expire 6 months from this date as noted on this plot and may not be utilized for any specific future transaction of this herein named real estate.
4. Easement as described in instrument dated December 13, 1939, filed for record in the Office of the County Clerk of Hidalgo County, Texas in Volume 2, Page 588, Miscellaneous Records Hidalgo County, Texas.
5. Easement for utilities as described in instrument dated September 4, 1952, filed for record in the Office of the County Clerk of Hidalgo County, Texas in Volume 1807, Page 36, Deed Records Hidalgo County, Texas.
6. Easements and Conditions as shown on the Map or Plot thereof, filed for record in Volume 1, Page 17, Map Records Hidalgo County, Texas.
7. Easements, rights, rules and regulations in favor of United Irrigation District.

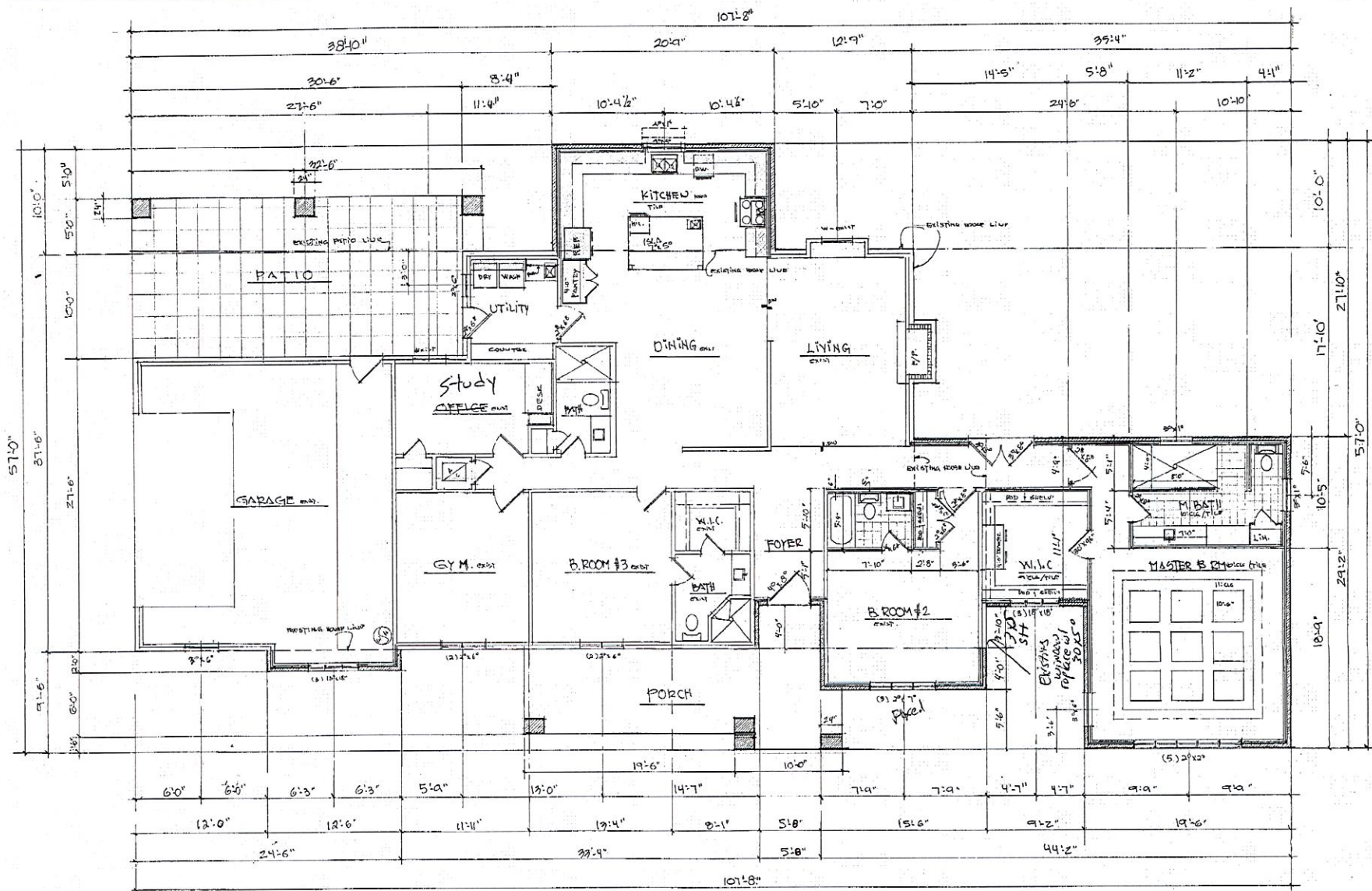
FOR: ELIZABETH PEREZ
AND: OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY COMMITMENT OF No. 101241

LEGAL DESCRIPTION	LAND SURVEYOR'S CERTIFICATION	ADMINISTRATIVE
This plot is a true and correct representation of a survey made on the ground of the property located at 11504 N. TAYLOR ROAD, McAllen, Hidalgo County, Texas, described as follows: 1.75 ACRES OUT OF LOT 507, JOHN H. SHARY SUBDIVISION, Hidalgo County, Texas, according to the map or plot thereof recorded in Volume 1, Page 17, Map Records, Hidalgo County, Texas.	<p>Surveyor's Certification: I, Jorge Rodriguez, Registered Professional Land Surveyor, certify and declare to the public that this plot of the lands of 1.75 Acres, as shown on the map or plot of the lands, was made on or before October 7, 2019, and that the same is a true and correct representation of the lands, and that the survey was made in accordance with the laws and regulations of the State of Texas, except as shown.</p>	<p>SURVEYED DATE: 10/07/2019</p> <p>JOB No.: 191001</p> <p>DRAWN BY: GIG</p> <p>CHECKED BY: C.V.</p> <p>REVISIONS:</p>

Entered

NOV 11 2021

Initial: *OP*



SUP. EXIST.	ADDITION	SUP. NEW.
LIVING — 1913 sq ft	+ 952 sq ft	= 2865 sq ft
GARAGE — 588 sq ft	+ 25 sq ft	= 613 sq ft
PATIO — 305 sq ft	+ 163 sq ft	= 470 sq ft
PORCH — 30 sq ft	+ 270 sq ft	= 300 sq ft
TOTAL — 2836 sq ft	= 1383 sq ft	= 4219 sq ft

FLOOR PLAN (ADDITION TO HOUSE EXIST.) ac 1/2 x 3/4"

DATE: 4-28-21

FOR: PEREZ FAMILY

RDA AL DESIGN'S
 (555) 245-9612
 MC ALLEN TX

PLAN NO: 2865

SHEET NO: 2/6



Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: November 22, 2021

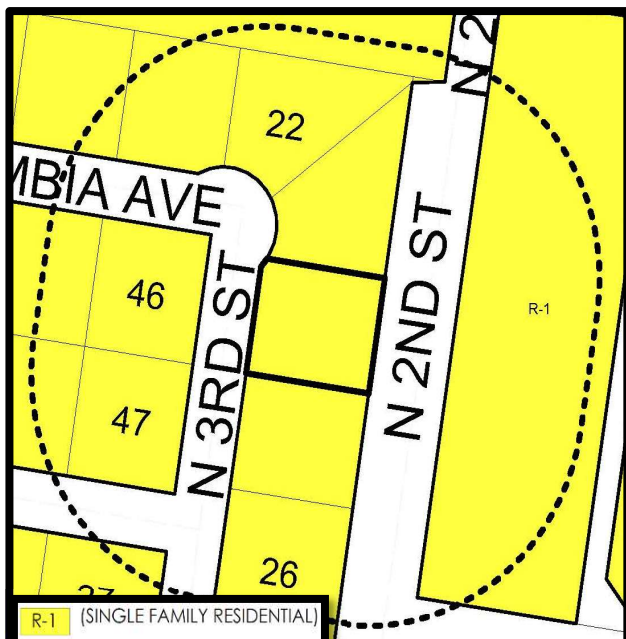
SUBJECT: REQUEST OF ELI RENE OCHOA FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 7 FT. INTO THE 25 FT. FRONT YARD SETBACK FOR A PROPOSED SINGLE FAMILY RESIDENCE AT LOT 24, THE EMBERS SUBDIVISION (GATED COMMUNITY), HIDALGO COUNTY, TEXAS; 8008 NORTH 3RD STREET. (ZBA2021-0058)

REASON FOR APPEAL

The applicant is requesting a variance to encroach 7 ft. into the 25 ft. front yard setback for the proposed construction of a single-family residence. The applicant is requesting the encroachment since he has designed the home in a manner that will allow him to enjoy the property, given the restrictions of the lot.

PROPERTY LOCATION AND VICINITY:

The subject property is located on the east side of North 3rd Street. The tract has 101.38 ft. frontage along North 3rd Street with a tract size of approximately 11,581 sq. ft. The property is zoned R-1 (single family residential) District and is currently vacant. Surrounding land uses are single-family residences, and vacant land.



BACKGROUND AND HISTORY:

The Embers Subdivision was recorded on June 06, 2016. The applicant is proposing a new residential house on the property. An application for building permit was submitted on October 05, 2021. An application for a variance request was submitted on November 01, 2021.

ANALYSIS:

This request is for a proposed single-family residence that would encroach 7 feet into the 25 feet front yard setback. The proposed area that would encroach into the front yard setback would be a portion of the garage. The encroachment comprises 7 feet by 22 feet. It should be noted that the percentage of the area of encroachment compared to the required front yard is only 6.65%.

Lots 23-32 in The Embers Subdivision have double frontage to the rear and, as required by the recorded plat and zoning ordinance to have a 25-foot rear yard setback.

Front yard setbacks are important in establishing the character of a single family neighborhood by providing landscaping to enhance the residence and curb appeal of the street view. Approval of the variance request will allow the proposed construction as depicted on the site plan, but would be in conflict with the front yard setback requirement for this subdivision.

On November 06, 2019, the Board voted to approve an encroachment of 10 ft. into the 25 ft. rear yard setback for a spa and 2 ft. into the 25 ft. rear yard setback for a swimming pool at 317 Cornell Avenue (lot 31).

On July 03, 2019, the Board voted to approve an encroachment of 6.58 ft. into the 25 ft. rear yard setback for a porch and 15 ft. into the 25 ft. rear yard setback for a swimming pool at 301 Cornell Avenue (lot 27).

On July 07, 2021, the Board voted to disapprove an encroachment of 10 ft. into the 25 ft. rear yard setback for a single-family residence at 413 Cornell Avenue (lot 4).

On July 21, 2021, the Board voted to approve an encroachment of 10 ft. into the 25 ft. rear yard setback for a proposed single family residence at 8100 North 3rd Street (lot 23).

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

RECOMMENDATION:

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

2 BA 2021-005B



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 Embers Subdivision, Lot 24

Subdivision Name Embers

Street Address 8008 N 3rd Street

Number of lots 1 Gross acres _____

Existing Zoning _____ Existing Land Use _____

Reason for Appeal (please use other side if necessary) Encroach 7 feet into the 25 foot front setback

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

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

Applicant

Name Eli Rene Ochoa Phone 956-451-2687

Address 216 E Cornell Ave E-mail eochoa@goero.com

City McAllen State TX Zip 78504

Owner

Name Same as above Phone _____

Address _____ E-mail _____

City _____ State _____ Zip _____

Authorization

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

☐ Yes ☒ No

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

Signature  Date 11.01.21

Print Name Eli Rene Ochoa ☒ Owner ☐ Authorized Agent

Office

Accepted by _____ Payment received by _____ Date 11.01.21

Rev 10/18

ENTERED

NOV 10 2021

Initials 



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: <i>(Please use an additional page if necessary to complete responses)</i></p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>	
	1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:	
	Refer Attachment "A"	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	Refer Attachment "A"	
	3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:	
Refer Attachment "A"		
4. Describe special conditions that are unique to this applicant or property:		
Refer Attachment "A"		
Board Action		
	Chairman, Board of Adjustment Signature	Date
	_____	_____

Attachment "A"

Eli Rene Ochoa

APPEAL TO ZONING BOARD OF ADJUSTMENT TO MCALLEN ZONING ORDINANCE

REASON FOR APPEAL & BOARD ACTION

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

The survey my wife and I were provided for the Embers Subdivision Lots 22, 23, and 24 specifically indicates: a 10.0' Public Utility Setback, an 18.0' Garage Setback, and a 25.0' Setback on the west side of the lot fronting onto N 3rd Street. This was the basis for the planned layout of our residence. We designed the house to follow all the known requirements in addition to various environmental considerations.

For the East exposure: We purposely sought a West facing property to plan for our new home for several reasons:

- **First**, we took advantage of the prevailing southeast breezes to naturally cool the house.
- **Second**, by providing a covered porch along the east, without obstruction to the north, we ensured the free flow of natural ventilation without the creation of "dead zones" and "eddies".
- **Third**, the east facing windows were designed to provide for a beautiful view of the morning sunrise, which soon becomes hidden from view by the east porch overhang.
- **Fourth**, as the day wanes, the east yard will be cooled by natural shade (by 3:00 pm) and the prevailing breezes.
- **Fifth**, the Kitchen, Dining, Living, Piano, and Entry areas will have transparent views to the East and will be bathed in non-direct full spectrum lighting.

For the North exposure: We purposely provided for a +/- 25.0' building setback from the North property line for several reasons (a 6.0' setback is required):

- **First**, by setting the Garage back from the north property line, we enter the garage from the north so that the view from the street into the garage will be hidden.
- **Second**, by providing a second garage door to the south, onto the entry courtyard, the Garage will be naturally ventilated by the prevailing breezes.
- **Third**, the setback of 25.0' will allow for easy access to the back yard.
- **Fourth**, the 25.0' setback will allow for six "visiting" vehicles to be parked off the street, reducing street clutter that may restrict emergency vehicle access through the neighborhood.

For the South exposure: We purposely set the house on the 6.0' building setback for several reasons:

ENTERED

NOV 10 2021
Eli Rene Ochoa, Page 1

Initial: EO

Attachment "A"

Eli Rene Ochoa

- **First**, we set the building as far south as possible to allow for the benefits described for the North exposure identified above.
- **Second**, we provided for limited windows to the south to mitigate heat gain into the house.

For the West exposure: We set the building on the West setback line and the Garage on the Garage setback line for several reasons:

- **First**, we set the building and the Garage on their respective setback lines.
- **Second**, we created a trellised Entry Court to help mitigate the heat gain from the setting western sun.
- **Third**, we trellised the Entry Court to allow the free flow of breezes through the court and the Garage.

Variance Overview

Upon submission for a Building Permit, the planning staff identified several issues. They were all corrected with only one exception to the Garage setback. In my professional judgement as a Registered Professional Engineer and a Registered Architect in the State of Texas, the approved subdivision plat is ambiguous. It states that the Garage setback is 18.0' (as indicated on the survey) "except where greater is required, greater applies." Nowhere does it indicate that a greater Garage setback is required. Your staff interprets it mean "the building setback applies in this instance"; however, I contend that is not what it says. I believe this type of language should be made much clearer and precise without ambiguity. Either way, I do not wish to make an issue of this unclarity. **We request for a variance of 7.0'.** As additional information, the plan was approved with the Garage on the 18.0' Garage Setback line by the HOA, refer Attachment "C". Please note that two of the approving members of the HOA committee are Mr. Joe Garcia, attorney, and Mr. Gus Garcia, general contractor, both of which are the Developers of the subdivision.

2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:
Refer to "East exposure", "North exposure", and "South exposure" for Reason for Appeal, Question 1 above.
3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:
Refer to "North exposure" for Reason for Appeal, Question 1 above.
4. Describe special conditions that are unique to this applicant or property:
Refer to "Variance Overview" above.

9-30-2021

The Embers Subdivision
HOA
Architectural Control Committee
- Plan Review -

Lot #: 24
Owner(s): ELI RENE OCHOA & Velma MENCHACA
Date Lot Purchased: DECEMBER 9, 2020
Date Plans Submitted: SEPTEMBER 22, 2021
HOA Assessment Paid: ☒ Yes ☐ No

Plan Approval. IF plans comply with Embers subdivisions HOA Article 4.02 Construction Specifications place a check on the space indicated and if not approved place an x.

4.02 (a):

- ☒ Single story residence must have a ground floor area of at least Two Thousand Eight Hundred (2,800) square feet exclusive of open or screened porches, terraces, patios, driveways and garages. (4876 SF)
- ☒ Exterior walls at least 90 percent brick veneer or stucco construction.
- ☐ Mailbox of same material constructed out of same material adjacent to driveway. MUST COMPLY NO ELEVATION PROVIDED.
- ☒ Coolers & A/C must be concealed, not mounted on wall or roof of any structure.

ENTERED

NOV 10 2021

Initial: ail

✓ Landscaping must include grass in front and back yard. (initial by owner)

N/A Shed must be constructed of same material and fashion as house. (initial by owner) **NO SHED**

Gas (b):

✓ At least two (2) fixtures or appliances that use natural gas as sole energy source. **MUST comply**

Roof (c):

✓ Constructed of stone, ceramic, or non-reflective metal.

No composition or wood roofs.

Minimum roof pitch of 4:12 required.

Overhangs may not exceed 2 ft. beyond the face of exterior walls.

Driveway / Walk (d):

? Constructed of brick, concrete, stone or pavers. No asphalt.

MUST comply - NOT SHOW

✓ Must accommodate 2 cars in front of garage.

✓ Must be staggered in subdivision to insure two adjacent lots do not have driveways on the same side of their lots.

Garage (e):

✓ Minimum 2 car garage required. Side entry only. no front entry garages.

Lighting (f):

- ✓
_____ Exterior (Gas) illumination required on front columns of all living units.
Incandescent lights allowed in all other areas.

ACC approval required on all homes built. **SEE ON NORTH
+ SOUTH ELEVATION - NEED AT
FRONT ENTRANCE AS WELL.**

Fences & Walls (g):

- ✓
_____ Each lot attached by wall to companion lots. **NOT SHOW
OWNER TO COMPLY**
- ✓
_____ No fence or wall forward of front wall line. **- AUTOMATIC GATE
AS WELL**
- ✓
_____ To be built of predominately masonry construction. No wood to be
allowed in fencing. **NOT SHOW MUST COMPLY.**

Setback (h):

- ✓
_____ All buildings, structures, fences, hedges, outbuildings, and appurtenances,
are subject to setback restrictions as per subdivision plat despite if two (2)
or fractions of lots are consolidated. To be treated as one (1) original
plotted lot.
- ✓
_____ As per City of McAllen ordinance and Ember Subdivision Plat.

Deadlines (i):

- _____ Owners provided correspondence acknowledging all deadlines in the Embers
Subdivision HOA Architectural Committee.
EMBERS TO SECURE.

Variances Granted (j):

OWNER TO COMPLY WITH HOA

EMBER'S SIGNATURE GDS LAMPS AT
ENTRANCE

Approval (k):




Plans approved for construction

Notes / Comments (l):

SPMSON TO ADVISE CLIENT
OF APPROVAL & PROVIDE
COPY OF HOA/ACC APPROVAL.

PLANS APPROVED BY EMBERS SUBDIVISION HOA
ARCHITECTURAL CONTROL COMMITTEE:

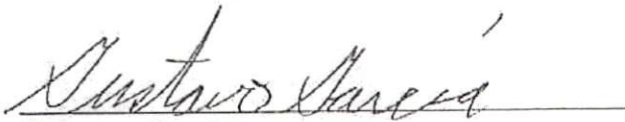
LBJ FAMILY LIMITED PARTNERSHIP, LTD.



Jose E. Garcia
Managing Declarant
Embers Subdivision HOA
Architectural Control Committee

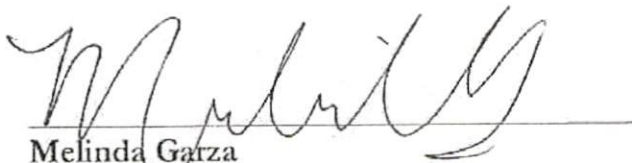
9-30-2021
Date:

RGV GRANDEUR HOMES, LLC



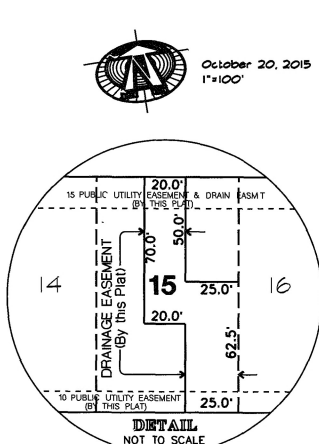
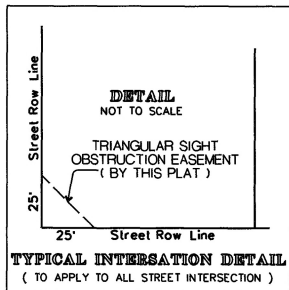
Gustavo Garcia
Declarant
Embers Subdivision HOA
Architectural Control Committee

9/30/2021
Date:



Melinda Garza
ACC Committee Member

9/30/2021
Date:



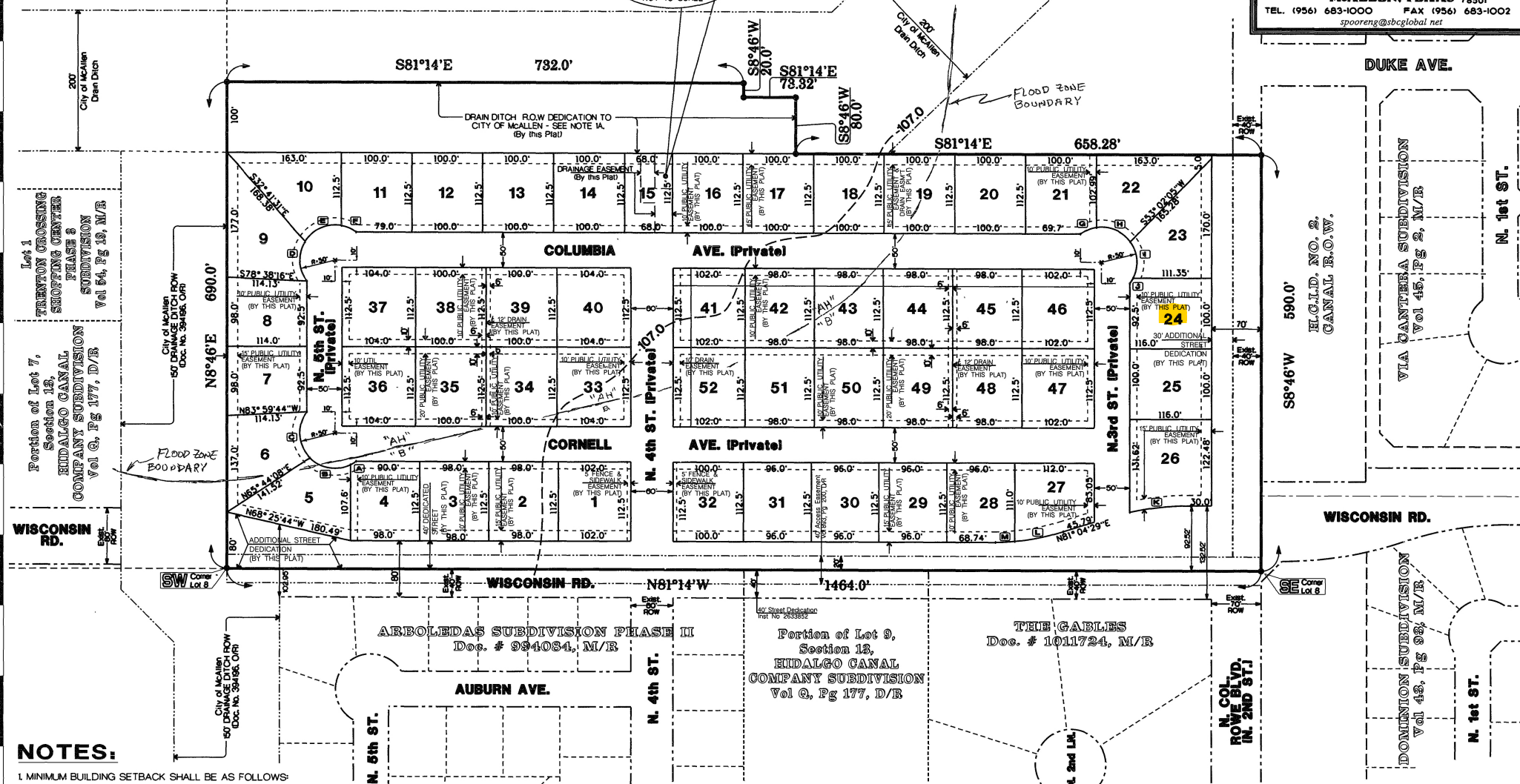
MAP OF THE EMBERS SUBDIVISION (GATED COMMUNITY)

City of McAllen, Texas

BEING A SUBDIVISION OF A 21.64 ACRES OF LAND OUT OF LOT 8, SECTION 13, HIDALGO CANAL COMPANY SUBDIVISION, of Porciones 64, 65, and 66, Hidalgo County, Texas recorded in vol. Q, page 177, Deed Records Hidalgo County, Texas.

Prepared by
Spoor Engineering Consultants, Inc.
FIRM # F-6003
Consulting Engineers - Civil Land Planning
202 South 4th Street
McAllen, TEXAS 78501
TEL. (956) 683-1000 FAX (956) 683-1002
spooreng@sbglobal.net

Remainder of Lot 8, Section 13
Hidalgo Canal Company Subdivision
Volume Q, Page 77, D/R



NOTES:

- MINIMUM BUILDING SETBACK SHALL BE AS FOLLOWS:
A. FRONT - 25 FEET
B. CORNER - 10 FEET OR GREATER FOR EASEMENTS
C. GARAGE - 18 FEET EXCEPT WHERE GREATER IS REQUIRED, GREATER APPLIES
D. REAR -
a. Lots 1 through 5 and 23 through 32 - 25 feet
b. Lots 6 through 22 - 15 feet minimum
c. Lots 33 through 52 - 10 feet minimum
E. OTHERS - IN ACCORDANCE WITH ZONING ORDINANCE OR TO EASEMENT LINE, WHICHEVER IS GREATER
- MINIMUM FINISH FLOOR ELEVATION SHALL BE 18 INCHES ABOVE TOP OF CURB MEASURED AT FRONT CENTER OF LOT, OR ELEV. 107.0, WHICHEVER IS HIGHER.
- THIS PROPERTY FALLS IN ZONE "B" AND "AH" OF THE FLOOD INSURANCE RATE MAP, PANEL NO. 480 334 0425C, REVISED NOVEMBER 16, 1982.
- A 6 FT. OPAQUE BUFFER IS REQUIRED FROM ADJACENT BETWEEN MULTI-FAMILY RESIDENTIAL AND COMMERCIAL OR INDUSTRIAL ZONES/USES, AN 8 FT. MASONRY WALL IS REQUIRED BETWEEN SINGLE FAMILY RESIDENTIAL AND COMMERCIAL, INDUSTRIAL, OR MULTI-FAMILY RESIDENTIAL ZONES/USES
- A 4 FT. SIDEWALK IS REQUIRED ALONG THE NORTH SIDE OF WISCONSIN ROAD, THE WEST SIDE OF NORTH COL. ROWE BLVD, AND ALONG BOTH SIDES OF NORTH 3RD STREET, NORTH 4TH STREET, NORTH 5TH STREET, CORNELL AVENUE, AND COLUMBIA AVENUE.
- BENCHMARK - STATION NAME: MC 51 SET BY ARANDA AND ASSOC. LOCATED AT THE NORTHWEST CORNER OF WISCONSIN RD AND DRAIN DITCH ELEV: 107.56 (NAVD83)
- OWNER IS REQUIRED TO PROVIDE AND ENGINEERED STORM WATER DETENTION PLAN APPROVED BY THE CITY OF McALLEN ENGINEERING DEPARTMENT PRIOR TO ISSUANCE OF BUILDING PERMIT. MASTER DRAINAGE AND DETENTION IS ON FILE AT THE CITY ENGINEERING DEPARTMENT.
- STORM WATER DETENTION REQUIRED IS 2.34 ACRE-Feet, TO BE PROVIDED IN CITY DRAIN DITCH - NORTH SIDE OF SUBDIVISION
- A 6.0 FT. OPAQUE BUFFER IS REQUIRED, ALONG
N. COL. ROWE BLVD, AND ALONG WISCONSIN RD.
- NO CURB CUT, ACCESS, OR LOT FRONTAGE PERMITTED ALONG N. 2ND ST. AND WISCONSIN RD.
- AS PER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE EMBERS SUBDIVISION, RECORDED AS DOCUMENT NO. 27132465, HIDALGO COUNTY, DEED RECORDS, DEVELOPER/HOMEOWNERS ASSOCIATION/OWNERS, THEIR SUCCESSORS AND/OR ASSIGNEES, AND NOT THE CITY OF McALLEN SHALL BE RESPONSIBLE FOR INSTALLATION, MAINTENANCE, AND OTHER REQUIREMENTS AS PER SECTION 134-168 OF THE CODE OF ORDINANCES OF THE CITY OF McALLEN, INCLUDING BUT NOT LIMITED TO COMMON AREAS AND PRIVATE STREETS, ANY AMENDMENT TO DECLARATIONS THAT CONFLICT WITH THE REQUIREMENTS OF SECTION 134-168 SHALL BE NULL AND VOID
- A 25 FT. BY 25 FT. SIGHT OBSTRUCTION EASEMENT IS REQUIRED AT ALL STREET RIGHTS-OF-WAY INTERSECTIONS. (SEE DETAIL AT TOP OF PAGE)
- LOT 15 IS A COMMON AREA, OWNED BY DEVELOPER/HOMEOWNERS ASSOCIATION.

LOT NO.	RADIUS	LENGTH	ANGLE	CHORD	CHORD BEARING
1	50.0'	9.40'	10°46'14"	8.89'	N67°16'41"E
2	50.0'	62.04'	71°05'58"	68.14'	S71°4'09"E
3	50.0'	71.45'	81°52'18"	68.82'	S04°42'02"W
4	50.0'	59.88'	68°27'11"	66.87'	S06°22'24"W
5	50.0'	59.88'	68°27'11"	66.87'	S74°49'36"W
6	50.0'	23.12'	26°29'46"	23.92'	N57°86'56"W
7	50.0'	23.12'	26°29'46"	23.92'	S76°18'20"W
8	50.0'	54.45'	62°28'45"	61.80'	N58°04'48"W
9	50.0'	54.45'	62°28'45"	61.80'	N04°10'47"E
10	50.0'	8.89'	10°46'14"	8.82'	N40°34'30"E
11	409.0'	86.65'	12°08'17"	86.48'	S87°18'09"E
12	329.0'	69.94'	12°10'46"	69.8'	S87°09'52"W
13	329.0'	27.8'	04°46'19"	27.8'	S84°22'08"W

LOT No.	AREA
4	11,004 Sq.Ft.
5	11,878 Sq.Ft.
6	11,816 Sq.Ft.
7	10,859 Sq.Ft.
8	10,859 Sq.Ft.
9	12,786 Sq.Ft.
10	12,612 Sq.Ft.
11	11,188 Sq.Ft.
12	11,114 Sq.Ft.
13	12,641 Sq.Ft.
14	12,428 Sq.Ft.
15	11,128 Sq.Ft.
16	14,468 Sq.Ft.
17	11,128 Sq.Ft.
18	10,785 Sq.Ft.

METES & BOUNDS

A 21.64 ACRE TRACT OF LAND OUT OF LOT 8, SECTION 13, HIDALGO CANAL CO. SUBDIVISION OF PORCIONES 64, 65, AND 66, HIDALGO COUNTY, TEXAS, ACCORDING TO PLAT RECORDED IN VOLUME Q PAGE 97, DEED RECORDS, HIDALGO COUNTY TEXAS.

BEGINNING at the Southwest corner of Lot 8, for the Southwest corner of the following described tract of land said point being on the East line of City of McAllen Drain Ditch R.O.W.,

THENCE, with the West line of Lot 8 and the East line of said drain ditch, North 08 Deg. 46 Min. East at 5900 feet pass the South line of Hidalgo County Drain Ditch R.O.W., and at 6900 feet a point for the Northwest corner hereof,

THENCE, parallel to the South line of Lot 8, in said drain ditch, South 81 Deg. 14 Min. East, 7320 feet to a point for the most northerly Northeast corner hereof,

THENCE, parallel to the West line of Lot 8, in said drain ditch, South 08 Deg. 46 Min. West, 200 feet to a point for an interior corner hereof,

THENCE, parallel to the South line of Lot 8, South 81 Deg. 14 Min. East, 7332 feet to a point for the made Northeast corner hereof,

THENCE, parallel to the West line of Lot 8, South 08 Deg. 46 Min. West, 800 feet to a point for an interior corner hereof said point being on the South line of said Hidalgo County drain ditch,

THENCE, with the South line of said drain ditch and its projection, South 81 Deg. 14 Min. East, at 6828 feet pass the West line of North 2nd Street and at 6328 feet a point on the East line of Lot 8, for the most southerly Northeast corner hereof, said point being on the East line of North 2nd Street,

THENCE, with the East line of Lot 8, and the East line of North 2nd Street, South 08 Deg. 46 Min. West, 5900 feet to the Southwest corner of Lot 8, for the Southwest corner hereof,

THENCE, with the South line of Lot 8, North 81 Deg. 14 Min. West, at 400 feet pass the West line of North 2nd Street, and at 14640 feet the POINT OF BEGINNING, Containing 21.64 acres of land, more or less.

FILED FOR RECORDING
HIDALGO COUNTY
ARTURO GUERRA, CLERK
HIDALGO COUNTY CLERK

ON: 6/6/16 AT 4:33 AM (PM)
INSTRUMENT NUMBER
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS
BY: Jose Zuloaga DEPUTY

STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS _____ TO THE CITY OF McALLEN AND THOSE WHO MY NOW OR HEREFTER HOLD FRANCHISE UNDER SAID CITY, THE USE OF THE STREETS, ALLEYS AND EASEMENTS THERE ON SHOWN, SURFACE USE OF THE STREETS AND ALLEYS IS RESTRICTED TO THE EMPLOYEES OR AGENTS OF THE CITY OF McALLEN EMPLOYEES OF UTILITIES OPERATING UNDER FRANCHISE TO THE CITY OF McALLEN AND RESIDENTS OF THE SUBDIVISION AND THEIR GUESTS, EXCEPT WISCONSIN ROAD AND N. COL. ROWE BLVD., WHICH ARE BEING DEDICATED FOR PUBLIC USE BY THIS PLAT.

BJ Family Limited Partnership
By: MVP Management Trust, Gen. Partner
Chad Tolar, Successor Trustee
4401 N. McCall Rd.
McAllen, TX 78501

THE EMBERS SUBDIVISION
(GATED COMMUNITY)

SUBDIVISION DO HEREBY GRANT AN EASEMENT TO THE CITY OF McALLEN AND THOSE WHO MY NOW OR HEREFTER HOLD FRANCHISE UNDER SAID CITY, THE USE OF THE STREETS, ALLEYS AND EASEMENTS THERE ON SHOWN, SURFACE USE OF THE STREETS AND ALLEYS IS RESTRICTED TO THE EMPLOYEES OR AGENTS OF THE CITY OF McALLEN EMPLOYEES OF UTILITIES OPERATING UNDER FRANCHISE TO THE CITY OF McALLEN AND RESIDENTS OF THE SUBDIVISION AND THEIR GUESTS, EXCEPT WISCONSIN ROAD AND N. COL. ROWE BLVD., WHICH ARE BEING DEDICATED FOR PUBLIC USE BY THIS PLAT.

RGV Grandeur Homes, LLC,
a Texas Limited Liability Company
By: Marco Garcia, Manager/Pres.
4801 N. 10th St.
McAllen, Texas 78504

STATE OF TEXAS:
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED MARCO GARCIA, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE (SHE) EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED, GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 14th DAY OF February, 2016.

NOTARY PUBLIC

NOTARY PUBLIC

STATE OF TEXAS:
COUNTY OF HIDALGO:

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED CHAD TOLAR, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE (SHE) EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN STATED, GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 15th DAY OF FEBRUARY, 2016.

NOTARY PUBLIC

NOTARY PUBLIC

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 THE SUBDIVISION REGULATIONS OF THIS CITY WHEREIN MY APPROVAL IS REQUIRED.

CHAIRMAN, PLANNING COMMISSION

DATE

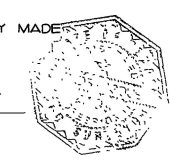
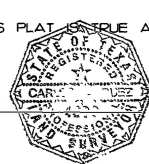
STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR # 4608 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.

DATE

DATE

CARLOS VASQUEZ, RPLS # 4608
CVQ LAND SURVEYORS LLC
517 BEAUMONT ST.
McALLEN, TEXAS 78501
TEPL FIRM No. 1019600



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

INTER NATIONAL BANK
BY: Martin Espinosa
Martin Espinosa, Executive Vice President

STATE OF TEXAS
COUNTY OF HIDALGO
BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED MARTIN ESPINOSA, EXECUTIVE VICE PRESIDENT OF INTER NATIONAL BANK, 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 15th DAY OF FEBRUARY, 2016.

NOTARY PUBLIC

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.

SPOOR ENGINEERING CONSULTANTS, INC.
Registration # F-6003

REGISTERED PROFESSIONAL ENGINEER
P. E. REGISTRATION No. 56752

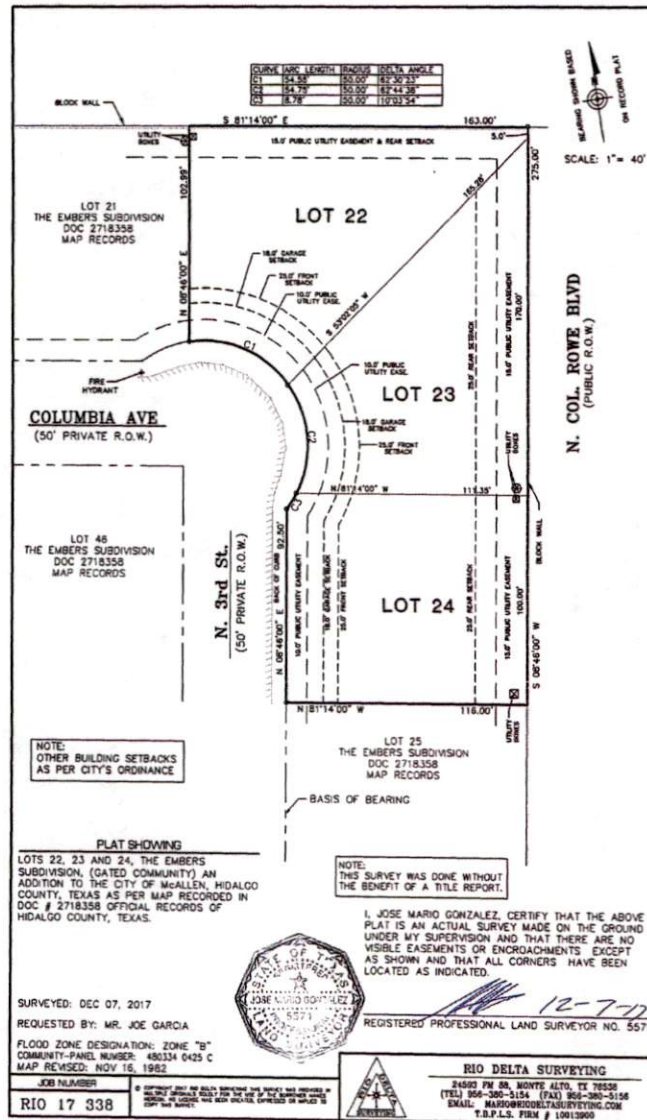
JAMES E. DARLING
MAYOR, CITY OF McALLEN

DATE

HIDALGO COUNTY DRAINAGE DISTRICT NO. 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH THE MINIMUM STANDARDS OF THE DISTRICT, AND UNDER TEX. WATER CODE 49.22(a) THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE DRAINAGE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION; BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA, IT IS THE RESPONSIBILITY OF THE DEVELOPER OF THE SUBDIVISION AND ITS ENGINEER TO MAKE THESE DETERMINATIONS.

BY: RAUL E. SESIN, P.E., C.F.M.
GENERAL MANAGER

DATE



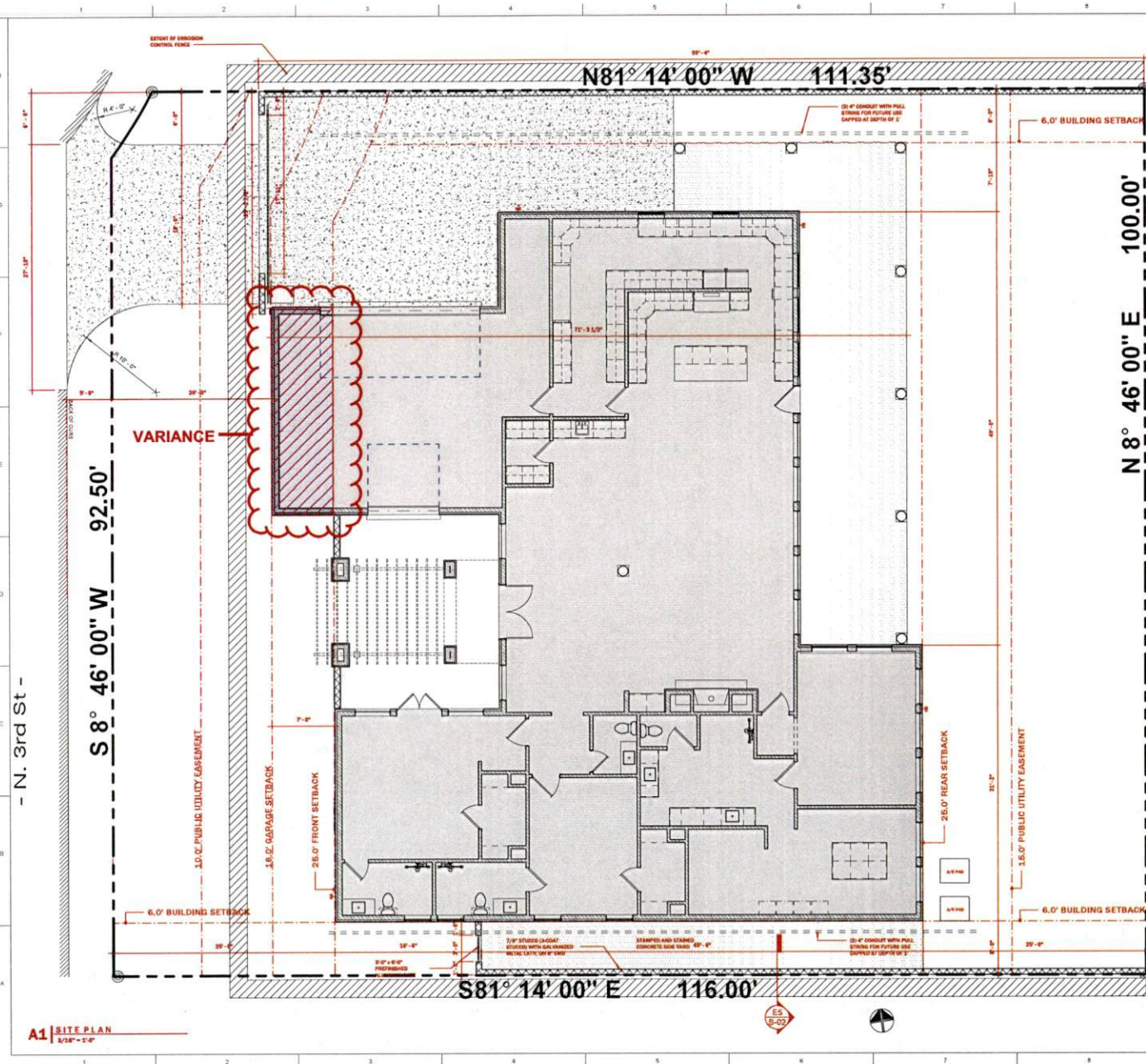
ENTERED

NOV 10 2021

Initial: *aw*

10/27/2021 8:11:20 PM

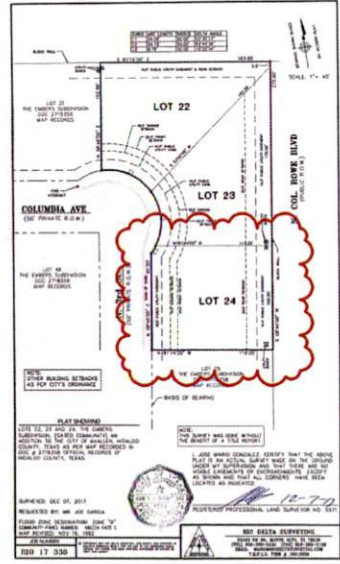
C:\Users\jordan\Documents\Ochoa Residence Lot 24 Embers Subdivision Rev 06.mxd (jordan.v)



Attachment "D"

- N. COL ROWE BLVD. -

LOT TWENTY FOUR (24), THE EMBERS SUBDIVISION, (GATED COMMUNITY) AN ADDITION TO THE CITY OF McALLEN RECORDED IN DOC # 2718368 OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS



ENTERED A-02

NOV 10 2021

Initial: *AW*

erō
300 S. 8th Street,
McAllen, TX 78501
T 956-661-0400
F 956-661-0401
eroarchitects.com

CONSULTANTS

OCHOA RESIDENCE
McALLEN, TEXAS

No.	Date	Description
1	10-27-21	Revision 1

"NOT FOR CONSTRUCTION"
THIS DOCUMENT IS INTENDED FOR REVIEW ONLY AND IS NOT INTENDED FOR CONSTRUCTION. IT IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.

PROJECT NO.: Project Number
ISSUE DATE: Issue Date
Sheet Name: SITE PLAN

Project Date:

No	Date	Description

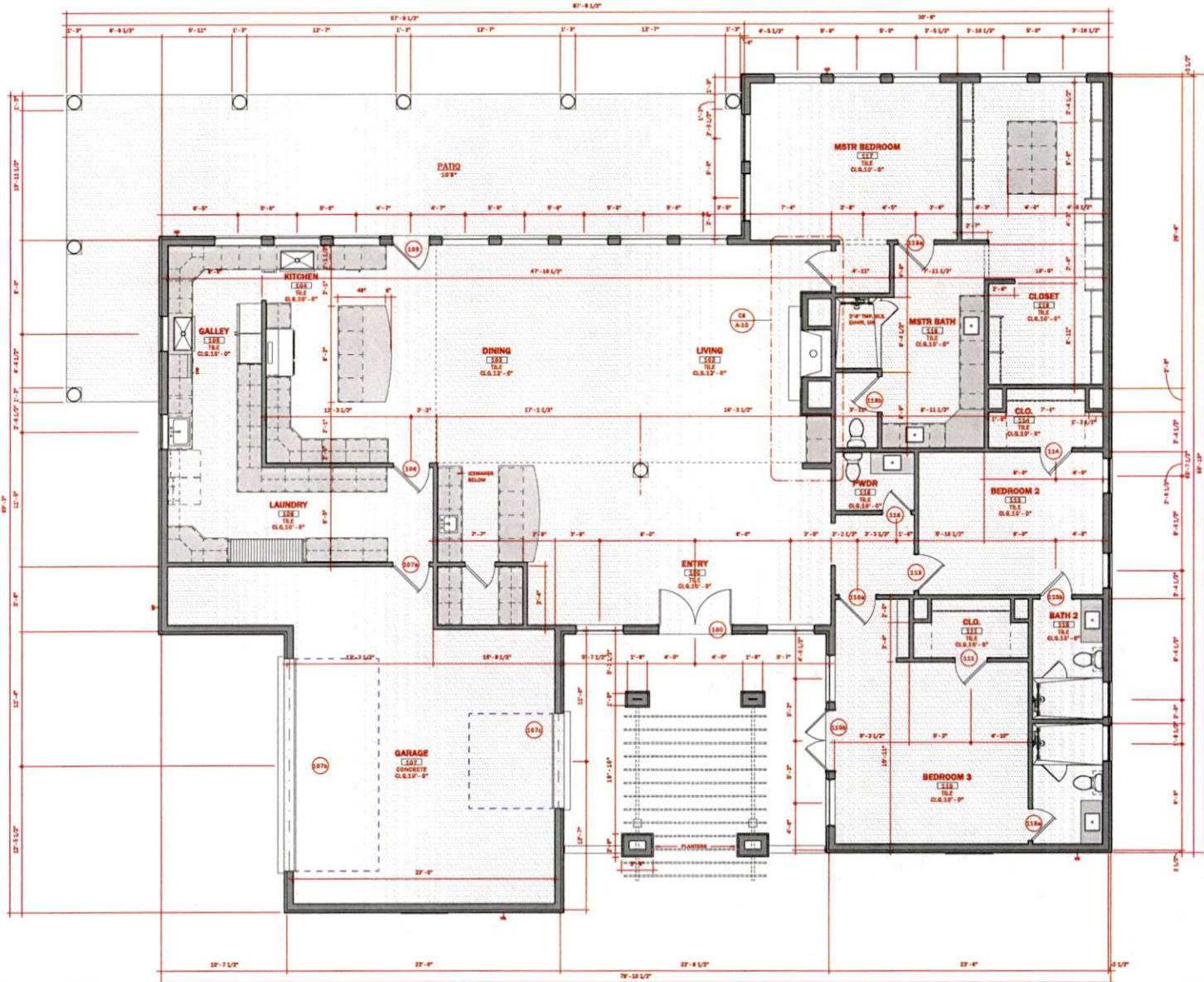
THIS DOCUMENT IS INTENDED FOR REVIEW ONLY
IT IS NOT INTENDED FOR RECORD, PERMIT OR
CONSTRUCTION PURPOSES.

ELI R. GORDA, P.E., AIA
TECHNICAL REGISTERED ARCHITECT
Engine: 05251
Architect: 12412

Sheet Number

ENTERED

Initial: an



A1 | FLOOR PLAN
1/4" = 1'-0"

NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0058
CITY OF MCALLEN PLANNING DEPT
900 N. 10TH
WWW.MCALLEN.NET

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

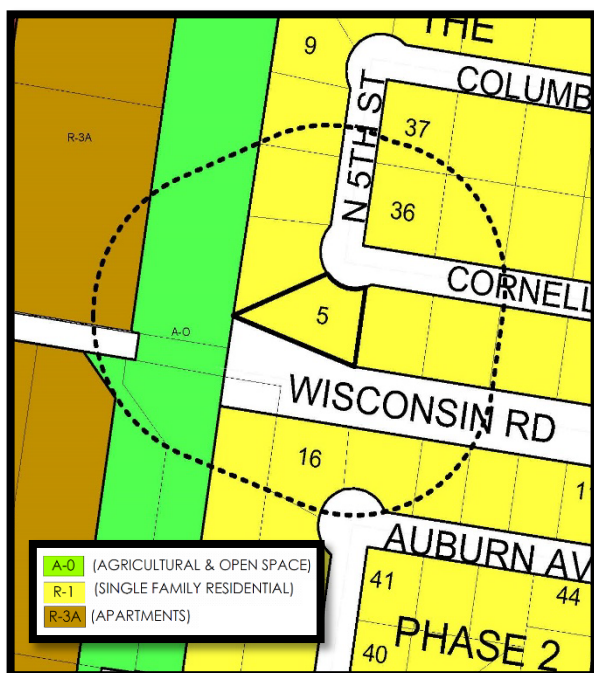
FROM: Planning Staff

DATE: November 17, 2021

SUBJECT: REQUEST OF ISSAC CHOUTAPALLI & XIAOQIAN FANG 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 FOR A PROPOSED SINGLE FAMILY RESIDENCE AT LOT 5, THE EMBERS SUBDIVISION (GATED SUBDIVISION), HIDALGO COUNTY, TEXAS; 417 CORNELL AVENUE. (ZBA2021-0059)

REASON FOR APPEAL:

The applicants are requesting a variance to a double fronting lot for a house. The applicants are requesting the variance to build the proposed house in order to accommodate the needs for their growing family to have decent size bedrooms.



PROPERTY LOCATION AND VICINITY:

The subject property is located on a cul-de-sac along Cornell Avenue, at the intersection of N 5th Street and Cornell Avenue. The trapezoidal property has 62.04 ft. of frontage along both streets for a lot size of 11,878 SF. The property and adjacent zoning is R-1 (single family residential) District to the north, east and south, A-O (open-agricultural) District and R-3A (multifamily apartments) District to the west. Surrounding land use include single-family residential houses and vacant land.

BACKGROUND AND HISTORY:

The Embers Subdivision was recorded on June 6, 2016. The plat specifies that double fronting lots (Lots 1- 5) have a 25 ft. rear yard setback. An application for a variance request for encroachment for a proposed house was submitted to the Planning Department on November 2, 2021.

ANALYSIS:

The variance request is to allow an encroachment of 10 ft. into the 25 ft. rear yard setback for proposed house. The plat for the subdivision specifies a 25 ft. rear yard setback for double fronting lots. Standard rear yard setback in R-1 Districts is 10 ft. There is a 15 ft. Utility Easement at the rear of the lot that will not be impacted by the proposed encroachment.

There are 3 variance requests on file, similar to the variance request; encroachment for swimming pool, house and other structures into the rear yard setback that were approved in 2019 and 2021, along the double fronting lots.

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

RECOMMENDATION:

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

ZBA
12-1-21

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>EMBERS LOT-5</u>
	Subdivision Name <u>THE EMBERS SUBDIVISION</u>
	Street Address <u>417 CORNELL AVE, MCALLEN, TX 78504</u>
	Number of lots <u>1</u> Gross acres <u>0.2727 ACRES</u>
	Existing Zoning <u>RESIDENTIAL</u> Existing Land Use <u>RESIDENTIAL</u>
Applicant	Name <u>Isaac Choutapalli & Xiaoqian Fang</u> Phone <u>850-510-5312</u>
	Address <u>417 Cornell Ave</u> E-mail <u>isaac.choutapalli@gmail.com</u>
	City <u>McAllen</u> State <u>TX</u> Zip <u>78504</u>
Owner	Name <u>Isaac Choutapalli & Xiaoqian Fang</u> Phone <u>850-510-5312</u>
	Address <u>216 Auburn Ave</u> E-mail <u>isaac.choutapalli@gmail.com</u>
	City <u>McAllen</u> State <u>TX</u> Zip <u>78504</u>
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><i>Isaac Choutapalli</i></u> <u><i>Xiaoqian J.</i></u> Date <u>11/02/2021</u></p>
	<p>Print Name <u>Isaac Choutapalli, Xiaoqian Fang</u> <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Authorized Agent</p>
Office	<p>Accepted by <u>ICF</u> Payment received by _____ Date _____</p>
	<p>Rev 10/18</p>



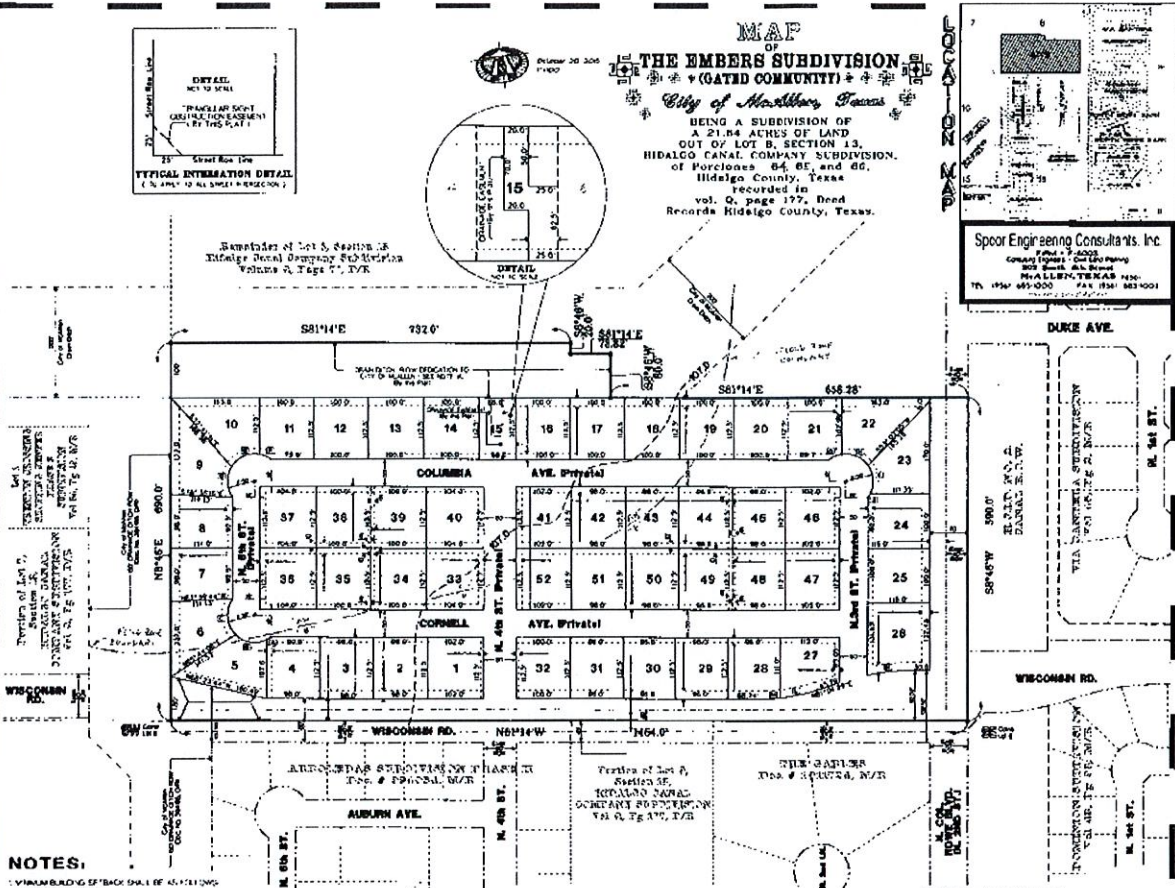
City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: <i>(Please use an additional page if necessary to complete responses)</i></p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>		
	1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:		
	<i>Our lot-5 is a double fronting lot and currently, as per the recorded plat and city ordinance, requires 25ft setback for both front and backyards. The 25ft setback, especially in the backyard is precluding a substantial amount of the lot area from being built on and we are struggling to design a 4 bedroom house with even reasonable bedroom sizes. We are losing nearly 4500 sq.ft in the backyard (in addition to the area precluded by the 25ft setback in the front yard) as a result of the current ordinance.</i>		
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:		
	<i>The variance we are requesting , i.e. reducing the backyard setback from 25ft to 15 ft, would help us design a reasonable house with decent sized four bedrooms to accommodate our growing family. Without the variance, the bedrooms would be too small for our family and it would deprive us of the enjoyment we would seek in a custom built house.</i>		
	3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:		
	<i>The variance will not be in any way detrimental as the city of McAllen has already approved such measure on October 11th, 2021 for double-fronting lots for new subdivisions. Although the Embers subdivision is an established subdivision, it is relatively new with new construction just beginning in many of the lots within the subdivision.</i>		
	4. Describe special conditions that are unique to this applicant or property:		
	<i>Our lot-5 is a double fronting lot abutting Wisconsin and Cornell ave. Please refer to the attached plat.</i>		
	Board Action		
<p>Chairman, Board of Adjustment Signature</p> <p>_____</p>		<p>Date</p> <p>_____</p>	
<p>Rev. 9/20</p>			

MAP

THE EMBERS SUBDIVISION
 BEING A SUBDIVISION OF
 A 21.84 ACRES OF LAND
 OUT OF LOT 8, SECTION 13,
 HIDALGO CANAL COMPANY SUBDIVISION,
 of Portales, 64, 65, and 66,
 Hidalgo County, Texas,
 recorded in
 vol. Q, page 177, Deed
 Records Hidalgo County, Texas.

Spor Engineering Consultants, Inc.
 1401 W. 14th St., Suite 100
 Amarillo, Texas 79102
 Phone: 361-1234
 Telex: 361-1234



NOTES:
 1. MINIMUM BUILDING SETBACK SHALL BE 10 FEET.
 2. CORNER OF LOT 1, CORNER OF LOT 2, CORNER OF LOT 3, CORNER OF LOT 4, CORNER OF LOT 5, CORNER OF LOT 6, CORNER OF LOT 7, CORNER OF LOT 8, CORNER OF LOT 9, CORNER OF LOT 10, CORNER OF LOT 11, CORNER OF LOT 12, CORNER OF LOT 13, CORNER OF LOT 14, CORNER OF LOT 15, CORNER OF LOT 16, CORNER OF LOT 17, CORNER OF LOT 18, CORNER OF LOT 19, CORNER OF LOT 20, CORNER OF LOT 21, CORNER OF LOT 22, CORNER OF LOT 23, CORNER OF LOT 24, CORNER OF LOT 25, CORNER OF LOT 26, CORNER OF LOT 27, CORNER OF LOT 28, CORNER OF LOT 29, CORNER OF LOT 30, CORNER OF LOT 31, CORNER OF LOT 32, CORNER OF LOT 33, CORNER OF LOT 34, CORNER OF LOT 35, CORNER OF LOT 36, CORNER OF LOT 37, CORNER OF LOT 38, CORNER OF LOT 39, CORNER OF LOT 40, CORNER OF LOT 41, CORNER OF LOT 42, CORNER OF LOT 43, CORNER OF LOT 44, CORNER OF LOT 45, CORNER OF LOT 46, CORNER OF LOT 47, CORNER OF LOT 48.
 3. EASEMENT: 10' WIDE EASEMENT FOR UTILITY PURPOSES.
 4. EASEMENT: 10' WIDE EASEMENT FOR UTILITY PURPOSES.
 5. EASEMENT: 10' WIDE EASEMENT FOR UTILITY PURPOSES.
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 45. EASEMENT: 10' WIDE EASEMENT FOR UTILITY PURPOSES.
 46. EASEMENT: 10' WIDE EASEMENT FOR UTILITY PURPOSES.
 47. EASEMENT: 10' WIDE EASEMENT FOR UTILITY PURPOSES.
 48. EASEMENT: 10' WIDE EASEMENT FOR UTILITY PURPOSES.

CURVE DATA

STATION	CHORD BEARING	CHORD LENGTH	ARC BEARING	ARC LENGTH	CHORD BEARING	CHORD LENGTH	ARC BEARING	ARC LENGTH
1+00.00	S 81° 14' E	100.00	S 81° 14' E	100.00	S 81° 14' E	100.00	S 81° 14' E	100.00
1+10.00	S 81° 14' E	110.00	S 81° 14' E	110.00	S 81° 14' E	110.00	S 81° 14' E	110.00
1+20.00	S 81° 14' E	120.00	S 81° 14' E	120.00	S 81° 14' E	120.00	S 81° 14' E	120.00
1+30.00	S 81° 14' E	130.00	S 81° 14' E	130.00	S 81° 14' E	130.00	S 81° 14' E	130.00
1+40.00	S 81° 14' E	140.00	S 81° 14' E	140.00	S 81° 14' E	140.00	S 81° 14' E	140.00
1+50.00	S 81° 14' E	150.00	S 81° 14' E	150.00	S 81° 14' E	150.00	S 81° 14' E	150.00
1+60.00	S 81° 14' E	160.00	S 81° 14' E	160.00	S 81° 14' E	160.00	S 81° 14' E	160.00
1+70.00	S 81° 14' E	170.00	S 81° 14' E	170.00	S 81° 14' E	170.00	S 81° 14' E	170.00
1+80.00	S 81° 14' E	180.00	S 81° 14' E	180.00	S 81° 14' E	180.00	S 81° 14' E	180.00
1+90.00	S 81° 14' E	190.00	S 81° 14' E	190.00	S 81° 14' E	190.00	S 81° 14' E	190.00
2+00.00	S 81° 14' E	200.00	S 81° 14' E	200.00	S 81° 14' E	200.00	S 81° 14' E	200.00
2+10.00	S 81° 14' E	210.00	S 81° 14' E	210.00	S 81° 14' E	210.00	S 81° 14' E	210.00
2+20.00	S 81° 14' E	220.00	S 81° 14' E	220.00	S 81° 14' E	220.00	S 81° 14' E	220.00
2+30.00	S 81° 14' E	230.00	S 81° 14' E	230.00	S 81° 14' E	230.00	S 81° 14' E	230.00
2+40.00	S 81° 14' E	240.00	S 81° 14' E	240.00	S 81° 14' E	240.00	S 81° 14' E	240.00
2+50.00	S 81° 14' E	250.00	S 81° 14' E	250.00	S 81° 14' E	250.00	S 81° 14' E	250.00
2+60.00	S 81° 14' E	260.00	S 81° 14' E	260.00	S 81° 14' E	260.00	S 81° 14' E	260.00
2+70.00	S 81° 14' E	270.00	S 81° 14' E	270.00	S 81° 14' E	270.00	S 81° 14' E	270.00
2+80.00	S 81° 14' E	280.00	S 81° 14' E	280.00	S 81° 14' E	280.00	S 81° 14' E	280.00
2+90.00	S 81° 14' E	290.00	S 81° 14' E	290.00	S 81° 14' E	290.00	S 81° 14' E	290.00
3+00.00	S 81° 14' E	300.00	S 81° 14' E	300.00	S 81° 14' E	300.00	S 81° 14' E	300.00
3+10.00	S 81° 14' E	310.00	S 81° 14' E	310.00	S 81° 14' E	310.00	S 81° 14' E	310.00
3+20.00	S 81° 14' E	320.00	S 81° 14' E	320.00	S 81° 14' E	320.00	S 81° 14' E	320.00
3+30.00	S 81° 14' E	330.00	S 81° 14' E	330.00	S 81° 14' E	330.00	S 81° 14' E	330.00
3+40.00	S 81° 14' E	340.00	S 81° 14' E	340.00	S 81° 14' E	340.00	S 81° 14' E	340.00
3+50.00	S 81° 14' E	350.00	S 81° 14' E	350.00	S 81° 14' E	350.00	S 81° 14' E	350.00
3+60.00	S 81° 14' E	360.00	S 81° 14' E	360.00	S 81° 14' E	360.00	S 81° 14' E	360.00
3+70.00	S 81° 14' E	370.00	S 81° 14' E	370.00	S 81° 14' E	370.00	S 81° 14' E	370.00
3+80.00	S 81° 14' E	380.00	S 81° 14' E	380.00	S 81° 14' E	380.00	S 81° 14' E	380.00
3+90.00	S 81° 14' E	390.00	S 81° 14' E	390.00	S 81° 14' E	390.00	S 81° 14' E	390.00
4+00.00	S 81° 14' E	400.00	S 81° 14' E	400.00	S 81° 14' E	400.00	S 81° 14' E	400.00
4+10.00	S 81° 14' E	410.00	S 81° 14' E	410.00	S 81° 14' E	410.00	S 81° 14' E	410.00
4+20.00	S 81° 14' E	420.00	S 81° 14' E	420.00	S 81° 14' E	420.00	S 81° 14' E	420.00
4+30.00	S 81° 14' E	430.00	S 81° 14' E	430.00	S 81° 14' E	430.00	S 81° 14' E	430.00
4+40.00	S 81° 14' E	440.00	S 81° 14' E	440.00	S 81° 14' E	440.00	S 81° 14' E	440.00
4+50.00	S 81° 14' E	450.00	S 81° 14' E	450.00	S 81° 14' E	450.00	S 81° 14' E	450.00
4+60.00	S 81° 14' E	460.00	S 81° 14' E	460.00	S 81° 14' E	460.00	S 81° 14' E	460.00
4+70.00	S 81° 14' E	470.00	S 81° 14' E	470.00	S 81° 14' E	470.00	S 81° 14' E	470.00
4+80.00	S 81° 14' E	480.00	S 81° 14' E	480.00	S 81° 14' E	480.00	S 81° 14' E	480.00
4+90.00	S 81° 14' E	490.00	S 81° 14' E	490.00	S 81° 14' E	490.00	S 81° 14' E	490.00
5+00.00	S 81° 14' E	500.00	S 81° 14' E	500.00	S 81° 14' E	500.00	S 81° 14' E	500.00
5+10.00	S 81° 14' E	510.00	S 81° 14' E	510.00	S 81° 14' E	510.00	S 81° 14' E	510.00
5+20.00	S 81° 14' E	520.00	S 81° 14' E	520.00	S 81° 14' E	520.00	S 81° 14' E	520.00
5+30.00	S 81° 14' E	530.00	S 81° 14' E	530.00	S 81° 14' E	530.00	S 81° 14' E	530.00
5+40.00	S 81° 14' E	540.00	S 81° 14' E	540.00	S 81° 14' E	540.00	S 81° 14' E	540.00
5+50.00	S 81° 14' E	550.00	S 81° 14' E	550.00	S 81° 14' E	550.00	S 81° 14' E	550.00
5+60.00	S 81° 14' E	560.00	S 81° 14' E	560.00	S 81° 14' E	560.00	S 81° 14' E	560.00
5+70.00	S 81° 14' E	570.00	S 81° 14' E	570.00	S 81° 14' E	570.00	S 81° 14' E	570.00
5+80.00	S 81° 14' E	580.00	S 81° 14' E	580.00	S 81° 14' E	580.00	S 81° 14' E	580.00
5+90.00	S 81° 14' E	590.00	S 81° 14' E	590.00	S 81° 14' E	590.00	S 81° 14' E	590.00
6+00.00	S 81° 14' E	600.00	S 81° 14' E	600.00	S 81° 14' E	600.00	S 81° 14' E	600.00

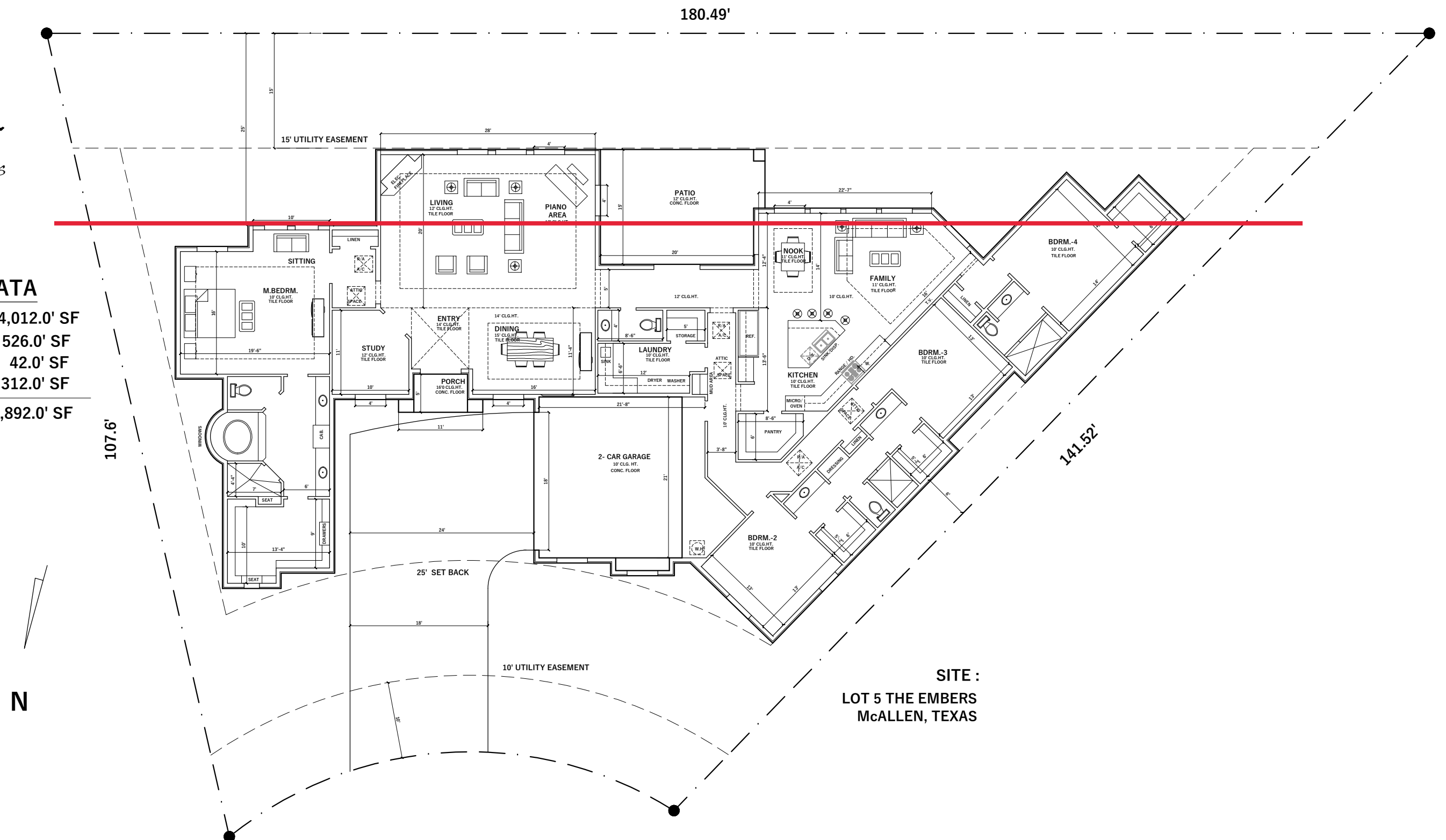
REGULAR LOT AREA			
STATION	CHORD BEARING	CHORD LENGTH	ARC BEARING
1	S 89° 44' 30" E	100.00	S 89° 44' 30" E
2	S 89° 44' 30" E	110.00	S 89° 44' 30" E
3	S 89° 44' 30" E	120.00	S 89° 44' 30" E
4	S 89° 44' 30" E	130.00	S 89° 44' 30" E
5	S 89° 44' 30" E	140.00	S 89° 44' 30" E
6	S 89° 44' 30" E	150.00	S 89° 44' 30" E
7	S 89° 44' 30" E	160.00	S 89° 44' 30" E
8	S 89° 44' 30" E	170.00	S 89° 44' 30" E
9	S 89° 44' 30" E	180.00	S 89° 44' 30" E
10	S 89° 44' 30" E	190.00	S 89° 44' 30" E
11	S 89° 44' 30" E	200.00	S 89° 44' 30" E
12	S 89° 44' 30" E	210.00	S 89° 44' 30" E
13	S 89° 44' 30" E	220.00	S 89° 44' 30" E
14	S 89° 44' 30" E	230.00	S 89° 44' 30" E
15	S 89° 44' 30" E	240.00	S 89° 44' 30" E
16	S 89° 44' 30" E	250.00	S 89° 44' 30" E
17	S 89° 44' 30" E	260.00	S 89° 44' 30" E
18	S 89° 44' 30" E	270.00	S 89° 44' 30" E
19	S 89° 44' 30" E	280.00	S 89° 44' 30" E
20	S 89° 44' 30" E	290.00	S 89° 44' 30" E
21	S 89° 44' 30" E	300.00	S 89° 44' 30" E
22	S 89° 44' 30" E	310.00	S 89° 44' 30" E
23	S 89° 44' 30" E	320.00	S 89° 44' 30" E
24	S 89° 44' 30" E	330.00	S 89° 44' 30" E
25	S 89° 44' 30" E	340.00	S 89° 44' 30" E
26	S 89° 44' 30" E	350.00	S 89° 44' 30" E
27	S 89° 44' 30" E	360.00	S 89° 44' 30" E
28	S 89° 44' 30" E	370.00	S 89° 44' 30" E
29	S 89° 44' 30" E	380.00	S 89° 44' 30" E
30	S 89° 44' 30" E	390.00	S 89° 44' 30" E
31	S 89° 44' 30" E	400.00	S 89° 44' 30" E
32	S 89° 44' 30" E	410.00	S 89° 44' 30" E
33	S 89° 44' 30" E	420.00	S 89° 44' 30" E
34	S 89° 44' 30" E	430.00	S 89° 44' 30" E
35	S 89° 44' 30" E	440.00	S 89° 44' 30" E
36	S 89° 44' 30" E	450.00	S 89° 44' 30" E
37	S 89° 44' 30" E	460.00	S 89° 44' 30" E
38	S 89° 44' 30" E	470.00	S 89° 44' 30" E
39	S 89° 44' 30" E	480.00	S 89° 44' 30" E
40	S 89° 44' 30" E	490.00	S 89° 44' 30" E
41	S 89° 44' 30" E	500.00	S 89° 44' 30" E
42	S 89° 44' 30" E	510.00	S 89° 44' 30" E
43	S 89° 44' 30" E	520.00	S 89° 44' 30" E
44	S 89° 44' 30" E	530.00	S 89° 44' 30" E
45	S 89° 44' 30" E	540.00	S 89° 44' 30" E
46	S 89° 44' 30" E	550.00	S 89° 44' 30" E
47	S 89° 44' 30" E	560.00	S 89° 44' 30" E
48	S 89° 44' 30" E	570.00	S 89° 44' 30" E
49	S 89° 44' 30" E	580.00	S 89° 44' 30" E
50	S 89° 44' 30" E	590.00	S 89° 44' 30" E
51	S 89° 44' 30" E	600.00	S 89° 44' 30" E
52	S 89° 44' 30" E	610.00	S 89° 44' 30" E
53	S 89° 44' 30" E	620.00	S 89° 44' 30" E
54	S 89° 44' 30" E	630.00	S 89° 44' 30" E
55	S 89° 44' 30" E	640.00	S 89° 44' 30" E
56	S 89° 44' 30" E	650.00	S 89° 44' 30" E
57	S 89° 44' 30" E	660.00	S 89° 44' 30" E
58	S 89° 44' 30" E	670.00	S 89° 44' 30" E
59	S 89° 44' 30" E	680.00	S 89° 44' 30" E
60	S 89° 44' 30" E	690.00	S 89° 44' 30" E
61	S 89° 44' 30" E	700.00	S 89° 44' 30" E
62	S 89° 44' 30" E	710.00	S 89° 44' 30" E
63	S 89° 44' 30" E	720.00	S 89° 44' 30" E
64	S 89° 44' 30" E	730.00	S 89° 44' 30" E
65	S 89° 44' 30" E	740.00	S 89° 44' 30" E
66	S 89° 44' 30" E	750.00	S 89° 44' 30" E
67	S 89° 44' 30" E	760.00	S 89° 44' 30" E
68	S 89° 44' 30" E	770.00	S 89° 44' 30" E
69	S 89° 44' 30" E	780.00	S 89° 44' 30" E
70	S 89° 44' 30" E	790.00	S 89° 44' 30" E
71	S 89° 44' 30" E	800.00	S 89° 44' 30" E
72	S 89° 44' 30" E	810.00	S 89° 44' 30" E
73	S 89° 44' 30" E	820.00	S 89° 44' 30" E
74	S 89° 44' 30" E	830.00	S 89° 44' 30" E
75	S 89° 44' 30" E	840.00	S 89° 44' 30" E
76	S 89° 44' 30" E	850.00	S 89° 44' 30" E
77	S 89° 44' 30" E	860.00	S 89° 44' 30" E
78	S 89° 44' 30" E	870.00	S 89° 44' 30" E
79	S 89° 44' 30" E	880.00	S 89° 44' 30" E
80	S 89° 44' 30" E	890.00	S 89° 44' 30" E
81	S 89° 44' 30" E	900.00	S 89° 44' 30" E
82	S 89° 44' 30" E	910.00	S 89° 44' 30" E
83	S 89° 44' 30" E	920.00	S 89° 44' 30" E
84	S 89° 44' 30" E	930.00	S 89° 44' 30" E
85	S 89° 44' 30" E	940.00	S 89° 44' 30" E
86	S 89° 44' 30" E	950.00	S 89° 44' 30" E
87	S 89° 44' 30" E	960.00	S 89° 44' 30" E
88	S 89° 44' 30" E	970.00	S 89° 44' 30" E
89	S 89° 44' 30" E	980.00	S 89° 44' 30" E
90	S 89° 44' 30" E	990.00	S 89° 44' 30" E
91	S 89° 44' 30" E	1000.00	S 89° 44' 30" E
92	S 89° 44' 30" E	1010.00	S 89° 44' 30" E
93	S 89° 44' 30" E	1020.00	S 89° 44' 30" E
94	S 89° 44' 30" E	1030.00	S 89° 44' 30" E
95	S 89° 44' 30" E	1040.00	S 89° 44' 30" E
96	S 89° 44' 30" E	1050.00	S 89° 44' 30" E
97	S 89° 44' 30" E	1060.00	S 89° 44' 30" E
98	S 89° 44' 30" E	1070.00	S 89° 44' 30" E
99	S 89° 44' 30" E	1080.00	S 89° 44' 30" E
100	S 89° 44' 30" E	1090.00	S 89° 44' 30" E
101	S 89° 44' 30" E	1100.00	S 89° 44' 30" E
102	S 89° 44' 30" E	1110.00	S 89° 44' 30" E
103	S 89° 44' 30" E	1120.00	S 89° 44' 30" E
104	S 89° 44' 30" E	1130.00	S 89° 44' 30" E
105	S 89° 44' 30" E	1140.00	S 89° 44' 30" E
106	S 89° 44' 30" E	1150.00	S 89° 44' 30" E
107	S 89° 44' 30" E	1160.00	S 89° 44' 30" E
108	S 89° 44' 30" E	1170.00	S 89° 44' 30" E
109	S 89° 44' 30" E	1180.00	S 89° 44' 30" E
110	S 89° 44' 30" E	1190.00	S 89° 44' 30" E
111	S 89° 44' 30" E	1200.00	S 89° 44' 30" E
112	S 89° 44' 30" E	1210.00	S 89° 44' 30" E
113	S 89° 44' 30" E	1220.00	S 89° 44' 30" E
114	S 89° 44' 30" E	1230.00	S 89° 44' 30" E
115	S 89° 44' 30" E	1240.00	S 89° 44' 30" E
116	S 89° 44' 30" E	1250.00	S 89° 44' 30" E
117	S 89° 44' 30" E	1260.00	S 89° 44' 30" E
118	S 89° 44' 30" E	1270.00	S 89° 44' 30" E
119	S 89° 44' 30" E	1280.00	S 89° 44' 30" E
120	S 89° 44' 30" E	1290.00	S 89° 44' 30" E
121	S 89° 44' 30" E	1300.00	S 89° 44' 30" E
122	S 89° 44' 30" E	1310.00	S 89° 44' 30" E
123	S 89° 44' 30" E	1320.00	S 89° 44' 30" E
124	S 89° 44' 30" E	1330.00	S 89° 44' 30" E
125	S 89° 44' 30" E	1340.00	S 89° 44' 30" E
126	S 89° 44' 30" E	1350.00	S 89° 44' 30" E
127	S 89° 44' 30" E	1360.00	S 89° 44' 30" E
128	S 89° 44' 30" E	1370.00	S 89° 44' 30" E
129	S 89° 44' 30" E	1380.00	S 89° 44' 30" E
130	S 89° 44' 30" E	1390.00	S 89° 44' 30" E
131	S 89° 44' 30" E	1400.00	S 89° 44' 30" E
132	S 89° 44' 30" E	1410.00	S 89° 44' 30" E
133	S 89° 44' 30" E	1420.00	S 89° 44' 30" E
134	S 89° 44' 30" E	1430.00	S 89° 44' 30" E
135	S 89° 44' 30" E	1440.00	S 89° 44' 30" E
136	S 89° 44' 30" E	1450.00	S 89° 44' 30" E
137	S 89° 44' 30" E	1460.00	S 89° 44' 30" E
138	S 89° 44' 30" E	1470.00	S 89° 44' 30" E
139	S 89° 44' 30" E	1480.00	S 89° 44' 30" E
140	S 89° 44' 30" E	1490.00	S 89° 44' 30" E
141	S 89° 44' 30" E	1500.00	S 89° 44' 30" E
142	S 89° 44' 30" E	1510.00	S 89° 44' 30" E
143	S 89° 44' 30" E	1520.00	S 89° 44' 30" E
144	S 89° 44' 30" E	1530.00	S 89° 44' 30" E
145	S 89° 44' 30" E	1540.00	S 89° 44' 30" E
146	S 89° 44' 30" E	1550.00	S 89° 44' 30" E
147	S 89° 44' 30" E	1560.00	S 89° 44' 30" E
148	S 89° 44' 30" E	1570.00	S 89° 44' 30" E
149	S 89° 44' 30" E	1580.00	S 89° 44' 30" E
150	S 89° 44' 30" E	1590.00	S 89° 44' 30" E
151	S 89° 44' 30" E	1600.00	S 89° 44' 30" E
152	S 89° 44' 30" E	1610.00	S 89° 44' 30" E
153	S 89° 44' 30" E	1620.00	S 89° 44' 30" E
154	S 89° 44' 30" E	1630.00	S 89° 44' 30" E
155	S 89° 44' 30" E	1640.00	S 89° 44' 30" E
156	S 89° 44' 30" E	1650.00	S 89° 44' 30" E
157	S 89° 44' 30" E	1660.00	S 89° 44' 30" E
158	S 89° 44' 30" E	1670.00	S 89° 44' 30" E
159	S 89° 44' 30" E	1680.00	S 89° 44' 30" E
160	S 89° 44' 30" E	1690.00	S 89° 44' 30" E
161	S 89° 44' 30" E	1700.00	S 89° 44' 30" E
162	S 89° 44' 30" E	1710.00	S 89° 44' 30" E
163	S 89° 44' 30" E	1720.00	S 89° 44' 30" E
164	S 89° 44' 30" E	1730.00	S 89° 44' 30" E
165	S 89° 44' 30" E	1740.00	S 89° 44' 30" E
166	S 89° 44' 30" E	1750.00	S 89° 44' 30" E
167	S 89° 44' 30" E	1760.00	S 89° 44' 30" E
168	S 89° 44' 30" E	1770.00	S 89° 44' 30" E
169	S 89° 44' 30" E	1780.00	S 89° 44' 30" E
170	S 89° 44' 30" E	1790.00	S 89° 44' 30" E
171	S 89° 44' 30" E	1800.00	S 89° 44' 30" E
172	S 89° 44' 30" E	1810.00	S 89° 44' 30" E
173	S 89° 44' 30" E	1820.00	S 89° 44' 30" E
174	S 89° 44' 30" E	1830.00	S 89° 44' 30" E
175	S 89° 44' 30" E	1840.00	S 89° 44' 30" E
176	S 89° 44' 30" E	1850.00	S 89° 44' 30" E
177	S 89° 44' 30" E	1860.00	S 89° 44' 30" E
178	S 89° 44' 30" E	1870.00	S 89° 44' 30" E
179	S 89° 44' 30" E	1880.00	S 89° 44' 30" E
180	S 89° 44' 30" E	1890.00	S 89° 44' 30" E
181	S 89° 44' 30" E	1900.00	S 89° 44' 30" E
182	S 89° 44' 30" E	1910.00	S 89° 44' 30" E
183	S 89° 44' 30" E	1920.00	S 89° 44' 30" E
184	S 89° 44' 30" E	1930.00	S 89° 44' 30" E
185	S 89° 44' 30" E	1940.00	S 89° 44' 30" E
186	S 89° 44' 30" E	1950.00	S 89° 44' 30" E
187	S 89° 44' 30" E	1960.00</	



The complete recorded plat for the subdivision is provided in the next page.

3605 HARVEY MCALLEN,TX
(956) 648.6870
MADESIGNST @ GMAIL.COM
WWW. MACUSTOMPLANS .COM

LIVING :	4,012.0' SF
GARAGE :	526.0' SF
PORCH :	42.0' SF
PATIO :	312.0' SF
<hr/>	
TOTAL AREA :	4,892.0' SF



**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0059**

 CITY OF MCALLEN PLANNING DEPT.
956-681-1230
WWW.MCALLEN.NET



Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

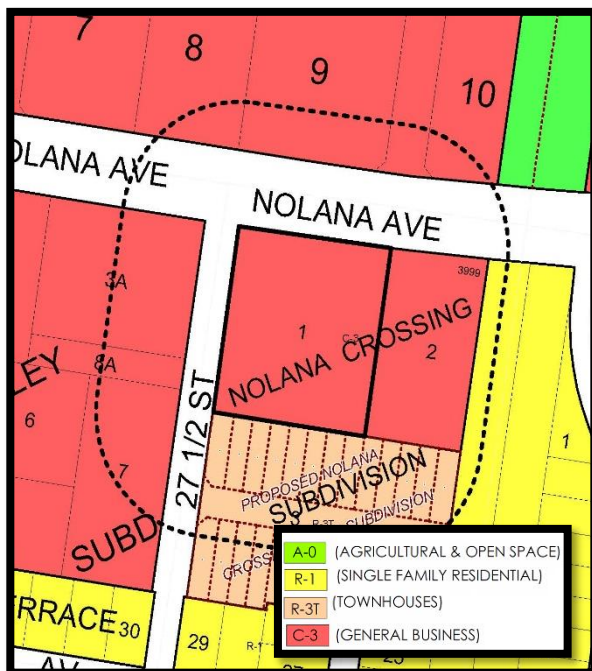
FROM: Planning Staff

DATE: November 19, 2021

SUBJECT: REQUEST OF GABRIELA MOSQUERA, ON BEHALF OF INTERPLAN LLC FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) TO ALLOW AN ENCROACHMENT OF 44 FT. INTO THE 60 FT. FRONT YARD SETBACK FOR A PROPOSED CANOPY MEASURING 27 FT. BY 48 FT. AND 2) TO ALLOW AN ENCROACHMENT OF 19 FT. INTO 30 FT. THE SIDE SETBACK FOR A PROPOSED CANOPY MEASURING 32 FT. BY 71 FT. AT LOT 1, NOLANA CROSSING SUBDIVISION, HIDALGO COUNTY, TEXAS; 2709 NOLANA AVENUE. (ZBA2021-0063)

REASON FOR APPEAL:

The applicant is proposing to remodel the existing Chick-fil-a and add two canopies that will help increase the efficiency of their drive-thru by proposing a new Face-to-Face (F2F) and Order Meal Delivery (OMD) Canopy, since the establishment has an estimated 75% - 80% of its business occurring from drive thru traffic.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the southeast corner of Nolana Avenue and North 27th ½ Street. The property has 239.95 ft. of frontage along Nolana Avenue for a total lot size of 79,262.4 SF. The property and adjacent zoning is C-3 (general business) District to the north, west and east, R-3T (multifamily townhouses) District to the south and R-1 (single-family) District to the west and south. Surrounding land uses include T-Mobile store, Walmart Supercenter, restaurants, McAllen Public Library, residential houses and vacant land.

BACKGROUND AND HISTORY:

Nolana Crossing Subdivision was recorded on June 3, 2015 and has a note indicating a Site plan approval by the Planning and Zoning Commission is required prior to building permit issuance. A site plan review is still in process, staff sent revision comments on October 22, 2021. These comment included that the proposed canopies were encroaching into setbacks and detention areas. An application for the variance request was submitted on November 2, 2021.

In 2015, a special exception to the parking requirement was approved for this location, the requirement was 77 parking spaces and only 71 parking spaces were being provided. The special exception was approved with the condition that the special exception will expire if there is a substantial change to the surface configuration. Parking requirement, at the time was being calculated under different ordinances, one parking space for every 75 SF.

ANALYSIS:

Variance # 1:

The variance request #1 is to allow an encroachment of 44 ft. into the 60 ft. front yard setback. The proposed canopy measures 27 ft. by 48 ft. for a total area of 1,296 SF. There is an existing 10 ft. and 20 ft. Utility Easement that will not be impacted by the proposed development.

Variance #2:

The variance request #2 is to allow an encroachment of 19 ft. into the 30 ft. side yard setback. The proposed canopy measures 32 ft. by 71 ft. for a total area of 2,272 SF. As per plat note, there is a 10 ft. Utility easement that will not be impacted by the proposed development

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

RECOMMENDATION:

Staff recommends disapproval of the variance requests. If the board grants approval of the request, it should be limited to the footprint shown on the site plan and must comply with Site Plan Comments by the Development team and Engineering Detention requirements.

2B0A:12/1/21

2BA2021-0063



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 1, NOLANA CROSSING, ACCORDING TO THE PLAT THEREOF RECORDED IN INSTRUMENT NO. 2616811 OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS.

Subdivision Name Nolana Crossing

Street Address 2709 West Nolana Avenue, McAllen, TX 78504

Number of lots 1 Gross acres _____

Existing Zoning General Business (C-3) Existing Land Use Chick-fil-A Restaurant

Reason for Appeal (please use other side if necessary) Proposed canopies are encroaching into the building setbacks.

☒ \$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 Gabriela Mosquera, Interplan LLC C/O Chick-fil-A Inc.

Phone 407-645-5008 ext. 2214

Address 220 E. Central Parkway, Suite 4000

E-mail gmosquera@interplanllc.com

City Altamonte Springs

State FL

Zip 32701

Owner

Name Winward Investments LLC

Phone _____

Address 6025 Genoa Red Bluff

E-mail _____

City Pasadena

State TX

Zip 77507

Authorization

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

☐ Yes

☒ No

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

Signature [Signature]

Date 11/2/21

Print Name Gabriela Mosquera

☐ Owner

☒ Authorized Agent

Office

Accepted by _____

Payment received by _____

Date _____

Rev 09/20

RECEIVED
NOV 04 2021

BY: [Signature]

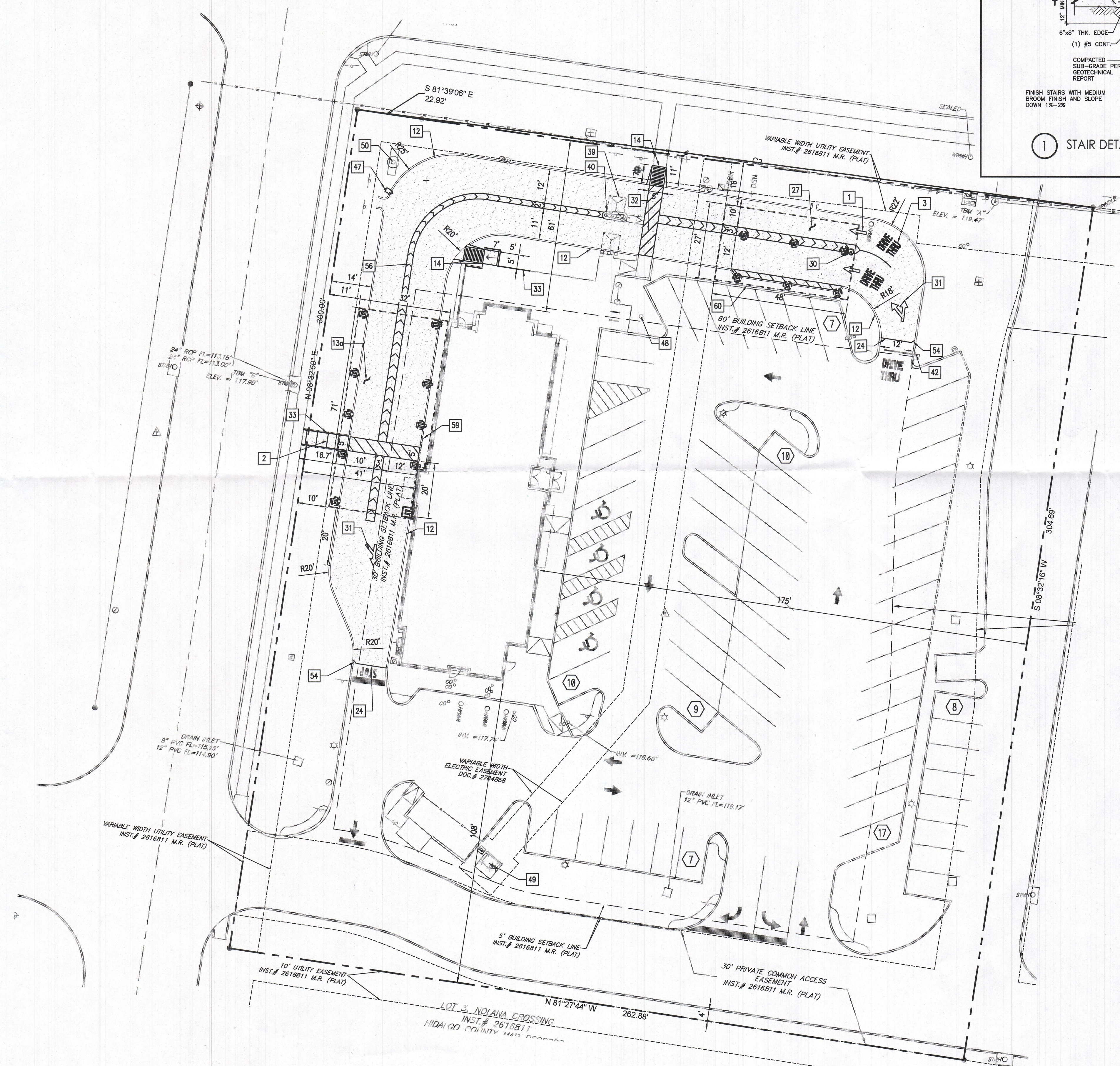


City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

Reason for Appeal	<p>*A variance will not be granted to relieve a self-created or personal hardship, nor shall it be based solely on economic gain or loss. In order to make a finding of hardship and grant the variance, the Zoning Board of Adjustment will consider any combination of the following: <i>(Please use an additional page if necessary to complete responses)</i></p> <p>**Information provided here by the applicant does not guarantee that the Board will grant a variance.</p> <p>***Applicant should include all information they determine is relevant, but it is not required to provide responses to all sections listed below.</p>			
	<p>1. Describe the special circumstance or condition affecting the land involved such that the strict application of the provisions required would deprive the applicant of the reasonable use of the land:</p> <p>Should the Strict letter of the regulations be carried out on this site, it create more than a mere inconvenience. It would mandate for the CFA Facility to be considered for a relocation in lieu of these small proposed on-site enhancements. Current Chick-fil-A business has prompted the need to increase the efficiency and the amount of stacking in the drive-thru lanes but due to the size of the existing developed site, this cannot be achieved without the installation of a new Face-to-Face (F2F) and Order Meal Delivery (OMD) Canopy System, which allows primarily for employees to be safer from the elements, in a more effective and safer environment which then translates to a more drive-thru lane efficiency. Since Chick-fil-A has an estimated 75 – 80% of its business occurring from drive-thru traffic.</p>			
	<p>2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</p> <p>The proposed variance request is in effect not as a consideration based solely upon a desire to increase income potential. This variance is for allowing the facility to operate efficiently and maintain a level of customer service to the increased on-site traffic queue and to decrease any congestion off-site caused by the current site configuration in a more comfortable environment for both customers and employees.</p>			
	<p>3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:</p> <p>Granting the variance would not be detrimental to public health or adversely affect the rights of adjacent property owners. All the work will be performed on-site and other property owners would not be impacted in any way.</p>			
Board Action	<p>4. Describe special conditions that are unique to this applicant or property:</p> <p>The conditions of this property are unique due to the configuration of the property and building type that currently resides on this property and would not generally apply to other property with the same zoning classification. This site is limited to the existing property boundaries and cannot deviate from those boundaries of the unique site.</p> <p>Should the Strict letter of the regulations be carried out on this site, it creates more than a mere inconvenience. The small proposed on-site enhancements and consequential benefits are essential for this facility to operate at a level of efficiency that other sites operate at and outweigh any possible negative impacts from the upgrade.</p>			
	<table border="0"><tr><td>Chairman, Board of Adjustment Signature</td><td>Date</td></tr><tr><td>_____</td><td>_____</td></tr></table>	Chairman, Board of Adjustment Signature	Date	_____
Chairman, Board of Adjustment Signature	Date			
_____	_____			
Rev. 9/20				

LEGEND

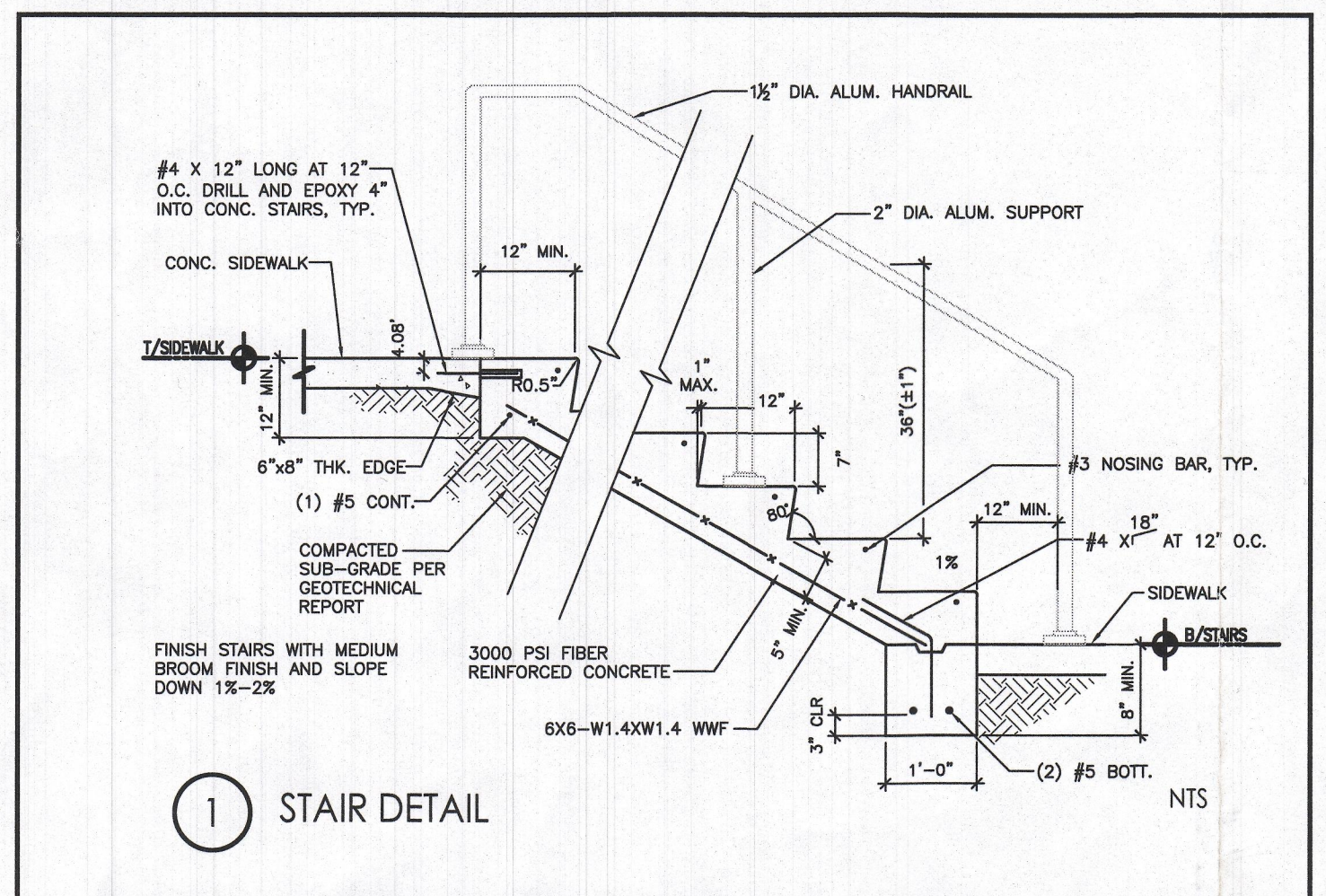
- 6 PARKING SPACE TOTALS
- 2
C4
- CG ZONING
- RETAIL CURRENT LAND USE
- TRAFFIC DIRECTIONAL ARROW
- N 00°00'00" E BUILDING BEARING



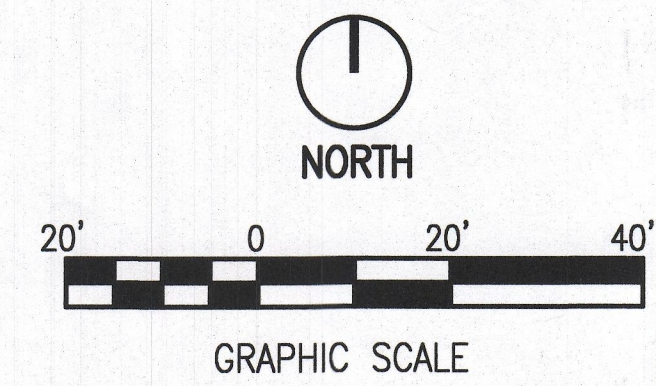
SITE DIMENSION PLAN

1" = 20'

NOTE: CONTRACTOR SHALL ERADICATE EXISTING STRIPING WITH EITHER SAND BLASTING OR WATER PRESSURE THEN SEAL EXISTING ASPHALT BEFORE APPLYING NEW STRIPING. DO NOT PAINT THE EXISTING STRIPING BLACK.



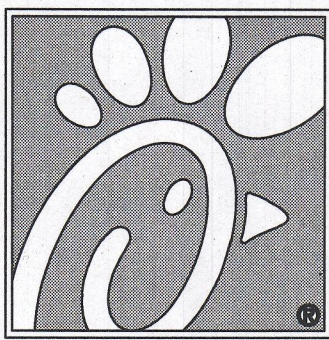
1 STAIR DETAIL



- 53 OUTDOOR SEATING (REFER TO ARCH'L PLANS FOR DETAILS). (NOT USED)
- 54 2 FT. CHAMFER ON CONCRETE PAVEMENT
- 55 4" WIDE WHITE STRIPING (SEE PAINT ADDITIVE NOTE, DETAIL 3, SHEET C-4.0) (NOT USED)
- 56 PAINTED DIAGONAL / CHEVRON STRIPING
- 57 DRAINAGE STRUCT.(REFER TO GRADING PLAN, SHEET No. C-3.0)(NOT USED)
- 58 LANDSCAPE AND IRRIGATION PROTECTOR (NOT USED)
- 59 MULTI-LANE ORDER POINT (MLOP) CANOPY
- 60 ORDER MEAL DELIVERY (OMD) CANOPY

SITE PLAN DESIGN NOTES & KEY PLAN

- 1 DIRECTIONAL ARROW
- 2 PROPOSED STAIR
- 3 DRIVE-THRU GRAPHICS
- 4 STOP LINE GRAPHIC (NOT USED)
- 5 STANDARD PARKING STALL (NOT USED)
- 6 BOLLARD MOUNTED SIGN
- 7 ACCESSIBLE PARKING SIGN (NOT USED)
- 8 DIRECTIONAL SIGNAGE
- NOTES: 1. ALL SIGNS SHALL CONFORM TO THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES" BY THE U.S. DEPARTMENT OF TRANSPORTATION.
2. SIGNS SHALL BE PROVIDED AND INSTALLED BY CHICK-FIL-A GENERAL CONTRACTOR.
- 8A "CIRCLE BUILDING FOR DRIVE-THRU" SIGN (NOT USED)
- 8B "LEFT TURN ONLY" SIGN (NOT USED)
- 8C "RIGHT-TURN ONLY" SIGN (NOT USED)
- 8D "CAUTION - WATCH FOR PEDESTRIAN" SIGN (NOT USED)
- 8E "ONE WAY" WITH ARROW SIGN (NOT USED)
- 8F "DO NOT ENTER" SIGN (NOT USED)
- 9 EXISTING "STOP" SIGN (NOT USED)
- 10 CONCRETE SIDEWALK (NOT USED)
- 11 SIDEWALK WITH CURB AND GUTTER (NOT USED)
- 12 24" CONCRETE CURB AND GUTTER
- 12A SPILLING CURB AND GUTTER
- 12B CATCHING CURB AND GUTTER
- 12C DEPRESSED SPILLING CURB AND GUTTER
- 12D DEPRESSED CATCHING CURB AND GUTTER
- 13 CONCRETE PAVEMENTS
- 13A MEDIUM DUTY
- 13B HEAVY DUTY (NOT USED)
- 14 CURB RAMP w/ SHORT FLARED SIDES
- 15 CURBED RAMP WITH FLARED SIDES (NOT USED)
- 16 SIDEWALK ACCESSIBLE RAMP (NOT USED)
- 17 TRUNCATED DOMES - CAST IN PLACE (NOT USED)
- 18 SOLID YELLOW PLASTIC WHEEL STOP (NOT USED)
- 19 EXPANSION JOINT
- 20 TRANSVERSE & LONGITUDINAL DOWELED CONST. JOINT
- 21 KEYED CONSTRUCTION JOINT
- 22 CONTRACTION JOINT
- 23 TRANSVERSE & LONGITUDINAL CONTRACTION JOINT
- 24 PAVEMENT EDGE
- 25 CONCRETE APRON AT DUMPSTER ENCLOSURE (NOT USED)
- 26 LONGITUDINAL BUTT JOINT
- 27 CONCRETE PAVING AT DRIVE-THRU LANE
- 28 TYPICAL H/MAC (ASPHALT) PAVEMENT SECTION (NOT USED)
- 29 BUTT JOINT
- 30 CONCRETE BOLLARD
- 31 MULTI-LANE DIRECTIONAL GRAPHICS
- 32 CROSSWALK MARKINGS
- 33 ALUMINUM HANDRAIL
- 34 TYPICAL ADA RAMP AND HANDRAIL (NOT USED)
- 35 ENTRY DOOR FROST SLAB (NOT USED)
- 36 SCREENED REFUSE ENCLOSURE (NOT USED)
- 37 SCREENED REFUSE ENCLOSURE PLAN (ALT.) (NOT USED)
- 38 SCREENED REFUSE ENCLOSURE (ALT. DRAINAGE) (NOT USED)
- 39 EXIST. MENU BOARD LOOP DETECTION SYSTEM
- 40 EXIST. DRIVE-THRU ORDER POINT ISLD. CURB (M. BOARDS)
- 41 DRIVE-THRU PLAN (AUTOMATIC DOOR)(NOT USED)
- 42 EXIST. DRIVE-THRU CLEARANCE BAR
- 43 DRIVE-THRU ISOMETRIC (NOT USED)
- 44 ROLLOVER / MOUNTABLE CURB (1 FT. WIDE) (NOT USED)
- 45 DRIVE-THRU PLAN (PICK-UP WINDOW) (NOT USED)
- 46 REFUSE/STORAGE BUILDING
- 47 TYPICAL LIGHT POLE BASE
- 48 EXIST. FLAGPOLE
- 49 EXIST. PAD MOUNTED TRANSFORMER
- 50 EXIST.CHICK-FIL-A PRIME (MONUMENT) SIGN
- 51 CASH MACHINE (ON 4" THICK, 3' x 5.5' CONCRETE PAD) (NOT USED)
- 52 GREASE INTERCEPTOR

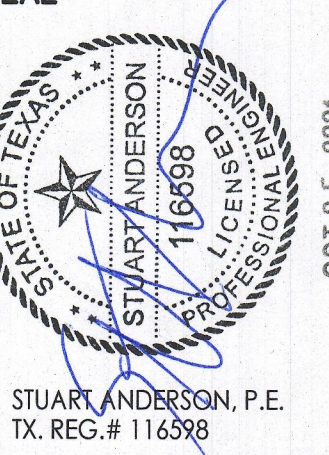


5200 Buffington Rd.
Atlanta Georgia,
30349-2998

Revisions:

Mark	Date	By
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

SEAL



STUART ANDERSON, P.E.
TX. REG.# 116598

INTERPLAN

INTERPLAN LLC
F-3219
ARCHITECTURE
ENGINEERING
PERMITTING
220 E. CENTRAL PKWY., STE 4000
ALAMONTES SPRINGS, FL 32701
407.645.5008

STORE
NOLANA
FSU 3556

2709 WEST NOLANA
AVENUE, MCALLEN,
TX 78504

SHEET TITLE
SITE DIMENSION
PLAN

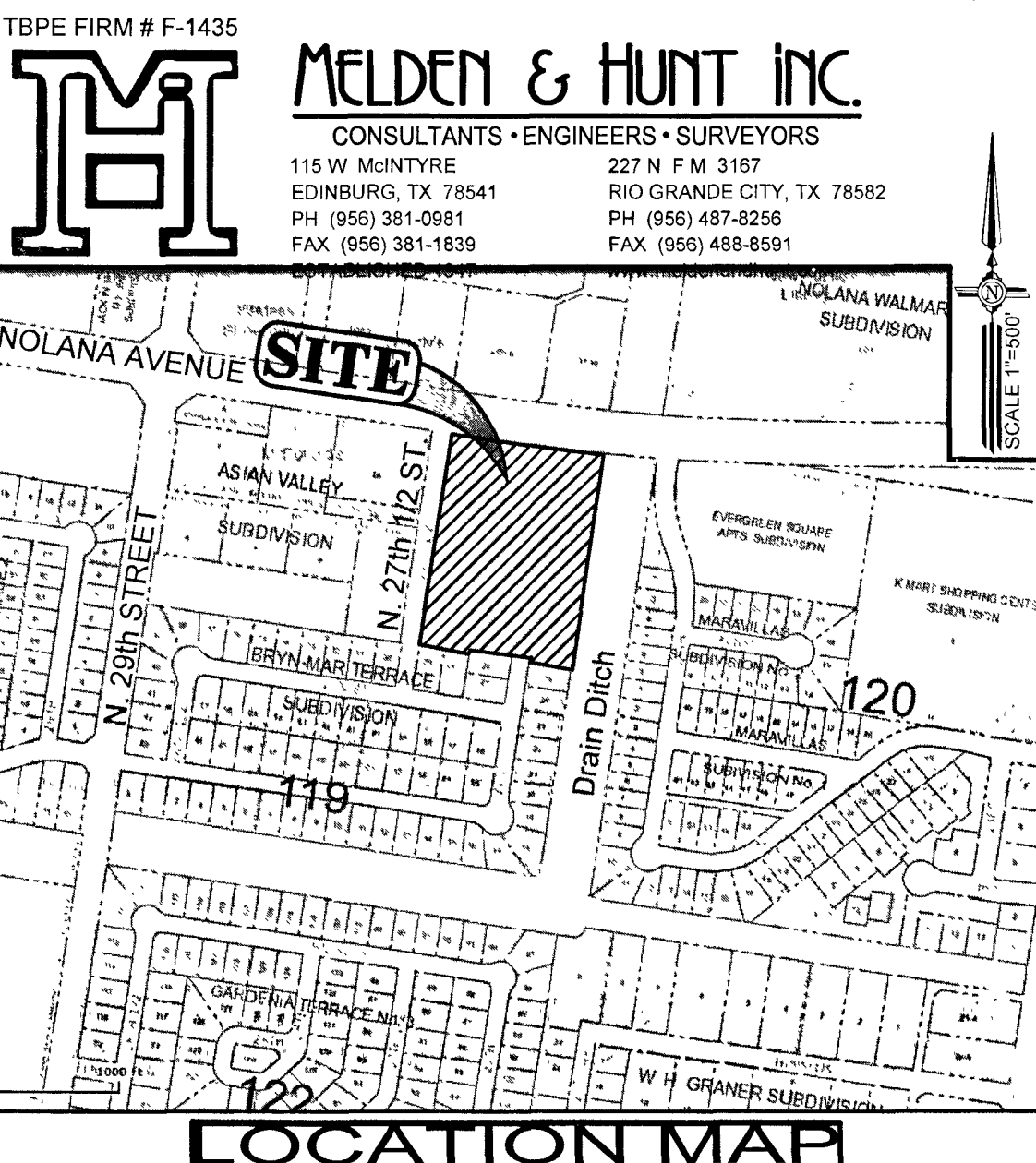
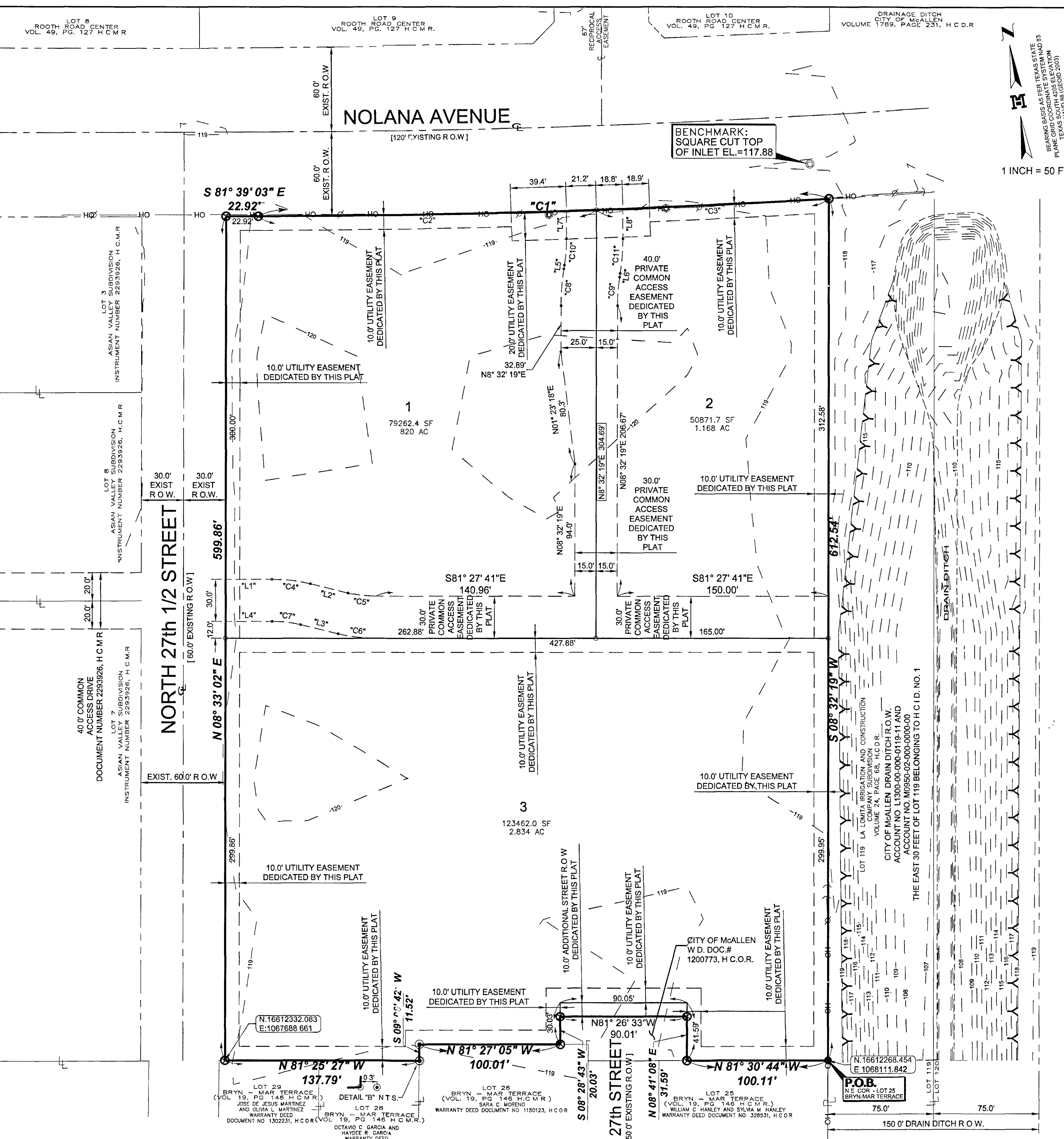
VERSION: 00.001
ISSUE DATE: 08-2021

Job No. : 21.0094
Store : 3556
Date : 08.2021
Drawn By : RA
Checked By : SH

Sheet

C-2.0

NOV 04 2021



Lot Line Table			
Line #	Length	Direction	
L1	32.87'	S81° 39' 02"E	
L2	27.45'	S67° 52' 41"E	
L3	27.45'	S67° 52' 41"E	
L4	32.87'	S81° 39' 02"E	
L5	2.66'	N17° 09' 50"E	
L6	2.66'	N17° 09' 50"E	
L7	19.66'	N08° 32' 19"E	
L8	21.10'	N08° 32' 19"E	

Curve Table					
Curve #	Delta	Radius	Length	Tangent	Chord Direction
C1	003° 16' 43"	7,080.00'	405.14'	202.63'	S63° 13' 51"E
C2	001° 56' 31"	7,080.00'	239.95'	119.99'	S82° 33' 45"E
C3	001° 20' 13"	7,080.00'	165.19'	82.60'	S84° 12' 07"E
C4	013° 46' 21"	115.00'	27.64'	13.89'	N74° 45' 52"W
C5	013° 35' 00"	85.00'	20.15'	10.12'	S74° 40' 11"E
C6	013° 35' 00"	115.00'	27.26'	13.70'	S74° 40' 11"E
C7	013° 46' 21"	85.00'	20.43'	10.27'	N74° 45' 52"W
C8	008° 37' 31"	175.00'	26.34'	13.20'	S12° 51' 04"W
C9	008° 37' 31"	135.00'	20.32'	10.18'	S12° 51' 04"W
C10	008° 37' 31"	125.00'	18.82'	9.43'	N12° 51' 04"E
C11	008° 37' 31"	165.00'	24.84'	12.44'	N12° 51' 04"E

- LEGEND**
- FOUND NO 4 REBAR
 - SET NO 4 REBAR WITH PLASTIC CAP STAMPED MELDEN & HUNT
 - FOUND NO 5 REBAR
 - FOUND PIPE
 - FOUND ALUMINUM DISK
 - SET SQUARE CUT POWER POLE
 - TRAFFIC LIGHT POLE
- H.C.D.R. - HIDALGO COUNTY DEED RECORDS
N.E. COR. - NORTH EAST CORNER
P.O.B. - POINT OF BEGINNING
SF - SQUARE FEET
H.C.O.R. - HIDALGO COUNTY OFFICIAL RECORDS
H.C.I.D. NO. 1 - HIDALGO COUNTY IRRIGATION DISTRICT NO 1
R.O.W. - RIGHT-OF-WAY
H.C.M.R. - HIDALGO COUNTY MAP RECORDS
VOL. - VOLUME
PG. - PAGE
OH - OVERHEAD POWER LINE
CL - CENTER LINE OF STREET

DRAWN BY R.N. DATE 05-06-2014
SURVEYED, CHECKED [Signature] DATE 3-13-15
FINAL CHECK [Signature] DATE 3-13-15

PRINCIPAL CONTACTS	NAME	ADDRESS	CITY & ZIP	PHONE	FAX
OWNER	SPAZIO HOMES, LTD.	2201 S. JACKSON ROAD UNIT 43	PHARR, TX 78577	N/A	N/A
ENGINEER	MARIO A. REYNA, P.E.	115 W. MCINTYRE	EDINBURG, TX 78541	(956) 381-0981	(956) 381-1839
SURVEYOR	FRED L. KURTH, R.P.L.S.	115 W. MCINTYRE	EDINBURG, TX 78541	(956) 381-0981	(956) 381-1839

SUBDIVISION MAP OF NOLANA CROSSING

BEING 5.842 ACRES OUT OF THE NORTH HALF OF LOT 119,
LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION
OF PORCIONES 61,62 & 63,
VOLUME 24, PAGE 68 H.C.D.R.,
CITY OF McALLEN, HIDALGO COUNTY, TEXAS

METES AND BOUNDS DESCRIPTION:
A TRACT OF LAND CONTAINING 5.842 ACRES, SITUATED IN THE CITY OF McALLEN, HIDALGO COUNTY, TEXAS, BEING PART OR PORTION OUT OF LOT 119, LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 24, PAGE 68, HIDALGO COUNTY DEED RECORDS, SAID 5.842 ACRES ALSO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT A NO. 4 REBAR FOUND (NORTHING 16612268 454, EASTING 1068111 842) AT THE NORTHEAST CORNER OF LOT 25, BRYN-MAR TERRACE SUBDIVISION RECORDED IN VOLUME 19, PAGE 146, HIDALGO COUNTY MAP RECORDS FOR THE SOUTHEAST CORNER OF THIS TRACT,

- THENCE, N 81° 30' 44" W ALONG THE NORTH BOUNDARY LINE OF SAID LOT 25, A DISTANCE OF 100.11 FEET TO A NO. 5 REBAR FOUND FOR AN OUTSIDE CORNER OF THIS TRACT,
- THENCE, N 08° 41' 08" E ALONG A BOUNDARY LINE OF SAID BRYN-MAR TERRACE, A DISTANCE OF 31.59 FEET TO A NO. 5 REBAR FOUND FOR AN INSIDE CORNER OF THIS TRACT,
- THENCE, N 81° 26' 33" W ALONG A NORTH BOUNDARY LINE OF SAID BRYN-MAR TERRACE, A DISTANCE OF 90.01 FEET TO A NO. 5 REBAR FOUND FOR AN INSIDE CORNER OF THIS TRACT,
- THENCE, S 08° 28' 43" W ALONG A BOUNDARY LINE OF SAID BRYN-MAR TERRACE, A DISTANCE OF 20.03 FEET TO A NO. 5 REBAR FOUND ON THE NORTH BOUNDARY LINE OF LOT 26, OF SAID BRYN-MAR TERRACE SUBDIVISION FOR AN OUTSIDE CORNER OF THIS TRACT,
- THENCE, N 81° 27' 05" W ALONG THE NORTH BOUNDARY LINE OF SAID LOT 26, A DISTANCE OF 100.01 FEET TO A PIPE FOUND AT THE NORTHWEST CORNER OF LOT 26, BRYN-MAR TERRACE SUBDIVISION FOR AN INSIDE CORNER OF THIS TRACT,
- THENCE, S 09° 06' 42" W ALONG THE WEST BOUNDARY LINE OF SAID LOT 26, A DISTANCE OF 11.52 FEET TO A NO. 4 REBAR SET AT THE NORTHEAST CORNER OF LOT 28, OF SAID BRYN-MAR TERRACE SUBDIVISION, FOR AN OUTSIDE CORNER OF THIS TRACT,
- THENCE, N 81° 25' 27" W ALONG THE NORTH BOUNDARY LINE OF SAID BRYN-MAR TERRACE SUBDIVISION, A DISTANCE OF 137.79 FEET TO A NO. 5 REBAR FOUND (NORTHING 16612332 083, EASTING 1067688 661) ON THE EXISTING EAST RIGHT-OF-WAY LINE OF N. 27th 1/2 STREET FOR THE SOUTHWEST CORNER OF THIS TRACT,
- THENCE, N 08° 33' 02" E ALONG THE EXISTING EAST RIGHT-OF-WAY LINE OF N. 27th 1/2 STREET, A DISTANCE OF 599.86 FEET TO A NO. 5 REBAR FOUND ON THE EXISTING SOUTH RIGHT-OF-WAY LINE OF NOLANA AVENUE FOR THE NORTHWEST CORNER OF THIS TRACT,
- THENCE, S 81° 39' 03" E ALONG THE EXISTING SOUTH RIGHT-OF-WAY LINE OF NOLANA AVENUE, A DISTANCE OF 22.92 FEET TO A NO. 5 REBAR FOUND FOR AN ANGLE POINT OF THIS TRACT,
- THENCE, IN AN SOUTHEASTERLY DIRECTION ALONG THE EXISTING SOUTH RIGHT-OF-WAY LINE OF NOLANA AVENUE AND A CURVE TO THE LEFT, WITH A CENTRAL ANGLE OF 03° 16' 43", A RADIUS OF 7080.00 FEET, AN ARC LENGTH OF 405.14 FEET, A TANGENT OF 202.63 FEET, AND A CHORD THAT BEARS S 83° 13' 51" E A DISTANCE OF 405.09 FEET TO A NO. 5 REBAR FOUND TO A POINT ON THE WEST LINE OF AN EXISTING DRAIN DITCH RIGHT-OF-WAY FOR THE NORTHEAST CORNER OF THIS TRACT,
- THENCE, S 08° 32' 19" W ALONG THE WEST LINE OF SAID EXISTING DRAIN DITCH RIGHT-OF-WAY, A DISTANCE OF 612.54 FEET TO THE POINT OF BEGINNING AND CONTAINING 5.842 ACRES OF LAND, MORE OR LESS

GENERAL NOTES.

- THIS SUBDIVISION IS IN FLOOD ZONE "B" DEFINED AS AREAS BETWEEN LIMITS OF THE 100-YEAR FLOOD AND 500-YEAR FLOOD, OR CERTAIN AREAS SUBJECT TO 100-YEAR FLOODING WITH AVERAGE DEPTHS LESS THAN ONE(1) FOOT OR WHERE THE CONTRIBUTING DRAINAGE AREA IS LESS THAN ONE SQUARE MILE, OR AREAS PROTECTED BY LEVEES FROM THE BASE FLOOD
- MINIMUM PERMISSIBLE FINISH FLOOR ELEVATION SHALL BE 18 INCHES ABOVE THE FRONT TOP OF CURB MEASURED FROM THE CENTER OF THE LOT ALONG NOLANA AVENUE
- MINIMUM SETBACKS SHALL COMPLY WITH THE CITY OF McALLEN ZONING CODE
- FRONT - NOLANA AVENUE 60 FEET OR GREATER FOR APPROVED SITE PLAN OR EASEMENTS
N. 27th 1/2 STREET 30 FEET OR GREATER FOR APPROVED SITE PLAN OR EASEMENTS
- REAR - IN ACCORDANCE WITH THE ZONING ORDINANCE, OR GREATER FOR APPROVED SITE PLAN OR EASEMENTS, WHICHEVER IS GREATER.
LOTS 1 & 2 SHALL HAVE 5 FEET REAR YARD FROM THE COMMON ACCESS EASEMENT/DRIVE
- INTERIOR SIDES - IN ACCORDANCE WITH THE ZONING ORDINANCE, OR GREATER FOR APPROVED SITE PLAN OR EASEMENTS
EXCEPT 30 FEET FROM THE COMMON ACCESS EASEMENT LINE ON THE EAST SIDE OF LOT 1 AND THE WEST SIDE OF LOT 2
- CORNER - N. 27th 1/2 STREET 30 FEET OR GREATER FOR APPROVED SITE PLAN OR EASEMENTS, WHICHEVER IS GREATER
N. 27th STREET 25 FEET OR GREATER FOR APPROVED SITE PLAN OR EASEMENTS
- REQUIRED DETENTION FOR STORM SEWER RUNOFF AS PER THE APPROVED DRAINAGE REPORT.
LOT 1 = 18,103 CUBIC FEET, LOT 2 = 11,618 CUBIC FEET, LOT 3 = 28,391 CUBIC FEET
- CITY OF McALLEN BENCHMARK "MC65" FROM THE CITY OF McALLEN G.P.S. REFERENCE MARKS LIST PREPARED BY ARANDA & ASSOCIATES IN OCTOBER, 1999 BEING LOCATED AT THE NORTHWEST CORNER OF 23rd STREET AND DAFFODIL STREET ELEVATION = 120.15 (NAVD83)
- TEMPORARY BENCHMARK SQUARE CUT SET ON TOP OF INLET LOCATED CLOSE TO THE NORTHEAST CORNER OF THIS SUBDIVISION ALONG THE SOUTH SIDE OF NOLANA AVENUE. GEODETIC G.P.S. TEXAS STATE PLANE GRID COORDINATE SYSTEM NAD 83 TEXAS SOUTH 4205 ELEVATION PER NAVD 89 (GEOID 2003) N=16612900.525 E=1068193.104 ELEV = 117.88
- AN ENGINEERED DRAINAGE DETENTION PLAN, APPROVED BY THE CITY OF McALLEN ENGINEERING DEPARTMENT, SHALL BE REQUIRED PRIOR TO ISSUANCE OF BUILDING PERMIT
- NO BUILDING ALLOWED OVER ANY EASEMENT.
- NO RECORDED EASEMENT FOUND FOR THE TRAFFIC CONTROL BOX, TRAFFIC LIGHT POLES, OVERHEAD ELECTRIC, AND POWER POLE ALONG THE NORTH LINE OF SUBJECT TRACT. A TEN FOOT UTILITY EASEMENT IS DEDICATED BY THIS PLAT TO COVER THESE UTILITIES
- NO RECORDED EASEMENT FOUND FOR THE POWER POLE, OVERHEAD ELECTRIC, AND GUY WIRES FOUND CLOSE TO THE SOUTHEAST CORNER OF SUBJECT TRACT. A TEN FOOT UTILITY EASEMENT IS DEDICATED BY THIS PLAT TO COVER THESE UTILITIES
- 6 FEET OPAQUE BUFFER REQUIRED FROM ADJACENT/BETWEEN MULTI-FAMILY RESIDENTIAL AND COMMERCIAL, OR INDUSTRIAL ZONES/USES
- 8 FEET MASONRY WALL REQUIRED BETWEEN SINGLE FAMILY RESIDENTIAL AND COMMERCIAL, INDUSTRIAL, OR MULTI-FAMILY RESIDENTIAL ZONES/USES AND ALONG N. 27th STREET
- 12 COMMON AREAS MUST BE MAINTAINED BY LOT OWNERS AND NOT THE CITY OF McALLEN
- 4 FOOT WIDE MINIMUM SIDEWALK REQUIRED ON NOLANA AVENUE, N. 27 1/2 STREET AND ON BOTH SIDES OF N. 27th STREET
- NO CURB CUT, ACCESS, OR LOT FRONTAGE PERMITTED ALONG N. 27th STREET
- SITE PLAN MUST BE APPROVED BY THE PLANNING AND ZONING COMMISSION PRIOR TO BUILDING PERMIT ISSUANCE
- PRIVATE, COMMON ACCESS EASEMENTS ARE FOR THE BENEFIT OF ALL LOTS
- A 25' x 25' SITE OBSTRUCTION EASEMENT IS REQUIRED AT ALL STREET INTERSECTIONS

THIS PLAT APPROVED BY THE HIDALGO COUNTY IRRIGATION DISTRICT NO 1
ON THIS THE 19th DAY OF March, 20 15

ATTEST
[Signature] SECRETARY
[Signature] PRESIDENT

NOTE: HIDALGO COUNTY IRRIGATION DISTRICT NO 1 WILL NOT BE RESPONSIBLE FOR DRAINAGE OR DELIVERY OF WATER TO ANY LOT IN THIS SUBDIVISION IF DESIRED, THIS WILL NOT BE AT THE DISTRICTS EXPENSE, ALSO THERE WILL NOT BE ANY PERMANENT STRUCTURES ON DISTRICT RIGHT-OF-WAYS AND/OR EASEMENTS

THE STATE OF TEXAS
COUNTY OF HIDALGO

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

[Signature]
SPAZIO HOMES, LTD.
LCC DEVELOPMENT, LLC AS GENERAL PARTNER
JORGE PALAU, MANAGER
2201 S. JACKSON ROAD
UNIT 43-G
PHARR, TEXAS 78577

DATE 4/1/2015

THE STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED Jorge Palau 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 GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE 12th DAY OF April, 20 15

[Signature]
NOTARY PUBLIC FOR THE STATE OF TEXAS
MY COMMISSION EXPIRES

[Seal]
LISA SAEITZ
NOTARY PUBLIC
STATE OF TEXAS
MY COMMISSION EXPIRES

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

[Signature]
CHAIRMAN, PLANNING AND ZONING COMMISSION

DATE 5/14/2015

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

[Signature]
MAYOR CITY OF McALLEN

DATE 5/27/15

[Seal]
CITY OF McALLEN
STATE OF TEXAS

THE STATE OF TEXAS
COUNTY OF HIDALGO

I, THE UNDERSIGNED, A LICENSED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT

DATED THIS THE 13th DAY OF March, 20 15

[Signature]
MARIO A. REYNA, PROFESSIONAL ENGINEER No 97421
STATE OF TEXAS

DATE PREPARED 05-09-14
ENGINEERING JOB NO 14071 00

[Seal]
STATE OF TEXAS
MARIO A. REYNA
117355
LICENSED PROFESSIONAL ENGINEER

THE STATE OF TEXAS
COUNTY OF HIDALGO

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

DATED THIS THE 16th DAY OF March, 20 15

[Signature]
FRED L. KURTH, R.P.L.S. # 4750

DATE SURVEYED 05-09-14
DATE PREPARED 06-09-14
1-972, PG. 12-13
SURVEYING JOB NO 14071 08

[Seal]
STATE OF TEXAS
REGISTERED
FRED L. KURTH
4750
PROFESSIONAL LAND SURVEYOR

HIDALGO COUNTY DRAINAGE DISTRICT NO 1 HEREBY CERTIFIES THAT THE DRAINAGE PLANS FOR THIS SUBDIVISION COMPLY WITH THE MINIMUM STANDARDS OF THE DISTRICT ADOPTED UNDER TEX WATER CODE §49.246. THE DISTRICT HAS NOT REVIEWED AND DOES NOT CERTIFY THAT THE DRAINAGE STRUCTURES DESCRIBED ARE APPROPRIATE FOR THE SPECIFIC SUBDIVISION, BASED ON GENERALLY ACCEPTED ENGINEERING CRITERIA. IT IS THE RESPONSIBILITY OF THE DEVELOPER OF THE SUBDIVISION AND ITS ENGINEER TO MAKE THESE DETERMINATIONS

HIDALGO COUNTY DRAINAGE DISTRICT NO 1
BY [Signature]
DATE 06/01/15

[Seal]
FILE FOR RECORD IN
HIDALGO COUNTY
ARTURO GUJARDO JR.
HIDALGO COUNTY CLERK

ON 6-3-15 AT 3:02 AM (P)
INSTRUMENT NUMBER 2616811
OF THE MAP RECORDS OF HIDALGO COUNTY, TEXAS
BY [Signature] DEPUTY




**Dining Room
Now Open!**
We look forward to serving you. Safe service is our first priority.
 Chick-fil-A 27th & Nolana

**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0063**
 CITY OF MCALLEN PLANNING DEPT.
956-681-1250
WWW.MCALLEN.NET 

Chick-fil-A

09

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

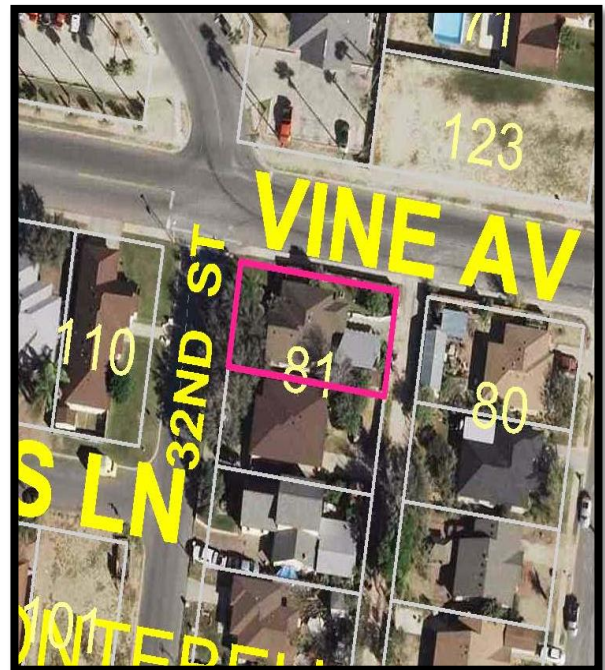
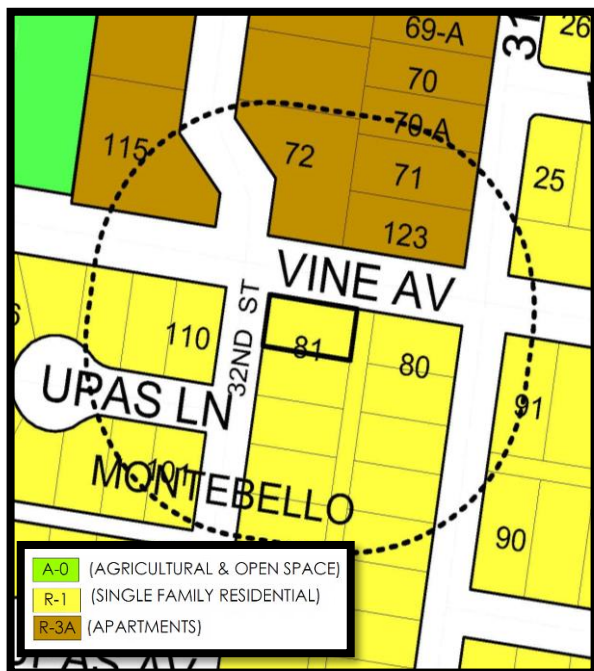
FROM: Planning Staff

DATE: November 17, 2021

SUBJECT: REQUEST OF DONATO PANTOJA FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE: TO ALLOW AN ENCROACHMENT OF 3 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING ANGLED CARPORT AT LOT 81, MONTEBELLO UNIT NO. 3 SUBDIVISION, HIDALGO COUNTY, TEXAS; 2116 NORTH 32ND STREET. (ZBA2021-0060)

REASON FOR APPEAL:

The applicant is requesting a variance for a rear setback encroachment for an existing carport. The applicant is requesting the variance in order to keep the carport that was built over 9 years ago at its current location.



PROPERTY LOCATION AND VICINITY:

The subject property is located at the southeast corner of Vine Avenue and North 32nd Street. The property has 54 ft. of frontage along North 32nd Street and a depth of 100 ft. for a lot size of 5,400 SF. The property and adjacent zoning is R-1 (single family residential) District to the west, east and south, A-O (open-agricultural) District and R-3A (multifamily apartments) District to the west and north respectively. Surrounding land use include single-family residential houses and vacant land.

BACKGROUND AND HISTORY:

Montebello Unit No. 3 Subdivision was recorded on October 21, 1981. A stop work order was issued on October 12, 2021. A building permit application was submitted to the Building Inspections Department on October 18, 2021. An application for a variance request for encroachment for an existing carport was submitted to the Planning Department on November 2, 2021.

ANALYSIS:

The variance request is to allow an encroachment of 3 ft. into the 10 ft. rear yard setback for an existing angled carport that measures approximately 23 ft. by 17.5 ft. The plat for the subdivision specifies a 10 ft. rear yard setback.

The existing carport is at an angle that only part of the structure is encroaching into the setback. The pole at the south corner near the south property line is meeting both the rear and side setback, moving north along the structure the distance to the property line starts decreasing, leaving at the northern post a distance of 3 ft. hence the variance request.

All measurement are without the benefit of a survey or surveyor.

There are other structures that seem to be encroaching into setbacks; however, there are no files on records for variances.

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

RECOMMENDATION:

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

ZBOA
12-1-21



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)

ZBA2021-0060

Project	Legal Description	<u>Lot 81. Montebello Subdivision</u>		
	Subdivision Name	<u>Unit H-3 McAllen TEX</u>		
	Street Address	<u>Montebello Subdivision</u>		
		<u>2116 W32. ST.</u>		
	Number of lots	<u>1</u>	Gross acres	
	Existing Zoning		Existing Land Use	<u>Residencia</u>
	Reason for Appeal (please use other side if necessary)	<u>INVADIENDO LAS</u>		
	<u>RESTRICCION DE 10' PARTE DE ATRAS.-</u>			
	<input checked="" type="checkbox"/> \$300.00 non-refundable filing fee + L. \$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>Donato Pantoja</u>	Phone	<u>956 225-6326</u>
	Address	<u>2116 W-32. ST</u>	E-mail	
	City	<u>McAllen</u>	State	<u>TEX</u>
		Zip	<u>78501</u>	
Owner	Name	<u>Donato Pantoja</u>	Phone	<u>956. 225-6326</u>
	Address	<u>2116 W32 ST.</u>	E-mail	
	City	<u>McAllen.</u>	State	<u>TEX.</u>
		Zip	<u>78501</u>	
Authorization	To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?			
	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
	I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable) OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.			
	Signature	<u>Donato Pantoja</u>	Date	
Office	Print Name	<u>Donato Pantoja</u>	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Authorized Agent
	Accepted by	<u>H.C.</u>	Payment received by	
		Date		

Rev 09/20

NOV 02 2021

BY: CW



City of McAllen
Planning Department
REASON FOR APPEAL & BOARD ACTION

12-7-2021
12-1-21

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

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

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

Reason for Appeal

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

A structural sound car port was built 9 years ago. Recently, I was advised by the City of McAllen that car port was built over the easement and now am in a position to need to be court.

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

Granting the variance will allow us to continue to use the car port without the need to demolish the structure due to the overstep of the easement. If not variance is granted it will

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

The car port was built on my property in the back yard. My back yard is fenced with a lock gate and in no way affects surrounding neighbors. In addition it is structurally stable and has stood the test of time.

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

What is unique about this property is that we are a corner lot have had this structure for years now with no issues or complications. We have been McAllen residents for over 36 years. As long time residents, I am humbly asking

Board Action

Chairman, Board of Adjustment
Signature

Date

(1)

this circumstances
without demolishing
the structure

(2)

have dire financial con-
sequences on me

(3)

hurricanes, high winds
and snow fall without any
issues not the structure
proper or unknown

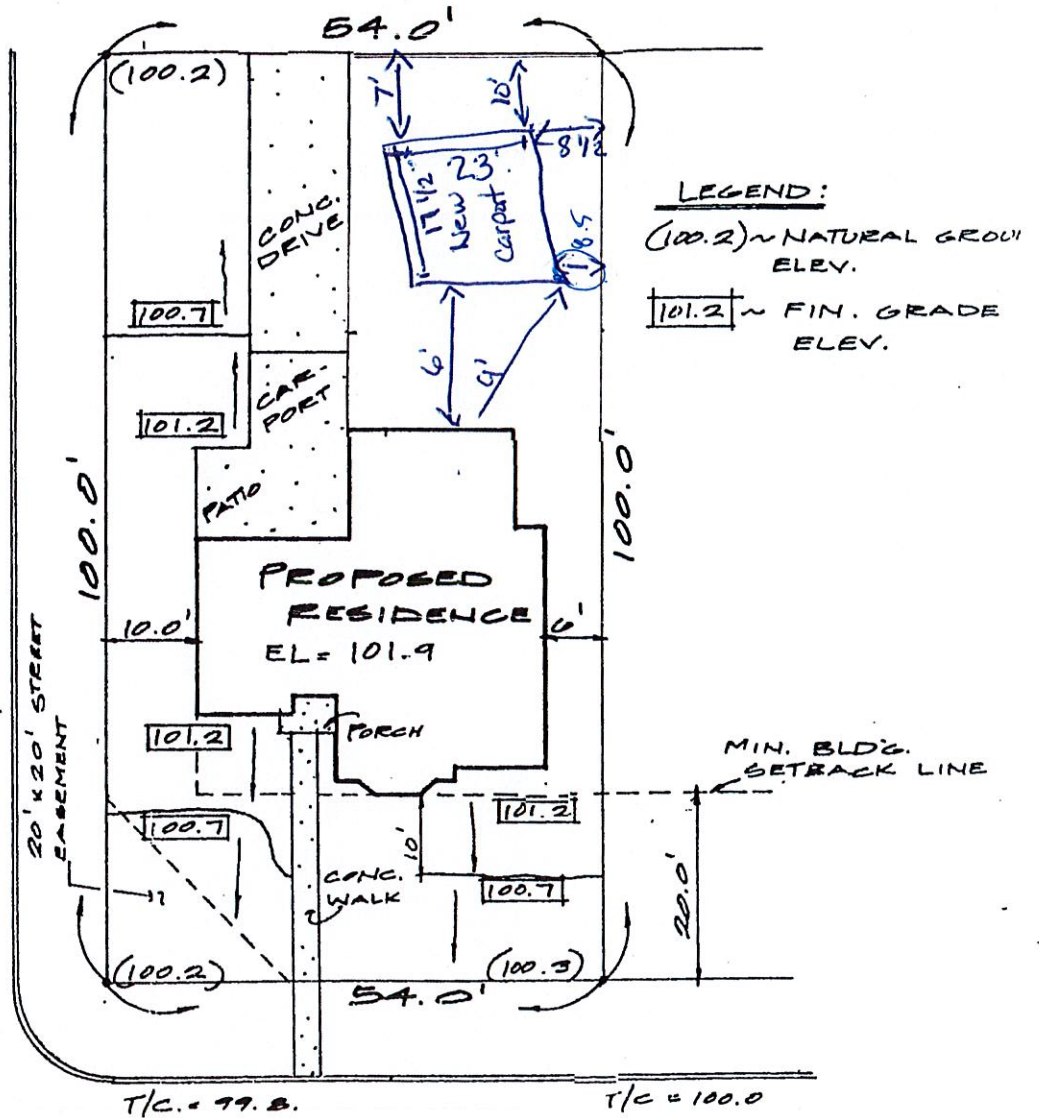
(4)

annual consideration
for this variance

1" = 20'

20' ALLEY

VINE AVE.



N. 32 ND. ST.

PLOT PLAN

LEGAL:

LOT 81, MONTEBELLO SUBDIVISION
UNIT NO. 3, MCALLEN, TEXAS.

CURVE DATA

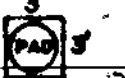
CURVE	RADIUS	ANGLE	ARC	TAN	CHORD
A	30'	46°34'03"	24.38'	12.91'	23.72'
B	30'	26°04'49"	22.76'	11.56'	22.56'
C	50'	55°14'15"	48.20'	26.16'	46.38'
D	50'	55°14'59"	48.21'	26.17'	46.37'

NOTES:

- MINIMUM FLOOR ELEVATION SHALL BE 15" ABOVE TOP OF CURB MEASURED AT FRONT CENTER OF LOT.
- FRONTYARD SET-BACK SHALL BE A MINIMUM OF 20 FT. EXCEPT AT CUL-DE-SACS IT SHALL BE 10 FT.
- SIDEYARD SET-BACK SHALL BE 6 FT. MINIMUM EXCEPT SIDEYARDS ADJACENT TO STREET SHALL BE 10 FT.
- REARYARD SET-BACK SHALL BE 10 FT. MINIMUM.
- UNLESS SHOWN OTHERWISE ALL SIDEWALKS ARE 4 FT. WIDE AND LOCATED WITH INNER EDGE OF WALK ON PROPERTY LINE. SIDEWALK ON WEST SIDE OF N. 31st STREET.



6'x6' EASEMENT TO CENTRAL POWER & LIGHT CO. FOR TRANSFORMER SPACE. SPECIFIC LOCATION SHOWN IN MAP BY THIS SYMBOL.



3'x3' EASEMENT TO CENTRAL POWER & LIGHT CO. FOR PEDESTAL SPACE. SPECIFIC LOCATION SHOWN IN MAP BY THIS SYMBOL.

NOTE: CENTRAL POWER & LIGHT CO. IS HEREBY GRANTED AN EASEMENT & RIGHT-OF-WAY ON EACH LOT IN SAID SUBDIVISION FOR AN UNDERGROUND ELECTRIC SERVICE LATERAL TOGETHER WITH THE INGRESS & EGRESS FOR SUCH PURPOSE AT THE RIGHT LOCATION WHERE SUCH SERVICE LATERAL IS TO BE OR IS INSTALLED & MAINTAINED FROM TIME TO TIME.

HIDALGO COUNTY IRRIGATION DISTRICT NO. 1 WILL NOT BE RESPONSIBLE FOR DRAINAGE OR DELIVERY OF WATER TO ANY LOT IN THIS SUBDIVISION.

- A 10 FT. x 10 FT. CORNER CLIP FOR STREET EASEMENT IS HEREBY RESERVED FROM ALL LOTS AT ALL INTERSECTIONS OF STREETS AND ALLEYS.

APPROVED FOR RECORDING
BY
COMMISSIONERS' COURT
This 20 day of October 1981
SANTOS SALDANA, County Clerk
Hidalgo County, Texas
Santos Saldana
County Surveyor

Recorded in Book 22 Page 19
of the map records of Hidalgo
County, Texas
Charles L. Malden
County Surveyor

MAP OF MONTEBELLO SUBDIVISION UNIT No. 3

McALLEN, TEXAS.

BEING A SUBDIVISION OF 7.94 ACRES OF LAND
OUT OF LOT 142,
LA LOMITA IRRIGATION & CONST. CO'S. SUBDIVISION,
OF PORCIONES 61, 62 & 63, HIDALGO COUNTY, TEXAS.

PREPARED BY:
FABIAN, NELSON & MEDINA INC.
McALLEN, TEXAS

SCALE: 1"=100' DATE: 9/26/78
REVISED 10-81

APPROVED
FOR RECORDING
Hidalgo Co. Right of Way Dept.
By *John Walker*
Date 10-20-81

STATE OF TEXAS:
COUNTY OF HIDALGO:

WE THE UNDERSIGNED, OWNERS OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE "MONTEBELLO SUBDIVISION UNIT No. 3" 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, AND PUBLIC PLACES THEREON SHOWN. FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED.

MONTEBELLO DEVELOPERS, Inc.

Felipe V. Ramon
President FELIPE V. RAMON

Antonio Salinas Jr.
Secretary ANTONIO SALINAS, JR.

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 22nd DAY OF September, 1978.

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 1599 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 IRRIGATION DISTRICT NO. 1 ON THE 25th DAY OF June, 1981.

ATTEST: *John Walker*
COUNTY CLERK

Plinio C. Medina
REGISTERED PUBLIC SURVEYOR
McALLEN, TEXAS

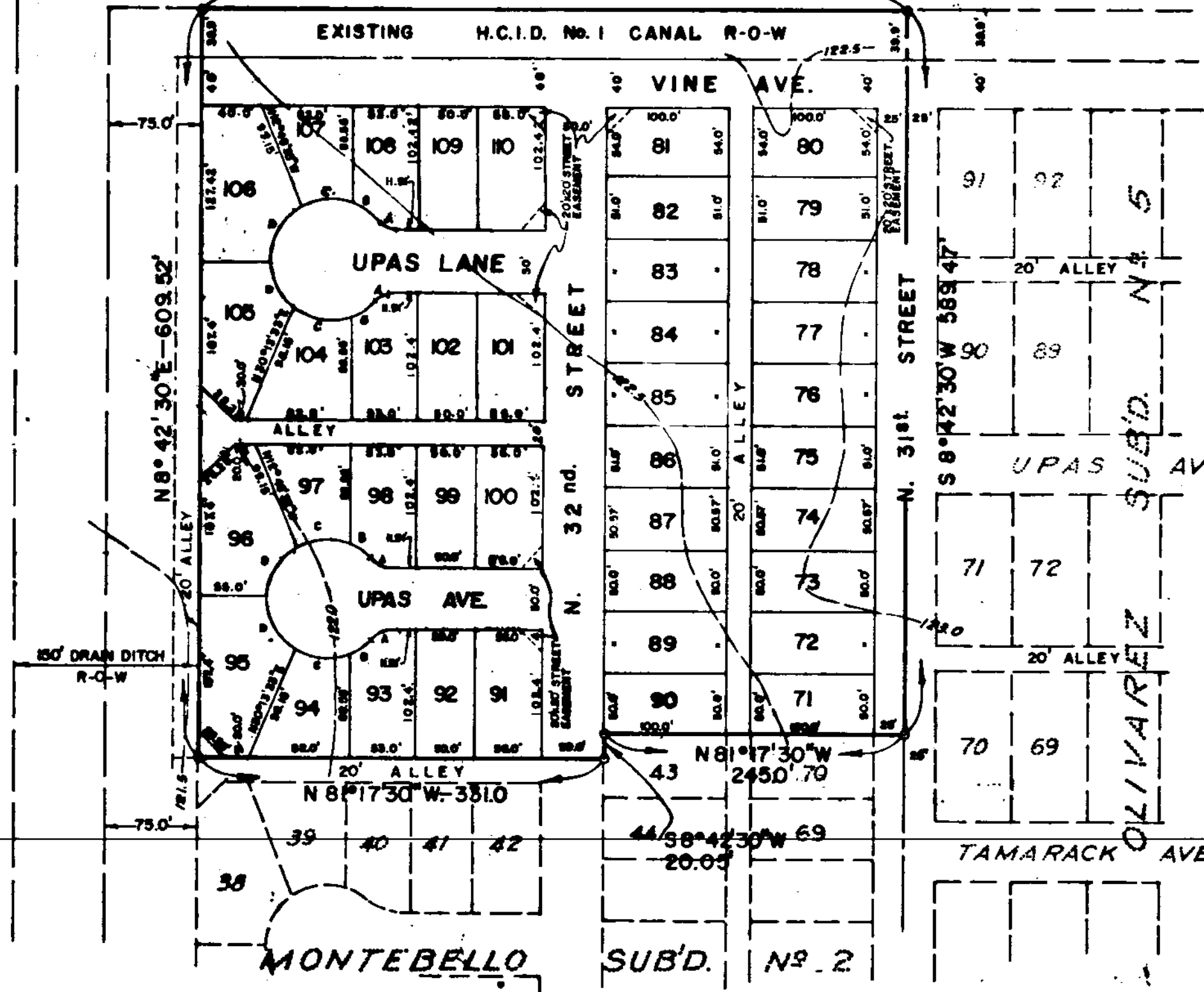
Charles L. Malden
COUNTY SURVEYOR

John Walker
COUNTY CLERK

LOT 135
& CONST. CO'S. SUBD.

S 81°17'30"E - 576.0'

LOT 141
LA LOMITA IRRIG.



MAP
OF

MONTEBELLO SUBDIVISION
UNIT No. 3

McALLEN, TEXAS.

BEING A SUBDIVISION OF 7.94 ACRES OF LAND
OUT OF LOT 142,
LA LOMITA IRRIGATION & CONST. CO'S. SUBDIVISION,
OF PORCIONES 61, 62 & 63, HIDALGO COUNTY, TEXAS.

PREPARED BY:
FABIAN, NELSON & MEDINA INC.
McALLEN, TEXAS

SCALE: 1"=100' DATE: 9/26/78
REVISED 10-81

APPROVED
FOR RECORDING
Hidalgo Co. Right of Way Dept.
By *John Walker*
Date 10-20-81

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COUNTY OF HIDALGO:

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ATTEST: *John Walker*
COUNTY CLERK

Plinio C. Medina
REGISTERED PUBLIC SURVEYOR
McALLEN, TEXAS

Charles L. Malden
COUNTY SURVEYOR

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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**.

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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

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



2021 ATTENDANCE RECORD FOR ZONING BOARD OF ADJUSTMENT AND APPEALS

	01/06/21	01/20/21	02/03/21	02/17/21	03/03/21	03/17/21	04/07/21	04/21/21	05/05/21	05/19/21	06/02/21	06/17/21	07/07/21	07/21/21	08/04/21	08/18/21	09/01/21	09/15/21	10/06/21	10/20/21	11/03/21	11/17/21	12/01/21	
ERICK DIAZ- CHAIRPERSON	P	P	P	P	P	P	A	P	A	P	P	P	P	P	P	P	A	P	P	P	P	P		
JOHN MILLIN- VICECHAIRPERSON	P	A	P	P	P	P	P	P	P	P	A	P	P	A	P	A	P	P	P	A	P	P		
SYLVIA HINOJOSA	P	P	P	A	P	P	P	P	P	P	P	P	P	P	P	P	P	A	P	P	P	P		
JOSE GUTIERREZ	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
JUAN F. JIMENEZ	P	A	P	P	P	A	P	P	P	P	A	A	P	A	P	A	A	A	A	A	A	A		
ANN TAFEL (ALT 1)	P	P	P	P	P	P	P	P	P	A	A	P	P	P	P	P	P	P	P	P	P	P		
HUGO AVILA (ALT 2)	P	P	P	P	P	A	P	P	P	A	P	P	A	P	P	P	P	P	P	P	P	P		
REBECCA MILLAN (ALT 3)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
ROGELIO RODRIGUEZ (ALT 4)	A	P	P	P	P	P	A	P	P	P	P	P	P	P	P	P	P	A	A	A	P	P		

P - PRESENT

A - ABSENT

☐ NEW APPOINTMENT

MC - MEETING CANCELLED

NRM - NO MEETING

LOQ - LACK OF QUORUM

RS - RESIGNATION





PLANNING DEPARTMENT

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



2021 CALENDAR

Meetings:





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

Deadlines:





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

* **Holiday** - Office is closed





JULY 2021

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




AUGUST 2021

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





SEPTEMBER 2021

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



OCTOBER 2021

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

NOVEMBER 2021

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

DECEMBER 2021

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

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.