

## **AGENDA**

### **ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING THURSDAY, JANUARY 22, 2026 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3<sup>RD</sup> 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 -**

#### **1. MINUTES:**

- a) Minutes for the meeting held on January 7, 2026

#### **2. PUBLIC HEARINGS:**

- a) Request of Armando Martinez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25-foot front yard setback for an existing carport, Lot 33, Idela Park Subdivision Unit 2, Hidalgo County, Texas; 3025 Norma Avenue **(ZBA2025-0067)**
- b) Request of Noe Amir Aguilar Flores for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 15 feet into the 25 foot rear setback for a proposed covered patio, located at Lot 283, La Floresta Phase II Subdivision, Hidalgo County, Texas; 2217 Ozark Avenue. **(ZBA2025-0070)**
- c) Request of David Chacon on behalf of ML Rhodes Ltd. for a variance to the City of McAllen Zoning Ordinance to not provide the required 70 foot maximum building height at a 52 Ac tract of land out of Section 232, Texas-Mexican Railway Company's Survey, Hidalgo County, Texas; 15400 North Shary Road. **(ZBA2025-0069)**
- d) Request of Robert Chavez on behalf of Jaime Muriel for the following variance to the City of McAllen Zoning Ordinance to allow an encroachment of 11.7 ft. into the 11.7 ft. front yard setback for an existing extension of the metal porch measuring 11.7 ft. by 34 ft. at South 25' of Lot 3 and All of Lot 4, Block 17, Ewing's Addition Subdivision, Hidalgo County, Texas; 901 & 905 North Main Street. **(ZBA2025-0068)**

#### **3. FUTURE AGENDA ITEMS**

- a) 4901 South 33rd 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 ZONING BOARD OF ADJUSTMENTS AND APPEALS MAY TAKE VARIOUS ACTIONS, INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR PARTICULAR ACTION AT A FUTURE DATE.

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

**The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, December 17, 2025 at 4:30 p.m. in the McAllen City Hall, Commission Chambers with the following present:**

<b>Present:</b>	<b>Jose Gutierrez</b>	<b>Chairperson</b>
	<b>Hugo Avila</b>	<b>Vice-Chairperson</b>
	<b>Hiram Gutierrez</b>	<b>Member</b>
	<b>Juan Mujica</b>	<b>Alternate</b>
	<b>Alex Lamela</b>	<b>Alternate</b>
	<b>Erick Diaz</b>	<b>Alternate</b>
	<b>Francisco Davila</b>	<b>Alternate</b>

<b>Absent:</b>	<b>Daniel Santos</b>	<b>Member</b>
	<b>Ivan Garcia</b>	<b>Member</b>

<b>Staff Present:</b>	<b>Norma Borrego</b>	<b>Assistant City Attorney I</b>
	<b>Omar Sotelo</b>	<b>Planning Director</b>
	<b>Kaveh Forghanparast</b>	<b>Senior Planner</b>
	<b>Samantha Trevino</b>	<b>Planner I</b>
	<b>Jessica Puga</b>	<b>Technician II</b>
	<b>Carmen White</b>	<b>Administrative Assistant</b>

**CALL TO ORDER –Chairperson Jose Gutierrez**

**1. MINUTES:**

- a) Minutes for meeting held on December 17, 2025.

The minutes for the meeting held on December 17, 2025. The motion to approve the minutes were made by Vice-Chairperson Hugo Avila. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting.

**2. PUBLIC HEARINGS:**

- a) Request of Amelia Rodriguez for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 6 feet into the 20 foot front yard setback for an existing porch at Lot 125, Los Encinos Subdivision, Hidalgo County, Texas; 3420 Queta Avenue. **(ZBA2025-0066)**

Ms. Trevino stated the applicant was requesting a variance to allow the existing porch to remain, as it helps reduce the risk of falls but slippery conditions and weather related factors.

The subject property was located on the northeast corner of Queta Avenue and South 35<sup>th</sup> Street and is zoned R-1 (Low-Density Residential-UDC) District. Adjacent zoning is R-1-(UDC) District in all directions. The surrounding land use is single-family residential.

Los Encinos Subdivision was recorded on July 5, 1994. The required front yard setback is 20 feet as per plat. A Stop Work Order was issued by the Building Department on

September 2, 2022, for a front patio that was being constructed without a permit. An application for a building permit was submitted on September 15, 2022 for the front porch patio. A variance application was submitted March 21, 2023 and was disapproved by the Zoning Board of Adjustments on April 19, 2023. A follow up inspection was conducted and a notice of violation was posted September 27, 2025. A second application for a variance for the existing porch was submitted on November 21, 2025.

This variance was to allow an encroachment of 6 feet into the 20 feet front yard setback for an existing porch patio. Based on the submitted site plan, the porch does not encroach into the 5 foot utility easement on the west side of the lot.

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

Staff recommended disapproval of the variance request.

Chairperson Mujica asked staff on his phone aerial view that there appeared to have another drive entrance from 35<sup>th</sup> Street. Staff stated yes. She does have two entrances and it is an R-2 single family home.

Amelia Rodriguez, 3420 Queta Avenue. She stated she had a very large tree in front of her house in which she had taken off a few branches that had been hanging over her roof. She had fallen three times due to the large seeds that drop from the tree. She had no idea that she had to obtain a permit the porch. She was told that she couldn't take down the tree. Chairperson Gutierrez explained to Ms. Rodriguez the requisites of obtaining permit for a variance since it runs with the land and not the owner.

Board member Lamela asked the applicant that she wanted to use the porch in order to protect her from falling with the large seeds from the tree and inclement weather. She stated the seeds fall towards the side of the garden when they hit the top of the patio. He asked staff if there was a way to consider this as a Special Exception instead of a Variance.

City Attorney Stevenson stated the Variances run with the land and Special Exceptions do not. Special Exceptions are limited to certain situations. In the City of McAllen without an ordinance change to allow for front porches to be a Special Exception we only have two. Those are carports and tree houses.

Board member Mujica suggested to table the item in order to give Ms. Rodriguez to be aware of her options and speak with staff. Mr. Stevenson stated the Planning Department will recommend disapproval for variances simply because it is a variance and it runs with the land. However, this Board takes into account the variety and totality circumstances before it which this is a six foot encroachment into a 20 foot setback. There are no utility easements in the ground that would be interfering. There are no health and safety major concerns. The staff highlighting of the other porches in the neighborhood was to highlight to this Board it would not be against the character of the neighborhood should this Board grant the variance.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Variance request. There was no one else to speak in favor of the Variance request.

Maria de Jesus Soto, 3412 Raquel Avenue, McAllen. She stated she was in favor of the applicant's porch because there many elderly residents in the subdivision. She herself has lived there for over 30 years. She stated that the homes were done by Affordable Homes.

She went onto to state the foundation, the trees, drainage was bad due to floods. Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Variance request. There was no one to speak in opposition of the Variance request.

Following discussion, Mr. Hiram Gutierrez **moved** to go approve the Variance request. Mr. Alex Lamela seconded the motion. The Board voted to approve the Variance request with five members present and voting.

- b) Request of Ramiro Flores on behalf of R & N Properties LLC for a variance to the City of McAllen Zoning Ordinance to allow an encroachment of 2 feet into the 7 foot east side yard setback for a proposed triplex at Lot 5, Block 3, Bonnie View Subdivision, Hidalgo County, Texas; 2117 Hackberry Avenue. (ZBA2025-0065)**

Mr. Del Bosque stated the applicant was requesting a variance to allow an encroachment of 2 feet into the 7 foot east side yard setback for a proposed multifamily residence.

The subject property was located along the south side of Hackberry Avenue, between North 21<sup>st</sup> and 22<sup>nd</sup> Street. The property was zoned R-2 (Duplex-Fourplex Residential -OC) District with adjacent properties being zoned R-1 (Single Family Residential – OC) District to the north and R-2 (Duplex-Fourplex Residential - OC) District to the east, west, and south. The property is currently vacant.

Bonnie View Subdivision was recorded on August 23, 1927. A demolition permit for a single-family home was submitted and issued on March 14, 2022. No other building permits have been submitted since then. A rezoning application to R-2 (Medium Density Residential - UDC) District was submitted October 6, 2025; however, it has been withdrawn.

The applicant was requesting a variance to encroach 2 feet into the 7 foot east side yard setback for a proposed triplex. Current setbacks are based on setback requirements prior to 1979. For residential neighborhoods with an established pattern of 7 foot side yard setback on the east/south side and 5 foot side yard setback on the west/north side, for 12 foot building separation, they City honors the established pattern. Staff's research did not reveal any variances for this subdivision.

The Unified Development Code (UDC) adopted by the City Commission on December 9, 2025, requires 5 foot side yard setback for residential lots, for 10 foot building separation.

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

Staff recommended approval of the variance request since it complies with UDC requirements.

Mr. Ramiro Flores, 1209 South Taylor Road, McAllen. He stated to allow an encroachment of 2 feet into the 7 foot east side yard setback for a proposed multifamily residence.

Chairperson Jose Gutierrez asked if there was anyone present to speak in favor of the Variance request. There was no one else to speak in favor of the Variance request.

Chairperson Jose Gutierrez asked if there was anyone present to speak in opposition of the Variance request. There was no one to speak in opposition of the Variance request.

Following discussion, Mr. Alex Lamela **moved** to approve the Variance request. Vice-Chairperson Hugo Avila seconded the motion. The Board voted to approve the Variance request with five members present and voting.

**ADJOURNMENT**

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

---

Chairperson Jose Gutierrez

---

Carmen White, Administrative Assistant

## Memo

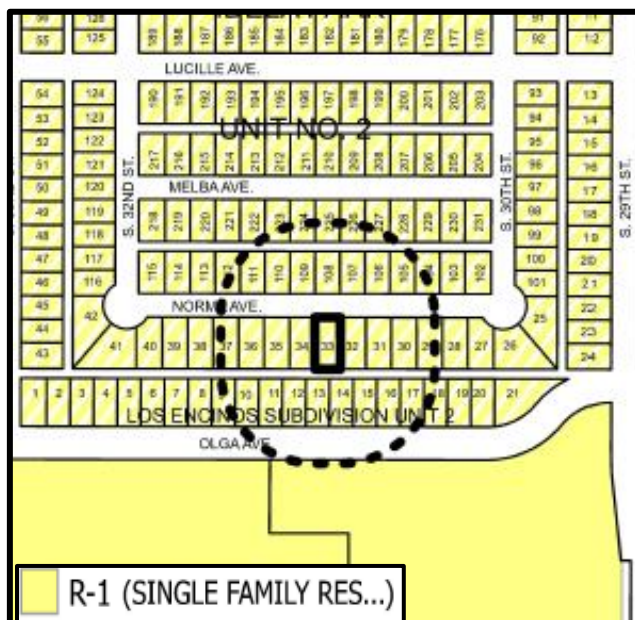
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** January 22, 2026

**SUBJECT:** Request of Armando Martinez for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25 foot front yard setback for an existing carport, Lot 33, Idela Park Subdivision Unit 2, Hidalgo County, Texas; 3025 Norma Avenue (**ZBA2025-0067**)

**REASON FOR APPEAL:** The applicant is requesting a special exception to allow an encroachment of 20 feet into the 25 foot front yard setback for an existing metal carport measuring 20 feet by 20 feet.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the south side of Norma Avenue and is zoned R-1 (Low Density Residential–UDC) District.

**BACKGROUND AND HISTORY:** Idela Park Unit 2 Subdivision was recorded on July 24, 1978. A single-family residential home was built on the property in 2003. The applicant submitted a building permit for a carport on November 7, 2019. The permit was rejected by Planning due to the encroachment into the front yard setback. A Stop Work Order was issued on February 14, 2023 for an addition to the exiting carport. A variance request to encroachment into a front yard setback was submitted on November 21, 2025.

**ANALYSIS:** The applicant is requesting a special exception for an existing 20'x20' carport that will be used to protect vehicles from the elements. A structure was added to the west side creating a 4 foot encroachment into the 6 foot side yard setback. The recorded plat of the subdivision requires a 25 foot front yard setback. During site visit, staff noticed that the applicant has already begun to remove the addition. Staff also noticed properties along Norma Avenue that have carports which seem to encroach into the required 25-foot front setback; and staff's research did reveal multiple records of special exception being granted for this subdivision.

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

**RECOMMENDATION:** Staff recommends approval of the special exception request since it will not impact the neighborhoods characteristics.



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)

Case Number: 2BA 2025-0067

ZBOA Meeting: 1/22/24 (MP)

Accepted By: mm

**PROJECT**

Legal Description

IDELA PARK U.T. 2. Lot 33

Subdivision Name

IDELA PARK U.T. 2. Lot. 33

Street Address

3025 NORWA AV. Macallen texas 78503

Number of lots

1

Gross acres

0

Existing Zoning

R-1

Existing Land Use

Residencial

Reason for Appeal (please use other side if necessary)

PARA CARROS

YA TENGO UN TECHO

☒ \$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 ARMANDO MARTINEZ

Phone (956) 731-9556

Address 3025 NORWA AV.

E-mail

City Macallen

State Texas

Zip 78503

**OWNER**

Name ARMANDO MARTINEZ

Phone (956) 731-9556

Address 3025 NORWA AV.

E-mail

City Macallen

State Texas

Zip 78503

**AUTHORIZATION**

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

☐ Yes

☒ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable)

OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature

Armando Martinez

Date

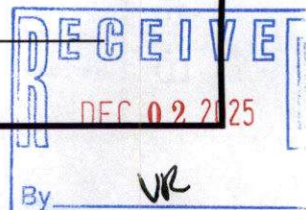
11-21-25

Print Name

Armando

☐ Owner

☐ Authorized Agent





**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:

por que LOS NIETOS SALEN A JUEGAR  
ESTA MUY FUERTE EL SOL CUANDO LLUEVE  
SALGO A ASER EJERSISIO SALGO A TOMAR EL FRESCO <sup>CON</sup> MI ESPOSA

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

ESTOY ENFERMO DEL CORAZÓN PONGO EL CARRA  
ADENTRO DEL PORCHE PARA NO MOJARMIE CUANDO  
SALGO DE EMERGENCIA PARA EL HOSPITAL

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:

CUANDO HACE FRIO NOS PROTEGE PARA  
NO AGARRAR CARRO FUERA LO DEJAMOS  
DENTRO PORCHE PAGA UNA MULTA DE 400 DOLARES

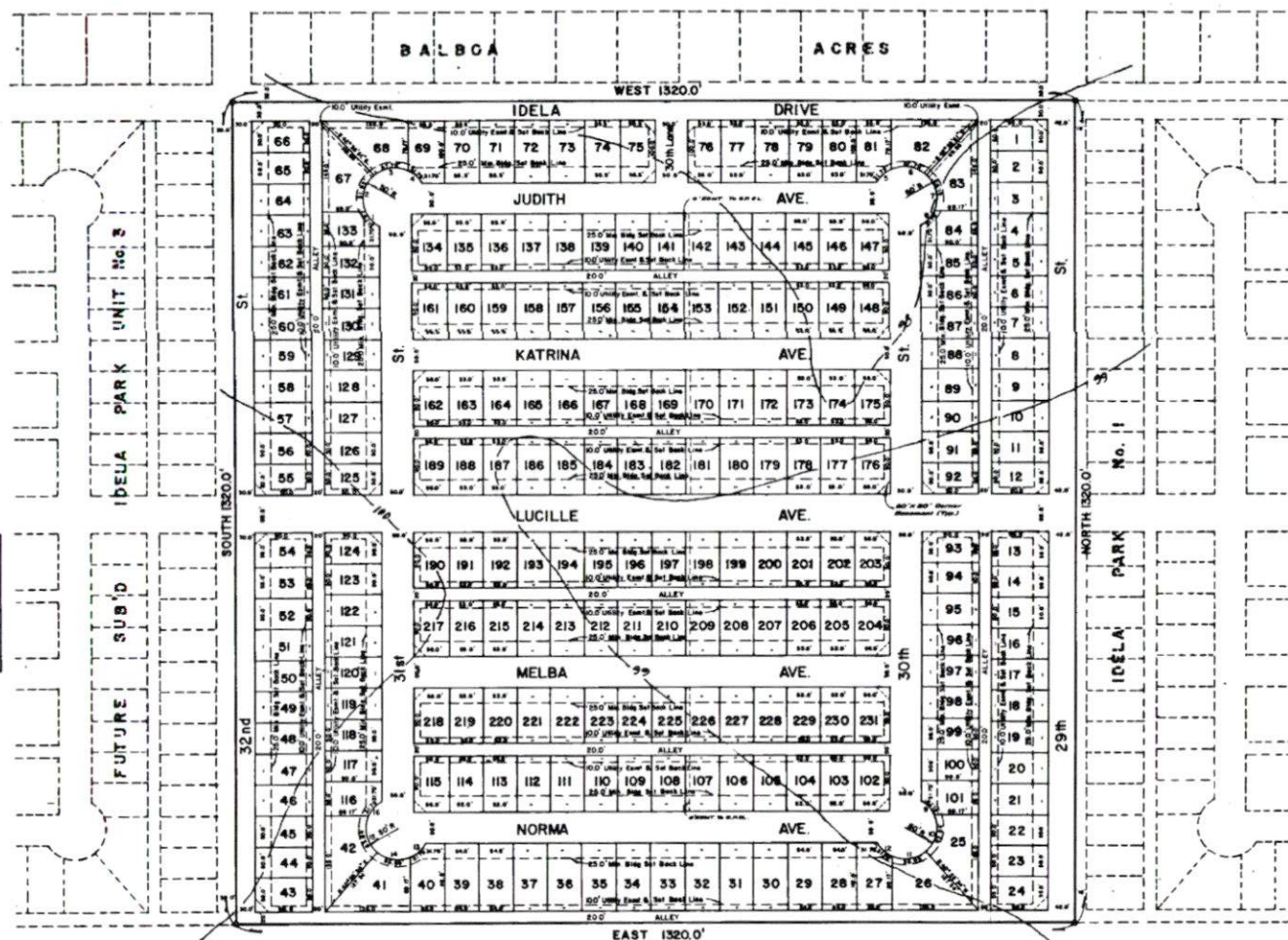
4. Describe special conditions that are unique to this applicant or property:

SALEMOS A ESTAR FUERA CON MI ESPOSA MIS  
NIETOS NOS PROTEJEMOS DEL SOL LLUVA FRIO  
GRACIAS

MI ESPOSO SUFRE ANSIEDAD Y ENFERMO CORAZÓN  
SALIE A CAMINAR EN EL PORCHE TODOS LOS DIAS

Chairman, Board of Adjustment  
Signature

Date



BALBOA ACRES

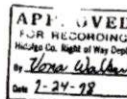
location map

## CURVE DATA

STATION	LENGTH	PERCENT	CHORD	PI
1+00.00	21.74	40.00	31.00	90.00
2+21.74	21.74	40.00	31.00	90.00
4+38.48	21.74	40.00	31.00	90.00
6+55.92	21.74	40.00	31.00	90.00
8+77.66	21.74	40.00	31.00	90.00
10+99.40	21.74	40.00	31.00	90.00
13+21.14	21.74	40.00	31.00	90.00
15+42.88	21.74	40.00	31.00	90.00
17+64.62	21.74	40.00	31.00	90.00
19+86.36	21.74	40.00	31.00	90.00
22+08.10	21.74	40.00	31.00	90.00
24+29.84	21.74	40.00	31.00	90.00
26+51.58	21.74	40.00	31.00	90.00
28+73.32	21.74	40.00	31.00	90.00
30+95.06	21.74	40.00	31.00	90.00
33+16.80	21.74	40.00	31.00	90.00
35+38.54	21.74	40.00	31.00	90.00
37+60.28	21.74	40.00	31.00	90.00
39+82.02	21.74	40.00	31.00	90.00
42+03.76	21.74	40.00	31.00	90.00
44+25.50	21.74	40.00	31.00	90.00
46+47.24	21.74	40.00	31.00	90.00
48+68.98	21.74	40.00	31.00	90.00
50+90.72	21.74	40.00	31.00	90.00
53+12.46	21.74	40.00	31.00	90.00
55+34.20	21.74	40.00	31.00	90.00
57+55.94	21.74	40.00	31.00	90.00
60+00.00	21.74	40.00	31.00	90.00

24704  
**IDELA PARK**  
 (40 AC.)  
 UNIT 2

Being A Subdivision Of Lots 3 Of B.R. 3 Rio  
 Brown Plantation Company Subdivision  
 Hidalgo County, Texas



Recorded to Book 20, Page 129  
 of the maps records of Hidalgo  
 County, Texas  
 Charles L. Stearns  
 County Clerk

State of Texas  
 County of Hidalgo

I, The Undersigned, Owner, Of The Land Shown On This Plat, And Designated Herein As The IDELA PARK, Subdivision To The City Of McALLEN, TEXAS, And Whose Name Is Subscribed Herein, Herby Dedicates To The Use Of The Public All Streets, Alleys, Parks, Water Courses, Ditches, Easements And Public Places Thereon Shown For The Purpose Of Consideration Therein Expressed.

**IDELA DEVELOPMENT COMPANY**  
 (A PARTNERSHIP)

*[Signature]*  
 Partner

State of Texas  
 County of Hidalgo

Before Me, The Undersigned Authority, On This Day Personally Appeared *[Signature]* Known To Me To Be The Person Whose Name Is Subscribed To The foregoing Instrument, And Acknowledge To Me That He Executed The Same For The Purpose And Consideration Therein Stated.  
 Given Under My Hand And Seal Of Office This *1st* Day Of *May* 1978.

*[Signature]*  
 Notary Public, County Of Hidalgo

APPROVED FOR RECORDING  
 BY  
 COMMISSIONER'S COURT  
 THIS *1st* Day Of *May* 1978  
 SANTOS TAC, JR., County Clerk  
*[Signature]*

FILED FOR RECORDING THIS DATE  
 At *San Antonio*, Texas

JUL 25 1978

*[Signature]*  
 Notary Public

State of Texas  
 County Of Hidalgo

I, The Undersigned, A Registered Professional Engineer In The State Of Texas, Herby Certify That This Plat Is True And Correctly Made Is Prepared From An Actual Survey On The Property Made Under My Supervision On The Ground, And Further Certify Proper Engineering Consideration Has Been Given To This Plat.



SCALE = 1" = 1000'

RECEIVED  
 DEC 02 2025

By *[Signature]*  
 McALLEN, TEXAS

IDELA PARK UNIT No. 2

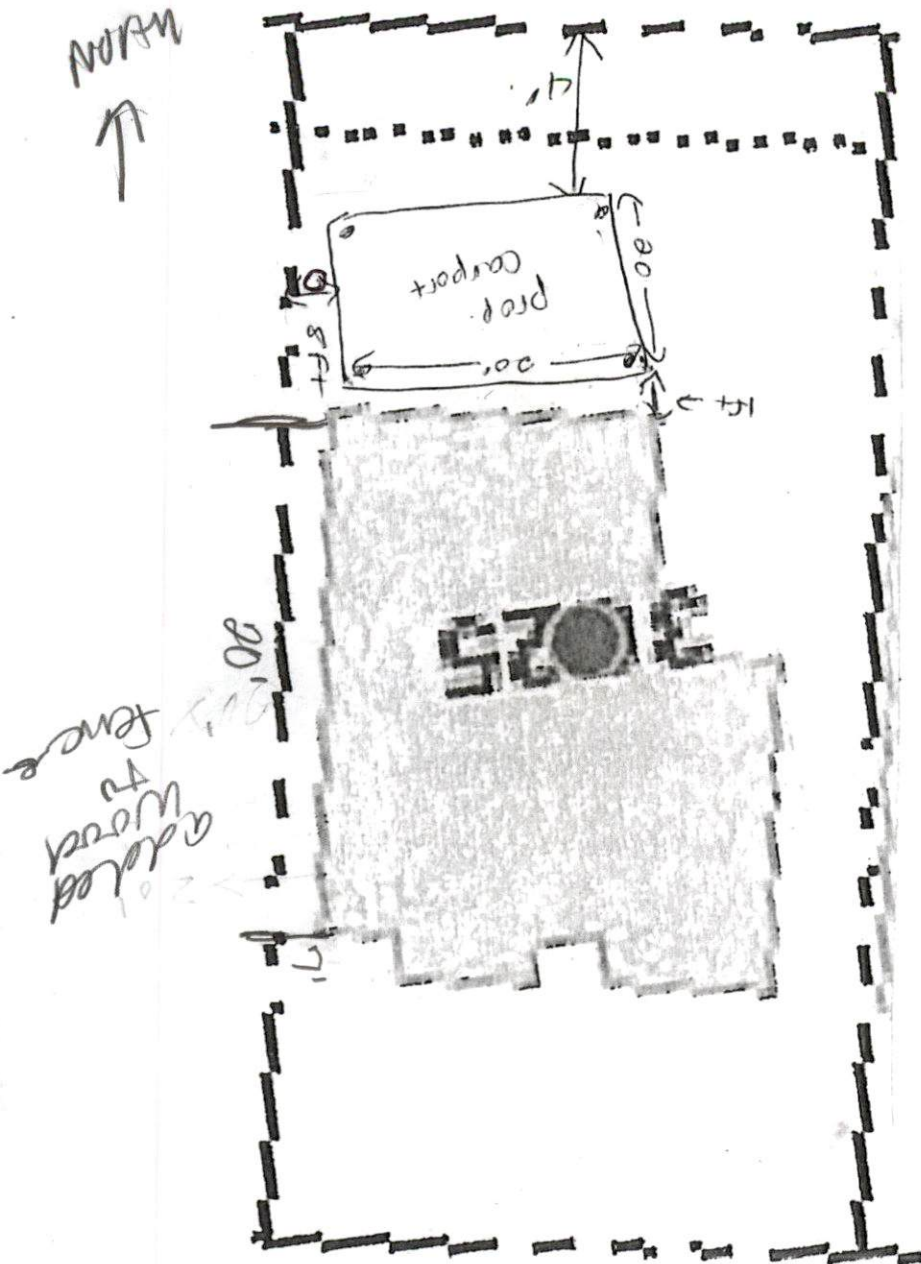
CDE Community Development  
 Engineering  
 P.O. Box 1585  
 McAllen, Texas

DATE: 6-14-78  
 REVIEWED: *[Signature]*  
 SEAL: *[Signature]*  
 408-81-19-103  
 10-103



CP DM

RECEIVED  
DEC 02 2025  
By *VR*



*50x20  
port*

**NORMA AVE**







RECEIVED  
DEC 02 2025  
By *VR*

## Memo

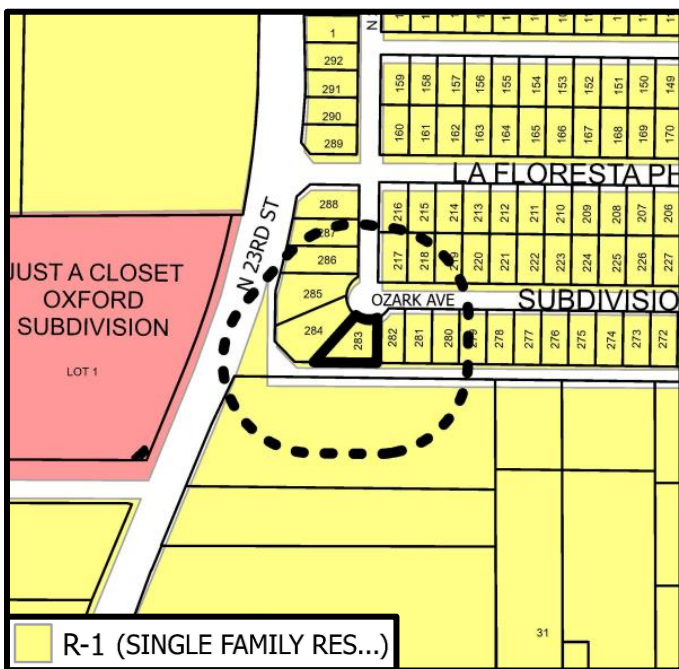
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** January 22, 2026

**SUBJECT:** REQUEST OF NOE AMIR AGUILAR FLORES FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 15 FEET INTO THE 25 FOOT REAR SETBACK FOR A COVERED PATIO, LOCATED AT LOT 283, LA FLORESTA PHASE II SUBDIVISION, HIDALGO COUNTY, TEXAS; 2217 OZARK AVENUE. (ZBA2025-0070)

**REASON FOR APPEAL:** The applicant is requesting a variance to allow an encroachment of 15 feet into the 25 foot rear setback for an existing covered porch measuring 24 feet by 12 feet to provide shade and protection from the weather.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along the south side of Ozark Avenue and is zoned R-1 (Single-Family Residential–OC) District. The adjacent zoning is R-1 (Single-Family Residential–OC) in all directions. Surrounding land uses include single-family residences, commercial businesses, and vacant land.

**BACKGROUND AND HISTORY:** La Floresta Phase II Subdivision was recorded on July 8, 2016. A single-family residential home was built on the property in 2022. A Stop Work Order was issued on February 14, 2023. The applicant submitted a building permit for the porch addition on December 8, 2025. The permit was rejected by Planning due to the encroachment into the rear setback required by the plat. A variance request to encroach into the rear setback was submitted on December 12, 2025.

**ANALYSIS:** The recorded plat requires 25-foot rear yard setbacks for a double fronting lot. Section §138-367(b) in the Zoning Ordinance states that “where lots have double frontage, ... a required front yard shall be provided on one street only.” As per the submitted site plan, the porch is respecting the 10 foot rear yard setback line as per the Zoning Ordinance.

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

**RECOMMENDATION:** Staff recommends approval of the variance request since it complies with minimum setback required by Section §138-356 of the Zoning Ordinance.



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)

Case Number: 2BA 2025-0070

ZBOA Meeting: 1/22/2026

Accepted By: ND

**PROJECT**

Legal Description La floresta PH 2 Lot 283

Subdivision Name La floresta PH 2

Street Address 2217 Ozark Ave

Number of lots 1 Gross acres                     

Existing Zoning R1 Existing Land Use single family home

Reason for Appeal (please use other side if necessary) cover patio that encroaches 15-feet into the rear 25 foot 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 Nbe Amir Aguilar Flores Phone 956 215 3310

Address 2217 Ozark Ave E-mail amir.aguilar@gmail.com

City McAllen State TX Zip 78504

**OWNER**

Name Nbe Amir Aguilar and Alexander Phone 956 215 3310

Address 2217 Ozark Ave E-mail amir.aguilar@gmail.com

City McAllen State TX Zip 78504

**AUTHORIZATION**

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

☐ Yes ☒ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable)

OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

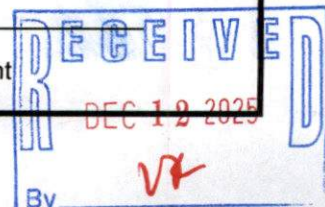
Signature [Signature]

Date 12/10/25

Print Name Nbe Amir Aguilar Flores

☒ Owner

☐ Authorized Agent





# City of McAllen

## Planning Department

### REASON FOR APPEAL & BOARD ACTION

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

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

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

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

The rear area of my property has limited shaded space and due to the strong heat and weather conditions common in the area the backyard couldn't be used regularly or comfortably. Installing the patio roof was necessary to make the space functional and to provide a safe and shaded area for my daughters and our dogs. Without this structure, I would be deprived of reasonable use of the backyard.

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

The variance is necessary to allow me to safely and reasonably enjoy my backyard. The patio roof provides shade and weather protection making the outdoor space usable for my family, especially for my daughters and my dogs throughout the year. Granting the variance preserves my ability to fully use my property in the same manner as many other homeowners in the community.

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 patio roof is located at a safe distance from neighboring properties and does not create noise, drainage issues or any conditions that would negatively affect public health, safety, or welfare. The structure remains entirely within my property boundaries and does not impact the legal rights of other property owners.

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

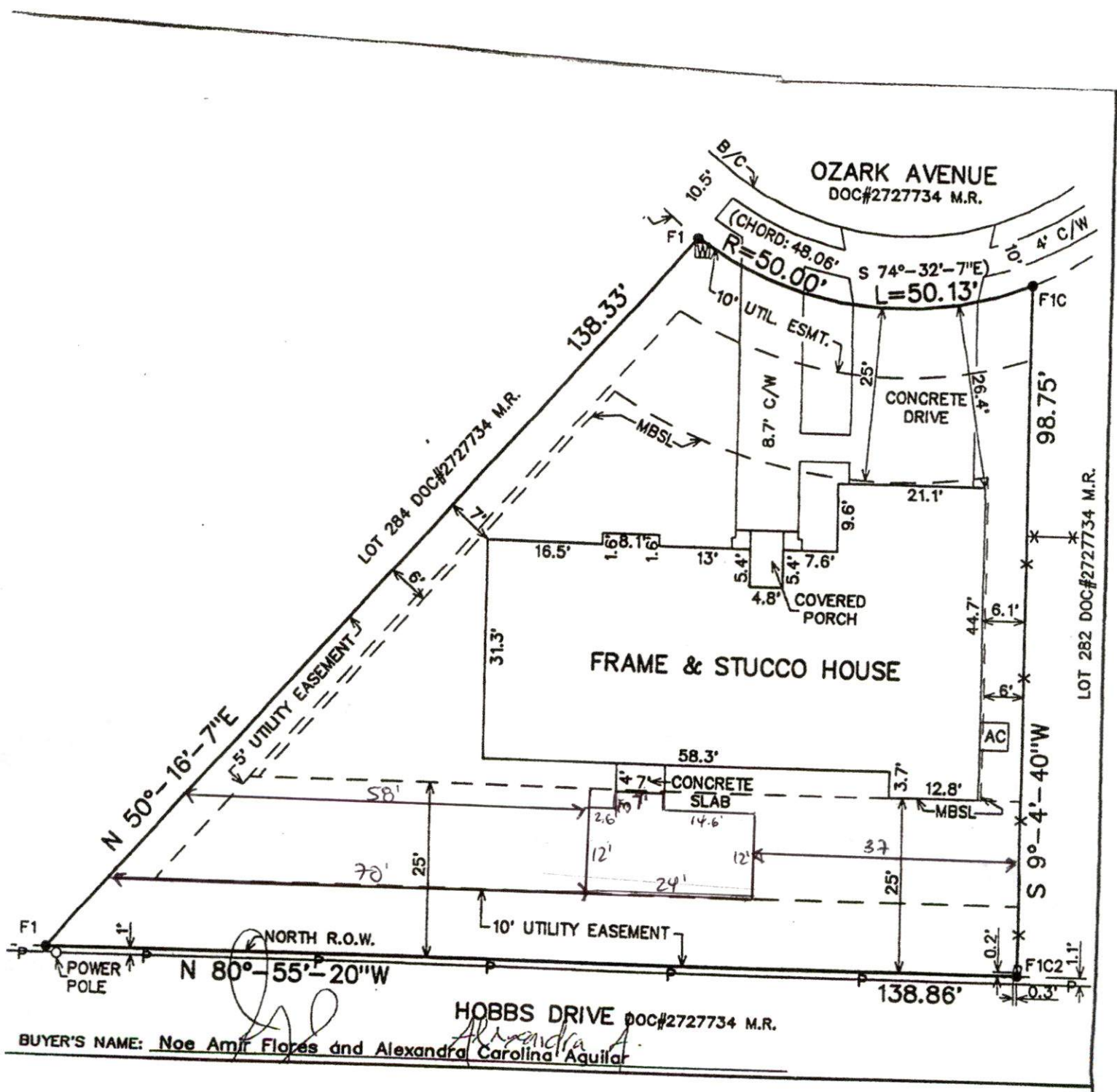
My property has unique conditions that limit the functional use of the backyard area. I am requesting approval to use a 15-foot setback for the construction of the patio roof, while keeping the 10-foot rear utility easement completely clear and unobstructed. The additional covered space is important for creating a safe and usable area for my family.

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

Date



RECEIVED  
DEC 12 2025  
RV





2217

**ZBA2025-0070  
NOTICE  
VARIANCE  
FOR THIS  
PROPERTY**

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



## **Memo**

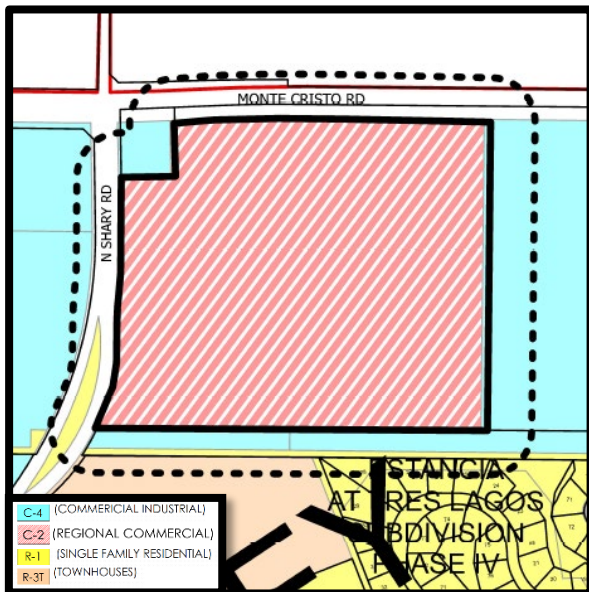
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** January 22, 2026

**SUBJECT: REQUEST OF DAVID CHACON ON BEHALF OF ML RHODES LTD. FOR A VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO NOT PROVIDE THE REQUIRED 70 FOOT MAXIMUM BUILDING HEIGHT AT A 52 AC TRACT OF LAND OUT OF SECTION 232, TEXAS-MEXICAN RAILWAY COMPANY'S SURVEY, HIDALGO COUNTY, TEXAS; 15400 NORTH SHARY ROAD. (ZBA2025-0069)**

**REASON FOR APPEAL:** The applicant is requesting a variance to not provide the required 70-foot maximum building height and is requesting an increase to 90 feet to accommodate a five-story medical building.



**PROPERTY LOCATION AND VICINITY:** The subject property is located along and surrounding the southeast corner of North Shary Road and Monte Cristo Road. The property is zoned C-2 (Regional Commercial-UDC) District. The adjacent zoning is C-4 (Commercial Industrial-OC) District in all directions. The properties on the north side of Monte Cristo Road are outside the city limits. Surrounding land uses are single-family residences, schools and vacant land.

**BACKGROUND AND HISTORY:** The property was rezoned to C-2 (Regional Commercial-UDC) by the City Commission on November 24, 2025. It is currently in the subdivision process under the name Texas General Medical Center Subdivision and received preliminary approval on December 2, 2025. This variance application was submitted on December 4, 2025.

**ANALYSIS:** The applicant is requesting to increase the building height to 90 feet to accommodate a five-story hospital building that will adequately serve the region. Applicant states the variance is necessary to provide sufficient bed capacity and to create a visually appealing facility that is compatible with adjacent neighborhoods, thereby enhancing service to the growing community. The subject property is not adjacent to any residentially zoned or uses. Fire and Building departments have no objection or concern regarding the variance request.

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

**RECOMMENDATION:** Staff recommends approval of the variance request since it complies with fire and building code requirements.



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)

Case Number: ZBA2025-0069 ZBOA Meeting: 1/22/2026  
Accepted By: ND

**PROJECT**

Legal Description 52.0 Acres out of section 232, Texas-Mexican Railway  
company's survey. Volume 4, pages 142-143 H.C.D.R.  
Subdivision Name Texas General Medical Center Subdivision  
Street Address 15400 North Shang Road  
Number of lots 1 Gross acres 52  
Existing Zoning C-2 Existing Land Use Vacant / Agriculture  
Reason for Appeal (please use other side if necessary) Request to increase the maximum  
height to 90ft to accomodate a 5-story Building with parapet  
☐ \$300.00 non-refundable filing fee + ☐ \$50.00 Recording Fee for Special Exception (carport)  
☒ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is  
required

**APPLICANT**

Name David Chacón, PE Phone (956) 429-9033  
Address 2205 N Jackson Rd E-mail david@bstore.biz  
City McAllen State TX Zip 78501

**OWNER**

Name ML Rhodes Ltd Phone (956) 287-2800  
Address 200 S. 10th Street, Ste 1700 E-mail bfrisby@rhodes.com  
City McAllen State Texas Zip 78501

**AUTHORIZATION**

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

☐ Yes ☒ No

I certify that I am the actual owner of the property described above and this application is being submitted  
with my consent (include corporate name if applicable)

OR I am authorized by the actual owner to submit this application and have attached written  
evidence of such authorization.

Signature [Signature] Date 11/26/2025  
Print Name Nick Rhodes ☒ Owner ☐ Authorized Agent

DEC 04 2025



**City of McAllen**  
**Planning Department**  
**REASON FOR APPEAL & BOARD ACTION**

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

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

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

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

The maximum height allowed in the C-2 is 70ft. We need to increase to 90ft to accommodate a 5-story hospital building to properly service the region.

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

The variance is needed to provide proper capacity of beds to the region and to make it visibly appealing to the adjacent neighbors.

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

The variance will not affect the public health, safety or welfare because the hospital will abide to the rules & regulations of the city & it will provide a better service with more capacity.

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

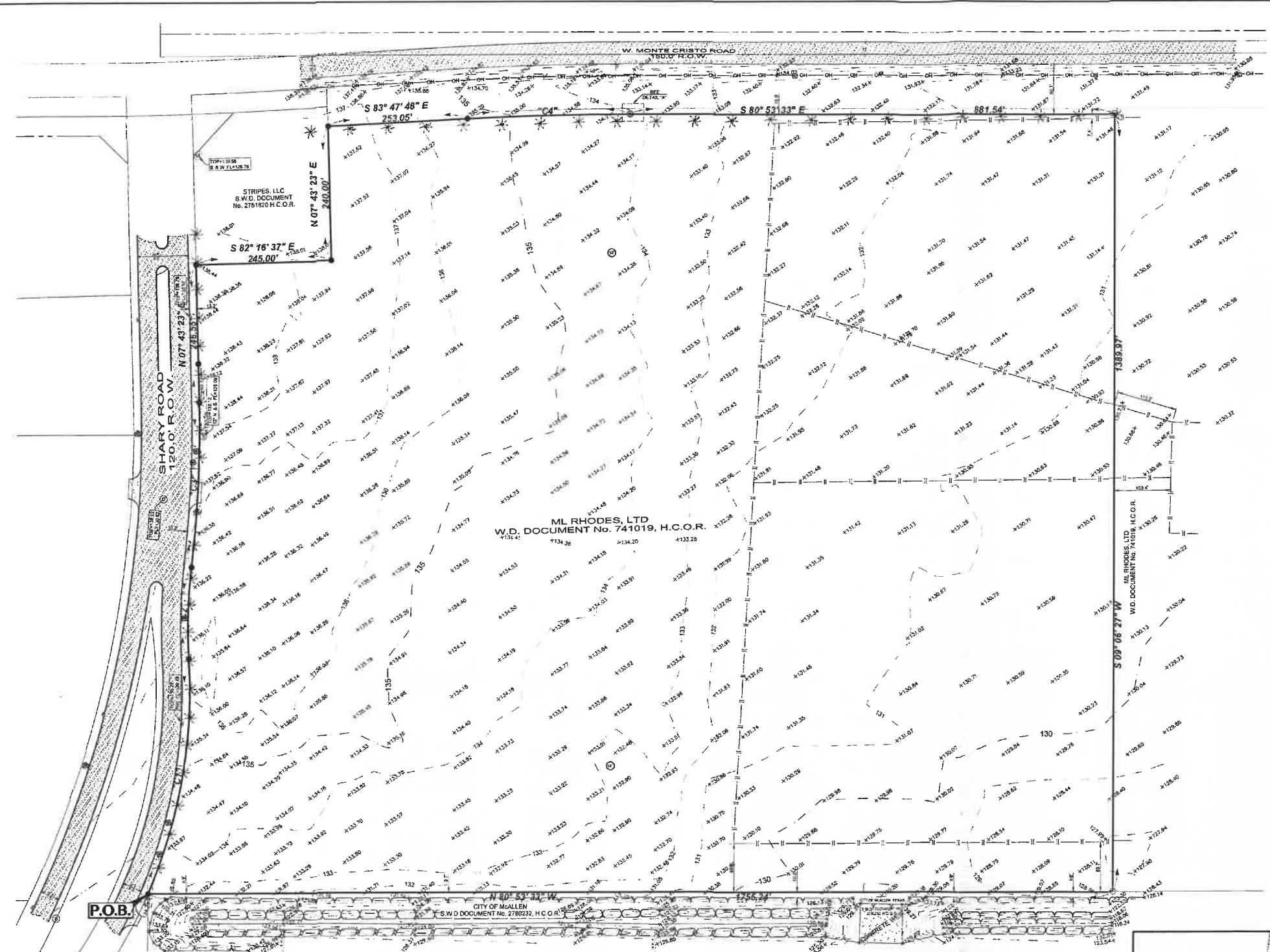
It will be the only hospital in the area to serve a growing community. more capacity means more jobs & community growth.

Reason for Appeal

Board Action

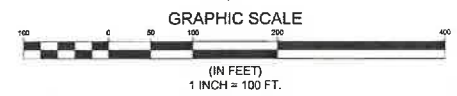
Chairman, Board of Adjustment  
Signature

Date



FLOOD ZONE  
ZONE "X" (UNSHADED)  
AREAS DETERMINED TO BE OUTSIDE 500-YEAR  
FLOODPLAIN.  
COMMUNITY PANEL NUMBER: 480334 C285 D  
JULY REVISED: JUNE 8, 2020  
JULY REVISED: JUNE 8, 2020  
JULY REVISED: JUNE 8, 2020

N 12° 42' 01" E  
0.77'  
DETAIL "X"  
R.T.S.



- NOTES:
1. SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SEAL AND SIGNATURE OF SURVEYOR.
  2. BEARING BASIS IS FROM THE No. 4 REBAR FOUND AT THE SOUTHWEST CORNER OF THIS TRACT AND THE No. 4 REBAR SET AT THE NORTHEAST CORNER OF THIS TRACT.
  3. ALL BEARINGS AND DISTANCES AS PER TEXAS COORDINATE SYSTEM SOUTH ZONE 4205, GRID COORDINATES.
  4. ELEVATION DATUM PER NAVD 88 (GEOID 2012B).
  5. SURVEY WAS PREPARED WITH THE BENEFIT OF SAN JACINTO TITLE SERVICES OF TEXAS, LLC COMMITMENT GF No. 252451040 EFFECTIVE DATE: JULY 30, 2025 ISSUED: AUGUST 15, 2025

- EASEMENTS LISTED IN SCHEDULE B:
- 10a. RIGHTS OR CLAIMS BY UNITED IRRIGATION DISTRICT TO ANY PORTION OF PROPERTY LYING WITHIN CANAL AND/OR DRAIN DITCH EASEMENTS AND/OR RIGHTS OF WAY LOCATED ON THE PROPERTY.
  - 10f. EASEMENTS AND RESERVATIONS AS SHOWN ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 3, PAGE 42 AND VOLUME 8, PAGE 54, MAP RECORDS OF HIDALGO COUNTY, TEXAS, VOLUME 411, PAGE 149-150, DEED RECORDS OF HIDALGO COUNTY, TEXAS AND PATENT ISSUED BY THE STATE OF TEXAS, RECORDED IN VOLUME 4, PAGES 142-143, DEED RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10g. TERMS AND CONDITIONS AND RESERVATION OF TECHNOLOGY EASEMENT DATED AUGUST 13, 2015, FILED NOVEMBER 25, 2015, FROM HIDALGO COUNTY TEXAS CORPORATION, INC., TO ML RHODES LTD., A TEXAS LIMITED PARTNERSHIP, RECORDED IN CLERK'S FILE NO. 2665226, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS. AFFECTS SUBJECT TRACT, BLANKET IN NATURE NOT PLOTTABLE.
  - 10k. RIGHT OF WAY EASEMENT DATED JUNE 29, 2016 FROM ML RHODES, LTD. TO FAIRLAND WATER SUPPLY CORPORATION, FILED UNDER CLERK'S FILE NO. 2728006, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10m. RIGHT OF WAY DEDICATION DEED DATED JULY 31, 2017, EXECUTED BY ML RHODES, LTD. TO CITY OF MCALLEN, RECORDED UNDER CLERK'S FILE NO. 2840599, OFFICIAL PUBLIC RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10n. RIGHT OF WAY EASEMENT DATED DECEMBER 9, 1989 FROM M.E. TRAPP TO CENTRAL POWER AND LIGHT COMPANY, RECORDED IN VOLUME 977, PAGE 503, DEED RECORDS OF HIDALGO COUNTY, TEXAS AND RELEASE OF EASEMENT DATED FEBRUARY 7, 1994 FROM CENTRAL POWER AND LIGHT COMPANY TO THE STATE OF TEXAS, RECORDED IN VOLUME 1082, PAGE 81, DEED RECORDS OF HIDALGO COUNTY, TEXAS. AFFECTS SUBJECT TRACT, BLANKET IN NATURE NOT PLOTTABLE.
  - 10o. RIGHT OF WAY EASEMENT DATED JUNE 15, 1966 FROM M.E. TRAPP ASSOCIATED TO HIDALGO COUNTY, RECORDED IN VOLUME 885, PAGE 200, DEED RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10p. RIGHT OF WAY EASEMENT DATED JUNE 19, 1968 FROM M.E. TRAPP ASSOCIATED TO HIDALGO COUNTY, RECORDED IN VOLUME 885, PAGE 57, DEED RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10q. RIGHT OF WAY EASEMENT DATED OCTOBER 11, 1963 FROM HIDALGO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 7 TO THE STATE OF TEXAS, RECORDED IN VOLUME 1073, PAGE 92, DEED RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10r. RIGHT OF WAY EASEMENT DATED OCTOBER 11, 1963 FROM HIDALGO COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 7 TO THE STATE OF TEXAS, RECORDED IN VOLUME 1073, PAGE 92, DEED RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10s. RIGHT OF WAY EASEMENT DATED NOVEMBER 11, 1993 FROM MERIDIAN RESOURCES, INC. TO THE STATE OF TEXAS, RECORDED IN VOLUME 1077, PAGE 42, DEED RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10t. RIGHT OF WAY EASEMENT DATED MARCH 26, 1975 FROM V.C. CATTLE COMPANY, INC. TO VALLEY FAIR WEATHER DRAIN COMPANY, INC., RECORDED IN VOLUME 1447, PAGE 601, DEED RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10u. RIGHT OF WAY EASEMENT DATED JANUARY 3, 2001 FROM MAYFAIR FARMS, INC. TO SHARYLAND WATER SUPPLY CORPORATION, FILED UNDER CLERK'S FILE NO. 934701, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10v. RIGHT OF WAY EASEMENT DATED JANUARY 3, 2001 FROM MAYFAIR FARMS, INC. TO SHARYLAND WATER SUPPLY CORPORATION, FILED UNDER CLERK'S FILE NO. 934702, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10w. RIGHT OF WAY EASEMENT DATED JANUARY 16, 2005 FROM ML RHODES, LTD. TO CITY OF MCALLEN, FILED UNDER CLERK'S FILE NO. 1426974, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10x. RIGHT OF WAY EASEMENT DATED MAY 8, 2023, EXECUTED BY ML RHODES, LTD. TO SHARYLAND WATER SUPPLY CORPORATION, FILED FOR RECORD ON MAY 10, 2023 UNDER DOCUMENT NO. 3446233, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10y. RIGHT OF WAY EASEMENT DATED MAY 8, 2023, EXECUTED BY ML RHODES, LTD. TO SHARYLAND WATER SUPPLY CORPORATION, FILED FOR RECORD ON MAY 10, 2023 UNDER DOCUMENT NO. 3446231, OFFICIAL RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10aa. ORDINANCE NO. 2023-114, RECORDED IN DOCUMENT NO. 3483104, OFFICIAL PUBLIC RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.
  - 10ab. ORDINANCE NO. 2023-196, RECORDED IN DOCUMENT NO. 3501259, OFFICIAL PUBLIC RECORDS OF HIDALGO COUNTY, TEXAS. DOES NOT AFFECT SUBJECT TRACT.

Curve Table					
Curve #	Delta	Radius	Length	Chord Length	Chord Direction
101	00° 02' 18"	902.22	425.90	214.18	N 10° 10' 32" E
102	01° 06' 30"	500.00	183.67	82.71	N 10° 42' 22" E
103	00° 12' 00"	2060.00	294.61	147.71	N 11° 49' 20" E
104	00° 54' 37"	580.21	294.90	147.81	S 82° 20' 50" E

- LEGEND
- FOUND No. 4 REBAR
  - FOUND DISK IN CONCRETE
  - SET No. 4 REBAR WITH PLASTIC CAP STAMPED MILDEN & HUNT, INC.
  - ⊗ POWER POLE
  - ⊙ LIGHT POLE
  - ⊗ UNDERGROUND CABLE MARKER
  - ⊙ SINGLE POST SIGN
  - ⊙ FIRE HYDRANT
  - ⊙ WATER VALVE
  - ⊙ MANHOLE
  - ⊙ SANITARY SEWER MANHOLE
  - ⊙ STORM SEWER MANHOLE
  - ⊙ TYPE "A" INLET
  - ⊙ IRRIGATION STAND PIPE (SIZE AS NOTED)
  - ⊙ ELECTRIC BOX
  - ⊙ FIBER OPTIC BOX
  - ⊙ HOV WIRE FENCE
  - ⊙ CHAIN LINK FENCE
  - ⊙ OVERHEAD POWER LINE
  - ⊙ EDGE OF DITCH TOP
  - ⊙ ASPHALT AREA
  - ⊙ CONCRETE AREA
  - AA - EDGE OF ASPHALT TO EDGE OF ASPHALT
  - BB - BACK OF CURB TO BACK OF CURB
  - R.O.W. - RIGHT OF WAY
  - H.C.D.R. - HIDALGO COUNTY OFFICIAL RECORDS
  - S.W. COR. - SOUTHWEST CORNER
  - P.O.B. - POINT OF BEGINNING
  - P.O.C. - POINT OF COMMENCING
  - W.D. - WARRANTY DEED
  - S.W.D. - SPECIAL WARRANTY DEED
  - N.T.S. - NOT TO SCALE
  - ✱ PALM TREE (SIZE AS NOTED)



**LEGAL DESCRIPTION**  
**52,000 ACRES OUT OF SECTION 232,**  
**TEXAS-MEXICAN RAILWAY**  
**COMPANY'S SURVEY**  
**VOLUME 4, PAGES 142-143 H.C.D.R.**  
**CITY OF McALLEN**  
**HIDALGO COUNTY, TEXAS**

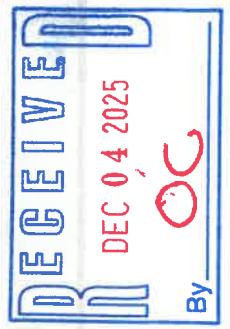
To (name of insured, if known), (name of lender, if known), (names of others as negotiated with the client):  
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 5, 11, 13, 14, 17 and 18 of Table A thereof. The field work was completed on October 13, 2025.

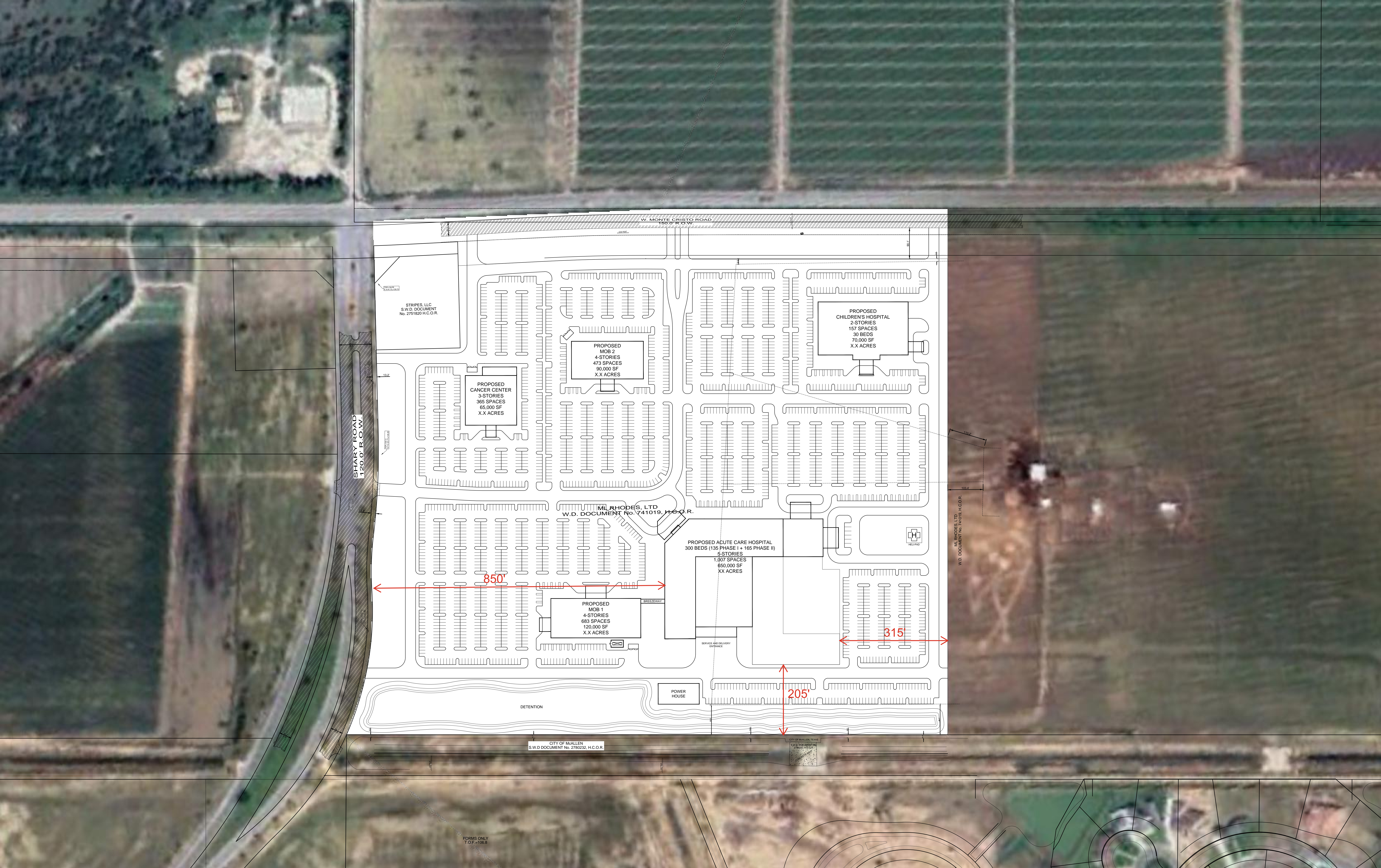
Date of Plat: 10/25/2025  
Roberto N. Tamez  
R.P.L.S. No.: 6238  
Email: roberto@meldenandhunt.com

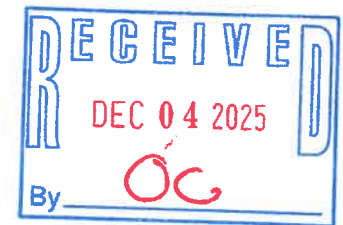
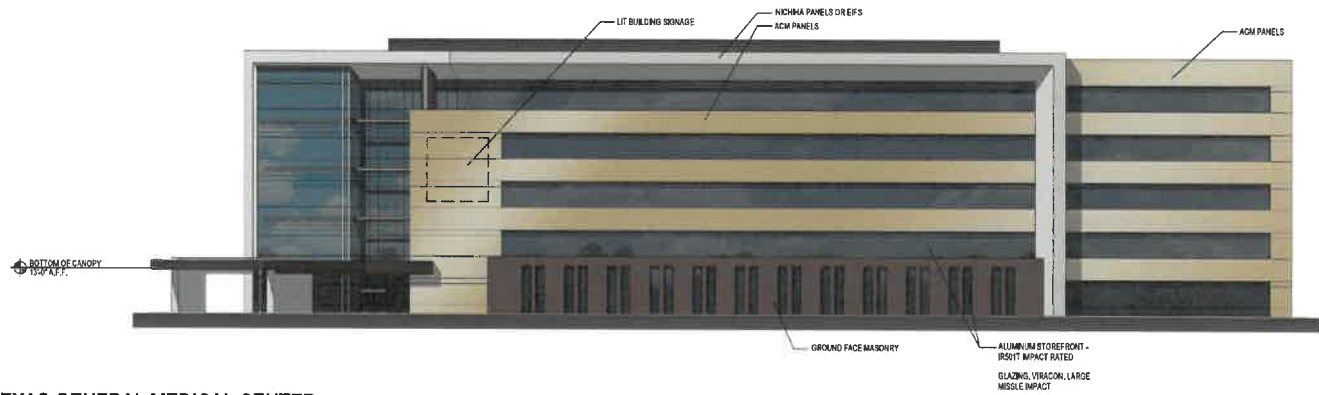
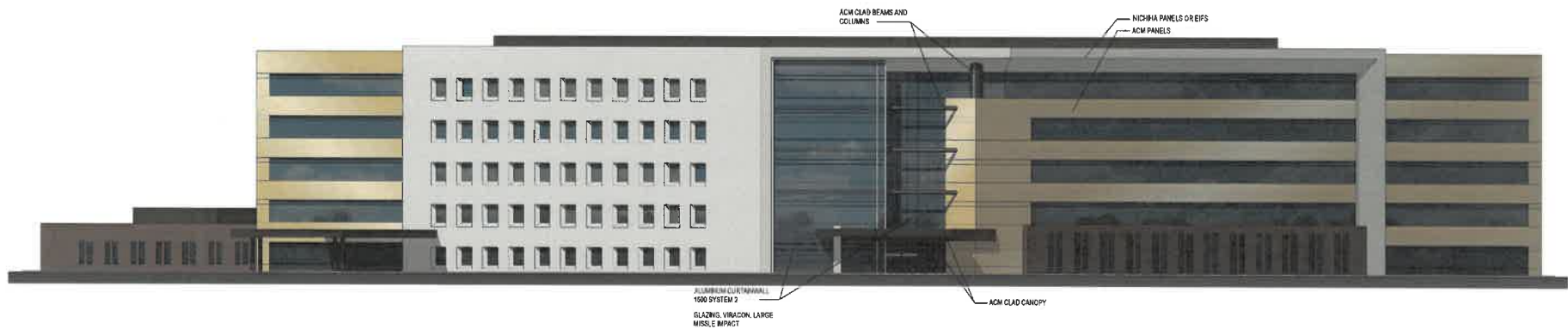
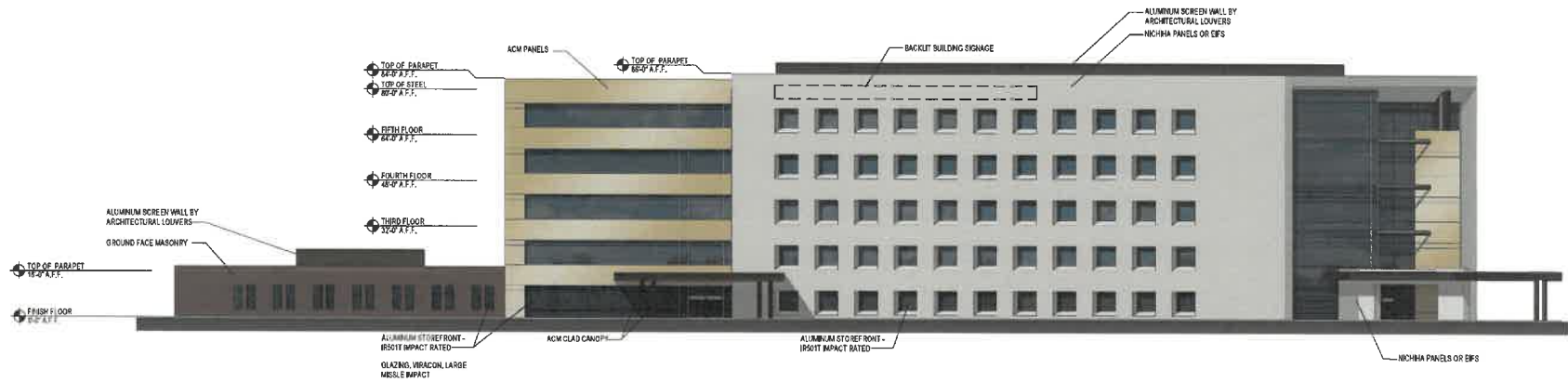


Alta/NSPS Land Title Survey			
JOB No.	25621.08	TITLE COMMITMENT REVISION	10/23/2025 J.R.C.
DRAWING DATE:	10/20/2025	REVISION	DATE BY
DRAWN BY:	J.C. J.G.		
FILE NAME:	25621.08		
T-1263, PG. 71			

**M MILDEN & HUNT, INC.**  
CONSULTANTS • ENGINEERS • SURVEYORS  
115 W. MCINTYRE, EDINBURG, TX 78541  
PH: (956) 381-0981 • FAX: (956) 381-1839  
ESTABLISHED 1947 • www.meldenandhunt.com







## **Memo**

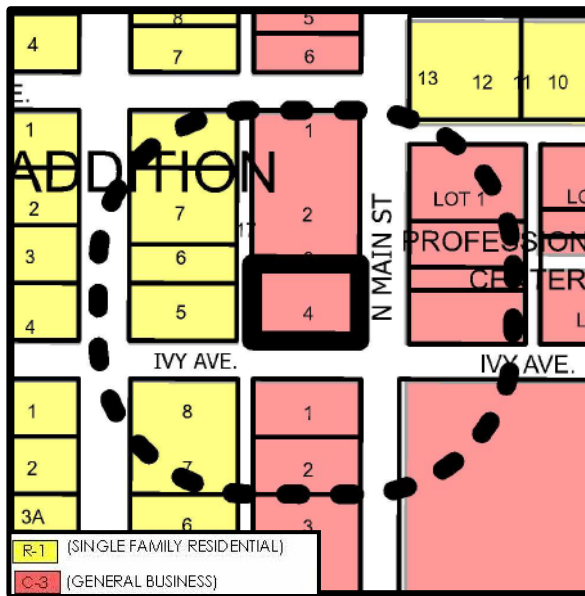
**TO:** Zoning Board of Adjustment & Appeals

**FROM:** Planning Staff

**DATE:** January 22, 2026

**SUBJECT: REQUEST OF ROBERT CHAVEZ ON BEHALF OF JAIME MURIEL FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 11.7 FT. INTO THE 11.7 FT. FRONT YARD SETBACK FOR AN EXISTING EXTENSION OF THE METAL PORCH MEASURING 11.7 FT. BY 34 FT. AT SOUTH 25' OF LOT 3 AND ALL OF LOT 4, BLOCK 17, EWING'S ADDITION SUBDIVISION, HIDALGO COUNTY, TEXAS; 901 & 905 NORTH MAIN STREET. (ZBA2025-0068)**

**REASON FOR APPEAL:** The applicant is requesting the following variance to allow an encroachment of 11.7 ft. into the 11.7 ft. front yard setback for an existing extension of the metal porch measuring 11.7 ft. by 34 ft. The applicant has indicated that the basis for the request is to use the existing expansion of structure as shade for front outdoor seating area of the existing restaurant known as "Mikhuna Japanese-Peruvian Cuisine".



**PROPERTY LOCATION AND VICINITY:** The property is located at the northwest corner of North Main Street and Ivy Avenue, and is zoned C-3 (general business) District. Adjacent zoning is zoned R-1 (single family residential) District to the west, and C-3 to the north, south and east. Surrounding land uses are restaurants, retail, and single family residential.

**BACKGROUND AND HISTORY:** The property is located in Ewing's Addition, which was recorded on February 2, 1920. A previous owner applied for a variance request on October 13, 1983 to build the existing building 13.6 ft. back from the front property line instead of the 27.5 ft. setback required. At the Zoning Board of Adjustment and Appeal meeting of November 16, 1983 there was no one present in opposition and the board made the motion to approve the variance as long as the continuity of the front building setback remained the same with the surrounding building.

A building permit application for a metal porch measuring 11.7 ft. by 35 ft. on the north side of the property was submitted on November 25, 2019 and on May 6, 2020 the applicant applied for a variance for the proposed metal porch encroaching into the front yard setback. A building permit was issued for the construction of the metal porch on May 20, 2020, with the applicant's understanding that if the variance request is denied, he will have to come back and revise the site plan to not have the proposed metal structure in the front of the restaurant. At the Zoning Board of Adjustment & Appeal meeting of June 3, 2020, a person appeared in opposition to the request; however, after discussion, the Board voted unanimously to approve the variance request subject to the footprint as shown on the site plan.

The applicant applied for a variance request for the new expansion to the south on November 16, 2020. At the Zoning Board of Adjustment & Appeal Board meeting of December 2, 2020, the board approved the variance request subject to the footprint as shown on the site plan and with the condition to provide four additional parking spaces based on the additional dining area.

On December 2, 2025, the applicant submitted the variance application currently before the board. This item is eligible to be discussed in executive session.

**ANALYSIS:** The extension of the metal porch to the south is used for outdoor dining for the restaurant. The new extension of the porch to the south measures 11.7 ft. by 34 ft. for (397.8 sq.ft.) with a height of 8 ft. The material of the extension of the porch to the south is identical to the north portion that was approved by the Board on June 3, 2020; it has a metal roof with metal posts in concrete. The porch extends from the wall of the existing building toward the front property line as per survey and site plan submitted. The city adopted a new Unified Development in December of 2024 where the front yard setback requirement for C-1 (Local Commercial) District is 10 feet and for C-2 (Regional Commercial) District is 15 feet.

Texas Local Government Code Sec. 211.009 (AUTHORITY OF BOARD)(a)(3) provides that the board of adjustment may authorize in specific cases a variance from the terms of a zoning ordinance if the variance is:

- (1) not contrary to the public interest and,
- (2) due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and
- (3) so that the spirit of the ordinance is observed and substantial justice is done.

Texas Local Government Code Sec. 211.009 (b-1) of the Local Government Code provides that, in exercising its authority under Subsection (a)(3), the board may consider the following as grounds to determine whether compliance with the ordinance as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

- (1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;
- (2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;

- (3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;
- (4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or
- (5) the municipality considers the structure to be a nonconforming structure.

## **RECOMMENDATION:**

Staff recommends approval of the variance request for the following reasons:

1. The condition is not unique, as several properties in the surrounding area are developed in close proximity to their respective property lines, which is characteristic of the established development pattern in the neighborhood;
2. The metal porch extension does not alter the essential character of the neighborhood or negatively impact adjacent properties;
3. The addition of a covered outdoor seating area does not increase traffic, parking demand, or on-street parking impacts;
4. The structure provides functional weather protection for an existing outdoor dining area without expanding the building footprint beyond what has previously been approved;
5. The structure complies with all applicable Building Code requirements and has received the necessary permits;
6. Granting the variance is not contrary to the public interest and will not materially change the character of the surrounding area, as similar structures exist nearby;
7. Strict enforcement of the front yard setback requirement would result in an unnecessary hardship by limiting the reasonable use of an established outdoor dining area; and
8. The intent of the front yard setback requirement—to preserve visual harmony and curb appeal—is maintained despite the encroachment.

New



**City of McAllen**  
**Planning Department**  
**APPEAL TO ZONING BOARD OF**

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

**ADJUSTMENT TO MCALLEN ZONING ORDINANCE**

Case Number: ZBA 2025-0068 ZBOA Meeting: 1.22.2026  
Accepted By: [Signature]

**PROJECT**

Legal Description ~~Kocina II Farme Patio~~ Ewing's Addition S25' Lot 3 &  
All lot 4 BIK 17  
Subdivision Name Ewing's Addition  
Street Address 905 N Main St + 901 N. Main St.  
Number of lots \_\_\_\_\_ Gross acres \_\_\_\_\_  
Existing Zoning C3 Existing Land Use Restaurant  
Reason for Appeal (please use other side if necessary) Reapplying for an already existing patio.

- ☒ \$300.00 non-refundable filing fee + ☐ \$50.00 Recording Fee for Special Exception (carport)  
☐ Current Survey and Metes and Bounds (if the legal description of the tract is a portion of a lot) is required

**APPLICANT**

Name Robert Chavez Phone 956-532-0305  
Address 721 N 2nd St E-mail rchavez@alturaconcepts.com  
City McAllen State Tx Zip 78501

**OWNER**

Name Jaime Muriel Phone 956-483-5234  
Address 905 N Main St E-mail rchavez@alturaconcepts.com  
City McAllen State Tx Zip 78501

**AUTHORIZATION**

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

☐ Yes ☒ No

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (include corporate name if applicable)

OR I am authorized by the actual owner to submit this application and have attached written evidence of such authorization.

Signature [Signature]

Date 12.1.25

Print Name Jaime Muriel

☒ Owner

☐ Authorized Agent

RECEIVED

UHC 00220255

BY:

A.V.



**City of McAllen**  
***Planning Department***  
**REASON FOR APPEAL & BOARD ACTION**

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

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

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

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

The existing patio was constructed to meet the operational needs of our restaurant due to the limited interior seating capacity and the physical layout of the property. The lot configuration does not allow for re-placement or reduction of the structure without significantly restricting dining accommodations. Since 2020, the patio has functioned as a primary and necessary dining area, providing safe and adequate seating space for customers. Strict enforcement of the zoning requirement would result in the reduction or removal of this patio and would deprive the business of the reasonable use of the property as a restaurant.

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

Maintaining the current patio is essential for preserving our ability to operate the restaurant at a viable capacity. For five years, the patio has allowed us to serve customers safely and efficiently in a manner consistent with other food-service businesses in the area. Without the variance, the property would lose a substantial portion of its functional dining space, directly limiting our legally permitted use of the land. Approval of this variance ensures the continued enjoyment of property rights that are fundamental to the success and sustainability of this location.

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:

Since 2020, the patio has operated without incident, without safety concerns, and without adverse effect to surrounding property owners. It does not obstruct visibility, emergency access, drainage, or neighboring use, and no issues have been raised regarding noise, traffic, or property impact. On the contrary, the patio enhances the community environment by supporting local commerce, increasing pedestrian presence, and contributing positively to the activity of the surrounding district. Granting this variance will not be detrimental to public health, safety, or welfare.

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

The size, structure placement, and interior layout of the building create a unique condition in which outdoor seating is not optional but operationally necessary. The patio was designed specifically to address this spatial limitation and to allow the restaurant to operate at a functional capacity. Its successful use for the past five years demonstrates that it is an established, non-disruptive, and essential component of the property. These conditions are unique to the site and justify the continuation of the existing patio footprint under the variance request.

Reason for Appeal

Board Action

Chairman, Board of Adjustment  
Signature

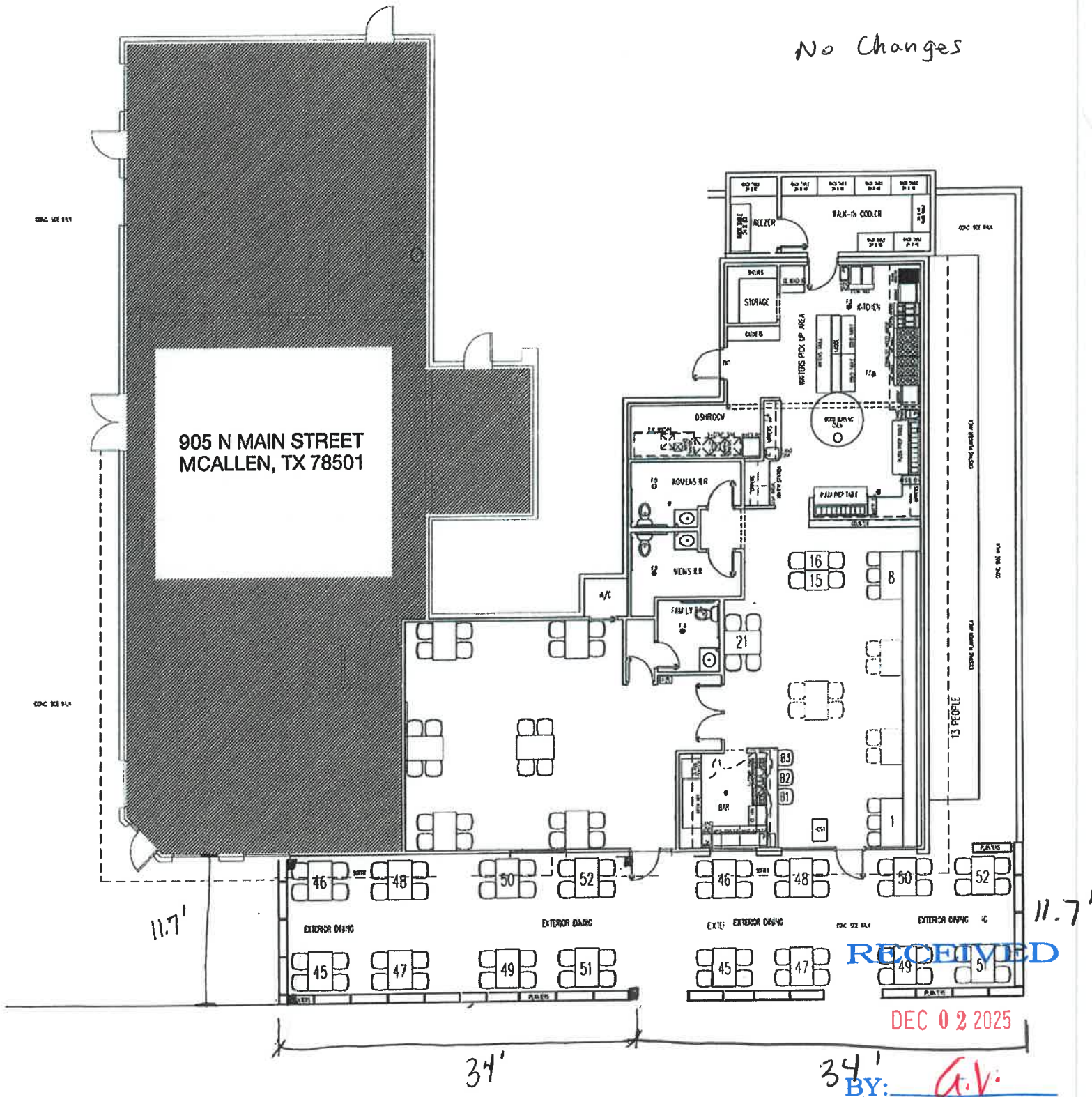
Date

PROPOSED

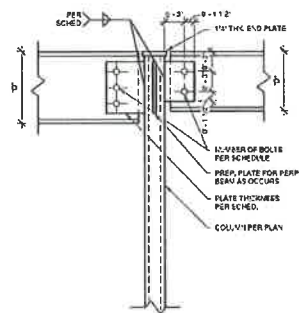
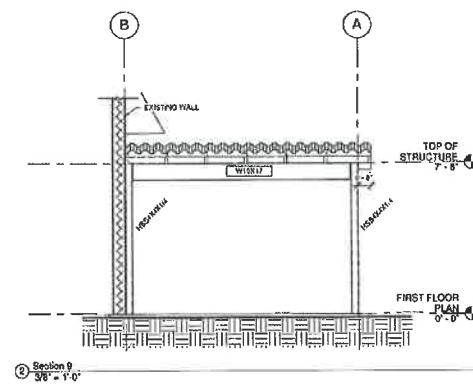
*[Signature]*

12/2/25

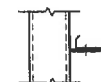
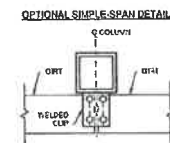
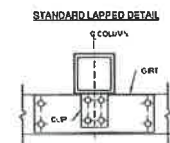
No Changes







BEAM DEPTH D"	SIMPLY STIFF PLATE	NO. & SIZE OF ANCHOR BOLTS	WELD SIZE
8, 10	1 L	(2) 5/8" DIA	1/4"
12, 14	1 L	(3) 3/4" DIA	1/4"
16	3 B	(1) 3/4" DIA	3/8"
18	3 B	(1) 3/4" DIA	3/8"
21	1 P	(1) 3/4" DIA	3/8"
24	1 P	(1) 3/4" DIA	3/8"
27	1 P	(1) 3/4" DIA	3/8"



**NOTES:**  
 1) ALL WALL GIRT CONNECTIONS UTILIZE 1/2" DIAMETER BOLTS.  
 2) BYPASS CONDITION IS STANDARD ON FOR WALLS, OPTIONAL ON ENDWALLS.  
 3) "C" GIRLS ARE ECONOMIC FOR SPANS UP TO 40 FEET.  
 4) 8 AND 10 INCH "C" SHAPED MEMBERS ARE AVAILABLE FOR WALL GIRTS AT AN OPTIONAL

### STEEL BEAM CONNECTION SCHEDULE

### Z-PURLING LAPPING DETAILS

STEEL BEAM CONNECTION SCHEDULE  
1 1/2" x 1'-0"

**MAS ENGINEERING LLC,**  
CONSULTING ENGINEERING  
FIRM NO. F-15499

3911 N. 10TH ST, SUITE H  
MCALLEN, TEXAS. 78501  
PH. (956) 537-1311  
E-MAIL: MSALINAS@ATT.NET

THIS IS THE PROPERTY OF THE PROFESSIONAL ENGINEER WHOSE SEAL APPEARS ON THIS DRAWING AND IT IS UNLAWFUL TO REUSE THIS DRAWING ON ANY OTHER PROJECT, OR TO COPY, TRACE OR IN ANY OTHER WAY, REPRODUCE ANY OR ALL PARTS OF THIS DRAWING WITHOUT THE WRITTEN CONSENT OF THE ENGINEER.

## ELEVATIONS

Project Name	Project Number
Date	12/10/2019
Drafting	Author
Checking	Checker
Approval	Approver

S-5.0

Scale As indicated

MY GRANDFATHER

**City of McAllen – Planning Department**  
**Zoning Board of Adjustment (ZBOA)**  
**Supplemental Statement in Support of Variance Application**  
**Project:** Request to Keep Existing Patio Structure (In Use Since 2020)  
**Location:** Kocina Il Forno (Mikhuna)

**1. Special Circumstances or Conditions Affecting the Property**

The property has several unique conditions that make it difficult to follow the zoning rule as written. If the rule is applied strictly, it would prevent us from using the property in a normal and reasonable way.

First, the building was designed and planned with a patio as part of its layout. When the City originally approved the patio variance in 2020, we moved forward with that understanding. The kitchen flow, seating arrangement, and customer entry points were all made to work with an outdoor dining area. Without the patio, the building does not function as it was designed to operate.

Second, the surrounding area includes many other restaurants and businesses that already have patios. These properties have similar lot sizes and similar uses. Not allowing a patio on this property would be inconsistent with the rest of the neighborhood and would give our business fewer reasonable options compared to others around us.

Third, for a restaurant like ours, a patio is not just a “nice extra”—it is a necessary part of how we serve our guests. Outdoor seating supports customer comfort, helps with ventilation, and is an important part of modern restaurant operations. Without it, our capacity and economic viability are significantly reduced.

Finally, the patio variance was only nullified because of a lawsuit filed by a resident in 2025. We were not part of this lawsuit, and we were not notified by the City that the case was happening or that the variance was being canceled. This situation created a hardship for us that we did not cause and could not have prevented.

For all of these reasons, applying the zoning rule strictly would stop us from using the property in a fair and practical way. Reinstating the patio variance would restore the reasonable use of the land and bring it in line with other businesses in the area.

**2. Why the Variance Is Necessary for the Owner’s Property Rights**

The patio variance is necessary because it allows the owner to use the property in a normal, reasonable, and practical way—just like other property owners in the same area.

**ALTURA**  
**CONCEPTS**  
ELEVATING THE ART OF DINING

**RECEIVED**

DEC 02 2025

BY: q.v.

Without the variance, the owner cannot use the building as it was originally approved, designed, and intended. The restaurant concept was created with an outdoor patio as an essential part of its layout and business model. Taking away the patio limits the building's functionality, reduces seating capacity, and harms the ability of the business to operate successfully on the property.

Other nearby businesses with similar zoning and similar property conditions are allowed to have patios. Denying this property the same use would create an unfair situation and restrict the owner from enjoying the same basic rights that others in the district already have.

The patio variance allows the owner to make full and fair use of the property, maintain the economic value of the business, and operate in a way that aligns with both the original city approval and the common use of neighboring commercial properties.

For these reasons, the variance is essential for preserving the owner's legal right to use the property in a reasonable, practical, and consistent manner.

### **3. Why the Variance Will Not Harm Public Health, Safety, Welfare, or Neighboring Property Rights**

Allowing the patio variance will not create any danger or harm to the public or to other property owners. The patio is a normal and common feature for restaurants in this area, and many nearby businesses already operate with outdoor seating without any negative effects.

The patio will follow all city rules regarding safety, noise, accessibility, and building standards. It does not block traffic, create hazards, or interfere with emergency access. It also does not reduce privacy or limit the legal rights of anyone who owns property nearby.

Granting the variance will also allow us to significantly improve the landscaping and appearance of the property. Our plans include adding greenery, updated lighting, decorative elements, and other enhancements that will beautify the neighborhood and create a more inviting streetscape for residents and visitors.

Additionally, Mikhuna has become a beloved restaurant in McAllen, known for its unique concept and strong community support. Our guests are eager for us to reopen, and many have expressed how special the restaurant is to them. Restoring the patio is an important part of bringing Mikhuna back to the community in the way people remember and enjoy.

Because outdoor dining is already a normal part of the neighborhood's character, this patio does not introduce anything unusual or disruptive. It will be maintained responsibly, kept clean, and operated within the hours and guidelines set by the city.

For these reasons, the patio variance does not pose any risk to public health or safety, does not harm the rights of neighboring property owners, and will contribute to a more vibrant, attractive, and community-supported commercial area.

#### **4. Special Conditions Unique to This Property**

This property has several unique conditions that set it apart from others and justify the need for a variance.

First, the building was designed, built, and laid out with the expectation of having a patio, because the City approved a patio variance in 2020. The interior layout, seating plan, and kitchen flow were all planned around that approval. Removing the patio now creates a problem that would not exist if the original variance had remained in place.

Second, the shape and size of the lot limit how the interior space can be expanded or reconfigured. Because of this, outdoor seating is one of the few practical ways for the property to operate successfully as a restaurant.

Third, this property sits in an area where other nearby restaurants already have patios, and the zoning pattern in the immediate area supports that type of use. However, unlike those other properties, this one unexpectedly lost its patio approval due to a lawsuit that the owner was not involved in and was not notified about. This creates a special hardship that does not apply to the surrounding businesses.

Finally, the property's visibility, street frontage, and guest flow rely heavily on outdoor seating to function properly. Without a patio, the building cannot provide the service level or capacity that the location was originally approved for and designed to support.

These unique factors show that this property faces special conditions that do not affect other nearby properties in the same way.

**CEO / President**

**Jaime Muriel**

Email: [jmuriel@me.com](mailto:jmuriel@me.com)

Phone: **956.483.5234**

Signature: \_\_\_\_\_



Date: December 1st, 2025

**ALTURA  
CONCEPTS**

ELEVATING THE ART OF DINING



BIKE LANE

MIKIJI  
JAPANESE-PERUVIAN

ZBA2025-0068  
NOTICE  
VARIANCE  
FOR THIS  
PROPERTY