

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING THURSDAY, JULY 25, 2024 - 4:25 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 Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on July 11, 2024

2. PUBLIC HEARINGS:

- a) Request of William Garcia for a Special Exception to the City of McAllen Zoning Ordinance to allow an encroachment of 18 feet 8 inches into the 20 feet front yard setback for a proposed metal and canvas carport measuring 17 feet 5 inches by 18 feet 8 inches at Lot 35, Locksley Phase I Subdivision, Hidalgo County, Texas; 3816 Mynah Avenue. **(ZBA2024-0023)**

3. FUTURE AGENDA ITEMS

- a) 2709 South 27th Street
- b) 4300 Kingdom Avenue
- c) 2108 South 30th-1/2 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 Thursday, July 11, 2024 at 4:30 p.m. in the McAllen Development Center, 311 North 15th Street, Executive Conference Room with the following present:

Present:	Jose Gutierrez	Chairperson
	Ann Tafel	Vice-Chairperson
	Hugo Avila	Member
	Hiram A. Gutierrez	Member
	Juan Mujica	Alternate
	Alex Lamela	Alternate
Absent:	Rogelio Rodriguez	Member
	Pablo Garcia	Alternate
	Daniel Santos	Alternate
Staff Present:	Benito Alonzo	Assistant City Attorney I
	Edgar Garcia	Planning Director
	Samuel Nunez	Senior Planner
	Hilda Tovar	Planner II
	Alexis Martinez	Planner I
	Jessica Puga	Technician I
	Carmen White	Administrative Assistant

CALL TO ORDER –Chairperson Jose Gutierrez

1. MINUTES:

- a) Minutes for the meeting held on June 19, 2024

The minutes for the meeting held on June 19, 2024 were approved. The motion to approve the minutes were made by Mr. Hugo Avila. Mr. Hiram Gutierrez seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a) Request of Gonzalez Adan C. and Norma H. for a special exception to the City of McAllen Zoning Ordinance to allow an encroachment of 20 feet into the 25 feet front yard setback for a proposed carport measuring 19 feet 6 inches by 18 feet at Lot 75, Los Encinos III Subdivision, Hidalgo County, Texas; 2708 Teresa Avenue. **(ZBA2024-0022)**

Ms. Tovar stated the applicant was requesting an encroachment of 20 feet into the 25 feet front yard setback for a proposed carport measuring 19 feet 6 inches by 18 feet.

The subject property was located on the north side of Teresa Avenue in between South 28th Lane and South 27th Lane. Property has a frontage of 50 feet along Teresa Avenue and a depth of 100 feet. The property is zoned R-1 (single family residential) District.

There are single-family residences in all directions.

Los Encinos III Subdivision was recorded on April 12, 1982. The plat indicates a 25 feet front yard setback and 6 feet side yard setback on both sides for the subdivision. The house was built in 2007 with a garage. A building permit application for the proposed carport has not been submitted.

The applicant is requesting an encroachment of 20 feet into the 25 feet front yard setback for a proposed carport measuring 19 feet 6 inches by 18 feet.

According to the site plan submitted, the proposed structure size is a total of 351 square feet. The proposed structure will be constructed of metal and canvas and the main purpose for building the carport is to protect vehicles from rain and hail damage.

During the site visit, staff did not notice any other encroachments or similar structures along the front or rear yards within Los Encinos III Subdivision. In addition, a review of the Planning Department records did not reveal any other similar variances or special exceptions approved in this area.

Measurements provided are without benefit of a survey.

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

Staff recommended disapproval of the special exception request since it does not present any undue hardship and the proposed carport will not align with the current character of the subdivision.

Mr. Adan Gonzalez, 2708 Teresa Avenue. The applicant stated he wanted to build a carport to protect his vehicles. Chairperson Gutierrez asked the applicant if they had a garage. Mr. Gonzalez stated yes they did. They used it to store household and miscellaneous items. Chairperson Gutierrez asked how many vehicles did they have. He stated they had three vehicles.

Chairperson Jose Gutierrez asked if there was anyone present in favor of the Special Exception. There was no one in favor of the Special Exception.

Chairperson Jose Gutierrez asked if there was anyone present in opposition of the Special Exception. There was no one in opposition of the Special Exception.

Vice-Chairperson Tafel asked staff if they had any problems with utility lines in front or easements. Staff stated not for the proposed carport. There was an easement in front of the property but the proposed carport was not encroaching to the easements.

Vice-Chairperson Tafel asked if there was an alley to this property. Staff stated no.

Chairperson Gutierrez asked staff if there were other properties that had carports. Staff stated they saw carports but did not find any records of building permits based on the staff's site visit.

Vice-Chairperson Tafel asked if there were any calls in favor or opposed from neighbors.

Staff stated no.

Chairperson Gutierrez why was staff recommending disapproval for a special exception. Planning Director, Mr. Garcia stated the reason staff is recommending disapproval was that those carports were illegal and the City of McAllen was a complaint-based City. Chairperson Gutierrez asked hypothetically if one resident with built a carport came before this Board with good arguments, would staff recommend disapproval would it unfair to this applicant to disapprove in the chance of approving another special exception. Mr. Garcia stated they take each on as a separate case as come in. Should anything change in the future, they can return and reapply again.

Following discussion, Vice-Chairperson Ann Tafel **moved** to disapprove the Special Exception. Mr. Hiram Gutierrez seconded the motion. The Board voted to disapprove the Special Exception with four members voting aye and one member-voting nay, Mr. Alex Lamela.

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

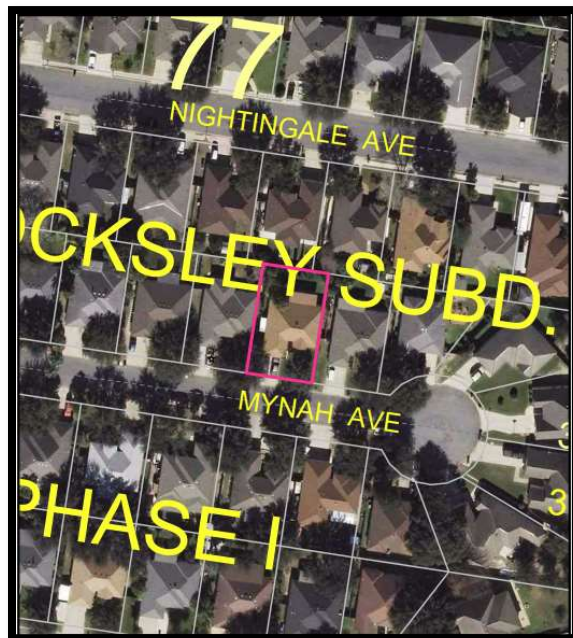
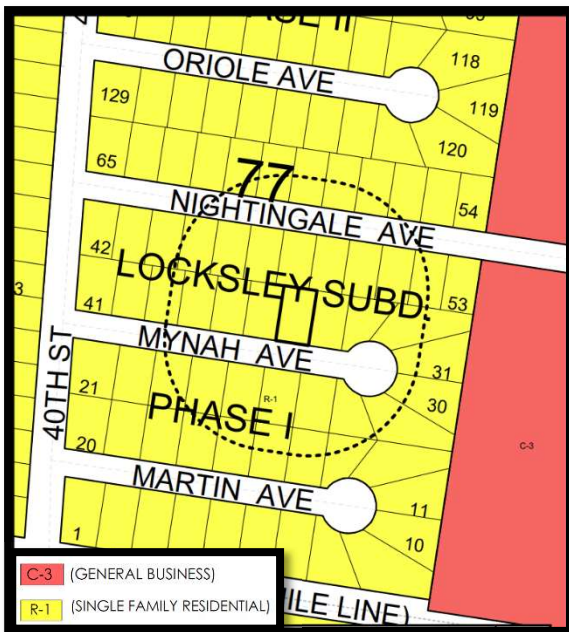
TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: June 25, 2024

SUBJECT: REQUEST OF WILLIAM GARCIA FOR A SPECIAL EXCEPTION TO THE CITY OF MCALLEN ZONING ORDINANCE TO ALLOW AN ENCROACHMENT OF 18 FEET 8 INCHES INTO THE 20 FEET FRONT YARD SETBACK FOR A PROPOSED METAL AND CANVAS CARPORT MEASURING 17 FEET 5 INCHES BY 18 FEET 8 INCHES AT LOT 35, LOCKSLEY PHASE 1 SUBDIVISION, HIDALGO COUNTY, TEXAS;3816 MYNAH. (ZBA2024-0023)

REASON FOR APPEAL: The applicant is requesting an encroachment of 18 feet 8 inches into the 20 feet front yard setback for a proposed carport measuring 17 feet 5 inches by 18 feet 8 inches.



PROPERTY LOCATION AND VICINITY: The subject property is located along the north side of Mynah Avenue. The property has a frontage of 60 and a depth of 100.25 feet. The property is zoned R-1 (single family residential) District. There are single family residences in all directions.

BACKGROUND AND HISTORY: Locksley Phase 1 Subdivision was recorded on September 13th, 1993. The plat indicates a 20 feet front yard setback and 6 feet side yard setback on both sides for the subdivision. The house was built in 1994 with a garage. A building permit application for the proposed carport has not been submitted.

ANALYSIS: The applicant is requesting an encroachment of 18 feet 8 inches into the 20 feet front yard setback for a proposed carport measuring 17 feet 5 inches by 18 feet 8 inches.

In accordance to the site plan submitted, the proposed structure size is a total of 329 square feet. The proposed structure will be constructed of metal and canvas. The main purpose for building the carport is to protect their children from excessive heat accumulated inside the vehicles, and protect vehicles from weather and tree branches.

During the site visit, staff did not notice any other encroachments or similar structures along the front or rear yards within Locksley Phase 1 Subdivision. Also, a review of the Planning Department records did not reveal any other similar variances or special exceptions approved in this area.

Measurements provided are without benefit of a survey.

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

RECOMMENDATION: Staff recommends disapproval of the special exception request since it does not present any undue hardship and the proposed carport will not align with the current character of the subdivision.



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: ZBA2024-0023 ZBOA Meeting: 07/25/24 Routed
Receipt No: 336414 Scanned
Accepted by: P: P.H. S: [Signature] Customer Acknowledgment (Int.): NAB

PROJECT

Legal Description LS 140-01-000-0035-00 Lucksley Phase 1 Subdivision Lot # 35

Subdivision Name Lucksley PH 1 Lot 35

Street Address 3816 Mynah Ave McAllen, Tx. 78504

Number of lots 1 Gross acres _____

Existing Zoning R1 Existing Land Use Residential

Reason for Appeal (please use other side if necessary) Request to build car port to encroach 16' e" into 20' front yard set back
for a proposed carport measuring 17'5" x 16' e".

- \$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 William Garcia Phone 986-393-1977
Address 3816 Mynah Ave. McAllen Tx 78504 E-mail SHOPPINGWILLIAMGARCIA@YAHOO.COM
City McAllen State TX Zip 78504

OWNER

Name William Garcia Phone _____
Address 3816 Mynah Ave E-mail SHOPPINGWILLIAMGARCIA@YAHOO.COM
City McAllen State TX Zip 78504

AUTHORIZATION

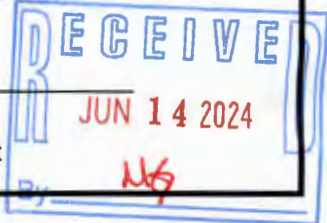
To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated?
 Yes No

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 _____

Print Name William Garcia

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:

We have two children (ages 2 & 3) who need to be in car seats and face away from the front of the car. Without any shade/covering the car become extremely hot and take a while to cool down. Also protection of vehicles from ^{weather} environment (tree branches).

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

We kindly ask for permission to build a carport so that our vehicles don't become overly hot, especially in the summer where temperatures can reach up to 110° outside the car and 150° inside the car.

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:

Plans for the carport will not extend into or near neighbor's property. It is also going to be grouted with cement and thus not pose any safety risks.

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

Driveway not shaded and there is no sun protection to the east, so our vehicles are exposed to the sun from sunrise to late afternoon.

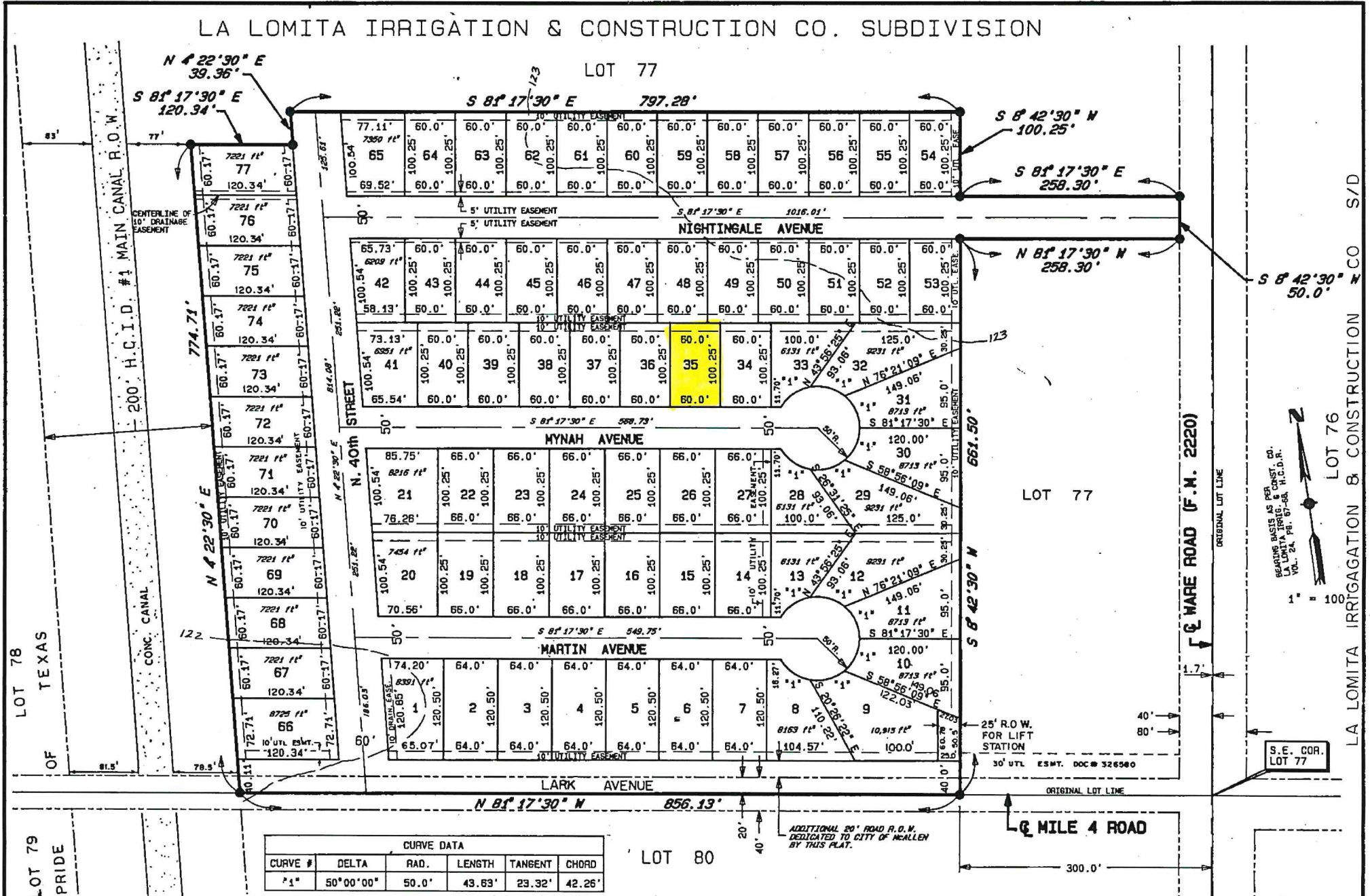
Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date

LA LOMITA IRRIGATION & CONSTRUCTION CO. SUBDIVISION



CURVE #	DELTA	RAD.	LENGTH	TANGENT	CHORD
1	50°00'00"	50.0'	43.63'	23.32'	42.26'

MAP OF LOCKSLEY SUBDIVISION Phase I

BEING A SUBDIVISION OF 16.715 ACRES OUT OF LOT 77, LA LOMITA IRRIGATION & CONSTRUCTION CO. SUBDIVISION, CITY OF McALLEN, HIDALGO COUNTY, TEXAS

WILLIAM "BILLY" LEO, COUNTY CLERK
HIDALGO COUNTY, TEXAS

I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN OF THIS PLAT AND DESIGNATED HEREIN AS "LOCKSLEY SUBDIVISION PHASE I", TO THE CITY OF McALLEN, TEXAS AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, WATER LINES, SEWER LINES, STORM SEWER, FIRE HYDRANTS, AND PUBLIC PLACES WHICH ARE INSTALLED OR WHICH I WILL CAUSE TO BE INSTALLED THEREON SHOWN OR NOT SHOWN IN 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 HEREON OR ON THE OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF McALLEN.

I, THE UNDERSIGNED, FRED L. KURTH, A REGISTERED PROFESSIONAL ENGINEER AND SURVEYOR IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECTLY MADE AND IS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY, MADE BY ME OR UNDER MY SUPERVISION ON THE GROUNDS, AND FURTHER CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT.

FRED L. KURTH
REGISTERED PROFESSIONAL ENGINEER AND SURVEYOR
No. 54151
PREPARED: 2/3/93, PREPARED: 2/4/93
JOB NO. 63030

FRED L. KURTH
REGISTERED PROFESSIONAL ENGINEER
No. 4750

BEFORE ME THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED MARK DIZDAR, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED, GIVEN ME HIS FULL AND FREED WILL AND OFFICE, THIS THE 27 DAY OF July, 1993.

Notary Public
State of Texas
My Comm. Exp. 2-28-97

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.

Chairman, Planning Commission

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.

Mayor, City of McAllen

THIS PLAT APPROVED BY THE HIDALGO COUNTY IRRIGATION DISTRICT NO. 1, ON THIS 27 DAY OF July, A.D. 1993.

Secretary

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

- NOTES:
- SETBACKS AS FOLLOWS:
FRONT 20 FEET
REAR 10 FEET
COMMON SIDE 0 FEET (LOTS 14, 27, 33, 34 - 10' ON EAST SIDE FOR EASEMENT)
SIDE CORNER 10 FEET
GARAGE 18 FEET (EXCEPT WHERE GREATER IS REQUIRED)
 - MINIMUM PERMISSIBLE FINISHED FLOOR ELEVATION FOR ALL BUILDING IMPROVEMENTS IS: ELEV. 124.0 OR 16" ABOVE T.C. WHICHEVER IS HIGHER.
ANTICIPATED HIGH WATER CREATED BY A 100-YEAR STORM WILL NOT POUD IN THIS SUBDIVISION. THIS SUBDIVISION IS IN ZONE "C" ON FEMA'S FLOOD INSURANCE RATE MAP. COMMUNITY-PANEL NO. 480343 0005 C MAP REVISED NOV. 2, 1982
 - BENCH MARK: OUT ON CONCRETE RAIL AT N.W. COR. OF BRIDGE ON MILE 4 ROAD & EDINBURG MAIN CANAL ELEVATION= 126.67
 - EACH LOT 36 REQUIRED TO RETAIN 873 c.f. OF STORM SEWER RUNOFF.
 - 4' SIDEWALK REQUIRED ON NORTHSIDE OF LARK AVE., BOTH SIDES OF 40m ST. & NIGHTINGALE AVE.
 - 6' BUFFER FENCE REQUIRED ON NORTH SIDE OF LARK AVE.
 - NO LOT ACCESS OR FRONTAGE FROM LARK AVE.
 - 25' x 25' CORNER CLIP EASEMENT DEDICATED AT ALL STREET INTERSECTIONS.

NETS AND BOUNDS DESCRIPTION

A tract of land containing 16.715 acres, situated in Hidalgo County, Texas and also being a part or portion of LOT 77, LA LOMITA IRRIGATION AND CONSTRUCTION COMPANY SUBDIVISION (Deed Reference: Volume 24, Page 67, H.C.M.R.) and said 16.715 acres also being more particularly described as follows:

BEGINNING on the south line of said Lot 77 and the center line of Mile 4 North Road, for the southern most southeast corner of this tract, said corner bears N 81° 17' 30" W a distance of 300.00 feet from southeast corner of said Lot 77;

THENCE N 81° 17' 30" W along the south line of said Lot 77 a distance of 856.13 feet to the east line of a 200.00 foot H.C.I.D. No. 1 canal right-of-way, for the southwest corner of this tract;

THENCE N 04° 22' 30" E, along the east line of said canal right-of-way, at a distance of 40.11 feet pass the proposed north right-of-way line of said Mile 4 North Road, and continuing a total distance of 774.71 feet to the western most northwest corner of this tract;

THENCE S 81° 17' 30" E a distance of 120.34 feet to an inside corner of this tract;

THENCE N 04° 22' 30" E a distance of 39.36 feet to the northern most northeast corner of this tract;

THENCE S 81° 17' 30" E a distance of 797.28 feet to the northern most northeast corner of this tract;

THENCE S 08° 42' 30" W a distance of 100.25 feet to an inside corner of this tract;

THENCE S 81° 17' 30" W a distance of 258.30 feet to the west right-of-way line of Ware Road (F.M. 2220), for the eastern most northeast corner of this tract;

THENCE S 08° 42' 30" W, along the west right-of-way line of said Ware Road, a distance of 50.00 feet to the eastern most southwest corner of this tract;

THENCE N 81° 17' 30" W a distance of 258.30 feet to an inside corner of this tract;

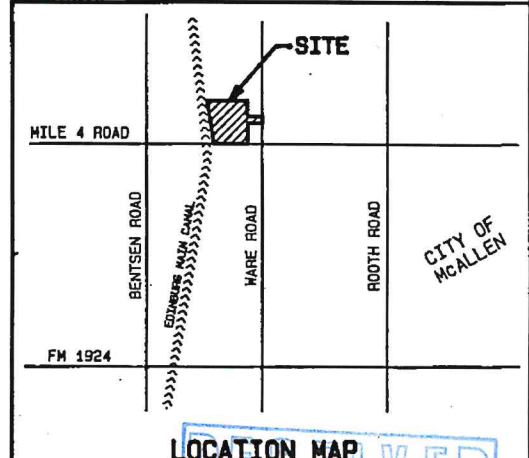
THENCE S 08° 42' 30" W at a distance of 621.50 feet pass the proposed north right-of-way line of said Mile 4 North Road, and continuing a total distance of 661.50 feet to the POINT OF BEGINNING, containing 16.715 acres of land, of which 0.787 of one acre lies in the right-of-way of Mile 4 North Road leaving a net of 15.928 acres of land, more or less.

Recorded in Volume 28 Page 140A of the map records of Hidalgo County, Texas
Melden and Hunt, Inc. County Surveyors

MELDEN & HUNT INC.
CONSULTING ENGINEERS & SURVEYORS
203 S. 10TH
EDINBURG, TEXAS 78539
(512) 381-0981 / FAX (512) 381-1638

CHECKED FOR DRAINAGE BY: *Manfred Hanson* 9-3-1993

APPROVED FOR RECORDING BY COMMISSIONERS' COURT This the 13th day of Sept. 1993 WILLIAM "BILLY" LEO, County Clerk Hidalgo County, Texas By: *Jeanette Castillo* Deputy



LOCATION MAP RECEIVED JUN 14 2024 By: *HLG*



ART SALINAS ENGINEERING & SURVEYING

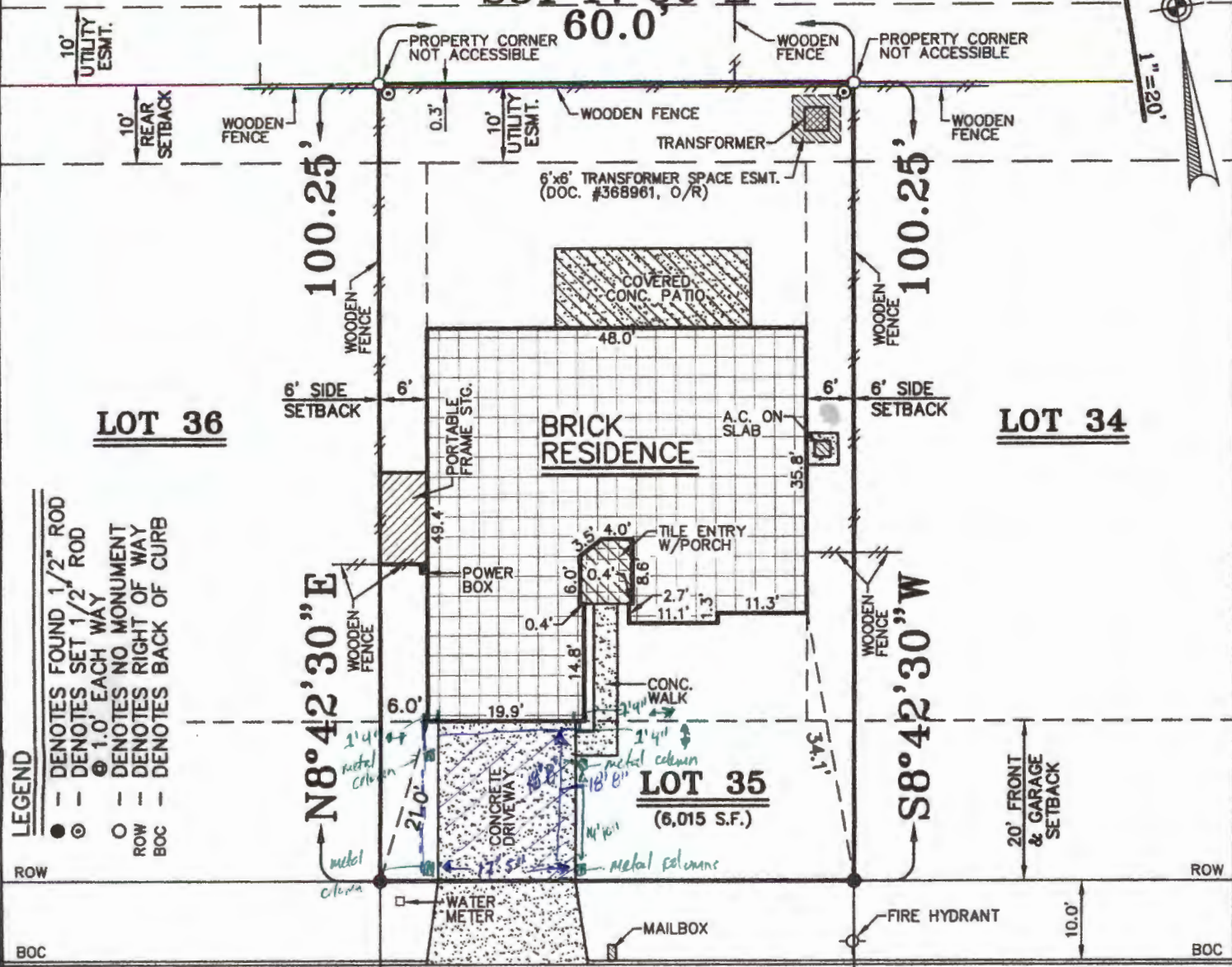
1524 DOVE AVENUE, McALLEN, TEXAS 78504 PH: (956) 818-5565 FAX: (956) 818-5540

LOT 47

LOT 48

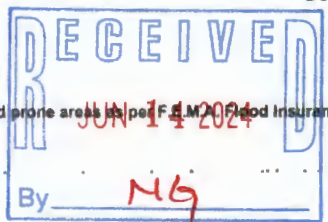
LOT 49

**S81°17'30"E
60.0'**



- LEGEND**
- DENOTES FOUND 1/2" ROD
 - ⊙ DENOTES SET 1/2" ROD
 - ⊙ 1.0' EACH WAY
 - DENOTES NO MONUMENT
 - DENOTES RIGHT OF WAY
 - DENOTES BACK OF CURB
- ROW
BOC

60.0'
N81°17'30"W
MYNAH AVE.
(50' ROW-VOL. 28, PG. 140-A, M/R)



FLOOD ZONE DESIGNATION: The property shown hereon lies in Zone C. Zone C areas are areas of "minimal flooding" and are not designated flood prone areas as per F.E.M. Flood Insurance Rate Map Panel Number 480343-0005-C dated 11-02-82.

PLAT NOTES:

1. There are no discrepancies, conflicts, shortages in area or boundary lines, encroachments, superficies, or immunities...



3816





NOTICE
VARIANCE
SPECIAL EXCEPTION
FOR
THIS PROPERTY
ZBA2024-0023
OFFICE OF MUNICIPAL ADMINISTRATION
1000 W. 17TH STREET
DALLAS, TEXAS 75201
WWW.CITYOFDALLAS.ORG

EYETECH
HEATING & COOLING
800-295-2244
254-622-8995
www.eyetech.com
We Are Green
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254-622-8995

TEXAS
RPT-1145

TEXAS
KLA-9187