

AGENDA

ZONING BOARD OF ADJUSTMENT AND APPEALS MEETING WEDNESDAY, MAY 5, 2021 - 4:30 PM MCALLEN CITY HALL, 1300 HOUSTON AVENUE CITY COMMISSION CHAMBERS, 3RD FLOOR

Web: <https://zoom.us/join> or phone: (346) 248-7799

Meeting ID: 672 423 1883

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

CALL TO ORDER – CHAIRPERSON ERICK DIAZ

1. MINUTES:

- a) Minutes for the meeting held on April 21, 2021

2. PUBLIC HEARINGS:

- a) Request of Cedric Williams for the following variances to the City of McAllen Zoning Ordinance **1)** an encroachment of 18.75 ft. into the 20 ft. front yard setback for an existing metal carport measuring 18 ft. by 20 ft., **2)** an encroachment of 3.21 ft. into the 6 ft. north side yard setback for an existing metal carport measuring 18 ft. by 20 ft. at Lot 9, Harvey Terrace Unit 2 Subdivision Phase 1 & 2, Hidalgo County, Texas; 2813 North 27th Lane. **(ZBA2021-0012)**
- b) Request of Vanessa Masell for the following variances to the City of McAllen Zoning Ordinance **1)** to allow 111 parking spaces instead of the required 138 parking spaces, **2)** to not provide the 10 ft. wide landscaping strip along 11th Street at Lot 1, Toys-R-Us Subdivision, Hidalgo County, Texas; 1101 Expressway 83. **(ZBA2021-0014)**
- c) Request of Adela Gallegos for the following variances to the City of McAllen Zoning Ordinance: **1)** an encroachment of 9.83 ft. into the 20 ft. front yard setback for a proposed porch measuring 19.91 ft. by 7.83 ft., **2)** an encroachment of 3.5 ft. into the 3.5 ft. side yard setback along the west side of the property for a proposed porch measuring 19.91 ft. by 7.83 ft., **3)** an encroachment of 5.25 ft. into the 10 ft. rear yard setback for an existing storage building measuring 12 ft. by 22.25 ft. at Lot 14, Block 4, La Paloma Subdivision, Hidalgo County, Texas; 1625 Kennedy Avenue. **(ZBA2021-0008)**
- d) Request of Jose Olvera Tellez 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 0.36 acre of land out of Lot 328, John H. Shary Subdivision, Hidalgo County, Texas; 4509 Buddy Owens Boulevard Unit E. **(ZBA2021-0015)**

3. FUTURE AGENDA ITEMS

- a) 713 Tamarack Avenue

ADJOURNMENT:

IF ANY ACCOMMODATIONS FOR A DISABILITY ARE REQUIRED, PLEASE NOTIFY THE PLANNING DEPARTMENT (681-1250) 72 HOURS BEFORE THE MEETING DATE. WITH REGARD TO ANY ITEM, THE PLANNING & ZONING COMMISSION MAY TAKE VARIOUS ACTIONS, INCLUDING BUT NOT LIMITED TO RESCHEDULING AN ITEM IN ITS ENTIRETY FOR PARTICULAR ACTION AT A FUTURE DATE.

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

The McAllen Zoning Board of Adjustment and Appeals convened in a Regular Meeting on Wednesday, April 21, 2021 at 4:30 p.m. in the City Commission Meeting Room with the following present:

Present:	Erick Diaz	Chairperson
	John Millin	Vice-Chairperson
	Sylvia Hinojosa	Member
	Juan F. Jimenez	Member
	Jose Gutierrez	Member
	Ann Tafel	Alternate
	Hugo Avila	Alternate
	Rogelio Rodriguez	Alternate
	Rebecca Millan	Alternate
 Staff Present:	 Victor Flores	 Assistant City Attorney
	Michelle Rivera	Assistant City Manager
	Edgar Garcia	Planning Director
	Rodrigo Sanchez	Senior Planner
	Omar Sotelo	Senior Planner
	Carlos Garza	Planner II
	Iris Alvarado	Planner I
	Porfirio Hernandez	Planning Technician II
	Julian Hernandez	Planning Technician
	Carmen White	Secretary

CALL TO ORDER – Chairperson Erick Diaz

1. MINUTES:

- a)** Minutes for the meeting held on April 7, 2020.

The minutes for the meeting held on April 7, 2020 were approved. The motion to approve the minutes was made by Mr. Jose Gutierrez. Mr. Juan Jimenez seconded the motion, which carried unanimously with five members present and voting.

2. PUBLIC HEARINGS:

- a)** Request of Carlos Reyes for the following variances to the City of McAllen Zoning Ordinance **1)** to allow an encroachment of 11.34 ft. into the 20 ft. rear yard setback for an existing irregularly shaped swimming pool **2)** to allow an encroachment of 7.75 ft. into the 20 ft. rear yard setback for an existing house addition at Lot 1A, Fox Run Subdivision Unit 4, Hidalgo County, Texas; 5501 North 8th Street. **(ZBA2021-0010)**

Ms. Alvarado stated the applicant was requesting a variance to allow a rear yard encroachment of 11.34 ft. into the 20 ft. rear yard setback for an existing irregularly shaped swimming pool and to allow an encroachment of 7.75 ft. into the 20 ft. rear yard setback for

an existing house addition. The property owner was unaware of the encroachments since work was performed by a contractor however, he wished to resolve any encroachments or permit deficiencies since he was in the process of selling the home.

The subject property was located on a cul-de-sac at the northwest corner of Cardinal Avenue and North 8th Street and had a combined frontage along 8th Street of approximately 180 feet with a depth of 136.6 feet at its deepest point for a lot size of 16,066 square feet. The property was zoned R-1 (single family residential) District. Adjacent zoning was R-1 (single family residential) District to the east and south and C-3 (general business) District to the north and west. The surrounding land uses included Walgreen's Pharmacy, Driving Zone driving school, legal offices, and single-family residences.

The Lot 1A, Fox Run Subdivision Unit 4 was recorded on November 23, 1998. The plat indicated a 20 ft. rear yard setback that at the time of plat recording ran concurrently with a 20 ft. utility easement. Setbacks was required by plat in order to discourage building over utility easement. In 1999 the east 10 feet of the 20 ft., utility easement was abandoned by ordinance however, the 20 ft. rear yard setback per plat note remained. A swimming pool permit was issued in March 2004 but Building and Inspections Department records indicated that the permit never received a final inspection. Hidalgo County Appraisal District records indicated the construction of a patio that was subsequently enclosed for living area. A search of Building and Inspections Department records did not reveal building permits for the enclosure of the patio. An application for a building permit was submitted on March 16, 2021 since records do not show that a permit was obtained for the construction of the addition. An application for a variance request was submitted on March 16, 2021 for an encroachment of 11.34 ft. into the 20 ft. rear yard setback for an existing irregularly shaped swimming pool and for an encroachment of 7.75 ft. into the 20 ft. rear yard setback for an existing house addition. The applicant submitted an application to renew the swimming pool permit since the construction was never finalized. The issuance of a building permit and swimming pool permit were pending the variance requests.

Variance request #1: The site plan submitted showed an encroachment of 11.34 feet into the 20 ft. rear yard setback for an irregularly shaped swimming pool. The submitted site plan shows the concrete cool deck encroaching into the 10 ft. rear yard utility easement. In lieu of an abandonment, the respective utility companies can provide encroachment agreements to allow the small portion of the cool deck to remain over the 10 ft. utility easement.

Variance request #2: The submitted site plan showed an encroachment of 7.75 ft. into the 20 ft. rear yard setback for an existing house addition. The addition was used as a family room.

The submitted site plan showed other structures encroaching into the 20 ft. rear yard setback and 10 ft. utility easement. The applicant has removed a storage shed, a carport, outdoor sink with counter top, and a concrete walkway thus eliminating encroachments into with the rear yard setback and/or 10 ft. utility easement.

The standard setback in the R-1 (single family residential) District was 10 feet.

Should the variance requests be approved the applicant will be required to comply with building code and swimming pool construction requirements.

Setbacks shown on the subdivision plat can only be changed by vacate and replat process approved by the Planning and Zoning Commission.

Staff had not received any phone calls from surrounding property owners in opposition to the variance request.

Staff recommended approval of the variance requests.

Board member Jose Gutierrez asked staff what was the reason for not obtaining the final inspection for the swimming pool. Ms. Alvarado stated the contractor did the swimming pool permit and the applicant had tried to reach out to the contractor. The company was not able to get him the information since it had been quite some time. They had purchased the house with the existing pool. Staff stated that the only thing that it showed on planning side that they had not finished the final inspection. They never came back to the City and requested the final inspection. The applicant has since then applied for a new swimming pool permit because they were in the process of selling the house. Board member Gutierrez asked if the contractor had requested the final inspection at the time the permit was approved for location of the pool as it was they would not have to require a variance. Planning Director Garcia stated back when the permit was initially quoted it was not routed to the Planning Department staff was not able to check for setback encroachments and the variance would have not been needed.

Mr. Carlos Reyes, the applicant stated he understood he had all the permits and that had been approved. He stated the Planning Department helped him to apply for a variance for storage shed, a carport and BBQ pit. He already removed the storage shed. He had a 10-foot easement that had been abandoned. Instead of the 11.34 foot, it was only 1.34 foot. He was willing to reduce the pool deck but stated it was not necessary to do it.

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

Carlos Reyes, Jr., 113 Auburn Avenue, stated everything that needed to be done had been completed. They had removed the shed, outdoor kitchen and the walkway.

Lisette Castillo, 8050 Watson Road, Lantana, Texas stated at the time the property was occupied by them after the construction was built they were under the impression that everything was taken care of. She stated her parents were under the impression that they were any encroachments with the pool deck until the sale of the property.

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

Vice-Chairperson John Millin **moved** to approve the variance requests #1 and #2. Mr. Jose Gutierrez seconded the motion. The Board voted unanimously to approve variance requests with five members present and voting.

At time, Chairperson Erick Diaz will abstain from the following item. Vice-Chairperson John Millin will take over the meeting.

- a) Request of Gilberto Valdez for the following variances to the City of McAllen Zoning Ordinance: **1)** to allow an encroachment of 10 ft. into the 10 ft. corner side yard setback along the south property line, and **2)** to allow an encroachment of 5 ft. into the 5 ft. rear yard setback for a proposed commercial building, at Lot 1, Block 56, McAllen Addition Subdivision, Hidalgo County, Texas; 620 South 17th Street. **(ZBA2021-0009)**

Assistant City Attorney, Victor Flores stated there were legal issues he would like to discuss with the following item. Under the Texas Government Code 551.07(2). He asked the Board to hear the presentation or adjourn to Executive Session. Board member Juan Jimenez stated he would like to hear the presentation first.

Mr. Garza stated Gilberto Valdez was requesting a variance to allow an encroachment of 10 ft. into the 10 ft. corner side yard setback along the south property line and 5 ft. into the 5 ft. rear yard setback along the west property line for a proposed commercial building. The applicant was requesting for the building to be encroaching into the setback lines because he stated that there was no space for development.

The property was located on the corner of South 17th Street and Galveston Avenue, approximately 160 feet east of Bicentennial Boulevard. The property had 50 feet of frontage along South 17th Street with a depth of 140 ft. for a tract size of 7,000 sq. ft. The property was zoned C-3 (general business) District. The adjacent zoning was C-3 District in all directions. The subject property was currently vacant. Surrounding land uses are Yerberia Cultura, Tortilleria El Arbolito, a church, and single-family.

McAllen Addition was recorded on May 1907. The plat did not indicate setbacks. The subdivision was recorded prior to 1979 and the applicable setbacks were subject to the 1945 Zoning Ordinance. However, the setback requirement changed to 10 feet on a corner side yard setback and half the building height on the north or 0 ft. with a fire rated wall adjacent to a commercial zone under the 1979 zoning ordinance. An application for the variances request was submitted March 9, 2021.

The submitted site plan showed a proposed commercial building encroaching 10 ft. into the 10 ft. corner side yard setback and 5 ft. into the 5 ft. rear yard setback. The variance request was for a proposed commercial building.

The plat did not show any utility easements at the proposed location.

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

Staff had received one call in opposition to the variance request.

Staff recommended disapproval of the variance request. If the Board grants approval of the request, it should be limited to the footprint shown on the submitted site plan.

Mr. Jose Gutierrez moved to adjourn for Executive Session with all Board members. Mr. Juan Jimenez seconded the motion. The Board voted unanimously to adjourn for Executive Session with five members present and voting.

At this time, Vice-Chairperson Millin adjourned for the Executive Session with all Board members at 4:53 p.m.

The Board members reconvened at 5:07 p.m.

Mr. Gilberto Valdez, the applicant stated the property was a small lot 50 feet by 140 feet. He would like to conserve the facade like the other buildings on 17th Street. It is a corner lot up to the property line. They have complied with the Fire Department and other City ordinances. Vice-Chairperson Millin had concerns with the setbacks and that the site plan showed the structure on the property line. He asked the applicant what made them want to put the structure right on the property line with no setbacks on the two sides. Mr. Valdez stated that since the property was small that if he had setbacks of 10 feet there would not be enough space to maneuver the cars. He stated that the other buildings that have been there since the 40's and 50's they did not have any setbacks. Vice-Chairperson Millin stated that since the buildings were there before the new ordinance the applicant would have to comply with them. He stated there would have to be a hardship to the applicant. It was not enough to be an economic hardship that does not satisfy the standard. Moreover, it cannot be a hardship with the design of the structure that the applicant was proposing. Vice-Chairperson Millin saw it as a rectangular size lot on a corner with frontage on the street. He stated there was many uses the applicant could employ and have it designed that would not be in violation of the ordinance. Vice-Chairperson Millin asked the applicant how this poses a hardship to his use. Mr. Valdez stated he understood the new ordinance but still wanted to comply like the other businesses on 17th Street and continue to build on the property line.

Board member Gutierrez asked if they needed parking spaces for this particular project.

Mr. Garza stated the proposed site plan showed two parking spaces and one handicapped and one parking space in front of the property. The buildings were structured to have one parking space inside.

Board member Hugo Avila asked staff what was the square the footage of this property. Mr. Garza stated it was 7,000 square feet. Mr. Avila stated that would take the 10 feet on the side of the street, which would reduce the actual size of the lot. So in his opinion that would be considered some type of hardship based on limiting what he could build. If the applicant decided to put up a firewall, would that make this building in compliance at the 0-lot line on the side yard setback? Mr. Garza stated that on the side yard he would still need to comply with the 10 foot setback on the corner. Board member Avila asked if staff recommended to the applicant as far what other types of businesses he could put there. Mr. Garza stated the applicant requested to submit the site plan and asked for these variances for this plans.

Board member Rogelio Rodriguez asked staff if it had been through the Permit Department. Mr. Garza stated it had not been through the permitting process. It had only

been through the staff and Development meeting for reviewing.

Board member Sylvia Hinojosa asked staff if it needed to go before the Planning and Zoning. Mr. Garza stated no, the plat did not indicate that it needed to go before the Planning and Zoning.

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

Ms. Viola Valdez, 112 S.W. Augusta Avenue stated they were requesting the setback number so that they could have the building like the other structures that were on 17th Street. Otherwise, they would not have sufficient parking spaces and what the Fire Department needed to be in compliance.

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

Vice-Chairperson Millin asked staff if there had been any opposition. Mr. Garza stated there was one call regarding the setbacks. They had received a call but they did not give an address.

Board members Hinojosa asked staff if there was anything on record that this would be an issue in giving this particular variance on the firewall in the alley and on Galveston Street as far as safety concerns. In addition, in reference to employee parking would it be off site and if so, would it require a letter of agreement? Mr. Garza stated the Fire Department would be able to have their trucks go there safely by putting them on the side of the street because there was a fire hydrant in that area. In regards to the employee parking, the applicant was in compliance. They did provide two parking spaces, which could be used for employee parking but would be up to the applicant's discretion. Ms. Hinojosa asked if they would exit through the alley. Mr. Garza stated yes. The applicant demonstrated a corner clip that would allow for visibility through the street there on Galveston Avenue.

Board member Ann Tafel stated the hardship was not with the land itself.

Vice-Chairperson Millin stated the definition of a hardship that was unique to the property and not generally characteristic of the area in which a property was located. He did not think there was a unique layout or dimension issue with this property and was identical to the other properties in the area. He stated that financial hardships alone were not enough the City's regulation. In addition, not to consider self-created hardships, personal circumstances, design preferences, desire for additional space or that it would make the property more valuable. It had to base on the physical features of the property, the condition of the property was unique oppressive and not common to other properties.

Mr. Juan Jimenez moved to disapprove the variance requests. Ms. Rebecca Millan seconded the motion. The Board voted unanimously to disapprove variance requests with five members present and voting.

3. FUTURE AGENDA ITEMS:

- a) 1625 Kennedy Avenue
- b) 2813 North 27th Lane
- c) 1101 Expressway 83
- d) 4509 Buddy Owens Boulevard

ADJOURNMENT

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

Chairperson Erick Diaz

Carmen White, Secretary

Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

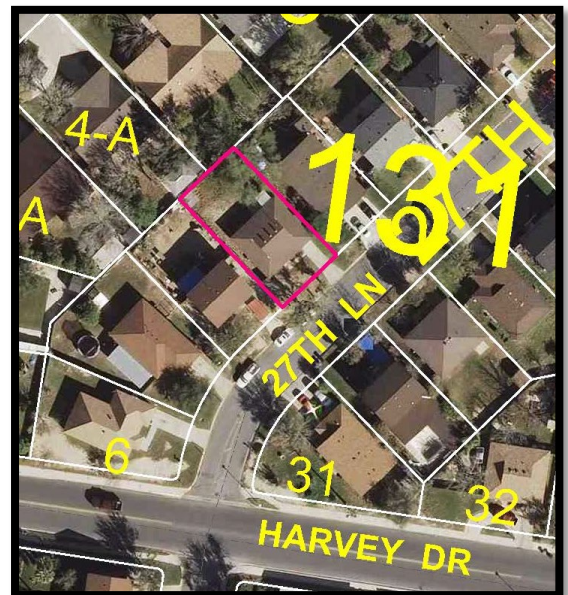
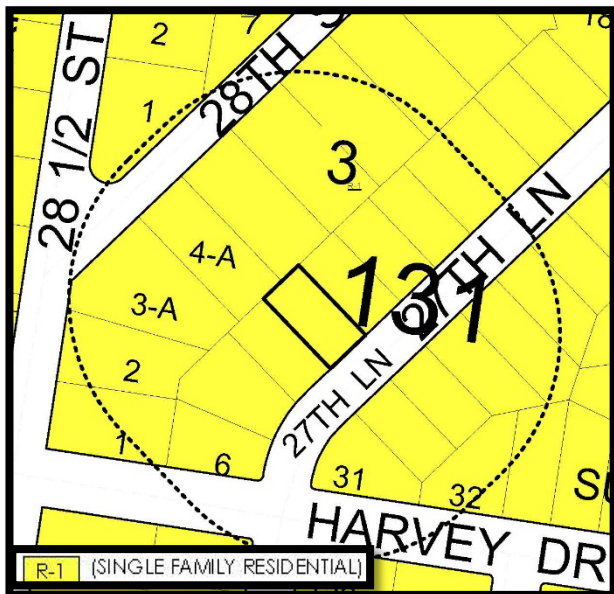
FROM: Planning Staff

DATE: April 27, 2021

SUBJECT: REQUEST OF CEDRIC WILLIAMS FOR THE FOLLOWING VARAINCE TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) AN ENCROACHMENT OF 18.75 FT. INTO THE 20 FT. FRONT YARD SETBACK FOR AN EXISTING METAL CAPORT MEASURING 18 FT. BY 20 FT., 2) AN ENCROACHMENT OF 3.21 FT. INTO THE 6 FT. NORTH SIDE YARD SETBACK FOR AN EXISTING METAL CARPORT MEASURING 18 FT. BY 20 FT. AT LOT 9, HARVEY TERRACE UNIT 2 SUBDIVISION PHASE 1 & 2, HIDALGO COUNTY, TEXAS; 2813 NORTH 27TH LANE. (ZBA2021-0012)

REASON FOR APPEAL:

The applicant is requesting a variance request to encroach 18.75 ft. into the 20 ft. front yard setback and encroach 3.21 ft. into the 6 ft. north side yard setback for an existing metal carport measuring 18 ft. by 20 ft.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the north side of 27th Lane, approximately 125 ft. north of Harvey Drive. The property has 50 ft. of frontage along 27th Lane and a depth of 100 ft. with a lot size of 5,000 square feet. The property and adjacent zoning is R-1 (single family residential) District in all directions. Surrounding land use include single-family residential.

BACKGROUND AND HISTORY:

Harvey Terrace Unit 2 Subdivision Phase 1 & 2 was recorded on March 9, 1981. The plat specifies a 20 ft. front yard setback and a 6 ft. side yard setbacks. A stop work order was issued by Building and Inspections Department staff on April 1, 2021 for the installation of a carport without a permit. An application for a building permit for a carport was submitted to the Building Permits & Inspections Department on April 5, 2021. An application for variance request for encroachments of an existing carport was submitted to the Planning Department on April 5, 2021.

ANALYSIS:

The variance request #1 is to allow an encroachment of 18.75 ft. into the 20 ft. front yard setback for an existing metal carport measuring 18 ft. by 20 ft. The plat for the subdivision specifies a 20 ft. front yard setback. The applicant is requesting to allow the carport to remain at this location since there is no available area for relocation that would place it out of the setback.

The variance request #2 is to allow an encroach of 3.21 ft. into the 6 ft. north side yard setback for an existing metal carport measuring 18 ft. by 20 ft. The plat for the subdivision specifies a 6 ft. side yard setback and the standard side yard setback for a lot in R-1 (single family residential) district is 6 ft. As per City's ordinance no structures are allowed to be built on any setbacks.

There are no variance requests on file for carports encroaching into the setbacks for this subdivision; however, a site inspection confirmed that there are existing carports built around the neighborhood without a permit.

- Building Permits & Inspection Department issued stop work orders for the construction of carports without permits for lots 30, 4, 139, 140, 63, 64, and 75 on April 8, 2021
- Building Permits & Inspection Department issued a stop work order for the construction of a carport without a permit for lot 118 on April 8, 2021 and the customer applied for a Building Permit on April 19, 2021
- Building Permits & Inspection Department issued a stop work order for construction of carports without a permits for lot 102 on October 8, 2020 and the customer applied for a Building Permit; however, Planning Department staff rejected the permit for encroachments and informed customer and explained variance process
- Building Permits & Inspection Department has created a stop work order case for the construction of a carport without permits for lot 125

Should the request be approved, it may encourage other property owners to request a variance for carports to encroach into the setbacks. Approval of the request will allow the existing carport to remain as depicted on the site plan.

Staff has not received any phone calls or concerns in regards to the variances requests.

RECOMMENDATION:

Staff recommends disapproval of the variance request subject to compliance with Zoning Ordinance Section 138-366.

ZBOA
5/5/21

ZBA2021-0012



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 9</u>		
	Subdivision Name	<u>Harvey terrace Subdivision Unit 2-Phase I & II</u>		
	Street Address	<u>2813 N 27th LN McAllen Texas 78501</u>		
	Number of lots	<u>1</u>	Gross acres	
	Existing Zoning	<u>D-1</u>	Existing Land Use	<u>Single family House</u>
	Reason for Appeal (please use other side if necessary)	<u>Medical reasons, protection of vehicle and personal safety. Metal carport 16'x20'x4'</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>Cedric Williams</u>	Phone	<u>808 341 6451</u>
	Address	<u>2813 N 27th LN</u>	E-mail	<u>Cedric.Williams@rocketmail.com</u>
	City	<u>McAllen</u>	State	<u>TX</u>
	Zip	<u>78501</u>		
Owner	Name	<u>Cedric Williams Jennie Williams</u>	Phone	<u>808 341 6451</u>
	Address	<u>2813 N 27th LN</u>	E-mail	<u>Cedric.Williams@rocketmail.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>4/6/21</u>
	Print Name	<u>Cedric Williams</u>	<input checked="" type="checkbox"/> Owner	<input type="checkbox"/> Authorized Agent
Office	Accepted by	<u>K.F</u>	Payment received by	
	Rev 10/18	Date <u> </u>		

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By

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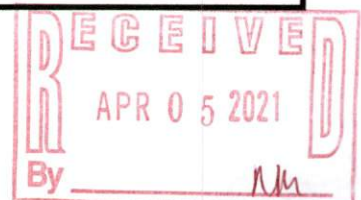
City of McAllen

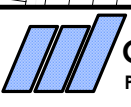
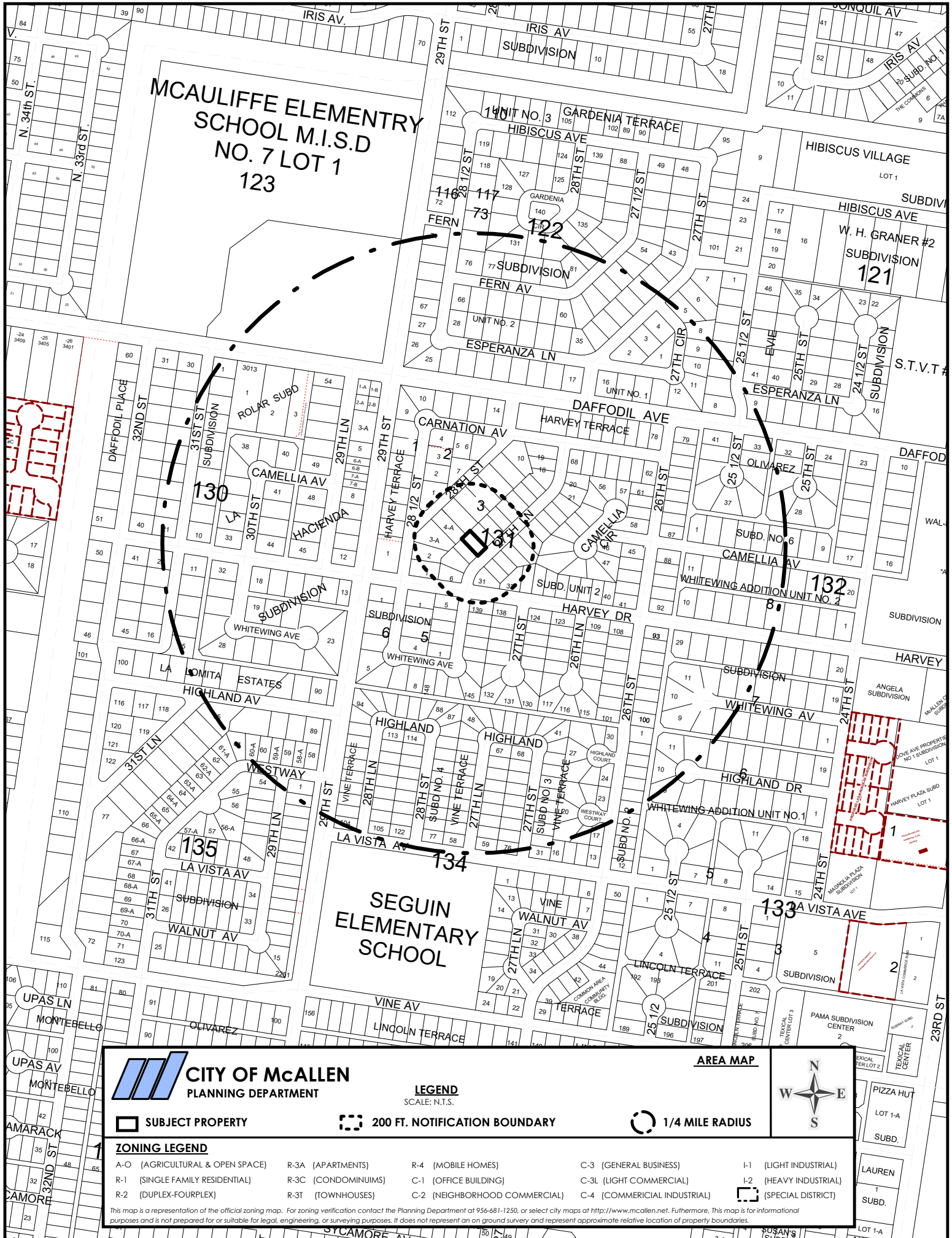
Planning Department

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: (Please use an additional page if necessary to complete responses)</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>Encroaching 4 ft. into side yard setback and 14.8 ft encroachment into front setback.</p>
	<p>2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:</p> <p>There are seven (7) other properties on the same block that have the same type of car cover on their properties.</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>Although private property and portable, car cover will be professionally installed to withstand inclement weather.</p>
	<p>4. Describe special conditions that are unique to this applicant or property:</p> <p>Portable car cover is needed for medical reasons for child with documented underlying medical conditions and also personal safety and protection of only vehicle from inclement weather.</p>
Board Action	<p>Chairman, Board of Adjustment Signature</p> <p>Date</p>

Rev. 9/20





CITY OF McALLEN PLANNING DEPARTMENT

LEGEND SCALE: N.T.S.

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

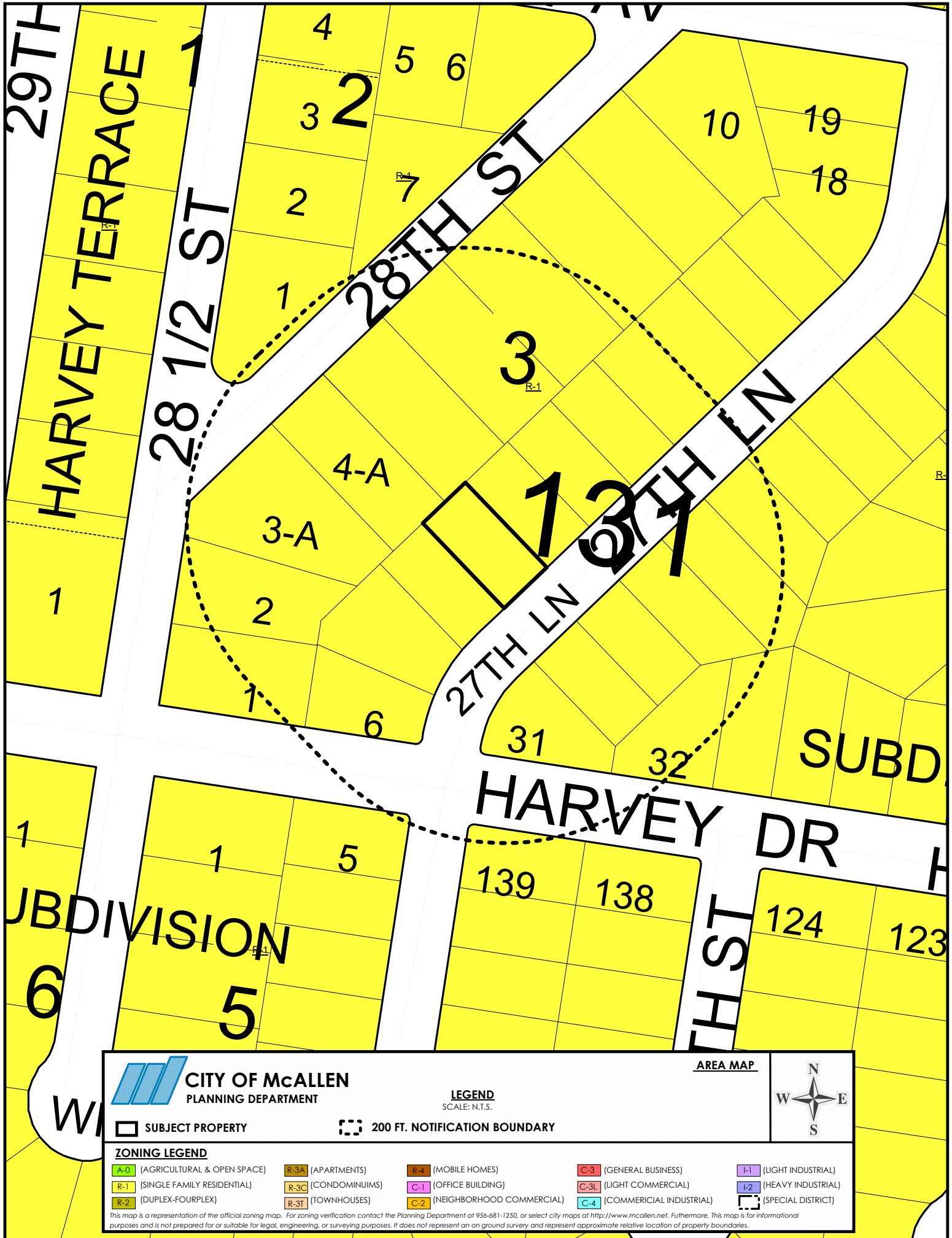
1/4 MILE RADIUS



ZONING LEGEND

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

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



CITY OF McALLEN
PLANNING DEPARTMENT

AREA MAP

LEGEND
SCALE: N.T.S.



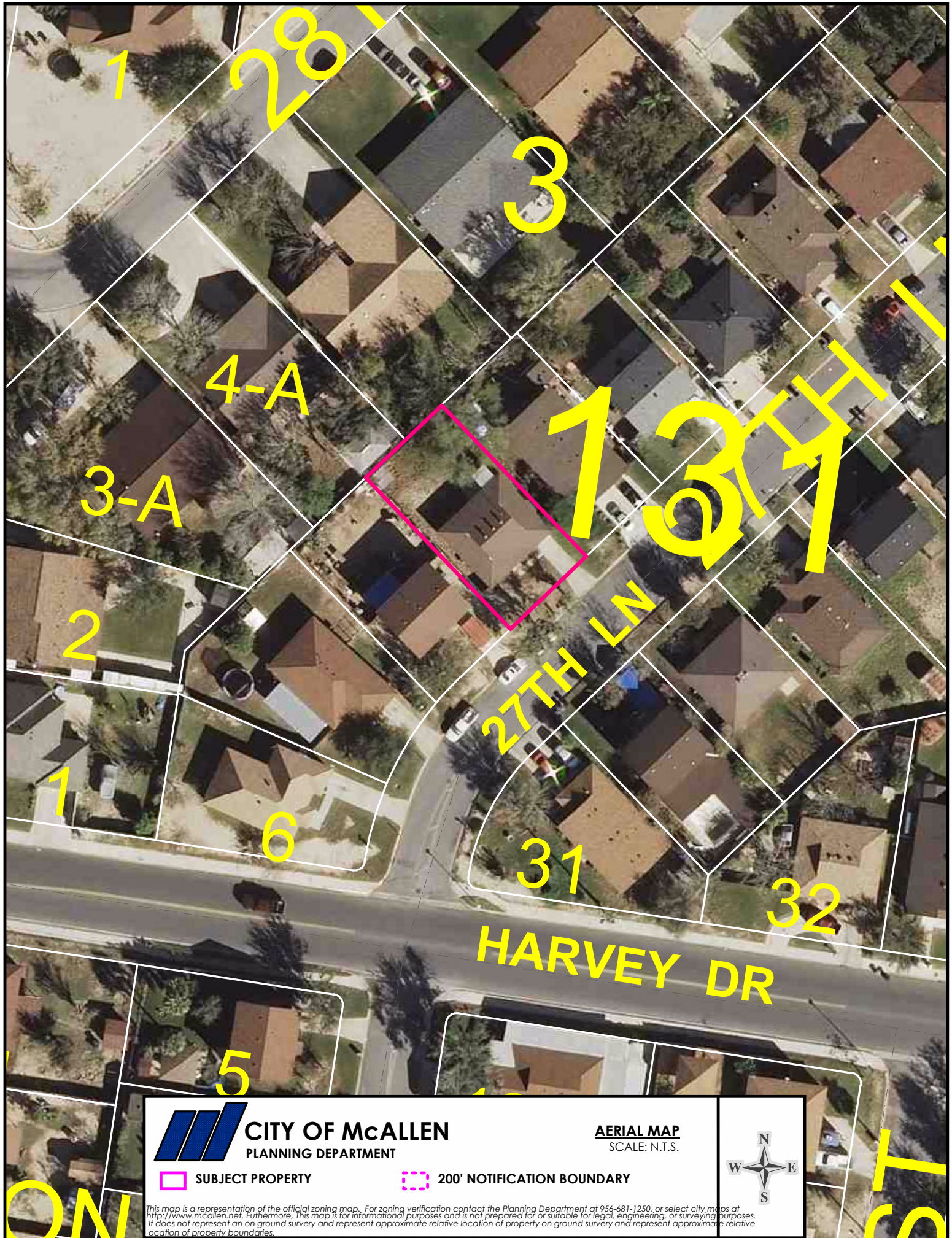
SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

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

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



CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.



SUBJECT PROPERTY



200' NOTIFICATION BOUNDARY



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SUBDIVISION PLAT OF HARVEY TERRACE SUBDIVISION UNIT 2 - PHASE I & II

BEING THE EAST 26.770 ACRES OUT OF LOT 131
LA LUNITA IRRIGATION & CONSTRUCTION CO.
SUBDIVISION, OF PORCIONES 61, 62 & 63 AS
RECORDED IN THE MAP RECORDS, HIDALGO
COUNTY, TEXAS.

Recorded in Book 71 Page 155
of the map records of Hidalgo
County, Texas

STATE OF TEXAS
COUNTY OF HIDALGO

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

HOMECRAFT LAND DEVELOPMENT, INC.

[Signature]
SENIOR VICE PRESIDENT

STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME, THE UNDERSIGNED AUTHORITY ON THIS DAY PERSONALLY APPEARED
Wm. R. Planteau, 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 21st DAY OF March
A.D. 1980

[Signature]
HIDALGO COUNTY, TEXAS

APPROVAL BY WATER DISTRICT

THIS PLAT APPROVED BY HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NO. 1
ON THIS 29th DAY OF December A.D. 1980

[Signature]
SECRETARY

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

[Signature]
MAYOR, CITY OF MALLER

THIS PLAT OF HARVEY TERRACE SUBDIVISION - UNIT 2 HAS BEEN
SUBMITTED TO AND CONSIDERED BY THE PLANNING COMMISSION OF THE CITY OF
MALLER, TEXAS AND IS HEREBY APPROVED BY SUCH COMMISSION.
DATED THIS 16th DAY OF February A.D. 1981

[Signature]
CHAIRMAN

STATE OF TEXAS
COUNTY OF HIDALGO

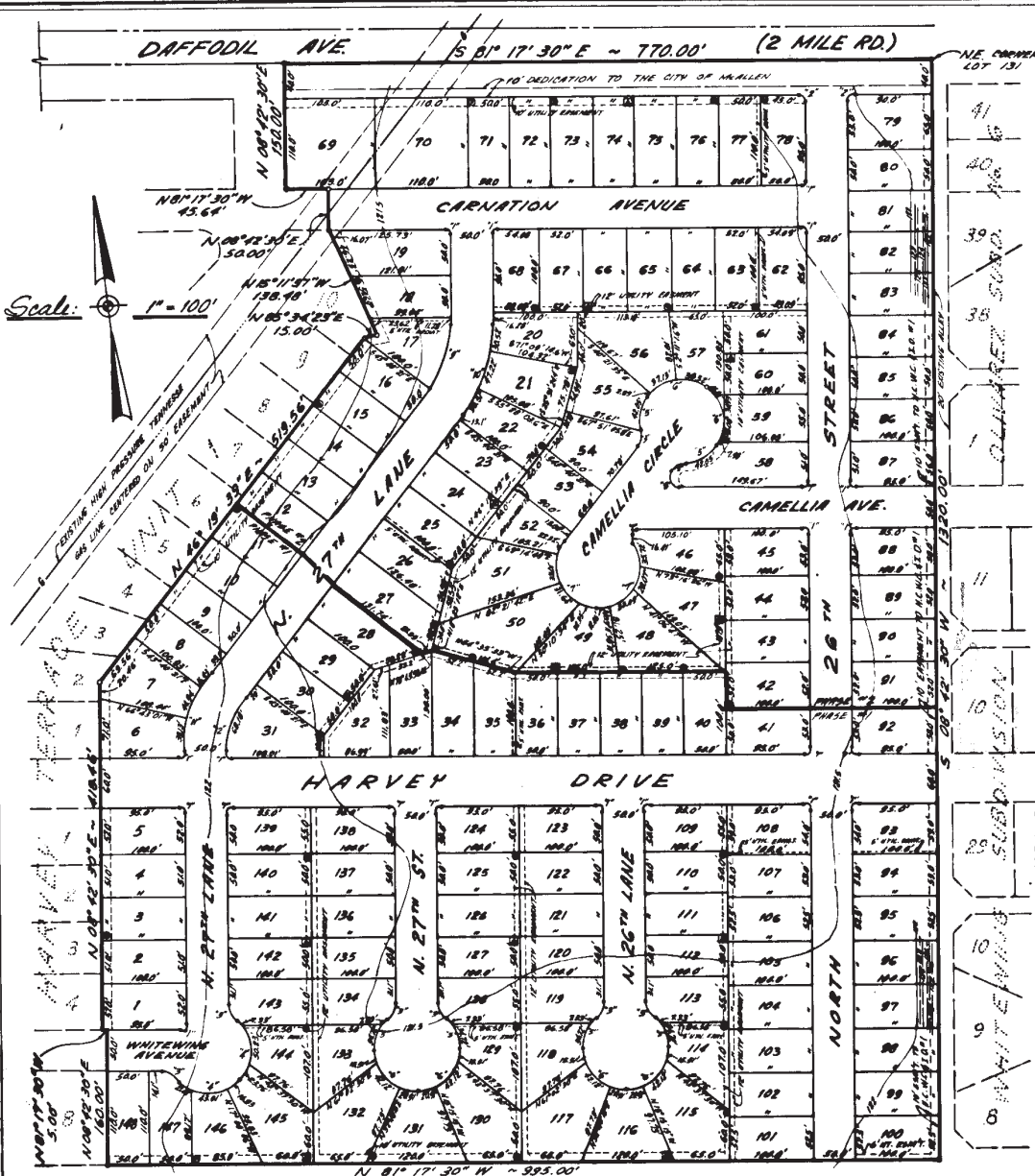
I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM
AN ACTUAL SURVEY OF THE PROPERTY BASED UNDER MY SUPERVISOR'S CLOSE PERSONAL

GIVEN TO AND SUBSCRIBED BEFORE ME THIS 16th DAY OF February
A.D. 1980

APPROVED
FOR RECORD
[Signature]
NOTARY PUBLIC
March 9 1981

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS
DAY OF JULY A.D. 1980

[Signature]
NOTARY PUBLIC
TEXAS, MY COMMISSION EXPIRES
ON 1st JULY 1981



CURVE DATA

NO.	DELTA	RADIUS	TANGENT	CHORD
1	90° 00' 00"	5.00'	5.00'	7.07'
2	90° 00' 00"	10.00'	10.00'	15.71'
3	48° 11' 25"	25.00'	11.18'	21.05'
4	25° 11' 25"	50.00'	22.86'	41.32'
5	48° 11' 25"	50.00'	22.86'	42.05'
6	90° 00' 00"	50.00'	50.00'	70.71'
7	125° 15' 53"	50.00'	86.59'	109.31'
8	127° 37' 09"	12.64'	2.643'	28.08'
9	37° 37' 09"	122.49'	41.78'	80.42'
10	37° 37' 09"	172.49'	58.75'	118.25'
11	37° 37' 09"	252.84'	82.44'	161.81'
12	37° 37' 09"	103.84'	35.37'	68.18'

6" EASEMENT TO CENTER
POWER & LIGHT CO. FOR TRANS-
FORMER SPACE. SPECIFIC LOC-
ATION SHOWN ON MAP BY
THIS SYMBOL

6" EASEMENT TO CENTER
POWER & LIGHT CO. FOR PE-
DESTAL SPACE. SPECIFIC LO-
CATION SHOWN ON MAP BY
THIS SYMBOL

TOTAL LOTS: 145
TOTAL AREA: 26.063 ACRES

WE, WILTON V. CROUCH AND BARRY JOHNSON, VICE PRE-
SIDENT AND SECRETARY RESPECTIVELY, OF
SOUTHWEST SURVEYING ASSOCIATION, OWNER AND HOLDER
OF A LIE AGAINST THE PROPERTY SHOWN IN THE
PLAT BEING AS HARVEY TERRACE, UNIT 2, SAID LIE
BEING EVIDENCED BY INSTRUMENT OF RECORD BEING
CLIENTS FILE NO. 80915 IN THE OFFICIAL PUBLIC
RECORDS OF THIS PROPERTY IN HIDALGO COUNTY, TEXAS
DO HEREBY BY SELL TO THE UNDERSIGNED, TEXAS
SAND LIND, AND WE HEREBY CERTIFY THAT WE ARE THE
PERSONS OWNER OF SAID LIE AND HAVE NOT ASSIGNED
THE SAME AND ARE NOT THUS
WILTON V. CROUCH
BARRY JOHNSON
SOUTHWEST SURVEYING ASSOCIATION

GENERAL NOTES:

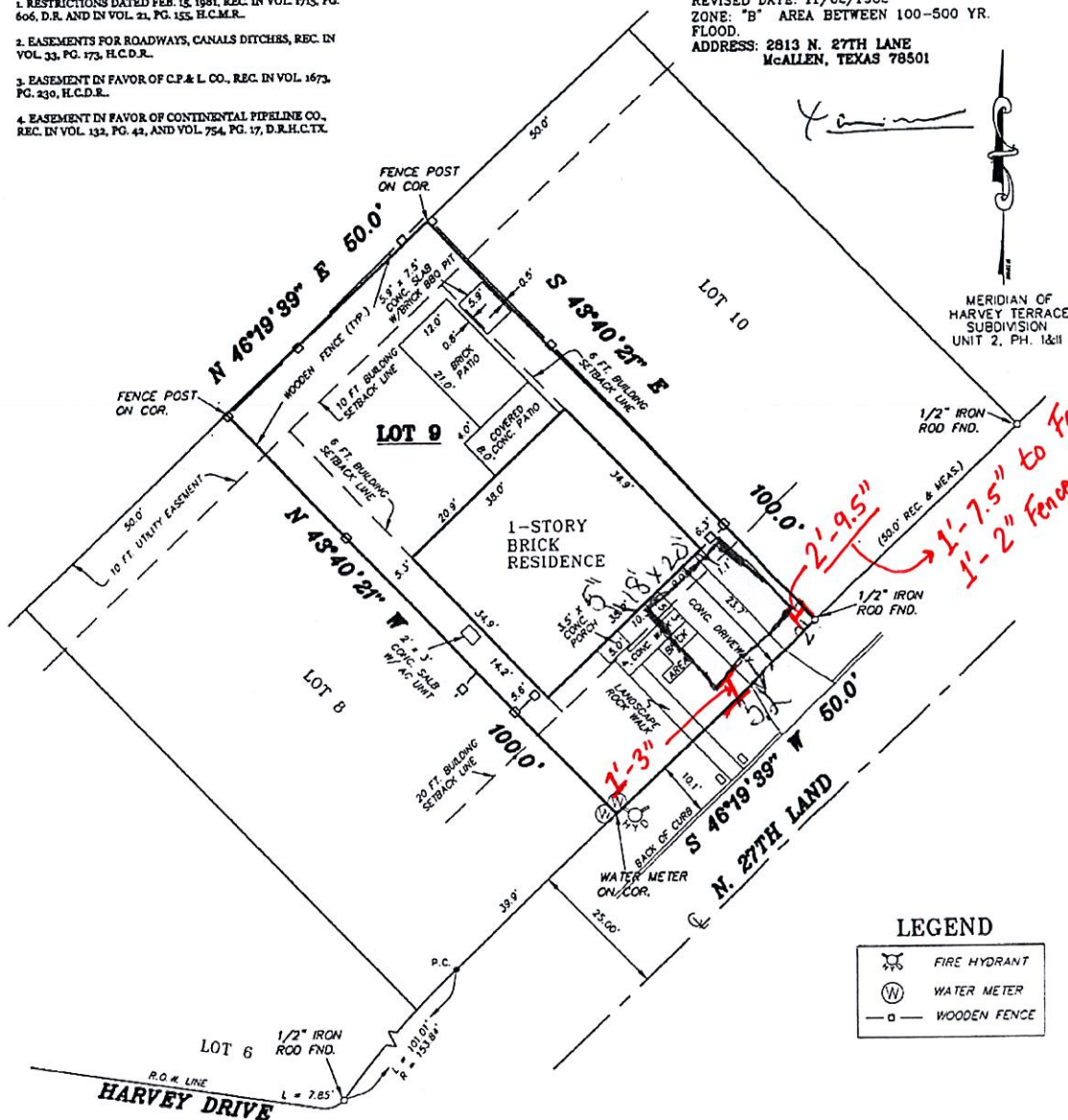
1. MINIMUM FLOOR ELEVATION FOR CONVENTIONAL HOMES SHALL BE AS SHOWN ABOVE.
2. MINIMUM FLOOR ELEVATION FOR V.A. HOMES SHALL BE AS PER V.A. GOVT. PLAN.
3. FRONTYARD SETBACK SHALL BE 20' MINIMUM, EXCEPT AROUND
CUL-DE-SACS WHICH SHALL BE 10' MINIMUM UNLESS
OTHERWISE SHOWN.
4. SIDEYARD & BACKYARD SETBACKS SHALL BE 6' & 10' MINI-
MUM EXCEPT CORNER LOTS SIDEYARD SETBACKS SHALL
BE 10' MINIMUM.
5. CITY OF MALLER SHALL HAVE A 5' EASEMENT AT ALL
STREET INTERSECTIONS.
6. A 4' SIDEWALK SHALL BE REQUIRED ON SOUTH SIDE OF
DAFFODIL AVENUE.

7. CENTRAL POWER & LIGHT CO. IS HEREBY GRANTED AN EASE-
MENT AND RIGHT-OF-WAY 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 WHICH SUCH SERVICE LATERAL IS TO BE ON
IS INSTALLED & MAINTAINED FROM TIME TO TIME.
8. AN BUILDING PERMITS SHALL BE ISSUED ALL PHASE II
UNTIL ALL PUBLIC IMPROVEMENTS ARE INSTALLED.

RESOURCES AND ASSOCIATES, INC.
Consulting Engineers & Planners
Dallas Texas

1. RESTRICTIONS DATED FEB. 15, 1981, REC. IN VOL. 1715, PG. 606, D.R. AND IN VOL. 21, PG. 155, H.C.M.R.
2. EASEMENTS FOR ROADWAYS, CANALS DITCHES, REC. IN VOL. 33, PG. 173, H.C.D.R.
3. EASEMENT IN FAVOR OF C.P. & L. CO., REC. IN VOL. 1673, PG. 230, H.C.D.R.
4. EASEMENT IN FAVOR OF CONTINENTAL PIPELINE CO., REC. IN VOL. 132, PG. 42, AND VOL. 754, PG. 17, D.R.H.C.T.X.

FLOOD INSURANCE RATE MAP OF
COMMUNITY PANEL NO.: 480343 0005 C
REVISED DATE: 11/02/1982
ZONE: "B" AREA BETWEEN 100-500 YR.
FLOOD.
ADDRESS: 2813 N. 27TH LANE
MCALLEN, TEXAS 78501



"I, JUAN GARCIA JR., REGISTERED PROFESSIONAL LAND SURVEYOR #4203, DO CERTIFY THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY MADE ON THE GROUND ON 09/17/18 BY ME OR UNDER MY DIRECTION; THIS SURVEY SUBSTANTIALLY CONFORMS TO THE CURRENT TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION 2 SURVEY"

ALL OF LOT 9, HARVEY TERRACE SUBDIVISION
UNIT 2,-PHASE I & II, AN ADDITION TO THE CITY
OF MCALLEN, HIDALGO COUNTY, TEXAS,
ACCORDING TO THE MAP RECORDED IN VOLUME
21, PAGE 155, MAP RECORDS IN THE OFFICE OF
THE COUNTY CLERK OF HIDALGO COUNTY, TEXAS.

SURVEYED FOR: **CEDRIC WILLIAMS**
SCALE: 1" = 20'

THIS SURVEY IS DONE FOR THE EXCLUSIVE
USE OF THE OWNER AND IS NOT VALID AFTER
6 MONTHS WITHOUT AN ORIGINAL SEAL AND
SIGNATURE. *[Signature]*

JUAN GARCIA JR. R.P.L.S. #4203



SURVEYING CO., LLC.
(956) 423-1702
FIRM# 10011400

Existing Carports around Neighborhood



Harvey Terrace #2 Ph 1 & 2:

1. Lot 9 – 2813 N 27th Ln
2. Lot 30 – 2804 N 27th Ln
3. Lot 4 – 2721 N 27th Ln
4. Lot 139 – 2728 N 27th Ln
5. Lot 140 – 2724 N 27th Ln
6. Lot 125 – 2724 N 27th St
7. Lot 118 – 2705 N 26th Ln
8. Lot 102 – 2705 N 26th St
9. Lot 63 – 2605 Carnation Ave
10. Lot 64 – 2609 Carnation Ave
11. Lot 75 – 2612 Carnation Ave

Gardenia Terrace # 1:

12. Lot 41 – 3205 N 27th St

(In compliance, Front setback is 10 ft. as per Subdivision Plat)

STARTING @
\$ 795.00

ANY SIZE CARPORT,
GARAGE, STORAGE,
BUILDING, & MOTOR
HOME COVER!
CUSTOM SIZES
AVAILABLE

South Texas

CARPORTS INC.

WWW.SOUTHTEXASCARPORTS.COM CONTACT:



18'X25'X7'
REGULAR GARAGE

(14 Gauge, 7' Legs) (29 Gauge Sheet Metal)



18'X25'X8'
A-FRAME GARAGE

(14 Gauge, 8' Legs) (29 Gauge Sheet Metal)



18'X25'X8'
A-FRAME VERTICAL ROOF GARAGE

(14 Gauge, 8' Legs) (29 Gauge Sheet Metal)

BRACES ON LEGS & CENTERS



18'X20'X5'
REGULAR CARPORT

(2 2/1, 14-Gauge, 5' Legs) (29 Gauge Sheet Metal)



18'X20'X6'
A-FRAME VERTICAL ROOF CARPORT

(2 2/1, 14-Gauge, 6' Legs) (29 Gauge Sheet Metal)



18'X20'X6'
A-FRAME CARPORT

(2 2/1, 14-Gauge, 6' Legs) (29 Gauge Sheet Metal)

AVAILABLE SHEET METAL COLORS

White

Red

Blue

Tan

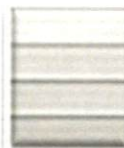
Green

Gray

Dark Gray

Beige

Brown



Asphalt Anchors Ground Anchors Rebars
Concrete Bolts

TEMPORARY ANCHORS INCLUDED
AT NO COST (REBARS)
OPTIONAL:
Mobile Home Anchors \$25 ea
Concrete Anchors \$10 ea

STANDARD 14 GAUGE 2 1/2 "STEEL"

12 X 20 \$795.00	12 X 25 \$995.00	12 X 30 \$1,195.00	12 X 35 \$1,395.00	12 X 40 \$1,590.00
18 X 20 \$895.00	18 X 25 \$1,195.00	18 X 30 \$1,395.00	18 X 35 \$1,595.00	18 X 40 \$1,790.00
20 X 20 \$1,095.00	20 X 25 \$1,395.00	20 X 30 \$1,595.00	20 X 35 \$1,895.00	20 X 40 \$2,190.00
22 X 20 \$1,295.00	22 X 25 \$1,695.00	22 X 30 \$1,995.00	22 X 35 \$2,295.00	22 X 40 \$2,590.00
24 X 20 \$1,495.00	24 X 25 \$1,895.00	24 X 30 \$2,295.00	24 X 35 \$2,595.00	24 X 40 \$2,990.00
26 X 20 \$1,795.00	26 X 25 \$2,295.00	26 X 30 \$2,695.00	26 X 35 \$3,195.00	26 X 40 \$3,590.00
28 X 20 \$2,095.00	28 X 25 \$2,595.00	28 X 30 \$3,095.00	28 X 35 \$3,595.00	28 X 40 \$4,190.00
30 X 20 \$2,295.00	30 X 25 \$2,895.00	30 X 30 \$3,495.00	30 X 35 \$4,095.00	30 X 40 \$4,690.00

All products come with a 1 year manufacturer warranty, 2 years of 65 mph wind warranty with proper anchors. Concrete and Ground anchors sold separately. Further apply see dealer for details, prices are subject to change upon area. 12 GAUGE YEARS LIMITED WARRANTY ON RUST THROUGH OF THE FRAMING ASSUMING CARE AND MAINTENANCE ON THE 12 GAUGE ONLY. 22 FEET WIDE AND UP, RECOMMENDED USING 12 GAUGE MATERIAL. UP TO TWO WEEKS INSTALLATION TIME FOR LAREDO AND NEARBY AREAS.

By APR 05 2021



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Duct Sealing From The Inside

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 - EQUIPMENT CLEANING
 - DUCT REPLACEMENTS
 - DRYER VENT CLEANING
 - NEUTRALIZE ODORS
 - DUCT PRESSURE TESTING
 - AIR PURIFICATION
- Commercial & Residential

956.630.4411

TACLA-002144C

H
HESSAIR

1-800-281-4377
www.HessAir.com

NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0012

TEXAS
HJV-1799



Planning Department

Memo

TO: Zoning Board of Adjustment & Appeals

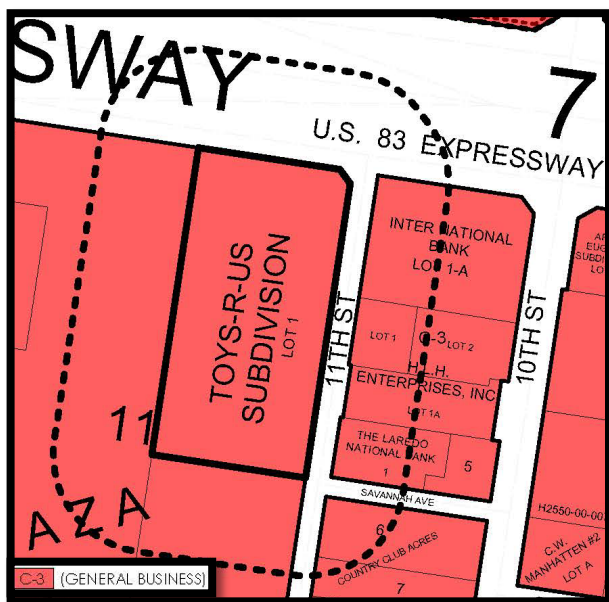
FROM: Planning Staff

DATE: April 29, 2021

SUBJECT: REQUEST OF VANESSA MASELL FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE 1) TO ALLOW 111 PARKING SPACES INSTEAD OF THE REQUIRED 138 PARKING SPACES, 2) TO NOT PROVIDE THE 10 FT. WIDE LANDSCAPING STRIP ALONG 11TH STREET AT LOT 1, TOYS-R-US SUBDIVISION, HIDALGO COUNTY, TEXAS; 1101 EXPRESSWAY 83. (ZBA2021-0014)

REASON FOR APPEAL:

The applicant is proposing to demolish the vacant building that was previously occupied by Toys R Us and is proposing to construct a 53,622 sq. ft. building and associated parking areas for their retail use. However, the associated parking areas are not complying with the required 138 parking spaces. Therefore, a variance request to not comply with the parking spaces required has been submitted. The applicant is also requesting a variance to not comply with the 10 ft. wide landscaping strip required along 11th Street.



PROPERTY LOCATION AND VICINITY:

The subject property is located on the southwest corner of Expressway 83 and 11th Street. The property has 315.70 ft. of frontage along Expressway 83 and a depth of 630 ft. with a lot size of 198,891 square feet. The property and adjacent zoning is C-3 (general business) District in all directions. Surrounding land uses include commercial retail, restaurants, and offices.

BACKGROUND AND HISTORY:

Toys-R-Us Subdivision was recorded on May 28, 1991 and has a note indicating a Site plan approval by the Planning and Zoning Commission is required prior to issuance. A preliminary site plan was reviewed by staff and comments were sent on February 25, 2021. An application for the variance request and site plan review were submitted on April 7, 2021.

ANALYSIS:

The variance request #1 is to allow 111 parking spaces instead of the required 138 parking spaces. Based on the square footage of the proposed new retail store, approximately 53,622 sq. ft., 138 parking spaces are required. Section 138-395 (11-a) requires for a retail building to have 4 parking spaces for up to 400 sq. ft. of floor area plus one parking space for each additional 400 sq. ft. of floor area. Based on the number of parking spaces proposing, five accessible parking spaces are required, with one being van accessible. The applicant conducted a traffic study on seven stores and the highest parking occurred during Saturday. The Saturday peak parking rates varied from .60 spaces per 1,000 sq. ft. to 1.07 spaces per 1,000 sq. ft. or 39-70 spaces for a 65,000 sq. ft. building.

On November 3, 2004, the Zoning Board of Adjustment and Appeal board approved a variance request to allow 139 parking spaces instead of the 147 parking spaces required for the adjacent property to the east.

The variance request #2 is to not provide the 10 ft. wide landscaping strip along 11th street. As per Section 110-49(a) of the City's ordinance, a landscape strip area with a minimum width of ten feet shall be provided along and within the property lines of all nonresidential and multifamily uses contiguous to a public street, excluding driveway entrances and exits. For properties having a lot depth of less than 200 feet, the landscaped strip may be reduced to a minimum width of five feet with a landscape hedge not exceeding three feet in height.

Staff has received a phone call from adjacent property owner in opposition to the variances requests.

RECOMMENDATION:

Staff recommends disapproval of the variance requests subject to compliance with Zoning Ordinance Section 138-395 (11-a) and Section 110-49(a).

ZBA 2021-0014

ZBA
5.5.21

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

 LOT ONE (1) TOYS R US SUBDIVISION, City of McAllen
 Hidalgo County, Texas, according to the established
 map or plat thereof recorded in Volume 27, Page 31A
 Map Records of Hidalgo County, TX

Subdivision Name

NA

Street Address

1101 W. Expy 83

Number of lots 1

Gross acres 5

Existing Zoning

3C General Business

Existing Land Use

Vacant Retail

Reason for Appeal (please use other side if necessary)

 Relief from minimum offstreet
 parking requirements. See narrative attached.

☒ \$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 Vanessa Masell

Phone 720.840.7813

Address 355 Union Blvd. Suite 301

E-mail vmasell@centerpoint-is.com

City Lakewood

State CO

Zip 80228

Owner

Name Brian Kaplan - 1101 McAllen

Phone M: (713) 562-3641;

Address Retail Partners

E-mail bkaplan@parkway-partners.com

City See owner authorization attached

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 4/6/2021

Print Name Vanessa Masell

☐ Owner☐ Authorized Agent

Office

Accepted by LG.

Payment received by

Date APR 07 2021

By CM

Rev 09/20



B



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:	
	2. Describe how the variance is necessary for the preservation and enjoyment of the legal property rights of the owner:	
	3. Describe how the variance will not be detrimental to the public health, safety or welfare or injurious to the legal rights other property owners enjoy in the area:	
Board Action		
Chairman, Board of Adjustment Signature _____		
Date _____		
Rev. 9/20		

April 1, 2021

Applicant: Vanessa Masell
CenterPoint Integrated Solutions
C/O Floor & Decor Outlets of America, Inc.

Property Location: 1101 W. Expy 83 McAllen, TX
Appeal to Zoning Board of Adjustment
Reason for Appeal & Board Action

Floor & Decor, a national retailer of hard surface flooring, is proposing to demolish the vacant approximately 50,000sf building, previously occupied by Toys R Us, which has been vacant for the last 5 years. We are proposing to construct a 65,000sf building and associated parking areas for their retail use. The store will consist of 51,828 square feet of combined showroom and design center space, 10,700 square feet of interior warehouse storage, and 1,794 square feet of office. The site will meet all dimensional standards as outlined in the recorded Plat . The property is zoned C3 – General Business, Floor & Decor’s use is permitting by right.

Floor & Decor is a multi-channel specialty retailer of hard surface flooring and related accessories, offering a broad, in-stock assortment of tile, wood, laminate, and natural stone flooring along with decorative and installations accessories at everyday low prices. Floor & Decor buys direct from the source worldwide, so prices are lower than those of their competitors. The professionals, who are typically installers, make up 50-60% of their customer base. These customers have a dedicated professional sales manager to help them get their jobs done. Floor & Decor also offers free design services which is typically used by their non-professional customers to assist in making product selections. The Floor & Decor brand is bolstered by a local focus that allows us to create a store experience and customized mix of products that meet the needs of each market they serve. The company empowers store managers, or Chief Executive Merchants, to create a local shopping experience for their customers. As of 2021 Floor & Decor owns and operates 143 warehouse-format stores in 32 states.

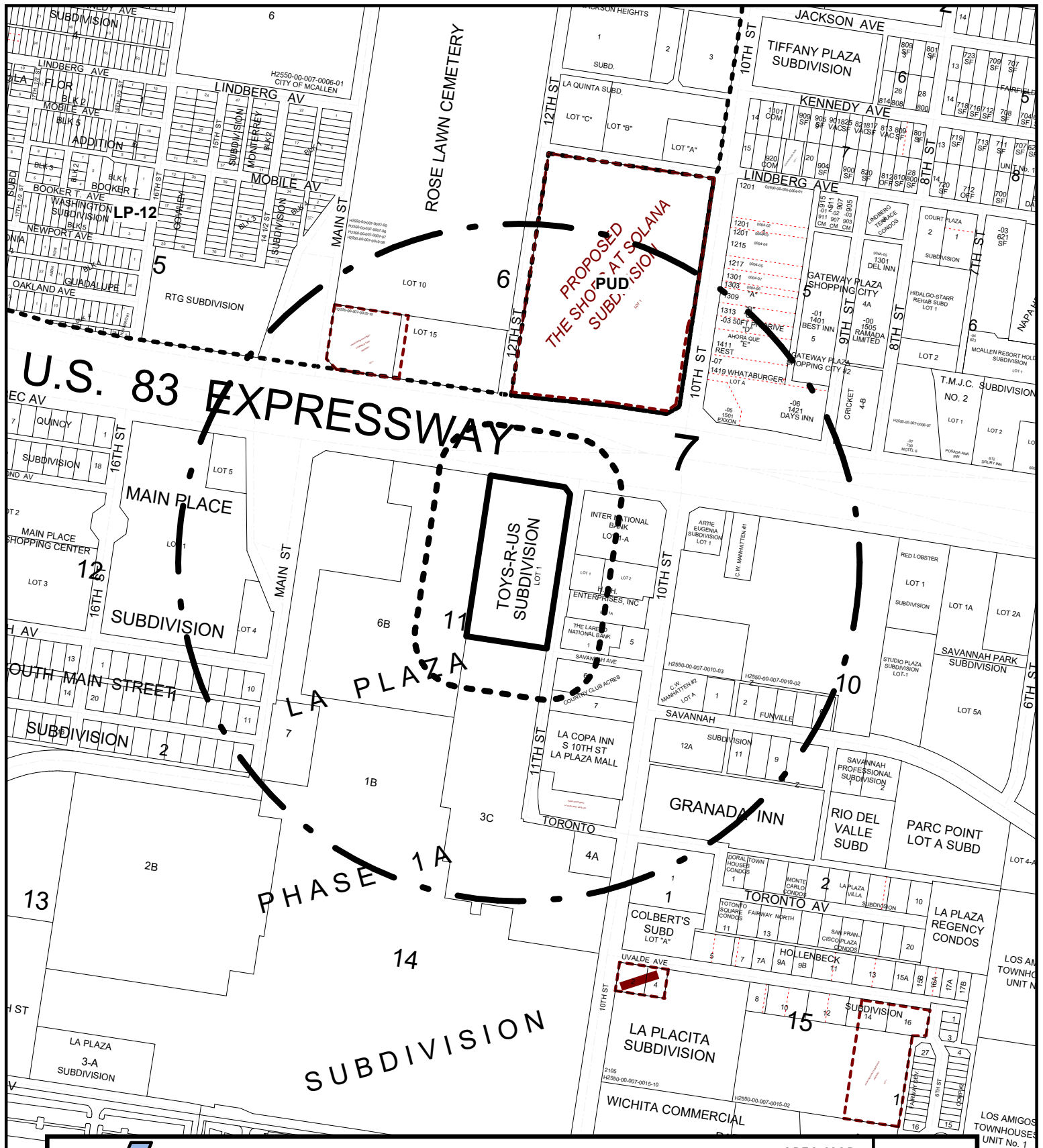
The Applicant respectfully requests a parking variance to reduce the required off street parking. Per Article VII of the Zoning code, a total of 148 parking spaces are required for the proposed development (Retail, Warehouse/Office). We are proposing to provide no less than 100 onsite parking spaces, see justification below.

This development will result in the first Floor & Decor in the far-south Texas area, the closest retail location is in San Antonio over 200 miles away. This development will provide

employment to 40-50 full and part time members of the local community and increase the retail sales tax base. The sales floor is similar to a warehouse in that inventory is stored either in high pile storage systems or floor pallets more in line with a warehouse rather than a retail operation which results in less overall traffic generation. Floor & Decor has conducted a National Parking and Trip Generation study that analyzes 7 Floor & Decor stores around the country to determine actual parking and trip generation rates. These seven stores represent the best performing stores in each of their respective markets and were selected for the study to collect data at the stores anticipated to have the highest parking and trip generation rates. The highest traffic/parking generation occurred during the Saturday data collection for all seven stores. The study concluded that the Saturday peak parking rates varied from .60 spaces per 1,000 to 1.07 spaces per 1,000sf or 39-70 spaces for a 65,000sf building. We are proposing to provide nearly double the onsite parking required for the busiest Floor & Decor location in the Country. From an operational perspective, Floor & Decor is confident that the proposed number of parking spaces will exceed their operational needs.

Thank you,

Vanessa Masell
Development Manager
CenterPoint Integrated Solutions



CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

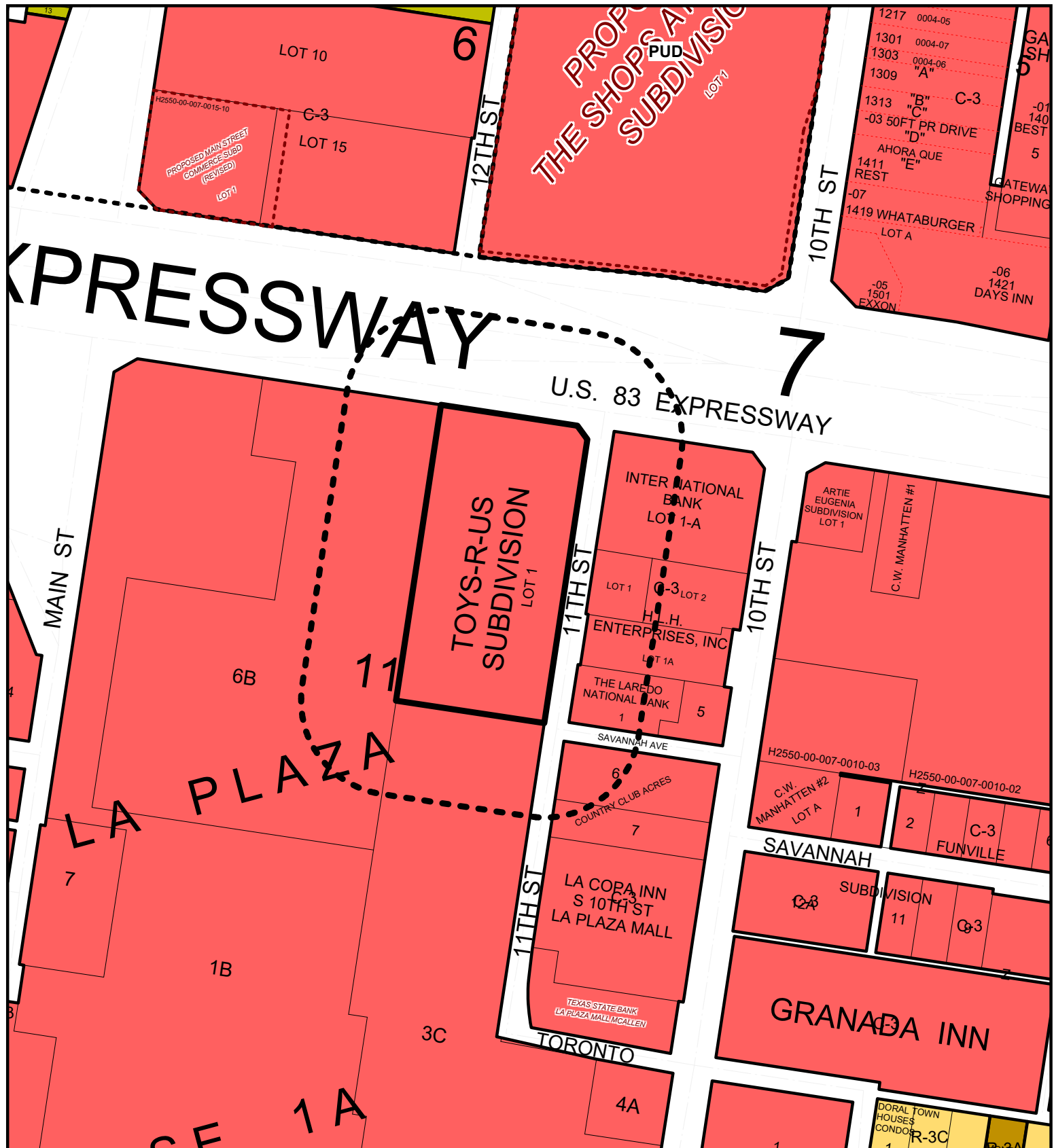
1/4 MILE RADIUS



ZONING LEGEND

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

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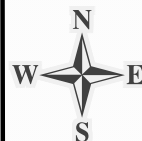
CITY OF McALLEN PLANNING DEPARTMENT

LEGEND SCALE: N.T.S.

SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

1/4 MILE RADIUS



ZONING LEGEND

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

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

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

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

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

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

SSWAY

U.S. 83 EXPRESSWAY

TOYS-R-US
SUBDIVISION

INTER NATIONAL
BANK
LOT 1-A

LOT 1
LOT 2
H.L.H.
ENTERPRISES, INC

LOT 1A
THE LAREDO
NATIONAL BANK
1

SAVANNAH AVE

6
COUNTRY CLUB ACRES

10TH ST



CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.



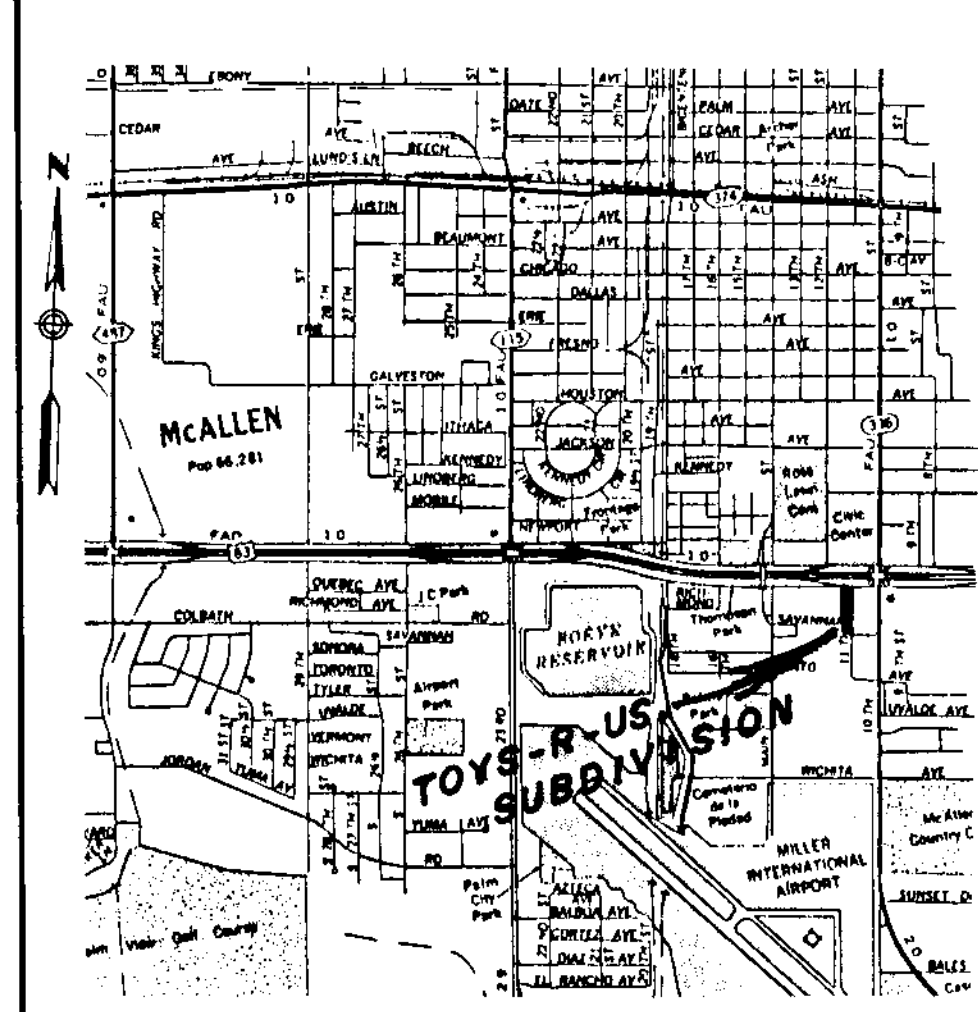
SUBJECT PROPERTY



200' NOTIFICATION BOUNDARY



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



LOCATION MAP

MAY 28 1999

BEING A RESUBDIVISION OF 5.000 ACRES
BEING ALL OF LOTS 17 THRU 20, AND THE
NORTH 118.00 FEET OF LOT 16,
COUNTRY CLUB ACRES SUBDIVISION
(as recorded in Volume 4, Page 2, H.C.M.R.)
CITY OF MCALLEN, HIDALGO COUNTY, TEXAS

STATE OF NEW JERSEY
COUNTY OF BERGEN

I, THE UNDERSIGNED, OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS "R-4" SUBDIVISION TO THE CITY OF MCALLEN, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, 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, TEXAS, ALL THE SAME FOR THE PURPOSES THEREIN EXPRESSED, WITHHOLDING PLAT THEREON OR ON ANY OFFICIAL MINUTES OF THE APPLICABLE AUTHORITIES OF THE CITY OF MCALLEN.

MICHAEL PAUL MILLER OWNER
TOYS-R-US --
NYTEX INC.

STATE OF NEW JERSEY
COUNTY OF BERGEN

BEFORE ME THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED
MICHAEL PAUL MILLER KNOWN TO ME TO BE THE PERSON WHOSE NAME IS
_____, TO ME THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT
HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED.
GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS THE _____ DAY OF _____,
19 _____.

NOTARY PUBLIC COUNTY OF

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

STATE OF TEXAS:
COUNTY OF HIDALGO:

I, THE UNDERSIGNED, FRED L. KURTH, A REGISTERED PROFESSIONAL ENGINEER AND A REGISTERED PUBLIC SURVEYOR, IN THE STATE OF TEXAS, DO HEREBY CERTIFY THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAN AND IS A TRUE AND ACCURATE REPRESENTATION OF THE SUBDIVISION OF THE LAND HEREIN DESCRIBED.

FRED L. KURTH
APE NO. 54151
RPS NO. 4750
DATE OF PREPARATION: 9/10/90
E90114
SURVEYED DATE 8/31/90
T. 296, P. 64-70, 75-77

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.

OTHA E. BRAND, MAYOR

ATTEST:

~~SECRETARY~~

14th THIS PLAT APPROVED BY HIDALGO COUNTY IRRIGATION DISTRICT NO. 3 ON THIS
DAY OF November A.D., 1990.

ATTEST:

PRESIDENT

SECRETARY

Being 5.000 acres of land situated in the City of McAllen, Hidalgo County, Texas and also being all of Lots 17 through 20, and the North 118.0 feet out of Lot 16, COUNTRY CLUB ACRES SUBDIVISION (Deed Ref. Vol. 4, Pg. 2, H.C.M.R.) and said 5.000 acres also being more particularly described as follows:

Beginning at nail set on the northeast corner of said Lot 20, the centerline of 11th Street and the south right-of-way line of U. S. Expressway 83, for the northeast corner of this tract;


Thence S 8° 46' W along the center line of said 11th Street and the east line of Lots 20, 19, 18, 17 & 16 a distance of 630.00 feet to a nail set for the southeast corner of this tract;

Thence N 81° 14' W and parallel to the south line of said Lot 16 at a distance of 20.00 feet pass the existing west right-of-way line of said 11th Street at 30.00 feet pass a #4 rebar set for proposed west right-of-way line of 11th Street and continuing a total distance of 345.70 feet to a #4 rebar set for the southwest corner of this tract;

Thence N 8° 46' E along the west line of Lots 16, 17, 18, 19 & 20 a distance of 630.00 feet to an iron pipe found on the northwest corner of said Lot 20 and the south right-of-way line of said U. S. Expressway 83, for the northwest corner of this tract;

Thence S 81o 14' E along the north line of said Lot 20 and the south right-of-way line of said U.S. Expressway 3 at a distance of 290.70 feet pass the proposed right-of-way line (a 2.0 foot clip) of said 11th Street, at 325.70 feet pass an iron pipe found on the existing west right-of-way of said 11th Street, and continuing a total distance of 345.70 feet to the POINT OF BEGINNING and containing 5.000 acres of land of which 0.289 of one acre of land lies in the existing right-of-way of 11th Street and 0.711 of one acre lies in the proposed right-of-way of said 11th Street, leaving a net of 4.560 acres of land, more or less.

- NOTES:

1. PROPOSED SETBACKS
- FRONT - 75 FEET - U.S. EXPRESSWAY 83
- 30 FEET - SOUTH 11th STREET
REAR - 23 FEET - SOUTH PROPERTY LINE
- OTHER SETBACKS TO ZONING ORDINANCE AT TIME OF
SIZE PLAN APPROVAL.
2. MINIMUM PERMISSIBLE FINISHED FLOOR ELEVATIONS
FOR ALL BUILDING IMPROVEMENTS IS: 18" ABOVE
TOP OF CURB MEASURED AT FRONT CENTER OF LOT OR
ELEVATION 106.5, WHICHEVER IS HIGHER.
3. ANTICIPATED HIGH WATER CREATED BY A 100-YEAR
STORM IS ELEVATION 105.0 AND THE SUBDIVISION
IS IN ZONE B ON FEMA'S FLOOD INSURANCE RATE
MAP COMMUNITY PANEL NO. 480343 0010B
JUNE 15, 1981.
4. BENCH MARK: SQUARE CUT ON TOP OF STORM SEWER
INLET AT SOUTH CURB OF U.S. EXPRESSWAY 83,
DIRECTLY NORTH OF NORTHWEST CORNER OF PROPERTY.
ELEV. = 105.84
5. 25'x 25' CORNER CLIP AT THE INTERSECTION OF
U.S. EXPRESSWAY 83 AND SOUTH 11th STREET IS HEREBY
DEDICATED TO THE CITY OF MCALLEN IN ACCORDANCE
WITH CITY STANDARDS.
6. SIDEWALKS REQUIRED ALONG U.S. EXPRESSWAY 83 &
SOUTH 11th STREET.
7. 6' BUFFER REQUIRED ALONG SOUTH PROPERTY LINE.
8. SITE PLAN APPROVAL BY THE PLANNING & ZONING
COMMISSION REQUIRED PRIOR TO ISSUANCE.
9. THE REQUIRED DRAINAGE DETENTION IS 1.15 AC. F
10. DEVELOPER IS REQUIRED TO SUBMIT AN ENGINEERED
DETENTION PLAN APPROVED BY THE ENGINEERING DE
PRIOR TO APPLICATION FOR BUILDING PERMIT.
11. 24' FIRE LANE DEDICATED AS PER APPROVED SIT
- APPROVED
John L. Keith
-  **MCALLEN**
CONSULTING ENGINEERS

County, Texas
Don and West, Inc.
County Surveyors

MELDEN & HUNT INC.
CONSULTING ENGINEERS
& SURVEYORS
EDINBURG, TEXAS
(512) 381-0981

U.S. EXPRESSWAY 83 (I-2 WEST)
VARIABLE WIDTH ROAD
MAINTAINED BY THE CITY OF McALLEN

S81°23'00"E 345.70'

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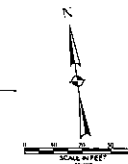
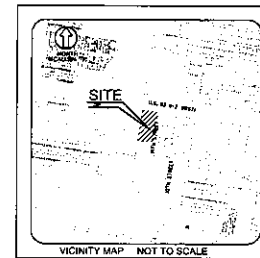
S81°23'00"E 290.70'

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S81°23'00"E 290.70'

MATCHLINE SHEET 2 OF 2



LEGAL DESCRIPTION
LOT ONE (18) TOYS-R-US SUBDIVISION, City of McAllen, Hidalgo County, Texas, according to the established map or plat thereof recorded in Volume 27, Page 31A, Map Records of Hidalgo County, Texas.

GENERAL NOTES

- The bearings shown herein are referenced to the Texas Coordinate System of 1983, Texas South Zone NAD83 Grid, U.S. Survey Feet.
- The surveyor has relied on the information for the insurance issued by First American Title Insurance Company (FAT) No. NCS-1002509-CHART, and policy effective date February 28, 2021 and issued March 16, 2021 with respect to the existence of recorded easements, restrictions and/or other matters of record affecting the subject property.
- By platting this plat, the plat described herein has been designated Zone "N" which is defined as "Zone between lines of the 100-year flood and additional lines, or certain areas subject to 100-year flooding with average depths less than one (1) foot or where the contributing overtopping flow is less than one minute peak or where protected by levees from the levee foot (shoal) (Shoal) (Shoal)", according to the current Federal Emergency Management Agency (FEMA) maps which make up part of the National Flood Insurance Administration Report, Community Profile No. 880100000 dated February 10, 2018.
- The site is zoned SC (General Commercial, Minimum building setback line, as per the Plat of TOYS-R-US SUBDIVISION, as recorded in Volume 27, Page 31A, Map Records, Hidalgo County, Texas.
- No evidence of recent earth moving work, building construction or building additions observed in the process of conducting the fieldwork.
- All markers shown in recorded plat provided to the Surveyor are as shown on the Survey.
- No proposed changes to S. 11th as per City of McAllen engineering department and no evidence of recent street or sidewalk construction observed in the process of conducting the fieldwork.

SCHEDULE B ITEMS

10. The following list represents our composition of each item listed in Schedule B of the above referenced title commitment:
- Statutory easements, laws, regulations and rights in favor of Hidalgo County Water Improvement District No. 3 Affect the subject property but cannot be shown because it is a blanket easement.
 - Mineral four interests, surface, sub-surface, easements and restrictions as shown on the map and easements of TOYS-R-US Subdivision, recorded in Volume 27, Page 31A, Map Records of Hidalgo County, Texas Affect the subject property as shown on survey.
 - Contract, Easement and the Restrictions in favor of General Power and Light Company a Texas corporation dated March 18, 1981, recorded in Volume 200, Page 1, in the Official Records, Hidalgo County, Texas, to serve, maintain and operate underground electric cables and other facilities as may appear upon the map attached hereto. Affect the subject property as shown on survey.
 - Conveyance of Water Rights in favor of the City of McAllen as shown by instrument dated March 12, 1981, recorded in Volume 367, Page 32, Official Records of Hidalgo County, Texas. Affect the subject property, but cannot be shown because it is a blanket easement.
 - Certificate of Resolution and Order of Hidalgo County Water Improvement District No. 3 as shown by instrument dated March 12, 2008, and March 24, 2008, under Document Number 2008-109473, Official Records of Hidalgo County, Texas. Affect the subject property but cannot be shown because it is a blanket easement.
 - Mineral and/or royalty reservations contained in deed dated February 10, 1958, recorded in Volume 538, Page 537, dated February 10, 1958, recorded in Volume 538, Page 536, dated September 10, 1958, recorded in Volume 1072, Page 107, dated February 10, 1958, recorded in Volume 1116, Page 488, Official Records of Hidalgo County, Texas. Affect the subject property but cannot be shown because it is a blanket easement.
 - Easements for coal, gravel, oil, gas or other minerals, together with rights incident thereto, dated February 6, 1982, recorded in Volume 123, Page 29; dated March 6, 1982, recorded in Volume 127, Page 29; dated March 3, 1982, recorded in Volume 127, Page 29; dated April 27, 1980, recorded in Volume 246, Page 322; and dated April 27, 1980, recorded in Volume 246, Page 392. Oil and Gas Reservations of Hidalgo County, Texas. Affect the subject property but cannot be shown because it is a blanket easement.
 - Terms, conditions and covenants contained in Declaration of Unit as set forth in instrument dated March 5, 1977, recorded in Volume 197, Page 538 and dated December 9, 1960, recorded in Volume 256, Page 21, Oil and Gas Reservations of Hidalgo County, Texas. Affect the subject property but cannot be shown because it is a blanket easement.
 - Terms, conditions and covenants contained in a Non-Drilling Agreement dated January 13, 1996, recorded in Volume 182, Page 264, Oil and Gas Reservations of Hidalgo County, Texas. Affect the subject property but cannot be shown because it is a blanket easement.
 - Terms, conditions and covenants contained in a Non-Drilling Agreement dated December 20, 1981, recorded in Volume 190, Page 726 and dated February 7, 1982, recorded in Volume 111, Page 718, in the Official Records of Hidalgo County, Texas. Does not affect the subject property.

SURVEYOR'S CERTIFICATE:

To: Floor and Dave Deffen of America, Inc., its affiliates, successors and assigns, 1101 McAllen Retail Partners, LP, a Texas limited partnership and First American Title Insurance Company.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2018 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Survey, jointly established and adopted by ALTA and NSPS, and include Items 1, 2, 3, 4, 6(a), 7(a), 7(b)(1), 8, 9, 11, 13, 15, 17, 18 and 20 of "Table A" thereof. The fieldwork was completed on

Date of Survey: 3-19-21

JUAN M. CASAYLO
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS NO. 8148

ALTANSPS LAND TITLE SURVEY
LOT 1, TOYS-R-US SUBDIVISION
City of McAllen, Hidalgo County, Texas



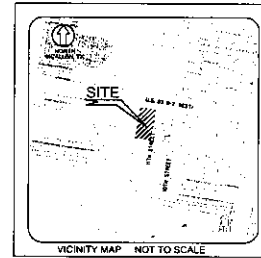
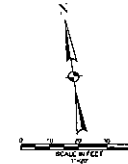
Revisions	No.	Date	Drawn/Check



Project No.: 033373-001
Mission: 3/15/2021
Drawn By: JRG
Checked By: JMC
Scale: 1"=20'
Sheet Title:
Sheet No.:
V10105-4373

1 OF 2
Sheet Number

MATCHLINE SHEET 1 OF 2



LEGEND

- FR - FORMED IRON ROD
- M.R.C.T. - MAP RECORDS, HIDALGO COUNTY, TEXAS
- O.R.H.C.T. - OFFICIAL RECORDS, HIDALGO COUNTY, TEXAS
- S.D.T. - SQUARE FEET
- R.O.W. - RIGHT-OF-WAY
- WV - WATER VALVE
- WM - WATER METER
- PH - FIRE HYDRANT
- L - LIGHT POLE
- PO - POWER POLE
- BOLL - BOLLARD
- STM - STORM DRAINAGE MANHOLE
- SSM - SANITARY SEWER MANHOLE
- GR - GROUND
- SSCO - SANITARY SEWER CLEANOUT
- ES - ELECTRIC SIGN
- TS - TRAFFIC SIGN
- TPED - TELEPHONE PEDestal
- KCV - IRRIGATION CONTROL VALVE
- - HANDICAP PARKING
- - NUMBER OF PARKING SPACES
- EX 06 — CONCRETE PAVEMENT
- EX 08 — OVERHEAD ELECTRIC LINE
- EX 09 — WATER PAINT MARK
- EX 10 — SANITARY SEWER PAINT MARK
- EX 04 — NATURAL GAS PAINT MARK
- EX 05 — EDGE OF ASPHALT

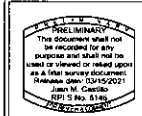
164	REGULAR PARKING SPACES
165	HANDICAP PARKING SPACES
172	TOTAL PARKING SPACES

ADVANCE COPY

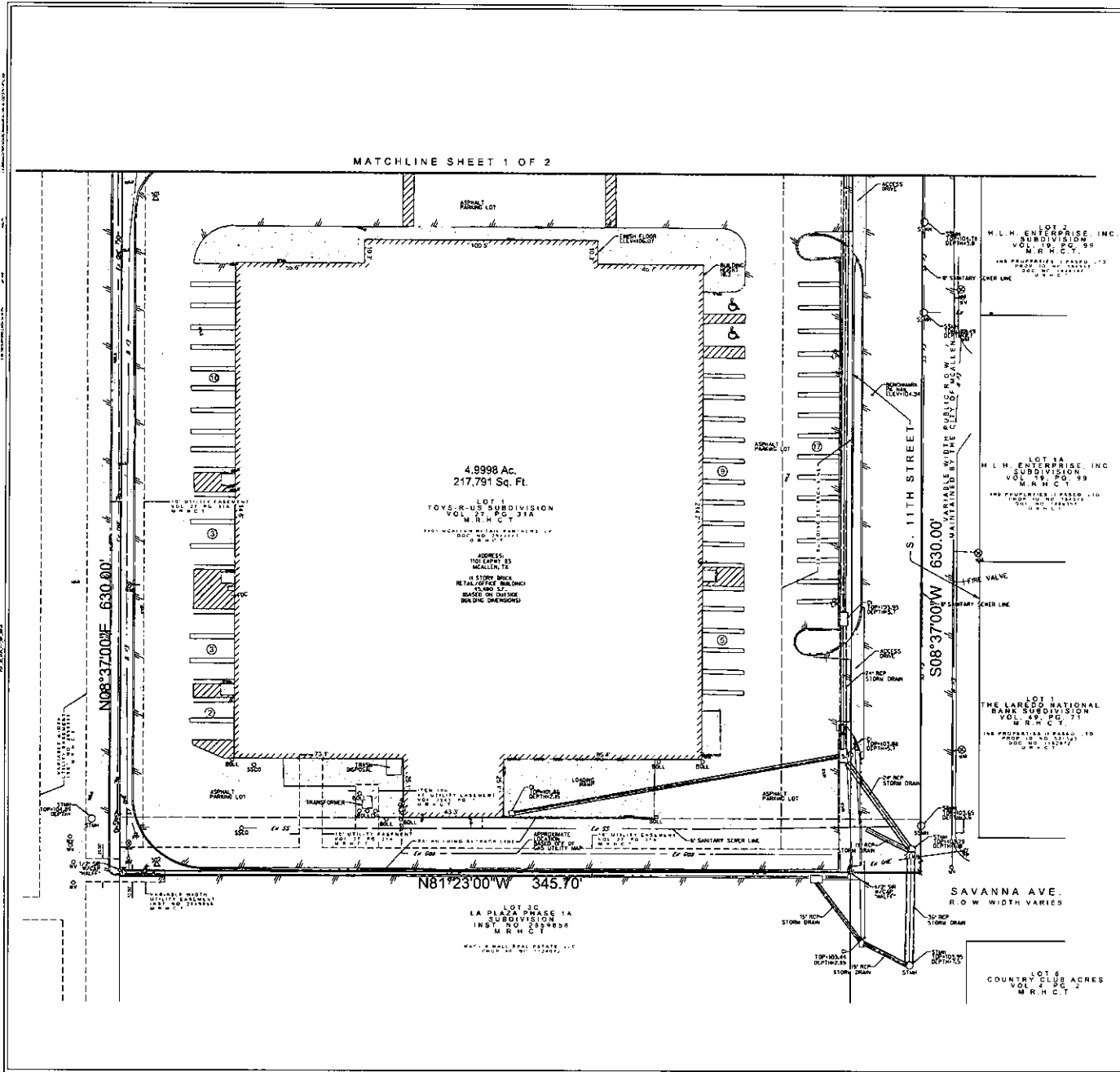
ALTANSPS LAND TITLE SURVEY
LOT 1, TOYS-R-US SUBDIVISION
 City of McAllen, Hidalgo County, Texas

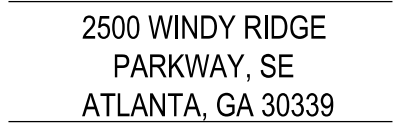


Revision	Date	Description



Project No.	043371-001
Issued	07/15/2011
Drawn By	JMG
Checked By	JMG
Scale	1"=20'
Sheet Title	V101-IS-43373





SBLM Architects
33 Walt Whitman Road, Suite 300A
Huntington Station, NY 11746
Telephone 631 683 5588
Fax 631 683 5591



PROJECT NAME

1101 W EXPRESSWAY 83
MCALLEN, TX 78503

ISSUE DATE: T.B.D.
STORE NUMBER: 842092
AREA : 65,109 SF
JOB NUMBER: 021006
PROTOTYPE: 2019 Q2

ISSUE _____

[illegible]

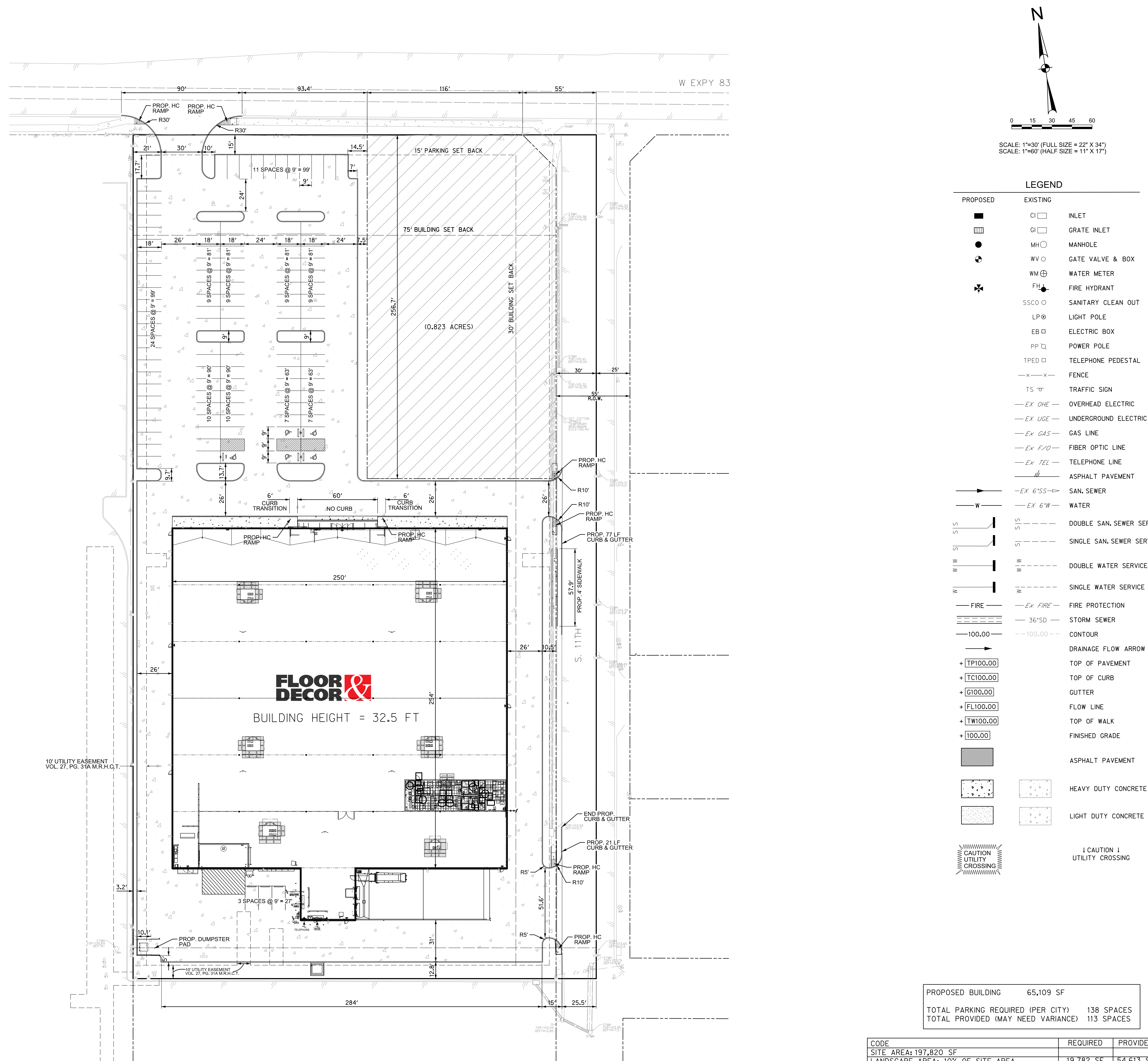
SEAL _____

SHEET _____

SITE PLAN

DRAWN:
CHECKED:

EX-101



**NOTICE
VARIANCE
FOR
THIS PROPERTY
ZBA2021-0014**



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



Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: April 30, 2021

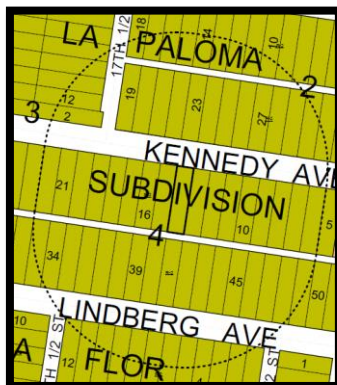
SUBJECT: REQUEST OF ADELA GALLEGOS FOR THE FOLLOWING VARIANCES TO THE CITY OF MCALLEN ZONING ORDINANCE: 1) AN ENCROACHMENT OF 9.83 FT. INTO THE 20 FT. FRONT YARD SETBACK FOR A PROPOSED PORCH MEASURING 19.91 FT. BY 7.83 FT., 2) AN ENCROACHMENT OF 3.5 FT. INTO THE 3.5 FT. SIDE YARD SETBACK ALONG THE WEST SIDE OF THE PROPERTY FOR A PROPOSED PORCH MEASURING 19.91 FT. BY 7.83 FT., 3) AN ENCROACHMENT OF 5.25 FT. INTO THE 10 FT. REAR YARD SETBACK FOR AN EXISTING STORAGE BUILDING MEASURING 12 FT. BY 22.25 FT. AT LOT 14, BLOCK 4, LA PALOMA SUBDIVISION, HIDALGO COUNTY, TEXAS; 1625 KENNEDY AVENUE. (ZBA2021-0008)

REASON FOR APPEAL:

The applicant is requesting a variance to allow an encroachment of 9.83 ft. into the 20 ft. front yard setback for a proposed porch measuring 19.91 ft. by 7.83 ft., to allow an encroachment of 3.5 ft. into the 3.5 ft. into the side yard setback along the west side of the property for a proposed porch measuring 19.91 ft. by 7.83 ft., to allow an encroachment of 5.25 ft. into the 10 ft. rear yard setback for an existing storage building measuring 12 ft. by 22.25 ft. The applicant removed a previously existing porch because it was deteriorating and is proposing to reconstruct the porch at the same location. The porch will serve to keep rain from coming into the house during inclement weather.

PROPERTY LOCATION AND VICINITY:

The subject property has 25 ft. of frontage on Kennedy Avenue, with a depth of 100 ft. for a lot size of 2,500 sq. ft. The subject property is located between Bicentennial Boulevard. and South 16th Street, 325 ft. east of Bicentennial Boulevard. The property is zoned R-2 (duplex-fourplex residential) District. The surrounding land uses include single family and duplex-fourplex residential.



BACKGROUND AND HISTORY:

The La Paloma Subdivision was recorded on September 7, 1926. An application for a building permit was submitted on April 20, 2017 to replace windows, sheet rock and deteriorating parts of the wood frame home. On August 20, 2019 the applicant renewed the permit to include changes to the siding and roof replacement. On September 3, 2020 the applicant renewed the building permit to include a renovation to the front porch and to include a drive way. The applicant stated that she removed the previously existing porch because it was deteriorating and planned to reconstruct the porch. However, during the permit process she was advised the addition would require a variance. The applicant did not want to apply for the variance at the time and decided to no longer build the porch or driveway. The building permit application was revised once more to exclude the porch and driveway. The building permit was finalized on March 15, 2021. The issuance of a future building permit for the porch will depend on the outcome of the variance request. A building permit was issued on September 14, 2020 for the remodeling of the existing non-conforming storage building located at the rear of the property. The remodeling to the main house was initiated due to the deteriorating condition of the structure. Furthermore, due to harsh weather conditions in 2020 the applicant then applied to remodel the storage due to damage caused by inclement weather.

ANALYSIS:

Variance #1: The applicant is requesting to allow an encroachment of 9.83 ft. into the 20 ft. front yard setback for a proposed porch measuring 19.91 ft. by 7.83 ft. The porch is proposed to be attached to the front of the house and serves to protect from rain coming in through the front door sides during inclement weather.

Variance #2: The applicant is requesting to allow an encroachment of 3.5 ft. into the 3.5 ft. side yard setback along the west side of the property for a proposed porch measuring 19.91 ft. by 7.83 ft. Section 138-368(f) indicates that a lot of record with less than 50 ft. in width, the required setback may be reduced to ten percent of the width of the lot and not less than 3.5 ft. side yard setback. The proposed side yard setback will allow the porch construction to align with the existing house along the west side of the lot.

Variance #3: The applicant is requesting to allow an encroachment of 5.25 ft. into the 10 ft. rear yard setback for an existing storage building measuring 12 ft. by 22.25 ft. The applicant advised that the storage unit was already on the property when the property was purchased in 1977. A single-family home and accessory use are permitted in the R-2 District. Required setbacks and building separation must be met. The storage building cannot be relocated out of the rear yard setback since it would conflict with compliance of building separation of the accessory structure to the main building. The storage building is used to store household items. Storage buildings that are 200 sq. ft. or less in size do not require a building permit, must respect the setbacks of the zoning district in which they are located.

In 2012 a variance request at 1606 Kennedy Ave was approved by the Zoning Board for a carport encroachment 5 ft. into the 20 ft. front yard setback. In 2013 a variance request at 1608 Juniper Avenue was approved for a building addition encroachment at the rear of the property, changing the rear yard setback to 10 ft. from 20 ft.

During a site visit of the subject property, staff noticed other building encroachments in the area.

RECOMMENDATION:

Variance #1: Staff recommends approval since this is a reconstruction of a previous existing structure, the porch previously was part of the initial non-conforming house.

Variance #2: Staff recommends disapproval since the applicant can reduce the size of the porch to eliminate the side yard encroachment

Variance #3: Staff recommends approval since there is an alley that serves as a buffer.

ZBA
4/21/2021

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

La Paloma Add Lot 14 BLK 4

Subdivision Name

La Paloma Add Lot 14 BLK 4

Street Address

1625 Kennedy Ave

Number of lots

1

Gross acres

0.0574

Existing Zoning

R 2

Existing Land Use

House

Reason for Appeal (please use other side if necessary)

See Attachment

☒ \$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 Adela Gallegos

Phone 956 534 0417

Address 1625 Kennedy Ave

E-mail

City McAllen

State TX

Zip 78501

Owner

Name Carlos Gallegos (Adela Gallegos)

Phone

Address 1625 Kennedy Ave

E-mail

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 Adela Gallegos

Date 3.17.21

Print Name Adela Gallegos

☒ Owner

☐ Authorized Agent

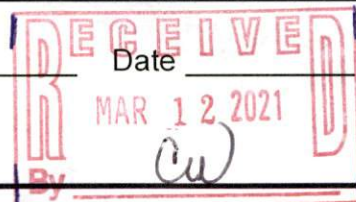
Office

Accepted by

Payment received by

Date

Rev 10/18



Pd. ref # 226486



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 Porch was Part of the initial house Plans and is desperately needed since when it rains and the door is open all the rain water comes inside the house.

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

protejer en contra el clima

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:

Voy a contratar a algun profesional / en esta area algunas casas estan muy enfrente de la calle y no afecta

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

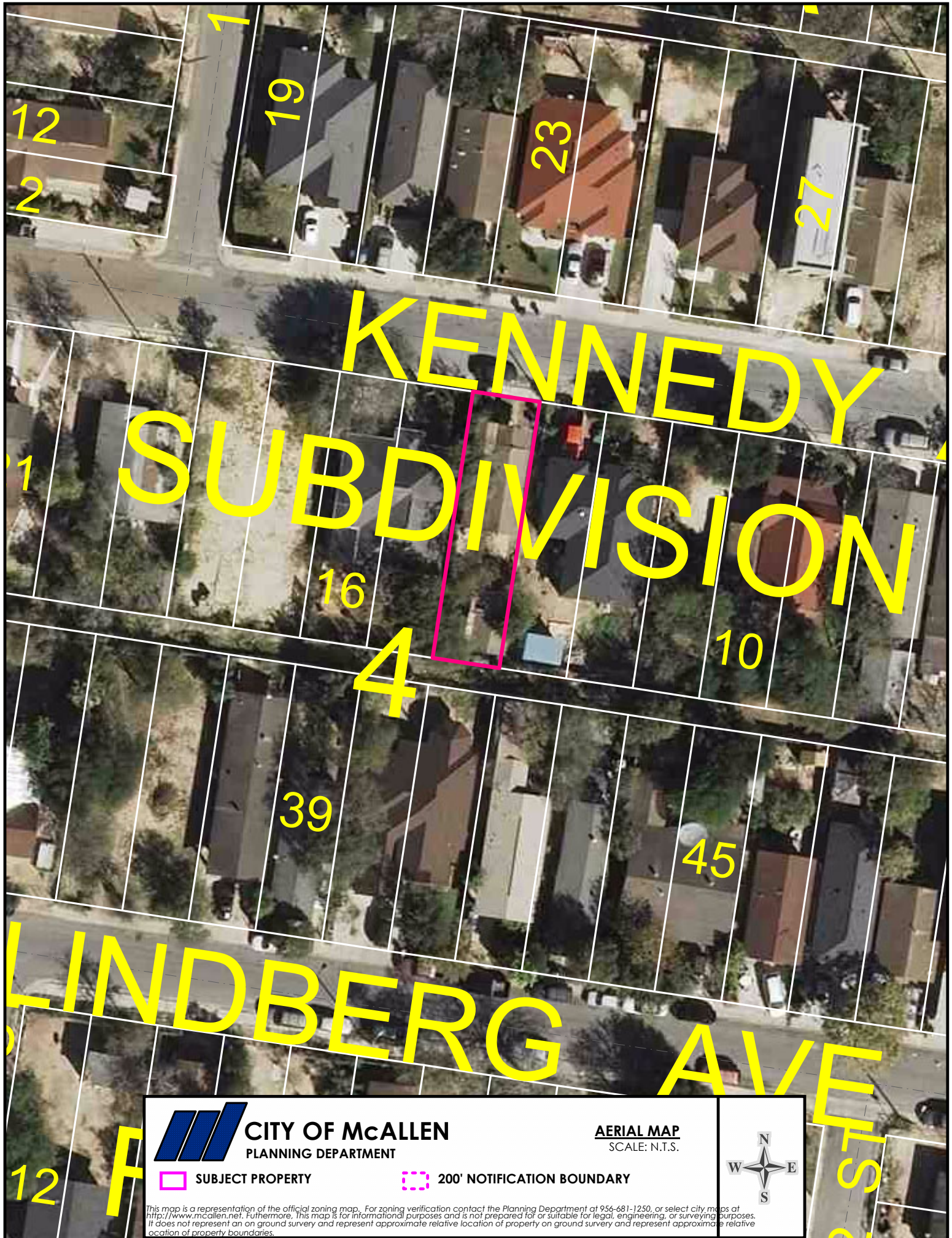
el lote esta reducido

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date



CITY OF McALLEN
PLANNING DEPARTMENT

AERIAL MAP
SCALE: N.T.S.



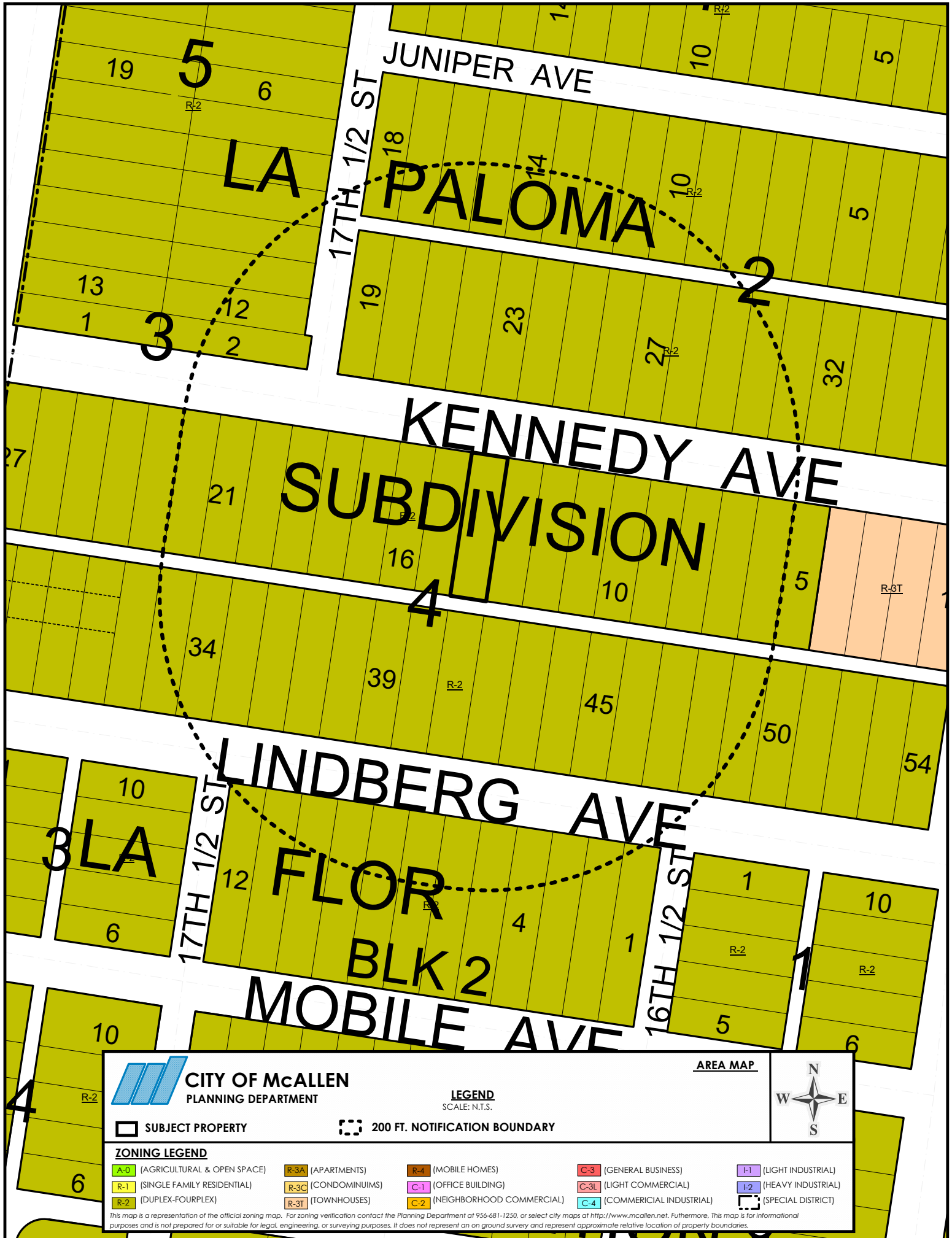
SUBJECT PROPERTY



200' NOTIFICATION BOUNDARY



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



CITY OF McALLEN
PLANNING DEPARTMENT

LEGEND
SCALE: N.T.S.

AREA MAP



SUBJECT PROPERTY

200 FT. NOTIFICATION BOUNDARY

ZONING LEGEND

A-0 (AGRICULTURAL & OPEN SPACE)

R-1 (SINGLE FAMILY RESIDENTIAL)

R-2 (DUPLEX-FOURPLEX)

R-3A (APARTMENTS)

R-3C (CONDOMINIUMS)

R-3T (TOWNHOUSES)

R-4 (MOBILE HOMES)

C-1 (OFFICE BUILDING)

C-2 (NEIGHBORHOOD COMMERCIAL)

C-3 (GENERAL BUSINESS)

C-3L (LIGHT COMMERCIAL)

C-4 (COMMERCIAL INDUSTRIAL)

I-1 (LIGHT INDUSTRIAL)

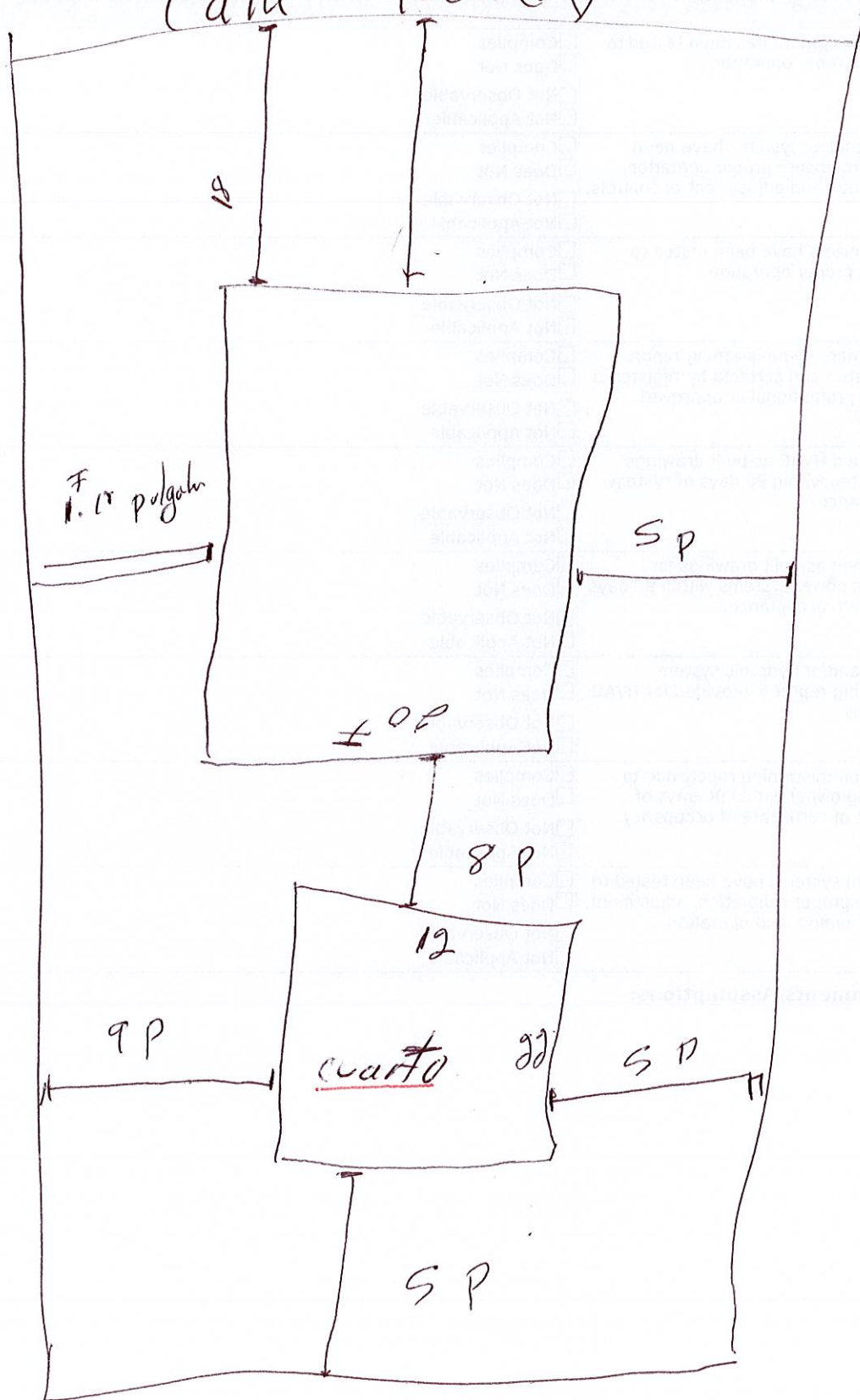
I-2 (HEAVY INDUSTRIAL)

(SPECIAL DISTRICT)

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N ↑

Call Kundu

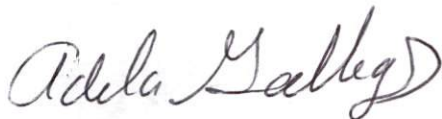


3/12/2021

Dear Board of Adjustment,

The reason for the appeal is to re-add previously existing porch to the front of the house. The porch was deteriorating and was removed. It was supposed to get rebuild, however, it was not done since I was taking care of my husband who was very ill at the time. He remained was very ill for several months and attended to his needs during this time and neglected to re-add the porch right away. My husband is now deceased and I currently live there alone. The porch was part of the initial house plans and is desperately needed since when it rains and the door is open all the rain water comes inside the house. The porch also makes the front of the house look more appealing. Your consideration is appreciated.

Thank you,

A handwritten signature in cursive script, reading "Adela Gallegos". The ink is dark and the signature is fluid, with a large loop at the end of the last name.

Adela Gallegos

Front View



West Side Yard



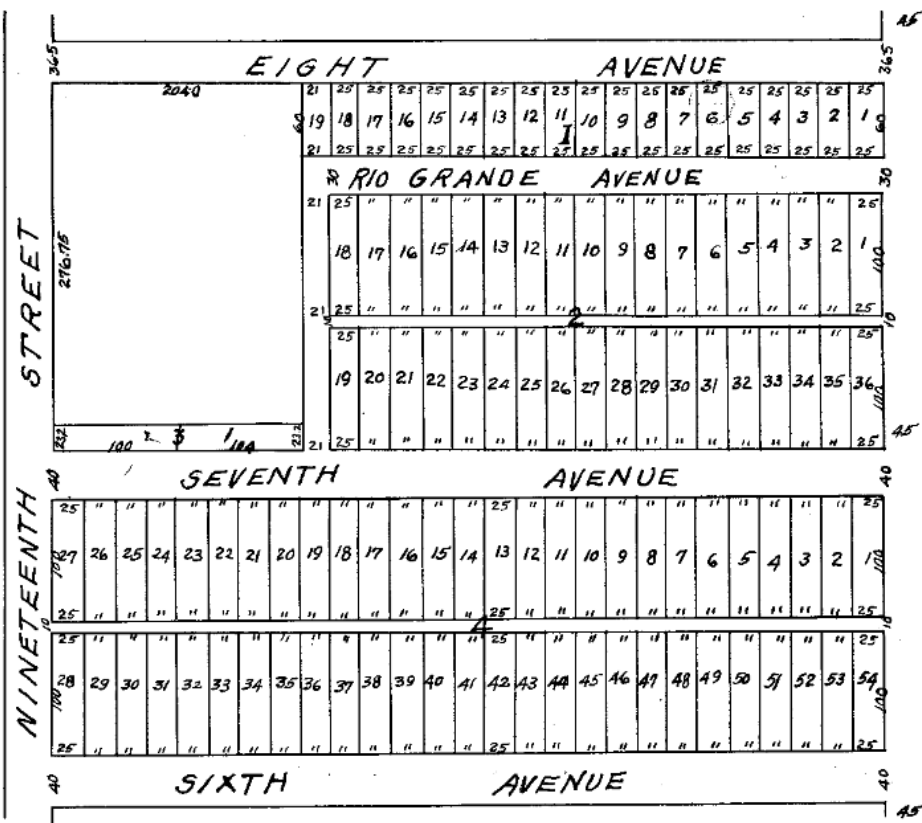
Storage Unit



Rear Yard







MAP
OF
LA PALOMA ADDITION
MC ALLEN TEXAS
Scale: 1"=100'

Being a subdivision of the S.W. $\frac{1}{4}$ of The N.W. $\frac{1}{4}$ of the
N.W. $\frac{1}{4}$ of Section 7 Hidalgo Canal Company's
subdivision of Porciones 64, 65 and 66 Hidalgo County Texas

I E.M. Card, a surveyor do hereby certify that the foregoing "Map of LA Paloma
Addition to McAllen, Texas" is a true and correct Plat of the S.W. $\frac{1}{4}$ of the N.W. $\frac{1}{4}$ of
the N.W. $\frac{1}{4}$ of section 7 Hidalgo Canal Company's subdivision of Porciones
64, 65, and 66 Hidalgo County, Texas, as surveyed and subdivided by me

E.M. Card
surveyor

Subscribed and sworn to before me this 7th day of Sept A.D. 1926

V.A. Ramon
Notary Public in and for
Hidalgo County Texas.



FILED for Record this day

SEP 7 1926

2:30 o'clock P.M.

CAME HILL
Clerk County Court Hidalgo County Texas
By Mary Jordan
Duty

Recorded Sept 16 1926 at 4:30 PM

Memo

TO: Zoning Board of Adjustment & Appeals

FROM: Planning Staff

DATE: April 30, 2021

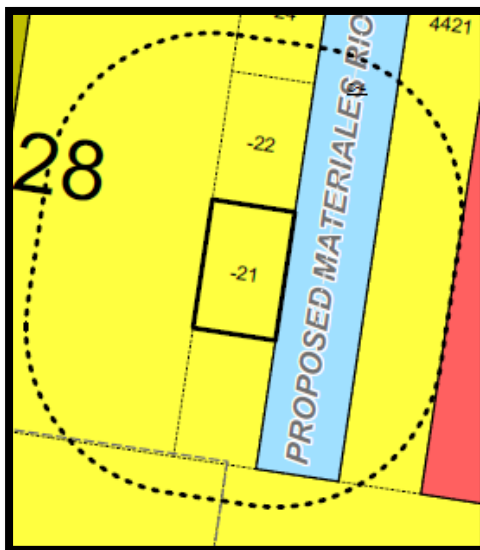
SUBJECT: REQUEST OF JOSE OLVERA TELLEZ FOR THE FOLLOWING VARIANCE TO THE CITY OF MCALLEN ZONING ORDINANCE: TO ALLOW ISSUANCE OF A BUILDING PERMIT IN EXCESS OF 10% REPLACEMENT VALUE FOR A NON-CONFORMING USE AT 0.36 ACRE OF LAND OUT OF LOT 328, JOHN H. SHARY SUBDIVISION, HIDALGO COUNTY, TEXAS; 4509 BUDDY OWENS BOULEVARD UNIT E. (ZBA2021-0015)

REASON FOR APPEAL:

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

PROPERTY LOCATION AND VICINITY:

The subject property is an interior a tract of South Buddy Owens Boulevard with an unrecorded 20 ft. unimproved access road. The property is 156.08 ft. by 100 ft. for a total lot size is 15,608 sq. ft. The property is located 400 ft. west of Bentsen Road and 470 ft. south of Buddy Owens Boulevard and is part of a larger tract with frontage along Buddy Owens Boulevard. The property is zoned R-1 (single-family residential) District. The surrounding land uses include vacant land, single family homes, and a tract of land part of a larger tract used to store construction materials.



BACKGROUND AND HISTORY:

There is an existing 800 sq. ft. single family home on the subject property according to the Hidalgo County Appraisal District records. As per the applicant the home was constructed in the early 1970's. The property was part of a split by metes and bounds as a result of a family partition. A variance request to the subdivision requirement was disapproved by the City Commission in July 2019. 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 April 8,2021 in order to repair the single family home on the subject property. An application for a building permit has not been submitted.

ANALYSIS:

The property currently contains a single family house which is permitted in the R-1 District.

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 repair work for the single family residential structure to exceed the ten percent of the current replacement cost. The issuance of any requested building permits depends on the outcome of the variance request.

The estimated replacement value of the subject building for the variance request is \$41,000 (10% of this amount is \$4,100). The replacement value is based on an estimated \$40 dollar per square foot calculation as suggested by Building and Inspections Department staff. The applicant estimates that the proposed improvements (that would require a building permit) may be up to \$60,000, exceeding the 10% replacement value by \$55,900. The need to meet a higher cost of remodeling, (above 10%) may be due primarily to the requirement of meeting the City building code. The building would be improved from the current state and any such improvement would need to comply with applicable building codes, thus, the building would be brought up to standard (depending on the type of work to be performed).

The proposed work does not increase the footprint of the existing structure

RECOMMENDATION:

Staff recommends approval of the variance request.

ZBA2021-0015

ZBA
5/1/2021
es

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 0.36 AC. o/o LOT 328, JOHN H. SHARK SUBD., H.C.T.

Subdivision Name JOHN H. SHARK

Street Address 4509 BUDDY OWENS BLVD.

Number of lots 1 Gross acres 0.36

Existing Zoning R-1 Existing Land Use R-1

Reason for Appeal (please use other side if necessary) CANNOT MEET

PLATTING REQUIREMENTS

☒ \$300.00 non-refundable filing fee

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

Applicant

Name JOSE OLIVERA TALLERZ Phone 956-776-9268

Address 4509 BUDDY OWENS E-mail _____

City MCALLEN State TX Zip 78504

Owner

Name SAME AS APPLICANT 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 Jose Olivera

Date 4/8/21

Print Name Jose Olivera

☐ Owner

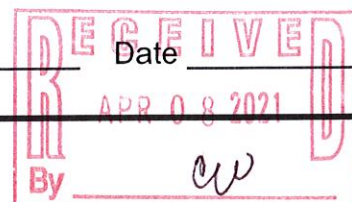
☐ Authorized Agent

Office

Accepted by BNA
REVISED 9/11

Payment received by _____

Date _____





City of McAllen

Planning Department

REASON FOR APPEAL & BOARD ACTION

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

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

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

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

CANNOT FILE A SUBD. PLAT THAT WILL COMPLY
W/ CURRENT CITY ORDINANCES.

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

RES. HOME WILL BE FULLY RESTORED AND
IMPROVED. IMPROVEMENTS WILL MAKE HOUSE
MORE ENJOYABLE AND LIVABLE

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:

RES. HOME IS ALREADY EXISTING BUT REPAIRS
AND IMPROVEMENTS WILL EXCEED 10% OF
CURRENT VALUE

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

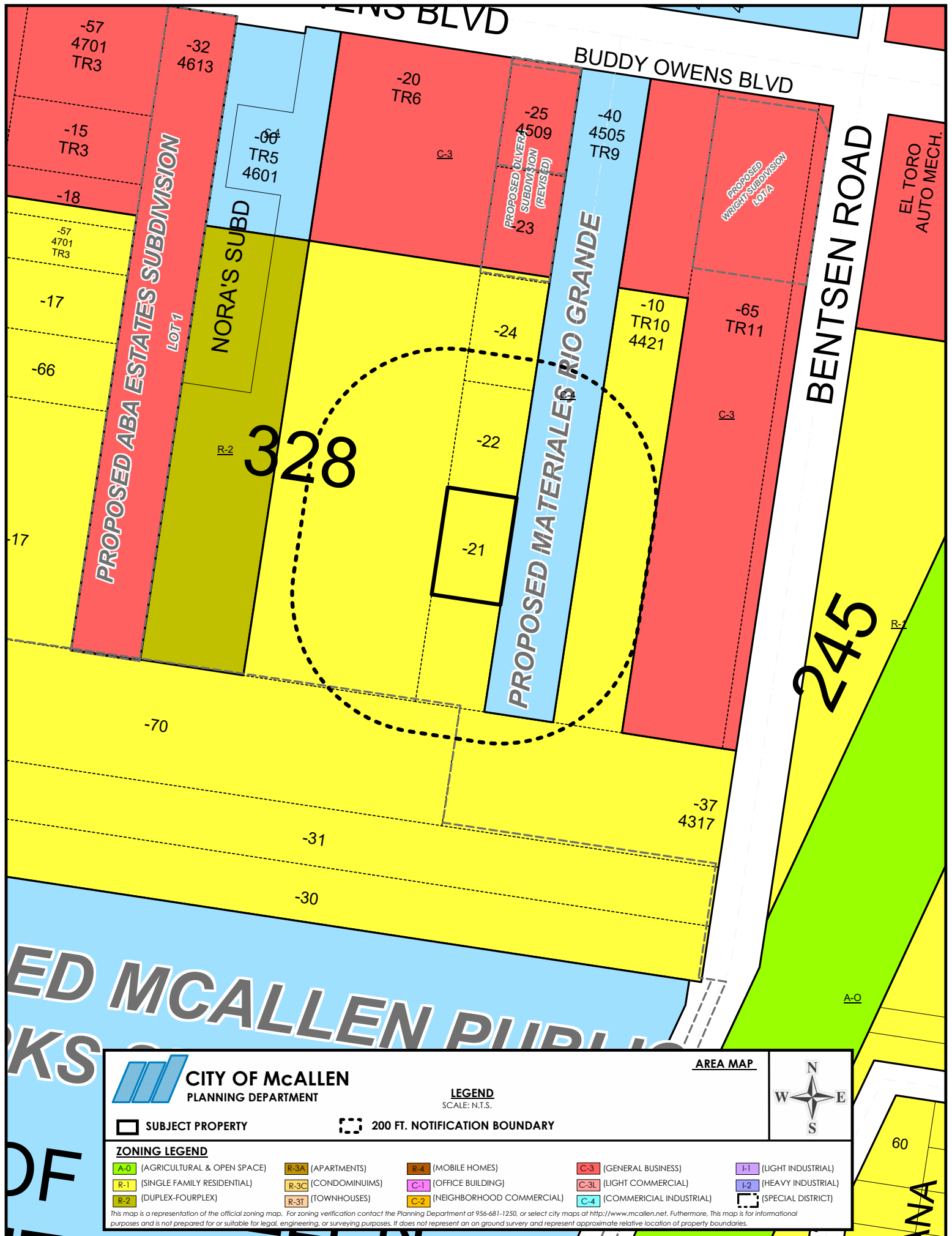
CANNOT OBTAIN BUILDING PERMIT w/ PLAT.
CANNOT PLAT AND MEET TODAY'S PLATTING
RULES

Reason for Appeal

Board Action

Chairman, Board of Adjustment
Signature

Date





CITY OF McALLEN
PLANNING DEPARTMENT

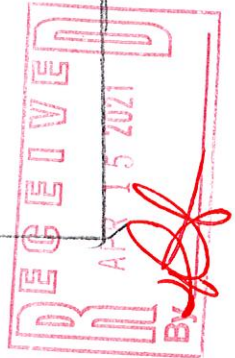
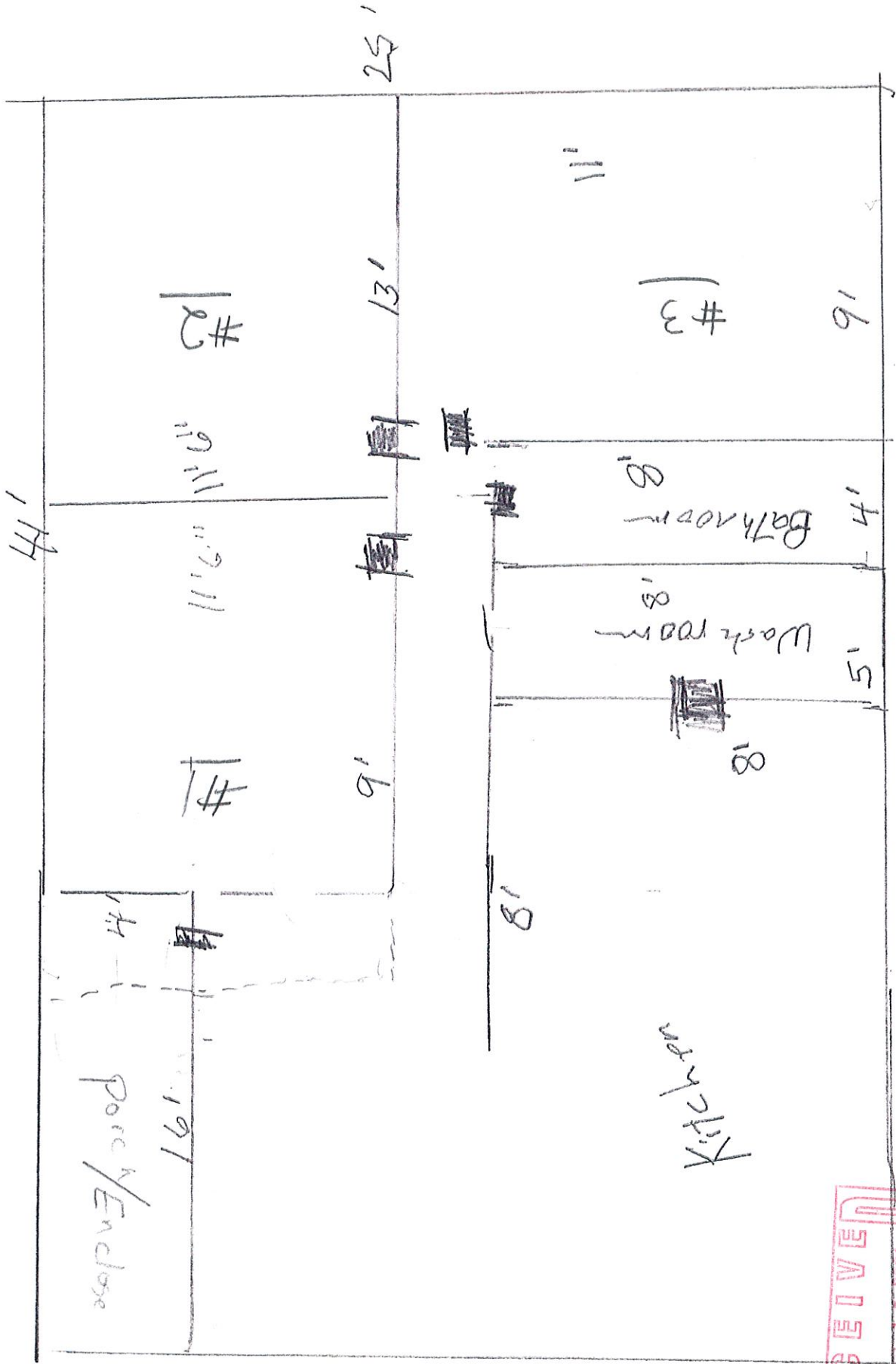
AERIAL MAP
SCALE: N.T.S.

 **SUBJECT PROPERTY**

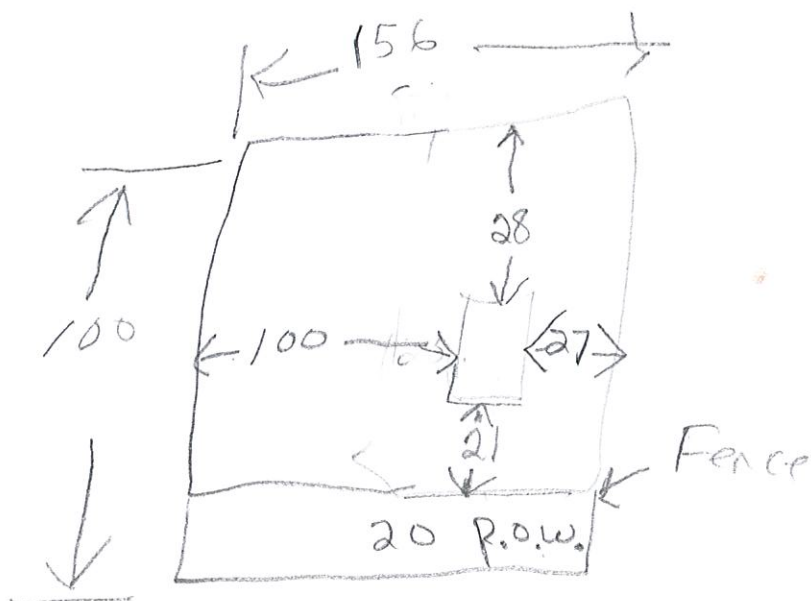
 **200' NOTIFICATION BOUNDARY**



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- ① ext Wall Bdrn #1 - Approx 4'
- ② Remove Living Room wall to edge
- ③ Remove Flooring - Wood. Fill in with Concrete
- ④ Install Ceramic tile
- ⑤ Sheet rock - Replace some + repair others.
- ⑥ New Insulation where needed
- ⑦ Stucco outside wall
- ⑧ Replace Kitchen counter
- ⑨ Furnigate ground
- ⑩ Replace All windows
- ⑪ Replace Roof
- ⑫ RAMP



Cost estimate \$50K-\$60K

Front



Rear



Access Road



Hidalgo County
Eddy Trevino
County Clerk
Edinburg, TX 78540



70 2005 01541977

Instrument Number: 2005-1541977

Recorded On: November 08, 2005

As
Recording

Parties:

To

Billable Pages: 3

Number of Pages: 4

Comment: CORRECTION WD

**** Examined and Charged as Follows: ****

Recording	24.00
Total Recording:	24.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2005-1541977

Receipt Number: 719045

Recorded Date/Time: November 08, 2005 10:09A

Book-Vol/Pg: BK-SC VL-4 PG-37591

User / Station: R Mariscal - Cash Station 1

Record and Return To:

ROBERTO OLVERA
4509 BUDDY OWENS
MCALLEN TX 78504

RECEIVED
APR 14 2020

BY: CW/NC 4/17/20

128 - WARRANTY DEED

The State of Texas,

County of

Correction

1541977

} Know All Men by These Presents:

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

THAT FRANCISCA OLVERA

of the County of HIDALGO
of the sum of \$10.00 ten

State of TEXAS

for and in consideration
DOLLARS

to in hand paid by Roberto Olvera
4509 BUDDY OWENS
McALLEN, TEXAS
78504

as follows:

ha Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey, unto the said

Roberto Olvera

whose mailing address is
of the County of Hidalgo

State of Texas

all that certain

The North 206.07 feet of the West 100 feet of the East 506 feet of lot 328. John H. Shary Subdivision out of Porciones 58, 59, and 60, Hidalgo County, Texas, according to map or plat thereof on file and of record in the office of the County Clerk of Hidalgo County, Texas: LESS AND EXCEPT that part thereof heretofore conveyed to the State of Texas by instrument dated November 9, 1970, recorded in Volume 1272, Page 185 Deed Records; LESS AND EXCEPT all oil, gas and other minerals SUBJECT TO easements of record, and easements, rules, regulations and rights in favor of Hidalgo County Water Control & Improvement District No. 14.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said

heirs and assigns forever and do hereby bind
heirs, executors and administrators, to Warrant and Forever Defend, all and singular the said premises unto the said

heirs and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof,

WITNESS hand at
this day
Witness at Request of Grantor:

Francisca Olvera

Roberto Olvera

Francisca Olvera

Roberto Olvera

STATE OF TEXAS
COUNTY OF

(Acknowledgment)

This instrument was acknowledged before me on the 7th day of November, 2005
by Francisca Olvera and Roberto Olvera.



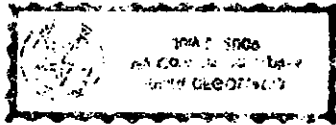
My commission expires

July 5, 2009

Erika Degollado

Notary Public, State of Texas
Notary's printed name:

TEXAS STANDARD FORM



STATE OF TEXAS } (Acknowledgement)
COUNTY OF }

This instrument was acknowledged before me on the _____ day of _____
by _____

My commission expires _____

Notary Public, State of Texas
Notary's printed name:

STATE OF TEXAS } (Acknowledgement)
COUNTY OF }

This instrument was acknowledged before me on the _____ day of _____
by _____

My commission expires _____

Notary Public, State of Texas
Notary's printed name:

STATE OF TEXAS } (Acknowledgement)
COUNTY OF }

This instrument was acknowledged before me on the _____ day of _____
by _____

My commission expires: _____

Notary Public, State of Texas
Notary's printed name:

Warranting Beed

FROM

TO

FILED FOR RECORD

This _____ day of _____

at _____ o'clock _____ M.

County Clerk

By

Deputy

RECORDED

In _____ County Records

In Book _____ on page _____

County Clerk

By

Deputy

Recording Fee \$ _____

This instrument should be filed immediately with
the County Clerk for Record
WHEN RECORDED RETURN TO

THE ODEE COMPANY, Publishers, Dallas

Section - A

This is to correct document #1365140- recorded July 29, 1974, or filed grantee name J.R. Freeland, should of being filed to name of Robert Olvera grantee.

Notary Public, _____
My commission expires, _____

Filed for Record in:
by Hidalgo County
Eddy Trevino
County Clerk
On: Nov 08, 2005 at 10:09A
As a Recording
Document Number: 1541977
Total Fees: 24.00
Receipt Number - 719045
By,
Rebecca Mariscal, Deputy

Hidalgo County
Eddy Trevino
County Clerk
Edinburg, TX 78540



70 2006 01571635

Instrument Number: 2006-1571635

Recorded On: January 27, 2006

As
Recording

Parties:

To

Billable Pages: 1

Number of Pages: 2

Comment: QUITCLAIM DEED GF#3115667

**** Examined and Charged as Follows: ****

Recording	16.00
Total Recording:	16.00

***** **THIS PAGE IS PART OF THE INSTRUMENT** *****
Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2006-1571635
Receipt Number: 737534
Recorded Date/Time: January 27, 2006 10:12A
Book-Vol/Pg: BK-SC VL-5 PG-94435
User / Station: R Perez - Cash Superstation 8

Record and Return To:

ROBERTO OLVERA
4509 BUDDY OWENS
MCALLEN TX 78504



CHARGE SIERRA TITLE
STC/ 85 OF# 3115667

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

QUITCLAIM DEED

Conforms to Texas State Bar Form 2250 rev. 10-85

Date: January 23, 2006

Grantor: J.R. FREELAND

Grantor's Mailing Address (including county): 806 Pecan Blvd
McAllen, Texas 78501
Hidalgo County

Grantee: ROBERTO OLVERA, a single man

Grantee's Mailing Address (including county): 4509 Buddy Owens
McAllen, Texas 78504
Hidalgo County

Consideration: TEN AND NO/100THS DOLLARS (\$10.00) CONSIDERATION.

Property:

The North 206.7 feet of the West 100.0 feet of the East 506.0 feet of Lot 328, JOHN H. SHARY SUBDIVISION, Hidalgo County, Texas, according to the map or plat thereof recorded in Volume 1, Page 17, Map Records of Hidalgo County, Texas;

SAVE AND EXCEPT that tract of land conveyed to the State of Texas by instrument recorded in Volume 1272, Page 185, Deed Records of Hidalgo County, Texas

For the consideration Grantors quitclaim to Grantee all of Grantor's right, title, and interest in and to the property, to have and to hold it to Grantees, Grantees heirs, executors, administrators, successors, or assigns forever. Neither Grantors nor Grantors' heirs, executors, administrators, successors, or assigns shall have, claim, or demand any right or title to the property or any part of it.

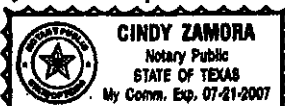
When the context requires, singular nouns and pronouns include the plural.

J.R. Freeland
J.R. FREELAND

(Acknowledgment)

STATE OF TEXAS
COUNTY OF HIDALGO

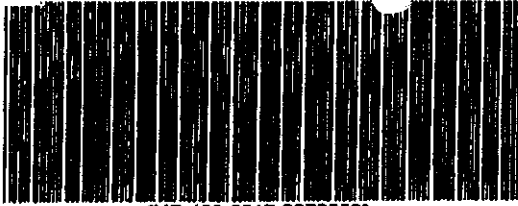
This instrument was acknowledged before me on the 23rd day of January, 2006, by J.R. FREELAND.

Cindy Zamora
Notary Public, State of Texas
Notary's name (printed):
My commission expires:


Filed for Record in:
Hidalgo County
by Eddy Trevino
County Clerk
On: Jan 27, 2006 at 10:12A
As a Recording
Document Number: 1571635
Total Fees: 16.00
Receipt Number - 737534
By: Rene Perez, Deputy

Roberto Olvera
4509 Buddy Owens
McAllen, Texas 78504

PREPARED IN THE LAW OFFICE OF:
JOHN ROBERT KING
3409 N. 10th, Suite 100
McAllen, Texas 78501
File No.: GF: 3115667RE/sc



"VG-120-2017-2872852"

Hidalgo County
Arturo Guajardo Jr.
County Clerk
Edinburg, Texas 78540

Document No: 2872852

Billable Pages: 3

Recorded On: December 14, 2017 01:13 PM

Number of Pages: 4

*****Examined and Charged as Follows*****

Total Recording: \$ 44.00

*****THIS PAGE IS PART OF THE DOCUMENT*****

Any provision herein which restricts the Sale, Rental, or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document No: 2872852
Receipt No: 20171214000209
Recorded On: December 14, 2017 01:13 PM
Deputy Clerk: Tania Rivera
Station: CH-1-CC-K11

Record and Return To:

Jose Tellez Olvera



STATE OF TEXAS
COUNTY OF HIDALGO

I hereby certify that this Instrument was FILED in the File Number sequence on the date/time
printed hereon, and was duly RECORDED In the Official Records of Hidalgo County, Texas.

Arturo Guajardo Jr.
County Clerk
Hidalgo County, Texas

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DEED OF GIFT

Date: November 29, 2017

Grantor: ROBERTO OLVERA, a single person

Grantor's Mailing Address (including county): 4509 Budy Owens Blvd.
McAllen, Texas 78504
Hidalgo County, Texas

Grantee: JOSE TELLEZ OLVERA

Grantee's Mailing Address (including county): 4509 Budy Owens Blvd.
McAllen, Texas 78504

Consideration: Love of, and affection for, Grantee.

Property (including any improvements):

0.36 acre of land out of Lot 328, John H. Shary Subdivision of Porciones 58, 59 and 60 in Hidalgo County, Texas, being out of the West 100 feet of the East 506 feet, less and except the South 333.54 feet of said Lot, and more particularly described by metes and bounds as follows:

COMMENCING at the northeast corner of Lot 328, J.H. Shary Subdivision, of Porciones 58, 59 and 60, Hidalgo County, Texas, said point being in 100.0 foot F.M. Road #1324 (Mile 3 Road);

THENCE, with the North line of Lot 328, North 81 degrees 19' West, 406.0 feet to the Northeast corner of the West 100.0 feet of the East 506.0 feet of Lot 328, for a point;

THENCE, with the East line of the West 100.0 feet of the East 506.0 feet of Lot 328, and parallel to the East line of Lot 328, South 8 degrees 41' West, 206.07 feet to a point for the Northeast corner of the following described tract of land and the PLACE OF BEGINNING of this survey;

THENCE, parallel to the North line of Lot 328, North 81 degrees 19' West, at 20.0 feet pass an iron pipe set for the West line of a proposed 20 foot road and at 100.0 feet set an iron pipe on the West line of the West 100.0 feet of the East 506.0 feet of Lot 328, for the Northwest corner hereof;

THENCE, with the West line of the West 100.0 feet of the East 506.0 feet of Lot 328, and parallel to the East line of Lot 328, South 8 degrees 41' West, 156.08 feet to an iron pipe set for the Southwest corner hereof;

THENCE, parallel to the North line of Lot 328, South 81 degrees 19' East, at 80.0 feet pass an iron pipe set for the West line of a proposed 20.0 foot Road and at 100.0 feet a point on the East line of the West 100.0 feet of the East 506.0 feet of Lot 328, for the Southeast corner hereof;

THENCE, with the East line of the West 100.0 feet of the East 506.0 feet of Lot 328, parallel to the East line of Lot 328, North 8 degrees 41' East, 156.08 feet to the PLACE OF BEGINNING. CONTAINING 0.36 acre of land, more or less, of which the East 20.0 feet, comprising 0.07 acre, is hereby set aside for road purposes.

Reservations from and Exceptions to Conveyance and Warranty:

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing restrictions, reservations, covenants, conditions, oil and gas leases, mineral interests, and water interests outstanding in persons other than Grantor, and other instruments, other than conveyances of the surface fee estate, that affect the Property; validly existing rights of adjoining owners in any walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; all easements, rules, regulations, rights, obligations, and other matters arising from and existing by reason of the water or irrigation district, if any, in which the property is situated; and taxes for the current year, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, gives, grants and conveys to Grantee the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's heirs, executors, administrators, successors and assigns forever. Grantor hereby binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

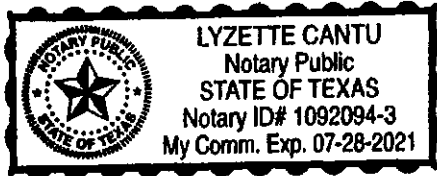
When the context requires, singular nouns and pronouns include the plural.

NO TITLE, TAX, OR SURVEY EXAMINATION WAS REQUESTED IN CONNECTION WITH THE PREPARATION OF THIS DOCUMENT NOR WAS ANY MADE. THE PREPARER EXPRESSES NO OPINION ON TITLE, TAX, OR SURVEY OF THIS PROPERTY OR WHETHER THE PROPERTY COMPLIES WITH FEDERAL, STATE, OR LOCAL LAWS OR REGULATIONS.


ROBERTO OLVERA

STATE OF TEXAS
COUNTY OF HIDALGO

This instrument was acknowledged before me on the 14th day of December,
2017, by ROBERTO OLVERA.



Lyzette Cantu
Notary Public State of Texas

AFTER RECORDING RETURN TO:
JOSE TELLEZ OLVERA
4509 Budy Owens Blvd.
McAllen, Texas 78504

PREPARED IN THE LAW OFFICE OF:
LEWIS, MONROE & PEÑA
ATTORNEYS AT LAW
3111 W. Freddy Gonzalez
EDINBURG, TEXAS 78539
GF#w2017-138

/mc

The State of Texas,

County of HIDALGO

6303

Know all Men by These Presents:

That WE, ALBERTO G. OLVERA and wife, FRANCISCA T. OLVERA,

of the County of Hidalgo, State of Texas, for and in consideration
 of the sum of TEN AND NO/100 (\$10.00) ----- DOLLARS
 and other good and valuable consideration to us in hand paid by
 RICARDO OLVERA
 the receipt of which is hereby acknowledged and confessed,

have Granted, Sold and Conveyed, and by these presents do Grant, Sell and Convey, unto the said
 RICARDO OLVERA

of the County of Hidalgo, State of Texas all that certain
 lot, tract or parcel of land situated in the County of Hidalgo State of Texas, and
 described as follows, to-wit:

0.36 acre of land, more or less, out of the West 100 feet of the East
 506 feet, less and except the South 333.54 feet of Lot 328, John H.
 Shary Subdivision of Porciones 58, 59 and 60 in Hidalgo County, Texas,
 and being more particularly described by metes and bounds as follows:

COMMENCING at the northeast corner of Lot 328, J.H. Shary Subdivision, of
 Porciones 58, 59 and 60; Hidalgo County, Texas, said point being in 100.0
 foot F.H. Road #1324 (Mile 3 Road);

THENCE, with the North line of Lot 328, North 81 degrees 19' West, 406.0 feet
 to the Northeast corner of the West 100.0 feet of the East 506.0 feet of Lot
 328, for a point;

THENCE, with the East line of the West 100.0 feet of the East 506.0 feet
 of Lot 328, and parallel to the East line of Lot 328, South 8 degrees 41'
 West, 362.15 feet to a point for the Northeast corner of the following
 described tract of land and the PLACE OF BEGINNING of this survey;

THENCE, parallel to the North line of Lot 328, North 81 degrees 19'
 West, at 20.0 feet pass an iron pipe set for the West line of a proposed
 20 foot road and at 100.0 feet set an iron pipe on the West line of the West
 100.0 feet of the East 506.0 feet of Lot 328, for the Northwest corner hereof;

THENCE, with the West line of the West 100.0 feet of the East 506.0
 feet of Lot 328, and parallel to the East line of Lot 328, South 8 degrees 41'
 West, 156.08 feet to an iron pipe set for the Southwest corner hereof;

THENCE, parallel to the North line of Lot 328, South 81 degrees 19' East,
 at 80.0 feet pass an iron pipe set for the West line of a proposed 20.0 foot
 Road and at 100.0 feet a point on the East line of the West 100.0 feet of

the East 506.0 feet of Lot 328, for the Southeast corner hereof;

THENCE, with the East line of the West 100.0 feet of the East 506.0 feet of Lot 328, parallel to the East line of Lot 328, North 8 degrees 41' East, 156.08 feet to the PLACE OF BEGINNING. CONTAINING 0.36 acre of land, more or less, of which the East 20.0 feet, comprising 0.07 acre, is hereby set aside for road purposes.

(SEE ATTACHED DESCRIPTION.)

THIS CONVEYANCE is made subject to any mineral reservations, oil and gas leases and easements of record; and to all visible easements.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the said RICARDO OLVERA, his heirs and assigns forever and we do hereby bind ourselves, our heirs, executors and administrators, to Warrant and Forever Defend, all and singular and said premises unto the said RICARDO OLVERA, his heirs and assigns, against every person whomsoever lawfully claiming, or to claim the same, or any part thereof.

EXECUTED this the 15th day of March, A. D., 19 74.

Alberto G. Olvera
Alberto G. Olvera
Francisca T. Olvera
Francisca T. Olvera

078-24

SINGLE ACKNOWLEDGMENT

THE STATE OF TEXAS
COUNTY OF HIDALGO

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared
ALBERTO G. OLVERA and wife, FRANCISCA T. OLVERA,

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 expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 19th day of March, A. D., 1974.

[Signature]
Notary Public in and for said County and State

O. C. HAMILTON, JR.
Notary Public in and for
Hidalgo County, Texas

SINGLE ACKNOWLEDGMENT

THE STATE OF
COUNTY OF

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared

known to me to be the person whose name subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 19____

Notary Public in and for said County and State

CORPORATION ACKNOWLEDGMENT

THE STATE OF
COUNTY OF

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared

known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said

a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the _____ day of _____, 19____

Notary Public in and for said County and State

CLERK'S CERTIFICATE

THE STATE OF
COUNTY OF

I, _____, County Clerk of the County Court of said County, do hereby certify that the foregoing instrument of writing dated on the _____ day of _____, A. D. 19____, with its Certificate of Authentication, was filed for record in my office on the _____ day of _____, A. D. 19____, at _____ o'clock _____ M., and duly recorded this _____ day of _____, A. D. 19____, at _____ o'clock _____ M., in the _____

Records of said County, in Volume _____, on pages _____.

WITNESS MY HAND AND SEAL OF THE COUNTY COURT of said County, at office in _____, the day and year last above written.

County Clerk County, Texas
By _____ Deputy.

(L. S.)

6303

Warranty Deed

FROM

ALBERTO G. OLVERA, ET UX

TO

RICARDO OLVERA

FILED FOR RECORD

This _____ day of _____ A. D. 19____ at _____ o'clock _____ M.

County Clerk

Deputy

RECORDED

FILED FOR RECORD THIS DATE _____

At 10:16 o'clock P.M.

In _____ County Records

In Volume MAR 19 1974, Page _____

SANTOS SALDANA

County Clerk, Hidalgo County, Texas

By [Signature] Deputy

This instrument should be filed immediately with the County Clerk for record.

EWERS, TOOTHAKER, EWEERS, ABBOTT

TALBOT, HAMILTON & JAYNE

P.O. Box 307 McAllen, Texas 78501

Return to:

Alberto G. OLVERA

Route 1, Box 188

MISSION, TEXAS

951

Hidalgo County
Arturo Guajardo Jr.
County Clerk
Edinburg, TX 78540



70 2014 02559795

Instrument Number: 2014-2559795

Recorded On: October 30, 2014

As
Recording

Parties:

To

Billable Pages: 3

Number of Pages: 4

Comment: GIFT DEED

**** Examined and Charged as Follows: ****

Recording	34.00
Total Recording:	34.00

***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2014-2559795
Receipt Number: 1478134
Recorded Date/Time: October 30, 2014 09:36A

Record and Return To:

LAW OFFICE OF ALEX MORENO, JR.
ORIGINAL RETURNED TO CUSTOMER
EDINBURG TX 78540

User / Station: E Castillo - Cash Station 17



STATE OF TEXAS
COUNTY OF HIDALGO

I hereby certify that this instrument was FILED in the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Hidalgo County, Texas

Arturo Guajardo Jr.
County Clerk
Hidalgo County, TX

2559795
NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GIFT DEED

Date: October 27, 2014

Grantor: RAUL OLVERA, from his sole and separate property

Grantor's Mailing Address:

RAUL OLVERA
4509 Buddy Owens Blvd.
McAllen, Texas 78504

Grantee: RAUL OLVERA and wife, THELMA OLVERA, as joint tenants with right of survivorship

Grantee's Mailing Address:

RAUL OLVERA
THELMA OLVERA
4509 Buddy Owens Blvd.
McAllen, Texas 78504.

Consideration: For the love and affection I have for my wife, THELMA OLVERA and other good and valuable consideration, receipt of which is hereby acknowledged.

Property (including any improvements):

The 0.36 of an acre of land, more or less, out of the West 100 feet of the East 506 feet, less and except the South 333.54 feet of Lot Three Hundred Twenty-eight (328), JOHN H. SHARY SUBDIVISION, Hidalgo County, Texas, as per the map or plat thereof recorded in Volume 1, Page 17, Map Records, Hidalgo County, Texas and being more particularly described by metes and bounds as follows:

COMMENCING at the Northeast corner of Lot 328, said point being in 100.0 foot F.M. 1324 (Mile 3 Road);

THENCE, with the North line of Lot 328, North 81 degrees, 19 minutes West, 406.0 feet to the Northeast corner of the West 100.0 feet of the East 506.0 feet of Lot 328, for a point;

THENCE, with the East line of the West 100.0 feet of the East 506.0 feet of Lot 328, and parallel to the East line of Lot 328, South 8 degrees 41 minutes West, 518.23 feet to a point for the Northeast corner of the following described tract of land and the PLACE OF BEGINNING of this survey;

THENCE, parallel to the North line of Lot 328, North 81 degrees 19 minutes West, at 20.0 feet pass an iron pipe set for the West line of a proposed 20 foot road and at 100.0 feet set an iron pipe on the West line of the West 100.0 feet of the East 506.0 feet of Lot 328, for the Northwest corner hereof;

THENCE, with the West line of the West 100.0 feet of the East 506.0 feet of Lot 328, and parallel to the East line of Lot 328, South 8 degrees 41 minutes West, 156.08 feet to an iron pipe set for the Southwest corner hereof;

THENCE, parallel to the North line of Lot 328, South 81 degrees 19 minutes East, at 80.0 feet pass an iron pipe set for the West line of a proposed 20.0 foot road and at 100.0 feet a point on the East line of the West 100.0 feet of the East 506.0 feet of Lot 328, for the Southeast corner hereof;

THENCE, with the East line of the West 100.0 feet of the East 506.0 feet of Lot 328, parallel to the East line of Lot 328, North 8 degrees 41 minutes, 156.08 feet to the PLACE OF BEGINNING, containing 0.36 of an acre of land, more or less, of which the East 20.0 feet, comprising 0.07 of an acre, is hereby set aside for road purposes.

Reservations from and Exceptions to Conveyance and Warranty:

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; rights of adjoining owners in all walls and fences situated on a common boundary; any discrepancies, conflicts, or shortages in area or boundary lines; any encroachments or overlapping of improvements; all rights, obligations, and other matters emanating from and existing by reason of the creation, establishment, maintenance, and operation of the water or irrigation district, if any; and taxes for the current year, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance and warranty, GRANTS, SELLS, AND CONVEYS the property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and to hold to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. Grantor binds Grantor and Grantor's heirs, executors,

administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty.

When the context requires, singular nouns and pronouns include the plural.

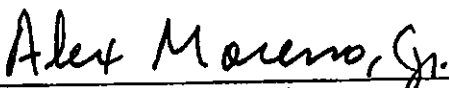
This deed may be signed in several counterparts, all of which together constitute one instrument.


RAUL OLVERA

STATE OF TEXAS X
 X
COUNTY OF HIDALGO X

This instrument was acknowledged before me on October 27th, 2014 by RAUL OLVERA.




Notary Public, State of Texas

PREPARED BY & RETURN TO:

Law Office of Alex Moreno, Jr.
P. O. Box 4429
Edinburg, Texas 78540
(956) 381-8000
Fax: (956) 664-1995

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.

Definitions

Table of Contents

Chapter 138-Zoning1

 Section 138-1 Definitions1

Chapter 110-Vegetation6

 Section 110-26 Definitions6

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.

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.

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**.

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															
ERICK DIAZ- CHAIRPERSON	P	P	P	P	P	P	A	P																
JOHN MILLIN- VICECHAIRPERSON	P	A	P	P	P	P	P	P																
SYLVIA HINOJOSA	P	P	P	A	P	P	P	P																
JOSE GUTIERREZ	P	P	P	P	P	P	P	P																
JUAN F. JIMENEZ	P	A	P	P	P	A	P	P																
ANN TAFEL (ALT 1)	P	P	P	P	P	P	P	P																
HUGO AVILA (ALT 2)	P	P	P	P	P	A	P	P																
REBECCA MILLAN (ALT 3)	P	P	P	P	P	P	P	P																
ROGELIO RODRIGUEZ (ALT 4)	A	P	P	P	P	P	A	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 Public Utility Board Planning & Zoning Board Zoning Board of Adjustment HPC - Historic Preservation Council							Deadlines: D- Zoning/CUP Application N - Public Notification * Holiday - Office is closed						
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JANUARY 2021

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

FEBRUARY 2021

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

MARCH 2021

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

APRIL 2021

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

MAY 2021

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



JUNE 2021

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

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

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	7 N-7/20 & 7/21 D-8/4 & 8/5	8	9	10
11	12	13	14	15	16	17
18	19	20	21 HPC N-8/4 & 8/5 D-8/18 & 8/19	22	23	24
25	26	27	28	29	30	31
			N-8/18 & 8/19			

AUGUST 2021

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

SEPTEMBER 2021

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

NOVEMBER 2021

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

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
12	13	14	15 D-1/18 & 1/19	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31 HOLIDAY	
	A- 1/4 & 1/5		N- 1/4 & 1/5			