



CITY OF EAGLE PASS A G E N D A

ZONING BOARD OF ADJUSTMENTS AND APPEAL REGULAR MEETING

Council Chambers, City Hall,
100 S. Monroe Street, Eagle Pass,
Maverick County, Texas
Wednesday, May 1, 2024, at 5:30 p.m. CST

ESTABLISHMENT OF QUORUM

CITIZENS COMMUNICATIONS

MINUTES

1. Approval of the minutes of the April 3, 2024 meeting.

PUBLIC HEARINGS

2. Public hearing on the petition submitted by Amanda Chavarria, requesting a variance from *City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12.1* governing off-street parking requirements. The applicant seeks to reduce the required parking spaces, to allow for the construction of an addition on property located at 2665 El Indio Highway; closing of public hearing and possible action.
3. Public hearing on the petition submitted by Jesus Aaron Nieto, requesting a variance from *City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12.1* governing off-street parking requirements. The applicant seeks to reduce the required parking spaces, to allow for the construction of apartments on property located at 1680 Rio Grande Street; closing of public hearing and possible action.

EXECUTIVE SESSION

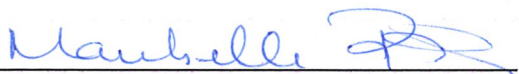
4. Executive Session pursuant to Section 551.071 of Chapter 551, Texas Government Code—Consultation with Attorney—Consideration and possible action on the reconsideration of a public hearing for the petition submitted by Four DLS Properties, LLC, requesting a variance from *City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12(d)(5)* governing landscape requirements for property located at 2027 Microstar Way.

ADJOURNMENT

Note: The Board reserves the right to consider business out of the posted agenda order and reserves the right to adjourn into executive session to discuss an item(s) not listed as an executive session on the posted agenda, but which qualifies to be discussed in closed session pursuant to Texas Government Code Chapter 551.

CERTIFICATION

I, THE UNDERSIGNED ASSISTANT COMMUNITY DEVELOPMENT DIRECTOR, do hereby certify that the agenda mentioned above was posted on the Bulletin Board Located in the Lobby at City Hall, 100 S. Monroe Street, Eagle Pass, Texas, on April 26, 2024 at 2:40 p.m.



Mariebelle Rodriguez
Assistant Community Development Director

Item #1

THE STATE OF TEXAS)
COUNTY OF MAVERICK)
CITY OF EAGLE PASS)

The Zoning Board of Adjustments and Appeals of the City of Eagle Pass held their regular meeting on Wednesday, Wednesday, April 3, 2024, at 5:30 p.m. in the City Council Chambers of Eagle Pass City Hall, 100 S. Monroe Street. All legal notices were duly posted in accordance with the law.

ESTABLISHMENT OF QUORUM

Present: Chairman, Matthew Gary; Vice-Chairman, Antonio Elizondo Board; Member: Julie Mathiwos, and Alternate Board Member, Crawford A. Rhodes

Absent: Board Members: Maria A. Chio, and Priscilla Puente-Chacon

Staff present: Community Development Director, Placido Madera; Assistant Community Development Director; Mariebelle Rodriguez; City Attorney, Ana Sophia Garcia; Assistant City Secretary, Ita A. Cortinas, Economic Development Director, Arturo Marques

A quorum being present, Chairman Gary called the meeting to order, and the items were considered as follows:

CITIZENS COMMUNICATIONS

At this moment, anyone wishing to address the Board on any item, was welcome to speak, keeping in mind that, although the Board would be unable to take formal action on such item, they would be glad to take it under consideration.

There were not any citizens communication forms submitted.

MINUTES

- 1. Approval of the minutes for the March 6, 2024, meeting.

Vice-Chairperson Elizondo moved to approve the minutes. Seconded by Board Member Mathiwos

AYES: Gary, Elizondo, Rhodes, Mathiwos
NAYS: None
ABSTAINED: None
ABSENT: Chio, and Puente-Chacon

PUBLIC HEARINGS

- 2. Continuation of a public hearing on the petition submitted by Four DLS Properties, LLC, requesting a variance from City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12 (d)(5) governing landscape requirements. The applicant seeks to reduce the required landscaping, to allow for the construction of an addition to the existing building on property located at 2027 Microstar Way; closing of public hearing, and possible action.

Chairman Gary opened the public hearing at 5:35 p.m.

The Community Development Department Director, Placido Madera provided details on the item and recommended approving the request with the proposed reduced number of trees while offsetting the difference to other public places or sites. The number being presented is 90 trees, and 280 shrubs. (27 trees, and 280 shrubs at Microstar, and 63 trees dispersed at several downtown projects).

Project Manager for the applicant, O.J. De Los Santos and Economic Development Director for the City of Eagle Pass, Arturo Marquez, spoke on the item individually.

There being no further comments from the public Chairperson Gary closed the public hearing at 5:57 p.m.

Vice-Chairperson Elizondo moved to approve the item as recommended. Seconded by Board Member Rhodes. **MOTION DOES NOT PASS.**

AYES: Gary, Elizondo, and Rhodes
NAYS: None
ABSTAINED: Mathiws
ABSENT: Chio, and Puente-Chacon

3. Public hearing on the petition submitted by Neutze Properties, LTD, requesting a variance from City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12 (d)(5) governing landscape requirements. The applicant seeks to reduce the required landscaping, to allow for the construction of an addition on property located at 3002 US Hwy 57; closing of public hearing and possible action.

Chairman Gary opened the public hearing at 5:58 p.m.

The Community Development Department Director Madera provided details on the item and recommends denying the request as proposed application does not comply with regulations set forth in Section 23-89 (b)(4) regulating landscape plan requirements under Chapter 23-Subdivisions/Article VI-Landscape and Tree Preservation.

Mr. Madera added to consider alternative numbers or solutions, as with the previous item.

Vice-Chairperson Elizondo stepped off the dais at 5:59 p.m. and resumed his seat at the dais at 6:01 p.m.

Mr. Ken Dirksen, engineer for the project referenced in the item spoke on the item.

Vice-Chairperson Elizondo moved to accept with the following condition, that 19 trees and 38 shrubs are installed, in whichever shape and form is approved by the City. Seconded by Board Member Mathiws. **MOTION PASSED**

AYES: Gary, Elizondo, Rhodes, and Mathiws
NAYS: None
ABSTAINED: None
ABSENT: Chio and Puente-Chacon

There being no further comments from the public Chairperson Gary closed the public hearing at 6:21 p.m.

ADJOURNMENT

Vice-Chairperson Elizondo moved to adjourn the meeting at 6:21 p.m. Seconded by Board Member Mathiws. **MOTION PASSED**

Passed and approved on _____, 2024

Matthew Gary
Chairperson

ATTEST:

Ita. A. Cortinas
Assistant City Secretary

Item #2



Community Development Department Executive Summary Report to the Eagle Pass Zoning Board of Adjustment and Appeals

Variance Request – 2665 El Indio Highway

I. BACKGROUND

General Information

Applicant: Amanda Chavarria

Property Owner: Sonia A. Bazan

MCAD PID: 51885

Legal Description: Lot 31 in Block 21 of
Carthage Place Unit #8

Parcel Size: 10,000 square feet

Current Use: Multi-family development

Current Zoning: B-1 Neighborhood Business
District

Master Plan: Commercial

Request: Reduction of required parking
spaces, to allow for the construction of an
addition on the property.

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public
utilities/franchises

Vicinity: The site is in an area that is primarily
comprised of commercial uses and multi-family
uses along El Indio Hwy.

Access to the site is provided El Indio Hwy.

III. PUBLIC NOTICE

Public notification of the variance request before the Zoning Board of Adjustment and Appeals Board was completed consistent with the provisions of *Chapter 211 of the State of Texas Local Government Code Title 7*. There were seventeen (17) notices mailed to the abutting property owners, with a legal notice published in the Eagle Pass News Gram.

Figure 1. Aerial Map



Street View



IV. STAFF ANALYSIS

The applicant is requesting a variance from *City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12.1(c)(3)(g)(ii)* regulating off-street parking. The applicant seeks to reduce the required 13 spaces to 11 spaces, to allow for the construction of a 1,422 square foot detached construction. The proposed construction consists of a multi-family dwelling, accommodating two families on the subject property.

Although the construction will conform with all applicable building codes it does not meet the requirements set forth in the *Eagle Pass Code of Ordinances* regulating parking. The strict application will deprive the property owner(s) of the reasonable use of the property. Staff believe that the granting of the variance will not be detrimental to the public health of the community, therefore recommend that the petition be granted.

V. STAFF RECOMMENDATION

Staff recommends **GRANTING** the applicant's variance requests for property located at 2665 El Indio Highway.

TRANSMITTED to the parties listed hereafter:

Amanda Chavarria via e-mail
Community Development Department Report dated April 26, 2024

Attachment 1
Application and related correspondence



City of Eagle Pass Planning Department
Zoning Board of Adjustment Appeal
to Eagle Pass Zoning Ordinance

3295 Bob Rogers Drive
Eagle Pass, TX 78852
(830) 773-7781
planning@eaglepasstx.us
eaglepasstx.us

Project

Legal Description: Carthage Place Unit #8, Block 21, Lot 31
Site Address: 2665 El Indio Hwy. E. Pass, TX 78852
Acres: 0.22 Square feet: 10,000 Existing land use: Apt. Complex

Owner

Name: Sonia A. Bazan Phone: _____
Address: 338 N. Monroe St # 400 E-mail: bazansonia@hotmail.com
City: Eagle Pass State: TX Zip: 78852

Applicant
If not owner

Name: ACH ACHAM HOMES, LLC Phone: (830) 776-4779
Address: 338 N. Monroe St # 329 E-mail: ach@achachamhomes.com.mx
City: Eagle Pass State: TX Zip: 78852
Relationship to owner: Buider/miece

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 X

I certify that I am the actual owner of the property described above and this application is being submitted with my consent (included corporate name if applicable). Attach written evidence (i. e. corporate documents) of such authorization.

I acknowledge that application and publication fees are non-refundable, and that incomplete applications will not be accepted or processed.

If additional information or documentation is pending submittal before a deadline, the item is subject to be removed from the agenda and the applicant is subject to cover re-advertising fees.

Signature: [Signature]

Date: 3/19/24

Print Name: Amanda Chavania

☒ Applicant

☐ Authorized Agent

Board Action	Description: _____ _____ _____	
	Board Chairman Signature _____	Date _____
Office	Accepted by _____ Payment received by _____ Date _____	
	Zoning Classification _____	Case No. _____

The commission may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the board shall prescribe only conditions that it deems necessary or desirable to the public interest. No such variance shall be granted unless the board finds that the applicant meets the following conditions.

Description of variance request: A (2) 1BD APT will be added next to an existing fairplex. Parking spaces needed are a total of 11 + 1 for guest parking. We were able to accommodate all 12 but the last space is right at the property line, by the sidewalk. Our request is to authorize adding that 12th space (Guest parking) the way shown on presented plan without the 6' space required between sidewalk & parking as per city's ordinance.

For each question, check yes or no and provide a detailed explanation.

1. Is the financial cost of compliance greater than 50 percent of the appraised value of the structure?

Yes ☐ No ☒ Explain: _____

2. Will compliance result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur?

Yes ☐ No ☒ Explain: _____

3. Will compliance result in the structure not following a requirement of a municipal ordinance, building code, or other requirement?

Yes ☒ No ☐ Explain: last (12th) parking space ends by the sidewalk/property line without leaving 6' spacing (needed for guest parking) * This won't cause any harm or danger to tenants nor the public in general.

4. Will compliance result in the unreasonable encroachment on an adjacent property or easement?

Yes ☐ No ☒ Explain: _____

5. Does the municipality consider the structure to be a nonconforming structure?

Yes ☐ No ☒ Explain: _____

6. Is the variance necessary for the preservation and enjoyment of a substantial property right of the applicant?

Yes ☒ No ☐

Explain: It will beautify the property and help with the actual need of housing within our city.

7. Could the granting of the variance be detrimental to the public health, safety, or welfare, or injurious to other property in the area? Yes ☐ No ☒

Explain: _____

VARIANCE APPLICATION CHECKLIST

APPLICATION COMPLETENESS REQUIREMENTS:

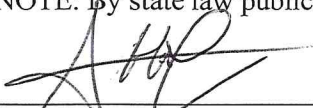
☐
☒

Development Application signed by owner or notarized affidavit

This checklist (signed by applicant/representative)

Applicant	Staff	Not Applicable	TECHNICAL REQUIREMENTS	
			Any application that is missing information will be considered incomplete and will not be processed.	
✓			1	A scaled site plan of the subject property showing property dimensions, building locations, setback dimensions, and other applicable information.
✓			2	Application Fee of \$100.00 is due upon submittal. (Money order or check made out to City of Eagle Pass) A Publication Fee will be invoiced and collected before the meeting date. These fees are non-refundable.
✓			3	Notarized owner authorization letter if application is submitted by individual other than the property owner. Proof of ownership as follows: Estate documents (i. e. Probate, Affidavit of Heirship, Administration), copy of the recorded warranty deed or copy of a purchase contract, copy of lease agreement.
✓			4	Copy of subdivision restrictions for subject property, as recorded in the Maverick County Court House. If no subdivision restrictions are filed, a copy of the certificate of no restrictions will be required.
✓			5	Photographs of site, project, and adjacent areas deemed appropriate for justification. Prior construction history, as applicable to the situation.

NOTE: By state law public hearing notices shall be published in a newspaper with a second-class postage.


Applicant Acknowledgment

3/19/24
Date

2606 ENCINO PARK DRIVE
EAGLE PASS, TEXAS 78852

RICHARD N. LANE & ASSOC.
CONSULTING LAND SURVEY SERVICES

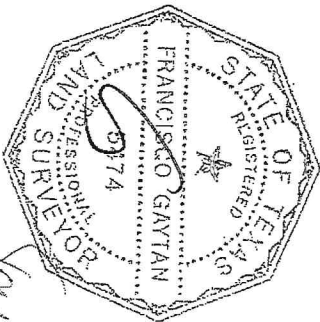
PHONE 830-773-8308
FAX 830-773-8590

JB

Francisco Gaytan
Registered Professional Land Surveyor
Texas No. 5474

Francisco Gaytan

03/27/2014

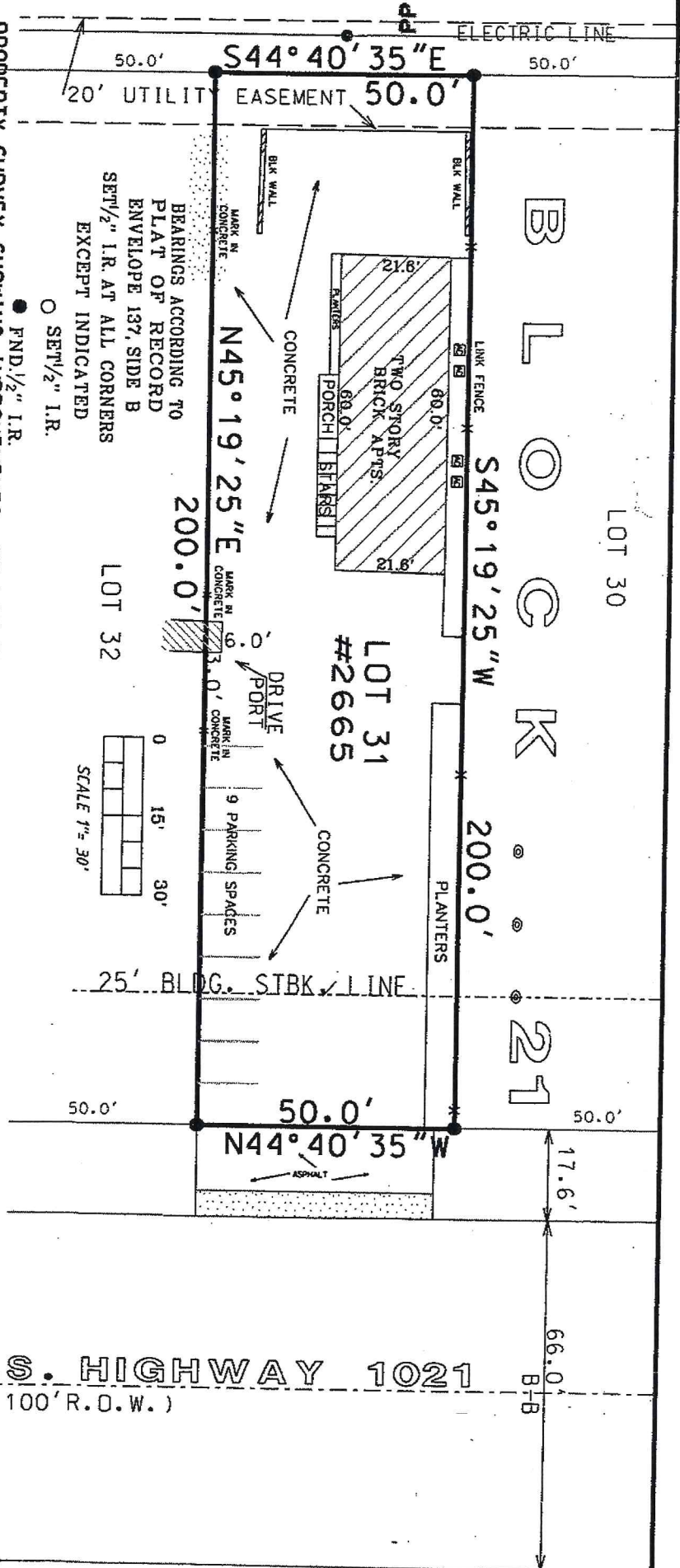


**PROPERTY SURVEY SHOWING IMPROVEMENTS, ON LOT 31, BLOCK 21, CARTHAGE PLACE
SUBDIVISION UNIT NO. 8, EAGLE PASS, MAVERICK COUNTY, TEXAS.**

MARCH 2014

I, Francisco Gaytan, Registered Professional Land Surveyor, hereby certify that the foregoing plat was prepared from a survey conducted on the ground under my supervision on March 27, 2014; that it correctly shows the boundaries, line and location of said property as shown in **Envelope 137, Side B** of the Map Records of Maverick County, Texas; and that there are no encroachments, protrusions or conflicts between the improvements and the boundaries of record except as shown above, and said property has access to and from a dedicated roadway, except as shown hereon. And that this professional service conforms to the current Texas Surveyors Association Standards and Specification for a Category 1A, Condition II, Survey.

This property is not in the 100 year flood plain as published by the Federal Flood Insurance Program.



U.S. HIGHWAY 1021
(100' R.O.W.)

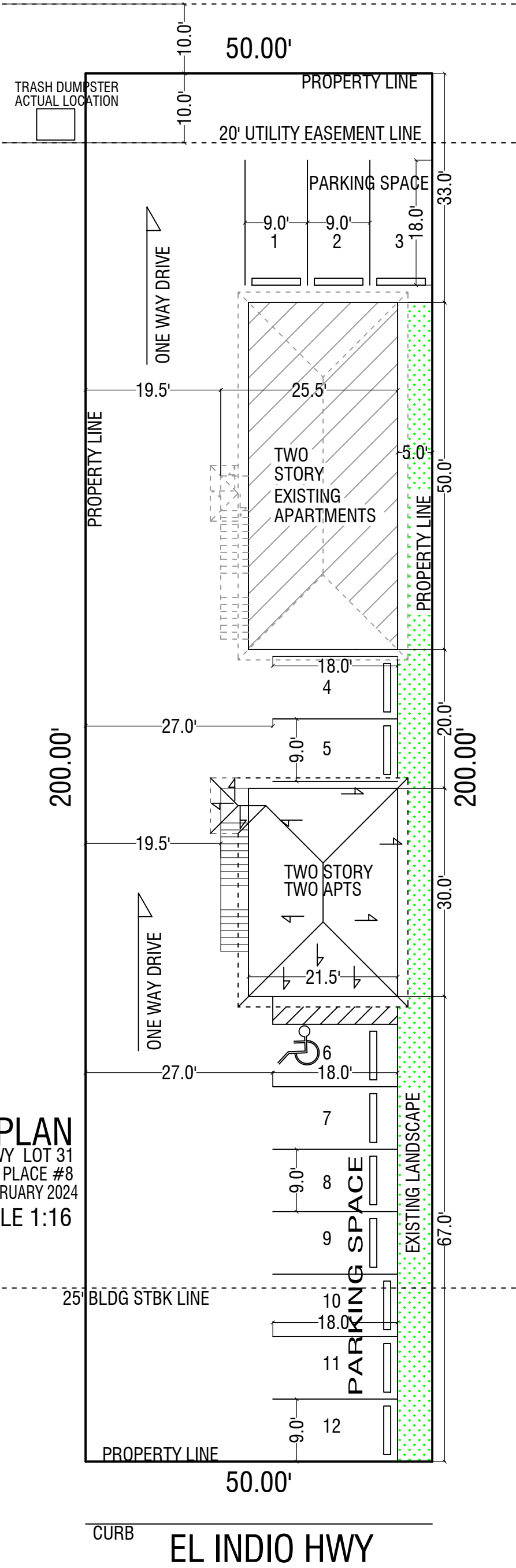
Aerial View



Site Photos



PLOT PLAN
2665 EL INDIO HWY LOT 31
BLK 21 CARTHAGE PLACE #8
EAGLE PASS TX FEBRUARY 2024
SCALE 1:16



	 ig_homesdesign@hotmail.com 830-968-1509 Juan Garcia fb.com/jghomesdesign	PLAN OF ADDITION
		SONIA BAZAN
		2665 EL INDIO HWY LOT 31 BLK 21 CARTHAGE PLACE #8 EAGLE PASS TX. FEBRUARY 2024

Item #3



Community Development Department Executive Summary Report to the Eagle Pass Zoning Board of Adjustment and Appeals

Variance Request – 1680 Rio Grande Street

I. BACKGROUND

General Information

Applicant & Property Owner: Jesus A. Nieto

Location: 1680 Rio Grande St. **PID:** 10191

Legal Description: Hillcrest Addition, Block 35, Lot 5

Parcel Size: 7,500 square feet

Current Use: vacant and undeveloped

Current Zoning: R-3A Apartment District

Master Plan: Residential

Request: Reduction of required parking spaces, to allow for the construction of a multi-family development.

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public utilities/franchises

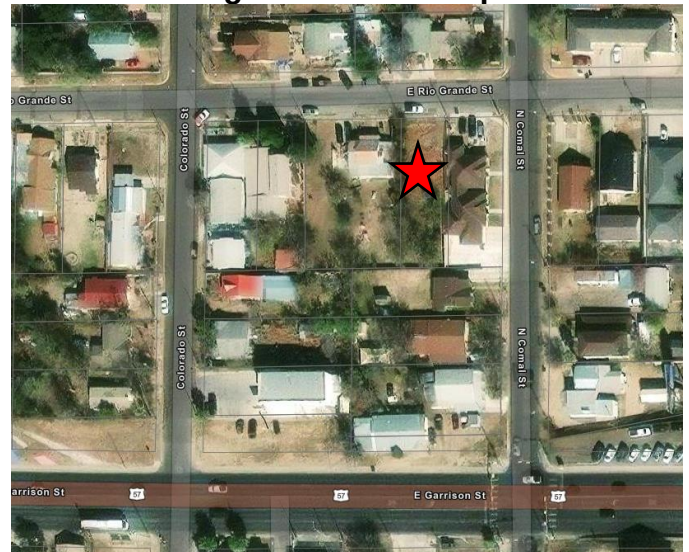
Vicinity: The site is in an area that is primarily comprised of single-family dwellings and multi-family uses.

Access to the site is provided by Rio Grande Street.

III. PUBLIC NOTICE

Public notification of the variance request before the Zoning Board of Adjustment and Appeals Board was completed consistent with the provisions of *Chapter 211 of the State of Texas Local Government Code Title 7*. There were twenty-nine (29) notices mailed to the abutting property owners, with a legal notice published in the Eagle Pass News Gram.

Figure 1. Aerial Map



Street View



IV. STAFF ANALYSIS

The applicant is requesting a variance from *City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12.1(c)(3)(g)(ii)* regulating off-street parking. The applicant seeks to reduce the required 8 spaces to 6 spaces, to allow for the construction of a 1,000 square foot multi-family development. The proposed construction consists of a 4-unit, 1-bedroom development, accommodating 4 families on the subject property.

Although the construction will conform with all applicable building codes it does not meet the requirements set forth in the *Eagle Pass Code of Ordinances* regulating parking. The strict application will deprive the property owner(s) of the reasonable use of the property. Staff believe that the granting of the variance will not be detrimental to the public health of the community, therefore recommend that the petition be granted.

V. STAFF RECOMMENDATION

Staff recommends **GRANTING** the applicant's variance requests for property located at 1680 Rio Grande Street.

TRANSMITTED to the parties listed hereafter:

Jesus A. Nieto via e-mail
Community Development Department Report dated April 26, 2024

Attachment 1
Application and related correspondence



**City of Eagle Pass Planning Department
Zoning Board of Adjustment Appeal
to Eagle Pass Zoning Ordinance**

3295 Bob Rogers Drive
Eagle Pass, TX 78852
(830) 773-7781
planning@eaglepasstx.us
eaglepasstx.us

Project	Legal Description: _____ Site Address: _____ Acres: _____ Square feet: _____ Existing land use: _____
Owner	Name: _____ Phone: _____ Address: _____ E-mail: _____ City: _____ State: _____ Zip: _____
Applicant If not owner	Name: _____ Phone: _____ Address: _____ E-mail: _____ City: _____ State: _____ Zip: _____ Relationship to owner: _____
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 (included corporate name if applicable). Attach written evidence (i. e. corporate documents) of such authorization. I acknowledge that application and publication fees are non-refundable, and that incomplete applications will not be accepted or processed. If additional information or documentation is pending submittal before a deadline, the item is subject to be removed from the agenda and the applicant is subject to cover re-advertising fees. Signature: _____ Date: _____ Print Name: _____ ☐ Applicant ☐ Authorized Agent

Board Action	Description:
	Board Chairman Signature _____ Date _____
Office	Accepted by _____ Payment received by _____ Date _____ Zoning Classification _____ Case No. _____

The commission may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the board shall prescribe only conditions that it deems necessary or desirable to the public interest. No such variance shall be granted unless the board finds that the applicant meets the following conditions.

Description of variance request: _____

For each question, check yes or no and provide a detailed explanation.

- Is the financial cost of compliance greater than 50 percent of the appraised value of the structure?
 Yes [] No [] Explain: _____

- Will compliance result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur?
 Yes [] No [] Explain: _____

- Will compliance result in the structure not following a requirement of a municipal ordinance, building code, or other requirement?
 Yes [] No [] Explain: _____

- Will compliance result in the unreasonable encroachment on an adjacent property or easement?
 Yes [] No [] Explain: _____

5. Does the municipality consider the structure to be a nonconforming structure?

Yes [] No [] Explain: _____

6. Is the variance necessary for the preservation and enjoyment of a substantial property right of the applicant?

Yes [] No []

Explain: _____

7. Could the granting of the variance be detrimental to the public health, safety, or welfare, or injurious to other property in the area? Yes [] No []

Explain: _____

VARIANCE APPLICATION CHECKLIST

APPLICATION COMPLETENESS REQUIREMENTS:

☐
☐

Development Application signed by owner or notarized affidavit

This checklist (signed by applicant/representative)

Applicant	Staff	Not Applicable	TECHNICAL REQUIREMENTS	
			Any application that is missing information will be considered incomplete and will not be processed.	
			1	A scaled site plan of the subject property showing property dimensions, building locations, setback dimensions, and other applicable information.
			2	Application Fee of \$100.00 is due upon submittal. (Money order or check made out to City of Eagle Pass) A Publication Fee will be invoiced and collected before the meeting date. These fees are non-refundable.
			3	Notarized owner authorization letter if application is submitted by individual other than the property owner. Proof of ownership as follows: Estate documents (i. e. Probate, Affidavit of Heirship, Administration), copy of the recorded warranty deed or copy of a purchase contract, copy of lease agreement.
			4	Copy of subdivision restrictions for subject property, as recorded in the Maverick County Court House. If no subdivision restrictions are filed, a copy of the certificate of no restrictions will be required.
			5	Photographs of site, project, and adjacent areas deemed appropriate for justification. Prior construction history, as applicable to the situation.

NOTE: By state law public hearing notices shall be published in a newspaper with a second-class postage.



Applicant Acknowledgment

Date

COLORADO

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			3	0
			5	5
		10	150	50
	10A		50	50
			150	50

COMAL

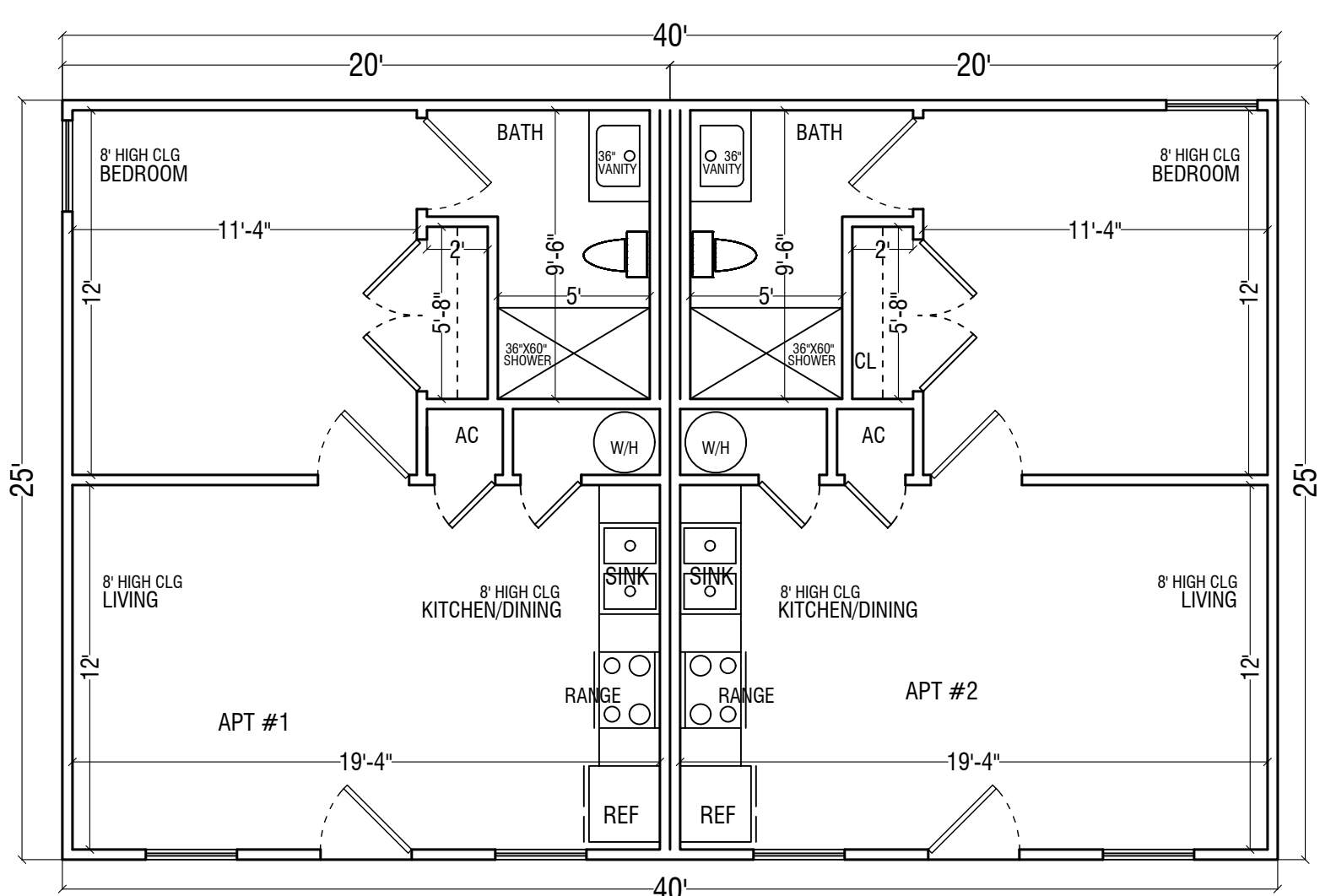
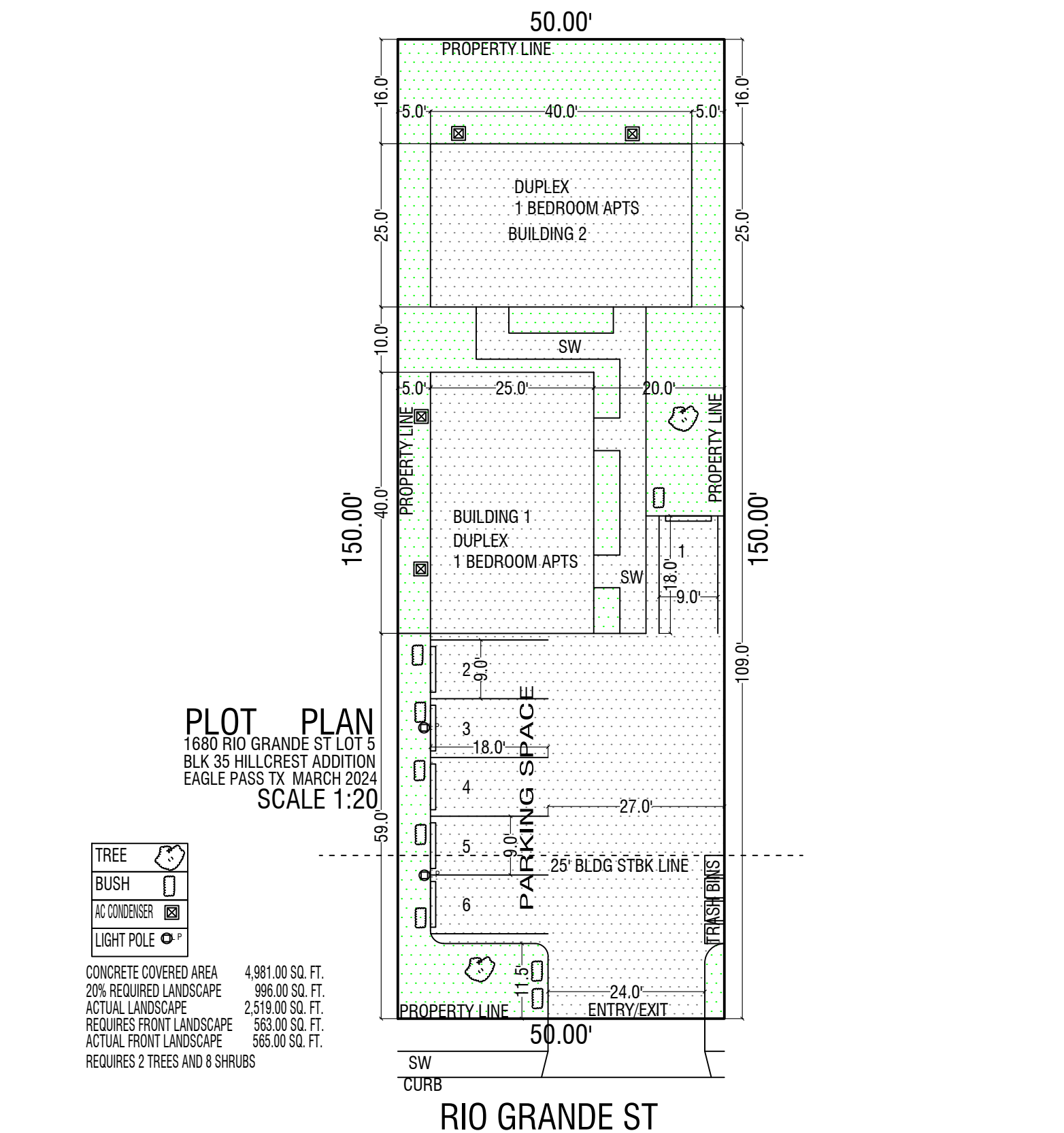
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		150	

Site Photos



Aerial View





FLOOR PLAN (BUILDING 1)

A R E A	LIVING	500.00 EACH
	BUILDING TOTAL 1,000.00 SQ. FT.	
	JG HOMES DESIGN jg_homesdesign@hotmail.com 830-968-1509 Juan Garcia fb.com/jghomesdesign	

PLAN OF DUPLEX COMPLEX
JESUS AARON NIETO
1680 RIO GRANDE ST LOT 5
BLK 35 HILLCREST ADDITION
EAGLE PASS TX. FEBRUARY 2023

Item #4



Community Development Department Executive Summary Report to the Eagle Pass Zoning Board of Adjustment and Appeals

Variance Request – 2027 Microstar Way

I. BACKGROUND

General Information

Applicant & Developer: Four DLS Properties, LLC

MCAD PID: 9005892 & 9006040

Legal Description: Replat of Lot 1 in Block 5 of *Paraiso Estates Subdivision Unit 3* and an 11.67-acre tract

Parcel Size: 36 acres

Current Use: Industrial warehouse, business registered as Microstar

Current Zoning: I – Industrial

Master Plan: No depiction

Request: A variance from *City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12(d)(5)* governing landscape requirements. The applicant seeks to reduce the required landscaping, to allow for the construction of an addition to the existing warehouse on property located at 2027 Microstar Way.

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public utilities/franchises.

Vicinity: Property is bordered by undeveloped parcels to the east, residential development to the west and commercial development to the south, abutting El Indio Highway.

Access to the site is provided by Microstar Way via El Indio Highway.

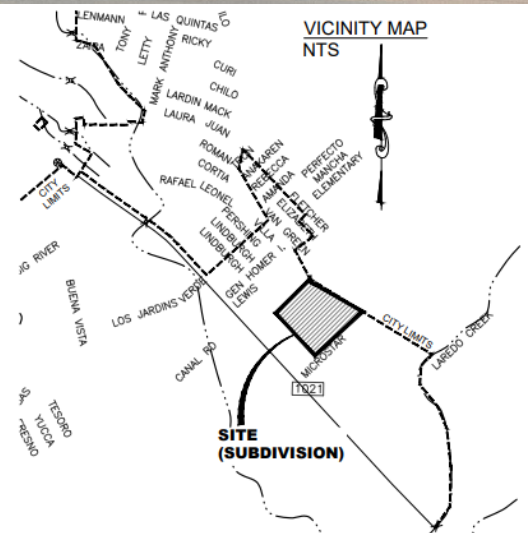
III. PUBLIC NOTICE

Public notification of the variance request before the Planning and Zoning Commission was completed consistent with the provisions of *Chapter 211 of the State of Texas Local Government Code Title 7*. There were forty-nine (49) notices mailed to the abutting property owners, with a legal notice published in the Eagle Pass News Gram on January 24, 2024.

Figure 1. Aerial Map



Figure 2. Street View



IV. STAFF ANALYSIS

The applicant is requesting a variance from *City of Eagle Pass Code of Ordinances Appendix A Zoning Ordinance Section 12(d)(5)* governing landscape requirements. This section references *Section 23-89(b)(4)* regulating landscape plan requirements under *Chapter 23-Subdivisions / Article VI – Landscape and Tree Preservation*. The applicant seeks to reduce the required 370 trees and 740 shrubs to 27 trees and 280 shrubs plus 15-percent of landscape on the frontage off Microstar Way, to allow for the construction of a 250,000 square foot addition to the existing warehouse. The requirement only applies to the proposed addition as the original construction was completed when the property was in the County.

The applicant in addition proposes to expand the existing detention pond and providing an alternative xeriscape landscape to comply with the missing trees and shrubs.

Although the construction will conform with all applicable building codes it does not meet the requirements set forth in the *Eagle Pass Code of Ordinances* regulating landscaping. The strict application will deprive the property owner(s) of the reasonable use of the property. Staff believes that the granting of the variance will not be detrimental to the public health of the community, therefore recommend that the petition be granted.

V. STAFF RECOMMENDATION

Staff recommends approving the request with the proposed reduced number of trees while offsetting the difference to other public places or sites.

TRANSMITTED to the parties listed hereafter:

Four DLS Microstar via e-mail
Community Development Department Report dated January 31, 2024

Attachment 1



**City of Eagle Pass Planning Department
Zoning Board of Adjustment Appeal
to Eagle Pass Zoning Ordinance**

3295 Bob Rogers Drive
Eagle Pass, TX 78852
(830) 773-7781
planning@eaglepasstx.us
eaglepasstx.us

Project	Legal Description: <u>Replat of Lot 1 in Block 5 of Paraiso Estates Subdivision Unit 3 and an 11.67-acre tract</u> Site Address: <u>2027 Microstar Way</u> Acres: <u>36</u> Square feet: <u>258,172</u> Existing land use: <u>light industrial warehouse</u>
Owner	Name: <u>Four DLS Properties, LLC</u> Phone: <u>830-773-0311</u> Address: <u>4247 FM 1021</u> E-mail: <u>fsantos@partsservice.com</u> City: <u>Eagle Pass</u> State: <u>Tx</u> Zip: <u>78852</u>
Applicant If not owner	Name: _____ Phone: _____ Address: _____ E-mail: _____ City: _____ State: _____ Zip: _____ Relationship to owner: _____
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 <u>X</u> I certify that I am the actual owner of the property described above and this application is being submitted with my consent (included corporate name if applicable). Attach written evidence (i. e. corporate documents) of such authorization. I acknowledge that application and publication fees are non-refundable, and that incomplete applications will not be accepted or processed. If additional information or documentation is pending submittal before a deadline, the item is subject to be removed from the agenda and the applicant is subject to cover re-advertising fees. Signature: <u>[Signature]</u> Date: <u>02/02/2024</u> Print Name: <u>Felix De Los Santos</u> ☒ Applicant ☐ Authorized Agent

Board Action	Description:
	Board Chairman Signature _____ Date _____
Office	Accepted by _____ Payment received by _____ Date _____
	Zoning Classification _____ Case No. _____

The commission may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the board shall prescribe only conditions that it deems necessary or desirable to the public interest. No such variance shall be granted unless the board finds that the applicant meets the following conditions.

Description of variance request: The Owner requests a variance from providing the two (2) trees and four (4) shrubs required per 600 SF of required landscape area. Due to the large area of the site, this code section would require 370 new trees and 740 new shrubs, which would place an
undo financial hardship on the Owner. In lieu of the required trees, the Owner proposes to
provide xeric screening around the existing detention pond.

For each question, check yes or no and provide a detailed explanation.

1. Is the financial cost of compliance greater than 50 percent of the appraised value of the structure?

Yes ☐ No ☒ Explain: _____

2. Will compliance result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur?

Yes ☐ No ☒ Explain: _____

3. Will compliance result in the structure not following a requirement of a municipal ordinance, building code, or other requirement?

Yes ☐ No ☒ Explain: _____

4. Will compliance result in the unreasonable encroachment on an adjacent property or easement?

Yes ☐ No ☒ Explain: _____

5. Does the municipality consider the structure to be a nonconforming structure?

Yes ☐ No ☒ Explain: _____

6. Is the variance necessary for the preservation and enjoyment of a substantial property right of the applicant?

Yes ☒ No ☐

Explain: The undo financial hardship created by complying with the min. tree and shrub requirement imposes a critical burden on the Owner's ability to develop the site as other allowed by code.

7. Could the granting of the variance be detrimental to the public health, safety, or welfare, or injurious to other property in the area? Yes ☐ No ☒

Explain: The Owner's proposed screening of the existing detention pond mitigates and potential visual impact associated with not meeting the min. tree and shrub requirement.

VARIANCE APPLICATION CHECKLIST

APPLICATION COMPLETENESS REQUIREMENTS:

- ☒ Development Application signed by owner or notarized affidavit
☐ This checklist (signed by applicant/representative)

Applicant	Staff	Not Applicable	TECHNICAL REQUIREMENTS Any application that is missing information will be considered incomplete and will not be processed.	
			1	A scaled site plan of the subject property showing property dimensions, building locations, setback dimensions, and other applicable information.
			2	Application Fee of \$100.00 is due upon submittal. (Money order or check made out to City of Eagle Pass) A Publication Fee will be invoiced and collected before the meeting date. These fees are non-refundable.
			3	Notarized owner authorization letter if application is submitted by individual other than the property owner. Proof of ownership as follows: Estate documents (i. e. Probate, Affidavit of Heirship, Administration), copy of the recorded warranty deed or copy of a purchase contract, copy of lease agreement.
			4	Copy of subdivision restrictions for subject property, as recorded in the Maverick County Court House. If no subdivision restrictions are filed, a copy of the certificate of no restrictions will be required.
			5	Photographs of site, project, and adjacent areas deemed appropriate for justification. Prior construction history, as applicable to the situation.

NOTE: By state law public hearing notices shall be published in a newspaper with a second-class postage.

Applicant Acknowledgment _____

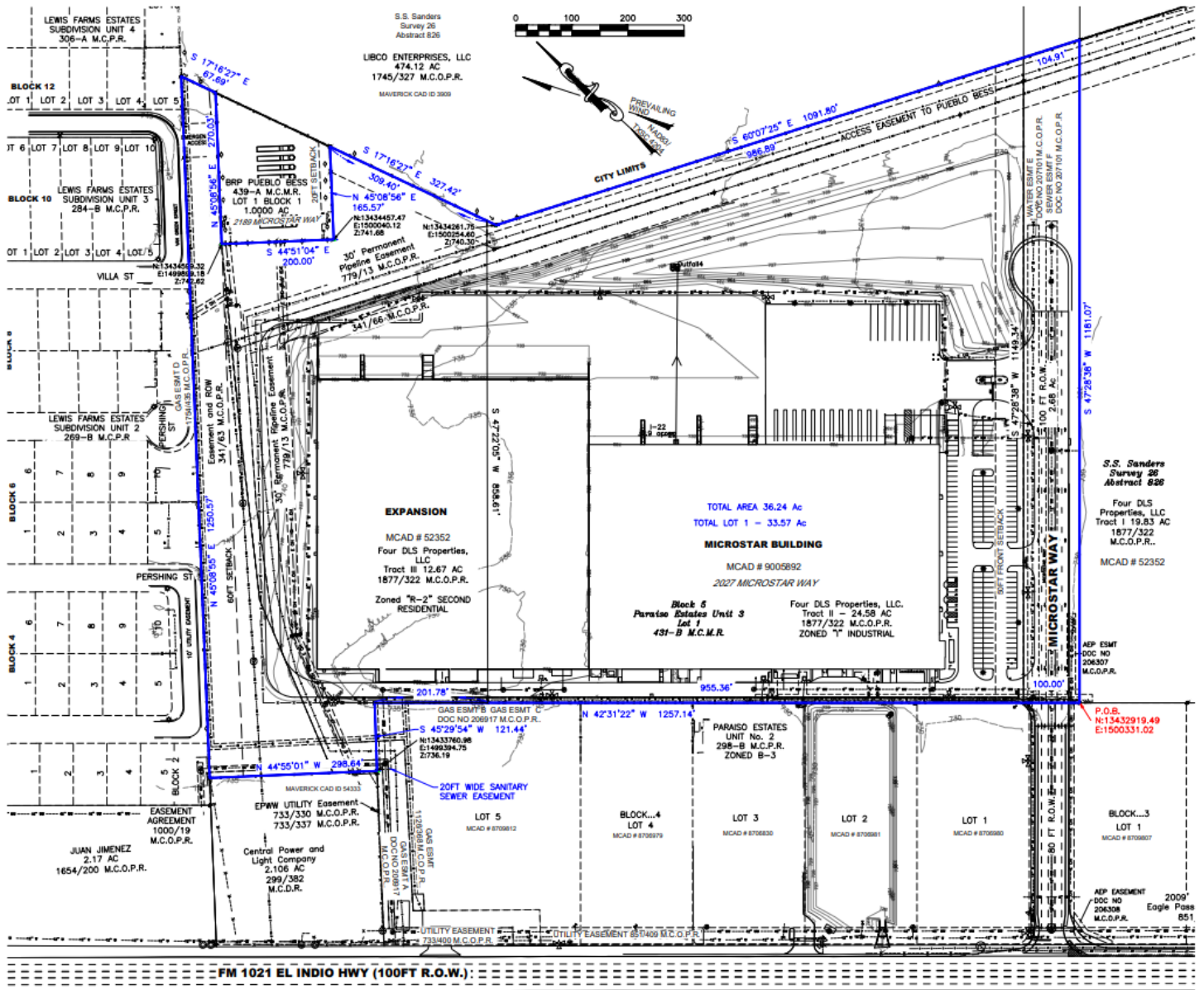
Date _____

S.S. Sanders
Survey 26
Abstract 826

0 100 200 300

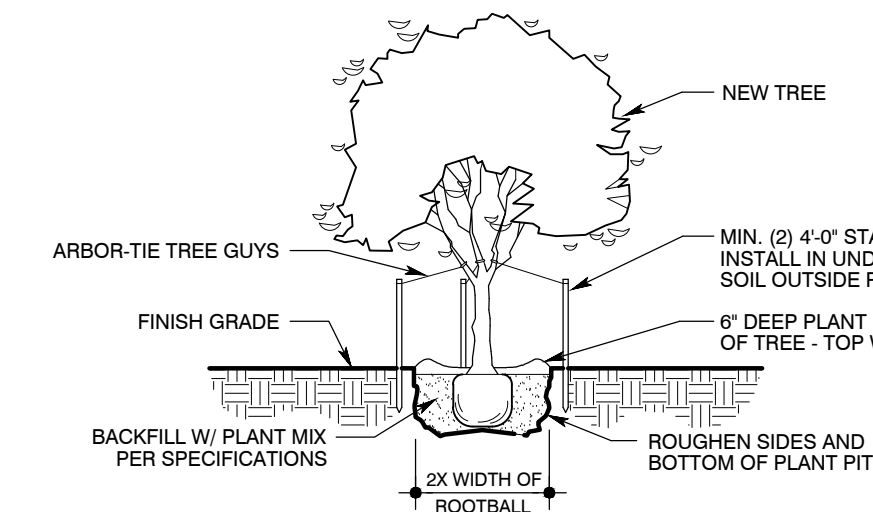
CO ENTERPRISES, LLC
474.12 AC
745/327 M.C.O.P.R.

MAVERICK CAD ID 3909



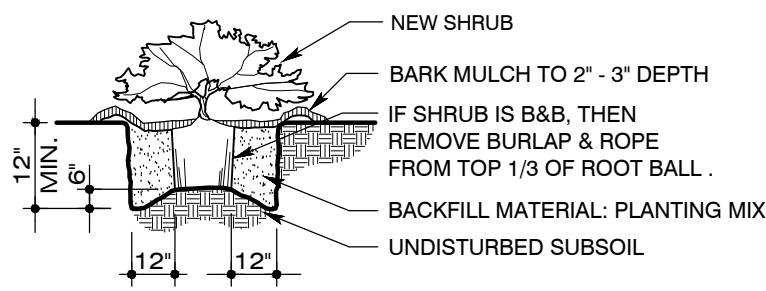
LANDSCAPE ORDINANCE COMPLIANCE

1.	STREET FRONTAGE LANDSCAPE AREA REQUIREMENT (NON-CORNER SITE) NON APPLICABLE	
2.	SITE LANDSCAPE AREA REQUIREMENT IMPERVIOUS COVERAGE: % LANDSCAPING REQUIRED: SITE LANDSCAPING REQUIRED:	739,500 SF 15% (INDUSTRIAL USE) 110,925 SF REQUIRED 252,616 SF PROVIDED
3.	FRONT YARD LANDSCAPING NON APPLICABLE	
4.	IMPERVIOUS COVERAGE PLANTING REQUIREMENT PROVIDED VIA ALTERNATIVE XERISCAPE LANDSCAPE DESIGN AT DETENTION POND.	
5.	PARKING LOT PARKING LOT AREA: LANDSCAPE WITHIN PARKING AREA (5% OF PARKING LOT AREA):	7432 SF 371.6 SF REQUIRED 2828 SF PROVIDED
6.	TREES REQUIRED IN PARKING LOT AREA (1 TREE PER 250 SF OF REQUIRED PARKING LOT LANDSCAPING)	2 TREES REQUIRED 2 TREES PROVIDED
7.	15' FRONTAGE LANDSCAPE BUFFER MICROSTAR WAY IS A PRIVATE DRIVE.	
8.	EXISTING LANDSCAPE TREES SHRUBS	5 118
9.	PROPOSED LANDSCAPE TREES SHRUBS	27 260
10.	DEPICTION OF PROPOSED PARKING LOT LANDSCAPE AND PARKING LOT	PROVIDED AS REQUIRED.



TREE PLANTING DETAIL

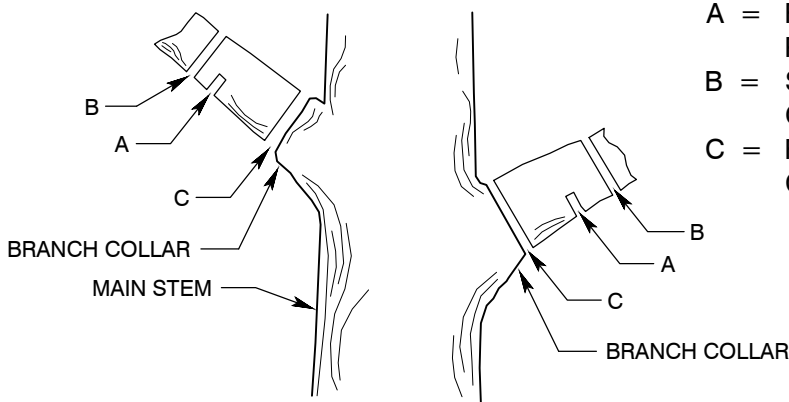
NEW TREES
1/8" = 1'-0"



SHRUB PLANTING DETAIL

NEW SHRUBS
1/8" = 1'-0"

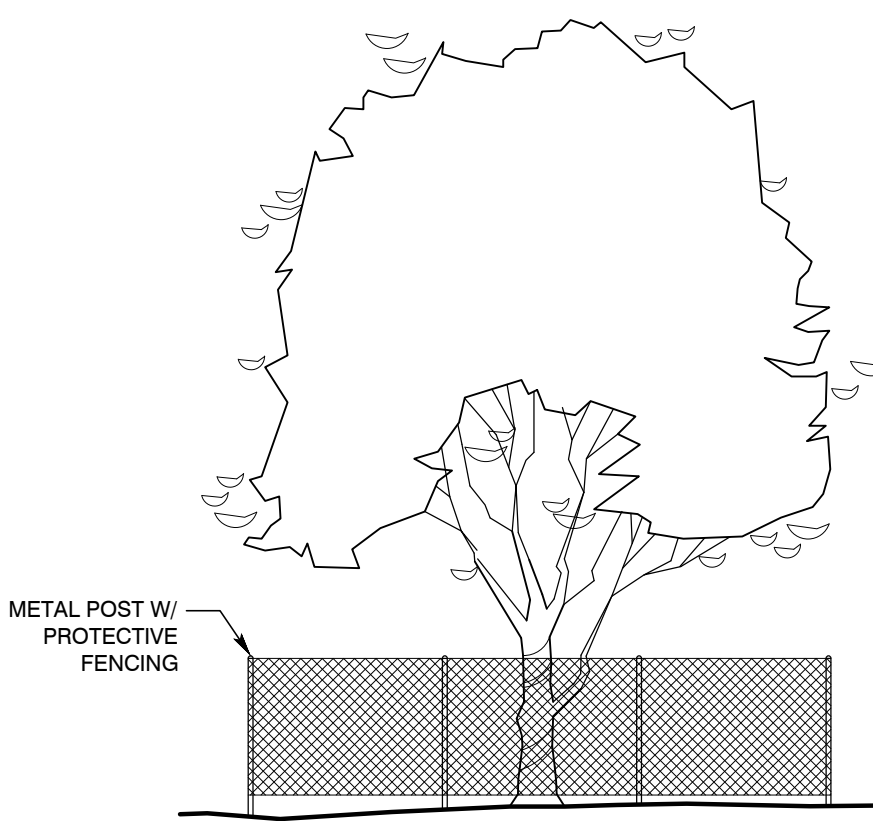
PRUNING NOTES:
1. ALL PRUNING IS TO BE DONE BY A LICENSED ARBORIST UNDER THE FIELD DIRECTION OF THE OWNER AND/OR LANDSCAPE ARCHITECT.
2. WHERE FEASIBLE, PRUNE TREES BEFORE COMMENCEMENT OF CONSTRUCTION.
3. PAINT ALL WOUNDS ON OAK TREES WITHIN 30 MINUTES OF PRUNING.



TREE PRUNING DETAIL

NOT TO SCALE

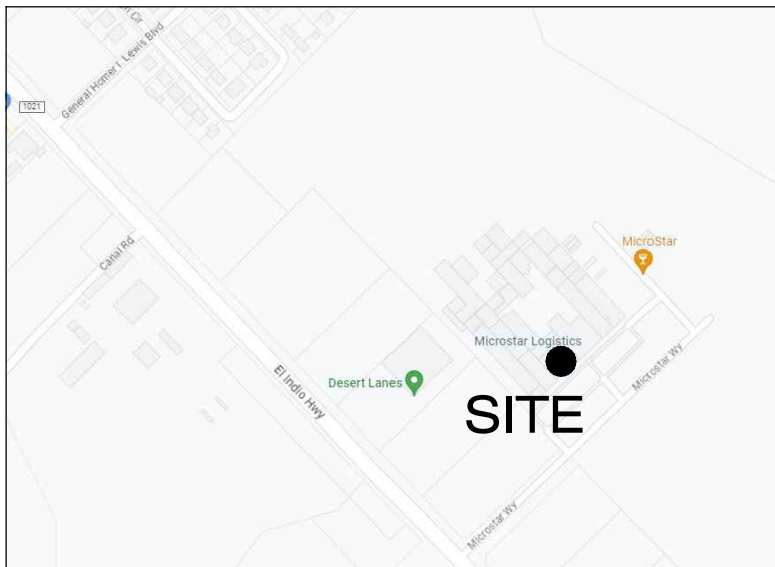
NOTES:
1. LANDSCAPE SUBCONTRACTOR TO PROVIDE PRUNING AND FERTILIZATION FOR ALL EXISTING TREES TO BE PRESERVED BY A CITY OF EAGLE PASS TREE MAINTENANCE LICENSED AND I.S.A. CERTIFIED ARBORIST.
2. APPLY APPROVED SLOW-RELEASE FERTILIZER INJECTED INTO SOIL BEFORE CONSTRUCTION COMMENCES AND AGAIN AFTER CONSTRUCTION IS COMPLETE.
3. ALL PRUNING OF EXISTING TREES MUST COMPLY WITH THE CITY OF EAGLE PASS'S APPROVED PRUNING DETAIL AND IS TO BE DONE UNDER THE FIELD DIRECTION OF THE OWNER AND/OR LANDSCAPE ARCHITECT.
4. PROTECTIVE FENCING MUST BE IN PLACE BEFORE ANY CONSTRUCTION ACTIVITIES MAY COMMENCE.
5. PROTECTIVE FENCING TO BE A MIN. 4'-0" HT. EXTENDING FROM TRUNK 12" PER CALIPER INCH OF TREE (MINIMUM 5'-0" ON ONE SIDE ONLY). THE OPTIMUM DISTANCE IS TO INSTALL FENCE DIRECTLY BENEATH DRIPLINE OF TREE AS SHOWN.
6. PROTECTIVE FENCING TO BE STAKED IN FIELD BY CONTRACTOR AND APPROVED BY OWNER AND/OR LANDSCAPE ARCHITECT.
7. DURING CONSTRUCTION, NO EXCESS SOIL, FILL MATERIAL, EQUIPMENT, LIQUIDS, OR CONSTRUCTION DEBRIS SHALL BE PLACED WITHIN THE PROTECTIVE FENCING. NOR SHALL ANY SOIL BE REMOVED FROM WITHIN THE FENCING.
8. APPLY COARSE GROUND OR SHREDDED ORGANIC BARK MULCH TO 6" DEPTH @ ALL EXISTING TREES TO BE PRESERVED.
9. THE PROPOSED FINISH GRADE WITHIN THE ROOT PROTECTION ZONE (RPZ) OF ANY TREE TO BE PRESERVED SHALL NOT BE RAISED OR LOWERED MORE THAN THREE (3) INCHES.



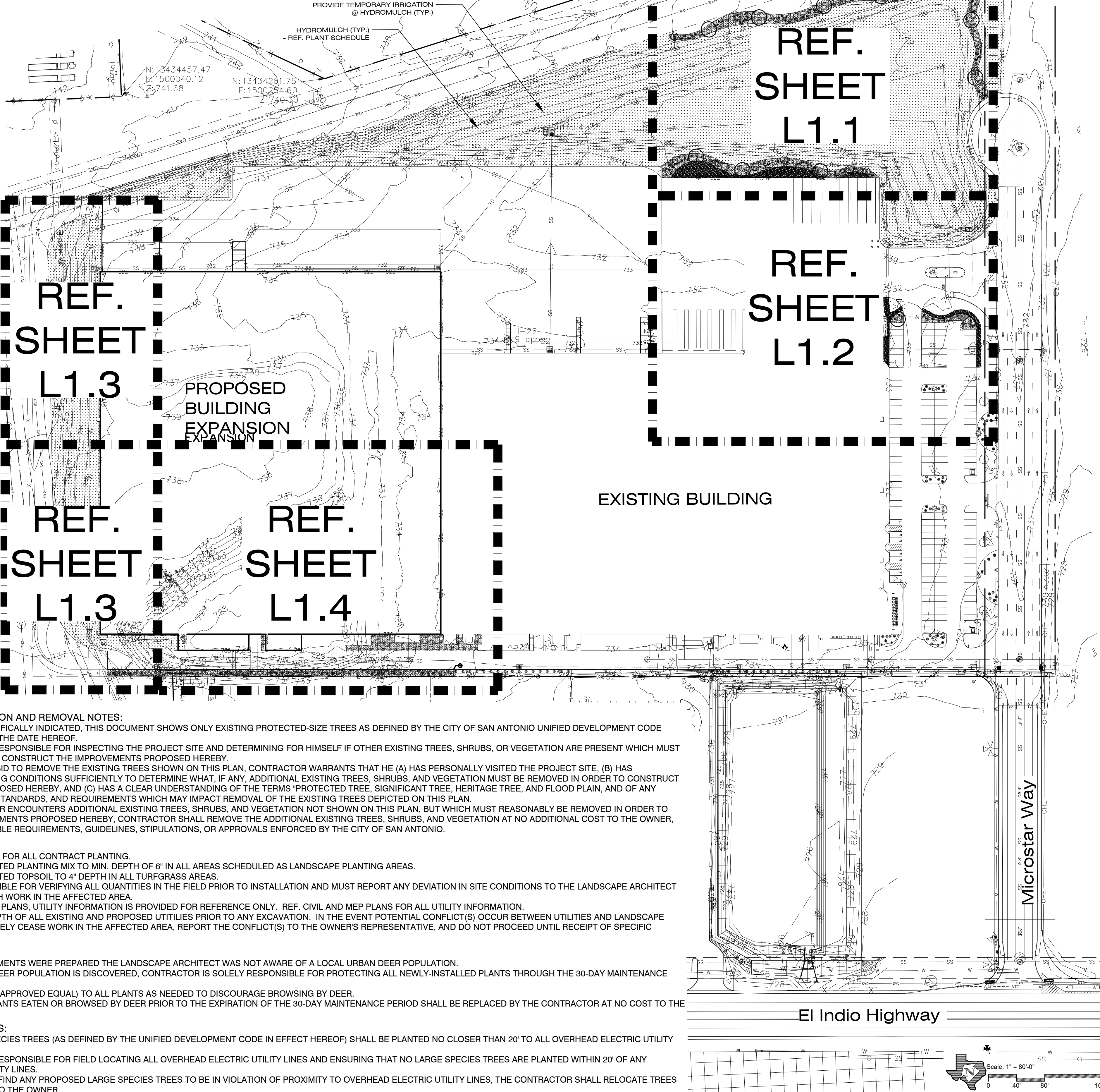
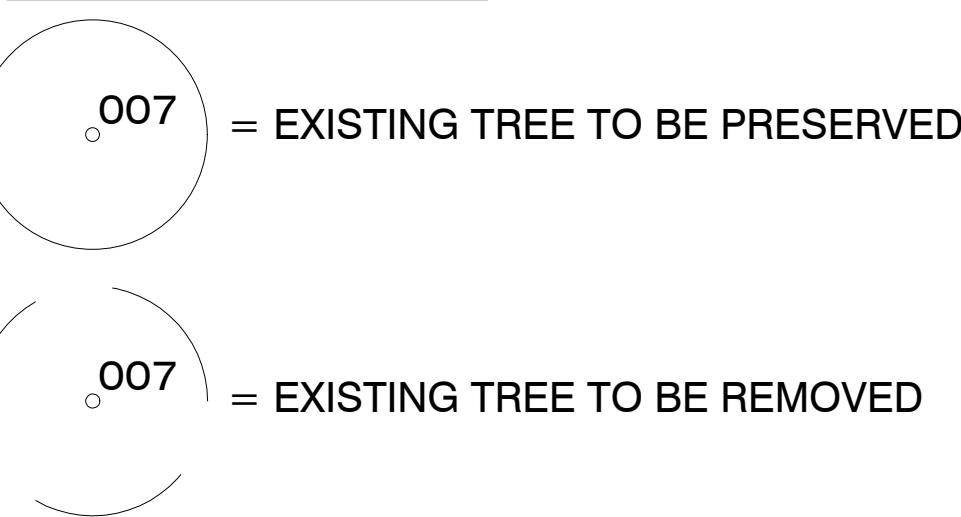
TREE PROTECTION DETAIL

NOT TO SCALE

VICINITY MAP (N.T.S.)



EXISTING TREE LEGEND



EXISTING TREE PRESERVATION AND REMOVAL NOTES:

- UNLESS OTHERWISE SPECIFICALLY INDICATED, THIS DOCUMENT SHOWS ONLY EXISTING PROTECTED-SIZE TREES AS DEFINED BY THE CITY OF SAN ANTONIO UNIFIED DEVELOPMENT CODE (THE 'UDC') IN EFFECT ON THE DATE HEREOF.
- CONTRACTOR IS SOLELY RESPONSIBLE FOR INSPECTING THE PROJECT SITE AND DETERMINING FOR HIMSELF IF OTHER EXISTING TREES, SHRUBS, OR VEGETATION ARE PRESENT WHICH MUST BE REMOVED IN ORDER TO CONSTRUCT THE IMPROVEMENTS PROPOSED HEREBY.
- BY ACT OF SUBMITTING A BID TO REMOVE THE EXISTING TREES SHOWN ON THIS PLAN, CONTRACTOR WARRANTS THAT HE (A) HAS PERSONALLY VISITED THE PROJECT SITE, (B) HAS INVESTIGATED THE EXISTING CONDITIONS SUFFICIENTLY TO DETERMINE WHAT, IF ANY, ADDITIONAL EXISTING TREES, SHRUBS, AND VEGETATION MUST BE REMOVED IN ORDER TO CONSTRUCT THE IMPROVEMENTS PROPOSED HEREBY, AND (C) HAS A CLEAR UNDERSTANDING OF THE TERMS 'PROTECTED TREE, SIGNIFICANT TREE, HERITAGE TREE, AND FLOOD PLAIN, AND OF ANY OTHER CITY GUIDELINES, STANDARDS, AND REQUIREMENTS WHICH MAY IMPACT REMOVAL OF THE EXISTING TREES DEPICTED ON THIS PLAN.
- IN THE EVENT CONTRACTOR ENCOUNTERS ADDITIONAL EXISTING TREES, SHRUBS, AND VEGETATION NOT SHOWN ON THIS PLAN, BUT WHICH MUST REASONABLY BE REMOVED IN ORDER TO CONSTRUCT THE IMPROVEMENTS PROPOSED HEREBY, CONTRACTOR SHALL REMOVE THE ADDITIONAL EXISTING TREES, SHRUBS, AND VEGETATION AT NO ADDITIONAL COST TO THE OWNER, SUBJECT TO ANY APPLICABLE REQUIREMENTS, GUIDELINES, STIPULATIONS, OR APPROVALS ENFORCED BY THE CITY OF SAN ANTONIO.

GENERAL NOTES:

- REFER TO SPECIFICATIONS FOR ALL CONTRACT PLANTING.
- INSTALL APPROVED IMPORTED PLANTING MIX TO MIN. DEPTH OF 6" IN ALL AREAS SCHEDULED AS LANDSCAPE PLANTING AREAS.
- INSTALL APPROVED IMPORTED TOPSOIL TO 4" DEPTH IN ALL TURFGRASS AREAS.
- CONTRACTOR IS RESPONSIBLE FOR VERIFYING ALL QUANTITIES IN THE FIELD PRIOR TO INSTALLATION AND MUST REPORT ANY DEVIATION IN SITE CONDITIONS TO THE LANDSCAPE ARCHITECT BEFORE PROCEEDING WITH WORK IN THE AFFECTED AREA.
- WHERE SHOWN ON THESE PLANS, UTILITY INFORMATION IS PROVIDED FOR REFERENCE ONLY. REF. CIVIL AND MEP PLANS FOR ALL UTILITY INFORMATION.
- VERIFY LOCATION AND DEPTH OF ALL EXISTING AND PROPOSED UTILITIES PRIOR TO ANY EXCAVATION. IN THE EVENT POTENTIAL CONFLICT(S) OCCUR BETWEEN UTILITIES AND LANDSCAPE IMPROVEMENTS, IMMEDIATELY CEASE WORK IN THE AFFECTED AREA, REPORT THE CONFLICT(S) TO THE OWNER'S REPRESENTATIVE, AND DO NOT PROCEED UNTIL RECEIPT OF SPECIFIC WRITTEN DIRECTION.

URBAN DEER NOTES:

- AT THE TIME THESE DOCUMENTS WERE PREPARED THE LANDSCAPE ARCHITECT WAS NOT AWARE OF A LOCAL URBAN DEER POPULATION.
- IN THE EVENT AN URBAN DEER POPULATION IS DISCOVERED, CONTRACTOR IS SOLELY RESPONSIBLE FOR PROTECTING ALL NEWLY-INSTALLED PLANTS THROUGH THE 30-DAY MAINTENANCE PERIOD.
- APPLY "LIQUID FENCE" (OR APPROVED EQUAL) TO ALL PLANTS AS NEEDED TO DISCOURAGE BROWSING BY DEER.
- ANY NEWLY-INSTALLED PLANTS EATEN OR BROWSED BY DEER PRIOR TO THE EXPIRATION OF THE 30-DAY MAINTENANCE PERIOD SHALL BE REPLACED BY THE CONTRACTOR AT NO COST TO THE OWNER.

OVERHEAD ELECTRIC NOTES:

- ALL PROPOSED LARGE SPECIES TREES (AS DEFINED BY THE UNIFIED DEVELOPMENT CODE IN EFFECT HEREOF) SHALL BE PLANTED NO CLOSER THAN 20' TO ALL OVERHEAD ELECTRIC UTILITY LINES.
- CONTRACTOR IS SOLELY RESPONSIBLE FOR FIELD LOCATING ALL OVERHEAD ELECTRIC UTILITY LINES AND ENSURING THAT NO LARGE SPECIES TREES ARE PLANTED WITHIN 20' OF ANY OVERHEAD ELECTRIC UTILITY LINES.
- WHERE CITY INSPECTORS FIND ANY PROPOSED LARGE SPECIES TREES TO BE IN VIOLATION OF PROXIMITY TO OVERHEAD ELECTRIC UTILITY LINES, THE CONTRACTOR SHALL RELOCATE TREES AT NO ADDITIONAL COST TO THE OWNER.

H O R I Z O N
DESIGN AND DEVELOPMENT
PLANNING, LANDSCAPE ARCHITECTURE
DEVELOPMENT CONSULTING
14607 San Pedro Ave., Suite 200
San Antonio, Texas 78232
210.831.8564 jrobinson@horizondesign-sa.com

This document is intended for interim review purposes only and is not to be used for bidding, permitting, or construction.

OWNER
Four DLS Properties, LLC

4247 FM 1021
Eagle Pass, TX 78852

PROJECT
MicroStar Quality Services Facility - Building Expansion

2027 Microstar Way
Eagle Pass, TX 78852

REVISIONS

PROJECT NUMBER
2023-094

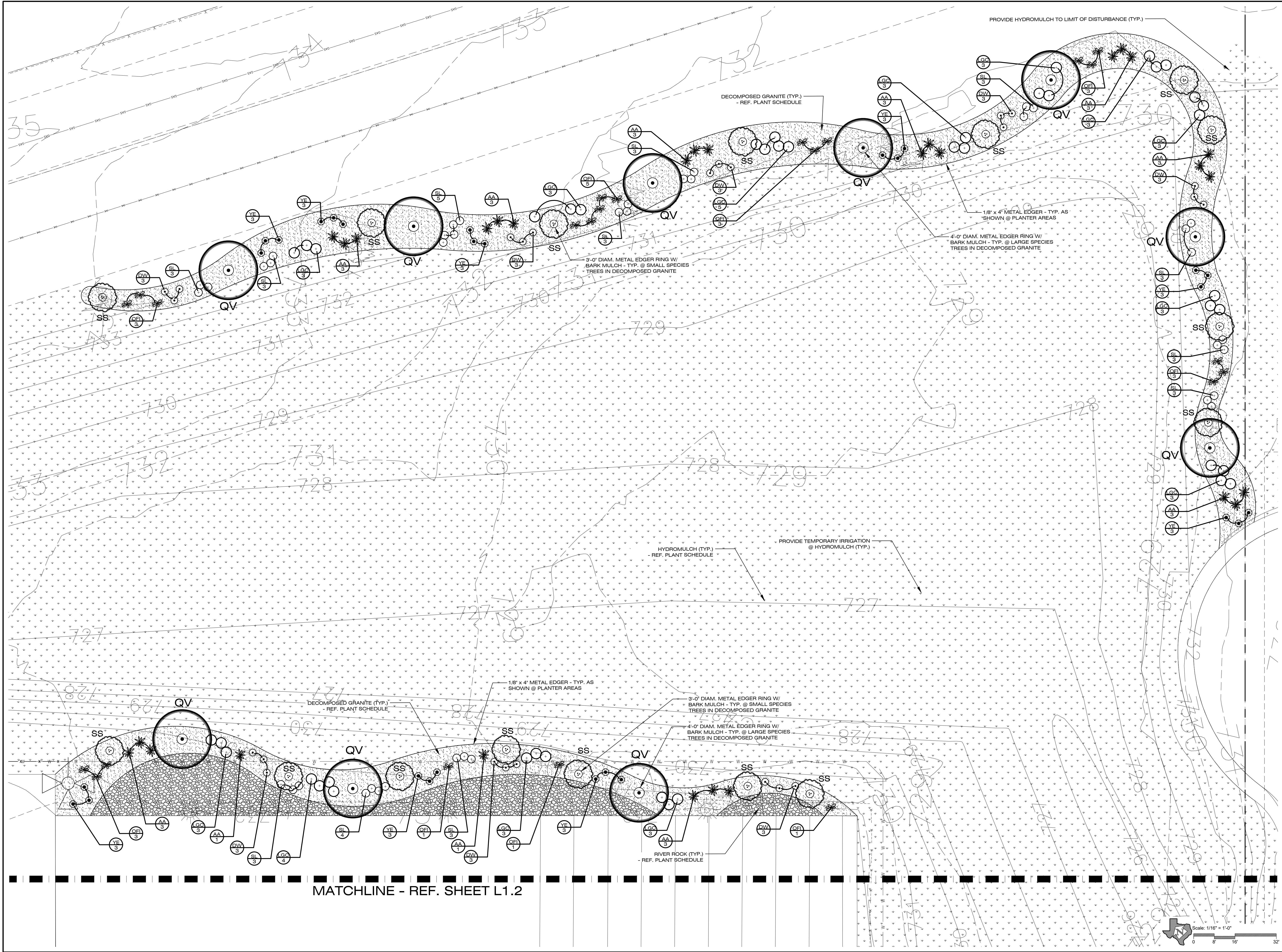
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Checked By: jr

Sheet Title:
OVERALL LANDSCAPE PLANTING PLAN

Sheet Number:

L1.0

Issue Date:
August X, 2023



This document is
intended for interim
review purposes only
and is not to be used
for bidding, permitting,
or construction.

OWNER
**Four DLS
Properties, LLC**

4247 fm 1021
Eagle Pass, TX 78852

PROJECT
**MicroStar Quality
Services Facility
-Building Expansion**

2027 Microstar Way
Eagle Pass, TX 78852

REVISIONS

PROJECT NUMBER
2023-094

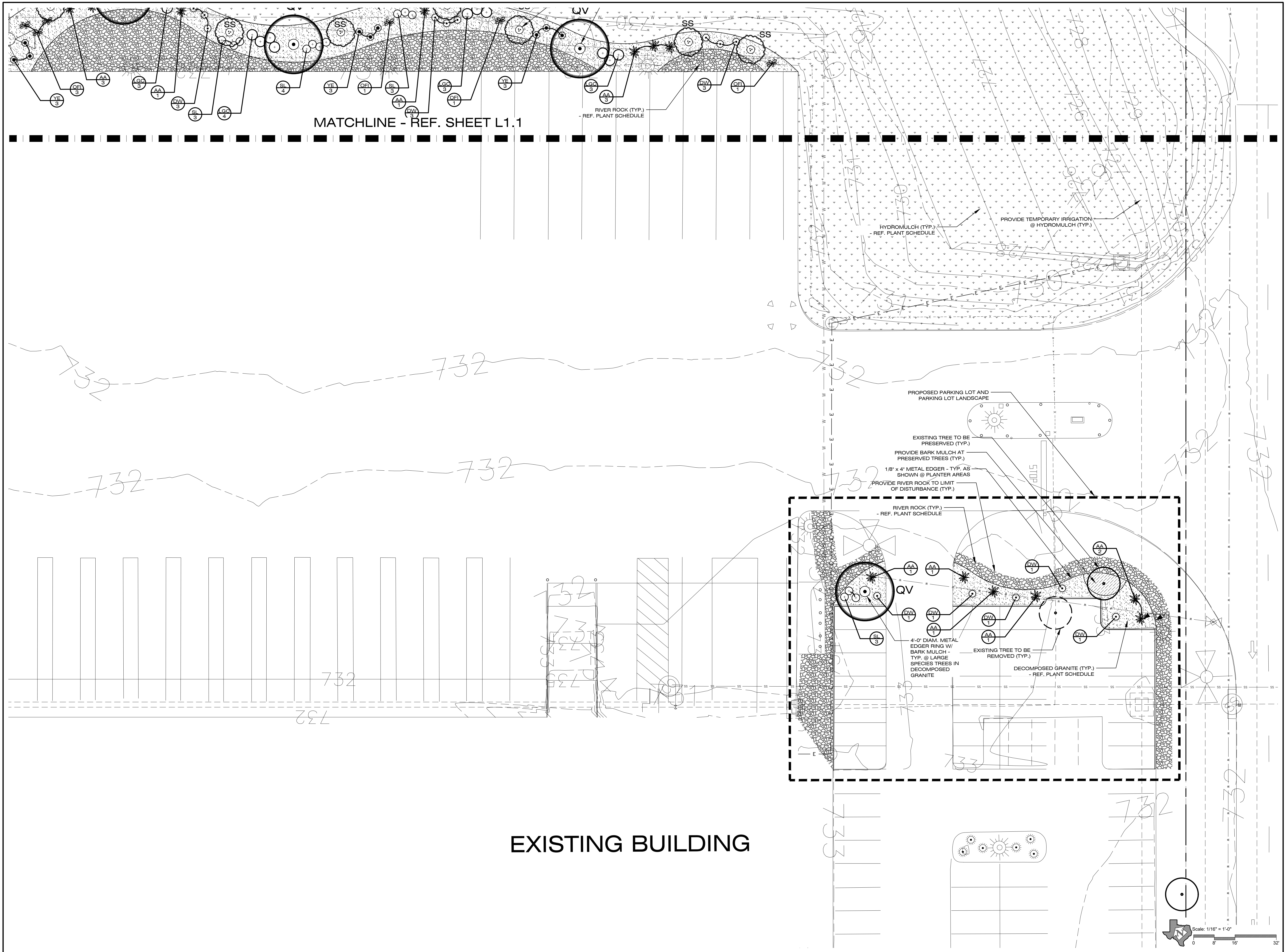
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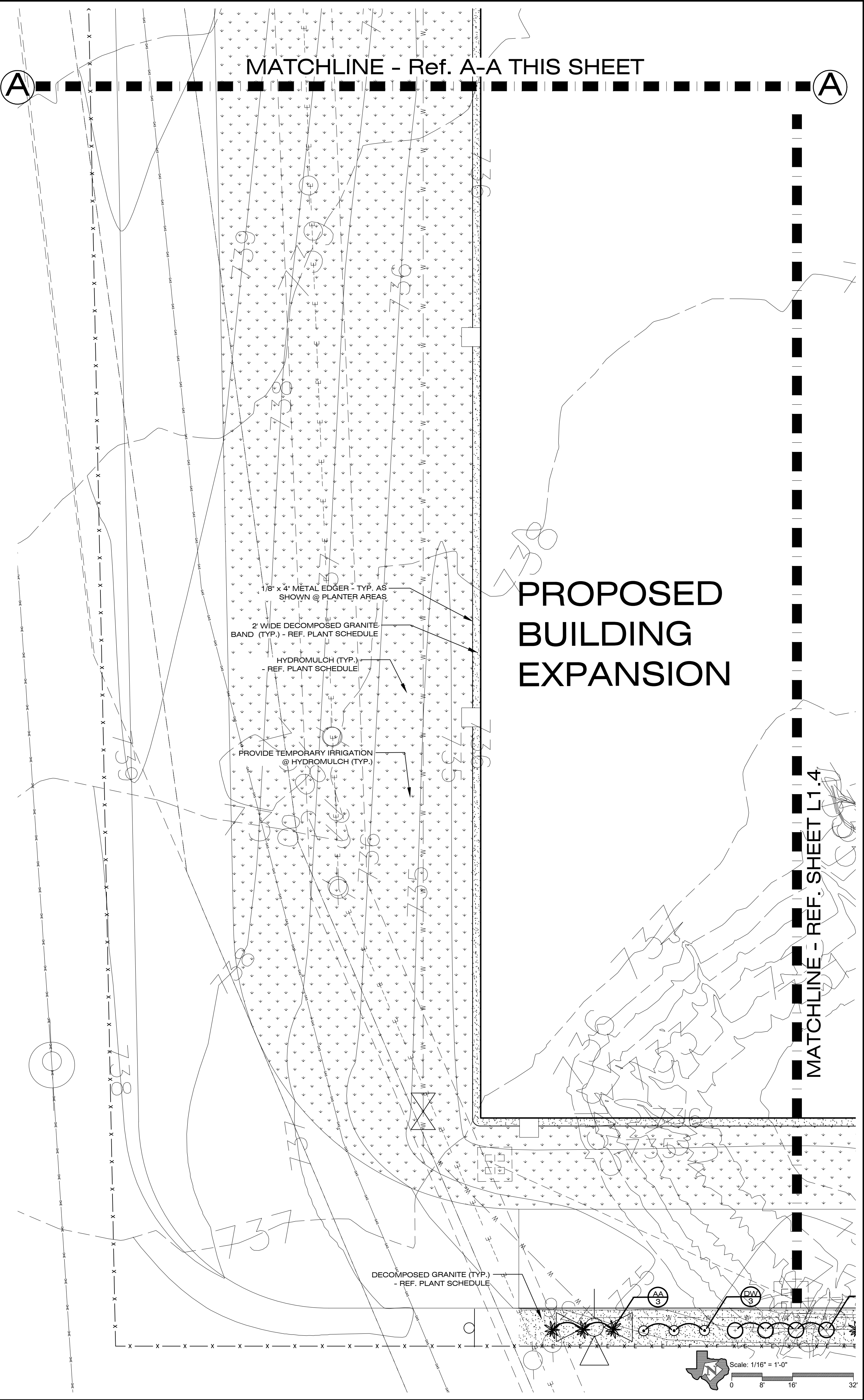
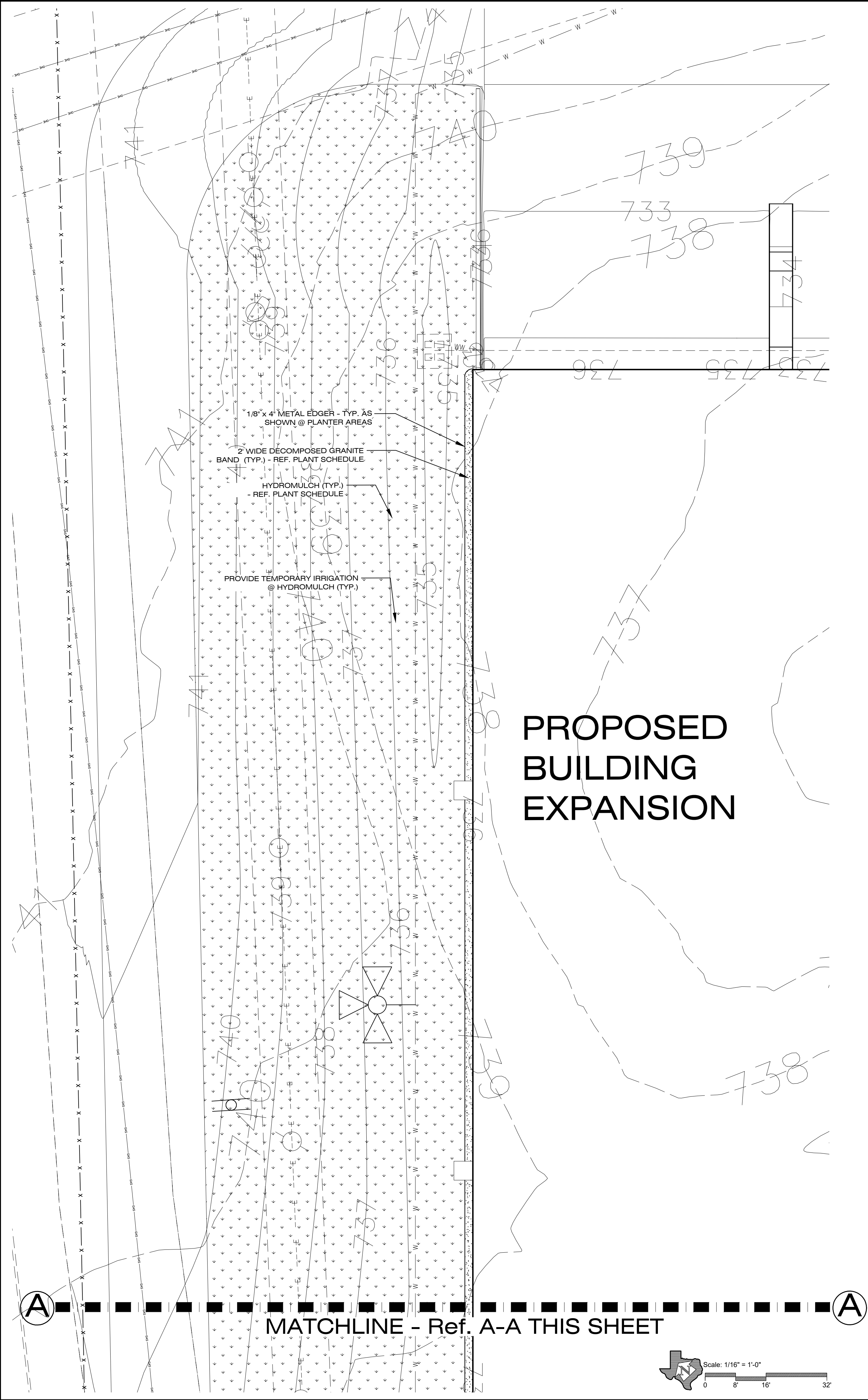
Sheet Title:
**ENLARGED
LANDSCAPE
PLANTING PLAN**

Sheet Number:

L1.1

Issue Date:
August X, 2023





H O R I Z O N
DESIGN AND DEVELOPMENT
PLANNING, LANDSCAPE ARCHITECTURE
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14607 San Pedro Ave., Suite 200
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OWNER
Four DLS Properties, LLC

4247 fm 1021
Eagle Pass, TX 78852

PROJECT
MicroStar Quality Services Facility -Building Expansion

2027 Microstar Way
Eagle Pass, TX 78852

REVISIONS

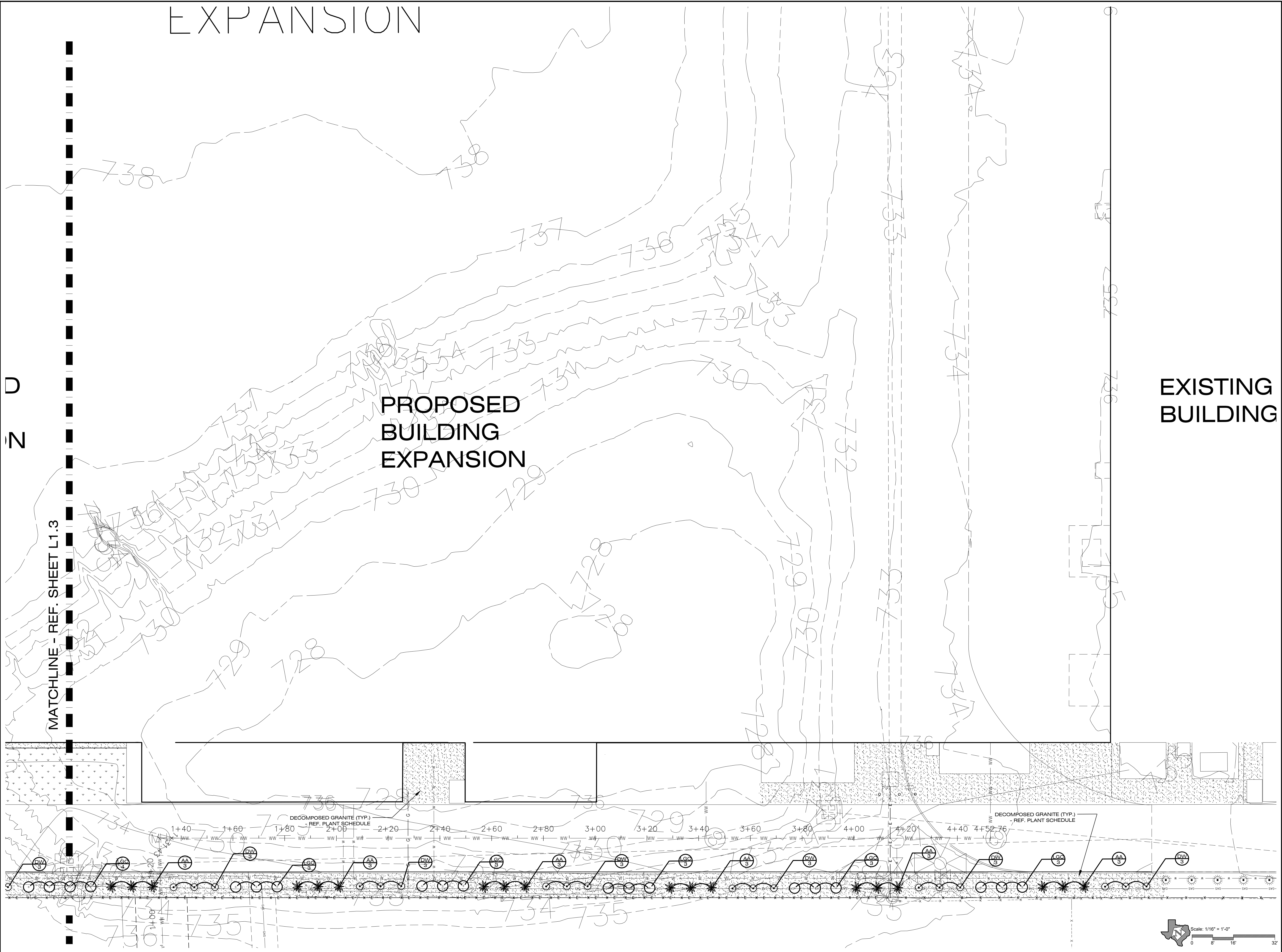
PROJECT NUMBER
2023-094

Drawn By: mc
Checked By: jr

Sheet Title:
ENLARGED LANDSCAPE PLANTING PLAN

Sheet Number:
L1.3

Issue Date:
August X, 2023



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OWNER
Four DLS
Properties, LLC

4247 fm 1021
Eagle Pass, TX 78852

PROJECT
MicroStar Quality
Services Facility
-Building Expansion

2027 Microstar Way
Eagle Pass, TX 78852

REVISIONS

PROJECT NUMBER
2023-094

Drawn By: mc
Checked By: jr

Sheet Title:
ENLARGED
LANDSCAPE
PLANTING PLAN

Sheet Number:
L1.4

Issue Date:
August X, 2023

Third reading of Ordinance approved by City Council at their January 2, 2024 meeting

ORDINANCE NO. 2023-

AN ORDINANCE AMENDING APPENDIX A (ZONING ORDINANCE), SECTION 12 D OF THE CODE OF ORDINANCES OF THE CITY OF EAGLE PASS BY ADDING NEW SUBSECTION (5) INCORPORATING LANDSCAPE AND TREE PRESERVATION REQUIREMENTS; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EAGLE PASS, TEXAS:

SECTION 1. Appendix A-Zoning Ordinance Section 12 D of the Code of Ordinances, Eagle Pass, Texas is hereby amended by adding new subsection (5) to read as follows and the rest remains the same:

Sec. 12 Additional use, height, and area regulations and exception

D. Miscellaneous regulations:

(5) Land Scape and Tree Preservation requirements shall be as contained in the Chapter 23 (Subdivisions).

SECTION 2. If any section, part, or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then, in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its parts shall be severable, and all other parts of this Ordinance shall not be affected thereby, and they shall remain in full force and effect.

SECTION 3. This Ordinance becomes effective immediately after being passed and approved on third and final reading.

READ, PASSED, AND APPROVED ON FIRST READING, this 5th Day of December, A.D., 2023.

ATTEST:

Rolando Salinas
Mayor

Imelda B. Rodriguez
City Secretary

Code of Ordinances Chapter 23-Subdivisions / Article VI – Landscape and Tree Preservation / Section 23-89 Landscape plan requirements

https://library.municode.com/tx/eagle_pass/codes/code_of_ordinances?nodeId=PTIICOOR_CH23SU_ARTVILATRPR_S23-89LAPLRE

Sec. 23-89. Landscape plan requirements.

(a) *Submittal of plan.* The landowner or his/her agent shall submit and receive approval of a landscape plan demonstrating compliance with the landscape requirements contained herein. Plans shall show location and size of required landscaped areas, all dimensions, types of materials, size and spacing of vegetative materials, and plans for providing irrigation to plants. The plan(s) shall demonstrate that landscaping materials will:

- (1) Abate objectionable noise, light, glare, visual clutter, dust or loss of privacy.
- (2) Adequately accomplish the purpose of which they were intended.

(b) *Required site landscaping.*

- (1) Minimum percentage.

Non-corner sites: Shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.075 to determine the required landscape area along the primary street frontage.

Corner sites: Along the primary street, shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.075 to determine the required landscape area along the primary street frontage. Along the secondary street(s), shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.050 to determine the required landscape area along the secondary street frontage.

In no case shall the front landscape area be less than ten (10) feet in width.

- (2) Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the BA.
- (3) A minimum percentage of the total lot area of property on which development or new construction occurs after the effective date of this chapter shall be devoted to landscape development in accordance with Table 5.1. The landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty (50) percent of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed.
- (4) **For every six hundred (600) square feet of landscape area required by Table 5.1, two (2) trees and four (4) shrubs shall be planted.**
- (5) Should a tree die or be removed for which credit has been obtained pursuant to the terms of this chapter, landscape development sufficient to equal the area credited shall be required. A small tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree is retained.
- (6) Land use landscaping required (percent of constructed impervious coverage of the lot) shall be as shown in Table 1 below. Frontage landscape may be credited towards fulfilling the requirements of this section.

Table 1. Required Landscaping

Land Use	Landscaping Required (% of constructed impervious coverage of the lot)
Multifamily structures	20
Manufactured home park	20
Office and professional uses	20
Institutional	20
Commercial	15
Industrial or manufacturing	15

- (c) *Credit for existing trees.* In order to reward the preservation of existing trees, one hundred (100) percent of the crown area of undisturbed existing trees shall be reduced from the landscape area requirements; provided that the area surrounding the tree is left undisturbed and that this area consists of a least one hundred (100) square feet but not less than fifty (50) percent of the crown area.
- (d) *Screening.* Off-street loading spaces, refuse and outside storage areas, antennas, satellite dishes, and mechanical equipment within the street yard must be screened from all public streets. The screening must be of a minimum of six (6) feet in height or a height sufficient to obscure the area or equipment requiring the screening, whichever is less. The screening may be provided by plants, a solid screen fence or wall, or a combination thereof.
 - (1) *Acceptable landscape screening materials.*
 - a. No artificial plant materials may be used to satisfy the requirements of this chapter.
 - b. Plant materials required by this chapter must comply with the following minimum size requirements at the time of installation. At time of planting, plant height shall be measured from the top of the root ball or, if the plant is in a container, from the soil level in the container.
 - 1. Large trees must have a minimum caliper of two (2) inches and shall be planted in an area with a minimum of one hundred (100) square feet of permeable surface area. This area may be reduced to fifty (50) square feet if a permanent life support system, which must include but is not limited to an irrigation system and an internal drainage mechanism, is incorporated within the planting area.
 - 2. Small trees must have a minimum height of six (6) feet and shall be planted in an area with a minimum of twenty-five (25) square feet of permeable surface area.
 - 3. Large shrubs must have a minimum height of two (2) feet and must be planted in an area with a minimum of nine (9) square feet of permeable surface area. The permeable surface areas for shrubs may be included within permeable surface areas required for trees.
 - c. Each large tree, small tree or large shrub must be planted at least thirty-six (36) inches away from any paved surface or city right-of-way.
 - (2) *Protection of plant areas.* Plant areas must be protected from vehicular traffic through the use of concrete curbs, wheel stops, or other permanent barriers.

(Ord. No. 05-22, § 1, 8-2-2005)