



AGENDA

ZONING BOARD OF ADJUSTMENTS AND APPEAL REGULAR MEETING

WEDNESDAY, DECEMBER 6, 2023, AT 5:30 P.M.

COUNCIL CHAMBERS, CITY HALL BUILDING

100 SOUTH MONORE STREET, EAGLE PASS, MAVERICK COUNTY, TEXAS

ESTABLISHMENT OF QUORUM

CITIZENS COMMUNICATIONS

MINUTES

1. Approval of the minutes of the June 7, 2023 meeting, August 2, 2023 meeting, and the October 4, 2023 meeting.

PUBLIC HEARINGS

2. Continuation of a public hearing on a variance request submitted by Diana Aguirre, to (1) reduce the front yard building setback area from 25-feet to 20-feet, (2) reduce the side yard building setback area from 10-feet to 0-feet, and (3) reduce the rear yard building setback area from 16-feet to 5-feet, to allow the construction of carports in property located at 203 Medina Street; closing of public hearing and possible action.

OLD BUSINESS

3. Ratify variance requested submitted by Ernesto Fuentes to (1) reduce the front yard building setback area from 25-feet to 10-feet, and (2) reduce the rear yard building setback area from 16-feet to 10-feet, to allow for the construction of two 2-story detached apartment buildings in property located at 983 Colorado Street.

OTHER BUSINESS

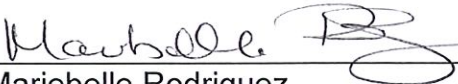
4. Consideration and possible action on the amendment of Appendix A-Zoning Ordinance Section 12 D of the Code of Ordinances of the City of Eagle Pass by adding new subsection (5) incorporating landscape and tree preservation requirements.

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 COMMUNITY DEVELOPMENT ASSISTANT 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 November 30, 2023 at 10:40 a.m.



Mariebelle Rodriguez
Community Development Assistant 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, June 7, 2023, 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: Acting Chairperson, Matthew Gary; Board Members: Maria A. Chio, Antonio Elizondo, and Priscilla Puente Chacon

Absent: Board Member, Julie Mathiwos

Staff present: Planning Director, Placido Madera; Assistant Planning Director; Mariebelle Rodriguez; Legal Counsel, Kassandra V. Flores; and Assistant City Secretary, Ita A. Cortinas

A quorum being present, Acting Chairperson 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.

OATH OF OFFICE

The Oath had been administered to the Board members at the previous meeting. The Board member whose oath is pending was not present at this meeting.

SELECTION OF CHAIRPERSON

Board Member Puente-Chacon moved to appoint Mr. Gary as the Chairperson. Seconded by Board Member Elizondo. **MOTION PASSED-** Unanimously

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

SELECTION OF VICE-CHAIRPERSON

Board Member Puente-Chacon moved to appoint Mr. Elizondo as the Vice-Chairperson. Seconded by Board Member Chio. **MOTION PASSED-** Unanimously

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

MINUTES

1. Approval of the minutes for the April 5, 2023 meeting.

Board Member Puente-Chacon moved to approve the minutes with corrections. Seconded by Alternate Vice-Chairperson Elizondo. **MOTION PASSED-** Unanimously

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

PUBLIC HEARINGS

2. Public hearing on a variance request submitted by Jose L. Zemenos, to (1) reduce the required front yard building setback from 25 feet to 22 feet, (2) reduce the rear yard building setback from 16 feet to 6'-2", (3) to reduce the minimum depth lot of 110 feet to 56'-10 1/2" and 67'-7 1/2," and (4) to reduce the intensity use area of 7700 square feet to 2,831 square feet to allow the construction of a residence of property located at 540 First Street ; closing of public hearing and possible action.

The public hearing opened at 5:36 p.m.

The Planning Department provided details on the item and recommended the granting of the request for 540 First Street, as it meets the criteria set forth in section 20(2)(3) of the Code of Ordinances.

The public hearing closed at 5:43 p.m.

Board Member Puente-Chacon moved to approve the variance as recommended. Seconded by Vice-Chairperson Elizondo. **MOTION PASSED** - Unanimously

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

3. Public hearing on a variance request submitted by Vipal Patel, to reduce the required off-street parking from 184 to 142 parking spaces, to allow for the construction of a hotel and restaurant, on property located at 3386 E. Main Street, closing of public hearing and possible action.

The Public Hearing opened at 5:44 p.m.

The Planning Department provided details on the item and recommended the granting of the request for 540 First Street, as it meets the criteria set forth in section 20(2)(3) of the Code of Ordinances.

Mr. Patel was available to answer questions, via Zoom, and engaged in discussion with the Board.

The Public Hearing closed at 6:16 p.m.

Vice-Chairperson Elizondo moved to table the item. Seconded by Board Member Puente-Chacon. **MOTION PASSED** - Unanimously

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

4. Public Hearing on a variance request submitted by South Texas Storage, LLC, to reduce the required 24-foot-wide drive lane to 22-feet, to allow the construction of a storage facility on a property located at 406 N. Converse Street; closing of public hearing and possible action.

The public hearing opened at 6:23 p.m.

The Planning Department provided details on the item and recommended the granting of the variance request. Legal Representative of South Texas Storage, LLC, Katherine Klutz was present to answer questions posed by the Board.

The public hearing closed at 6:29 p.m.

Board member Puente Chacon moved to approve the item. Seconded by Vice-Chairperson Elizondo. **MOTION PASSED** - Unanimously

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

5. Public hearing on a variance request submitted by Francisco Martinez III, to reduce the required 10 feet side yard setback area to 5 feet, to allow the construction of a palapa, on property located at 619 N. Ceylon Street; closing of public hearing and possible action.

The public hearing opened at 6:36 p.m.

The Planning Department provided details on the item and recommended the granting of the variance request. Mr. Martinez was present to answer questions posed by the Board.

The public hearing closed at 6:40 p.m.

Board member Puente Chacon moved to approve the item. Seconded by Vice-Chairperson Elizondo. **MOTION PASSED** – Unanimously

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

6. Discussion and possible action on revision recommendations for the variance application.

The Planning Department advised the Board that all requested changes had been made. The Board suggested to remove the actual number of the publication fee, which is \$450 and leaving “publication fee,” as the fee can vary.

Vice-Chairperson Elizondo moved to implement the changes. Seconded by Board Member Puente-Chacon. **MOTION PASSED** – Unanimously

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

ADJOURNMENT

Board Member Puente Chacon moved to adjourn the meeting at 6:45 p.m. Seconded by Vice-Chairperson Elizondo. **MOTION PASSED** - Unanimously

Passed and approved on, _____ 2023

Attest:

Matthew Gary
Chairperson

Ita A. Cortinas
Assistant City Secretary

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, August 2, 2023, 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: Vice- Chairperson, Antonio Elizondo; Board Member, Priscilla Puente-Chacon; and Board Member, Maria A. Chio.

Absent: Chairperson, Matthew Gary; and Board Member, Julie Mathiws

Staff present: Assistant Planning Director, Mariebelle Rodriguez; Planning Director, Placido Madera; and Records Management Specialist, Sydney Rodriguez

A quorum being present, Vice-Chairperson Elizondo 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 no citizen communications forms submitted.

PUBLIC HEARINGS

1. Public hearing on a variance request submitted by Ernesto Fuentes, to (1) reduce the front yard building setback area from 25-feet to 10-feet, and (2) reduce the rear yard building setback area from 16-feet to 10-feet, to allow for the construction of two 2-story detached apartment buildings in property located at 983 Colorado Street.

Being as quorum was not established to vote on the item, members of the board listened to the presentation by Planning Director, Madera.

Board Member, Chio moved to table the item to next meeting. Seconded by Vice- Chairperson Elizondo. **MOTION PASSED-** Unanimously

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

ADJOURNMENT

Alternate Vice- Chairperson Puente-Chacon moved to adjourn meeting at 5:42 p.m. Seconded by Vice- Chairperson Elizondo. **MOTION PASSED-** Unanimously

Passed and approved on

Antonio Elizondo
Vice-Chairperson

ATTEST:

Sydney Rodriguez
Records Management Specialist

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, October 4, 2023, 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: Chairperson-Matt Gary, Vice-Chairperson, Antonio Elizondo; Board Members, Maria A. Chio; Mary Jane Mathiwas, and Priscilla Puente-Chacon; and Alternate Board Member; Crawford A. Rhodes

Absent: None

Staff present: Community Development Director, Placido Madera; Assistant Community Development Director, Mariebelle Rodriguez; City Attorney, Ana Sophia Garcia, and Records Management Specialist, Sydney Rodriguez

A quorum being present, Chairperson 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 no citizen communications forms submitted.

OATH OF OFFICE

Assistant Community Development Director, Mariebelle Rodriguez informed the Board that Mr. Crawford A. Rhodes was given the oath of office prior to the meeting.

MINUTES

1. Approval of the minutes for the August 2, 2023, meeting.

Minutes were not approved.

PUBLIC HEARINGS

2. Continuation of a public hearing on a variance request submitted by Ernesto Fuentes, to (1) reduce the front yard building setback area from 25-feet to 10-feet, and (2) reduce the rear yard

building setback area from 16-feet to 10-feet, to allow for the construction of two 2-story detached apartment buildings in property located at 983 Colorado Street.

Chairperson Gary opened the public hearing at 5:33 p.m.

Assistant Community Development Director, Rodriguez provided details on the item and stated that the Community Development Department recommends granting the request for 983 Colorado Street with the following conditions: Chapter 8 governing buildings. Chapter 12 governing the electric code, Chapter 13 governing the fire code, Chapter 14 governing garbage and rubbish, Chapter 21 governing plumbing, Chapter 22 governing streets, sidewalks, and other public places, Chapter 23, Article VI governing landscape and tree preservation, Chapter 27 governing water and sewers, including drainage, Appendix A governing zoning, governing off-street parking, and Appendix A governing zoning, governing fences.

Board Member, Puente-Chacon arrive at the meeting at 5:38 p.m.

In response to a question posed by Board Member Mathiwas regarding the appearance of the apartments, Mr. Fuentes addressed this question.

There being no further comments from the public Chairperson Gary closed the public hearing at 5:40 p.m.

Board Member, Mathiwas, motions to grant as presented by the Community Development Department. No one second motion, board continues to vote to approve as recommended.

3. Public hearing on a variance request submitted by Diana Aguirre, to (1) reduce the front yard building setback area from 25-feet to 20-feet, (2) reduce the side yard building setback area from 10-feet to 0-feet, and (3) reduce the rear yard building setback area from 16-feet to 5-feet, to allow the construction of carports in property located at 203 Medina street; closing of public hearing and possible action.

Chairperson Gary opened the public hearing at 5:40 p.m.

Assistant Community Development Director, Rodriguez provided details on the item and stated that the Community Development Department recommend to deny of the applicant's variance requests of a reduction of setbacks for 203 Medina Street, as it does not conform with the regulations set forth: 1. Section 7.1(c)(1)(2) and (3) regulating yard setback areas of Eagle Pass Code of Ordinances Appendix A- Zoning Ordinance, regulating front yard setbacks.

The applicants explain to the board their plans and reasoning for the yard setbacks to their property.

There being no further comments, Chairperson Gary closed the public hearing at 6:07 p.m.

Vice-Chairperson Elizondo motions to table the item to have the approval of the Fire Marshal

and AEP and have Fire Marshall present when item is brought back. Second by Board Member Puente-Chacon. **MOTION PASSED: UNANIMOUSLY.**

Ayes: Gary, Elizondo, Chio, Mathiwas, Puente- Chacon, and Rhodes
Nays: None
Abstained: None
Absent: None

4. Public hearing on a variance request submitted by Roberto Zarate, to reduce the front yard building setback area from 25-feet to 11-feet, to allow for the construction of an attached carport in property located at 2208 Beverly Hills Boulevard; closing of public hearing and possible action.

Chairperson Gary opened the public hearing at 6:07 p.m.

Assistant Community Development Director Rodriguez provided details on the item and stated that the Planning and Building Department recommend to deny of the applicant's variance requests of a reduction to the front yard building setback from 25-feet to 11- feet located at 2208 Beverly Hills Blvd, as it does not conform with the regulations set forth: 1. Section 6(c)(1) of Eagle Pass Code of Ordinances Appendix A- Zoning Ordinance, regulating front yard setbacks.

The applicant explains his reasoning for keeping his carport to protect his vehicle from the elements.

There were no further comments from the public, Chairperson Gary closed the public hearing at 6:24 p.m.

Board Member Puente-Chacon, motions to deny as presented by the Planning and Building department. Second by Board Member, Chio. **MOTION PASSED: UNANIMOUSLY.**

Ayes: Gary, Elizondo, Chio, Mathiwas, Puente- Chacon, and Rhodes
Nays: None
Abstained: None
Absent: None

5. Public hearing on a variance request submitted by Jose L. and Monica R. Zermeno, to reduce the side yard building setback area from 5-feet to 2-feet to allow for the construction of an attached carport on property located at 887 N. Bibb Ave; closing of public hearing and possible action.

Chairperson Gary opened the public hearing at 6:25 p.m.

Community Development Director, Placido Madera provided details on the item and stated that the Planning and Building Department recommend to deny of the applicant's variance request of a reduction to the side yard building setback area from 5-feet to 2-feet for property located at 887

Bibb Avenue, as it does not conform with the regulations set forth: 1. Section 5(c)(2) of Eagle Pass Code of Ordinances Appendix A- Zoning Ordinance, regulating front yard setbacks.

Alternate Board Member, Rhodes, expressed his concerns with the safety of the property setbacks.

There were no comments from the public therefore, Chairperson Gary closed the public hearing at 6:35 p.m.

Vice-Chairperson, Elizondo, motions to approve with Fire Marshal approval and that the materials used are non-combustible. Second by Board Member, Puente-Chacon. **MOTION PASSED: UNANIMOUSLY.**

Ayes: Gary, Elizondo, Chio, Mathiwas, Puente- Chacon, and Rhodes
Nays: None
Abstained: None
Absent: None

6. Public hearing on a variance request submitted by Cosme Rodriguez, to reduce the maneuvering space from 24-feet to 19-feet to allow for the construction of carports on property located at 2668 Encino Park Drive; closing of public hearing and possible action.

Chairperson Gary opened the public hearing at 6:36 p.m.

Community Development Director, Madera provided details on the item and stated that the Planning and Building Department recommend granting the applicant's variance request as petition does conform to Section 5(c)(2) of Eagle Pass Code of Ordinances Appendix A- Zoning Ordinance, regulating design standards for off-street parking.

There being no comments from the public, Chairperson Gary closed the public hearing at 6:42 p.m.

Vice-Chairperson Elizondo, motions to approve with condition that the materials being used are made out of non-combustible materials. Second by Board Member, Mathiwas. **MOTION PASSED: UNANIMOUSLY.**

Ayes: Gary, Elizondo, Chio, Mathiwas, Puente- Chacon, and Rhodes
Nays: None
Abstained: None
Absent: None

ADJOURNMENT

The board moved to adjourn the meeting at 6:43 p.m.

Passed and approved on _____,2023.

Matt Gary
Chairperson

ATTEST:

Sydney Rodriguez
Records Management Specialist

Item #2



**Planning Department Executive Summary
to the Eagle Pass Zoning Board of Adjustment and Appeals**

Diana Agirre Variance Request – 203 Medina Street

I. BACKGROUND

General Information

Applicant & Property Owner: Diana Aguirre

Property ID Number: 9810

Legal Description: Lot 12 in Block 10 of Hillcrest Addition

Parcel Size: 8,550-square feet

Current Use: multi-family development

Current Zoning: R3-A Apartment District

Master Plan: Residential

Request: Applicant seeks variances from *City of Eagle Pass Code of Ordinances Appendix A (Zoning Ordinance) Section 7.1(c)(1)(2)* and (3) regulating yard setbacks. Applicant seeks to (1) reduce the front yard building setback area from 25-feet to 20-feet, (2) reduce the side yard building setback area from 10-feet to 0-feet, and (3) reduce the rear yard building setback area from 16-feet to 5-feet, to allow the construction of carports on property located at 203 Medina Street.

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public utilities/franchises

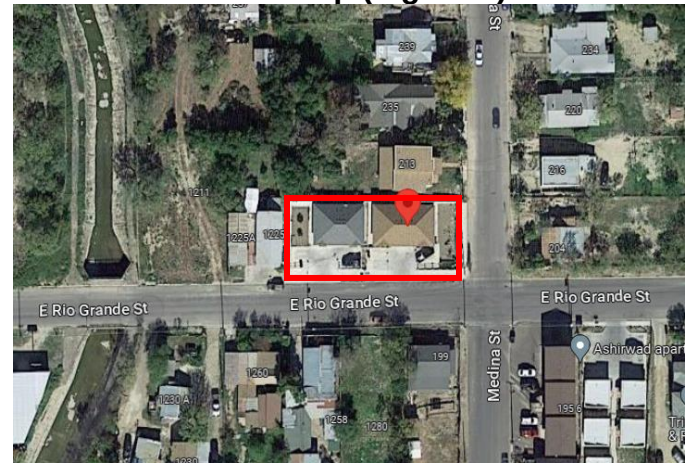
Vicinity: Property is bordered by single family dwellings, and multi-family developments.

Access to the site is provided by Rio Grande.

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*. Twenty-three (23) notices were mailed to the abutting property owners within a 200 foot radius of the subject property.

Aerial Map (Figure 1)



Street Views



IV. STAFF ANALYSIS

The applicant is seeking to reduce building setback areas, to allow for the construction of carports for their tenant's vehicles.

The proposed construction, as shown in the enclosed proposed Site Layout, does not meet the requirements set forth in Appendix A of the Zoning Ordinance, particularly *Section 7.1(c)(1)(2) and (3)* regulating yard setback areas. The Planning Department's major concern is that the structures will be encroaching the side yard setback and may cause a visibility concern if built too close to the right-of-way off Rio Grande, thus being a safety concern if not respected.

V. STAFF RECOMMENDATION

Staff recommends **DENYING** of the applicant's variance requests of a reduction of setbacks for 203 Medina Street, as it does not conform with the regulations set forth:

1. *Section 7.1(c)(1)(2) and (3)* regulating yard setback areas of Eagle Pass Code of Ordinances Appendix A- Zoning Ordinance, regulating front yard setbacks.

TRANSMITTED to the parties listed hereafter:

Diana Aguirre via regular mail
Eagle Pass Planning Department Report dated August 30, 2023

Attachment 1

Application



**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>Hillcrest Addn, Block 10, Lot 12</u> Site Address: <u>203 Medina St, Eagle Pass, TX 78852</u> Acres: <u>.1963</u> Square feet: <u>8,865.5</u> Existing land use: <u>apartments</u>
Owner	Name: <u>Diana Aguirre</u> Phone: <u>(830) 776-1381</u> Address: <u>203 Medina St, B, E.P. TX 78852</u> E-mail: <u>dianaaguirre5569@gmail.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 ☒ 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>Diana Aguirre</u> Date: <u>6-28-2023</u> Print Name: <u>Diana Aguirre</u> ☒ Applicant ☐ Authorized Agent

RECEIVED
6/28/23
revised. HA

Board Action	Description:	
	Board Chairman Signature	Date
Office	Accepted by <u>W</u> Payment received by <u>W</u> Date <u>6/28/23</u>	
	Zoning Classification <u>R3A Apartment District</u> Case No. <u>9342</u> Revised 7/19/23	

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: Reduce side setback from 10' to 0' to construct carports (18x20). Rear setback from 5 ft to 0 ft. Front yard setback from 25' to 18'
 *Corrections to reductions as authorized by applicant as follows:
Rear setback from 16-feet to 5 feet, Front setback from 25-feet to 20 feet. W

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: *Not respecting side setback by 24 feet 0 feet. Rear Setback from 5ft to 0ft. Front yard setback from 25' to 18'

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

Yes ☐ No ☒ Explain: _____

* Rear setback from ~~16~~ feet to 5 feet and front setback from 25 to 20 feet W

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

Yes ☒ No ☐ Explain: Encroaching on side Setback

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

Yes ☒ No ☐

Explain: Building carports to improve quality of life for tenants

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)

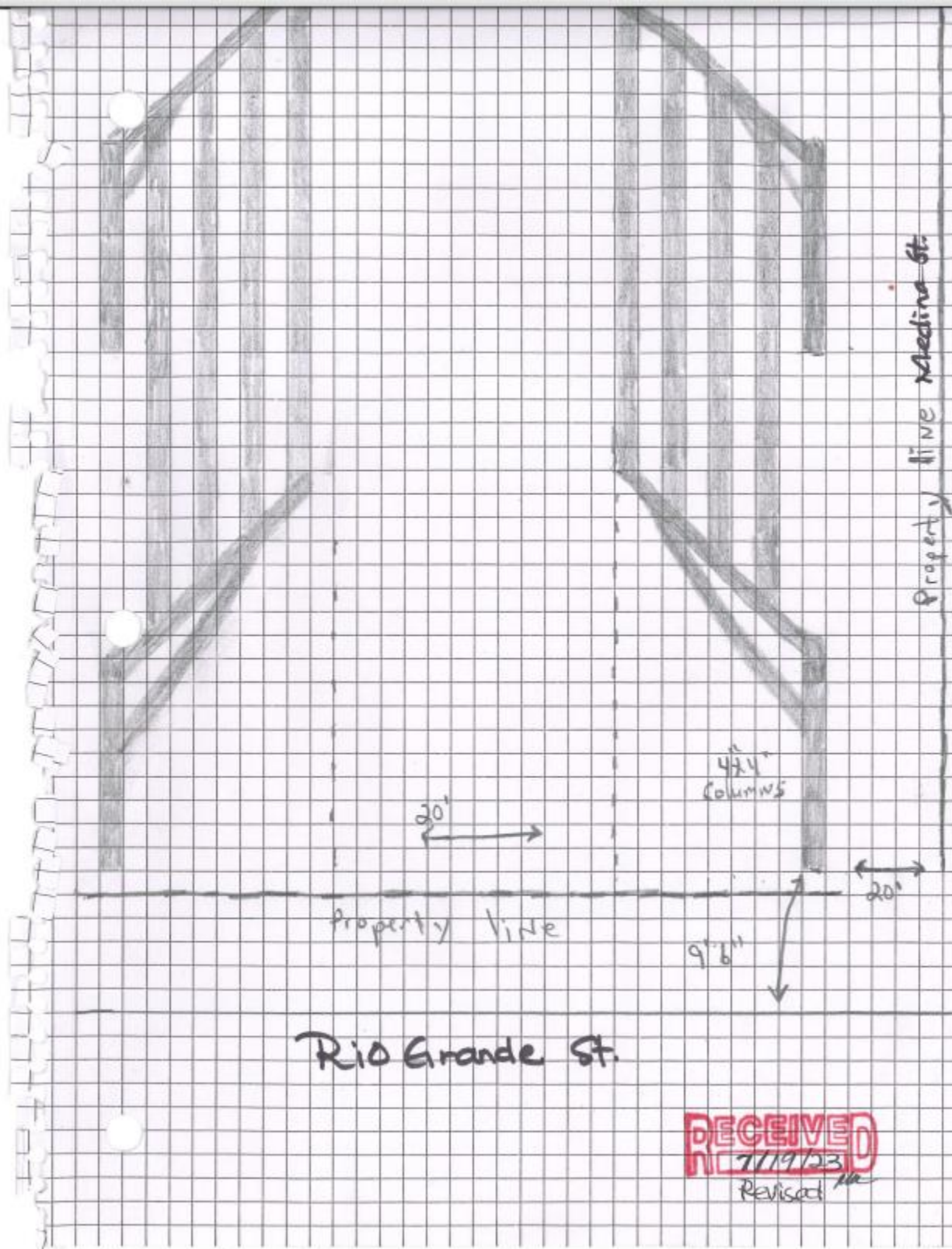
Applicant	Staff	Not Applicable	TECHNICAL REQUIREMENTS Any application that is missing information will be considered incomplete and will not be processed.	
☒			1	A scaled site plan of the subject property showing property dimensions, building locations, setback dimensions, and other applicable information.
☒	☒		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

6-28-25

Date 7/19/23 revised



RECEIVED
7/19/23
Revised 11/23

Sec. 7.1 "R-3(A)" Apartment district.

The following regulations shall apply to the "R-3(A)" Apartment district:

- A. *Use regulations:* A building or premises shall be used only for the following purposes:
 - (1) Apartment houses or multiple-family dwellings.
 - (2) Institution of a religious, educational or philanthropic nature, with conditional use permit.
- B. *Height regulations:* No building shall exceed three (3) stories or forty (40) feet in height.
- C. *Yard regulations:*
 - (1) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five (25) feet.
 - (2) *Side yards.* There shall be a side yard on each side of a building and shall not be less than five (5) feet in width. Where there is a corner lot, side yard shall not be less than ten (10) feet from the side of the building to the property line running adjacent to any street.
 - (3) *Rear yard.* The depth of the rear yard shall not be less than sixteen (16) feet in depth.

Item #3



**Planning Department Executive Summary
to the Eagle Pass Zoning Board of Adjustment and Appeals**

Ernesto Fuentes Variance Request – 983 Colorado Street

I. BACKGROUND

General Information

Applicant & Property Owner: Ernesto Fuentes
(L & E Realestate Rentals, LLC)

Property ID Number: 5938

Legal Description: Lot 6 in Block 3 of Buena Vista
Unit #4

Parcel Size: 7,500-square feet

Current Use: Vacant

Proposed Use: Two 2-story multi-family detached
buildings to house 4 families.

Current Zoning: R3-A Apartment District

Master Plan: Residential

Request: Applicant seeks a variance to (1) reduce
the front yard building setback area from 25 feet to
10-feet, and (2) reduce the rear yard building
setback area from 16 feet to 10-feet.

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public
utilities/franchises

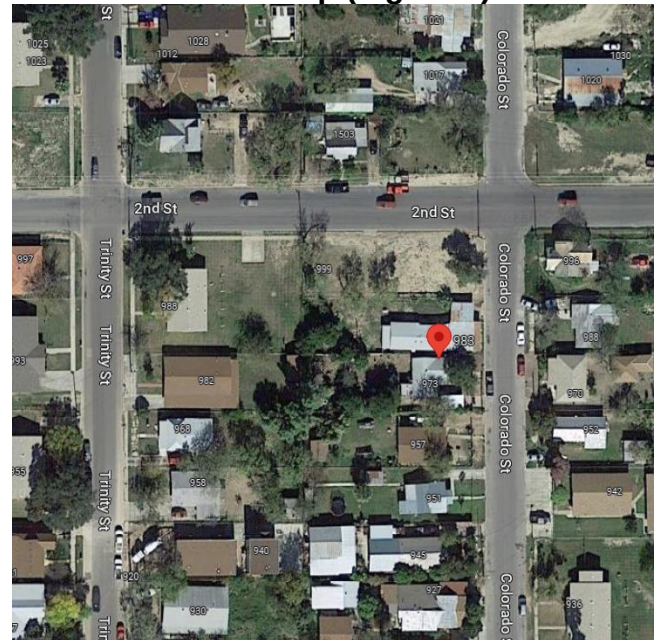
Vicinity: Property is bordered by single family
dwellings, duplex dwellings, and multi-family
developments.

Access to the site is provided by Colorado Street.
The applicant proposes to provide access via an
access easement through Second Street as the
adjacent developed lot is owned by Mr. Fuentes.

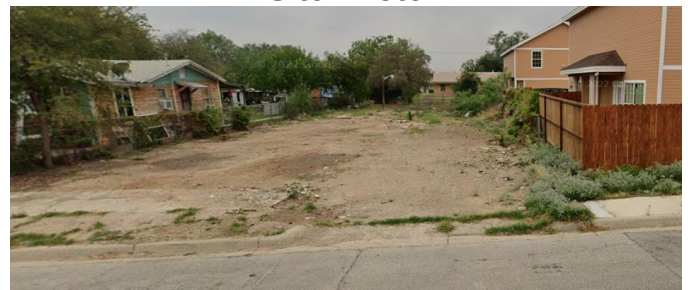
III. PUBLIC NOTICE

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.
Twenty-two (22) notices were mailed to the abutting
property owners within a 200 feet radius of the
subject property.

Aerial Map (Figure 1)



Site Photo



Next door units owned by same owner/applicant.

IV. STAFF ANALYSIS

The applicant is seeking to reduce the front and rear yard building setback areas, to allow for the construction of two 2-story detached multi-family buildings to house 4 families in property located at 983 Colorado Street as shown in **Figure 1** (above). He seeks to (1) reduce the front yard building setback area from 25-feet to 10-feet, and (2) reduce the rear yard building setback area from 16-feet to 10-feet. Mr. Fuentes proposes to provide access through Second Street via an access easement as he also owns the adjacent corner lot currently housing multi-family structures.

The proposed construction with a total area of 2,235-sqaure feet, as shown in the enclosed proposed Site Layout, does not meet the requirements set forth in Appendix A of the Zoning Ordinance, particularly 7.1(c)(1) and (3) regulating front and rear setback areas. The Planning Department's major concern is that Building 1 is being proposed to be built too close to the right-of-way off Colorado Street, thus being a safety concern if not respected.

V. STAFF RECOMMENDATION

Staff recommends **GRANTING** the request for 983 Colorado Street with the following conditions:

1. Subsequent development of the property shall comply with the following sections in the City of Eagle Pass *Code of Ordinances*:
 - Chapter 8 governing buildings
 - Chapter 12 governing the electrical code.
 - Chapter 13 governing the fire code.
 - Chapter 14 governing garbage and rubbish
 - Chapter 21 governing plumbing
 - Chapter 22 governing streets, sidewalks, and other public places
 - Chapter 23, Article VI governing landscape and tree preservation
 - Chapter 27 governing water and sewers, including drainage.
 - Appendix A governing zoning, governing off-street parking.
 - Appendix A governing zoning, governing fences

TRANSMITTED to the parties listed hereafter:

Ernesto Fuentes via regular mail
Eagle Pass Planning Department Report dated July 26, 2023



PLANNING DEPARTMENT

3295 Bob Rogers Drive, Eagle Pass, Texas 78852 • Telephone: (830) 773-7781 • Fax: (830) 773-7803
www.eaglepasstx.us • planning@eaglepasstx.us

VARIANCE APPLICATION (ZBAA)

Case No. 9408

Applicant Information	Name: <u>Ernesto Fuentes</u>
	Mailing Address: <u>405 S. Monroe Suite A</u>
	Phone: <u>830- 968- 0033</u> E-mail: <u>ernesto@efuenteslaw.com</u>
	Note: if you are not the owner of the property, you must attach a letter from the owner authorizing you to submit this application.

Property Owner Information	Name: <u>L & E Realestate Rentals LLC</u>
	Mailing Address: <u>405 S. Monroe Suite A</u>
	Phone: <u>830-968-0033</u> E-mail: _____

Property Information	Site Address: <u>983 Colorado</u> MCAD Property ID # <u>5938</u>
	Legal Description: Lot(s) <u>6</u> Block <u>3</u> Subdivision <u>Buena Vista #4</u> (Property must be legally subdivided or be lot of record)
	Front Yard Width (feet) <u>50</u> Rear Yard Width (feet) <u>50</u> Side Yard Width (feet) <u>150</u>

Description of Project:
The proposed project is to build 4 townhome units, allowing the maximum use of the property
While having 10 ft set backs in the front and back of the property.

Detailed Explanation of Variance Request
How does the strict application of the zoning code impose practical difficulties or particular hardship for your project?
The strict application of the zoning code, does not allow us to move the building around to better accommodate all the requirements needed like parking, detention pond, green areas and at the same time allow for the best curb appeal in the place.

How is your variance request consistent with the general purpose and intent of the zoning code?
I think the variance will be consistent with the purpose of the code, since there are already several properties with multiple units and specifically the property next door, has a set back variance to allow for maximum use.

RECEIVED
7/12/23
KV/LL

How will the granting of the variance not merely serve as a convenience to you, but will alleviate some demonstrable hardship or difficulty so great as to warrant the variance?

The strict application of the zoning code, does not allow us to move the building around to better accommodate all the requirements needed like parking, detention pond, green areas and at the same time allow for the best curb appeal in the place.

Is your variance request necessary because of exceptional narrowness, shallowness, or shape of your property?

I dont believe so no.

Is your variance necessary because of exceptional topographical conditions or other extraordinary or exceptional situation or condition of your property?

I dont believe so no.

Will the strict application of the zoning code result in peculiar and exceptional practical difficulties and particular hardship to you, and amount to a practical confiscation of the property and not a mere inconvenience?

Yes, with the high prices of lots today, not allowing to build out the 4 units that fit in this particular property would be a hardship.

Will the granting of the variance create substantial detriment to the public good?

No, I was granted a variance several years ago to build out exactly the same project next door, and I dont have any complaints from neighbors.

And have been able to provide affordable housing in the area.

Will your variance impair an adequate supply of light and air to adjacent property?

No.

Will your variance materially increase the traffic congestion on public streets?

I dont belive so no.

Will your variance increase the public danger of fires and safety?

No. the buildings, will be 60 feet apart from each other.

Will your variance materially diminish or impair established property values within the surrounding area?

I think that if anything it would increase the value of neighboring properties.

Will your variance impair the public health, safety, comfort, morals and welfare of the City of Eagle Pass?

I think that if anything it would increase the value of neighboring properties, and also it will be a face lift to the curb appeal of the area.

Applicant Authorization

I authorize the City of Eagle Pass to conduct any site visits necessary to evaluate this variance application.

I hereby state that I have prepared this application and that, to the best of my knowledge, the information contained herein is complete, accurate, and a true representation of the variance request. I further attest that I have the authority to submit this application and agree to comply with any and all conditions of variance approval. I agree to provide any additional information requested by the City as they deem necessary for the processing of this application.


Applicant Signature

7/11/23
Date

Office Use

Date Application Accepted for Review: 7/12/23 By: KV/ML

Contact Date for Supplemental Info: NA Supplemental Info Received: NA

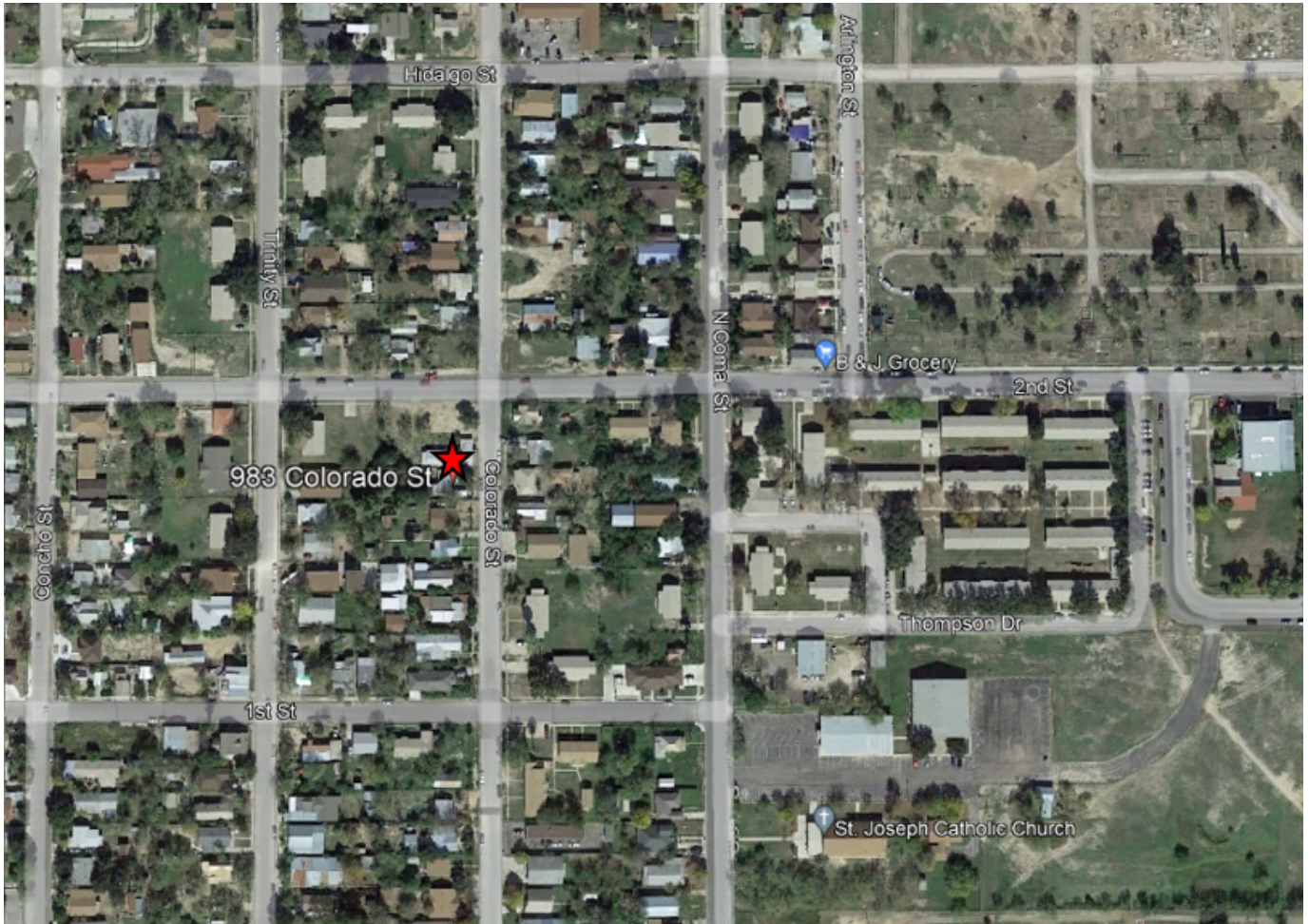
Completeness Review Date: 7/12/23 By: ML

Application Returned to Applicant: NA (when applicable)

Note: Processing fee of \$100.00. paid ML

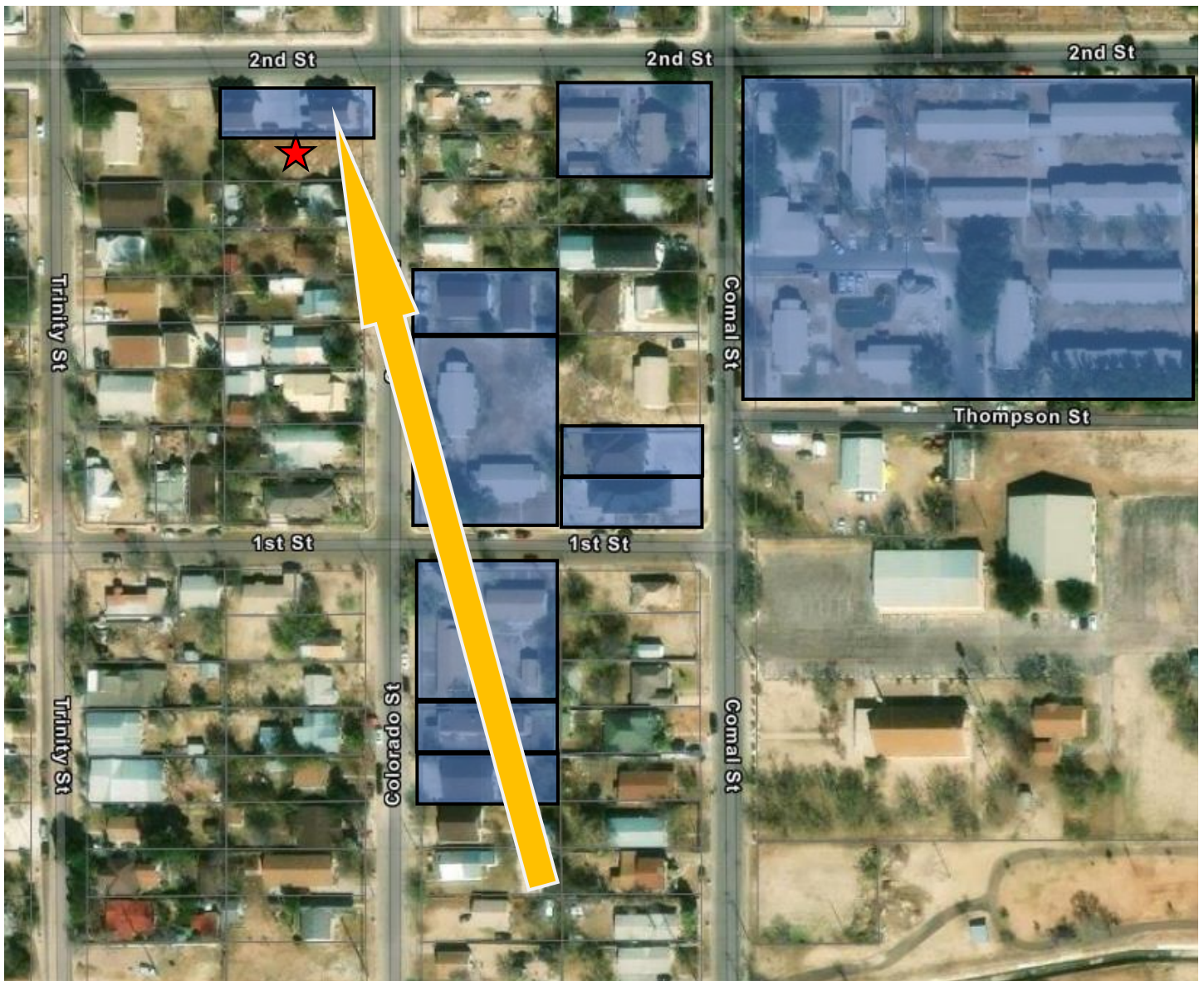
MR:6/2020

Aerial View



Site Photo





Nearby Apartments



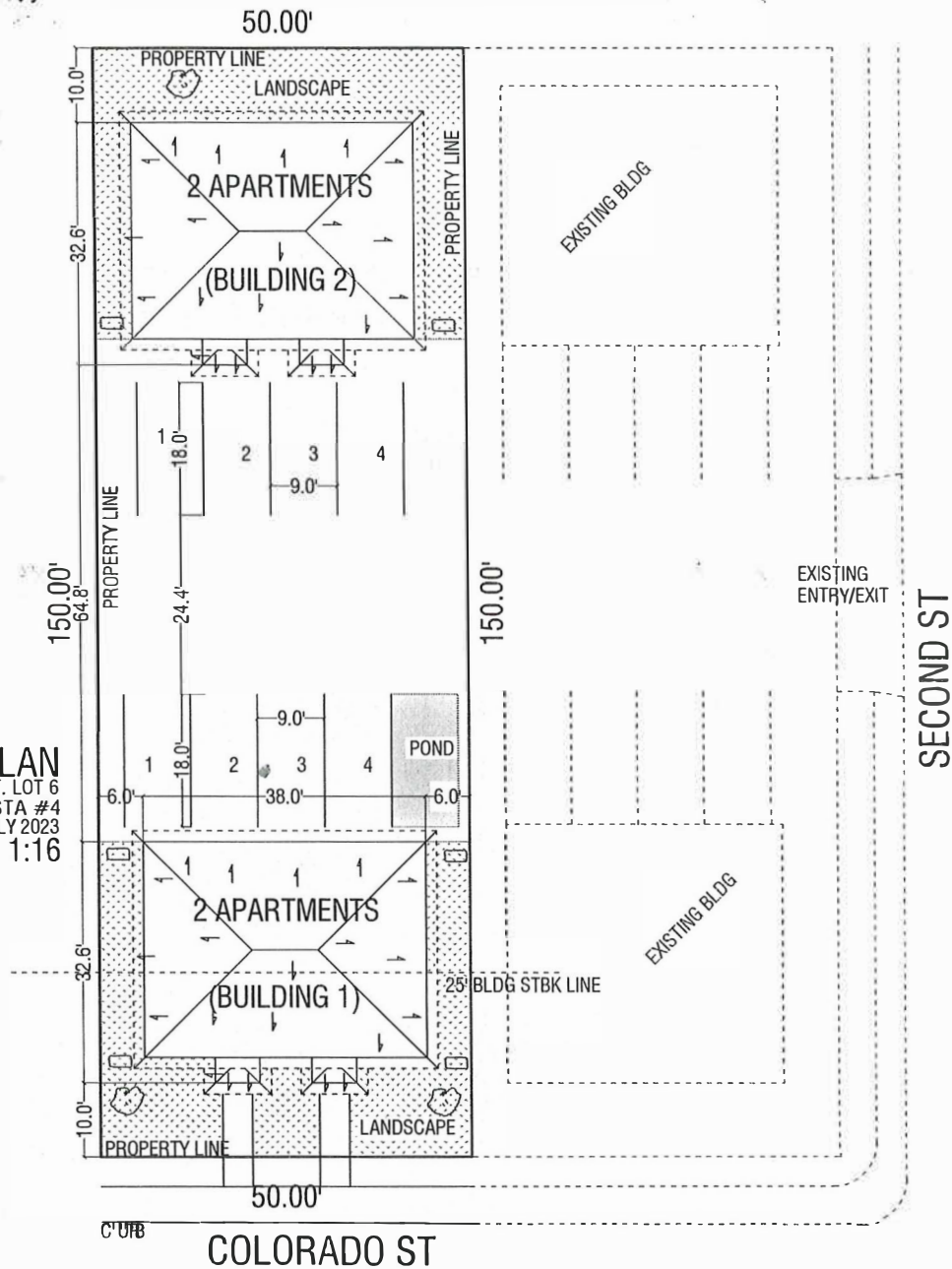
Next door units owned by same owner/applicant.

Plot Plan

PLOT PLAN
983 COLORADO ST. LOT 6
BLK 3 BUENA VISTA #4
EAGLE PASS TX JULY 2023
SCALE 1:16



CONCRETE COVERED AREA 5,525.00 SQ. FT.
20% REQUIRED LANDSCAPE 1,105.00 SQ. FT.
ACTUAL LANDSCAPE 1,745.00 SQ. FT.
FRONT ACTUAL LANDSCAPE 925.00 SQ. FT.
REQUIRES 3 TREES AND 6 BUSHES



AREA	FIRST FLOOR	1107.00
	PORCH	21.00
	SECOND FLOOR	1107.00
	BLDG TOTAL	2,235.00 SQ. FT.



PLAN OF NEW DUPLEX COMPLEX
ERNESTO FUENTES
983 COLORADO ST LOT 6
BLK 3 BUENA VISTA #4
EAGLE PASS TX. JULY 2023

Sec. 7.1 "R-3(A)" Apartment district.

The following regulations shall apply to the "R-3(A)" Apartment district:

- A. *Use regulations:* A building or premises shall be used only for the following purposes:
 - (1) Apartment houses or multiple-family dwellings.
 - (2) Institution of a religious, educational or philanthropic nature, with conditional use permit.
- B. *Height regulations:* No building shall exceed three (3) stories or forty (40) feet in height.
- C. *Yard regulations:*
 - (1) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five (25) feet.
 - (2) *Side yards.* There shall be a side yard on each side of a building and shall not be less than five (5) feet in width. Where there is a corner lot, side yard shall not be less than ten (10) feet from the side of the building to the property line running adjacent to any street.
 - (3) *Rear yard.* The depth of the rear yard shall not be less than sixteen (16) feet in depth.
 - (4) *Depth of lot.* The lot shall have a minimum depth of one hundred ten (110) feet.
- D. *Intensity of use:* Except as hereinafter provided, all dwellings hereafter erected, enlarged, relocated or reconstructed, shall be located on lots containing the following areas:
 - (1) A lot on which there is erected a single-family dwelling shall contain an area of not less than seven thousand (7,000) square feet.
 - (2) A lot on which there is erected a two-family dwelling shall contain an area of not less than seven thousand (7,000) square feet.
 - (3) A lot on which there is erected an apartment house or multiple-family dwelling shall contain a minimum lot area of not less than seven thousand (7,000) square feet and one thousand eight hundred (1,800) square feet per dwelling unit for each unit over four (4) units.
 - (4) Where a lot or tract has less area than herein required and its boundary lines along their entire length touched lands under other ownership on the effective date of this ordinance and have not since been changed, such parcel of land may be used for a single-family dwelling.
- E. *Parking regulations:* Whenever a structure is erected, converted, or structurally altered for two-family dwelling, or a multi-family dwelling, two (2) parking spaces shall be provided and maintained on the lot for each dwelling unit in the building. Such parking spaces shall be on the lot and so arranged as to permit satisfactory egress and ingress of an automobile, and such parking area shall be in addition to driveways. Other standards contained in section 12.1, Parking Requirements shall also apply.
- F. *Additional use, height, and area regulations:*
 - (1) Additional use, height, and area regulations and exceptions are found in section 12 herein.
 - (2) Signs: Signs shall be as permitted by the section 15 of this ordinance.

(Ord. No. 06-13, § 2, 7-11-2006; Ord. No. 2020-08, § 1, 4-21-2020)

Item #4

ARTICLE VI. LANDSCAPE AND TREE PRESERVATION

Sec. 23-85. Purpose.

This chapter shall apply to the incorporated area of the City of Eagle Pass, Texas and is designed to preserve, protect, and enhance the ecological and aesthetic environments of the City of Eagle Pass as well as promote the pleasant appearance and character of neighborhoods and high intensity commercial and industrial corridors; provide shade and thus reduce water consumption.

This chapter is also intended to assist in preventing soil erosion, reducing the hazards of flooding, enhancing the absorption of carbon dioxide and the supply of oxygen, and to reduce the effects of noise, glare and dust generated by some land uses.

This chapter also promotes water conservation and water efficiency. To assist in ensuring adequate water supplies exist for Eagle Pass's future, it is important that water conservation be promoted in landscape watering policies. Water conservation should be promoted through techniques such as proper design, plant selection, education of the public, and the proper use of irrigation systems. This chapter promotes and encourages the planting of water-thrifty plants and other landscape materials for apartments, commercial and industrially zoned properties.

(Ord. No. 05-22, § 1, 8-2-2005)

Sec. 23-86. Definitions.

- (a) *General.* For the purpose of the administration and enforcement of this article and unless otherwise stated in this article the following words shall have a meaning as indicated herein; words used in the present tense shall include the future tense; words used in the singular number shall include plural number; and words used in the plural number shall include singular number; and the word "shall" is mandatory not directory.
- (b) *Miscellaneous definitions.*
 - (1) *Applicant:* The owner or the agent, heir or assign of the owner, of the tract of land which is designated on a building permit application. If an agent has been appointed to represent the owner as applicant, the owner shall submit written authorization as part of the application.
 - (2) *Artificial lot:* An area within a contiguous tract or parcel held under common ownership and designated on the building permit application that is delineated by the city manager for the sole purpose of satisfying the requirements of this article.
 - (3) *Buffer tree:* An existing (or proposed) tree belonging to any of the species listed in Exhibit A-2.
 - (4) *Caliper:* The minimum diameter of a tree as measured six inches above natural ground level.
 - (5) *Developed area:* That portion of a commercial or multifamily residential tract of land upon which "landscape improvements" will be placed.
 - (6) *Encroachment:* Any protrusion of a vehicle outside of a parking space, display area or access way into the required landscaped improvements.
 - (7) *Frontage:* Lineal distance measured along all abutting street rights-of-way.

-
- (8) *Grandfathered tree*: Any tree which was growing on the site before the start of designing the development and which is proposed to remain after completion of the development and which is not proposed to be transplanted.
 - (9) *Ground cover*: An existing (or proposed) plant belonging to any of the species listed in Exhibit A-4.
 - (10) *Historic*: Any tree found to have been associated with any person, place or event that has been or is likely to be designated in a historic character (age is an important criterion in historic designations).
 - (11) *Landmark*: Any tree found to be associated with any more recent event of profound character (i.e. first tree planted at an important event such as Arbor Day).
 - (12) *Landscape improvement*: Any tree, shrub, ground cover, vine, grass, other approved plant, grandfathered plant, approved mulch, approved landscaping rock, approved paver, and/or approved fountain installed in a planting area for the purpose of fulfilling the requirements of this article (and shall not mean artificial plant or concrete/asphalt sidewalk).
 - (13) *Landscape plan*: The plan(s) or revision of plan(s) that detail(s) the landscaping to be installed as required by this article.
 - (14) *Landscape screen*: A fence, tree, or shrub installed for the purpose of providing screening between residential and non-residential districts.
 - (15) *Maintain*: To ensure the proper growth, vitality, and vigor of "landscape improvements" and to display such improvements in accordance with the letter and the spirit of this article at all times.
 - (16) *Multifamily residential*: Any site occupied by three (3) or more families living independently of each other.
 - (17) *Nonresidential*: Of or relating to property that is zoned to an Apartment "F" classification or zoned to a less restrictive classification.
 - (18) *Owner*: Any person or legal entity with an interest in land, or a lessee, agent, employee or other person acting on behalf of the owner with the owner's authorization.
 - (19) *Parking-lot tree*: Either a "grandfathered tree" or a tree belonging to any of the species listed in Exhibit A-1.
 - (20) *Parking lot*: Any paved, surfaced, or leveled area designed and ordinarily used for accessory or public parking of motor vehicles, including commercial parking of motor vehicles, commercial parking available for lease and leased premises available for public parking as defined by applicable city ordinance.
 - (21) *Passenger vehicle*: A motor vehicle for which a class C driver's license is required by the state (and which is not being offered for sale on the site of the regulated parking space).
 - (22) *Rare*: Any of the many rare species regardless of their association with the Endangered Species Act (i.e. Sabal palm, Runyon tree, etc.).
 - (23) *Removal*: Any overt act which causes (or may reasonably be expected to cause) a plant to die by use of any chemical, machinery, tool, construction, soil compaction, substantial change in the grade (decreasing or increasing water/air supply), girdling, excessive pruning, or paving with any plant-injuring material.
 - (24) *Residential*: Of or relating to property that is zoned to a dwelling/retail "R-2" classification or zoned to a more restrictive classification.
 - (25) *Road*: Street (wider than twenty-five (25) feet) and/or alley (twenty-five (25) feet or less).

-
- (26) *Road right-of-way*: A public and/or private road right-of-way or a public and/or private road right-of-way easement.
 - (27) *Shrub*: An existing (or proposed) plant belonging to any of the species listed in Exhibit A-3.
 - (28) *Significant vegetation*: Any tree with a caliper nine (9) inches or greater (except palm), any *Sabal texana* with a trunk taller than ten (10) feet, any other palm with a trunk taller than twenty (20) feet, and all vegetation listed as historic, landmark, or rare (except *Sabal texana*).
 - (29) *Site*: The tract of land that is designated on a building permit application; or if designated, an artificial lot contained therein and delineated by the city manager, together with all contiguous tracts or parcels of land held under common ownership and any existing buildings and appurtenant parking.
 - (30) *Street right-of-way*: A public and/or private street right-of-way or a public and/or private street right-of-way easement.
 - (31) *Tree*: A species of woody perennial plant (including palm) that usually has a single, elongate main stem generally with few or no branches on its lower part and which usually grows to a mature height of at least twelve (12) feet.
 - (32) *Valuable*: Any tree of at least ten (10) years of age.

(Ord. No. 05-22, § 1, 8-2-2005)

Editor's note(s)—The exhibits referenced in § 23-86 have not been included herein, but are on file for inspection in the office of the city secretary.

Sec. 23-87. Scope.

- (a) *Scope*. The provisions of this chapter shall be interpreted and applied as the minimum requirements for landscaping in the City of Eagle Pass.

The City of Eagle Pass experiences frequent droughts and is in a semi-arid climate zone; therefore, it is a purpose of this chapter to encourage the use of drought resistant plants and landscaping techniques that do not consume large quantities of water. Plants native to Southern Texas/Coahuila Desert are recommended. See Preferred Plant List, Appendix A.

The terms and provisions of this chapter shall apply to real property as follows:

- (1) All new residential, commercial, and industrial property.
 - (2) Any existing building that is replaced with a use requiring landscaping under this chapter;
 - (3) Expansion of an existing development whose gross floor area is twenty-five thousand (25,000) square feet or more; and
 - (4) Any development that changes its use from an excepted use to any use requiring landscaping under this chapter.
- (b) *Exemptions*. The provisions of this chapter shall not apply to the following:
 - (1) Property zoned as the Central Business District; however, parking areas and right-of-ways in the Central Business District shall conform to the requirements of this chapter; and
 - (2) Properties developed in accordance with a previously approved site development plan or subdivision plat approved by the city prior to the date of adoption of this chapter;
 - (3) Expansion of an existing development when the existing landscaping within the development would satisfy the requirements of this chapter if the entire development were treated as a new development.

(Ord. No. 05-22, § 1, 8-2-2005)

Editor's note(s)—Appendix A, Preferred Plant List, referenced above has not been included herein, but is on file for inspection in the office of the city secretary.

Sec. 23-88. General requirements.

- (a) *Installation.* Landscaping shall consist of an appropriate combination of deciduous and evergreen trees, shrubs, vines, and/or ground cover (including grass). A minimum of three (3) inches of gravel or shredded hardwood mulch shall be added in a non-turf area to the soil surface after planting. Non-porous material, such as sheet plastic, shall not be placed under the mulch. All landscape materials shall be installed according to acceptable landscape standards. Landscape plantings on city right-of-way is strictly prohibited.
- (b) *Maintenance.* The current owner and subsequent owners of the landscaped property or the manager or agent of the owner shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this chapter.
- (c) *Irrigation standards.* One of the following irrigation methods shall be used to ensure survival of the required plant material in landscaped areas:
 - (1) *Conventional system:* An automatic or manual underground irrigation system that may be a conventional spray or bubbler type heads.
 - (2) *Drip or leaky-pipe system:* An automatic or manual underground irrigation system in conjunction with a water-saving system such as a drip or a leaky pipe system.
 - (3) *Temporary and above-ground watering:* Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers and trees may use a temporary and above-ground system, and shall be required to provide irrigation for the first three (3) growing seasons.
 - (4) *[Backflow prevention device, irrigation heads and spray heads:]* When using a potable irrigation water source, an approved backflow prevention device shall be installed in accordance with the city plumbing code. Such device shall be in a pressure vacuum breaker or a reduced pressure detection assembly as appropriate for the project location.

Irrigation heads adjacent to any on site curbs sidewalks or paved areas shall be installed flush with the finished grade.

Spray heads shall not be installed within three (3) feet of public street curbs or street edges, or in areas less than four (4) feet wide.
- (5) *Natural and undisturbed areas:* No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
- (d) *Planting criteria.*
 - (1) *Trees.* Trees shall be a minimum of two (2) inches in caliper measured three (3) feet above finished grade immediately after planting. If trees are proposed that are not chosen from the Preferred Plant List provided in Appendix A, trees shall have an average mature crown greater than twenty (20) feet in diameter. Trees having an average mature crown less than twenty (20) feet in diameter may be substituted by grouping the same so as to create at maturity the equivalent of a twenty (20) foot diameter crown if the drip line area is maintained.

-
- (2) *Shrubs, vines and ground cover.* Shrubs, vines and ground cover planted pursuant to this chapter shall be good, healthy nursery stock. Shrubs must be, at a minimum, a one (1) gallon container size.
 - (3) *Lawn grass.* Grass areas should be planted in drought resistant species normally grown as permanent lawns, such as Bermuda or Buffalo grass. Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales or other areas subject to erosion. Grass or turf areas may be replaced with decorative rock or gravel material as a water saving technique.
 - (4) *Synthetic lawns or plants.* Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this chapter.
 - (5) *Other.* Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.
 - (6) *Requirements in specific zonings.* Residential zones listed below must meet the tree specifications outlined.
 - a. *R-1 first one-family district.* Lots zoned R-1 must have at least two (2) trees with at least one (1) in the front yard.
 - b. *All other one-family residential districts.* Lots within all other one-family districts including, but not limited to R-2 second one-family district, R-3 duplex dwelling district, and R-4 townhouse residence district must have at least one (1) tree in the front yard.
 - c. Location of trees must avoid encroachment of property structures and adjacent property by the mature canopy.

(Ord. No. 05-22, § 1, 8-2-2005; Ord. No. 2020-02 , § 5, 1-7-2020)

Editor's note(s)—Appendix A, Preferred Plant List, referenced above has not been included herein, but is on file for inspection in the office of the city secretary.

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)

Sec. 23-90. Landscape plan submittal, review and approval.

- (a) *Plan submittal.* A landscape plan must be submitted to the director of planning or his/her designee with the application for a permit for new construction. The director of planning must approve the plan before a building permit is issued for the work. A landscape plan shall consist of two (2) sets of prints drawn to scale with sufficient clarity to indicate the location, nature and extent of the work proposed, and shows in detail that it conforms to the requirements of this chapter. A landscape plan shall contain the following information:
- (1) Project name, street address, legal description, date, scale, north arrow and the names, addresses and telephone numbers of both the property owner and the person preparing the plan.
 - (2) Designation of zoning areas adjacent to property.
 - (3) A vicinity map, location of lot lines, and dimensions of the building site and the street yard.
 - (4) Approximate center lines of existing water courses and the location of the 100-year floodplain; approximate location of significant drainage features, and the location and width of existing and proposed streets and alleys, utility easements, driveways and sidewalks on or adjacent to the lot.
 - (5) Identification, location, and dimensions of required plant materials, screening, and off-street parking and loading spaces within the street yard.
 - (6) Description of plant materials shown on the plan, including names (common and botanical), quantities, container or caliper sizes at installation, heights, spread, and spacing.
 - (7) Description of proposed irrigation methods.
- (b) *Issuance of building permit.* The director of planning shall review the landscape plan to verify compliance with all requirements of this chapter prior to the issuance of a building permit. All landscape plans must comply with the mandatory provision of this chapter. The building permit shall not be issued for new construction of a building within the city unless the director of planning approves the landscape plan verifying that the applicant's plan complies with this chapter.

The building official shall issue no final certificate of occupancy for the occupancy of a new building unless all plant and screening materials required by this chapter have been provided. Prior to the issuance of a certificate of occupancy, the building official shall inspect the building site to verify compliance with the approved landscape plan.

Sec. 23-91. Tree preservation and protected trees.

This section preserves and protects existing, healthy and desirable trees within the City of Eagle Pass, to provide guidelines for the protection of trees and establish guidelines for planting trees. Any existing tree greater than six (6) inches in caliper size, including alamo (cottonwood), mesquite and huisache trees, shall be preserved, unless replaced by new trees under the provisions of this chapter, or unless a tree removal permit is granted as described below.

- (a) *Preliminary development plans.* A general survey of natural vegetation showing tree groupings and anticipated protected tree losses shall be submitted with all preliminary site plans.
- (b) *Tree removal permit.* No person directly or indirectly, shall cut down, destroy, top-off, remove or effectively destroy through damaging, any protected tree six (6) inches in diameter or larger, measured twenty-four (24) inches from the ground on any commercial, industrial or multi-family property within the city without first obtaining a tree removal permit as provided by this section.
 - (1) Permit required. Protected trees shall not be removed prior to the issuance of a tree removal permit until the director of planning or authorized designee, approves the removal due to the following:
 - a. Said tree(s) are injured, dying, diseased or infested with harmful insects;
 - b. Are in danger of falling, interfere with utility service or create unsafe vision clearance; or
 - c. In any manner create a hazardous or dangerous condition so as to endanger the public health, welfare or safety.
 - (2) Utility companies shall be exempt from authorization of the director of planning when public health, welfare or safety of the general citizenship is in danger.
 - (3) Clear cutting prohibited without permit. Under no circumstances shall the clear-cutting of protected trees six (6) inches or larger in diameter, measured twenty-four (24) inches from the ground on any property, other than single-family homesites, be allowed prior to the issuance of a tree removal permit of said property. Any protected tree removed will be required to follow the guidelines of this chapter.
- (c) *Penalties.* If any protected tree(s) are removed from any property, excluding single-family homesites, including any injury to a tree resulting from the owner's failure to follow required tree protection measures that causes or may reasonably be expected to cause the protected tree to die, the property owner shall be determined to be in violation of this chapter.
- (d) *Application.* Tree removal permits shall be obtained by making application to the community development department on a form provided by the city. Upon receipt of a proper application for a tree removal permit, the director of planning or his/her designee shall review the application and may conduct field inspections of the development.

The application for tree removal permit, if required, shall be considered an integral part of the application for development plan approval, and no new development plan for any new development subject to the terms and provisions of this chapter shall be approved without approval of said tree removal permit.

Sec. 23-92. Parking lots.

- (a) All parts of a parking area or lot not occupied by parking spaces or driveways shall be landscaped with decorative rock or sand, turf, shrubs, ground cover, and/or paved pedestrian paths. The following additional requirements are intended not only to improve the appearance of large paved areas, but also to provide for adequate circulation and drainage; and to help moderate wind, noise, and temperature extremes.
- (1) All outdoor parking areas having spaces for more than ten (10) vehicles shall have landscaping within the perimeter of the parking area equal in area to not less than five (5) percent of the total paved area.
 - (2) No parking space shall be located more than fifty (50) feet from a portion of the required landscaping.
 - (3) One tree of at least two (2) inch caliper in size shall be provided within the perimeter of the parking area for each two hundred fifty (250) square feet of landscaping required.
 - (4) Required or provided landscaping shall not obstruct the view of any vehicle backing areas or turning areas in a way so as to create a hazard.
 - (5) All required or provided landscaping and trees shall be maintained in a clean, safe, and healthy condition.
 - (6) The landscaping required in this section shall be provided in addition to the screening requirements of section 23-89(d) of this chapter.
 - (7) The requirements of (1) (2) and (3) of this section do not apply to vehicle display, storage or loading areas for businesses which sell or service vehicles, farm equipment, or for commercial or industrial parking areas intended specifically for trucks having a rated capacity of twenty-six thousand (26,000) pounds gross vehicle weight or more.

(Ord. No. 05-22, § 1, 8-2-2005)

Sec. 23-93. Appeals.

When the director of planning or his/her designee does not approve a landscape plan, irrigation plan, tree removal request, or the installation or removal of these improvements, the owner or duly authorized representative may appeal that decision to the City of Eagle Pass Board of Adjustment (BA). The BA may only grant exceptions to this chapter for the following circumstances:

- (1) For in-fill development when surrounding landscaping or prevailing practices in the vicinity, if superior to the minimum standards required by this chapter, dictate different standards than those contained in this chapter.
- (2) When the requirements of this chapter create a safety hazard as determined by the BA.

The BA may only grant exceptions when the applicant has provided evidence sufficient to show that the proposal meets or exceeds the purpose of this chapter. Granting of a request for alternative compliance as provided in this chapter shall not have the effect of nullifying the intent and purpose of this chapter. Special conditions may be imposed by the BA where necessary to assure conformity with the purpose and intent of this chapter.

(Ord. No. 05-22, § 1, 8-2-2005)