



REGULAR MEETING OF THE SAN MARCOS ZONING BOARD OF ADJUSTMENTS

Thursday, January 16, 2020 5:45 P.M. City Council Chambers

Michael Nolen, Chair
Wayman Jones, Member
Tom Rowe, Member
Floyd Akers, Alternate

Gloria Fortin, Vice Chair
Gary Pack, Member
Nicholas Costilla, Alternate

AGENDA

1. Call to order.
2. Roll call.
3. Chairperson's Opening Remarks.
4. Citizen Comment Period.
5. Consider approval of the minutes of the **ZBOA Regular Meeting of June 20, 2019**
6. **VR-20-01** Hold a public hearing and consider a request by Tyler Williams, on behalf of E&T Real Estate LLC, for a variance to Section 9.1.1.1. of the San Marcos Development Code requiring a 10-foot primary street setback, in order to permit an existing carport with a three-foot, five-inch setback along Marlton Street, located at 1410 Marlton Street (S. Caldwell)
7. **Question and Answer Session with Press and Public.** *This is an opportunity for the Press and Public to ask questions related to items on this agenda.*
8. **Adjourn.**

NOTE: The Zoning Board of Adjustments may adjourn into Executive Session to consider any item listed on this agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made of the basis for the Executive Session discussion. The Zoning Board of Adjustments may also publicly discuss an item listed on the agenda for Executive Session.

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov



**ZONING BOARD OF ADJUSTMENTS
REGULAR MEETING MINUTES
THURSDAY, September 19, 2019**

The Zoning Board of Adjustments convened in a regular meeting on Thursday, September 19, 2019 in the San Marcos City Council Chambers, 630 East Hopkins, San Marcos, Texas 78666.

Chair Nolen called the Board Meeting to order at 5:45 p.m.

Board Members in Attendance:
Michael Nolen, Chair
Gloria Fortin, Vice Chair
Gary Pack, Member
Tom Rowe, Member
Floyd Akers, Alternate
Nicholas Costilla, Alternate

Board Members Absent:
Wayman Jones, Member

Staff in Attendance:
Sam Aguirre, Assistant City Attorney
Amanda Hernandez, Development Services Manager
Shavon Caldwell, Planner
Will Parrish, Planner

- 1. Call to order**
With a quorum present, the Regular Meeting of the San Marcos Zoning Board of Adjustments was called to order by Chair Nolen at 5:45 p.m.
- 2. Roll Call**
- 3. Chairperson's Opening Remarks**
Chair Nolen welcomed the audience.
- 4. Citizen Comment Period**
Chair Nolen opened the citizen comment period. No one spoke.

5. Consider approval of the minutes of the ZBOA Regular Meeting of June 20, 2019

MOTION: Vice Chair, Gloria Fortin made a motion to **approve** the minutes. Chair, Michael Nolen, seconded the motion. Following a voice vote, the motion **passed 5-0**.

6. VR-19-04 Hold a public hearing and consider a request by John David Carson, on behalf of Carson Haysco Holdings LP, for a variance to Section 4.4.3.4 of the San Marcos Development Code requiring a maximum 12-foot primary street setback, in order to construct a live/work and a townhouse building with a 15-foot setback along Dutton Drive, located at 1909 Dutton Drive.

Chair Nolen opened the public hearing.

Will Parrish, Planner, presented the staff report.

John David Carson, Applicant, presented the request.

MAIN MOTION: Vice Chair Fortin made a motion to **approve** the request and recommend that the applicant be refunded fees. The motion was seconded by Chair Nolen. Following a roll call vote, the motion **passed 5-0**.

7. Question and Answer Session with Press and Public.

There were no questions from the Press or Public

10. ADJOURN

Chair Nolen adjourned the meeting at 6:02 p.m. on Thursday September 19, 2019 without objection.

Michael Nolen, Chair

ATTEST:

Shavon Caldwell, Planner

VR-20-01 Variance 1401 Marlton Street



Applicant Information:

Applicant: Tyler Williams
142 Cimarron Park Loop, Suite A
Buda, TX 78610

Property Owner: E&T Real Estate LLC
142 Cimarron Park Loop, Suite A
Buda, TX 78610

Applicant’s Request: A variance to Section 9.1.1.1 of the San Marcos Development Code requiring a 10-foot primary street setback, in order to permit an existing carport with a three-foot, five-inch setback along Marlton Street.

Notification: Personal notification mailed on January 3rd, 2020 to all property owners within 400 feet of subject property.

Citizen Response: None as of Staff Report date

Subject Property:

Location: 1410 Marlton Street

Legal Description: Lots 27 and 28, Z. Williamson’s Second Addition Subdivision

Frontage On: Marlton Street

Neighborhood: Westover

Existing Zoning: MF-12, Multiple-Family Residential District

Preferred Scenario Designation: Existing Neighborhood

Utilities: Adequate

Existing Use of Property: Multiple-Family Residential

Proposed Use of Property: Multiple-Family Residential

Surrounding Area:

Proximity	Current Zoning	Existing Land Use
N of Property	MF-12	Vacant
E of Property	SF-6	Single Family
S of Property	MF-12	Duplex
W of Property	SF-6	Single Family

Case Summary

The property owner and their agent are requesting to encroach up to 6’7” into the primary street setback, in order to permit a 22’ 2” deep covered carport. The required setback from the primary street on MF-12 zoned lots is 10 feet (Section 9.1.1.1. of the San Marcos Development Code). According to the petitioner, the variance is being requested in order to bring the structure into compliance and permit the structure that was constructed in 2017 without a permit. The petitioner has stated that the variance is needed because alterations to the carport in order to meet the 10’ setback would be cost prohibitive, would result in an unattractive façade, and are unnecessary from a life safety perspective. The petitioner is not proposing any new development or improvements to the property at this time. This request is the only variance being requested by the petitioner; all other applicable requirements in the San Marcos Development Code will be met.

Comments from Other Departments

None as of the Staff Report date

Relevant Code Requirements

Section 9.1.1 Legacy Districts General Development Standards

All projects or development shall comply with all of the applicable dimensional and development standards in this Chapter 9.

Section 9.1.1. Dimensional and Development Standards Table

MF-12 Setbacks

- Primary Street -10 ft. min.
- Secondary Street -15 ft. min.
- Side (Interior) - 10 ft. min.
- Rear - 10 ft. min.

Planning Department Analysis

San Marcos Development Code Standards	Applicant’s Request
Buildings and structures set back a minimum of 10 feet from the primary street	Buildings and structures set back a minimum of 3 feet, 6 inches from the primary street

The Land Development Code has established criteria for approval that should be considered in the decision of a variance petition. **Section 2.8.2.4 Criteria for Approval** states that *in deciding the variance petition, the decision-maker shall apply the following criteria:*

- (1) There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Land Development Code to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;

Findings: There are no special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the subject property which would make adherence with the required setback an unnecessary hardship or inequity). Lots 27 and 28 are not irregularly shaped and meet the minimum dimensional and area standards for MF-12 zoned lots and there are no natural features or substantial topography identified that would prevent the petitioner from meeting the primary street setback. The strict application of this provision would not deprive the petitioner of the reasonable and beneficial use of the land as construction of an approximate 15’ deep covered carport in this same location would adhere to the primary street setback. In addition, building eaves, roof overhangs, and light shelves may extend up to 3 feet into the required setback.

- (2) The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
Findings: Staff finds that there are no special circumstances or conditions causing the hardship that affect the property nor the properties in the vicinity of the petitioner's land.
- (3) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
Findings: The variance is not necessary for the preservation and enjoyment of the property. The property is entitled for accessory uses and structures, including carports, granted the structure is not detached, meets front, side, and rear yard setbacks, and does not exceed the district's maximum allowed height.
- (4) Granting the variance petition will not be detrimental of the public health, safety or welfare, or injurious to other property within the area;
Findings: Staff finds that granting the variance request will not be detrimental of the public health, safety or welfare, or injurious to other property within the area.
- (5) Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Code, or adversely affect the rights of owners or residents of surrounding property;
Findings: Staff finds that granting the variance request will not prevent the orderly use and enjoyment of other land or adversely affect the rights of owners or residents of surrounding property.
- (6) Granting the variance petition is consistent with any special criteria applicable to varying particular standards, as set forth in Chapter 4 through 7 of the San Marcos Development Code;
Findings: There are no special criteria. If granted, this request will meet all applicable requirements of the San Marcos Land Development Code other than the setback variance request.
- (7) The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner;
Findings: The hardship or inequity was caused by the petitioner. According to the petitioner, the covered carport was constructed without a permit in 2017. The minimum required front yard setback at the time of construction was 10 feet.
- (8) The request for a variance is not based exclusively on the petitioner's desire for increased financial gain from the property, or to reduce an existing financial hardship;
Findings: The request is based on the petitioner's desire to come into compliance in order to permit the structure. The petitioner has also expressed the desire to maintain the carport as is for the purpose of aesthetics. The request is partly based on the desire to reduce an existing financial hardship as the petitioner has stated it will be uneconomical to move the columns in order to meet the required front setback.
- (9) The degree of variance requested is the minimum amount necessary to meet the needs of the proponent and to meet the conditions of this Section;
Findings: The degree of variance requested is not the minimum amount necessary to meet the needs of the proponent. The carport could have been constructed with a greater setback and still provide shelter for vehicles.

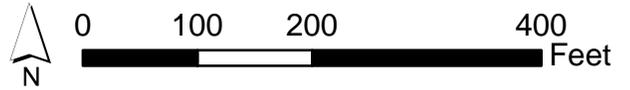
Prepared by:

Shavon Caldwell	Planner	January 16, 2020
Name	Title	Date

VR-20-01 Aerial View 1410 Marlton St Variance — 1410 Marlton St



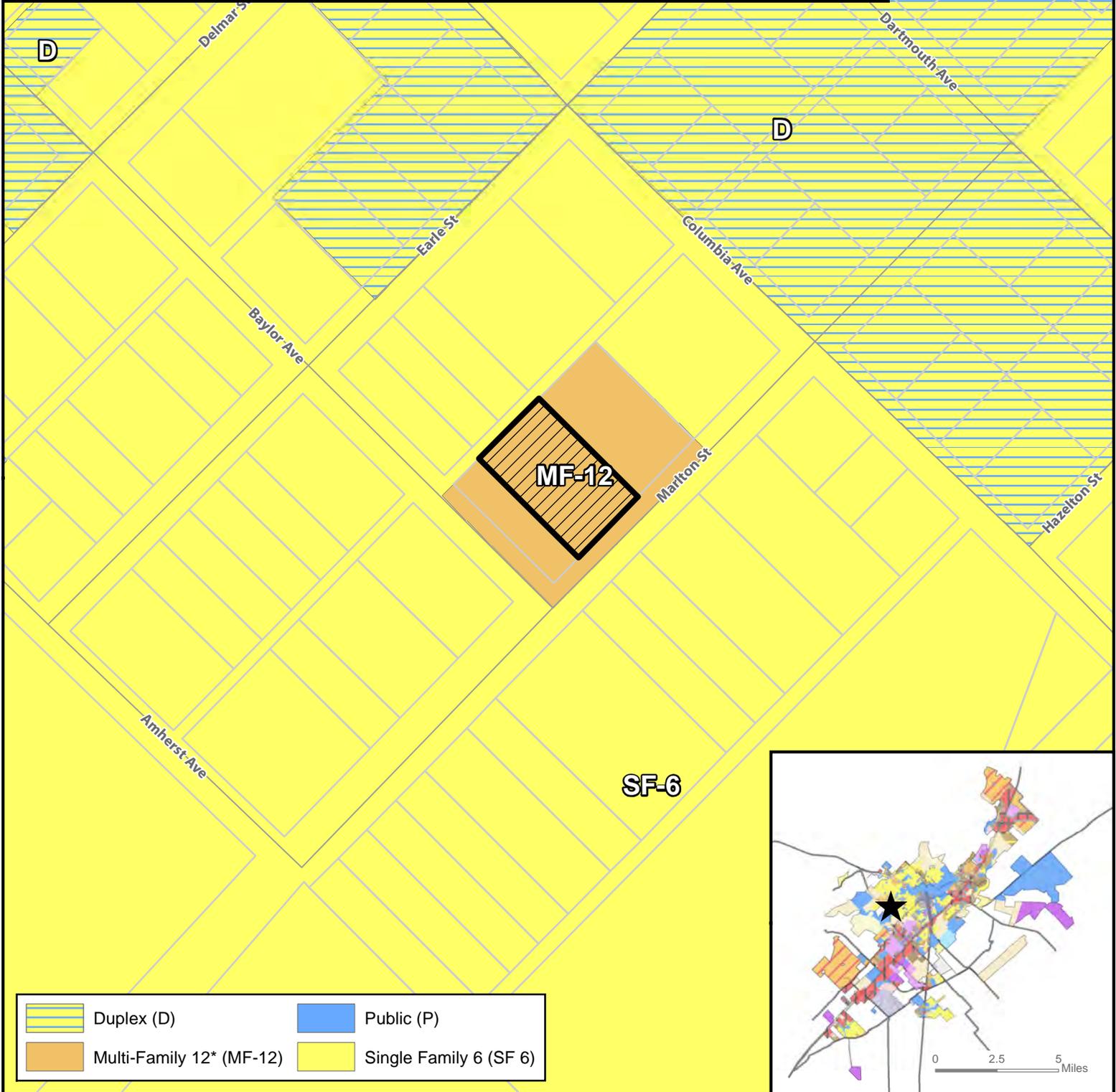
- ★ Site Location
- Subject Property
- Parcel
- City Limit



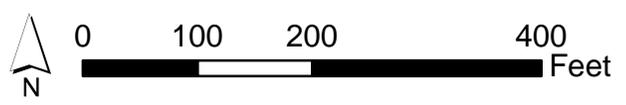
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Imagery from 2017.

Map Date: 1/2/2020

VR-20-01 Existing Zoning 1410 Marlton St Variance — 1410 Marlton St



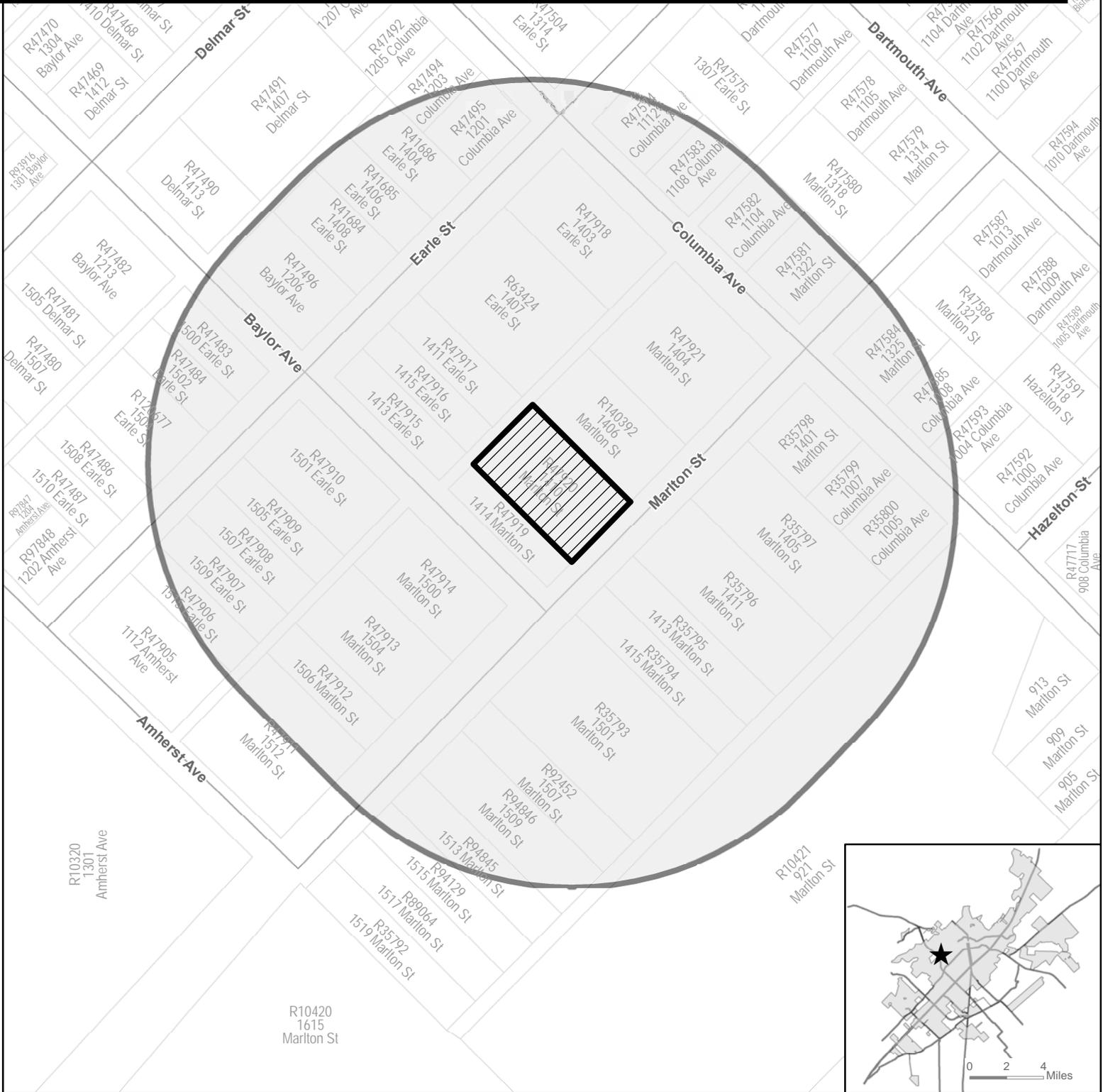
-  **Site Location**
-  **Subject Property**
-  **Parcels**
-  **City Limit**



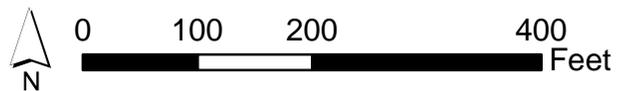
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 1/9/2020

VR-20-01 400' Notification Buffer 1410 Marlon St Variance — 1410 Marlon St



- ★ Site Location
-  Subject Property
-  400' Buffer
-  Parcel
-  City Limit



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

Map Date: 1/2/2020



PLANNING AND DEVELOPMENT SERVICES

01/03/2020

VR-20-01

**Notice of Public Hearing
Setback Variance
1410 Marlton Street**

On **Thursday, January 16, 2020**, the San Marcos Zoning Board of Adjustments will consider the following:

Hold a public hearing and consider a request by Tyler Williams, on behalf of E & T Real Estate LLC, for a variance to Section 9.1.1.1 of the San Marcos Development Code requiring a 10-foot primary street setback, in order to permit an existing carport with a three-foot, five-inch setback along Marlton Street, located at 1410 Marlton Street

The San Marcos Zoning Board of Adjustments will either approve or deny this request. Before making this decision, the Board will hold a public hearing to obtain citizen comments. Because you are listed as the owner of property located within 400 feet of the land on which the variance has been requested, we would like to notify you of the public hearing and seek your opinion of the request.

The public hearing will be held in the Council Chambers in City Hall, 630 East Hopkins, on **Thursday, January 16, 2019 at 5:45 p.m.** All interested citizens are invited to attend and participate in the public hearing. If you cannot attend but wish to comment, you may write to the following address:

Development Services-Planning
630 East Hopkins
San Marcos, TX 78666
planning_info@sanmarcostx.gov

Your written comments will be given to the Zoning Board of Adjustments if they are received before 5 PM on the day of the meeting.

For more information regarding this request, please contact the case manager, Shavon Caldwell, 512-805-2649. When calling, please refer to the case number **VR-20-01**.

The City of San Marcos does not discriminate on the basis of disability in the admission or access to its services, programs, or activities. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by dialing 7-1-1. Requests can also be faxed to 512-393-8074 or sent by e-mail to ADArequest@sanmarcostx.gov

PLANNING AND DEVELOPMENT SERVICES
Enclosure: Map (See Reverse)

VR-20-01

Exhibit A-Site Pictures



1) Looking Northwest from Southeast corner of property. Taken from Marlton Street



2) Looking Northwest from Southeast corner of property. Taken from Marlton Street.

VR-20-01

Exhibit A-Site Pictures



3) Looking Northeast from Southwest corner of property. Taken from Marlton Street.



4) Looking Northeast from Southwest corner of property. Taken from Marlton Street.

VR-20-01
Exhibit A-Site Pictures

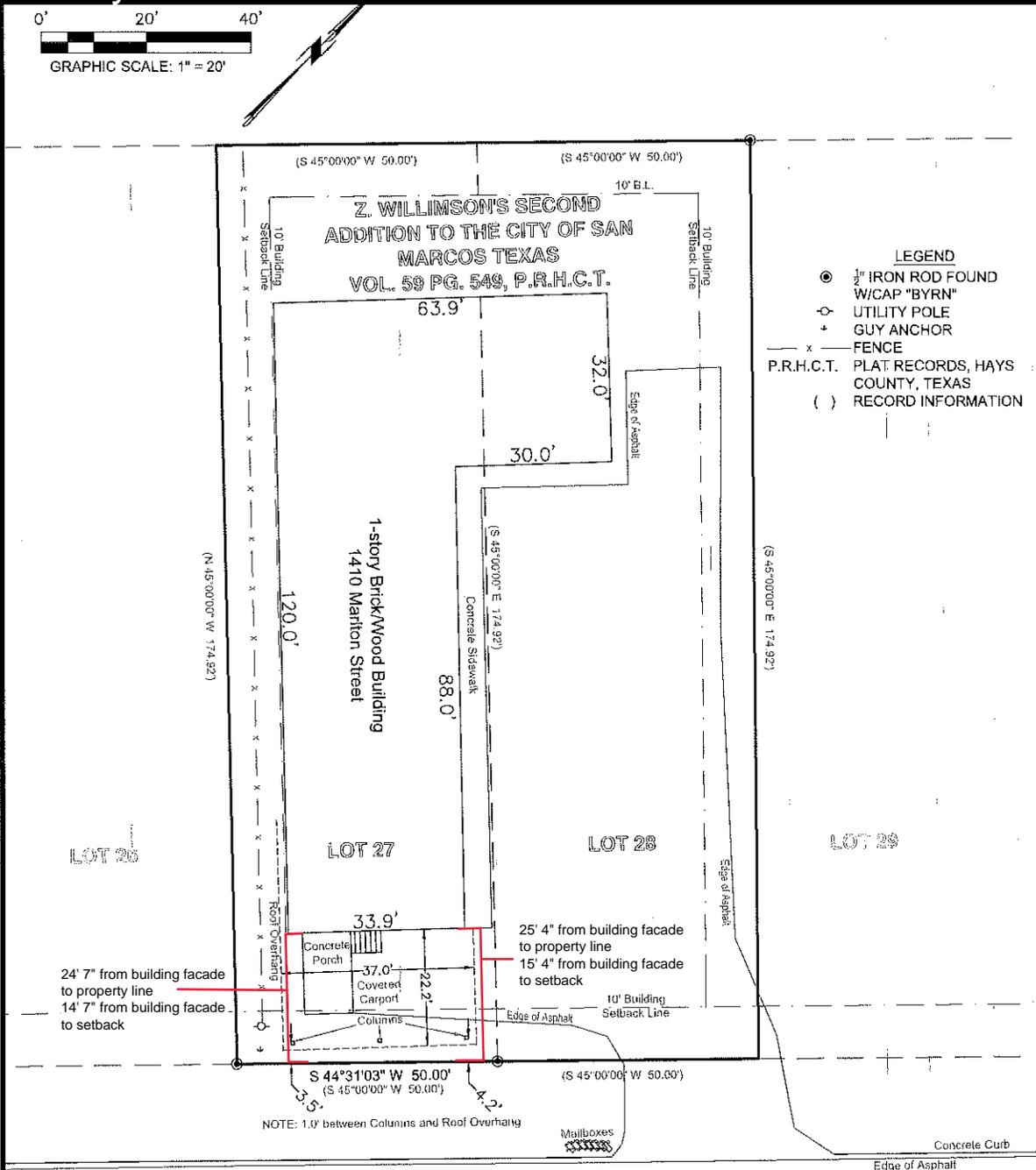
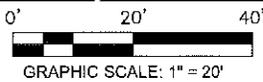


3) Looking at building façade along primary frontage. Taken from Marlton Street



4) Looking at building façade along primary frontage. Taken from Marlton Street.

Exhibit B-Survey with Additional Dimensions Added



- LEGEND**
- 1/2" IRON ROD FOUND
 - W/CAP "BYRN"
 - UTILITY POLE
 - + GUY ANCHOR
 - x — FENCE
 - P.R.H.C.T. PLAT RECORDS, HAYS COUNTY, TEXAS
 - () RECORD INFORMATION

24' 7" from building facade to property line
14' 7" from building facade to setback

25' 4" from building facade to property line
15' 4" from building facade to setback

NOTE: 1.0' between Columns and Roof Overhang

MARLTON STREET
(50' ROW)

LEGAL DESCRIPTION:
LOT 27 and 28, Z. Willimson's Second Addition to the City of San Marcos, Texas, according to the map or plat of record in Vol. 59, Page 549, Plat Records, Hays County, Texas.

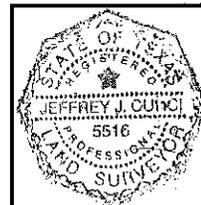
NOTES:

1. Surveyor makes no expressed or implied warranties as to the fee ownership of the property shown.
2. No subsurface utility investigation was performed by LandDev Consulting for the benefit of this survey.
3. Bearings and directional control based on the Texas State Plane Coordinate System, South Central Zone (4204) NAD83.
4. Site address is 1410 Marlton Street, San Marcos, TX.
5. 10' setback lines per San Marcos Development Code/Zoning MF-12.

SURVEYORS CERTIFICATION:

I hereby certify that this survey plat is true and correct to the best of my knowledge and is based on an on the ground survey performed under my direct supervision during the month of October, 2019.

Jeffrey J. Cunci 11/06/2019
JEFFREY J. CUNCI
REGISTERED PROFESSIONAL LAND SURVEYOR
No. 5516 - STATE OF TEXAS



FILE No: 1395

1	XXX	XXX	XX/XX/XX
No:	REVISION:	BY:	DATE:

LAND DEV
CONSULTING, L.L.C.
5508 HIGHWAY 290 WEST, SUITE 150
AUSTIN, TX 78735
OFFICE: 312.872.6596
FAX: 312.872.6596
TELEPHONE NO. 18194101

CARPOT AS-BUILT
1410 MARLTON
SAN MARCOS, TX

SUBDIVISION / ZONING VARIANCE APPLICATION

Updated: October, 2019



CONTACT INFORMATION

Applicant's Name	Tyler Williams	Property Owner	E and T Real Estate LLC
Company		Company	
Applicant's Mailing Address	142 Cimarron Park Loop Suite A Buda, TX 78610	Owner's Mailing Address	142 cimarron Park Loop Suite A Buda TX 78610
Applicant's Phone #	512-748-6882	Owner's Phone #	512-738-6882
Applicant's Email	TylerWGL@gmail.com	Owner's Email	TylerWGL@gmail.com

PROPERTY INFORMATION

Subject Property Address: 1410 Marlton St. San Marcos TX 78666

Acres: 0.3943

Tax ID #: R47920

Legal Description: Lot 27-28 Block _____ Subdivision Z WILLIAMSON #2

Existing Use(s): Multi-faimly

DESCRIPTION OF REQUEST

Variance to Section: 9.1.1.1 of the Land Development Code, which requires:

minimum setback 10 feet

Description of proposed variance (additional pages may be used): We are looking to get a variance on the set backs for the existing support columns which extend roughly 3.5 feet into the 10 foot building set back line.

AUTHORIZATION

I certify that the information on this application is complete and accurate. I understand the fees and the process for this application. I understand my responsibility, as the applicant, to be present at meetings regarding this request.

Filing Fee \$740

Technology Fee \$13

TOTAL COST \$753

Submittal of this digital Application shall constitute as acknowledgement and authorization to process this request.

APPLY ONLINE - WWW.MYGOVERNMENTONLINE.ORG/

VARIANCE CONSIDERATIONS

(Please include additional pages as necessary)

1) What special circumstances or conditions affect the subject property such that strict application of the provisions of the Land Development Code would create an unnecessary hardship or inequity upon the applicant or would deprive the applicant of the reasonable and beneficial use of the property?
We would have to removed the existing structure in order to comply with the current building set back requirements. The existing carport improves the properties elevation and provides covered parking to some tenants.

2) Do the circumstances or conditions causing the hardship similarly affect all or most of the properties in the vicinity of the subject property? No

3) What substantial property right would not be preserved or enjoyed if the provisions of the Land Development Code were literally enforced? _____
We would have to remove the carport and tenants would not longer have covered parking thus making the building evelation unsightly

4) What effect, if any, would the variance have on the rights of owners or occupants of surrounding property, or on the public health, safety or general welfare? _____
None

5) What effect, if any, would the variance have on the orderly subdivision of other land in the area in accordance with the provisions of the Land Development Code? _____
None

6) Is the hardship or inequity suffered by the applicant caused wholly or in substantial part by the property owner or applicant? Yes

7) To what extent is the request for variance based upon a desire of the owner, occupant or applicant for increase financial gain from the property, or to reduce an existing financial hardship?
none-It was done to improve the elevation of the building for the community

8) Is the degree of variance requested the minimum amount necessary to meet the needs of the applicant or property owner? Yes

***Note for the Board / Commission:**

The following responses were provided by the applicant and may not be consistent with the Department staff report

**AGREEMENT TO THE PLACEMENT OF NOTIFICATION SIGNS
AND ACKNOWLEDGEMENT OF NOTIFICATION REQUIREMENTS**

The City of San Marcos Development Code requires public notification in the form of notification signs on the subject property, published notice, and / or personal notice based on the type of application presented to the Planning Commission and / or City Council.

- Notification Signs: if required by code, staff shall place notification signs on each street adjacent to the subject property and must be placed in a visible, unobstructed location near the property line. It is unlawful for a person to alter any notification sign, or to remove it while the request is pending. However, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements. ***It shall be the responsibility of the applicant to periodically check sign locations to verify that the signs remain in place had have not been vandalized or removed. The applicant shall immediately notify the responsible official of any missing or defective signs. It is unlawful for a person to alter any notification sign, or to remove it while the case is pending; however, any removal or alteration that is beyond the control of the applicant shall not constitute a failure to meet notification requirements.***
- Published Notice: if required by code, staff shall publish a notice in a newspaper of general circulation in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be published it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***
- Personal Notice: if required by code, staff shall mail personal notice in accordance with City Codes and the Texas Local Government Code. ***If, for any reason, more than one notice is required to be mailed it may be at the expense of the applicant. The renotification fee shall be \$91 plus a \$13 technology fee.***

I have read the above statements and agree to the required public notification, as required, based on the attached application. The City's Planning and Development Services Department staff has my permission to place signs, as required, on the property and I will notify City staff if the sign(s) is/are damaged, moved or removed. I understand the process of notification and public hearing and hereby submit the attached application for review by the City.

Signature: _____



Date: 11/4/19

Print Name: _____

Tyler Williams

Form Updated October, 2019

1410 Marlton

The buildings current use is 7 small apartment units consisting of: 4-One bedroom one bath apartments, 2- two bedroom one bath apartments, and 1- three bedroom and one and one half bathroom apartment. There is not any off street parking as the current parking lot is sufficient to meet all the tenants needs for parking.

We replaced the roof in 2017 due to hail damage and improved the roof to make it more aestatically pleasing as well as repainted the exterior. We also improved the elevation from the street to make it more aestatically pleasing to the community by adding a covered area.

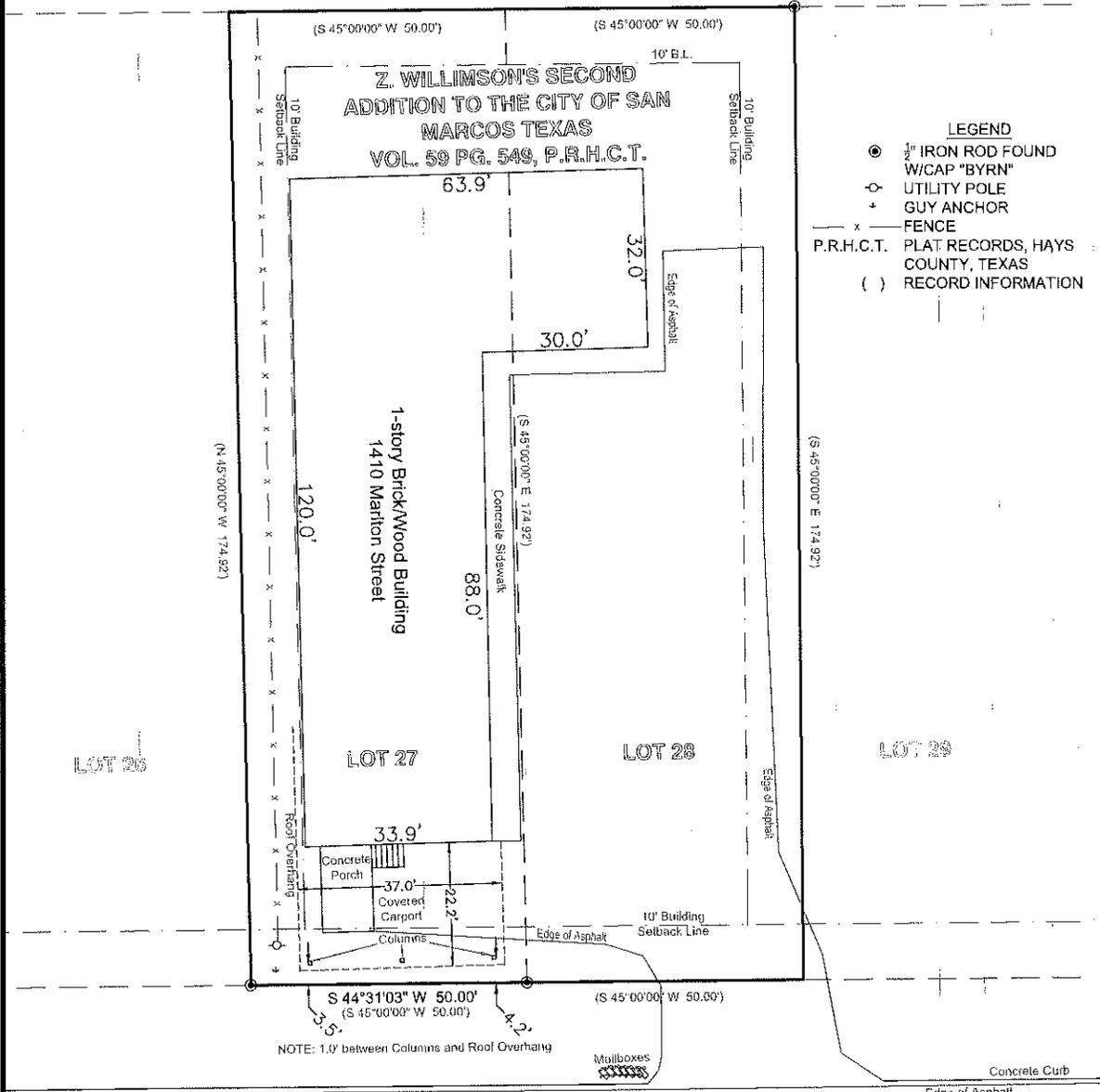
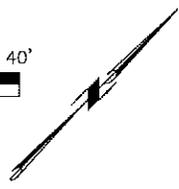
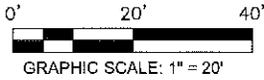
Before:



After:



We are requesting the variance to be permitted because it would cost an uneconomical amount of money in order to move the columns. Also, it would not make the building look aesthetically appealing from the street. The columns do not impede any safety issues like fire, police, or ambulance. Thank you for your consideration.



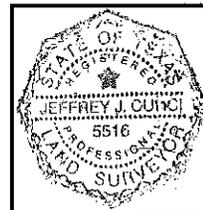
- LEGEND**
- 1/2" IRON ROD FOUND
 - W/CAP "BYRN"
 - UTILITY POLE
 - + GUY ANCHOR
 - x — FENCE
 - P.R.H.C.T. PLAT RECORDS, HAYS COUNTY, TEXAS
 - () RECORD INFORMATION

MARLTON STREET
(50' ROW)

LEGAL DESCRIPTION:
LOT 27 and 28, Z. Willimson's Second Addition to the City of San Marcos, Texas, according to the map or plat of record in Vol. 59, Page 549, Plat Records, Hays County, Texas.

SURVEYORS CERTIFICATION:
I hereby certify that this survey plat is true and correct to the best of my knowledge and is based on an on the ground survey performed under my direct supervision during the month of October, 2019.

Jeffrey J. Cunci 11/06/2019
JEFFREY J. CUNCI
REGISTERED PROFESSIONAL LAND SURVEYOR
No. 5516 - STATE OF TEXAS



- NOTES:**
1. Surveyor makes no expressed or implied warranties as to the fee ownership of the property shown.
 2. No subsurface utility investigation was performed by LandDev Consulting for the benefit of this survey.
 3. Bearings and directional control based on the Texas State Plane Coordinate System, South Central Zone (4204) NAD83.
 4. Site address is 1410 Marlton Street, San Marcos, TX.
 5. 10' setback lines per San Marcos Development Code/Zoning MF-12.

FILE No: 1395

No:	REVISION:	BY:	DATE:
1	XXX	XXX	XX/XX/XX

LAND DEV
CONSULTING, L.L.C.
5508 HIGHWAY 290 WEST, SUITE 150
AUSTIN, TX 78735
OFFICE: 312.872.6556
FAX: 312.872.6556
TELEPHONE NO. 18194101

CARPOT AS-BUILT
1410 MARLTON
SAN MARCOS, TX