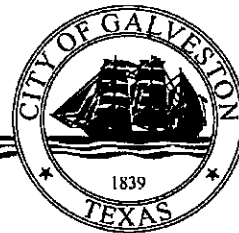


Planning Department

823 Rosenberg, Room 401
Galveston, Texas 77550

Phone (409) 797-3660
Fax (409) 797-3604

planningcounter@cityofgalveston.org



AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
4:00 p.m., Wednesday, August 5, 2015
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

- A. Attendance
- B. Conflict of Interest
- C. Minutes: April 8, 2015
- D. New Business and associated Public Hearing:

15Z-014 (2701 New Strand) Request for a Special Exception from the Galveston Zoning Standards Section 11.303 of the Land Development Regulations to expand a non-conforming use. Property is legally described as Lots 6 & 7 And Adjacent 27th Street Block 687, in the City and County of Galveston.

Applicant: Stephen G. Schulz

Property Owner: Schlag Galveston, LLC and Galveston Park, LLC

15Z-015 (23409 San Luis Pass Road) Request for an appeal from an administrative decision regarding the submittal of an incomplete application per Section 13.401 (B) (8).

Applicant: Brax Easterwood and Dana Lee, Egret Bay Builders

Owner: Ramon Antonio Pineda

- E. Adjournment

A handwritten signature in cursive script, reading "Janice Norman".

Prepared By:

Janice Norman, Planning Manager

Date Prepared:

July 27, 2015

SEC. 11.402 PROCEDURE

An owner of a nonconforming use may apply for a special exception from the Zoning Board of Adjustment, which has the effect of making the nonconforming use conforming.

SEC. 11.403 CRITERIA FOR APPROVAL

A. **Generally.** A special exception may be granted by the Zoning Board of Adjustment to make a nonconforming use conforming, if, compliance with all of the criteria of this Section is demonstrated.

B. **Nonconformity.** The use, as conducted and managed, has been determined to be a nonconforming use that has been integrated into the neighborhood's function or the zoning district's function if it is not in or adjacent to a residential neighborhood as evidenced by the following demonstrations:

1. Neighborhood residents regularly patronize or are employed at said use for nonresidential uses in or abutting residential neighborhoods;
2. Management practices eliminate nuisances such as noise, light, waste materials, unreasonably congested on-street parking, or similar conflicts;

3. There is no material history of complaints to the City about the use. A history of complaints is justification for denying the special exception, unless the conditions of the exception will eliminate the reasons for the complaints;

4. If the use is nonresidential, it is registered or licensed in accordance with any applicable ordinances of the City; or

5. The use has been maintained in good condition and its classification as a nonconformity would be a disincentive for such maintenance.

C. Conditions. Conditions may be imposed relative to the expansion of buffering, landscaping, or other site design provision or other limitations necessary to ensure that as a conforming use the use will not become a nuisance. Such conditions may relate to the lot, buildings, structures or operation of the use.

SEC. 11.404 EFFECT AND ANNOTATION

A. Generally. Uses that comply with the conditions of a special exception issued in accordance with this Division are converted from "legally nonconforming uses" to "conforming uses" by virtue of the issuance of the special exception.

B. Written Approval. Special exceptions shall be approved by the Zoning Board of Adjustment.

APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409 797-3510).

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING.

POSTED
JUL 29 2015

CITY SECRETARY'S
OFFICE

[Handwritten signature]
10 AM



15Z-014

STAFF REPORT

ADDRESS:

2701 New Strand

LEGAL DESCRIPTION:

Property is legally described as Lots 6 & 7 And Adjacent 27th Street Block 687, in the City and County of Galveston

APPLICANT/REPRESENTATIVE:

Stephen G. Schulz

PROPERTY OWNER:

Schlag Galveston, LLC and Galveston park, LLC

ZONING:

Commercial (C)

REQUEST:

Special Exception from Section 11.303 C.1. of the Galveston Land Development Regulations

APPLICABLE ZONING LAND USE

Parking Lot, Commercial Surface Parking Area

REGULATIONS:

Section 11.303

Section 11.400

EXHIBITS:

A – Aerial Map

B – Current Survey

C – Site Plan

STAFF:

Ian Knox, Urban Planner II

409-797-3659

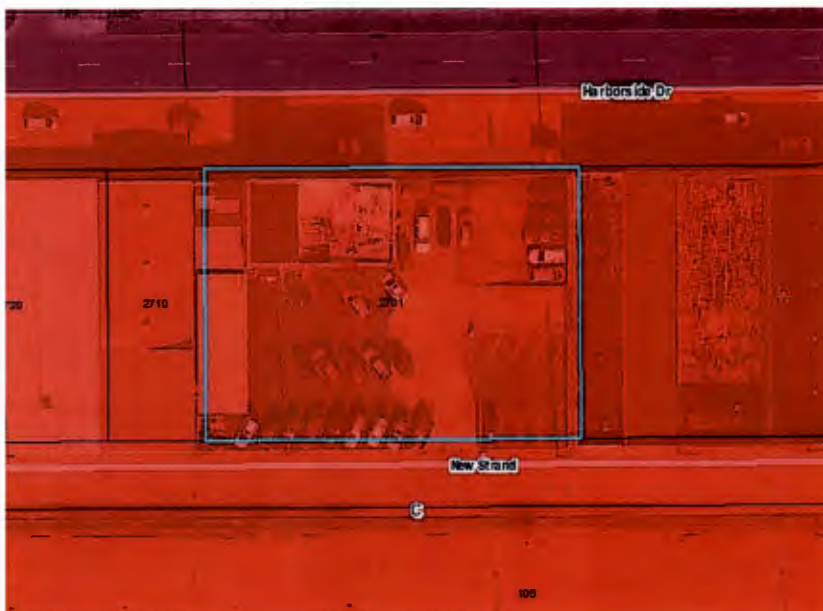
knoxian@cityofgalveston.org

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
8				

City Department Notification Responses:

No objection from any City department



Executive Summary:

The applicant is requesting a Special Exception from the Galveston Land Development Regulations Section 11.303 C.1. pursuant to Section 11.400 – “Conversion of Nonconforming Uses” to expand the nonconforming use “Parking Lot, Commercial Surface Parking Area”.

C. Expansion of Nonconforming Uses. Nonconforming uses shall not be expanded, enlarged, extended, increased, or moved to:

1. Occupy an area of land or building that was not occupied on the effective date of these regulations;
2. Management practices eliminate nuisances such as noise, light, waste materials, unreasonably congested on-street parking, or similar conflicts;
3. There is no material history of complaints to the City about the use. A history of complaints is justification for denying the special exception, unless the conditions of the exception will eliminate the reasons for the complaints;
4. If the use is nonresidential, it is registered or licensed in accordance with any applicable ordinances of the City; or
5. The use has been maintained in good condition and its

classification as a nonconformity would be a disincentive for such maintenance.

SEC. 11.402 PROCEDURE

An owner of a nonconforming use may apply for a special exception from the Zoning Board of Adjustment, which has the effect of making the nonconforming use conforming.

SEC. 11.403 CRITERIA FOR APPROVAL

A. **Generally.** A special exception may be granted by the Zoning Board of Adjustment to make a nonconforming use conforming, if, compliance with all of the criteria of this Section is demonstrated.

B. **Nonconformity.** The use, as conducted and managed, has been determined to be a nonconforming use that has been integrated into the neighborhood's function or the zoning district's function if it is not in or adjacent to a residential neighborhood as evidenced by the following demonstrations:

1. Neighborhood residents regularly patronize or are employed at said use for nonresidential uses in or abutting residential neighborhoods;
2. Management practices eliminate nuisances such as noise, light, waste materials, unreasonably congested on-street parking, or similar conflicts;
3. There is no material history of complaints to the City about the use. A history of complaints is justification for denying the special exception, unless the conditions of the exception will eliminate the reasons for the complaints;
4. If the use is nonresidential, it is registered or licensed in accordance with any applicable ordinances of the City; or
5. The use has been maintained in good condition and its classification as a nonconformity would be a disincentive for such maintenance.

C. **Conditions.** Conditions may be imposed relative to the expansion of buffering, landscaping, or other site design provision or other limitations necessary to ensure that as a conforming use the use will not become a nuisance. Such conditions may relate to the lot, buildings, structures or operation of the use.

Should the Zoning Board of Adjustment choose to administer Section 11.404 (c), the following section applies to landscaping.

SEC. 9.301 PARKING LOT LANDSCAPING

A. **Applicability.** The provisions of this Section shall apply to parking lot areas providing unenclosed, off-street parking, and loading spaces for 10 or more vehicles for residential uses; two or more vehicles for nonresidential uses and mixed-use developments; and for all vehicle washes, fueling stations, and all drive-in or drive-through establishments. 1. **Excluded Areas.** All parking or loading areas (not including Parking Lots, Commercial Surface Parking Areas) located

within Light Industrial (LI) or Heavy Industrial (HI) Districts, which are not, in whole or in part, within 600 feet of the right-of-way of Seawolf Parkway, Broadway Boulevard, Harborside Drive, or FM 3005 or within 300 feet of the property line of a residential use, a mixed-use development that includes residential use, or a residential zoning district boundary, measured as a radius from such a parking or loading area, shall not be required to install interior parking lot landscaping.

B. Right-of-Way Screening. Visual screening, adequate to screen parked vehicles, shall be provided between any parking or loading areas and any street right-of-way abutting the site. Right-of-way screening shall consist of:

1. **Minimum width.** 4 feet.
2. **Required Elements.** Shrubs, hedges and trees. See Table 9.302 for size and spacing requirements.
3. **Fence location.** Any fencing shall be installed on the interior edge of the right-of-way screening.
4. **Planter Boxes.** The use of planter boxes shall constitute compliance with the Article only in cases of the provision of right-of-way screening for existing parking lots.

C. Interior Landscaping. The following interior landscaping is required for parking lots with 10,000 square feet or more of surface area:

1. **Landscape Islands.** Interior parking lot landscaping shall be designed so that no parking space is located more than five spaces away from a landscape island that consists of:
 - a. Minimum width: 8 feet.
 - b. Minimum square footage: 200 square feet at a depth of 3 feet = 600 cubic feet.
 - c. Required Elements: Permeable surface of ground cover or grasses and minimum of one tree in accordance with SEC 9.201.

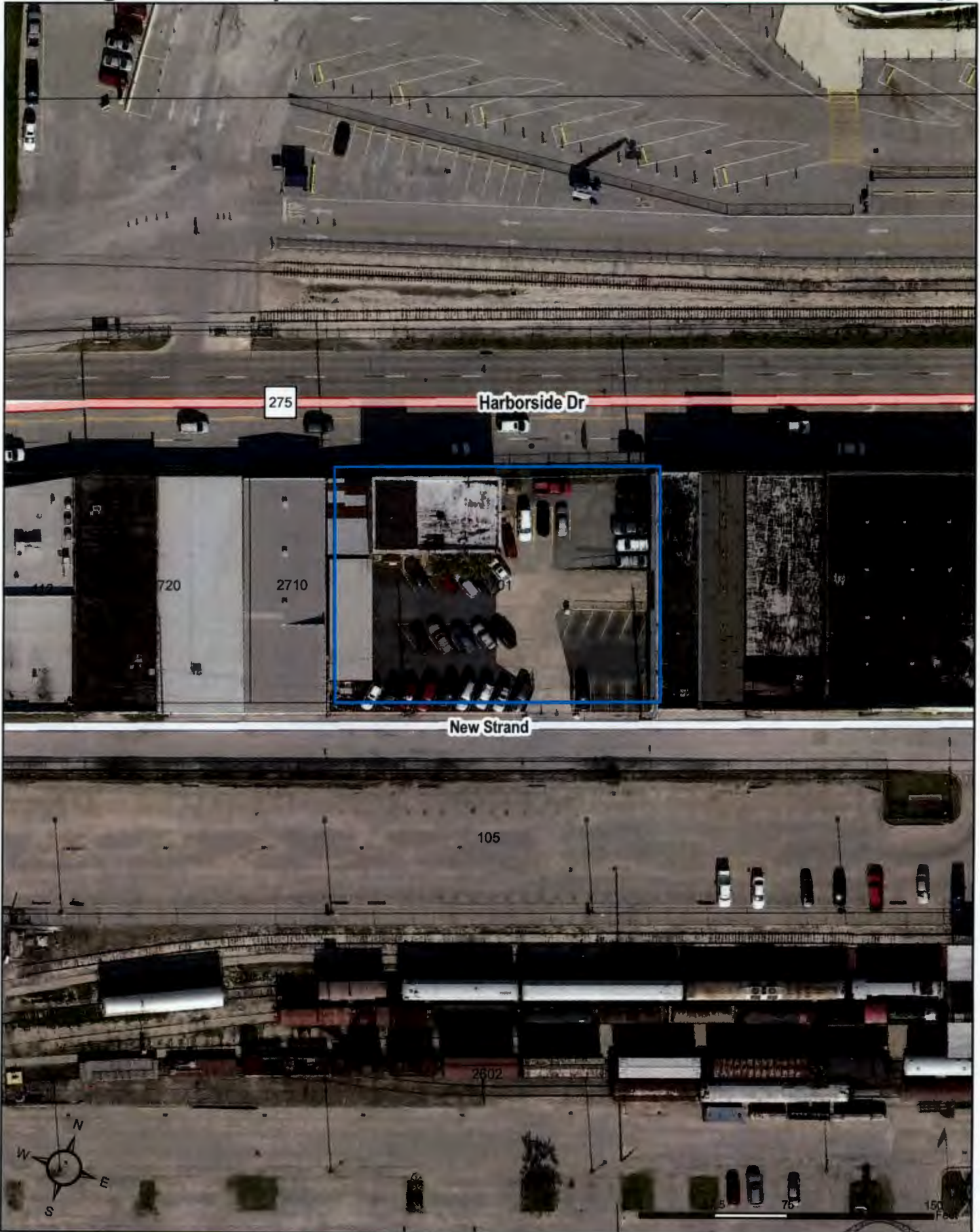
Applicant's Justification:

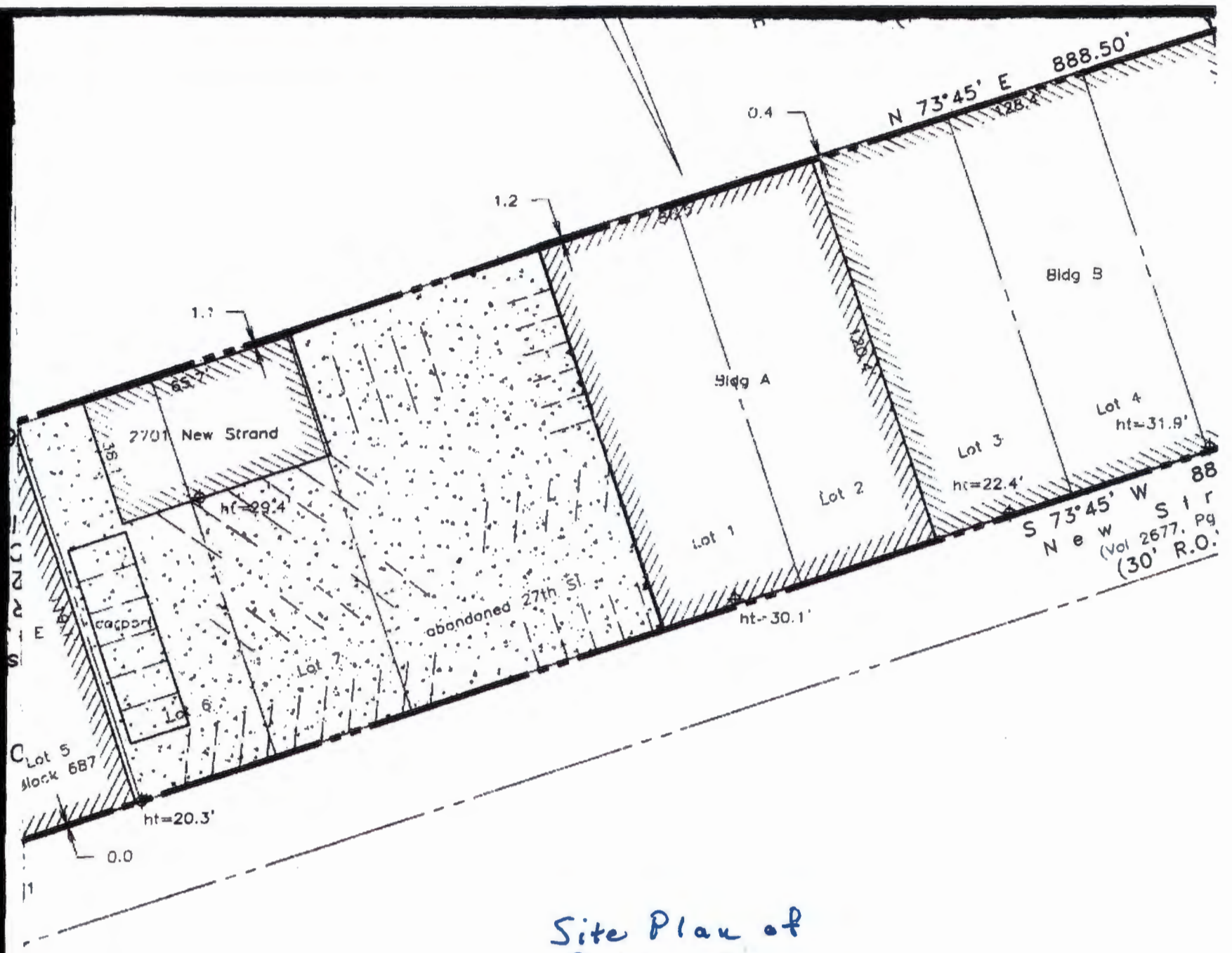
"The building formerly occupying the space was within and surrounded by a surface lot long used for cruise ship parking. The area has no other practical use. The Special Exception will eliminate the one complaint regarding use received by the City."

Zoning and Land Use

Location	Zoning	Land Use
Subject Site	Commercial (C)	Commercial
North	Heavy Industrial (HI)	Industrial
South	Commercial (C)	Commercial
East	Commercial (C)	Commercial
West	Commercial (C)	Commercial

Planning and Development Division





Site Plan of
Parking Spaces
when Building
was standing.



Premier Parking
421 Church Street
Austin, TX 78701

**Galveston
Park n Cruise**
Galveston, TX

ST - Standard Space
(8'-0" x 12'-0")
61 Spaces

0.1 Total Spaces

PROJECT NUMBER:

DRAWING TITLE:

**Parking
Layout**

SCALE: 1" = 10'-0"
24x36o

PLAT DATE:

SHEET NO:

A-1



Site Plan if
Special Exception
is granted.



15Z-015

STAFF REPORT

APPLICANT/REPRESENTATIVE:

Brax Easterwood, AIA and Dana Lee,
Egret Bay Builders

PROPERTY OWNER:

Ramon Antonio Pineda

APPEAL REQUEST:

Appeal Staff Decision

ARTICLE REFERENCE:

13.400

EXHIBITS:

A – Letter of Incomplete Application
B – Plat Map and Survey
C – Section 13.400

STAFF:

Janice Norman, Planning Manager
409-797-3670
normanjan@cityofgalveston.org

Galveston Land Development Regulations:

Division 13.401 (B) (8) Zoning Variances

The Planning Department may consider an application for a variance as an incomplete application should the application fail to establish the application is not contrary to the public interest as defined by subsection B3. a.i-iii and B3. b. i-iii of this Section.

Executive Summary:

The applicant is appealing the determination made by staff regarding an application that was submitted for a variance, from lot width requirements in conjunction with a replat, which did not establish the request was not contrary to the public interest. Specifically, staff found that the application did not establish the request was:

1. Not self-imposed
2. That the request is not based solely on financial considerations, convenience, or inconvenience; and
3. That the condition is not common to many properties within the same zoning district.

Article 13, 13.401 (B) (3)

3. The variance is not contrary to the public interest, in that:
 - a. It does not allow applicants to impair the application of these regulations for:
 - i. Self-imposed hardships;
 - ii. Hardships based solely on financial considerations, convenience, or inconvenience; or
 - iii. Conditions that are alleged to be "special" but that are actually common to many properties within the same zoning district.
 - b. The variance will not have a detrimental impact upon:
 - i. The current or future use of adjacent properties for purposes for which they are zoned;
 - ii. Public infrastructure or services; and
 - iii. Public health, safety, morals, and general welfare of the community.

Applicants Justification

Bay Harbor Beachfront addition was platted with alternating widths of 100' and 97.5'. See Attached Exhibit B.

Division 13.900 Administrative Appeals

SEC. 13.901 ADMINISTRATIVE APPEALS

A. **Generally.** Administrative appeals are processed according to the provisions of this Section.

B. **Appellate Bodies Designated.** 1. Appeals from final decisions of City staff are heard by the Zoning Board of Adjustment, except that appeals from decisions of City staff related to subdivision regulation are heard by the Planning Commission.

Please see Agenda for Appeal from Decision of Board Process

Planning and Development Division

823 Rosenberg, Room 401
Galveston, Texas 77550

Phone (409) 797-3660
Fax (409) 797-3604

planningcounter@cityofgalveston.org



July 10, 2015

Brax Easterwood, AIA
2728 Avenue Q, #2
Galveston, TX 77550

RE: **15PA-043 (23409 San Luis Pass Road)** Zoning Board of Adjustment Incomplete Application Determination per Section 13.401(B)(8) of the Land Development Regulations

Dear Mr. Easterwood,

We have received above referenced application submitted on July 8, 2015. Per Section 13.401(B)(8), the Planning Department may consider an application for a variance as an incomplete application should the application fail to establish the application is not contrary to the public interest as defined by subsection B3.a.i-iii and B3.b.i-iii of the Land Development Regulations (LDR).

Upon review of the submitted application, I find that the application does not establish that the request is not contrary to the public interest and we are unable to continue processing. More specifically, I find that the application does not establish that the request is:

1. Not self-imposed;
2. That the request is not based solely on financial considerations, convenience, or inconvenience; and
3. That the condition is not common to many properties within the same zoning district.

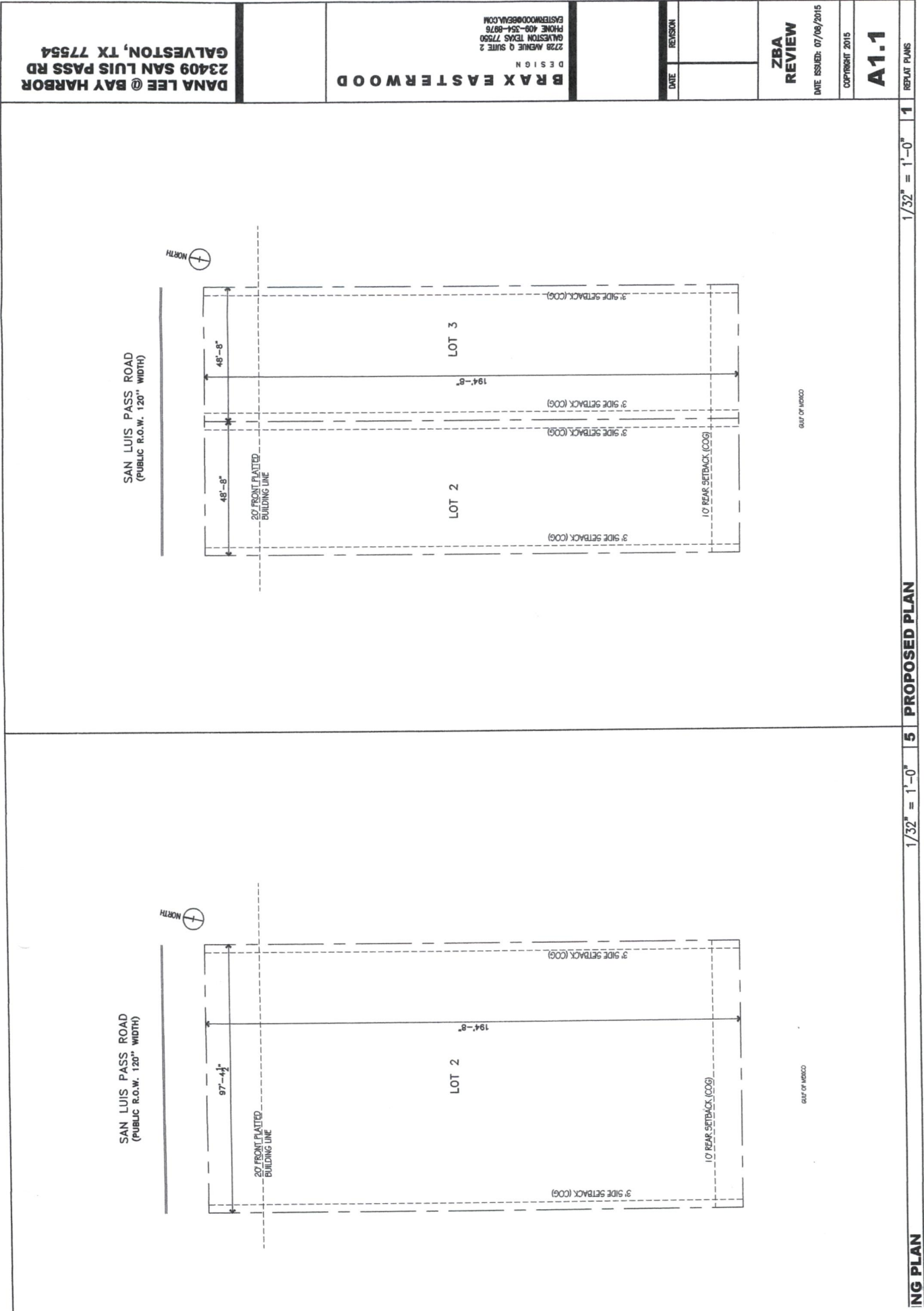
If you disagree with staff's determination, you may file an appeal to the Zoning Board of Adjustment, per Section 13.901 of the LDR, by filing a notice of appeal with our office. The notice of appeal must be filed not more than 10 business days from the date of this letter and must specify the decision appeal from and the basis for the appeal, which shall include the specific sections of the regulations that are alleged to have been overlooked or applied in error, and in what specific way this has affect or will affect the aggrieved party who initiated the appeal.

Please let me know if you have any questions.

Sincerely,

Rick Vasquez, Director
Development Services Department
City of Galveston





Division 13.400 Zoning Variances

SEC. 13.401 VARIANCES FROM DEVELOPMENT STANDARDS

A. Generally. The Zoning Board of Adjustment shall approve or deny variances from the zoning related development standards (such as height, bulk or area) of these regulations, but not from any subdivision related standards which are considered by the Planning Commission as alternative standards of compliance as provided in Article 6, Subdivision Design and Land Development.

B. Approval Standards. The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 12.401.C, and if the Zoning Board of Adjustment makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the enforcement of the strict terms of these regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - a. It does not allow applicants to impair the application of these regulations for:
 - i. Self-imposed hardships;
 - ii. Hardships based solely on financial considerations, convenience, or inconvenience; or
 - iii. Conditions that are alleged to be "special" but that are actually common to many properties within the same zoning district.
 - b. The variance will not have a detrimental impact upon:
 - i. The current or future use of adjacent properties for purposes for which they are zoned;
 - ii. Public infrastructure or services; and ARTICLE 13. Permits and Procedures Page 13-19
 - iii. Public health, safety, morals, and general welfare of the community.
4. The degree of variance allowed from these regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these

regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).

6. By granting the variance, the spirit of these regulations is observed and substantial justice is done.

7. Should the Zoning Board of Adjustment approve a variance application that does not meet the approval standards established in this Section, the Planning Department shall notify the City Council within three days from the date the variance is approved.

8. The Planning Department may consider an application for a variance as an incomplete application should the application fail to establish the application is not contrary to the public interest as defined by subsection B3. a.i-iii and B3. b. i-iii of this Section.