

Development Services Department

823 Rosenberg, Room 401
Galveston, Texas 77550

Phone (409) 797-3660 planningcounter@cityofgalveston.org



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

- A. Attendance
- B. Conflict of Interest
- C. Minutes: August 5, 2015
- D. Election of Chair and Vice Chair
- E. 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-016 (23409 San Luis Pass Road) Request for a variance from the Galveston Land Development Regulations, Article 3, Section 3.302 Minimum Lot Dimensions, Addendum Residential, Single Family One (R-1), regarding lot width requirements in a Residential, Single Family One (R-1) zoning district, in conjunction with a replat. Property is legally described as Lot 2, Bay Harbor Addition number 4, in the City and County of Galveston, Texas.

Applicant: Brax Easterwood and Dana Lee, Egret Bay Builders

Property Owner: Ramon Antonio Pineda

15Z-017 (1602 Seawall) Request for variances from Section 10.300 of the Land Development Regulations (LDR) regarding Height and Density Development Zone (HDDZ) requirements pertaining to build-to-line, lot coverage ratio, and neighborhood transition area. Property is legally described as Lots 8 through 12, Northwest Block 71, North Part of the Southwest Block 71, a subdivision in the City and County of Galveston, Texas.

Applicant: Michael Gaertner Architect

Property Owner: Jalaram Enterprises, Inc

- F. Discussion Items

- The role of the Zoning Board of Adjustment with the new Land Development Regulations

- H. Adjournment

Prepared By:

Date Prepared:

Janice Norman, Planning Manager
August 25, 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.

SEC. 13.401 VARIANCES FROM DEVELOPMENT STANDARDS

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
 - 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.

APPEAL FROM DECISION OF BOARD

In accordance with Section 13-901 (I) of the Land Development Regulations, Should the applicant or City be aggrieved by or dissatisfied with the decision of the Zoning Board of Adjustment, the applicant or City may pursue all legal remedies to appeal the decision to a court of competent jurisdiction pursuant to Texas Local Government Code, Chapter 211.

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
AUG 26 2015
CITY SECRETARY'S
OFFICE
RD
1:30 pm

MEMORANDUM

TO: Galveston Zoning Board of Adjustment

FROM: Ian Knox, Urban Planner II
Planning and Development Division

DATE: August 28, 2015

RE: **15Z-014 (2701 New Strand)** Request for a Special Exception from the Galveston Land Development Regulations Section 11.303 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

The applicant is requesting a continuance of 15Z-014 to the regular meeting of the Zoning Board of Adjustment of September 2, 2015.

This was the first request for a continuance and there are no costs associated with the request.



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

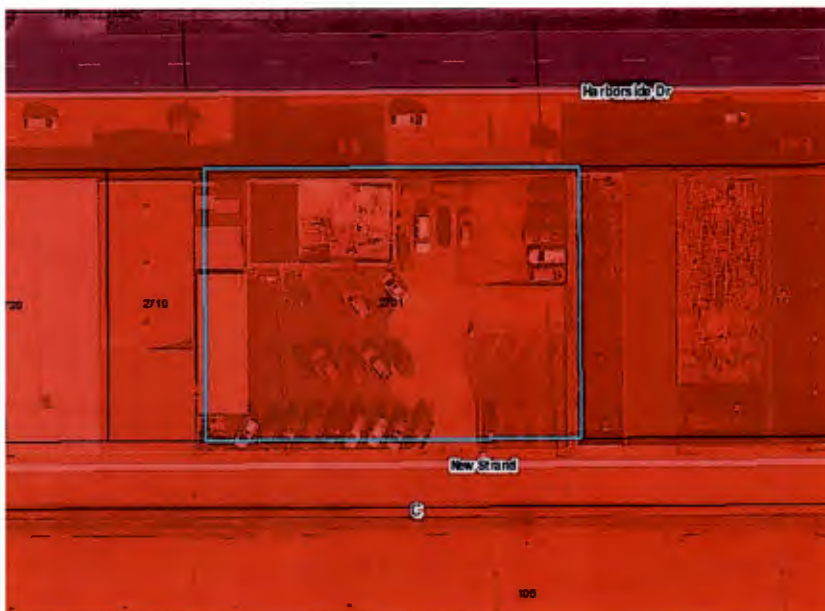
knoxian@cityofgalveston.org

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.

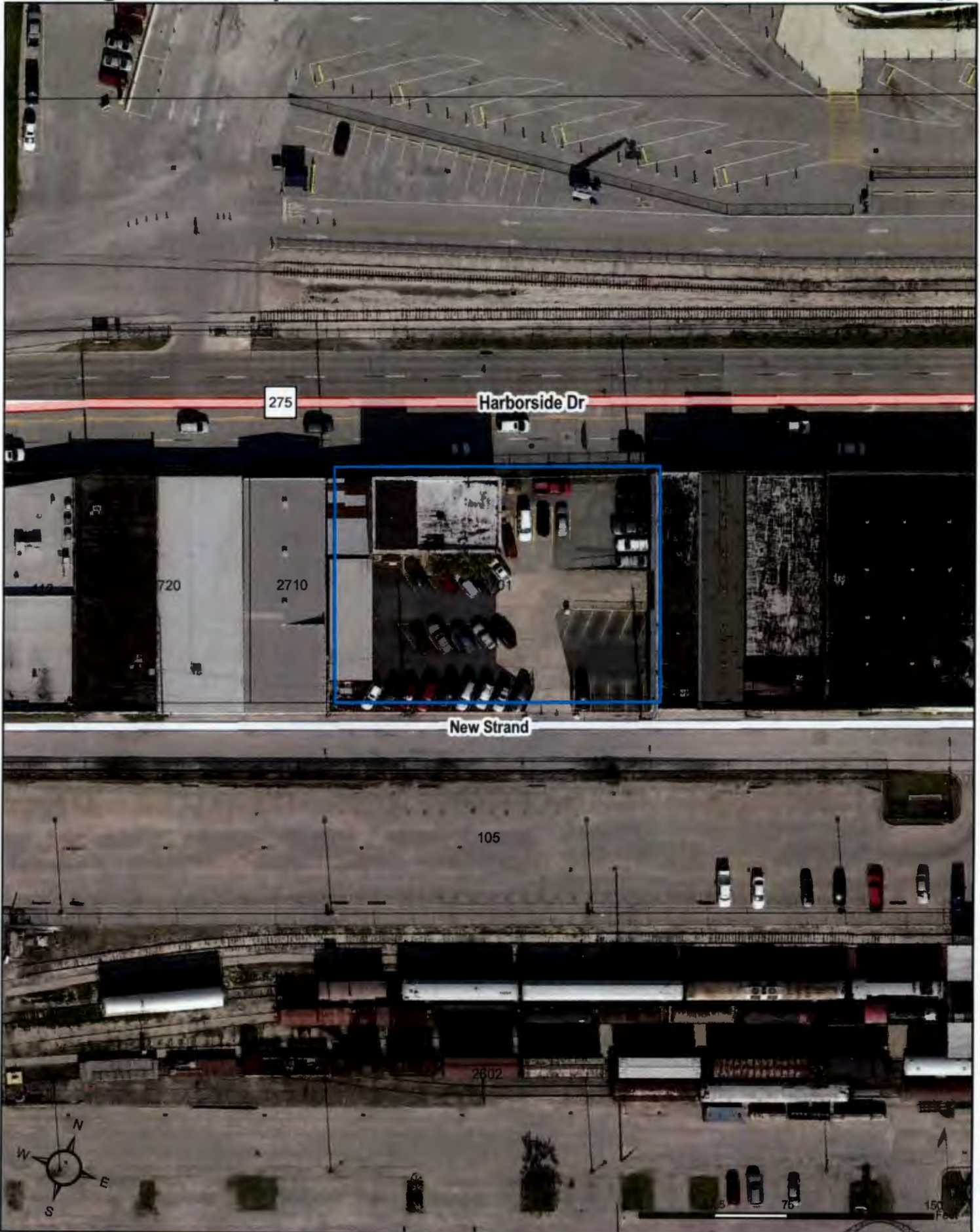
Applicant's Justification:

"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-016

STAFF REPORT

ADDRESS:

23409 San Luis Pass Road

LEGAL DESCRIPTION:

The Property is legally described as Lot 2, Bay Harbor Addition number 4, in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Brax Easterwood, AIA and Dana Lee, Egret Bay Builders

PROPERTY OWNER:

Ramon Antonio Pineda

ZONING:

Residential, Single Family (R-1)

VARIANCE REQUEST:

Lot width in conjunction with a replat.

APPLICABLE ZONING LAND USE

REGULATIONS:

Article 3, Section 3.302 Minimum Lot Dimensions, Addendum Page 3-6, Residential, Single Family One (R-1).

EXHIBITS:

- A – Aerial Map
- B – Current Survey
- C – Central Appraisal District Plat Map

STAFF:

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

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
15				

City Department Notification Responses:





Gulf of Mexico

Gulf of Mexico

Harbor Ct

R-1

3005

Fourth St

Fifth St

Sixth St

Sixth St

Seventh St

Termin San Luis Pass Rd

23409

23407

23405

23403

23331

23327

23315

4122

4125

4120

4204

4206

4206

4200

4127

4127

4123

4122

23411

23411

23413

23415

23417

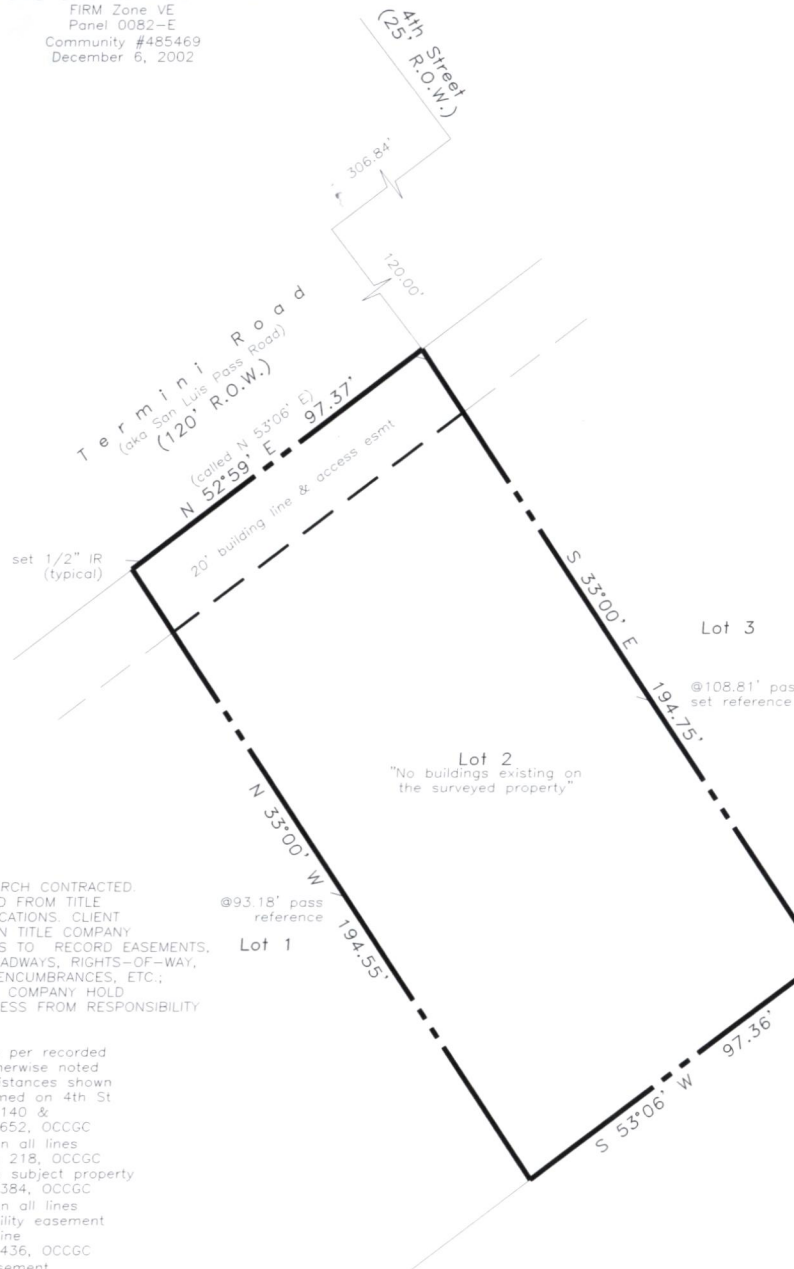
23519

23631

24011

23607

23615



NOTES:
NO RECORDS SEARCH CONTRACTED.
SURVEY PREPARED FROM TITLE
COMPANY SPECIFICATIONS. CLIENT
RELIES SOLELY ON TITLE COMPANY
SPECIFICATIONS AS TO RECORD EASEMENTS,
RESTRICTIONS, ROADWAYS, RIGHTS-OF-WAY,
BUILDING LINES, ENCUMBRANCES, ETC.;
CLIENT AND TITLE COMPANY HOLD
TLTS, INC. HARMLESS FROM RESPONSIBILITY
FOR SAME

- Restrictions as per recorded plat unless otherwise noted
- True ground distances shown
- Bearings assumed on 4th St
- Vol 1101, Pg 140 &
Vol 1135, Pg 652, OCCGC
:25' setback on all lines
- Vol 1107, Pg 218, OCCGC
not located on subject property
- Vol 1229, Pg 384, OCCGC
:25' setback on all lines
- unlocatable utility easement
along North line
- Vol 3239, Pg 436, OCCGC
:12.5' foot easement
- Survey monuments reconciled
w/previous surveys

LAND TITLE SURVEY OF A TRACT OF LAND
being Lot 2 of BAY HARBOR ADDITION #4,
a subdivision in Galveston County, Texas,
according to the plat recorded in Plat
Record 16, Map No. 90, in the Office of
the County Clerk of Galveston County,
Texas.

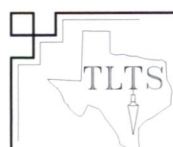
Vacant property: 23409 Termini Road
Galveston County, Texas
To Egret Bay Builders;

I hereby certify that this survey was made on the
ground under my direct supervision and that this plat
correctly represents the facts found at the time of the
survey.

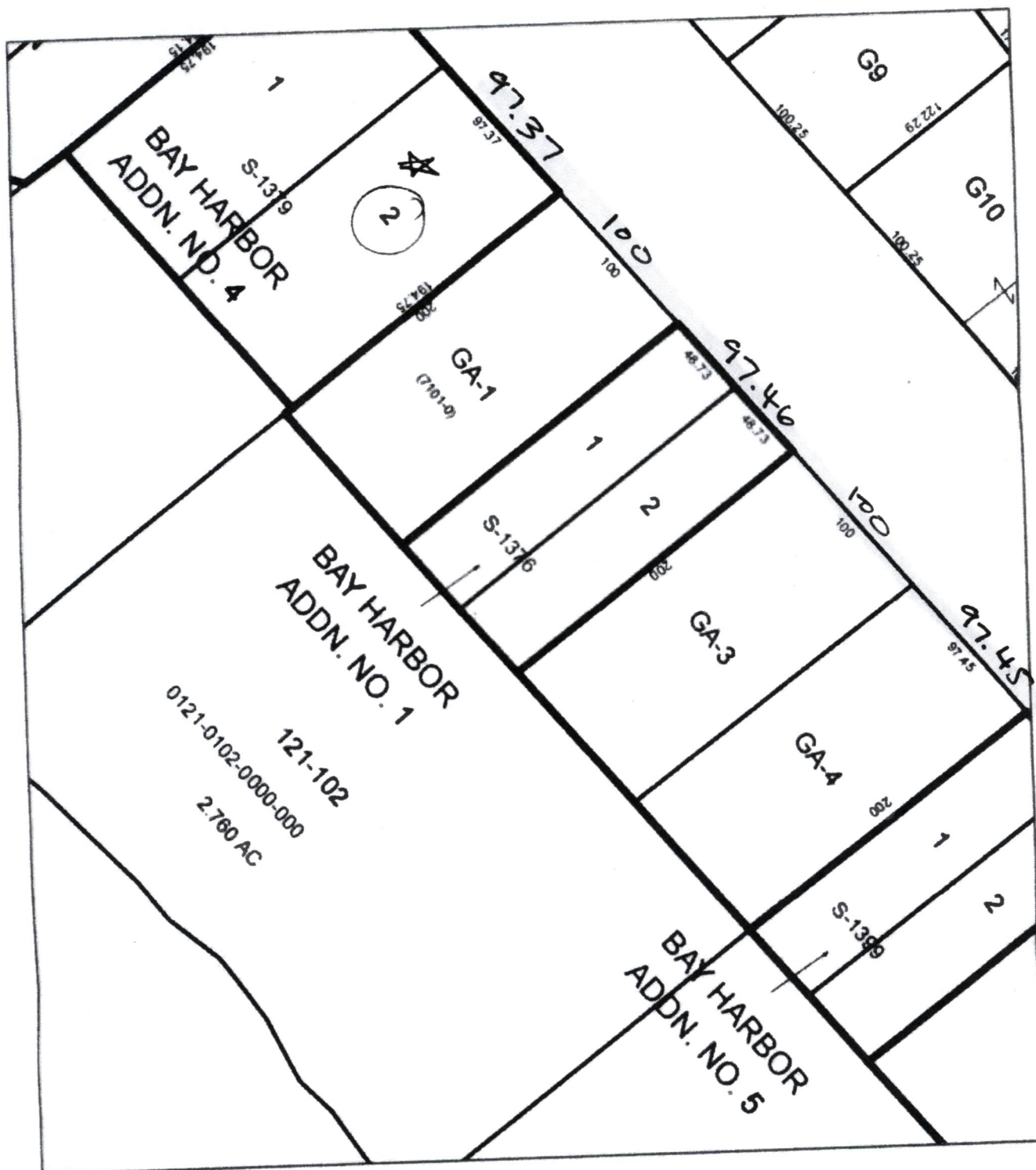


Laurence C. Wall

Laurence C. Wall
RPLS #4814
July 8, 2015



TLTS, Inc.
TEXAS LAND TITLE SURVEYORS
1801 Moody Avenue
Galveston, Texas 77550
(409) 765-8883





15Z-017

STAFF REPORT

ADDRESS:

1602 Seawall

LEGAL DESCRIPTION:

Property is legally described as Lots 8 through 12, Northwest Block 71, North Part of the Southwest Block 71, a subdivision in the City and County of Galveston, Texas.

APPLICANT/REPRESENTATIVE:

Michael Gaertner Architect

PROPERTY OWNER:

Jalaram Enterprises, Inc.

ZONING:

Commercial, Height and Density Development Zone, Zone 3 (C-HDDZ-3)

VARIANCE REQUEST:

Variances from Section 10.300 of the Land Development Regulations (LDR) regarding Height and Density Development Zone (HDDZ) requirements pertaining to build-to-line and lot coverage; and, a variance from Article 3 of the LDR regarding parking location in a Commercial Zoning District.

APPLICABLE ZONING LAND USE

REGULATIONS:

Section 10.300 and Article 3 of the LDR.

EXHIBITS:

- A – Aerial Map
- B – Current Survey/ Site Plan
- C – Applicant's Submittal

STAFF:

Adriel Montalvan, Urban Planner II
 409-797-3667
 montalvanadr@cityofgalveston.org

Public Notice and Comment:

Sent	Returned	In Favor	Opposed	No Comment
27				

City Department Notification Responses:

No objection from city departments with the following comment from the Department of Public Works:

Public Works - The Department of Public Works requires a Traffic Impact Study.



Background:

The Zoning Board of Adjustment at the meeting of July 9, 2014, approved a request for a lot coverage variance for the proposed development. The original approval was to deviate from the requirement of 80 percent or less to 85 percent. In this request, the percentage requested is 85.2 percent.

Executive Summary:

The applicant is proposing to replace an existing hotel with new construction that does not meet the HDDZ requirements regarding build-to-line and lot coverage ratio. In addition, the proposed development does not conform to the requirements of Article 3 of the LDR regarding parking location in a Commercial Zoning District, which requires all parking to be located in the rear of the structure.

Requested Variances

Requested Variances	Required	Proposed
HDDZ Build-to-line	60%	0%
HDDZ lot coverage ratio	80% or less	85.2%
Article 3 Parking Location	Rear of building	Front and rear

Build-to-line

The HDDZ requires a percentage of the building to be situated at the required setback, but when no setback is required the building must be placed along the property line. This property does not have a required setback according to HDDZ regulations. However, the property has a deed restriction setback of 50 feet, which becomes the required setback. The percentage of the building required to be located at the deed restriction setback line facing Seawall Blvd., is 60 percent.

Lot Coverage

Lot coverage shall consist of all building footprints plus all impervious pavement (asphalt or concrete) on the site. The lot coverage percentage for the proposed project shall not exceed 80 percent according to the standards for a low-rise development in the character area known as Seawall A. The percentage of proposed impervious material is 85.2 percent.

Parking Location

Articles 3 of the Land Development Regulations require that all parking in a Commercial Zoning District be placed on the rear of the building. The applicant is proposing a portion of the required parking, be located in the front of the structure.

**Applicant's
Justification**

Replacing an existing hotel with new construction on a site with unique conditions including county setback (deed restriction), unusual configurations of site and other constraints.

Please see Agenda for Standard Conditions for a Variance and Appeal from Decision of Board Process.

1702

1623

1621

1617

1615

1611

1607

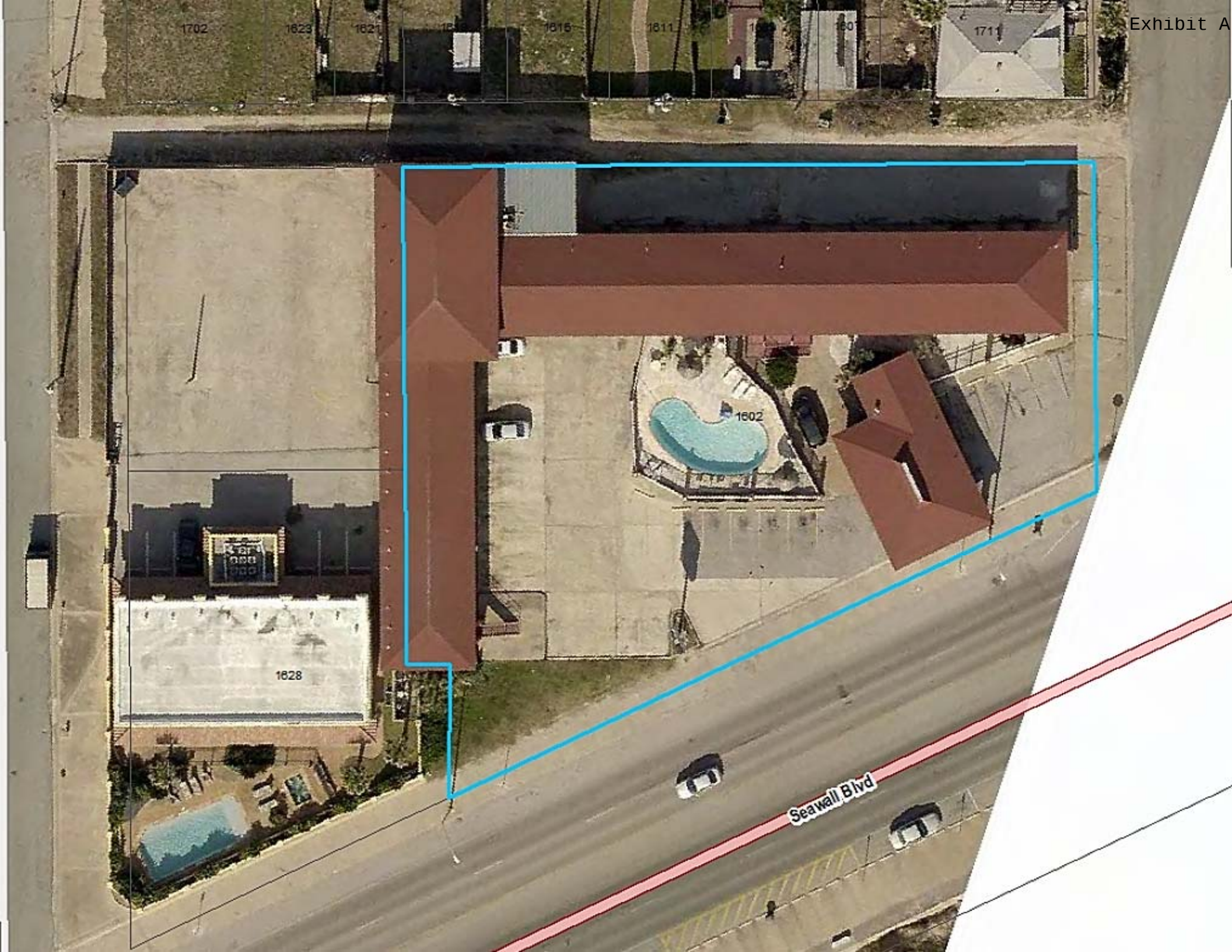
1603

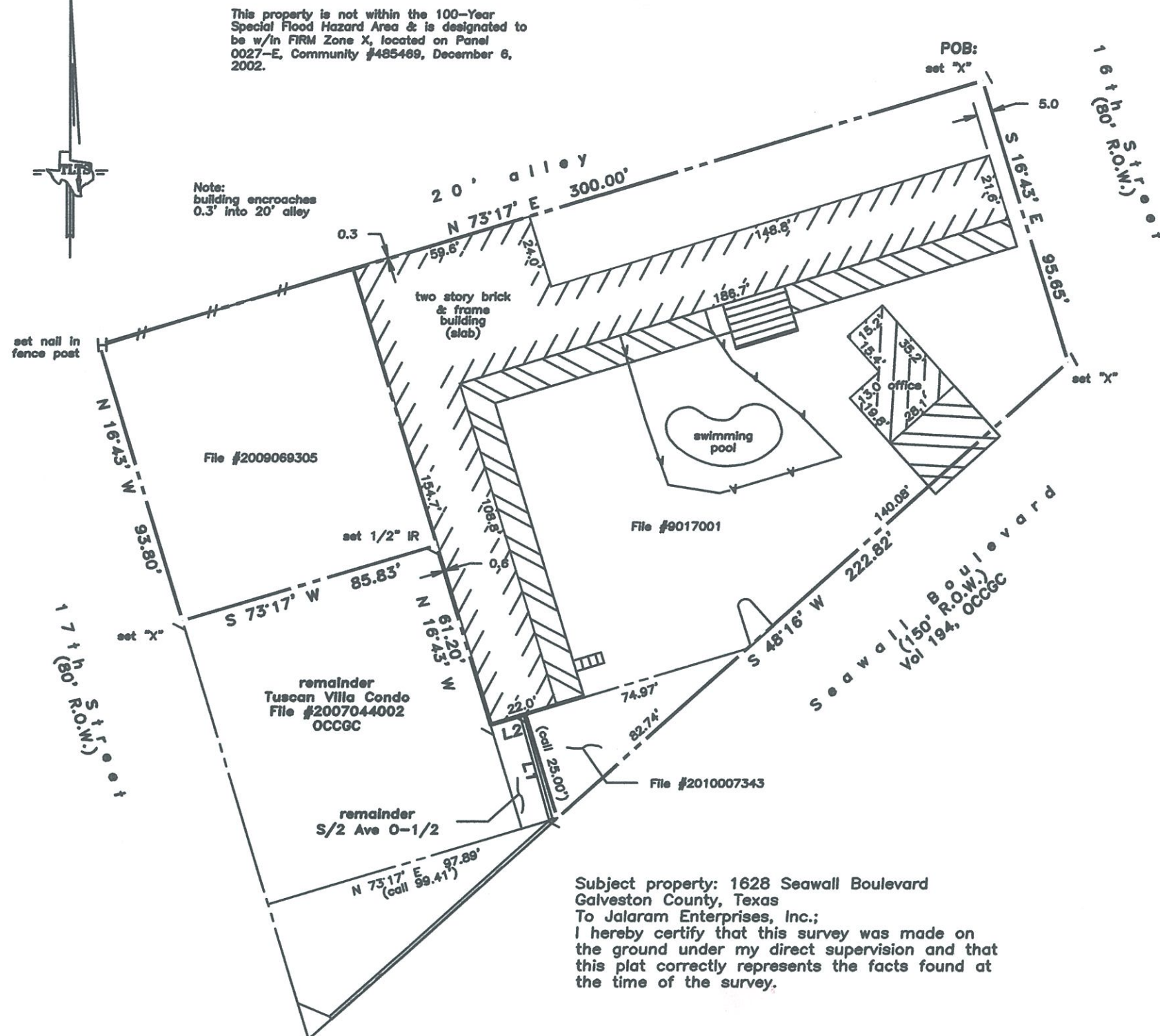
1711

1602

1628

Seawall Blvd





LAND TITLE SURVEY OF A TRACT OF LAND out of Outlot 71, in the City and County of Galveston, Texas, being en toto three tracts conveyed separately to Jalaram Enterprises, Inc., EN TOTO containing 0.890 acre (38,780 square feet) of land and being described as four tracts as follow:

BEGINNING at a set "X" at the intersection of the West line of 16th Street (80 foot width) and the South line of a 20 foot alley, being the northeast corner of the tract conveyed by Gene R. Jones, recorded under File #9017001, in the Office of the County Clerk of Galveston County, Texas (OCCGC);

THEN S 16° 43' E along 16th Street and the Jones tract, 95.65 feet to a set "X" at the intersection with the North line of Seawall Boulevard (150 foot width, Volume 194, OCCGC), being the southeast corner of the Jones tract;

THEN S 48° 16' W along Seawall Boulevard and the Jones tract, at 140.08 pass the South corner of the Jones tract, also being the East corner of a tract conveyed by the County of Galveston recorded under File #2010007343, OCCGC, continuing in all 222.82 feet to a set "X" for the South corner of the County tract;

THEN N 16° 43' W along the West line of the County tract, 35.00 (called 25.00) feet to a set 1/2 inch diameter steel reinforcement bar (1/2" IR) in the South line of the Jones tract, also being the centerline of the abandoned Avenue O-1/2 (70 foot width);

THEN S 73° 17' W along the centerline of the remaining portion of Avenue O-1/2 and the South line of the Jones tract, 12.06 feet to a set 1/2" IR for the southwest corner of the Jones tract;

THEN N 16° 43' W along the West line of the Jones tract, 61.20 feet to a set 1/2" IR for the southeast corner of a tract conveyed by Tuscan Lofts, LLC recorded under File #2009069305, OCCGC;

THEN S 73° 17' W along the South line of the Tuscan Lofts tract, 85.83 feet to a set "X" for the southwest corner of the Tuscan Lofts tract, in the East line of 17th Street (80 foot width);

THEN N 16° 43' W along 17th Street and the Tuscan Lofts tract, 93.80 feet to a nail set within an old 2 inch steel fence post for the northwest corner of the Tuscan Lofts tract, at the intersection with the 20 foot alley;

THEN N 73° 17' E along the alley, at 85.83 feet pass the North common corner of the Tuscan Lofts Jones tracts, in all 300.00 feet to the POINT OF BEGINNING, containing 0.890 acre (38,780 square feet) of land.

Scale: 1" = 40'

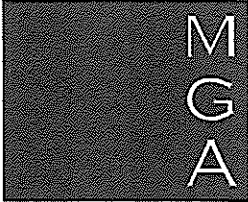
20 0 20 40 60 Feet

LINE	DISTANCE	BEARING
L1	35.00' (call 25.00')	N 16° 43' W
L2	12.06'	S 73° 17' W

Laurence C. Wall
RPLS #4814
May 6, 2010



TLTS, Inc.
TEXAS LAND TITLE SURVEYORS
1801 Moody Avenue
Galveston, Texas 77550
(409) 765-8863



MICHAEL GAERTNER ARCHITECTS
2200 MARKET ST., SUITE 501, GALVESTON, TX 77550
TEL 409.762.0500 FAX 409.407.4333 MGAIA.COM

This document dated AUG 5, 2015
authorized by Michael D. Gaertner, Sr.
(Reg. # 9342), is incomplete. Do not use for
regulatory approval, permit or construction.

**PRELIMINARY
NOT FOR CONSTRUCTION**

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Gaertner, Sr. Architect.

CONSULTANTS

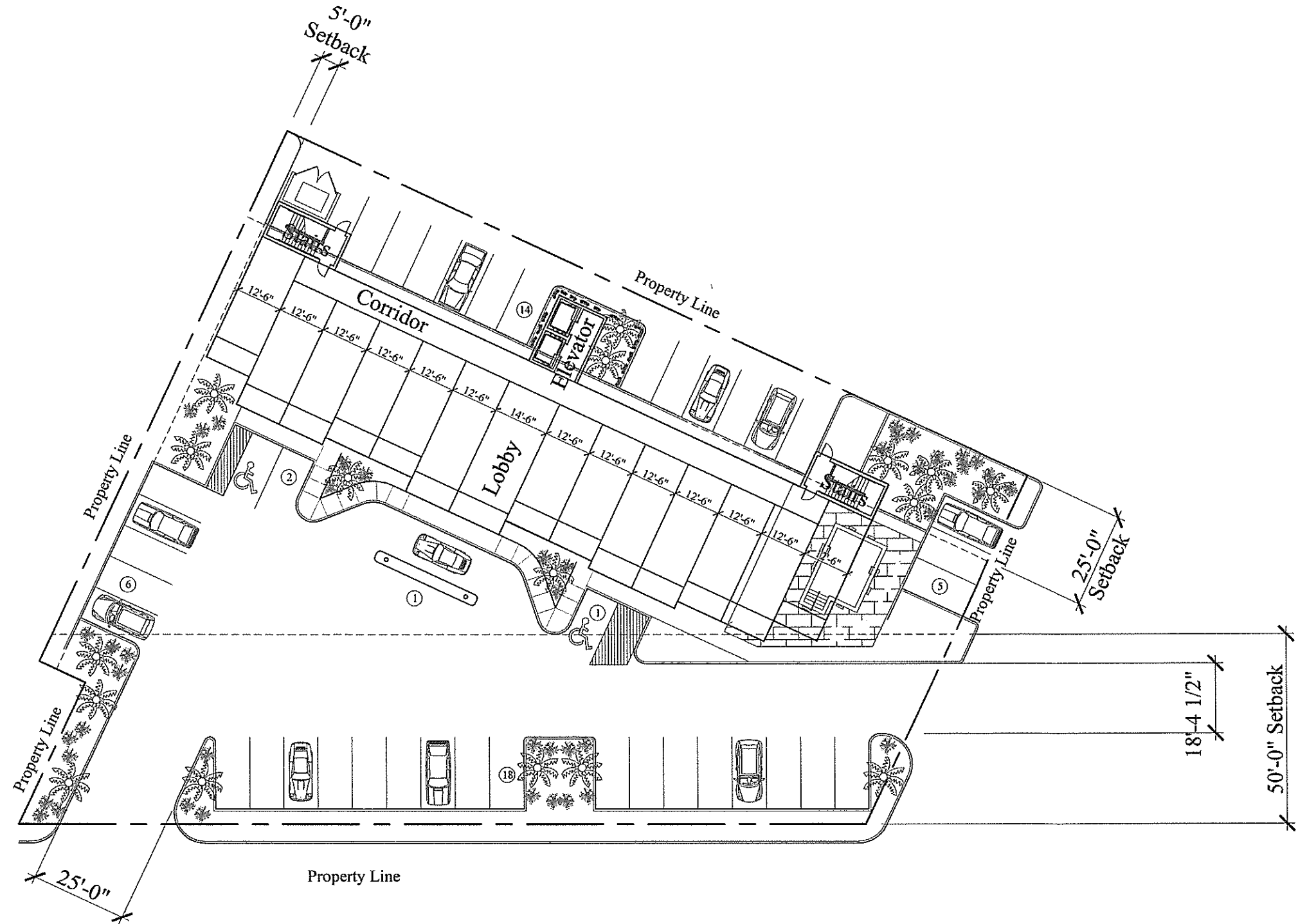
PROJECT NUMBER
111.111
PROJECT NAME
**1602 Seawall
of Galveston**

OWNER

REVISIONS		
No.	Date	Description

DRAWING NAME
Site Plan

SHEET NUMBER
SD 010



38 Parking Spaces
2 Accessible Parking Spaces

40 Total Parking Spaces

53 Rooms (14/Floor of 4 Floors)
5 Total Floors