



## **Notice of Public Hearing of the Hearing Officer of the City of San Luis**

### **AGENDA HEARING OFFICER MEETING SAN LUIS CITY HALL COUNCIL CHAMBERS 1090 E. Union Street San Luis, AZ 85349 Tuesday, November 1, 2016, 4:00 P.M.**

Pursuant to A.R.S. §38-431.02, notice is hereby given to the general public that the Hearing Officer will hold a meeting open to the public on November 1, 2016 at 4:00 p.m. at the San Luis City Hall Council Chambers, 1090 E. Main Street.

Notice is hereby given that pursuant to A.R.S. §1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the Hearing Officer are audio and/or video recorded, and as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent to Department of Development Services to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. §1-602.A.9 has been waived.

- 1. CALL TO ORDER**
- 2. ITEMS TO BE CONSIDERED** – the Hearing Officer will be considering a vote or action on the following cases. Any vote or action will be considered separately for each case.
  - 2. A.** Discussion and possible action on any and all matters regarding Minor Variance Case No. 2016-0522. A request by Adela Perez Padilla, property owner, for a minor variance to reduce the required front yard setback from 20 feet to 16 feet to allow the construction of a block wall of 6 feet high. The property is located at 1977 E. Monreal Lane, San Luis, Arizona.
- 3. ADJOURNMENT**

In accordance with the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, the City of San Luis does not discriminate on the basis of disability in the admission of or access to, or treatment or employment in, its programs, activities, or services. For information regarding rights and provisions of the ADA or Section 504, or to request reasonable accommodations for participation in City programs, activities, or services contact: ADA/Section 504 Coordinator, City of San Luis Human Resources Department, 1090 E. Union Street, P. O. Box 1170, San Luis, AZ 85349; (928) 341-8520.



## HEARING OFFICER AGENDA ITEM REVIEW FORM

### Hearing Officer Agenda

2. A.

**Meeting Date:** 11/01/2016

**Submitted By:** Jose A. Guzman, Assistant Planner, Planning & Zoning Department

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#### ITEM:

Discussion and possible action on any and all matters regarding Minor Variance Case No. 2016-0522. A request by Adela Perez Padilla, property owner, for a minor variance to reduce the required front yard setback from 20 feet to 16 feet to allow the construction of a block wall of 6 feet high. The property is located at 1977 E. Monreal Lane, San Luis, Arizona.

#### SUMMARY:

The purpose of the minor variance procedure is to allow for up to a maximum twenty percent (20%) variation from a development standard or dimension requirement of the zoning code where a practical difficulty, unnecessary hardship, or a result inconsistent with the general purposes of the rezoning code would occur from its strict, and literal interpretation, and enforcement.

Located at Bienestar Estates No. 6 Subdivision, the lot has an area of 6200 sq. ft. The current lot is zoned as Medium-High Density Residential (R-2), Assessor's Parcel Number 776-52-358. The property is developed as a residence. The applicant is requesting this variance to allow the construction of a block wall 6 feet high inside of the 20 feet front setback. This is to make space for a security gate to access the side patio of the house for a future construction of a pool.

#### AGENCY REVIEW:

City staff explained to the applicant the requirements and procedure of a minor variance. It was verified that the property-owner would be able to request a minor variance and that it would not need to go before the Board of Adjustments.

As part of the review process, all land use cases are reviewed by various City and outside agencies. We have received comments from the following agencies:

1. City of San Luis Fire Department (10-18-16)
2. City of San Luis Assistant City Attorney (10-18-16)

The City has not received any other significant concerns or objections from the various review agencies.

The Department of Development Services has reviewed the request and has the following comments:

1. Provided on the City of San Luis Zoning Ordinance Chapter 6- Multiple Residence Zoning Districts- Table No. 5. The front setback required for R-2 Zoning District is 20 feet. As per Section 14.9-A, in all districts a fence or wall or hedge may be erected or maintained at a height no greater than three feet six inches (3'6") within the required front or street side setback.

#### ANALYSIS:

A variance is not a right. It may be granted to an applicant only if the applicant establishes compliance with all of the hardship criteria established in A.R.S. §9-462.6 and in Section 3.5 (C) of the Zoning Ordinance.

Pursuant to State Statutes, the Board may not:

1. Make any changes in the uses permitted in any zoning classification or zoning district.

2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

The Zoning Administrator or Hearing Officer, upon finding that the variance request does not exceed a twenty percent (20%) reduction or increase in a development standard or dimension required by this code and can determine that the request complies with the four (4) hardship criteria established in Sec 3.5 (C) of this Ordinance, may approve the minor variance.

In the event the Zoning Administrator or Hearing Officer approves, approves with conditions or denies an application for a minor variance filed pursuant these regulations any person may appeal that decision in writing, including any required appeal fee, within fifteen (15) days of the decision and request that the minor variance be placed on the agenda of the next regularly scheduled Board of Adjustment meeting.

In all cases, the review shall address all of the following hardship criteria:

1. There exist special circumstances or conditions regarding the land or building referred to in the application, which do not apply to other properties in the zoning district.

*Staff does not find that there are any special circumstances or conditions relating to this request. The reason for this request can be resolve by changing the location of the wall to comply with the required setback.*

2. The above special circumstances or conditions are preexisting and are not created or self-imposed by the owner or applicant.

*There are no special circumstances or conditions. The conditions for the request were created by the property owner and should be corrected through redesign of the wall location.*

3. The variance is necessary for the preservation of substantial property rights. Without a variance the property cannot be used for purposes otherwise allowed in the zoning district.

*Staff does not find that the construction of this wall within the required setback is necessary to the preservation of substantial property rights. The owner can install the security door facing the street and respecting the required setback.*

4. The authorizing of the variance will not be materially detrimental to persons residing or working in the vicinity, to adjacent property, or to the neighborhood or the public welfare.

*The location and height of the wall has the potential of blocking vision of vehicular movement including neighbors using their driveway. As required by the Zoning Ordinance, written acknowledge from each adjacent property owner to the notification of the requested minor variance is necessary. City staff requested a total of three (3) signatures of adjacent property owners and received two (2) signatures, because one lot is vacant and the owner is unknown.*

**STAFF RECOMMENDATION:**

The applicant has provided the information and materials necessary for review of the request and for staff to make a recommendation.

Staff recommends **DENIAL** of Minor Variance Case No. 2016-522, a request by Adela Perez Padilla, property owner, for a minor variance to reduce the required front yard setback from 20 feet to 16 feet to allow the construction of a block wall of 6 feet high. The property is located at 1977 E. Monreal Lane, San Luis, Arizona.

**RECOMMENDED MOTION:**

**I MOVE TO DENY MINOR VARIANCE CASE NO. 2016-522**

Location Map

Site Plan

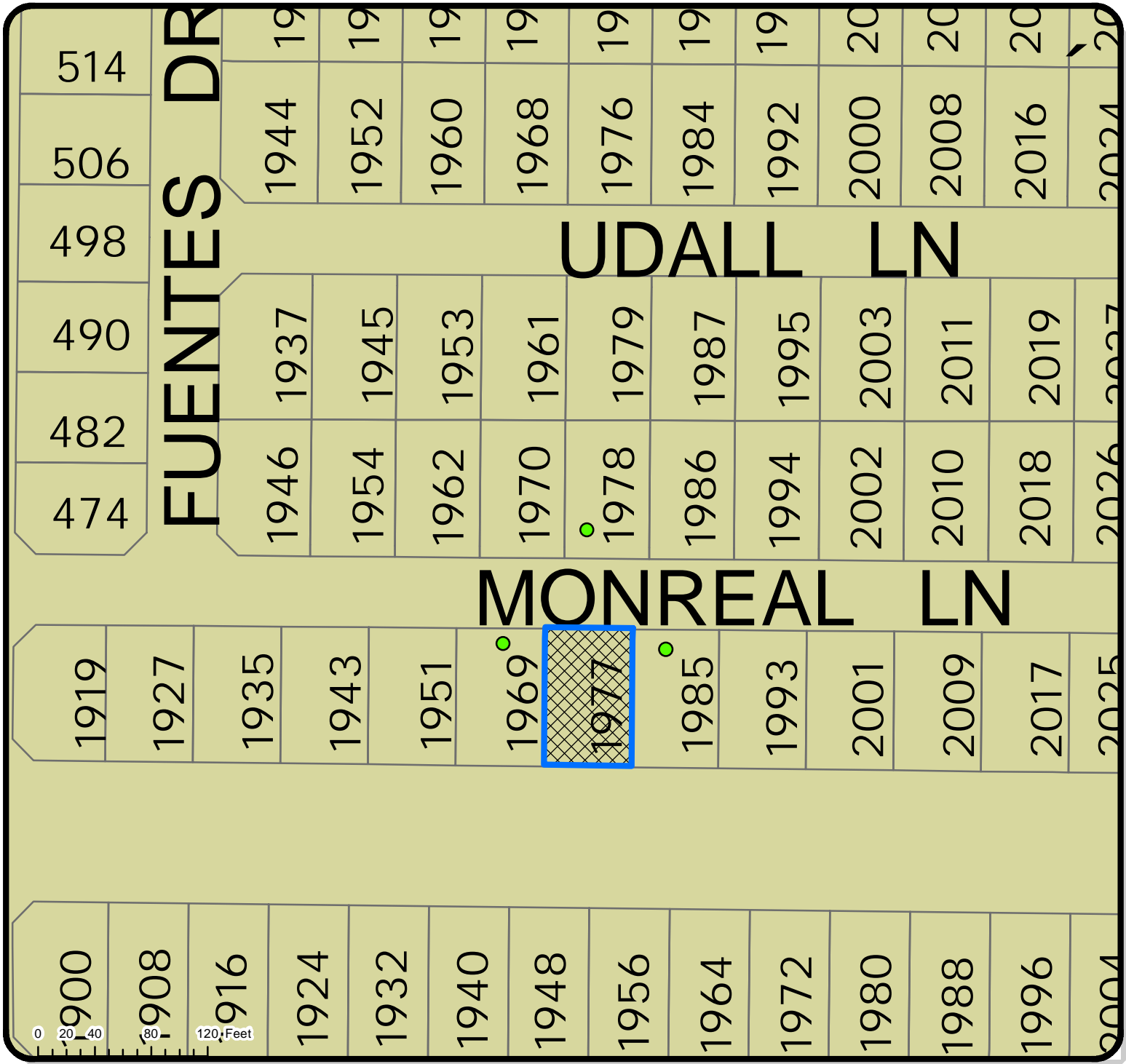
Request from property owner

Signatures from surrounding property owners

Fire Department Comments (10-18-16)

Assistant Attorney Comments (10-18-16)

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## Location Map

PROPOSED LOCATION

VARIANCE



1977 E MONREAL LN PID: 1477652358

● ADJACENT PROPERTY OWNERS

ZONING LEGEND

R-2

Date:

10/13/2016

Checked By:

JG



GIS DIVISION

Prepared By:

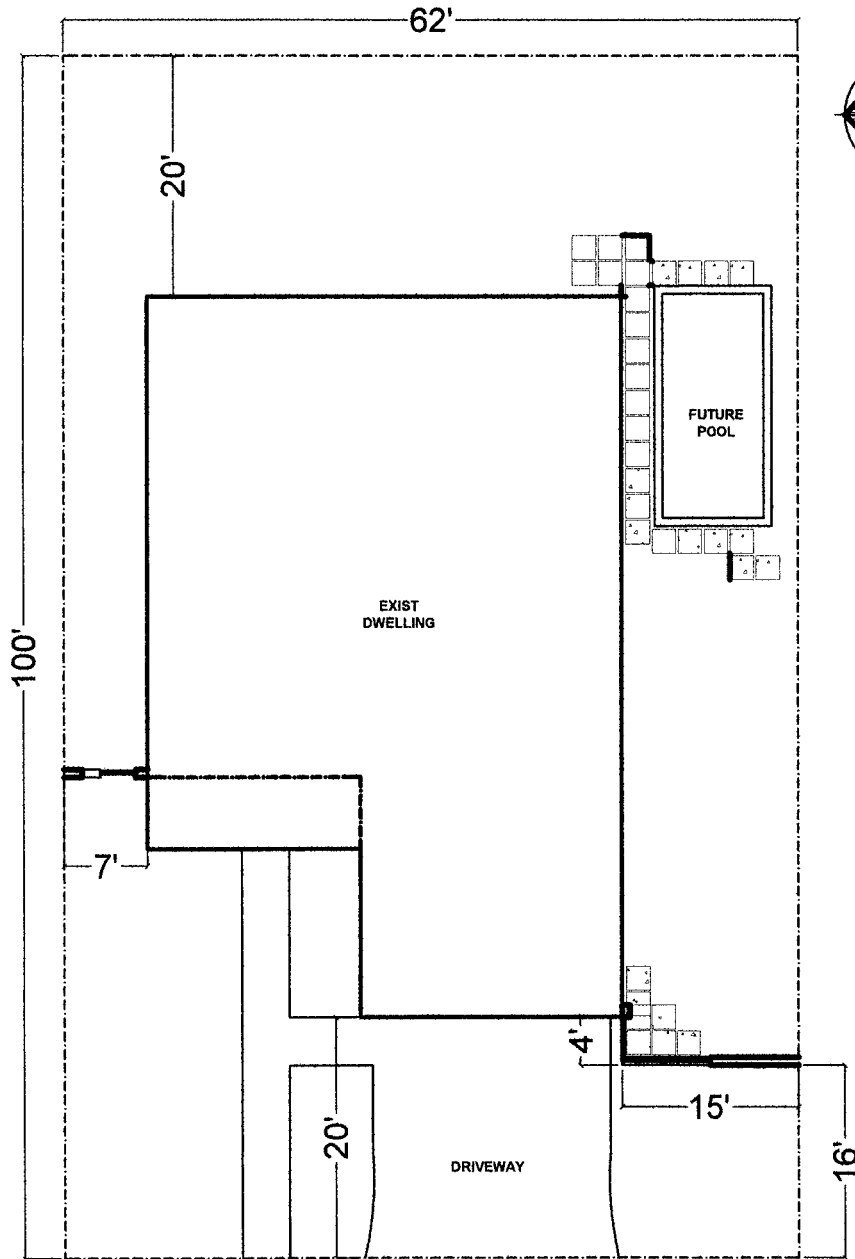
IG

APPROVED BY:

JS

Case No.

2016-0522  
Perez Padilla  
Front Fence



1977 MONREAL LN.  
SAN LUIS, AZ. 85349

**PLOT PLAN**  
SC. 1/16" = 1'-0"

ADELA PEREZ PADILLA,  
1977 MONREAL LN.  
SAN LUIS AZ. 85349

OCTUBER 5 2016

TO WHOM IT MAY CONCERN:

I'm applying for the permission to build a fence in the front of my property... the reason is that I need to build a block wall of 6' high in 4' inside of the 20' front setback.... This 4' have to made space for a security gate to access the side patio of my house where I'm planning to build a pool in the future.

Thanks and I look forward to hearing back from you soon.

Respectfully yours,



Adela Perez P.



# Minor Variance Acknowledgment Form

As provided in section 3.8-B.4, "Written acknowledgment to the notification of the requested minor variance(s) from each adjacent property owner, even if separated by a public right of way." The adjacent property owners must sign that they understand the variance request.

I, Adela Perez, own the property located at 1977 Monreal Ln

I am requesting a Minor Variance for the following: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A site plan is attached for review by the adjacent property owners.

**Adjacent Property Owners**  
We the undersigned adjacent property owners understand the variance requested by \_\_\_\_\_ as described above.

Name: <u>Empty lot</u> Address: <u>1969 Monreal Ln</u> Comments: _____ Date: _____ Signature: _____	Name: <u>MARTHA GARCIA</u> Address: <u>1985 Monreal Ln</u> Comments: <u>OK</u> Date: <u>10/06/2016</u> Signature: <u>MARTHA GARCIA</u>
Name: <u>ADALBERTO GRACIA</u> Address: <u>1978 Monreal Ln</u> Comments: <u>DE ACUARDO</u> Date: <u>10/06/2016</u> Signature: <u>adalberto Garcia</u>	Name: _____ Address: _____ Comments: _____ Date: _____ Signature: _____
Name: _____ Address: _____ Comments: _____ Date: _____ Signature: _____	Name: _____ Address: _____ Comments: _____ Date: _____ Signature: _____

I, \_\_\_\_\_, verify that I have discussed this proposal with my neighbors, above, and that they acknowledge this request.

Adela Perez  
Signature

10/06/2016  
Date



October 17, 2016

**MINOR VARIANCE CASE NUMBER: 2016-0522**

**CASE SUMMARY:** This is a request by Adela Perez Padilla, property owner, for a minor variance to allow the construction of a block wall of 6 feet high inside of the 20 feet front setback in the Medium-High Density Residential (R-2) Zoning District, Assessor's Parcel Number 776-52-358. The property is located at 1977 E. Monreal Lane, San Luis, Arizona.

**HEARING OFFICER MEETING: October 25, 2016**

**COMMENTS DUE: October 27, 2016**

Your comments on this case will help us prepare an accurate and timely staff report. Your comments on this case will be inserted "as is" into the staff report with your name, department, and telephone number, should the applicant have any questions. Your comments are a public record and will be available to the public, media, and the applicant, in addition to the Hearing Officer hearing this case. Please complete the section below and return via e-mail. For additional information please contact me at 928-341-8563, extension 2013, or at [jstarkey@cityofsanluis.org](mailto:jstarkey@cityofsanluis.org).

Thank you,

John Starkey  
Planning and Zoning Director  
Attachment: Location Map, and Site Plan

.....  
 COMMENTS       NO COMMENTS     

**Enter Comments below:**

The City of San Luis Fire Department has no comments at this time, final decisions regarding this request are best made by the Planning and Zoning Department.

**Date:**  
10/18/16

**Agency:**  
The City of San Luis Fire Department

**Phone:**  
928/341-8550

**Return to:** [rpacheco@cityofsanluis.org](mailto:rpacheco@cityofsanluis.org)

## Jose A. Guzman

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**From:** Roman Pacheco  
**Sent:** Tuesday, October 18, 2016 11:39 AM  
**To:** Jose A. Guzman  
**Subject:** FW: Request for Comments for Minor Variance Case No. 20106-0522

FYI

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**From:** Glenn Gimbut  
**Sent:** Tuesday, October 18, 2016 10:58 AM  
**To:** Roman Pacheco <[RPacheco@cityofsanluis.org](mailto:RPacheco@cityofsanluis.org)>  
**Cc:** Kay Macuil <[kmacuil@cityofsanluis.org](mailto:kmacuil@cityofsanluis.org)>; John Starkey <[JStarkey@cityofsanluis.org](mailto:JStarkey@cityofsanluis.org)>; Tadeo A. DeLaHoya <[tdelehoya@cityofsanluis.org](mailto:tdelehoya@cityofsanluis.org)>  
**Subject:** RE: Request for Comments for Minor Variance Case No. 20106-0522

From a true legal standpoint this one is not legally entitled to be granted. There is nothing unique to the land as this lot is the same as others, and it is one that is not needed for use of the lot as a single family dwelling, and is one that is self created.

That being said, I would want to be certain that the height of the wall does not block vision of vehicular movement including neighbors using their driveways.

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**From:** Roman Pacheco  
**Sent:** Monday, October 17, 2016 6:01 PM  
**Subject:** Request for Comments for Minor Variance Case No. 20106-0522

Good evening-

Please find attached request for comments form, and location map for your review. If you have any questions concerning this request, please contact the office of Planning and Zoning Department.

Thanks.

*Roman Pacheco*  
Planning Technician  
Planning & Zoning Department  
City of San Luis  
1090 E. Union Street | P.O. Box 3750  
San Luis, Arizona 85349  
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928.341.8599 Fax  
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