



## **Notice of Public Hearing of the Hearing Officer of the**

### **City of San Luis**

# **AGENDA**

**HEARING OFFICER MEETING  
SAN LUIS CITY HALL CONFERENCE ROOM 128  
1090 E. Union Street  
San Luis, AZ 85349  
Thursday, February 16, 2017, 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 February 16, 2017 at 4:00 p.m. at the San Luis City Hall Conference Room 128, 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. 2017-062. A request by Luis Valencia Flores, property owner, for a minor variance to reduce both side yard setback from 7 ft. to 6 ft. 2 in. west side and to 6 ft 6 in. on the east side. This request is to allow the construction of a new residence. The property is located at 390 N. Janet Napolitano Boulevard, 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:** 02/16/2017

**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. 2017-062. A request by Luis Valencia Flores, property owner, for a minor variance to reduce both side yard setback from 7 ft. to 6 ft. 2 in. west side and to 6 ft 6 in. on the east side. This request is to allow the construction of a new residence. The property is located at 390 N. Janet Napolitano Boulevard, 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. 9B Subdivision, the lot has an area of 5,393 sq. ft. The reason for this request is that the applicant already submitted plans for a building permit. The building permit was approved because the plans showed the house in compliance with the setbacks. At the time of the inspection before the foundation, the inspector noticed that the house did not meet the required setbacks.

#### 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 Adjustment.

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 (2-8-17)

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/corrections:

1. Provided on the City of San Luis Zoning Ordinance Chapter 6- Multiple Residence Zoning Districts- Table No. 5. The side setback require for R-2 Zoning District is 7 feet.

#### 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 Statues, 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. Bienestar 9B subdivision was designed as a curvilinear subdivision making the majority of lots in this subdivision have an odd configuration but with a generous size to construct a house.*

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 creating the request were created by the property owner and should be corrected through redesign of the plans.*

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.

*The Staff does not find that the construction of this dwelling with reduced setback is necessary to the preservation of substantial property rights.*

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.

*Any reduction of setbacks, even though some changes are minimal, increases the potential fire spread between structures. As required by the Zoning Ordinance, written acknowledge from each adjacent property owner of the requested minor variance is necessary. City staff requested a total of five (5) signatures of adjacent property owners, the applicant couldn't make contact with one property owner and the other four (4) lots are vacant.*

#### SUMMARY:

The applicant has provided the information and materials necessary for review of the request.

Staff recommends DENIAL of Minor Variance Case No. 2017-062, a request by Luis Valencia Flores, property owner, to reduce both side setbacks from 7 feet to 6 feet 2 inches and 6 feet 6 inches. The property is located at 390 N. Janet Napolitano Boulevard, San Luis, Arizona and is zoned as R-2 (Medium-High Density Residential).

The reason for DENIAL is that the request does not meet the criteria of the City of San Luis Zoning Ordinance for a Minor Variance.

#### **RECOMMENDED MOTION:**

**I MOVE TO DENY MINOR VARIANCE CASE NO. 2017-062**

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#### **Attachments**

Location Map

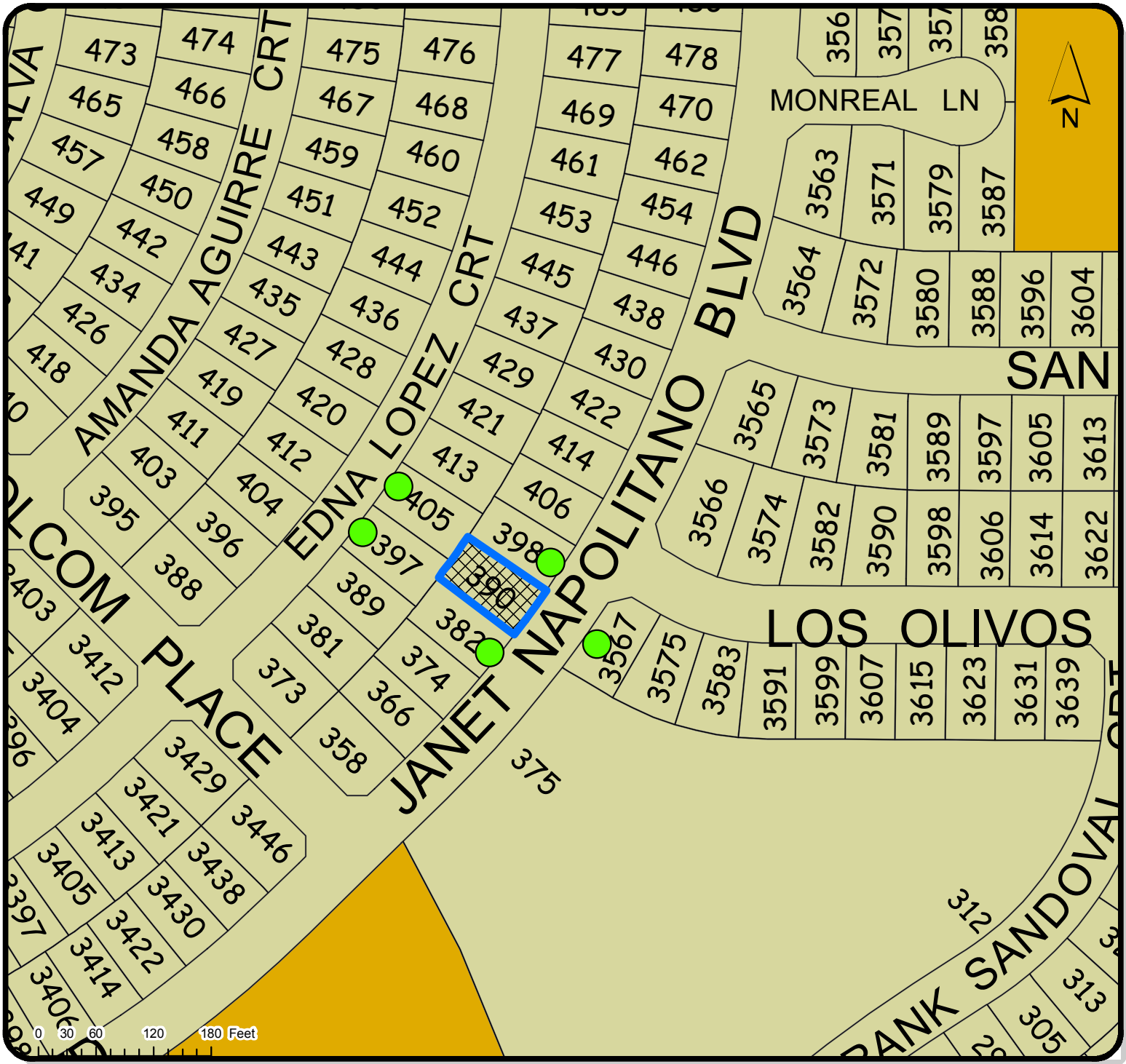
Site Plan

Picture of Location

Signatures from surrounding property owners

Fire Department Comments (2-8-17)

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# Location Map

PROPOSED LOCATION



PID: . 77752371- 390 N JANET NAPOLITANO BLVD

ZONING LEGEND

R-2

R-3



ADJACENT PROPERTY OWNERS

MINOR VARIANCE

Date:

2/7/2017

Checked By:

IT



GIS DIVISION

Prepared By:

IG

APPROVED BY:

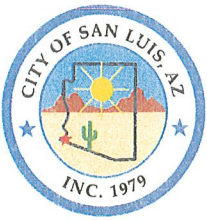
Case No.

2017-062  
FLORES  
RESIDENCE









## 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, Luis Valenzuela Flores, own the property located at 390 Janet Napolitano  
 I am requesting a Minor Variance for the following: the two corner on South  
Side of Lot Trias property line setback 6'6" 6'2"  
On Lot or Address 397 Edna Lopez  
el señor Ruben Simental dijo que el no sabia  
nada de que se refiere este documento y mostro total incapacidad  
 A site plan is attached for review by the adjacent property owners. de entender

**Adjacent Property Owners**

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

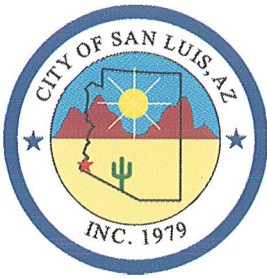
Name: _____ Address: <u>405, Edna Lopez Crt</u> Comments: <u>Vacant Lot</u> Date: _____ Signature: _____	Name: <u>Ruben Simental</u> Address: <u><del>338</del> Edna Lopez</u> Comments: <u>397</u> Date: <u>Unable to communicate with</u> Signature: <u>Owner</u>
Name: _____ Address: <u>382 Janet Napolitano</u> Comments: <u>Vacant Lot</u> Date: _____ Signature: _____	Name: _____ Address: <u>398 Janet Napolitano</u> Comments: _____ Date: <u>Vacant Lot</u> Signature: _____
Name: _____ Address: <u>3567 Los Olivos Dr</u> Comments: _____ Date: <u>Vacant Lot</u> Signature: _____	Name: _____ Address: _____ Comments: _____ Date: _____ Signature: _____

760  
425 31 68

I, Luis Valenzuela Flores, verify that I have discussed this proposal with my neighbors, above, and that they acknowledge this request.

Luis Valenzuela Flores  
 Signature

02-01-17  
 Date



February 7, 2017

**MINOR VARIANCE CASE NUMBER: 2017-062**

**CASE SUMMARY:** This is a request by Luis Valencia Flores, property owner, for a minor variance to reduce both side yard setback the west side from 7-feet to 6'2" and east side to 6'6" to build a new residence in the Medium-High Density Residential (R-2) Zoning District, Assessor's Parcel Number 777-52-371. The property is located at 390 N. Janet Napolitano Boulevard, San Luis, Arizona.

**HEARING OFFICER MEETING: February 16, 2017**

**COMMENTS DUE: February 14, 2017**

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 & Zoning Director  
Attachment: Location Map, and Site Plan

.....  
 COMMENTS       NO COMMENTS

**Enter Comments *below*:**

This request for a minor variance does not appear to preserve the side yard set-back requirements within subdivision regulation. While the City of San Luis Fire Department believes set-back requirements protect adjacent property and property owners, enforcement and/or final decisions regarding this request are best made by the Planning and Zoning Department.

**Date:**

08/08/17

**Agency:**

The City of San Luis Fire Department

**Phone:**

928/341-8550

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