

Item #1



Planning Department Executive Summary to the Eagle Pass Zoning Board of Adjustment and Appeals

Diana Aguirre Variance Request – 203 Medina Street

I. BACKGROUND

General Information

Applicant & Property Owner: Diana Aguirre

Property ID Number: 9810

Legal Description: Lot 12 in Block 10 of Hillcrest Addition

Parcel Size: 8,550-square feet

Current Use: multi-family development

Current Zoning: R3-A Apartment District

Master Plan: Residential

Request: Applicant seeks variances from *City of Eagle Pass Code of Ordinances Appendix A (Zoning Ordinance) Section 7.1(c)(1)(2) and (3)* regulating yard setbacks. Applicant seeks to (1) reduce the front yard building setback area from 25-feet to 20-feet, (2) reduce the side yard building setback area from 10-feet to 0-feet, and (3) reduce the rear yard building setback area from 16-feet to 5-feet, to allow the construction of carports on property located at 203 Medina Street.

II. CURRENT CONDITIONS

Infrastructure: Property is serviced by public utilities/franchises

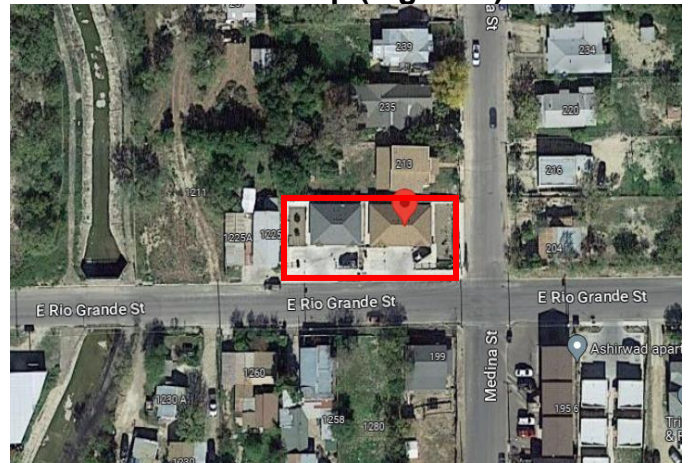
Vicinity: Property is bordered by single family dwellings, and multi-family developments.

Access to the site is provided by Rio Grande.

III. PUBLIC NOTICE

Public notification of the variance request before the Planning and Zoning Commission was completed consistent with the provisions of *Chapter 211 of the State of Texas Local Government Code Title 7*. Twenty-three (23) notices were mailed to the abutting property owners within a 200 feet radius of the subject property.

Aerial Map (Figure 1)



Street Views



IV. STAFF ANALYSIS

The applicant is seeking to reduce building setback areas, to allow for the construction of carports for their tenant's vehicles.

The proposed construction, as shown in the enclosed proposed Site Layout, does not meet the requirements set forth in Appendix A of the Zoning Ordinance, particularly *Section 7.1(c)(1)(2) and (3)* regulating yard setback areas. The Planning Department's major concern is that the structures will be encroaching the side yard setback and may cause a visibility concern if built too close to the right-of-way off Rio Grande, thus being a safety concern if not respected.

V. STAFF RECOMMENDATION

Staff recommends **DENYING** of the applicant's variance requests of a reduction of setbacks for 203 Medina Street, as it does not conform with the regulations set forth:

1. *Section 7.1(c)(1)(2) and (3)* regulating yard setback areas of Eagle Pass Code of Ordinances Appendix A- Zoning Ordinance, regulating front yard setbacks.

TRANSMITTED to the parties listed hereafter:

Diana Aguirre via regular mail
Eagle Pass Planning Department Report dated August 30, 2023

Attachment 1 Application

Application, photos of site, plot plan not scale, photos of other carports in the community, Code Section
You may remove this after all documents have been uploaded/enclosed



**City of Eagle Pass Planning Department
Zoning Board of Adjustment Appeal
to Eagle Pass Zoning Ordinance**

3295 Bob Rogers Drive
Eagle Pass, TX 78852
(830) 773-7781
planning@eaglepasstx.us
eaglepasstx.us

Project	Legal Description: <u>Hillcrest Addn, Block 10, Lot 12</u> Site Address: <u>203 Medina St, Eagle Pass, TX 78852</u> Acres: <u>.1963</u> Square feet: <u>8,865.5</u> Existing land use: <u>apartments</u>
Owner	Name: <u>Diana Aguirre</u> Phone: <u>(830) 776-1381</u> Address: <u>203 Medina St, B, E.P. TX 78852</u> E-mail: <u>dianaaguirre5569@gmail.com</u> City: <u>Eagle Pass</u> State: <u>TX</u> Zip: <u>78852</u>
Applicant If not owner	Name: _____ Phone: _____ Address: _____ E-mail: _____ City: _____ State: _____ Zip: _____ Relationship to owner: _____
Authorization	<p>To the best of your knowledge are there any deed restrictions, restrictive covenants, etc. which would prevent the utilization of the property in the manner indicated? Yes ___ No <input checked="" type="checkbox"/></p> <p>I certify that I am the actual owner of the property described above and this application is being submitted with my consent (included corporate name if applicable). Attach written evidence (i. e. corporate documents) of such authorization.</p> <p>I acknowledge that application and publication fees are non-refundable, and that incomplete applications will not be accepted or processed.</p> <p>If additional information or documentation is pending submittal before a deadline, the item is subject to be removed from the agenda and the applicant is subject to cover re-advertising fees.</p> <p>Signature: <u>Diana Aguirre</u> Date: <u>6-28-2023</u> Print Name: <u>Diana Aguirre</u> <input checked="" type="checkbox"/> Applicant <input type="checkbox"/> Authorized Agent </p>

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6/28/23
revised. HA

Board Action	Description:	
	<hr/> <hr/> <hr/>	
Office	Accepted by <u>ML</u> Payment received by <u>ML</u> Date <u>6/28/23</u>	
	Zoning Classification <u>R3A Apartment District</u> Case No. <u>9342</u>	<u>Revised 7/11/23 ML</u>

The commission may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the board shall prescribe only conditions that it deems necessary or desirable to the public interest. No such variance shall be granted unless the board finds that the applicant meets the following conditions.

Description of variance request: Reduce side setback from 10' to 0' to construct carports (18x20). Rear setback from 5 ft to 0 ft. Front yard setback from 25' to 18'
 *Corrections to reductions as authorized by applicant as follows: Rear setback from 16-feet to 5 feet, Front setback from 25-feet to 20 feet.

For each question, check yes or no and provide a detailed explanation.

1. Is the financial cost of compliance greater than 50 percent of the appraised value of the structure?
 Yes [] No [X] Explain: _____

2. Will compliance result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur?
 Yes [] No [X] Explain: _____

3. Will compliance result in the structure not following a requirement of a municipal ordinance, building code, or other requirement?
 Yes [X] No [] Explain: Not respecting side setback by 2 1/2 feet 0 feet. Rear setback from 5ft to 0ft. Front yard setback from 25' to 18'

4. Will compliance result in the unreasonable encroachment on an adjacent property or easement?
 Yes [] No [X] Explain: _____

* Rear setback from 16 feet to 5 feet and front setback from 25 to 20 feet

5. Does the municipality consider the structure to be a nonconforming structure?

Yes No Explain: Encroaching on side setback

6. Is the variance necessary for the preservation and enjoyment of a substantial property right of the applicant?

Yes No
Explain: Building carports to improve quality of life for tenants

7. Could the granting of the variance be detrimental to the public health, safety, or welfare, or injurious to other property in the area? Yes No

Explain: _____


VARIANCE APPLICATION CHECKLIST

APPLICATION COMPLETENESS REQUIREMENTS:

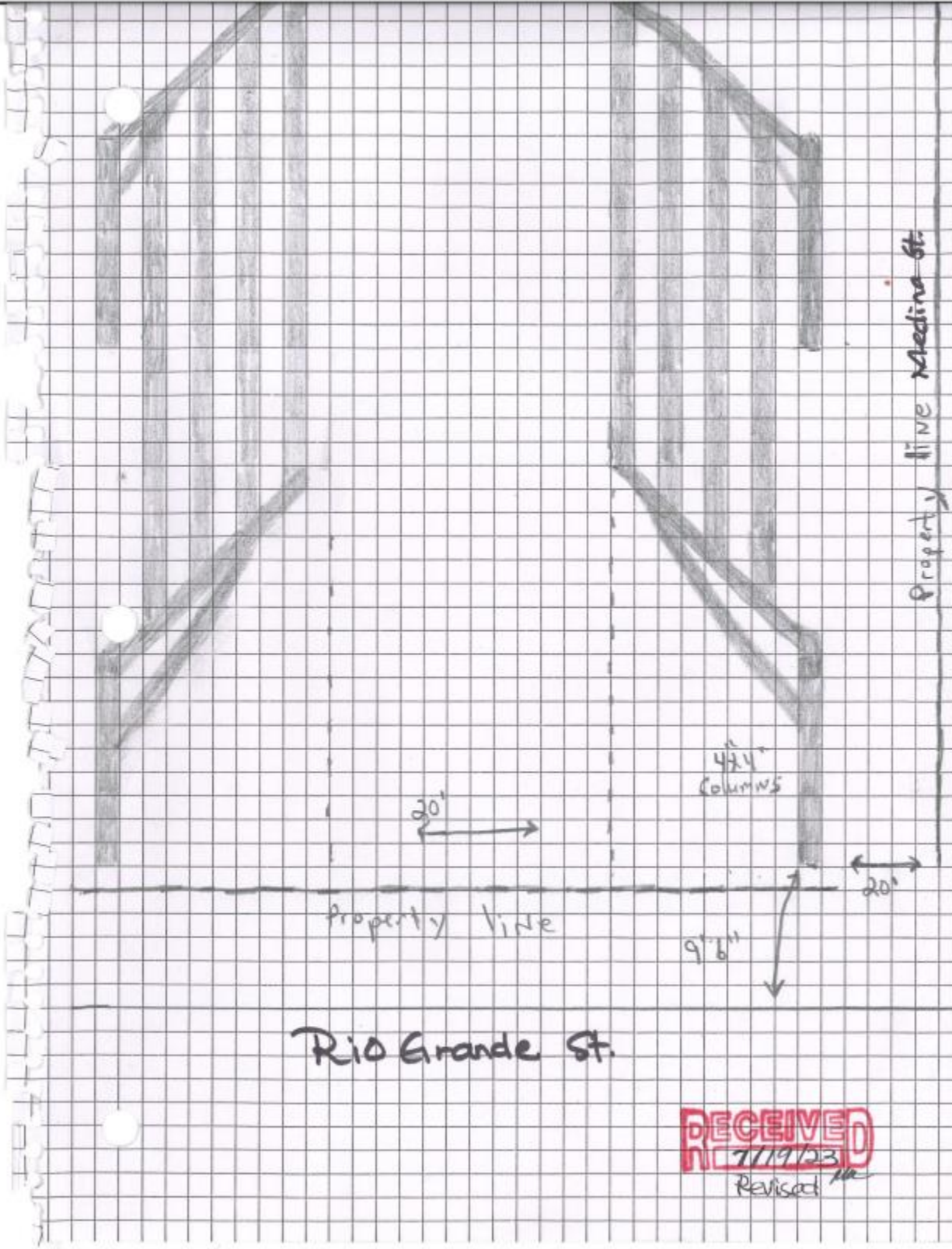
- Development Application signed by owner or notarized affidavit
- This checklist (signed by applicant/representative)

Applicant	Staff	Not Applicable	TECHNICAL REQUIREMENTS	
			Any application that is missing information will be considered incomplete and will not be processed.	
<input checked="" type="checkbox"/>			1	A scaled site plan of the subject property showing property dimensions, building locations, setback dimensions, and other applicable information.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		2	Application Fee of \$100.00 is due upon submittal. (Money order or check made out to City of Eagle Pass) A Publication Fee will be invoiced and collected before the meeting date. These fees are non-refundable.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	3	Notarized owner authorization letter if application is submitted by individual other than the property owner. Proof of ownership as follows: Estate documents (i. e. Probate, Affidavit of Heirship, Administration), copy of the recorded warranty deed or copy of a purchase contract, copy of lease agreement.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		4	Copy of subdivision restrictions for subject property, as recorded in the Maverick County Court House. If no subdivision restrictions are filed, a copy of the certificate of no restrictions will be required.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		5	Photographs of site, project, and adjacent areas deemed appropriate for justification. Prior construction history, as applicable to the situation.

NOTE: By state law public hearing notices shall be published in a newspaper with a second-class postage.


Applicant Acknowledgment

6-28-25
Date 7/19/23 revised



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7/19/23
Revised 1/24

Sec. 7.1 "R-3(A)" Apartment district.

The following regulations shall apply to the "R-3(A)" Apartment district:

- A. *Use regulations:* A building or premises shall be used only for the following purposes:
 - (1) Apartment houses or multiple-family dwellings.
 - (2) Institution of a religious, educational or philanthropic nature, with conditional use permit.
- B. *Height regulations:* No building shall exceed three (3) stories or forty (40) feet in height.
- C. *Yard regulations:*
 - (1) *Front yard.* There shall be a front yard along the front line of the lot. The minimum depth of such front yard shall be twenty-five (25) feet.
 - (2) *Side yards.* There shall be a side yard on each side of a building and shall not be less than five (5) feet in width. Where there is a corner lot, side yard shall not be less than ten (10) feet from the side of the building to the property line running adjacent to any street.
 - (3) *Rear yard.* The depth of the rear yard shall not be less than sixteen (16) feet in depth.

Item #2

ARTICLE VI. LANDSCAPE AND TREE PRESERVATION

Sec. 23-85. Purpose.

This chapter shall apply to the incorporated area of the City of Eagle Pass, Texas and is designed to preserve, protect, and enhance the ecological and aesthetic environments of the City of Eagle Pass as well as promote the pleasant appearance and character of neighborhoods and high intensity commercial and industrial corridors; provide shade and thus reduce water consumption.

This chapter is also intended to assist in preventing soil erosion, reducing the hazards of flooding, enhancing the absorption of carbon dioxide and the supply of oxygen, and to reduce the effects of noise, glare and dust generated by some land uses.

This chapter also promotes water conservation and water efficiency. To assist in ensuring adequate water supplies exist for Eagle Pass's future, it is important that water conservation be promoted in landscape watering policies. Water conservation should be promoted through techniques such as proper design, plant selection, education of the public, and the proper use of irrigation systems. This chapter promotes and encourages the planting of water-thrifty plants and other landscape materials for apartments, commercial and industrially zoned properties.

(Ord. No. 05-22, § 1, 8-2-2005)

Sec. 23-86. Definitions.

- (a) *General.* For the purpose of the administration and enforcement of this article and unless otherwise stated in this article the following words shall have a meaning as indicated herein; words used in the present tense shall include the future tense; words used in the singular number shall include plural number; and words used in the plural number shall include singular number; and the word "shall" is mandatory not directory.
- (b) *Miscellaneous definitions.*
- (1) *Applicant:* The owner or the agent, heir or assign of the owner, of the tract of land which is designated on a building permit application. If an agent has been appointed to represent the owner as applicant, the owner shall submit written authorization as part of the application.
 - (2) *Artificial lot:* An area within a contiguous tract or parcel held under common ownership and designated on the building permit application that is delineated by the city manager for the sole purpose of satisfying the requirements of this article.
 - (3) *Buffer tree:* An existing (or proposed) tree belonging to any of the species listed in Exhibit A-2.
 - (4) *Caliper:* The minimum diameter of a tree as measured six inches above natural ground level.
 - (5) *Developed area:* That portion of a commercial or multifamily residential tract of land upon which "landscape improvements" will be placed.
 - (6) *Encroachment:* Any protrusion of a vehicle outside of a parking space, display area or access way into the required landscaped improvements.
 - (7) *Frontage:* Lineal distance measured along all abutting street rights-of-way.

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- (8) *Grandfathered tree*: Any tree which was growing on the site before the start of designing the development and which is proposed to remain after completion of the development and which is not proposed to be transplanted.
 - (9) *Ground cover*: An existing (or proposed) plant belonging to any of the species listed in Exhibit A-4.
 - (10) *Historic*: Any tree found to have been associated with any person, place or event that has been or is likely to be designated in a historic character (age is an important criterion in historic designations).
 - (11) *Landmark*: Any tree found to be associated with any more recent event of profound character (i.e. first tree planted at an important event such as Arbor Day).
 - (12) *Landscape improvement*: Any tree, shrub, ground cover, vine, grass, other approved plant, grandfathered plant, approved mulch, approved landscaping rock, approved paver, and/or approved fountain installed in a planting area for the purpose of fulfilling the requirements of this article (and shall not mean artificial plant or concrete/asphalt sidewalk).
 - (13) *Landscape plan*: The plan(s) or revision of plan(s) that detail(s) the landscaping to be installed as required by this article.
 - (14) *Landscape screen*: A fence, tree, or shrub installed for the purpose of providing screening between residential and non-residential districts.
 - (15) *Maintain*: To ensure the proper growth, vitality, and vigor of "landscape improvements" and to display such improvements in accordance with the letter and the spirit of this article at all times.
 - (16) *Multifamily residential*: Any site occupied by three (3) or more families living independently of each other.
 - (17) *Nonresidential*: Of or relating to property that is zoned to an Apartment "F" classification or zoned to a less restrictive classification.
 - (18) *Owner*: Any person or legal entity with an interest in land, or a lessee, agent, employee or other person acting on behalf of the owner with the owner's authorization.
 - (19) *Parking-lot tree*: Either a "grandfathered tree" or a tree belonging to any of the species listed in Exhibit A-1.
 - (20) *Parking lot*: Any paved, surfaced, or leveled area designed and ordinarily used for accessory or public parking of motor vehicles, including commercial parking of motor vehicles, commercial parking available for lease and leased premises available for public parking as defined by applicable city ordinance.
 - (21) *Passenger vehicle*: A motor vehicle for which a class C driver's license is required by the state (and which is not being offered for sale on the site of the regulated parking space).
 - (22) *Rare*: Any of the many rare species regardless of their association with the Endangered Species Act (i.e. Sabal palm, Runyon tree, etc.).
 - (23) *Removal*: Any overt act which causes (or may reasonably be expected to cause) a plant to die by use of any chemical, machinery, tool, construction, soil compaction, substantial change in the grade (decreasing or increasing water/air supply), girdling, excessive pruning, or paving with any plant-injuring material.
 - (24) *Residential*: Of or relating to property that is zoned to a dwelling/retail "R-2" classification or zoned to a more restrictive classification.
 - (25) *Road*: Street (wider than twenty-five (25) feet) and/or alley (twenty-five (25) feet or less).

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- (26) *Road right-of-way*: A public and/or private road right-of-way or a public and/or private road right-of-way easement.
 - (27) *Shrub*: An existing (or proposed) plant belonging to any of the species listed in Exhibit A-3.
 - (28) *Significant vegetation*: Any tree with a caliper nine (9) inches or greater (except palm), any *Sabal texana* with a trunk taller than ten (10) feet, any other palm with a trunk taller than twenty (20) feet, and all vegetation listed as historic, landmark, or rare (except *Sabal texana*).
 - (29) *Site*: The tract of land that is designated on a building permit application; or if designated, an artificial lot contained therein and delineated by the city manager, together with all contiguous tracts or parcels of land held under common ownership and any existing buildings and appurtenant parking.
 - (30) *Street right-of-way*: A public and/or private street right-of-way or a public and/or private street right-of-way easement.
 - (31) *Tree*: A species of woody perennial plant (including palm) that usually has a single, elongate main stem generally with few or no branches on its lower part and which usually grows to a mature height of at least twelve (12) feet.
 - (32) *Valuable*: Any tree of at least ten (10) years of age.

(Ord. No. 05-22, § 1, 8-2-2005)

Editor's note(s)—The exhibits referenced in § 23-86 have not been included herein, but are on file for inspection in the office of the city secretary.

Sec. 23-87. Scope.

- (a) *Scope*. The provisions of this chapter shall be interpreted and applied as the minimum requirements for landscaping in the City of Eagle Pass.

The City of Eagle Pass experiences frequent droughts and is in a semi-arid climate zone; therefore, it is a purpose of this chapter to encourage the use of drought resistant plants and landscaping techniques that do not consume large quantities of water. Plants native to Southern Texas/Coahuila Desert are recommended. See Preferred Plant List, Appendix A.

The terms and provisions of this chapter shall apply to real property as follows:

- (1) All new residential, commercial, and industrial property.
 - (2) Any existing building that is replaced with a use requiring landscaping under this chapter;
 - (3) Expansion of an existing development whose gross floor area is twenty-five thousand (25,000) square feet or more; and
 - (4) Any development that changes its use from an excepted use to any use requiring landscaping under this chapter.
- (b) *Exemptions*. The provisions of this chapter shall not apply to the following:
 - (1) Property zoned as the Central Business District; however, parking areas and right-of-ways in the Central Business District shall conform to the requirements of this chapter; and
 - (2) Properties developed in accordance with a previously approved site development plan or subdivision plat approved by the city prior to the date of adoption of this chapter;
 - (3) Expansion of an existing development when the existing landscaping within the development would satisfy the requirements of this chapter if the entire development were treated as a new development.

(Ord. No. 05-22, § 1, 8-2-2005)

Editor's note(s)—Appendix A, Preferred Plant List, referenced above has not been included herein, but is on file for inspection in the office of the city secretary.

Sec. 23-88. General requirements.

- (a) *Installation.* Landscaping shall consist of an appropriate combination of deciduous and evergreen trees, shrubs, vines, and/or ground cover (including grass). A minimum of three (3) inches of gravel or shredded hardwood mulch shall be added in a non-turf area to the soil surface after planting. Non-porous material, such as sheet plastic, shall not be placed under the mulch. All landscape materials shall be installed according to acceptable landscape standards. Landscape plantings on city right-of-way is strictly prohibited.
- (b) *Maintenance.* The current owner and subsequent owners of the landscaped property or the manager or agent of the owner shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this chapter.
- (c) *Irrigation standards.* One of the following irrigation methods shall be used to ensure survival of the required plant material in landscaped areas:
 - (1) *Conventional system:* An automatic or manual underground irrigation system that may be a conventional spray or bubbler type heads.
 - (2) *Drip or leaky-pipe system:* An automatic or manual underground irrigation system in conjunction with a water-saving system such as a drip or a leaky pipe system.
 - (3) *Temporary and above-ground watering:* Landscape areas utilizing xeriscape plants and installation techniques, including areas planted with native grasses, wildflowers and trees may use a temporary and above-ground system, and shall be required to provide irrigation for the first three (3) growing seasons.
 - (4) *[Backflow prevention device, irrigation heads and spray heads:]* When using a potable irrigation water source, an approved backflow prevention device shall be installed in accordance with the city plumbing code. Such device shall be in a pressure vacuum breaker or a reduced pressure detection assembly as appropriate for the project location.

Irrigation heads adjacent to any on site curbs sidewalks or paved areas shall be installed flush with the finished grade.

Spray heads shall not be installed within three (3) feet of public street curbs or street edges, or in areas less than four (4) feet wide.
 - (5) *Natural and undisturbed areas:* No irrigation shall be required for undisturbed natural areas or undisturbed existing trees.
- (d) *Planting criteria.*
 - (1) *Trees.* Trees shall be a minimum of two (2) inches in caliper measured three (3) feet above finished grade immediately after planting. If trees are proposed that are not chosen from the Preferred Plant List provided in Appendix A, trees shall have an average mature crown greater than twenty (20) feet in diameter. Trees having an average mature crown less than twenty (20) feet in diameter may be substituted by grouping the same so as to create at maturity the equivalent of a twenty (20) foot diameter crown if the drip line area is maintained.

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- (2) *Shrubs, vines and ground cover.* Shrubs, vines and ground cover planted pursuant to this chapter shall be good, healthy nursery stock. Shrubs must be, at a minimum, a one (1) gallon container size.
 - (3) *Lawn grass.* Grass areas should be planted in drought resistant species normally grown as permanent lawns, such as Bermuda or Buffalo grass. Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales or other areas subject to erosion. Grass or turf areas may be replaced with decorative rock or gravel material as a water saving technique.
 - (4) *Synthetic lawns or plants.* Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this chapter.
 - (5) *Other.* Any approved decorative aggregate or pervious brick pavers shall qualify for landscaping credit if contained in planting areas, but no credit shall be given for concrete or other impervious surfaces.
 - (6) *Requirements in specific zonings.* Residential zones listed below must meet the tree specifications outlined.
 - a. *R-1 first one-family district.* Lots zoned R-1 must have at least two (2) trees with at least one (1) in the front yard.
 - b. *All other one-family residential districts.* Lots within all other one-family districts including, but not limited to R-2 second one-family district, R-3 duplex dwelling district, and R-4 townhouse residence district must have at least one (1) tree in the front yard.
 - c. Location of trees must avoid encroachment of property structures and adjacent property by the mature canopy.

(Ord. No. 05-22, § 1, 8-2-2005; Ord. No. 2020-02 , § 5, 1-7-2020)

Editor's note(s)—Appendix A, Preferred Plant List, referenced above has not been included herein, but is on file for inspection in the office of the city secretary.

Sec. 23-89. Landscape plan requirements.

- (a) *Submittal of plan.* The landowner or his/her agent shall submit and receive approval of a landscape plan demonstrating compliance with the landscape requirements contained herein. Plans shall show location and size of required landscaped areas, all dimensions, types of materials, size and spacing of vegetative materials, and plans for providing irrigation to plants. The plan(s) shall demonstrate that landscaping materials will:
 - (1) Abate objectionable noise, light, glare, visual clutter, dust or loss of privacy.
 - (2) Adequately accomplish the purpose of which they were intended.
- (b) *Required site landscaping.*
 - (1) Minimum percentage.

Non-corner sites: Shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.075 to determine the required landscape area along the primary street frontage.

Corner sites: Along the primary street, shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.075 to determine the required landscape area along the primary street frontage. Along the secondary street(s), shall be determined by site frontage along a street, multiplied by site depth (at its deepest point, up to a maximum of two hundred (200) feet) multiplied by 0.050 to determine the required landscape area along the secondary street frontage.

In no case shall the front landscape area be less than ten (10) feet in width.

- (2) Undeveloped portions of a tract or lot shall not be considered landscaped, except as specifically approved by the BA.
- (3) A minimum percentage of the total lot area of property on which development or new construction occurs after the effective date of this chapter shall be devoted to landscape development in accordance with Table 5.1. The landscaping shall be placed upon that portion of a tract or lot that is being developed. Fifty (50) percent of the required landscaped area and required plantings shall be installed between the front property lines and the building being constructed.
- (4) For every six hundred (600) square feet of landscape area required by Table 5.1, two (2) trees and four (4) shrubs shall be planted.
- (5) Should a tree die or be removed for which credit has been obtained pursuant to the terms of this chapter, landscape development sufficient to equal the area credited shall be required. A small tree that will have a mature crown similar to the tree removed may be substituted if the planting area or pervious cover provided for the larger tree is retained.
- (6) Land use landscaping required (percent of constructed impervious coverage of the lot) shall be as shown in Table 1 below. Frontage landscape may be credited towards fulfilling the requirements of this section.

Table 1. Required Landscaping

Land Use	Landscaping Required (% of constructed impervious coverage of the lot)
Multifamily structures	20
Manufactured home park	20
Office and professional uses	20
Institutional	20
Commercial	15
Industrial or manufacturing	15

- (c) *Credit for existing trees.* In order to reward the preservation of existing trees, one hundred (100) percent of the crown area of undisturbed existing trees shall be reduced from the landscape area requirements; provided that the area surrounding the tree is left undisturbed and that this area consists of a least one hundred (100) square feet but not less than fifty (50) percent of the crown area.
- (d) *Screening.* Off-street loading spaces, refuse and outside storage areas, antennas, satellite dishes, and mechanical equipment within the street yard must be screened from all public streets. The screening must be of a minimum of six (6) feet in height or a height sufficient to obscure the area or equipment requiring the screening, whichever is less. The screening may be provided by plants, a solid screen fence or wall, or a combination thereof.
 - (1) *Acceptable landscape screening materials.*
 - a. No artificial plant materials may be used to satisfy the requirements of this chapter.
 - b. Plant materials required by this chapter must comply with the following minimum size requirements at the time of installation. At time of planting, plant height shall be measured from the top of the root ball or, if the plant is in a container, from the soil level in the container.
 1. Large trees must have a minimum caliper of two (2) inches and shall be planted in an area with a minimum of one hundred (100) square feet of permeable surface area. This area

may be reduced to fifty (50) square feet if a permanent life support system, which must include but is not limited to an irrigation system and an internal drainage mechanism, is incorporated within the planting area.

2. Small trees must have a minimum height of six (6) feet and shall be planted in an area with a minimum of twenty-five (25) square feet of permeable surface area.
 3. Large shrubs must have a minimum height of two (2) feet and must be planted in an area with a minimum of nine (9) square feet of permeable surface area. The permeable surface areas for shrubs may be included within permeable surface areas required for trees.
- c. Each large tree, small tree or large shrub must be planted at least thirty-six (36) inches away from any paved surface or city right-of-way.
- (2) *Protection of plant areas.* Plant areas must be protected from vehicular traffic through the use of concrete curbs, wheel stops, or other permanent barriers.

(Ord. No. 05-22, § 1, 8-2-2005)

Sec. 23-90. Landscape plan submittal, review and approval.

- (a) *Plan submittal.* A landscape plan must be submitted to the director of planning or his/her designee with the application for a permit for new construction. The director of planning must approve the plan before a building permit is issued for the work. A landscape plan shall consist of two (2) sets of prints drawn to scale with sufficient clarity to indicate the location, nature and extent of the work proposed, and shows in detail that it conforms to the requirements of this chapter. A landscape plan shall contain the following information:
- (1) Project name, street address, legal description, date, scale, north arrow and the names, addresses and telephone numbers of both the property owner and the person preparing the plan.
 - (2) Designation of zoning areas adjacent to property.
 - (3) A vicinity map, location of lot lines, and dimensions of the building site and the street yard.
 - (4) Approximate center lines of existing water courses and the location of the 100-year floodplain; approximate location of significant drainage features, and the location and width of existing and proposed streets and alleys, utility easements, driveways and sidewalks on or adjacent to the lot.
 - (5) Identification, location, and dimensions of required plant materials, screening, and off-street parking and loading spaces within the street yard.
 - (6) Description of plant materials shown on the plan, including names (common and botanical), quantities, container or caliper sizes at installation, heights, spread, and spacing.
 - (7) Description of proposed irrigation methods.
- (b) *Issuance of building permit.* The director of planning shall review the landscape plan to verify compliance with all requirements of this chapter prior to the issuance of a building permit. All landscape plans must comply with the mandatory provision of this chapter. The building permit shall not be issued for new construction of a building within the city unless the director of planning approves the landscape plan verifying that the applicant's plan complies with this chapter.

The building official shall issue no final certificate of occupancy for the occupancy of a new building unless all plant and screening materials required by this chapter have been provided. Prior to the issuance of a certificate of occupancy, the building official shall inspect the building site to verify compliance with the approved landscape plan.

(Ord. No. 05-22, § 1, 8-2-2005)

Sec. 23-91. Tree preservation and protected trees.

This section preserves and protects existing, healthy and desirable trees within the City of Eagle Pass, to provide guidelines for the protection of trees and establish guidelines for planting trees. Any existing tree greater than six (6) inches in caliper size, including alamo (cottonwood), mesquite and huisache trees, shall be preserved, unless replaced by new trees under the provisions of this chapter, or unless a tree removal permit is granted as described below.

- (a) *Preliminary development plans.* A general survey of natural vegetation showing tree groupings and anticipated protected tree losses shall be submitted with all preliminary site plans.
- (b) *Tree removal permit.* No person directly or indirectly, shall cut down, destroy, top-off, remove or effectively destroy through damaging, any protected tree six (6) inches in diameter or larger, measured twenty-four (24) inches from the ground on any commercial, industrial or multi-family property within the city without first obtaining a tree removal permit as provided by this section.
 - (1) Permit required. Protected trees shall not be removed prior to the issuance of a tree removal permit until the director of planning or authorized designee, approves the removal due to the following:
 - a. Said tree(s) are injured, dying, diseased or infested with harmful insects;
 - b. Are in danger of falling, interfere with utility service or create unsafe vision clearance; or
 - c. In any manner create a hazardous or dangerous condition so as to endanger the public health, welfare or safety.
 - (2) Utility companies shall be exempt from authorization of the director of planning when public health, welfare or safety of the general citizenship is in danger.
 - (3) Clear cutting prohibited without permit. Under no circumstances shall the clear-cutting of protected trees six (6) inches or larger in diameter, measured twenty-four (24) inches from the ground on any property, other than single-family homesites, be allowed prior to the issuance of a tree removal permit of said property. Any protected tree removed will be required to follow the guidelines of this chapter.
- (c) *Penalties.* If any protected tree(s) are removed from any property, excluding single-family homesites, including any injury to a tree resulting from the owner's failure to follow required tree protection measures that causes or may reasonably be expected to cause the protected tree to die, the property owner shall be determined to be in violation of this chapter.
- (d) *Application.* Tree removal permits shall be obtained by making application to the community development department on a form provided by the city. Upon receipt of a proper application for a tree removal permit, the director of planning or his/her designee shall review the application and may conduct field inspections of the development.

The application for tree removal permit, if required, shall be considered an integral part of the application for development plan approval, and no new development plan for any new development subject to the terms and provisions of this chapter shall be approved without approval of said tree removal permit.

(Ord. No. 05-22, § 1, 8-2-2005)

Sec. 23-92. Parking lots.

- (a) All parts of a parking area or lot not occupied by parking spaces or driveways shall be landscaped with decorative rock or sand, turf, shrubs, ground cover, and/or paved pedestrian paths. The following additional requirements are intended not only to improve the appearance of large paved areas, but also to provide for adequate circulation and drainage; and to help moderate wind, noise, and temperature extremes.
- (1) All outdoor parking areas having spaces for more than ten (10) vehicles shall have landscaping within the perimeter of the parking area equal in area to not less than five (5) percent of the total paved area.
 - (2) No parking space shall be located more than fifty (50) feet from a portion of the required landscaping.
 - (3) One tree of at least two (2) inch caliper in size shall be provided within the perimeter of the parking area for each two hundred fifty (250) square feet of landscaping required.
 - (4) Required or provided landscaping shall not obstruct the view of any vehicle backing areas or turning areas in a way so as to create a hazard.
 - (5) All required or provided landscaping and trees shall be maintained in a clean, safe, and healthy condition.
 - (6) The landscaping required in this section shall be provided in addition to the screening requirements of section 23-89(d) of this chapter.
 - (7) The requirements of (1) (2) and (3) of this section do not apply to vehicle display, storage or loading areas for businesses which sell or service vehicles, farm equipment, or for commercial or industrial parking areas intended specifically for trucks having a rated capacity of twenty-six thousand (26,000) pounds gross vehicle weight or more.

(Ord. No. 05-22, § 1, 8-2-2005)

Sec. 23-93. Appeals.

When the director of planning or his/her designee does not approve a landscape plan, irrigation plan, tree removal request, or the installation or removal of these improvements, the owner or duly authorized representative may appeal that decision to the City of Eagle Pass Board of Adjustment (BA). The BA may only grant exceptions to this chapter for the following circumstances:

- (1) For in-fill development when surrounding landscaping or prevailing practices in the vicinity, if superior to the minimum standards required by this chapter, dictate different standards than those contained in this chapter.
- (2) When the requirements of this chapter create a safety hazard as determined by the BA.

The BA may only grant exceptions when the applicant has provided evidence sufficient to show that the proposal meets or exceeds the purpose of this chapter. Granting of a request for alternative compliance as provided in this chapter shall not have the effect of nullifying the intent and purpose of this chapter. Special conditions may be imposed by the BA where necessary to assure conformity with the purpose and intent of this chapter.

(Ord. No. 05-22, § 1, 8-2-2005)