

Applicant requests a Variance from Section 20.12.040 E.2., Side and Rear Yard Regulations, in an R-2/c/sp zone.

This would permit the existence of a new residence with a roof overhang that encroaches 4.25' into the southerly side yard setback.

Roof overhangs may project a distance not to exceed 24 inches (2 feet) into the required side yard. The required side yard setback is 6' in this R-2/c/sp (Light Density Residential) zone.

BACKGROUND

The applicant is seeking a Variance from the Zoning Code regulations regarding permitted roof overhangs. Special Permit No. 91-25 granted a side setback of 6', reduced from the required 8' for the R-2 zone, for this subdivision. The site plan submitted with the building permit application conforms to the required setback requirements at the time of permitting. The property is located on a standard cul-de-sac lot. The property does not have any topographical conditions. The condition necessitating the variance is self-imposed. Denial of the variance would not prohibit any use whatsoever. Literal enforcement of the zoning ordinance would not result in unnecessary hardship for the property owner.

CALCULATIONS

Permitted roof overhang = 24" (2')

Requested roof overhang = 4.25'

STAFF RECOMMENDATION

Staff recommends denial of the variance as the variance is not due to special conditions inherent to the property itself. Literal enforcement of the ordinance would not create an unnecessary hardship as defined in Section 20.02.1128 of the El Paso City Code which states "*unnecessary hardship means a hardship by reason of exceptional shape of a lot, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Unnecessary hardship shall not include personal or financial hardship or any other hardship that is self-imposed.*"

The Zoning Board of Adjustment is empowered under Section 2.16.030 to:

"Authorize in specific cases a variance from the terms of a zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done."

The following questions should be carefully considered in order to grant a variance:

1. Is the variance consistent with public interest?
2. Is the need for the variance due to special conditions?
3. Would a literal enforcement of the ordinance create an unnecessary hardship?
4. Would the spirit of the ordinance be observed and substantial justice done if the variance is approved?

APPENDIX A: Findings – Variances

| INQUIRY | FINDINGS |
|--|--|
| <p>Is the request for a variance owing to special condition inherent in the property itself?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p> | <p>The property is/has ... (e.g., odd-shaped, unusual topography, etc.)</p> |
| <p>Is the condition one unique to the property requesting the variance?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p> | <p>The condition is unique to this property.</p> |
| <p>Is the condition self-imposed or self-created?</p> <p>If yes, STOP If no, PROCEED</p> <p style="text-align: center;">↓</p> | <p>The condition necessitating the request was not created by the property owner.</p> |
| <p>Will the literal enforcement of the zoning ordinance result in an unnecessary hardship?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p> | <p>Strict enforcement of the zoning ordinance would impose a hardship above that suffered by the general public.</p> |
| <p>Will the hardship prevent any reasonable use whatsoever?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p> | <p>Without the grant of the requested variance, the property owner would be deprived of the right to use his property. Financial considerations alone cannot satisfy this requirement.</p> |
| <p>Would the grant of the variance be contrary to public interest?</p> <p>If yes, STOP If no, CONTINUE</p> <p style="text-align: center;">↓</p> | |
| <p>Is the request within the spirit of the ordinance and does it further substantial justice?</p> <p>If yes, CONTINUE If no, STOP</p> <p style="text-align: center;">↓</p> | |

C57

C56

PAT CRUZ

C104

DRIVEWAY

20' SETBACK

PORCH

6'-SETBACK

117.57'

134.13'

519' 76' 34" E
6' SETBACK

20' SETBACK

45.00'

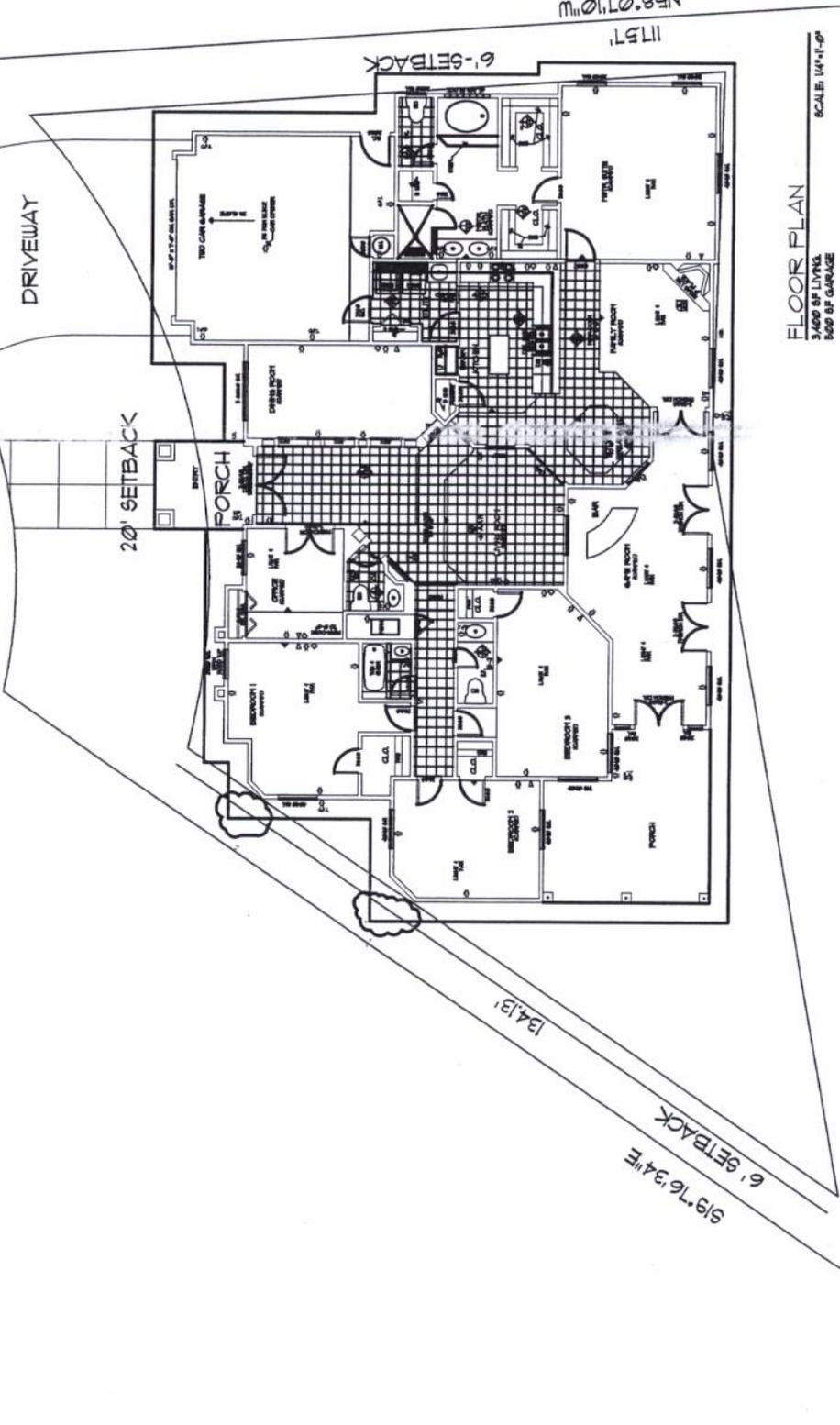
FLOOR PLAN
3,600 SF LIVING
500 SF GARAGE
SCALE: 1/4" = 1'-0"

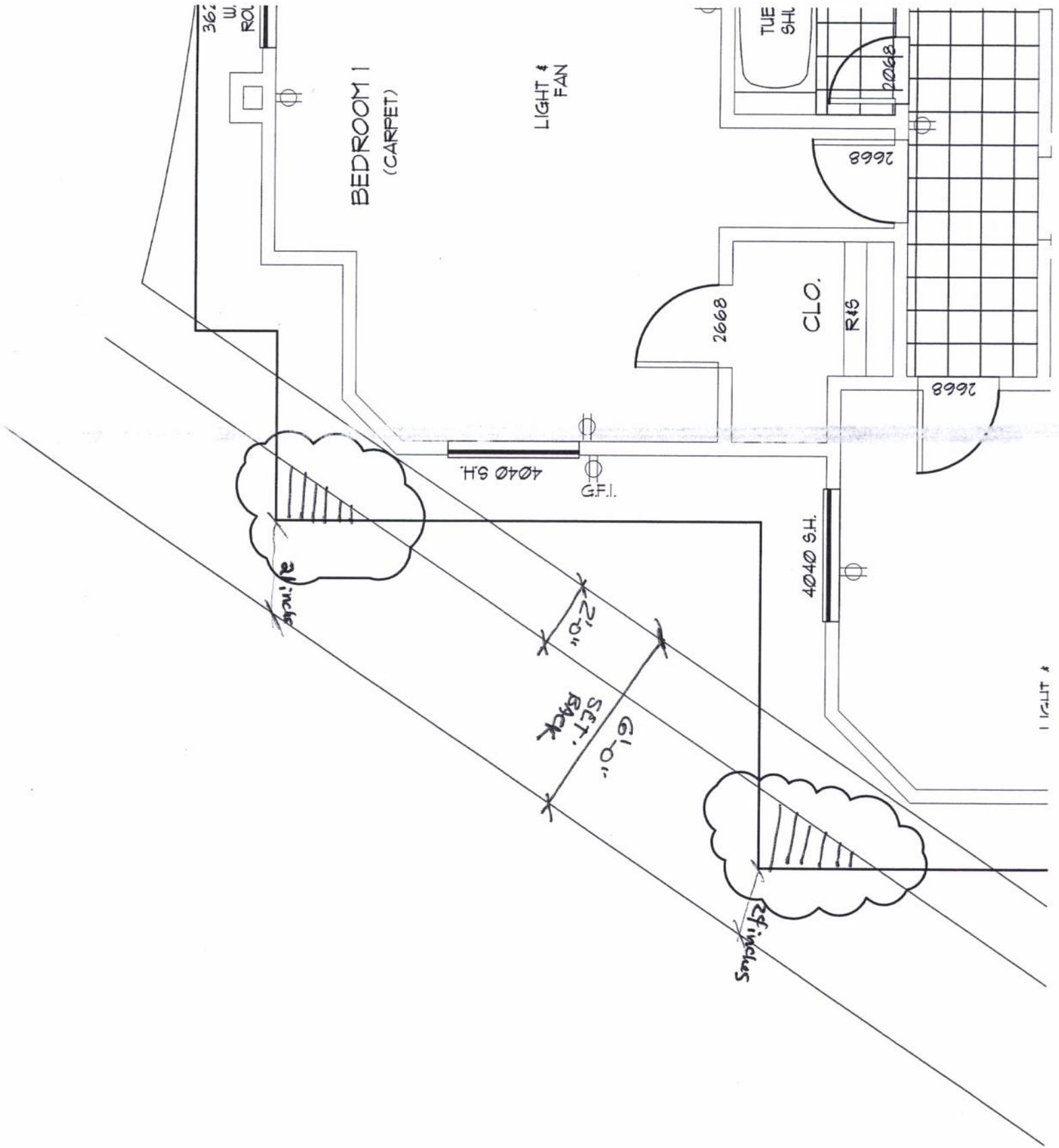
SITE PLAN

3,200 SF LIVING. SCALE: 1/4" = 1'-0"
471 SF GARAGE
89 SF FRONT PORCH
232 SF BACK PORCH

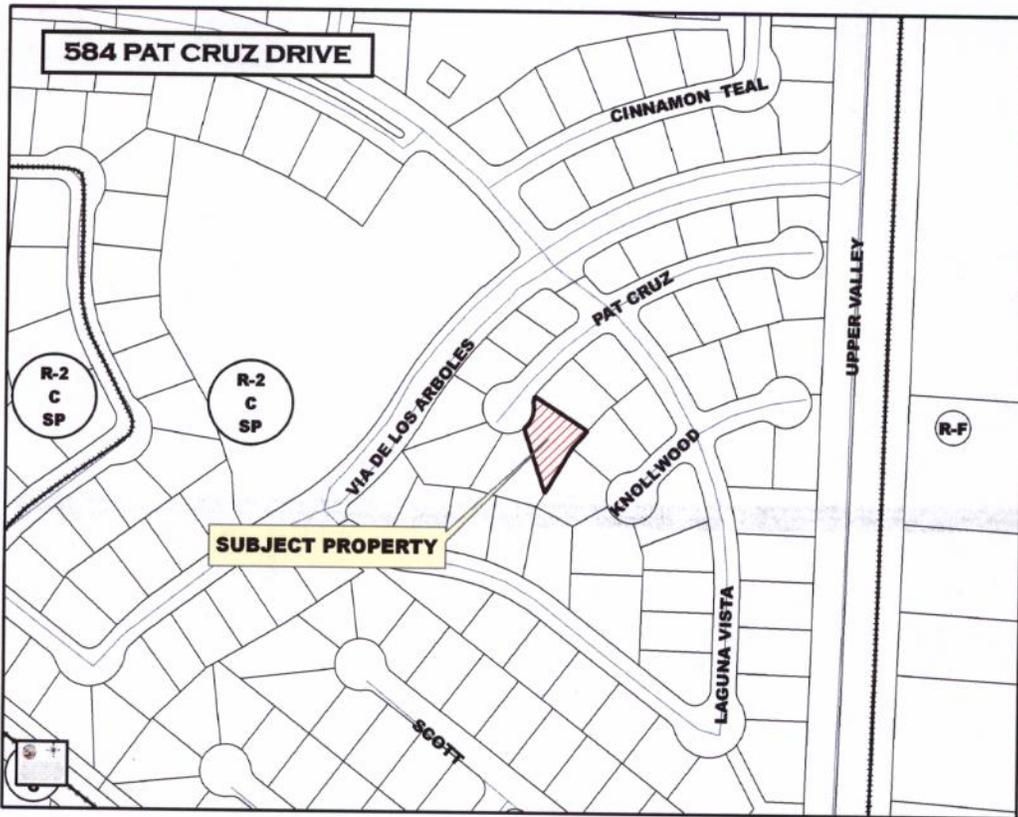
102.07'

N25° 31' 56" E





ZONING MAP



NOTIFICATION MAP

