

1255 Desert Mirage



Zoning Board of Adjustment — December 9, 2024

CASE NUMBER: PZBA24-00069
CASE MANAGER: Jose Beltran, (915) 212-1607, BeltranJV@elpasotexas.gov
PROPERTY OWNER: Jacob and Marisol U. Gonzalez
REPRESENTATIVE: Mario Dixon
LOCATION: 1255 Desert Mirage Pl. (District 1)
ZONING: P-R 1/c (Planned Residential 1/conditions)
REQUEST: Special Exception B (Two or More Nonconforming Lots)
PUBLIC INPUT: One (1) letter via email in opposition received as of December 5, 2024

SUMMARY OF REQUEST: Applicant requests a Special Exception under Section 2.16.050 B (Two or More Nonconforming Lots) to allow to legalize an existing pergola in the P-R 1/c (Planned Residential 1/conditions) zone district.

SUMMARY OF STAFF'S RECOMMENDATION: Staff recommends **APPROVAL** of the special exception request as the requested encroachment is less than the encroachments into that setback already present on at least two other neighboring properties.

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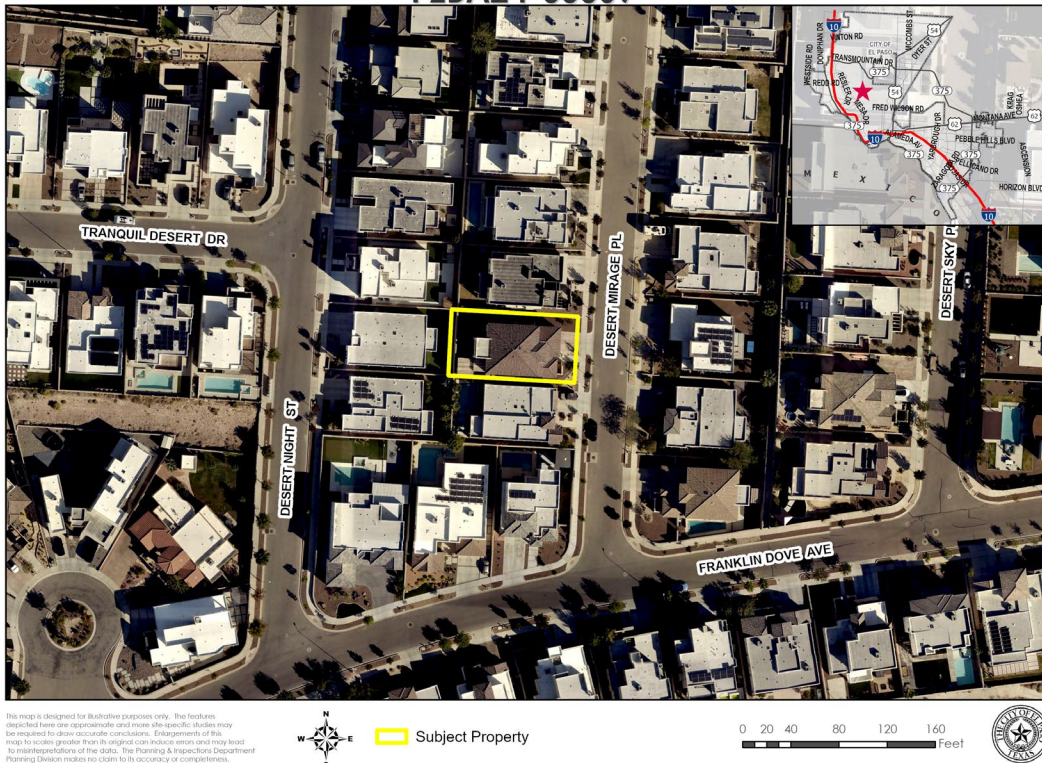


Figure A. Aerial of Subject Property & Immediate Surroundings

DESCRIPTION OF REQUEST: The applicant is requesting a special exception to allow to legalize the construction of an existing pergola, which extends 9 feet into the required rear yard setback for 135 square feet of total encroachment.

BACKGROUND: The minimum rear yard setback is 10 feet in the P-R 1/c (Planned Residential 1/conditions) zone district. According to Central Appraisal District records, the home was built in 2018 and the current owner has owned the home since 2019. The encroachment was built in 2020. Aerial photographs indicate there two (2) properties on the abutting street that contain structures located in their rear yards that encroach their required ten feet (10') rear yards located at 6091 Franklin Dove Avenue (138.88 sq. ft) and 1264 Desert Mirage Place (139.10 sq. ft).

SETBACKS	REQUIRED SETBACK	REQUESTED SETBACK
Front	10 feet	No Change
Rear	10 feet	1 foot
Cumulative Front & Rear	N/A	N/A
Side (North)	10 feet between structures	No Change
Side (South)	10 feet between structures	No Change
Cumulative Side	N/A	N/A

COMPLIANCE WITH SPECIAL EXCEPTION 2.16.050.B CRITERIA

The Zoning Board of Adjustment is empowered under Section 2.16.050.B to:
Permit the modification of setback requirements as the board deems necessary to secure an appropriate development of a lot, provided the following criteria is met:

Criteria	Does the Request Comply?
1. The lot is in a legally recorded and developed subdivision of at least ten years;	Yes. The lot is within a legally recorded subdivision of at least ten years.
2. There are two or more lots that do not conform to Title 20 located within the same block on the same side of the street or within the block directly across and abutting the street;	Yes. Through aerial photos and site visits, it was established that one house on the same block extends 10 feet into the rear setback, and another house also extends 10 feet.
3. The modifications are in the same nature as the existing nonconforming lots and do not permit construction less conforming than the least conforming of the nonconforming lots;	Yes. The properties on 6091 Franklin Dove Avenue and 1264 Desert Mirage Place contain structures that encroach into their respective 10 feet (10') rear yard setbacks with total encroachment areas of 138.88 square feet and 139.10, respectively.
4. If the subject lot is located at the intersection of two streets (a corner lot), then nonconforming lots within the same block on the same side of either intersecting street or directly across and abutting either intersecting street, but not lots located diagonally from the subject lot, may be used in determining the nonconforming lot restrictions of this special exception.	Yes. Only applicable lots are being considered.

PUBLIC COMMENT: Public notice was sent on November 26, 2024 to all property owners within 300 feet of subject property. The Planning Division has received one (1) letter via email in opposition to the special exception request.

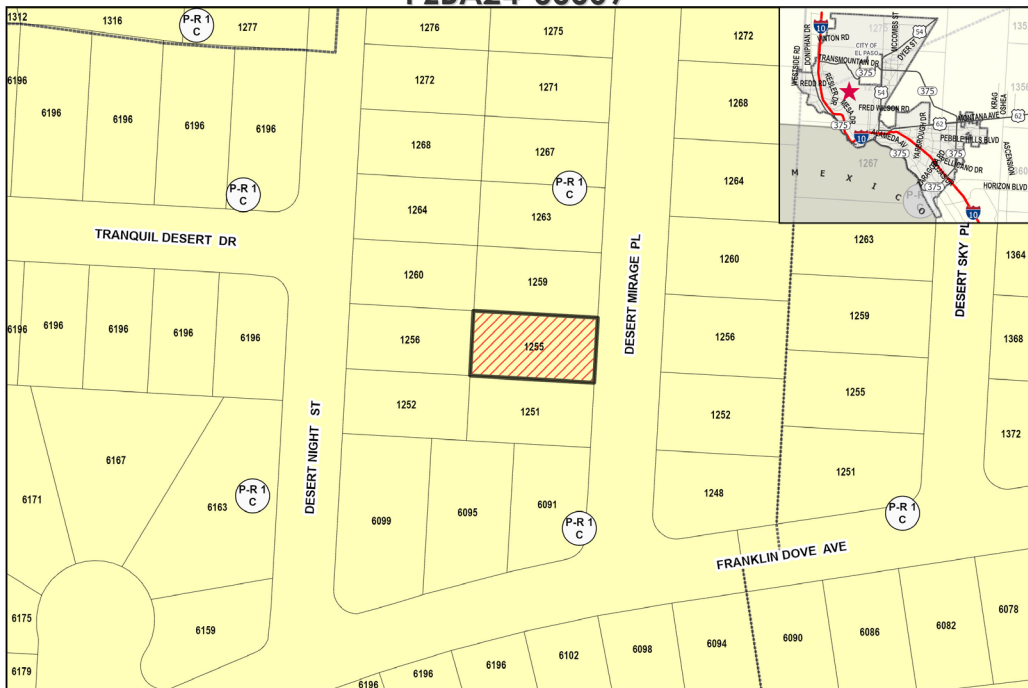
ZONING BOARD OF ADJUSTMENT OPTIONS:

The purpose of the Zoning Ordinance is to promote the health, safety, morals and general welfare of the City. The Zoning Board of Adjustment (ZBA) has the authority to grant a special exception to the zoning code only as provided in El Paso City Code Titles 2 and 20. In evaluating the request, the ZBA may take any of the following actions:

1. **Approval** of the special exception request, finding that the request is in in harmony with the spirit and purposes of Titles 2 and 20, including the preservation of the essential character of the district in which the property is located, that the public convenience and welfare will be substantially served, and that the use of neighboring property will not be substantially injured. **(Staff Recommendation)**
2. **Approval with Modifications** of the special exception request to bring the request into conformance as provided in El Paso City Code Titles 2 and 20 as the board deems appropriate.
3. **Denial** of the special exception request, finding that the request does not conform to the review criteria as provided in El Paso City Code Titles 2 and 20.

ZONING MAP

PZBA24-00069



This map is designed for illustrative purposes only. The features depicted here are approximate and more site-specific studies may be required to draw accurate conclusions. Enlargements of this map to scales greater than its original can induce errors and may lead to misinterpretations of the data. The Planning & Inspections Department Planning Division makes no claim to its accuracy or completeness.



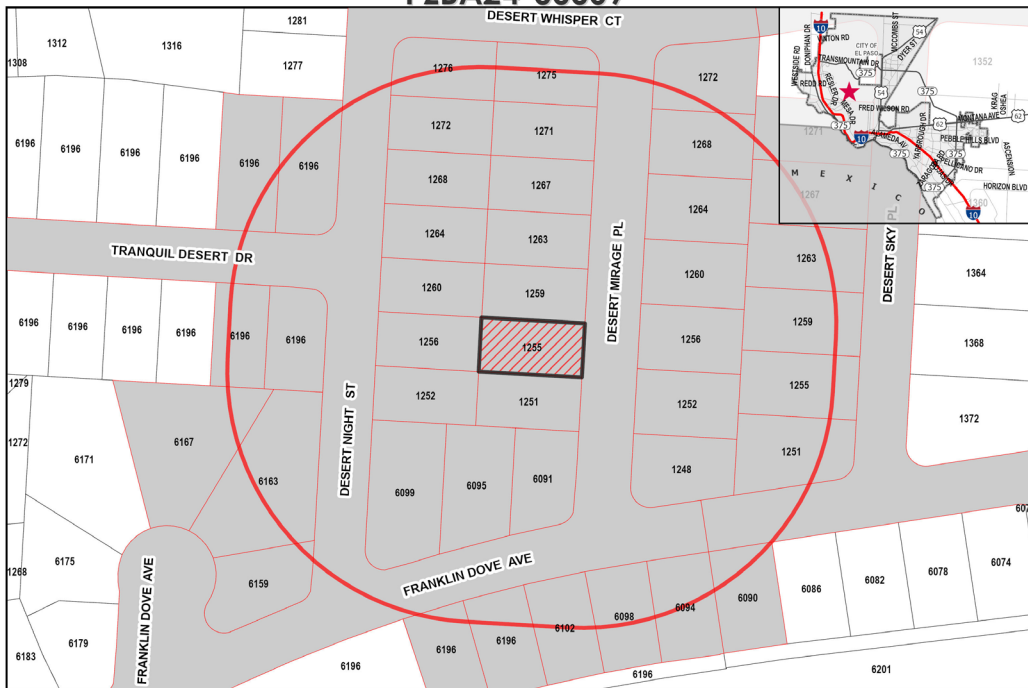
Subject Property

0 20 40 80 120 160 Feet



NEIGHBORHOOD NOTIFICATION MAP

PZBA24-00069



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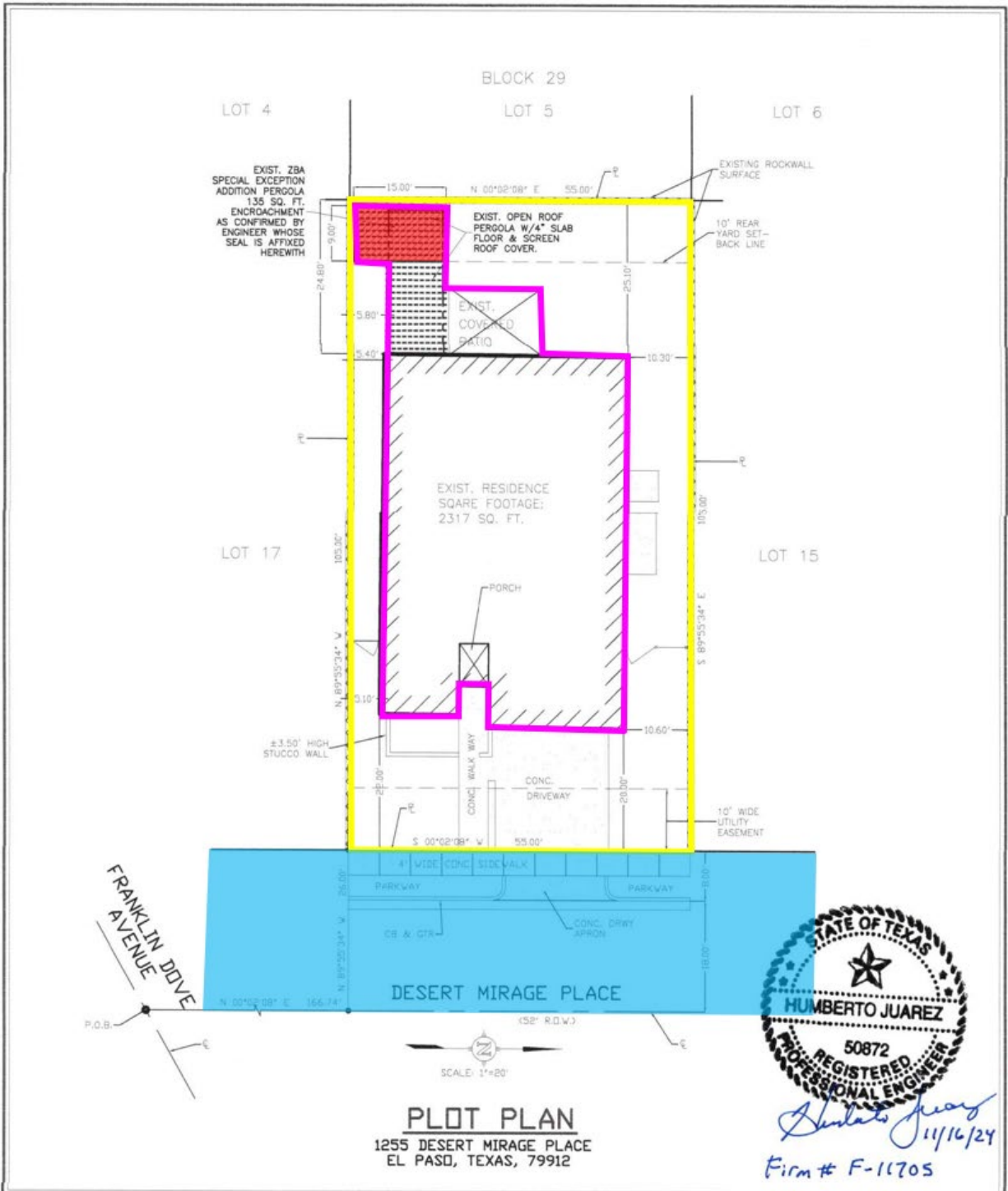


Subject Property
300 Feet Notice Area
Notified Properties

0 25 50 100 150 200 Feet



SITE PLAN



NONCONFORMING LOTS

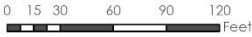
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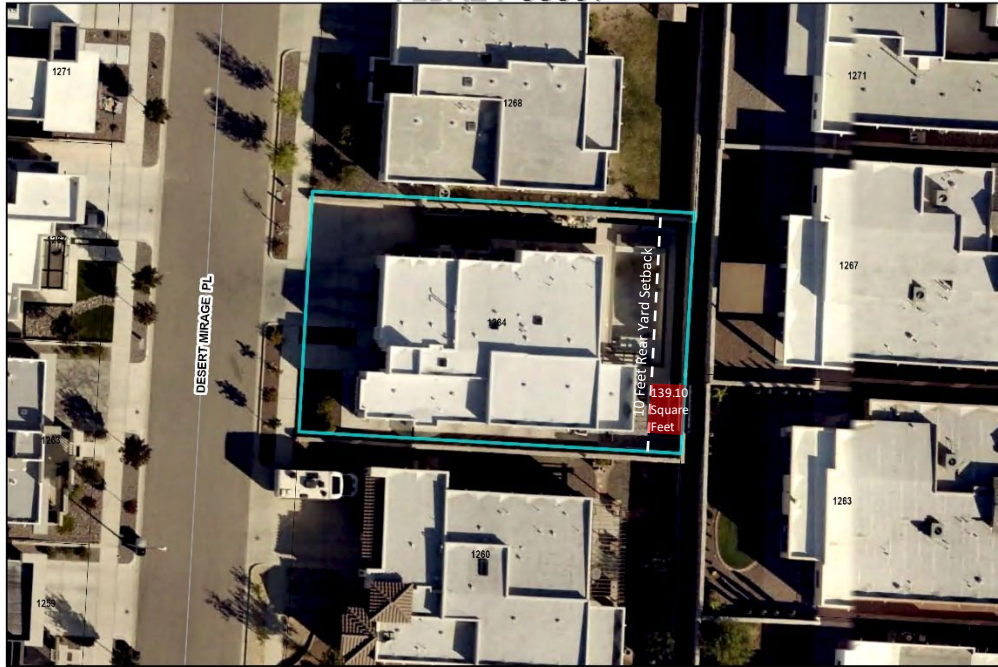


 Subject Property



NONCONFORMING LOT 1

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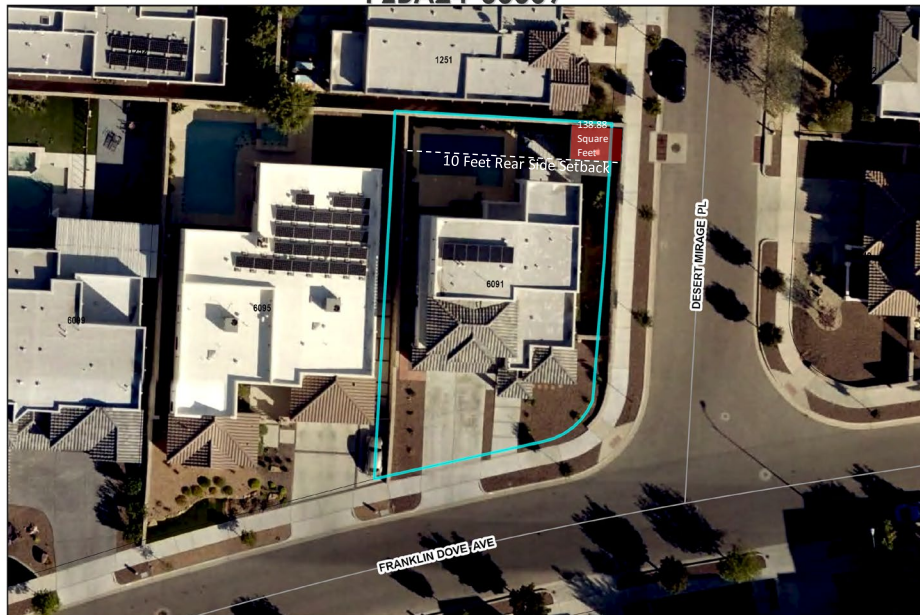


Subject Property



NONCONFORMING LOT 2

PZBA24-00069



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Subject Property



From: [Francis G. Catanach](#)
To: [Beltran, Jose V.](#)
Subject: Case PZBA24-00069 - 1255 Desert Mirage
Date: Monday, December 2, 2024 6:14:43 PM

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Hello Mr. Beltran,

Regarding this Special Exception, I oppose the request for exception.

There appears to only be one lot currently out of conformance on this street, not two lots. Furthermore, the lot out of conformance already appears to be 1255 Desert Mirage.

I do not support the exception being granted as the Gonzalez family already has a non-conforming structure which is especially imposing since it is at a higher elevation than our lot. Furthermore, there are permanent lights and conduit attached to the existing pergola which shine across the property line in violation of the Outdoor Lighting Code. Therefore I oppose the proposed exception on the following 3 reasons:

- 1- There do not appear to be the minimum number of 2 non-conforming lots on Desert Mirage.
- 2- 1255 Desert Mirage already has constructed a non-conforming structure.
- 3- The "Use of neighboring property" will be further injured.



Francis G. Catanach