

1452 Backus

Zoning Board of Adjustment — October 14, 2024



CASE NUMBER: PZBA24-00074
CASE MANAGER: Saul J. G. Pina, (915) 212-1612, PinaSJ@elpasotexas.gov
PROPERTY OWNER: Daniel and Marianne Chacon
REPRESENTATIVE: New Republic Architects
LOCATION: 1452 Backus Street (District 3)
ZONING: R-4 (Residential)
REQUEST: Special Exception B (Two or More Nonconforming Lots) and Special Exception J (Carport Over a Driveway)
PUBLIC INPUT: None received as of October 8, 2024

SUMMARY OF REQUEST: Applicant requests a Special Exception under Section 2.16.050 B (Two or More Nonconforming Lots) and Section 2.16.050 J (Carport Over a Driveway) to allow to legalize two (2) attached accessory structures, extending into both the required side yard setbacks and to permit the construction of a proposed carport, extending into the required front yard setback in the R-4 (Residential) zone district.

SUMMARY OF STAFF'S RECOMMENDATION: Staff recommends **APPROVAL WITH A CONDITION** of the special exception requests as the requested encroachment for the accessory structures are equal that the encroachments present on at least two other neighboring properties. In addition, the requested area of encroachment is less than the maximum permitted for a carport. The condition is as follows:

That the accessory structure located at the farthest point of the rear yard be relocated or removed from the utility easement area.

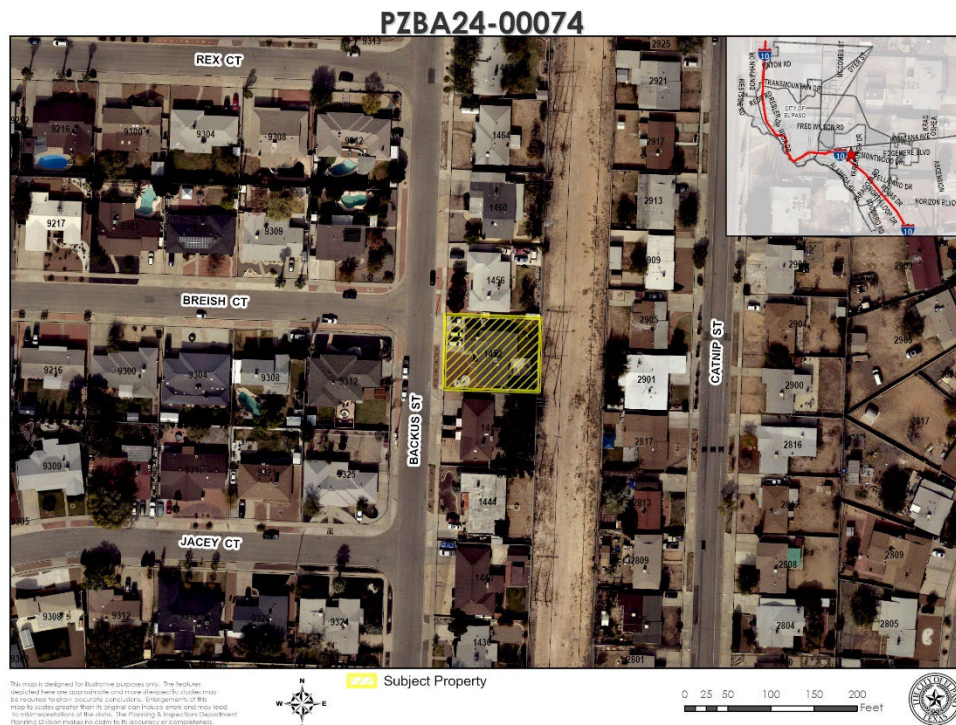


Figure A. Aerial of Subject Property & Immediate Surroundings

DESCRIPTION OF REQUEST: The applicant is requesting a special exception to allow to legalize two (2) attached accessory structures, each with an area of 37.2 and 44.49 square feet, extending into each of the required 5-foot side yard setbacks. Additionally, the applicant is requesting a special exception to permit the construction of 520 square foot carport, extending 15 feet into the required front yard setback. This will result in a total encroachment of 473.69 square feet.

BACKGROUND: The required front setback is 20 feet in the R-4 (Residential) zone district. The required rear setback for the subject property is 25 feet to meet the cumulative front and rear setback of 45 feet in the R-4 (Residential) zone district. The existing residence was built approximately in 1967, with property owners residing 37 years at most. Per El Paso City Code, the existing accessory structure located at the farthest point of the rear yard shall be relocated or removed from the utility easement area in order for this exception to apply.

Aerial photographs show that four other properties on the same block also have accessory structures in both side yard setbacks. 1400 Backus Street has an accessory structure encroaching on 42.21 square feet. Similarly, 1420 Backus Street has an accessory structure encroaching on 59.94 square feet, 1444 Backus Street has one accessory structure encroaching on 65.70 square feet, and 1456 Backus Street has one accessory structure encroaching on 42.41 square feet. The average area of encroachment for these accessory structures is 52.39 square feet, which is greater than the average of 40.85 square feet for the two accessory structures in question.

SETBACKS	REQUIRED SETBACK	REQUESTED SETBACK
Front	20 feet	5 feet
Rear	25 feet	25 feet
Cumulative Front & Rear	45 feet	30 feet
Side (West)	5 feet	0 feet
Side (East)	5 feet	0 feet
Cumulative Side	N/A	N/A

CALCULATIONS FOR CARPORT:

	TOTAL	CALCULATION
Maximum Permitted Area of Encroachment	440 Square feet	1/5 of 2200.0 Sq. ft. (House 1 st floor area)
Requested Area of Encroachment	391 Square feet	26.8 feet by 14.6 feet (Encroachment only)

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 1400, 1420, 1444, and 1456 Backus Street are non-conforming properties with accessory structures attached to each respective main house. These properties have side yard encroachments similar to those at 1452 Backus Street. Each property has a structure located on either side of the main house.
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. 1400, 1420, 1444, and 1456 Backus Street have encroachments that extend into each of the respective side yard setbacks. All of these properties have attached accessory structures encroaching into each of the required side yard setbacks.

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.
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COMPLIANCE WITH SPECIAL EXCEPTION 2.16.050.J CRITERIA

The Zoning Board of Adjustment is empowered under Section 2.16.050.J to:

Permit the encroachment into the required front yard setback for a lot in a residential (R) district beyond other allowed modifications for a carport covering a driveway, provided the following criteria is met:

Criteria	Does the Request Comply?
1. The residence has been in existence with a valid certificate of occupancy for one continuous year;	Yes. The residence has a valid certificate of occupancy for one continuous year.
2. The zoning board of adjustment has received the written approval of the structural design from the building official;	Yes. The Building Official has reviewed the request, and has provided written approval.
3. The carport shall resemble the main residential structure in scale and character and shall be open on three sides;	Yes. The proposed carport does resemble the main residential structure and is open on three sides.
4. The area of the carport shall not exceed one-fifth of the first-floor area under roof of the dwelling, with the first-floor area of the dwelling defined as the sum of the gross horizontal area, exclusive of garages, atriums, stairwells, and open porches, measured from the exterior faces of the exterior walls; and, shall be measured as the area covered by the carport roof, to include overhangs;	Yes. The proposed carport encroachment of 391 square feet is less than the maximum allowed area of 440 square feet.
5. Elevation drawings of the proposed structure shall be submitted;	Yes. Elevation drawings of the proposed structure were submitted.
6. For a duplex, the total of all extensions for either unit of the duplex shall not exceed two-thirds of the average width of that unit;	Not applicable. This is not a duplex.

PUBLIC COMMENT: Public notice was sent on October 3, 2024 to all property owners within 300 feet of the subject property. The Planning Division has not received any communications in support or opposition to the special exception request.

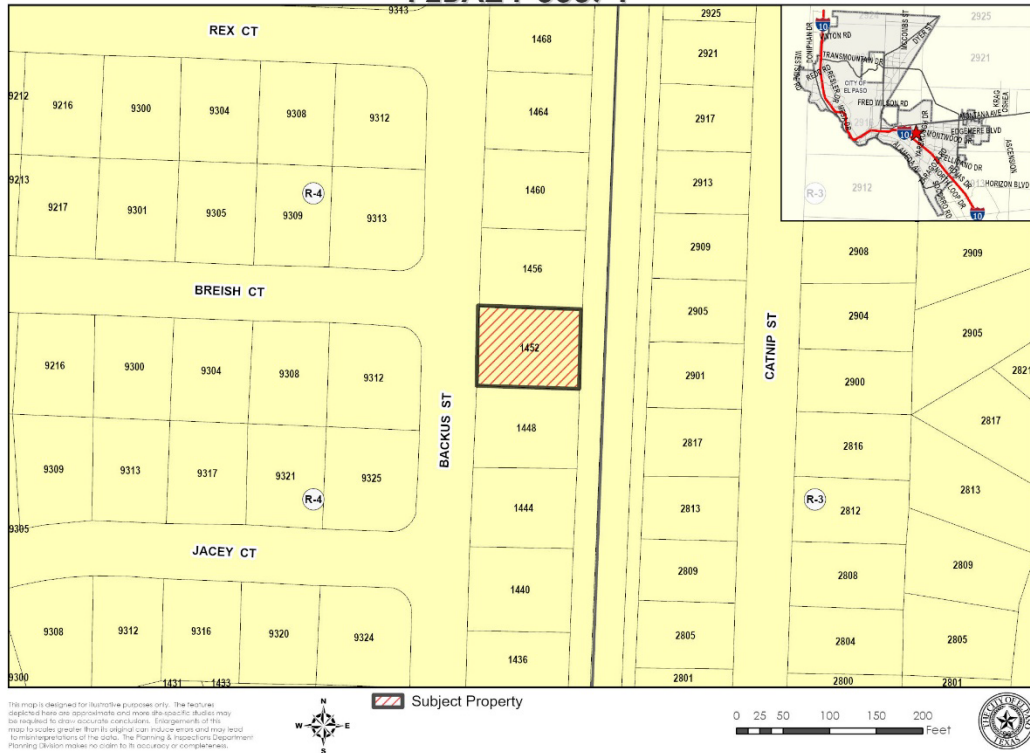
ZONING BOARD OF ADJUSTMENT OPTIONS:

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.
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. **(Staff Recommendation)**
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.

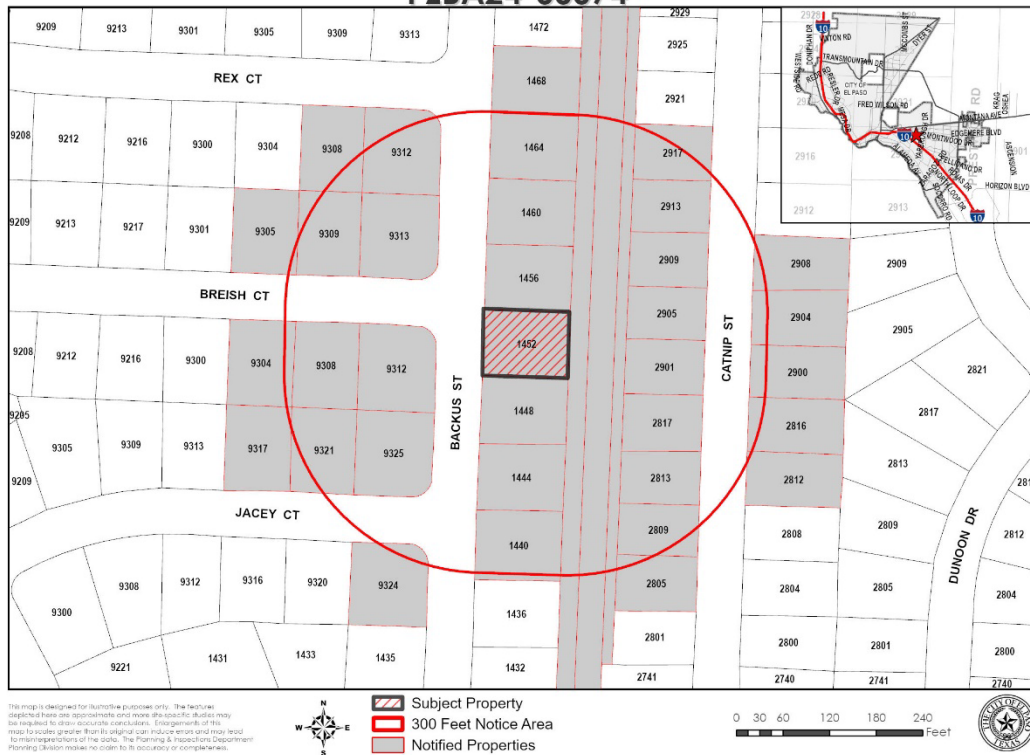
ZONING MAP

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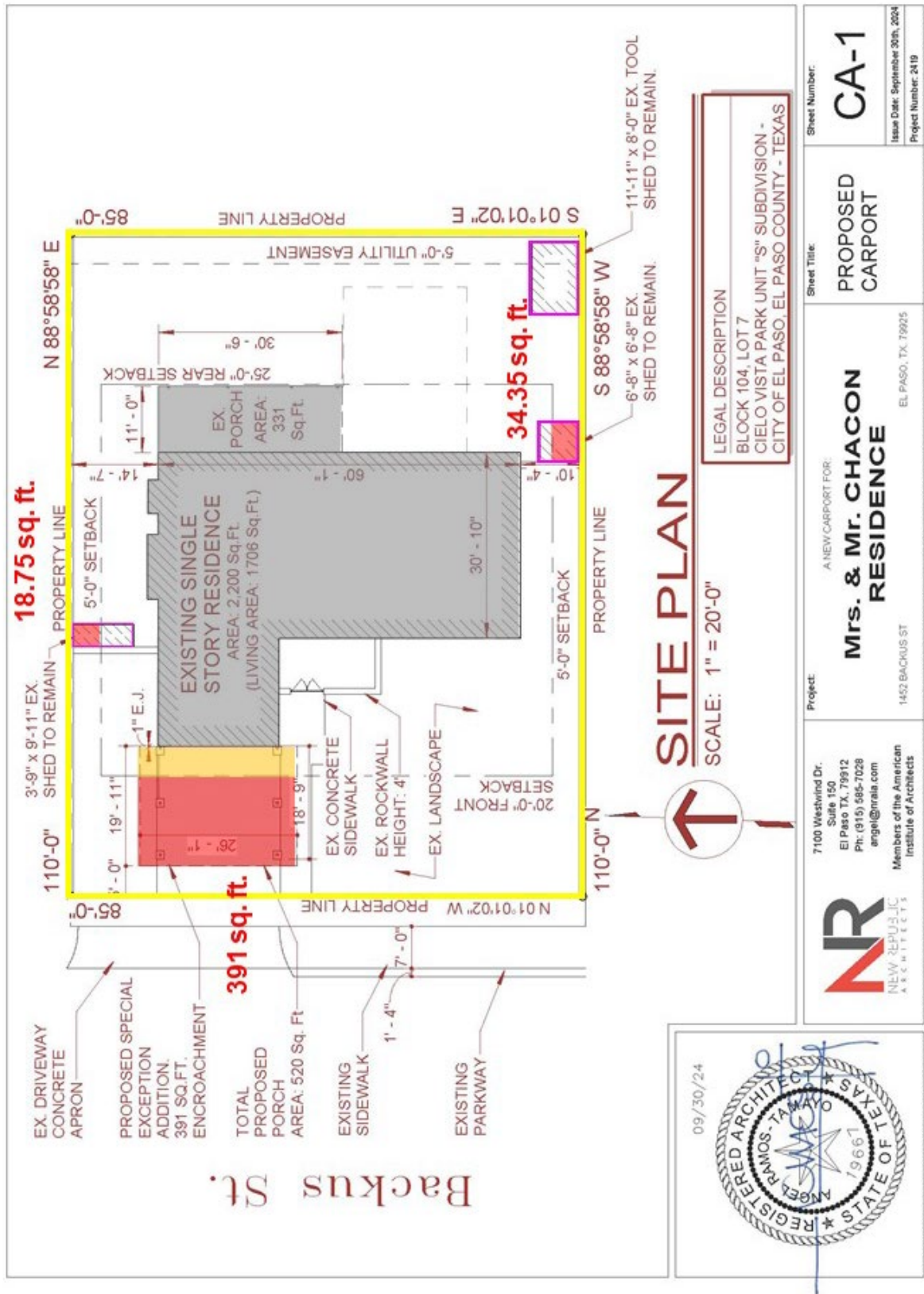


NEIGHBORHOOD NOTIFICATION MAP

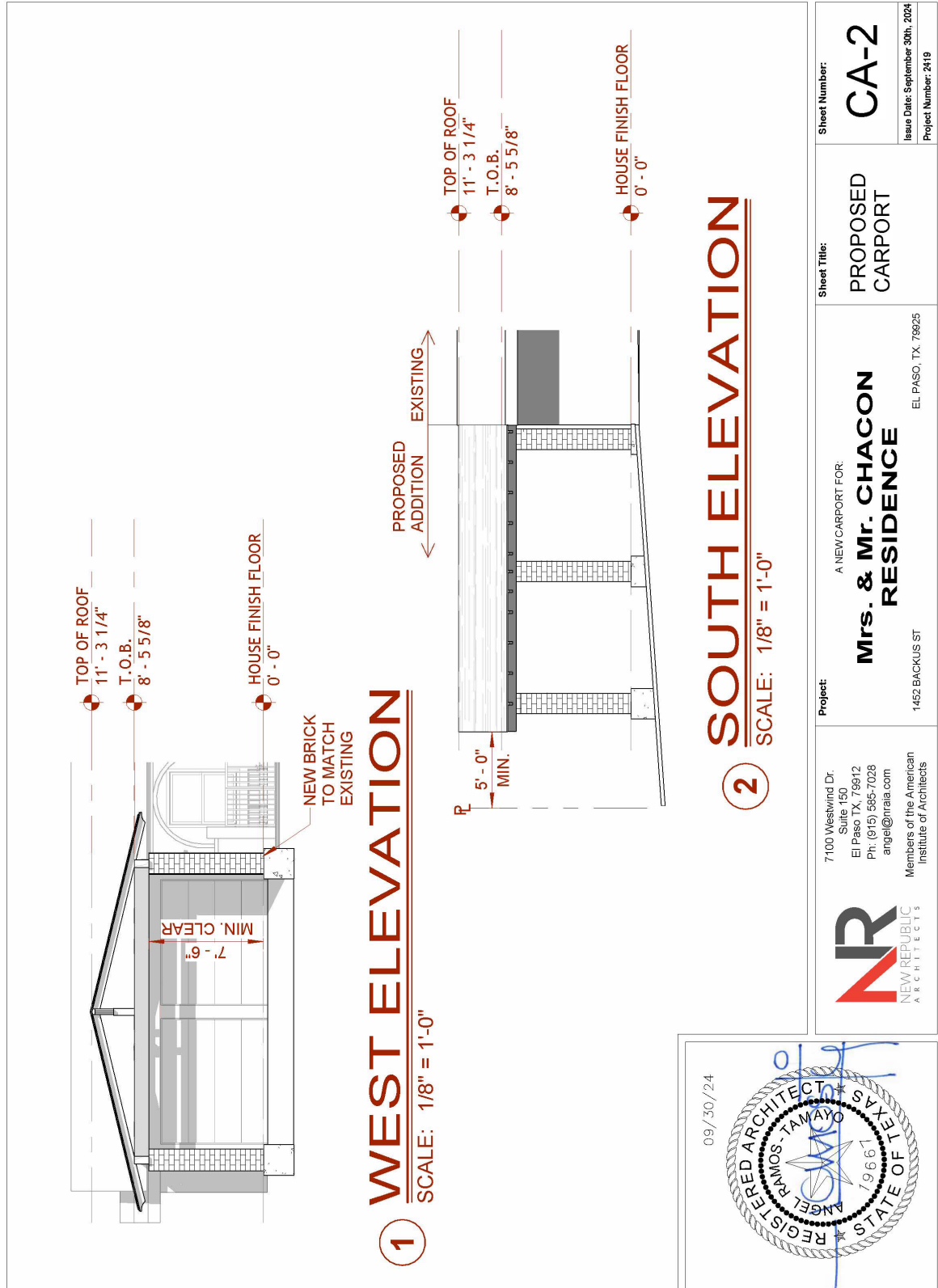
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SITE PLAN

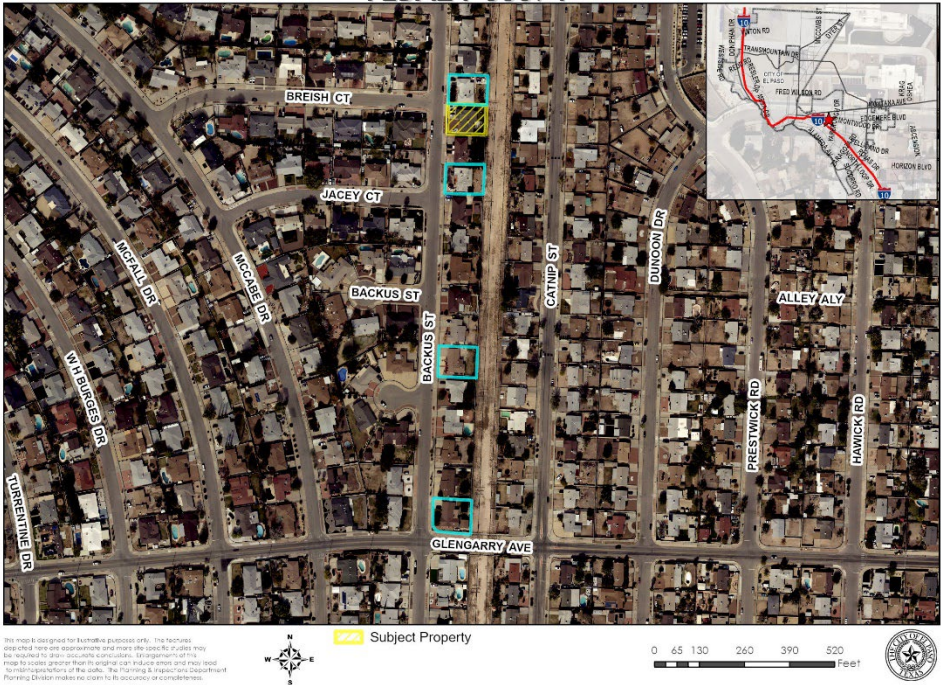


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NONCONFORMING LOTS

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NONCONFORMING LOT 1



NONCONFORMING LOT 2



NONCONFORMING LOT 3



NONCONFORMING LOT 4

