



**CITY OF KERRVILLE ZONING BOARD OF ADJUSTMENT AGENDA**  
**REGULAR MEETING, THURSDAY, JANUARY 5, 2017 3:00 P.M.**  
**CITY HALL COUNCIL CHAMBERS**  
**701 MAIN STREET, KERRVILLE, TEXAS**

**CALL TO ORDER**

**1. VISITORS/CITIZENS FORUM:**

Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. The number of speakers will be limited to the first ten speakers and each speaker is limited to three minutes. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

**2. CONSENT AGENDA:**

All items listed below in the consent agenda are considered routine or ministerial in nature and will be enacted with one motion. There will be no separate discussion of items unless a Commissioner or citizen so requests; in which case the item(s) will be removed from the consent agenda and considered separately.

2A. Approval of the minutes from the December 15, 2016 meeting. **Pg. 2**

**3. PUBLIC HEARINGS AND ACTION**

3A. **Public Hearing & Action, Variance Request** – Public hearing, consideration, and action concerning a variance request for a 5-foot variance from the 25-foot minimum front yard required setback in accordance to Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17 for an approximate 1.37 acre tract. Legal Description all that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, comprising 1.37 acres, more or less, out of the original Survey No. 111, Samuel Wallace, Abstract No. 359. Being all of that 1 4/10 acre tract which was conveyed from Bonnie McKinney Schwausch to B & E Ventures, by deed dated 9th day of February, 1985, of record in volume 312, at page 77, of the Deed Records of Kerr County, Texas, and being a part of that 3 acre tract which was conveyed from R.F. Hunt, to E.M. McDonald, by deed dated the 7th day of August 1923, of record in Volume 41, at page 321, of the Deed Records of Kerr County, Texas; southeast of Loop 534, between Riverside Drive East and the Guadalupe River. (File No. 2016-079) **Pg. 5**

**4. STAFF REPORTS**

**5. ADJOURNMENT**

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The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time: December 30, 2016 at 5:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown  
Deputy City Secretary, City of Kerrville, Texas

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# City of Kerrville Planning Department Report

To: Zoning Board of Adjustment  
Agenda Item: 2A  
Hearing Date: January 5, 2017  
Representative: Staff

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## **Proposal**

Approval of the amended minutes from the December 15, 2016 Zoning Board of Adjustment meeting.

### **MEMBERS PRESENT:**

Linda Stilwell, Chair  
Peter Lewis, Vice-Chair  
Judy Eychner, Member  
Justin MacDonald, Member  
Sam Ligon, Member  
Danny Almond, Alternate  
Robert Parks, Alternate

### **STAFF PRESENT:**

Trent Robertson, City Planner  
Dorothy Miller, Recording Secretary

## **CALL TO ORDER**

On December 15, 2016 the Zoning Board of Adjustment meeting was called to order at 3:00 p.m. in the City Hall Council Chambers, 701 Main Street.

### **1. VISITORS/CITIZENS FORUM:**

Any person with business not scheduled on the agenda is encouraged to briefly speak their ideas to the Commission. Please fill out the SPEAKER REQUEST FORM and give it to the Commission's Secretary prior to the meeting. The number of speakers will be limited to the first ten speakers and each speaker is limited to three minutes. (No formal action can be taken on these items as the Open Meetings Act requires formal action items be posted on an agenda no later than 72 hours before the meeting. If formal action is required, the items will be placed on an agenda for a future meeting.)

No visitors were present; no one spoke.

### **2. Consent Agenda**

2A. Approval of the minutes from the December 1, 2016 meeting.

Mr. MacDonald moved to approve the minutes as presented; motion seconded by Ms. Eychner and passed 5-0.

### **3. PUBLIC HEARINGS AND ACTION**

3A. Public Hearing & Action, Variance Request – Public hearing, consideration, and action concerning two variance requests: 1) for a 9-foot variance from the 19-foot minimum side yard (corner side) required setback for a garage/carport; and 2) request for a 18-foot variance from the 25-foot minimum rear yard required setback in accordance to Chapter I, “The City of Kerrville Zoning Code” Article 11-1-17 for an approximate .298 acre tract. Legal Description BF Cage Addition a portion of Lot 1, Block B; located at 932 Barnett Street North; northeast of Barnett Street North, between Lamar Street North and Robinson Avenue North. (File No. 2016-074)

Mr. Robertson presented the findings of fact.

Ms. Stilwell opened the public hearing at 3:07 p.m.

Ms. Marie Brown complimented the property owners and supports this variance.

Hearing no one else speak, Ms. Stilwell closed the public hearing at 3:08 p.m.

Ms. Eychner moved to approve the variance based on the findings of fact; motion was seconded by Mr. Ligon and passed 5-0.

3B. Public Hearing & Action, Variance Request – Public hearing, consideration, and action concerning two variance requests: **AMENDED** 1) for a 18-foot variance from the 19-foot minimum side yard (corner side) required setback for a garage/carport; and 2) request for a 1-foot variance from the 6-foot minimum rear yard required setback for a carport in accordance to Chapter I, “The City of Kerrville Zoning Code” Article 11-1-17 for an approximate .251 acre tract. Legal Description Mesa Park Subdivision Phase-I Lot 1, Block 5; located at 2301 Mesa Park Drive North. (File No. 2016-075)

Mr. Robertson presented the findings of fact.

Ms. Stilwell opened the public hearing at 3:14 p.m.

Mrs. Joe Wall is the owner of the property and explained her reasons for requesting this variance. She stated she moved into this property the end of March and was not aware that the existing carport [violated the current zoning code] but stated she needs an extended carport because her daughter is going to move in with her and her husband within the next year. Mrs. Wall’s daughter and husband own large trucks and Mrs. Wall owns a large car that parks in the carport in the garage. Mrs. Wall stated she cannot get a large truck and large car in the carport. She stated the proposed carport will be a metal open carport and it will not be obstructing any view whatsoever and no one will be able to see it because it will be on the backside of the existing carport. Mrs. Wall stated when you come up Bridle Path you have to make a left turn to be on Mesa Park Dr. If you don’t make a left turn you will be on Mrs. Wall’s property. There is a sign that says, “Private Property – No Entrance”.

Hearing no one else speak, Ms. Stilwell closed the public hearing at 3:15 p.m.

Mr. MacDonald moved to deny the variance based on the findings of fact; motion was seconded by Ms. Eychner and passed 5-0.

3C. Public Hearing & Action, Variance Request – Public hearing, consideration, and action concerning a variance request **AMENDED** for a 2-foot variance from the 6-foot minimum side yard required setback in accordance to Chapter I, “The City of Kerrville Zoning Code” Article 11-1-17 for an approximate .35 acre tract. Legal Description BF Cage Addition Lot 11 (SW PT), PTS of 1A & 1B, Block E; located at 818 Bulwer Avenue North; northeast of Bulwer Avenue North, between Earl Garrett Street North and Washington Street North. (File No. 2016-076)

Mr. Robertson presented the findings of fact.

Ms. Stilwell opened the public hearing at 3:36 p.m.

Mr. Gregg Boothby discussed reasons for needing this variance.

Hearing no one else speak, Ms. Stilwell closed the public hearing at 3:38 p.m.

Ms. Eychner moved to approve the variance based on the findings of fact; motion was seconded by Mr. Lewis and passed 5-0.

**4. STAFF REPORTS**

Mr. Robertson reported there the next meeting will be Thursday, January 5, 2017 at 3:00 p.m.

**5. ADJOURNMENT**

The meeting adjourned at 3:40 p.m.

ATTEST:

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Linda Stilwell, Chair

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Dorothy Miller, Recording Secretary

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Date Minutes Approved



# City of Kerrville Planning Department Report

To: Zoning Board of Adjustment  
Agenda Item: 3A  
Planning File #: 2016-079  
Hearing Date: January 5, 2017  
Representative: John Hewitt  
Location: Southeast of Loop 534, between Riverside Drive East and the Guadalupe River  
Zoning: "GR" Guadalupe River District  
Legal Description: All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, comprising 1.37 acres, more or less, out of the original Survey No. 111, Samuel Wallace, Abstract No. 359. Being all of that 1 4/10 acre tract which was conveyed from Bonnie McKinney Schwausch to B & E Ventures, by deed dated 9th day of February, 1985, of record in volume 312, at page 77, of the Deed Records of Kerr County, Texas, and being a part of that 3 acre tract which was conveyed from R.F. Hunt, to E.M. McDonald, by deed dated the 7th day of August 1923, of record in Volume 41, at page 321, of the Deed Records of Kerr County, Texas.  
Total Acreage: 1.37

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## **Proposal**

A request for a 5-foot variance from the 25-foot minimum front yard required setback in accordance to Chapter I, "The City of Kerrville Zoning Code" Article 11-1-17.

## **Procedural Requirements**

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on December 21, 2016. Notices were sent to property owners within two hundred (200) feet of the subject property on December 19, 2016. Additionally, notice of this meeting was posted at city hall and on the city's internet website on December 30, 2016, in accordance with Section 551.043(a) of the Texas Government Code.

## **Recommended Action**

Staff recommends that the Board hold the required public hearing to receive public comments and make a decision.

## **Notices Mailed**

Owners of Property within 200 feet: 13

## **Adjacent Zoning and Land Uses**

**Direction:** North

**Current Base Zoning:** “29-E” and “30-E”

**Current Land Uses:** Single-Family Residential, Vacant, and Landscaping Business

**Direction:** South, East, and West

**Current Base Zoning:** “GR”

**Current Land Uses:** Single-Family Residential, and Vacant

### **Transportation**

**Thoroughfare:** Riverside Drive East; Carstruck Street East

**Existing Character:** One lane in each direction with no sidewalks

**Proposed Changes:** None known

### **Criteria for Review**

According to Article 11-I-23(b)(3) of Chapter I, “The City of Kerrville Zoning Code”, in order for a variance to be granted, the applicant must demonstrate all of the following:

**(1) That there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition or location that do not apply generally to other property in the same area and the same zoning district;**

There are exceptional circumstances that exist on the property. The entirety of the subject property is located within the floodplain and a major portion of the property is in the floodway. The floodway poses various hardships when it comes to development. In order to avoid a structure being constructed outside of the floodway the proposed 5-foot front setback variance is necessary. Furthermore, due to local ordinances additional regulations are set forth for properties located in the floodway. In accordance to chapter 54-35 of the City of Kerrville Code of Ordinances it states:

(f) *Floodways.* Encroachment into a regulatory floodway with fill, new construction, substantial improvements or other development is prohibited unless:

(1) A registered professional engineer, based on a competent engineering study certified by the engineer, demonstrates through hydrologic and hydraulic analysis performed in accordance with standard engineering practice to the satisfaction of the floodplain administrator that the proposed encroachment will not result in any increase in flood levels within the city during the occurrence of the base flood discharge; or

(2) The city or the person wishing to place the encroachment in the floodway has applied for a conditional FIRM and floodway revision from FEMA and has received consent from FEMA to allow encroachments within the floodway.

It is encouraged for all development to be constructed outside of the floodway. The floodway is the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The floodway needs to be preserved in order to protect increasing water surface elevation.

**(2) That the exceptional circumstances or conditions are such that literal enforcement of the provisions of this Chapter would result in an unnecessary hardship inconsistent with the general purpose and intent of this Chapter;**

The enforcement of the provisions of this Chapter would result in an unnecessary hardship inconsistent with the general purpose and intent of this Chapter due to the topography and location of the subject property in the floodplain and floodway.

**(3) That the granting of such variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;**

The requested variance will not be detrimental to the health, safety, and welfare of the public or surrounding properties.

**(4) That the granting of such variance will not be contrary to the objectives and principles contained in the comprehensive plan, as amended;**

The variance would allow for the proposed structure to be in compliance with the current zoning code. The requested variance will not be detrimental to the health, safety, and welfare of the public or surrounding properties.

**(5) That the variance to be granted is the minimum variance that will relieve the proven hardship;**

The variance requested is the minimum distance needed in order for the proposed structures to be in compliance with all city codes.

**(6) That the variance is not being granted to relieve the applicant of conditions or circumstances:**

**(a) Which are not inherent in the property itself, but are the result of the use or development of the property, or**

Staff believes the hardship that exists is not self-induced, but inherent to the property, proximity to the floodplain/floodway, and development regulations.

**(b) Which are caused by a division of land on or after June 16, 1997, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations, or**

Not applicable.

**(c) Which were otherwise self-imposed by the present or a previous owner;**

Staff believes the hardship is not self-induced.

**(7) That the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;**

The variance will not intentionally make the property more profitable, and/or reduce expenses to the current or any future owner.

**(8) That the variance would not modify or effectively repeal any development or use regulations set forth in a Conditional Use Permit or an ordinance or resolution adopting a Development Site Plan or establishing a Special Use District or Planned Development District which are in addition to the generally applicable use and development regulations set forth in this Chapter;**

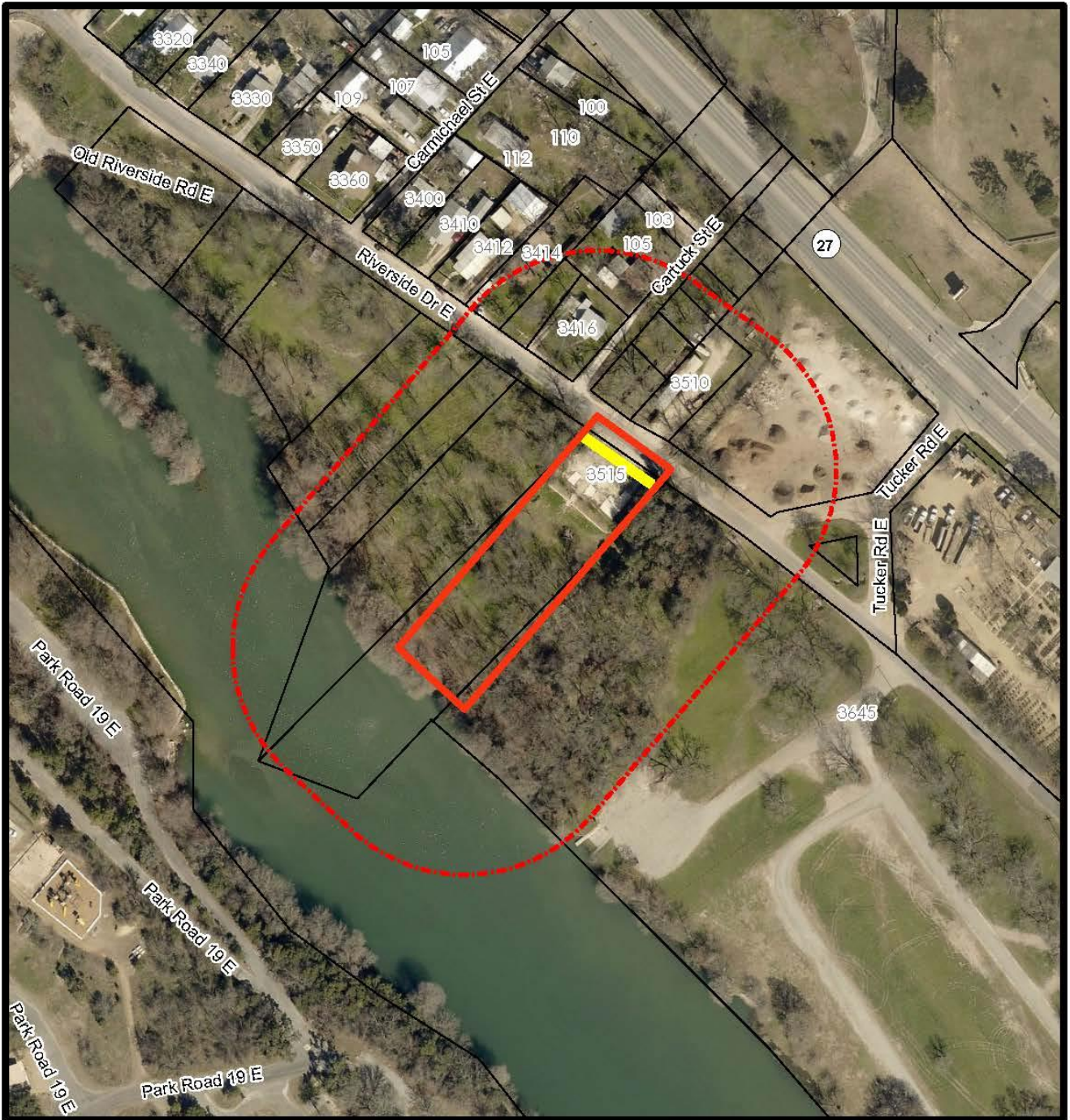
The variance will not appeal any other development regulations besides the setback requirements.

**(9) That the variance would only affect a specific parcel of property and is not of such a general nature as to effectively constitute a change in zoning of said parcel or a larger area without following the procedures set forth in Article 11-1-21.**

A change in zoning would not change the need for a variance.




**Staff Recommendation: Approval**





**Variance Application**  
 Location:  
 3515 Riverside Drive East

**Legend**  
 Subject Properties  
 200-ft Notification Area  
 Variance Area

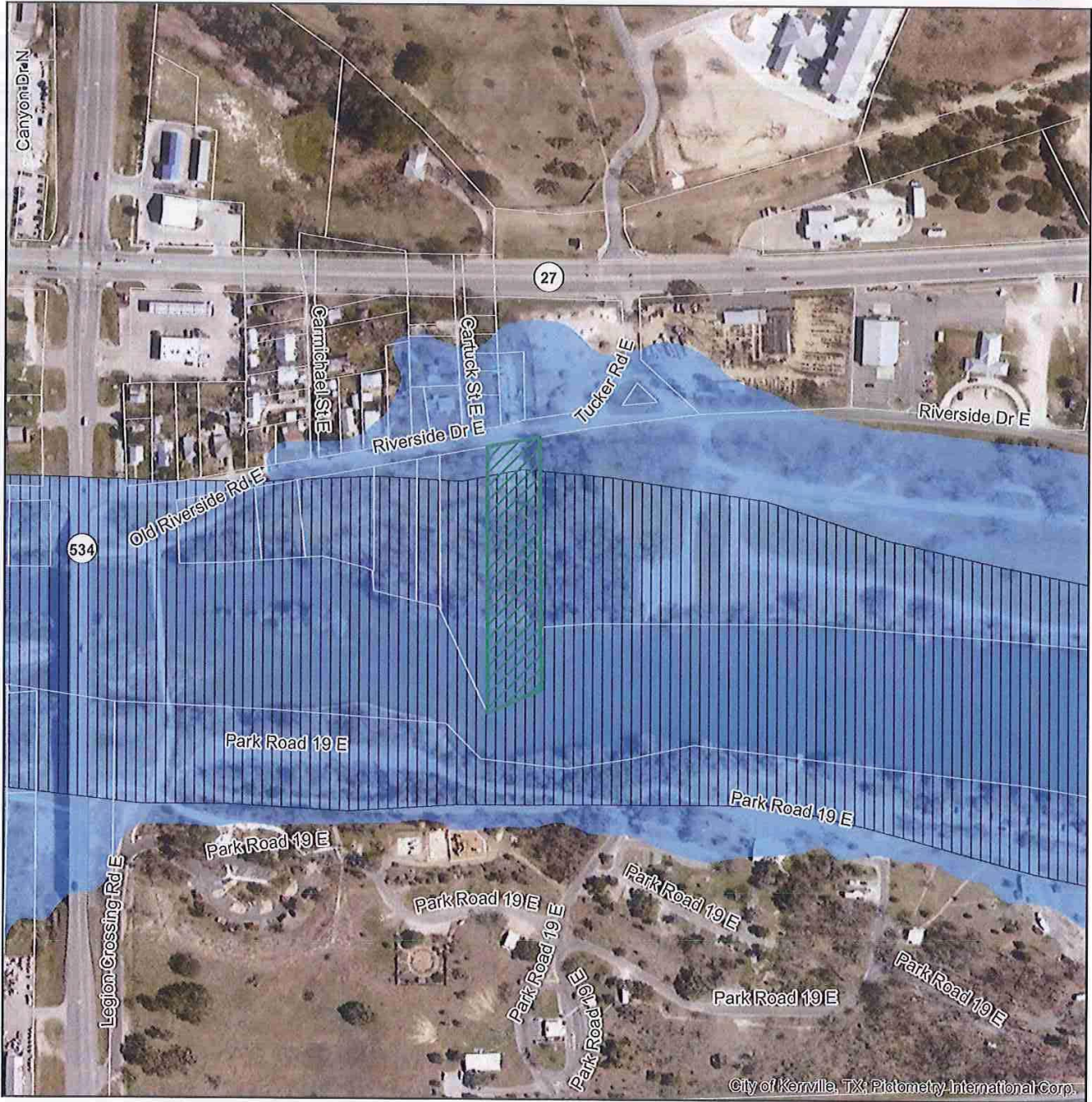
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# Kerrville Map



3515 Riverside Drive



City of Kerrville, TX; Platometry International Corp.

## Legend

 Tax Parcels



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 0 155 310 620  
 Scale In Feet

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