

**STAFF REPORT**

**Agenda Date:** Planning and Zoning Meeting Date: October 3, 2023  
City Council Date: October 16, 2023  
**Agenda Item:** Variance Request for 4030 Cedar Rapids Pkwy

---

**Project Description:** Variance to Subdivision Ordinance  
**Zoning Designation:** Single Family Residential

---

**Building Official:** Albert Cantu  
**City Engineer:** Dinh V. Ho, P.E.

---

**SUMMARY**

On or about September 13, 2023, Emma Moreno submitted a variance application for the property located at 4030 Cedar Rapids Pkwy, approximately 660' east of Iowa Colony Blvd. Ms. Moreno is requesting a variance to Subdivision Ordinance Section 37.A One Acre and Larger Lots.

The applicant plans on subdividing an existing 2.0795-acre tract. The proposed subdivision would result in two lots, one of which will have a lot width of less than 120'. Per the Subdivision Ordinance, a minimum width of 120' is the required lot width of lots that are not served by public sewer.

**SUBDIVISION ORDINANCE AFFECTED BY THE VARIANCE REQUEST:**

**Subdivision Ordinance Section 37A One Acre and Larger Lots**

Requests and Reason: Request variance to subdivide the existing 2.0795 acre tract. The proposed subdivision would result in two lots, one of which will have a lot width of less than 120', for lots not served by public sewer.

**STAFF REVIEW FINDINGS – REVISED 10.12.2023**

Below are city staff findings based on the variance application and supporting documentation provided.

1. The proposed subdivision would result in one of the two lots with frontage of 109'-8", or approximately 10'-4" less than the minimum required under Section 37.A.(3) of the Iowa Colony Subdivision Ordinance.
2. The tract includes a 25' roadway easement. Based on our review, the net area of the proposed lots within the subdivision would be less than the one-acre minimum required for lots not served by public sewer in accordance with Section 37.A.3. In addition, Cedar Rapids Pkwy. is identified as a major arterial in the Iowa Colony Major Thoroughfare Plan, with ultimate rights-of-way of 120' width. An additional ROW dedication of 35' will be required as part of platting.

### **STAFF RECOMMENDATION**

City staff recommend the variance to be denied based on the following:

1. Both lots can be subdivided to meet the minimum 120' width. The total frontage is 322.5', which allows both lots to meet that requirement.
2. If the Council chooses to allow for this variance, staff recommends the following conditions:
  - a. Provide a min 120' width for each lot.
  - b. Provide dedication of land for the ultimate ROW dedication (60' from north property line or CL of existing 50' Road Easement.) Note, this will result in lots that may not conform to the Subdivision Ordinance for large lots.
  - c. Provide individual septic and water well for each tract.

## CITY OF IOWA COLONY SUBDIVISION ORDINANCE

- B. Needs for convenient access, circulation, control and safety of street traffic.
- C. Limitations and opportunities of topography.
- D. No block shall exceed a length of one thousand two hundred (1,200) feet in residential or commercial developments.

Section 37. Lots. The following minimum requirements shall apply unless a conflict exists between this Section and City's Zoning Ordinance, in which case the more restrictive requirements of the two will control.

### A. One Acre and Larger Lots.

1. Minimum front residential building setback lines shall be at least fifty (50) feet. Each corner lot shall have at least the minimum front residential building setback line on both streets. Lots abutting across walkways shall be treated as corner lots. Minimum commercial, business and industrial building setback lines shall be at least twenty five (25) feet, unless otherwise approved. Side lot building lines on interior lots shall be ten (10) feet. Minimum side lot building lines on commercial, business or industrial buildings shall be five (5) feet.
2. Lot dimensions. Lot dimensions shall be a minimum of one hundred twenty (120) feet in width at the building setback line and of a depth so as to provide an area not less than one (1) acre or forty three thousand five hundred sixty (43,560) square feet.

3. Residential lots that are not served by public sewer shall be not less than one hundred twenty (120) feet in width at the building setback line and shall not have an area less than one (1) acre or forty three thousand five hundred sixty (43,560) square feet. Such lots shall be laid out with provision for the possibility of resubdivision at such time as sanitary sewers and/or water service becomes available.
4. Depth and width of properties reserved or laid out for business and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
5. In an approved subdivision, lot sizes may be permitted to be increased in order to secure privacy within such lots or to allow improvement on such lots to conform to the building requirements. However, in no case shall lot size changes be permitted if they result in creating one or more lots of size less than the minimum area requirements of this Ordinance.
6. Access to public streets. The subdividing of the land shall be such as to provide each lot with satisfactory access to a public street.
7. Double and reverse frontage lots. Double frontage and reverse frontage lots should be avoided unless backing up to a major thoroughfare.
8. Side lot lines. Side lot lines shall be substantially at right angles or radial to street lines.



# APPLICATION FOR VARIANCE REQUEST or APPEAL

12003 IOWA COLONY BLVD., IOWA COLONY, TEXAS 77583 | PHONE: 281-369-2471 | FAX: 281-369-0005 | [WWW.CITYOFIOWACOLONY.COM](http://WWW.CITYOFIOWACOLONY.COM)

Please use this application to request a variance/appeal within the Subdivision Ordinance, Zoning Ordinance, Unified Development Code (UDC) and Sign Ordinance. An Application for Variance Request/Appeal shall be considered by Planning Commission and Planning Commission shall make a recommendation to City Council, who has the authority to grant or deny variance requests. Considerations are made at the monthly Planning Commission and City Council meetings. Refer to the [www.cityofiowacolony.com](http://www.cityofiowacolony.com) for Planning Commission and City Council scheduled meeting dates and all ordinances and development guidelines affecting the City. Provide hard copies and digital files (cd or flash drive) of application and any supporting documentation to the City Secretary. This application may be used for several requests but only one property or one section of a subdivision. The application fee for Variance Requests/Appeal is \$1,000, due at the time of submission and is non-refundable. Applications received without the required fee shall be considered incomplete.

TYPE OF VARIANCE REQUEST (SELECT ONE):  ZONING  UDC  ZONING ORDINANCE  SIGN ORDINANCE  APPEAL

*(V) Subdivision Ordinance*

### APPLICANT INFORMATION:

Name of Applicant: Emma E. Moreno

Address of Applicant: 4030 Cedar Rapids Pkwy. Rosharon, Tx. 77583 Phone: 832-814-4554  
 Email: [REDACTED]

Name of Owner: Emma E. Moreno

Address of Owner: 4030 Cedar Rapids Pkwy. Rosharon, Tx. 77583 Phone: 832-814-4554  
 Email: [REDACTED]

### PROPERTY INFORMATION:

Address Of Subject Property: 4030 Cedar Rapids Pkwy. Rosharon, Tx. 77583

Legal Description Of Subject Property: See attached metes + bounds of 2.0795 acres.

Brazoria County Tax No(s): 02860002000

Current Zoning: Single family Water and Sanitary Serviced by: Private Water Well

Street Frontage Type (Circle One): Private or Public FIRM Map Panel Number: \_\_\_\_\_

**VARIANCE REQUEST/APPEAL INFORMATION:** Requestor must identify specific Chapter and Section of the Subdivision Ordinance, Zoning Ordinance, Unified Development Code or Sign Ordinance that the Variance Request applies to. If additional space is needed, please attach to this application.

List Ordinance or Code: Subdivision Ordinance

Request and reason: Variance

\_\_\_\_\_  
 List Ordinance or Code: \_\_\_\_\_

Request and reason: \_\_\_\_\_

\_\_\_\_\_

List of supplemental documentation provided: See Lists and copies attached w/drive.

Planning Commission Date Requested: \_\_\_\_\_ City Council Date Requested: \_\_\_\_\_

Requestor Signature or Owner and Date: Emma Moreno 9-6-23

**FOR CITY USE ONLY:** Application Received By: \_\_\_\_\_ Date Received: 09/13/23 *(EP)*

Planning Commission Date: \_\_\_\_\_ Fee Received: 09/13/23 *(EP)*

City Council Date: \_\_\_\_\_ Notifications Required:  Published Notice  Public Hearing

Date Approved or Denied: \_\_\_\_\_  Posting on Property (applicant responsibility)  Personal Notice

Written Notice of Decision

**LEGEND** \* ITEMS THAT MAY APPEAR IN \*  
DRAWING BELOW

A.E. = ADRIAL EASEMENT  
B.L. = BUILDING LINE  
BRS = BEARS  
C.F.# = CLERK'S FILE NUMBER  
D.E. = DRAINAGE EASEMENT  
E.E. = ELECTRIC EASEMENT  
F.I.P. = FOUND IRON PIPE  
F.I.R. = FOUND IRON ROD  
FND. = FOUND

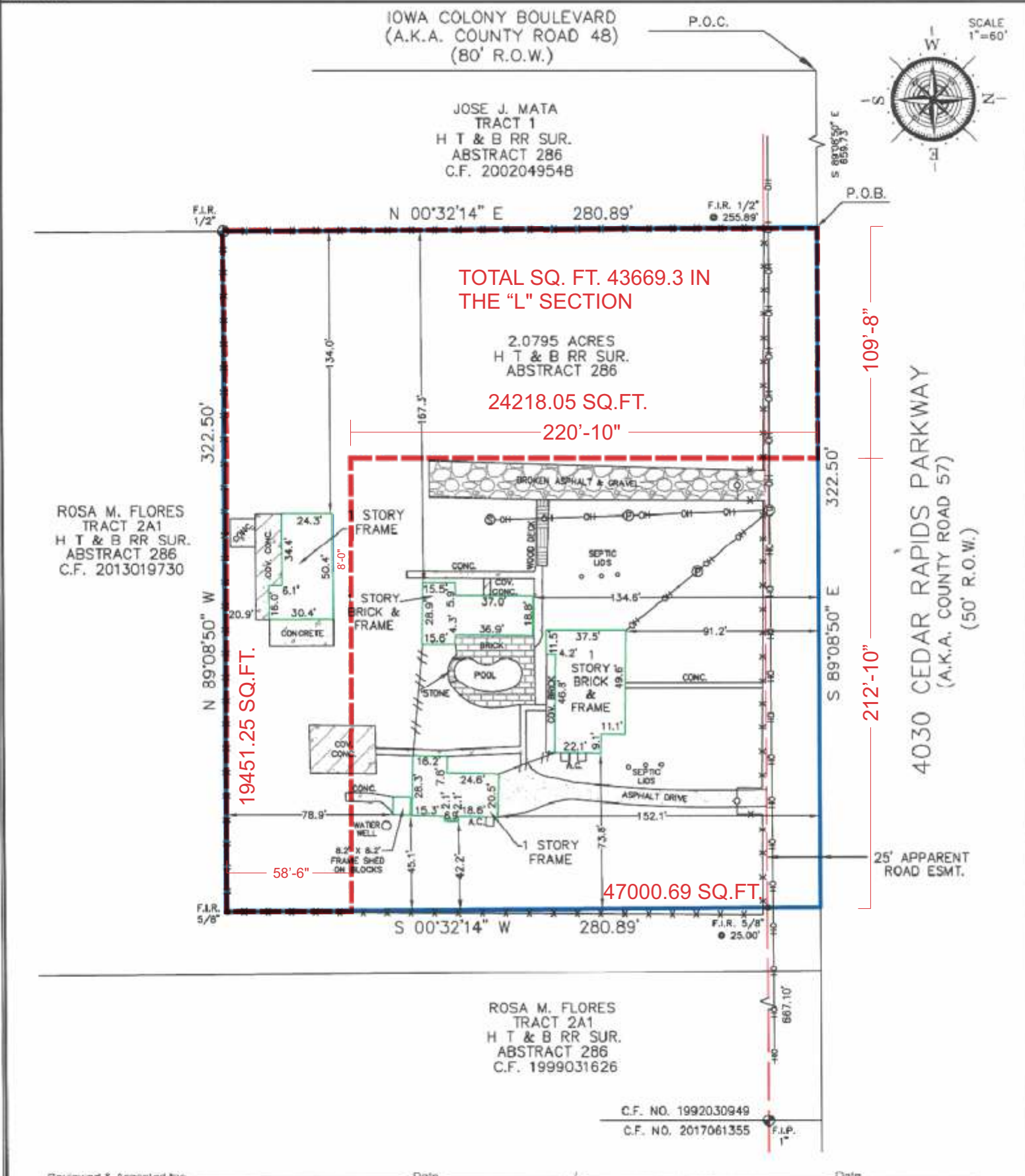
M.P. = METAL POST  
M.U.E. = MUNICIPAL UTILITY EASEMENT  
P.A.E. = PERMANENT ACCESS EASEMENT  
P.C. = POINT OF CURVATURE  
P.C.C. = POINT OF COMPOUND CURVATURE  
P.E. = POOL EQUIPMENT  
P.O.C. = POINT OF COMMENCING  
P.O.B. = POINT OF BEGINNING  
P.P. = POWER POLE

P.R.C. = POINT OF REVERSE CURVATURE  
P.T. = POINT OF TANGENCY  
P.U.E. = PUBLIC UTILITY EASEMENT  
S.I.R. = SET IRON ROD  
S.S.E. = SANITARY SEWER EASEMENT  
S.M.S.E. = STORM SEWER EASEMENT  
U.T.S. = UNABLE TO SET  
U.E. = UTILITY EASEMENT  
W.L.E. = WATER LINE EASEMENT  
W.P. = WOODEN POST  
W.S.E. = WATER & SEWER EASEMENT

— = NOT TO SCALE  
⊙ = GUY ANCHOR  
⊕ = POWER POLE  
⊖ = SERVICE DROP  
⊗ = CONTROL MONUMENT  
● = PROPERTY CORNER

— OH — OH = OVERHEAD POWERLINES  
— — — = PROPERTY LINE  
— — — = EASEMENT LINE  
— — — = BUILDING SETBACK LINE  
— — — = BUILDING WALL

— W — = WOODEN FENCE  
— X — = CHAIN LINK FENCE  
— O — = METAL FENCE  
— V — = WIRE FENCE  
— V — = VINYL FENCE (HARDPLANK WALL)



Reviewed & Accepted by: \_\_\_\_\_ Date \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date \_\_\_\_\_

**NOTES:**  
 - BEARING BASIS: C.F. 2018046151  
 - SUBJECT TO ANY AND ALL RECORDED AND UNRECORDED EASEMENTS  
 - SURVEYOR HAS NOT INDEPENDENTLY ABSTRACTED PROPERTY  
 - UNDERGROUND UTILITY INSTALLATIONS, UNDERGROUND IMPROVEMENTS, FOUNDATIONS AND/OR OTHER UNDERGROUND STRUCTURES WERE NOT LOCATED BY THIS SURVEY  
 - THIS SURVEY IS CERTIFIED FOR THIS TRANSACTION ONLY. IT IS NOT TRANSFERABLE TO ADDITIONAL INSTITUTIONS OR SUBSEQUENT OWNERS  
 - SUBJECT TO ZONING AND BUILDING ORDINANCES ENFORCED BY LOCAL MUNICIPALITIES  
 - THIS SURVEY WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE REPORT/COMMITMENT, ADDITIONAL BUILDING SETBACK LINES, EASEMENTS OR RIGHTS-OF-WAY MAY APPLY  
 - PAGE 1 OF 2

**LEGAL DESCRIPTION**  
 2.0795 ACRES OF LAND, BEING OUT OF A 15.0 ACRE TRACT SHOWN AS TRACT 2, RECORDED IN VOLUME 852, PAGE 536, DEED RECORDS OF BRAZORIA COUNTY, TEXAS, SITUATED IN THE HT&B RR COMPANY SURVEY NO. 55, ABSTRACT 286, BRAZORIA COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS ATTACHED:

EMMA MORENO	ADDRESS 4030 CEDAR RAPIDS PARKWAY
-------------	--------------------------------------

JOB #	2302307
DATE	3-20-2023
GF#	N/A

**PRO-SURV**  
 P.O. BOX 1366, FRIENDSWOOD, TX 77549  
 PHONE: 281-996-1113 FAX: 281-996-0112  
 EMAIL: ORDERS@PROSURV.NET  
 T.B.P.E.L.S. FIRM #10119300  
 ONLY SURVEY MAPS WITH THE SURVEYOR'S ORIGINAL SIGNATURE ARE GENUINE TRUE AND CORRECT COPIES OF THE SURVEYOR'S ORIGINAL WORK AND OPINION

## **Request for Variance**

### **Historical Background, Subdivision Ordinance and Amendments, Codes Affected, and Reasons for Granting Variance**

Attached is the signed Request for Variance to the existing one acre (43,560 sq. feet) minimum lot size in Section 37 of the Subdivision Ordinance, as stated herein. .

#### **Historical Background**

The 2.0795 acre tract I purchased in 2002 had several single family residences and other improvements on the tract at that time. The tract was part of a 15 acre tract located at the top of survey 55 in Brazoria County. A 1911 conveyance of the 15 acre tract described a 50 foot dirt road centered on the north boundary of survey 55. The Mannings purchased the 15 acre tract in 1963.

In 1912, a subdivision had been formed containing property north of survey 55, and bordered on the north half of said 50 foot road. The 50 foot road continued to be developed. Drainage ditches were added onto both sides, the road was paved with asphalt, entrances to adjoining properties were added, and the roadway became a public thoroughfare.

The permanent dwellings and other improvements were added to the 15 acre tract, beginning in the 1940's. The main residence was constructed in 1948, and other improvements were added in the early 50's. None of the improvements constructed by Manning were located on any part of the 50 foot roadway.

In 1967, the 50 foot public roadway centered on the north boundary of survey 55 was added to the Brazoria County Road Map as County Road 57 by vote of the Brazoria County Commissioner's Court.

It is important for the city officials, both employed and elected, to be aware of the different ways the real property underneath County Road 57 have been described by metes and bounds. There were other conveyances of property in survey 55 east of the 15 acre tract owned by Manning, including two ten acre tracts, which had been part of a 100 acre tract. The conveyances of the ten acre tracts were completed in 1980, and contained metes and bounds which began at the boundary of the south half of County Road 57.

Conveyances were also made of property located north of Survey 55 in the subdivision created in 1912, and the metes and bounds of same began at the boundary of the north half of County Road 57. One such purchase of a 5 acre tract which bordered on the north half of County Road 57 was made by former Mayor Robert Wall in 1993.

The original 50 foot dirt road was centered on the north boundary of Survey 55. The first conveyance by Manning of a portion of the 15 acre tract contained a metes and bounds which began at the north boundary of survey 55 and the center of what was now County Road 57, a county public road..

#### The 2.0795 Acre Tract I Own

I learned too late at the time of my purchase that the metes and bounds to my 2.0795 acre tract included the south half of County Road 57. I learned from the title company that the owners title policy I received stated that “the 2.0795 acre tract I purchased included the south half of County Road 57.”



The description of the 2.0795 acre tract did not take into account the existence of the public road that was now County Road 57, but the metes and bounds began at the northwestern corner of the 15 acre tract include the 25 foot south half of what was now County Road 57.

The applicable Subdivision Ordinance, as amended, for which this variance is requested and made necessary, was enacted in August 2002. However, I purchased the 2.0795 acre tract, which contained the existing dwellings and other improvements, as well as additional vacant and undeveloped property, prior to that date, in February 2002.

Clearly, my purchase preceded the passage and application of the subdivision ordinance to my property.

I like Iowa Colony and I am very proud of my record as a good citizen. The property I purchased was largely developed with residential dwellings and other improvements, a private water well, and septic sewer. I lived in part of the property as a tenant earlier, and that's how I came to like Iowa Colony so much I always intended to live on the property and hold the undeveloped half for future development by me or some third party to assist with my financial future, and perhaps even my retirement. When I made the decision to buy the partly developed property, there was no reason why I could not do so.

In particular, the current subdivision platting requirements concerning the minimum one acre lot size, and total square footage of 43,560 sq. ft. prevents any sale or development of my property without a variance request.

The variance is required because although the total square footage of the property I want to sell is 43,699.3 square feet, and more than one acre, the reduced width of 109 feet at the setback line and the 30 foot

access to the public street is less than the current requirements of the ordinance.

In granting this request for variance the City shall take into account the nature of the use of the property to be sold and developed as a one lot subdivision containing 43,699.3 sq, ft.

#### FINDINGS OF FACT

In granting a variance, the Council shall prescribe those conditions it deems necessary or desirable to the public interest.

The council shall take into account the nature of the proposed use of the land for which this variance is requested, which is 43,699.03 sq. ft. Upon granting this variance, the City shall officially authorize me to advertise and sell the 43,699.03 square feet to a purchaser who may then proceed to develop the property by filing the necessary one lot subdivision plat and then to construct a single family residence thereon in full compliance with all other requirements of the Subdivision Ordinance.

See attached Exhibit containing the tentative survey of the 43,699.3 sq. feet.

A formal survey of said 43,699.03 sq. ft. will be prepared when the city has granted this variance.

The current occupants of the remainder of the 2.0795 will not be detrimentally affected by this variance, nor by the eventual platting of a one lot subdivision on said property, nor by the eventual construction of a single family residence on said lot.

The number of persons who will reside in a single family residence on said lot and the traffic to and from said additional single family residence shall not result in a detrimental increase of traffic, and the number of persons residing in the single family residence or visitors thereto will be no different than it would have been prior to this variance.

The granting of the variance will have no effect capable of calculation on the public health, safety, soundness, integrity, convenience or welfare of citizens residing in other parts of Iowa Colony or in the vicinity of the one lot subdivision to be sold and developed.

The variance shall provide the following change in the Subdivision Ordinance for a one lot subdivision plat prepared and filed for this property only.

Subdivision Ordinance, Section 37. Lots. A. 2. Lot dimensions. The sole lot to be created at the time of filing the one lot subdivision plat shall contain not less than 43,699.03 sq. ft., including one hundred nine (109) feet in width at the building setback line and 30 foot access to the street adjacent to the existing driveway in order to create a 30 ft. wide driveway on the new lot for the length of the current driveway. The private driveways shall be separated by a common fence.

This variance to the existing subdivision ordinance does not require any variance or special exception to the zoning ordinance. The provisions in the subdivision ordinance which made this variance necessary were not created by me, but by the passage of the subdivision ordinance after my purchase of the 2.0795 acres, and currently prevents any development of the remainder my property without this variance.

The minimal variance does not violate the original intent of the ordinance providing for the development of one lot subdivisions, and it will achieve substantial justice.

I sincerely request the prompt granting of this variance.

Sincerely,

/S/

Emma Moreno