

**NOTICE OF MEETING
CITY OF SOUTH PADRE ISLAND
BOARD OF ADJUSTMENTS & APPEALS (ZONING)**

NOTE: One or more members of the City of South Padre Island City Council may attend this meeting; if so, this statement satisfies the requirements of the OPEN MEETINGS ACT.

NOTICE IS HEREBY GIVEN THAT THE BOARD OF ADJUSTMENTS & APPEALS (ZONING) OF THE CITY OF SOUTH PADRE ISLAND, TEXAS, WILL HOLD A REGULAR MEETING ON:

**TUESDAY, FEBRUARY 5, 2019
9:00 A.M. AT THE MUNICIPAL BUILDING,
CITY COUNCIL CHAMBERS, 2ND FLOOR
4601 PADRE BOULEVARD, SOUTH PADRE ISLAND, TEXAS**

1. Call to Order
2. Pledge of Allegiance
3. Election of Chairman and Vice-Chairman
4. Public Comments and Announcements: *This is an opportunity for citizens to speak to the Board relating to agenda or non-agenda items. Speakers are required to address the Board at the podium and give their name before addressing their concerns. [Note: State law will not permit the Board of Adjustments & Appeals (Zoning) to discuss, debate or consider items that are not on the agenda. Citizen Comments may be referred to City Staff or may be placed on the agenda of a future Board of Adjustments & Appeals (Zoning) meeting]*
5. Approve minutes of January 11, 2019 special meeting.
6. Public Hearing regarding a request by Robert & Gail Carpenter for a variance from Section 20-10 (B) Use Regulations (6) Special Exceptions of the City's Code of Ordinances of the City of South Padre Island. Applicant is requesting to construct a swimming pool on a contiguous/adjoining vacant lot. *(Lot 25, Block 101, Padre Beach Subdivision Section VII – 222 W. Huisache Street)*
7. Discussion and action regarding a request by Robert & Gail Carpenter for a variance from Section 20-10 (B) Use Regulations (6) Special Exceptions of the City's Code of Ordinances of the City of South Padre Island. Applicant is requesting to construct a swimming pool on a contiguous/adjoining vacant lot. *(Lot 25, Block 101, Padre Beach Subdivision Section VII – 222 W. Huisache Street)*
8. Adjourn

DATED THIS THE 29TH DAY OF JANUARY 2019



Susan Hill, City Secretary

I, THE UNDERSIGNED AUTHORITY, DO HEREBY CERTIFY THAT THE ABOVE NOTICE OF THE BOARD OF ADJUSTMENTS & APPEALS (ZONING) OF THE CITY OF SOUTH PADRE ISLAND, TEXAS IS A TRUE AND CURRENT COPY OF SAID NOTICE AND THAT I POSTED A TRUE AND CORRECT COPY OF SAID NOTICE ON THE BULLETIN BOARD AT CITY HALL/MUNICIPAL BUILDING ON **JANUARY 29, 2019** AT/OR BEFORE **5:00 PM** AND REMAINED SO POSTED CONTINUOUSLY FOR AT LEAST 72 HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING.



Susan Hill, City Secretary

THIS FACILITY IS WHEELCHAIR ACCESSIBLE, AND ACCESSIBLE PARKING SPACES ARE AVAILABLE. REQUESTS FOR ACCOMMODATIONS OR INTERPRETIVE SERVICES MUST BE MADE 48 HOURS PRIOR TO THIS MEETING. PLEASE CONTACT BUILDING OFFICIAL DAVID TRAVIS; ADA DESIGNATED RESPONSIBLE PARTY AT (956) 761-8103.



**SPECIAL MEETING MINUTES
CITY OF SOUTH PADRE ISLAND
BOARD OF ADJUSTMENTS & APPEALS (ZONING) REGULAR MEETING**

FRIDAY, JANUARY 11, 2019

I. Call to Order.

The Board of Adjustments & Appeals (Zoning) of the City of South Padre Island, Texas held a Special Meeting on Friday, January 11, 2019 at the Municipal Complex Building, 2nd Floor, 4601 Padre Boulevard, South Padre Island, Texas. Chairman Paul Fedigan called the meeting to order at 9:00 a.m. A quorum was present: Board Members in attendance were: Jerry Pace, Carol Bolstad, Chris Huffman, and Cain Mahan.

City staff Members present were Assistant City Manager Darla Jones, Planning Director Clifford Cross, Building Official David Travis, and Administrative Assistant Marta Martinez.

II. Pledge of Allegiance.

Chairman Paul Fedigan led those present in the Pledge of Allegiance.

III. Public Comments and Announcements.

None

IV. Approve minutes of December 4, 2018 regular meeting.

Board Member Huffman made a motion, seconded by Board Member Bolstad to approve the minutes as submitted. The motion carried unanimously.

V. Discussion and action regarding a request by Raul Gonzalez & Jeffery Erickson for a variance from Section 2-14 Driveways, Alleys, Entrances and Approaches B. Residential Driveway Dimensions (2) Widths (b) Three Family Residential and Above of the City's Standards and Specifications for the Acceptance of Public Improvements for the City of South Padre Island. Applicant is requesting a variance to expand to the maximum driveway curb cut dimensions to 40 feet. (Lot 24, Block 92, Padre Beach Subdivision Section VII – 126 E. Retama Street)

After much discussion regarding the variance to expand to the maximum driveway curb cut dimensions to 40 feet Chairman Fedigan made a motion, seconded by Board Member Mahan to deny the variance. Motion carried unanimously.

VI. Adjourn

There being no further business to discuss Chairman Fedigan adjourned the meeting at 10:02 a.m.

Marta Martinez, Secretary

Paul Fedigan, Chairman

The City of South Padre Island, Texas
Board of Adjustments & Appeals
Special Exception

February 5, 2019

CASE NUMBER: **Item 6-7**

CURRENT ZONING: 1) E – Low Density Residential
FUTURE LAND USE 2) NA
EXISTING USE 3) Residential / Adjoining Vacant

ZONING REQUEST: Special Exception

LOCATION: Current Address 222 W. Huisache

GEO ID NUMBER: 67-6400-1010-0261-00

ACREAGE: Roughly 24,200 square feet

PROPOSED USE: Accessory Pool on Contiguous Lot

ADJACENT ZONING, : N) 1) E – Low Density Residential
FUTURE LAND USE 2) NA
& EXISTING LAND USE 3) Residential

S) 1) E – Low Density Residential
2) NA
3) Residential

E) 1) E – Low Density Residential
2) NA
3) Residential

W) 1) E – Low Density Residential
2) NA
3) Residential Primary Residence / Bay

APPLICANT:

Robert & Gail Carpenter
P.O. Box 963520
El Paso, Texas 79996

OWNER:

Robert & Gail Carpenter
P.O. Box 231
Dell City, Texas 79837

I. PURPOSE AND MAJOR ISSUES

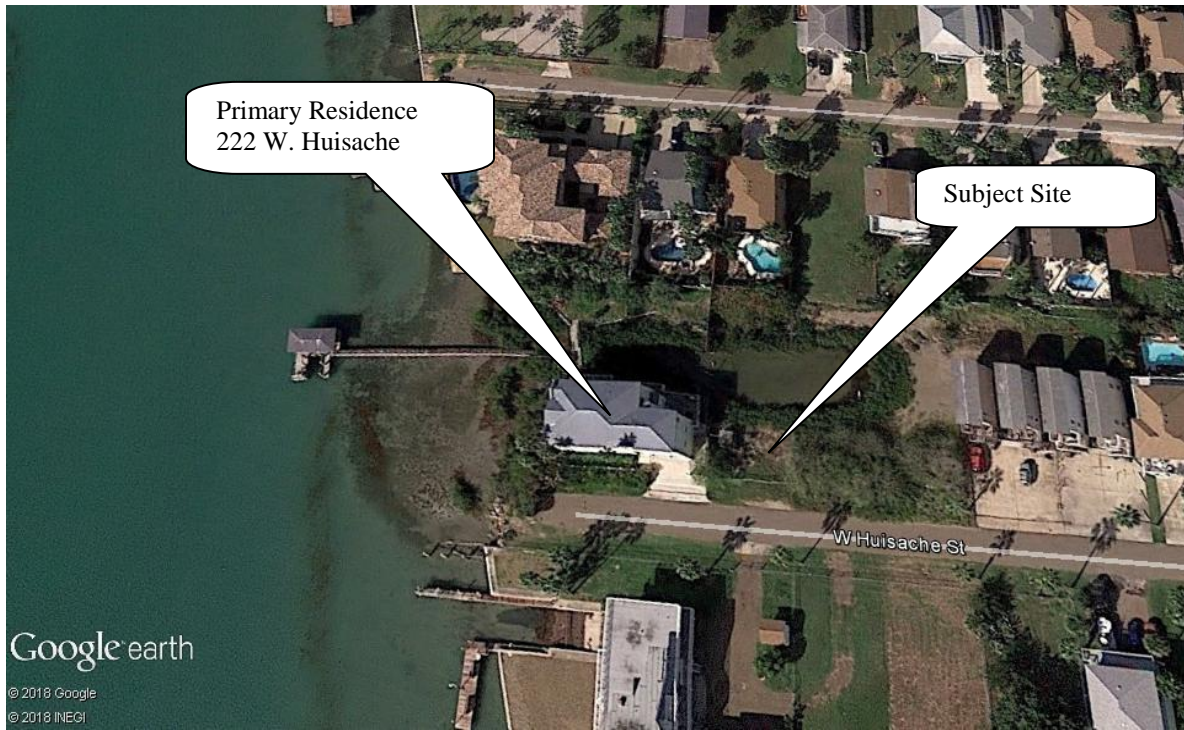
The applicant seeks a special exception to construct an accessory pool on a standalone contiguous lot within the E – Low Density Residential Dwelling District.

The major issues associated with this request are:

1. Section 20-10(B)(6)
 - 6) Special Exceptions: Public Service Facility; Residential accessory uses in a vacant lot that is contiguous with a residential single family lot having a principal building under common ownership

Property Location & Characteristics

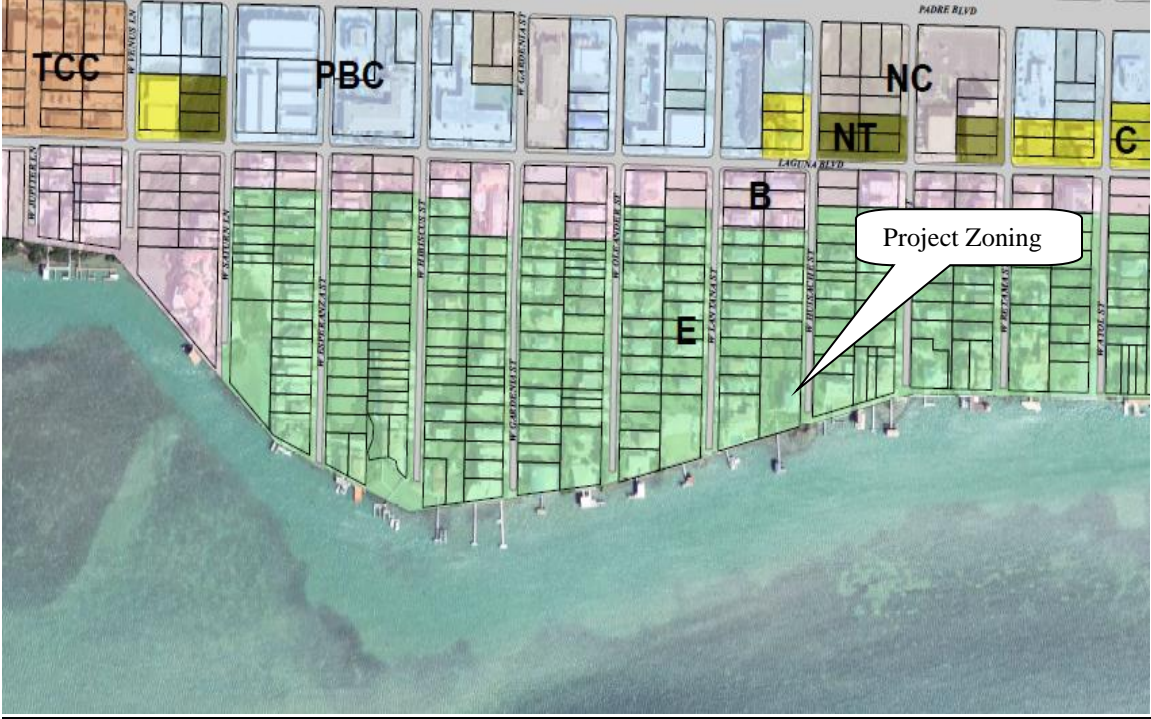
Lot Contiguous to 222 W. Huisache



Existing Conditions Ground:

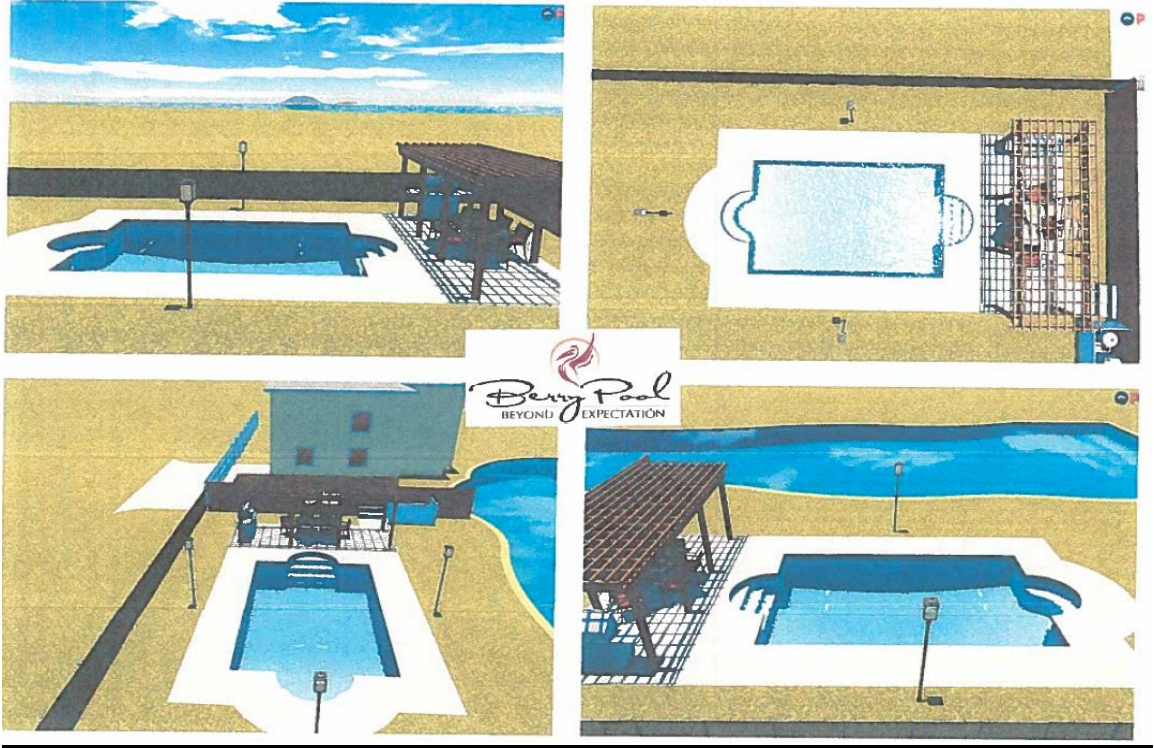
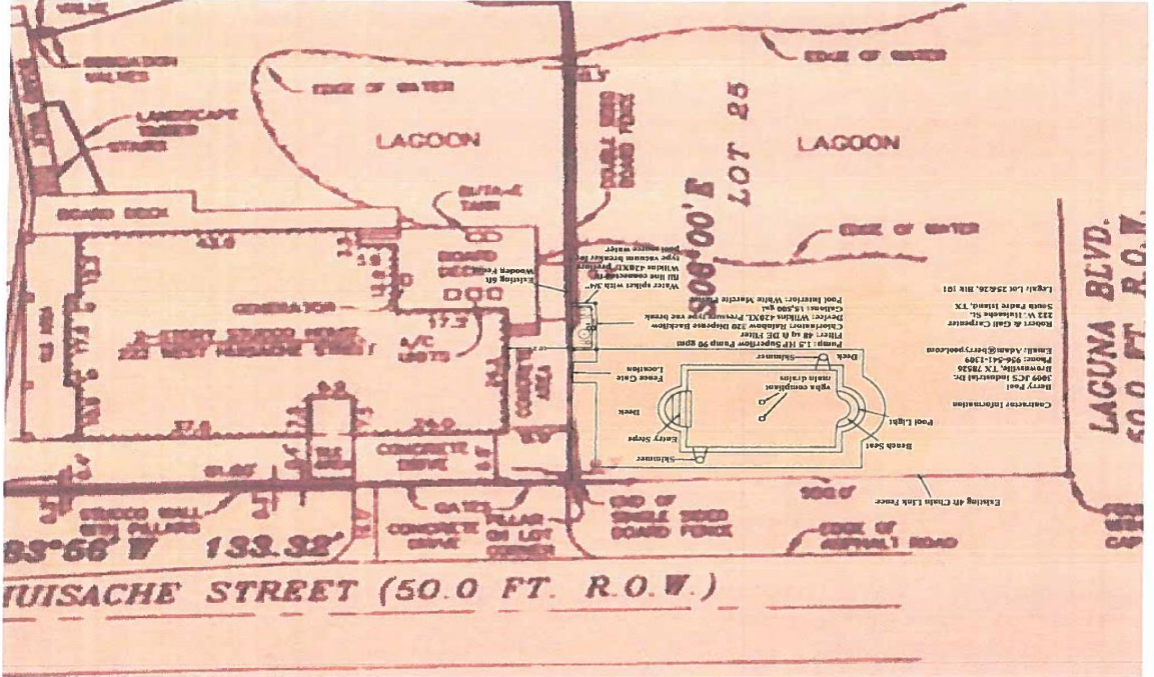


Zoning



II. REVIEW OF THE PLAN

The owners of the property seek a special exception to construct an accessory residential pool on a contiguous lot that they control and own. Section 20-10(B)(6) allows for the approval of accessory residential uses on contiguous lots under common ownership via the issuance of a “Special Exception”.



III. TRANSPORTATION & PARKING

The property is located along Huisache Street and the proposal will not increase traffic flow.

IV. INFRASTRUCTURE AND PUBLIC SERVICES

Public services are and will be provided by the City of South Padre Island and associated private utility companies.

V. REQUIREMENTS OF THE ZONING ORDINANCE

- Section 20-10(B)(6)
 - 6) Special Exceptions: Public Service Facility; Residential accessory uses in a vacant lot that is contiguous with a residential single family lot having a principal building under common ownership

- Section 20-16.1.
 - (A) *Notice of Hearings.* Public notice of hearings before the Board of Adjustments shall be given for each separate appeal thereby by mailing notice of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation, or exception, is desired and to all other persons deemed by the Board of Adjustments to be affected thereby. Such owners and persons shall be determined according to the current tax rolls of the city.

VI. ZONING REVIEW STANDARDS

- Notices to the surrounding property owners were sent on January 18, 2019

VII. PLANNING STAFF QUESTIONS/COMMENTS:

Lot has limited used based upon existing conditions.

VIII. BOARD OPTIONS:

Section 20-16.3

- (A) *Purpose and Intent.* A special exception is a permitted land use that is allowed in a zoning district if listed as a special exception use, subject to specific conditions that may be imposed by the Board of Adjustments.

(B) *Procedure.*

- (1) The application shall first be reviewed by City staff for compliance with City codes, regulations, and policies.
- (2) After reviewing any foreseeable impacts and/or concerns raised at the hearing on the application, the Board of Adjustments may:
 - (a) Grant the application without conditions. In this case, the Board of Adjustments shall determine and state that there is no negative impact on public health, safety and general welfare on the applicable zoning district;
 - (b) Accept the application with conditions; or
 - (c) Deny the application. In this case, the Board of Adjustment shall determine and state that there are negative impacts on public health, safety and general welfare on the applicable zoning district, and those negative impacts cannot be resolved by any conditions.



CITY OF SOUTH PADRE ISLAND BOARD OF ADJUSTMENT & APPEALS APPLICATION

- 1) \$250 variance [checked] Special Exception Use (Sec. 20-16.1)
[] Administrative Appeal

APPLICANT INFORMATION

Name: Robert & Gail Carpenter
Mailing Address: POB 963520
City, State, Zip: EL PASO, TX. 79996
Phone number: 915-497-6707
Fax number:
Email Address: gcarpenter160@gmail.com

OWNER INFORMATION

Name: Robert & Gail Carpenter
Mailing address: POB 963520
City, State, Zip: EL PASO, TX. 79996
Phone number: 915-497-6707
Fax number:
Email Address: gcarpenter160@gmail.com

SITE LOCATION FOR REQUEST:

Physical Address (Street Name & Number): 222 W HOISACHE ST. SPI
Legal Description (Lot / Block / Subdivision): Lot 25 BK 101 Padre Beach Sub. Lot 26 BK 101 Padre Beach Section VII

I hereby request the following from the Board of Adjustment and Appeals:

PLEASE SEE ATTACHMENT

- In addition, the application requires the submission of the following:
- \$250 application fee per variance, special exception, and appeal request.
- Stamped/Sealed & dated survey of Improvements of the Subject Property.
- Copy of Floor Plan of structure proposed to be constructed or expanded.
- Current/recent photographs of the site.
- And any additional information to more clearly understand the request.

For Internal use only:
Amount Paid:
Paid Cash or Check No.
Date Received:

Note: Applicants are required to fully disclose in the application all information that is necessary for the various bodies to make their determination prior to issuance of any permit. At a minimum, an application for a variance or Special Exception shall contain ten (10) copies of the information outlined above. All information must be submitted no later than twenty (20) days prior to the meeting date. All fees must be paid prior to the Board reviewing the application. If Staff determines that the application is incorrect, incomplete, illegible, or in any way inadequate to insure the complete understanding of the variance or special exception, staff shall return the application to the applicant.

Applicant's Name (Please Print): Robert & Gail Carpenter
Owner's Name (Please Print): Robert & Gail Carpenter

Applicant's Signature: [Handwritten signatures]
Owner's Signature: [Handwritten signatures]

Date: 1/3/19

Date: 1/3/19

JAN 3, 2019

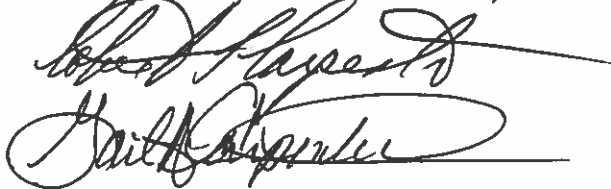
TO THE BOARD OF ADJUSTMENTS AND APPEALS

We are urging this board to allow a special exception from the ordinance requiring a replat of lots 25 and 26, allowing us to build a pool at our home.

The utilities will be furnished from the house on lot 26 to the pool as well as some partial construction such as steps, lighting and shading.

We take pride in our property and are preparing our retirement home. The process of re-plating is a long and very costly one. We would be willing to enter into an agreement with the city of not dividing lots if ever sold. We purchased this property as one and we intend to keep it as one.

Thank you for your consideration,

The image shows two handwritten signatures in black ink. The top signature is for Robert Carpenter, and the bottom signature is for Gail Carpenter. Both signatures are written in a cursive, flowing style.

Robert Carpenter and Gail Carpenter

Copy

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER

WARRANTY DEED

Date: January 18, 2016

Grantor: GERALD SHER and wife, SUSAN SHER

Grantor's Mailing Address (including county):

P. O. Box 3229, South Padre Island, Cameron County, Texas 78597

Grantee: ROBERT L. CARPENTER and wife, GAIL A. CARPENTER

Grantee's Mailing Address (including county):

P. O. Box 231, Dell City, Hudspeth County, Texas 79837

Consideration: TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration

Property (including any improvements):

Lot Twenty-five (25), Block One Hundred One (101), PADRE BEACH SUBDIVISION, Cameron County Texas, according to the Map thereof recorded in Volume 15, Page 21, Map Records of Cameron County, Texas; AND

Lot Twenty-six (26), of Replat of Lots 26 and 27, Block One Hundred One (101), PADRE BEACH SECTION VII, in the Town of South Padre Island, Cameron County, Texas, according to the Map of said Replat recorded in Cabinet 1, Slot 1128-A, Map Records of Cameron County, Texas.

Reservations from Conveyance: None

Exceptions to Conveyance and Warranty:

1. Visible and apparent easements on and across the property herein described.
2. Utility easements as shown on the plat of Subdivision herein referred to.
3. Building set-back lines as shown on the plat of the subdivision herein referred to.
4. The right of the public, individually and collectively, to use any portion of the land lying between the line of mean low tide and the line of mean high tide and/or line of vegetation, bordering on the Gulf of Mexico; as said line of mean high tide, line of mean low tide or line of vegetation is determined, defined, or adjudicated by statute or by any Court of competent jurisdiction.
5. Any loss or gains of the land herein insured from any erosions, reliction or accretions from natural or artificial forces to land bordering on the Laguna Madre or on the Gulf of Mexico.
6. Zoning regulations and rules promulgated by the Commissioner's Court of Cameron County and the Town of South Padre Island, Texas.
7. Reservation of 1/16th non-participating royalty interest, being 1/2 of 1/8 interest in all oil, gas and other minerals, as described in Deed dated October 12, 1951, filed November 21, 1951, executed by South Padre Island Corporation to John L. Tompkins, Trustee, recorded in Volume 527, Page 129 of the Deed Records of Cameron County, Texas.
8. Reservation of all oil, gas and other mineral, SAVE AND EXCEPT 1/4th of 1/8th royalty interest, as described in Deed dated December 3, 1964,

copy

- executed by John Tompkins, Trustee, recorded in Volume 777, Page 556, of the Deed Records of Cameron County, Texas.
- 9. Reservation of all oil, gas and other mineral, SAVE AND EXCEPT 1/4th of 1/8th royalty interest, as described in Deed dated August 5, 1954, executed by John Tompkins, Trustee, recorded in Volume 581, Page 131, of the Deed Records of Cameron County, Texas.
- 10. Any titles or rights asserted by anyone including, but not limited to, person, corporations, governments or other entities to tidelands, or lands comprising the shores or beds of navigable or perennial rivers and streams, lakes, bays, gulfs or oceans, or to any land extending from the line of mean low tide to the line of vegetation, or to lands, beyond the line of the harbor or bulkhead lines as established or changed by any government, or to filled-in lands, or artificial islands, or to riparian rights, or the rights or interests of the State of Texas or the public generally in the area extending from the line of vegetation or their right of access thereto, or right of easement along and across the same.
- 11. Any titles or rights asserted to that portion of the land lying outside the J. Stuart Boyles Survey Line as described in the STATE OF TEXAS v. ALBERTO BALLI, et al (190S.W.2d71/TEX.1945), establishing the boundary line between State of Texas and private ownership.
- 12. Easement and Right of Way dated March 1, 1995, executed by Gerald Sher and wife, Susan Sher to Central Power and Light Company, recorded in Volume 16678, Page 132, of the Official Records of Cameron County, Texas. (Lot 26)
- 13. Easements, rights-of-way, and prescriptive rights; all presently recorded instruments, other than liens and conveyances, that affect the property; taxes for the year 2016 and subsequent years, the payments of which are assumed by Grantee.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

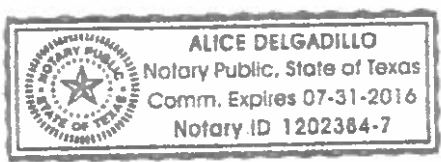
When the context requires, singular nouns and pronouns include the plural.

Gerald Sher
GERALD SHER

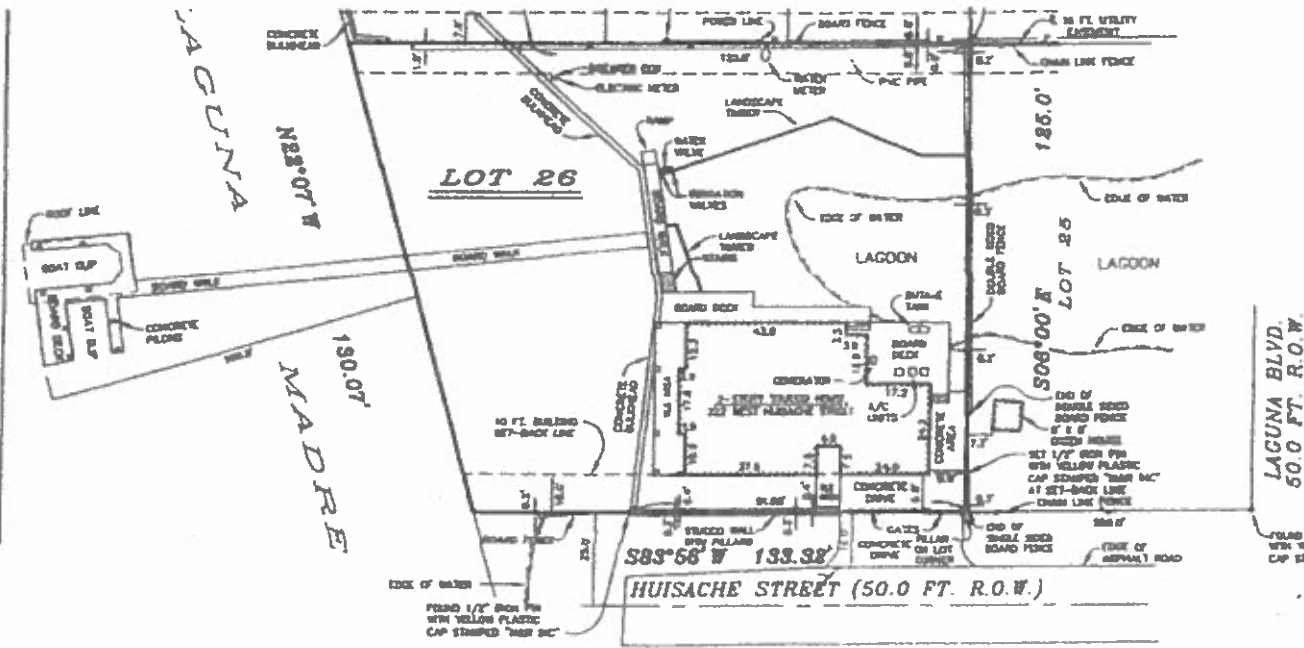
Susan Sher
SUSAN SHER

THE STATE OF TEXAS §
 §
COUNTY OF CAMERON §

This instrument was acknowledged before me on January 20th, 2016 by **GERALD SHER and wife, SUSAN SHER.**



Alice Delgadillo
NOTARY PUBLIC, State of Texas
 Notary's name printed:
ALICE DELGADILLO
 My Commission expires: 7-31-16



SECTION VII

- NOTES
- 1) THIS TRACT LIES IN FLOOD ZONE "XZ" (ELEV. 6) PER THE T.I.A. FLOOD INSURANCE RATE MAP OF COMMERCE NO. 48915, PANEL NO. 5021 G, REVISED MARCH 8, 1988
 - 2) WOLFEKREUTER FENCE ALONG THE NORTH RIGHT-OF-WAY LINE OF HUISACHE STREET WAS USED AS THE BASIS OF MEASUREMENT.
 - 3) EASEMENT AND RIGHT OF WAY DATED MARCH 1, 1985, BY AND BETWEEN GERALD SHER AND WIFE SUSAN SHER AND CENTRAL POWER AND LIGHT COMPANY, RECORDED IN VOLUME 18628, PAGE 152, OFFICIAL RECORDS OF CAMERON COUNTY, TEXAS.

LAGUNA BLVD.
50.0 FT. R.O.W.

TRAIL 1/2" HIGH PIN WITH YELLOW PLASTIC CAP STAMPED "MSR MC"

SURVEY OF

LOT TWENTY-SIX (26), OF REPLAT OF LOTS 26 AND 27, BLOCK ONE HUNDRED ONE (101), PADRE BEACH SECTION VII, IN THE TOWN OF SOUTH PADRE ISLAND, CAMERON COUNTY, TEXAS, ACCORDING TO THE MAP OF SAID REPLAT RECORDED IN CABINET 1, PAGE 1128-A, MAP RECORDS OF CAMERON COUNTY, TEXAS.

SCALE: 1" = 30'
SURVEYED FOR:

GERALD SHER
AND
SUSAN SHER

The undersigned hereby certifies that the survey described herein was made on the ground on 09-25-2010, that the only improvements on the ground are as shown; that there are no visible encroachments, visible overlappings, apparent easements, or visible commitments except as shown herein. THIS CERTIFICATION IS ONLY VALID WITH AN ORIGINAL MEASUREMENT AND IF THE MEASUREMENT CONTAINS NO ERRORS OR OMISSIONS.

E.H. Meas
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 3900



Mehta & Ross, Incorporated
Engineering Surveying
T.B.P.E. Reg. No. P-5870
1845 West Pryor Road (858) 544-3022
P.O. Box 3791 Brownsville, Texas 78520
Fax (858) 544-9088
email: mehta@mehtaandross.com
G.P. No. 2101773 REG. NO. 18124
5 EXP. 08/2015

3009 JCS Industrial Drive
 Brownsville, TX 78526
 Office.....956-541-1309
 Fax.....956-986-2746



Swimming Pool Contract

#1817

This Contract made as of the date written acceptance by Berry Pool & Supply, a corporation herein termed "Contractor" and, the party named below, herein termed "Buyer":

NAME: Mr. Robert L. & Gail A Carpenter, HEREIN TERMED "BUYERS"
 MAIL ADDRESS: PO Box 1458 CITY: Alto, New Mexico ZIP: 88312
 PROJECT ADDRESS: 222 W. Huisache St. CITY: Port Isabel, Texas
 LEGAL ADDRESS: SO Padre Is-Padre Beach Sec. VII, Lot 25, Blk 101 COUNTY: Cameron STATE: Texas
 CELL PHONE: (915) 497-6707 Home Phone: _____ Email: gcarpenter160@gmail.com

MAXIMUM WATER SUFACE AREA: 415 MAXIMUM PERIMETER: 90
 MAXIMUM POOL SIZE DIMENSIONS: 15 x 30 MAXIMUM WATER DEPTH: 3.6ft to 5ft to 4ft (Athletic Style)
 POOL MEETS / EXCEEDS APSP DIVING POOL REGULATIONS. THIS POOL **IS NOT** INTENDED FOR USE AS A DIVING POOL.
 NOTE: All pool dimensions on straight line pools are taken at maximum length and width. All dimensions on free form pools are taken at radius points and maximum length. Area is maximum water surface area NOT including outside spas or love seats, etc. Perimeter is the distance around pool at water's edge NOT including outside spas or love seats, etc.

ALL NUMBERED ITEMS AND SUBPARTS ARE MARKED AS FOLLOWS:

INDICATES INCLUDED INDICATES EXCLUDED
 (Items not marked are excluded).

ITEMS INCLUDED BY BERRY POOL / SPECIAL INSTRUCTIONS	ITEMS LISTED BELOW ARE TO BE DONE BY BUYER AT BUYER'S EXPENSE & ARE BUYER'S RESPONSIBILITY
15 x 30 Roman Style Pool w. Athletic Floor, 2 volleyball umbrella deck anchors and 4 deck jets	
5G Intellibrite Pool Light 215 sq. ft. of additional decking with steps to existing driveway Mastertemp LP heater w. all necessary connections to LP tank. 98 x 238 Pergola	
Including electrical provisions for lighting, 31 landscape light post setups. 60 block wall with stucco along the property line facing street and 60 wooden fence for pool privacy w. gate	

BUYER ACKNOWLEDGES THAT HE / SHE HAS READ AND RECEIVED A COMPLETE LEGIBLE COPY OF THIS CONTRACT, AND THAT THIS CONTRACT MUST BE ACCEPTED AND SIGNED BY CORPORATE OFFICER TO BE VALID.

BUYER: [Signature] 11/29/18
 (BUYER SIGNATURE) DATE
 BUYER: _____
 (BUYER SIGNATURE) DATE
 BUYER: _____
 (BUYER SIGNATURE) DATE
 ACCEPTED
 BY: Adam R. Elford 11/29/2018
 (BERRY POOL CORPORATE OFFICER TITLE) DATE

CONTRACT TOTAL AMOUNT: **\$55,600.00**

\$2000.00 Non-refundable Deposit to hold time slot
 35% at Excavation \$ 18,760.00
 30% at Gunite / Shotcrete of Shell \$ 16,080.00
 30% at Tile/Coping Decking \$ 16,080.00
 5% at Completion \$ 2,680.00

Contacted Berry Pool due to: Newspaper Radio TV Yellow Pages Direct Mail Website Other _____

YOU THE BUYER MAY CANCEL THIS TRANSACTION IF IT HAS BEEN SIGNED AT YOUR HOME WITHOUT PRIOR NEGOTIATION AT THE SELLER'S PLACE OF BUSINESS, AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THE TRANSACTION. SEE THE PRINTED NOTICE OF CANCELLATION BELOW FOR AN EXPLANATION OF THE RIGHT.

THE GENERAL TERMS AND CONDITIONS ON THE REVERSE SIDE ARE PART OF THIS CONTRACT.

NOTICE

You are entitled to a copy of this agreement at the time you sign it. You may cancel this agreement any time prior to midnight of the third business day after the date of this transaction. See the notice of cancellation for an explanation of this right. It shall not be legal for the Seller to enter your premises unlawfully or commit any breach of the peace to repossess goods purchased under this agreement.

NOTICE OF CANCELLATION

You may cancel, this transaction, without any penalty or obligation, within three business days from the above date. If you cancel, any property traded in, any payments made by you under the contract or sale, and negotiable instrument executed by you will be returned within 10 business days following receipt by the Seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled. If you cancel, you must make available to the Seller at your residence, in substantially as good condition as when received, any goods delivered to you under this Contract or sale, or you may, if you wish, comply with the instruction of the Seller regarding the return shipment of the goods at the Seller's expense and risk. If you do make the goods available to the Seller and the Seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of goods without any further obligation. If you fail to make the goods available to the Seller, or if you agree to return the goods to the Seller and fail to do so, then you remain liable for performance of all obligations under this contract. To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a written notice to: Attention: Pool Sales, Berry Pool & Supply 10 Business Drive, Brownsville, Texas 78523-5791

IF YOU CANCEL THIS TRANSACTION

DATE: _____ BUYER'S SIGNATURE: _____

(Items not marked are excluded)

GENERAL

- 1. Pool plans, building permits, lien releases BY BERRY POOL.
2. No additional cost to Buyer resulting from rain or storm damage to pool during construction BY BERRY POOL.
3. Layout pool before excavation BY BERRY POOL.
4. Personalized Customer Care Manual BY BERRY POOL.
5. Berry Pool Sign in Front Yard BY BERRY POOL.
6. Deck Elevation up to 12" above existing grade BY BERRY POOL.
7. Access from Street through side yard Other
8. Fence in Access Gate Size
Removed by Buyer Berry Pool Stucco by Buyer Berry Pool
Replaced by Buyer Berry Pool Paint by Buyer Berry Pool
Fence type No. of Sections to be removed:
No. of Pilasters No. of Gates:
9. (0) Tree(s) / Stumps Size: Remove by Berry Pool
10. ADDITIONAL CHARGES FOR RELOCATION AND/OR REPAIRS OF SANITATION, UTILITY OVERHEAD AND/OR UNDERGROUND SPRINKLER LINES, ETC. IF REQUIRED, TO BE PAID BY BUYER'S INITIALS

EXCAVATION

- 11. 6" Vertical Forms to Ensure 6" X 12" Bond Beam BY BERRY POOL.
12. Normal Excavation (Backhoe and Truck in Yard) YES NO
13. Bobcat & Backhoe Load over fence YES NO
14. Dirt left (job site) YES NO
Buyer must be present day of excavation to direct amount and location of dirt left on property. Buyer will be responsible for dirt left.
15. Sand bagging Amount YES NO
16. ADDITIONAL CHARGES FOR UNUSUAL SOIL AND/OR ROCK, OR CALICIFIC CONDITIONS AND ADDITIONAL SHOULDER CRETE IF REQUIRED, TO BE PAID BY BUYER'S INITIALS YES NO

PLUMBING

- SCHEDULE 40 PVC NON-CORROSIVE, S.S.E. APPROVED, PRESSURE TESTED
17. Heavy Duty Valve(s) BY BERRY POOL.
18. Distance from pool to filter feet BY BERRY POOL.
19. (2) LARGE 8" Main Drain(s), 2" Line Size BY BERRY POOL.
20. (2) Automatic Skimmer(s), 2" Line Size BY BERRY POOL.
21. (5) Adjustable Surface Returns, 2" Line Size BY BERRY POOL.
22. (1) Cleaner connection 1.5" Line Size BY BERRY POOL.
23. Vacuum breaker per code BY BERRY POOL.
24. Pool Therapy Head(s) Quantity
Location Loveseat Step Area Other YES NO
25. Solar stub outs and tees YES NO
26. Automatic water leveler YES NO
27. Water Feature Deck Jet YES NO
28. Booster pump YES NO

EQUIPMENT

- 29. Filter: Size ENS48 Type Pentair DE Filter BY BERRY POOL.
30. Self-priming pump: 1.5 hp Superflo Pump BY BERRY POOL.
31. Sanitizer: Rainbow 320 chlorinator BY BERRY POOL.
32. Pre-Cast Concrete Slab for Equipment YES NO
33. Deck Sleeves () In Deck () In Pool YES NO
34. Volleyball/Umbrella Anchor Set YES NO
35. Basketball Sleeve YES NO
36. Basketball Set YES NO
37. Diving Board: Size Color Model YES NO
38. Pool Heater: Type 400,000 BTU Mastertemp LP YES NO
39. Gas Line: by Berry Pool by Buyer None YES NO
40. If Gas Line by Customer Berry Pool YES NO
41. Propane tanks, regulator, and hook-up
By Customer By Berry Pool YES NO

CLEANING SYSTEM

- 42. Turbo Clean In-floor cleaning system YES NO
Other type of cleaning system:
Polaris / Hayward Navigator YES NO

STEEL REINFORCING

- 43. 1/2" rebar on 8" to 10" on vertical centers throughout pool BERRY POOL.
44. 1/2" rebar on 8" to 10" on horizontal centers throughout pool BERRY POOL.
45. 3/8" rebar every 3' around perimeter from pool wall into deck footing BERRY POOL.
46. #6 gauge wire mesh continuous in deck BERRY POOL.
47. 1/2" rebar continuous in bond beam BERRY POOL.
48. Rebar placed continuous around light, and skimmer BERRY POOL.
49. Pre-cast concrete spacers beneath rebar to ensure proper spacing throughout entire pool BERRY POOL.
50. Rebar cross tied with heavy duty tie wire BERRY POOL.
51. Steel surecharge 1 lineal feet YES NO
52. Special Structural Engineering YES NO

ELECTRICAL

- 53. ADDITIONAL CHARGES FOR UPGRADE, RELOCATION AND REPLACEMENT OF ALL EXISTING ELECTRIC SERVICE, FIXTURES AND PANEL IF REQUIRED BY CODE, BUYER'S INITIALS
54. Electrical bonding for pool BY BERRY POOL.
55. Ground fault interrupter for pool light BY BERRY POOL.
56. 5g LED IntelliBrite Color light(s): Quantity 1 YES NO
57. Total lineal ft. of conduit approx YES NO
58. Fiber Optic(s) Qty White Color YES NO
59. Breaker Panel & time clock(s) 1 YES NO
60. Aqua-Touch Control YES NO
61. ADDITIONAL ELEC ITEMS YES NO

STRUCTURE

- 62. 7 SACK MIX VOLUME 5500 PSI, 8" ON FLOORS AND WALLS, 8" MINIMUM IN COVES BY BERRY POOL.
63. Continuous bond beam 8" X 12" around pool BY BERRY POOL.
64. 3 steps in shallow end BY BERRY POOL.
65. Water cure gumite shell BY BERRY POOL BY BUYER YES NO
66. Love Seat(s) Quantity 0 Size(s) YES NO
67. Interior Benches Qty Size(s) 2ft YES NO
68. Raised Bond beam YES NO

DECK

- 69. DECK TO BE MINIMUM 4" THICK, CANTILEVER FORMED, AND STEEL REINFORCED AND A CONTINUOUS REINFORCING TURNDOWN AROUND ENTIRE EDGE OF DECK BY BERRY POOL.
70. Berry Pool name plate YES NO
71. Pool Deck Approx sq ft 520 Color To be selected YES NO
72. Brick Paver Deck Total sq ft Color YES NO
73. Flagstone Deck YES NO
74. Coping: Brick Pool Deck Flagstone YES NO
75. Steps to and from deck YES NO
76. Other Deck Total Sq. Feet YES NO
77. Deck Drain - total lineal feet YES NO

TILE

- 78. 1 row continuous waterline ceramic tile at pool perimeter 6" X 6" Waterline tile and 1"x1" step and bench seat tile Tile Choice To be selected / Grout Color To be selected YES NO
79. Safety Hand Holds, # YES NO

INTERIOR

- 80. Interior to be plastered with a mixture of marble dust and white cement; hand-trowelled finish YES NO
81. Quartz Plaster Color YES NO
82. Stone Scapes Mini Pebble YES NO
83. Pebble Sheen: Col YES NO
84. Venetian Glass Tile Color YES NO

CLEANUP

- 85. Clean up all construction debris (final clean up) BY BERRY POOL.
86. Fill around deck except at deck faced turndown(s) BY BERRY POOL.
87. Fill in tire tracks in access area BY BERRY POOL.

STARTUP

- 88. Job site meeting with Buyer with written and verbal comprehensive start-up and operating instructions BY BERRY POOL.
89. Brush, 16' pole, leafnet BY BERRY POOL.
90. Berry Pool supplies start-up chemicals BY BERRY POOL.
91. Exclusive 10 Year Warranty BY BERRY POOL.

THERAPEUTIC SPA

- 1. SPA included (located per accepted plan) YES NO
2. (4) Adjustable Therapy heads with Remote Airline YES NO
3. (2) Adjustable Surface Returns, 1 1/2" Line Size YES NO
4. () Automatic Skimmer(s), 2" Line Size YES NO
5. (4) Double Safety Main Drain(s), 2" Line Size YES NO
6. () Equalizer Line: Size Length YES NO
7. () Booster Pump(s) Size YES NO
8. () Automatic Valves YES NO
9. () Air Pump(s) Size 1hp YES NO
10. () Spa heater: NO HEATER YES NO
11. Gas Line by Berry Pool By Buyer None YES NO
12. If Gas Line by Berry Pool: Size Run YES NO
13. Propane tanks, regulator, and hook-up None YES NO
14. Dam divider wall: Stair step on full spa wall YES NO
15. Spa Light: 1-LED 5g IntelliBrite light YES NO
16. Interior Finish: Standard White Marble Finish YES NO
17. Entrance step YES NO



IMPORTANT—PLEASE READ CONSUMER PROTECTION POLICIES

TO OUR CUSTOMER:

We, at Berry Pool, have a sincere desire to construct your swimming pool to your complete satisfaction. Therefore, we wish to bring to your attention the most common unforeseen and unexpected items that may create additional costs to you. Please read carefully and discuss all potential problems with our sales representative before signing the contract.

"CHECK LIST"

- Inadequate Access for Excavation & Construction
Inadequate Fence Removal and Replacement
Additional Excavation Costs due to Size of Yard
Repairs to Property used for Access
Ripping, Jackhammer, or Dynamic Excavation
Additional Concrete required due to Soil Conditions (i.e. Overbreak)
Tree or Stump Removal
Tree or Stump Removal from Yard
Concrete Cutting and Removal
Finish Deck Elevation Over 1" Above Existing Grade
Damage to Plants, Shrubs, Lawn, etc. for Access
Damage to Driveways for Access
Damage to Sidewalks for Access
Relocation or Repair of Gas Lines
Relocation of Underground or Overhead Electric Lines
Loosening of Sewer Lines
Delayed Equipment Set—New Home Construction
Proper Yard Drainage and Grading

- Repairs or Relocation to Underground Utility Lines
Relocation or Repairs of Water Lines
Relocation or Repair of Telephone Lines
Removal, Repair, or Relocation of Septic Tank Systems
Removal, Repair, or Relocation of Sprinkler System
Repair or Relocation of Irrigation Lines
Costs Created by Other Underground Obstructions
Exact Property Line Location
Location of Property Easements
Fencing and Gates to meet Local Codes
Existing electrical Service must meet Local Codes
Pool Light Switch Location
Pool Equipment Location
Inadequate Electric Service at Breaker Panel
G.F.C.I. Protection for Existing Outlets or Fixtures
Backwash Pk If required
Re-layout of Swimming Pool
Re-drawing of Swimming Pool Plans

Berry Pool & Supply cannot assume responsibility for damage to swimming pool structure or decks caused by expensive soil conditions, rain, water, flood, roof damage, inadequate landscaping drainage or damage caused by landscaping after swimming pool completion, except that Berry Pool & Supply does assume responsibility as described in paragraph No. 7-Limitations, for damage to the granite shell should such damage be caused by expensive soil conditions.

The above items are not included in the price of your Pool unless specified in writing on this contract. All agreements Must Be in Writing. Verbal Agreements cannot be honored.

GENERAL TERMS AND CONDITIONS—NOTICE TO BUYERS

1. The plans and specifications attached hereto form part of this contract. In case of conflict between the provisions stated in such plans and specifications and the items within the contract, the terms of the contract shall prevail.

2. All measurements as provided in the plans and specifications are approximate and may vary within the reasonable tolerances set to standard 1/8". Buyer and Contractor agree to be bound to the actual dimensions in the event of deviations in pool dimensions and depth variations and therefore agree to accept the actual dimensions for errors by Contractor in the water surface area and/or in the interior area of the pool shall be \$3.00 per square foot.

3. Buyer must provide all receptacles and outside lighting in accordance with the National Electric Code and local regulations. Buyer shall be responsible for the cost of all electrical work and materials. Contractor shall be responsible for the cost of all electrical work and materials. Contractor shall be responsible for the cost of all electrical work and materials. Contractor shall be responsible for the cost of all electrical work and materials.

4. The preliminary pool equipment and utilities shall be constructed upon the land and in the location upon such land designated by the Owner. Even though Berry Pool & Supply may assist Buyer in locating the pool, equipment and utilities, Buyer warrants that he is familiar with the location of his property lines and that the pool site herein agreed upon is within said property lines. The property line used to locate the pool will be the firm line and if no lines exist the property line in the plot plan will be used. However, the owner shall have complete responsibility for the accurate determination of the property line and shall have complete responsibility for, and pay all costs necessary in obtaining all necessary zoning variances, easements, waivers, or approved permits. Buyer warrants and agrees to indemnify and save harmless Contractor from any suit, action, or claim of Buyer or any third person, firm or corporation for the location of said pool by Contractor in the plans designated by Buyer. Even though the Contractor may assist the Buyer in locating utility lines the Buyer is responsible for any costs in connection with underground utilities located other than a result of Berry Pool & Supply's efforts or third parties such as public utilities.

5. Buyer shall be responsible for obtaining all necessary permits and a full set of debris or obstacles prior to the start of work and Buyer agrees to pay Contractor all additional costs incurred as a result of Buyer's failure to so provide. The Buyer shall be responsible to protect all trees, shrubs or other plants which he desires to save which occupy space to be used in the construction of the swimming pool or necessary, including but not limited to Contractor in constructing the swimming pool.

6. In the event Owner authorizes access through adjacent properties for Contractor's use during construction, Buyer is required to obtain permission from the owner(s) of the adjacent properties for such use, and Buyer agrees to be responsible and to hold Contractor harmless and accept any risks thereof.

7. It shall be the responsibility of the Buyer to furnish any water, power, or other utility necessary to construct said pool at the said location for the use of the Contractor. Installation of such services and/or circuit in Buyer's electrical panel and/or removal and replacement of overhead wires to comply with existing Codes must be paid for by Buyer above contract price.

8. Buyer agrees to assume all liability for damage to driveways, walks, decks, lawns, shrubs, lawns, or any other persons or things not within the control of the Contractor. Any pool equipment or accessories subject to this contract delivered to the job site are the Buyer's property and if removed or stolen are Buyer's responsibility.

9. This contract does not provide for heating or the installation of dry wall or other means for heating unless expressly provided for. Buyer shall comply with all laws pertaining to same subject to Buyer's expense.

10. Buyer will assume full responsibility for heating and gas venting code requirements. Buyer also assumes full responsibility for meeting heater code requirements unless specified otherwise by this contract.

11. The contract price is based on the following normal assumptions of that and it is hereby mutually agreed that in the event of the Contractor, in executing the location of the swimming pool, shall encounter unusual conditions including but not limited to the following, obstructions, subsurface water, location of pool due to natural water, gas, or other like and unusual sub-surface conditions, mass concrete, unusually large boulders or the like, or shall be required to move piping, conduits or the like, or that said conditions should consist of low density fill, soil of inadequate bearing capacity or should contain underground electrical conduits or other obstructions not apparent from an inspection of the surface of, if blasting or jackhammer work or apparatus type construction, or other than normal covering equipment is used or required, and that no underground or surface water conditions will interfere with the work or operation of the completed structure or installation. Buyer agrees to pay for these additional items and/or any associated charges in addition to the contract price. Damage beyond the pool decking is Buyer's responsibility.

12. All excess soil will be removed unless otherwise specified in writing by Buyer before start of construction. Buyer agrees to assume all responsibility for soil fill at his request. No grading will be done unless specified in contract.

13. Contractor agrees to construct the pool diligently, but Contractor shall not be responsible for delay or non-completion of work or failure to perform work or furnish materials or equipment due to acts of God, conditions created by the threat of or imminent weather, war, riot, or other civil disturbances, strikes, government prohibitions, delays caused by Buyer, continuance of all required permits affecting the pool, availability of construction material, or other reasons beyond his control. Date of completion shall be considered the date of transfer of title.

14. Due to the right of the Contractor to stop work at any time, the price quoted on this contract or additional charges are only valid for thirty (30) days from the date the contract or addendum is signed. If the construction of the pool is not started within thirty (30) days from the date of the contract or any other plans is postponed for more than thirty (30) days beyond any previous construction plans, Buyer agrees that any increase in cost of construction will increase the contract price to the extent of the additional cost of labor and materials as a result of the Buyer, Buyer's agent or home builder delaying the construction or any other plans of construction.

15. Requests for any changes or additions to this contract desired by the Buyer shall be made in writing at a price as mutually agreed, signed by both parties and shall become part of this contract. All items for changes or additions shall be done and payable as the work progresses, concurrently with the other progress payments. Payment in full of contract price and addendums must be received prior to scheduling plans, and Contractor shall have the right to stop work and to keep the job site if payments are not made when due.

16. Contractor assumes no responsibility or liability for work performed by the Buyer, equipment or materials supplied by the Buyer, any sub-contractor or third party for work relating to the construction of the swimming pool or damage to the swimming pool resulting from work performed by the Buyer, equipment or materials supplied by the Buyer, any sub-contractor or third party, even though the Contractor or his agents may have recommended to Buyer said equipment, materials, sub-contractor or third party.

17. Although contractor or contractor's agents may refer certain contractors or installers to owner, Contractor does not warrant the reputation or quality of workmanship or materials and hereby disclaims any expressed or implied warranty.

18. The Contractor may assist the Buyer in obtaining financing but in no event are the financing arrangements as may be required by the buyer a condition of this contract for it is expressly agreed that the Buyer is solely responsible for any financing. If progressive payments are required by the contract, time is of the essence. Should any payments become delinquent, the entire balance of principal may be demanded immediately due and payable in the opinion of the Contractor. In the event any of the payments required hereunder are not paid in accordance with the requirements of this contract, a credit service charge of 1 1/2% per month, which is 18% corresponding annual percentage rate, will be applied from the date such payment becomes due. Contractor does not warrant and in no way shall be liable, and Buyer agrees to be responsible, for work performed which is not included in this contract even though financing for such work may be arranged by the Contractor.

19. After execution of the contract and prior to construction, Buyer agrees to pay a non-refundable sum for the design in the amount of \$1,000.00 in the event of construction by the Buyer. Buyer also agrees that in the event of breach or non-completion by Buyer under construction, Buyer shall be responsible for all job costs and construction profits. In the event that any suit or proceeding shall be brought by the Buyer for the purpose of determining or enforcing his rights under this agreement, and in the event that Contractor shall proceed in such suit or proceeding, Contractor shall be entitled to recover from Buyer all costs and expenses incurred by the Contractor in defending such suit or proceeding, including a reasonable attorney's fee. In the event Contractor shall be required to employ an attorney to enforce collection of any payment required to be made by Buyer to Contractor under this agreement, Buyer agrees to pay to Contractor a reasonable amount to and for attorney's fees although legal action either was not instituted or not completed to judgment. In the event payments are being specified are not paid, Contractor may discontinue work until such balance has been paid and then complete his work.

20. All claims and demands arising out of this Contract, including claims or demands which might otherwise be raised by way of claim or counterclaim in a court of law, shall be submitted to and decided by arbitration in accordance with the Better Business Bureau Rules of Arbitration unless the parties mutually agree otherwise. The Board of Arbitrators shall have jurisdiction to decide in the matter submitted and such decision shall be final, binding and conclusive upon all parties for all purposes, and judgment may be entered thereon in accordance with applicable law in any court having jurisdiction thereof.

Notice of the demand for arbitration shall be made by Owner, in writing, within a reasonable time after the dispute has arisen. Such notice shall be filed with Better Business Bureau Rules of Arbitration. In no event, shall demand for arbitration be made on or after the date on which the filing of legal or equitable proceedings alleging such claim or dispute or other matter, business based by the applicable statute of limitations. Contractor or owner hereby removes the right to initiate legal action in a court of competent jurisdiction for the enforcement of any claim or claim for money due under this Contract. Consistent relating to money due hereunder from Owner to Contractor may, however, be submitted to arbitration in the manner set forth hereinabove if Contractor shall hereafter agree in writing to do so.

21. This contract and any addendum in writing is the full agreement between the parties and the parties are not bound by any statements or representations or oral expressions by any agent or person purporting to act for or on behalf of either party. This agreement is not binding upon Contractor unless and until it is accepted by an authorized officer thereof. Copies do not require written acceptance.

22. This contract shall be binding upon and inure to the benefit of the contractors, administrators, assigns, and legal successors of the parties hereto.

23. Should any part of this agreement be declared invalid for any reason, such decision shall not affect the validity of any remaining portions and shall remain in full force and effect as if the invalid portion had been eliminated.

24. Excavation shall be deemed the start of work.

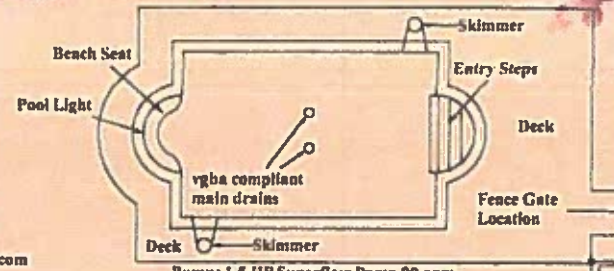
25. Buyer agrees to allow Contractor to place its Berry Pool & Supply sign in Buyer's front yard.

26. When pool is plastered, this contract shall have been completed.

TUISACHE STREET (50.0 FT. R.O.W.)

89-66

Existing 4ft Chain Link Fence



Contractor Information

Berry Pool
 3009 JCS Industrial Dr.
 Brownsville, TX 78526
 Phone: 956-341-1309
 Email: Adam@berrypool.com

Robert & Gall Carpenter
 222 W. Tuisache St.
 South Padre Island, TX

Legal: Lot 25&26, Blk 101

Pump: 1.5 HP Superflow Pump 90 gpm
 Filter: 48 sq ft DE Filter
 Chlorinator: Rainbow 320 Dispense Backflow
 Device: Wilkins 420XL Pressure type vac break
 Gallons: 15,500 gal
 Pool Interior: White Marcite Plaster

Water spicket with 3/4" fill line connected to Wilkins 420XL pressure type vacuum breaker for pool source water

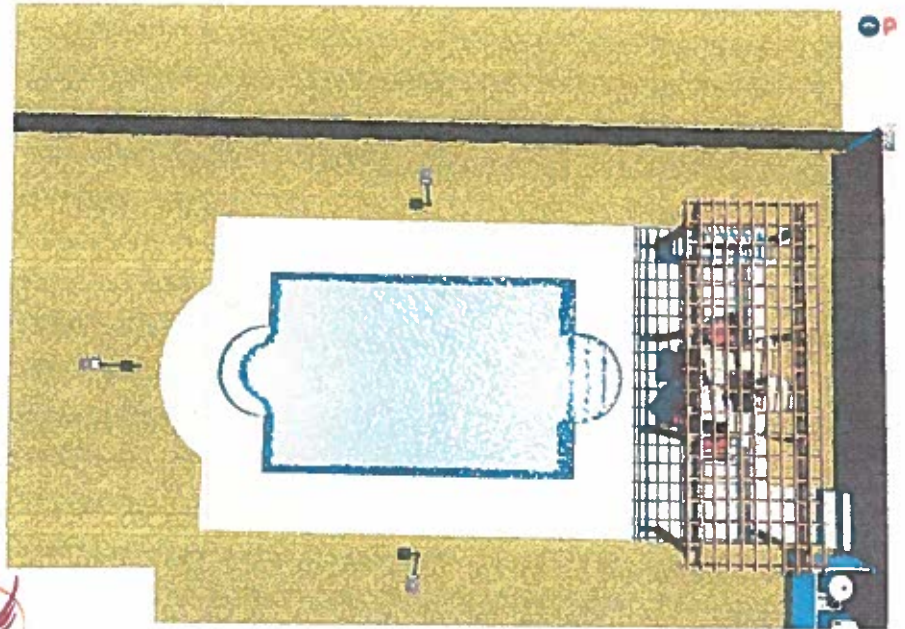
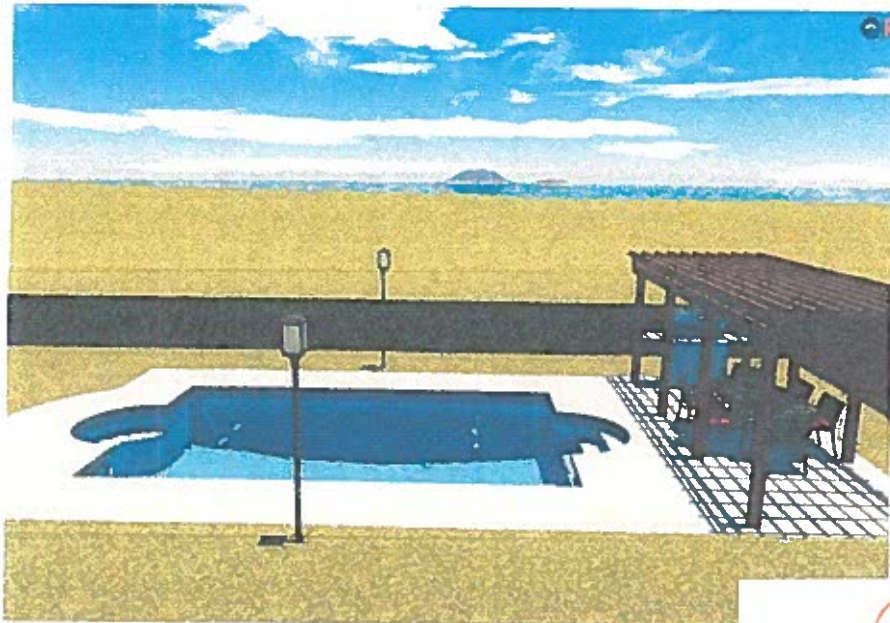
Existing 6ft Wooden Fence

LACUNA BLVD. 50.0 FT. R.O.W.

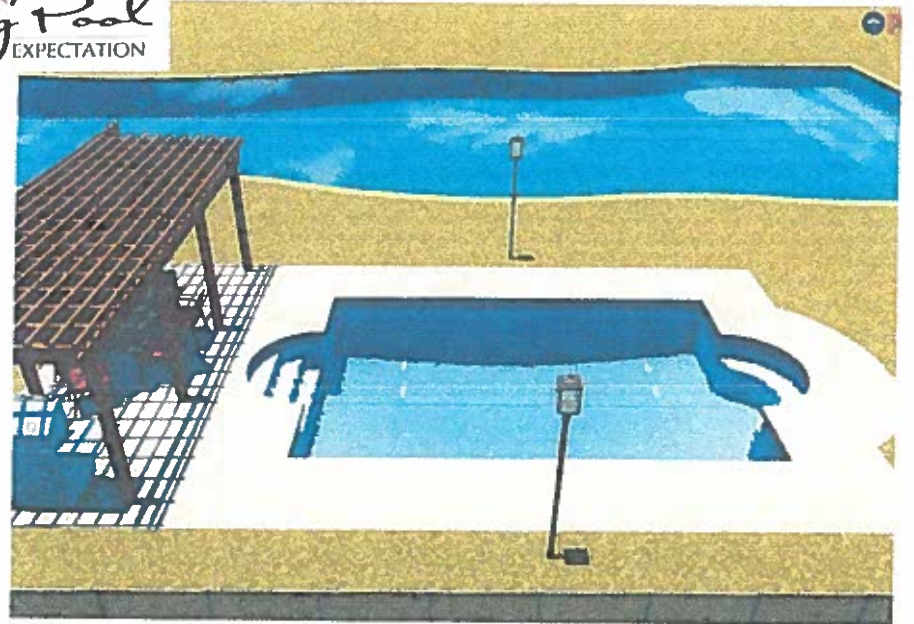
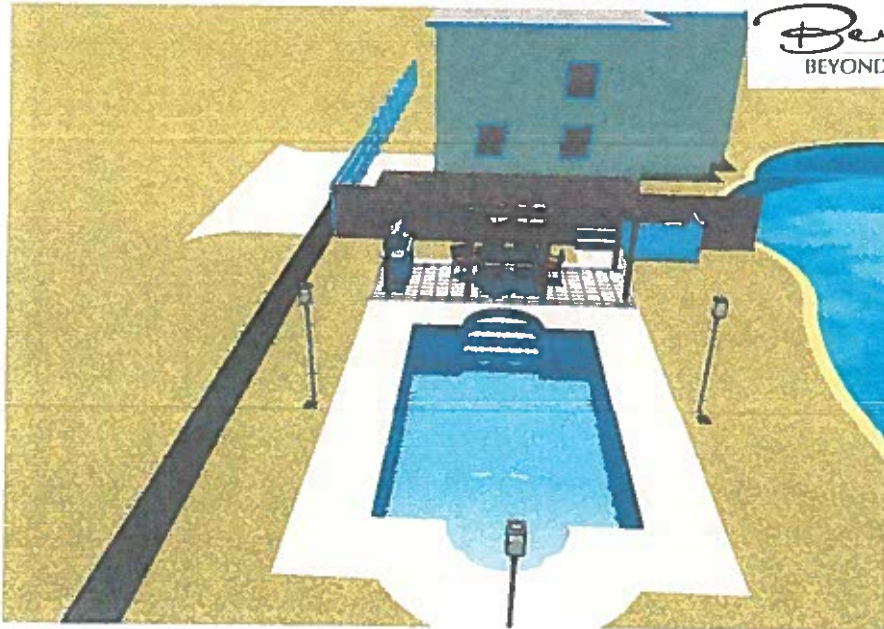
LOT 25

LAGOON

LAGOON




Berry Pool
BEYOND EXPECTATION





Lot 26

Lot 25 →



Lot 25