



City of Abilene

Board of Adjustment Agenda

Notice is hereby given of a meeting of the Board of Adjustment of City of Abilene to be held on Tuesday, April 11, 2023 at 8:30 AM at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items.

CALL TO ORDER

MINUTES

1. **Minutes:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Minutes from the Regular Meeting Held on March 14, 2023.

AGENDA ITEMS

2. **BA-2023-01: (Tabled)** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from N2 Development represented by Michael Everett for a **50' variance from the maximum 50' requirement for sign height and a 555.21 square foot variance from the maximum 300 square foot requirement for sign area** located at 2824 E. Overland Trail. **(Randy Anderson)**
3. **BA-2023-02: (Tabled)** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Bobby Gilbreth for a **special exception to expand a nonconforming building by 3,450 sq. ft.** located at 2400 S. 14th Street. **(Clarissa Ivey)**

EXECUTIVE SESSION

The Board of Adjustments of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

551.071 (Consultation with Attorney)

ADJOURNMENT

Notice

In compliance with the Americans with Disabilities Act, the City of Abilene will provide for reasonable accommodations for persons attending meetings. To better serve you, requests should be received forty-eight (48) hours prior to scheduled meetings. Please contact the City Secretary's Office at 325-676-6208. Telecommunication device for the deaf is 325-676-6360.

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 5th day of April, 2023, at 2:05 p.m.

*Kaitlin Richardson, Deputy City
Secretary, TRMC*



BOARD OF ADJUSTMENT REGULAR MEETING MINUTES

March 14, 2023

8:30 a.m.

BOARD OF ADJUSTMENT OF THE CITY OF ABILENE, TEXAS CITY HALL COUNCIL CHAMBERS, 555 WALNUT STREET, ABILENE

Members Present: Mr. Scott Hay
Col. Morton Langholtz, Vice-Chairman
Mr. Robert Beermann
Ms. Shawnda Rixey
Mr. Bob Thomas, Alternate

Members Absent: Mr. Jon Loudermilk

Staff Present: Ms. Kelley Messer, First Assistant City Attorney
Mr. Tim Littlejohn, Director of Planning and Development Services
Mr. Randy Anderson, Assistant Director
Ms. Clarissa Ivey, Planner I
Ms. Mason Teegardin, Planning Technician
Ms. Melissa Farr, Executive Assistant

Others Present: Mr. Guy Slimp Mr. Carlo Lopez Villamor

CALL TO ORDER

Mr. Hay called the meeting to order at 8:30 a.m. and Ms. Melissa Farr recorded the minutes. A quorum of members was present, and the meeting proceeded.

MINUTES

Colonel Langholtz made the motion to approve the minutes from the regular meeting held on November 8, 2022. Mr. Thomas seconded the motion. The motion to approve the minutes prevailed by the following vote:

AYES: Thomas, Langholtz, Rixey, Beermann, Hay

NAYS: None

AGENDA ITEMS

BA-2023-01: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from N2 Development represented by Michael Everett for a 50' variance from the maximum 50' requirement for sign height and a 555.21 square foot variance from the maximum 300 square foot requirement for sign area located at 2824 E. Overland Trail.

Mr. Randy Anderson presented this request. The proposed sign will be an on-site advertising sign for a proposed CEFCO gas station, located at the northwest corner of Loop 322 and I-20. The subject property is located at least 20-feet below the road base grade of I-20.

I-20 falls significantly when traveling from east bound toward the subject site. Normally that would not create a sign visibility issue because an interstate off-ramp is typically in close proximity to the intersection with another state-system highway. In this instance, east bound traffic is required to exit I-20 at the SH-351 off-ramp and travel well over a mile on the frontage road to Loop 322. The proposed sign height and area is requested to overcome those constraints.

Mr. Hay opened the public hearing. Mr. Guy Slimp spoke as a representative for CEFCO. He explained the price of fuel is the competitive advantage for CEFCO stations. Seeing no one else present and desiring to be heard, the public hearing was closed.

Property owners within a 200-foot radius of the property address were notified. There were no (0) responses received in favor, nor in opposition.

Board members agreed they would like additional information and an alternative plan. Colonel Langholtz made the motion to **table** this request until the next meeting. Mr. Beermann seconded the motion. The motion prevailed by the following vote:

AYES: Thomas, Langholtz, Rixey, Beermann, Hay

NAYS: None

BA-2023-02: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a request from Bobby Gilbreth for a special exception to expand a nonconforming building by 3,450 sq. ft. located at 2400 S. 14th Street.

Ms. Clarissa Ivey presented this request. The building has built in 1953 prior to Land Development Code being adopted. The building has been the home of West Texas Pools & Spas since 1984. The property is currently being used for retail and is proposed to continue to be used for that purpose. The existing building currently doesn't not meet the street setback of 30' from an arterial and 25' from a local street. Additionally, the number of parking spaces is not sufficient and maneuvering area is not located entirely upon private property.

Mr. Hay opened the public hearing. Seeing no one present and desiring to be heard, the public hearing was closed.

Property owners within a 200-foot radius of the property address were notified. One (1) response was received in favor, with one (1) received in opposition.

Discussion among the Board indicated a decision could not be reached without the proponent being present to answer questions. Colonel Langholtz made the motion to **table** this request until the next meeting. Mr. Thomas seconded the motion. The motion prevailed by the following vote:

AYES: Thomas, Langholtz, Rixey, Beermann, Hay

NAYS: None

ADJOURNMENT

There being no further business, Colonel Langholtz moved to adjourn the meeting. Mr. Beermann seconded the motion. The Board of Adjustment meeting was adjourned at 9:47 a.m.

Approved: _____, Chairman
Scott Hay

BOARD OF ADJUSTMENT

BA-2023-01

STAFF REPORT



Scheduled Hearings

Board of Adjustment: March 14, 2023

Applicant

Owner: N2 Development LLC

Agent: Texas Republic Sign, LLC

Case Manager: Adam Holland

Request

Allow a 100' tall pole sign that has a sign face of 855 square feet.

Location

2824 E. Overland Trail

Background

The proposed sign will be an on-site advertising sign for a proposed Cefco gas station, located at the northwest corner of Loop 322 and I-20.

Zoning, Existing and Proposed Land Use

The subject property is located in a General Commercial (GC) zoning district and is surrounded by properties that are zoned Light Industrial (LI) and Agricultural Open Space (AO). A gas station and convenience store are the proposed uses of the site.

Land Development Code Provisions

Per LDC Section 4.2.8.9, on-site advertising signs in the GR district are limited to a maximum height of 50-feet (100-feet proposed) and a maximum sign area of 300 square feet (855 SF proposed).

Site Constraints

1. The subject property is located at least 20-feet below the road base grade of I-20.
2. I-20 falls significantly when traveling from east bound toward the subject site. Normally that would not create a sign visibility issue because an interstate off-ramp is typically in close proximity to the intersection with another state-system highway. In this instance, east bound traffic is required to exit I-20 at the SH-351 off-ramp and travel well over a mile on the frontage road to Loop 322.
3. The proposed sign height and area is requested to overcome those constraints.

Reasonable Alternatives

1. Off-Site Signage (Billboard). It's common for gas stations, convenience store, and similar highway oriented uses the lease space on a billboard that will inform motorists of exit number to take to find their services.
2. Highway Service Signs. It's common for gas stations, c-stores, hotels, and restaurant to install their logo on a blue highway sign to direct motorists off the freeway, with additional blue directional signs on the frontage road to street intersections.

Precedents/Findings

1. In similar situations where a site is below a highway road grade, variances have been granted to allow the sign height to be measured based on the highway elevation. The site is 20.9-feet below the highway grade. If a maximum height sign is measured from the I-20 road grade, the sign would be 70.9-feet. Most recently, the QT gas station on I-20 west of this site was granted a height variance using this method.
2. The height and area of signs throughout the City, particularly in retail zoning districts located along the freeways and highways, generally comply with the 50-foot height and 300 SF area limitations of the LDC. As a result, the City does not have the type of sign proliferation issues common along the freeways in other Texas cities.
3. The sign area variance requested by the applicant. If granted, would represent over a 150% increase to maximum allowable area limit in LDC. Since reasonable alternatives exist to direct motorists to the subject site, this variance is not reasonable.
4. A sign variance to measure the proposed sign height relative to the elevation of the highway road grade is reasonable, but a height of 100-feet is not reasonable.

Criteria Assessment

A variance is used to modify the application of certain sign regulations in the LDC as it applies to a specific property. In reaching a decision on a variance request, the Board shall determine and make written findings that all of the following conditions are present:

1. **There are special circumstances or conditions arising from the physical surroundings, shape, topography or other features affecting the land, such that strict application of the provisions of this Code will create an undue hardship or inequity (other than financial) upon or for the applicant in developing the land, or deprive the applicant of reasonable and beneficial use of the land.**

The relative elevation of the site to the I-20 road base is -20.9. Allowing a sign height measurement at the I-20 road base would result in a 70.9' tall sign. Reasonable alternatives are available to mitigate the need for sign face area variance.

2. **That the granting of the variance will not be contrary to the public interest and will not be injurious to neighboring properties or otherwise detrimental to the public welfare.**

A variance from the sign face limitations would be contrary to public interest because such a variance would establish a precedent that could be used by any new or existing business in the City. A height variance tied to the I-20 road grade would not be contrary to the interest of the public and would be reasonable. A variance for any height above 70.9' would not be reasonable.

3. **Granting the variance is consistent with the intent of Abilene's Land Development Code.**

Linking the sign height variance to the road grade of I-20 is consistent with the spirit and intent of the LDC. A variance from the sign area limitation is inconsistent with the spirit and intent of LDC to minimize the impact of signage on the appearance of the city.

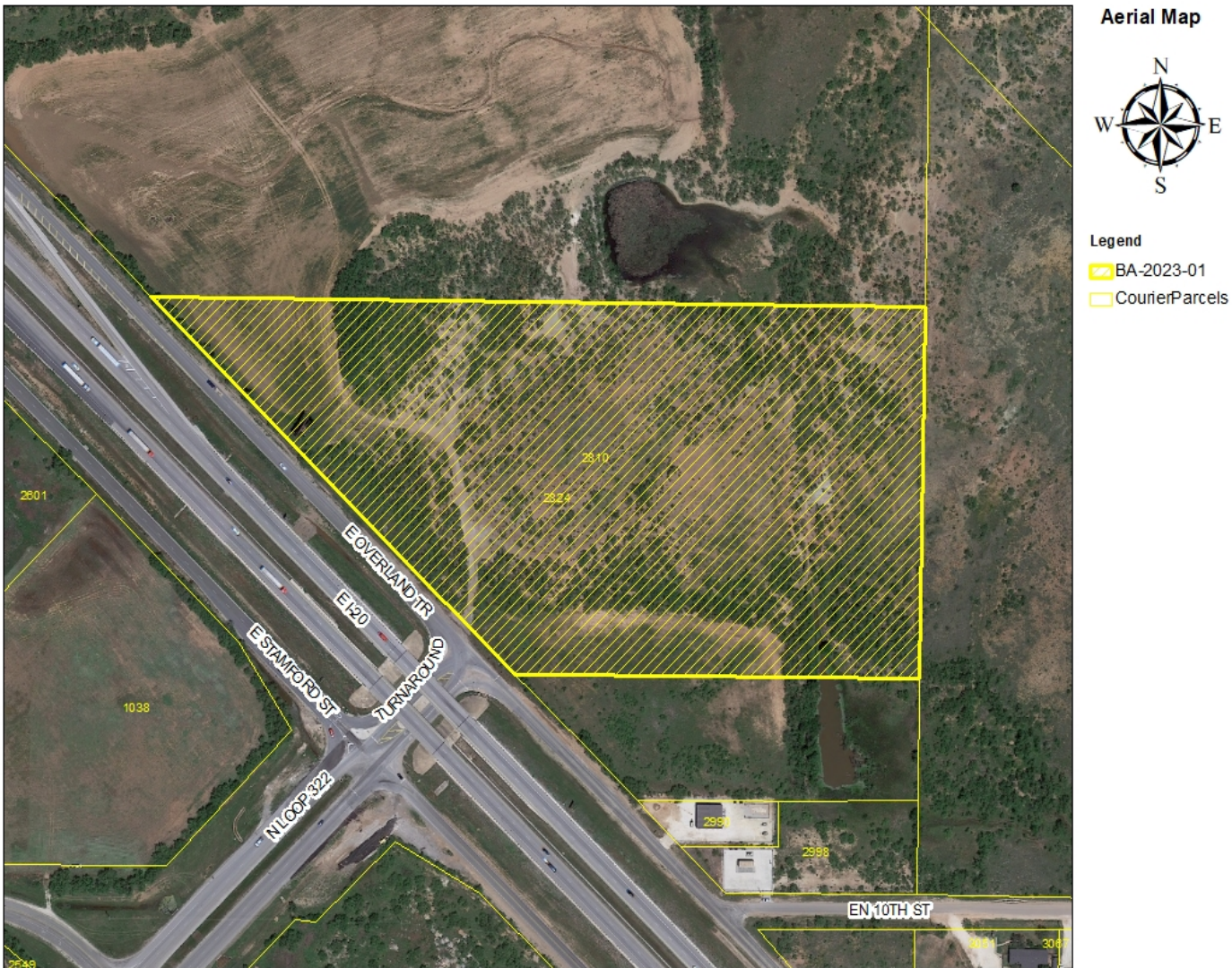
4. **The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner.**

The hardship pertaining to the lower elevation of the site relative to the I-20 road grade was not created by the applicant. The highway access issue for east bound traffic was not created by the applicant, but the applicant was aware of this limitation when purchasing the site. Alternative methods that could better address this issue are available.

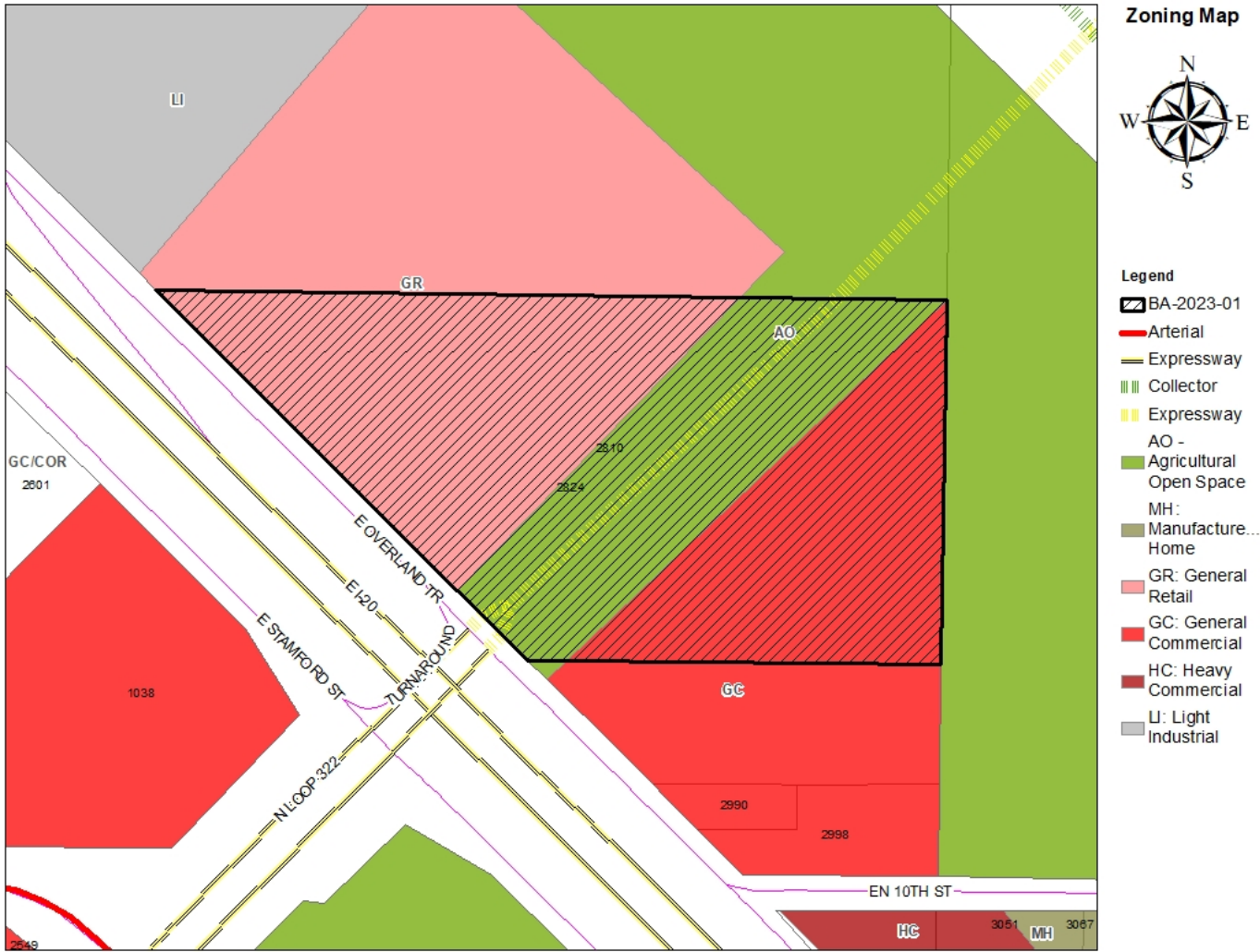
Notification

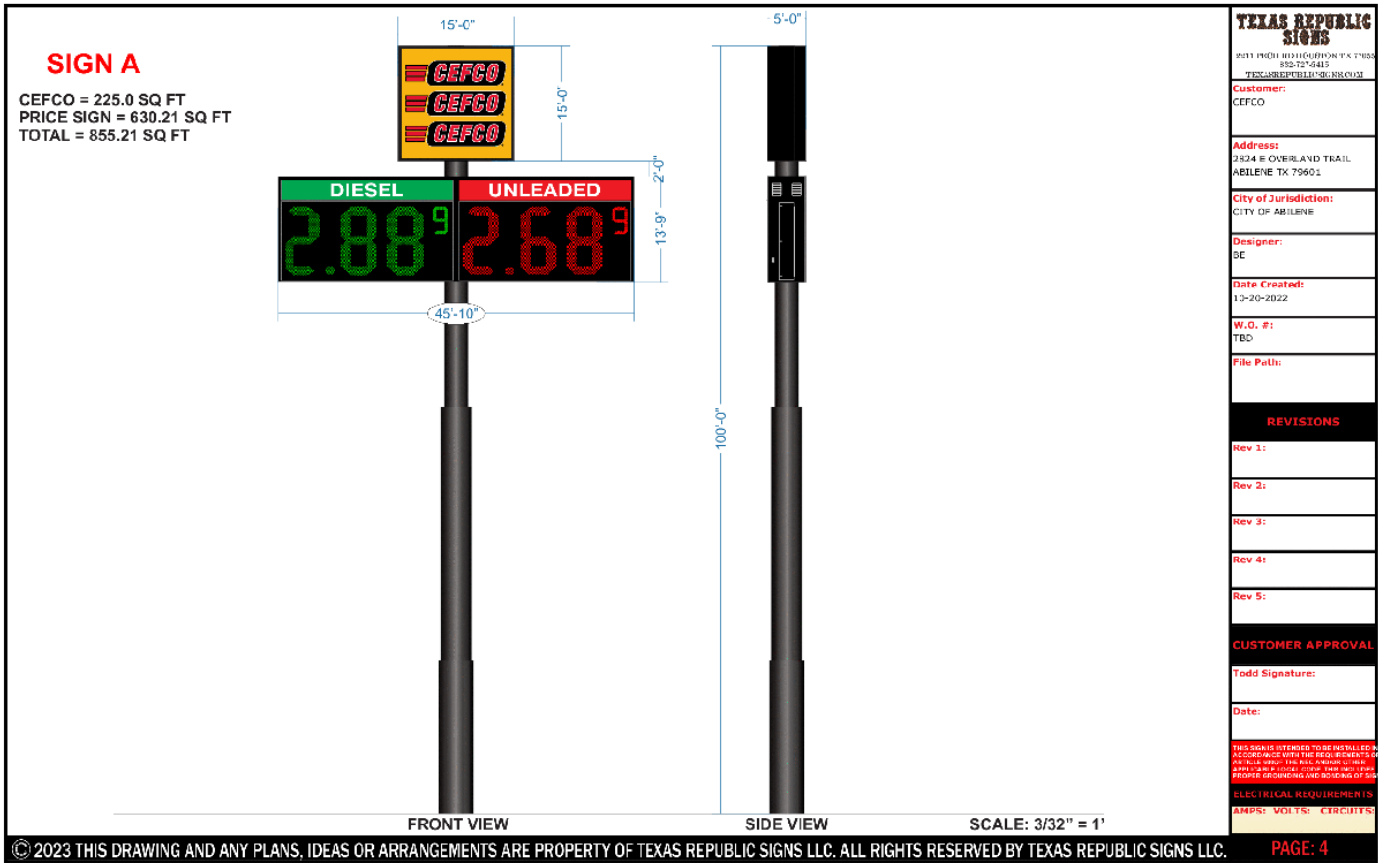
Owner	Situs	Property ID	Response
GRIFFITH NORTH END LP		13664	
HASSEN FAREED & SAAB NASSER		101018	
N2 DEVELOPMENT LLC	2810 E OVERLAND TR	33933	
N2 DEVELOPMENT LLC	2824 E OVERLAND TR	33933	
WARD JANELL GRIFFITH		105231	

LOCATION MAP

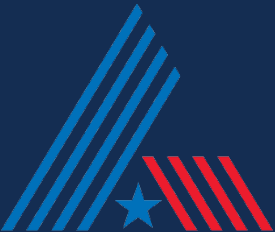


ZONING MAP

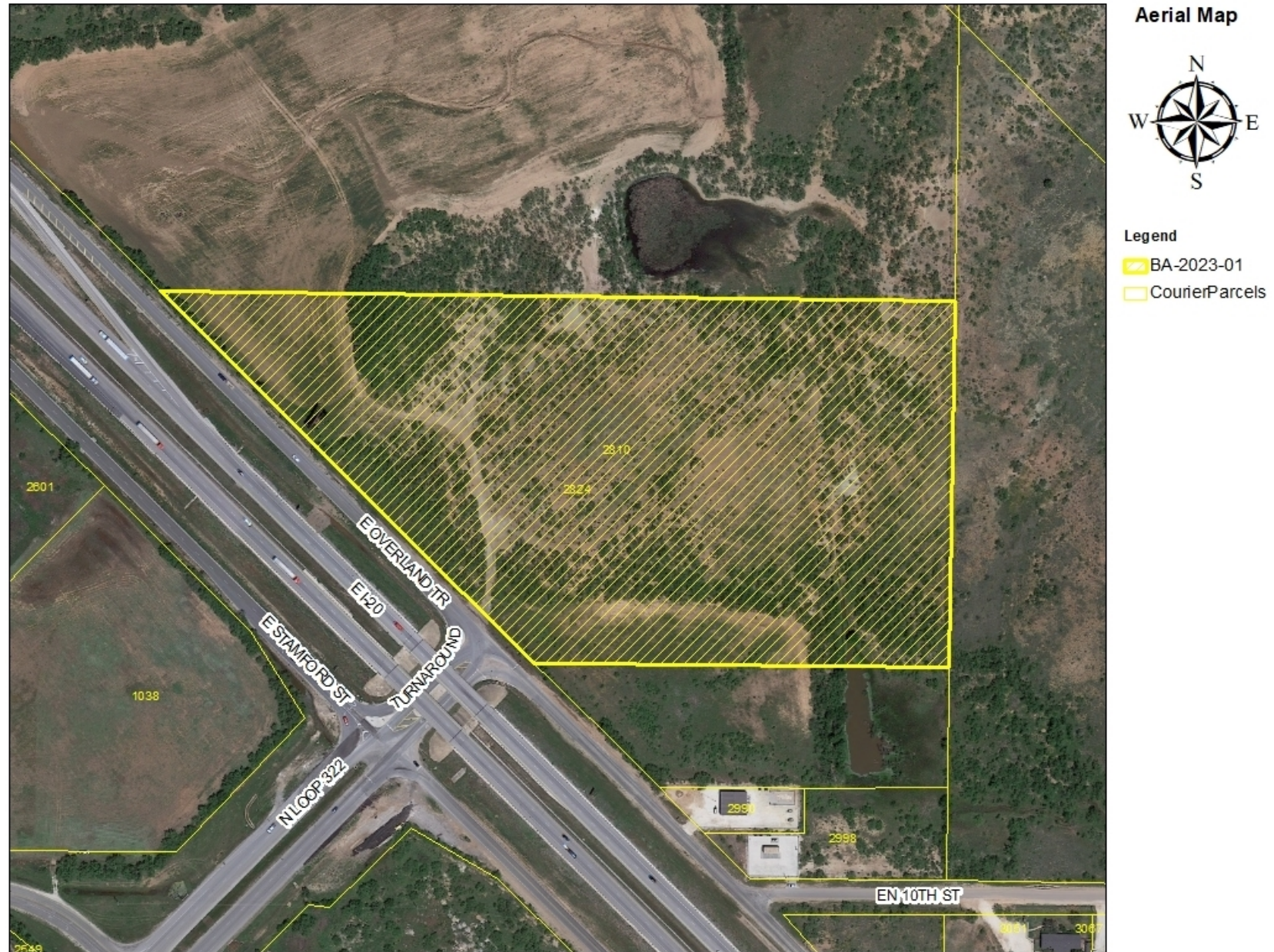




Case:	BA-2023-01
Owner:	N2 Development
Agent:	Texas Republic Signs
Requests:	Allow a 100' tall sign (50' allowed) Allow sign face area of 855 SF (300 SF allowed)
Location:	2824 East Overland Trail
Notification:	0 in Favor, 0 Opposed
Board of Adjustment:	March 14, 2023



BA-2023-01 AERIAL LOCATION MAP



BA-2023-01 ZONING MAP



BA-2023-01 VIEWS OF SUBJECT PROPERTY



Proposed Site for Signage



Adjacent Overpass



Southern
Neighboring Property



Subject Property



BA-2023-01 Sign Elevation

SIGN A

CEFCO = 225.0 SQ FT
PRICE SIGN = 630.21 SQ FT
TOTAL = 855.21 SQ FT



FRONT VIEW

SIDE VIEW

SCALE: 3/32" = 1'

TEXAS REPUBLIC SIGNS

2011 MOBILE INSTALLATION TEXAS
850-727-6415
TEXASREPUBLICSIGNS.COM

Customer:
CEFCO

Address:
2824 E OVERLAND TRAIL
ABILENE TX 79601

City of Jurisdiction:
CITY OF ABILENE

Designer:
BC

Date Created:
12-20-2022

W.O. #:
TBD

File Path:

REVISIONS

Rev 1:	
Rev 2:	
Rev 3:	
Rev 4:	
Rev 5:	

CUSTOMER APPROVAL

Todd Signature:

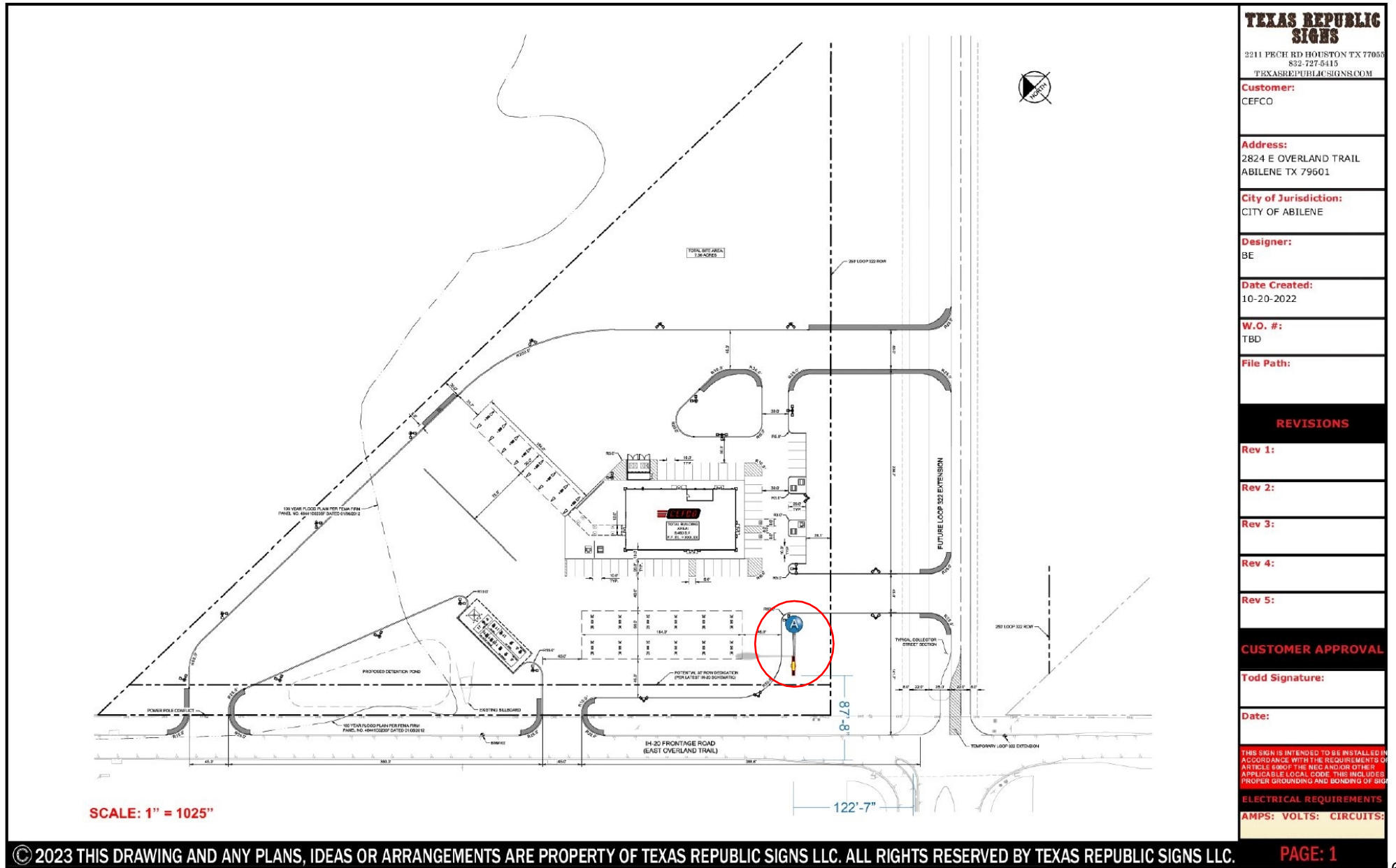
Date:

THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 202.01 OF THE AMERICAN NATIONAL STANDARD FOR THE INSTALLATION OF SIGNS. THE CUSTOMER IS RESPONSIBLE FOR PROVIDING THE NECESSARY ELECTRICAL REQUIREMENTS AND OBTAINING THE NECESSARY PERMITS.

ELECTRICAL REQUIREMENTS:

AMPS: VOLTS: CIRCUITS:

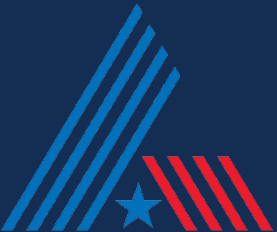
BA-2023-01 Site Plan



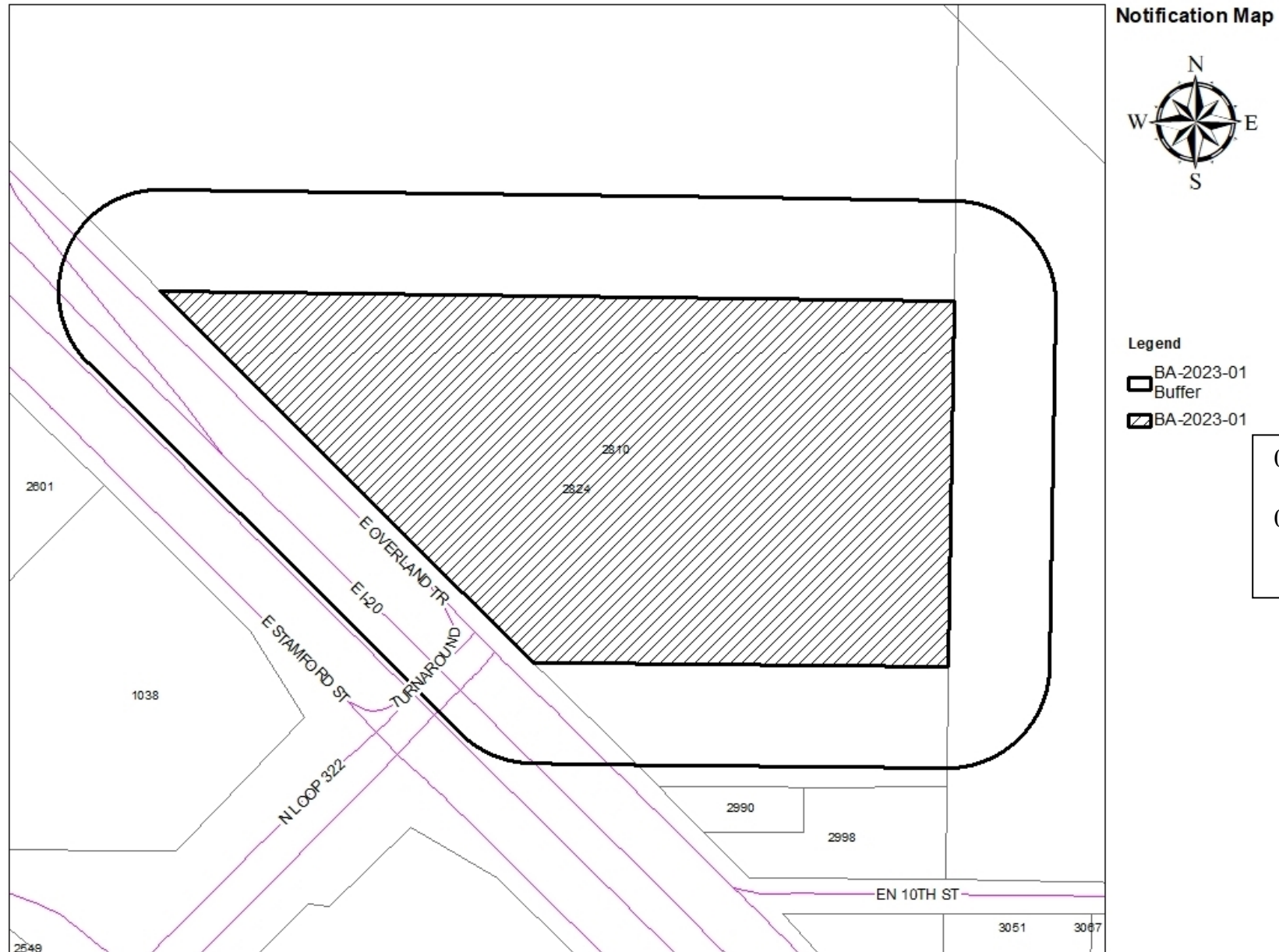
BA-2023-01 EXHIBIT MAP



TEXAS REPUBLIC SIGNS		
2311 PECH RD HOUSTON TX 77055 832-727-5415 TEXASREPUBLICSIGNS.COM		
Customer: CEFCO		
Address: 2824 E OVERLAND TRAIL ABILENE TX 79601		
City of Jurisdiction: CITY OF ABILENE		
Designer: BE		
Date Created: 10-20-2022		
W.O. #: TBD		
File Path:		
REVISIONS		
Rev 1:		
Rev 2:		
Rev 3:		
Rev 4:		
Rev 5:		
CUSTOMER APPROVAL		
Todd Signature:		
Date:		
THIS SIGN IS INTENDED TO BE INSTALLED IN ACCORDANCE WITH THE REQUIREMENTS OF ARTICLE 800F OF THE NEC AND/OR OTHER APPLICABLE LOCAL CODE. THIS INCLUDES PROPER GROUNDING AND BONDING OF SIGN ELECTRICAL REQUIREMENTS.		
AMPS: VOLTS: CIRCUITS:		



BA-2023-01 NOTIFICATION AREA MAP



Reviewed Pursuant to Section 1.4.4.2 (d) of Land Development Code (Criteria for Approval)

There are special circumstances or conditions arising from the physical surroundings, shape, topography or other features affecting the land, such that strict application of the provisions of this Code will create an undue hardship or inequity (other than financial) upon or for the applicant in developing the land, or deprive the applicant of reasonable and beneficial use of the land.

The relative elevation of the site to the I-20 road base is -20.9. Allowing a sign height measurement at the I-20 road base would result in a 70.9' tall sign. Reasonable alternatives are available to mitigate the need for sign face area variance.

That the granting of the variance will not be contrary to the public interest and will not be injurious to neighboring properties or otherwise detrimental to the public welfare.

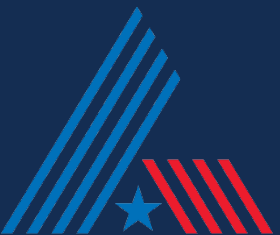
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The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner.

The hardship pertaining to the lower elevation of the site relative to the I-20 road grade was not created by the applicant. The highway access issue for east bound traffic was not created by the applicant, but the applicant was aware of this limitation when purchasing the site. Alternative methods that could better address this issue are available.

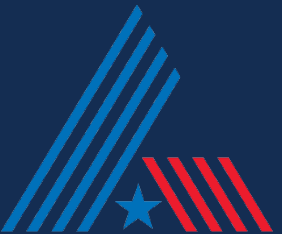


BOA Options

1. Motion to approve both requested variances;
2. Motion to deny both requested variances;
3. Motion to approve one variance and to deny the other variance;
4. Motion to reduce the height of the sign;
5. Motion to reduce the area of the sign face; and
6. Motion to separately to approve or deny each variance.



Questions?





APPROX. LOCATION
OF SIGN



SCALE: 1" = 264.0"

TEXAS REPUBLIC
SIGNS

2211 PECH RD HOUSTON TX 77055
832-727-5415
TEXASREPUBLICSIGNS.COM

Customer:

CEFCO

Address:

2824 E OVERLAND TRAIL
ABILENE TX 79601

City of Jurisdiction:

CITY OF ABILENE

Designer:

BE

Date Created:

10-20-2022

W.O. #:

TBD

File Path:

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CUSTOMER APPROVAL

Todd Signature:

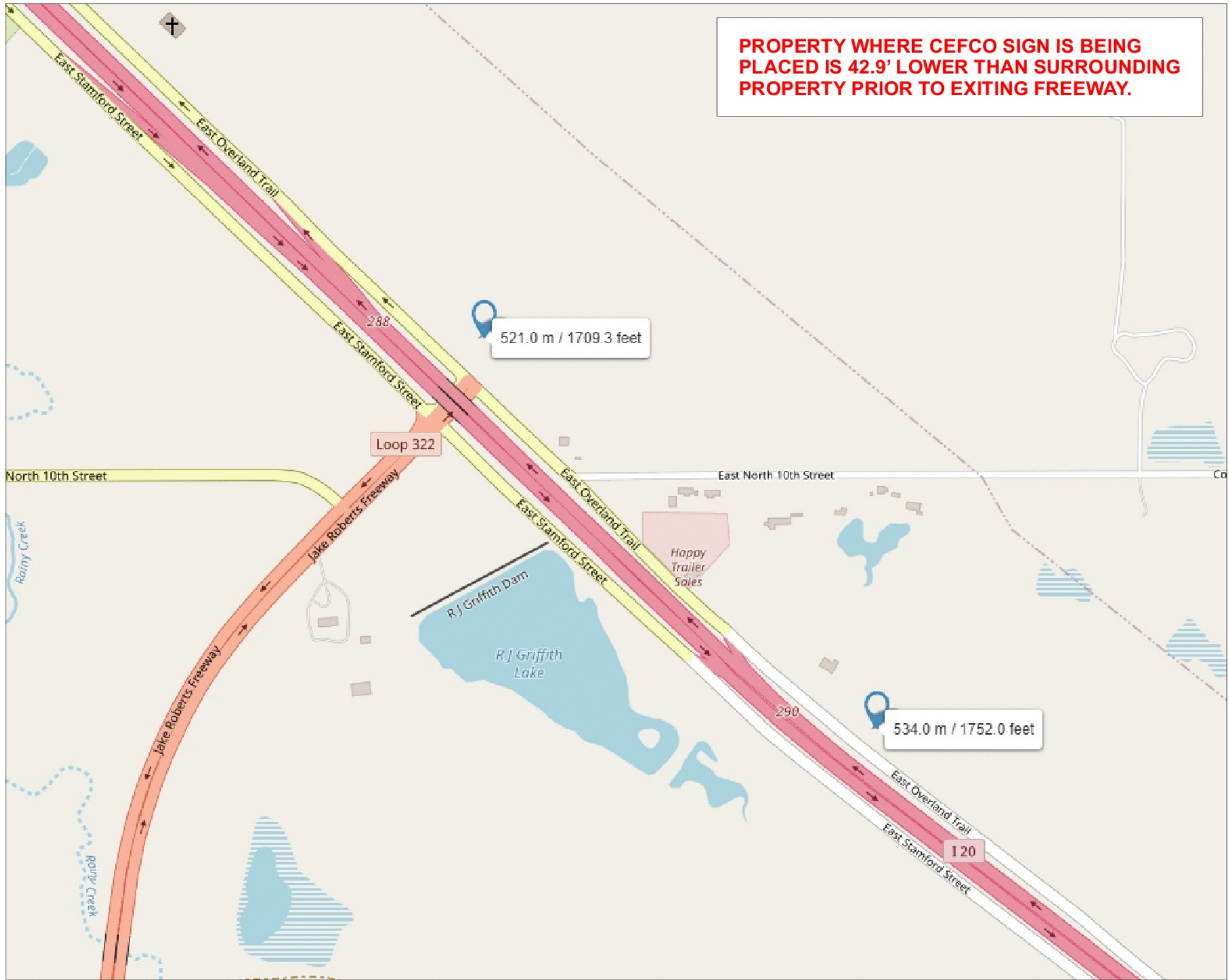
Date:

THIS SIGN IS INTENDED TO BE INSTALLED IN
ACCORDANCE WITH THE REQUIREMENTS OF
ARTICLE 600 OF THE NEC AND/OR OTHER
APPLICABLE LOCAL CODE. THIS INCLUDES
PROPER GROUNDING AND BONDING OF SIGN

ELECTRICAL REQUIREMENTS

AMPS: VOLTS: CIRCUITS:

ELEVATION OF PROPERTY



TEXAS REPUBLIC
SIGNS

2211 PECH RD HOUSTON TX 77055
832-727-5415
TEXASREPUBLICSIGNS.COM

Customer:
CEFCO

Address:
2824 E OVERLAND TRAIL
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Todd Signature:

Date:

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ELECTRICAL REQUIREMENTS

AMPS: VOLTS: CIRCUITS:

20'-9"
17'-10"
14'-11"



TEXAS REPUBLIC
SIGNS

2211 PECH RD HOUSTON TX 77055
832-727-5415
TEXASREPUBLICSIGNS.COM

Customer:

CEFCO

Address:

2824 E OVERLAND TRAIL
ABILENE TX 79601

City of Jurisdiction:

CITY OF ABILENE

Designer:

BE

Date Created:

10-20-2022

W.O. #:

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ELECTRICAL REQUIREMENTS

AMPS: VOLTS: CIRCUITS:



SIGN A

CEFCO = 225.0 SQ FT
PRICE SIGN = 630.21 SQ FT
TOTAL = 855.21 SQ FT



FRONT VIEW

SIDE VIEW

SCALE: 3/32" = 1'

TEXAS REPUBLIC
SIGNS

2211 PECH RD HOUSTON TX 77055
832-727-5415
TEXASREPUBLICSIGNS.COM

Customer:

CEFCO

Address:

2824 E OVERLAND TRAIL
ABILENE TX 79601

City of Jurisdiction:

CITY OF ABILENE

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ELECTRICAL REQUIREMENTS

AMPS: VOLTS: CIRCUITS:

100' SIGN

.50 MI FROM EXIT HEADED NORTHBOUND

100'-0"



SCALE: 1" = 982.0"

TEXAS REPUBLIC
SIGNS

2211 PECH RD HOUSTON TX 77055
832-727-5415
TEXASREPUBLICSIGNS.COM

Customer:
CEFCO

Address:
2824 E OVERLAND TRAIL
ABILENE TX 79601

City of Jurisdiction:
CITY OF ABILENE

Designer:
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Date Created:
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ELECTRICAL REQUIREMENTS

AMPS: VOLTS: CIRCUITS:

100' SIGN

.25 MI FROM EXIT HEADED NORTH BOUND



SCALE: 1" = 691.0"

TEXAS REPUBLIC
SIGNS

2211 PECH RD HOUSTON TX 77055
832-727-5415
TEXASREPUBLICSIGNS.COM

Customer:

CEFCO

Address:

2824 E OVERLAND TRAIL
ABILENE TX 79601

City of Jurisdiction:

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ELECTRICAL REQUIREMENTS

AMPS: VOLTS: CIRCUITS:

TEXAS REPUBLIC
SIGNS

2211 PECH RD HOUSTON TX 77055
832-727-5415
TEXASREPUBLICSIGNS.COM

Customer:
CEFCO

Address:
2824 E OVERLAND TRAIL
ABILENE TX 79601

City of Jurisdiction:
CITY OF ABILENE

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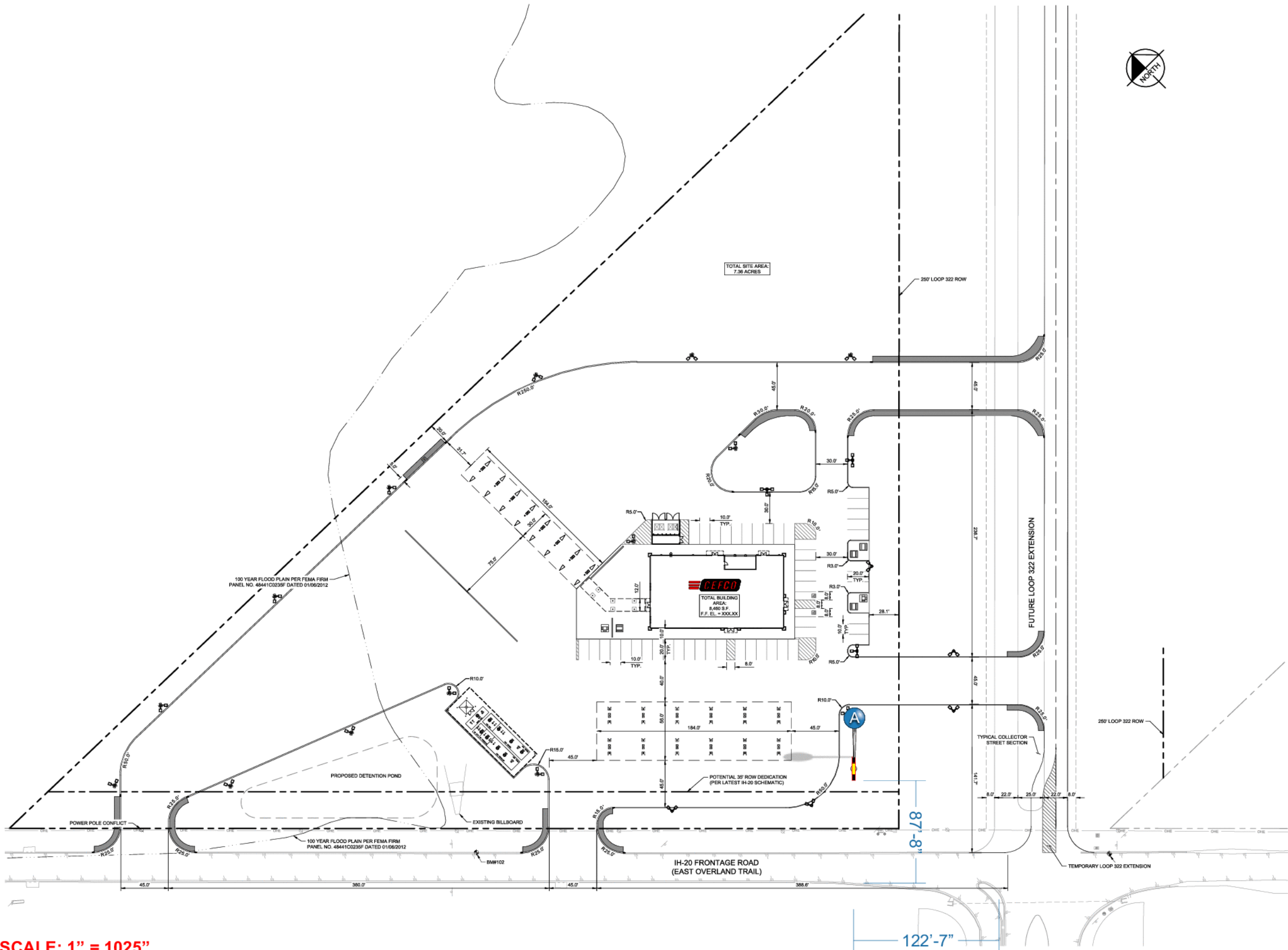
Todd Signature:

Date:

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ELECTRICAL REQUIREMENTS

AMPS: VOLTS: CIRCUITS:



SCALE: 1" = 1025"



2023 Development Application

Zoning Application Page 1 of 3

Planning

- ☐ Conditional Use ☒ Special Exceptions ☐ Rezoning ☒ Variance
☐ PDD Amendment ☐ Street Name Change ☐ Thoroughfare Abandonment
☐ Easement Release

Relief Procedures

- ☐ Petition for Relief ☐ Proportionality Appeal ☐ Vested Rights Petition ☐ Appeal
Other: _____

Project Name: WEST TEXAS POOLS & SPAS INC.
Address: 2400 SO 14TH ST. Number of Lots: _____ Acreage: _____
Legal Description: HIGHLAND PARK
Subdivision Name: _____ Block: 4 Lot: 10 & 11
Current Zoning: G.C. Proposed Zoning (if applicable): _____

OWNER AND AUTHORIZATION

Owner Name: BOBBY GUARETH
Address: 2400 SO 14TH ST
City, State, Zip: ABILENE, TEXAS 79605 Fax: 325-698-2429
Phone: 325-698-2420 Email: bobby.guareth@qol.com
Agent Name: _____
Address: _____
City, State, Zip: _____ Fax: _____
Phone: _____ Email: _____

I hereby certify that I am the owner of the property and further certify that the information provided on this development application is true and correct. I hereby designate the aforementioned agent to act on my behalf for submittal, processing, representation, and/or presentation of this development application. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this application.

Signature of Owner: Bobby N Guareth Date: _____

FOR OFFICE USE ONLY

Received: _____ Fee: \$ _____ Receipt No.: _____
Case No.: _____ Reviewed By: _____

2023 Development Application

Disclosure of Interest

Disclosure Questions

Every question must be answered. If the question is not applicable, answer with "N/A".

NOTE: If the Project Representative is not the Property Owner, this form must be filled out by both the Property Owner and the Project Representative.

- A. Do you believe that a City official* or City employee** may have a conflict of interest in the property or application referenced on the reverse side? ☐ Yes ☒ No
- B. If so, state the name of each City official or employee of the City of Abilene known by you that may have a conflict of interest in the property or application referenced on reverse side.
- C. State all information upon which you base the belief (use additional paper, if necessary).

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the City of Abilene, Texas, as changes occur.

Name of Certifying Person (print): BOBAY GILBRETH

Property Owner ☒ Project Representative ☐

Signature of Certifying Person: Bobby Gilbreth

*Mayor, City Council members, Planning and Zoning Commission members, and Zoning Board of Adjustment members

**City Manager, City Secretary, City Attorney, and all department heads



2023 Development Application

Special Exception & Variance

Please answer these questions in order to assist Staff with the processing of your Special Exception or Variance request. Please use additional sheet(s), if necessary.

1. Fully describe the unique circumstances or peculiarities of the land or improvements in question that do not allow the desired use to conform to the provisions in the Ordinance and the intent.

2. Are there other locations on the property that could accommodate the use while still complying with the Ordinance and, if so, why have you chosen the proposed location?

No



1-12-2023

Our existing building was built in the early sixties. Our existing store front is thirty-four feet from the curb on South 14th street side. The current code at our location is forty feet.

West Texas Pools & Spas would like to enlarge our existing retail store fifty nine feet to the west along South 14th street.

The current code requiring forty feet back from the curb would make it impossible to extend our glass store front to the west.

We are requesting a six foot variance from the current forty foot setback.

The expansion would give us an additional 3450 square feet of showroom and additional office space.

Bobby Gilbreth
325-829-2887

2023 Development Application

Recommendations

The Planning & Zoning Commission (P&Z) and the City Council look to the Planning & Development Services staff to make a recommendation for the approval or disapproval of this application. We will make every effort to notify you of our recommendation at least one (1) week in advance of the scheduled meeting of the P&Z Commission. In the case of a rezoning, and when the public interest requires it, we may recommend a rezoning to a Planned Development District (PDD) or a classification other than the classification requested. We will notify you of our decision to propose a PDD as soon as possible after the application is filed to give you time to prepare a site plan.

PUBLIC NOTIFICATION

The public is entitled to examine this application and participate in the decision-making process. In most cases, we are required to notify all property owners within two hundred feet (200') of the boundaries of your property. To ensure the fullest possible consideration, we may also notify neighborhood groups, organizations or individuals that have a special interest in a particular issue. Except for matters that the Planning & Development Services staff have expressly agreed not to disclose (and provided the law allows us to hold the matter in confidence), then all information that we deem relevant to the review and processing of this application may become public knowledge.

PLEASE READ BEFORE SIGNING

The undersigned has read the above application and hereby certifies that the information contained therein is complete, true and correct; and does hereby request that said application be submitted to the Planning & Zoning Commission at the earliest available meeting.

I understand and acknowledge that it is my responsibility to furnish an accurate and precise legal description of the property, and only the property, that is subject of this application, and that failure to furnish such information prior to the application deadline date will delay the processing of this application. I also understand that the City must notify affected property owners of this application. In the event that I fail to submit in a timely manner any information that the City deems necessary to transmit this application to the Planning & Zoning Commission or City Council, then in lieu of dismissal I hereby request that this application be temporarily withdrawn from further consideration until such information is submitted, and I agree to pay a resubmission fee of \$120 to reimburse the City for the expense of re-notifying affected property owners. I have been informed of the tentative date and time that the Planning & Zoning Commission and City Council will hear this application, and I understand that hearings may be continued from time to time at the discretion of the Commission or Council to allow for full consideration or when the public interest requires a continuation.

SIGNED: _____

Bobby N. Silbrett

DATE: _____

1-12-23

2023 Development Application

Owner Authorization and Representative Designation

Property Description

Subdivision: _____ Total Number of Acres: _____
 Zoning Classification(s): G.C. Total Number of Lots: 1
 Location: 2400 SO 14TH ST

Property Owner Information & Authorization

Name/Company: WEST TEXAS POOLS & SPAS INC.
 Address: 2400 SO 14TH
 City: ABILENE State: TEXAS Zip Code: 79605
 Phone: 325-698-2420 Email: bobbysgilbreth@aol.com

Project Representation (check one):

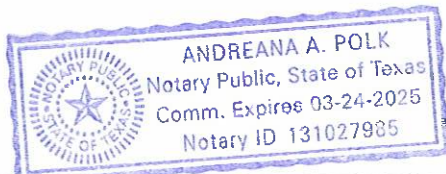
- ☒ I will represent the application myself; OR
☐ I hereby designate _____ (name of project representative) to act in the capacity as my agent for submittal, processing, representation, and/or presentation of this request. The designated agent shall be the principal contact person for responding to all requests for information and for resolving all issues of concern relative to this request.

I hereby certify that I am the property owner of the property and further certify that the information provided on this development application is true and correct. I have selected the above submittal type, representation, and landscape incentive of my own volition and not at the request of the City of Abilene.

Property Owner's Signature: Bobby Gilbreth Date: 1-12-23
 STATE OF: TEXAS
 COUNTY OF: TAYLOR

BEFORE ME, a Notary Public, on this day personally appeared Bobby Gilbreth
 (printed property owner's name) the above signed, who, under oath, stated the following: "I hereby certify that I am the property owner for the purposes of this application; that all information submitted herein is true and correct."

SUBSCRIBED AND SWORN TO before me, this the 12 day of January, 2023



Andreana A. Polk
 NOTARY PUBLIC in and for the State of Texas

Project Representative Information (complete if designated by owner)

☐ Engineer ☐ Purchaser ☐ Tenant ☐ Preparer ☐ Other(specify): _____

Name: _____ Company: _____
 Address: _____ City: _____ State: _____
 Zip Code: _____ Number: _____ Email: _____

ALLEY

PARKING

59'

WEST TEXAS POOL & SPAS

PROPOSED ADDITION

59'

PARKING

SOUTH 14TH ST

ALLEY

GRAND AVE.

WEST TEXAS POOL & SPA
EXISTING BUILDING

SOUTH 14TH ST

Ruby

PARKING

59'

WEST TEXAS POOLS & SPAS

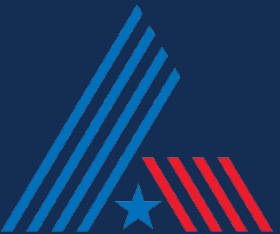
PROPOSED ADDITION

59'

PARKING

SOUTH 14TH ST

Case:	BA-2023-02
Owner:	Bobby Gilbreth
Requests:	Special Exception to expand a nonconforming building by 3,450 sq. ft.
Location:	2400 S. 14 th St.
Notification:	0 in Favor, 0 Opposed
Board of Adjustment:	March 14, 2023



BA-2023-02 AERIAL LOCATION MAP



BA-2023-02 ZONING MAP



BA-2023-02 VIEWS OF SUBJECT PROPERTY



East view of Subject Property



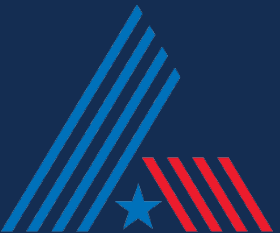
Area for Proposed Expansion



Area for Proposed Expansion



West Neighboring Property



RS-6

GC

2418

2442

1350

2402

2400

Proposed 59'x59' Addition

Street Right of Way: 60 Street Width: 40 Parkway Width: 10

GRAND AV

 Zoning Districts

 RS (Residential - Single Family)

ArcGIS 10.1b AppBuilder

BA-2023-02 NOTIFICATION AREA MAP



0- In Favor- 
0- Opposed- 

Reviewed Pursuant to Section 1.4.4.2 (d) of Land Development Code (Criteria for Approval)

There are special circumstances or conditions arising from the physical surroundings, shape, topography or other features affecting the land, such that strict application of the provisions of this Code will create an undue hardship or inequity (other than financial) upon or for the applicant in developing the land, or deprive the applicant of reasonable and beneficial use of the land.

The existing nonconforming building can be expanded in a manner that would not increase the nonconformity and that would not create a nonconforming parking situation. If the size of the expansion was reduced to satisfy the all applicable setback and parking requirements, this request would be supportable.

That the granting of the Special Exception will not be contrary to the public interest and will not be injurious to neighboring properties or otherwise detrimental to the public welfare.

Granting the special exception will be contrary to the public interest and could potentially be injurious as the site does not provide sufficient maneuvering space for customers to safely back onto a very busy arterial street.

Granting the Special Exception is consistent with the intent of Abilene's Land Development Code.

The proposed expansion is not consistent with the intent of the LDC, as the LDC would only allow for a nonconforming structure to expand as long as the expansion does not increase the structure's nonconformity, or encroachment on a zoning setback. The expansion of a nonconforming structure to increase the scale of the nonconformity is not appropriate.

The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner.

The existing nonconformity building was not created by any action of the petitioner. Staff would be supportive of an expansion of the building if the new construction complied with the applicable setback and parking requirements of the LDC, which is entirely possible. By proposing to double-down on the encroachment seems to indicate that the petitioner has perhaps outgrown this site.

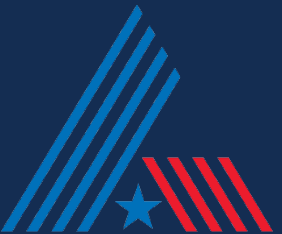


BOA Options

1. Motion to approve the Special Exception as requested;
2. Motion to deny the Special Exception; or
3. Motion approve the Special Exception subject to a condition that requires the proposed expansion to comply with all applicable requirements of the LDC.



Questions?



BOARD OF ADJUSTMENT

BA-2023-02

STAFF REPORT



Scheduled Hearings

Board of Adjustment: March 14, 2023

Applicant

Owner: Bobby Gilbreth

Case Manager: Clarissa Ivey

Request

Special Exception to expand a nonconforming building by 3,450 sq. ft.

Location

2400 S. 14th Street

Background

The building has built in 1953 prior to Land Development Code being adopted. The building has been the home of West Texas Pools & Spas since 1984.

Zoning, Existing and Proposed Land Use

The subject property is located in a General Commercial (GC) zoning district with the same zoning to the East and West. Residential Single-Family (RS-6) to the North and College/University (CU) to the South. The property is currently being used for retail and is proposed to continue to be used for that purpose.

Land Development Code Provisions

The existing building currently doesn't not meet the street setback of 30' from an arterial and 25' from a local street. Additionally, the number of parking spaces is not sufficient and maneuvering area is not located entirely upon private property.

Per LDC Section 2.6.2.2 the existing building is considered to be a nonconforming (grandfathered) structure. The LDC does not allow for expansion of a conforming building, but does allow the Board of Adjustment to consider a Special Exception to allow the expansion of the nonconformity.

Site Constraints

1. The subject property, as developed, does not meet minimum parking requirement of 11 spaces. If this request is granted, the applicant will need to provide adequate off-street parking for the entire structure.
2. If the request is granted, the proposed expansion would increase the degree of the nonconformity. Typically, it becomes necessary for a growing business to acknowledge that the business has outgrown the ability of a property to accommodate its needs to serve its clients.
3. If this request is approved, it will be difficult for a future owner to adapt this site to a new use if a nonconforming building occupies the majority of the site without inadequate for off-site parking and maneuvering.

Reasonable Alternatives

1. The building can be expanded in a manner that can comply with the setback requirement from S. 14th Street and the adjoining alley, thus providing more space to comply with the off-street parking and maneuvering space requirements.

Precedents/Findings

1. The approval of this request would exasperate the existing nonconformity and be used by future applicants to claim as a precedent for the expansion of other noncompliant buildings and structures.

Criteria Assessment

A Special Exception can be only when special circumstances are present to justify the expansion of a nonconforming building. In reaching a decision on a Special Exception request, the Board shall determine and make written findings that all of the following conditions are present:

- 1. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other features affecting the land, such that strict application of the provisions of this Code will create an undue hardship or inequity (other than financial) upon or for the applicant in developing the land, or deprive the applicant of reasonable and beneficial use of the land.**

The existing nonconforming building can be expanded in a manner that would not increase the nonconformity and that would not create a nonconforming parking situation. If the size of the expansion was reduced to satisfy the all applicable setback and parking requirements, this request would be supportable.

- 2. That the granting of the Special Exception will not be contrary to the public interest and will not be injurious to neighboring properties or otherwise detrimental to the public welfare.**

Granting the special exception will be contrary to the public interest and could potentially be injurious as the site does not provide sufficient maneuvering space for customers to safely back onto a very busy arterial street.

- 3. Granting the Special Exception is consistent with the intent of Abilene's Land Development Code.**

The proposed expansion is not consistent with the intent of the LDC, as the LDC would only allow for a nonconforming structure to expand as long as the expansion does not increase the structure's nonconformity, or encroachment on a zoning setback. The expansion of a nonconforming structure to increase the scale of the nonconformity is not appropriate.

- 4. The hardship or inequity suffered by the petitioner is not caused wholly or in substantial part by the petitioner.**

The existing nonconformity building was not created by any action of the petitioner. Staff would be supportive of an expansion of the building if the new construction complied with the applicable setback and parking requirements of the LDC, which is entirely possible. By proposing to double-down on the encroachment seems to indicate that the petitioner has perhaps outgrown this site.

Addendum

On March 14, 2023, action on this item was tabled to allow the applicant to provide more information on the parking lot design. Staff reached out to the applicant on March 14, 2023 and relayed the concerns the Board had regarding his request. Staff requested the applicant submit a more detailed site plan to be present to the

board, however that request was unfulfilled. Additionally, applicant confirmed his attendance for the meeting to take place on April 11, 2023.

Notification

OWNER	SITUS	PROP_ID	Response
HEFNER DARRON ALAN & MEGAN	2309 COLLEGE ST	52350	
RST HOMES LLC	2317 COLLEGE ST	52225	
JIMENEZ MONICA &	1349 ROSS AV	55807	
NICOLATO ALEX STEPHEN	1326 GRAND AV	56721	
ROBINSON DAVID DEAN SR & SHERE L	1341 ROSS AV	55667	
TCR REALTY INC	2318 S 14TH ST	51837	
HUGHES-BLOOM MARY	1334 GRAND AV	56585	
WTG FUELS INC	2450 S 14TH ST	55931	
BW GAS & CONVENIENCE RETAIL LLC	2334 S 14TH ST	51975	
LOPEZ JOEL & ANGELA	1333 ROSS AV	55546	
2442 S 14TH LLC	2442 S 14TH ST	56057	
LOPEZ JOEL & ANGELA	1325 ROSS AV	55427	
MC MURRY COLLEGE	2302 HUNT ST	59481	
MC MURRY COLLEGE	2258 HUNT ST	59481	
MC MURRY COLLEGE	1533 WARHAWK WY	59481	
MC MURRY COLLEGE	2150 MCMURRY CT	59481	
MC MURRY COLLEGE	2242 HUNT ST	59481	
MC MURRY COLLEGE	1650 WARHAWK WY	59481	
MC MURRY COLLEGE	2249 SENTINEL DR	59481	
MC MURRY COLLEGE	2349 SENTINEL DR	59481	
MC MURRY COLLEGE	2242 MCMURRY CT	59481	
MC MURRY COLLEGE	2449 SENTINEL DR	59481	
MC MURRY COLLEGE	1533 ROSS AV	59481	
MC MURRY COLLEGE	1601 WARHAWK WY	59481	
MC MURRY COLLEGE	1649 WARHAWK WY	59481	
MC MURRY COLLEGE	2350 SENTINEL DR	59481	
MC MURRY COLLEGE	2357 SENTINEL DR	59481	
MC MURRY COLLEGE	1550 WARHAWK WY	59481	
MC MURRY COLLEGE	2250 SENTINEL DR	59481	
MC MURRY COLLEGE	2149 MCMURRY CT	59481	
GILBRETH BOBBY	1350 GRAND AV	56186	
GILBRETH BOBBY	2400 S 14TH ST	56186	
GILBRETH BOBBY	2418 S 14TH ST	56186	
GILBRETH BOBBY	2402 S 14TH ST	56186	
PRESTRIDGE JONATHON &	1333 GRAND AV	59526	
DRAKE DUSTIN A & MICHELLE M	1342 GRAND AV	56457	
MOORE WILLIAM KEVIN	1317 ROSS AV	55292	
FRANKLIN LARRY & BECKY L	2325 COLLEGE ST	52104	

LOCATION MAP



ZONING MAP



Exhibit 1

ArcGIS Web Map

