



**NOTICE OF A REGULAR MEETING
BOARD OF ADJUSTMENT
MONDAY, MAY 13, 2019 AT 5:15 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

1. Call Meeting to Order

2. Public Comments and Receipt of Petitions

[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.]

3. Reports and Announcements

CONSENT AGENDA

4. Statutory Consent Agenda

The Statutory Consent Agenda includes non-controversial and routine items that the Commission may act on with one single vote. A Commissioner may pull any item from the Consent Agenda in order that the Commission discuss and act upon it individually as part of the Regular Agenda.

4-a. Minutes from the March 11, 2019 Board of Adjustment Meeting

REGULAR AGENDA

5. Public hearing, Discussion and Possible Action on Case Number B-19-002: A request by Circle K for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 3.05 (2)(a)(iii) to allow a 5-foot rear yard setback where a minimum 10-foot rear yard setback is required for a convenience store located at 1708 State Highway 105, described as Lot 1 of Post Oak Grove Replat SE Portion, in Brenham, Washington County, Texas.

6. Public hearing, Discussion and Possible Action on Case Number B-19-003: A request by MC Property Holdings/Dara Childs for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05 (1)(a)(1) to allow a 20-foot front yard setback where a minimum 25-foot front yard setback is required for a single-family residence located at 1103 E. Main Street, described as Lot 16G of the Davidson Addition, in Brenham, Washington County, Texas.

7. Adjourn

CERTIFICATION

I certify that a copy of the May 13, 2019, agenda of items to be considered by the Board of Adjustment was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on May 9, 2019, at 8:10 am.

Kim Hodde

Kim Hodde, Planning Technician

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7200 for assistance.

I certify that the attached notice and agenda of items to be considered by the Board of Adjustment was removed by me from the City Hall bulletin board on the _____ day of _____, 2019 at _____ am/pm.

Signature

Title

CITY OF BRENHAM BOARD OF ADJUSTMENT MINUTES

March 11, 2019

The meeting minutes herein are a summarization of meeting proceedings, not a verbatim transcription.

A regular meeting of the Board of Adjustment was held on March 11, 2019 at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present:

Arlen Thielemann
Jon Hodde
Thomas Painter
Mary Lou Winkelmann

Commissioners absent:

MaLisa Hampton

Staff present:

Stephanie Doland, Assistant Development Services Director
Kim Hodde, Planning Technician

Citizens present:

Walt Edmunds
Scott & Rebecca Ehlert

1. Call Meeting to Order

Chairman Thielemann called the meeting to order at 5:18 p.m. with a quorum of four (4) Commissioners present.

2. Public Comments and Receipt of Petitions

There were no public comments and/or receipt of petitions.

3. Reports and Announcements

Stephanie Doland introduced the new Board members, Mary Lou Winkelmann and Walt Edmunds (alternate), and welcomed them to the Board. Ms. Doland reminded the Board about the joint training meeting with the Planning and Zoning Commission that on Monday, March 18, 2019 at 5:30 pm in the City Council Chambers. She urged all members to attend.

CONSENT AGENDA

4. Statutory Consent Agenda

The Statutory Agenda includes non-controversial and routine items that the Commission may act on with one single vote. A Commissioner may pull any item from the Consent Agenda in order that the Commission discuss and act upon it individually as part of the Regular Agenda.

4-a. Minutes from the December 10, 2018 Board of Adjustments Meeting

Chairman Thielemann called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Hodde and seconded by Commissioner Painter to approve the minutes from the December 10, 2018 meeting, as presented. The motion carried unanimously.

REGULAR AGENDA

5. Election of a Chair and Vice-Chair for the Board of Adjustment for 2019

A motion was made by Commissioner Painter and seconded by Commissioner Winkelmann to elect Arlen Thielemann as Chair and Jon Hodde as Vice-Chair for the Board of Adjustment for 2019. The motion carried unanimously.

6. Public hearing, Discussion and Possible Action on Case Number B-19-001: A request by Scott and Rebecca Ehlert for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 1.05 (1)(b) to allow a 5-foot east side yard setback where a minimum 10-foot side yard setback is required for an existing single-family residence located in the Residential Single-Family (R-1) Zoning District at 101 E. Mansfield Street.

Stephanie Doland presented the staff report (on file in the Development Services Department). Ms. Doland stated that this structure was built prior to 1980 and is a legally non-conforming structure. Two letters of support were received for this request. Staff recommends approval of the requested special exception as presented.

Chairman Thielemann opened the Public Hearing at 5:26 pm and asked for any comments. The applicant, Scott Ehlert, thanked the Board for their time and consideration of this request. There were no other public comments.

Chairman Thielemann closed the Public Hearing at 5:27 pm and re-opened the Regular Session.

A motion was made by Commissioner Painter and seconded by Commissioner Hodde to approve a special exception to reduce the east side-yard setback for the proposed arbor/patio addition for the property located at 101 E. Mansfield Street (Case No. P-19-001) to 5-feet, as presented. The motion carried unanimously.

7. Adjourn

Chairman Thielemann adjourned the meeting at 5:27 pm.

The City of Brenham appreciates the participation of our citizens, and the role of the Board of Adjustment in this decision-making process.

Certification of Meeting Minutes:

Chairman, Board of Adjustment

Meeting Date

Attest, Staff Secretary

Meeting Date



CASE NUMBER: B-19-002

VARIANCE REQUESTS: 1708 State Highway 105

STAFF CONTACT: Stephanie Doland, Assistant Director of Development Services

OWNERS/APPLICANTS: Circle K/ALJ-Lindsey, LLC

ADDRESS/LOCATION: 1708 State Highway 105 (Exhibit "A")

LEGAL DESCRIPTION: Post Oak Grove, Lot 1, Replat of SE Portion

LOT AREA: Approximately 1.056 acres

**ZONING DISTRICT/
USE:** B-1 Local Business Residential Mixed Use District / Convenience store with gas pumps
(Exhibit "B")

**COMP PLAN
FUTURE LAND USE:** Single-Family Residential

REQUEST: A request for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 3.05(2)(a)(iii) to allow a **5-foot rear yard setback** where a minimum 10-foot rear yard setback is required for a single family residence (Exhibit "C")

BACKGROUND:

The subject property is located east of the intersection of State Highway 105 and North Blue Bell Road and is currently owned by Circle K. The subject property is developed with an existing convenience store, car wash, and gas pumps (Exhibit "D"). The property, as well as surrounding properties, are currently zoned as B-1 Local Business Mixed Residential Use District. Circle K plans to demolish the existing improvements and redevelop the property in a new configuration with additional pumps. Circle K is requesting a 5-foot variance to the rear yard setback requirement to allow the new convenience store to be located 5 feet from the rear property line.

APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:

(Sec. 5.02)(132)Variance: A type of relief that may be granted by the Board of Adjustment in order to accommodate appropriate development of a particular parcel of land that cannot otherwise be appropriately developed. The granting of such relief is subject to the standards and procedures as established in part IV, Variances, Special Exceptions, Nonconforming Uses and Appeals, division 1. The Board may not grant variances to use requirements or procedural requirements related to the granting of a variance.

(DIVISION 2. VARIANCES Sec. 1. Limitations.) The Board of Adjustment shall have the authority to grant variances in accordance with the standards and procedures provided herein, from any and all technical requirements of the

zoning ordinance, but may not grant variances to use requirements or procedural requirements or for procedural requirements for hearing or notice, provided that:

- (1) Such modifications are necessary to accommodate appropriate development of a particular parcel of land that is restricted by attributes inherent in the land such as area, shape or slope to the extent that it cannot otherwise be appropriately developed.*

The subject property was platted in the exiting configuration in 1988 as Lot 1 of the Southeast Portion of the Post Oak Grove Addition. During the replat process a 15-foot storm sewer easement was dedicated with the plat approval. Since that time an additional 15-foot storm sewer easement and improvements were constructed. The applicant proposes to abandon the original 15-foot storm sewer easement which is no longer needed, due to improvements in the more recently acquired easement. However, the easement and drainage improvement present development challenges for the site, as the easement is located diagonally through the middle of the property (Exhibit “C”).

In addition to the development restrictions due to existing easements, the property is platted in an unusual manner. The southeastern most property line is in a zig-zag nature. As a result of the irregular shape and jagged rear property line, strict adherence to the 10-foot rear yard (setback) impedes the development of this tract of land.

- (2) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public streets, nor increase the danger of fire, or in any way endanger the public health, safety and well-being of the neighborhood in which the subject property is located.*

Staff finds that the granting of this variance will not be materially detrimental or injurious to other property or improvements in the general vicinity. Minimum building setback regulations provide a minimum degree of open space for light and air circulation, help reduce the danger of conflagration and ensure that there is adequate room for emergency apparatus between and around improvements. Staff finds that should the variance be granted, the subject property will maintain adequate separations between improvements on the subject and adjacent tracts of land. As shown on Exhibit C, a City of Brenham sanitary sewer line is located immediately behind the rear property line. Should the tract to the southeast of the subject property be developed, improvements will not be permitted over the cities utilities and adequate separation will be provided.

- (3) The literal enforcement of the ordinance would work on unnecessary hardship.*

Staff finds that literal enforcement of this ordinance would limit the developable area of the property and could create an unnecessary hardship. For this reason, staff finds that supporting the 5-foot reduction to the rear building setback will lessen the hardship of developing the uniquely shaped, significantly restricted property.

- (4) The piece of property is unique and contains properties or attributes not common to other similarly situated properties.*

Staff finds the subject property is unique in the current configuration. Furthermore, the property contains the added restriction of a 15-foot wide storm sewer easement and improvement running diagonally through the property. Typically easements are placed along property lines to avoid hindering the land and

increasing development challenges. Were the easement located elsewhere on the site, it is reasonable to conclude that the proposed improvements would be situated such that a variance would not be needed.

(5) The need for the variance was not created by the applicant.

The need for a variance was not created by the applicant but rather by the acquisition of easements and the location of public utilities on the subject and adjacent properties.

(6) The hardship to be suffered through the literal enforcement of the ordinance would not be financial alone.

The hardship suffered through the literal enforcement of the ordinance would not be primarily financial.

(7) The granting of the variance would not be injurious to the public health, safety and welfare or defeat the intent of the philosophy contained in the Zoning Ordinance.

Granting the variance to the rear building setback would not be injurious to the public health, safety, and welfare, nor would it defeat the intent of the philosophy contained in the Zoning Ordinance. Setbacks are established to provide adequate separation and size between developments and uses. Staff finds that placing a structure within 5-feet of the rear property line in this special circumstance will meet the intent of the ordinance. The abovementioned findings suggest that due to the unique property configuration and adjacent utility improvements the proposed structure will maintain more than 10' of separation between improvements.

STAFF RECOMMENDATION:

Staff has reviewed the request and recommends approving the requested variance to allow a 5-foot rear yard setback where a 10-foot rear yard is typically required.

PUBLIC COMMENTS:

Property owners within 200 feet of the subject property were mailed notifications of this proposal on May 2, 2019. Any public comments will be provided in the Board of Adjustment Packet or during the public hearing.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Variance Application and Site Plans
- D. Photos

EXHIBIT "A"
AERIAL MAP



**EXHIBIT "B"
ZONING MAP**

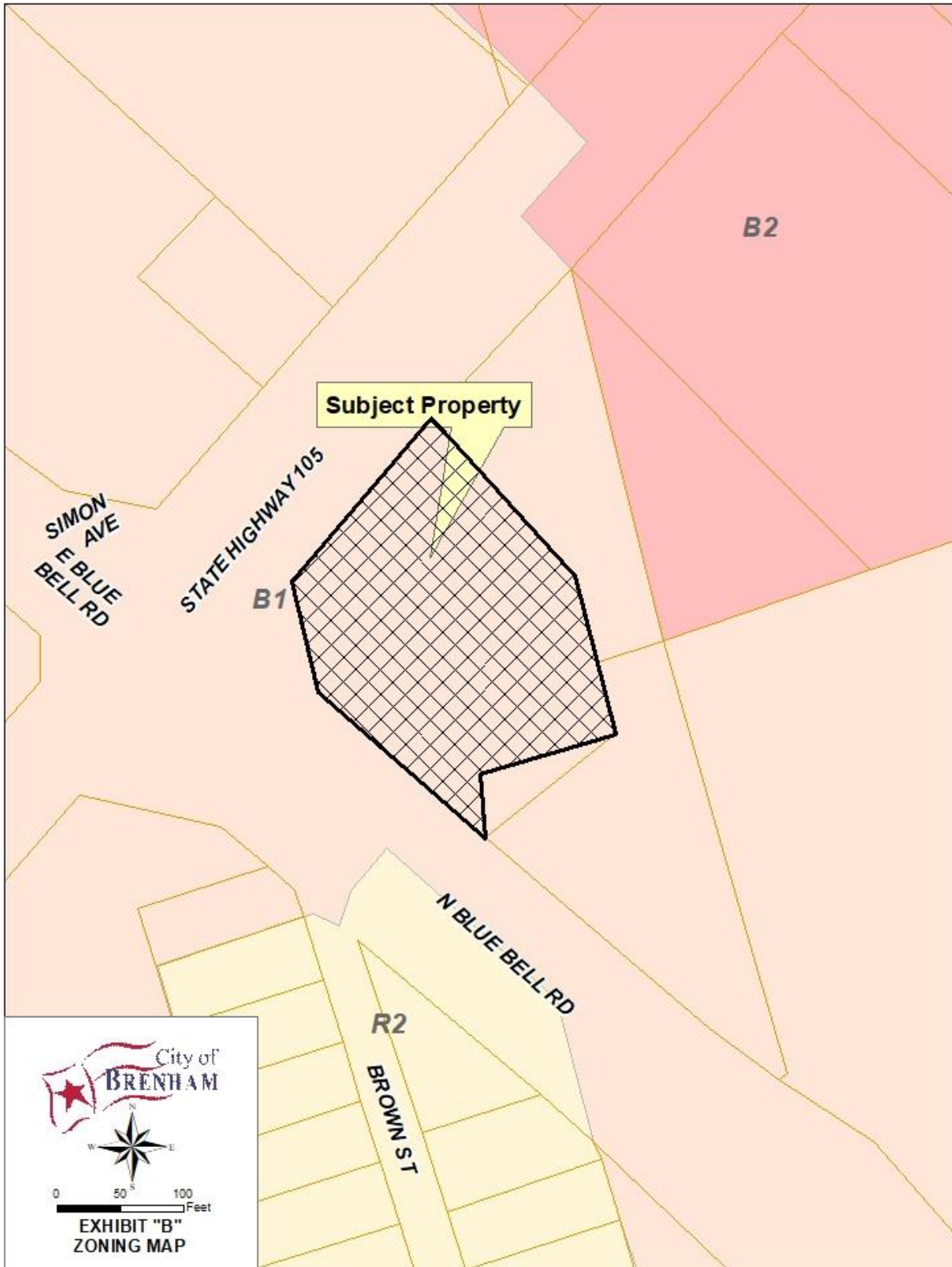


EXHIBIT "C"
VARIANCE APPLICATION AND SITE PLANS



April 10, 2019

Stephanie Doland
Board of Adjustments
200 W. Vulcan
Brenham, Texas 77833
P:979-337-7220

Re: 1708 Hwy 105 E – Variance Request

Ms. Doland,

On behalf of Circle K, I am requesting a variance to the rear yard requirements for the site at the east corner of Blue Bell Rd and Hwy 105. The current rear yard requirement is a 10' setback.

This site's rear boundary line is unusually platted, and this site also includes a 15' drainage easement running east-west across the site. Specifically, the rear lot line was recorded with a triangular jettison into the site. This platted boundary moves into the site as the city's storm easement crosses the property at an angle towards this irregular shaped property line. This site-specific constraint makes it difficult to position a convenience store and safely accept vehicles to the site from Blue Bell. This drainage easement in conjunction with the 10' rear setback requirement creates an unnecessary hardship for the site. If the rear setback was reduced to 5', the proposed convenience store could be adequately placed.

For these reasons, I request the rear yard requirement be reduced from 10' to 5' to accommodate the desired building.

I greatly appreciate your consideration of this matter. If you need additional information, please do not hesitate to contact me directly at 281-301-5955 ext. 1007.

Sincerely,

A handwritten signature in blue ink that reads "Patrick Carrigan".

Patrick Carrigan, P.E.

Partner

ALJ-Lindsey, LLC

TSBPE Firm No. F-11526

Email: pcarrigan@aljindsey.com

Office: 281-301-5955 ext. 1007

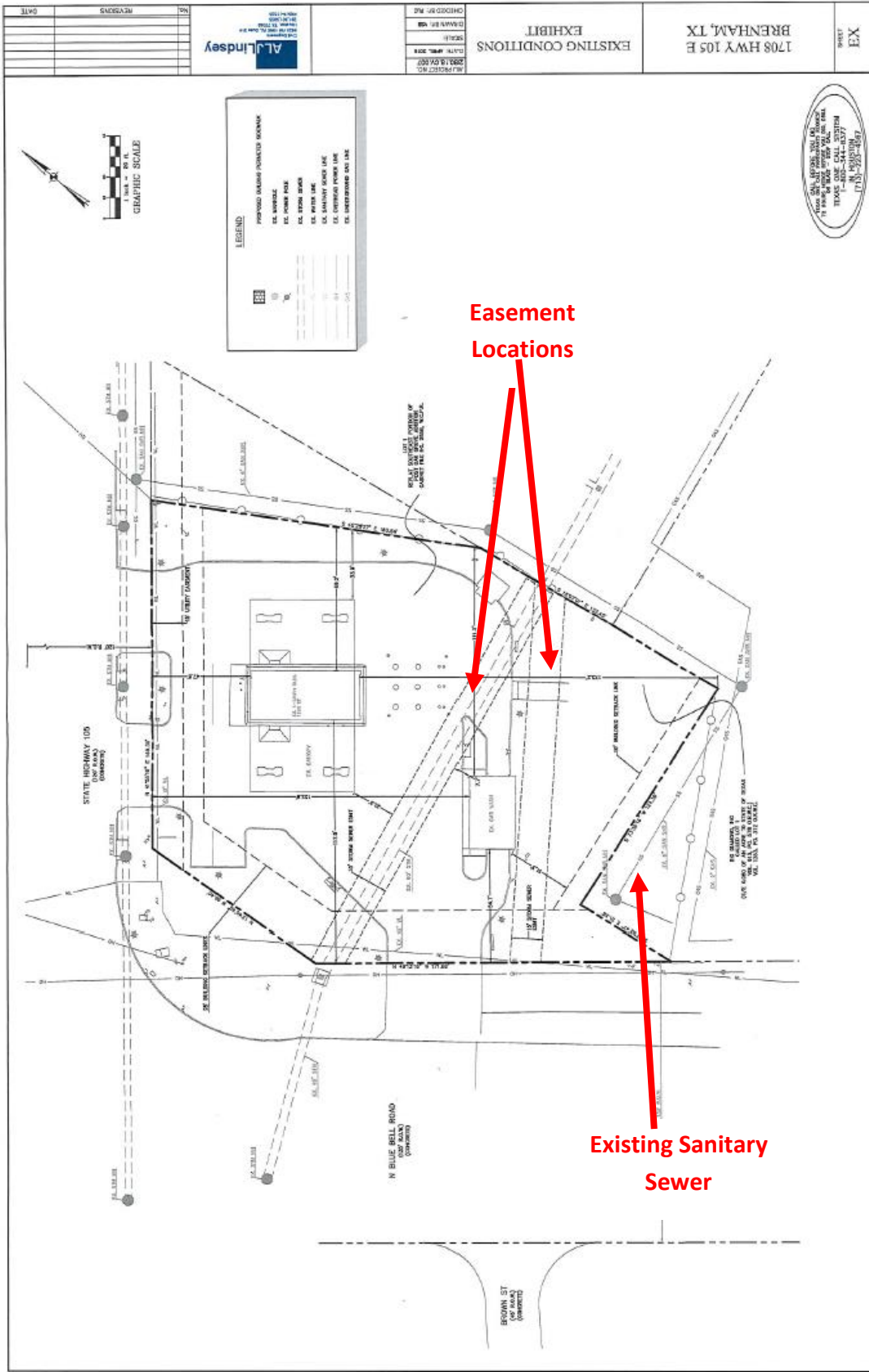


EXHIBIT "D"
Site Photos



View from FM 577



View from FM 577



CASE NUMBER: B-19-003
SPECIAL EXCEPTION REQUEST: 1103 E Main Street

STAFF CONTACT: Stephanie Doland, Assistant Director of Development Services

OWNERS/APPLICANTS: MC Property Holdings (Dara Childs)

ADDRESS/LOCATION: 1103 E Main Street (Exhibit "A")

LEGAL DESCRIPTION: Davidson Addition, Lot 16G

LOT AREA: Approximately 0.1102 acres

**ZONING DISTRICT/
USE:** R-2 Mixed Residential District / Vacant
(Exhibit "B")

COMP PLAN

FUTURE LAND USE: Single-Family Residential

REQUEST: A request for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(a)(i) to allow a 20-foot front yard setback where a minimum 25-foot front yard setback is required for a single family residence located in an R-2 zoning district on property addressed as 1103 E. Main Street and specifically described as Lot 16G in the Davidson Addition. (Exhibit "C" – Request)

BACKGROUND:

Mr. Dara Childs is the current property owner of 1103 E Main Street, an undeveloped tract of land located northwest of the intersection of E. Main Street and Barbee Street (Exhibit "D"). The property is currently zoned R-2 Mixed Residential District, with surrounding properties also zoned R-2. Mr. Dara Childs, the applicant, is requesting this special exception to develop this tract of land with a single-family detached dwelling unit.

Mr. Childs submitted a special exception request to reduce the required front yard setback by 5-feet to allow a 20-foot front setback. The subject property is Lot 16G in the Davidson's Addition, which was platted prior to the adoption of the Zoning Ordinance in 1967. As a result, properties along this block face are substandard lots measuring at approximately 60' wide by 90' deep with varying front setbacks.

APPLICABLE SECTION OF ORDINANCE AND ANALYSIS:

(Sec. 1.01) Authority. The Board of Adjustment shall have the authority to grant special exceptions in accordance with the procedures and standards herein provided to permit:

- (3) To deviate yard requirements in the following circumstances:
 - (a) An exception from the front yard requirements where the existing front yard setbacks of the various lots in the same block are not uniform, so that any one of the existing front yard

setbacks shall for any building hereinafter constructed be the required minimum front yard setback.

Section 2.05(1)(a)(1) of the City of Brenham Zoning Ordinance requires the following area regulations:

(1) Single-family detached units:

(a) Size of yards:

(i) Front yard: There shall be a front yard having a depth of not less than twenty-five (25) feet. Where lots have double frontage, running through from one street to another, the required front yard shall be provided on both streets.

STAFF FINDINGS AND RECOMMENDATION:

Staff has reviewed the request and **recommends approval**. The subject property is located in a neighborhood developed prior to the adoption of the Zoning Ordinance and building setback lines. As a result, the prevailing front building setback along E. Main Street is less than the required 25-foot front yard setback. For example, the adjacent property to the east is developed with a single-family detached dwelling unit located approximately 9.5-feet from the front property line. Along the same block-face, to the east and west, properties are developed with residences extending between approximately 8.5-feet and 23-feet from the front property line.

Based on the existing development pattern this request meets the criteria for Part IV, Division 4, Section 1.01(3)(a), Special Exceptions of the Zoning Ordinance. Should the special exception be denied, the applicant would be required to adhere to the 25-foot front building setback.

PUBLIC COMMENTS:

Property owners within 200 feet of the project site were mailed notifications of this proposal on May 2, 2019. Any public comments will be provided in the Board of Adjustments Packet or during the public hearing.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Special Exception Request & Site Plan
- D. Photo(s)

EXHIBIT "A"
AERIAL MAP



EXHIBIT "B"
ZONING MAP

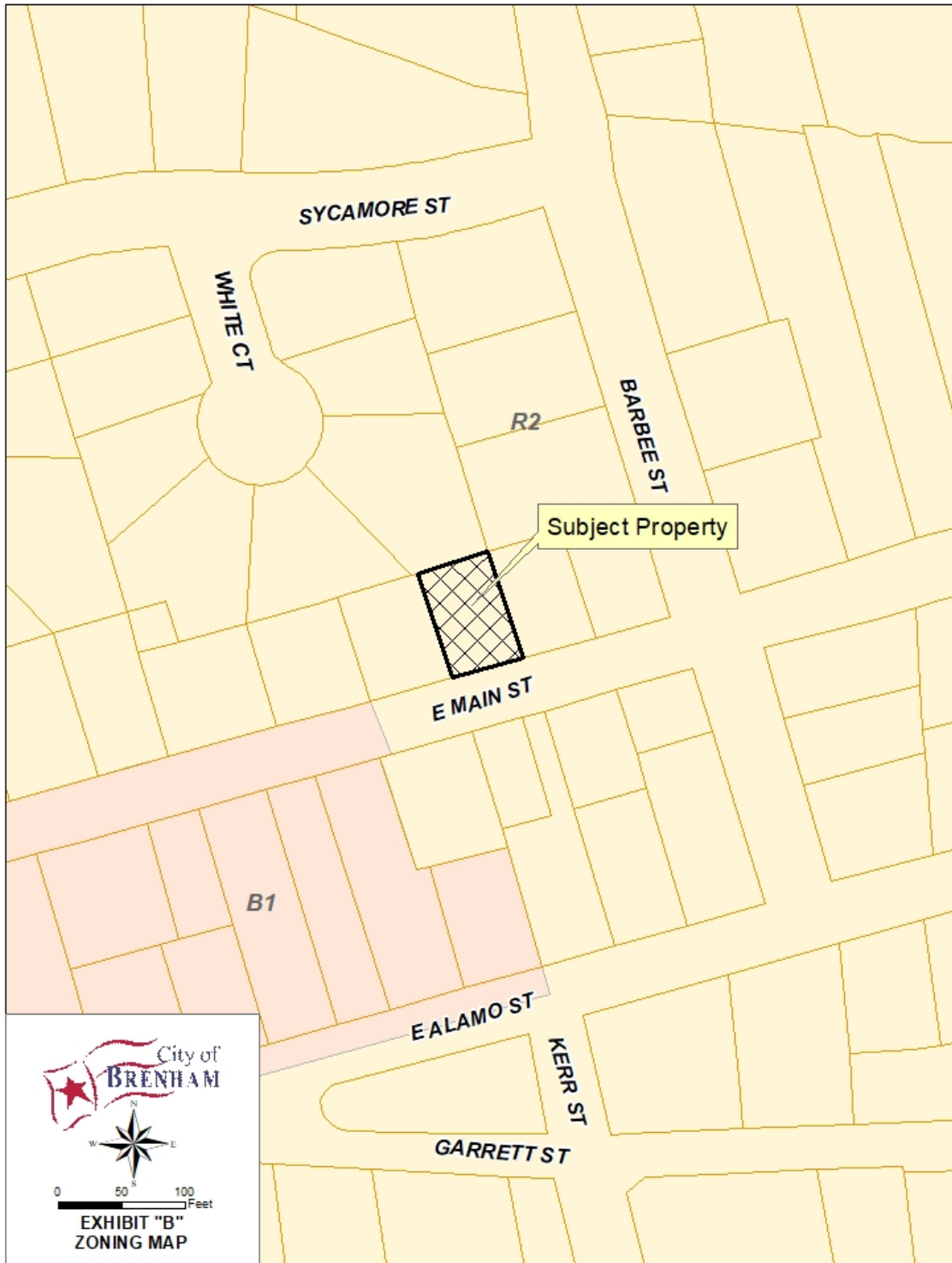


EXHIBIT "C"
SPECIAL EXCEPTION REQUEST & SITE PLAN

From: dara childs <darachilds@yahoo.com>
Sent: Wednesday, May 01, 2019 9:30 AM
To: Stephanie Doland
Cc: Sarah Hill
Subject: special exception cover letter - 1103 East Main

The special exception request is for a 20 foot front building setback. The ordinance requires a 25 foot front building setback. The existing street scene and the adjacent neighbors are currently residing at a 15 foot front setback. Our request would be in keeping with the existing homes.

I will print this out and drop it off with the revised site plan.

Best Regards,

Dara Childs
281-914-9416

www.armriver.com
www.solution4living.com

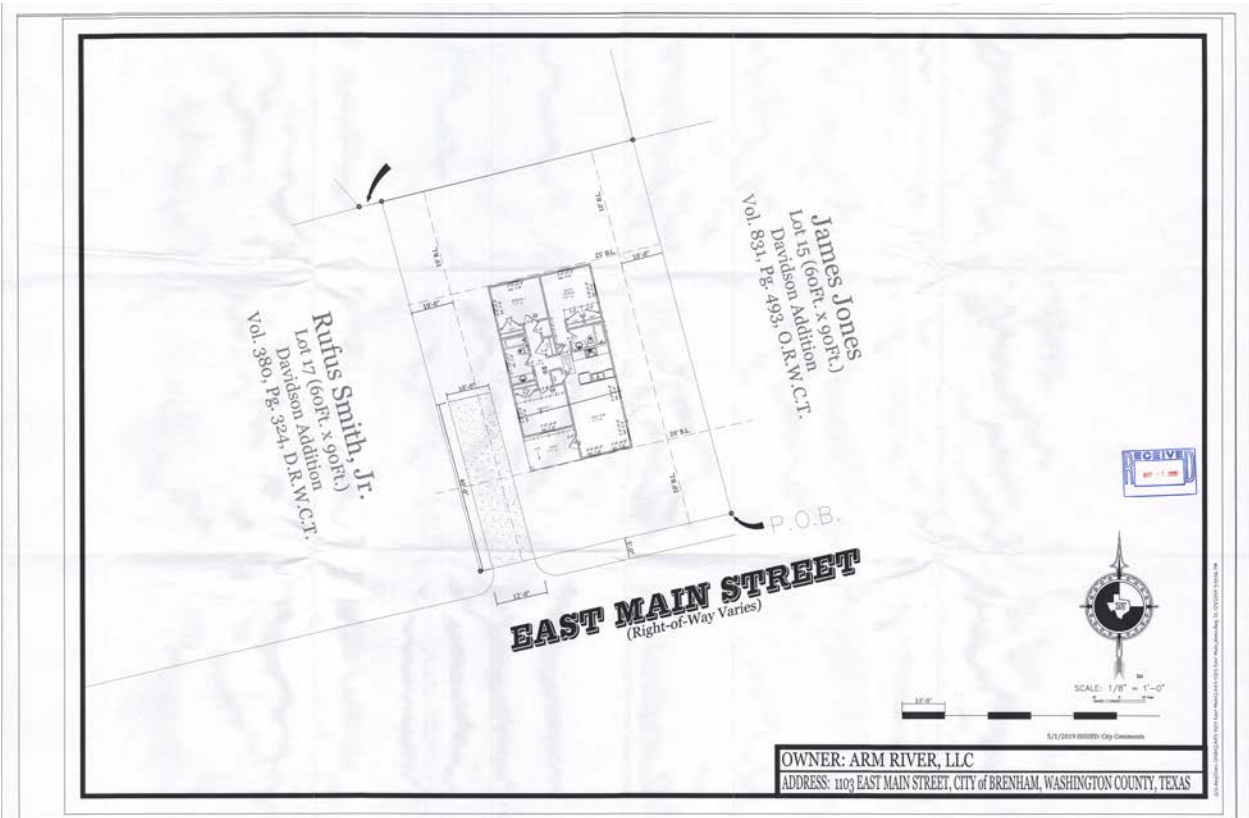


EXHIBIT "D"
SITE PHOTO



View from E. Main Street