

NOTICE OF A REGULAR MEETING BOARD OF ADJUSTMENT MONDAY, FEBRUARY 12, 2024 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 December 11, 2023 Board of Adjustment Meeting.

#### **REGULAR AGENDA**

- 5. Election of a Chair and Vice-Chair for the Board of Adjustment for 2024.
- 6. Public hearing, Discussion and Possible Action on Case Number B-24-001: A request by Murphy Oil USA, Inc. for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 4.06(1)(C) to allow an 5-foot rear yard setback, where a minimum 10-foot rear yard setback is required for demolition of the existing gas station and construction of a new gas station/convenience store located at 2615 State Highway 36 S, described as Lot 3-C of the Wal-Mart SC 321 Center, in Brenham, Washington County, Texas.

## 7. Adjourn.

#### CERTIFICATION

I certify that a copy of the February 12, 2024, 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 February 9, 2024, at 1:10 p.m.

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 \_\_\_\_\_, 2024 at \_\_\_\_\_ am/pm.

Signature

Title

## CITY OF BRENHAM BOARD OF ADJUSTMENT MINUTES

## December 11, 2023

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 December 11, 2023, at 5:15 pm in the Brenham Municipal Building, City Council Chambers, at 200 West Vulcan Street, Brenham, Texas.

Commissioners present: Jon Hodde, Chairman Dax Flisowski Arlen Thielemann Mary Lou Winkelmann

<u>Commissioners absent:</u> Danny Goss, Vice Chairman

<u>Staff present:</u> Shauna Laauwe, City Planner Kim Hodde, Planning Tech

<u>Citizens / Media present:</u> Artis Edwards, Sr. Craig and Theresa (Tussy) Norman

#### 1. Call Meeting to Order

Chairman Hodde called the meeting to order at 5:22 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

Shauna Laauwe, City Planner, informed the Board that the 2024 meeting / submittal date calendars were placed on the dais. Ms. Laauwe also stated that Stephanie Doland would be back the week of December 18<sup>th</sup> on a part-time basis the full time after the new year. She stated that one request has already been submitted for the January Board of Adjustment meeting.

#### 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 November 13, 2023, Board of Adjustment Meeting.

Chairman Hodde called for any corrections or additions to the minutes as presented. A motion was made by Commissioner Flisowski and seconded by Commissioner Winkelmann to approve the Consent Agenda (minutes from the November 13, 2023, meeting), as presented. The motion carried unanimously (4-0).

#### **REGULAR AGENDA**

5. Public hearing, Discussion and Possible Action on Case Number B-23-012: A request by Artis Edwards, Sr. for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(A)(ii) to allow a 9.28-foot west side yard setback, where a minimum 10-foot side yard setback is required, for construction of a residence at 1310 Bridge Street, described as Lot 6A of the Carleton Addition, in Brenham, Washington County, Texas.

Shauna Laauwe, City Planner, presented the staff report for Case No. B-23-012 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Artis Edwards, Sr. The subject property is zoned as R-2, Mixed Residential Use District and currently has a single-family home under construction. The future land use designation is single-family residential, and the proposed use is single-family residential. The subject property is addressed as 1310 Bridge Street. The request is to allow a 0.72-foot (approximately 9-inches) reduction in the required west side yard setback to allow a 9.28-foot (9-foot, 3-inch) west side yard setback where a 10-foot side yard setback is required for a single-family residence. A building permit for a 1,373 square foot single-story home was issued for the subject property. The form survey revealed that the home foundation footprint was staked incorrectly and encroaching into the required 10-foot west side yard setback by approximately 9-inches. Since the builder has already set the plumbing, the applicant is requesting a Special Exception to legitimize this encroachment rather than remove the existing work and realign the forms.

Notifications were mailed to property owners within 200-feet of the subject property on November 30, 2023. Staff received one written comment in favor of the request.

Based on the findings, Staff recommends approval of this Special Exception request to allow a 0.72-foot (approximately 9-inch) reduction to the minimum required 10-foot west side yard setback to allow a west side yard setback of 9.28-feet for the property located at 1310 Bridge Street.

Chairman Hodde opened the Public Hearing at 5:30 p.m. and asked for any comments. There were no citizen comments.

Chairman Hodde closed the Public Hearing at 5:30 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Winkelmann and seconded by Commissioner Thielemann to approve the request by Artis Edwards, Sr. for a Special Exception from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(A)(ii) to allow a 9.28-foot west side yard setback, where a minimum 10-foot side yard setback is required, for construction of a single-family residence at 1310 Bridge Street, as presented. The motion carried unanimously (4-0).

6. Public hearing, Discussion and Possible Action on Case Number B-23-013: A request by Craig and Theresa Norman for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(A)(ii) to allow a 5-foot east side yard setback, where a minimum 10-foot side setback is required and a variance from Part II, Division 2, Section 2.05(1)(A)(iii) to allow a 2-foot rear yard setback, where a minimum 25-foot rear setback is required for a proposed attached accessory structure (garage) located at 413 W Main Street, described as Lot 7A1 of the West Main Subdivision in Brenham, Washington County, Texas.

Shauna Laauwe, City Planner, presented the staff report for Case No. B-23-013 (on file in the Development Services Department). Ms. Laauwe stated that this is a request from Craig and Theresa Norman. The subject property is zoned as R-2, Mixed Residential Use District and is developed with a single-family residence. The future land use

designation is Mixed-Use Downtown Adjacent, and the proposed use is single-family residential with attached garage. The subject property is addressed as W. Main Street and is located on the south side of W. Main Street, west of Seward Street, and north of W. Alamo Street. The request is for a 5-foot reduction in the east side yard setback and a 23-foot reduction in the rear yard setback to allow a 5-foot east side yard setback and a 2-foot rear yard setback where a minimum 10-foot side setback and a minimum 25-foot rear yard setback is required for an attached accessory structure (garage) to an existing single-family residence. The subject property and all adjacent properties are zoned R-2, Mixed Residential Use District and developed with a mix of commercial and single-family residential units. The adjacent property to the east is Manuel's Mexican Restaurant that is a legally nonconforming use that has been in business since 1987. Neighboring properties to the northwest along W. Main Street are zoned R-1, Single Family Residential and developed with single-family home. The subject property measures approximately 60-feet by 92-feet and currently consists of a 2,061 square foot, 2-story, single-family home, and a detached accessory garage that were constructed in 1924 and 1989, respectively. The 5,532 square foot lot is legally non-conforming to the minimum 7,000 square foot and lot depth of 115-feet. In addition, the circa 1924 home is legally non-conforming to the minimum25-foot front and rear yard setbacks and the minimum 10-yard west side yard setback. The existing garage is now in disrepair and the applicant who purchased the property in July 2023, wishes to demolish the existing garage and replace it with an 18-foot by 29-foot attached, two-story structure that would consist of a garage with storage space on the first floor and a game room on the second floor. The proposed garage would be attached to the existing home via a small existing second floor balcony. The 2018 International Building and Fire Code requires any structure that is less than 5-feet from a property line to have a fire-rated wall and no opening, to include windows, doors, or air conditioners.

Background:

- The existing detached garage accessory structure was built in 1989 with a 2-foot east side yard setback and a 0-foot rear yard setback.
- The existing garage is in disrepair with a crumbing concrete floor and foundation damage; therefore, the applicant wishes to replace this structure.
- The West Main Subdivision lot and principal structure predate the 1968 Subdivision and Zoning Regulations.
- In 1989, detached accessory structures had a 3-foot setback requirement, but the structure may also predate the regulations.
- Originally, the applicant wanted to replace the garage with a new garage in the same location with a wrap-around porch/walkway that would connect to the second floor of the home. Because of Building/Fire Code requirements and the proximity of structures on adjacent lots, this was not advisable.
- With the original plan, fire walls would be required and no openings would be permitted on the east and north sides.
- Plans were redrawn to place the garage at a 60-degree angle.
- A portion of the northeast corner and southeast corner will still encroach minimally into the setbacks. The portion of the garage that is within 5-feet of the north property line will still need a fire-rated wall and be prohibited from having any openings, but only a small portion of the proposed building would have these restrictions.
- The size of the lot and positioning of the existing principal structure prohibits placing an accessory structure that is functional and adheres to the building setbacks.
- Most of the lots in the area are non-conforming and most of the existing homes do not meet the setback requirements.

An attached accessory structure has the same setbacks as a principal structure; thus the proposed attached garage would have a minimum required 25-foot rear yard setback and a 10-foot east side yard setback. Therefore, the applicant is requesting a 23-foot reduction in the rear yard setback and a 5-yard reduction in the east side yard setback.

Notifications were mailed to property owners within 200-feet of the subject property on November 30, 2023. Staff has received numerous written comments in support of this request.

Based on the findings, Staff recommends approval of this request to allow a 5-foot reduction in the minimum required 10-foot east side yard setback for a setback of 5-feet, and to allow a 23-foot reduction in the rear yard for a setback of 2-feet, for a proposed attached two-story garage at 413 W. Main Street.

Chairman Hodde opened the Public Hearing at 5:42 p.m. and asked for any comments. There were no citizen comments.

Chairman Hodde closed the Public Hearing at 5:43 p.m. and re-opened the Regular Session.

A motion was made by Commissioner Thielemann and seconded by Commissioner Flisowski to approve the request by Craig and Theresa Norman for a variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 2.05(1)(A)(ii) to allow a 5-foot east side yard setback, where a minimum 10-foot side setback is required and a variance from Part II, Division 2, Section 2.05(1)(A)(ii) to allow a 2-foot rear yard setback, where a minimum 25-foot rear setback is required for a proposed attached accessory structure (garage) located at 413 W Main Street, as presented. The motion carried unanimously (4-0).

#### 7. Adjourn

A motion was made by Commissioner Flisowski and seconded by Commissioner Winkelmann to adjourn the meeting at 5:43 p.m. The motion carried unanimously (4-0).

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:

Jon E. Hodde, Chairman

February 12, 2024 Meeting Date

Attest, Staff Secretary

February 12, 2024 Meeting Date



## CASE NUMBER: B-24-001

VARIANCE REQUEST: 2615 State Highway 36 S

STAFF CONTACT:	Shauna Laauwe, City Planner
OWNERS/APPLICANTS: Murphy Oil USA, Inc.	
ADDRESS/LOCATION:	2615 State Highway 36 S (Exhibit "A")
LEGAL DESCRIPTION:	Lot 3-C, Walmart SC 321 Center
LOT AREA:	0.51 acres
ZONING DISTRICT/ USE:	B-2, Commercial Research and Technology Use District / Gas Station (Exhibit "B")
COMP PLAN FUTURE LAND USE:	Commercial

**REQUEST:** A request for a Variance from the City of Brenham Code of Ordinances, Appendix A – Zoning, Part II, Division 2, Section 4.06 (1)(C) to allow a 5-foot rear yard setback, where a minimum 10-foot rear yard setback is required for a gas station/convenience store, (Exhibit "C").

## BACKGROUND:

The subject property is addressed as 2615 State Highway 36 S and is generally located on the east side of State Highway 36 South, west of the Walmart Supercenter and east of the Bluebonnet Shopping Center. The subject property and all adjacent properties are within a B-2, Commercial Research and Technology Use District and developed with commercial uses. The subject 0.51-acres is currently developed as Murphy Gas Station and shares access with Walmart. The gas station was constructed in 2000 and currently consists of 4 pump structures (8 pump stations total) with a small 8.1' x 16.6' (132 square foot) pay-window structure and outdoor sales area located in the center between the second and third pumps.

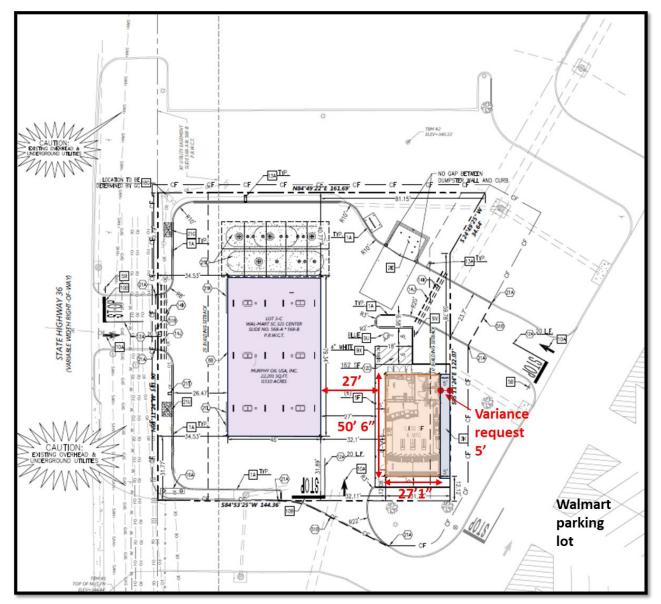
The applicant is planning to demolish the existing structures on site and construct a modern gas station with 6 pump structures (12 pump stations total), a new canopy with electronic display, and a 1400 square foot convienance store. For structures In the B-2 District, the





minimum required front yard setback is 25-feet, the minimum required rear yard setack is 10-feet, and no interior side yard is required for nonresidential uses. As shown below in Figure 2, the proposed siteplan is able to meet all building setback requirements except that the proposed 1400 square foot conveinent store, that is located in the southeast corner and measures 50'6" in length and 27'1" in width, encroaches into the 10-foot rear yard building setback. A two-way traffic aisle has a minimum width of 24-feet, and as shown below the driving aisle between gas canopy and the convenience store is 27-feet. Moving the convenience store structure 5-feet to the west to meet the minimum rear yard setback would result in not enough aisle width to allow two-way traffic circulation on the site. Thus, the applicant is requesting a 5-foot variance to the minimum required 10-foot rear yard setback for a proposed convenience store.





## 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, <u>provided that</u>:

(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 applicant wishes to construct a new 27'1" by 50'6" (1400 SF) convenience store structure on the southeast corner of the Murphy USA gas station site at a 5-foot rear yard setback. The subject lot abuts the Walmart parking lot to the east and shares public access driveways with the shopping center development. If the proposed structure met the 10-foot minimum setback, the gas station site would not be able to provide the 24-foot two-way internal aisle traffic circulation width as the aisle would be restricted to 22-feet in width. One-way traffic circulation would reduce the safety of the traffic pattern on the subject property. The proposed store is 530-feet from the nearest structure, with a 25-foot landscape area between the subject property line and the parking lot to the east.

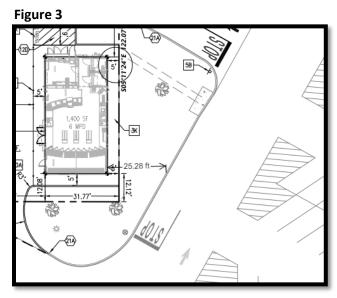
(2) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, nor impair an adequate supply of light or air to adjacent property, nor substantially increase the congestion in the public 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.

Granting the variance to the rear yard setback 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 the adjacent property. Rear yard setbacks are established to provide adequate separation and openness between developments and uses. There is ample spacing between the proposed convenience store and the nearest structure of the adjacent Walmart to the east. The subject property has a 25-foot landscape island separation from the shared property line to the beginning of the Walmart parking lot. In addition, the proposed structure is situated approximately 530-feet from the Walmart store. The proposed addition would only expand to the west into the rear yard and not affect the current side yard setbacks to the north and south.

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

Staff finds that the literal enforcement of this ordinance would not provide adequate aisle width between the convenience store and the gas pump area for two-way traffic circulation on the subject site. Staff finds that without a variance, the proposed structure depth would render the aisle width to one-way traffic and limit the circulation and safety of the gas station/convenience center site. Thus, granting a variance for a reduction to the rear yard is reasonable and would work on an unnecessary hardship. (4) The piece of property is unique and contains properties or attributes not common to other similarly situated properties.

The subject property is a pad site of the Walmart development and as shown in Figure 3, is unique in that there is a landscape buffer between the subject property line and the vast Walmart parking area to the east. While the building would be only 5-feet from the rear property line, it is approximately 25-feet from the adjacent landscape island area that separates the subject property from the Walmart parking lot. If the subject property included the landscaped area, a variance would not be necessary for the proposed structure. In addition, the proposed convenience would be approximately 530-feet from the Walmart building that is the nearest structure to the east.



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

The need for the variance was not solely created by the applicant. The applicant and property owner are demolishing the existing gas station structures and rebuilding a new modern gas station that includes additional gasoline pumps and a convenience store. The existing site does not have the lot depth necessary to provide the required aisle widths to facilitate two-way traffic circulation and meet the 10-foot rear yard setback. While the building would be only 5-feet from the rear property line, it is approximately 25-feet from the adjacent landscape island area that separates the subject property from the Walmart parking lot. If the subject property included the landscaped area, a variance would not be necessary for the proposed structure.

(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 financial alone. Without the setback variance, two-way internal traffic circulation would not be permitted as shown. A reduction in the store footprint would be required to be reduced by over 250 SF.

(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.

Setbacks are established to provide separation between uses for light and air and reduced density. The proposed convenience store is located adjacent to a landscape area and to the Walmart parking lot. The proposed structure would be approximately 530-feet from the Walmart structure. Granting a 5-foot variance to the rear yard setback would allow for necessary open space, separation between structures and 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. If approved, the structure and commercial site would be

required to obtain a building permit and necessary reviews and approvals by the Building Official to ensure adherence to adopted Building Codes.

#### **STAFF RECOMMENDATION:**

Staff has reviewed the request and *recommends approval* of the requested variance to allow a 5-foot reduction in the minimum required 10-foot rear yard for a setback of 5-feet for a demolition of the existing gas station and construction of a new gas station/convenience store at 2615 State Highway 36 South.

## **PUBLIC COMMENTS:**

Property owners within 200 feet of the subject property were mailed notifications of this proposal on February 1, 2024. 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. Site Plan
- D. Site Photos

## EXHIBIT "A" AERIAL MAP

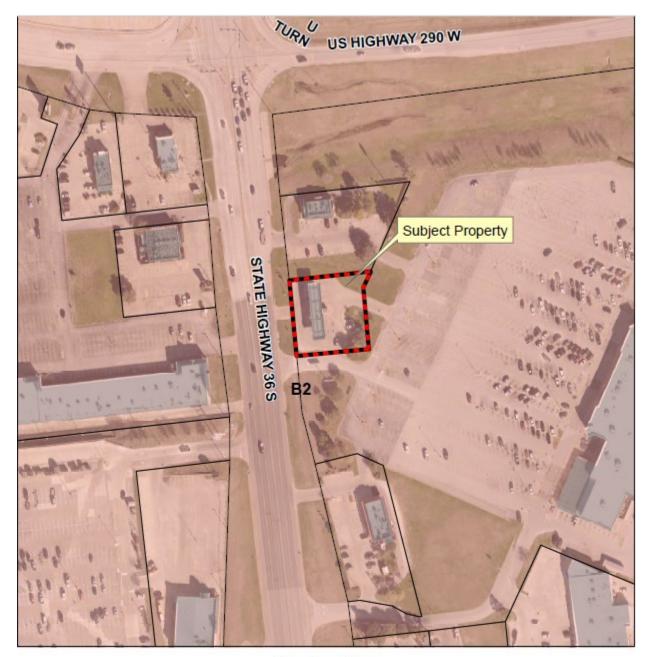


Location Map Variance to Rear Yard Setback 2615 SH 36 S

1 inch = 146 feet



## EXHIBIT "B" ZONING MAP



# Zoning Map Variance to Rear Yard Setback 2615 SH 36 S

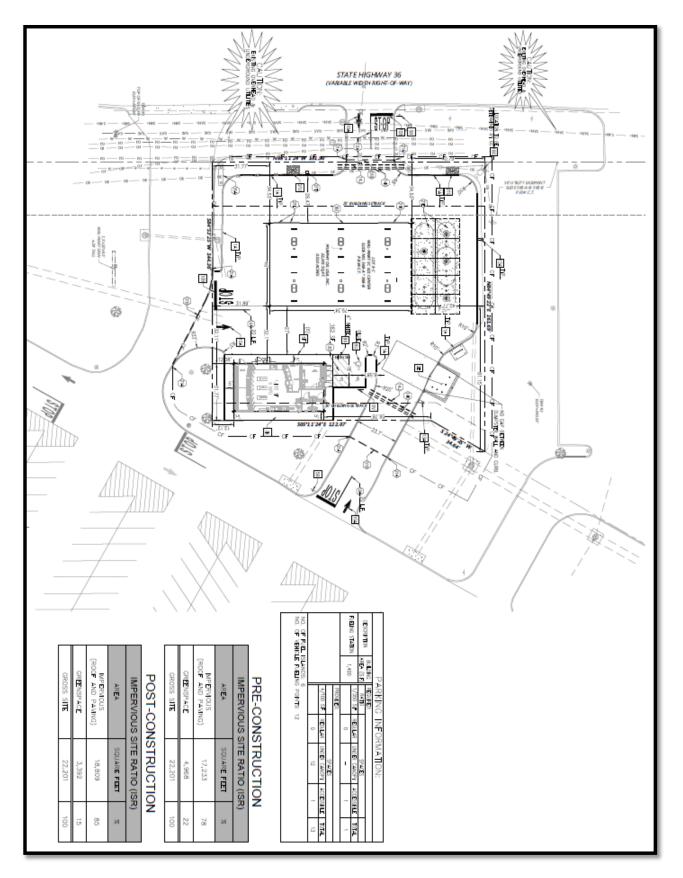
1 inch = 146 feet



Legend

B2 Commercial Research and Technology

EXHIBIT "D" SITE PLAN



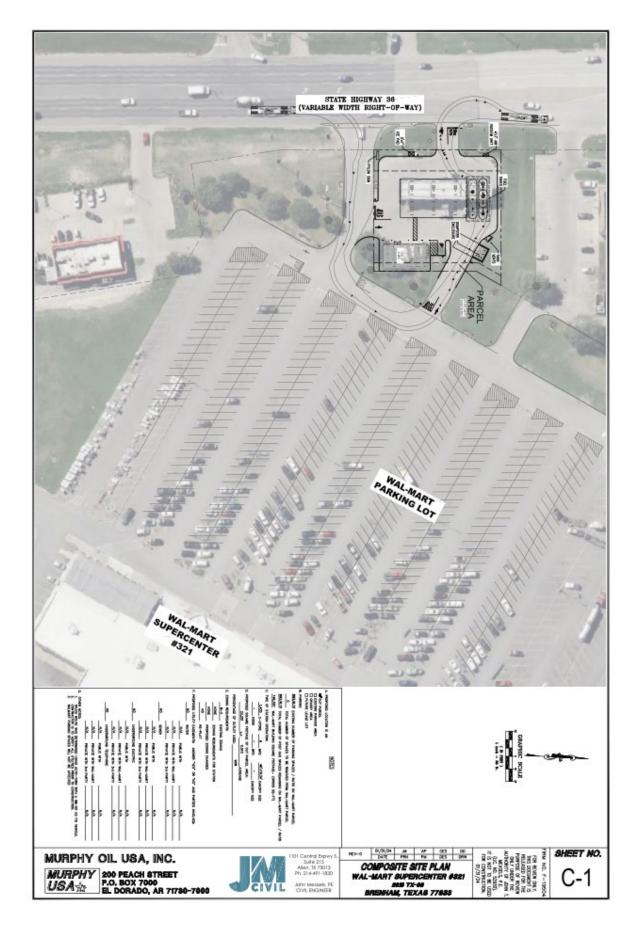


EXHIBIT "E" SITE PHOTOS





Convenience Store will be constructed in the southeast corner where the existing dumpster is located.



New structure location in relation to the parking lot and Walmart.



The landscape area adjacent to the east shared property line with Walmart.