

ZONING BOARD OF ADJUSTMENT STAFF REPORT



MEETING DATE: June 7, 2017

TITLE:

Public hearing and consider action to approve a Variance to Section 3.20.016 (4) (D) of the Sign Ordinance to allow 184 square feet of additional signage at a height of 52 feet to an existing legal nonconforming pylon sign at 460 Highway 71 West, being Lot 2A of Bastrop West Commercial, Section 2.

STAFF REPRESENTATIVE:

Wesley Brandon, P.E., Director of Planning and Engineering

ITEM DETAILS:

Site Address: 460 Highway 71 West (Attachment 1)
Total Acreage: 0.51 acres
Legal Description: Bastrop West Commercial, Section 2, Lot 2A

Property Owner/Applicant: Steve Durso, Steve Durso Properties

Existing Use: Retail/Commercial
Existing Zoning: C-2, Commercial - 2
Future Land Use: General Commercial

BACKGROUND/HISTORY:

The Applicant is requesting to add additional signage below the existing Game Stop sign along the Highway 71 eastbound frontage road (in front of Walmart). The existing sign has been divided to provide space for two tenants, one of which is GameStop and the other is currently vacant.



Existing Sign

The Applicant is asking to place the new sign area in the open space directly below the existing sign, removing the existing satellite/spotlight.

*Proposed
Sign
Addition*



The building that this sign serves is a 6,000 square foot building on a 0.51-acre site. The building has had two tenant storefronts, one of which is occupied by GameStop. The owner is planning to divide the remaining space into three storefronts, which has prompted the request for additional signage.



*Aerial
Location
Map*

A sign inventory completed in 2005 by the Planning staff shows only the existing sign area and there is no indication or record that there was ever more sign area.

*Photo of Sign
taken June 3,
2005*



The existing sign is 60 feet tall and has 280 square feet of sign face area. Section 3.20.016 (4) (D) of the Sign Ordinance allows a pylon sign to be a maximum of 35 feet tall and have a maximum sign area of 160 square feet. Additionally, there is a distance requirement that any new pylon or monument signs must be at least 100 feet away from other pylon signs, on any parcel. The Applicant's request includes additional signage installed directly underneath the existing sign, eight feet tall and 23 feet wide, with an area of 184 square feet. This would be an increase in size of approximately 66% compared to the existing sign, and would increase the total sign area to 190% greater than that allowed under the current code. The overall height of the sign would remain unchanged.

Summary of Request

	Height (feet)	% over max. allowed	Sign Dimensions (feet)	Sign Area (sq. ft.)	% over max. allowed	% increase from existing
Pylon Sign Requirements (Section 3.20.016 (4) (D))	35			160		
Existing Sign						
Total Pylon Sign Size	60	71%	8 x 35	280	75%	
Proposed Sign						
Additional Signage	52	49%	8 x 23	184		
New Sign Total	60	71%		464	190%	66%

PUBLIC COMMENTS:

Five (5) adjacent property owner notifications were mailed on May 25, 2017. At the time of this report, one (1) response was received in objection to the variance.

POLICY EXPLANATION:

The Zoning Board of Adjustment may authorize a variance from these regulations when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the Board shall prescribe only those conditions that it deems necessary to or desirable in the public interest.

In making the findings hereinafter required, the Board shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed use, and the probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare in the vicinity.

A. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria:

a. *Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.*

- **Properties with at least 100 feet of highway frontage are allowed to have one pylon sign as long as it is 100 feet away from other pylon signs (Section 3.20.015 (13) (D)). The property currently has a legal non-conforming pylon sign that has 120 feet more sign area than that allowed under the current code. Additionally, Section 3.20.016 (4) (D) requires the building to be a minimum of 12,000 square feet to allow a pylon sign.**

b. *The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.*

- **The property has more existing signage than is currently allowed under the sign code.**

c. *Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.*

- **The pylon sign that the Applicant is requesting to locate the additional sign on was not originally designed to have additional signage.**

d. *Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.*

- **The additional sign on the existing pylon will not impede the use of any other parcels within the area.**

e. *Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.*

- **The site currently has a legal non-conforming pylon sign, similar to other sites in the area.**

B. *A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.*

- **The building is being divided up into more tenant spaces than had previously existed. The existing sign was designed to serve only one or two tenants. The property owner's action of making new tenant spaces without dividing up the existing sign is driving the desire for additional signs.**

C. *Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.*

- **The nature of the Applicant's request is related to highway visibility and makes no mention of financial hardship.**

D. *The applicant bears the burden of proof in establishing the facts justifying a variance.*

- **The Applicant has provided a letter and exhibits illustrating the existing and proposed signage (Attachment 2).**

HISTORICAL REFERENCES:

Since 2007, variances to the Sign Ordinance were heard and acted on by the Municipal Sign Review Board established by City Council. However, Ordinance 2017-09 (adopted on March 14, 2017) transferred this authority to the Zoning Board of Adjustment, which must now consider variance requests based on the same criteria as other zoning-related requests.

This is the first such request to be considered under the newly adopted Ordinance and review criteria.

RECOMMENDATION:

Hold public hearing and consider action to deny a Variance to Section 3.20.016 (4) (D) of Sign Ordinance to allow 184 square feet of additional signage at a height of 52 feet to an existing legal nonconforming pylon sign at 460 Highway 71 West, being Lot 2A of Bastrop West Commercial, Section 2.

ATTACHMENTS:

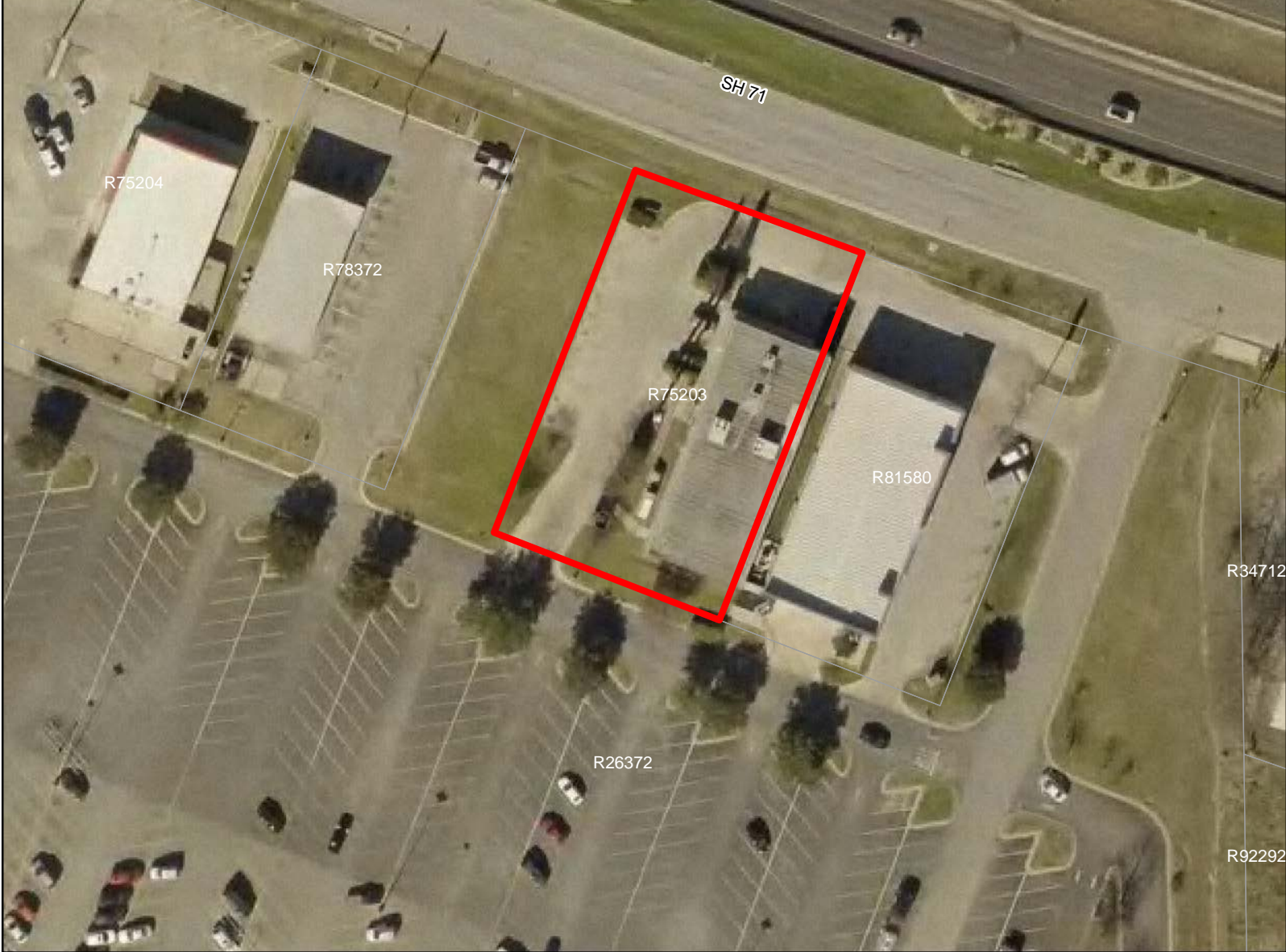
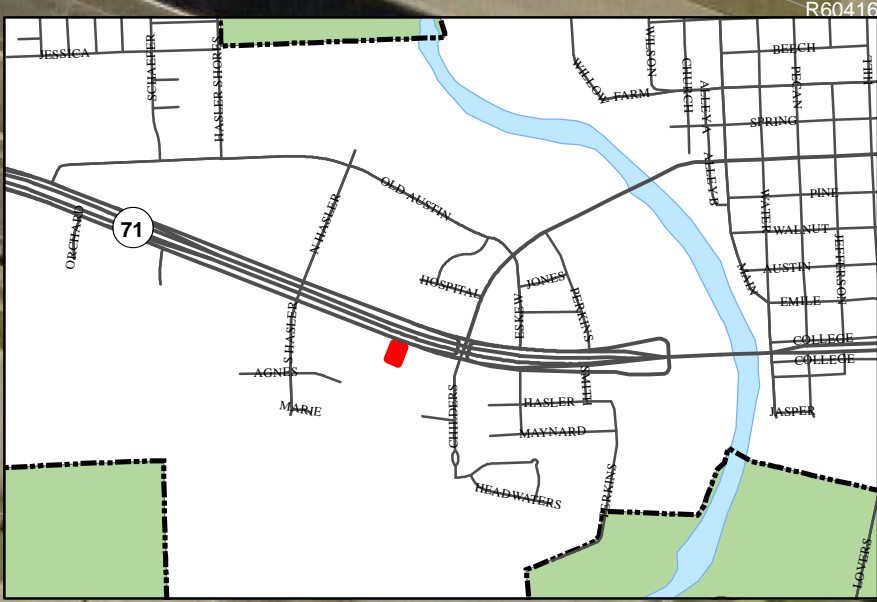
Attachment 1: Location Map

Attachment 2: Letter from Applicant

Attachment 3: Picture of Existing Sign and Proposed Signage Addition

Attachment 4: Pictures of Sign in 2005

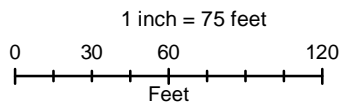
Attachment 5: Property Owner Responses



Legend

- Parcel of Concern
- Parcels

**Location Map
Bastrop West Commercial
Section 2, Lot 2A**



Date: 5/25/2017

N The accuracy and precision of this cartographic data is limited and should be used for information/planning purposes only. This data does not replace surveys conducted by registered Texas land surveyors nor does it constitute an "official" verification of zoning, land use classification, or other classification set forth in local, state, or federal regulatory processes. The City of Bastrop, nor any of its employees, do not make any warranty of merchantability and fitness for particular purpose, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any such information, nor does it represent that its use would not infringe upon privately owned rights.

Attachment 2

May 10, 2017

Dear Board of Adjustment Members,

I would like to thank you for your time and consideration for what I believe is a viable addition to the community. I am submitting a sign variance request for the property located at 460 Highway 71 West in Bastrop, Texas.

This building is located in front of the Wal-Mart where GameStop is located. I have owned this building since November 2010. Since that time, GameStop has occupied the front 2150 square feet facing the highway. Cellular One occupied the remaining 3850 square feet closer to Wal-Mart until they vacated in December 2016.

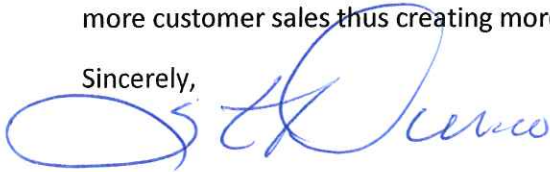
Cellular One did not require signage as their daily operation was switching equipment only. For that reason half of the existing pylon sign was left vacant for a future tenant. GameStop was insistent that they wanted all of the signage, but I allowed for a second space. After speaking with prospective tenants it has become very apparent that it will require at least three users to fill the space that was previously occupied by Cellular One. GameStop will not shrink their signage to make room. The remaining space is too small for three additional signs to allow for adequate viewing or to be visible for vehicles at highway speeds.

GameStop occupies all of the front-facing, traffic area and Aaron's blocks any visibility from the north side. Also, driving east on the frontage road it is very difficult to see anything after the Payless Shoe Store and this does not take into account the surrounding vegetation. There is no direct access off of the frontage road and signage is the only way to draw traffic to the property. If turning in at the Schlotzky's Deli there is no ability to see the building signs and the same is true of the entrance near Aaron's. The majority of the prospective tenants are small, "Mom and Pop" businesses that do not have big advertising budgets. They depend heavily on signage.

There is room for one new tenant now and I am requesting another panel below the existing one. This will allow for adequate visibility for an additional two tenants. The proposed sign area is currently occupied by a satellite dish that can be removed. The structure for the panel that I am requesting is already in place. All of the prospective tenants are adamant that pylon signage is instrumental to their success. The proximate neighbors would not be impacted because the sign already exists and in fact would be more aesthetically pleasing than in its current state.

We all want our businesses to succeed. I believe that this will help to achieve that goal, benefiting in more customer sales thus creating more sales tax for the community.

Sincerely,



Steve Durso

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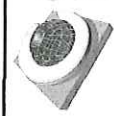
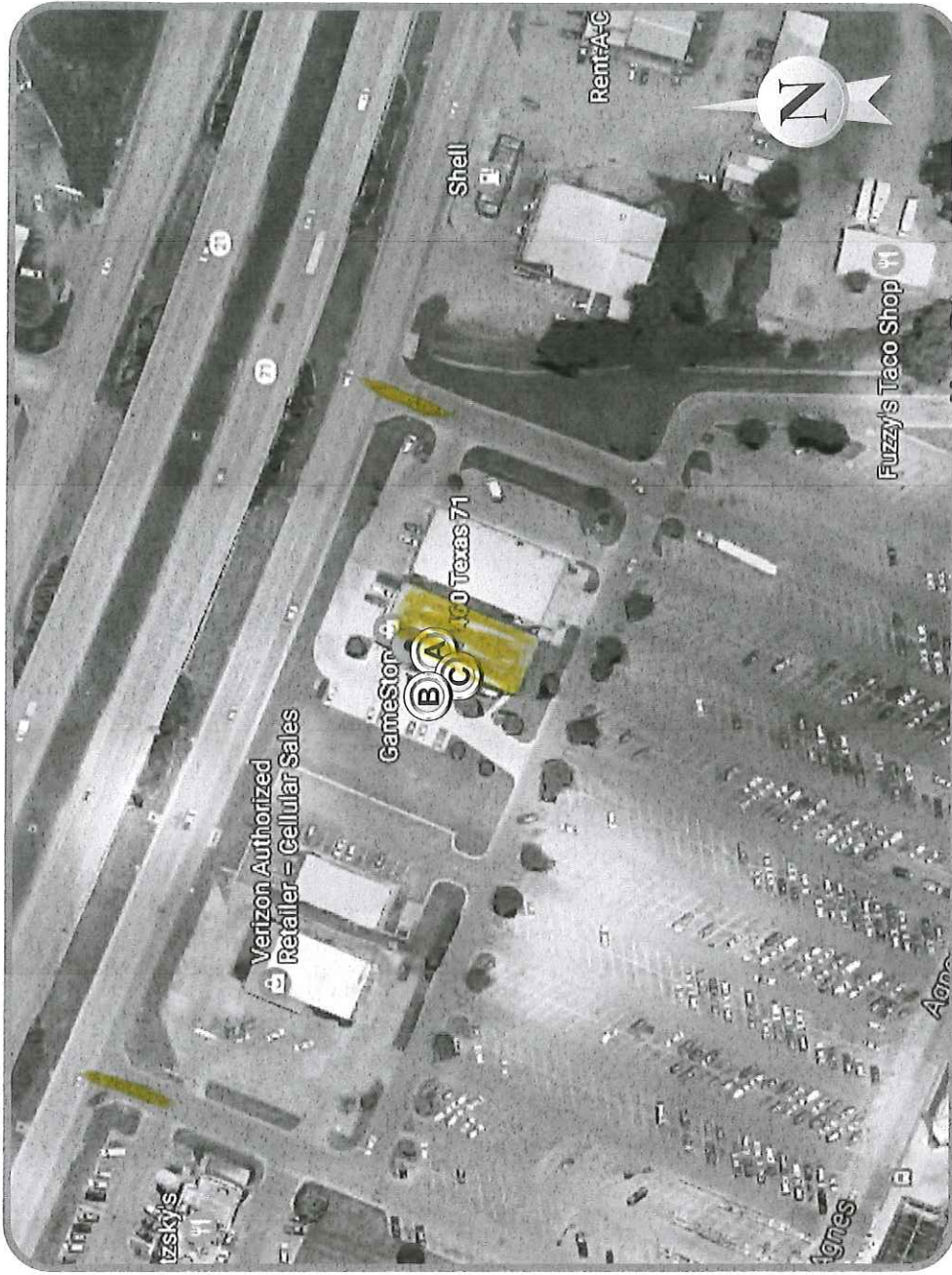
MAY 10 2017

By 

Site Plan

Signage Inventory

- (A)** 30" Channel Letter On Backer Panel
- (B)** D/F Replacement Face
- (C)** Dealer Vinyl
- (D)** Interior Plaque



COAST SIGN
 INCORPORATED
 1500 West Embury St, Anaheim, CA 92802
 (714) 220-9144 Fax: (714) 220-5827

Date: 03-09-17
 Scale: NTS
 Drawn: Rex A.
 Sales: Alex V

Project Name: T-MOBILE
 Address: 465 W HWY 71
 City / State: BASTROP, TX 78602
 Client Approval: _____
 Date: _____

This is an original, unaltered drawing created by Coast Sign, Inc. Its submission for your personal use in conjunction with a project being planned for you by Coast Sign, Inc., and shall not be reproduced, used by or disclosed to any firm or corporation for any purpose whatsoever without written permission.

No.	Designer	Date	Revision Notes
1			
2			
3			
4			
5			
6			

DESIGN DRAWING 2 of
 Request Number: **PRJ-TMBL-113977**
 File Location: W:\T-Mobile\Art\Drawings\PRJ-TMBL-113977

11 X 17 TEMPLATE VERSION 0

RECEIVED
 MAY 10 2017
 By *[Signature]*

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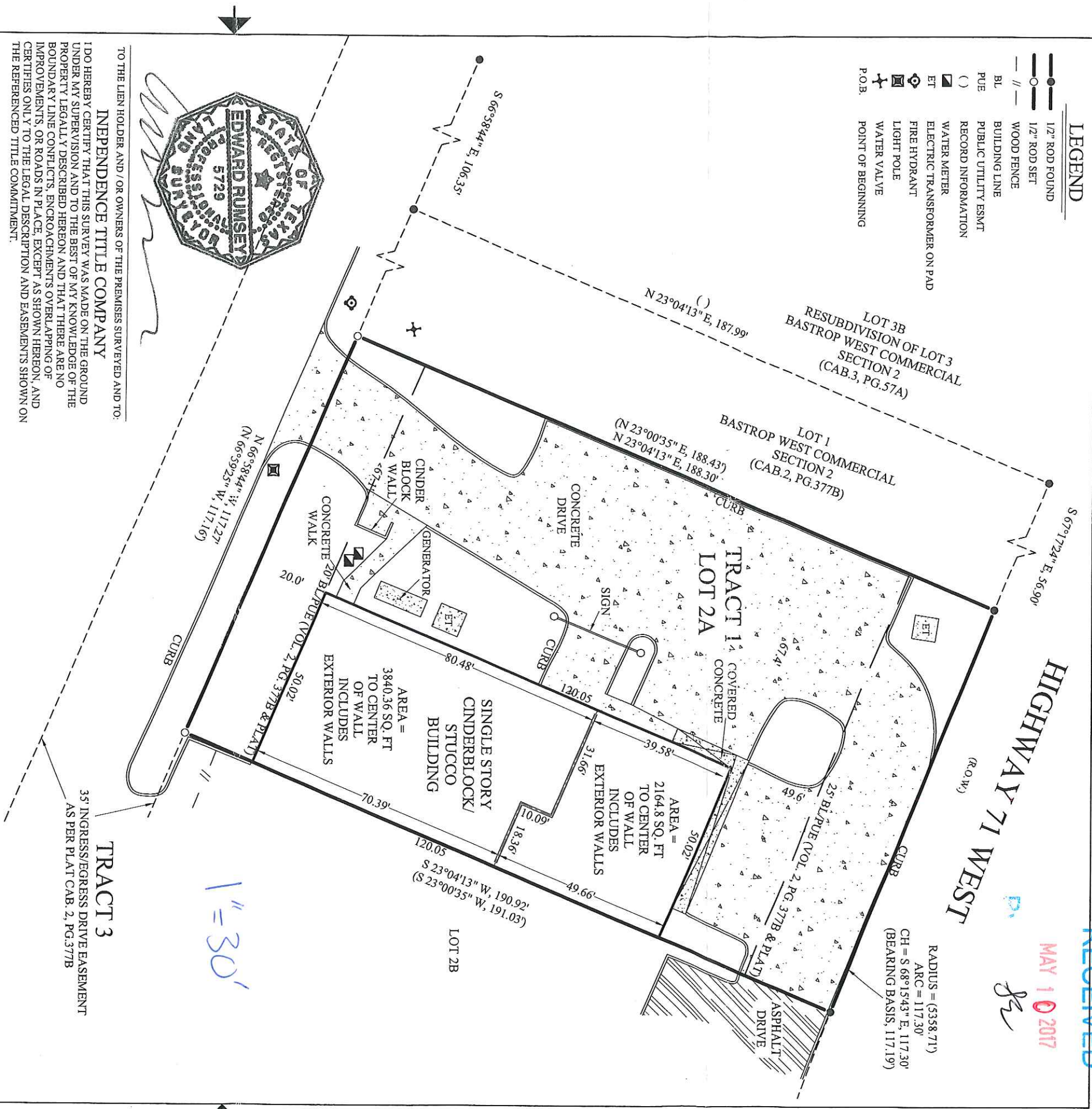
MAY 10 2017

JL

HIGHWAY 71 WEST
(R.O.W.)

RADIUS = (5358.71')
ARC = 117.30'
CH = S 68°15'43" E, 117.30'
(BEARING BASIS, 117.19')

- LEGEND**
- 1/2" ROD FOUND
 - 1/2" ROD SET
 - //— WOOD FENCE
 - BL BUILDING LINE
 - PUE PUBLIC UTILITY ESMT
 - () RECORD INFORMATION
 - ET WATER METER
 - ET ELECTRIC TRANSFORMER ON PAD
 - ET FIRE HYDRANT
 - ET LIGHT POLE
 - ET WATER VALVE
 - P.O.B. POINT OF BEGINNING



INDEPENDENCE TITLE COMPANY

TO THE LIEN HOLDER AND / OR OWNERS OF THE PREMISES SURVEYED AND TO:
I DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY SUPERVISION AND TO THE BEST OF MY KNOWLEDGE OF THE PROPERTY LEGALLY DESCRIBED HEREON AND THAT THERE ARE NO BOUNDARY LINE CONFLICTS, ENCROACHMENTS OR OVERLAPPING OF IMPROVEMENTS, OR ROADS IN PLACE, EXCEPT AS SHOWN HEREON, AND CERTIFIES ONLY TO THE LEGAL DESCRIPTION AND EASEMENTS SHOWN ON THE REFERENCED TITLE COMMITMENT.

RESTRICTIONS

SUBJECT TO RESTRICTIONS IN VOL. 651, PG. 580, VOL. 710, PG. 653, VOL. 720, PG. 97, AND AS PER PLATS IN CAB. NO. 2, PG. 377B & CAB. NO. 3, PG. 126A, SUBJECT TO RECIPROCAL EASEMENT AGREEMENT PER VOL. 936, PG. 584.

LEGAL DESCRIPTION

TRACT 1: LOT 2A, RESUBDIVISION OF LOT 2, BASTROP WEST COMMERCIAL, SECTION 2, A SUBDIVISION IN BASTROP COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET NO. 3, PG. 126A, PLAT RECORDS OF BASTROP COUNTY, TEXAS.

TRACT 2: A PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR VEHICULAR AND PEDESTRIAL INGRESS, EGRESS, AND ACCESS AS GRANTED BY WAL-MART STORES, INC. TO ROBERT E. JENKINS, JR., ET AL., UNDER THE RECIPROCAL EASEMENT AGREEMENT WITH RESTRICTIVE COVENANTS AND RESTRICTIONS, RECORDED IN VOLUME 710, PAGE 653, AND CORRECTED IN VOLUME 720, PAGE 97, OFFICIAL RECORDS OF BASTROP COUNTY, TEXAS, WHICH EASEMENT CORRESPONDS TO THE 50' INGRESS/EGRESS DRIVE EASEMENT LOCATED ALONG AND EXTENDING FROM THE EAST LINE OF LOT 2, AS DEPICTED ON THE PLAT RECORDED IN CABINET NO. 2, PAGE 377B, PLAT RECORDS OF BASTROP COUNTY, TEXAS.

TRACT 3: A PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR VEHICULAR AND PEDESTRIAL INGRESS, EGRESS, AND ACCESS AS GRANTED BY WAL-MART STORES, INC. TO ROBERT E. JENKINS, JR., ET AL., UNDER THE RECIPROCAL EASEMENT AGREEMENT WITH RESTRICTIVE COVENANTS AND RESTRICTIONS, RECORDED IN VOLUME 710, PAGE 653, AND CORRECTED IN VOLUME 720, PAGE 97, OFFICIAL RECORDS OF BASTROP COUNTY, TEXAS, WHICH EASEMENT CORRESPONDS TO THE 35' INGRESS/EGRESS DRIVE EASEMENT LOCATED ALONG AND EXTENDING FROM THE SOUTH LINE OF LOTS 2 & 3, AS DEPICTED ON THE PLAT RECORDED IN CABINET NO. 2, PAGE 377B, PLAT RECORDS OF BASTROP COUNTY, TEXAS.

TRACT 4: A PERPETUAL, NON-EXCLUSIVE EASEMENTS FOR VEHICULAR AND PEDESTRIAL INGRESS, EGRESS, AND ACCESS AS GRANTED BY WAL-MART STORES, INC. TO ROBERT E. JENKINS, JR., ET AL., UNDER THE RECIPROCAL EASEMENT AGREEMENT WITH RESTRICTIVE COVENANTS AND RESTRICTIONS, RECORDED IN VOLUME 710, PAGE 653, AND CORRECTED IN VOLUME 720, PAGE 97, OFFICIAL RECORDS OF BASTROP COUNTY, TEXAS, WHICH EASEMENT CORRESPONDS TO THE 45' INGRESS/EGRESS DRIVE EASEMENT LOCATED ALONG AND EXTENDING FROM THE WEST LINE OF LOT 3, AS DEPICTED ON THE PLAT RECORDED IN CABINET NO. 2, PAGE 377B, PLAT RECORDS OF BASTROP COUNTY, TEXAS.

F.I.R.M. MAP INFORMATION

ADDRESS

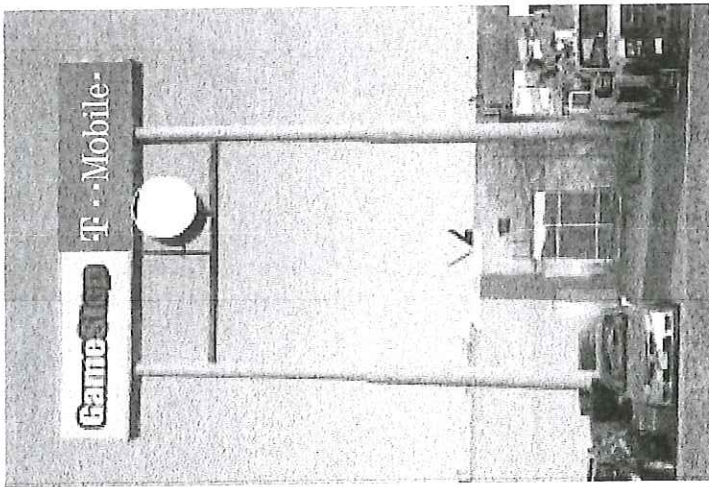
ALLSTAR
Land Surveying

9020 ANDERSON MILL RD
AUSTIN, TEXAS 78729
(512) 249-8149 PHONE
(512) 331-5217 FAX
WWW.ALLSTARLANDSURVEYING.COM

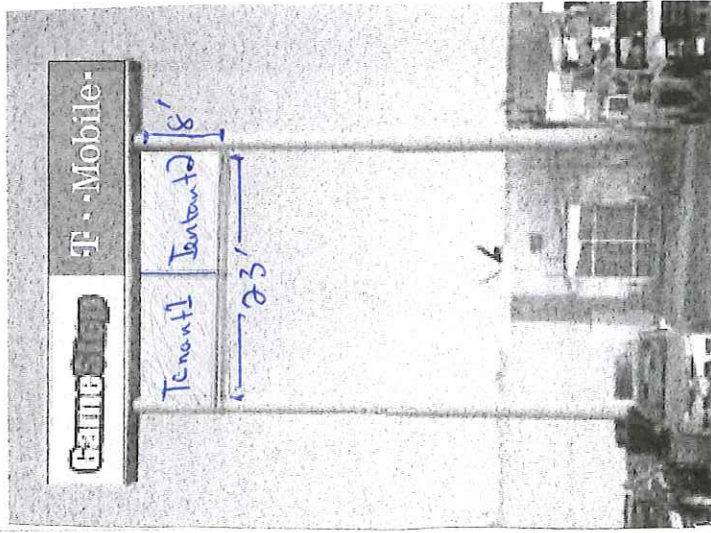
THIS PROPERTY DOES NOT LIE WITHIN THE 100 YEAR FLOOD-PLAIN, AND HAS A ZONE "X" RATING AS SHOWN ON THE FLOOD INSURANCE RATE MAPS F.I.R.M. MAP NO. 48021C0355E PANEL: 0355E DATED: 1-19-2006 THIS CERTIFICATION IS FOR INSURANCE PURPOSES ONLY AND IS NOT A GUARANTEE THAT THIS PROPERTY WILL OR WILL NOT FLOOD. CONTACT YOUR LOCAL FLOOD PLAIN ADMINISTRATOR FOR THE CURRENT STATUS OF THIS TRACT.

STEVE DURSO PROPERTIES, LLC
460 HIGHWAY 71 WEST
BASTROP, BASTROP COUNTY, TEXAS

SURVEY DATE:	FIELD BY:	REX NOWLIN	09/23/2010
TITLE CO.:	CALC. BY:	CHRIS ZOTTER	09/23/2010
G.F. NO.:	DRAWN BY:	DAMIAN SMITH	09/24/2010
JOB NO.:	CHECKED BY:	DAMIAN SMITH	09/24/2010
	RPLS CHECK:	EDWARD RUNSEY	11/29/2010



EXISTING



PROPOSED

A POLE SIGN MODIFICATION - FLEX FACE CABINET
SCALE: 1/8" = 1' 0"

CSC SIGN
1703 DUNGAN LANE
AUSTIN, TX 78754
512-374-9300
INFO@CSCSIGN.COM
WWW.CSCSIGN.COM

T-MOBILE POLE SIGN
480 WEST TX-71
Bastrop, TX
78602

JOB INFORMATION
NUMBER: 14039-SPEC1-A
SALES REP.: ANDY LEFFLER
DESIGNER: CHRISTOPHER

CLIENT APPROVAL
DATE: _____
X _____
INSTALL DATE: _____



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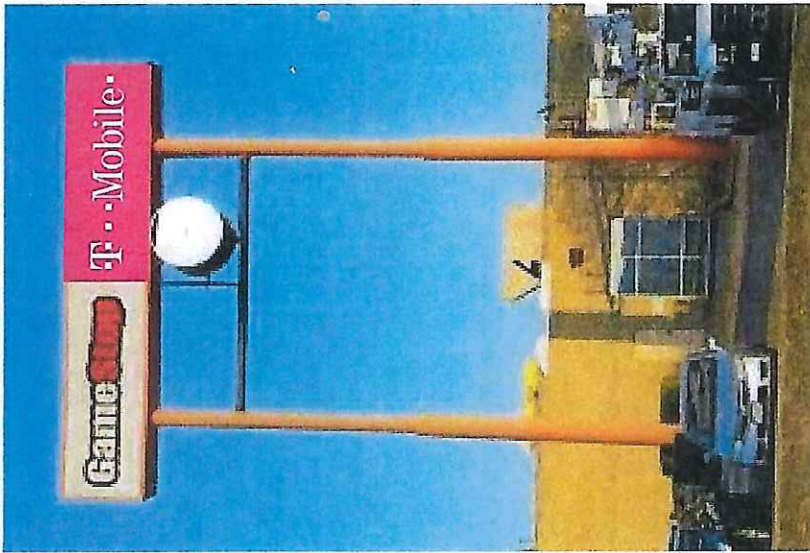
MAY 10 2017

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MAY 15 2017

By JA



EXISTING



PROPOSED

A POLE SIGN MODIFICATION : FLEX FACE CABINET

SCALE: 1/8" = 1' 0"

1703 DUNGAN LANE
AUSTIN, TX 78754
512-374-9300
INFO@CSCSIGN.COM
WWW.CSCSIGN.COM



T-MOBILE POLE SIGN
460 WEST TX-71
Bastrop, TX
78602

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NUMBER: 14039-SPEC1-A
SALES REP.: ANDY LEFFLER
DESIGNER: CHRISTOPHER

CLIENT APPROVAL
DATE: _____
X _____
INSTALL DATE: _____



Attachment 4
June 3, 2005 Sign



**NOTICE OF PUBLIC HEARING
BASTROP ZONING BOARD OF ADJUSTMENT**

Dear Property Owner:

The Bastrop Zoning Board of Adjustment will conduct a public hearing in the City Council Chambers, 1311 Chestnut Street, Bastrop, Texas on Wednesday, June 7, 2017 at 6:00 p.m. to consider the following request;

Variance to Sign Ordinance, Section 3.20.016 (4)(D), for sign size and height for the property located at 460 Highway 71, Bastrop West Commercial Section 2, Lot 2A, being 0.510 acres within the city limits of Bastrop, Texas.

The Applicant is: Steve Durso Properties

Property Location: 460 Highway 71, Bastrop, Texas

Legal Description: Bastrop West Commercial Section 2, Lot 2A, 0.510 acres

PLEASE SEE ATTACHED SITE PLAN/LOCATION AND LETTER FROM APPLICANT

As a property owner within 200' of the above referenced property, you are being notified of the public hearing and invited to attend to express your opinion at the meeting or in writing by completing the form below. Written comments, either in support or opposition to this request, must be submitted to the Planning Department prior to the June 7, 2017 meeting at 1311 Chestnut Street, P.O. Box 427, Bastrop, Texas 78602, Fax (512) 332-8829 or call the Planning Department at (512) 332-8840.

✂ **PROPERTY OWNER'S RESPONSE** ✂

As a property owner within 200':
(Please check one)

- I am in favor of the request.
- I am opposed to the request.
- I have no objection to the request.

Property Owner Name: FVN Trust for Nancy Kernmann (Wicks)
Property Address: 490-B Highway 71, Bastrop
Mailing Address: 3301 Greenlee Drive, Bastrop, Texas 78703

Property Owner's Signature: [Handwritten Signature]
Comments: (Optional)

The increased sign sets a bad precedent for all other signs in the area. The proposed sign would be bigger than Walmart's sign. The circled claim

Please reply to: Planning and Development Department
City of Bastrop
P.O. Box 427
Bastrop, Texas 78602

in his letter is false. Requirements for a variance have not been met,

Re: Variance to pylon sign Steve Durso Properties (Mailed 5/25/2017)

[Handwritten Signature]

May 10, 2017

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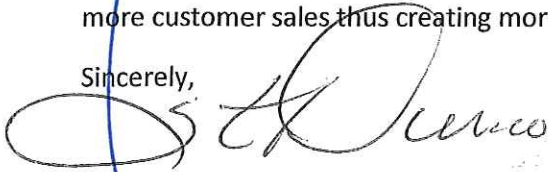
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Steve Durso

*Enclosed. See attached
google photos*

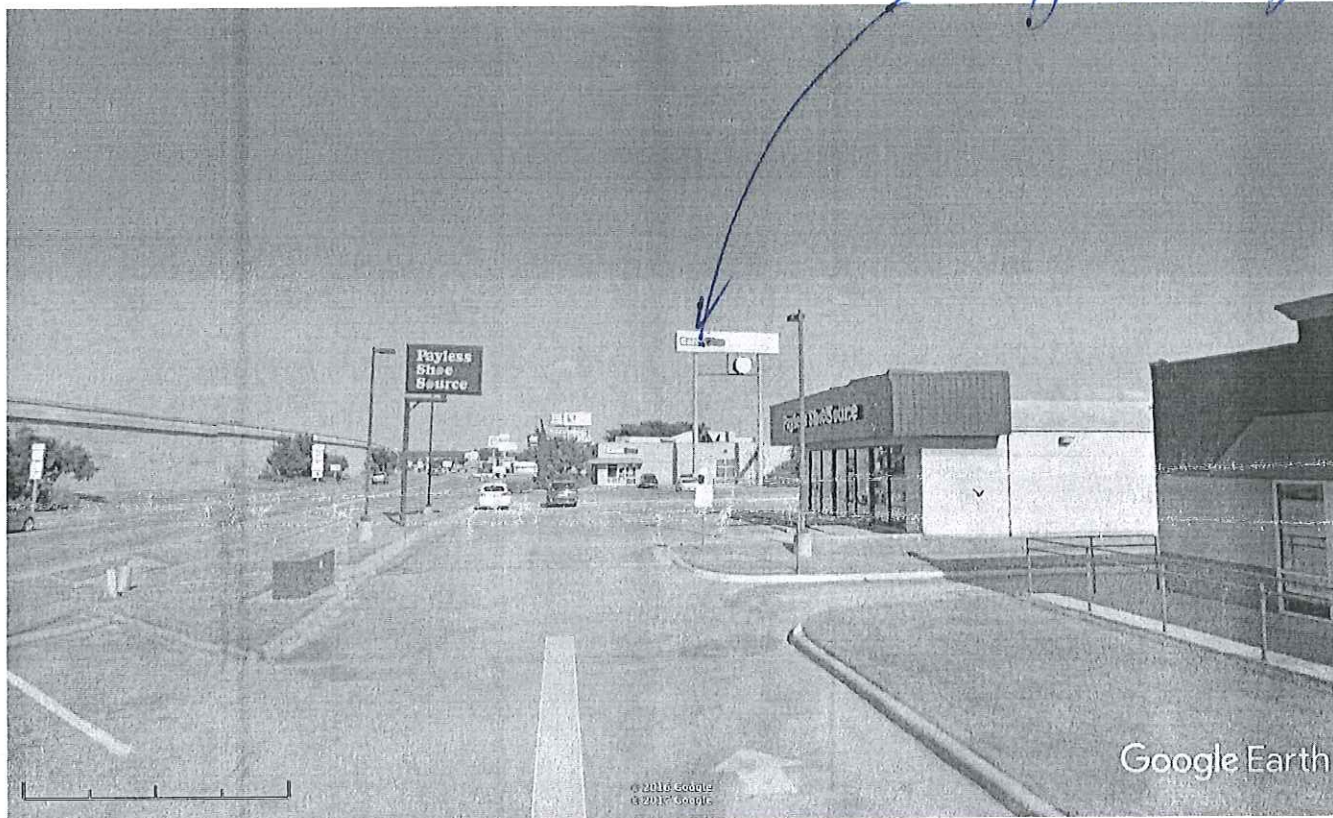
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MAY 10 2017

By



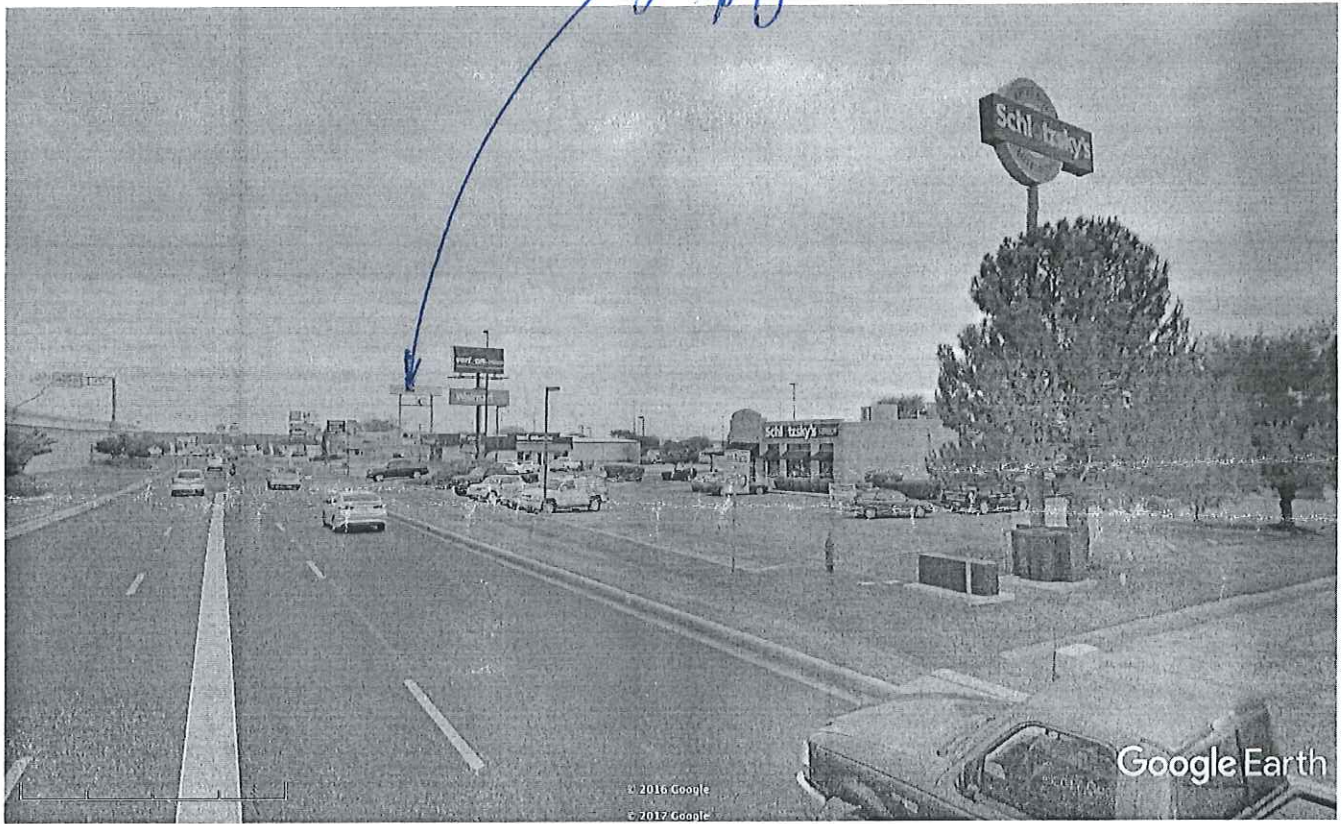
*substantive
of a stop sign*



Google Earth



*Existing
sign must stop
sign*



Google Earth

