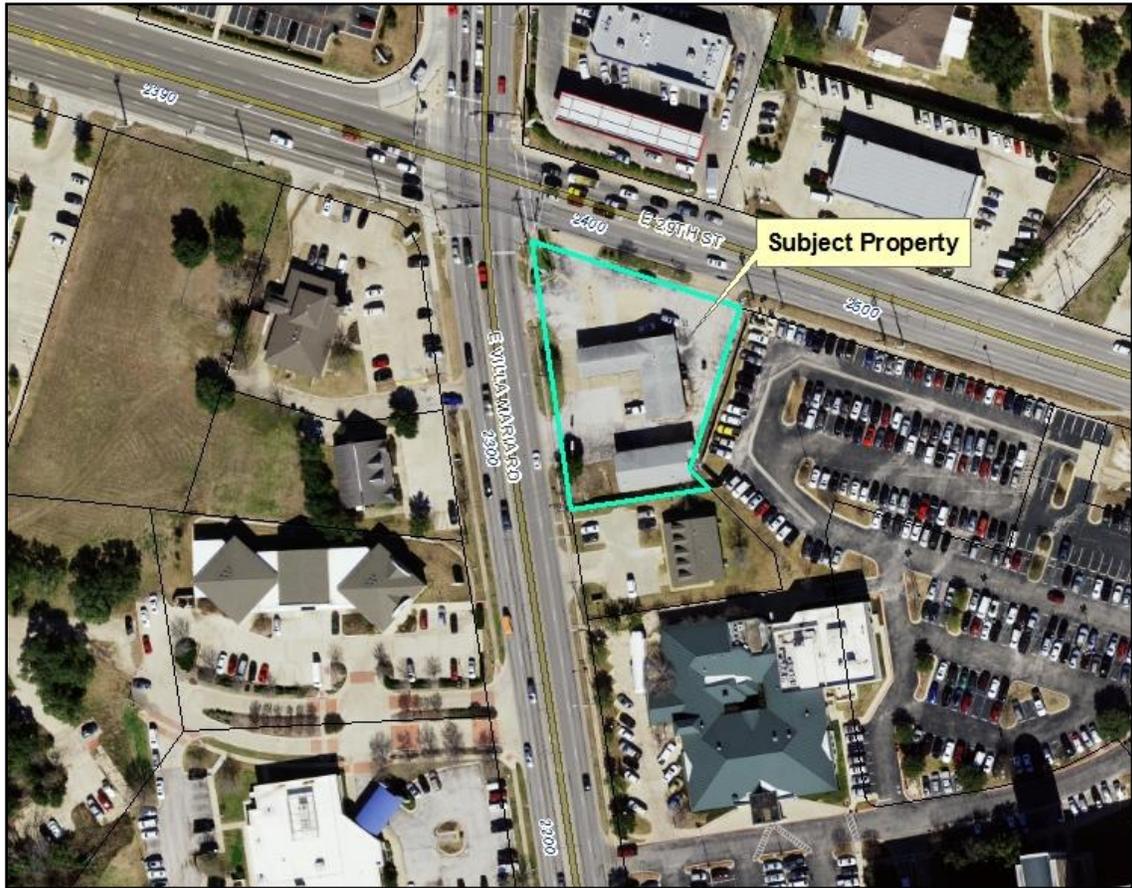
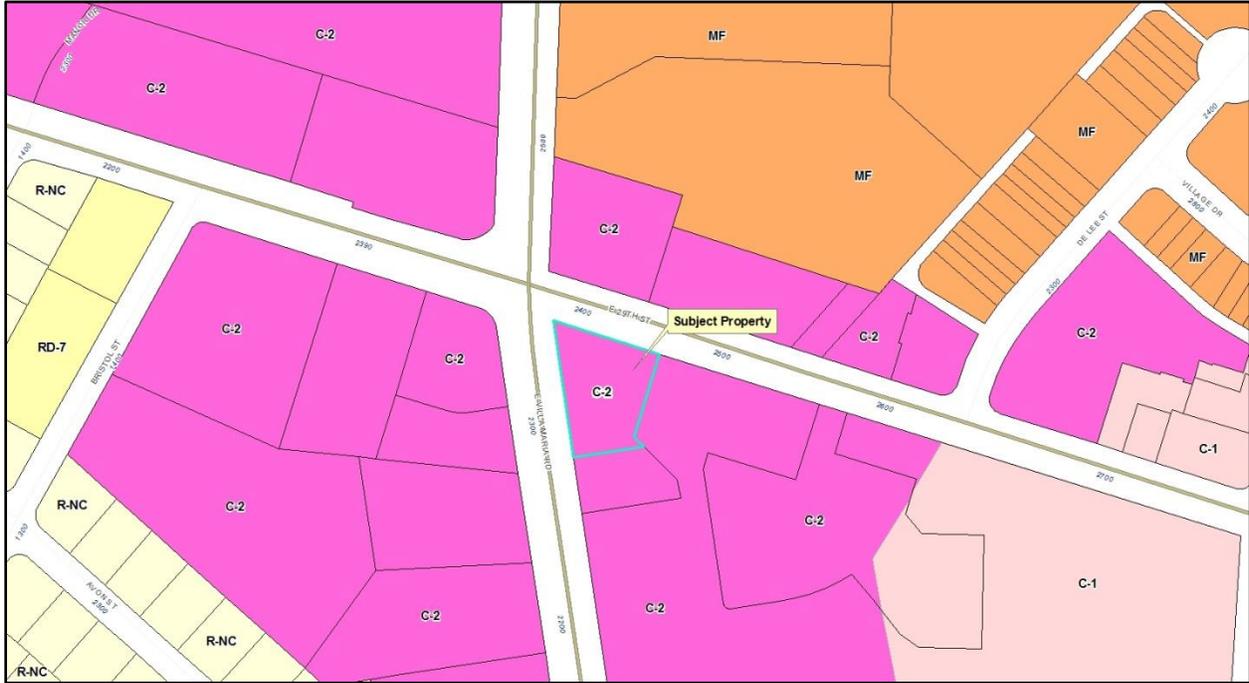


LOCATION MAP:



From: Jeremy Richmond [REDACTED] >
Sent: Friday, October 09, 2015 4:39 PM
To: Hilgemeier, Matthew; Zimmermann, Martin
Cc: [REDACTED]
Shamsuddin Maredia (Sam) [REDACTED]
Subject: RE: Planning & Zoning Commission Action Notification - October 1, 2015
Attachments: MHPV15-12 2305 E Villa Maria.pdf

Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Mr. Hilgemeier,

Please accept this email as my appeal of the City of Bryan Planning & Zoning Commission's denial of my request of the variances noted in the attached Action Notification from the October 1, 2015 Meeting of the City of Bryan Planning & Zoning Commission. My appeal is timely pursuant to the Action Notification and Section 62-627 of Chapter 62 of the Bryan Code of Ordinances. Due to the confusion raised at the close of the Planning and Zoning Meeting on October 1st concerning the nature of my request, I would respectfully request that you separate the two variance requests into two (2) different appeals which will be reviewed on appeal by the Bryan City Council.

My grounds for appeal are the following:

My first variance request, a request for approval of a variance of the minimum 275 foot driveway separation distance from the intersection of Villa Maria Road and E. 29th (being approximately 132 feet from E. 29th Street) has been approved and recommended by you and the Bryan Planning Services Staff, however **both** variance requests meet all of the criteria established under Section 62-626 of Chapter 62 of the Bryan Code of Ordinances. As you noted in the Background section of your report on this matter, the property in question was developed in the early 1980's for an automotive mechanic shop and gas station. As we've discussed it was operated in that manner by Wilton Johnson and then his son, Stanley Johnson, until 2012 when the Villa Maria Chevron Station was closed by Stanley's wife (and current owner) Karen Sue Johnson in December 2013 after Stanley Johnson's tragic death in May 2013. Since that date, the buildings on the site have remained vacant but have been maintained at great expense by Mrs. Johnson and her family. My firm, Oldham-Goodwin has had the property listed for sale since approximately February 2014. We have received zero offers to purchase the property from St. Joseph Hospital or any other individual or entity looking to develop the property for use in the healthcare industry. However, we have received offers from individuals and entities looking to develop the site as a convenience store and gas station. Currently, the property is under contract with a gentleman named Sam Maredia who is looking to re-develop the property as a convenience store (approx, 4,000 sq. feet) and gas with 8 fueling stations. In my experience with convenience store operators, they must have a convenience store of this size in order to generate the profit necessary to make the development worthwhile. Regardless, based on my conversations with prospective purchasers of the property, the property will be redeveloped and my variance requests in all likelihood will be necessary for any developer of this property, whether for gas station & convenience store or any other business.

As you noted in your report, there are special circumstances (including those mentioned above) affecting the land that such strict application of the City's current rules would deprive Mrs. Johnson and Mr. Maredia of reasonable use of the land. The variances are necessary for the preservation and enjoyment of substantial property rights of Mrs. Johnson and the prospective buyer, Mr. Maredia. By granting the variances requested, there will be no detrimental effect to the

public health, safety or welfare nor will the granting of the variance have the effect of preventing the orderly development of adjacent properties and Mrs. Johnson's property.

The property is approximately 2/3 of an acre and will become smaller based on the City's recent notice to Mrs. Johnson that intends to condemn a portion of the land near the intersection of E. 29th and Villa Maria for a protected turn off of Villa Maria on to E. 29th. As you stated in your report, the lot configuration makes it impossible for a developer of the property to meet the 275 foot driveway separation distance and permitting the variance requested will not make the proposed driveway location less safe for traffic movements into the property from E. Villa Maria Road than the current driveway. You also agreed that the property's shape and location also would make adherence to the 50 foot throat depth requirement challenging. We disagree on your assertion that the variance requested on throat depth will affect the operation of traffic and safety of users of the property. No competent evidence was provided to the P&Z Committee by your office that the variance requested would create a potential hazard for traffic. In fact, the throat depth of the variance (36 feet) is sufficient length to permit at least three (3) vehicles to encompass the throat depth before making potential contact with another vehicle using the current 4,000 ft. dimensions of the convenience store proposed by the developer. Further, it is my understanding from discussions with you that the City intends to install traffic barriers or medians adjacent to the property on E. 29th and Villa Maria that would prevent left turns from the property. Traffic will not enter a high rates of speed into the property and there is more than adequate room on the property with the fuel stations to stop or maneuver around in the parking area without fear of collision. The City apparently approved variances of much shorter throat depths for the Burger King, Rattler Convenience Store/Gas Station and Pete's Service Station across the street.

The expected use of the developer (Mr. Maredia) is a permitted use under current zoning requirements and as mentioned above, appears to be best use of the property given the interest of gas station operators in the area and lack of interest from other types of businesses. The property is now vacant and with a gas station & convenience store on site, the property would expect to generate at least \$200,000.00 in taxes (sales, property, inventor & equipment taxes) annually for the City of Bryan. Should the City refuse the variance requests, it will be denying Mrs. Johnson and any subsequent developer (including Mr. Maredia) the ability to enjoy the use and benefits of the property.

Jeremy Richmond
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Brokerage Services
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**EXCERPT FROM PLANNING AND ZONING COMMISSION DRAFT REGULAR MEETING MINUTES
OF OCTOBER 1, 2015:**

9. REQUESTS FOR APPROVAL OF VARIANCE TO STANDARDS OF ARTICLE VI (ACCESS AND OFF STREET PARKING) OF THE LAND AND SITE DEVELOPMENT ORDINANCE (BRYAN CODE OF ORDINANCES CHAPTER 62) – A PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission has final approval; applicants may direct appeals to City Council).

a. Planning Variance PV15-12: Jeremy Richardson

A request for approval of a variance from the minimum 275-foot drive separation distance and 50-foot driveway throat depth generally required on properties along major arterial streets, to allow a new driveway with a driveway throat depth of 36 feet to be located within 132 feet of East 29th Street on property at 2305 East Villa Maria Road, at the southeast corner of the intersection of East Villa Maria Road and East 29th Street, being Lot 1 in Block 1 of the Villa Maria Gulf Service Subdivision in Bryan, Brazos County, Texas. (M. Hilgemeier)

Mr. Hilgemeier presented the staff report (on file in the Development Service Department). Staff recommends approving the requested variance for the location of the proposed driveway, but denying the requested throat depth reduction.

In response to questions, Mr. Hilgemeier responded that according to the City's Engineering Department, there will be negligible effects on safety from moving the driveway towards the intersection with regards to turning movements.

The public hearing was opened.

Mr. Joe Schultz, project engineer, Mr. Matt Doss, attorney for the property owners and Mr. Jeremy Richmond of Oldham/Goodwin, listing agent, spoke in favor of the variances. They stated:

- There is a need for this property to be convenient to be successful
- Past developments have much smaller throat depths; 36 feet is enough for two or three vehicles to be in queue
- The city will have future turning restrictions with a median at this location.

The public hearing was closed.

In response to questions, Mr. Hilgemeier responded that eliminating one parking space in the design would still require a variance.

Ms. Janis Hampton, City Attorney reminded the Commissioners that per the Commission's bylaws, variance approvals require 5 affirmative votes and that since only 5 Commissioners were present and voting, the Commission's vote for any approvals would need to be unanimous.

Commissioner Gonzalez moved to approve the requested variance for the location of the proposed driveway, but to deny the requested throat depth reduction, as they have been requested with Planning Variance PV15-12, and to adopt the written staff report and analysis as the findings of this Commission and the facts upon which those findings are based. Commissioner Swearingen seconded the motion.

Commissioners discussed:

- do not want to hurt development but had faith in the planning staff's recommendation
- concerns about how difficult it is to get in and out of gas stations in the area.

The motion failed with a vote of 4 in favor and 1 in opposition, with Chairperson Hickle casting the vote in opposition.

October 1, 2015

Planning Variance case no. PV15-12: Jeremy Richardson

CASE DESCRIPTION: a request for approval of two separate variances to allow a 143-foot reduction from the minimum 275-foot drive separation distance and a 14-foot reduction to the 50-foot driveway throat depth generally required on properties along major arterial streets, to allow a new driveway with a driveway throat depth of 36 feet to be located within 132 feet of East 29th Street

LOCATION: 2305 East Villa Maria Road, at the southeast corner of the intersection of East Villa Maria Road and East 29th Street, being Lot 1 in Block 1 of the Villa Maria Gulf Service Subdivision in Bryan, Brazos County, Texas

ZONING: Retail District (C-2)

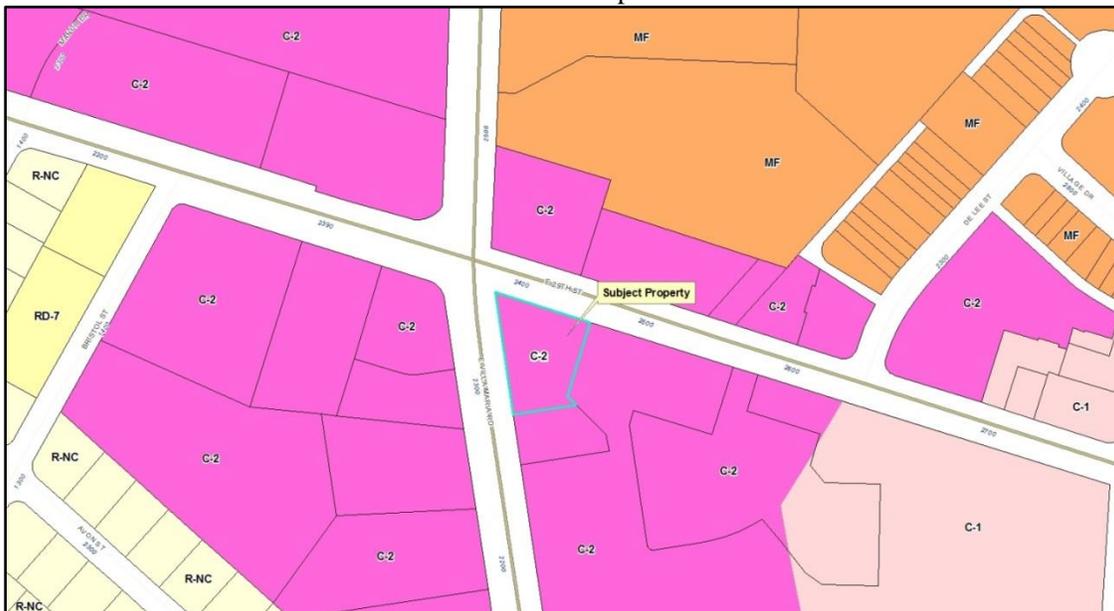
EXISTING LAND USE: vacant auto service station

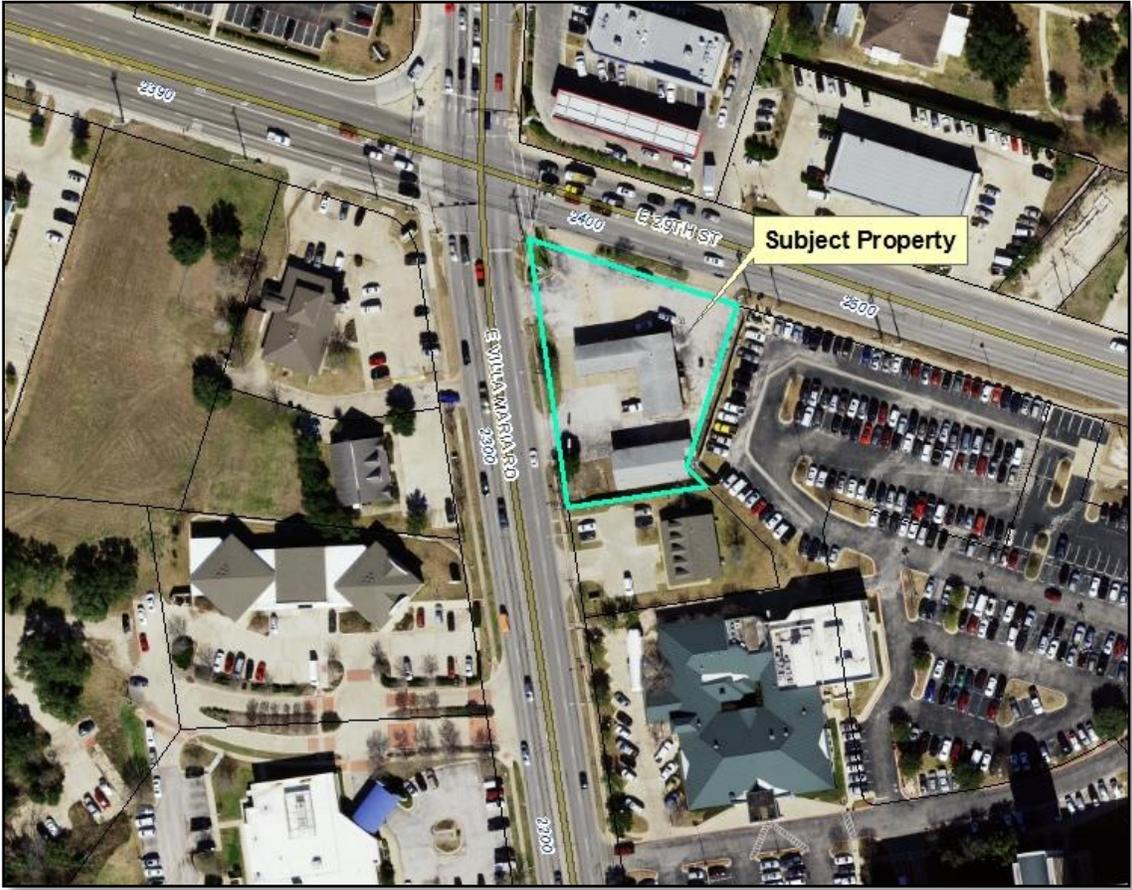
APPLICANT: Jeremy Richmond of Oldham-Goodwin Commercial Real Estate

AGENT: Joe Schultz, Schultz Engineering, LLC

STAFF CONTACT: Matthew Hilgemeier, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** the requested variance for the location of the driveway, but **denying** the requested throat depth reduction.





BACKGROUND:

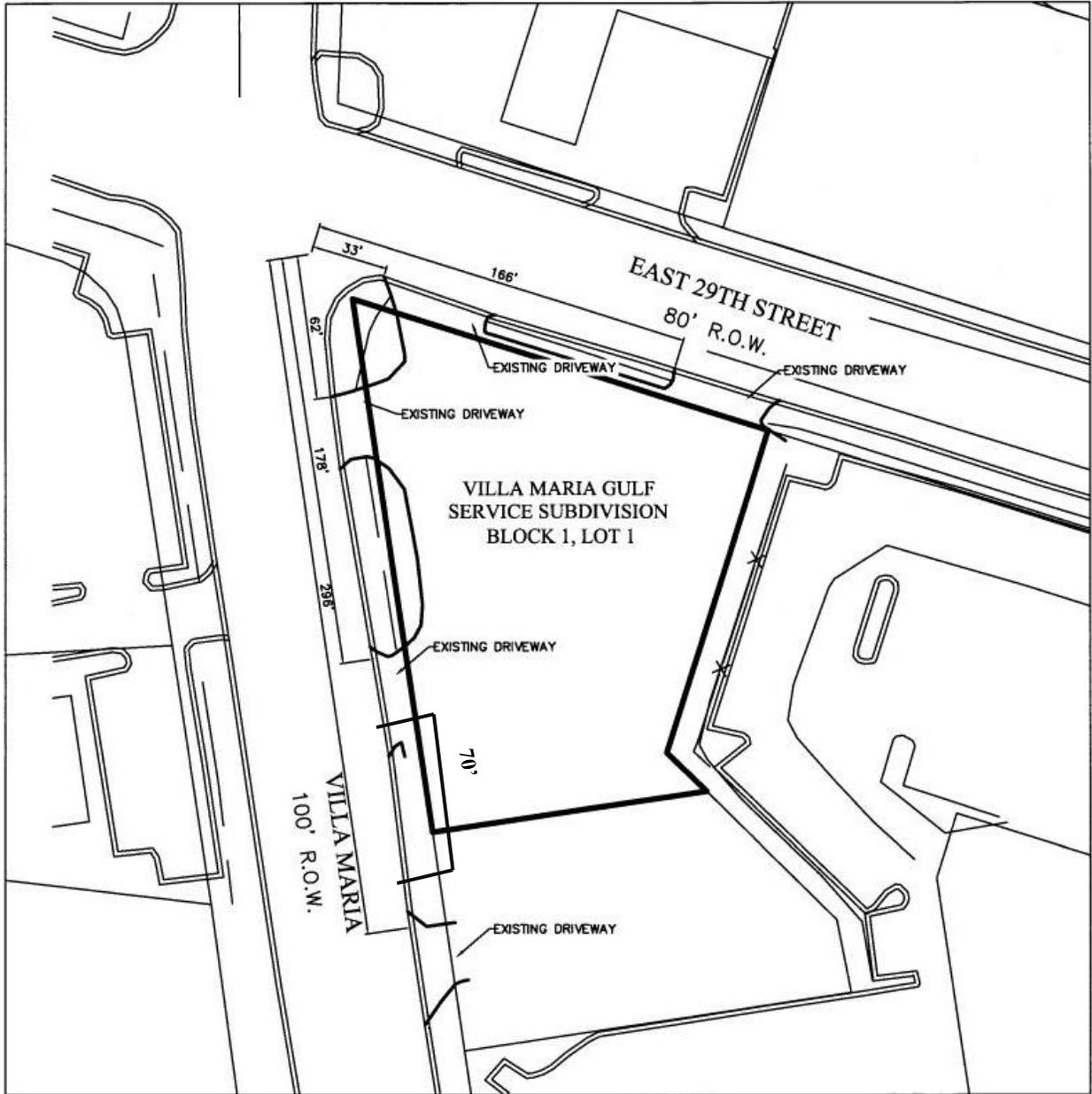
The subject property located at 2305 East Villa Maria Road and zoned Retail District (C-2), is currently occupied by a vacant auto service garage and gas station. This property is located at the southeast corner of East Villa Maria Road and East 29th Street which are classified as a major arterial and minor arterial streets, respectively, by the City of Bryan's Thoroughfare Plan. Properties that surround the subject property in all directions are also zoned C-2, and are developed as a medical office (west and northwest), a convenience store/fast food restaurant and auto service station (north and northeast), ancillary parking for St. Joseph Regional Hospital (east), and a dentist office (south). The subject property is also located within the boundaries of in the recently adopted Health and Wellness Area Plan.

The subject property was developed sometime in the early 1980's prior to the City of Bryan adopting driveway separation standards. There are currently 4 driveways taking access to the site, 2 along E. Villa Maria Road and 2 along East 29th street. In their current configuration, the existing driveways on the property neither meet adopted separation requirements nor established throat depth lengths. Since all driveways were constructed prior to the adoption of applicable standards, they are considered legal non-conforming driveways and are allowed to remain in place until the site is redeveloped

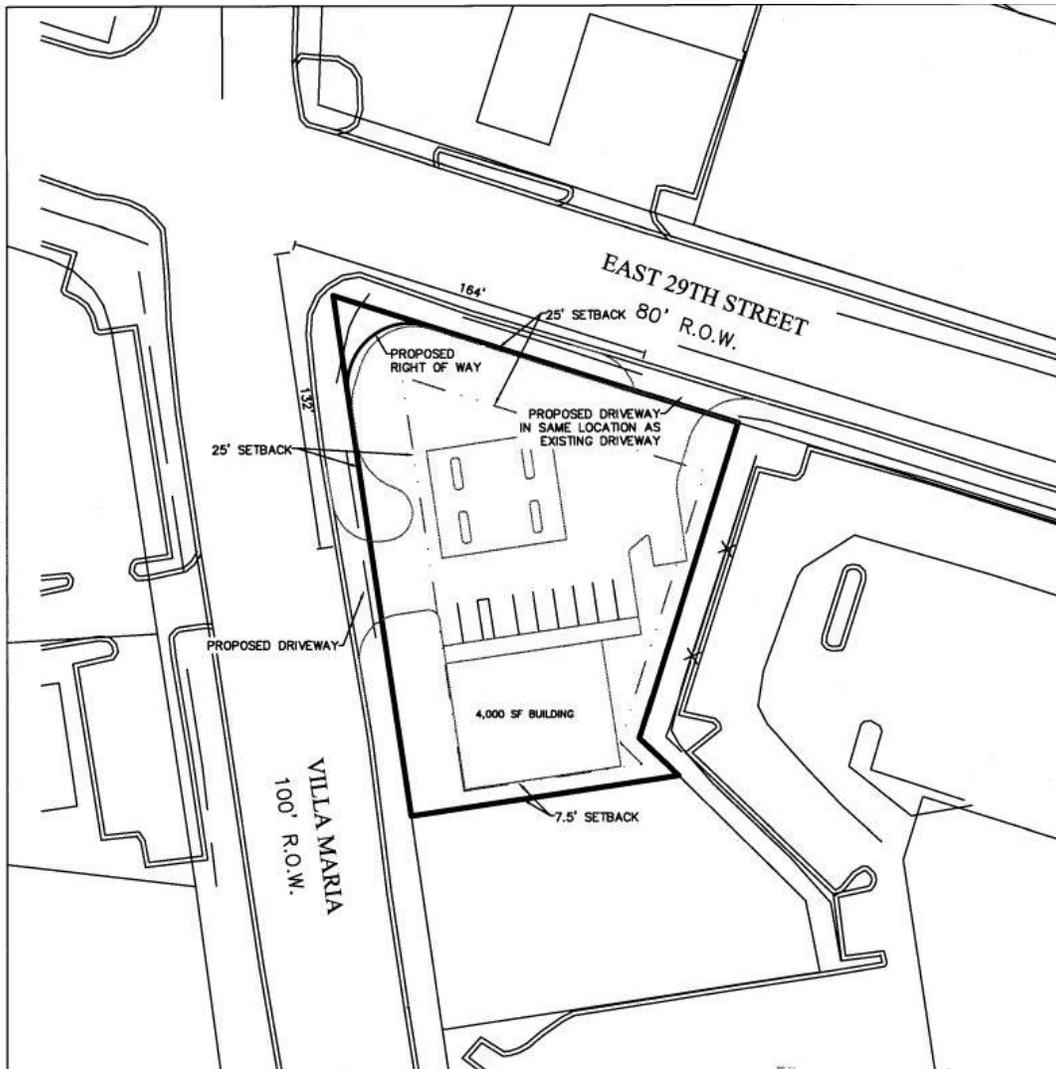
The applicant Jeremy Richards, with Oldham-Goodwin Commercial Real Estate who represents the current owner of the property, is requesting two variances related to a new driveway along East Villa Maria Road, in order to facilitate the pending sale of the subject property to a buyer who wishes to remove the two existing buildings on the site (3,708 SF and 2,206 SF) and construct a new 4,000 SF convenience store with 4 fuel islands (8 fueling stations) here.

The City's Land and Site Development Ordinance requires minimum separation between driveways and minimum throat depths, i.e., the distance from the outer edge of the traveled way of the intersecting roadway to the first point along the driveway at which there are conflicting vehicular traffic movements. In this particular case, due to the classification of East Villa Maria Road as major arterial street on Bryan's Thoroughfare Plan, Land and Site Development Ordinance Section 62-296 (b)(1)(a) requires a minimum separation distance of 275 feet from adjacent driveways and street intersections. Section 62-296(f) requires a minimum throat depth of 50 feet.

In order to redevelop the site the applicant has requested a 143-foot reduction to the 275-foot driveway separation requirement, to allow a new driveway on the subject property to be located 132 feet south of the East Villa Maria Road and East 29th Street intersection. Both existing driveways on the property along East Villa Maria Road are proposed to be closed. The applicant is also requesting a 14-foot reduction to the 50-foot driveway throat depth required for driveways on this property, to allow a new driveway to have a throat depth of only 36 feet.



EXISTING CONDITIONS



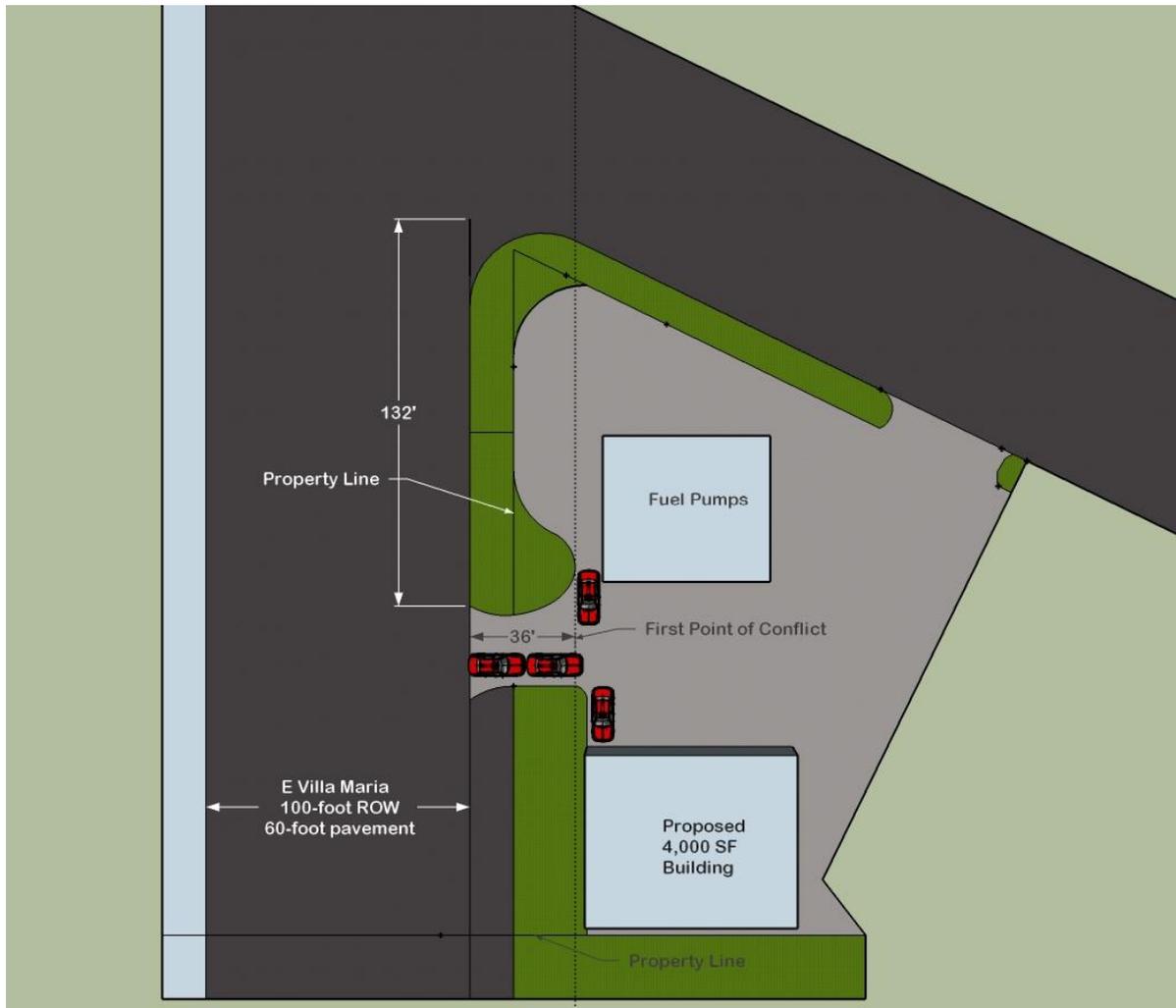
PROPOSED CONDITIONS

SFF 0.9.2016

The Land and Site Development Ordinance defines throat depth as a “distance measured from the edge of pavement of the street to the first point of conflict”. A first point of conflict is the point on any driveway where to automobiles could possible interact with each other. The distance of a required throat depth is determined by the functional classification of the adjacent roadway. In this case any driveway accessing East Villa Maria Road is required to have a minimum 50-foot throat depth.

The intend of throat depth requirements is to provide space for motorists to stop and wait for conflicting traffic already in the parking lot to clear so he/she can proceed. At the same time it also minimizes the possibility of vehicles extending out into the adjacent roadway, which reduces crash risk. When the throat length is too short to store queued vehicles, the back of the queue can extend into the roadway and impede the flow of pedestrian and vehicular traffic. Also, a short throat can create conditions that increase opportunities for collisions between vehicles or between vehicles and pedestrians. So, throat length design can affect both the operation of traffic and the safety of the users.

Adequate throat depth varies based on the speed and volume of traffic on the adjacent roadway: the higher the speeds and volumes, the greater throat depth is needed to reduce the risk of rear-end crashes occurring.



ANALYSIS:

The Planning and Zoning Commission may authorize a variance from regulations stipulated in the Land and Site Development Ordinance. **No variance shall be granted** unless the Planning and Zoning Commission finds that **all** of the following criteria are met:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his or her land;

Due to the lot configuration it would not be possible to meet the 275-foot driveway separation requirement were this site undeveloped and the existing driveways did not exist, therefore, staff is recommending approval of the request to allow for the proposed driveway on E. Villa Maria to be located 132 feet from the intersection. According to the City's Engineering Services

Department, the proposed driveway location is not any less safe for traffic movements than the existing driveways accessing E. Villa Maria Road.

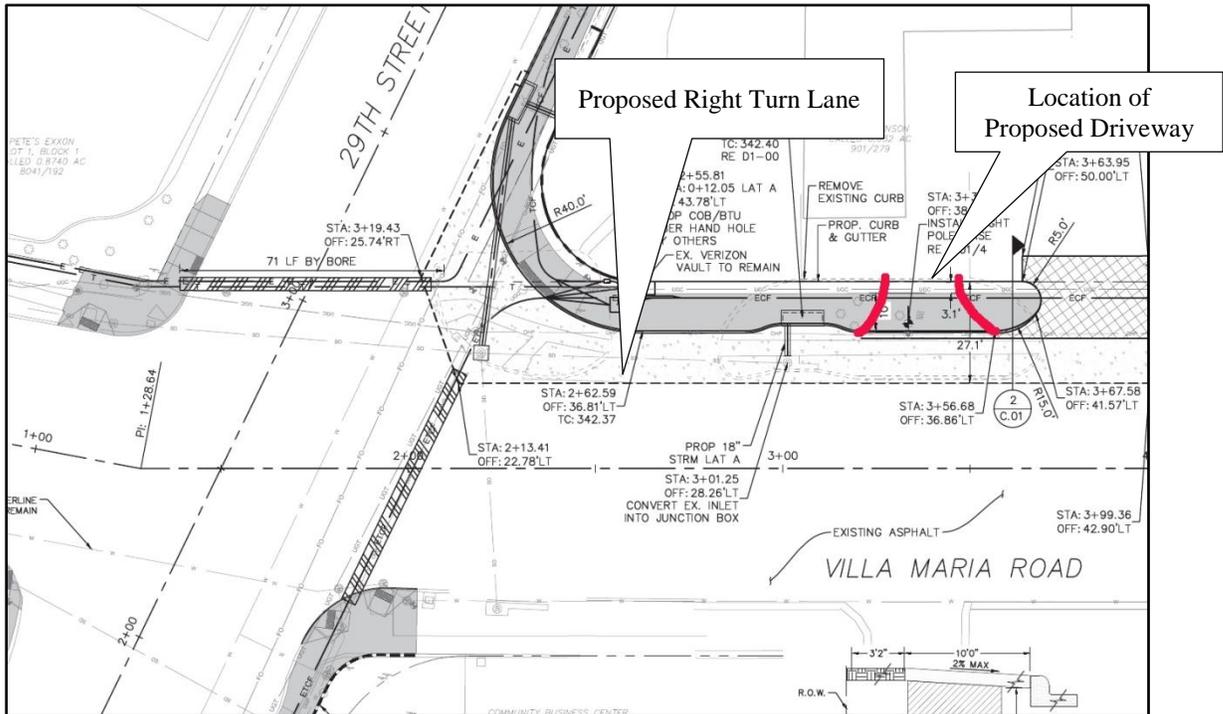
However, staff contends that a special circumstance or condition affecting does not exist on the subject property such that the strict application of the ordinance deprives the applicant of the reasonable use of the property with regards to a reduction in the minimum 50-foot throat depth requirement. While it is true that the site's unusual shape and location may make adherence to adopted development standards challenging, a final site layout that may support the need for a reduction in driveway throat length has not yet been submitted. As mentioned above, throat length design can affect both the operation of traffic and the safety of the users.

2. That the variance is necessary for the preservation and enjoyment of substantial property rights of the applicants;

Staff contends that approving a variance to the driveway separation requirement is an improvement for traffic flow near the busy intersection of East 29th Street and East Villa Maria Road. Without a final site design, staff believes that it would be premature to grant a variance from the required 50-foot throat length, in this particular case.

3. That the granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property or public facilities in the area;

Staff contends that granting the variances would not be detrimental to the public health, safety or welfare or injurious to other property or public facilities in the area. It is important to note that, as part of a City of Bryan Capital Improvement Project, a right-turn lane will be installed for traffic turning right off of E. Villa Maria Road, going east on East 29th Street. If granted a variance, this will place the proposed driveway closer to the intersection and near the middle of the proposed turn lane.



However, staff contends that given the high volumes of traffic on this road (258 thru trips per hour), and the potential for an increased number of automobiles entering and exiting this newly redeveloped site it is staff's opinion that a reduction of the required throat depth could create a traffic hazard at one of the busiest intersections in the City of Bryan. The purpose of having adequate throat depth in a driveway is to provide space for motorists to stop and wait for conflicting traffic already in the parking lot to clear so he/she can proceed. At the same time it also minimizes the possibility of vehicles extending out into the adjacent roadway, which reduces crash risk. Adequate throat depth varies based on the speed and volume of traffic on the adjacent roadway. The higher the speeds and volumes, the greater throat depth is needed to reduce the risk of rear-end crashes occurring. Staff contends that if a variance to the throat length were granted in the absence of any special circumstances or conditions, it may be detrimental to the public health, safety or welfare in the area.

4. That the granting of the variance will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this ordinance.

Staff contends that granting the variance to allow a reduced driveway separation will not have the effect of preventing the orderly development of the applicant's land and/or land in the vicinity in accordance with the provisions of this ordinance, in this particular case.

However, staff contends that granting a variance reducing the throat depth, in this particular case, in the absence of any special or unique circumstances may be detrimental to the public health, safety or welfare in the area.

RECOMMENDATION:

Based on all of the aforementioned considerations, staff recommends **approving** the requested variance for the location of the driveway, but **denying** the requested throat depth reduction.