



6611 W. Cross Creek Bend Lane, PO Box 279
Fulshear, Texas 77441
Phone: 281-346-1796 ~ Fax: 281-346-2556
www.FulshearTexas.gov

ZONING BOARD OF ADJUSTMENT:

STAFF:

CHAIR: Bryan Thomas
MEMBER: Jessica Piadade

CO-CHAIR: Kaye Kahlich
MEMBER: Christopher Luberoff

MEMBER: Angela Peters

REGULAR ZONING BOARD OF ADJUSTMENT MEETING AGENDA

Thursday, October 17, 2024 10:00 AM

NOTICE IS HEREBY GIVEN OF A ZONING BOARD OF ADJUSTMENT REGULAR MEETING OF THE CITY OF FULSHEAR TO BE HELD ON **Thursday, October 17, 2024** IN THE FULSHEAR MUNICIPAL COMPLEX 6611 W. CROSS CREEK BEND LANE FULSHEAR, TX 77441 FOR CONSIDERING THE FOLLOWING ITEMS. THE CITY COUNCIL RESERVES THE RIGHT TO ADJOURN INTO EXECUTIVE SESSION AT ANY TIME DURING THE COURSE OF THIS MEETING TO DISCUSS ANY MATTERS LISTED ON THE AGENDA, AS AUTHORIZED BY THE TEXAS GOVERNMENT CODE, INCLUDING, BUT NOT LIMITED TO, SECTIONS 551.071 (CONSULTATION WITH ATTORNEY), 551.072 (DELIBERATIONS ABOUT REAL PROPERTY), 551.073 (DELIBERATIONS ABOUT GIFTS AND DONATIONS), 551.074 (PERSONNEL MATTERS), 551.076 (DELIBERATIONS ABOUT SECURITY DEVICES), 551.087 (ECONOMIC DEVELOPMENT), 418.175.183 (DELIBERATIONS ABOUT HOMELAND SECURITY ISSUES) AND AS AUTHORIZED BY THE TEXAS TAX CODE, INCLUDING, BUT NOT LIMITED TO, SECTION 321.3022 (SALES TAX INFORMATION).

INCIDENTAL MEETING NOTICE: A QUORUM OF THE CITY OF FULSHEAR CITY COUNCIL, PLANNING AND ZONING COMMISSION, CITY OF FULSHEAR DEVELOPMENT CORPORATION (TYPE A), FULSHEAR DEVELOPMENT CORPORATION (TYPE B), PARKS AND RECREATION COMMISSION, HISTORIC PRESERVATION AND MUSEUM COMMISSION, ZONING BOARD OF ADJUSTMENT, CHARTER REVIEW COMMISSION, OR ANY OF THESE, MAY BE IN ATTENDANCE AT THE MEETING SPECIFIED IN THE FORGOING NOTICE, WHICH ATTENDANCE MAY CONSTITUTE A MEETING OF SUCH GOVERNMENTAL BODY OR BODIES AS DEFINED BY THE TEXAS OPEN MEETINGS ACT, CHAPTER 551, TEXAS GOVERNMENT CODE. THEREFORE IN ADDITION TO THE FORGOING NOTICE, NOTICE IS HEREBY GIVEN OF A MEETING OF EACH OF THE ABOVE-NAMED GOVERNMENTAL BODIES, THE DATE, HOUR, PLACE, AND SUBJECT OF WHICH IS THE SAME AS SPECIFIED IN THE FORGOING NOTICE.

I. Call to Order

II. Quorum

III. Citizen Comments

Citizens who desire to address the Zoning Board of Adjustment with regard to matters on the agenda will be received at this time. Each speaker is limited to three (3) minutes. Comments or discussion by Zoning Board of Adjustment members will only be made at the time the subject is scheduled for consideration.

IV. Business

- 1. Consideration and possible action to approve minutes from the Zoning Board of Adjustment meeting held on July 18, 2024**

V. Variance Requests

1. **Variance request by Whataburger Restaurants LLC/29639 FM 1093 RD**

A. Call Hearing to Order

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on October 17, 2024; The public hearing will take place at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Whataburger Restaurants LLC, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-14 General Commercial District, Table 28-2-14-2 Permitted Uses and Minimum Off-Street Parking Spaces of the Fulshear Coordinated Development Ordinance. The subject 3.1736-acre tract is located within 0050 E Latham, Tract 18 (Pt), ACRES 3.1736 and more precisely located at 29639 FM 1093 Road, Fulshear, Texas 77441. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request, contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

D. Staff Report

E. Persons wishing to speak for or against the proposed request

F. Staff / Board / Applicant discussion

G. Adjournment of Hearing

VI. Action

1. **Consideration and possible action on variance request by Whataburger Restaurants LLC/29639 FM 1093 RD**

VII. Adjournment

The Zoning Board of Adjustment reserves the right to adjourn into Executive Session at any time during the course of this meeting regarding the matters listed above, as authorized by Texas Government Code Section 551.071 (if necessary consultation with attorney).

Note: In compliance with the American Disabilities Act, and to extent applicable, this facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made at least 48 business hours prior to this meeting. Please contact the City Secretary's office at 281-346-1796 for further information.

I, Mariela Rodriguez, City Secretary of the City, do hereby certify that the above Notice of Meeting and Agenda for the Zoning Board of Adjustment of the City of Fulshear, Texas was posted on Friday, October 11, 2024, by 5:00 p.m. in a place convenient and readily accessible at all times to the general public, in compliance with Chapter 551, TEXAS GOVERNMENT CODE.

MARIELA RODRIGUEZ, CITY SECRETARY

**AGENDA MEMO
BUSINESS OF THE ZONING BOARD OF ADJUSTMENT
CITY OF FULSHEAR, TEXAS**

AGENDA OF: October 17, 2024

DEPARTMENT: Administration

PRESENTER:

ITEMS: 1

PREPARED BY: Katie Lewis

SUBJECT: CONSIDERATION AND POSSIBLE ACTION TO APPROVE MINUTES FROM THE ZONING BOARD OF ADJUSTMENT MEETING HELD ON JULY 18, 2024

Expenditure Required:

Amount Budgeted:

Funding Account:

Additional Appropriation Required:

EXECUTIVE SUMMARY
RECOMMENDATION

ATTACHMENTS:

[Draft Minutes 07.18.24.pdf](#)



“FIND YOUR FUTURE IN FULSHEAR”

6611 W. CROSS CREEK BEND LANE ~ FULSHEAR, TEXAS 77441

PHONE: 281-346-1796 ~ FAX: 281-346-2556

WWW.FULSHEARTEXAS.GOV

CHAIR- BRYAN THOMAS
CO-CHAIR-KAYE KAHLICH

ZONING BOARD OF ADJUSTMENT:
MEMBER- CHRISTOPHER LUBEROFF
MEMBER- PAT MOLLERE

MEMBER- ANGELA PETERS

ACTING CITY MANAGER: Zach Goodlander

STAFF:
CITY SECRETARY: Mariela Rodriguez CITY ATTORNEY: Byron Brown

ZONING BOARD OF ADJUSTMENT MEETING MINUTES JULY 18, 2024

1. CALL TO ORDER

This meeting of the Zoning Board of Adjustment was called to order by Chairman Thomas at 10:00 A.M. on Thursday, July 18, 2024, at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Ln., Fulshear, Texas 77441.

2. QUORUM

A quorum was present.

Members Present:

Bryan Thomas

Pat Mollere

Kaye Kahlich

Angela Peters

Members Absent:

Christopher Luberoff

City Staff:

Mariela Rodriguez

Rodrigo Rodriguez

Byron Brown

*Josh Brothers
Kim Kopecky
Sharon Valiante
Mariah Gallegos*

Others Present:

*Joyce Owens
Bill Clifford
Nancy Mills
Horo Etuks
Guy Davis
Susan Davis
Bill Loden
Sarah B. Johnson
Cherie Kane
Jim Kane
Jenna Battenfield*

9 others who did not sign in

3. CITIZEN COMMENTS

No one wished to speak.

4. CONSIDERATION AND POSSIBLE ACTION TO APPROVE MINUTES FROM THE MEETING HELD ON FEBRUARY 15, 2024

A motion was made by ZBA member Mollere to approve minutes from the meeting held on February 15, 2024. It was seconded by ZBA member Kahlich. The motion was carried by the following vote:

Ayes: Thomas, Mollere, Kahlich, Peters

Nays:

Abstain:

Absent: Luberoff

Motion Passed

5. VARIANCE REQUEST BY TEXAS PETROLEUM GROUP, LLC/29030 FM 1093 RD

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:03 A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W.

Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Texas Petroleum Group, LLC, requesting a variance to Article III: Site Development, Division III-3: Buffering, Landscaping, and Screening, Sec 28-3-25(D) Street Trees Required of the Fulshear Coordinated Development Ordinance. The subject 3.1233-acre tract is located within the 0050 E Latham, ACRES 3.1233, Radio Tower Site and more precisely located at 29030 FM 1093 Road, Richmond, Texas 77406. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

Fernando Sanchez with Interplan Architects represented the applicant.

He stated the reason for the variance is due to a 20 ft. wide water line easement, and the proposed trees will interfere with the 16" underground waterline.

D. Staff Report

Josh Brothers explained that the applicant is correct about the interference with the waterline and city staff recommends approval of the variance.

E. Persons wishing to speak for or against the proposed request

No one wished to speak for or against the proposed request.

F. Staff / Board / Applicant discussion

Co-Chair Kahlich requested that more grass and ornamental landscaping be added.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:08 A.M.

6. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY TEXAS PETROLEUM GROUP, LLC/29030 FM 1093 RD

A motion was made by Co-Chair Kahlich to approve the variance request with the condition to include a berm on the side of the lot fronting FM 1093 and include ornamental landscaping. It was seconded by ZBA member Peters. The motion was carried by the following vote:

Ayes: Thomas, Mollere, Kahlich, Peters

Nays:

Abstain:

Absent: Luberoff

Motion Passed

7. VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:09 A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Whataburger Restaurants LLC, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-14 General Commercial District, Table 28-2-14-1 Dimensional Standards of the Fulshear Coordinated Development Ordinance. The subject 3.1736-acre tract is located within 0050 E Latham, Tract 18 (Pt), ACRES 3.1736 and more precisely located at 29639 FM 1093 Road, Fulshear, Texas 77441. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request, contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

Kevin Due a civil engineer with ALJ Lindsey civil engineer stated there is currently a 25ft. parking set back. The requestor is asking for a 10ft. set back. They plan to add plenty of landscaping along the frontage to allow for extra screening ensuring there will be no issues with traffic.

D. Staff Report

Josh Brothers mentioned city staff met with Whataburger. City staff had no issues with the request if TXDOT was aware and approved. The developer stated TXDOT was aware.

E. Persons wishing to speak for or against the proposed request

Sarah Johnson Fulshear resident on Lea Lane requests the board to deny the variance request. Reducing the setbacks to 10ft. will decrease the safety for people walking on the sidewalk. Also, the proposed landscaping trees will only grow to 8ft. high and is not tall enough to cover noise from the future tollway.

Bill Clifford Fulshear resident on Fulshear Run Trace stated that setting a standard to reduce setbacks at a prominent location sets a precedent and is unreasonable. Also, there is no advantage to the Fulshear residents to grant the variance.

John Dowdall Fulshear resident on Bois D 'Arc agrees with Sarah Johnson and Bill Clifford's comments. He is concerned with the extra lighting, loitering, traffic and crime.

Guy Davis Fulshear resident of Fulshear Run states this is a terrible location for any business. The ingress and egress on Bois D 'Arc will cause issues during the school year with the junior high and high school kids.

Jenna Battinfield Fulshear Resident in Fulshear Run spoke of the CDO sections 32-35 and drainage concerns.

F. Staff / Board / Applicant discussion

Chairman Thomas stated ZBA doesn't decide what commercial goes on the property

Co-Chair Kahlich thanked the residents for coming and speaking about this variance request. She agrees with all the resident comments.

Chairman Thomas asked the applicant if the variance request is denied how will it affect the parking plan.

The applicant responded If denied, the parking will fall below the general standards that Whataburger likes to see. Also, it would reduce the parking spots by fourteen (14).

Board member Mollere doesn't feel the variance will benefit the residents and feels if approved it will set a precedence.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:26 A.M.

8. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

A motion was made by ZBA member Mollere to deny the variance request. It was seconded by Co-Chair Kahlich. The motion was carried by the following vote:

Ayes: Mollere, Kahlich, Peters

Nays: Thomas

Abstain:

Absent: Luberoff

Motion Failed

9. VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:27A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place at 10 a.m. at the City of Fulshear Municipal

Complex, 6611 W. Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Whataburger Restaurants LLC, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-14 General Commercial District, Table 28-2-14-2 Permitted Uses and Minimum Off-Street Parking Spaces of the Fulshear Coordinated Development Ordinance. The subject 3.1736-acre tract is located within 0050 E Latham, Tract 18 (Pt), ACRES 3.1736 and more precisely located at 29639 FM 1093 Road, Fulshear, Texas 77441. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request, contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

The applicant is requesting forty-two (42) parking spaces. Since the previous variance was denied, they are proposing to reduce the amount of parking spaces to twenty-eight (28) which is six (6) over the allowed twenty-two (22) for the project.

With previous discussions with city staff, they are willing to install permeable pavers on eight (8) of the parking spaces which the developer has no oppositions to.

They also plan on installing onsite drainage systems to decrease the amount of flow to the right of way.

D. Staff Report

Josh Brothers stated city staff recommends approval with the condition to increase the standard on drainage, sod and road cuts if the benefits are not there, he requests denial of the variance.

E. Persons wishing to speak for or against the proposed request

Sarah Johnson Fulshear resident asks the board to deny the request as the increased parking spaces will result in loitering, tailgating, an increase in crime and traffic.

Bill Clifford Fulshear resident states Whataburger should've been clear about the requirements to build on this location and there is no benefits to residents to add additional parking spaces.

Susan Davis Fulshear Run resident spoke regarding an additional traffic study that was to be done by the applicant.

Susan Box Fulshear resident spoke on the safety of children walking to and from Fulshear Run and the schools.

Jenna Battenfield Fulshear resident mentioned the increased issues with the traffic flow and the safety of the children walking.

F. Staff / Board / Applicant discussion

The applicant stated the standard spacing requirements required by TXDOT will not allow an entrance off FM 1093 as the entrance is close proximity to Bois D 'Arc.

Board Member Peters thanked the speakers and asked everyone to focus on the request.

Byron Brown asked if the board approves with conditions to be specific in the motion for the decision letter.

Ron the Director of Government and Legal Affairs for Whataburger stated they are proud to serve the community and are willing to do whatever it takes to help the residents and wants to partner with them.

Josh Brothers stated the minimum of applying the downtown district standards, additional landscaping, cistern behind the building, exterior/façade unique to Fulshear, cross shared access with adjacent owner.

Byron Brown answered questions from the board.

Joel Patterson Fulshear resident spoke on setting precedents on future development.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:57A.M.

10. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

Byron answered questions from the board

A motion was made by ZBA member Kahlich to approve the variance request from 22 parking spaces to 28 parking with the condition the building be constructed to our downtown district standards, and it includes low impact development of their choice.

Motion fails due to a lack of a second.

A motion was made by ZBA member Peters to approve the 28 parking spaces with 8 parking spaces being permeable. The motion was seconded by ZBA member Mollere.

The motion was carried by the following vote:

Ayes: Mollere, Thomas, Peters

Nays: Kahlich

Abstain:

Absent: Luberoff

Motion Fails due to a lack of a super majority.

A motion was made by ZBA member Mollere to deny the variance. The motion was seconded by ZBA member Kahlich. The motion was carried by the following vote:

Ayes: Mollere, Thomas, Peters, Kahlich

Nays:

Abstain:

Absent: Luberoff

Motion Passed

11. VARIANCE REQUEST BY FLITE SIGNS/27250 FM 1093 RD

Chairman Thomas stated the applicant failed to publish the notices required by law The item was tabled.

A. Call Hearing to Order

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Flite Signs, requesting a variance to Article III: Site Development, Division III-4: Signs, Sec 28-3-33 Signs Requiring a Permit, Table 28-3-33-1 of the Fulshear Coordinated Development Ordinance. The subject 1.355-acre tract is located within the 0274 R H KUYKENDALL, BLOCK 1, ACRES 1.355, Landmark Sales Tract, Unrestricted Reserve "A", Part in Abstract 0421 and more precisely located at 27250 FM 1093 Road, Fulshear, Texas 77441. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

D. Staff Report

E. Persons wishing to speak for or against the proposed request

F. Staff / Board / Applicant discussion

G. Adjournment of Hearing

12. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY FLITE SIGNS/27250 FM 1093 RD

Chairman Thomas stated the applicant failed to publish the notices required by law. The item was tabled.

13. VARIANCE REQUEST BY OWENS MANAGEMENT SYSTEMS LLC/6830 BOIS D'ARC LANE

A. Call Hearing to Order

Chairman Thomas opened the hearing at 11:11 A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Owens Management Systems LLC, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2: Zoning Districts, Sec 28-2-5: Estate Residential, Table 28-2-5-1 Dimensional Standards of the Fulshear Coordinated Development Ordinance. The subject 2.66-acre tract is located within the 0075 RAND AND PENN, ACRES 2.66, Tract 21.6 and more precisely located at 6830 Bois D' Arc Lane, Richmond, Texas 77406. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

Joy with Owens Management Systems spoke on behalf of the applicant.

The property is currently zoned Estate Residential, and the applicant is proposing to subdivide the property into two (2) lots for single family homes.

The proposed subdivision will preserve a low-density type of development that already exists in the neighborhood with lot sizes that range from 1-2 acres.

D. Staff Report

Josh stated City Staff recommends denying the variance request based on two items:

- 1. Zoning minimal two (2) acres*
- 2. No hardship was established to subdivide the property*

E. Persons wishing to speak for or against the proposed request

John Dowdall on Bois D 'Arc is against the request as he feels it will give an unwanted precedence and the applicant should adhere to the CDO. Also, the board needs to ask what the proven hardship is.

Susan Box Fulshear resident off Terry lane stated there is a reason why the minimum lot sizes are two (2) acres and this is not the look they are looking for.

Bill Loden Fulshear resident on Lea Lane spoke on behalf of Mr. and Mrs. Skidmore who live next door to the property. He went over the handout that was given to the board members.

Sarah Johnson on Lea Lane agrees with the other comments and feels it will set a precedence to other developers. She feels the request does not show a hardship and requests the board to deny.

Kathy Ward Fulshear resident in the Bois D' Arc area reiterated that if the City starts subdividing it will attract more variance requests. By building more homes it could impact the water table for those on water wells and more concrete could affect the drainage and cause more flooding.

F. Staff / Board / Applicant discussion

The ZBA board and Joy spoke regarding the CDO requirements.

Joy stated they did not receive any calls regarding the development. She would've liked a heads up on the concerns the city received from residents.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 11:30A.M.

14. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY OWENS MANAGEMENT SYSTEMS LLC/6830 BOIS D' ARC LANE

A motion was made by ZBA member Kahlich to deny the variance request. It was seconded by ZBA member Mollere. The motion was carried by the following vote:

Ayes: Thomas, Mollere, Kahlich, Peters

Nays:

Abstain:

Absent: Luberoff

Motion Passed

Chairman Thomas stated that ZBA member Pat Mollere is retiring from the board. He thanked her for serving on the board.

He mentioned Pat Mollere will be replaced by Jessica Piadade.

15. ADJOURNMENT

A motion was made by ZBA member Kahlich to adjourn. It was seconded by ZBA member Peters. The motion was carried by the following vote:

Ayes: Thomas, Mollere, Kahlich, Peters

Nays:

Abstain:

Absent: Luberoff

Motion Passed

Chairman Thomas adjourned the meeting at 11:31A.M.

**AGENDA MEMO
BUSINESS OF THE ZONING BOARD OF ADJUSTMENT
CITY OF FULSHEAR, TEXAS**

AGENDA OF: October 17, 2024

DEPARTMENT: Planning

PRESENTER:

ITEMS: 1

PREPARED BY: Rodrigo Rodriguez

SUBJECT: VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

Expenditure Required:

Amount Budgeted:

Funding Account:

Additional Appropriation Required:

EXECUTIVE SUMMARY

RECOMMENDATION

ATTACHMENTS:

[Whataburger Variance Request Memo.pdf](#)

[ZBA Public Hearing Notice 10.17.24 \(Whataburger\).pdf](#)

[Whataburger Variance Application 10.17.24.pdf](#)

AGENDA MEMO
BUSINESS OF THE ZONING BOARD OF
ADJUSTMENTS
CITY OF FULSHEAR, TEXAS

AGENDA OF:	October 17, 2024		
DATE SUBMITTED:	September 20, 2024	DEPARTMENT:	Planning and Development
PREPARED BY:	Rodrigo Rodriguez, Development Coordinator	PRESENTER:	Joshua Brothers, Planning Director
SUBJECT:	CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD		
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Public Hearing Notice 2. Zoning Variance Application 3. Proposed Site Plan 4. Existing Drainage Area Map 5. Proposed Drainage Plan 6. TXDoT Permit to Construct 		

EXECUTIVE SUMMARY

Whataburger Restaurants LLC is requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-14 General Commercial District, Table 28-2-14-2 Permitted Uses and Minimum Off-Street Parking Spaces of the Fulshear Coordinated Development Ordinance. The proposed variance would allow for an increase in the maximum allowable parking spaces set by the ordinance. Currently, the ordinance allows a maximum of 31 parking spaces for this project. The applicant is proposing 40 total parking spaces and has offered to provide porous asphalt or pervious pavers in 18 of the spaces to help alleviate the additional paving.

STAFF RECOMMENDATION

Staff recommends approval of the variance.

PUBLIC HEARING

The City of Fulshear Zoning Board of Adjustment will hold a public hearing on October 17, 2024;

The public hearing will take place at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W. Cross

Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Whataburger Restaurants LLC,

requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-

14 General Commercial District, Table 28-2-14-2 Permitted Uses and Minimum Off-Street Parking Spaces

of the Fulshear Coordinated Development Ordinance. The subject 3.1736-acre tract is located within

0050 E Latham, Tract 18 (Pt), ACRES 3.1736 and more precisely located at 29639 FM 1093 Road,

Fulshear, Texas 77441. The application may be inspected at the Planning Department during regular

business hours. Interested parties may appear at the public hearing and be heard with respect to the

application. For more information regarding this request, contact Rodrigo Rodriguez, City of Fulshear,

281-346-8860.



CITY OF FULSHEAR

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www.fulsheartexas.gov

VARIANCE/APPEAL APPLICATION

APPLICATION DATE: 09/20/2024

ADDRESS OF PREMISES AFFECTED: 29639 FM 1093 RD Fulshear, TX 77441

LEGAL DESCRIPTION: Block 1 Restricted Reserve 'A' - Fulshear Mini

OWNERS INFORMATION: NAME MS Fulshear Mini Storage LLC
ADDRESS 520 Post Oak Blvd #380 CITY Houston STATE TX
ZIP CODE 77027 EMAIL asmith@mainstcp.com PHONE NUMBER 713.283.4478

APPLICANTS NAME (if different than owner) Whataburger Restaurants LLC
ADDRESS 300 Concord Plaza Drive CITY San Antonio STATE Texas
ZIP CODE 78216 EMAIL _____ PHONE NUMBER 210.476.6000

EXPLAIN REQUEST: (fully explain the existing conditions that make this request necessary) _____
Variance to Table 28-2-14-2 - Permitted uses and minimum off street parking spaces
Restaurant, Drive Through - Maximum 1 per space 150 SF GFA (Sec. 28-2-16)

Status of the Project: Existing Under Construction Proposed

Have there been previous variance requests for this property? Yes

Are there similar situations in the area? Yes
Addresses: Culvers (6677 Flewellen Way Fulshear, TX 77441 (Parking Maximum)

Have you informed your Home Owners Association? _____ or Neighbors? _____

Request Proposal and Description: Provide a description of the existing and or proposed physical property improvements relative to this case (ie: materials, structure type and height, dimensions, etc.) Please also supply and identify photos where applicable, to support your case:

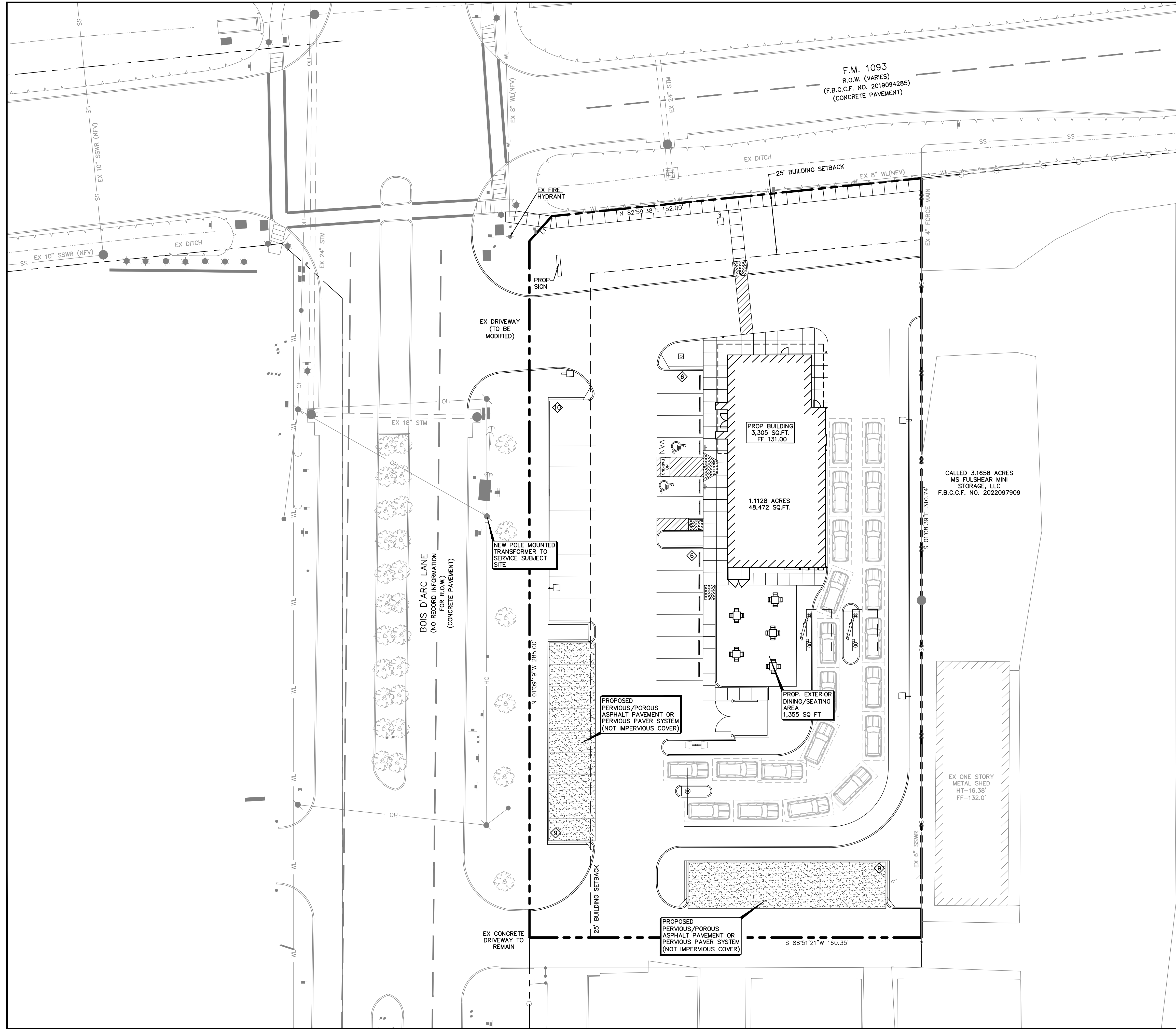
Requesting a variance to the parking maximum allowed. Based upon the proposed building square footage of 3,305 Sq Ft and exterior dining/seating area of 1,355 Sq Ft, the maximum allowable parks would be 31, in which we are proposing 40 to meet Whataburger minimum requirements.

(Continued... Request Proposal)

In an effort to help alleviate concerns of the additional pavement/impervious cover, we are proposing that 18 of the overall 40 parks (45%) will be porous asphalt or pervious pavers such that it will not be impervious cover in the final condition. Please refer to the attached exhibit displaying these areas. Additionally, please note that the on-site drainage has been permitted through TxDOT and is being restricted on-site such that this development will not have an adverse impact to the existing TxDOT drainage infrastructure during rainfall events as water will be restricted on-site to ensure the pre-development drainage is met.

Acknowledgement: I certify that the information herein provided is true and correct to the best of my knowledge and belief, and that I, or my authorized representative, will cause this case to be presented in public hearing before the Planning Commission, unless I withdraw same prior to the City's posting of public notice. Should I initiate withdrawal after public notice is posted, I understand that the Board action shall constitute denial of the case, and the filing fee will be non-refundable. I understand that if I receive approval, I must still obtain approval from all other required departments within the City and that I must obtain required permits within 180 days from the date of the Board approval.

Signed by the Applicant/Owner Agent: Andy Beaupre Date: 9/20/2024



BENCHMARK:
ELEVATIONS HEREON ARE BASED UPON A NGS OPUS SOLUTION DERIVED FROM ON-SITE STATIC GPS OBSERVATIONS CONDUCTED AT THE TIME OF SURVEY. ACCORDING TO THE NGS OPUS REPORT, THE FOLLOWING CORN STATIONS WERE USED: PID DG5394 DESIGNATION TXYT, PID D08865 DESIGNATION TXCK, AND PID DH3610 DESIGNATION TXLF. THE NEAREST NGS PUBLISHED CONTROL POINT IS PID BY1273 DESIGNATION P 252. (NAVD83, COMPUTED USING GEOID18)

TEMPORARY BENCHMARK "A":
CUT BOX ON A HEADWALL OF A BOXED CULVERT, LOCATED APPROXIMATELY 75' NORTHEAST OF INTERSECTION OF FM 1093 AND BOIS D'ARC LN. (SHOWN HERON) ELEVATION = 126.44 FEET

TEMPORARY BENCHMARK "B":
CUT BOX ON A TYPE "C" INLET, LOCATED ON THE WEST SIDE OF BOIS D'ARC LN. AND APPROXIMATELY 131' SOUTHWEST FROM THE INTERSECTION OF FM. 1093 AND BOIS D'ARC LN. (SHOWN HERON) ELEVATION = 128.40 FEET

GRAPHIC SCALE
1 inch = 20 ft.

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 40°52'25" E	13.75'

LEGEND

- PROPOSED CURB RAMP
- EX. MANHOLE
- EX. STORM SEWER
- EX. WATER LINE
- EX. SANITARY SEWER LINE
- EX. OVERHEAD POWER LINE
- EX. UNDERGROUND GAS LINE
- PROPOSED SAWCUT (FULL DEPTH)

- GENERAL NOTES**
- PAVEMENT DIMENSIONS AND RADII ARE FACE TO FACE OF CURB, UNLESS OTHERWISE NOTED.
 - RADII ARE 3' UNLESS OTHERWISE NOTED.
 - REFER TO SITE ELECTRICAL PLAN FOR PROPOSED SITE LIGHTING LAYOUT.
 - REFER TO ARCHITECTURAL PLANS FOR EXACT BUILDING/FOUNDATION DIMENSIONS.

PAVEMENT MARKING NOTE

"NO PARKING" SHALL BE PAINTED ON THE ACCESS AISLE AT THE STRIPED STALL AS SHOWN ON THE PLANS IN CAPITAL LETTERS WITH HEIGHT OF AT LEAST 12" STROKE OF AT LEAST 2" CENTERED WITHIN THE AISLE.

MULTIPLE EXISTING PUBLIC AND PRIVATE UTILITY LINES EXIST ON THIS SITE. THE UTILITY LINES SHOWN ON THESE DRAWINGS REFLECT INFORMATION OBTAINED FROM RECORD DRAWINGS AND MAY NOT INCLUDE ALL EXISTING UTILITIES. CONTRACTOR IS TO USE EXTREME CAUTION DURING ALL CONSTRUCTION ACTIVITIES AND IS SOLELY RESPONSIBLE FOR DAMAGE TO EXISTING FACILITIES.

PROPOSED WHATABURGER PARKING ANALYSIS:

RESTAURANT, DRIVE-THROUGH	- 1 PER 250 SQ GFA (MINIMUM)	1 PER 150 SQ GFA (MAXIMUM)
- WHATABURGER BUILDING GFA	3,305 SQ FT	
- EXTERIOR DINING/SEATING AREA	1,355 SQ FT	
TOTAL GROSS FLOOR AREA PROPOSED	4,660 SQ FT	
TOTAL PARKS ALLOWED	4,660 / 250 = 18.64 -> 19 (MINIMUM)	4,660 / 150 = 31.07 -> 31 (MAXIMUM)
TOTAL NUMBER OF PARKS PROPOSED/PROVIDED	= 40*	

*REQUESTING A VARIANCE FOR 9 ADDITIONAL PARKS

PARKING PERVIOUS/POROUS ASPHALT ANALYSIS:

TOTAL PARKS PROVIDED	= 40 PARKS
20% OF PARKS:	= (40)*(0.20) = 8 PARKS
PERVIOUS PARKING PROVIDED:	= 18 PARKS (45% OF TOTAL PARKS)

CALL BEFORE YOU DIG
TEXAS ONE CALL PARTICIPANTS REQUEST
72 HOURS NOTICE BEFORE YOU DIG, DRILL
OR BLAST - STOP CALL
TEXAS ONE CALL SYSTEM
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IN HOUSTON
(713)-223-4567

ALJLindsey
Civil Engineers
1885 N. Loop West, Suite 200
Houston, TX 77057
281.301.9955
PRN F-11508

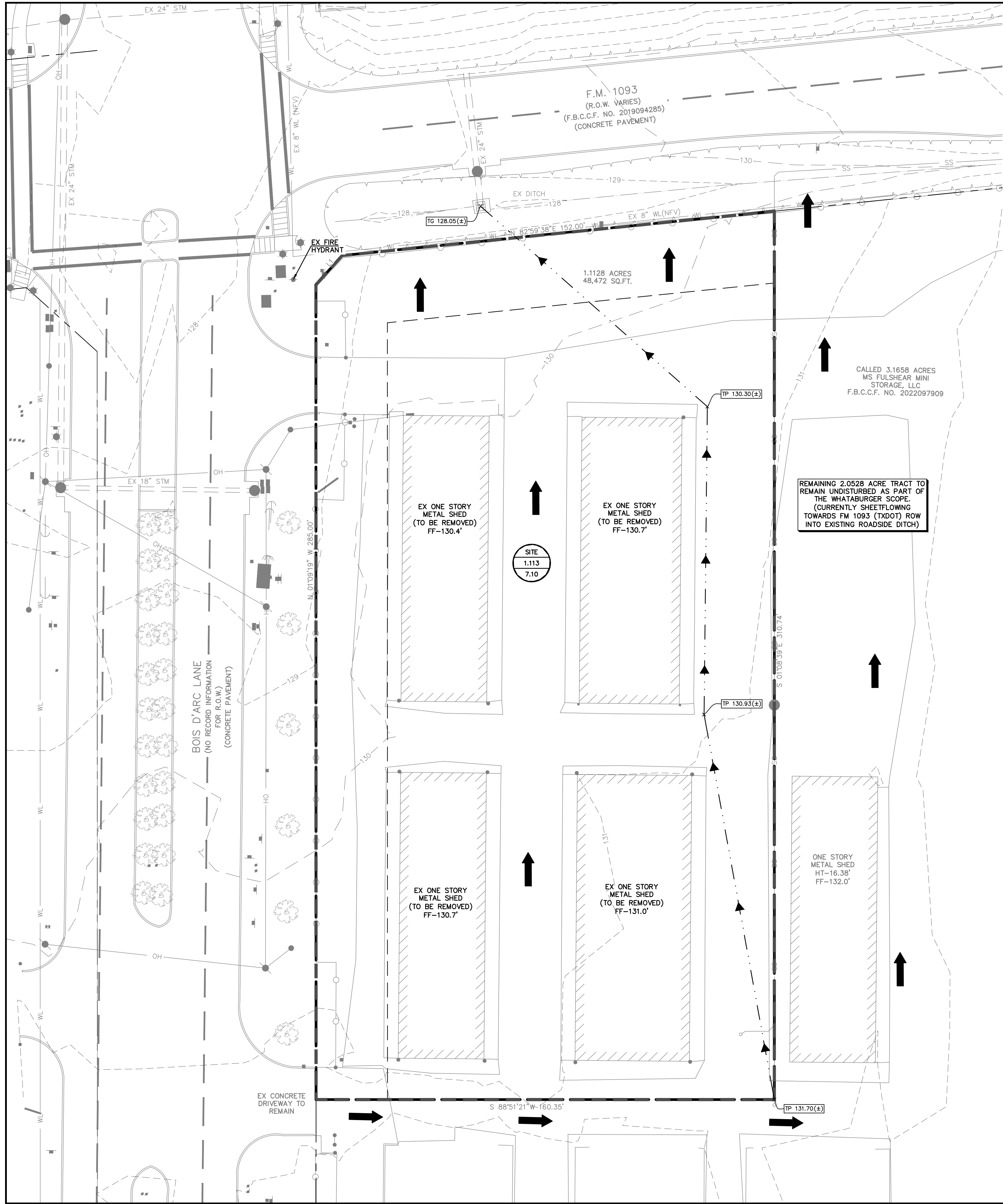
20 SEPTEMBER 2024

ALL PROJECT NO. 1041.23.01.001
DATE: SEPT. 2024
SCALE: 1:20
DRAWN BY: AA
CHECKED BY: KAD

**PARKING VARIANCE
SITE EXHIBIT**

WHATABURGER
29639 FM 1093 RD
CITY OF FULSHEAR, TEXAS

SHEET
EX-1



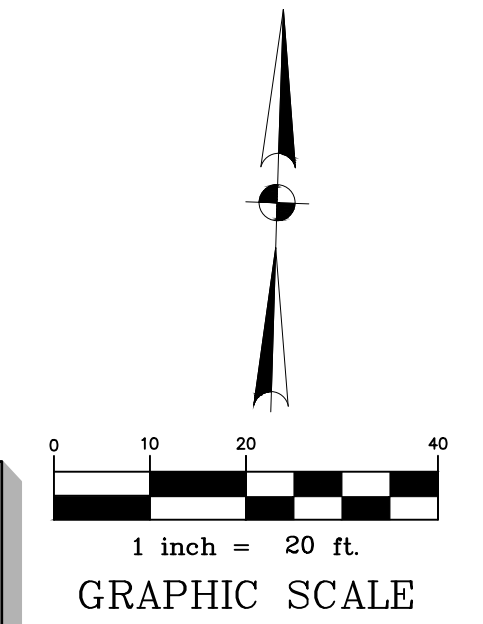
EX. SITE WEIGHTED RUNOFF COEFFICIENT CALCS:

TOTAL LOT AREA: 1.113 ACRE

- BUILDING (1.00)*(13,250 SQ FT/43,560 SQ FT) 0.304
- PAVEMENT (0.90)*(25,194 SQ FT/43,560 SQ FT) 0.521
- LANDSCAPE (0.35)*(10,028 SQ FT/43,560 SQ FT) 0.081

$$C_w = \frac{0.304 + 0.521 + 0.081}{1.113}$$

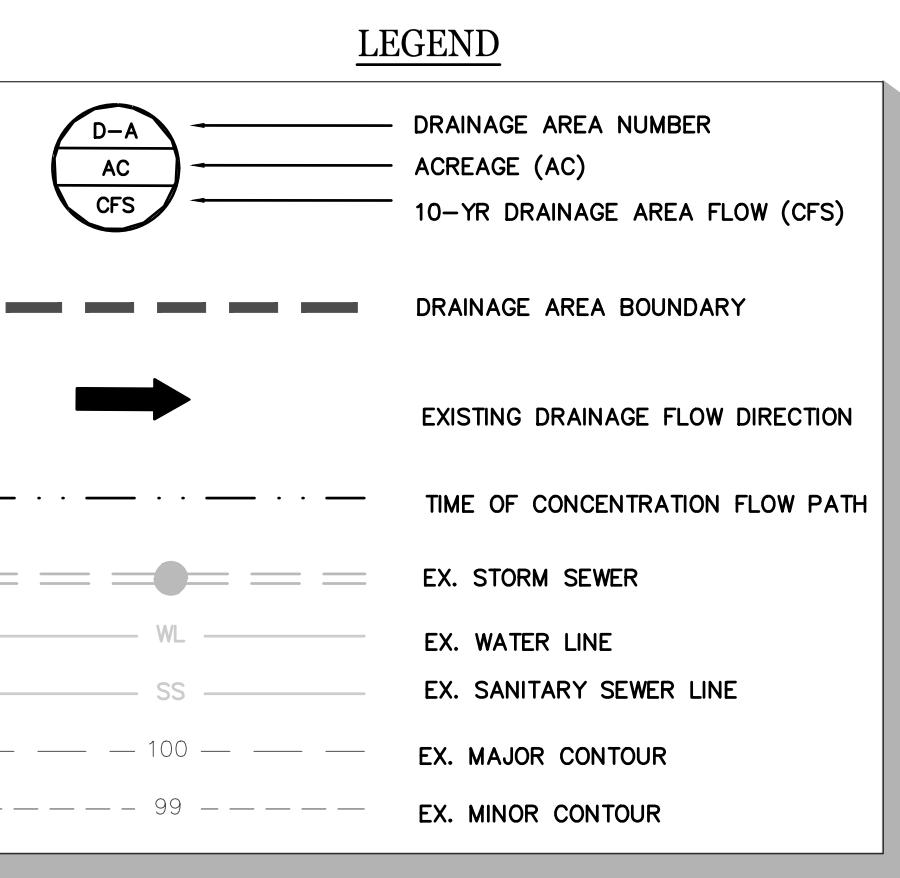
$C_w = 0.814$ - USE 0.81



BENCHMARK:
ELEVATIONS HEREON ARE BASED UPON A NGS OPUS SOLUTION DERIVED FROM ON-SITE STATIC GPS OBSERVATIONS CONDUCTED AT THE TIME OF SURVEY. ACCORDING TO THE NGS OPUS REPORT, THE FOLLOWING CORS STATIONS WERE USED: PID DG5394 DESIGNATION TXTY, PID D08865 DESIGNATION TXCK, AND PID D03610 DESIGNATION TXLF. THE NEAREST NGS PUBLISHED CONTROL POINT IS PID BY1273 DESIGNATION P 252. (NAVD83, COMPUTED USING GEOID18)

TEMPORARY BENCHMARK "A":
CUT BOX ON A HEADWALL OF A BOXED CULVERT, LOCATED APPROXIMATELY 75' NORTHEAST OF INTERSECTION OF FM 1093 AND BOIS D'ARC LN. (SHOWN HEREON) ELEVATION = 126.44 FEET

TEMPORARY BENCHMARK "B":
CUT BOX ON A TYPE "C" INLET, LOCATED ON THE WEST SIDE OF BOIS D'ARC LN. AND APPROXIMATELY 131' SOUTHWEST FROM THE INTERSECTION OF FM. 1093 AND BOIS D'ARC LN. (SHOWN HEREON) ELEVATION = 128.40 FEET



EXISTING TIME OF CONCENTRATION CALCULATIONS:

Time of Concentration (NRCS)

0.007	constant	Smooth Surface	Lsc	108.00	Lsc	106.00	tc=tsh+tsc+tcch
0.011	unitless		K	20.32	K	20.32	tsh= 2.11 Min
137	feet		Ssc	0.01 (130.93-130.30)/108	Ssc	0.02 (130.30-128.05)/106	tsc1= 1.16 Min
4.82	feet	2-Year 24-Hour					tsc2= 0.60 Min
0.00562	FT/FT	(131.70-130.93)/137	tsc=	0.02 Hr	tsc=	0.01 Hr	tscZ= 3.87 Min
			tsc1=	1.16 Min	tscZ=	0.60 Min	
tsh=	0.04 Hr						
tsh=	2.11 Min						

*UTILIZE 10 MINUTE TIME OF CONCENTRATION BASED UPON TXDOT MINIMUM CRITERIA FOR ANALYSIS.

RAINFALL INTENSITY VALUES:

Rainfall Intensity-Duration-Frequency Coefficients for Texas

Based on "National Oceanic and Atmospheric Administration's (NOAA) Atlas 14
Precipitation-Frequency Atlas of the United States, Volume 11 Version 2.0: Texas" (Perica et al. 2018)

Parameter Selection:
 1. Select Units: English
 2. Select Methodology: Partial Duration Series (PDS)
 3. Select County: FORT BEND
 4. Select County Zone: Zone-1
 5. Select Time of Concentration (t_c): 10 Minute

Coefficient	Design Annual Exceedance Probability (Design Annual Recurrence Interval)						
	50% (2-year)	20% (5-year)	10% (10-year)	4% (25-year)	2% (50-year)	1% (100-year)	0.2% (500-year)
e	0.7945	0.7704	0.7511	0.7286	0.7098	0.6965	0.7011
b	66.7573	74.3769	80.1358	88.1883	92.5483	99.8274	145.2521
d (min)	12.7573	12.2128	11.9819	11.8799	11.6604	12.0864	17.5109
Intensity (inches/hour)	5.58	6.82	7.87	9.31	10.43	11.56	14.22

Note: Fort Bend County has 1 rainfall zone.

EXISTING 2-YEAR DRAINAGE CALCULATIONS:

Manhole No. From to	Drainage Area (acres)	Total Area (acres)	Runoff Coefficient C	DA C * A	Total C * A	Time of Conc. (min)	Intensity I (in/hr)	Drainage Area Flow (cfs)	Total Flow (cfs)
SITE EX	1.1130	1.1130	0.81	0.90	0.90	10.00	5.58	5.031	5.031

EXISTING 10-YEAR DRAINAGE CALCULATIONS:

Manhole No. From to	Drainage Area (acres)	Total Area (acres)	Runoff Coefficient C	DA C * A	Total C * A	Time of Conc. (min)	Intensity I (in/hr)	Drainage Area Flow (cfs)	Total Flow (cfs)
SITE EX	1.1130	1.1130	0.81	0.90	0.90	10.00	7.87	7.095	7.095

EXISTING 100-YEAR DRAINAGE CALCULATIONS:

Manhole No. From to	Drainage Area (acres)	Total Area (acres)	Runoff Coefficient C	DA C * A	Total C * A	Time of Conc. (min)	Intensity I (in/hr)	Drainage Area Flow (cfs)	Total Flow (cfs)
SITE EX	1.113	1.113	0.81	0.90	0.90	10.00	11.56	10.42	10.42

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CALL BEFORE YOU DIG
 TEXAS ONE CALL PARTICIPANTS REQUEST
 72 HOURS NOTICE BEFORE YOU DIG, DRILL
 OR BLAST - STOP CALL
 TEXAS ONE CALL SYSTEM
 1-800-344-8377
 IN HOUSTON
 (713)-223-4567

DATE: _____

REVISIONS: _____

NO. _____

ALJLindsey
 Civil Engineers
 1885 N. Loop West, Suite 200
 Fort Bend County, TX 77457
 281-301-9955
 FRN F-11526

KEVIN A. DEW
 49731
 REGISTERED PROFESSIONAL ENGINEER

08 AUGUST 2024

ALL PROJECT NO.: 1041231001
 DATE: AUGUST 2024
 SCALE: 1"=20'
 DRAWN BY: AA
 CHECKED BY: KAD

EXISTING DRAINAGE AREA MAP

WHATABURGER
 29639 FM 1093 RD
 CITY OF FULSHEAR, TEXAS

SHEET
C3.0

UTILITY CROSSING TABLE

	SAN	STM	WL	CLR
A	6" 124.46'	8" 125.76'	N/A	0.80'
B	N/A	24" 124.33'	8" 122.33*	1.33'

*EXISTING 8" WATER LINE IS ASSUMED TO HAVE 6" COVER FROM EXISTING GRADE. CONTRACTOR TO VERIFY EXACT LOCATION & DEPTH PRIOR TO ORDERING MATERIALS OR COMMENCEMENT OF CONSTRUCTION. IF A CONFLICT ARISES WITH WHAT IS DEPICTED WITHIN THESE PLANS, CONTRACTOR TO CONTACT THE ENGINEER IMMEDIATELY.

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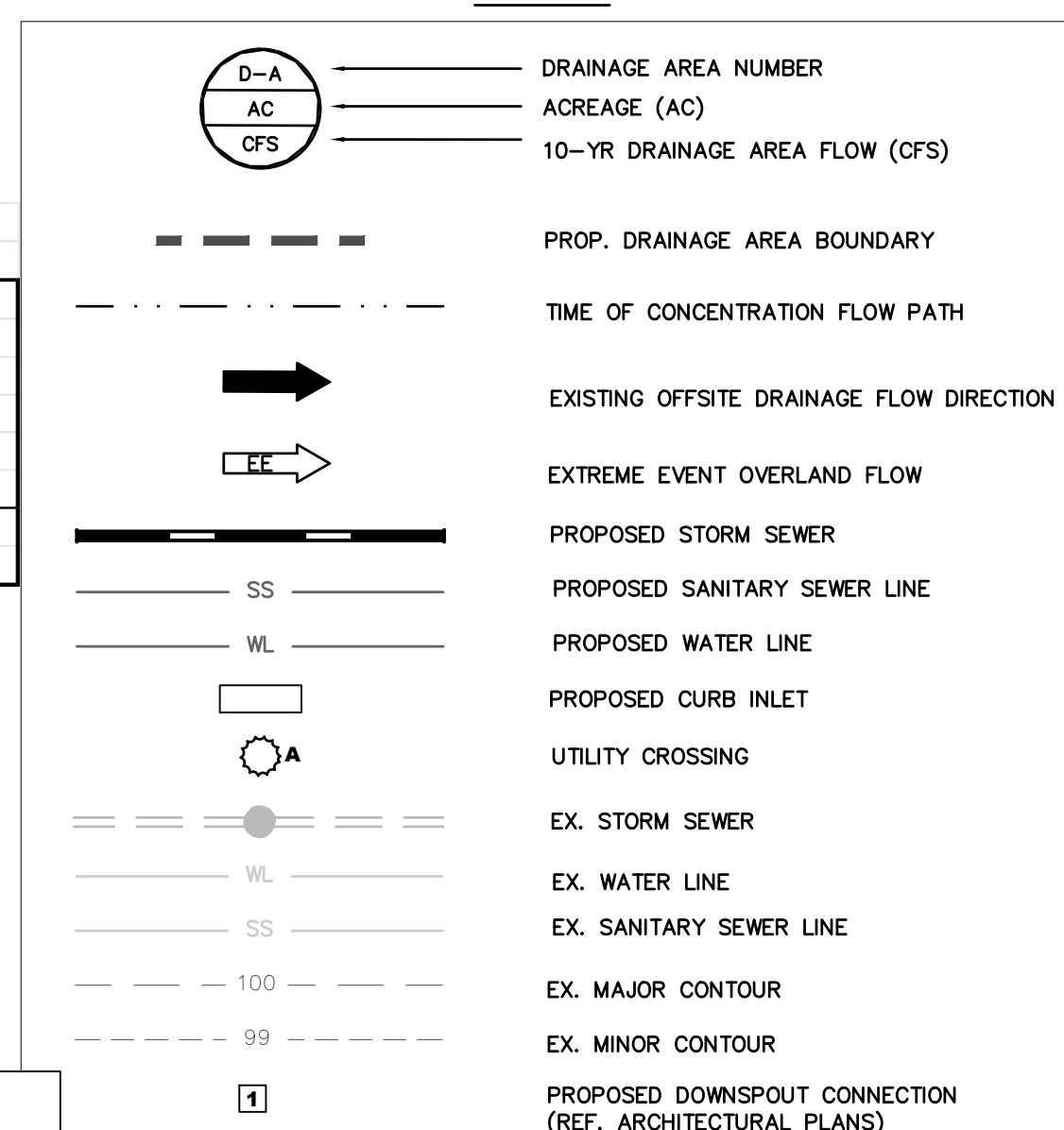
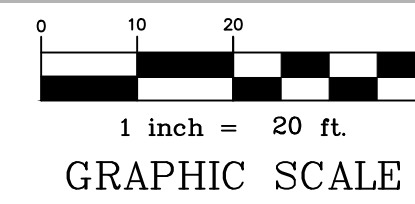
IMPERVIOUS COVER CALCULATIONS:

SITE AREA 1.113 AC
EXISTING IMPERVIOUS COVER 38,171 SQ FT (0.8763 AC)
(TO BE REMOVED)
PROPOSED IMPERVIOUS COVER 33,058 SQ FT (0.759 AC)
- DRIVE AISLE/PARKING LOT 26,757 SQ FT (0.614 AC)
- BUILDING 3,305 SQ FT (0.076 AC)
- SIDEWALK 2,996 SQ FT (0.069 AC)
THE PROPOSED REDEVELOPMENT WILL REDUCE THE AMOUNT OF IMPERVIOUS COVER, THEREFORE NO PROPOSED DETENTION WILL BE PROVIDED TO SERVE THE SUBJECT TRACT.

PROP. SITE WEIGHTED RUNOFF COEFFICIENT CALCS:

TOTAL LOT AREA: 1.113 ACRES
- BUILDING (1.00)*(3,305 SQ FT/43,560 SQ FT) 0.076
- PAVEMENT (0.90)*(29,753 SQ FT/43,560 SQ FT) 0.615
- PEROVIOUS PAVERS (0.35)*(683 SQ FT/43,560 SQ FT) 0.005
- LANDSCAPE (0.35)*(14,741 SQ FT/43,560 SQ FT) 0.118
 $C_w = 0.076 + 0.615 + 0.005 + 0.118$
 $C_w = 1.113$
 $C_w = 0.731 - USE 0.73$

BENCHMARK:
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PROPOSED TIME OF CONCENTRATION CALCULATIONS:

Time of Concentration (NRCs)
noL= 0.007 constant
Lsh= 111 feet Smooth Surface
P2 4.82 feet 2-Year 24-Hour
Ssh 0.00721 FT/FT (132.00-131.20)/111
tsh= 0.03 Hr
tsh= 1.61 Min
*UTILIZE 10 MINUTE TIME OF CONCENTRATION BASED UPON TXDOT MINIMUM CRITERIA FOR ANALYSIS.

Lsc 104.00
K 20.32
Ssc 0.03 (131.20-128.35)/104
tsc= 0.01 Hr
tsc1= 0.52 Min

Lpipe 243.00
Velocity 3.00 ft/s
tsc= 0.02 Hr
tsc2= 1.35 Min

tc=tsh+tsc+tspipe
tsh= 1.61 Min
tsc1= 0.52 Min
tspipe= 1.35 Min
tsc2= 3.48 Min

RAINFALL INTENSITY VALUES:

Parameter Selection		Design Annual Exceedance Probability (Design Annual Recurrence Interval)					
		50%	20%	10%	4%	2%	1%
1. Select Units	English						
2. Select Methodology	Partial Duration Series (PDS)						
3. Select County	Harris						
4. Select County Zone	Zone 1						
5. Select Time of Concentration (t _c)	10						
6. Select Time of Concentration (t _c)	10						

WHATABURGER SITE DRAINAGE SUMMARY:
TOTAL WB SITE AREA WITHIN TXDOT DRAINAGE AREA 2C_F2 = 1.113 ACRES
TOTAL TXDOT DRAINAGE AREA 2C_F2 = 3.609 ACRES
TOTAL TXDOT FLOW RATE ALLOWANCE (10-YEAR) (Q = 0.80*5.78*3.609) (REFER TO SHEET C3.4 - PRE ATLAS 14) = 17.94 CFS
WB SITE AREA FLOW RATE ALLOWANCE (1.113 AC/3.609 AC)*(X CFS/17.94 CFS) = 5.53 CFS
EX SITE AREA ACTUAL FLOW RATE AT OUTFALL (10-YEAR) (0.81 * 7.87 * 1.113) = 7.10 CFS
(0.81 IS BASED UPON EXISTING WEIGHTED 'C' RUNOFF CALCULATIONS, REFER TO SHEET C3.4 - PRE ATLAS 14)
WB PROP SITE AREA ACTUAL FLOW RATE AT OUTFALL (10-YEAR) (0.73 * 7.87 * 1.113) = 6.39 CFS
(0.73 IS BASED UPON WB REDEVELOPMENT WEIGHTED 'C' RUNOFF CALCULATIONS, THIS SHEET)
(7.87 IS BASED UPON TXDOT EDBLKUP-2019-V06.2.10.XLSM - REFER TO THIS SHEET)
100-YEAR CALCULATIONS:
EX SITE AREA ACTUAL FLOW RATE AT OUTFALL (0.81 * 11.56 * 1.113) = 10.42 CFS
(0.81 IS BASED UPON EXISTING WEIGHTED 'C' RUNOFF CALCULATIONS, THIS SHEET)
WB PROP SITE AREA ACTUAL FLOW RATE AT OUTFALL (0.73 * 11.56 * 1.113) = 9.39 CFS
(0.73 IS BASED UPON WB REDEVELOPMENT WEIGHTED 'C' RUNOFF CALCULATIONS, THIS SHEET)
(11.56 IS BASED UPON TXDOT EDBLKUP-2019-V06.2.10.XLSM - REFER TO THIS SHEET)
*AS PART OF THE REDEVELOPMENT OF THE SUBJECT SITE DUE TO THE PROPOSED WB, THE IMPERVIOUS COVER WILL BE REDUCED, THEREFORE NO DETENTION WILL BE REQUIRED, NOR PROVIDED.
**PLEASE NOTE THAT TXDOT DRAINAGE CALCULATIONS ARE PRE ATLAS 14. AS SUCH, CALCULATIONS FOR REDEVELOPMENT HAVE UTILIZED NOAA ATLAS 14.
**REFER TO EXISTING TXDOT DRAINAGE MAPS AND CALCULATIONS, SHEETS C3.4-C3.5
BASED UPON THE EXISTING TXDOT DRAINAGE INFRASTRUCTURE BEING SIZED FOR THE 10-YEAR RAINFALL EVENT (PER CALCULATIONS ON SHEET C3.5, A RESTRICTOR WILL BE PROVIDED TO REDUCE THE FLOW IN THE 100-YR RAINFALL EVENT TO NOT EXCEED WHAT WAS PREVIOUSLY APPROVED BY TXDOT AS PART OF THE FM 1093 EXPANSION PLANS

DRAINAGE SUMMARY TABLE (APPLICABLE TO PROJECTS WITH DRAINAGE TO TXDOT)

Please copy and paste the complete table onto the drainage sheet

TXDOT Tract Number (TIN)	FM 1093
Highway	FM 1093
TXDOT Frontage	152
TXDOT Area (Use of pipe within 150-ft frontage)	0.52
Total tract area based on submitted survey map	3.1658
Proposed disturbed area	1.113
Proposed contribution drainage area to TXDOT	1.113
Off-site contributing drainage area (if applicable)	N/A
Increased impervious area	-4,064*
10-yr proposed detention volume	N/A
10-yr proposed detention volume	N/A
10-yr PFD-developed peak flow	5.53**
10-yr PFD-developed peak flow (Before design on restriction)	6.39
10-yr Proposed discharge to TXDOT (R.O.W. (With detention/restrictor))	2.09
100-yr proposed detention volume	N/A
100-yr proposed detention volume	N/A
100-yr PFD-developed peak flow	5.53**
100-yr PFD-developed peak flow (Before design on restriction)	6.39
100-yr Proposed discharge to TXDOT (R.O.W. (With detention/restrictor))	5.07
TXDOT in-built or calculated allowable discharge	5.53***
Primary restrictor device size	24"
Primary restrictor size	16"
Primary restrictor maximum discharge	5.07
Secondary outfall device size (if applicable)	N/A
Secondary outfall discharge (if applicable)	N/A
Maximum combined pumped discharge (if applicable)	N/A
Effective discharge volume (if applicable)	N/A
Effective gravity discharge elevation (if applicable)	N/A
S.F.E. per effective FPM (if applicable)	N/A
Proposed fill below S.F.E. (if applicable)	N/A
Proposed cut below S.F.E. (if applicable)	N/A

*1.113 is included
**Reduction in Imp Cover
**Based on allowable from TXDOT DA Map Sheet C3.5 (Actual Current Site Flow to TXDOT is 7.10 CFS based upon NOAA Atlas 14 Rainfall)
**Based on allowable from TXDOT DA Map Sheet C3.5 (Actual Current Site Flow to TXDOT is 10.42 CFS based upon NOAA Atlas 14 Rainfall)
***Existing TXDOT calculations are only for 10-yr rainfall event.

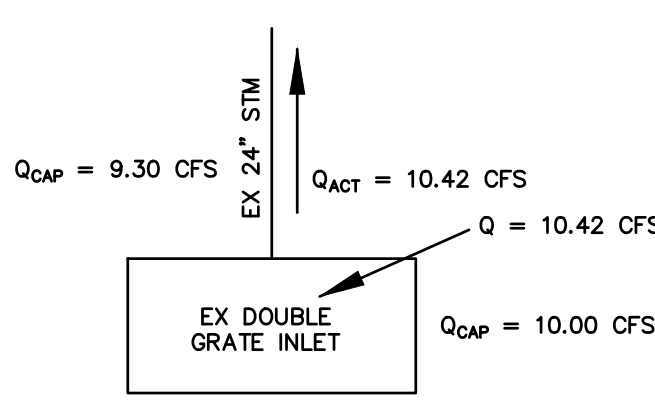
GENERAL NOTES

- REFERENCE STORM SEWER NOTES SHEET C0.1 FOR PIPE MATERIAL REQUIREMENTS.
- REFERENCE MEP PLANS FOR EXACT CONTINUATION OF PROPOSED STORM SEWER INSIDE OF BUILDING.
- FOR TYPE "BB" INLET AND BACKFILL DETAILS, SEE SHEET C7.2.
- CONTRACTOR TO VERIFY STORM SEWER CONNECTION FOR LOCATION AND DEPTH PRIOR TO ORDERING MATERIALS OR COMMENCEMENT OF WORK.
- TOP OF GATE ELEVATIONS SHOWN ARE FOR REFERENCE ONLY. SEE GRADING ON SHEET C4.0 FOR FINAL TOP OF GATE ELEVATIONS.
- ALL GRAVITY STORM LINES TO BE CONSTRUCTED STARTED FROM THE LOWEST POINT.

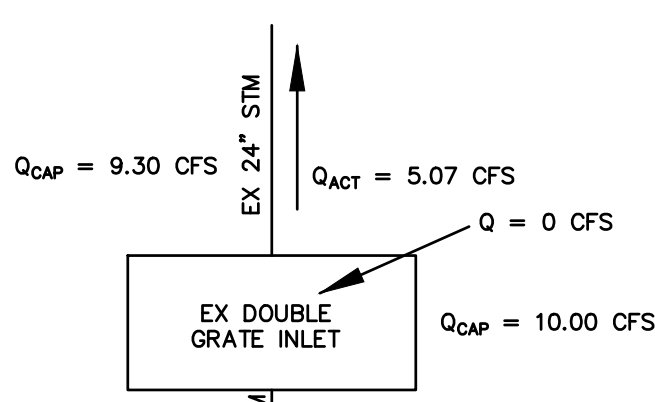
PROPOSED 2-YEAR DRAINAGE CALCULATIONS:

Manhole No.	Drainage Area (acres)	Total Area (acres)	Runoff Coefficient C	DA C * A	Total C * A	Time of Conc. (min)	Intensity I (in/hr)	Drainage Area Flow (cfs)	Total Flow (cfs)
From to									
SITE	EX	1.1130	0.73	0.81	0.81	10.00	5.58	4.534	4.534

INLET CAPACITY CALCS:



EXISTING/PRE CONDITION



PROPOSED 10-YEAR DRAINAGE CALCULATIONS:

Manhole No.	Drainage Area (acres)	Total Area (acres)	Runoff Coefficient C	DA C * A	Total C * A	Time of Conc. (min)	Intensity I (in/hr)	Drainage Area Flow (cfs)	Total Flow (cfs)
From to									
SITE	EX	1.1130	0.73	0.81	0.81	10.00	7.87	6.394	6.394

PROPOSED 100-YEAR DRAINAGE CALCULATIONS:

Manhole No.	Drainage Area (acres)	Total Area (acres)	Runoff Coefficient C	DA C * A	Total C * A	Time of Conc. (min)	Intensity I (in/hr)	Drainage Area Flow (cfs)	Total Flow (cfs)
From to									
SITE	EX	1.113	0.73	0.81	0.81	10.00	11.56	9.39	9.39

RESTRICTOR CALCULATIONS

Q_{allow max} = 5.53 (BASED OFF PRO-RATA SHARE - 10-YR RAINFALL)
MAX WSE = 128.05 (TOP OF EXISTING INLET AT CONNECTION)
Ø OF PIPE OUTFALL = 124.69
H = 128.05 - 124.82 = 3.23
D = $Q^{1/2} / (2.25H^{1/4})$
D = 0.78
9 IN RESTRICTOR PROPOSED
Q_{provided 100-yr} = $CA\sqrt{2GH}$ = 0.80 * 0.44 * $\sqrt{2*32.2*3.23}$ = 5.07 CFS
Q_{provided 100-yr} > Q_{ALLOWED 10-yr}
Q_{provided 2-yr} = $CA\sqrt{2GH}$ = 0.80 * 0.44 * $\sqrt{2*32.2*0.55}$ = 2.09 CFS
Q_{provided 10-yr} = $CA\sqrt{2GH}$ = 0.80 * 0.44 * $\sqrt{2*32.2*1.07}$ = 2.92 CFS

NO. _____
REVISIONS _____

ALJ Lindsey
 Civil Engineers
 1885 N. Loop West, Suite 200
 Houston, TX 77057
 PRN F-1596

DATE: _____
 08 AUGUST 2024

PROJECT NO. 1041.25/1001

DATE: AUGUST 2024

SCALE: 1:20

DRAWN BY: AA

CHECKED BY: KAD

PROPOSED DRAINAGE AREA MAP & STORM SEWER PLAN

WHATABURGER 29639 FM 1093 RD CITY OF FULSHEAR, TEXAS

SHEET C3.1



Permit to Construct Access Driveway Facilities on Highway Right of Way

Form 1058
(Rev. 09/23)
Page 1 of 2

PERMIT NUMBER: 24040011				
		GPS*	ROADWAY	
REQUESTOR		LATITUDE, LONGITUDE	HWY NAME	FM1093
		29.691916 -95.880314	FOR TxDOT'S USE	
			CONTROL	0543
NAME	MS Fulshear Mini Storage, LLC c/o ALJ Lindsey		SECTION	02
MAILING ADDRESS	29639 Farm to Market 1093			
CITY, STATE, ZIP	Fulshear, TX 77441			
PHONE NUMBER	(346) 235-3232			
*GLOBAL POSITIONING SYSTEM COORDINATES AT INTERSECTION OF DRIVEWAY CENTERLINE WITH ABUTTING ROADWAY				

The Texas Department of Transportation, hereinafter called the State, hereby authorizes MS Fulshear Mini Storage, LLC, hereinafter called the Permittee, to construct / reconstruct a Drainage Only (residential, convenience store, retail mall, farm, etc.) access driveway on the highway right of way abutting highway number FM1093 in Fort Bend County County, located SE corner of FM1093 and Bois D'Arc Lane - EB.

USE ADDITIONAL SHEETS AS NEEDED

Is this parcel in current litigation with the State of Texas? YES NO

Is the Permittee or a family member of Permittee an employee or official of the Texas Department of Transportation? YES NO

Does an employee or official of the Texas Department of Transportation serve as an employee or officer of Permittee or own a controlling interest in Permittee? YES NO

This permit is subject to the Access Driveway Policy described on page 2 and the following:

1. The undersigned hereby agrees to comply with the terms and conditions set forth in this permit for construction and maintenance of an access driveway on the state highway right of way.
2. The Permittee represents that the design of the facilities, as shown in the attached sketch, is in accordance with the Roadway Design Manual, Hydraulic Design Manual and the access management standards set forth in the Access Management Manual (except as otherwise permitted by an approved variance).
3. Construction of the driveway shall be in accordance with the attached design sketch, and is subject to inspection and approval by the State.
4. Maintenance of facilities constructed hereunder shall be the responsibility of the Permittee, and the State reserves the right to require any changes, maintenance or repairs as may be necessary to provide protection of life or property on or adjacent to the highway. Changes in design will be made only with prior written approval of the State.
5. The Permittee shall hold harmless the State and its duly appointed agents and employees against any action for personal injury or property damage related to the driveway permitted hereunder.
6. Except for regulatory and guide signs at county roads and city streets, the Permittee shall not erect any sign on or extending over any portion of the highway right of way. The Permittee shall ensure that any vehicle service fixtures such as fuel pumps, vendor stands, or tanks shall be located at least 12 feet from the right of way line to ensure that any vehicle services from these fixtures will be off the highway right of way.
7. The State reserves the right to require a new access driveway permit in the event of: (i) a material change in land use, driveway traffic volume or vehicle types using the driveway, or (ii) reconstruction or other modification of the highway facility by the State.
8. The State may revoke this permit upon violation of any provision of this permit by the Permittee.
9. This permit will become null and void if the above-referenced driveway facilities are not constructed within six (6) months from the issuance date of this permit.
10. The Permittee will contact the State's representative Juan M Mata telephone, (281) 238-7963 , at least twenty-four (24) hours prior to beginning the work authorized by this permit.
11. The requesting Permittee will be provided instructions on the appeal process if this permit request is denied by the State.

The undersigned hereby agrees to comply with the terms and conditions set forth in this permit for construction and maintenance of an access driveway on the highway right of way.

Date: 6/26/2024

Signed: _____

DocuSigned by:



DocuSigned by: _____ (Property owner or owner's representative)

Carlos M. Zepeda, Jr., P.E.

999EB2AF5A District Engineer, or designee Approval

<u>6/26/2024</u>	
Date of Issuance	
Date of Issuance as per Variance to AMM	District Engineer, or designee Approval
Date of Denial	District Engineer Denial (No Delegation)

Access Driveway Policy

Title 43 Texas Administrative Code (Transportation), Chapter 11 (Design), Subchapter C (Access Connections To State Highways) and the "Access Management Manual" establish policy for the granting of access and the design, materials, and construction of driveways connecting to state highways. All driveway facilities must follow this policy. To the extent there is any conflict between this permit and the policy, the policy shall control. If a proposed driveway does not comply with the access management standards, the owner may seek a variance to a requirement contained in the access management standards by contacting the local TxDOT office.

TxDOT Driveway Permit Request Contact

For a local contact for your TxDOT Driveway Permit Request or variance request, visit: <http://www.txdot.gov/inside-txdot/district.html>. You can click on the section of the map closest to your location to find the local TxDOT office. You can also click on the drop down box below the map to find the district for your county.

Other Conditions

In addition to Items 1 thru 11 on page 1 of this permit, the facility shall also be in accordance with the attached sketch and subject to the following additional conditions stated below:

Hydraulic approval per following specs.: • Proposed peak flow less than exist peak flow. • Existing structure built before 2001. • Detention pond: N/A • 24" outfall size tied to existing inlet on FM 1093 ditch • Restrictor: 9" • Plan file: WHATABURGER BOIS DARC.pdf • Last updated plan 05-22-2024
Also, attached Special Provisions dated July 1, 2022 must be followed.

Variance Documentation Justification

For a Variance request, please indicate which of the below are applicable, as required by TAC §11.52(e):

- a significant negative impact to the owner's real property or its use will likely result from the denial of its request for the variance, including the loss of reasonable access to the property or undue hardship on a business located on the property.
- an unusual condition affecting the property exists that was not caused by the property owner and justifies the request for the variance.

For the conditions selected above, provide written justification below. (Attach additional sheets, if needed)

For TXDOT use below:

For Variance denials, please indicate which of the below conditions, as provided in TAC §11.52(e), were determined:

- adversely affect the safety, design, construction, mobility, efficient operation, or maintenance of the highway; or
- likely impair the ability of the state or the department to receive funds for highway construction or maintenance from the federal government.

Attachments:

- Sketch of Installation
- All Variance Documentation