



STAFF REPORT

Board of Adjustment

CASE #AV-1738-17

BOA Date:	April 11 th , 2017	Case Planner:	Domenic Martinelli	Phone:	303-289-3670
Location:	8581 E 96 th Avenue Henderson, CO 80640				
Applicant:	Sinclair Transport Company	Owner:	Same as Applicant		
Address:	8581 E 96th Ave Henderson, CO 80640	Address:	550 East South Temple Salt Lake City, UT 84102		

Case Summary

Request:	The applicant is requesting the approval of a 437 square foot sign variance.
Project Description:	The applicant is proposing a 537 square foot painted wall sign on the storage tank in the northwest corner of the site. The current maximum standard for all signs in industrial zone districts is 100 square feet.
Issues/Concerns:	<ul style="list-style-type: none">Sign Visibility & SafetyVisual impact from Interstate 76
Key Approval Criteria:	<ul style="list-style-type: none">The physical character of the property creates a situation where the strict enforcement of the code will deprive the property of privileges generally enjoyed by property of the same classification.The variance will not be of substantial detriment to adjacent property.The hardship is not self-imposed.
Staff Recommendation:	Approval
Current Zone District:	I-3 (Heavy Intensity Industrial District)
Comp Plan Designation:	General Industrial

Attachments for Review: *Checked if applicable to case.*

<input checked="" type="checkbox"/> Applicant's Narrative Summary	<input checked="" type="checkbox"/> Vicinity Map
<input type="checkbox"/> Development Review Team Recommendation	<input type="checkbox"/> Neighborhood Meeting Notes
<input checked="" type="checkbox"/> Site Plan	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

Background Information

Site Information

Site Size:	35.64 Acres
Current Conditions:	The site is currently developed as a petroleum storage and transfer facility.
Existing Right-of-Way:	East 96 th Avenue (South)
Neighborhood:	Phelps Tointon
Existing Buildings:	Yes
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site in Floodplain?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Surrounding Properties

Existing Land Use		Occupant	Zoning
North	Industrial	Union Pacific Auto Unload Facility (Unincorporated ADCO)	R-1
South	Commercial Undeveloped	7-Eleven Undeveloped Lot (Marty Farms PUD)	PUD PUD
East	Industrial Industrial	Kersten Trailer Sales, INC Rocky Mountain Natural Meats	I-3 I-3
West	Right-of-Way	Union Pacific Railroad	ROW

Case History

The subject property has one conditional use permit, one annexation case, and one annexation zoning case.

Case	Date	Request	Action
AN-220-07	December 20 th , 2007	Annexation from ADCO to Commerce City	Approval
Z-875-08	March 17 th , 2008	Zone Change from ADCO to I-3	Approval
CU-105-14	July 7 th , 2014	Conditional Use Permit for Petroleum Storage	Approval with Conditions

Case CU-105-14 was a conditional use permit to bring the property's existing petroleum storage operations into legal and conforming status.

Cases AN-220-07 and Z-875-08 effectively annexed the subject property and zoned it to I-3.

Applicant's Request

The applicant has requested a 537 foot painted wall sign to be placed on a fuel storage tank on the northwest corner of the property. According to the applicant: *"The unique shape and size of Sinclair's property, totaling approximately 37 acres with only one street frontage, has presented a challenge. In addition to the property's shape and size, most of the property's development and landscaping as it exists today adds cause for this requested variance and no other structures or locations exist along the property's frontage where the proposed sign could be installed to be observed. The applicant states that a sign size of 537 square feet is necessary because of*



visibility from the nearest adjacent right-of-way, and safety concerns for vehicles driving along Interstate 76: *"The best and only location for the proposed sign to be painted at in order to be seen, will be located at a distance of approximately 2,270-feet from the nearest street, Highway 76. This is the furthest structure from the property's frontage and the closest structure visible to the highway. The structure that the sign is proposed to be painted on is a large, white cylindrical steel storage tank that has an approximate surface area of 6,432 square feet and when completed, the sign will cover only about 8.3% of its total surface area. According to the United State Sign Council on Sign Legibility and Distances, the size of the proposed variance given the parameters of the location and the design requirements of the highway, is slightly less than the calculations provide for a suggested minimum for legibility."*

The applicant has stated that the proposed signage is necessary in order to advertise the business on the subject property, and make people in the vicinity generally aware of their business location. As part of the requested variance, the applicant has also agreed to modify the existing non-conforming pole sign on the south side of the property to meet Commerce City standards.



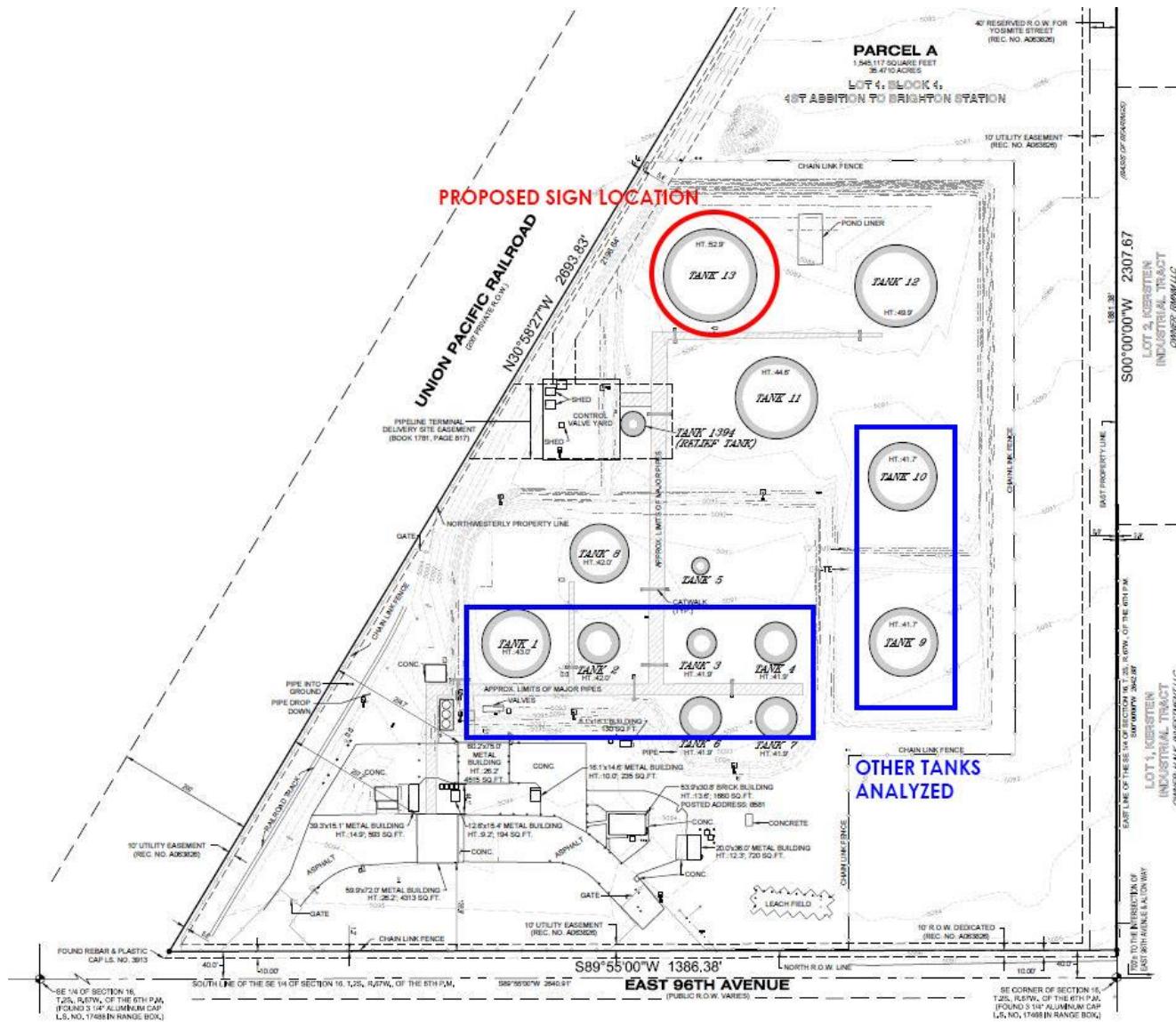
Development Review Team Analysis

The applicant has requested a 437 square foot variance in order to place a 537 square foot painted wall sign on a fuel storage tank on the northwest corner of the property, when the maximum allowable wall sign for a single industrial user on a property is 100 square feet per Land Development Code (LDC) Section 21-8300, Table VIII-2. The Development Review Team (DRT) reviewed the circumstances of the subject property and applicable sections of Articles III and VIII of the LDC as they relate to this variance case.

Table VIII-2 breaks down signage for industrial properties into single business properties, and multi-tenant or multiple building properties. As the Sinclair is the only user on the subject property, the single user standards apply. Per this table, the property is allowed 1 wall sign per street frontage (not exceeding 2 frontages, with each sign not exceeding **100 square feet**). The DRT also determined that

the proposed painted wall sign does not meet the criterial to be classified as a mural under LDC Section 21-8620, since it conveys a commercial message.

As the applicant has demonstrated through images and narrative, the only feasible location on the site to place a wall sign would be on the northern tanks. The subject property does have multiple tanks on the south edge of the property that are less than 500' from the East 96th Avenue Right-of-Way. Unfortunately, the majority of the tanks are partially or completely screened from the right-of-way due to heavy landscaping, existing infrastructure and utility equipment. Two tanks on the southeast corner have unobstructed views, but were constructed with a steel safety staircase per OSHA standards that would prevent a sign from being placed in those locations. Additionally, based on the distance from the right-of-way and the United State Sign Council on Sign Legibility and Distances Guidelines, any tanks that weren't obstructed would still require a sign variance to be legible.



The proposed wall sign on the northwest tank would be approximately 2,270 feet from the nearest right-of-way (Interstate 76). The United States Sign Council (USSC) provides publication of sign size and its relationship to safety through the *Best Practice Standards for On Premise Signs* document.

Based on the classification of road type, and the distance of the sign from the right-of-way, the proposed sign size of 537 square feet is the minimum needed to ensure safety for vehicles driving along the interstate. The USSC describes in detail how the size of lettering & the size of the overall signage can be dangerous to vehicular traffic, when the signage is undersized relative to the distance of the sign from the right-of-way. Undersized signage can create a safety hazard, as the driver requires additional time to read and interpret the sign, which is more time the driver is distracted from the road, and less potential response time in the case of an accident.

Additionally, the applicant will agree to convert the non-conforming pole sign along 96th Avenue to meet Commerce City's adopted regulations for monument signs. This includes a maximum of 20' in height, a masonry base, and a 25' setback from the right-of-way. This item is incorporated as a condition to this case.

In conclusion, the DRT believes that the large size of the site (37 acres), that it only contains one street frontage, the odd and unique shape of the property, and adjacency to rail-road right-of-way contribute to a unique situation that deprives this property the specific signage allowances that are generally enjoyed by properties of the same classification. These factors present an undue hardship in comparison to other properties in the vicinity with a similar size. Due to the existing landscaping and visibility issues on the south end of the property, and the vast distance from the northwest corner of the site to the nearest right-of-way, the proposed variance justified in allowing the property to have some form of wall signage. By adhering strictly to the standards of the code in this circumstance, any wall signage that would be placed on the subject property would not reasonably be visible from outside view. The application was sent out to the city referral agencies, as standard procedure, and no objections were expressed to staff.

Criteria Met?	Sec. 21-3222. Variances	Rationale
<input checked="" type="checkbox"/>	The physical character of the property, including dimensions, topography or other extraordinary situation or condition of the property, create a situation where the strict enforcement of the standards in this land development code will deprive the property of privileges generally enjoyed by property of the same classification in the same zoning district (hardship);	The property contains a unique situation where the large size of the property (37 acres), and the lack of only one street frontage limit where a sign could reasonably be located and be visible. Large amounts of landscaping and utility equipment block a clear view along the 96 th Avenue right-of-way, and in any circumstance, a variance would be needed for any proposed wall sign to be visible from right-of-way.
<input checked="" type="checkbox"/>	The hardship is not self imposed;	Annexed in 2008, the existing property was developed under Adams County Regulations and Standards. The unique character of the site & the current arrangement of storage tanks and facility buildings creates a situation where the hardship that the property faces in terms of wall signage is not self-created.
<input checked="" type="checkbox"/>	The variance will not be of substantial detriment to adjacent property;	At a proposed size of 537 square feet, the sign will be safely visible from vehicles passing along Interstate 76, and the painted sign itself does not provide substantial detriment to adjacent properties
<input checked="" type="checkbox"/>	The variance granted is the minimum needed for the reasonable use of the land, building, or structure;	The requested variance is the minimum determined by the United States Sign Council for a distance of 2,270 feet from the nearest right-of-way. Additionally, granting the variance

Criteria Met?	Sec. 21-3222. Variances	Rationale
		would provide the property with the one wall sign they would be allowed with the current city sign regulations, since one frontage would allow for a maximum of one wall sign.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Variance set forth in the Land Development Code and recommends that the Board of Adjustment approve/deny the request, subject to the following condition:

A. The applicant will modify the existing non-conforming pole sign on the south edge of the property to comply fully with all applicable monument sign regulations as adopted by the city. The applicant shall submit modifications to the pole sign along with the sign permit for the wall sign, and shall be completed at the time of conducting a final inspection for the signage.

Recommended Motion

To recommend approval:

I move that the Board of Adjustment find that the requested Variance for the property located at **8581 E 96th Avenue** contained in case **AV-1738-17** meets the criteria of the Land Development Code and, based upon such finding, approve the Variance.

To recommend approval subject to condition(s):

I move that the Board of Adjustment find that upon satisfying the following conditions:

- A. *The applicant will modify the existing non-conforming pole sign on the south edge of the property to comply fully with all applicable monument sign regulations as adopted by the city. The applicant shall submit modifications to the pole sign along with the sign permit for the wall sign, and shall be completed at the time of conducting a final inspection for the signage.*

the requested Variance for the property located at **8581 E 96th Avenue** contained in case **AV-1738-17** meets the criteria of the Land Development Code and, based upon such finding, approve the Variance.

Alternative Motions

To recommend approval:

I move that the Board of Adjustment find that the requested Variance for the property located at **8581 E 96th Avenue** contained in case **AV-1738-17** meets the criteria of the Land Development Code and, based upon such finding, approve the Variance.

To recommend denial:

I move that the Board of Adjustment deny the requested Variance for the property located at **8581 E 96th Avenue** contained in case **AV-1738-17** because it fails to meet the following criteria of the Land Development Code:

List the criteria not met