

## Sinclair Transportation Company – Variance Proposal

### Addendum No. 2 – Case #AV-1738-16

*The following information is provided by Sinclair Transportation Company as the second addendum to address the comments and suggestions made by the City of Commerce City via telephone and an e-mail follow-up in December of 2016. The comments and suggestions needing to be addressed are included in bold font, with Sinclair's responses and answers following in regular, non-bold font. Thank you.*

- **Modify the existing non-conforming pole sign to meet the current sign code contained in Article VIII of the Land Development Code**
  - **Maximum 20' Height**
  - **Must have a masonry base**
  - **Minimum 25' Setback**

The sign that currently exists on the property, utilized as a property identification sign, was installed prior to the property's annexation into Commerce City's limits and thus is non-conforming to the City's current sign specifications for a monument sign as it is considered to be a pole sign. The sign is presently mounted to two (2) rectangular steel poles that are each bolted into separate concrete pads; has an approximate area of one hundred (100) square feet; is approximately twenty-five (25) feet above surface grade; and is set approximately thirty six (36) feet from the property boundary along East 96<sup>th</sup> Avenue and approximately seventy (70) feet from the edge of East 96<sup>th</sup> Avenue.

Sinclair has agreed to modify the existing pole sign such that it complies and conforms to the City's current specifications found in Article VIII of the Land Development Code for a monument sign. This would be achieved via solid masonry construction on top of a poured concrete slab that will be setback at a minimum of twenty five (25) feet back from the property boundary along East 96<sup>th</sup> Avenue. The supporting masonry would be approximately seven (7) feet wide and eight (8) inches thick, or at least two-thirds (2/3) of the sign's width and thickness as specified in the City's Code.

- **Provide a description of why the sign is to be located on the north side of the property as opposed to the south**
  - **Additionally, analyze the ability of placing a wall side on one of the south facing tanks, and what minimum size would be needed for visibility**

Other locations for placement of the logo, or sign, on the property were considered and analyzed in detail prior to the decision to place it at this location (on the northern-most tank that exists on the property). Unfortunately, due to the unique size, shape, and parameters of the property and its existing infrastructure, as well as driver consideration and safety concerns, the only feasible location for the sign is found to be on either one of the two northern-most tanks, and specifically the north-western tank.

When traveling eastbound along the property's frontage of East 96<sup>th</sup> Avenue, views of the southern-most tanks are almost completely obstructed because of the infrastructure that exists on the property. This includes the existing landscaping, truck loading and off-loading canopy bays, butane blending system tanks and structures, the administrative building, storage garage, product flare, and steel piping of various sizes. Due to the existing infrastructure, drivers traveling westbound along East 96<sup>th</sup> Avenue also have obstructed views of most of the tanks located on the southern side of the property. However, almost unobstructed views of the tanks that are located on the south-eastern corner of the property, approximately two (2) tanks, do exist and can be seen briefly when traveling westbound. Unfortunately, the tanks were designed and constructed per API code and OSHA standards to have a steel staircase on the south side of the tank that curves around and extends to the roof of each one, which eliminates the surface area available to paint the logo where it could be seen.

Sinclair further re-evaluated placement of the logo on these southern-most tanks, specifically trying to determine if it could be located on Tank 9, the tank located on the southeastern corner of the property. It appears when driving westbound along East 96<sup>th</sup> Avenue, a portion of the tank can be seen briefly without the obstruction of the steel staircase or infrastructure that exists. This view can only be observed for a limited distance as one crosses the Yosemite Street intersection and at an angle that is almost parallel to the road. According to the United States Sign Council's (USSC) Sign Legibility equations and guidelines for safe legibility of signs while driving, parallel signs are at a threefold disadvantage relative to perpendicular signs and are viewed by drivers only during short sideway glance durations, usually measured in fractions of seconds. With this in consideration along with the existing road hazards such as the railroad crossing, semi-truck traffic into and around Sinclair's facility, and traffic into the new gas station on the corner of Yosemite Street, placing the logo at this location on Tank 9 would have the possibility of substantially reducing the safety of drivers along East 96<sup>th</sup> Avenue.

## Sinclair Transportation Company – Variance Proposal

### Addendum No. 1 – Case #AV-1738-16

*The following information is provided by Sinclair Transportation Company as an addendum containing the appropriate responses to the City of Commerce City's comment letter dated October 17, 2016. Please note the sections of the City's Land Development Code that were referenced in the City's comment letter are shown in bold font, with Sinclair's responses and answers following in regular, non-bold font. Thank you.*

#### **Article III-32; Section 21-3222(4) – Approval Criteria**

##### **Section 21-3222(4)(a) – All of the following must be met:**

**Section 21-3222(4)(a)(i) – 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 facility is located at 8581 East 96<sup>th</sup> Avenue in the County of Adams and City of Commerce City, Colorado 80640 and it incorporates two (2) separate parcels, identified with the Parcel Identification Numbers 0172116007001 and 0172116007017. Combined, the parcels total approximately 37.04 acres in size (or 1.25 and 35.79 acres separately). The property is zoned I-3, or Heavy Intensity Industrial District, according to the City of Commerce City's Land Development Code. The only property or street frontage that exists is along East 96<sup>th</sup> Avenue on the southern perimeter of the property.

The unique shape and size of Sinclair's property, totaling approximately 37 acres, with a shape resembling that of a right triangle, and having only one (1) boundary of it considered as street frontage with a designated future road R.O.W. expansion into the property, has presented a challenge and cause for this particular hardship and requested variance. 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. Due to the limited space of property frontage and need for ingress and egress with safe setback requirements for the fuel trucks, no other structures or locations where the proposed sign could be installed at and observed exist along the property's frontage.

##### **Section 21-3222(4)(a)(ii) – The hardship is not self-imposed**

(Refer to response above for Section 21-3222(4)(a)(i))

In addition to the response provided for Section 21-3222(4)(a)(i) above, Sinclair is required to design, implement, follow, and comply with many local, state, and federal rules and regulations at the property, because of the particular industry and the operations that are conducted at the property. The layout of the property has been designed such that each operation and structure be separated by strict distances from neighboring structures, property boundaries, occupied buildings, emergency exits, water sources, and other potential hazards that may exist. In addition to the setback distances required and enforced, each operation and structure must be specifically and properly contained according to its function. The tanks, for example, must all be contained within an earthen-diked perimeter that has the ability to contain, or a designed volume to contain, approximately 110% of the total volume of product of the largest tank that is being contained, minus the volume of the footprint of any other tanks or structures that may also share the same containment. Specific fire codes also require this containment to have two points of ingress and egress in the event of an emergency, with the appropriate fire protection system accessible nearby, and the tanks be separated specific distances from one another depending on the product(s) they contain. Therefore, Sinclair believes that this particular hardship due to the particular layout required of the structures located on the limited and unique shape of the property, has not been self-imposed.

**-and-**

**Section 21-3222(4)(a)(iii) – The variance will not be of substantial detriment to adjacent property**

The proposed variance, or sign, will be located on the north side, or back, of the property facing a northern direction. This location is furthest away from and facing the opposite direction of the property's frontage and City street of 96th Avenue. The proposed location for the variance will have the railroad abutting it to the west and will have the back of an adjacent property abutting it to the east, with no adjacent property frontages or roads nearby. Additionally, both the railroad and the property to the east share the similar land use designation as the Denver Products Terminal, being industrial in use, and therefore will not cause a real or perceived loss in the surrounding property values.

There are no roads in close proximity to the proposed location of the requested variance that could create or increase traffic in the area.. There are also no parking areas in proximity to the location of request, or in the area where the location is visible from, for problems to be created or enhanced either. Although it may be viewed in passing, the nature of the requested variance being of the company's logo would not create nor increase the traffic flow of travelers on Interstate 76 because of it. Rather, the location that the sign is proposed to be at would be the best option for it as the traffic along the property's frontage has been historically seen to have difficulties as is, with the existing railroad crossing and high volume of traffic flow that exist currently.

The logo will be painted on the steel storage tank's exterior surface, on top of the existing white coating and therefore will not block solar access of any kind. The size of the logo in relation to the distance of its proposed location to any adjacent property or structures would not have the potential to cause a glare to and would not negatively impact the surrounding area. The paint to be used for the logo will also not

have the ability to cause a significant glare that would make an impact on the surrounding area either. The requested variance will also not produce air pollution; neither on a continual basis as it will dry, nor during the one-time installation of the logo as it will be painted over a custom-made stencil over a short duration of time.

**Section 21-3222(4)(b) – At least one of the following must be met:**

**Section 21-3222(4)(b)(i) – The variance granted is the minimum needed for the reasonable use of the land, building, or structure**

Due to the size and parameters of the property, as well as the local, state, and federal rules and regulations imposed at the facility, the best and only location for the proposed sign to be painted at in order to be seen, will be facing north and 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 calculations and design requirements designated by the United State Sign Council on Sign Legibility and Distances, the size of the proposed sign is slightly less than the calculations provide for as a 'suggested minimum for legibility'. The parameters used in calculating the minimum square footage for safe legibility are distance from location to vehicle travel, design speed of traveled road, curvature of traveled road, white space in signage, and font and color of signage. Although the size of the sign is larger than that allowed by the Land Development Code, Sinclair is requesting this variance in a wall sign 567 square feet in surface area as the minimum needed in order to maintain the safety of those traveling and able to view the proposed sign.

**-or-**

**Section 21-3222(4)(b)(ii) – The character of the district will not be changed by the granting of the variance**

The surrounding area and adjacent conforming properties all share the same industrial use designation as the Denver Products Terminal, as described previously. The proposed variance being of Sinclair's company logo remains consistent with the company's continued purpose and use of the property, as well as with the surrounding adjacent property uses.

It is anticipated that the requested variance will not alter the character of the neighborhood negatively, but rather will have a positive impact in that those traveling into the City's limits via US-76, or even via the railroad, will become more aware of what the large white tanks are that they see, who they belong to, and the overall industrial-nature of the area that they are traveling in.