

ORDINANCE NO. 23-S-16

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS TO APPROVE A SPECIFIC USE PERMIT TO ALLOW FOR OPERATION OF A CONVENIENCE STORE WITH GAS PUMPS ON APPROXIMATELY 5.5 ACRES OF LAND, MORE SPECIFICALLY DESCRIBED AS 1008 AND 1020 FM 78, SCHERTZ TX, 78154, ALSO KNOWN AS PROPERTY IDENTIFICATION NUMBER 67650 AND 67552, CITY OF SCHERTZ, GUADALUPE COUNTY, TEXAS.

WHEREAS, an application for a Specific Use Permit to allow a convenience store with gas pumps, more particularly described in Exhibit A attached hereto and incorporated herein by reference, as 1008 and 1020 FM 78, and more specifically described as Guadalupe County Property ID 67650 and 67552, (herein, the “Property”) has been filed with the City; and

WHEREAS, the City’s Unified Development Code Section 21.5.11. D. provides for certain criteria to be considered by the Planning and Zoning Commission in making recommendations to City Council and by City Council in considering final action on a requested specific use permit (the “Criteria”); and

WHEREAS, on July 26, 2023, the Planning and Zoning Commission conducted a public hearing and, after considering the Criteria, made a recommendation to City Council to approve the Specific Use Permit for a convenience store with gas pumps, with modifications to the conceptual plan; and

WHEREAS, on September 5, 2023, the City Council conducted a public hearing and after considering the Criteria and recommendation by the Planning and Zoning Commission, determined that the requested Specific Use Permit be approved as provided for herein.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SCHERTZ, TEXAS THAT:

Section 1. A Specific Use Permit for Guadalupe County Property IDs 67650 and 67552, more particularly described in the attached Exhibit A, is hereby approved to allow a convenience store with gas pumps conditioned upon the following occurring:

- a) A building permit is approved within two (2) years of the adoption of the SUP Ordinance in accordance with Unified Development Code Article 5, Section 21.5.11.F Expiration of Specific Use Permit.
- b) The dumpster location and the screening wall shall be provided as per the conceptual site plan in Exhibit B.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and

such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 4. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 7. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 8. This Ordinance shall be cumulative of all other ordinances of the City of Schertz, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Schertz except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

PASSED ON FIRST READING, the day of _____ 2023.

PASSED, APPROVED and ADOPTED ON SECOND READING, the _ day of _____, 2023.

CITY OF SCHERTZ, TEXAS

Ralph Gutierrez, Mayor

ATTEST:

Sheila Edmondson, City Secretary

(city seal)

Exhibit "A"
Subject Property Metes and Bounds
and
Specific Use Permit Exhibit

FIELD NOTES FOR A 4.59 ACRE TRACT OF LAND

A **4.59 acre** tract of land, located in the G. Malpaz Survey No. 67, Abstract 221, Guadalupe County, Texas and being the remaining portion of a called 0.79 acre tract of land and all of a called 3.99 acre tract of land, both as described in Volume 303, Page 407 of the Deed Records of Guadalupe County, Texas. Said **4.59 acre** tract being more particularly described by metes and bounds as follows:

BEGINNING at a set $\frac{1}{2}$ " iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" in the southeast right-of-way line of F.M. 78, a variable width public right-of-way, at the northwest corner of a called 6.663 acre tract of land as described in Document No. 201999009590 of the Official Public Records of Guadalupe County, Texas, in the northeast line of said 0.79 acre tract and for the most northerly corner of the tract described herein, from which a found Texas Department of Transportation (TxDOT) Right-of-Way Monument, Type I, bears, N $62^{\circ} 12' 17''$ E, a distance of 193.35 feet;

THENCE: S $30^{\circ} 04' 12''$ E, departing said right-of-way line and with the common line between said 0.79 acre tract and said 6.663 acre tract, a distance of **167.22 feet** to a found $\frac{1}{2}$ " iron rod for the east corner of said 0.79 acre tract and an easterly exterior corner of the tract described herein;

THENCE: S $61^{\circ} 37' 09''$ W, with the southeast line of said 0.79 acre tract, a distance of **67.74 feet** to a set $\frac{1}{2}$ " iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" for the north corner of said 3.99 acre tract and an interior corner of the tract described herein;

THENCE: S $30^{\circ} 18' 33''$ E, with the northeast line of said 3.99 acre tract, a distance of **111.51 feet** to a found $\frac{1}{2}$ " iron rod with yellow plastic cap stamped "BLS 2024" at the northwest corner of a called 0.35 acre tract of land as described in Volume 926, Page 702 of the Official Records of Guadalupe County, Texas and for an angle of the tract described herein;

THENCE: S $30^{\circ} 21' 17''$ E, with the common line between said 0.35 acre tract and said 3.99 acre tract, a distance of **229.33 feet** to a found $\frac{1}{2}$ " iron rod at the southwest corner of said 0.35 acre tract, a westerly corner of said 6.663 acre tract and for an angle of the tract described herein;

THENCE: With the common lines between said 3.99 acre tract and said 6.663 acre tract, the following five (5) courses:

1. **S $29^{\circ} 56' 51''$ E**, a distance of **29.00 feet** to a found $\frac{1}{2}$ " iron rod with yellow plastic cap stamped "BLS 2024" for corner,
2. **S $59^{\circ} 02' 07''$ W**, a distance of **244.11 feet** to a found $\frac{1}{2}$ " iron rod with yellow plastic cap stamped "BLS 2024" for corner,
3. **S $25^{\circ} 36' 42''$ W**, a distance of **42.88 feet** to a set $\frac{1}{2}$ " iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" for corner,
4. **S $07^{\circ} 06' 42''$ W**, a distance of **75.00 feet** to a set $\frac{1}{2}$ " iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" for corner, and
5. **S $59^{\circ} 16' 42''$ W**, a distance of **104.89 feet** to a found $\frac{1}{2}$ " iron rod with yellow plastic cap stamped "BLS 2024" for the west corner of said 6.663 acre tract, at a northeasterly corner of a called 101.911 acre tract of land as described in Volume 2822, Page 584 of the Official Public Records of Guadalupe County, Texas, and for an angle of the tract described herein;

THENCE: With the common line between said 3.99 acre tract and said 101.911 acre tract, the following two (2) courses:

1. **S $58^{\circ} 40' 00''$ W**, a distance of **82.08 feet** to a set $\frac{1}{2}$ " iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" for an interior corner of said 101.911 acre tract, the south corner of said 3.99 acre tract and the tract described herein, and

2. **N 30° 37' 57" W**, a distance of **275.52 feet** to a set 1/2" iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" at the south corner of a called 2 acre tract of land as conveyed to the Trustees of Post No. 8315 of record in Volume 231, Page 580 of the Deed Records of Guadalupe County, Texas, for the west corner of said 3.99 acre tract and the tract described herein;

THENCE: With the common lines between said 2 acre tract and said 3.99 acre tract, the following two (2) courses:

1. **N 62° 33' 21" E**, a distance of **210.00 feet** to a set 1/2" iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" for corner, and
2. **N 30° 40' 28" W**, a distance of **206.12 feet** to a found 1/2" iron rod at the south corner of a called 0.807 acre tract of land as described in Volume 2748, Page 527 of the Official Public Records of Guadalupe County, Texas, for the northwest corner of said 3.99 acre tract and for a westerly exterior corner of the tract described herein;

THENCE: **N 62° 17' 00" E**, with the common line between said 0.807 acre tract and said 3.99 acre tract, a distance of **208.70 feet** to a found 1/2" iron rod for the south corner of said 0.79 acre tract, the east corner of said 0.807 acre tract and for an interior corner of the tract described herein;

THENCE: **N 30° 13' 00" W**, with the common line between said 0.807 acre tract and said 0.79 acre tract, a distance of **168.92 feet** to a set 1/2" iron rod with a red plastic cap stamped "Matkin Hoover Eng. & Survey" in the southeast right-of-way line of F.M. 79, at the north corner of said 0.807 acre tract and for the most northerly northwest corner of the tract described herein;

THENCE: **N 62° 12' 17" E**, with said right-of-way line, a distance of **165.06 feet** to the **POINT OF BEGINNING** and containing **4.59 acres** of land situated in the City of Schertz, Guadalupe County, Texas.

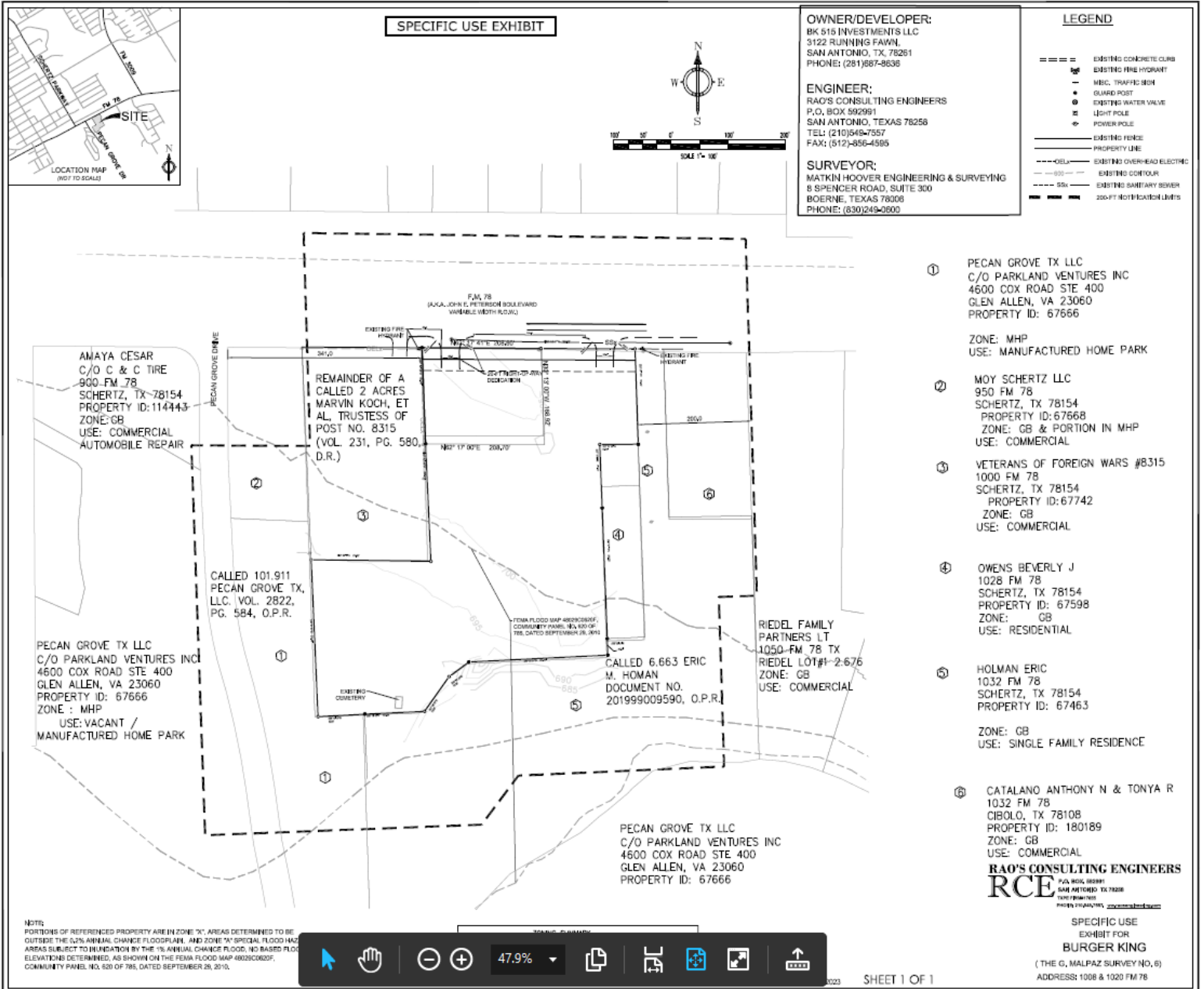
Note: The basis of bearing was established using the Trimble VRS Network, NAD (83), Texas State Plane Coordinate System, South Central Zone, 4204, US Survey Foot, Grid. A survey plat was prepared by a separate document. Field work performed in July, 2021.

Job # 21-4090 – 4.59 Acres

Date: July 12, 2021



Exhibit A



SPECIFIC USE EXHIBIT

OWNER/DEVELOPER:
 BK 515 INVESTMENTS LLC
 3122 RUNNING FAWN
 SAN ANTONIO, TX 78261
 PHONE: (281)687-8636

ENGINEER:
 RAO'S CONSULTING ENGINEERS
 P.O. BOX 592991
 SAN ANTONIO, TEXAS 78256
 TEL: (210)549-7557
 FAX: (512)-856-4595

SURVEYOR:
 MATKIN HOOVER ENGINEERING & SURVEYING
 8 SPENCER ROAD, SUITE 300
 BOERNE, TEXAS 78006
 PHONE: (830)249-0800

LEGEND

====	EXISTING CONCRETE CURB
—H—	EXISTING FINE HYDRANT
—M—	M.B.C. TRAFFIC SIGN
—W—	EXISTING WATER VALVE
—L—	EXISTING LIGHT POLE
—P—	EXISTING POWER POLE
—E—	EXISTING OVERHEAD ELECTRIC
—O—	EXISTING OVERHEAD ELECTRIC
—C—	EXISTING CONTOUR
—S—	EXISTING SANITARY SEWER
—N—	200 FT NOTIFICATION LIMITS

- ① PECAN GROVE TX LLC
 C/O PARKLAND VENTURES INC
 4600 COX ROAD STE 400
 GLEN ALLEN, VA 23060
 PROPERTY ID: 67666
 ZONE: MHP
 USE: MANUFACTURED HOME PARK
- ② MOY SCHERTZ LLC
 950 FM 78
 SCHERTZ, TX 78154
 PROPERTY ID: 67668
 ZONE: GB & PORTION IN MHP
 USE: COMMERCIAL
- ③ VETERANS OF FOREIGN WARS #8315
 1000 FM 78
 SCHERTZ, TX 78154
 PROPERTY ID: 67742
 ZONE: GB
 USE: COMMERCIAL
- ④ OWENS BEVERLY J
 1028 FM 78
 SCHERTZ, TX 78154
 PROPERTY ID: 67598
 ZONE: GB
 USE: RESIDENTIAL
- ⑤ HOLMAN ERIC
 1032 FM 78
 SCHERTZ, TX 78154
 PROPERTY ID: 67463
 ZONE: GB
 USE: SINGLE FAMILY RESIDENCE
- ⑥ CATALANO ANTHONY N & TONYA R
 1032 FM 78
 CIBOLO, TX 78108
 PROPERTY ID: 180189
 ZONE: GB
 USE: COMMERCIAL

RAO'S CONSULTING ENGINEERS
RCE
 P.O. BOX 592991
 SAN ANTONIO, TX 78256
 TEL: (210) 549-7557
 FAX: (512) 856-4595
 www.raosurvey.com

SPECIFIC USE EXHIBIT FOR
BURGER KING
 (THE G, MALPAZ SURVEY NO. 6)
 ADDRESS: 1008 & 1020 FM 78

NOTES:
 PORTIONS OF REFERENCED PROPERTY ARE IN ZONE "X" AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN AND ZONE "W" SPECIAL FLOOD HAZARD AREAS SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD. NO BASED FLOOD ELEVATIONS DETERMINED, AS SHOWN ON THE FEMA FLOOD MAP 48025C0620F, COMMUNITY PANEL NO. 620 OF 785, DATED SEPTEMBER 28, 2015.

47.9%

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Exhibit "B"
Conceptual Site Plan Illustrating the
Required Location of the Dumpster and
Screening Wall

Exhibit B

