

BOARD OF ADJUSTMENT
AGENDA
REGULAR MEETING
February 7, 2012
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE
REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

II. ROLL CALL

III. MINUTES APPROVAL

A. Minutes from the December 2011 meeting

IV. VISITOR/CITIZENS FORUM

At this time, any person with business before the Board of Adjustment not scheduled on the Agenda may speak to the Board, provided that an official 'Speaker's Request Form' has been completed and submitted to the Board Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual board members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.

V. REGULAR ITEMS

A. **CASE # BOA 12-01** to receive comments and consider action on a request by Ever Mejia for a **Special Exception** as required by City Code Section 17-421, Schedule of Uses and Off-Street Parking Requirements, to allow **tire sales, repair, & installation** in a "C-1" Restricted Commercial Zoning District at 105 W Kennedale Pkwy, more particularly described as City of Kennedale Addn Blk 23 Lot 1A.

- a) STAFF PRESENTATION OF CASE
- b) APPLICANT PRESENTATION OF CASE
- c) PUBLIC HEARING ON BOA CASE # 12-01
- d) APPLICANT RESPONSE
- e) STAFF RESPONSE AND SUMMARY OF CASE
- f) ACTION ON CASE

VI. REPORTS/ANNOUNCEMENTS

VII. ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Kennedale will provide for reasonable accommodations for persons attending City Council meetings. This building is wheelchair accessible, and parking spaces for disabled citizens are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meetings. Please contact Amethyst Cirno, City Secretary, at 817.985.2104 or (TDD) 1.800.735.2989

CERTIFICATION

I certify that a copy of the February 7, 2012, Board of Adjustment agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.

☐

Rachel Roberts, Board Secretary



Date: February 7, 2012

Agenda Item No: MINUTES APPROVAL - A.

I. Subject:

Minutes from the December 2011 meeting

II. Originated by:

III. Summary:

Minutes from the December 2011 meeting are attached to this message for your review and consideration for approval.

IV. Recommendation:

V. Alternative Actions:

VI. Attachments:

1.	BOA 2012 Dec minutes	Minutes 120611 BOA.doc
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AGENDA
BOARD OF ADJUSTMENT
KENNEDALE CITY HALL— 405 MUNICIPAL DRIVE.
COUNCIL CHAMBERS
DECEMBER 6, 2011
REGULAR MEETING – 7:00 PM

CALL TO ORDER

Chairman Adams called the meeting to order at 7:08 P.M.

ROLL CALL

Ms. Roberts called roll.

Members present: Rick Adams, Chair; Cheryl Abbott, Brian Cassady, Pat Vader; alternate Darrell Dixon

Members absent: Linda Elam, vice-chair; alternates Jeff Madrid, Jeremy Redding, and Richard West

Staff present: James Cowey (director of development services); Rachel Roberts (planner)

Mr. Dixon was asked to serve as a regular member in Ms. Elam's absence.

Ms. Roberts swore in those who wished to speak during the meeting.

REGULAR MEETING

I. VISITORS/CITIZENS FORUM

Hollis Matthews, 1252 Elmbrook Dr, addressed the Board about the safety and security of gas well]locations and handed out to the Board an article from the *Fort Worth Star-Telegram*. He also mentioned changes to Arlington's drilling ordinance.

- II. CASE # BOA 11-07** to receive comments and consider action on a request by Bowerman Oil & Gas for a Special Exception to the City Code Section 17-421, Schedule of District Regulations, to allow for a private water well in "AG" (Agricultural District) at 205 N. Joplin, more particularly described as Bowerman Addition, Block A, Lot 1.

a) STAFF PRESENTATION OF CASE

Ms. Roberts gave the staff presentation. She said Mr. Bill Bowerman had requested the private well for irrigation and for water for livestock. She said that in addition to the special exception, the city also requires anyone who wants a private water well to also obtain a permit from the city. Regulations governing private water wells include limits on the depth of the well, casing materials, and how the well may be used (on premises use only, and not for potable water supply). Ms. Roberts stated that the well may not be used for drilling or frac'ing purposes, or to fill the frac pond on the property. In addition, it may not be used as an irrigation source for neighboring properties. Ms. Roberts reviewed the standards for granting a special exception and indicated that the request met the standards and recommended approving the request.

Ms. Roberts added that she had received an inquiry from a resident of Steeplechase who had asked for technical specifications for the well. She gave that information to the Board, including a statement that it should not affect the water supply in Kennedale and should use only surface water, and that the property owner will not be permitted to sell water to anyone.

Mr. Adams asked about the well and frac pond, and Mr. Bowerman said the gas company was getting water from Arlington for the pond. He said when he gave Chesapeake permission to build the pond, it was with the stipulation that they make it look like a lake, and Chesapeake had to keep it full except during frac'ing.

Mr. Cassady asked what the depth of the well would be, and Mr. Bowerman said 200 feet.

b) APPLICANT PRESENTATION OF CASE

Mr. Bowerman said it would take one day to drill the well, and the driller would not drill on nights or weekends. He responded to questions from the Board about the frac pond and about storage tanks, and Ms. Abbott asked if he had received a permit from the new groundwater conservation district. Mr. Bowerman replied that his drilling contractor had said to get the conservation district permit after the city permit. Ms. Abbott said she had been told it was best to have the district permit first. Mr. Adams said they could apply that as a condition for granting the special exception.

c) PUBLIC HEARING ON BOA CASE # 11-07

Mr. Hollis Matthews addressed the Board in favor of the request.

Mr. Roy Stott, 1260 Elmbrook, told the Board he was the resident who had asked for technical specifications. He asked what would stop Chesapeake from putting in a bigger pump? Mr. Adams responded that the well could only be used for the purposes authorized. Mr. Cowey repeated what Ms. Roberts had said earlier, that it was illegal to sell the water. Mr. Vader clarified with Ms. Roberts that it can't be given away, either.

d) APPLICANT RESPONSE

The applicant made no response.

e) STAFF RESPONSE AND SUMMARY OF CASE

Staff said they would make sure the applicant obtained the permit from the groundwater conservation district.

f) ACTION ON CASE

Ms. Abbott made a motion to approve the requested special exception with the condition that before the city permit is issued, the applicant must obtain the permit from the groundwater conservation district and any other regional or state permits.

Mr. Cassady seconded the motion, and it passed with all in favor.

III. MINUTES

Review and approve minutes from the September 2011 meeting

Mr. Vader made a motion to approve the minutes, seconded by Ms. Abbott. The motion passed with all in favor.

IV. STAFF REPORTS

a) Update on City Projects

Ms. Roberts told the members about the upcoming public input meeting for the comprehensive plan to be held on December 12th in the community center. Mr. Vader asked about the Little School Road project, asking when it would be possible to turn south on Little School Rd. Mr. Stott said you could turn south already.

V. ADJOURNMENT

Mr. Vader made a motion to adjourn the meeting. Ms. Abbott seconded the meeting, and the motion passed with all in favor.

The meeting was adjourned at 7:42 P.M.



Date: February 7, 2012

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

CASE # BOA 12-01 to receive comments and consider action on a request by Ever Mejia for a **Special Exception** as required by City Code Section 17-421, Schedule of Uses and Off-Street Parking Requirements, to allow **tire sales, repair, & installation** in a "C-1" Restricted Commercial Zoning District at 105 W Kennedale Pkwy, more particularly described as City of Kennedale Addn Blk 23 Lot 1A.

- a. STAFF PRESENTATION OF CASE
- b. APPLICANT PRESENTATION OF CASE
- c. PUBLIC HEARING ON BOA CASE # 12-01
- d. APPLICANT RESPONSE
- e. STAFF RESPONSE AND SUMMARY OF CASE
- f. ACTION ON CASE

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

History/Overview.

This property is part of a gas station/convenience store at the corner of Kennedale Parkway and Third Street. There is one (1) service bay, which is currently not in use by the store. Adjacent to the convenience store is a small retail center with several store fronts (e.g., florist shop). Across Kenney Street is the First Baptist Church. Immediately behind the convenience store and service bay (facing Fourth Street) is a residence, and across Fourth Street is another residence. Across Third Street is the TownCenter retail center.

Staff Review of Application.

No application for a special exception shall be granted by the board of adjustment unless the board finds all of

the following conditions are present:

- (1) That the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare;

The use itself should not endanger the public health, safety, morals, or general welfare, except that equipment typical of this type of operation, such as pneumatic tools, can create a nuisance, depending on how far the sound carries. Because most of the surrounding uses are businesses, it may not be a problem, but it could be a problem if the tire business is open during the evening hours when residents are typically at home.

- (2) That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the use;

The surrounding land uses are mostly commercial, but as noted above, there are two residences behind the building (one on the same property and one across the street), a church next door, and a school across the street. Noise from pneumatic tools used in tire shops could be disruptive to these uses and surrounding businesses. The noise is unlikely to carry as far as the school across the street, but it could negatively affect the church and the residences, if operations are not managed properly. The applicant intends to operate from 7 AM to 7 PM seven days a week. We recommend that if the Board approves this special exception, a condition of the approval be that the applicant is not permitted to operate after 7 PM. In addition, the applicant told staff he intends for all operations to take place inside the building, which should muffle sound from tools and equipment.

- (3) That the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

The area is already developed, and a tire shop is unlikely to impede the normal and orderly development of surrounding property, should redevelopment be desired, unless the operations are overly noisy or unsightly. Staff has made recommendations above for preventing nuisance noise. In terms of appearance of the business, the applicant has been informed that parking is not permitted to be stacked or arranged in a manner that is unsightly. In addition, Mr. Mejia says he will keep used tires inside the building and will remove them from the premises nightly (they will be sold elsewhere as used tires).

- (4) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;

The site is already served by city utilities, access roads, and related site improvements.

- (5) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and

The area is already developed, and with only one service bay, the proposed use is not likely to generate enough business to cause traffic congestion on surrounding streets.

- (6) That the use shall conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located.

In terms of area, yard, height, lot coverage, and building size, the existing building is grandfathered from current regulations, and no additional structures or additions are proposed. In terms of parking, the proposed use requires 1 space per 400 gross floor area. The space is small enough that available space for parking is sufficient.

Staff Recommendation.

Staff recommends approval, with the following conditions:

- (1) No operations before 7 AM or after 7 PM
- (2) No outside storage, and outside display must be in compliance with city regulations as interpreted by city staff.
- (3) Used tires and other waste must be stored inside, as permitted by building code, and removed from the site daily. If a dumpster will be used, the dumpster must be of sufficient size to contain all trash (including tires) and must be screened according to city regulations.
- (4) Parking must be on paved surfaces only. Double parking is not permitted. Parking for this use shall not impede the flow of onsite traffic for the convenience store.
- (5) Mechanical work or any other repairs not directly related to tire installation or repair is prohibited.
- (6) Violation of these conditions is grounds for revoking special exception or certificate of occupancy.
- (7) The special exception will expire in two years unless renewed by the Board of Adjustment.

IV. Recommendation:

V. Alternative Actions:

Approve with conditions

VI. Attachments:

1.	BOA 12-01 application	BOA 12-01 application.pdf
2.	BOA site map 1	BOA 12-01 site map.pdf
3.	BOA site map 2	BOA 12-01 aerial.pdf
4.	BOA 12-01 Image 1	IMG227.jpg
5.	BOA 12-01 image 2	IMG225.jpg
6.	BOA 12-01 image 3	IMG223.jpg

**CITY OF KENNEDALE
BOARD OF ADJUSTMENT**

APPLICATION FOR SPECIAL EXCEPTION

Applicant

NAME: Ever Mejia	
Phone: 214-934-9836 (cell)	Alternate phone:
Mailing address: (Street) 1204 Glyn Oak Dr.	
(City, State, Zip Code) Arlington, Tx. 76010.	

Property Owner

105 W Kennedale PKY

NAME: VAV Corporation (mike)	
Phone: 817-223-2125	Alternate phone: 817-478-8044
Mailing address: (Street) PO Box 425	
(City, State, Zip Code) Kennedale TX 76060	

NOTE: Attach metes and bounds description if property is not platted.

1. Has a previous application or appeal been filed on this property? ☐ Yes ☒ No

1.a. If yes, when was the application or appeal filed?

2. Identify any requirements of Section 17-422 of the Kennedale city code that cannot be met. Give reason(s) why the requirement(s) cannot be met. Use the back of this form or attach a separate page if additional space is needed.

**CITY OF KENNEDALE
BOARD OF ADJUSTMENT**

3. If the special exception request is for a land use, is the request for a use not allowed in the zoning district? ☐ Yes ☒ No

3.a. Is this a remodel of an existing structure? ☒ Yes ☐ No

3.b. Is this new construction? ☐ Yes ☒ No

4. If the special exception request is for oil or gas well drilling, how many wells are requested for this location? N/A

5. Special exceptions may be granted by the Board of Adjustment only if all of the following conditions are present:

- (1) That the establishment, maintenance, or operation of the use will not be materially detrimental to or endanger the public health, safety, morals, or general welfare;
- (2) That the uses, values, and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance, or operation of the uses;
- (3) That the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (4) That adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided;
- (5) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets; and
- (6) That the use shall conform to all applicable area, yard, height, lot coverage, building size, and exterior requirements and parking space regulations of the district in which it is located.

On a separate page(s), please describe how your request will meet all six conditions stated above.

In all cases in which special exceptions are granted, the Board of Adjustment shall require such evidence and written guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.



CITY OF KENNEDALE
BOARD OF ADJUSTMENT
OWNER AFFIDAVIT

CASE #BOA _____

PROPERTY ADDRESS:

105 W. Kennedale PKWY, Kennedale TX, 76060

LEGAL DESCRIPTION:

GAS station with CONVENIENT STORE

APPLICANT:

+ check
cashing.

TYPE OF BOA REQUEST (E.G., SPECIAL EXCEPTION, VARIANCE):

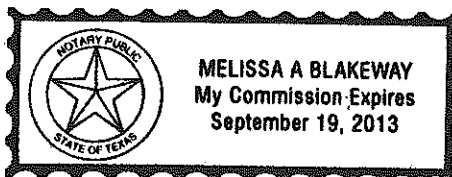
I, KIRANDEEP SHARMA, current owner of above mentioned property, authorize the applicant or his authorized representative to make application for the Kennedale Board of Adjustment to consider granting the above reference request on my behalf and to appear before the Board.

Owner Signature: Kiran Sharma

Date: 11-28-11

SWORN TO and Subscribed before me by Kiran Sharma

ON THIS 28 DAY OF Nov., 2011.



Melissa A. Blakeway

Notary Public, Tarrant County, Texas

December 9, 2011

Ever Arnoldo Mejia
DBA Mejia Tire Shop
1204 Glenn Oak
Arlington, TX 76010

Re: Proposed Tire Shop Business Permit Application
105 W Kennedale Pkwy
Kennedale, TX 76060

Dear Board of Adjustment:

I respectfully find myself before you in an attempt to open a tire shop at 105 W Kennedale Pkwy Kennedale, TX 76060. As a business owner, I hope to provide a positive economic impact for the city and at the same time provide a scarce but needed service for the community. I will try to elaborate, that my request meets all six conditions needed for a special exception, as follows:

1. The proposed location is at a place where previously there had been some type of automotive service being provided to the public. I will not manufacture tire only sell and repair them. Any used & damaged tires has to be properly disposed of, there is a paid 3rd party that picks them up and disposes of them properly.
2. The existing businesses around there are all commercial establishments of various types none of which have tire service. I believe another business would attract traffic and benefit all businesses around mine. There are no residential areas that would be affected by my business.
3. This business will be on an existing space that has had automotive service, this will be similar but concentrated on tire service.
4. Utilities are connected at the service location and there will be no changes made to the adequate access roads, drainage, or other existing improvements.
5. There is ample off street parking, drive access that will not interrupt the flow of traffic or contribute to vehicle congestion in the streets.
6. I guarantee that the business will conform to all applicable district regulations.

I am looking forward to becoming an integral part of the business community and be able to put a business that I believe there is need for. I will follow all applicable rules and maintain my property in safe condition. I pray that you approve my business in this City.

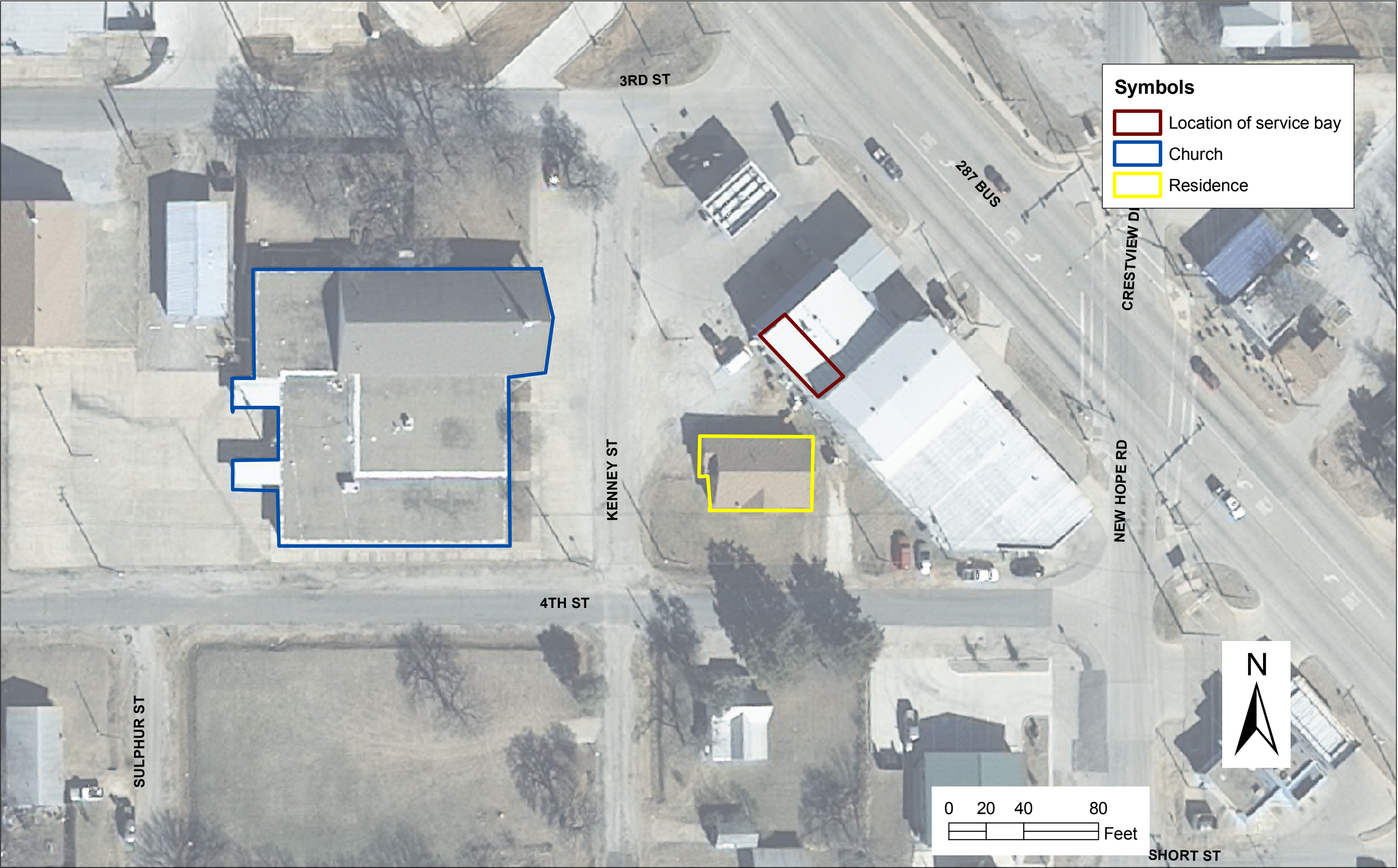
Respectfully,

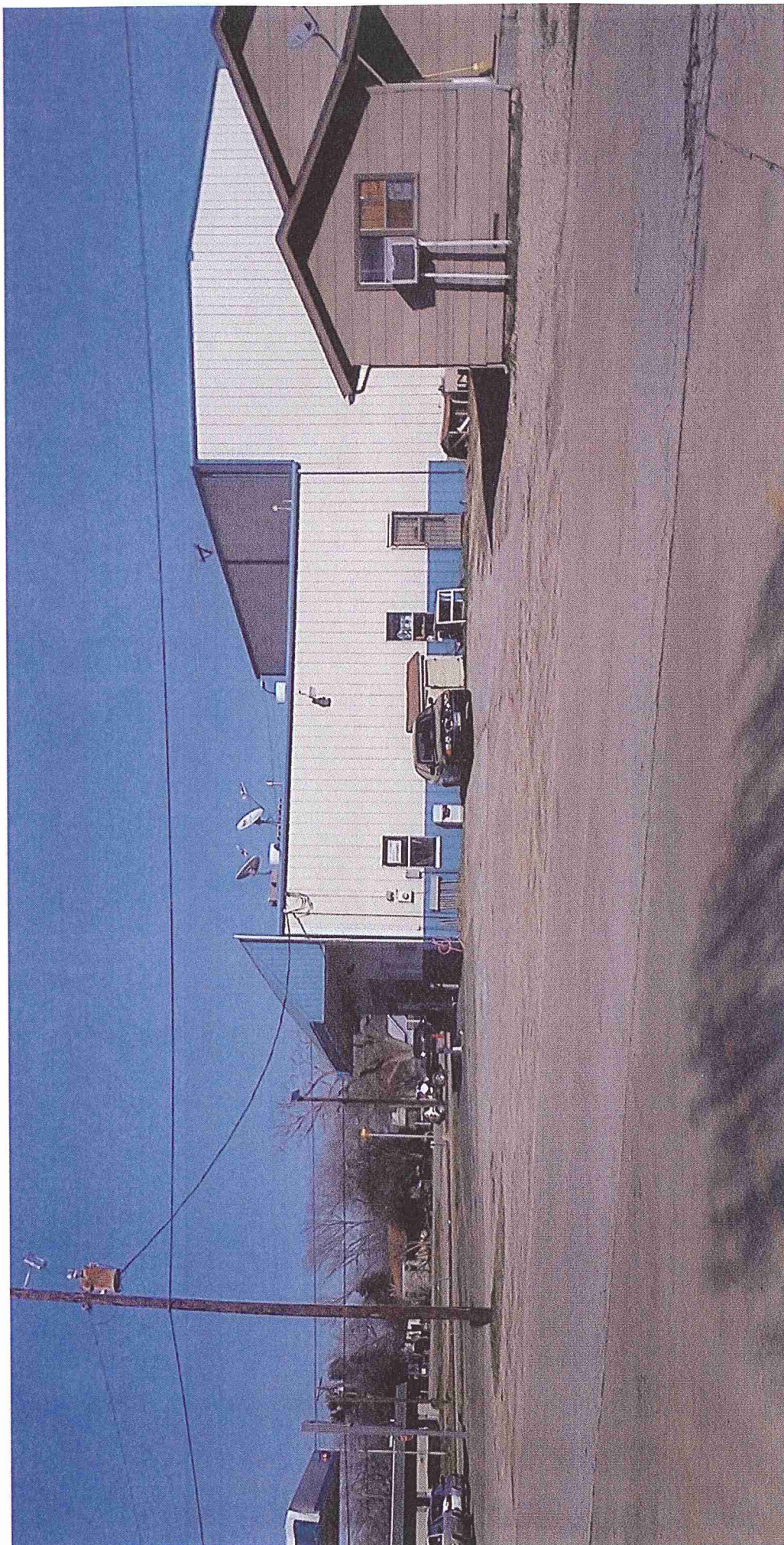
Ever Arnoldo Mejia

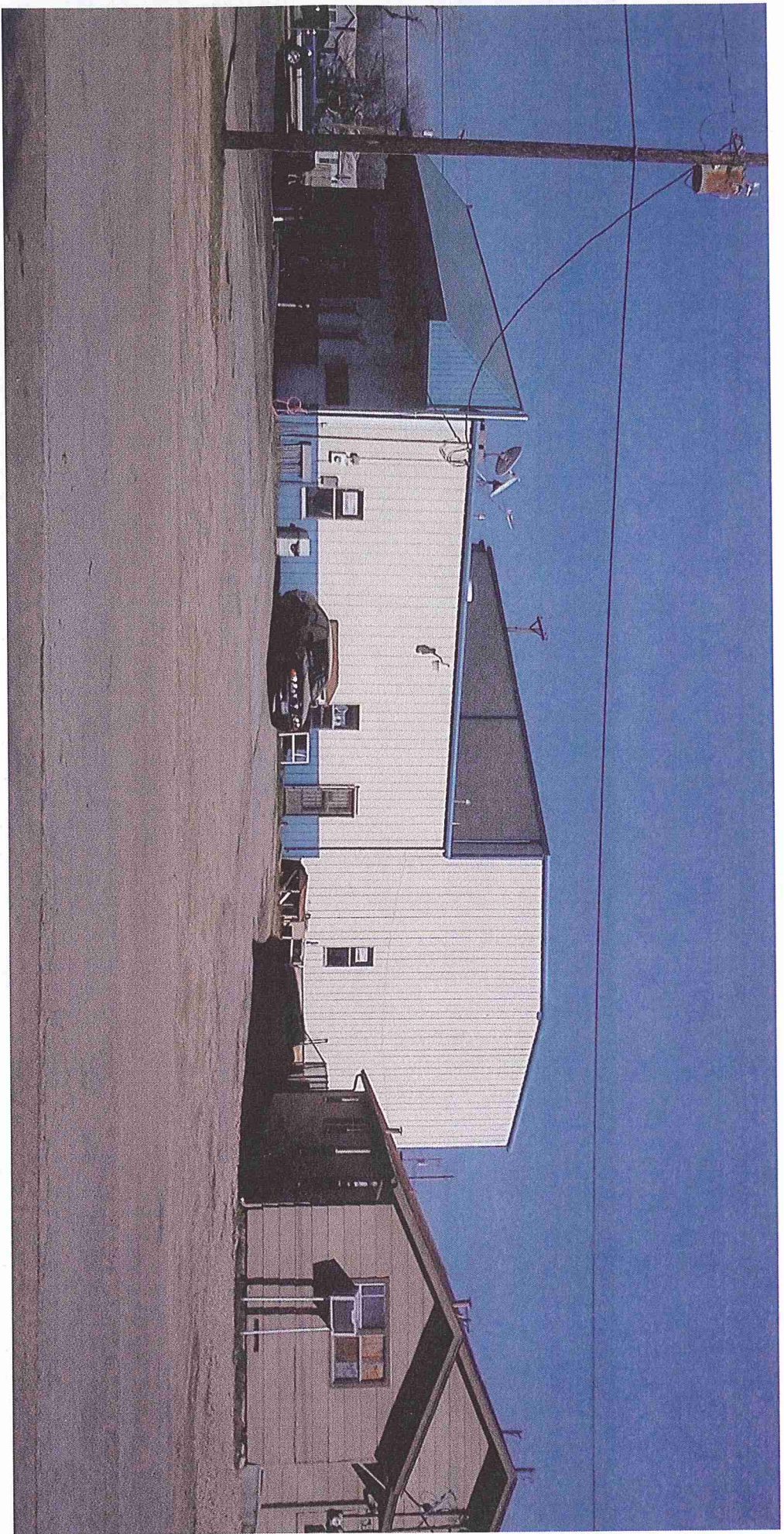
BOA 12-01: Request for a Special Exception

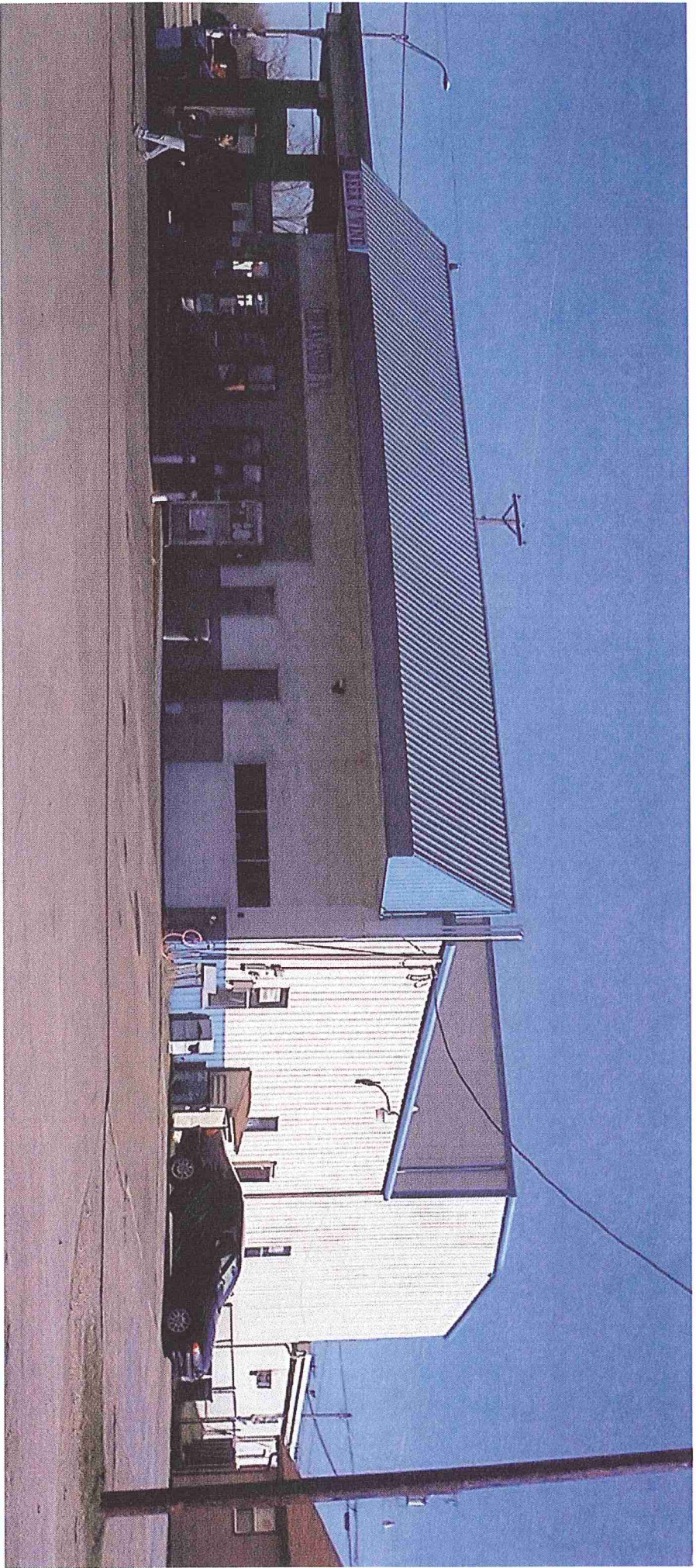


BOA 12-01: showing site and surrounding property











Date: February 7, 2012

Agenda Item No: REPORTS/ANNOUNCEMENTS - A.

I. Subject:

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

At the meeting, staff will provide an update on city projects, events, or other news. In addition, if Board of Adjustment members have announcements about community events, holidays, or other items of general community interest, they are invited to make those announcements under this agenda item.

IV. Recommendation:

None

V. Alternative Actions:

VI. Attachments: