


**ZONING BOARD OF ADJUSTMENT – July 6, 2020
STAFF REPORT**



APPLICATION TYPE:		CASE:	
Variance		ZBA20-19: 3960 N. Chadbourne St.	
SYNOPSIS:			
<p>The applicant has made a request for approval of a variance from Section 511.I of the Zoning Ordinance to allow a maneuvering area of 6 feet in lieu of the required 24 feet for 90 degree parking. This is a 10,000 sq. ft. building that is used for personal storage. The applicant has rented a 1600 sq. ft. space to a client to be used for a retail used furniture and used item sales area. This change of occupancy request required a parking development plan which in turn required providing parking that meets the City requirements. 16 parking spaces are required. However, given the unique configuration of the lot and the large right of way off N. Chadbourne, the existing parking that has been used for years cannot meet the city's requirements for maneuvering area. He would like a variance to the on-site maneuvering space requirement of 24 feet, and instead be allowed to asphalt the r-o-w for maneuvering space. (Additional information on second page)</p>			
LOCATION:		LEGAL DESCRIPTION:	
3960 N. Chadbourne St. located at the southeast corner of N. Chadbourne St. and E. 40th Street		Block 13 Mather Addition No. 2	
SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #2 – Tom Thompson Lake View Neighborhood	General Commercial/Heavy Commercial (CG/CH)	NC – Neighborhood Center	0.6290 acres
THOROUGHFARE PLAN:			
<p>North Chadbourne Street – Urban Minor Arterial Street, Required: 80' right-of-way, 64' pavement, Provided: 110-115' right-of-way, variable 53 pavement</p> <p>E. 40th Street – Urban Local Street, Required: 50' right-of-way, 40' pavement or 36' with a 4' wide sidewalk, Provided: 54' right-of-way, 24' pavement and no sidewalk</p>			
NOTIFICATIONS:			
11 notifications mailed within 200-foot radius on June 17, 2020. One in support and none against.			
STAFF RECOMMENDATION:			
Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to APPROVE a variance from Section 511.I of the Zoning Ordinance to allow a two-way maneuvering area of 6 feet in lieu of the required 24 feet for 90 degree parking along N. Chadbourne St. for the subject property, subject to two conditions of approval.			
PROPERTY OWNER/PETITIONER:			
Dame Cinco, Inc. - Josh McKay			
STAFF CONTACT:			
Sherry L Bailey Principal Planner (325) 657-4210, Extension 1546 sherry.bailey@cosatx.us			

Additional Information: The existing building was built in 1978 and has been used as a warehouse, storage and auto repair facility among other uses. The existing parking has access off of N. Chadbourne St. the entire length of the frontage. That does not meet the City's parking ordinance nor is it the best plan for the maintenance of N. Chadbourne. The applicant has a concrete driveway access off E. 40th St. and he intends to asphalt the access to the parking area and maneuvering space along N. Chadbourne by adding an additional 18 foot depth to the parking area. That would leave an 8 to 10 ft. area between the asphalt and the road edge that will be left unimproved. He must also provide a connection to N. Chadbourne Street.

Staff identified four other properties with head-in parking and deficient maneuvering areas along N. Chadbourne Street within a 1-mile stretch. None of these properties received variances and these parking lots and buildings were erected between the 1960s and 1980s and appear to be existing non-conforming situations with the parking being access directly off N. Chadbourne St.

Variances: Section 207(F) of the Zoning Ordinance requires that an applicant for a variance must show that a hardship exists and that the Zoning Board of Adjustment make an affirmative finding that each and every one of the following six (6) criteria are met:

1. **Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.**
The existing building was built close to the property line because the right of way was so deep. Also, the lot configuration is more of a triangle in shape which allows the building placement to be pushed to the northwest and leave ample space to the south and east. The lot has ample space for parking, the building was just built based on existing conditions at a time when requirements were less specific. The building placement in the 70's is what contributed to the need for the variance request to satisfy parking requirements by using the additional 18 feet of maneuvering in the public right-of-way. New developments would require compliance with current standards and staff would have the opportunity in these cases to work with the applicant from the beginning to ensure compliance. Many older properties in San Angelo such as this one and the other four mentioned along N. Chadbourne Street are existing non-conforming situations. When a change of occupancy permit is triggered for those properties, they will be in the same situation as this applicant.
2. **These special circumstances are not the result of the actions of the applicant.**
As indicated, the existing building has existed since the late 1970s with the parking in a similar configuration. The applicant did not purchase the property until a few years ago and the deficient maneuvering area was not discovered until March of this year as part of the change of occupancy permit review. While a pre-existing situation is not sufficient on its own to support a variance, the property and inability to construct a new parking area that makes sense somewhere else on the property lends to the need for a variance request and the special circumstance unique to this property.
3. **Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.** A literal interpretation of the Ordinance would leave the applicant with no parking since of all the allowable spaces face N. Chadbourne Street with

the deficient maneuvering area. The layout of the building and what makes it perfect to meet the needs of the renter is what has worked so well in the past. The change of occupancy and the City's new parking requirements conflict with the traditional use of the building through no fault of the applicant.

4. **Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.** Allowing the requested maneuvering area is the minimum action necessary to allow the applicant to operate his business while not requiring a major parking lot redesign and access expansion. The applicant understands that when he remodels and redesigns his building use he will have to comply with the City's requirements. The additional 18 feet of paved public right-of-way when combined with the six feet of maneuvering on private property (total of 24 feet) meets the minimum required maneuvering space of 24 feet for 90-degree parking.
5. **Granting the variance will not adversely affect adjacent land in a material way.** Approving the requested maneuvering, while not ideal, will allow the applicant's patrons and employees to park within the parking area facing N. Chadbourne Street, which has existed for 40 years. Approval of this variance would not have a detrimental impact on other businesses. Combining the private and public right-of-way of 18 feet will allow vehicles to reverse into right-of-way first and then drive to the access driveway which connects to E. 40th St. to exit the site.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.** Section 105.D of the Zoning Ordinance requires "the provision of facilities off public streets for parking and loading and by limiting the bulk of buildings in relation to the land around them and to one another." Staff believes that this objective is achieved by allowing a portion of the right-of-way for the required maneuvering area. No portion of N. Chadbourne Street, an arterial street, would be needed for maneuvering, consistent with Section 511.I.6 of the Zoning Ordinance, which does not allow any direct head-in parking from arterial streets.

Allowed Variances:

In addition to the above criteria, in exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that one or more of the following circumstances applies:

1. **SPECIAL CIRCUMSTANCES RESULTING IN UNNECESSARY HARDSHIP.** *Where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this zoning ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building.*

Staff believes there is a Special Circumstance given how the property developed and there are no other options to meet the required maneuvering on private property. The building and parking area has existed for over 40 years. Approval of the variance would allow the applicant to utilize the N. Chadbourne Street right-of-way for maneuvering while keeping the parking access limited to E. 40th St. and not encouraging the continuation of the historic straight in access off N. Chadbourne Street.

2. **OVERRIDING PUBLIC INTEREST.** *If the variance further an overriding public interest or concern, including, but not limited to: (a) Preserving the natural environment, (b) Promoting maintenance or reuse of older urban or historic buildings, or (c) Helping to eliminate a nonconforming use at another location.*

3. **LITERAL ENFORCEMENT.** *If it is found that the literal enforcement and strict application of this Zoning Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.*

Recommendation:

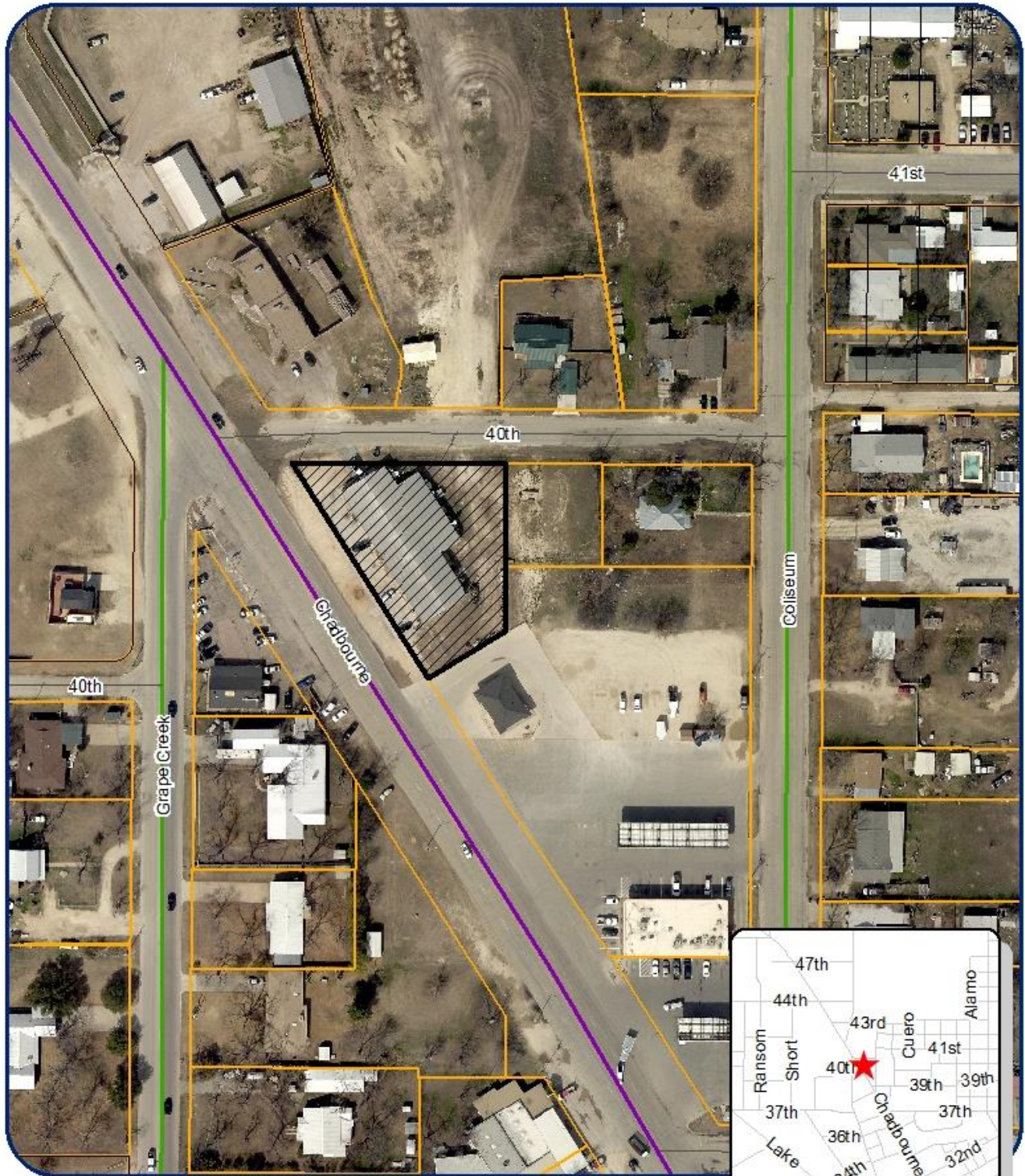
Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from Section 511.1 of the Zoning Ordinance to allow a maneuvering area of 6 feet in lieu of the required 24 feet for 90 degree parking along the N. Chadbourne Street frontage for the subject property, subject to **two** conditions of approval:

1. The applicants shall obtain a change of occupancy permit, and any other required permits from the Permits and Inspections Division prior to final occupancy.

2. Any additional use of the existing building other than the current proposed tenant or the owner's personal use will require a different parking lot configuration that meets the City's parking ordinance.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Photographs
Application
Exhibit



Location Map ZBA20-19

3960 N. Chadbourne

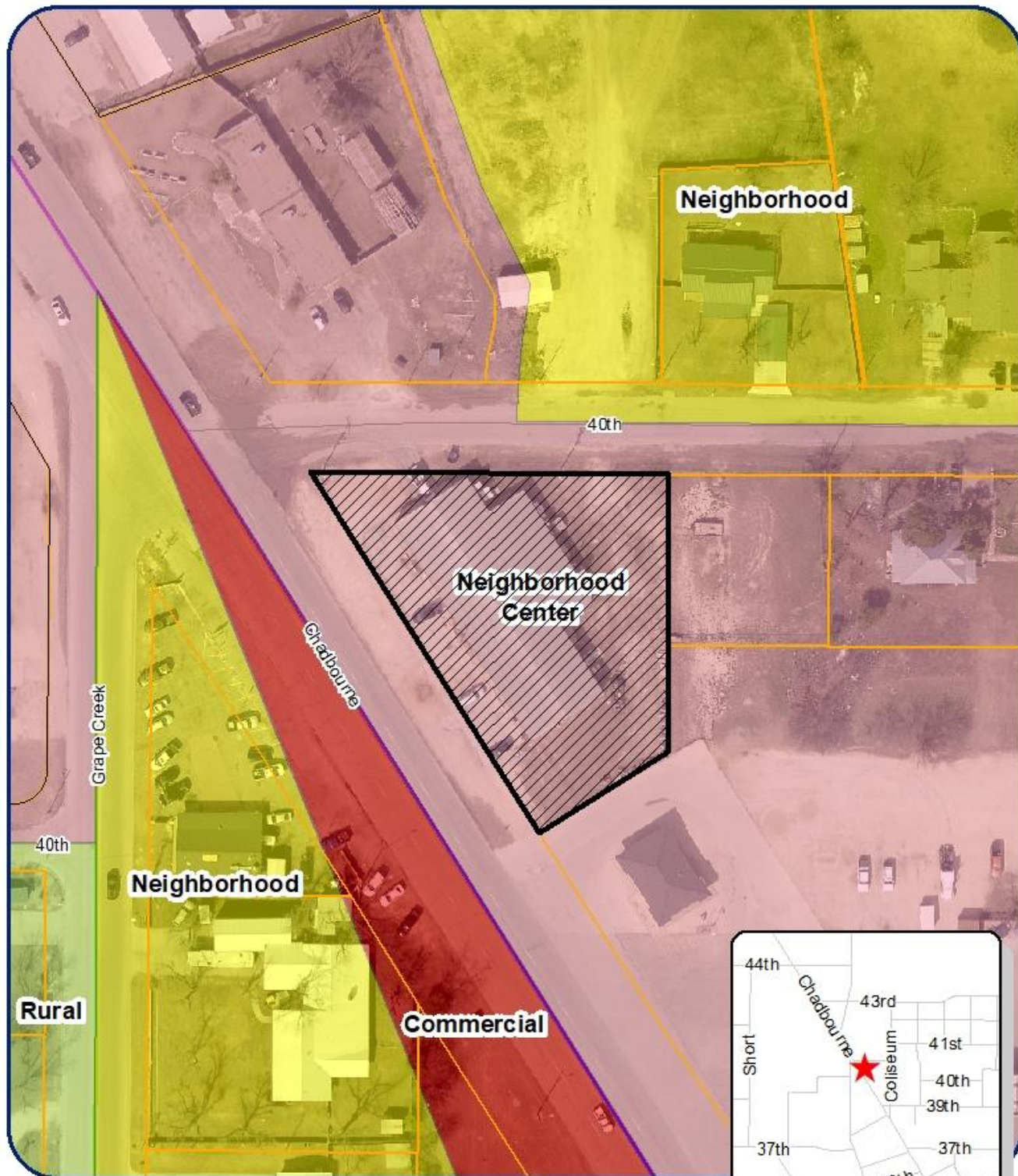
Council District 2 - Tom Thompson
Neighborhood: Lake View
Scale: 1" approx. = 125 ft

Blk. 13, Mather Addition No. 2; 0.6290 acre out of Blk. 13

Legend

- Subject Properties:
- Current Zoning: **CG/CH**
- Requested Action: **Less Parking maneuvering space**
- Vision: **Neighborhood Center**





Future Land Use map ZBA20-19

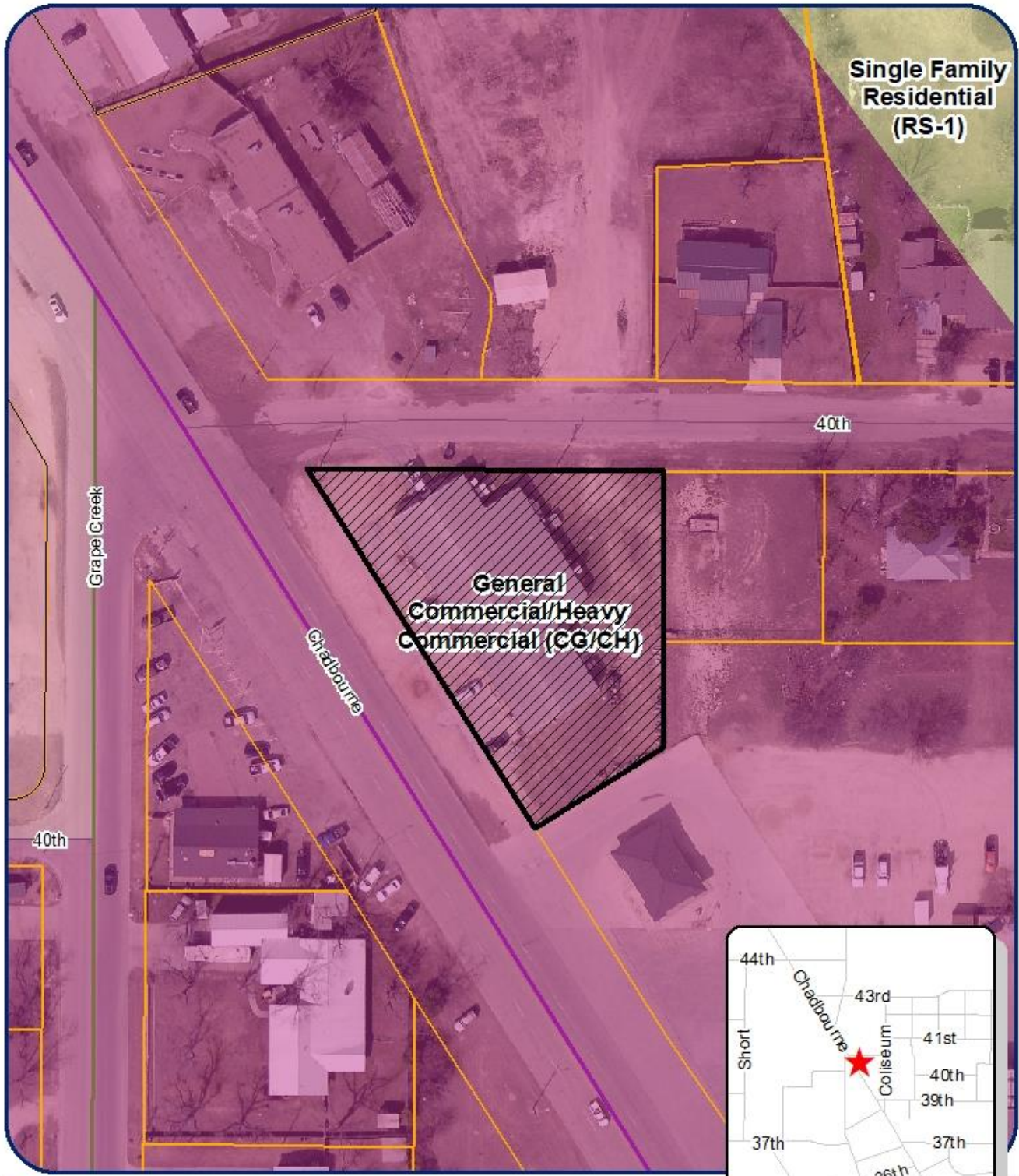
3960 N. Chadbourne
 Council District 2 - Tom Thompson
 Neighborhood: Lake View
 Scale: 1" approx. = 75 ft




Legend

Subject Properties: 
 Current Zoning: **CG/CH**
 Requested Action: **Less Parking maneuvering space**
 Vision: **Neighborhood Center**



Blk. 13, Mather Addition No. 2; 0.6290 acre out of Blk. 13



<p>Existing Zoning Map ZBA20-19 3960 N. Chadbourne Council District 2 - Tom Thompson Neighborhood: Lake View Scale: 1" approx. = 75 ft Bk. 13, Mather Addition No. 2; 0.6290 acre out of Bk. 13</p>	<p>Legend</p> <p>Subject Properties: </p> <p>Current Zoning: CG/CH</p> <p>Requested Action: Less Parking maneuvering space</p> <p>Vision: Neighborhood Center</p>	<p>N </p> 
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Site Photos



Blue door is tenant space entrance




Existing parking along N. Chadbourne Street




E. 40th Street paved driveway

Effective January 3, 2017



City of San Angelo, Texas – Planning Division
 52 West College Ave



Application for Variance from Zoning Regulations

Section 1: Basic Information

Name of Applicant(s): Dame Cinco, Inc.
 Owner Representative (Notarized Affidavit Required)

1649 Becker Lane San Angelo Texas 76904
 Mailing Address City State Zip Code

325-374-5149 danandleah60@gmail.com
 Contact Phone Number Contact E-mail Address

3960 North Chadbourne San Angelo Texas 76903
 Subject Property Address and/Location City State Zip Code

Subdivision: Mather Addition No. 2, Block 13, 0.6290 Acre Out of Block 13
 Legal Description (can be found on property tax statement or at www.tomarencad.com)

Zoning District:
 CN CO CG CH CG/CH CBD OW ML MHS MHP PD
 RS-1 RS-2 RS-3 RM-1 RM-2 R&E

(Zoning Map available on [City Maps](#))

Section 2: Variance Request(s)

List each variance request separately:

1. Zoning Ordinance section: Section 5.11.I - Minimum Dimensions of Off-Street Parking
 Describe variance: permission to allow applicant to encroach into public ROW to satisfy required parking space and maneuvering requirements

2. Zoning Ordinance section: Division 4 - Curb Cuts
 Describe variance: permission for applicant to not have to provide a concrete driveway access across public ROW

3. Zoning Ordinance section: _____
 Describe variance: _____

4. Zoning Ordinance section: _____
 Describe variance: _____

Section 3: Variance Request Criteria

I assert that my request for variance meets all of the required criteria based on my explanation(s) below:

1. Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial;
 Explanation: The distance between the existing building and property line on North Chadbourne does not allow for adequate linear footage to meet the parking and maneuvering distance requirements for Off-Street Parking. The existing parking pavement currently encroaches into the city's ROW. Multiple properties immediately adjacent and within close proximity of the subject property have not been required to construct concrete driveways in the city's ROW as adequate "driveway approaches" to their parking area.

Effective January 3, 2017

Section 3 continued: Variance Request Criteria

2. These special circumstances are not the result of the actions of the applicant;

Explanation: _____

3. Literal interpretation and enforcement of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship;

Explanation: Literal interpretation and enforcement of the Zoning Ordinance as currently represented by city administration would render this property useless and unable to occupy by any approved use within current zoning.

4. Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of the Zoning Ordinance and substantial justice;

Explanation: Since the existing parking area currently encroaches in the city's ROW, a variance approval would allow occupancy of the building.

5. Granting the variance will not adversely affect adjacent land in a material way; and

Explanation: Granting a variance would allow the subject property to meet parking criteria in the same manner as the adjacent properties.

6. Granting the variance will be generally consistent with the purposes and intent of the Zoning Ordinance.

Explanation: Granting the variance would allow the subject property to comply with the required number of parking spots based upon approved uses within it's current zoning designation. It is the opinion of the applicant that since the number of parking spots required by the approved use type is the subject that initiated the issues for which the variance request was created, granting the variance would be consistent with the purpose and intent of the zoning ordinance.

Effective January 3, 2017

Section 4: Applicant(s) Acknowledgement

Please initial the following:

- I/we understand that the Zoning Board of Adjustment (ZBA) is bound by criteria established by state law; I further understand that my request is not guaranteed to be approved and that it constitutes an exception from regulations of the City of San Angelo;
- I/we understand that any variation(s) authorized by the ZBA will require me/us to obtain a building permit for that stated variation within twelve (12) months of the approval date by the ZBA, unless the ZBA has specifically granted a longer period;
- I/we understand that all drawings, pictures, documents or other information used during your testimony to the ZBA must be kept in the permanent files of the Planning Division; and
- I/we understand that any appeal of a decision made by the ZBA must be presented to a court of record with a verified petition stating that the decision of the ZBA is illegal in whole or in part and specifying the grounds of the illegality. This petition for appeal must be presented within ten (10) days after the date the decision is filed in the board's office.

I/We the undersigned acknowledge that the information provided above is true and correct.

Leah Ripple
Signature of licensee or authorized representative
Leah Ripple
Printed name of licensee or authorized representative
Dame Cinco Inc.
Name of business/Entity of representative

6-2-20
Date

FOR OFFICE USE ONLY:

Reviewed/Accepted by: _____ Date: ____/____/____
Case No.: ZBA: 20 - 19 ZBA Hearing Date: 7, 06, 20
Fully-Dimensioned and scaled Site Plan: Yes No Date of Application: ____/____/____
Non-Refundable Fee: \$ 250.00 Receipt #: 280036 Date paid: 6, 9, 20
Ordinance section(s) from which variance(s) is/are requested: _____

