



**City of Baytown Board of Adjustment
Special Exception
Staff Report
October 11, 2022**

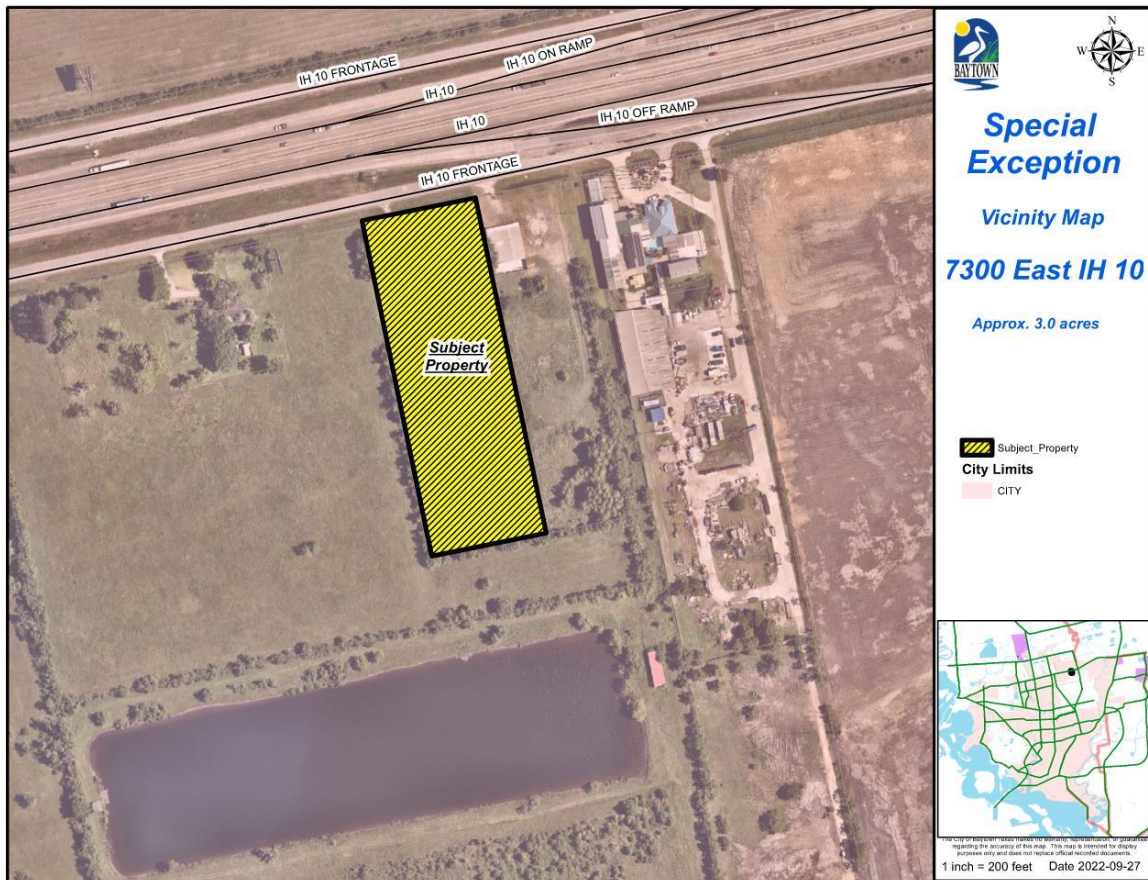
Plan Number: ZP22080125

Address: 7300 East Interstate Highway 10 (E IH 10), approximately 3.0 acres

Requested Action: A special exception from the Unified Land Development Code, Article II, Division 3, Section 2.10 Land Use Conditions, condition A40, to reduce the required 100 foot setback to 15 feet from the adjacent property to the east and to reduce the required 50-foot open space and 50-foot vegetative buffer along both the sides of the property. The applicant proposes to provide a transition buffer within the 15-foot setback along the eastern property line and a 20-foot transition buffer along the western property line.

Applicant: Benita Sabu, H2B Inc. on behalf of the property owner.

Subject Property



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Figure 1: Parcel Map

Parcel Information

Current Use: Vacant

Proposed Use: Commercial

Future Land Use Plan: Large Scale Commercial

Adjacent Parcel Information (Zoning, Future Land Use Plan)

North: City right-of-way, Large Scale Commercial

South: Open Space/Recreation (OR), Large Scale Commercial

East: General Commercial (GC), Large Scale Commercial

West: Open Space/Recreation (OR), Large Scale Commercial



Figure 2: Zoning Map

Staff Analysis (Background)

The requested variance is to permit the property owner to construct a warehouse that is closer than the required 100 foot setback from the eastern property line and to allow for a reduced vegetative buffer on both sides of the property. The Unified Land Development Code (ULDC), Article II, Division 3, Section 2.10 Land Use Conditions, condition A40 states that “The minimum building setback shall be 100 feet. Within this setback, a 50-foot open space and a 50-foot vegetative buffer shall be provided.”

The subject property is approximately 3.0 acres located south of E IH 10, west of Sjolander Road and has a road frontage of 210 feet. The adjacent property to the east has a commercial use is zoned GC and appears to be abandoned. Farther east are OR and Light Industrial (LI) zoning districts. To the immediate west and south of the subject property, the parcels are zoned

OR and are developed with a residential dwelling and two commercial billboards. The residential dwelling is approximately 240 feet away from the subject property's western edge, and is owned by the same owner of the surrounding properties with the billboards. The Future Land Use Map (FLUM) designates the subject property and its adjacent properties as Large Scale Commercial (see figure 3). The large scale commercial designation is for properties in commercial retail, office and service uses, primarily along portions of major roadway corridors within the community for high visibility and accessibility.



Figure 3: Future Land Use Map

The applicant is proposing to setback the warehouse approximately 275 feet from the front property line, 112 feet from the western property line which includes a 20-foot transition buffer (see figure 4). The proposed 20-foot transition buffer on the western portion of the property includes the preservation of existing trees complemented by the provision of new double rows of trees in the front portion of the site. Due to the limited lot width, the applicant is proposing to keep 15 feet of side yard setback adjacent to the commercial property to the east. The applicant proposes to install a transition buffer along the eastern property line with double rows of trees screening the side of the building and the outdoor storage.

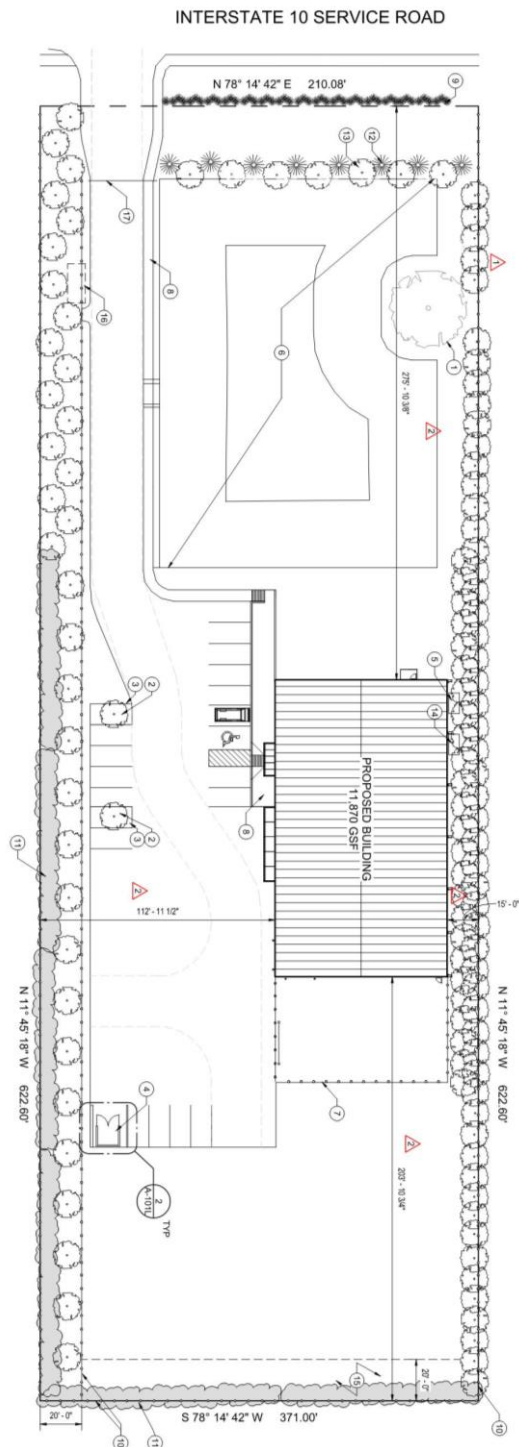


Figure 4: Proposed Site Plan

ULDC Criteria

In order to move forward with the proposed commercial development, the applicant is requesting a special exception to reduce the side yard setback to 15 feet from the proposed structure to the eastern property line and to reduce the vegetative buffer width on both sides of the subject property. In order to approve an application for a special exception, the Board of Adjustment shall make an affirmative finding that the following criteria are met.

The granting of the special exception will:

1. *Ensure the same general level of land use compatibility as the otherwise applicable standards;*

The surrounding properties are zoned primarily OR (a default zoning post annexation) with existing commercial uses along E IH 10. The subject property and its adjacent properties to the east are zoned GC. The GC zoning district permits a variety of commercial and retail uses including warehouses. Warehouse development is permitted in GC with condition A40 which requires a warehouse to be setback 100 feet from each side of the property lines. The existing commercial use directly on the east side of the subject property is setback 5 feet from the joining property line and the applicant proposes to setback the warehouse 15 feet from the joining property line which will bring the total setback to 20 feet between the new- and existing structures. The proposed 15-foot setback on the east side will support the development of the subject property, and will ensure the same level of land use compatibility with adjacent commercial uses.

2. *Not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations;*

It is not anticipated that the proposed warehouse development will have any adverse effect on adjacent commercial land uses and the physical character of these uses in the immediate vicinity. The subject property lies between an existing commercial use to the east located at 7304 E IH 10 and a commercial property with billboards to the west located at 7128 E IH 10. The surrounding character of the area consists of existing and planned commercial uses with the exception of the residential dwelling located at 7130 E IH 10 which is owned by the same owner of the surrounding properties with commercial billboards located east and west of the existing dwelling.

The proposed warehouse is setback approximately 275 feet from the front property line (see figure 4), which will include a minimum 50 feet of landscaping and vegetative buffer is proposed along the frontage, which will provide for adequate screening from the right-of-way and public views. The adjacent commercial building, located at 7304 E I-10, is setback 60 feet from the front property line. The warehouse building and its commercial activities will have minimum impact on adjacent commercial building. Moreover, the applicant is proposing to install a transition buffer along the east and west sides of the property with double rows of trees and a six-foot opaque fence along the sides and rear of the property in order to screen any commercial activities from public views.

3. *Not adversely affect property values in any material way; and*

It is not anticipated that the proposed special exception will adversely affect adjacent property values in any material way. Developments in the general vicinity are primarily commercial and industrial uses. The subject property will be in line with the nearby commercial uses and consistent with the Comprehensive Plan recommendations of large scale commercial uses in this area. The proposal encompasses: 1) 50 feet of landscaping and vegetative buffer on the front yard; 2) a setback of 275 feet from the front property

line; 3) an opaque fence and tree planting along the sides and rear of the property. As such, any commercial activities will be discrete from the right of way and public view and will not affect adjacent property values.

4. *Be generally consistent with the purposes and intent of this ULDC.*

Section 2.04 - Commercial zoning district states that “General Commercial” zoning district “is intended to provide for a variety of uses including offices, retail, personal and commercial services, and related uses that are mixed within buildings either vertically and/or horizontally. Uses in this district are generally conducted wholly within an enclosed building but may include outdoor display merchandise or storage of materials. The GC district may be used as a transitional district between more intensive nonresidential districts (e.g., light industrial) and higher density residential districts or as the primary district for such corridors as Garth Road or Main Street.”

The subject property and its surrounding commercial uses fit the description of the large scale commercial uses as recommended by the future land use map. However, some general commercial uses found on arterial roads such as Garth Road, West Main Street, and Massey Tompkins Road are required to meet compatibility standards as laid out in the ULDC due to their proximity to established residential neighborhoods and other less intense GC land uses, which differs from this subject property.

Given the physical attributes of the adjacent non-residential structures and uses, the literal application of the 100-foot setback from each side of the proposed structure will not present a good use of land in this case. The proposed 15-foot side yard setback on one side adjacent to existing commercial use with the proposed transition buffer on both sides of the property is sufficient to meet the intent of the code.

Staff Recommendation

Staff recommends approval of the proposed special exception with the following conditions:

- 1) A transition buffer will be installed on the eastern and western boundaries as proposed in the applicant’s site plan and description.
- 2) The required vegetative buffer on the northern and southern boundary of the property line shall be installed as described by the Unified Land Development Code (ULDC).