

# **BOARD OF APPEALS - STAFF REPORT**

**TO:** Board of Appeals

**FROM:** Dave Wiese, Director of Community Development

**REPORT DATE:** 12/18/12

**BOARD OF APPEALS MEETING DATE:** 1/8/13

**AGENDA ITEM:** U.S. Oil Inc. variance request for Express Convenience Store, 1618 Velp Ave.

**PUBLIC HEARING NOTICE:** The Village of Howard Board of Appeals will hold a public hearing on Jan. 8, 2013 at 6:30 p.m. in the Duck Creek Conference Room at 2456 Glendale Avenue to consider a request from U.S. Venture for a variance for the property line setbacks and fence height at the Express Convenience Center, located at 1618 Velp Ave.

**BACKGROUND:** The applicant is requesting approval to add a (CNG) Compressed Natural Gas fueling station to the Express Gas Station located on the northwest corner of Velp Avenue and Military Avenue. The CNG pumps would be added to the current diesel station on the east side of the building and a canopy is being proposed over the CNG/Diesel pumps. The applicant is proposing to install the CNG equipment in the rear yard of the property.

Currently Express has improvements in the Village's Right-of-Way on Military Avenue. U.S. Oil has been working with the Village Public Works Department on vacating a portion of the Military Avenue Right-of-Way in order to clear up the current situation. The applicant is applying for a variance for the property to clear up some of the existing setback issues and also to construct the new CNG/Diesel canopy and the fencing around the proposed CNG equipment. In addition to the proposed improvements, the applicant is proposing to turn the existing dumpster enclosure so it faces Velp Avenue.

At its Nov. 19, 2012 meeting, the Howard Plan Commission approved the site plan to add the CNG fueling station, CNG equipment and canopy at 1618 Velp Ave. with the following conditions:

1. The excess Right-of-Way on Military Avenue is vacated in order to accommodate the existing infrastructure (underground tanks.)
2. A variance is obtained for the proposed canopy and fence around the CNG equipment.
3. Lighting in the new canopy be recessed or 90-degree cutoff so all light is directed downward and remains on site.
4. The proposed fencing around the CNG equipment be screened with lattice or a fence material be used that is opaque.
5. The proposed Diesel/CNG canopy matches the canopy of the existing facility.

**VARIANCE STANDARDS:** Section 50-180 of the Zoning Ordinance requires that *"The Board of Appeals shall not vary the regulations of this ordinance unless it shall first make findings, based upon evidence presented to it by the applicant, that all the following variance standards are met."* These standards were provided to the applicant in printed form prior to receipt of the application.

**Unnecessary Hardship** The applicant must clearly show that the difficulty or hardship faced has been created by the zoning ordinance and is not self-imposed and that, in the absence of a variance, no feasible use of the property can be made. The difficulty or hardship must be unique to the parcel in question and not one which affects all parcels in the area similarly. Potential loss of profit or desire for financial gain is not, in and of itself, grounds for a variance. Additionally, violations by or variances granted to neighboring property owners does not justify the granting of a variance.

**Unique Property Limitation** The applicant must show that unique physical characteristics of the property itself, not his own personal desires or preferences prevent him from building or developing in compliance with the provisions of this ordinance. These characteristics may include topographical conditions, parcel shape, physical surroundings, wetland areas or soil types which limit the reasonable use of the property.

**Protection of the Public Interest** The applicant must show that the granting of a variance will not harm the public interest, including the interests of the public at large, not just those of nearby property owners. The granting of a variance must not result in an inadequate supply of light or air to adjacent property, a substantial increase in congestion of public streets, an increase in the danger of fire, endangerment of the public safety, or reduction or impairment of property values within the neighborhood. The lack of local opposition to a variance petition does not in itself mean that the variance will not harm the public interest.

**RECOMMENDATION:** Staff recommends the following:

- Visit the site of the proposed variance.
- Review the applicant's submittals including reasons for requesting the variance.
- Review and discuss the above variance standards as they relate to the applicant's proposal.
- Determine whether the variance standards are substantially met per Section 50-180 of the Zoning Ordinance.
- Grant or deny the requested variance petition based upon findings and conclusions drawn.

**ATTACHMENTS:**

- |            |   |
|------------|---|
| <b>I</b>   | Application for Zoning Variance             |
| <b>II</b>  | Applicant's Explanation of Variance Request |
| <b>III</b> | Existing Site Pictures                      |
| <b>IV</b>  | Setback Variance Request Drawing            |
| <b>V</b>   | Proposed CNG Drawing                        |



2456 Glendale Ave  
Green Bay, WI 54313

APPLICATION FOR  
A ZONING VARIANCE

See Next Page  
for Materials to be Submitted  
with This Application

Application Fees: **\$250 &  
\$500** for Construction w/out  
Permit

Date: 11/16/12  
Initials: mv

Applicant

Name: BRYAN NUDELBACHER

Address: 425 BETTER WAY APPLETON, WI 54915

Phone: 920-243-5856 Email: bnudelbacher@usoil.com

Business Name: U.S. VENTURE, INC.

Conditional Use Site Address: 1618 YELP AVENUE

Landowner of Record: U.S. OIL CO., INC.

Address: 425 BETTER WAY APPLETON, WI 54915

Phone: ( ) - - - - - Email: - - - - -

Consultant(s)

Architect/Engineer

Name: JOSEPH E. MANIZER - ENDPOINT SOLUTIONS CORP.

Address: 12065 W. JANEVILLE ROAD, HALES CORNERS, WI 53130

Phone: (414) 427-2103 Email: joe@endpointcorporation.com

Contractor/Engineer

Name: TERRY JANDREY - U.S. PETROLEUM EQUIPMENT

Address: 558 CARTER COURT, KIMBERLY, WI 54136

Phone: 920-735-8249 Email: tjandrey@usoil.com

Parcel/Building Information

Lot Size: 1.165 Acres Current Zoning: B-2 Street Frontage: 190 & 295

Lot Dimensions: ~205 X 295 Does Current Zoning Permit Intended Use: YES

Bldg. Sq. Footage: 4350 Dimensions of Building: 87' X 50'

Describe Specifically the Nature of the Request: \_\_\_\_\_

SEE COVER LETTER  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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**Please Note the Following:**

- Incomplete applications will not be accepted and/or processed
- All applications shall be submitted three (3) weeks prior to the Board of Appeals meeting at which the applicant wishes to appear
- Processing an application may take up to sixty (60) days due to legal notices mandated by State law
- The Board of Appeals meets on the fourth Tuesday of the month when a variance is requested

**Standards to be Met When Granting a Variance**

**Unnecessary Hardship**

The applicant must show that the difficulty or hardship faced has been created by the zoning ordinance and is not self-imposed and that, in the absence of a variance, no feasible use of the property can be made. The hardship must be unique to the parcel in question and not one which affects all parcels in the area similarly. Potential loss of profit for financial gain is not, in and of itself, grounds for a variance.

**Unique Property Limitation**

The applicant must show that unique physical characteristics of the property itself prevent him from building or developing in compliance with the Village's Zoning Ordinances. These characteristics may include topographical conditions, parcel shape, physical surroundings, wetland areas or soil types which limit reasonable use of the property.

**Protection of Public Interest**

The applicant must show that the granting of a variance will not harm the public interest, including the interests of the public at large, not just those of nearby property owners. The granting of a variance must not result in an inadequate supply of light or air to adjacent property, a substantial increase in congestion of public streets, an increase in the danger of fire, endangerment of the public safety, or reduction or impairment of property values within the neighborhood. The lack of local opposition to a variance petition does not in itself mean that the variance will not harm the public interest.

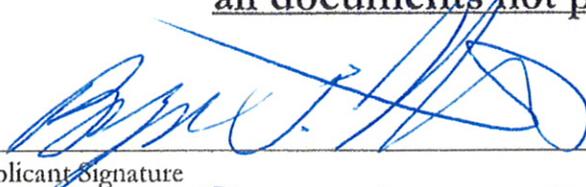
**REQUIRED (Provide All That Apply)**

- ✓ A plat of survey or the equivalent thereof depicting the location, dimensions, boundaries, setbacks of buildings/structures and uses and size of the site.
- ✓ A site plan depicting existing and proposed structures relative to lot lines

**Submit 15 copies of all color documents. Submit 3 copies of all documents not printed in color.**

X

Applicant Signature



BRYAN NUDELSACHER

Date

11/16/12

Please direct all questions to Jim Korotev. Jim may be reached at 920-434-4640 or by email at [jkorotev@villageofhoward.com](mailto:jkorotev@villageofhoward.com)

# **Endpoint Solutions**

12065 West Janesville Road, Suite 300  
Hales Corners, WI 53130  
Telephone: (414) 427-1200  
Fax: (414) 427-1259  
[www.endpointcorporation.com](http://www.endpointcorporation.com)

Village of Howard  
Board of Appeals  
c/o Jim Korotev  
2456 Glendale Avenue  
Green Bay, WI 54313

November 19, 2012

**Subject: Variance Request – Property line setbacks**  
Velp Express Center  
1618 Velp Avenue, Village of Howard, Wisconsin

Dear Board of Appeals Members:

Endpoint Solutions Corp. (Endpoint), on behalf of U.S. Venture, Inc. (U.S. Venture), is requesting a variance on the setback regulations for the Velp Express gas station located at 1618 Velp Avenue, in the Village of Howard, Brown County, Wisconsin (the "Site"). U.S. Venture is the owner of the Site and currently operates a gas and diesel fueling station and convenience store on the property. The site has been used as a fuel station since the 1990s. The current diesel fueling configuration has been in place since 1998. U.S. Venture recently surveyed the property in preparation for the design of a compressed natural gas (CNG) fueling system to be added to the existing facilities offered at the property (request for the CNG system addition was submitted to the Plan Commission for review at the November 19, 2012 meeting under separate cover). The survey revealed that part of the existing diesel underground storage tank (UST) and vehicle fueling area are located in the right-of-way (ROW) for Military Avenue as shown on **Sheet 1**. Also, the existing gasoline canopy and dispensers and existing diesel dispensers do not presently conform to the Village of Howard municipal code setback requirements for parcels zoned highway commercial (B-2).

## **GASOLINE DISPENSING AREA**

The existing gasoline canopy on the southern end of the property does not meet either the 35-foot setback requirement from the Velp Avenue ROW line or the 30-foot setback requirement from Military Avenue. At the closest points, the canopy is approximately 26'-11" from the Velp Avenue ROW and 18'-5" from the Military Avenue ROW. Refer to **Sheet 1** for details. These facilities are existing and a vital part of the service U.S. Venture provides on the parcel. The gasoline canopy has a clearance of 15 feet and does not presently obstruct the view of traffic along Velp or Military. Due to the irregular shape of the parcel created by the non-perpendicular intersection of Military and Velp Avenues, the canopy and dispensers cannot be relocated on the parcel to be parallel to both Military and Velp. Additionally, any relocation of the canopy and gasoline dispensers would disrupt the traffic flow on the Site potentially creating hazardous traffic patterns or reducing the number of dispensers available. For these reasons, U.S. Venture requests a variance to allow the existing gasoline canopy to be a minimum of 26' from the Velp Avenue ROW and 18' from the Military Avenue ROW.

## DIESEL AND FUTURE CNG DISPENSING AREA

The survey revealed that the current diesel UST and vehicle fueling areas are partially in the ROW along Military Avenue (**Sheet 1**). In order to comply with State of Wisconsin and National Fire Protection Association (NFPA) Standard 30 and 30A requirements for USTs and dispensing systems for motor vehicle fueling, U.S. Venture is in negotiations with the Village of Howard to vacate portions of the ROW along Military Avenue. The negotiated ROW line change is illustrated on **Sheet 1**. U.S. Venture is currently in the process of making the negotiated ROW line change official with the Village of Howard.

The CNG fueling system U.S. Venture is proposing for the facility would include two CNG dispensers installed south of the current diesel dispensers. Additionally, U.S. Venture proposes to upgrade the diesel/CNG dispensing area with a canopy to provide additional lighting and protection from the elements while fueling. Adequate lighting and weather protection is an added safety feature to reduce the potential for spills and other accidents that may occur during fueling.

The proposed canopy dimensions are 31' x 24'. See **Sheets 1, 2**, and attached photos for the proposed CNG system layout and location as submitted to the Plan Commission for review. The proposed canopy would have a setback from the new Military Avenue ROW of approximately 23'-5" instead of the required 30 feet. The canopy lighting would be shielded to direct the light down and not toward the street. Additionally, the canopy has a 15 foot clearance that would not obstruct the view of traffic along Military Avenue. The dispensers cannot be relocated closer to the building and still maintain adequate driving lanes for semi trucks and required setbacks from buildings for fuel dispensers. Therefore, U.S. Venture requests a variance to allow the future diesel/CNG canopy to be a minimum of 23' from the future Military Avenue ROW.

## FUTURE CNG SYSTEM AREA

The CNG fueling system, as submitted to the Plan Commission, is proposed to be located north of the existing building on the Site. The major system components—three (3) storage spheres, two (2) air compressors, and one (1) dryer unit—are located 15 feet offset from the rear property line as required by municipal code. However, the proposed ancillary components (i.e., concrete foundations, a portion of the main control panel, the security light, the gas service connection/meter, and the electric service connection/meter) would be located less than 15 feet offset from the rear property line as indicated on **Sheet 2**. Locating the proposed CNG system any further south would impede the flow of traffic around the building creating a traffic hazard. For this reason, U.S. Venture is requesting a variance allowing the gas and electrical utility connections and meters to be located a minimum of 4', the control panels to be located a minimum of 12', and the security light to be located a minimum of 7' from the rear property line.

## **CLOSING**

In summary, U.S. Venture is requesting a variance from property line setbacks along Velp Avenue, Military Avenue, and the rear property line for the existing gasoline canopy, proposed diesel/CNG canopy, and proposed ancillary components of the CNG system. If you have any questions/ concerns or require additional information regarding the enclosed information, please contact either of the undersigned at 414-427-1200.

Sincerely,

### **Endpoint Solutions**



Marie M. Venné, P.E.  
Environmental Engineer



Joseph E. Mentzer, P.E.  
Senior Engineer

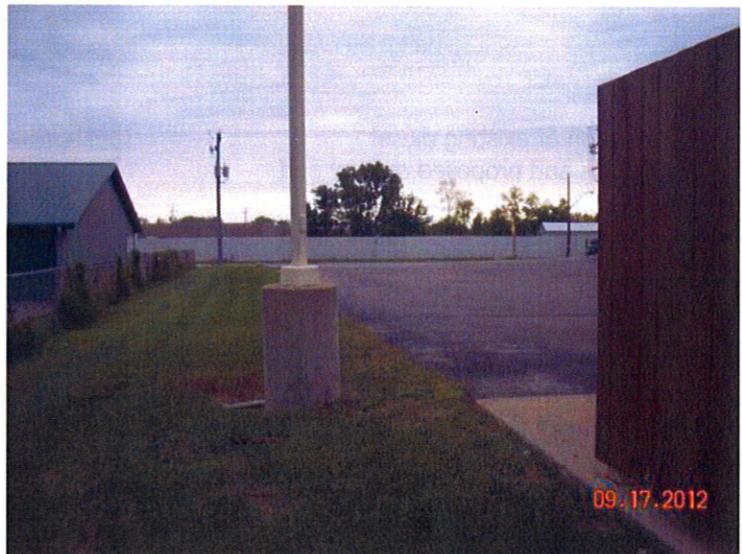
cc: Bryan Nudelbacher, U.S. Venture, Inc.  
Terry Jandrey, U.S. Petroleum Equipment  
[Enclosures]





1. Location for proposed compressed natural gas (CNG) system, facing northeast.

2. Location for proposed CNG system, facing southeast.



3. Location of proposed CNG system, facing northwest.

**EXISTING SITE CONDITIONS**

1618 Velp Avenue

Village of Howard, Wisconsin

Project No:  
071-019-001

**Endpoint**



4. Existing diesel dispensers and location of proposed canopy and CNG dispensers, facing southwest.

5. Location of existing diesel dispensers and proposed canopy and CNG dispensers, facing northeast.



6. Existing gasoline canopy facing southwest.

<b>EXISTING SITE CONDITIONS</b>	
1618 Velp Avenue	
Village of Howard, Wisconsin	
Project No: 071-019-001	<b>Endpoint</b>



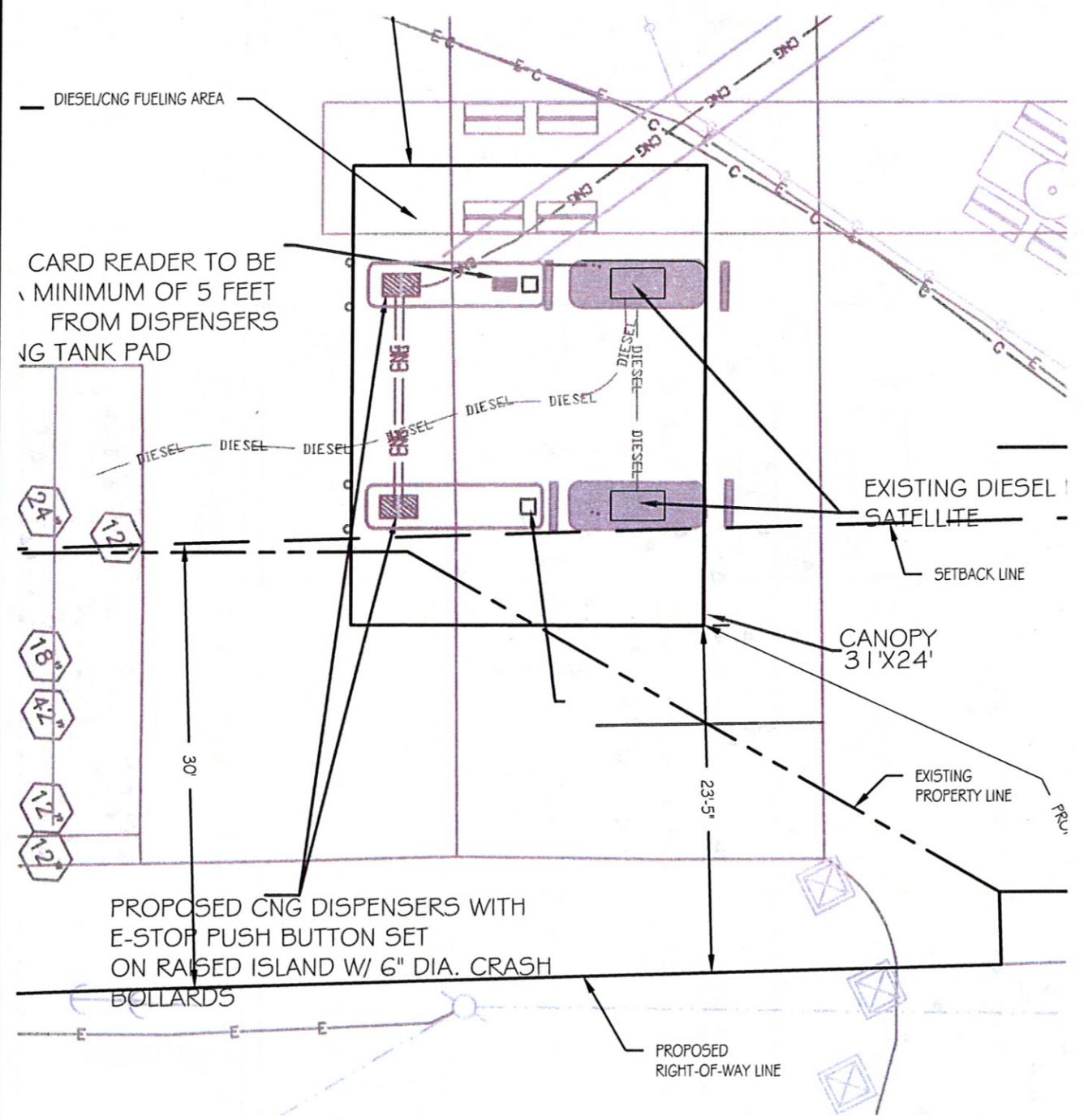
**PROPOSED CNG SYSTEM**  
**U.S. VENTURE - VELP EXPRESS**  
1618 VELP AVE  
GREEN BAY, WI

REVISION  
11/19/2012

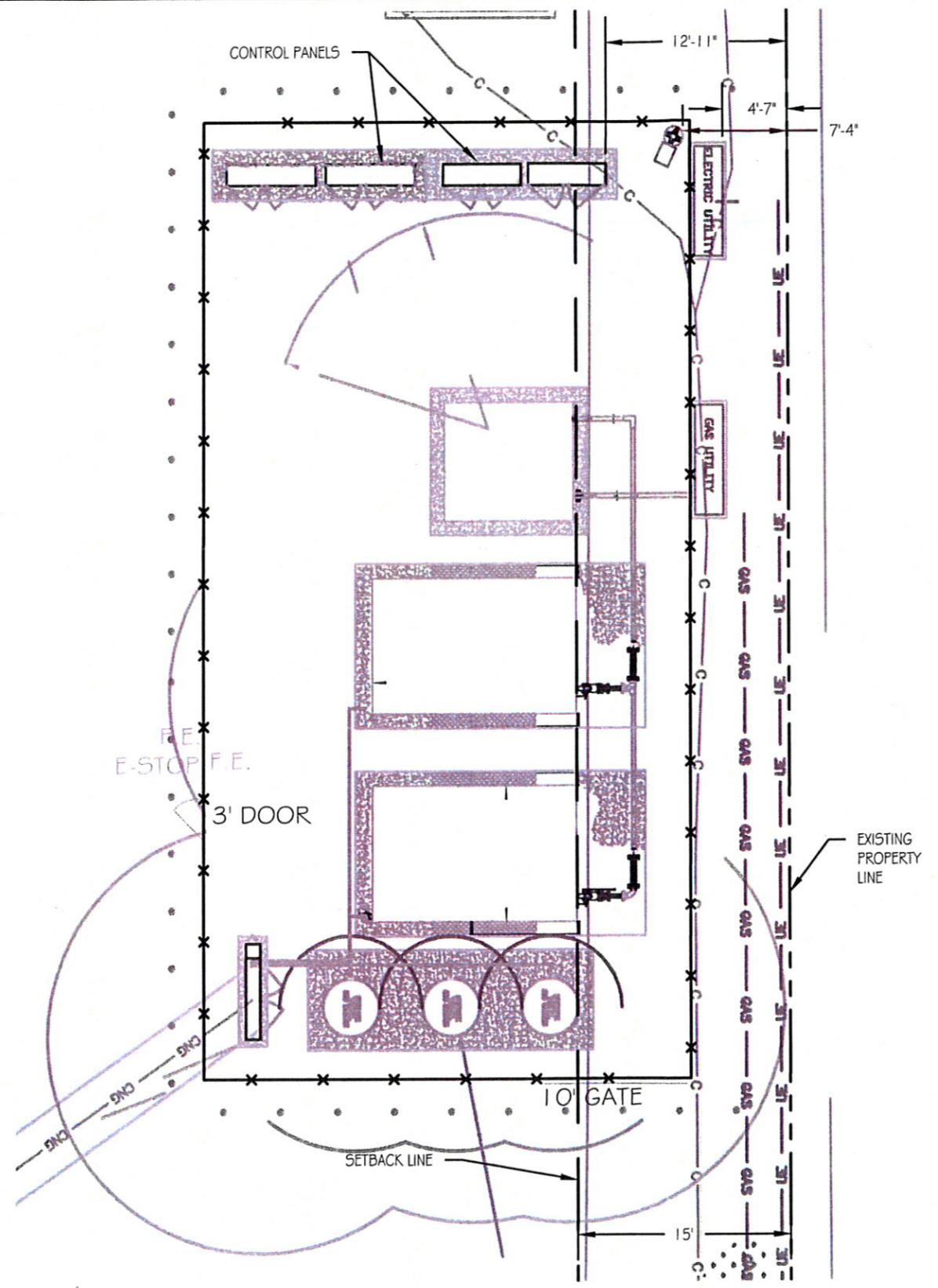
SCALE  
AS NOTED

SHEET TITLE  
CNG SYSTEM DETAILS

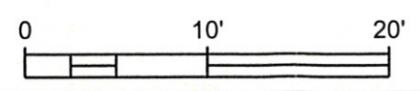
SHEET NUMBER



PROPOSED DIESEL/CNG CANOPY  
SCALE: 1" = 10'



PROPOSED CNG SYSTEM AREA  
SCALE: 1" = 10'



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