

CITY OF SHELBYVILLE

Adam M. Rude
Director



Allan Henderson
Deputy Director

BOARD OF ZONING APPEALS

MEETING DATE: 7/12/2022

Case #:	BZA 2022-13: Akram Oil, DSV			
Petitioner's Name:	A & J Petroleum			
Owner's Name:	Akram Oil			
Petitioner's Representative:	Austin Ellett			
Address of Property:	215 East Broadway Street, Shelbyville, IN			
Subject Property Zoning Classification:	BG – Business General			
Comprehensive Future Land use:	Gateway/Mixed Use			
	North	East	South	West
Surrounding Properties' Zoning Classifications:	BG – Business General	BG – Business General	IL – Light Industrial	R1 – Single Family Residential
Surrounding Properties' Comprehensive Future Land Use	Gateway/ Mixed Use	Gateway/ Mixed Use	Gateway/ Mixed Use	Gateway/ Mixed Use
History:	This property is the old Bonded Oil gas station. The site received two variances in April 2018 under BZA 2018-08 and subsequent Site Development Plan approval in November of 2018 under PC 2018-06.			
Vicinity Map:				
Action Requested:	A request for approval of one development standards variance from UDO 5.55(E)(1) to reduce the front yard setback.			

1. The petitioner has been remodeling the existing gas station. The existing gas canopies are not compliant with current building and design standards. The petitioner is proposing to remove the existing gas canopies that are currently in violation of the front yard setback but are legal non-conforming. Because of the size of the site, the petitioner would not be able to meet the current required front yard setback.
2. Front yard setback on an arterial in a BG – Business General district is fifty (50) feet. The petitioner is proposing a front yard setback of ten (10) feet.

BZA 2022-13. A Variance from UDO 5.55(E)(1), Setback Standards

Finding of Fact #1 – Explain why granting the request for a development standard variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

Applicant provided the following response to Finding of Fact #1: “The new canopy and piping would meet the current building codes as well as be of a height to allow for better street visibility and traffic flow”.

The planning staff has determined that the requested variance from the setback standards from the front yard setback should not be injurious to the public health, safety, morals, or general welfare of the community. The existing canopies currently extend all the way to the edge of the sidewalk. The new canopies would sit back ten feet from the edge of the sidewalk. The planning staff believes the new alignment of the canopies will increase the traffic safety of vehicles entering and exiting the site. The planning staff also believes the reduction in setback is in keeping with the character of this commercial area.

Finding #1 has been satisfied by the petitioner

Finding of Fact #2 – Explain why the development standard variance request will not affect the use and value of adjacent properties.

Applicant provided the following response to Finding of Fact #2: “Allowing for a more modern and branded gas canopy would fit better with the design standards across the City of Shelbyville. From a visual perspective the value of having a modern design and branding will not decrease the value of the surrounding properties”.

The planning staff has determined that the requested reduction from the setback standards should not have a substantially adverse effect on the use and value of the adjacent areas. The surrounding area is a mix of commercial uses, some built before the current Unified Development Standards (UDO), some built after the new standards were adopted. The petitioner is retrofitting an older gas station, bringing the building and canopies up to current building standards. The site previously sat vacant for 7-years, the building was dilapidated, and the site had weeds growing. The redevelopment of the gas station is a positive investment in this area of the community and will increase property values.

Finding #2 has been satisfied by the petitioner

Finding of Fact #3 – Please state the difficulties that will be faced if the project is not granted the requested development standard variance. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

Applicant provided the following response to Finding of Fact #3: "If the new canopy is not granted a variance, the existing canopies will not be used. This causes a multitude of issues with regards to branding from large oil companies, traffic flow on the site, environmental safety with regards to older product piping remaining".

The planning staff has determined that the strict application of the terms of the ordinance will result in a practical difficulty that is neither self-imposed nor based on a perceived reduction of, or restriction on economic gain. Removing the existing gas canopies improves the site development plan in two primary ways. One, removing the old, outdated canopies, piping and electrical conduit allows the new, modern equipment that meets current building and environmental codes. Two, removing the old canopies, providing a ten (10) foot setback and removing one of the curb cuts, increases vehicular safety on the site.

Finding #3 has been satisfied by the petitioner

STAFF RECOMMENDATION: APPROVAL WITH CONDITIONS

1. Removal of all existing canopies
2. Removal of middle "existing entrance" and re-establishing curb and gutter along East Broadway Street.
3. Removal of existing pole sign.

DEVELOPMENT STANDARDS VARIANCE: BZA 2022-13: Akram Oil, Setback Standards

FINDINGS OF FACT BY THE SHELBYVILLE BOARD OF ZONING APPEALS

Staff Prepared

Motion:

(I) would like to make a motion to approve the requested development standard variance from UDO 5.55(E(1) to allow for a reduced front yard setback of XXXX in accordance with the plans provided to this board, pursuant to the findings of fact presented in the planning staff's report.

1. The approval of the Development Standards Variance **will not** be injurious to the public health, safety, morals and general welfare of the community.
 The approval of the Development Standards Variance **will** be injurious to the public health, safety, morals and general welfare of the community.
2. The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will not** be affected in a substantially adverse manner.
 The use and value of the area adjacent to the subject property seeking a Development Standards Variance **will** be affected in a substantially adverse manner.
3. The strict application of the terms of the ordinance **will** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.
 The strict application of the terms of the ordinance **will not** result in practical difficulties in the use of the property. The practical difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain.

Additional conditions imposed by the Board of Zoning Appeals:

- 1.
- 2.
- 3.

Shelbyville Board of Zoning Appeals

By: _____

Chairperson / Presiding Officer

Attest: _____

Adam M. Rude, Secretary

CITY OF SHELBYVILLE



DEVELOPMENT STANDARD VARIANCE

APPLICATION PACKET

Shelbyville Planning & Building Department
Board of Zoning Appeals
44 W. Washington Street
Shelbyville, IN 46176
317-392-5102
www.cityofshelbyvillein.com

Quick Check List

- Completed Application (notarized) – 7 copies
- Completed Finding of Facts sheet – 7 copies
- Site plans and other supporting materials – 7 copies & one (1) digital copy
- Letter of Intent – 7 copies
- Notarized Affidavit & Consent of Property Owner (if the petitioner doesn't own the property)
- Property Deed with Legal Description of land for the file
- Filing Fee – check made payable to the City of Shelbyville
- Completed Post Office Form 3877
- Attend Meeting

DEADLINE DATE: _____ MEETING DATE: _____

DEVELOPMENT STANDARD VARIANCE

What is a Development Standard Variance and why do you need to apply for one?

A Development Standard Variance is a deviation from the development standards outlined in the Shelbyville Zoning Ordinance. These are standards typically found in Article 2 and 5 of the Unified Development Ordinance. If you cannot meet these standards for your development/project, you must apply for a variance and receive approval from the Board of Zoning Appeals before you can move on with your project. This would apply to things such as (but not limited to) new buildings/structures, additions, accessory structures, parking lots, and driveways.

If you need a special exception, use variance, or sign variance for the same project or property, those must be filed as separate petitions.

ORIGINATION OF PROPOSALS

Origination of a Development Standard Variance can be initiated by the owner, their agent, or any person having legal or equitable interest in the property.

REZONING DECISION CRITERIA

In reviewing the rezoning application, the Plan Commission, and Common Council shall pay reasonable regard to the following:

1. **Impact to Adjacent Area:** The use and value of the area adjacent to the property included in the Standard Development Variance will not be affected in a substantially adverse manner;
2. **Practical Difficulty:** The strict terms of the ordinance will result in practical difficulties in the use of the property. This difficulty shall not be self-imposed, nor based on a perceived reduction of, or restriction on, economic gain; and
3. **General Welfare:** Use may not be injurious to the public health, safety, moral, and general welfare.

GENERAL PROCEDURE

The general procedure for a Standard Development Variance is as follows:

Application: The applicant submits a variance application, required supplemental materials, and application fees to the Zoning Administrator and pays the fee as indicated by the Planning and Building fee schedule available on the City of Shelbyville website or in the Plan Commission office. ****Please make checks payable to the City of Shelbyville**

1. **Public Notice:** Public notice for the board hearing must be provided as directed by Chapter 9.13 of the Unified Development Ordinance.
2. **Board of Zoning Appeals Hearing:** The Board will review the application in a public hearing and make a recommendation on the application: approve, approve with conditions, or deny.
3. **Re-submission:** If application is denied, applicant can re-file in one (1) year, unless s/he files an intent to re-submit with the Zoning Administrator within 60 days after denial.

DURATION AND EXPIRATION

An approved Development Standard Variance shall run with the land until the property conforms to the UDO. If approved use has not been established within three (3) years from approval, the approval shall be null and void.

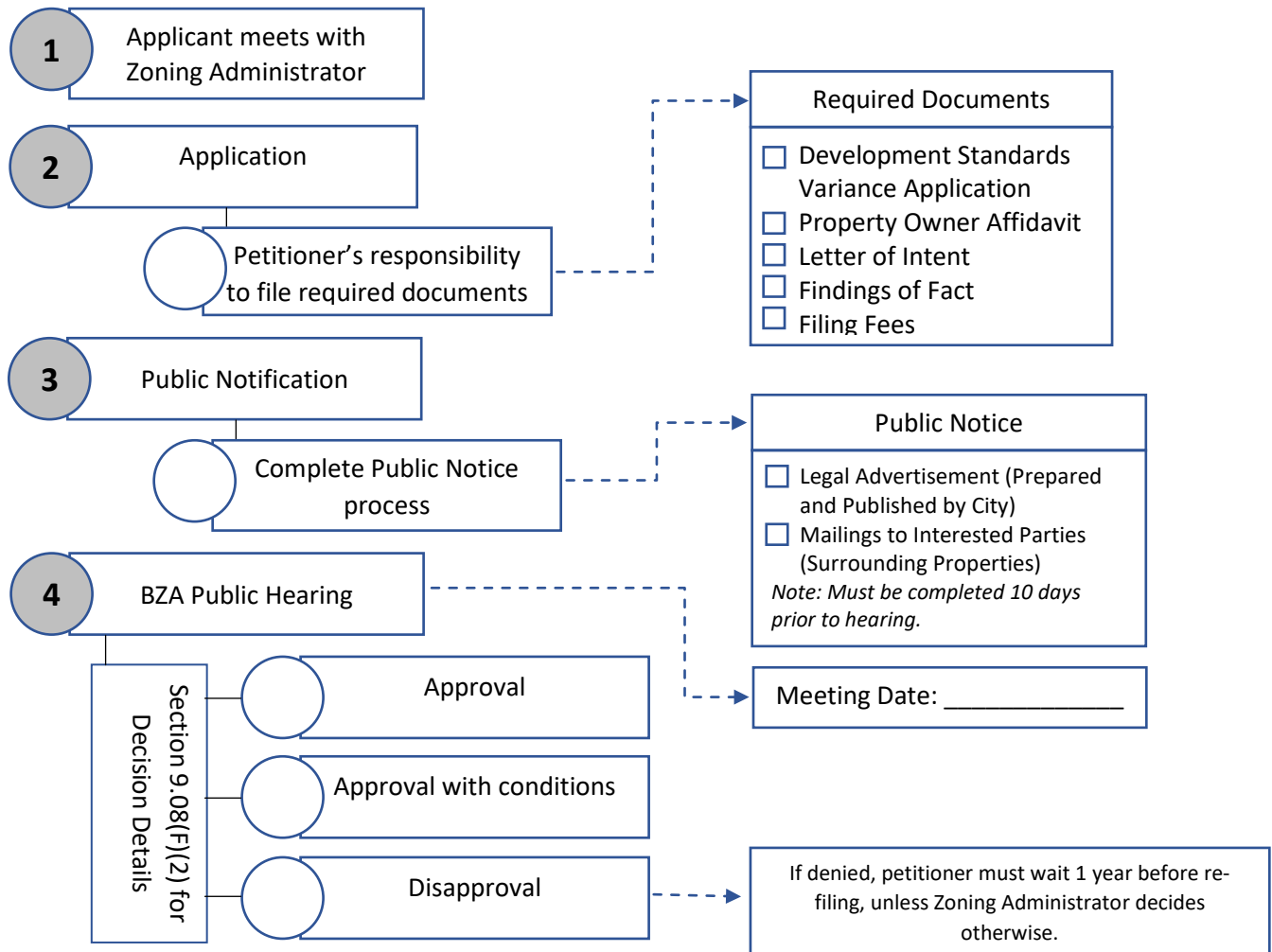
PUBLIC HEARING NOTIFICATION

The City of Shelbyville is responsible for placing the Notice of Public Hearing in the local newspaper. The legal advertisement must run at least 10 days prior to the hearing (not including the date of the hearing). The applicant is responsible for:

1. **Notice to Interested Parties:** The applicant is responsible for preparing and distributing written notice of the petition (including the same information found in the Legal Notice) to all property owners within a defined radius of the subject property. Names and addresses of those property owners will be provided by the Plan Commission staff. The notices must be sent at least once, at least 10 days prior to the hearing. Notice may be distributed through either a certificate of mailing (requiring USPS Form #665), certified mail, or hand delivery (requiring signatures on form provided by Plan Commission Office).
2. **Notification Certification:** A copy of the materials provided to each property owner, the completed mailing and/or delivery forms, and a signed and notarized Affidavit of Notice certifying the correctness of the mailing list shall be provided to the Plan Commission Director by the petitioner a minimum of 2 business days prior to the date of the public hearing.

9.08 Development Standards Variance

Process Outline



NOTE: If a Building Permit, Improvement Location Permit, or the approved improvement has not been commenced within 3 years from the date the Variance was granted, the approval shall be null and void



DEVELOPMENT STANDARDS VARIANCE APPLICATION

Shelbyville Planning & Building Department
44 West Washington Street
Shelbyville, IN 46176
P: 317.392.5102

For Office Use Only:	
Case #: BZA _____ - _____	
Hearing Date: _____	
Fees Paid: \$ _____	
Final Decision:	
Approved	Denied

1.

Applicant

Name: A&J Petroleum Contractors INC
Address: PO BOX 335, CORYDON, IN 47112
Phone Number: 8125579051
Fax Number: _____
Email: ellettaustin@gmail.com

Property Owners Information (if different than Applicant)

Name: Akram Oil
Address: 11387 US 36 Losantville, IN
Phone Number: 314 313 1303
Fax Number: _____
Email: MS9AS2@gmail.com

2.

Applicant's Attorney/Representative

Name: _____
Address: _____
Phone Number: _____
Fax Number: _____
Email: _____

Project Engineer

Name: _____
Address: _____
Phone Number: _____
Fax Number: _____
Email: _____

3. Project Information:

General Location of Property (and address is applicable): 215 E Broadway St, Shelbyville, IN 46176

Current Zoning Classification: BH Existing Use: Gas Station
Number of Requested Variances: _____ Proposed Use: Gas Station

Section(s) of the Ordinance Requesting Variance(s) from; including Article, Section, Subsection, and Page Number: _____
Article 2: Page 2.24

4. Attachments

- Affidavit and Consent of Property Owner (if applicable)
- Proof of Ownership (copy of deed, recent property card)
- Letter of Intent
- Supporting Documents and Exhibits (Optional)
- Vicinity Map
- Findings of Fact
- Application Fee

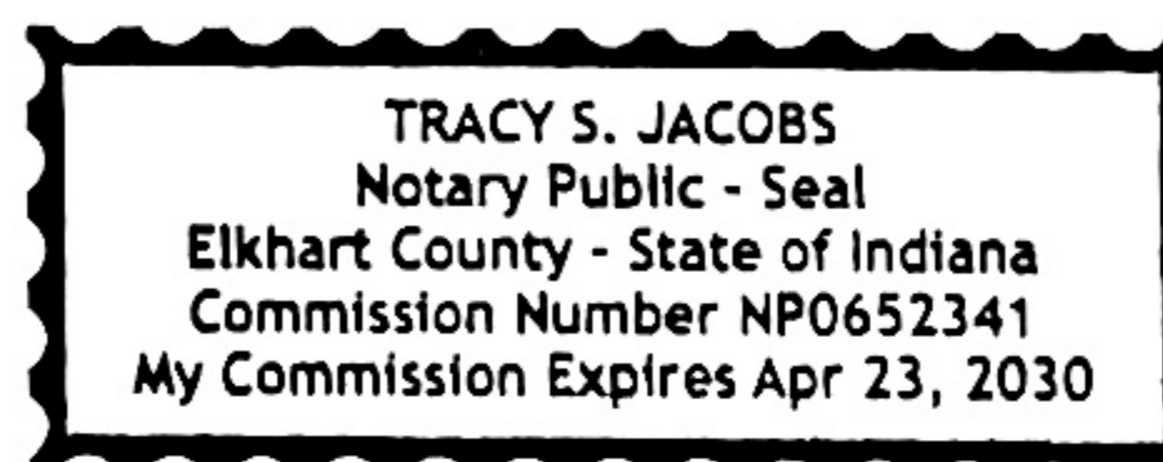
The undersigned states the above information is true and correct as s/he is informed and believes.

Applicant: [Signature] Date: 6/28/22

State of IN
County of Elkhart ss:

Subscribed and sworn to before me this 28 day of June, 2022
Tracy S. Jacobs Notary Public
Tracy S. Jacobs Printed

Residing in Elkhart County. My Commission Expires: 04/23/2030



**AFFIDAVIT & CONSENT OF PROPERTY OWNER
APPLICATION TO THE SHELBY COUNTY BOARD OF ZONING APPEALS**

STATE OF INDIANA)
COUNTY OF SHELBY) SS:

I, Mohammed S. Akram, AFTER BEING DULY SWORN, DEPOSE AND SAY THE FOLLOWING:
(Name of property owner)

1. That I am the owner of real estate located at 215 E. Broadway Str. Shelbyville IN 46176
(Address of affected property)
2. That I have read and examined the Application made to the Shelby County Board of Zoning Appeals by:

(Name of applicant)
3. That I have no objections to, and consent to the request(s) described in the Application made to the Shelby County Board of Zoning Appeals.

Mohammed S. Akram
Owner's Name (Please Print)

[Signature]
Owner's Signature

State of Indiana)
County of Shelby) SS:

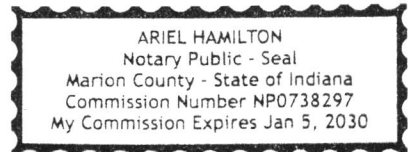
Subscribed and sworn to before me this _____ day of _____

Ariel Hamilton
Notary Public

Ariel Hamilton
Printed

Residing in Hamilton County

My Commission expires 1/5/30





DEVELOPMENT STANDARDS VARIANCE

FINDINGS OF FACT

Petitioner's Name: A&J Petroleum Contractors INC
Location: 215 E Broadway St, Shelbyville, IN 46176
Variance for: NEW GAS CANOPY and PRODUCT PIPING

The Shelbyville Board of Zoning Appeals must determine that the following criteria have been met in order to approve an application for a Development Standard Variance. Using the lines provided, please explain how your request meets each of these criteria.

1. **General Welfare:** Explain why granting the request for a development standard variance will not be harmful to the public health, safety and general welfare of the City of Shelbyville.

The new canopy and piping would meet the current building codes as well as be of a height to allow for better street visibility
and traffic flow

2. **Adjacent Property:** Explain why the development standard variance request will not affect the use and the value of adjacent properties.

Allowing for a more modern and branded gas canopy would fit better with the design standards across the City of Shelbyville
From a visual perspective the value of having modern design and branding will not decrease the value of surrounding
properties

3. **Practical Difficulty:** Please state the difficulties that will be faced if the project is not granted the requested development standard variance.

If the new canopy is not granted a variance, the existing canopies will be used. This causes a multitude of issues with regards
to branding from large oil companies, traffic flow on the site. environmental safety with regards to older product piping remaining

Note: For petitions with multiple requested variances, please submit one completed "Findings of Fact" for each requested variance.

PO Box 335
Corydon, IN 47112
812-946-6547
AJPETROLEUM@aol.com



A&J PETROLEUM

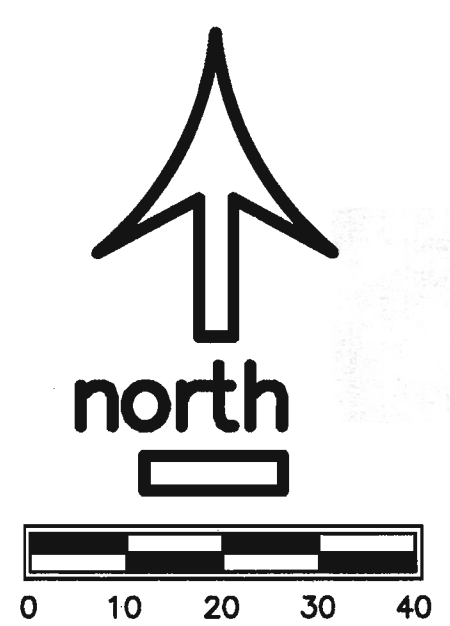
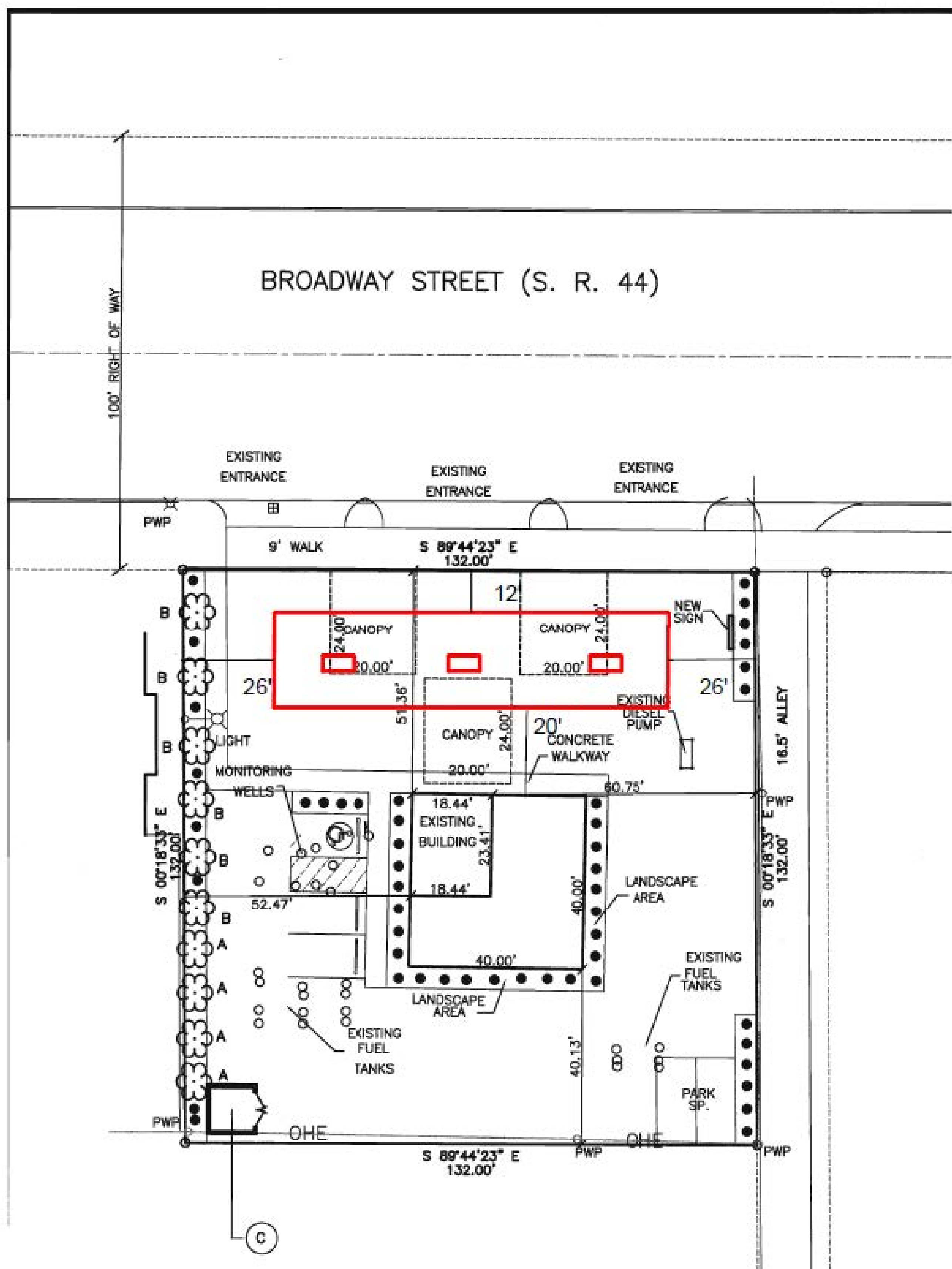
**CITY OF SHELBYVILLE
215 E BROADWAY LETTER**

A&J Petroleum on behalf of AKRAM Petroleum INC are proposing an update to the frontage of the 215 E Broadway property.

This proposal includes the removal of the 3 existing canopy structures and existing petroleum product piping. The installation of a new canopy structure meeting current building and design standards. The installation of new up to date EPA 2015 Compliant piping systems for all fuel products.

The new canopy would sit in violation of the current setback rules (50') but would be a further setback than 2 of the existing canopies currently on site. The proposed setback of 10' would be in line with the proposed price sign.

The existing product piping and dispenser configuration is outdated and needs to be replaced to allow for secondary containment monitoring and double wall fuel containment. It also will simplify the traffic flow on the site and open the lot for better access and safe use.

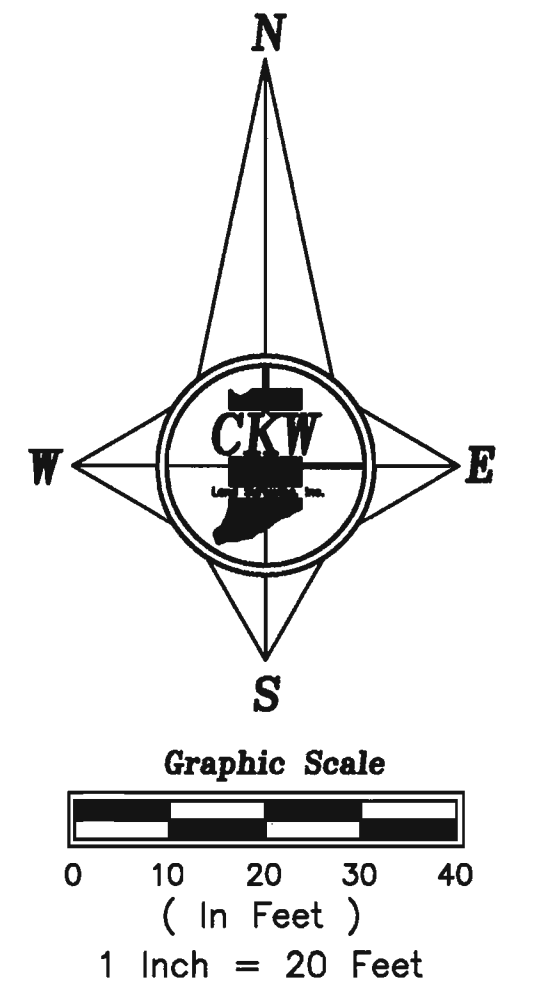


NOTICES AND PERMITS

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING OR VERIFYING THAT ALL PERMITS AND APPROVALS ARE OBTAINED FROM THE RESPECTIVE CITY, COUNTY OR STATE AGENCIES PRIOR TO STARTING ANY CONSTRUCTION.
2. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE EXACT LOCATION OF ALL UTILITIES IN THE VICINITY OF THE CONSTRUCTION AREA PRIOR TO STARTING ANY CONSTRUCTION.
3. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY FOR NOTIFICATION AND COORDINATION OF ALL CONSTRUCTION WITH THE RESPECTIVE UTILITY COMPANIES PRIOR TO STARTING ANY CONSTRUCTION.

LEGAL DESCRIPTION

THE EAST HALF OF LOT NO. TEN (10) KENT AND HENDRICK'S ADDITION TO THE CITY OF SHELBYVILLE, INDIANA, BEING 66 FEET FRONT AND 132 FEET DEEP; AND,
 THE WEST HALF OF LOT NO. TEN (10) ON THE SOUTHSIDE OF BROADWAY STREET IN THE CITY OF SHELBYVILLE AND SAID LOT NO. TEN (10) BEING LOCATED ON THE SOUTH SIDE OF BROADWAY IN KENT AND HENDRICK'S ADDITION TO THE TOWN, NOW CITY OF SHELBYVILLE, INDIANA.



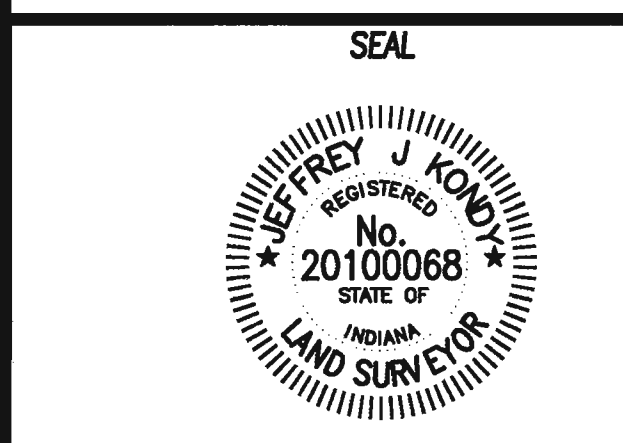
LEGEND

- ① REMOVE EXISTING CONCRETE PAVEMENT FOR WALK, BUILDING AND PAVEMENT SAW CUT FOR REMOVAL
- ② EXISTING GUARDRAIL TO REMAIN
- ③ REMOVE EXISTING KEROSENE PUMP AND CAP FUEL LINES
- ④ REMOVE EXISTING REAR BUILDING
- ⑤ REMOVE CONCRETE AT ENTRANCE

LEGEND

- POWER POLE
- OHE— OVERHEAD ELECTRIC LINE
- W—W— WATER LINE

Revisions
 FINAL PLANS 10-12-2018



Jeffrey J. Kowalski

CKW Land Surveying, Inc.
 301 East Jefferson St.
 Franklin, Indiana 46143
 (317) 736-0781 - Office
 (317) 736-0791 - Fax

Prepared For:
 AKRAM PETROLEUM, INC.
 11387 W. US HIGHWAY 36
 LOSANTVILLE, INDIANA 47354

Project:
 215 FUELING CENTER
 215 EAST BROADWAY
 ADDISON TOWNSHIP
 SHELBYVILLE, INDIANA

Sheet Title:
 DEMOLITION PLAN

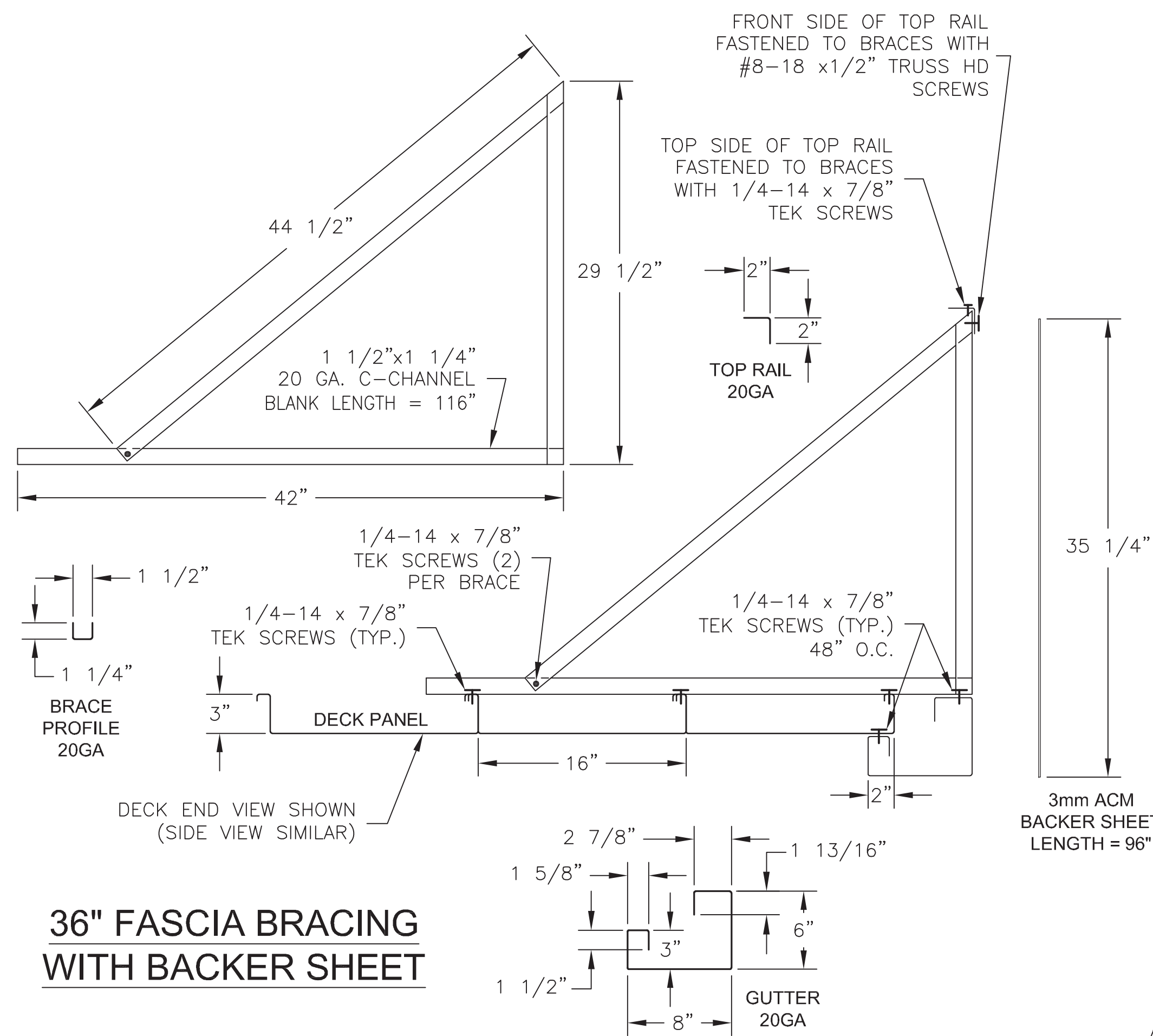
Scale 1" = 20'	Drawn JW	Designed JW	Checked JK
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Work Order No. 01-JPCKW	Sheet Number 1
Date: MARCH 8, 2018	of 1

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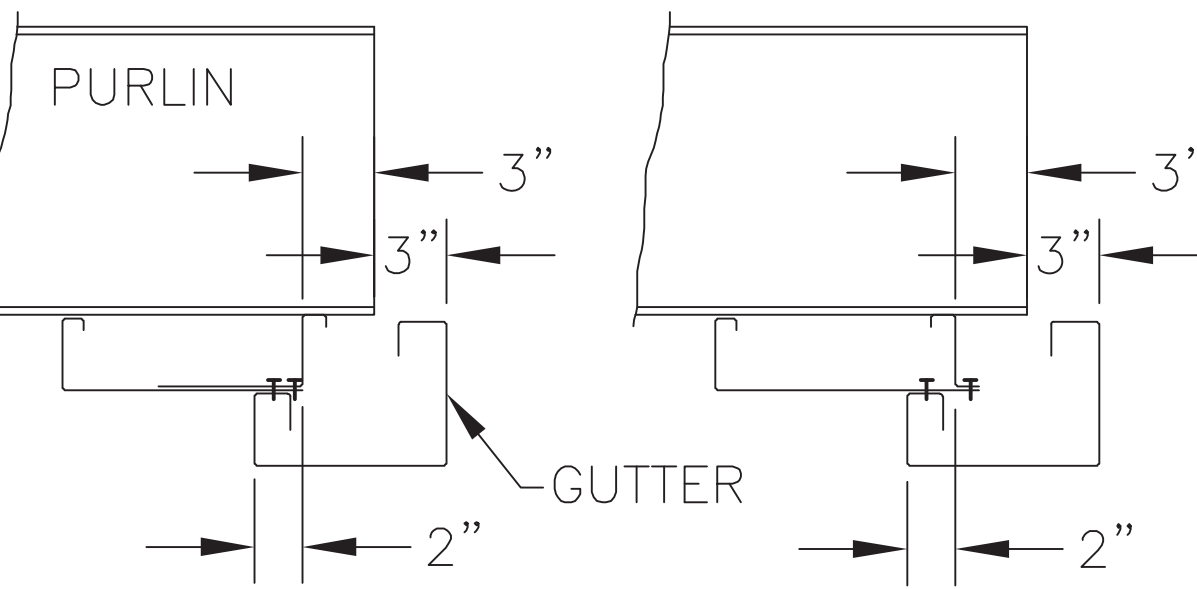
SCALE: CHECK HERE FOR MORE INFORMATION



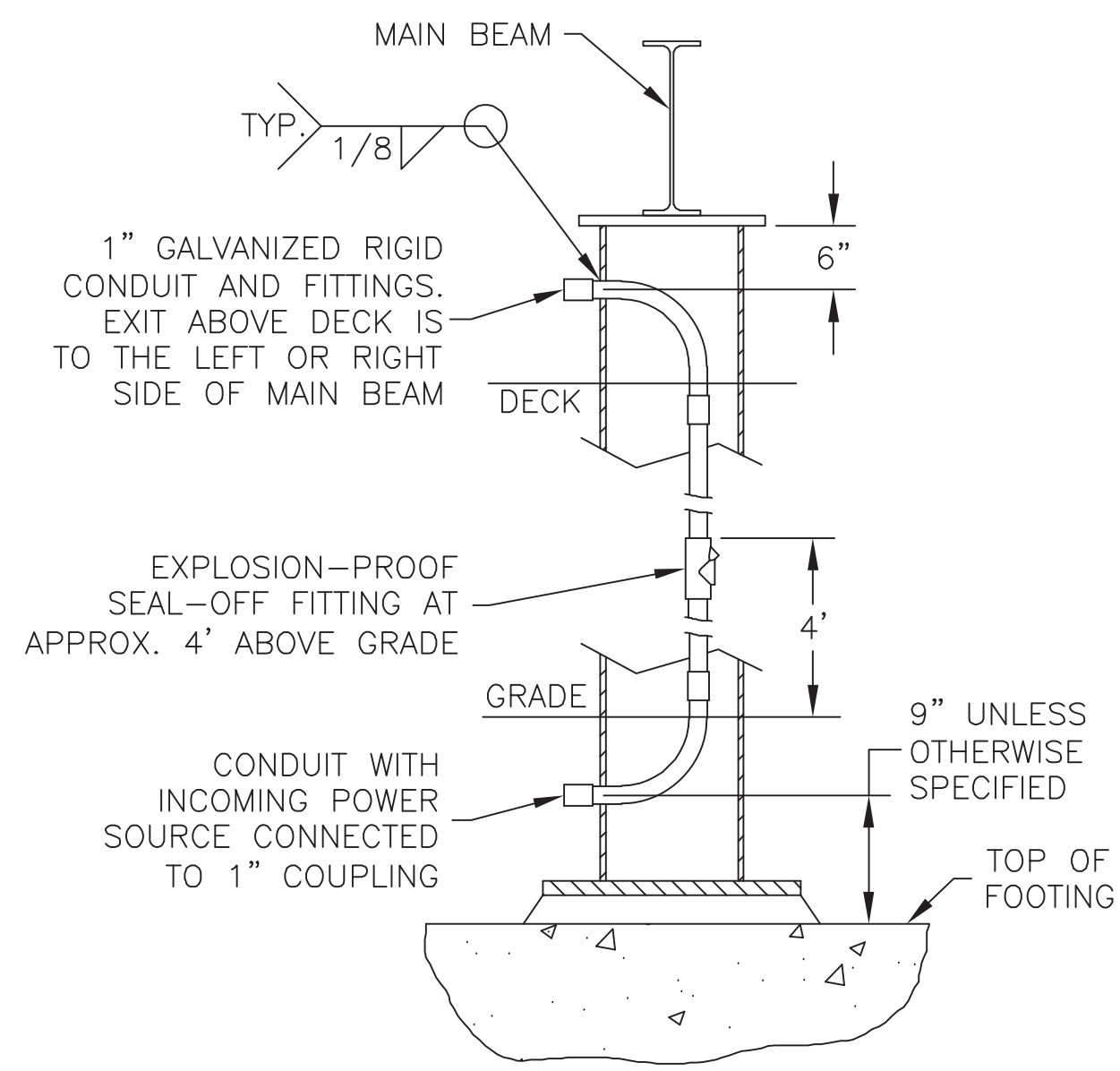
36" FASCIA BRACING WITH BACKER SHEET

DECKCLIP ATTACHMENT DETAIL

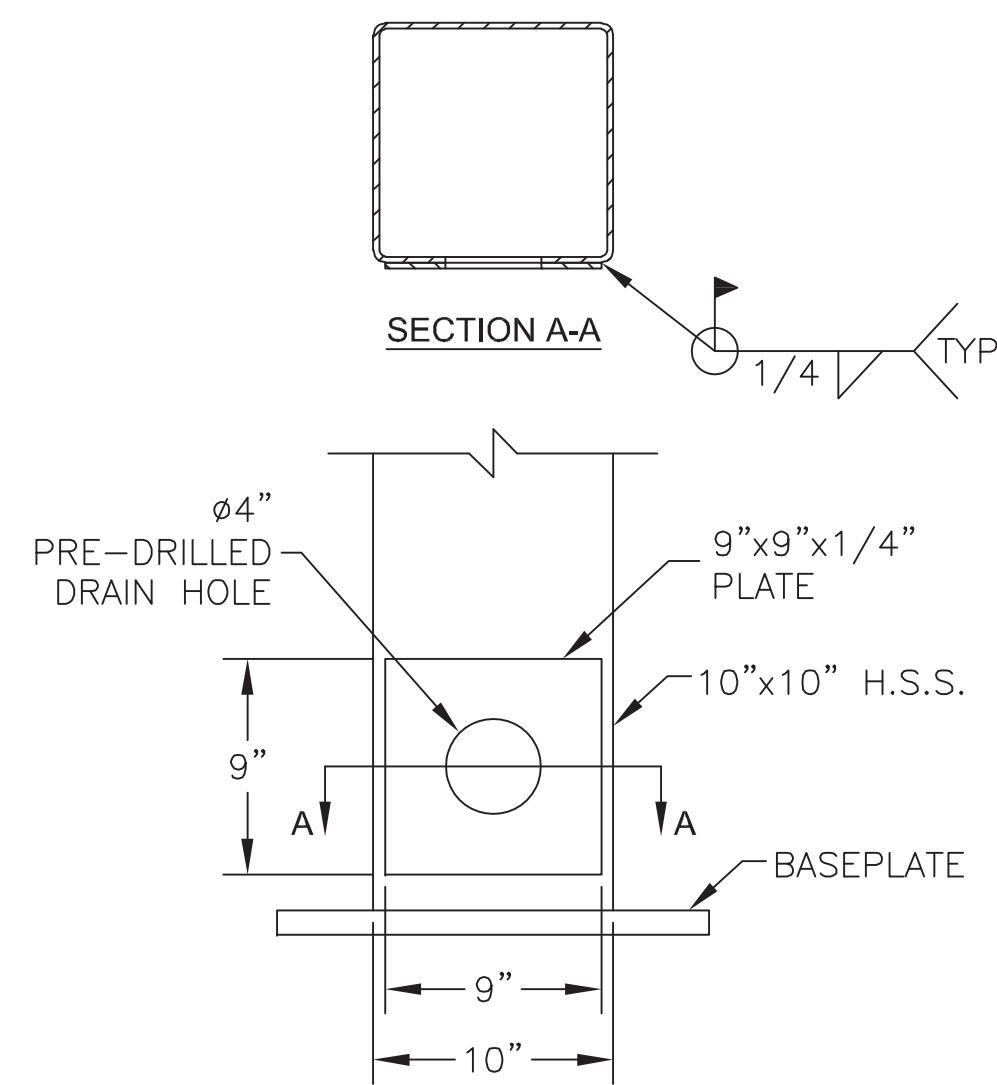
SCALE: NOT SHOWN



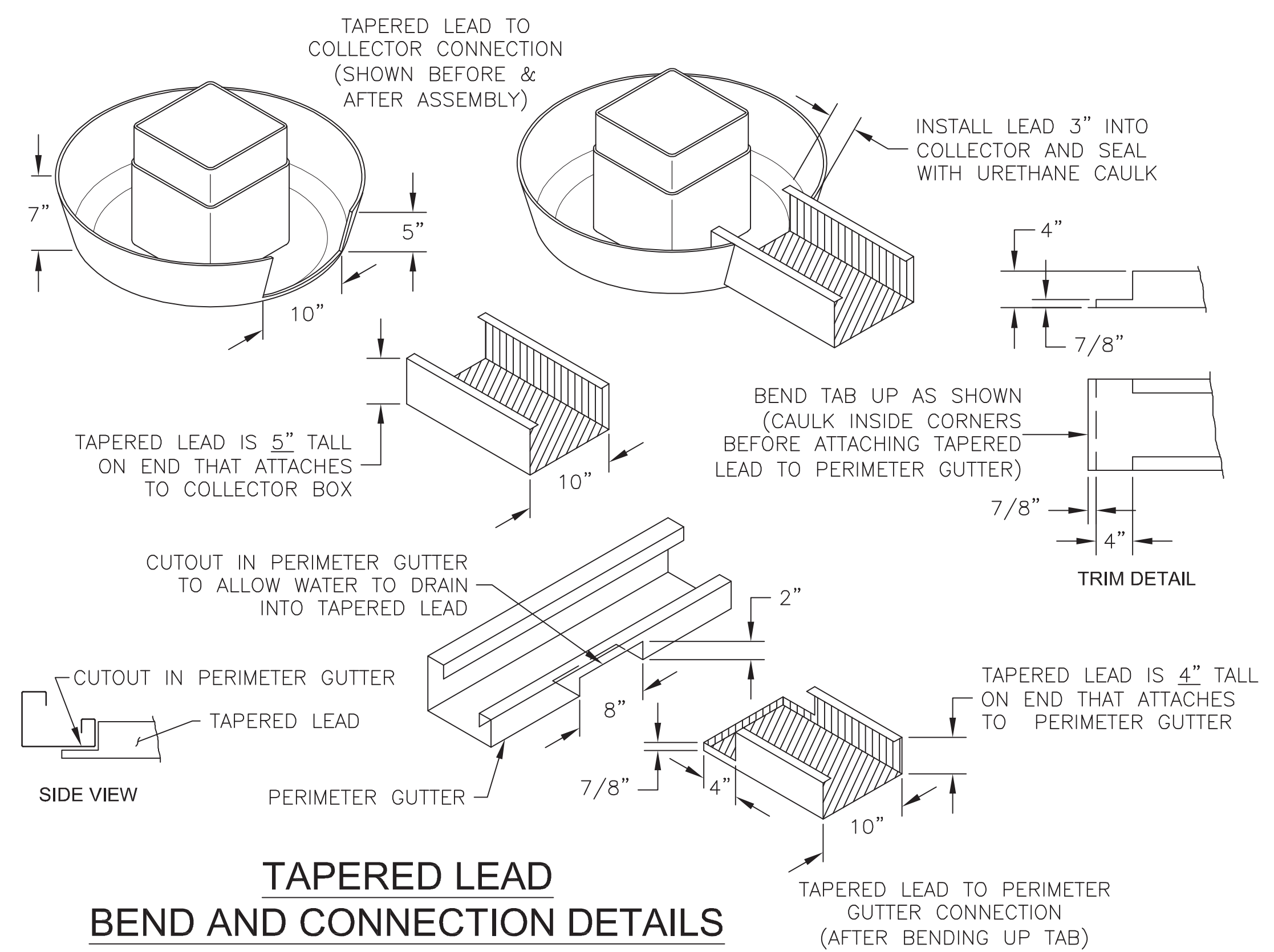
FINISH PAN OPTIONS



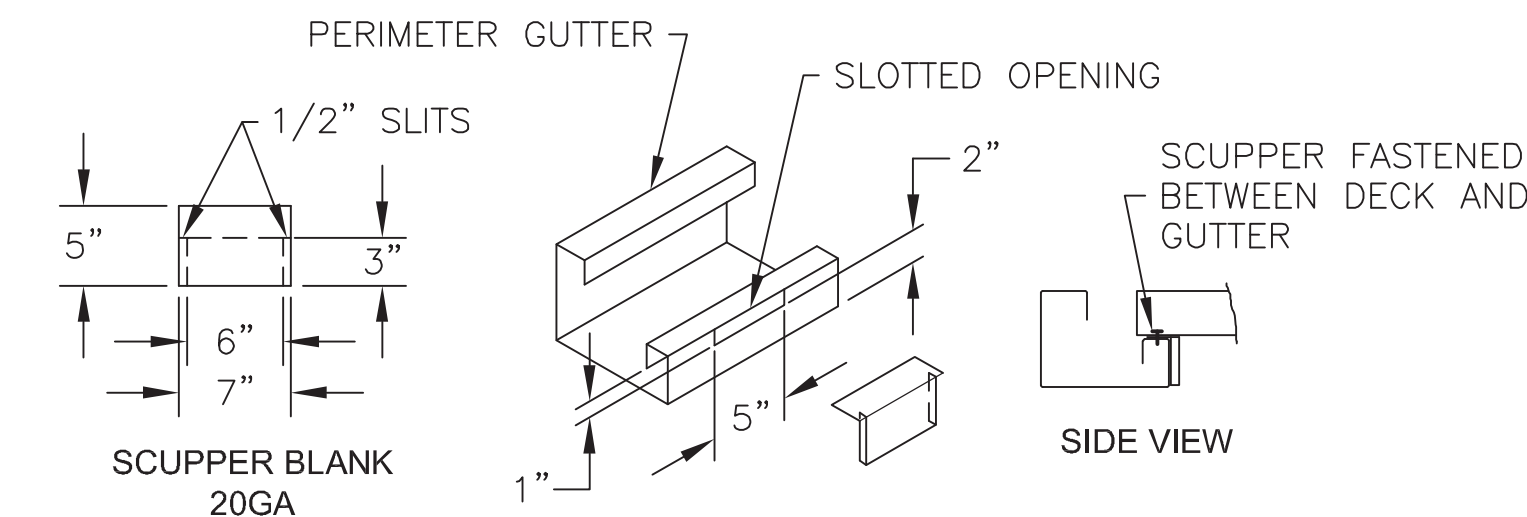
FULL-LENGTH ELECTRICAL CONDUIT



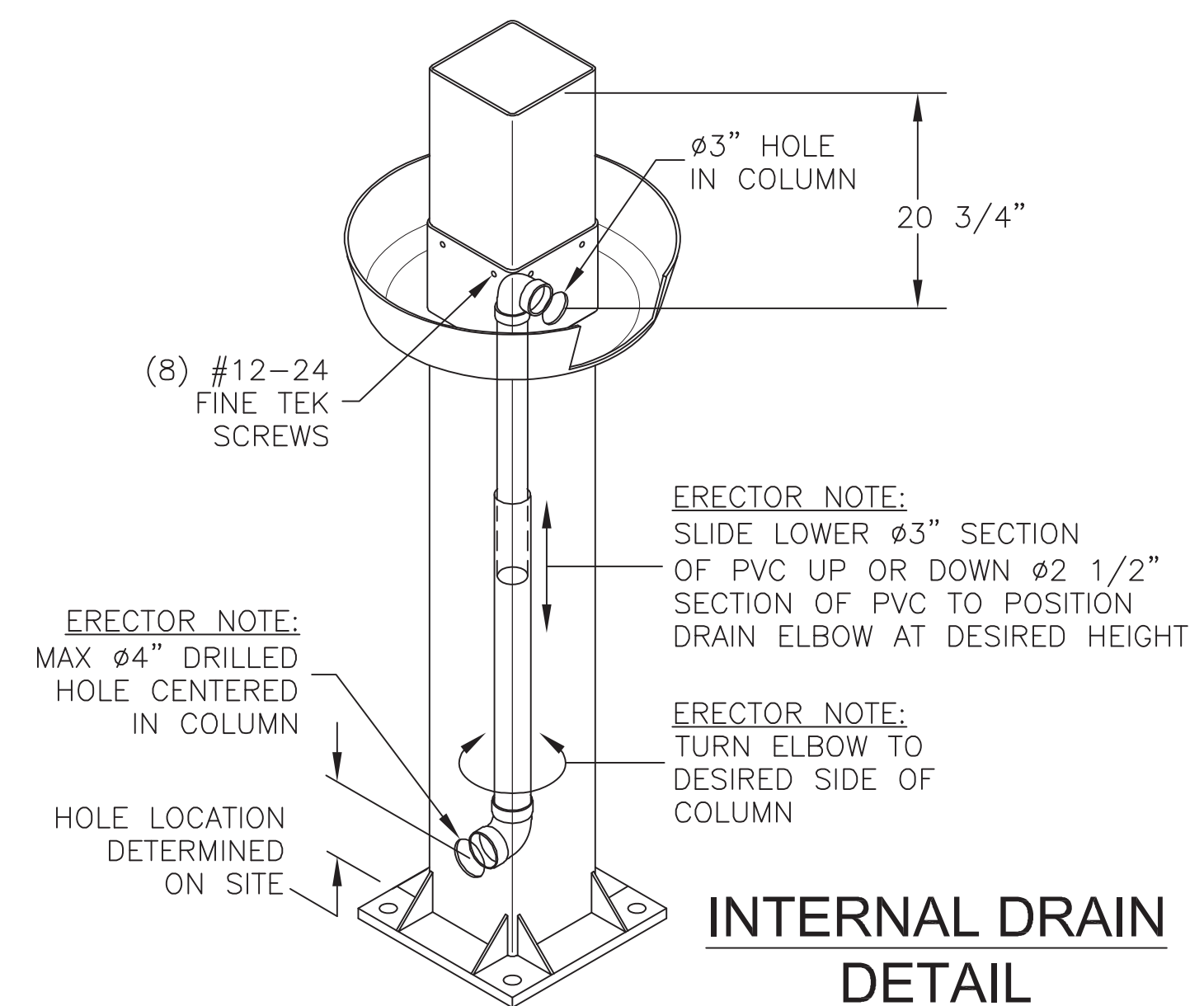
REINFORCEMENT PLATE DETAIL



TAPERED LEAD BEND AND CONNECTION DETAILS



OVERFLOW SCUPPER

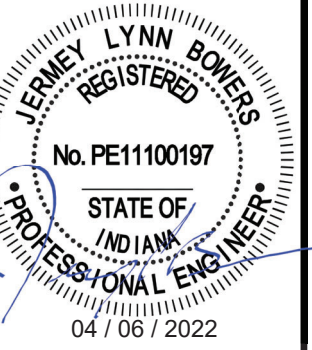


INTERNAL DRAIN DETAIL



2435 E. Bellefontaine Road
Hamilton, IN 46742
(260) 488-4065

DISTRIBUTOR: MID-VALLEY SUPPLY
SCALE: 24' x 80' | COLUMN: 6 SQ
DRAWN BY: JF



REVISIONS

DESIGN LOAD CRITERIA
CODE: 2012 IBC

1603.1.1 FLOOR LIVE LOAD: N/A
1603.1.2 ROOF LIVE LOAD: 20 PSF
1603.1.3 ROOF SNOW LOAD:
Pg= 20 PSF
Ps= 20 PSF
Ce= 1.0
I= 1.0
Ct= 1.2
1603.1.4 WIND LOAD:
V(3 SEC. GUST)= 115 MPH
I= 1.0
EXPOSURE= C
1603.1.5 EARTHQUAKE DESIGN DATA:
Sds= 0.165
Sd1= 0.137
SITE CLASS= D
SEISMIC FORCE-RESISTING SYSTEM=
INVERTED PENDULUM
ANALYSIS PROCEDURE=
EQUIVALENT LATERAL FORCE
CONSTRUCTION TYPE: TYPE IIB
USE GROUP: MERCANTILE GROUP M
BASE SHEAR V= 0.25 KIPS/COLUMN

SITE ADDRESS:

AKRAM OIL
215 E. BROADWAY STREET
SHELBYVILLE, IN
46176

SCALE: 1/8" = 1'-0" U.N.O. | JOB # C-22-3708
DATE: 2022-04-05 | QUOTE # 23421-BMQ-22

TITLE:

CANOPY PLAN & ELEVATIONS

\$-200.00