

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 7, 2020****CASE NUMBER**

6356/5279/5251/4007/3892/2258

APPLICANT NAME

MA Foodmart 1, LLC (Mohammed Suid, Agent)

LOCATION1363 Government Street
(Southeast corner of Government Street and Everett Street).**VARIANCE REQUEST****SIGN:** Sign Variance to allow an increase in the maximum allowable signage for all signs for a property within the Leinkauf Historic District in a B-2, Neighborhood Business District.**SIGN:** *Sign Variance to allow a freestanding digital pricing sign within 300' of residentially zoned property, and an existing canopy sign for more than 64 square feet in total signage at a single-tenant site in the Leinkauf Historic District in a B-2, Neighborhood Business District.***ZONING ORDINANCE
REQUIREMENT****SIGN:** The Zoning Ordinance limits the maximum allowable signage for all signs to a total of 64 square feet for properties within the Leinkauf Historic District in a B-2, Neighborhood Business District.**SIGN:** *The Zoning Ordinance does not allow digital pricing signs within 300' of residentially zoned property and limits businesses in historic districts to no more than 64 square feet of signage in a B-2, Neighborhood Business District.***ZONING**

B-2, Neighborhood Business District.

AREA OF PROPERTY

0.5± Acres

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting a Sign Variance to allow an increase in the maximum allowable signage for all signs for a property within the Leinkauf Historic District in a B-2, Neighborhood Business District; the Zoning Ordinance limits the maximum allowable signage for all signs to a total of 64 square feet for properties within the Leinkauf Historic District in a B-2, Neighborhood Business District.

The site has been given a Mixed Commercial Corridor (MCC) land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 by the Planning Commission. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting. This land use designation mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. It includes a wide variety of retail, services and entertainment uses.

The Mixed Commercial Corridor designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern, or concentrated into shorter segments of a corridor.

Over time, new development and re-development in Mixed Commercial Corridors is encouraged to: raise design quality; improve connectivity to surrounding neighborhoods; improve streetscapes; and, improve mobility and accessibility for all users of the corridor.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

The applicant states:

The purpose of this application is to allow the property owner to display additional signage on the property. The building that is located on the property is at a significant setback, causing the building to be blocked from view of motorists by neighboring buildings until those motorists pass the business. Therefore, the lack of signage results in a significant drop in revenue, since motorists cannot stop at the business because they do not see the gas station until it would be unsafe to stop and turn into the driveway. This condition occurred by a combination of the building being built near the back of the lot, combined with the buildup of the surrounding businesses in such a manner as to block the gas station from view. The surrounding businesses are not at a setback, and are clearly visible by motorists from a distance, giving motorists time to see the business in advance, slow down, and use a blinker prior to turning into the business. Lack of additional signage near the

street, advertising the gas station so that motorists can see it from a distance, results in a loss of revenue of between \$10,000 and \$15,000 per month.

The site has been before the Board for multiple variance requests, the first of which was for a front yard variance in 1968 for a gas station canopy. Another front yard variance for a larger canopy for the gas station was approved in 1983 and 1985. Most recently, in 2004, another front yard variance was granted to allow an even larger canopy.

The purpose of the Sign Regulations is to protect the health, safety and welfare of the citizens of the City of Mobile and the general aesthetics of the city by providing for uniform standards for the locations, spacing, height, setback, lighting, and other regulation of off-premise and on- premise signs within the city.

The site was originally brought to staff's attention when a 311-complaint was received stating that there is too much signage in the windows. Upon inspection, staff confirmed this to be true and issued a Notice of Violation, hence the application at hand.

Businesses in historic districts are limited to a total of 64 square feet of signage, with window signs limited to a maximum of 20% of the window area. The subject site has two (2) permitted signs: a double-faced, freestanding, 32± square foot sign; and a 25.52± square foot wall sign; for a total of 57.52± square feet of permitted signage. Pictures submitted with the application show that in addition to the permitted signage, there are nine (9) windows measuring 50" x 35", and are 100% covered with signage for a total of over 109 square feet of signage as well as various signs attached to fuel pumps, near Government Street, and on the fence.

It should also be noted that the graphics provided with the application appears to indicate that a new monument / low-mounted pole sign is proposed, with digital pricing panels. The narrative provided with the application does not address this aspect of the provided graphics and consequently has not been advertised; thus the monument / low-mounted pole sign with digital pricing panels cannot be considered.

As far as signs in the area are concerned, it should be noted that at the July 11, 2011 meeting, the Board denied a sign variance application for a nearby site approximately 160-feet± to the East, to allow 827 square feet of signage.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and that substantial justice is done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant states that the building being setback from the road makes an increase in signage necessary for customers to see the business with enough time to turn in a safe manner, as well as prevent a significant revenue loss. While the Board cannot consider economics as the basis for a variance, traffic safety can be a valid concern. However, the buildings located on either side of the property were in place before 1975, thus conditions adjacent to the site have not changed for at least 45 years, and it is the opinion of staff that if the goal of additional signage is to increase visibility to nearby traffic, that the signage on the windows, fence, and gas pumps would not ease this concern, as it is not readily visible to passersby. It seems it is simply the desire of the applicant to have more signage than the Zoning Ordinance allows.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Denial:

- 1) Approving the variance will be contrary to the public interest as the proposed signage will not increase the site's visibility to passing traffic;
- 2) Special conditions were not illustrated such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the variance in that no other businesses nearby have been granted similar variances.

Revised for the December meeting:

This application was heldover from the November meeting as the applicant was not present. Since then, the applicant has been in contact with staff concerning the signage situation on the subject site and has agreed to remove excess signage which was in the original Variance request submittal.

*The applicant **has revised the request to allow a digital pricing sign and a gas canopy wall sign.** As the site is within 300' of residentially zoned property, and also with the Leinkauf Historic District, digital signage is not allowed. And since the total square footage of the proposed digital sign and the existing gas canopy branding sign would exceed the maximum allowance of 64 square feet in a historic district, a Variance is required to allow such.*

The applicant's revised narrative states:

This is a request for a sign variance for the property located at 1363 Government Street, within a zone B-2 Neighborhood Business District.

This application seeks approval for the property owner to display a digital sign containing the business' pricing on the property near the road. Neighboring businesses of a similar

nature have converted to the use of such signs, and the applicant asserts that the use of this signage will enhance uniformity in the area, which will increase the aesthetic appeal of the area. Further, the digital signage will increase visibility to motorists, which will promote traffic safety, as the increased visibility will give passing motorists ample opportunity to see the business in advance, slow down, and use a blinker prior to turning into the business.

With regard to the proposed digital pricing sign, the applicant currently has a monument pricing sign with manual letters and numbers. The digital sign would replace this one.

The Electronic and digital sign amendment to the Zoning Ordinance was adopted in June 2013. Electronic and digital signs are specifically prohibited in historic districts, per Section 64-11.8.(7)(a)i. of the Zoning Ordinance.

It should be noted that the Board has also been sympathetic in similar instances of proposed digital pricing signs within 300' of residentially zoned property, especially given that business need to stay abreast of changing technologies and the Board approved a digital pricing sign request for the gas station located at the northeast corner of Ann and Government Streets at their June 3, 2019 meeting. It should be noted, that Section 64-11.8.c.(7)(a)vii of the Zoning Ordinance limits digital signage to a maximum of 500 NIT's during nighttime, and a maximum of 5,000 NIT's during daytime.

A Certificate of Appropriateness was issued on July 21, 2010, approving one 20 inch by 148 inch "TEXACO" with logo sign on the north elevation of the canopy. A sign permit was subsequently issued for the one canopy sign. It appears that the word "TEXACO" was placed on the east elevation of the canopy, while the logo was placed on the north elevation of the canopy. The visibility of the sign on the north canopy is limited due to an existing live oak tree in the right-of-way next to the canopy. The "TEXACO" sign on the east elevation of the canopy is the only signage easily visible for westbound traffic and is the only non-logo wall sign for the business identification. Therefore, the request to allow this particular sign to remain would seem justified.

It should be noted that, as the site is within the Leinkauf Historic District, approval by the Architectural Review Board would also be required for all signage, existing and proposed.

RECOMMENDATION:

Canopy Sign: *Staff recommends to the Board the following findings of fact for Approval for the "TEXACO" sign on the east elevation of the canopy:*

- 1) Approving the canopy sign variance will not be contrary to the public interest, as the existing sign is a portion of the overall signage approved in 2010 for the north canopy elevation;*
- 2) Special conditions (live oak trees in the abutting right-of-way) exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and*

- 3) *The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and surrounding neighborhood by granting the canopy sign variance because it will compensate for limitation in the signage allowances of the Zoning Ordinance.*

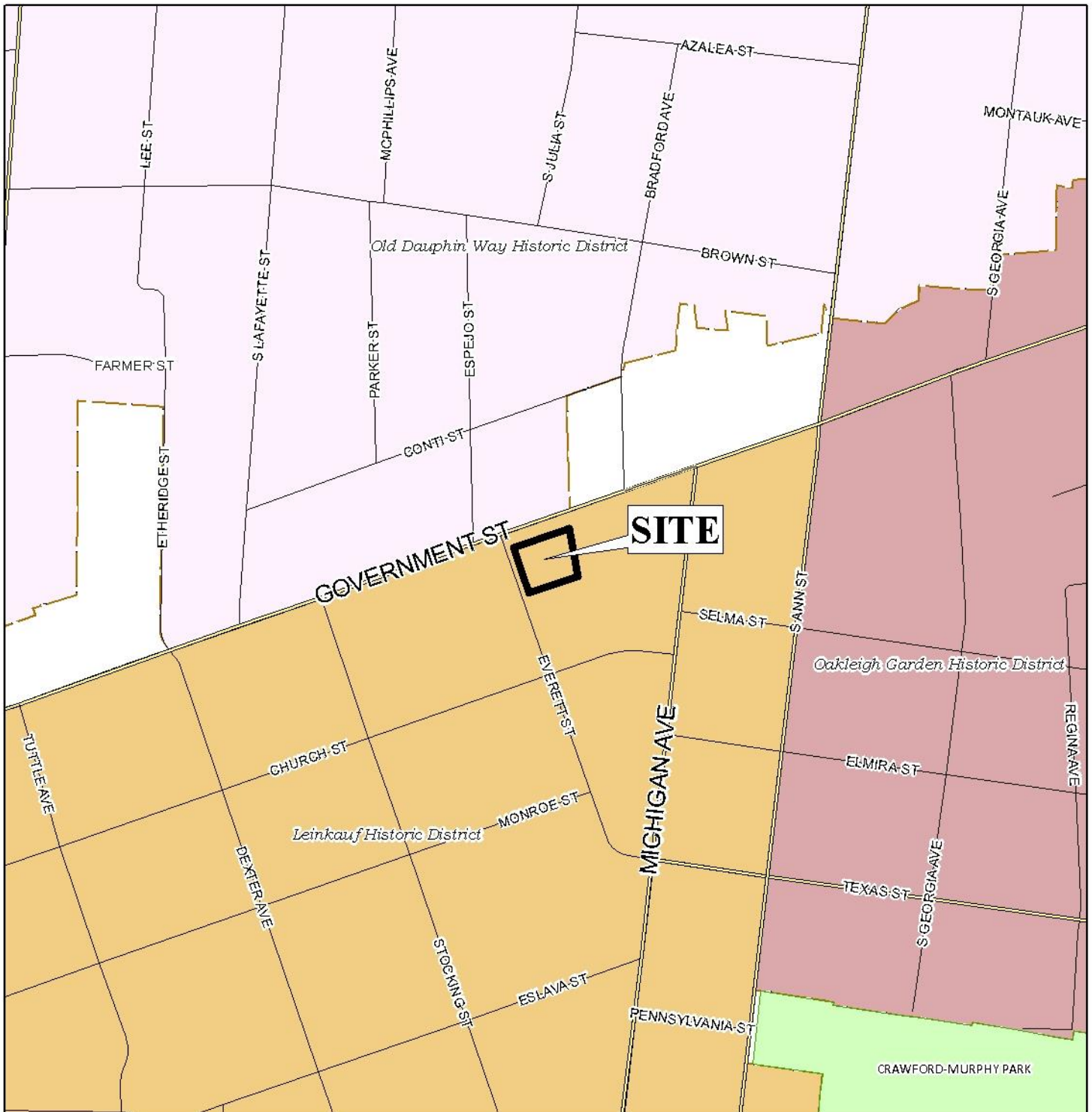
The Approval is subject to the following conditions:

- 1) *approval by the Architectural Review Board;*
- 2) *obtaining of all required after-the-fact sign permits for the east canopy sign; and*
- 3) *full compliance with all other municipal codes and ordinances.*

Monument Sign: *Staff recommends to the Board the following findings of fact for Denial of the proposed monument digital pricing sign:*

- 1) *Granting the variance will be contrary to the public interest in that it will be contrary to Section 64-11.8.c.(7)(a)i. of the Zoning Ordinance regarding the prohibition of electronic or digital signs in Historic Districts;*
- 2) *Special conditions and hardships do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site can be developed without the requirement for a variance ; and*
- 3) *The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the signage can be redesigned to be compliant.*

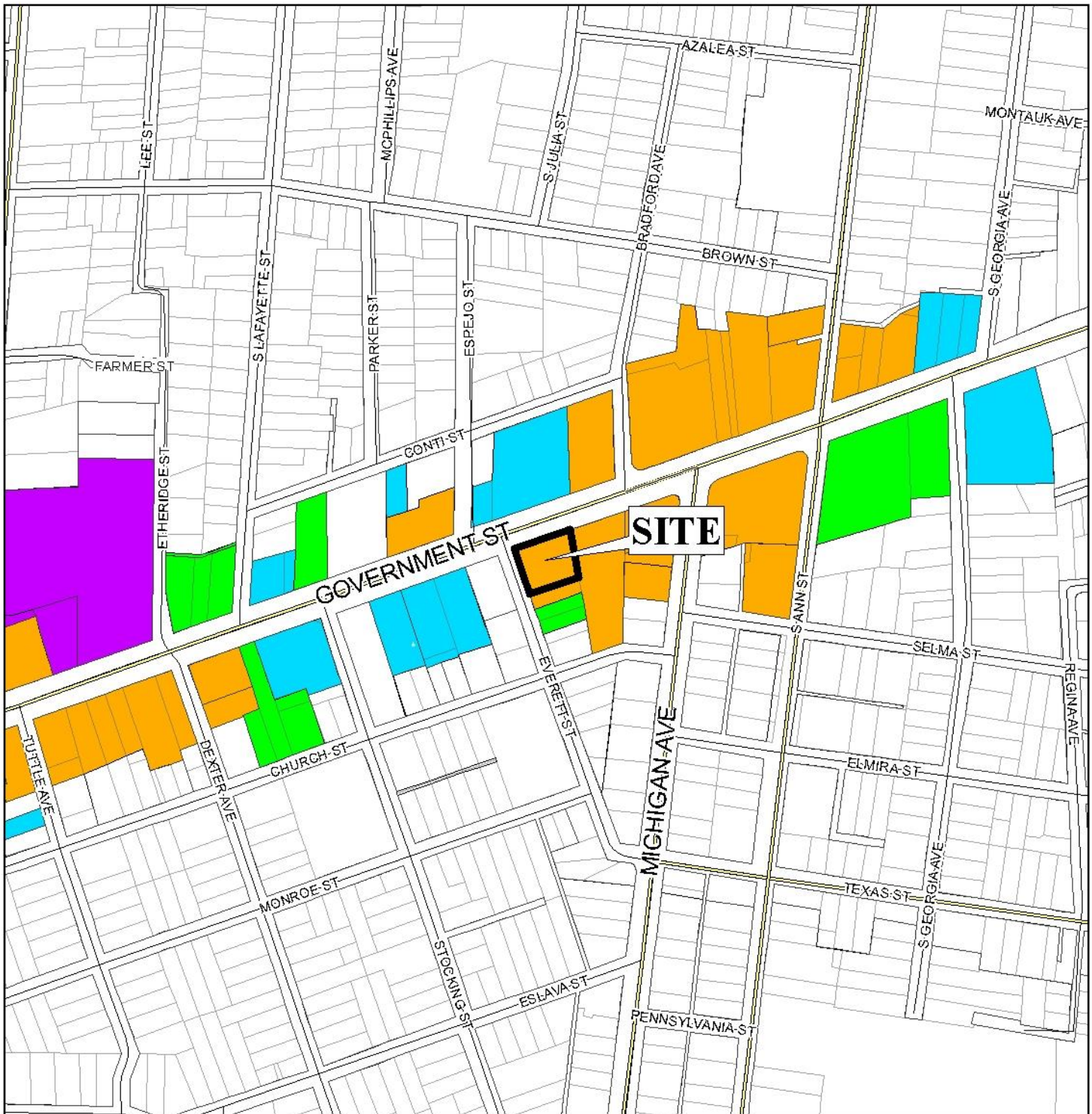
LOCATOR MAP



APPLICATION NUMBER 6356 DATE December 7, 2020
 APPLICANT MA Foodmart 1, LLC (Mohammed Suid, Agent)
 REQUEST Sign Variance



LOCATOR ZONING MAP



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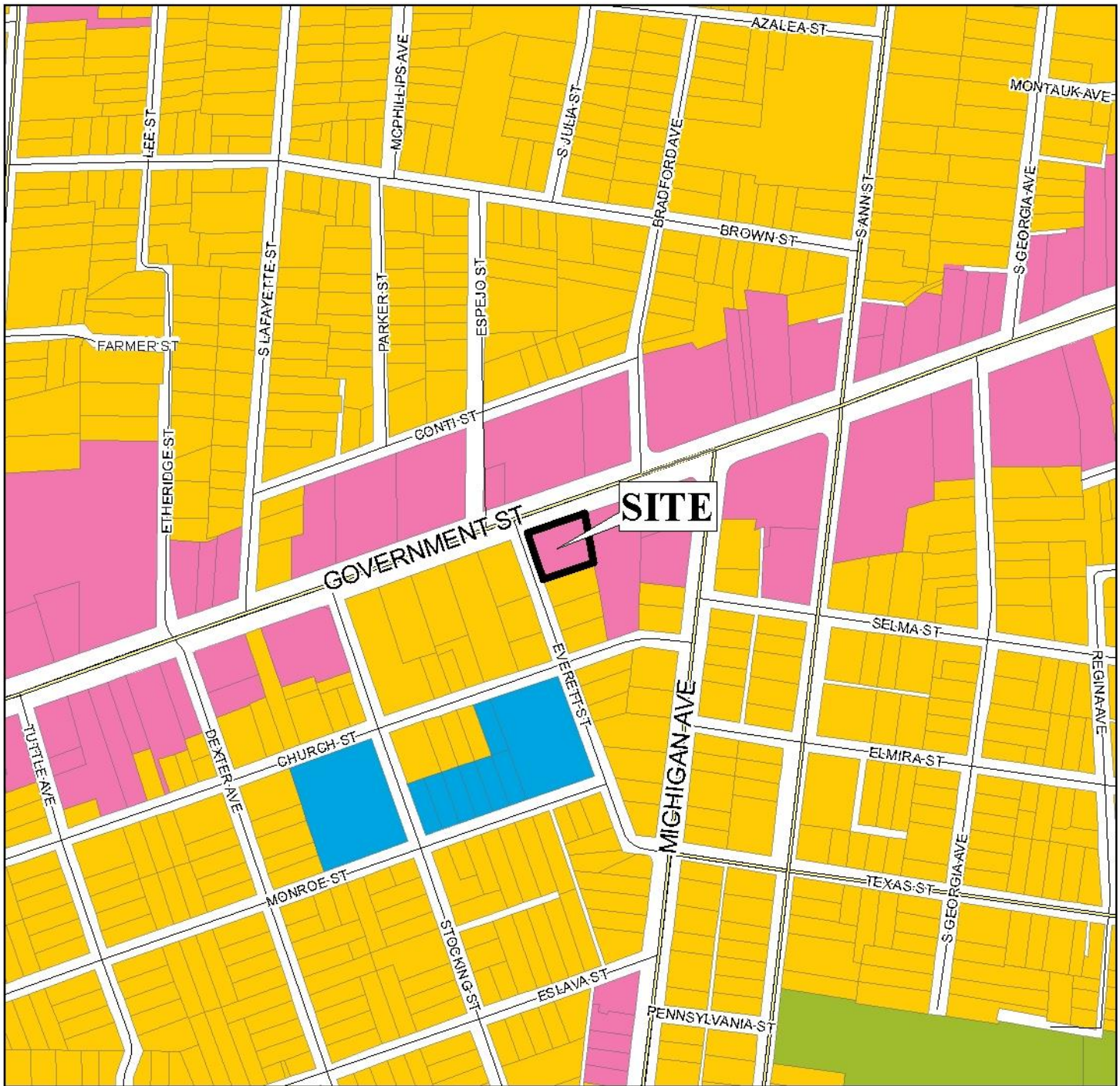
APPLICANT MA Foodmart 1, LLC (Mohammed Suid, Agent)

REQUEST Sign Variance



NTS

FLUM LOCATOR MAP



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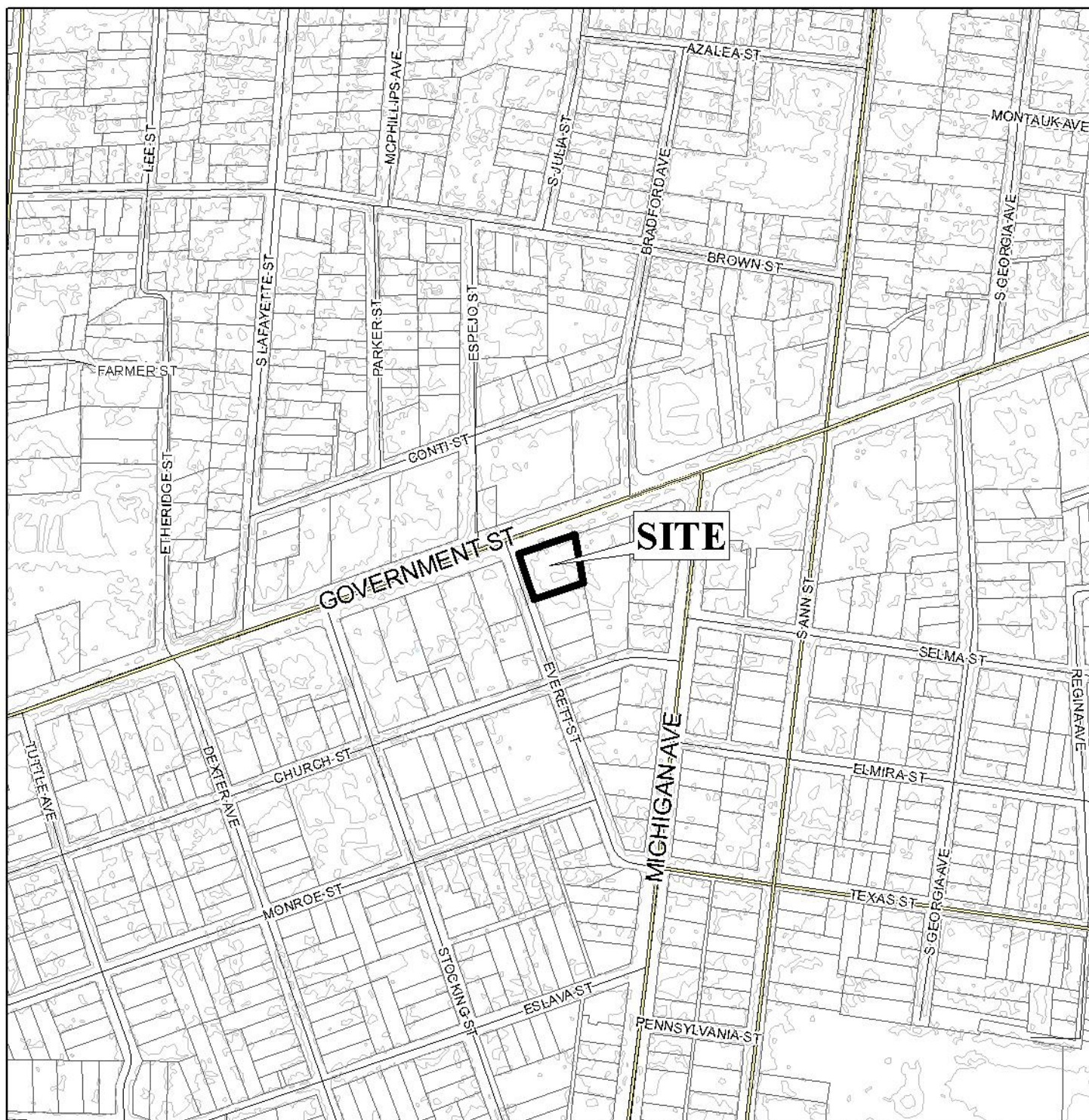
REQUEST Sign Variance

Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



NTS

ENVIRONMENTAL LOCATOR MAP



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REQUEST Sign Variance



























The map shows a grid of streets in downtown El Paso. The streets are labeled: CONTI ST, ESPEJO ST, GOVERNMENT ST, EVERETT ST, CHURCH ST, and MICHIGAN AVE. The map is color-coded: orange for commercial/retail, blue for residential, and green for industrial. Key landmarks include a Bank, Church, Rest, Conv Store, Misc Offices, Apts, Retail, Cleaners, Auto Svc, and Vac Land. A specific site is highlighted with a black outline and labeled 'SITE'.

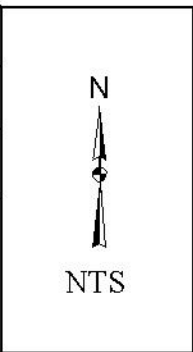
The site is surrounded by residential and commercial units.

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REQUEST _____ Sign Variance _____

 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING AERIAL

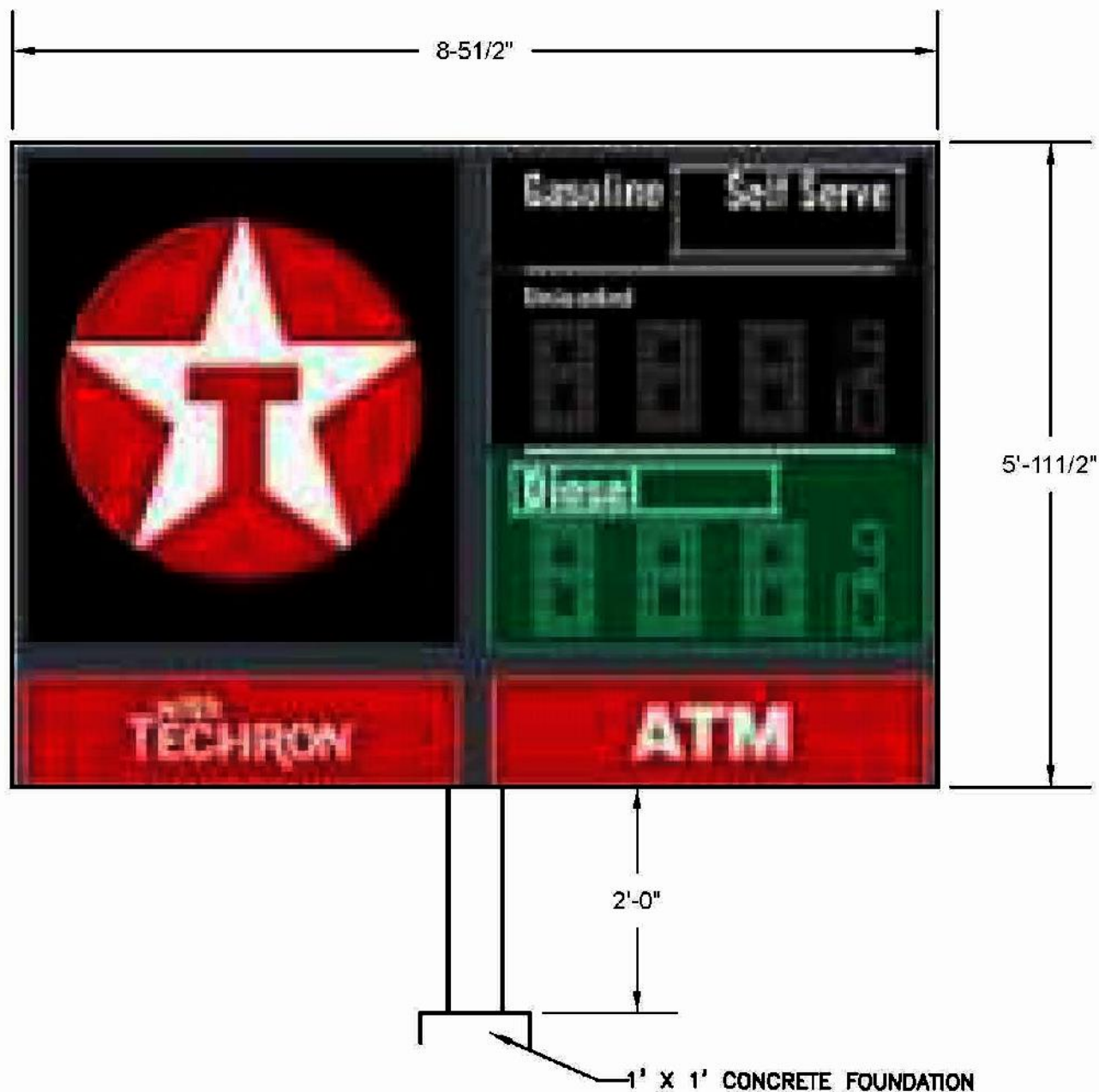


The site is surrounded by residential and commercial units.

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REQUEST	Sign Variance		



DETAIL SITE PLAN



DETAIL OF PROPOSED SIGN
N.T.S.

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