

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: January 5, 2015**

<u>CASE NUMBER</u>	5938
<u>APPLICANT NAME</u>	Orin Robinson/Victor Sign Company
<u>LOCATION</u>	3500 Knollwood Drive (Southwest corner of Knollwood Drive and Girby Road, extending to the East side of Arrington Drive)
<u>VARIANCE REQUEST</u>	SIGN: Sign Variance to allow an LED digital pricing sign on a double-faced freestanding sign structure located 95'± from the nearest residentially zoned property.
<u>ZONING ORDINANCE REQUIREMENT</u>	SIGN: The Zoning Ordinance does not allow digital signs within 300' of any residentially zoned property.
<u>ZONING</u>	B-2, Neighborhood Business District
<u>AREA OF PROPERTY</u>	49,000 Square Feet/ 1.1± Acres
<u>ENGINEERING COMMENTS</u>	No comments
<u>TRAFFIC ENGINEERING COMMENTS</u>	This request was not reviewed by Traffic Engineering.
<u>CITY COUNCIL DISTRICT</u>	District 4

ANALYSIS The applicant is requesting a Sign Variance to allow an LED digital pricing sign on a double-faced freestanding sign structure located 95'± from the nearest residentially zoned property; the Zoning Ordinance does not allow digital signs within 300' of any residentially zoned property.

The applicant submitted a sign permit application for the proposed sign to replace the existing freestanding sign at the convenience store operating on the subject site. Upon discovering that the sign would have LED digital gasoline pricing signs and would be within approximately 95' of residentially zoned property, the application was denied; hence this application. The City Council adopted the regulations requiring digital signs to be at least 300' from residentially zoned property on June 4, 2013.

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 substantial justice 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:

“The purpose of this application is to allow the installation of LED price panels at the existing service station at 3500 Knollwood Drive.”

“These price panels will replace existing manual price panels. LED panels have become the new standard in this industry. These panels will not scroll, or flash, or display any information other than the price of the products.”

“Not allowing these panels at this location would create a hardship in that this location will not be able to make use of the most up to date technology and could be perceived by potential customers as having antiquated equipment and being a sub-standard business. If that is the case they will go elsewhere where these signs are allowed.”

“In this industry image is everything. We want customers to feel confident and safe using our facilities. If they don’t they have too many other locations to choose from.”

The subject site adjoins residential zoning and use along its South and East boundaries. Sites across adjoining streets are zoned B-1, Buffer Business, and B-2. To the East and across the intersection of Knollwood Drive and Girby Road is R-3, Multi-Family Residential zoning, but that property is more than 300’ distant from the proposed sign location.

The applicant currently has an internally illuminated, two-pole pylon sign with gasoline price signage that is manually changed. A new single-pole pylon structure with upper-level branding and lower-level digital fuel pricing signage is proposed to replace the existing sign. The applicant makes the argument that a hardship is imposed by the Digital Sign Regulations in that the most up-to-date pricing sign technology could not be utilized and potential customers could perceive the business as being sub-standard with antiquated equipment and they would go elsewhere where the digital price signs are allowed.

Inasmuch as fuel prices are currently changing at a rapid pace and drivers seek out the lower prices, a hardship could be considered to be imposed by the disallowance of the latest digital signage technology which could rapidly display such changes in order for businesses to maintain a competitive edge. The applicant has stated that there would not be any scrolling, flashing, or

displaying of information other than product pricing. Unlike digital readerboards, digital pricing signs have low levels of light emission.

No formal site plan was submitted to indicate the location of the existing or proposed sign structures. Only a screen-shot from the City's web site was provided and there was no indication of the placement of the proposed sign. Upon close review of the GIS data and aerial photographs of the site, staff determined that the existing sign may be too close (less than the required 1'-6" setback) from the public right-of-way and advised the applicant to furnish an actual survey specifically locating the existing sign. Such was furnished confirming staff's suspicions indicating the sign to be only about 9" from the right-of-way. The location of the proposed sign is indicated to meet the required setback and be approximately 6' West of the existing sign's location.

It should be pointed out that in previous cases regarding digital fuel pricing signs, the Board has ruled in favor of the applicant's request. Most recently at the December 1st meeting the Board approved a digital fuel pricing sign located at the new Wal Mart site at the Southeast corner of University Boulevard and Overlook Road that was within approximately 240' of residentially zoned property. Furthermore, in keeping with the Board's previous interpretation of the Ordinance, the approval would seem appropriate.

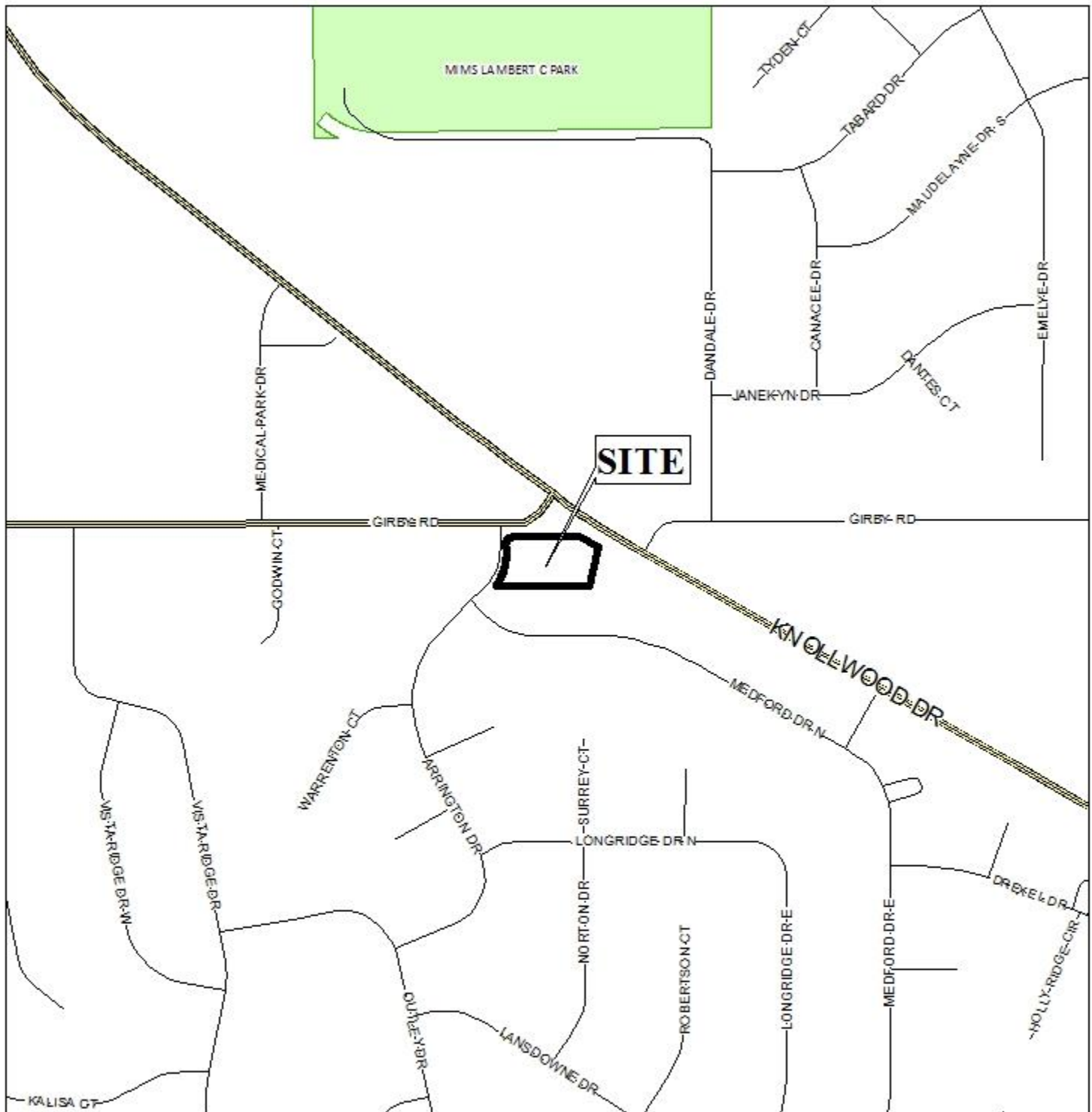
RECOMMENDATION: Staff recommends to the Board the following findings of fact for approval:

- 1) Approving the variance will not be contrary to the public interest in that the Digital Sign Regulations are not, in the Board's opinion, applicable to fuel price signs;
- 2) Special conditions exist and there are hardships which exist (the applicant would not be allowed to use the latest pricing display technology, and the Board is of the opinion that the digital sign regulations are not applicable to fuel price signs) such that the 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 surrounding neighborhood by granting the variance because proposed digital fuel price signs will not be a detriment to the neighborhood.

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) submission of a sign permit application;
- 2) obtaining of an electrical permit;
- 3) removal of the existing non-compliant sign;
- 4) location of the new sign to be compliant with the required front property line setback; and
- 5) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



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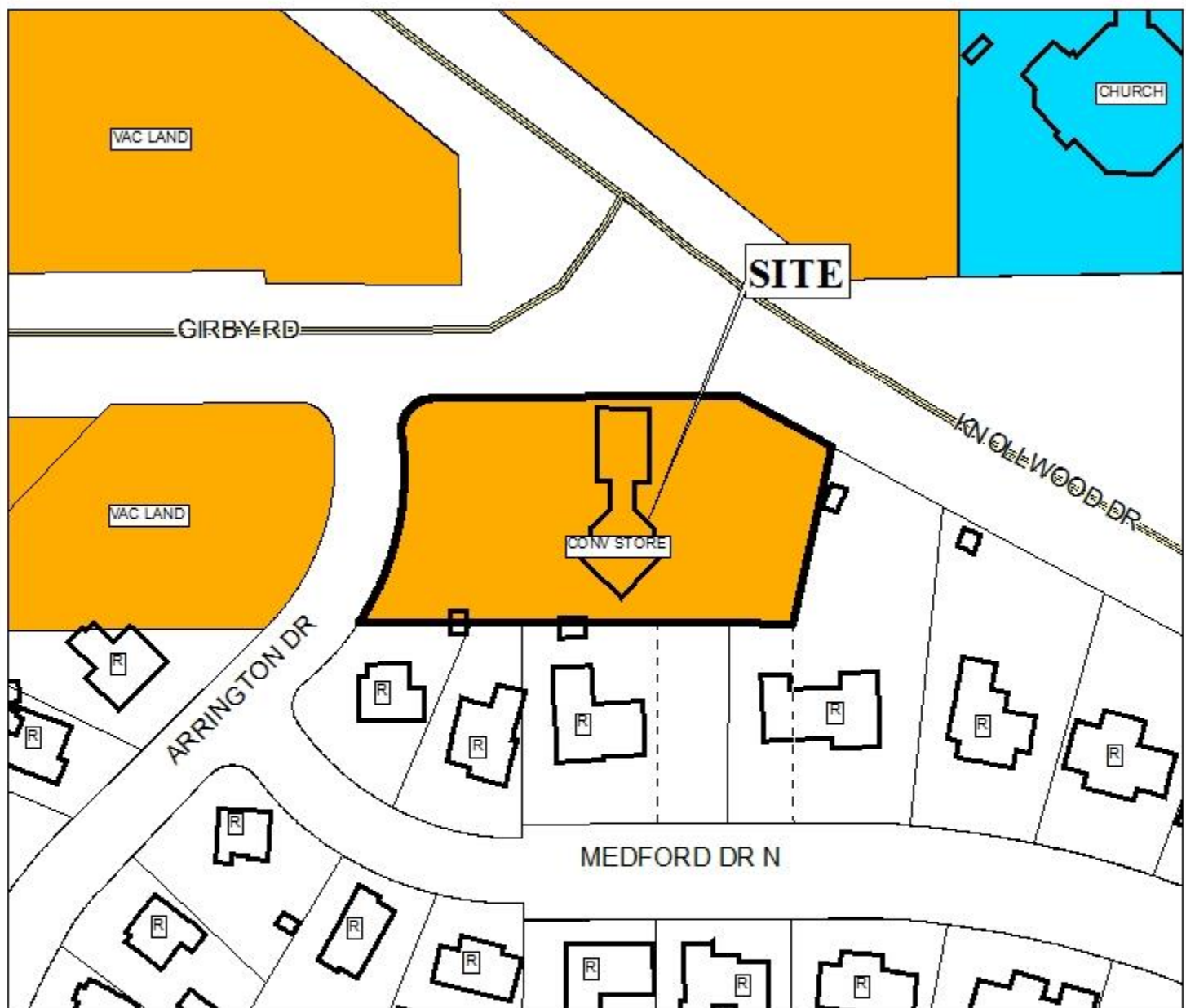
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VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units to the south. A church lies to the northeast.

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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



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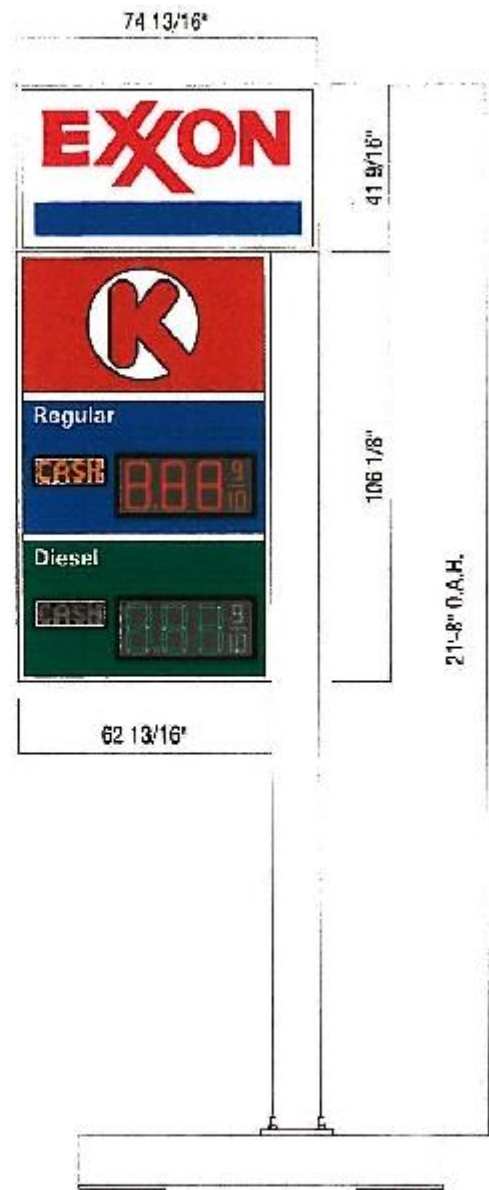
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DETAIL SITE PLAN



Existing



Proposed

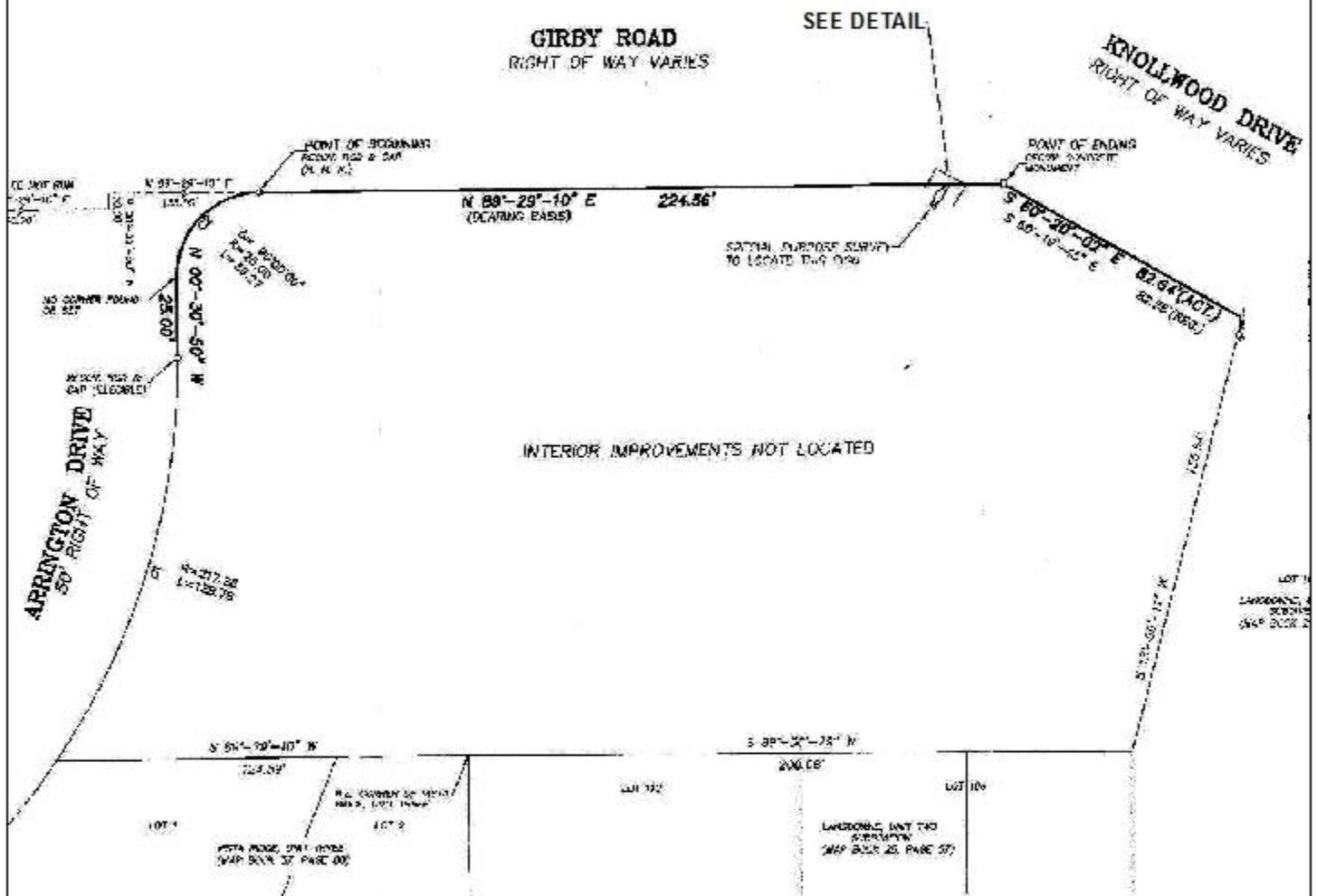
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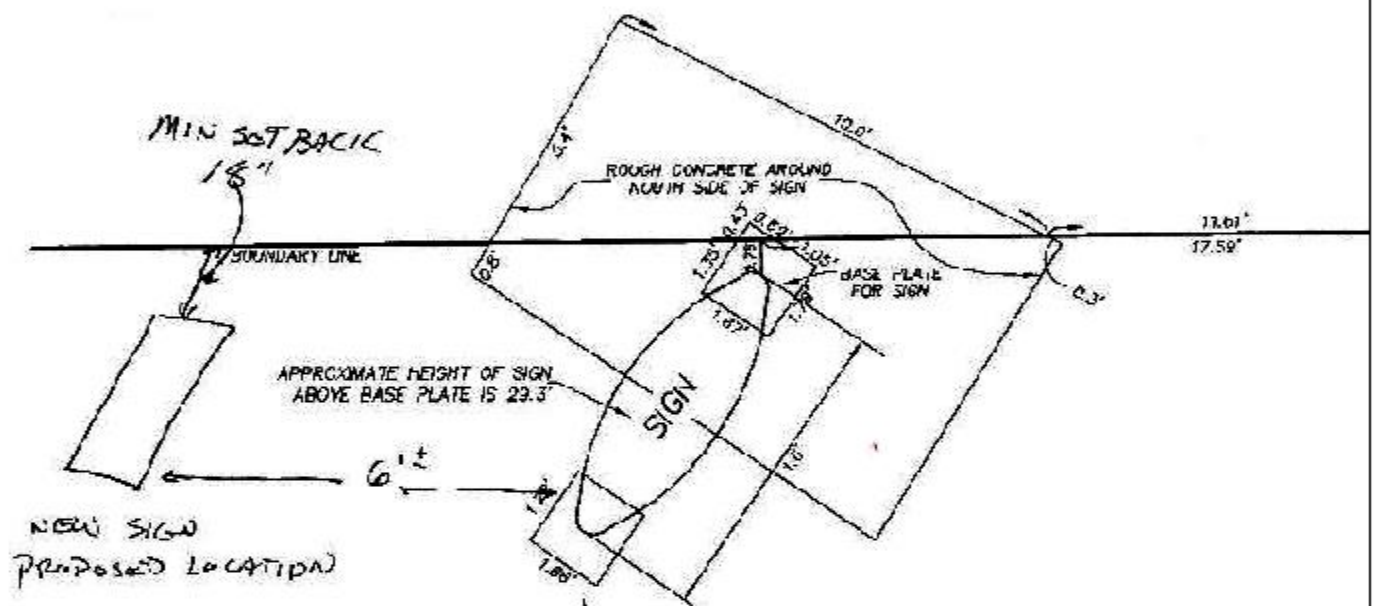
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