

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 20, 2021****CASE NUMBER**

6412/6356/5279/5251/4007/3892/2258

APPLICANT NAME

MA Foodmart 1, LLC (Mohammed Suid, Agent)

LOCATION1363 Government Street
(Southeast corner of Government Street and Everett Street).**VARIANCE REQUEST****SIGN:** To allow a freestanding digital pricing sign within a 300' of residentially zoned property in the Leinkauf Historic District in a B-2, Neighborhood Business District.**SIGN:** To allow 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 does not allow digital pricing signs within 300' of residentially zoned property in historic districts in a B-2, Neighborhood Business District.**SIGN:** The Zoning Ordinance 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.

**URBAN FORESTRY
COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites,

developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

FIRE DEPARTMENT

COMMENTS

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

CITY COUNCIL

DISTRICT

District 2

ANALYSIS

The applicant is requesting a Sign Variance to allow a freestanding digital pricing sign within 300' of residentially zoned property, and to allow 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. 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.

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 Zoning Ordinance states that no variance shall be granted where economics is 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.

Regarding the variance, the applicant cites neighboring businesses with similar signage, enhanced uniformity with the surrounding neighborhood, increased aesthetic appeal, and increased visibility for traffic safety as justification for the request, stating:

“This applicant seeks approval for the property owner to display a digital sign containing the business’s 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.”

The site has been the subject of multiple variance requests over the years, the first of which was for a Front Yard Variance in 1968 to allow a gas station canopy to encroach within the required front yard setback. Additional Front Yard Variances for a larger gas station canopy were approved in 1983, 1985, and 2004. Most recently, at its December 7, 2020 meeting, the Board approved a digital pricing sign to be placed within 300’ of residentially zoned property, and to allow an existing canopy sign to contribute to a total amount of signage greater than 64 square feet.

One of the conditions of approval of the December 2020 requests was removal of all non-compliant signs from the site. The applicant complied with the condition, thus allowing sign permits for the proposed signs to be issued; however, by the time sign applications were received by staff, the approval had expired. The applicant, as a result, is again requesting approval of the same requests for a digital pricing sign to be placed within 300’ of residentially zoned property, and to allow an existing, unpermitted 21± square-foot “TEXACO” logo canopy sign to remain, thus contributing to a total amount of signage greater than 64 square feet.

The site currently has two (2) permitted signs: a 32 square-foot, double-faced monument pricing sign, and a 25.52± square-foot canopy sign, for a total of 57.52± square feet of permitted signage. In addition to the permitted signage, pictures provided by the applicant and obtained via inspection of the site, depict various fuel pump signs and minor window signage on or near the door of the entrance to the existing building. Pictures of flags are also visible in the windows of the existing building. It should be noted, however, that fuel pump signs less than three (3) square feet in area

per sign, and an aggregate area of six (6) square feet per pump, are permissible without permits; window signs that do not exceed 20 percent of the combined window area are also permissible, with permits; and, flags as defined in the Zoning Ordinance are exempt from the sign provisions altogether.

The digital pricing sign is proposed to replace an existing monument pricing sign that has manually replaceable letters and numbers. An amendment to the Sign Provisions of the Zoning Ordinance in June 2013 specifically prohibits digital signs in historic district (See Section 64-11.8.(7)(a)i. of the Zoning Ordinance). Furthermore, Section 64-11.8.(7)(a)ii. does not allow any digital sign within 300' of residentially zoned property (property zoned R-1, Single-Family Residential District is directly across the street from the subject site, to the West).

The existing canopy is equipped with a 25.52± square-foot “TEXACO” logo sign on its North elevation, which was approved in 2010 by both the Architectural Review Board and the Planning and Zoning Department; however, a second “TEXACO” logo sign was placed on the East elevation of the canopy, without any approvals. No information regarding the size of the additional sign was provided, therefore staff cannot determine its size. Nevertheless, given the photos of the site, the sign appears to contribute to a size of the total amount of signage greater than is permitted in a historic district.

While the applicant did not justify the request for the additional, unpermitted canopy sign, the most recent variance request highlighted that the visibility of the sign on the North elevation of the canopy is limited by a live oak tree within the right-of-way. Allowing the sign on the East elevation to remain would facilitate visibility of the site for vehicles traveling West. As such, the request to allow this particular sign to remain would seem justified.

With respect to the applicant's justification for the digital pricing sign being in character with the surrounding neighborhood, the Board did approve a digital pricing sign at its June 3, 2019 meeting for the gas station at the northeast corner of Ann Street and Government Street. It seems the Board has been sympathetic to digital pricing signs within 300' of residentially zoned properties as businesses need to progress with changing technologies. However, if the sign is again approved, its brightness levels are limited to a maximum of 500 nits during nighttime, and 5,000 nits during daytime (See Section 64-11.8.(7)(a)vii. of the Zoning Ordinance).

Finally, if any of the requests are approved, approval from the Architectural Review Board is also required for all signage, existing and proposed, as the site is within the Leinkauf Historic District.

RECOMMENDATIONS:

Freestanding Digital Pricing Sign: Based upon the preceding, staff recommends to the Board the following Findings of Fact for Approval of the freestanding digital pricing sign:

- 1) Approving the freestanding digital pricing sign variance request will not be contrary to the public interest due to the fact that a similar variance has been approved within the vicinity of this site;

- 2) Special conditions do appear to exist, primarily previous approval of the same request, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and,
- 3) That the spirit of the chapter shall be observed and substantial justice done to the surrounding neighborhood by granting the freestanding digital pricing sign variance as the Board previously determined it will not affect residentially used property.

The approval is subject to the following conditions:

- 1) Approval by the Architectural Review Board;
- 2) Obtaining of all required permits for the sign; and,
- 3) Full compliance with all other municipal codes and ordinances.

Canopy Sign: Based upon the preceding, staff recommends to the Board the following Findings of Fact for Approval of the canopy sign:

- 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 exist (live oak trees in the abutting right-of-way) 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 permits for the sign; and,
- 3) Full compliance with all other municipal codes and ordinances.

Revised for the October 4th meeting:

The application was heldover by the Board at its September 20, 2021 meeting due to technical issues.

It should be noted that the currently proposed signs are identical to the ones approved by the Board at its December 2020 meeting.

No additional information has been submitted, therefore the previous recommendation remains.

RECOMMENDATIONS:

Freestanding Digital Pricing Sign: Based upon the preceding, staff recommends to the Board the following Findings of Fact for Approval of the freestanding digital pricing sign:

- 1) *Approving the freestanding digital pricing sign variance request will not be contrary to the public interest due to the fact that a similar variance has been approved within the vicinity of this site;*
- 2) *Special conditions do appear to exist, primarily previous approval of the same request, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and,*
- 3) *That the spirit of the chapter shall be observed and substantial justice done to the surrounding neighborhood by granting the freestanding digital pricing sign variance as the Board previously determined it will not affect residentially used property.*

The approval is subject to the following conditions:

- 1) *Approval by the Architectural Review Board;*
- 2) *Obtaining of all required permits for the sign; and,*
- 3) *Full compliance with all other municipal codes and ordinances.*

Canopy Sign: *Based upon the preceding, staff recommends to the Board the following Findings of Fact for Approval of the canopy sign:*

- 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 exist (live oak trees in the abutting right-of-way) 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:

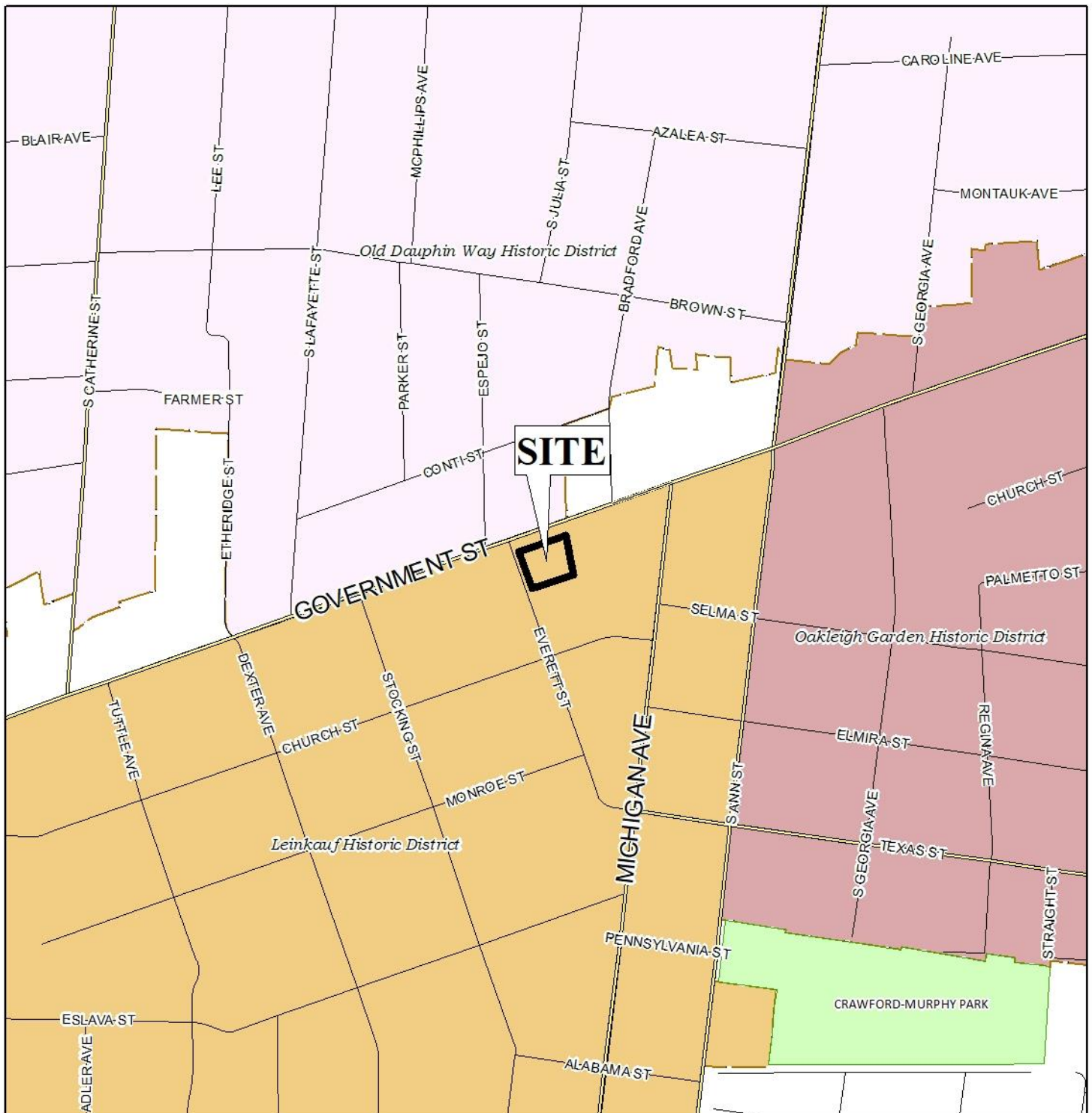
- 1) *Approval by the Architectural Review Board;*
- 2) *Obtaining of all required after-the-fact permits for the sign; and,*
- 3) *Full compliance with all other municipal codes and ordinances.*

In order for any concerns to be considered by the Board you must email your concerns to planning@cityofmobile.org or they may be uploaded to the website via the portal under the meeting date and case. Comments must be entered by 2:00 PM on Friday, October 1st, before the meeting, in order to be considered by the Board.

If you wish to participate in the meeting, you must email planning@cityofmobile.org by 2:00 PM on Friday, October 1st, before the meeting. In accordance with the Rules of the Board of Zoning Adjustment, no

more than four (4) speakers are allowed to speak for or against an application. Speaking time is limited to five (5) minutes per speaker.

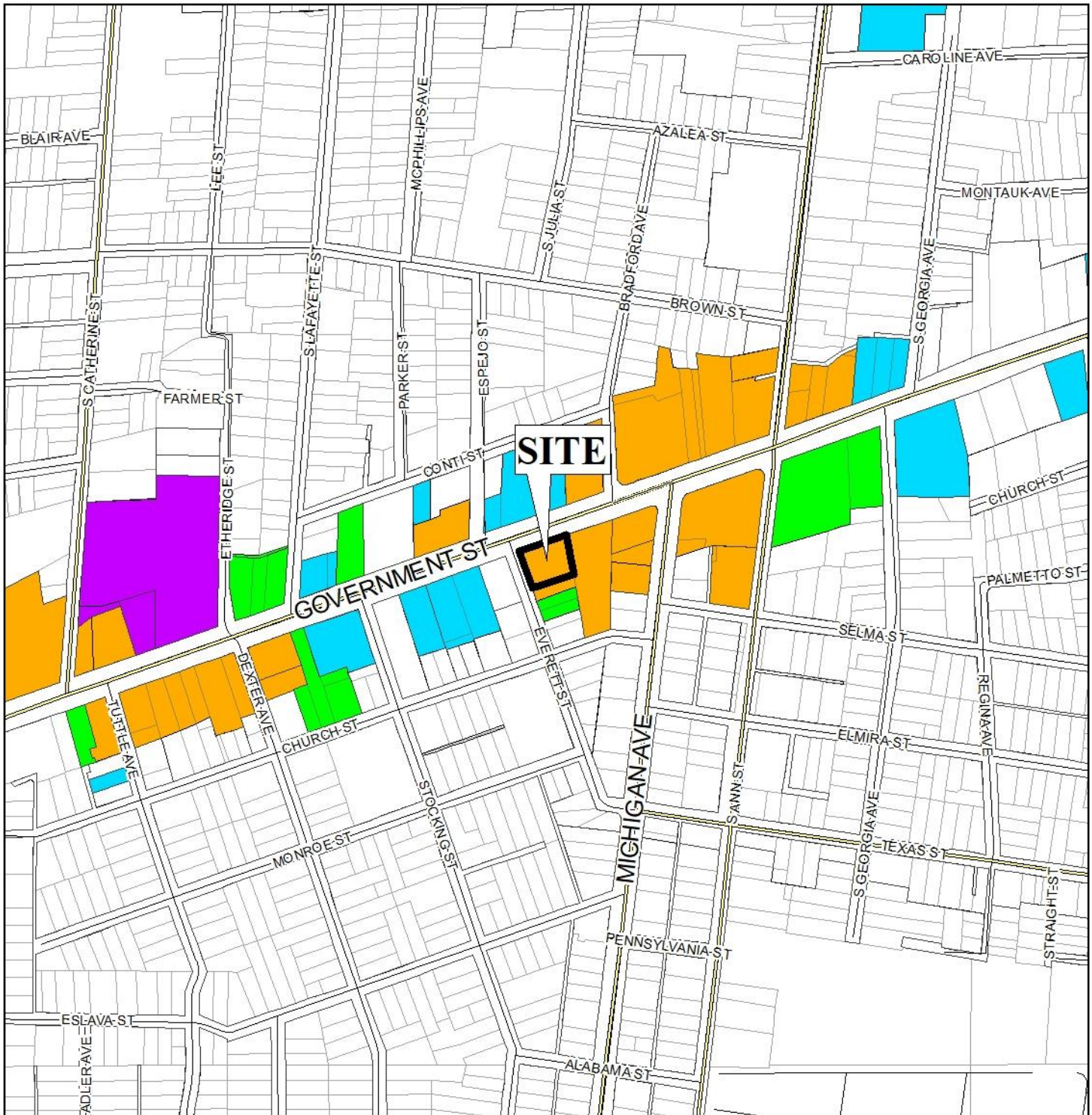
LOCATOR MAP



APPLICATION NUMBER 6412 DATE October 4, 2021
 APPLICANT MA Foodmart 1, LLC (Mohammed Suid, Agent)
 REQUEST Sign Variance



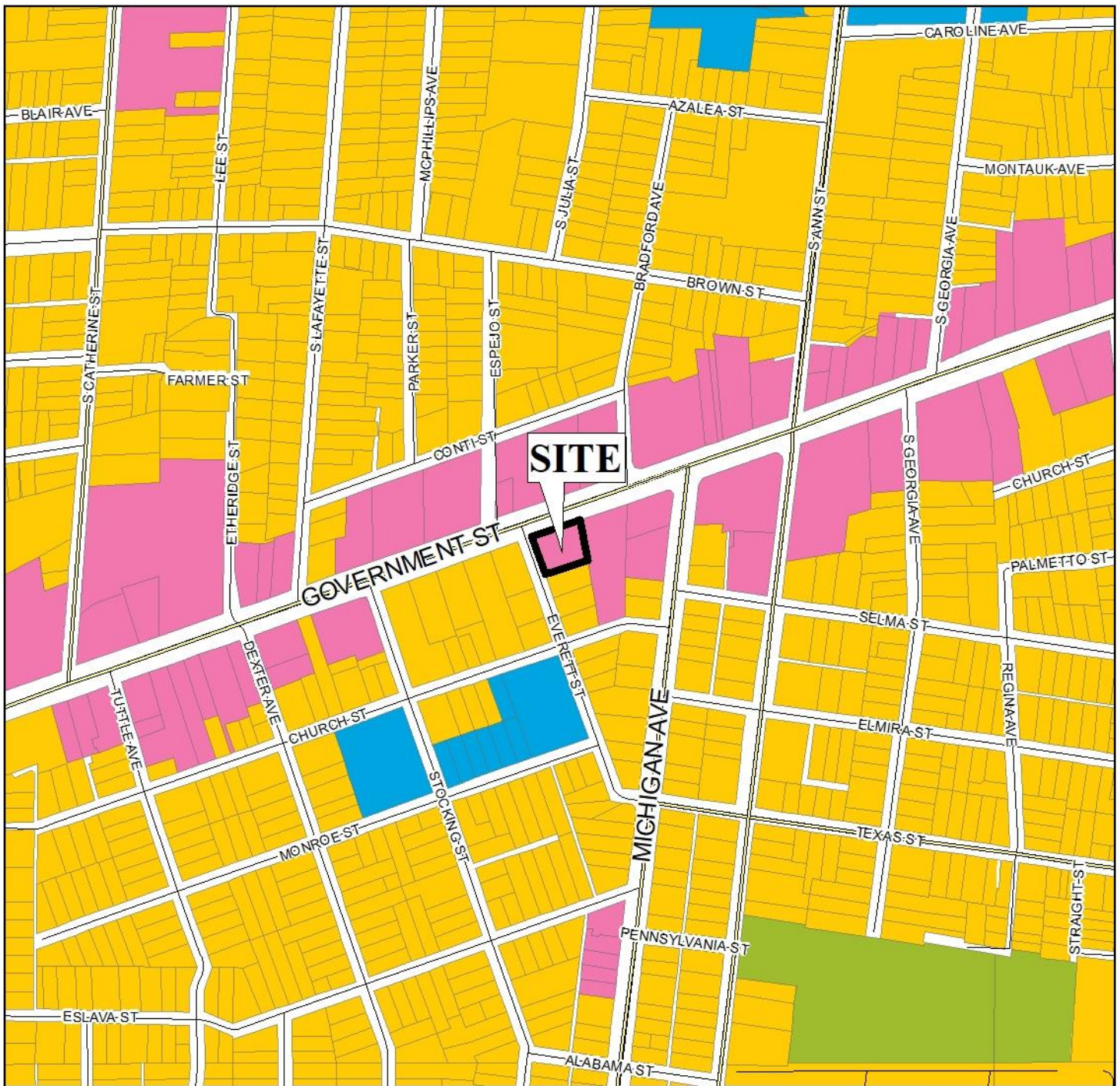
LOCATOR ZONING MAP



APPLICATION NUMBER 6412 DATE October 4, 2021
APPLICANT MA Foodmart 1, LLC (Mohammed Suid, Agent)
REQUEST Sign Variance



FLUM LOCATOR MAP



APPLICATION NUMBER 6412 DATE October 4, 2021

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

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	



ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6412 DATE October 4, 2021

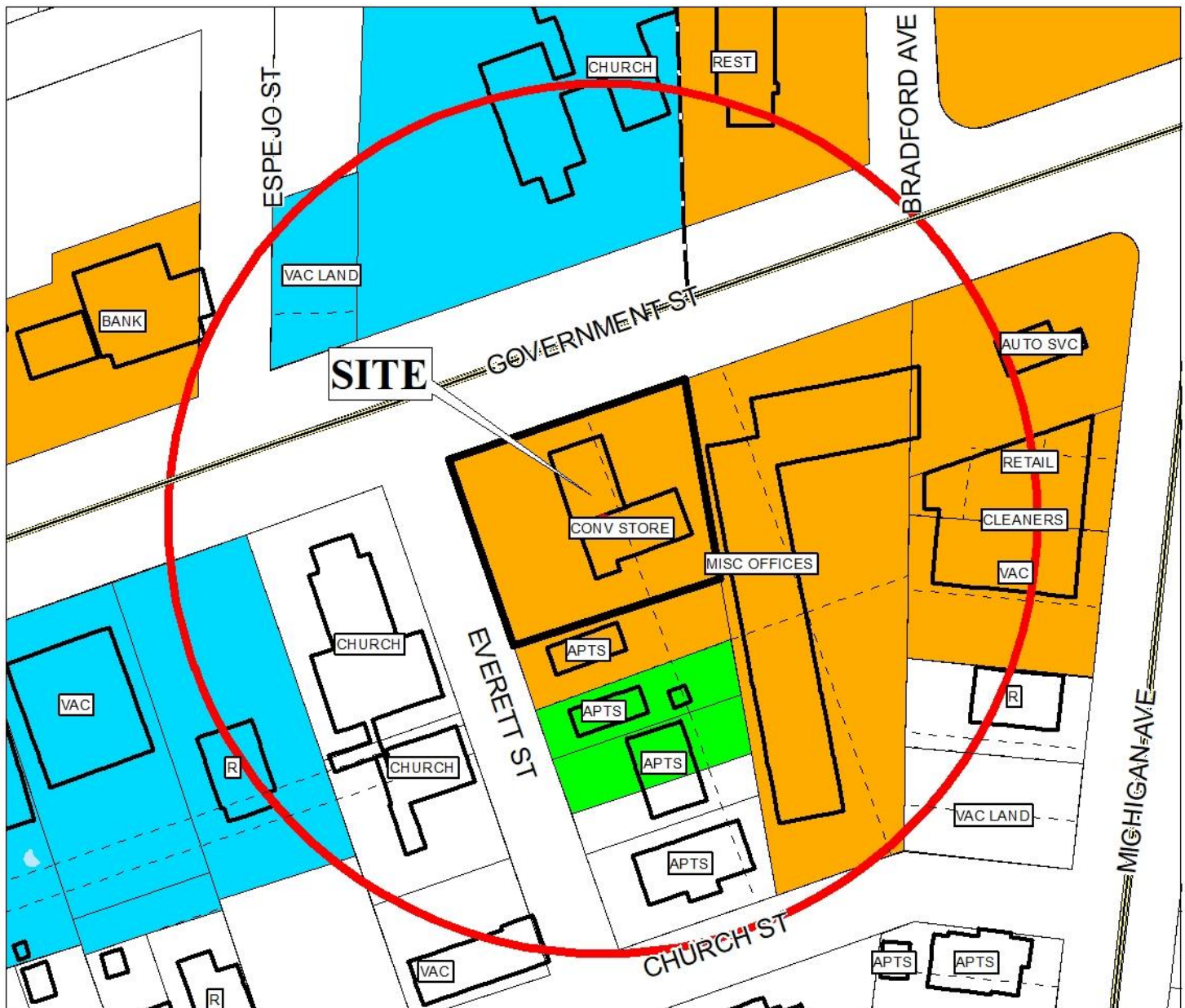
APPLICANT MA Foodmart 1, LLC (Mohammed Suid, Agent)

REQUEST Sign Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial units.

APPLICATION NUMBER 6412 DATE October 4, 2021

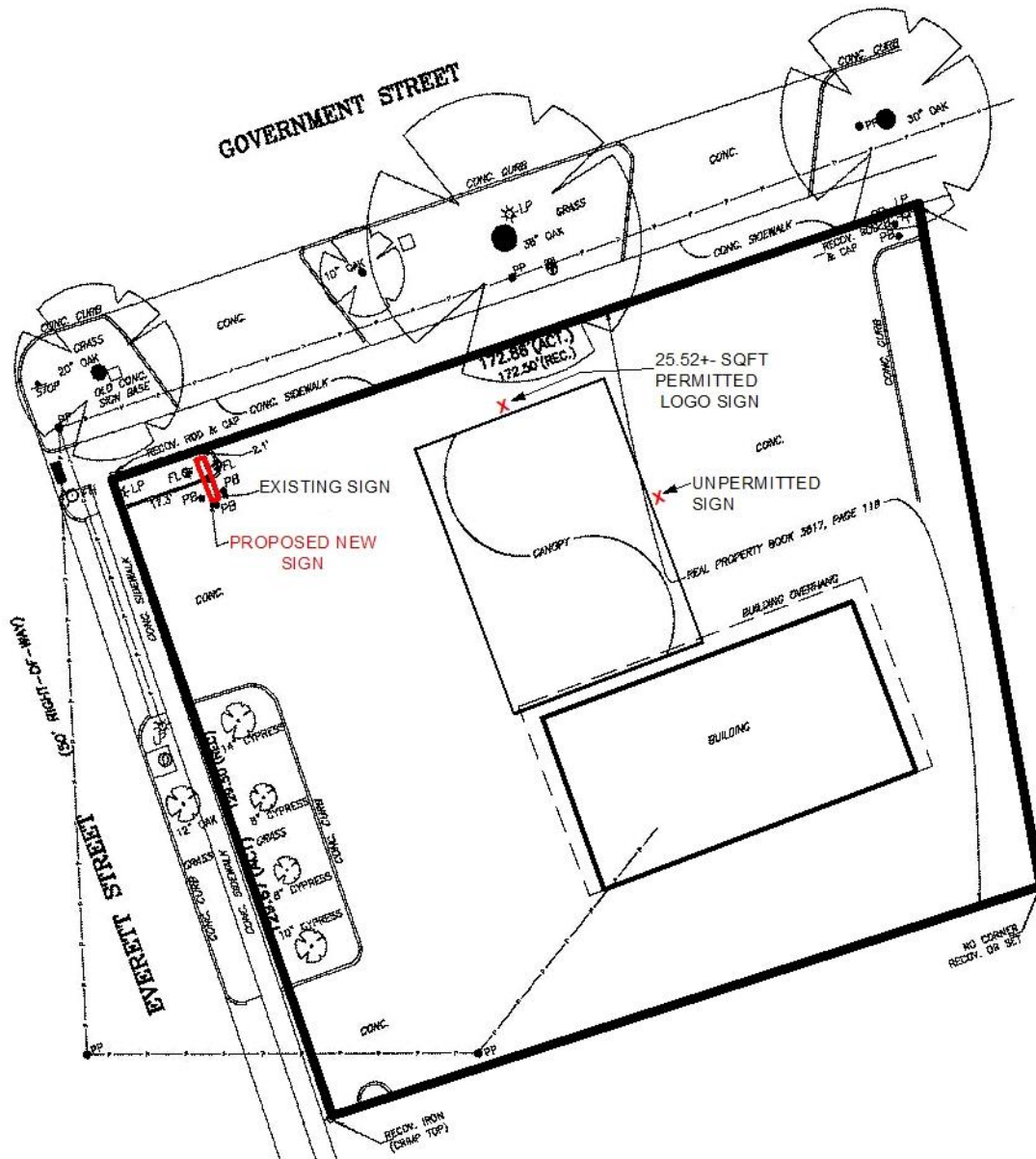
APPLICANT MA Foodmart 1, LLC (Mohammed Suid, Agent)

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



SITE PLAN

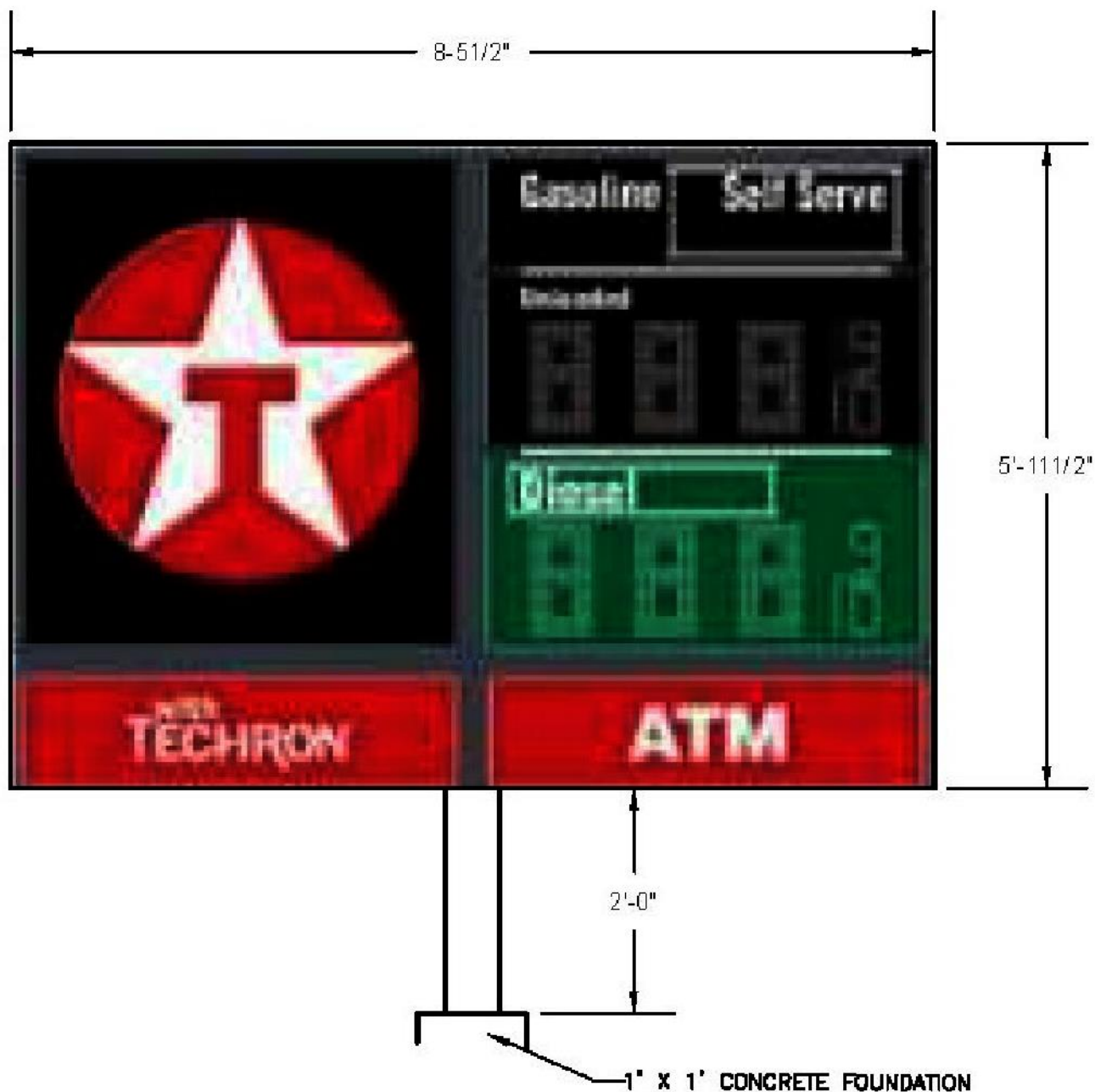


The site plan illustrates the existing building, canopy, existing sign, and proposed new sign.

APPLICATION NUMBER 6412 DATE October 4, 2021
 APPLICANT MA Foodmart 1, LLC (Mohammed Suid, Agent)
 REQUEST Sign Variance



DETAIL SITE PLAN

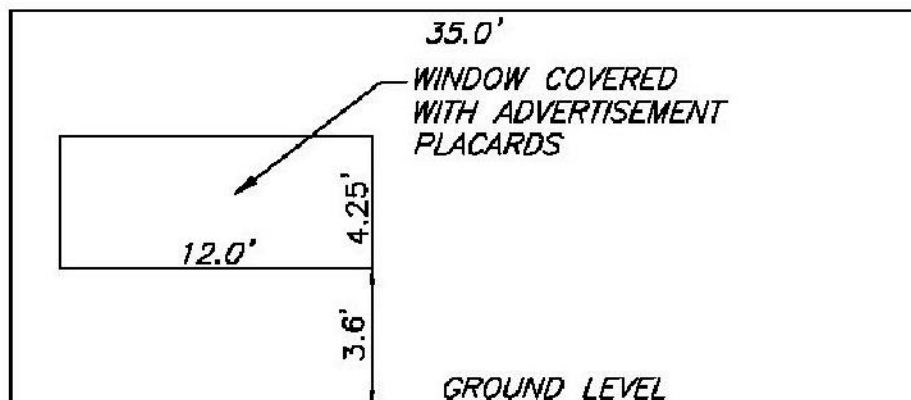


DETAIL OF PROPOSED SIGN
N.T.S.

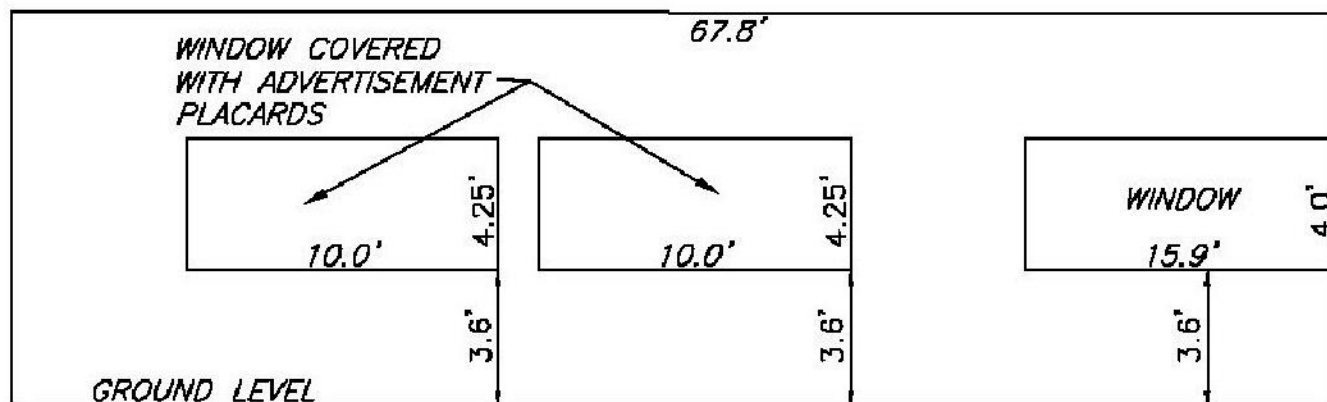
APPLICATION NUMBER 6412 DATE October 4, 2021
 APPLICANT MA Foodmart 1, LLC (Mohammed Suid, Agent)
 REQUEST Sign Variance



DETAIL SITE PLAN



DETAIL OF WEST SIDE BLDG.
N.T.S.



DETAIL OF NORTH SIDE BLDG.
N.T.S.

APPLICATION NUMBER 6412 DATE October 4, 2021

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

REQUEST Sign Variance

