BOARD OF ZONING ADJUSTMENT
STAFF REPORT **Date: December 5, 2022**

CASE NUMBER 6483

APPLICANT NAME Branded Image Group (Robin Smith, Agent)

LOCATION 6900 Airport Boulevard
(Northwest corner of Airport Boulevard and Foreman Road).

VARIANCE REQUEST **SIGN:** Sign Variance to allow a digital pricing sign and electronic message center within 300-feet of residentially zoned property, and three (3) wall signs, in a B-2, Neighborhood Business District.

ZONING ORDINANCE REQUIREMENT **SIGN:** The Zoning Ordinance does not allow digital signs and electronic message centers within 300-feet of residentially zoned property, or three (3) wall signs in a B-2, Neighborhood Business District.

ZONING B-2, Neighborhood Business District

AREA OF PROPERTY 0.5 ± Acre

CITY COUNCIL DISTRICT District 7

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.

ANALYSIS The applicant is requesting a Sign Variance to allow a digital pricing sign and electronic message center within 300-feet of residentially zoned property, and three (3) wall signs in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow digital signs and electronic message centers within 300-feet of residentially zoned property, or three (3) wall signs in a B-2, Neighborhood Business District.

The site has been given a Mixed Commercial Corridor (MCC) land use designation, per the adopted 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. MCC includes a wide variety of retail, services and entertainment uses.

This 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 redevelopment in Mixed Commercial Corridors is encouraged to raise design quality, improve connectivity to surrounding neighborhoods; improved 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 is proposing to replace existing digital pricing signs with new digital pricing signs, to add an electronic message center within 300-feet of residentially zoned property, and to have a total of three (3) wall signs. As the subject site has never been granted a Sign Variance to allow digital pricing signs or an electronic message center sign within 300-feet of residentially zoned property, such must now be sought. The applicant also proposes to have three (3) wall signs for the business, one (1) on the main building façade and two (2) on the fuel pump canopy. The

Zoning Ordinance allows a total of two (2) wall signs if a freestanding sign is utilized. Any new signage must be in compliance with the Sign Regulations; hence this application.

The applicant states the following relating to the request:

1. *Granting the sign variance for the digital pricer and canopy, will better serve the community by having better visual illuminated signs.*

2 *Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.*

3. *The granting of the variance would have no effect on any adjoining properties. This zoning relief requested will not cause any detriment to the common good, as the literal interpretation and strict application of the applicable zoning requirements of this chapter would cause substantial undue and unnecessary hardship to the current property owner not just a casual/discretionary inconvenience to the property owner.*

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 purpose of the Sign Regulation Provisions is to promote the economic well-being of the entire Mobile community by creating a favorable physical image, to afford the business community an equal and fair opportunity to advertise and promote products and services, and to protect the right of the citizens to enjoy Mobile's natural scenic beauty.

Section 64-11.8.c(7) of the Zoning Ordinance states: "electronic or digital signs are allowed only… if sign is placed a distance of not less than 300-feet from any residential zoned property. The distance shall be measured in a straight line, without regard to intervening structures or objects, from the proposed location of the sign to the nearest property line of any residential zoned property". The City Council adopted the regulations requiring digital signs to be at least 300-feet from residentially zoned property on June 4, 2013.

The applicant submitted a sign permit application for the proposed signage to replace the existing signage at the convenience store operating on the subject site. Upon discovering that the freestanding sign would have LED digital gasoline pricing signs and an electronic message

center, would be within approximately 125-feet of residentially zoned property, and that there would be a total of three (3) wall signs, the application was denied.

The subject site adjoins B-2 commercial zoning to the North and West. To the East across Foreman Road is R-1, Single-Family Residential zoning, and to the South across Airport Boulevard is B-3, Community Business District zoning. The nearest residential property is on the East side of Foreman Road approximately 125-feet East of the existing freestanding sign on which the digital pricers and electronic message center are proposed. It should be noted that the 300-foot buffer shown on the Vicinity Map – Existing Zoning is from the property line and not the sign structure.

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. Furthermore, digital pricing signs have low levels of light emission which are not intrusive into residential areas.

With regard to the request to allow an electronic message center within 300-feet of residential property, the allowance of such would be contrary to Section 64-11.8.c(7) of the Zoning Ordinance, primarily due to the intrusive nature of the brightness of such signs and their potential negative impact upon the enjoyment of one's residence. No hardship associated with the site has been demonstrated by the applicant that would preclude standard signage, and the allowance of such may establish a precedent by which future Sign Variance requests could be approved if no special conditions or hardships to an individual property exist. As such, the Board should consider this request for denial.

With regard to the request for three wall signs, the site would have an illuminated Circle K logo sign of approximately 64 square feet atop the freestanding pylon sign near the street corner, providing ample site recognition while traveling along Airport Boulevard and Foreman Road. There do not seem to be any conditions associated with the site which would require additional wall signage needed for site recognition.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the request for a digital pricing sign within 300-feet of residentially zoned property:

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.

The Approval is subject to the following conditions:

1) obtaining of the necessary sign permit;
2) obtaining of an electrical permit; and
3) full compliance with all other municipal codes and ordinances.

Staff recommends to the Board the following findings of facts for Denial of the request for an electronic message center:

1) Approving the variance will be contrary to the public interest in that it is contrary to Section 64-11.8.c(7) of the Zoning Ordinance;
2) Special conditions do not exist in such a way 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 surrounding neighborhood by granting the variance because the proposed signage may establish a precedent by which future Sign Variance requests could be approved if no special conditions or hardships to an individual property exist.

Staff recommends to the board the following findings of facts for Denial of the request for three (3) wall signs:

1) Approving the variance will be contrary to the public interest in that the Zoning Ordinance regulates signage in order to protect the health, safety, and welfare of the citizens of the City of Mobile and the general aesthetics of the city by providing uniform standards for the locations, spacing, height, setback, lighting, and other regulations of off-premise and on-premise signs within the city;
2) Special conditions do not exist and there are no hardships which exist that make the placement of additional signs necessary; it seems to simply be the applicant's desire for additional signage on site;
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 it would allow the subject site an unfair signage advantage over similar businesses.

LOCATOR MAP

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REQUEST Sign Variance

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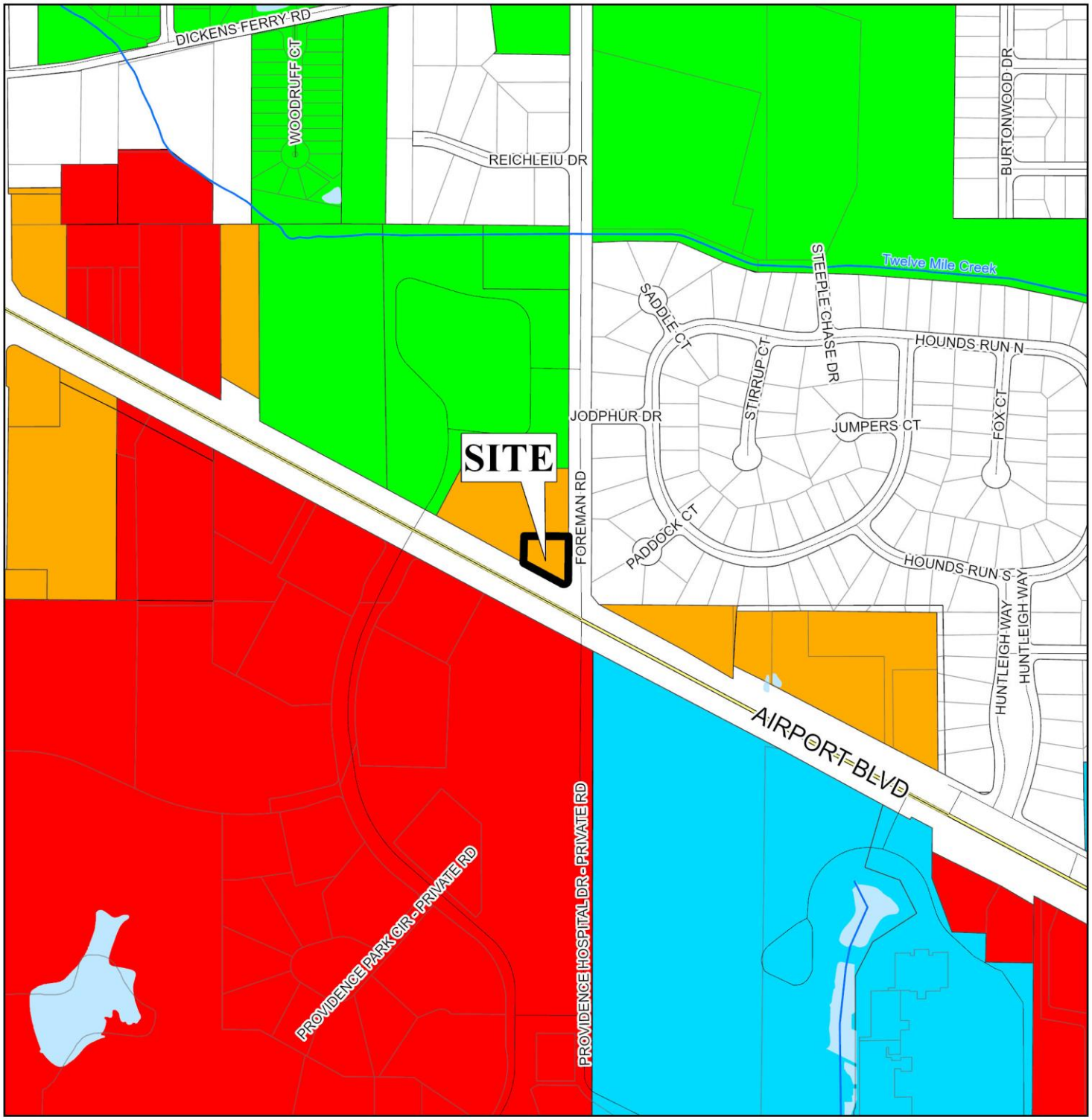
LOCATOR ZONING MAP



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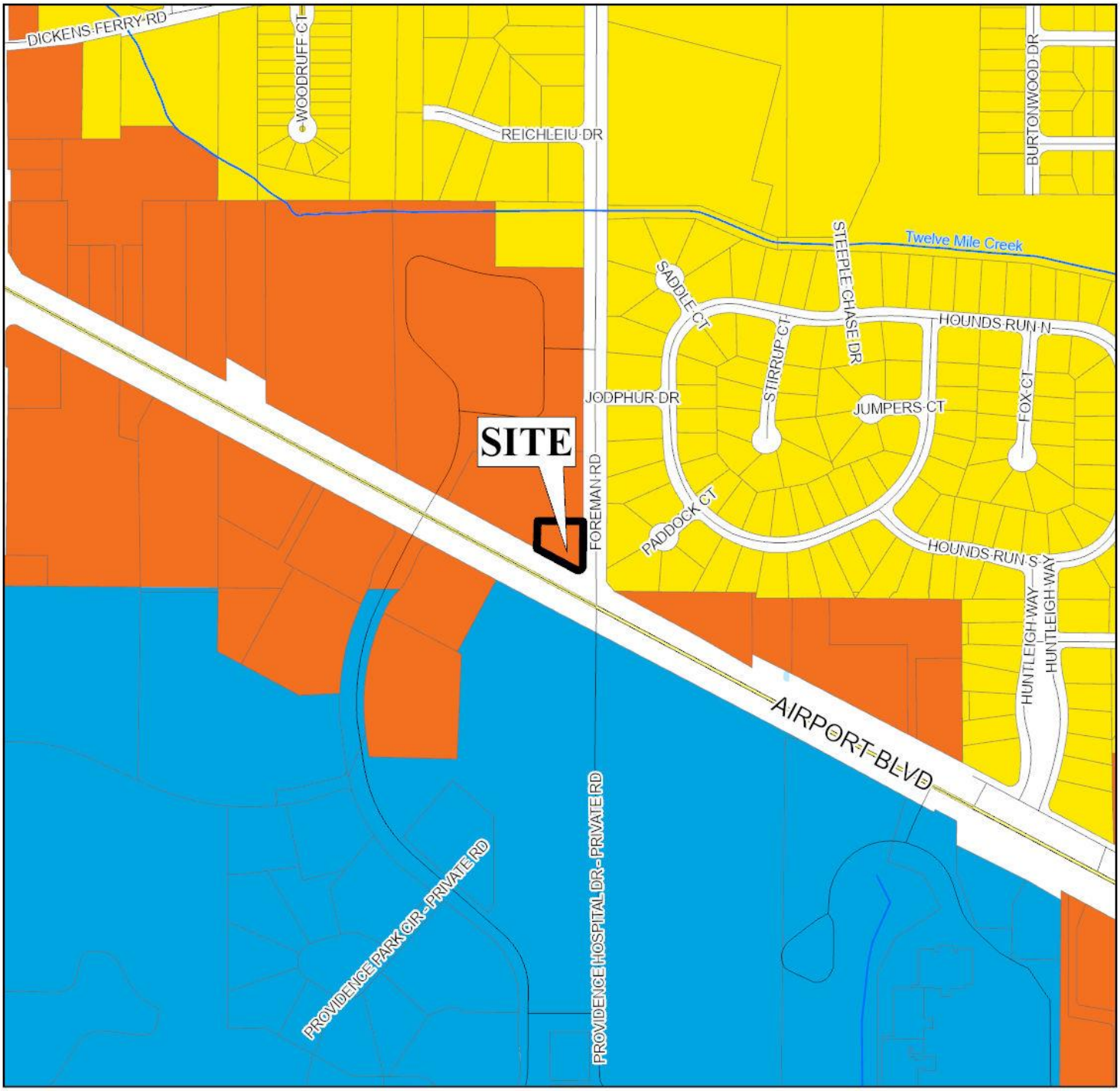
FLUM LOCATOR MAP



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FLUM

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

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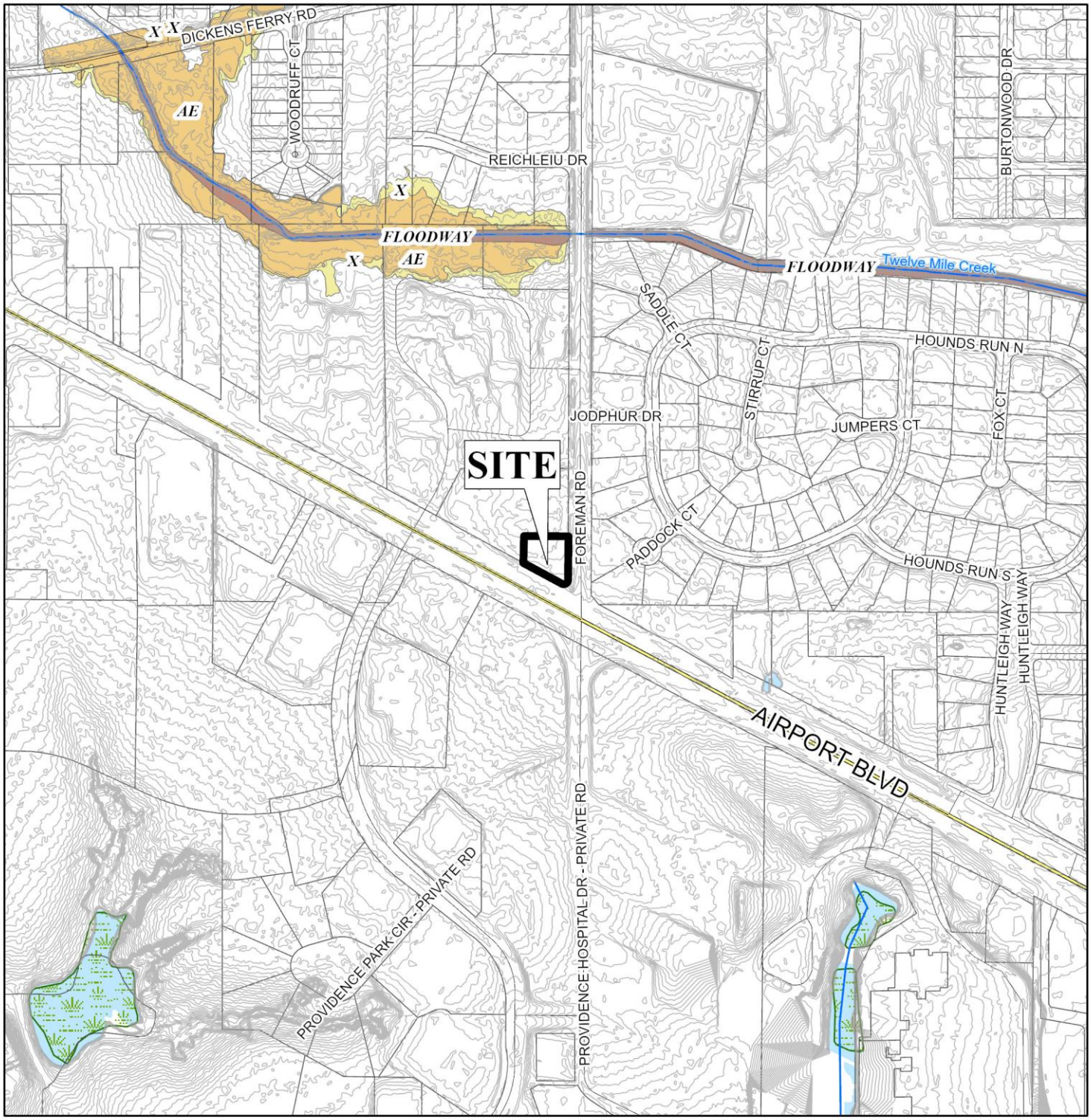
ENVIRONMENTAL LOCATOR MAP



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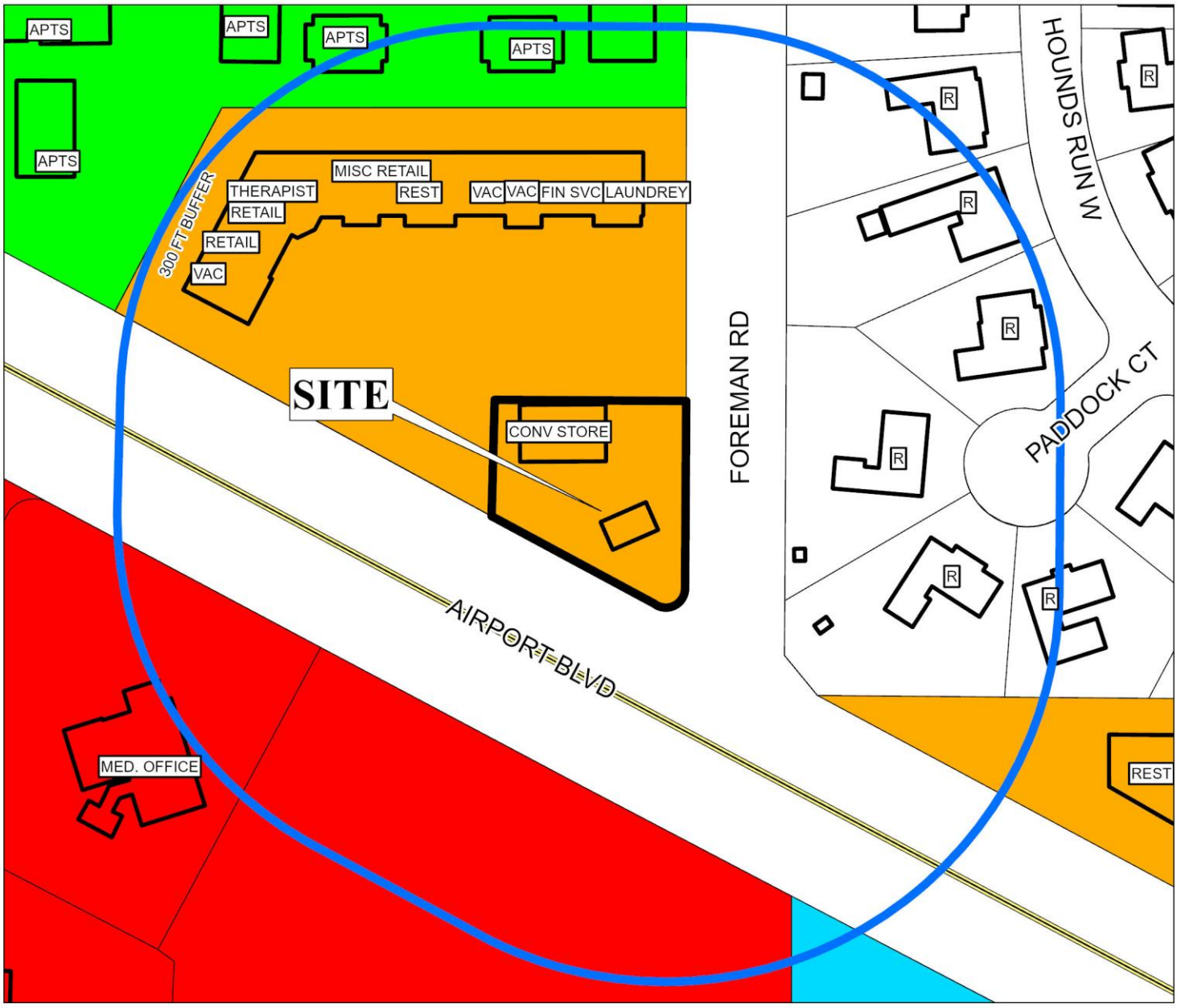
BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units and residential units.

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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

N

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BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING AERIAL

The site is surrounded by commercial units and residential units.

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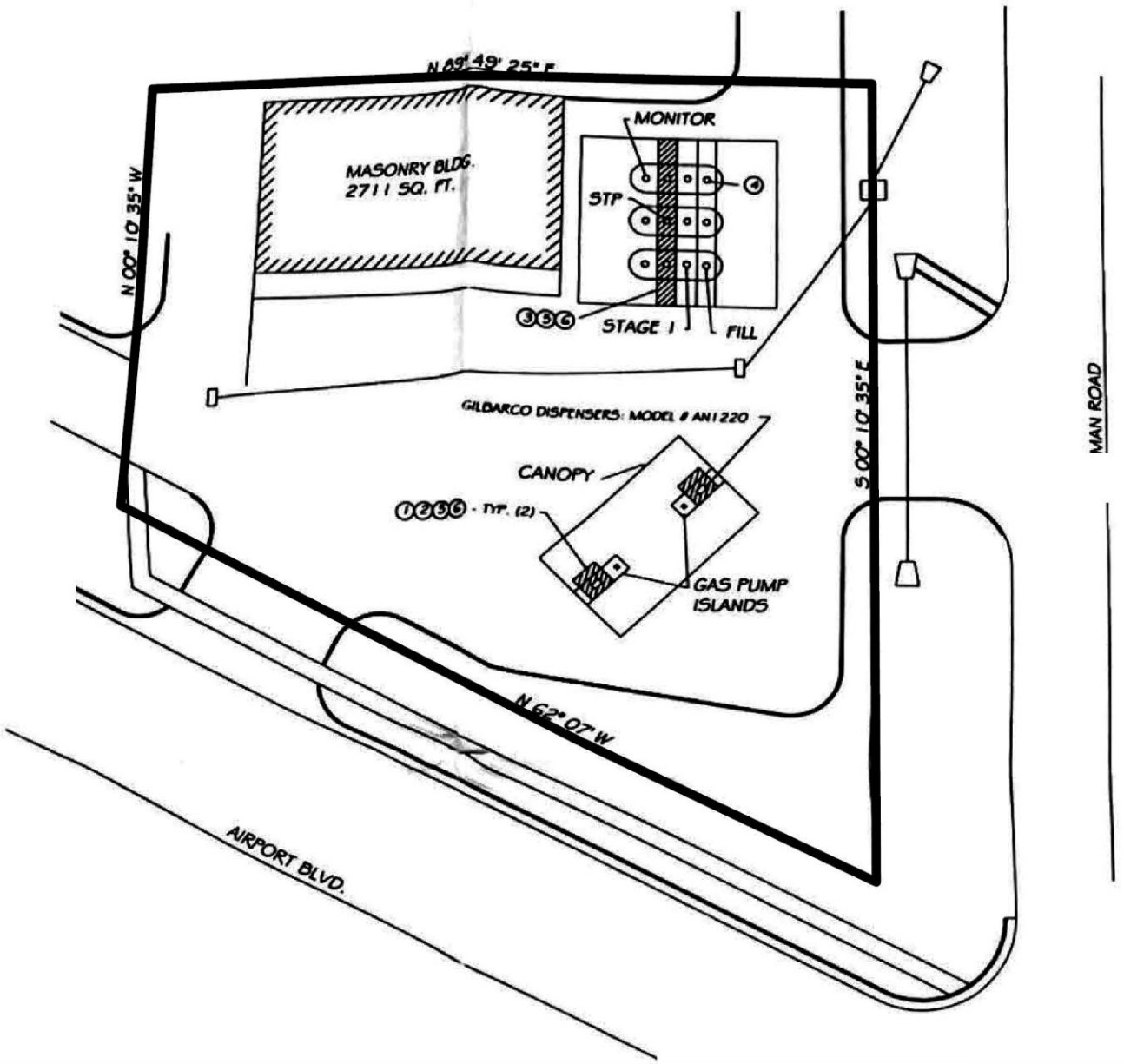
SITE PLAN



The site plan illustrates the existing building, canopy, and gas pumps.

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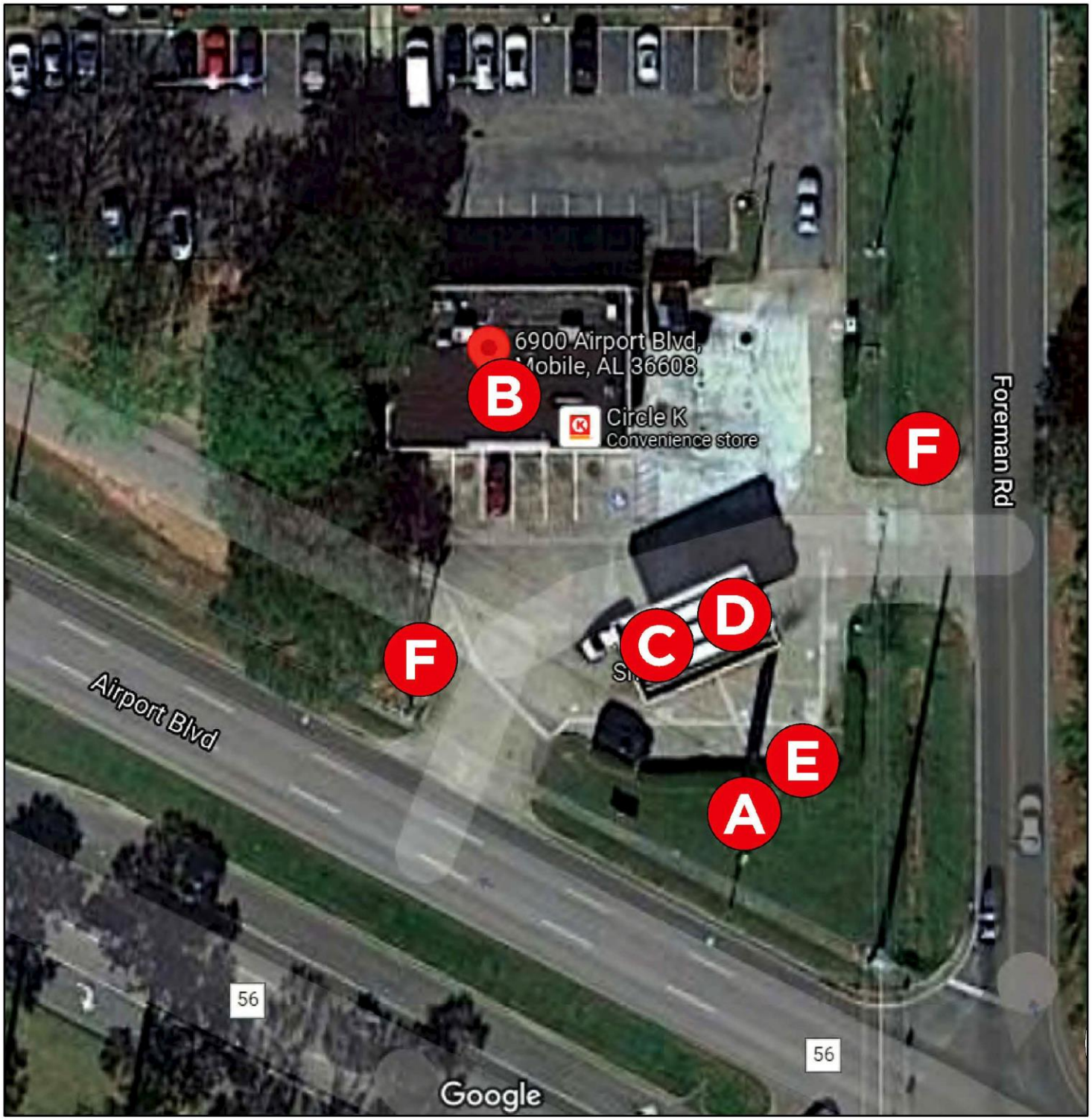
DETAIL SITE PLAN



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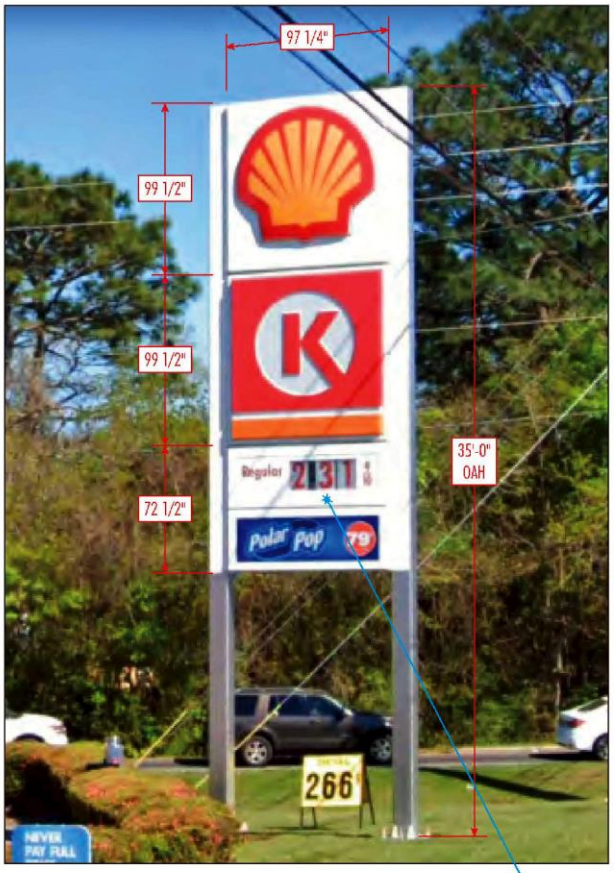
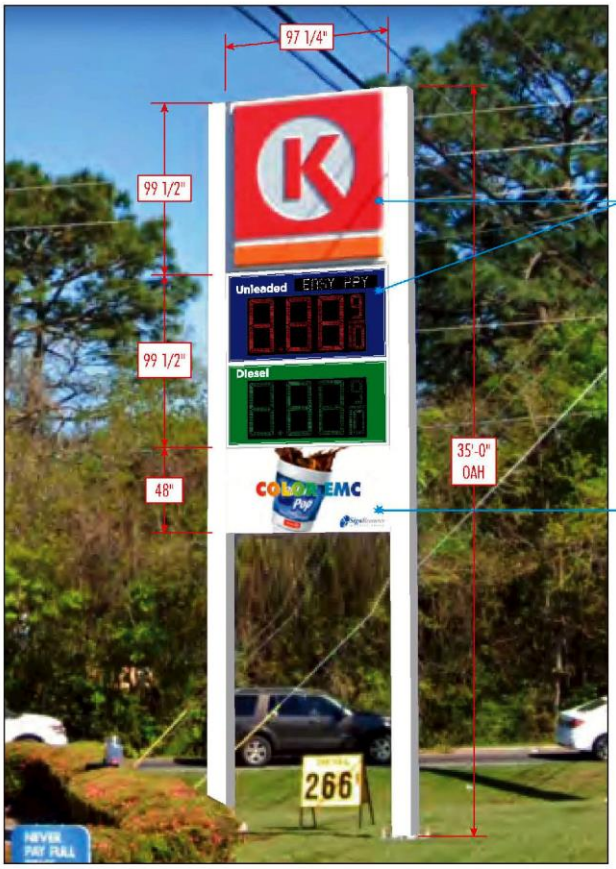
DETAIL SITE PLAN

EXISTING 180.36 Sq.Ft



EXISTING: NOT SPECIFIED
(subject to confirmation)

PROPOSED 166.82 Sq.Ft



PROPOSED: 30" ABLE LEDs

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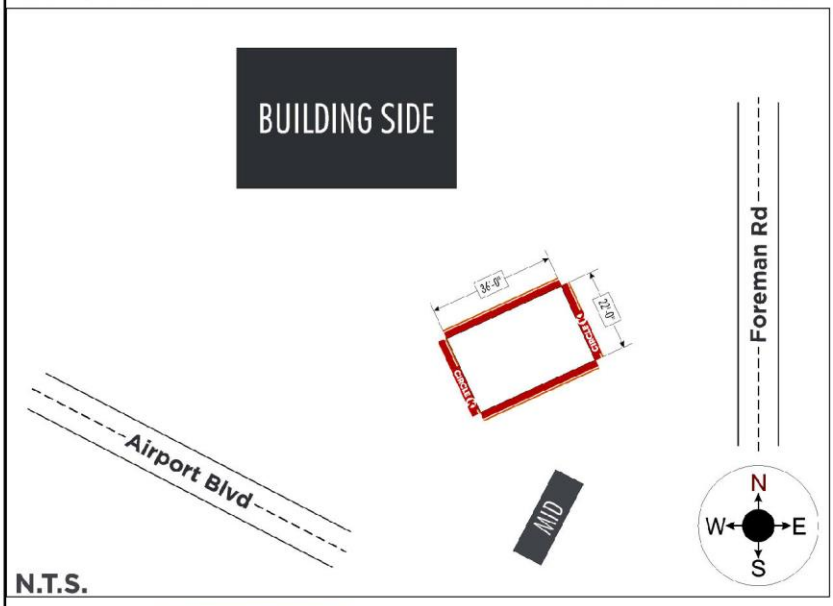
DETAIL SITE PLAN

SITE OVERVIEW

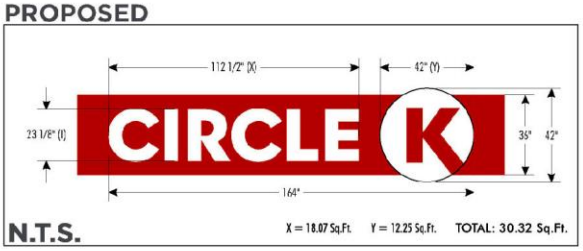
37" HEIGHT OF ACM



Canopy

EXISTING

PROPOSED



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N

NTS