

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: December 1, 2014

CASE NUMBER 5933

APPLICANT NAME Keooura Sanavong

LOCATION 1300 N University Boulevard
(Southeast corner of University Boulevard and Overlook Road)

VARIANCE REQUEST **SIGN:** Sign Variance to allow a digital sign located 240'± from an R-1, Single Family Residential in a B-2, Neighborhood Business District.

ZONING ORDINANCE REQUIREMENT **SIGN:** The Zoning Ordinance requires all digital signs to be a minimum of 300' from residentially zoned property in a B-2, Neighborhood Business District.

ZONING B-2, Neighborhood Business District

AREA OF PROPERTY 5.34 ± Acres

CITY COUNCIL DISTRICT District 3

ANALYSIS The applicant is requesting a Sign Variance to allow a digital sign located 240'± from an R-1, Single Family Residential property in a B-2, Neighborhood Business District; the Zoning Ordinance requires all digital signage to be a minimum of 300' from residentially zoned property in a B-2, Neighborhood Business District.

The applicant currently has active building permits which were issued on September 24, 2014 for the construction of a new fuel facility with double sided fuel dispensers as well as the construct of a canopy to go over the fuel dispensers at the subject site. A sign permit application was approved on November 14, 2014 to allow a digital fuel pricing sign because it exceeded the 300' buffer requirements. However, the second proposed digital fuel pricing sign is within 300' of residentially zoned property; thus the reason for this variance request.

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.

Variations 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 following reasons to explain the need for the variance:

1. *“The purpose of this application is to allow: An additional LED pricing signage on a fuel station canopy to communicate the current fuel pricing. We are currently allowed 1 pricing sign, but we would like another one on the opposite end of the fuel station canopy.”*
2. *What are the conditions, items, facts, or reasons which prevent you from complying with the requirements of the Zoning Ordinance? We're in compliance with all requirements of the Zoning Ordinance except for the requirement that the sign has to be more than 300' from any residential lots. We feel that we are in compliance with the intent of the Ordinance because we are locating the sign in a way that faces away from the residential lots that are closets to us. We have images showing what is directly across from the location of the sign.*
3. *How did the conditions, items, facts or reasons which prevent you from complying with the requirements of the Zoning Ordinance occur? Most of our property lies within 300' of residential property so we are very limited on where we can locate an LED pricing sign.*
4. *How is the property different from the neighboring properties? We are zoned B-2 and are adjacent to residential (R1) property on our south and east property lines. Directly across the street there are B-2 and LB-2. There is a couple of fuels stations nearby that have LED signs within 300' of residential property.”*

The applicant states that there are other fuel stations nearby that have LED signs within 300' of residential property. Although the applicant is correct in stating that nearby fuel stations have LED signs within 300' of residential property, it should be pointed out that the signs were approved prior to the amendment of the Zoning Ordinance regarding electronic and digital signs. Therefore, the new digital sign requirements do not apply to the existing signage.

Within the required 300' buffer, the site is bounded to the South of North University by predominantly R-1, Single-Family Residential; and a portion of B-2, Neighborhood Business District; to the West by B-2, Neighborhood Business District, LB-2, Limited Neighborhood Business District, and R-1, Single Family Residential District; to the North by B-3, Community Business District; and to the East by R-1, Single Family Residential.

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 July 7, 2014 meeting the Board approved a digital fuel pricing sign located at the corner of Hillcrest and Girby Road that was within 210' of a residentially zoned property.

Furthermore, although there does not appear to be any hardship associated with the property nor any reason why the applicant cannot install an internally illuminated sign that is manually changed; it would seem that in keeping with the Board's previous interpretation of the Ordinance that 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, in that 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) submission of a electrical permit; and
- 3) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



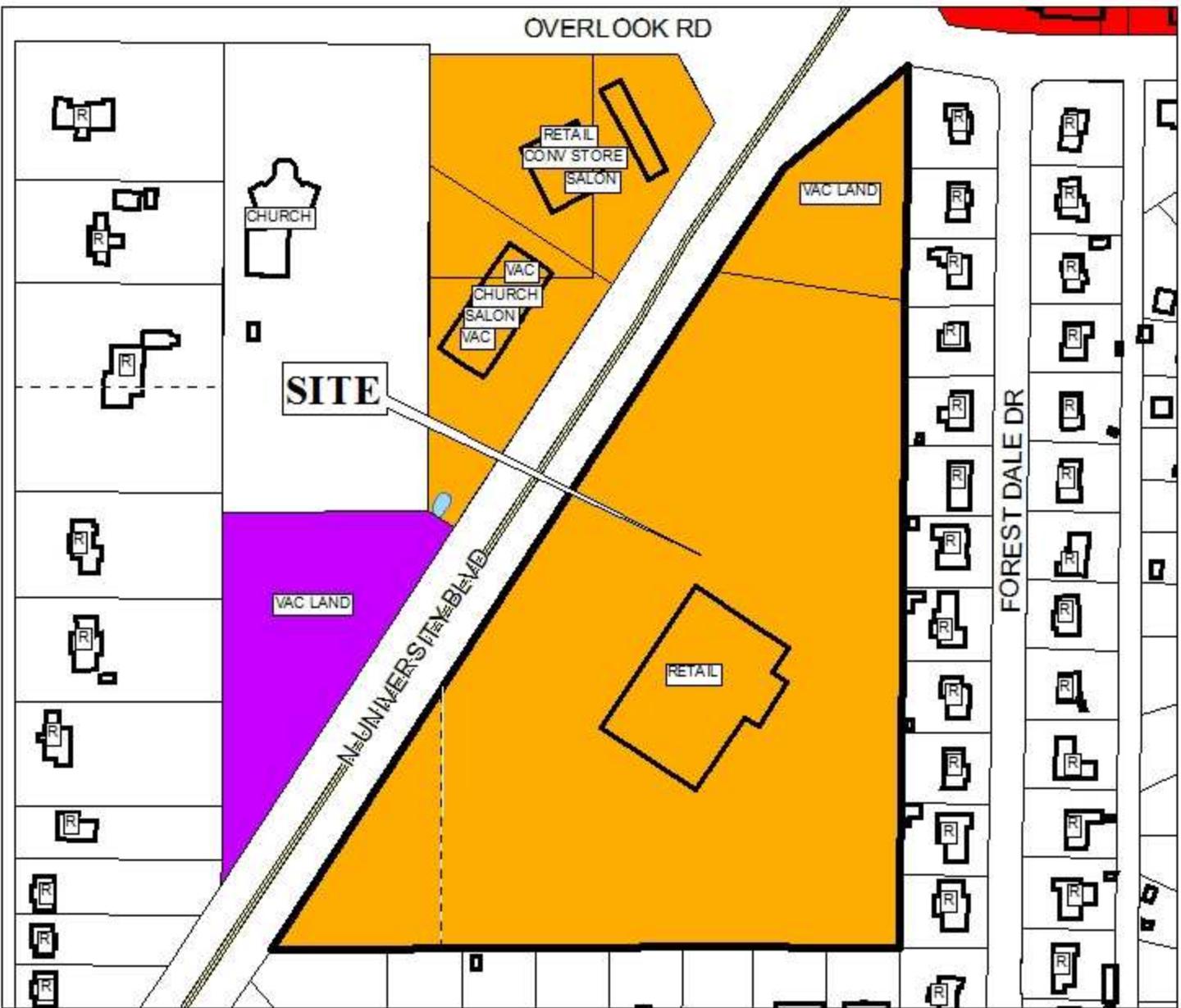
APPLICATION NUMBER 5933 DATE December 1, 2014

APPLICANT Keooura Sanavong

REQUEST Sign Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial 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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial units.

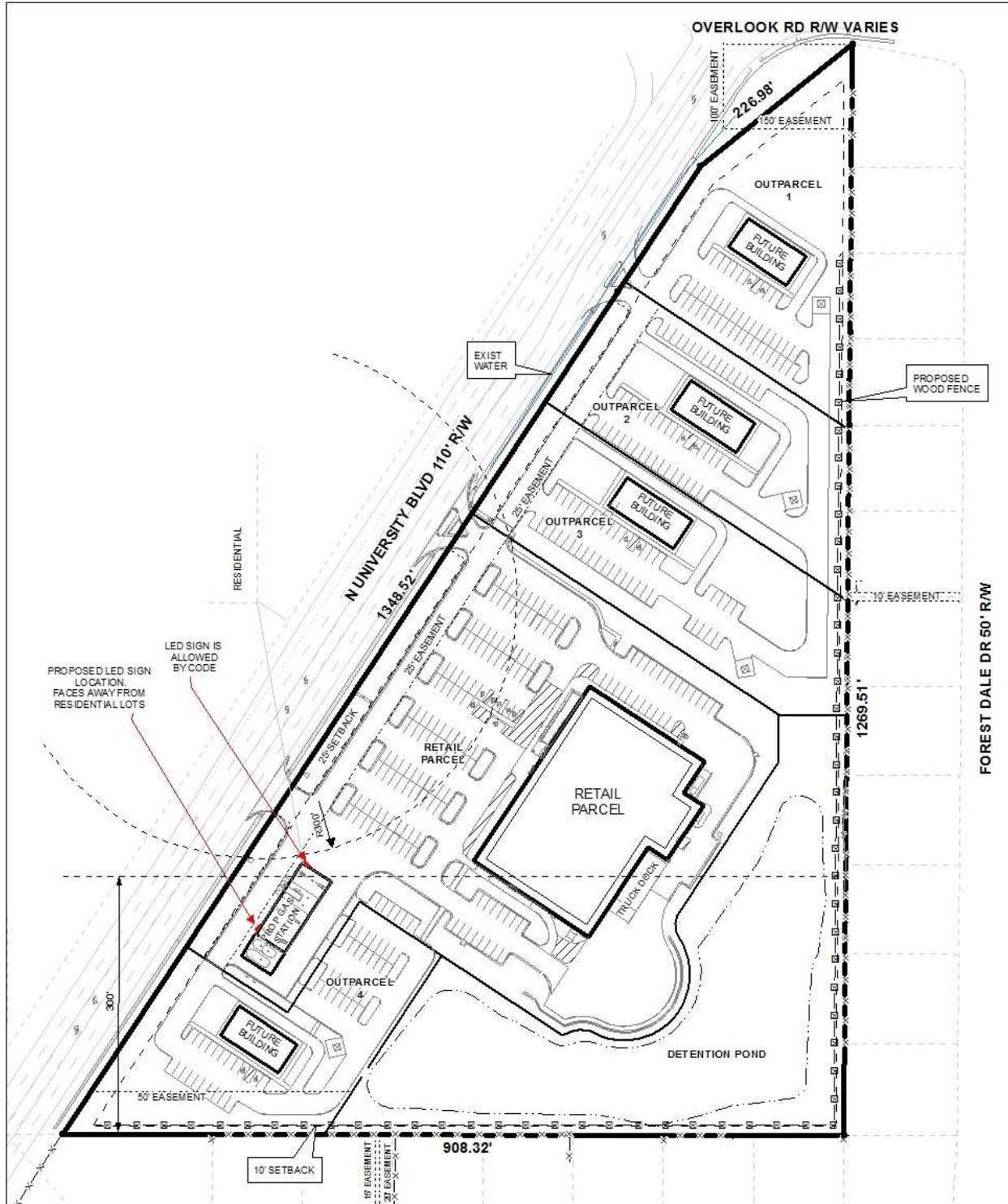
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SITE PLAN



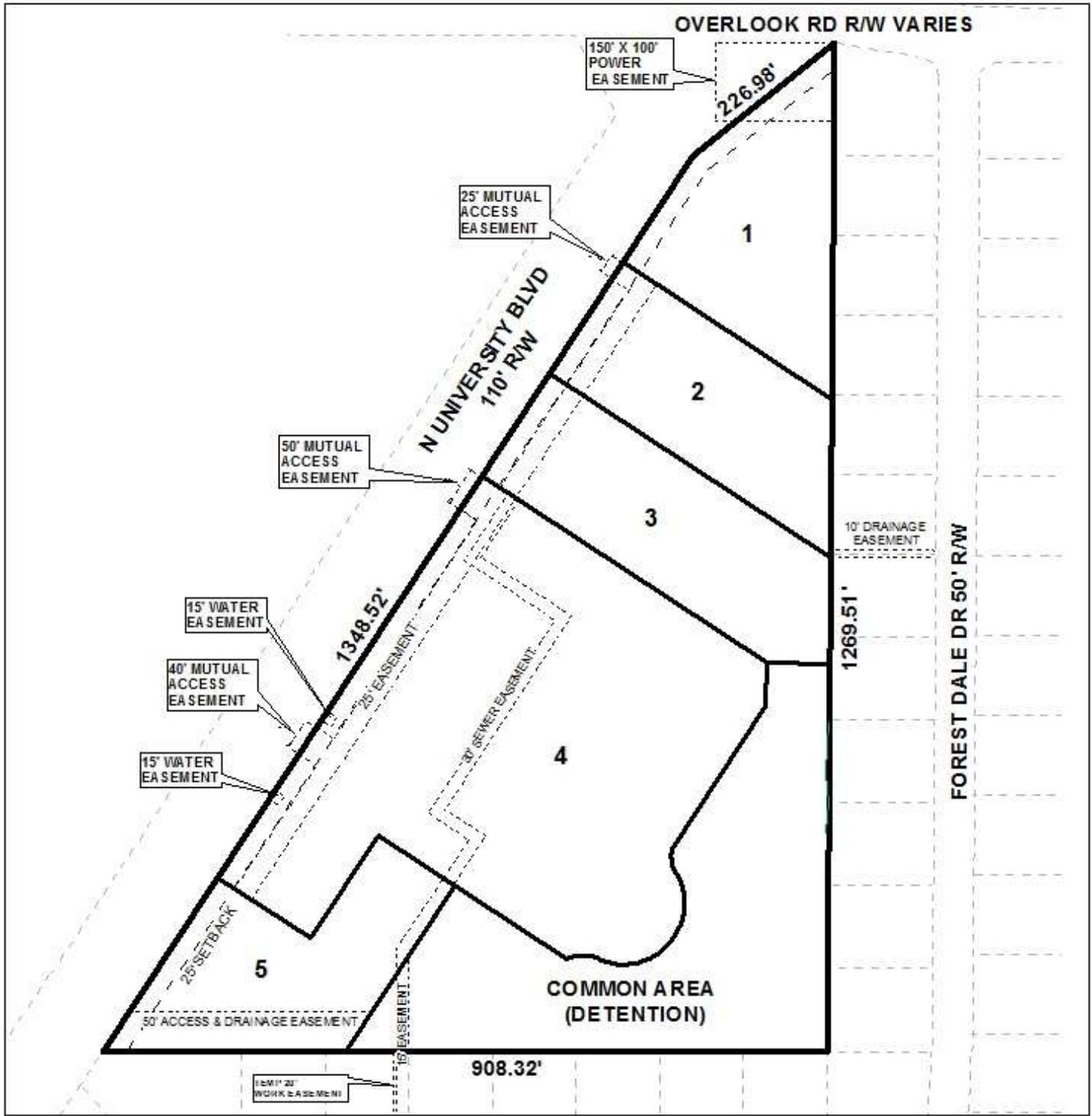
The site plan illustrates the proposed buildings, setbacks, easements, and LED sign locations.

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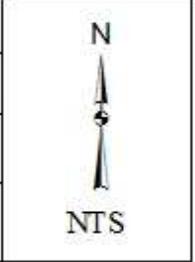


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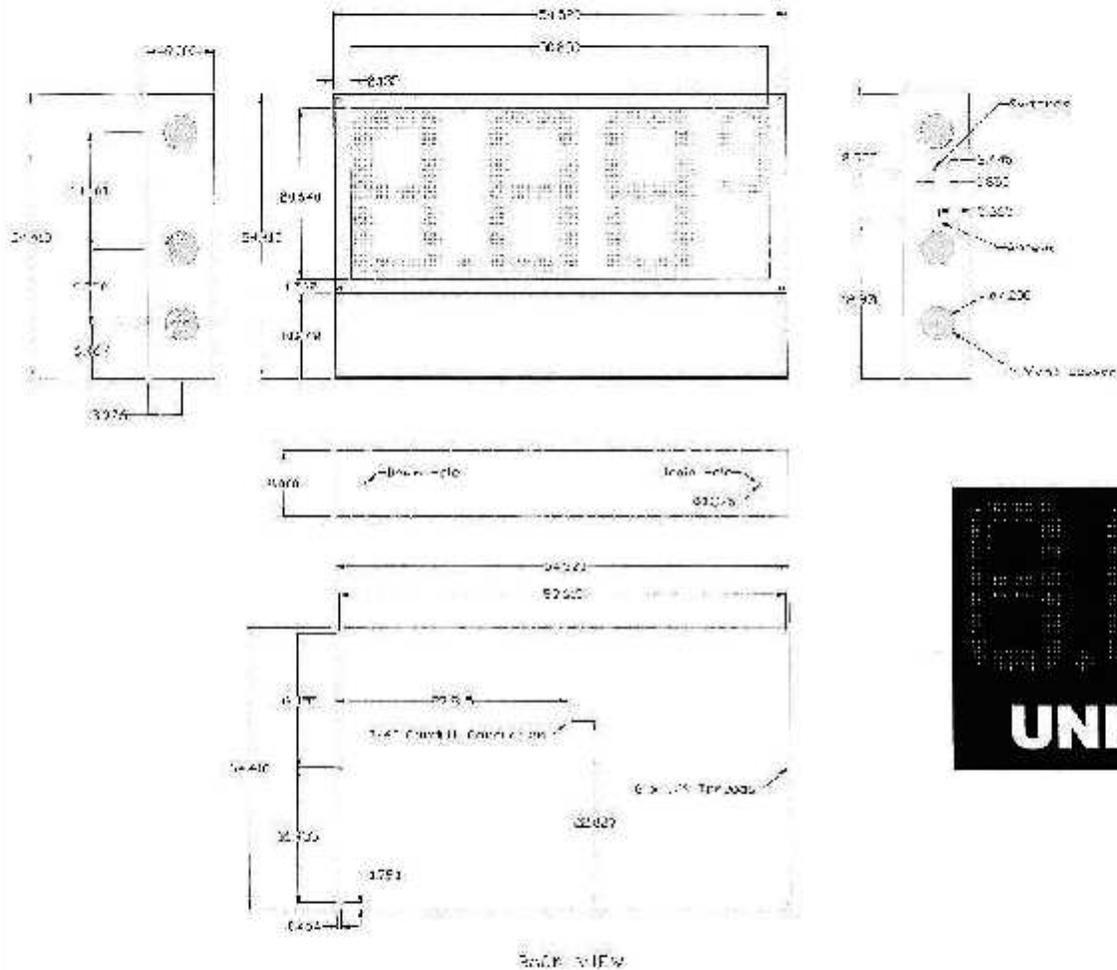
DETAIL SITE PLAN



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