

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 7, 2017**

<u>CASE NUMBER</u>	6123/6072
<u>APPLICANT NAME</u>	Beavers, Inc.
<u>LOCATION</u>	5466 Inn Road (West side of Inn Road, 154'± South of Tillmans Corner Parkway).
<u>VARIANCE REQUEST</u>	SIGN: Sign Variance to allow a 49.7' tall freestanding sign in a B-3, Community Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	SIGN: The Zoning Ordinance does not allow freestanding signs to exceed a maximum height of 35' in a B-3, Community Business District.
<u>ZONING</u>	B-3, Community Business
<u>AREA OF PROPERTY</u>	0.9± Acres
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments.
<u>CITY COUNCIL DISTRICT</u>	District 4

ANALYSIS The applicant is requesting a Sign Variance to allow a 49.7' tall freestanding sign in a B-3, Community Business District; the Zoning Ordinance does not allow freestanding signs to exceed a maximum height of 35' in a B-3, Community Business District.

It should be noted that Staff determined the applicant appears to also propose three (3) wall signs at the subject site. No application for review of a Sign Variance justifying such a proposition has been received by the Planning and Zoning Department; therefore, additional wall signs cannot be considered as part of this 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.

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 subject site is an Arby's restaurant that was annexed into the City with the Theodore area annexation in 2009 and was developed with one wall sign, one drive-thru menu board, and one freestanding sign with a reader board. Per Section 64-11.8.c.(2)(b) of the Zoning Ordinance, commercial building sites with one establishment are allowed a maximum of three signs, one of which may be a freestanding sign. Freestanding signs on such commercial sites are limited to one (1) s.f. per linear foot of street frontage, not to exceed 200 s.f. of display area per side, and not to exceed 35' in height. While the original wall and menu board signs appear to conform to City of Mobile sign regulations, the freestanding sign does not and may be regarded as a nonconforming high rise sign.

High rise signs on similar commercial sites, per Section 64-11.8.c.(2)(g) of the Zoning Ordinance, must be within 1,000' of the centerline of either interstate highway I-65 or I-10, and are limited to 200 s.f. of display area, per side, with a maximum height restriction of 100'. The current sign is 53' tall and is 1,130'± from the centerline of Interstate Highway I-10. At its December 5, 2016 meeting the Board considered a Sign Variance to reduce the height of the sign to 49.7' and replace the existing sign cabinet with a new cabinet to display changing design standards of the restaurant; however, the Board denied the request. The applicant now wishes to retain the height of the sign, but replace the existing sign cabinet with a new cabinet to, as mentioned, display changing design standards of the restaurant, citing reduced visibility from the interstate highway as justification for the request:

1. *The purpose of this application is to allow – This purpose of this application is allow the Abry's (sic) located at 5466 Inn Road, Mobile, AL 36619 to maintain the existing sign at the current height while renovating and replacing the existing facing of the sign.*
2. *What are the conditions, items, facts or reasons which prevent you from complying with the requirements of the Zoning Ordinance – The reason (sic) are as follows:*
 - a. *All the existing and adjoining neighbors have signs that are either equal in height or taller. The need to maintain the existing sign height is driven from the majority of clientele is interstate traffic and we request to be included in their zoning regulations which allow for a higher sign – such as the adjoining property.*
 - b. *The majority of traffic is that on I-65 and existing from I-65 via the off-ramp and the lower sign than all adjoining properties will place us at a disadvantage over our neighbors.*

- c. We are not requesting to increase the height of our existing sign. This request it to maintain the existing height.*
 - d. We are attempting to revitalize the existing sign so it looks better and more appealing to the citizens of Mobile.*
- 3. How did the conditions prevent you from complying (sic) – The existing sign that is currently in place today is taller than what the current ordinance allows. If we put back a new sign at the exact same height or renovate the sign we would be out of County Ordinance.*
- 4. How is the property different from neighboring properties – All the adjoining properties have signs that are in equal height to our existing sign. If replaced the sign with a new sign based upon the current County Ordinance the sign would be substantially shortly (sic) than all the adjoining properties.*

As the site was originally developed while in the County, compliance with the City's sign regulations was not necessary, and any existing signage at the time of annexation was "grandfathered" as legally nonconforming. However, Section 64-11.3. of the Zoning Ordinance stipulates that nonconforming signs may be continued in operation and maintenance provided that they are not: 1) changed to, or replaced with, another nonconforming sign; 2) structurally altered so as to extend their useful life; 3) expanded; 4) relocated; 5) re-established after damage or destruction of more than 75% of the value of the structure at the time of such damage or destruction; or 6) modified in any way that would increase the degree of nonconformity of such signage. The applicant's request would meet at least the second of the aforementioned conditions in which compliance with City of Mobile sign regulations would be required: replacing the existing sign cabinet with a new cabinet while maintaining the height of the nonconforming sign is a structural alteration that would extend the useful life of the sign.

While it is understandable the applicant wishes to maintain their visibility from the adjacent interstate highway, they have not presented evidence that meeting the 35' height requirement for similar freestanding signs would negatively impact such visibility.

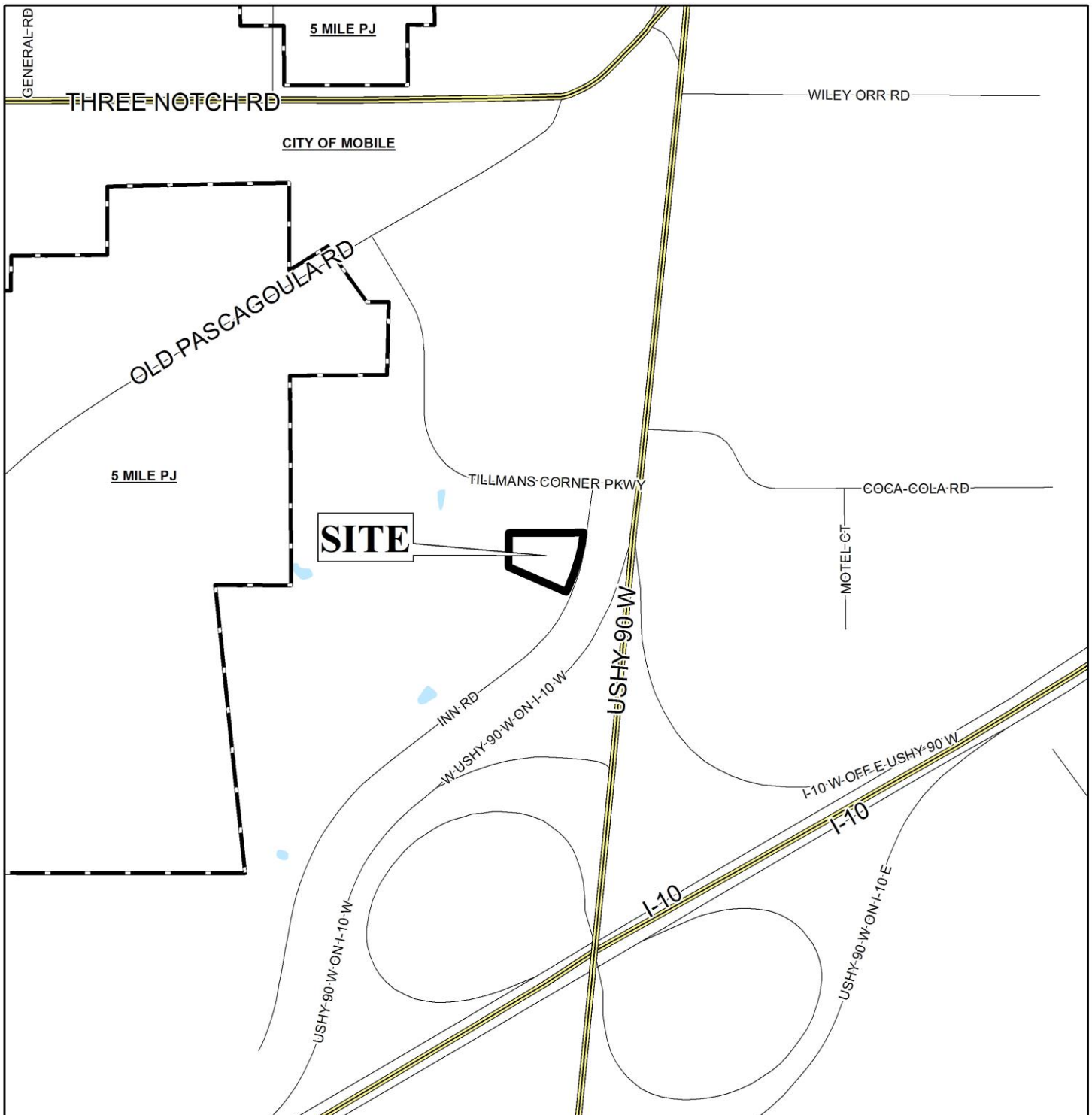
It should be noted that recent Google Street View images depict informational signs along I-10 identifying the subject site as a restaurant option proximal to the interchange from which vehicles may exit the interstate. Such signs are not regulated by the City of Mobile, and perhaps benefit visibility of a business in a way that precludes the need for the request at hand; especially since the request can arguably be attributed to the success of the restaurant, a seeming economic hardship not generally considered by the Board with respect to Variances.

Finally, freestanding signs in the vicinity may exceed maximum height requirements of the Zoning Ordinance, but they, too, would be considered nonconforming until meeting any of the aforementioned conditions necessitating compliance. It should be noted that Sign Variances have been approved at nearby commercial sites which allowed additional wall and freestanding signage, but not freestanding signs exceeding maximum height requirements of the Zoning Ordinance. As such, and in considering the applicant could maintain the existing freestanding sign by simply re-facing its surface without making any structural alterations, the desire to do otherwise would represent a self-imposed hardship. Denial of the request may, therefore, be appropriate.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) Granting the variance will be contrary to the public interest since all nonconforming signs are subject to compliance with the Zoning Ordinance once they meet the conditions to do so in Section 64-11.3.;
- 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 due to the fact that the existing freestanding sign may be re-faced without any structural changes, thereby facilitating continued nonconformity; 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 since similar signs within the vicinity of the subject site have maintained nonconformity, or have been replaced, without the need for Variance approval.

LOCATOR MAP



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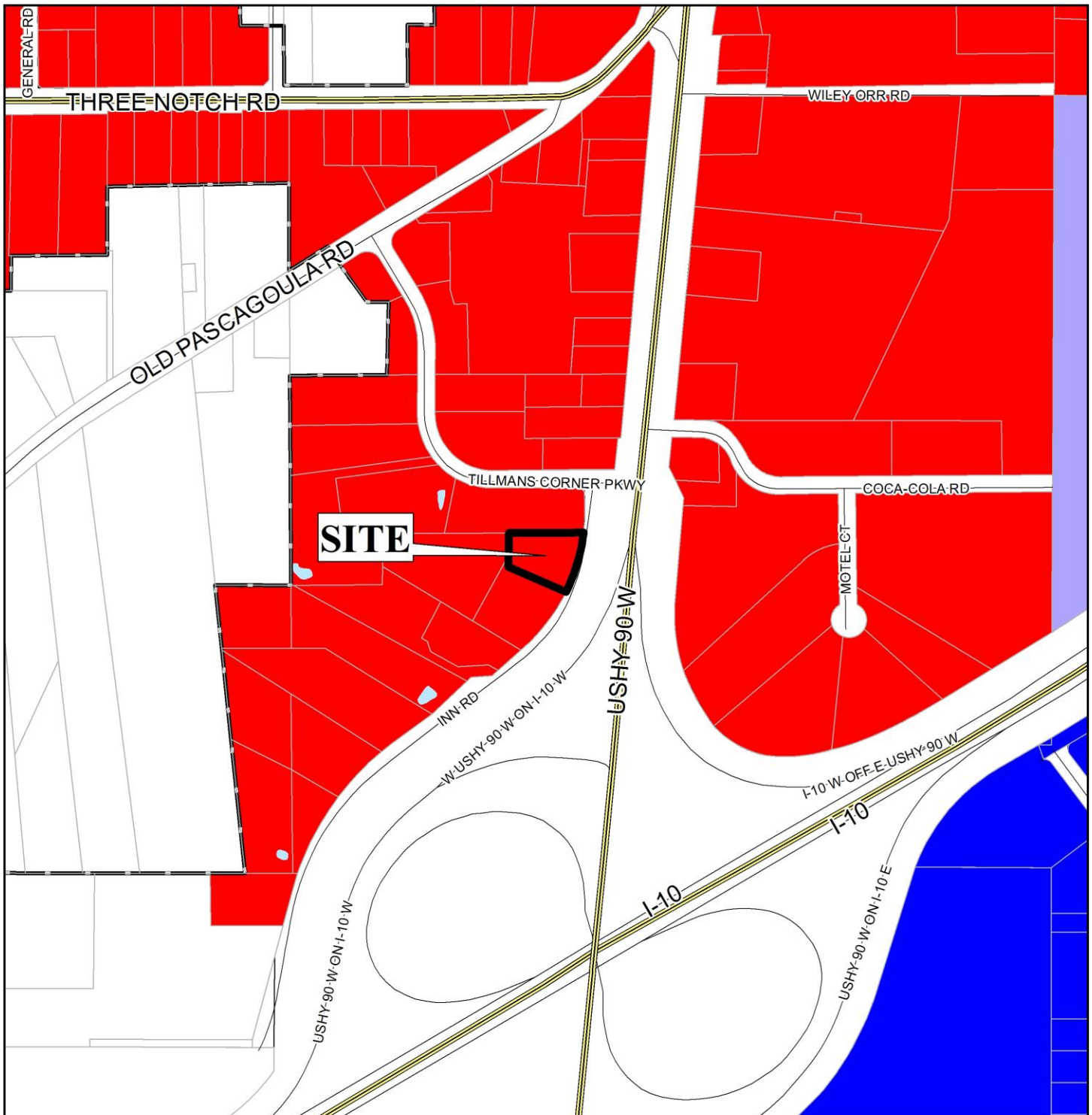
APPLICANT Beavers, Inc.

REQUEST Sign Variance



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LOCATOR ZONING MAP



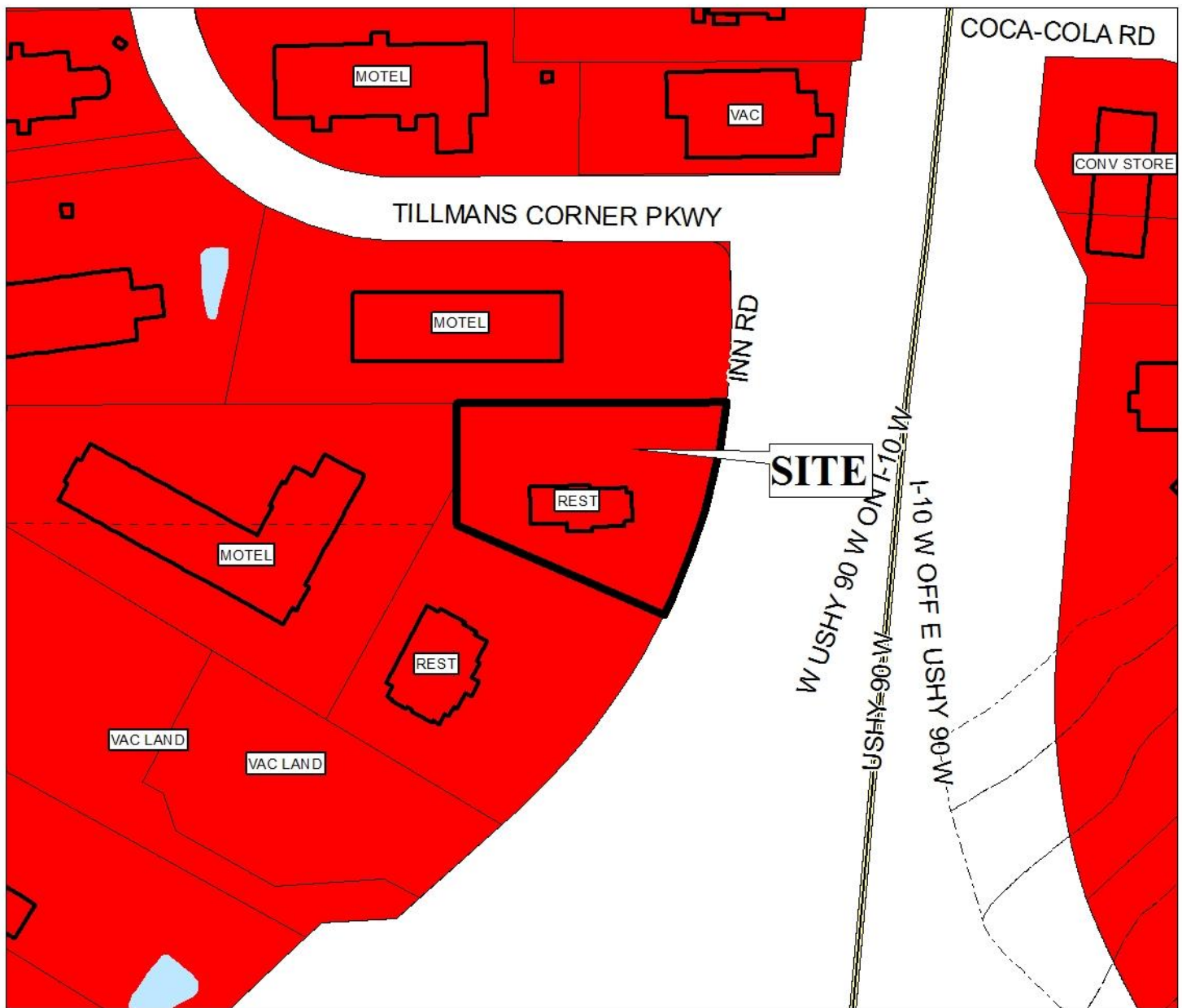
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REQUEST Sign Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by 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 AERIAL

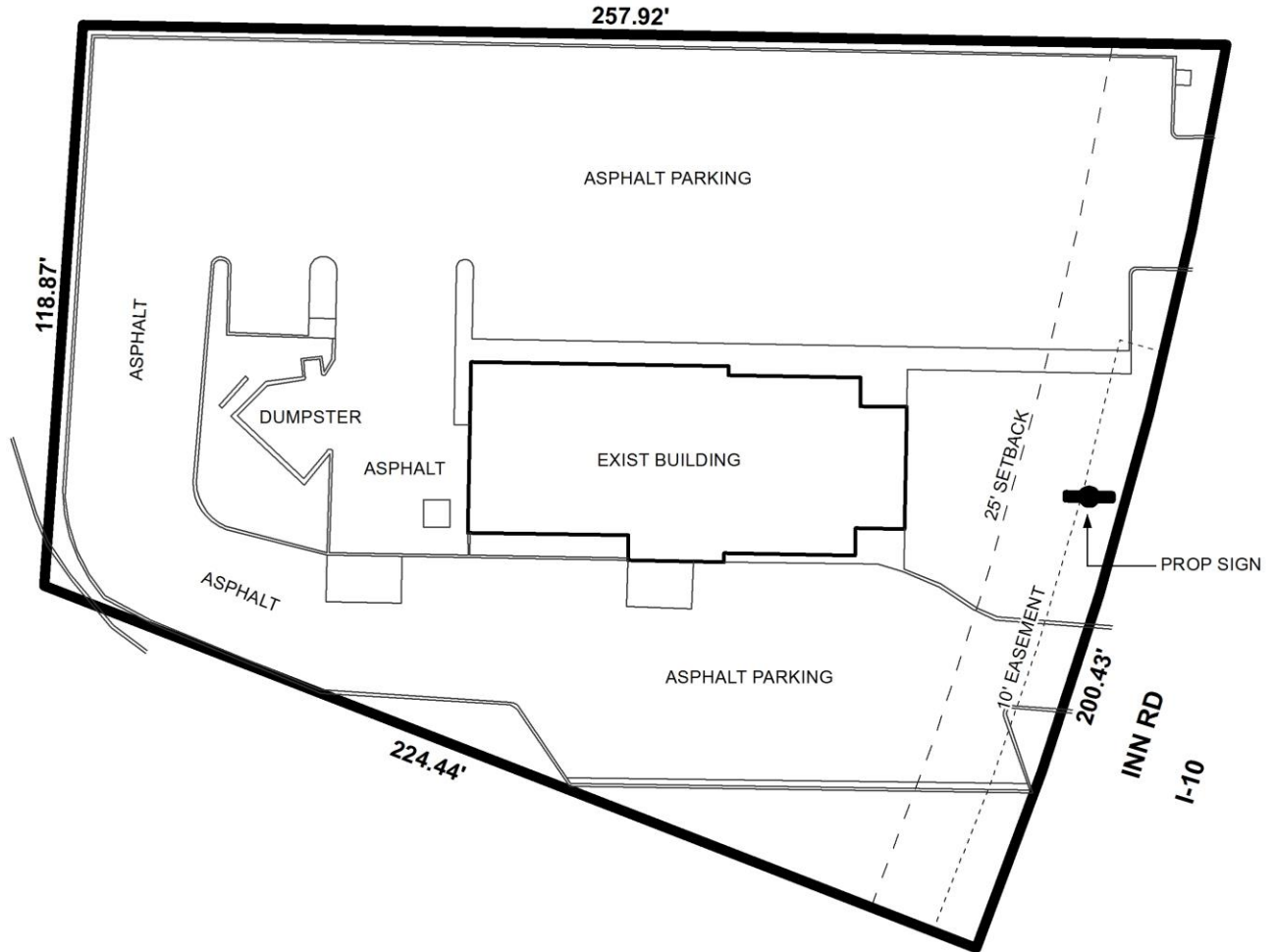


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SITE PLAN



The site plan illustrates the existing building, existing parking areas, and proposed sign location.

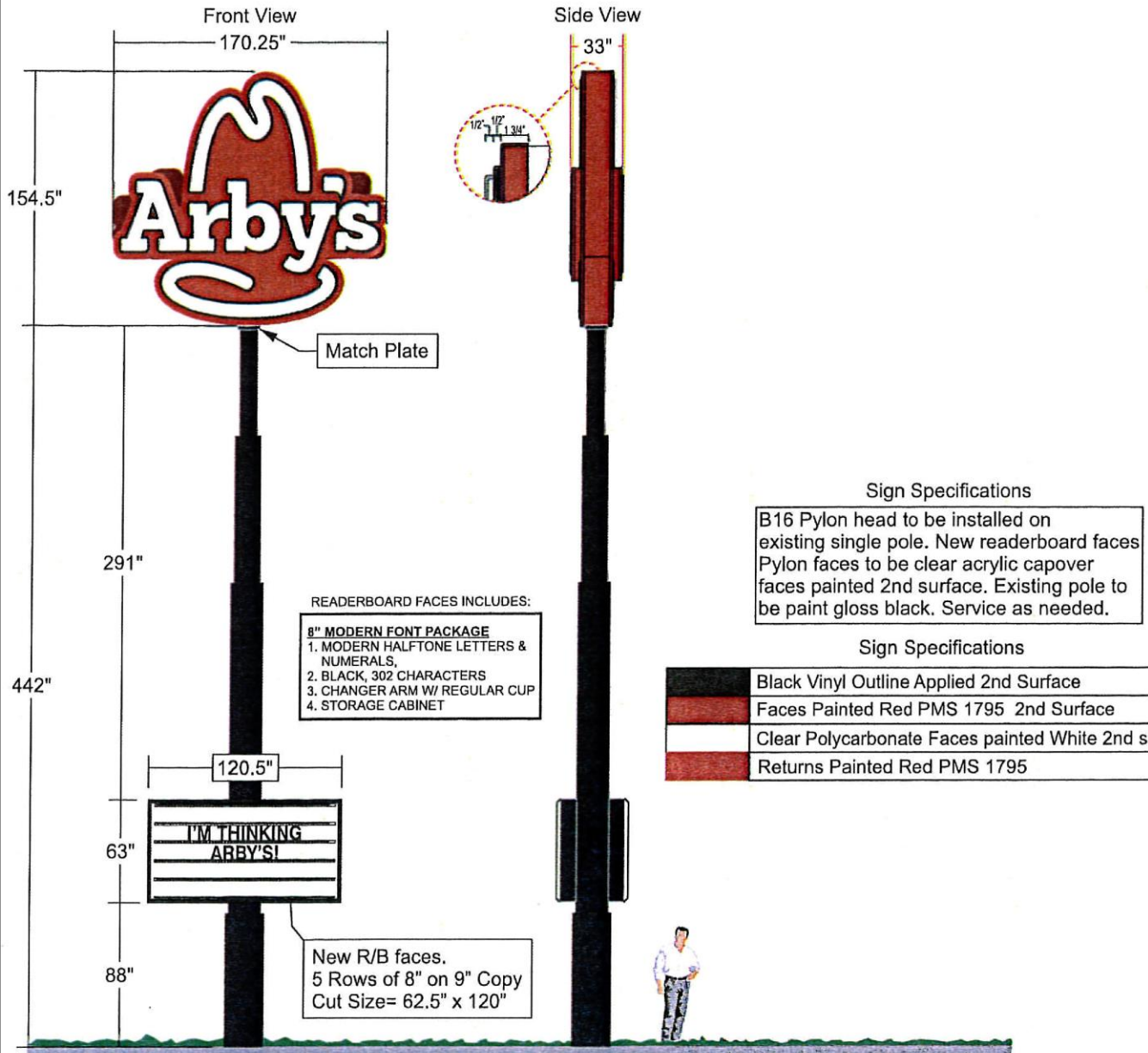
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DETAIL SITE PLAN



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APPLICANT Beavers, Inc.

REQUEST Sign Variance



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