

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: March 6, 2023**

**CASE NUMBER**

6498

**APPLICANT NAME**

Branded Image Group (Robin Smith, Agent)

**LOCATION**

5550 U.S. Highway 90 West  
(Southwest corner of U.S. Highway 90 West and Sermon Road North).

**VARIANCE REQUEST**

**SIGN:** Sign Variance to allow a five (5) wall signs at a single-tenant commercial site in a B-3, Community Business District.

**ZONING ORDINANCE REQUIREMENT**

**SIGN:** The Zoning Ordinance allows two (2) wall signs at a single-tenant commercial site in a B-3, Community Business District.

**ZONING**

B-3, Community Business District

**AREA OF PROPERTY**

0.8± Acre

**CITY COUNCIL DISTRICT**

District 4

**ENGINEERING COMMENTS**

If the proposed variance is approved the applicant will need to have the following conditions met:

All proposed directional signs must be installed on Private Property, not within the public ROW.

**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 (2021 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 five (5) wall signs at a single-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance allows two (2) wall signs at a single-tenant commercial site in a B-3, Community 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 re-brand the subject site from Shell to Circle K by removing and/or refacing existing wall and freestanding signage. The site currently has the following signage:

- One (1) freestanding sign structure with a logo sign.

- One (1) logo sign on the main building front wall.
- Two (2) logo signs on the front fuel canopy.
- Two (2) logo signs on the rear diesel fuel canopy.

Since the site is a single-tenant site, it is allowed one (1) freestanding sign and two (2) wall signs.

The site was developed prior to annexation into the City of Mobile and was not subject to the sign regulation provisions of the Zoning Ordinance, and any signage not compliant with the regulations was considered legal nonconforming upon annexation. Any simple refacing of nonconforming signage is allowable. However, the applicant proposes to install two (2) new front fuel canopy signs. Any modifications to existing nonconforming signage requires full compliance with the sign regulation provisions; hence this application.

The applicant simply states the following relating to the request:

*The purpose is to have the proper signage for the rebrand.*

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.

The subject site adjoins B-3 commercial zoning to the South and West, and B-3 commercial zoning is across Sermon Road North and U.S. Highway 90 West.

With regard to the request for five (5) wall signs, the site would have an illuminated Circle K logo sign atop the freestanding pylon sign near U.S. Highway 90 West. As the site was developed prior to annexation, the provision of frontage and perimeter trees was not a requirement for site development under County review. Thus, the freestanding sign is readily visible to traffic. This, and the allowance of two wall signs placed in easily-visible locations, should provide ample site recognition.

The applicant has not illustrated that a hardship would be imposed by a literal enforcement of the sign regulation provisions of the Zoning Ordinance, and the Board should consider this application for Denial.

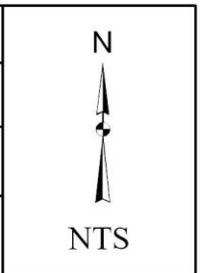
**RECOMMENDATION:** Staff recommends to the Board the following findings of facts for Denial of the request to allow five (5) wall signs at a single-tenant commercial site in a B-3, Community Business District:

- 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.

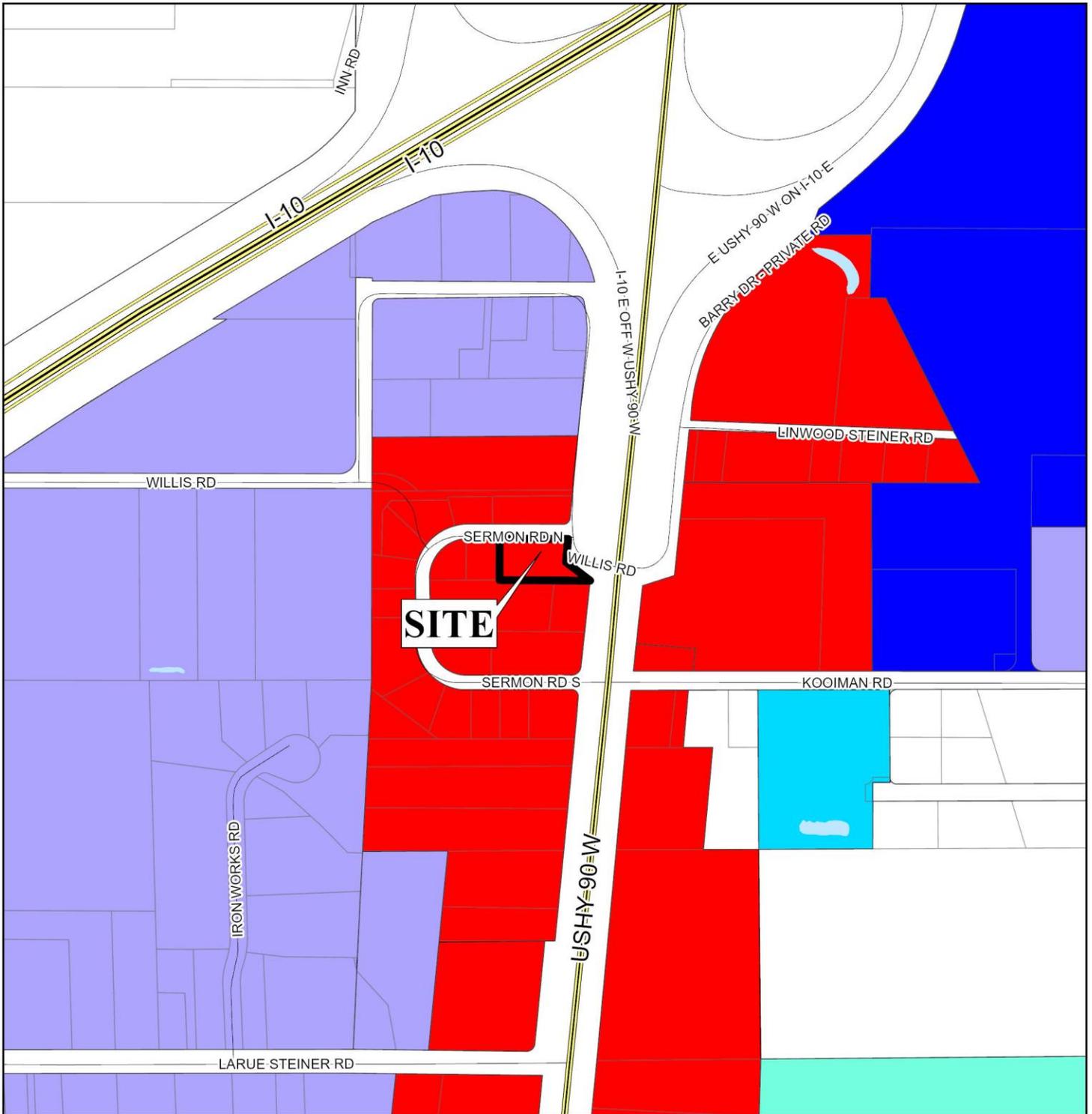
# LOCATOR MAP



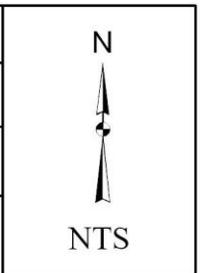
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REQUEST <u>Sign Variance</u>	



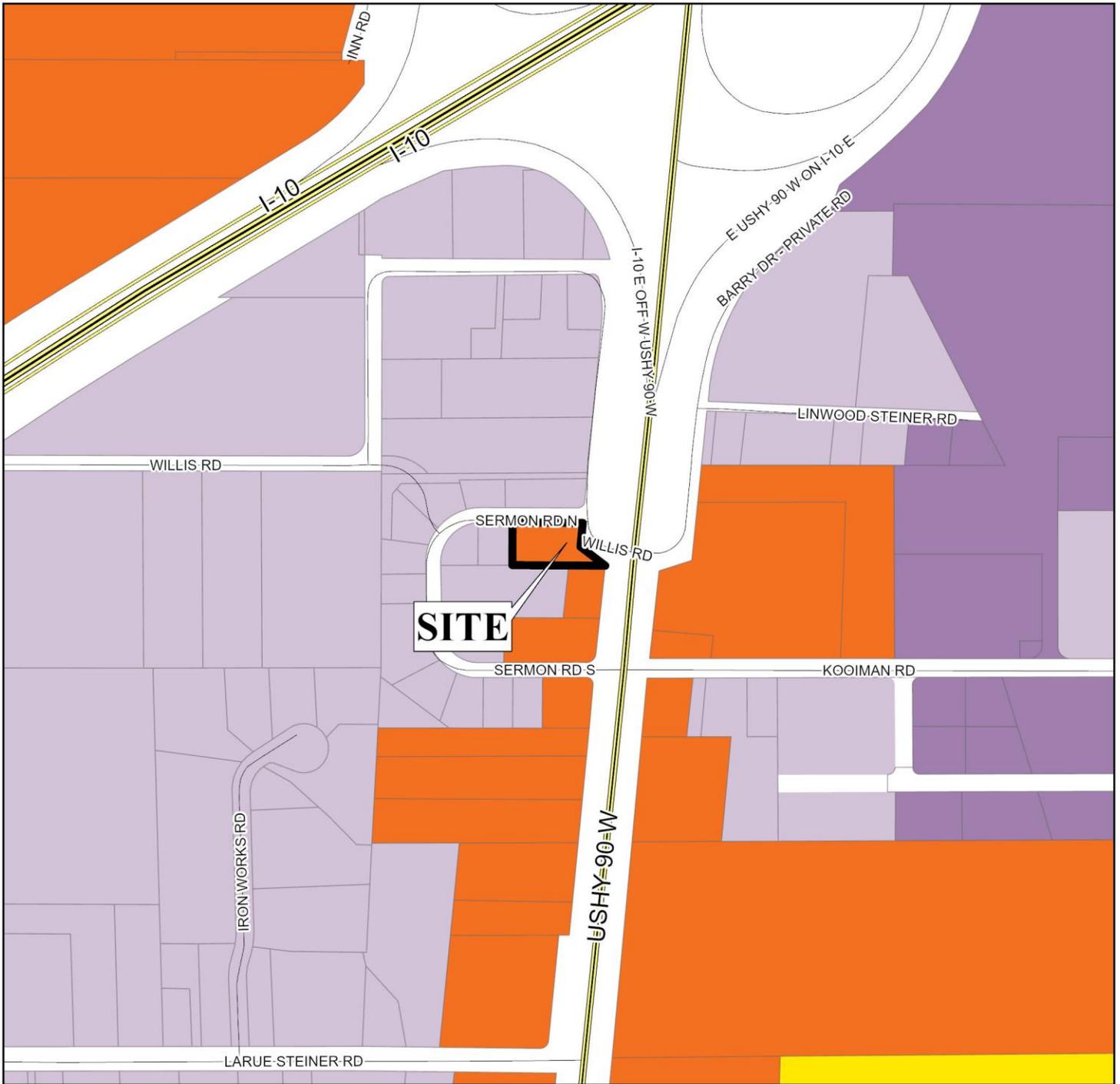
# LOCATOR ZONING MAP



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# FLUM LOCATOR MAP



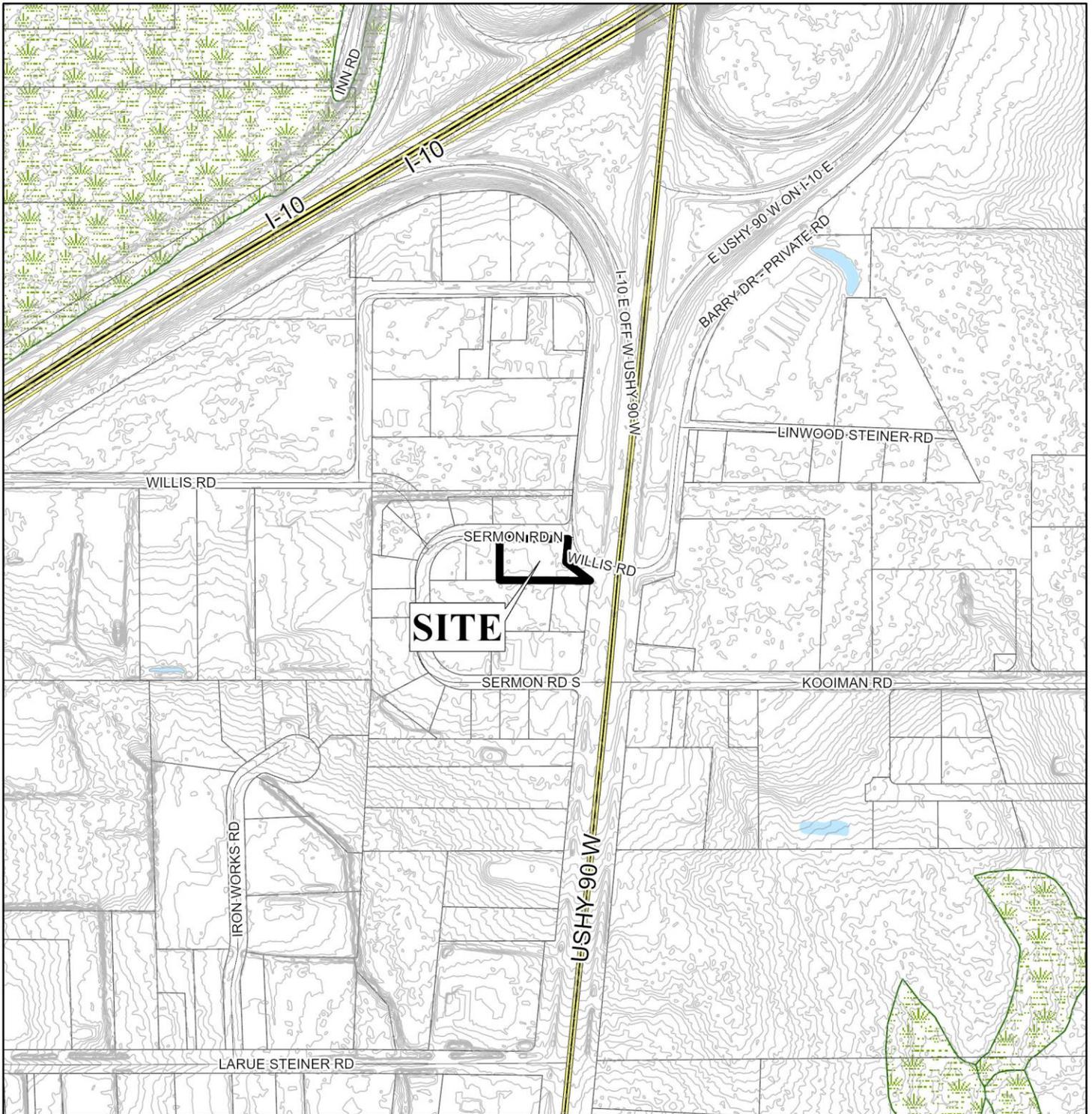
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**FLUM**

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



# ENVIRONMENTAL LOCATOR MAP



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded vacant land 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 AERIAL



The site is surrounded by vacant land and commercial units.

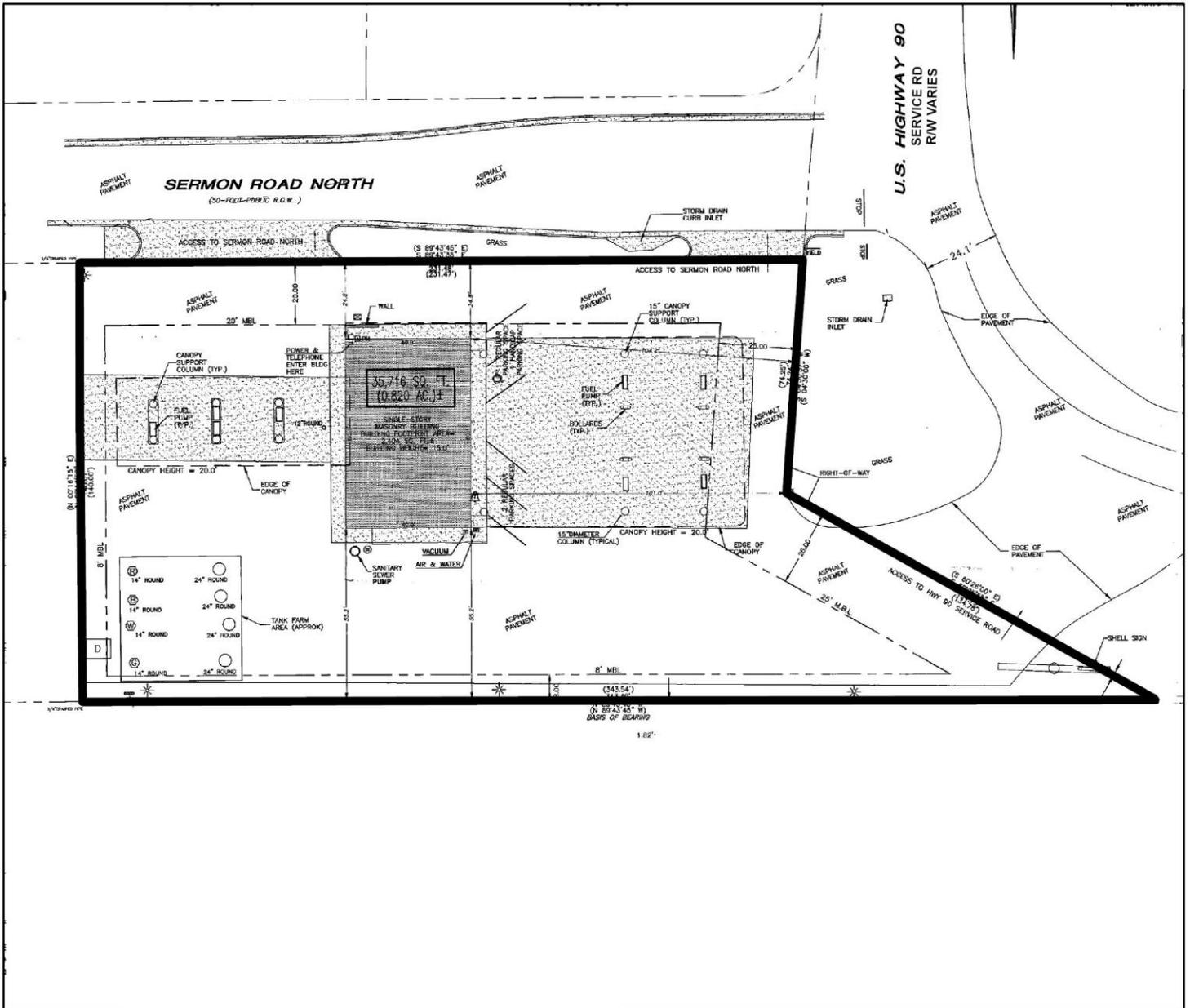
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# SITE PLAN



The site plan illustrates the existing building, and pumps.

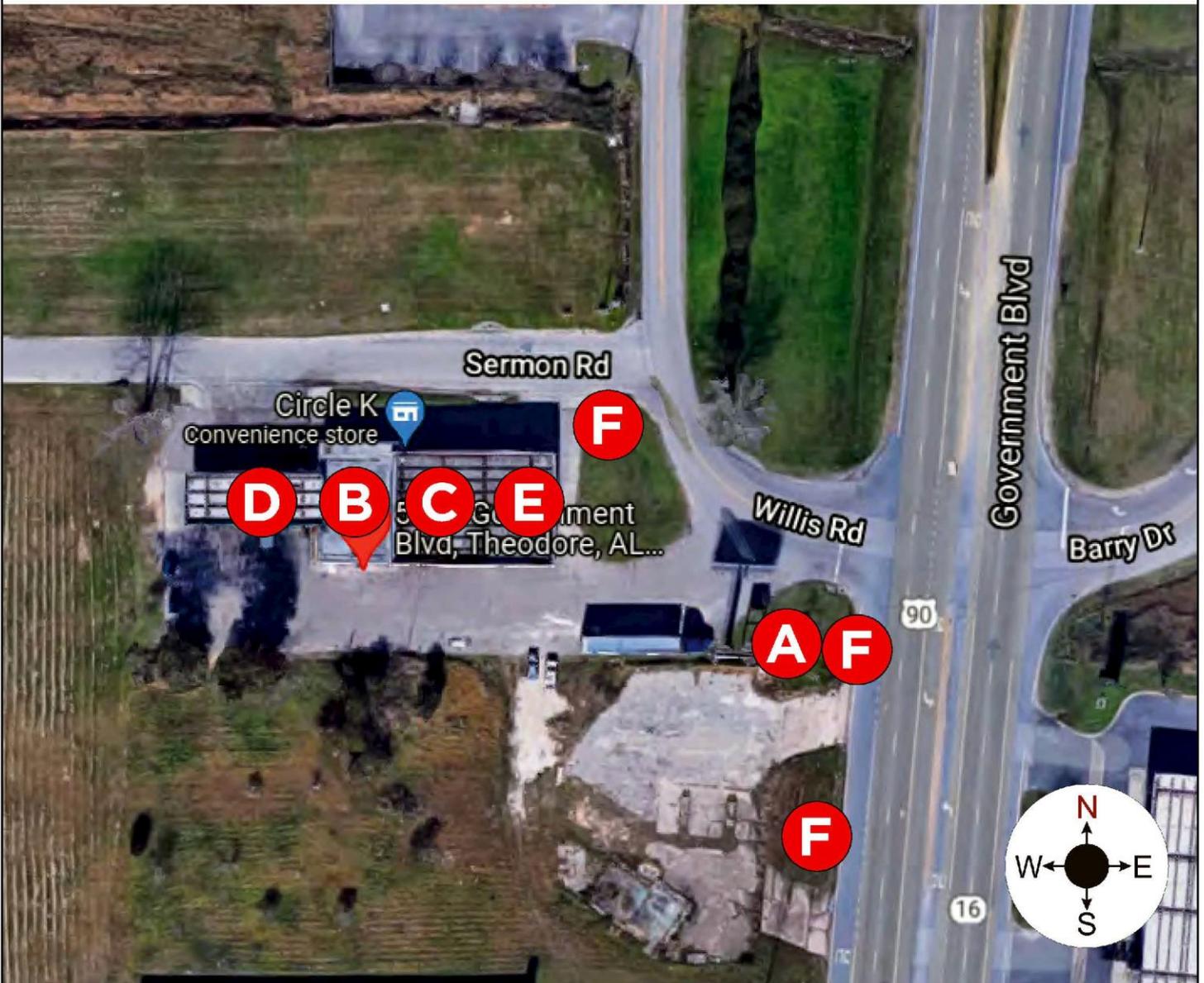
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# DETAIL SITE PLAN



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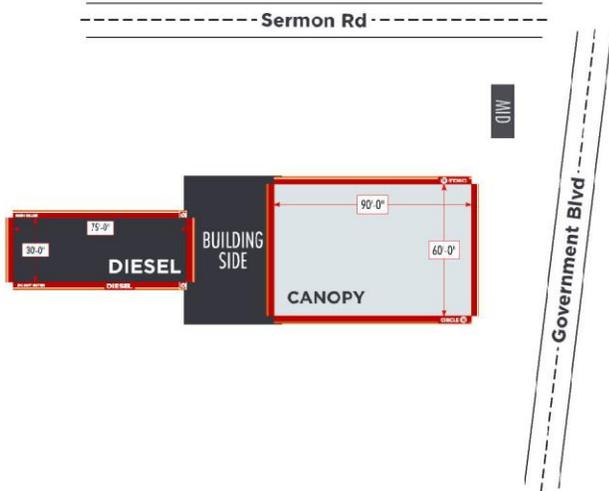




# DETAIL SITE PLAN

## SITE OVERVIEW

**44"** HEIGHT OF ACM

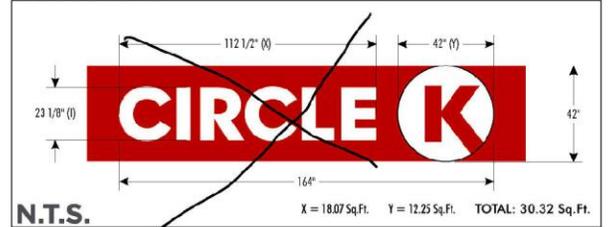


## CANOPY

## EXISTING



## PROPOSED



**NOTE: NEED CANOPY SURVEY TO CONFIRM MEASUREMENTS**

THE WORD CIRCLE HAS BEEN OMITTED. LIKE FOR LIKE ONLY

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