

APPLICATION NUMBER

5615

A REQUEST FOR

**SIGN VARIANCE TO ALLOW A 68'-6" HIGH
FREESTANDING SIGN AT A SINGLE-TENANT
COMMERCIAL SITE IN A B-3, COMMUNITY BUSINESS
DISTRICT; THE ZONING ORDINANCE ALLOWS A
MAXIMUM HEIGHT OF 35' FOR A FREESTANDING SIGN
FOR A SINGLE-TENANT COMMERCIAL SITE IN A B-3,
COMMUNITY BUSINESS DISTRICT.**

LOCATED AT

725 SCHILLINGER ROAD SOUTH

(Southeast corner of Schillinger Road South and Old Government Street Road)

APPLICANT

O'CHARLEY'S RESTAURANT

AGENT

TRISHA WISE

BOARD OF ZONING ADJUSTMENT

MAY 2010

The applicant is requesting a Sign Variance to allow a 68'-6" high freestanding sign at a single-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance allows a maximum height of 35' for a freestanding sign for a single-tenant commercial site in a B-3, Community Business District.

The subject site was annexed into the City on September 25, 2007, with an existing 83'-2½" high freestanding pylon sign which became nonconforming according to the Sign Regulation Provisions of the Zoning Ordinance when enforcement was started on January 16, 2008. The Ordinance allows nonconforming annexed signs to remain; however, if the sign is altered it may not be changed to or replaced with another nonconforming sign. Such would be the case in this instance. A sign permit application was recently submitted to modify the existing logo sign and lower the pylon structure to 68'-6". This height is above the 35' maximum height allowed by the Ordinance, hence this application. As now proposed, the new sign cabinet would be compliant at slightly under the maximum allowable 200 square feet per face.

The applicant states that one of the most notable reasons to seek the variance is that the size of the existing pipe at the 35' height limit is so large that a compliant sign cabinet would look disproportionate and detract from the identity of the restaurant. It is further stated that to remove the existing pole and foundation would cause hardship due to the enormous cost and disruption of business it would create, and surrounding buildings and elevation changes would make visibility of a 35' high sign difficult. It is also stated that problems have been encountered trying to mount compliant 200 square-foot signs on existing poles at the 35' overall height.

The existing sign cabinet is mounted onto a pole composed of three sections of steel pipe of differing sizes: 24" diameter at the top, 36" diameter in the middle, and 42" diameter at the bottom. Lowering the sign to the 35' maximum height could be accomplished by cutting the 36" diameter pipe section to sufficient length to accept the new sign cabinet. With regard to a disproportionate appearance, many freestanding signs have support structures beneath the cabinet which are at least as wide as the cabinet. In this instance, even the 42" diameter lower pipe section would be less than 1/6 the overall width of 21'-9 ¾" of the new sign cabinet. And by making this modification, the existing pole and foundation would probably not have to be removed at all. The applicant states that to do such would cause hardship due to the enormous cost and disruption of business it would create. It must be pointed out that the applicant cannot request a variance where economic loss is the sole basis for the request.

The applicant states that surrounding buildings and changes in elevation will make visibility of a 35' high sign difficult. However, a review of topographic contour intervals within approximately 1,000' to the North and South of the sign location along Schillinger Road South indicates about a 14' decrease to the South, and about a 17' increase to the

North, both along a fairly consistent gentle slope which would allow unobstructed line-of-sight visibility, other than for trees along the street frontages of various businesses. As frontage trees are a requirement for new commercial developments and some modified developments within the City, the 35' maximum sign height limit for single-tenant sites still stands. It is further argued that there are many other signs within the area up to 100' in height. As previously mentioned, nonconforming annexed signs may remain until such time as altered, at which time they must be brought into compliance.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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.

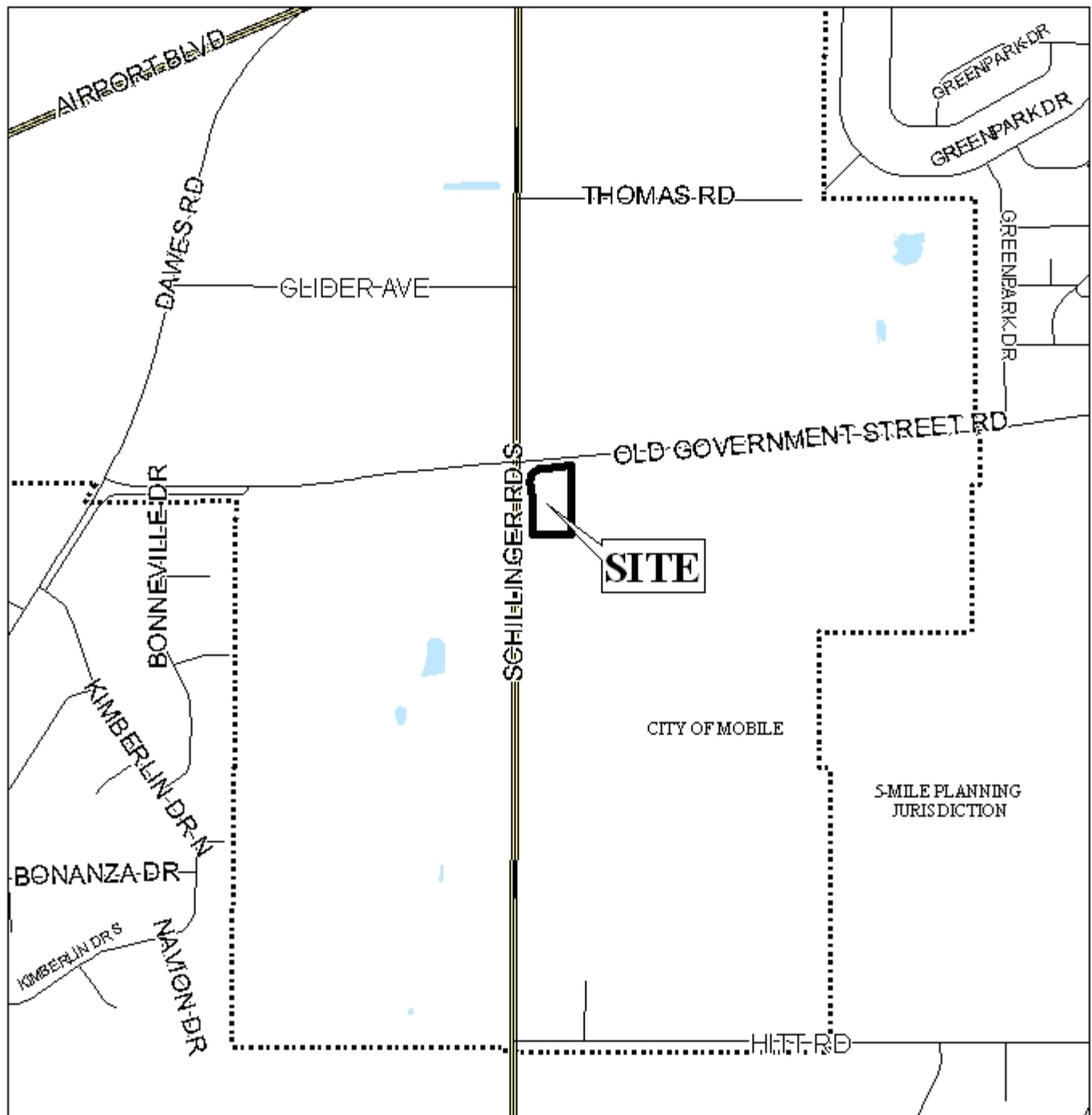
The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to have a 68'-6" high freestanding sign for greater identity purposes.

RECOMMENDATION 5615

Date: May 3, 2010

Based upon the preceding, this application is recommended for denial.

LOCATOR MAP



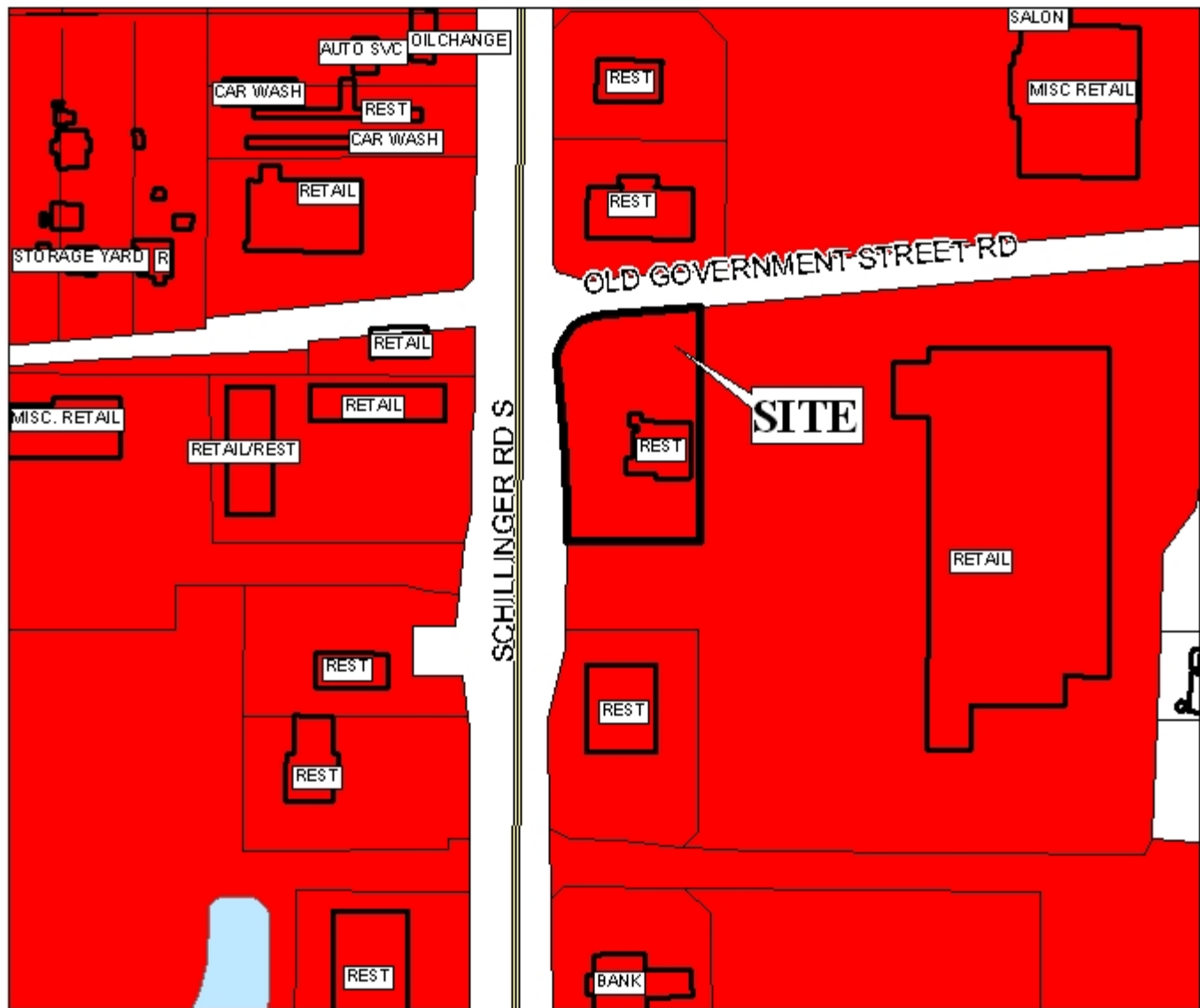
APPLICATION NUMBER 5615 DATE May 3, 2010

APPLICANT O'Charley's Restaurant (Trisha Wise, Agent)

REQUEST Sign Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



A retail business is located to the east and west of the site
and a restaurant is located to the north and south.

APPLICATION NUMBER 5615 DATE May 3, 2010

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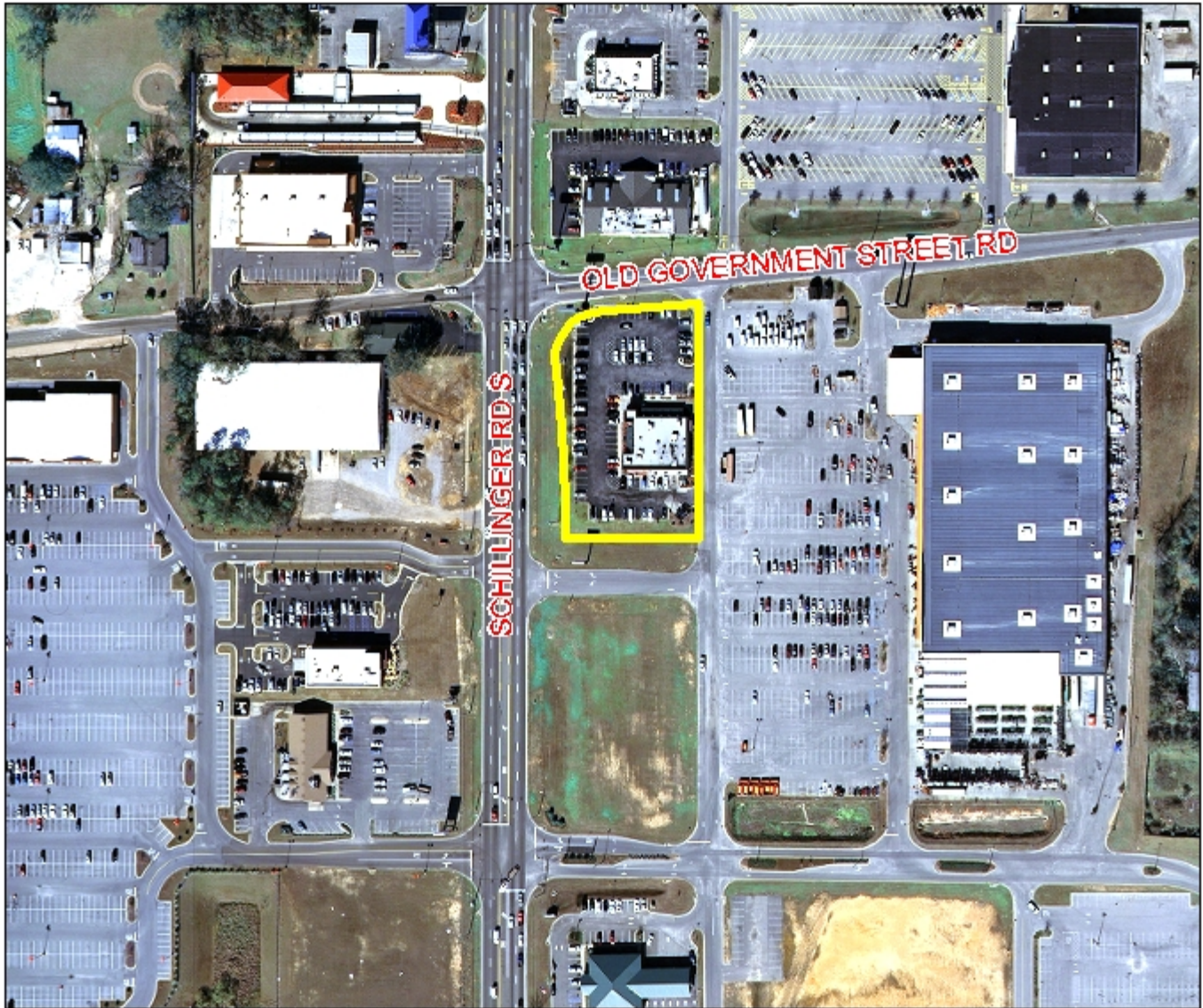
REQUEST Sign Variance

LEGEND

| | | | | | | | | | | | | | | |
|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|
| R-1 | R-2 | R-3 | R-A | R-B | H-B | T-B | B-1 | LB-2 | B-2 | B-3 | B-4 | B-5 | I-1 | I-2 |
|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



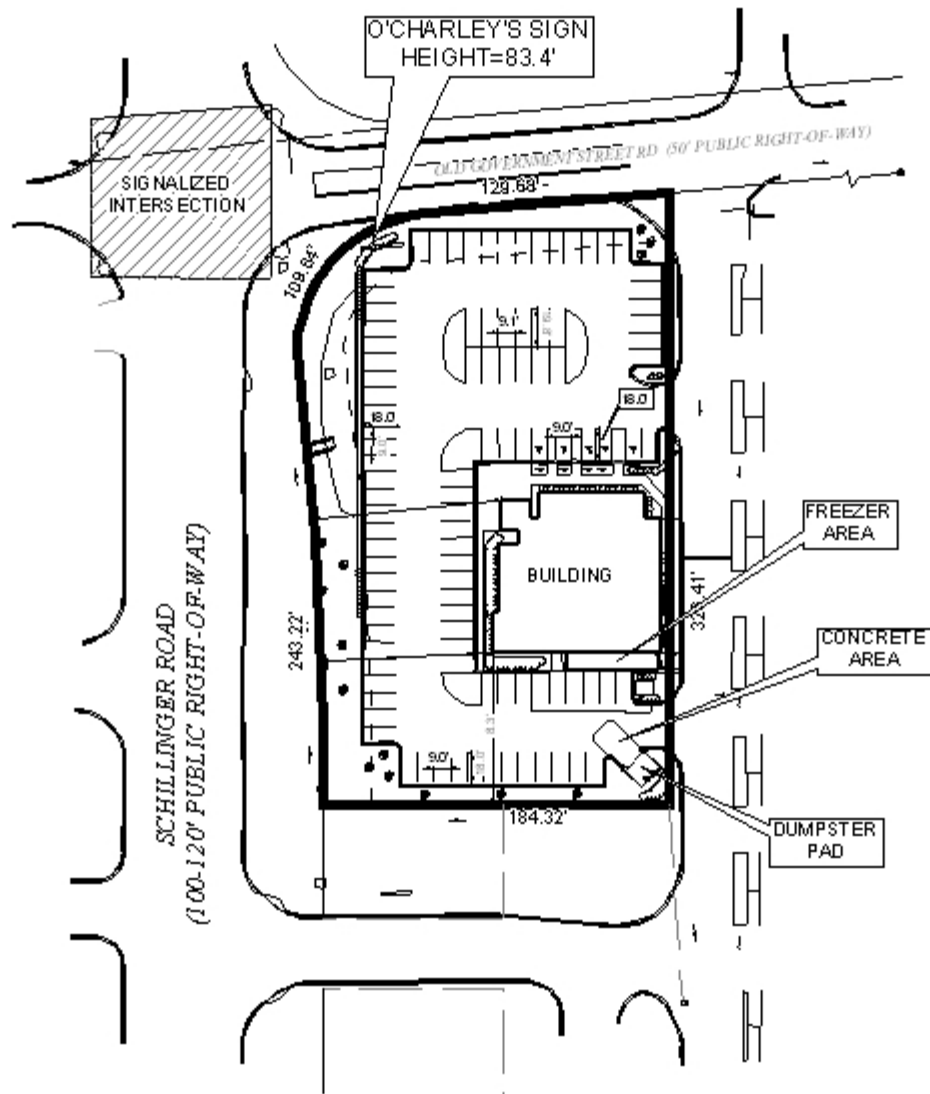
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APPLICATION NUMBER 5615 DATE May 3, 2010
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NTS

SITE PLAN

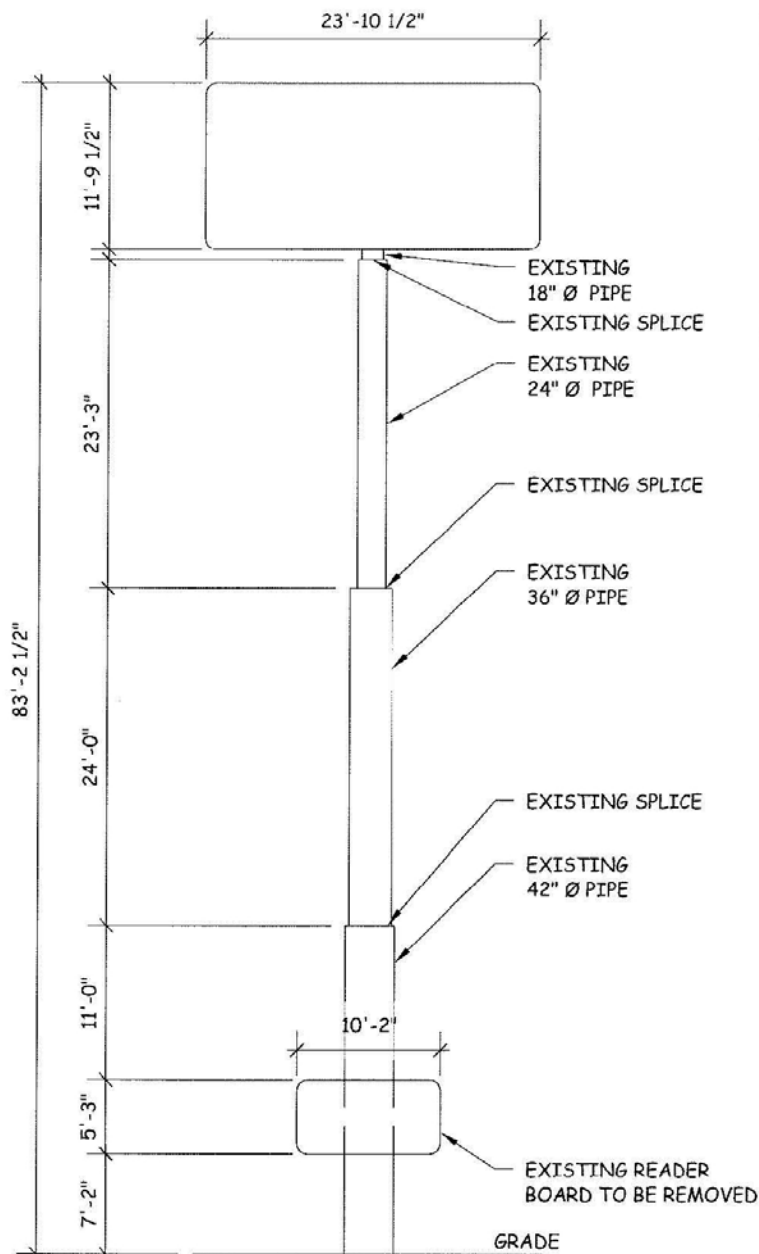


The site plan illustrates the existing building and the location of the existing sign.

APPLICATION NUMBER 5615 DATE May 3, 2010
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SIGN DETAIL 1



- * MANUFACTURER - NORTH AMERICAN SIGNS
- * 2006 IBC
- * 130 MPH WIND SPEED
- * (1) POLE

NOTES

- 1.) SEE MANUFACTURERS DRAWINGS FOR ADDITIONAL DETAIL AND DIMENSIONS.
- 2.) SIGN CABINET AND CONNECTION BY OTHERS.
- 3.) ALL EXISTING SPLICES TO BE INSPECTED BEFORE NEW SIGNAGE IS INSTALLED.

EXISTING SIGN TO BE REMOVED
MOMENT AT GRADE- 1932.5 K-FT

MOMENT AT GRADE OF THE
PROPOSED SIGN IS LESS
THAN MOMENT AT GRADE
OF THE EXISTING SIGN

APPLICATION NUMBER 5615 DATE May 3, 2010

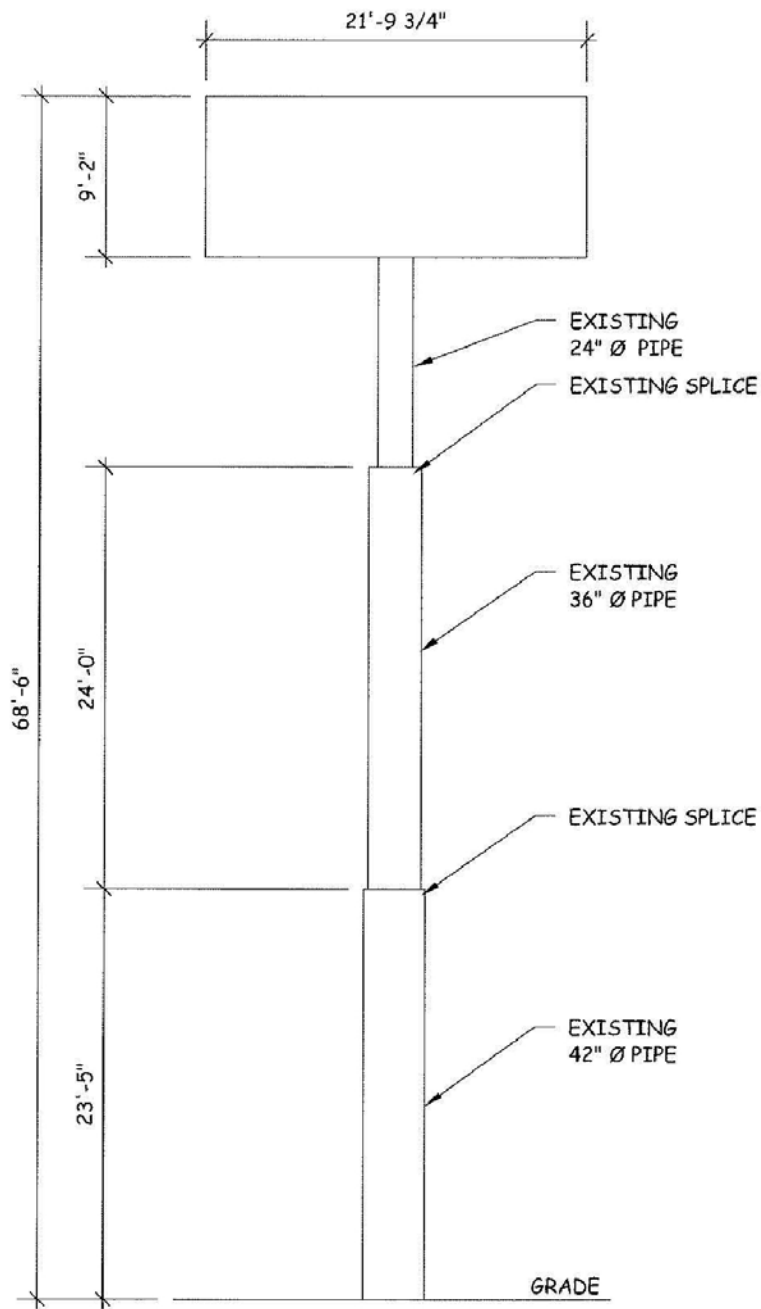
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SIGN DETAIL 2



PROPOSED SIGN TO BE INSTALLED
MOMENT AT GRADE- 1146.6 K-FT

APPLICATION NUMBER 5615 DATE May 3, 2010

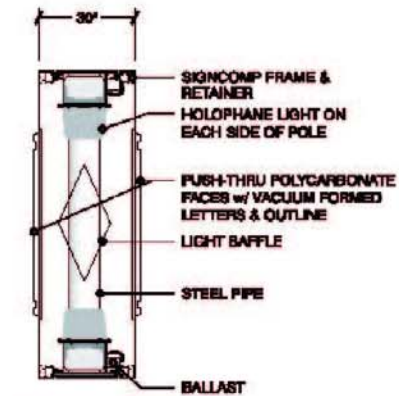
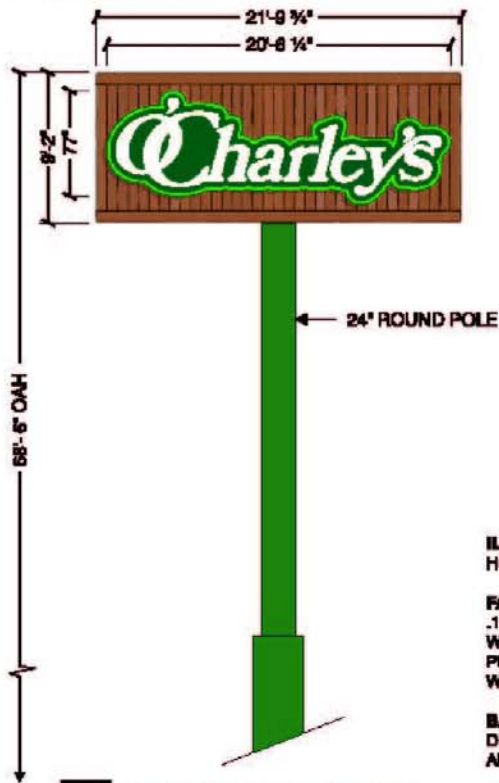
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SIGN DETAIL 3

*VARIANCE REQUIRED



CABINET SECTION
NTS

ILLUMINATION
HOLOPHANE LAMPS & BALLASTS.

FACE
.125" ALUMINUM.
WELDED TO RETAINER.
PUSH-THRU O'CHARLEY'S FACE - SIGNCOMP
WIDE BODY.

BACKGROUND
DIGITALLY PRINTED WOOD BACKGROUND &
APPLIED TO EDGES OF ALUMINUM FACES.

FILLER PANELS
.060" ALUMINUM.
PAINTED PMS 343C IVY GREEN.

"O'CHARLEY'S"
TWO (2) CLEAR POLYCARBONATE FACES w/
VACUUM FORMED EMBOSSED OUTLINE & LETTERS.
FACE IS PAINTED PMS 343C IVY GREEN.
LETTERS TO BE PAINTED WHITE.
OUTLINE TO BE PAINTED PMS 355C GREEN.

ELECTRIC
ACCESS THROUGH BRAKE METAL DOORS ON
ENDS OF CABINETS.

C D/E Pylon Detail - Option 2
SCALE: 1/8" = 1'-0"
SQ FT: 199.95

QTY: 1

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