

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: December 5, 2016**

<b><u>CASE NUMBER</u></b>	6072
<b><u>APPLICANT NAME</u></b>	Signs Now 144
<b><u>LOCATION</u></b>	5466 Inn Road (West side of Inn Road, 154'± South of Tillmans Corner Parkway).
<b><u>VARIANCE REQUEST</u></b>	<b>SIGN:</b> Sign Variance to allow a 49.7' tall freestanding sign in a B-3, Community Business District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>SIGN:</b> The Zoning Ordinance does not allow freestanding signs to exceed a maximum height of 35' in a B-3, Community Business District.
<b><u>ZONING</u></b>	B-3, Community Business
<b><u>AREA OF PROPERTY</u></b>	0.9± Acres
<b><u>ENGINEERING COMMENTS</u></b>	No comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments.
<b><u>CITY COUNCIL DISTRICT</u></b>	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.

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 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; however, the applicant wishes 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, citing reduced visibility from the interstate highway as justification for the request:

*"The purpose of this application is to allow Arby's Restaurant at 5466 Inn Rd in Mobile To keep their existing sign height while replacing the top sign with a new sign which Includes the Arby's new logo.*

*Site #1891 – Has to be seen from the Highway. Currently at 53' and we are proposing reducing it to 49.7'. All the other pylons in the area are that tall or taller. If we reduce height to 35' then we will lose visibility from the highway."*

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 two of the aforementioned conditions by which compliance with City of Mobile sign regulations would be required. Reducing the height of the sign to 49.7' exceeds the 35' height limit of freestanding signs not within 1,000 linear feet of the centerline of interstate highway I-10, thus replacing the existing sign with another nonconforming sign, as well as increasing the degree of nonconformity of such signage. While it

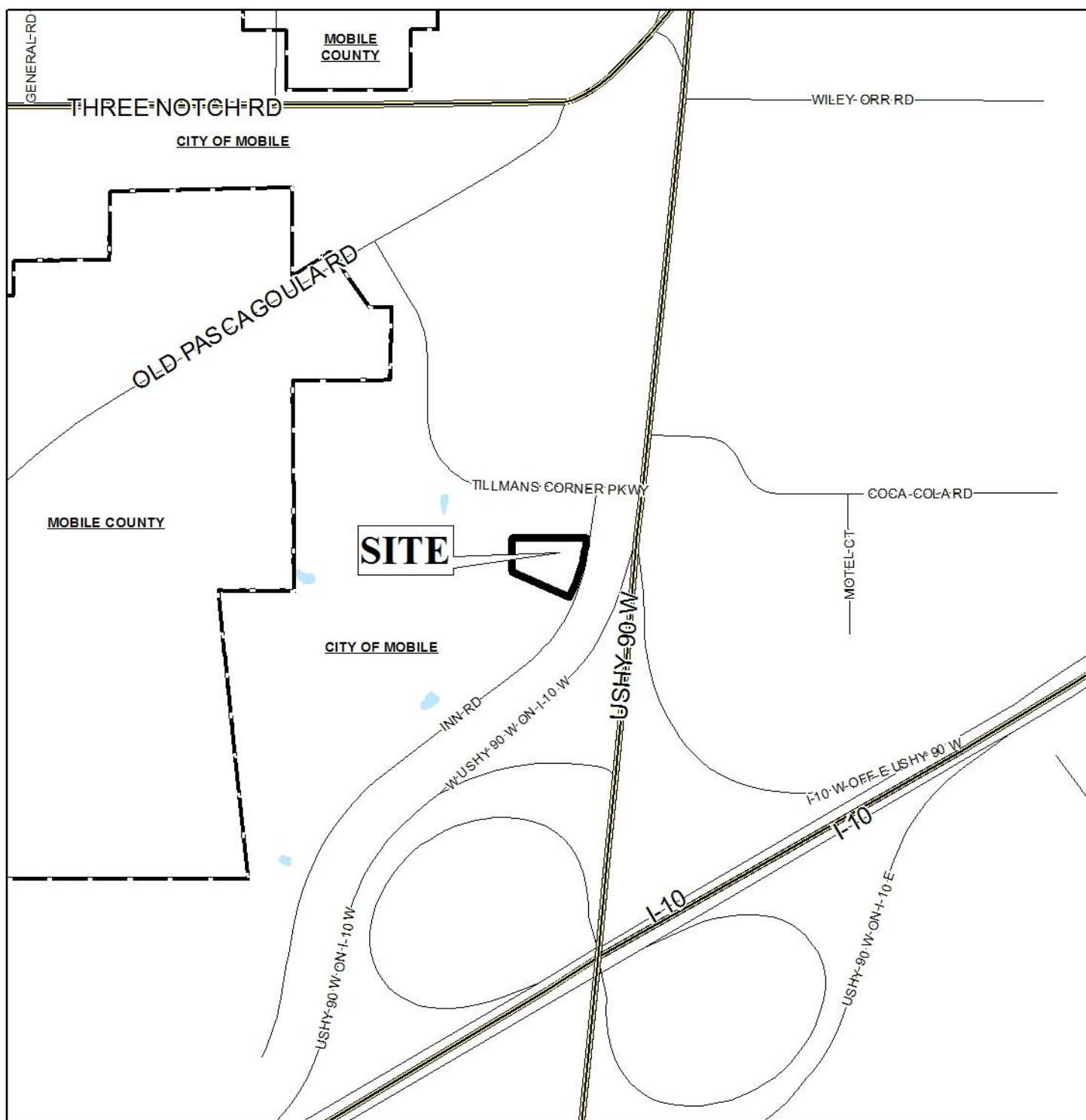
is understandable the applicant wishes to maintain their visibility from the adjacent interstate highway, they have not presented evidence that meeting the 35' height requirement for similar freestanding signs would negatively impact such visibility. Additionally, visibility of a business arguably impacts the success of the restaurant which could be an economic hardship, a characteristic of property not considered by the Board with regards to Variance requests.

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 could 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.

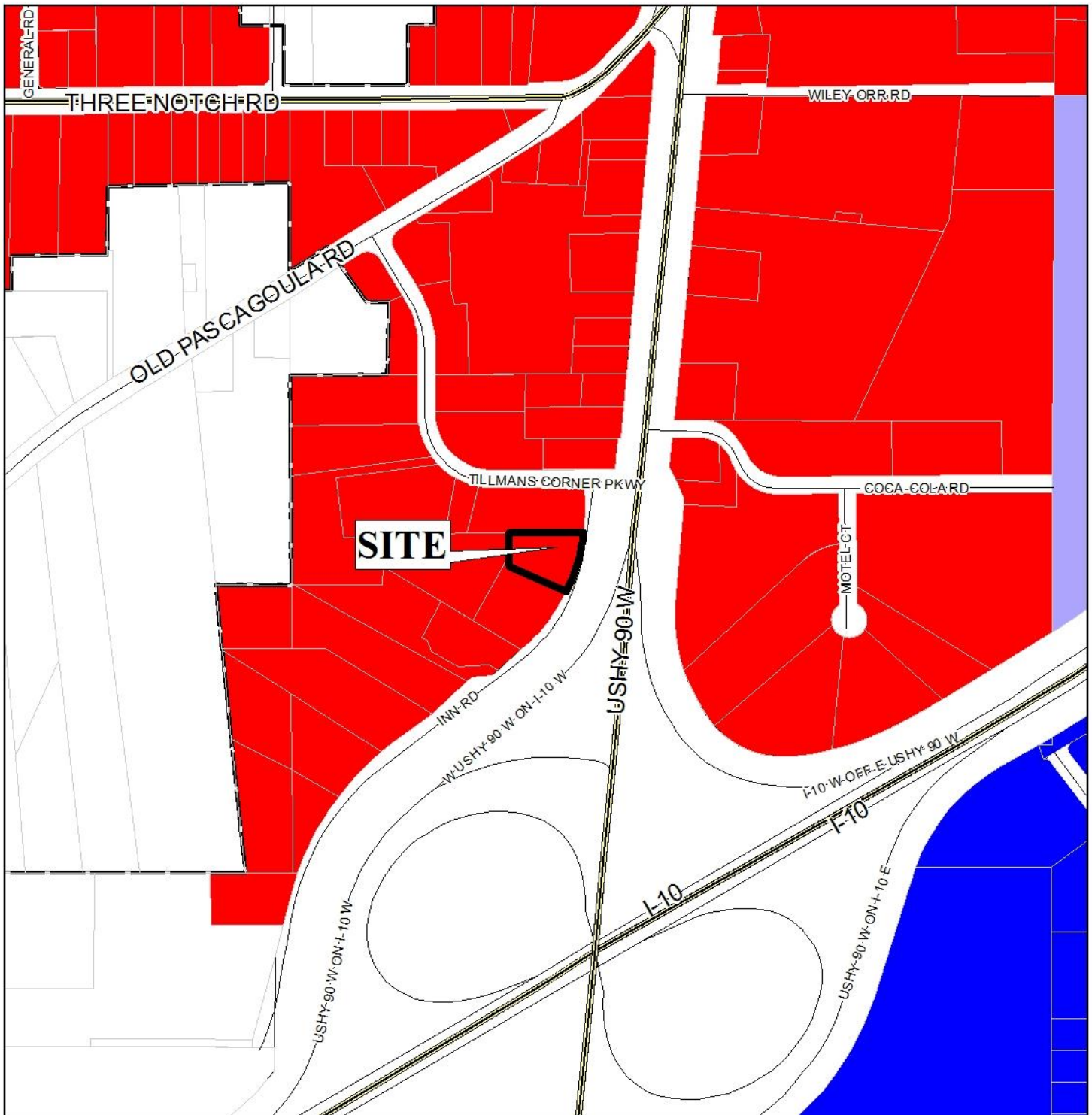
# LOCATOR MAP



APPLICATION NUMBER 6072 DATE December 5, 2016  
 APPLICANT Signs Now 144  
 REQUEST Sign Variance



# LOCATOR ZONING MAP



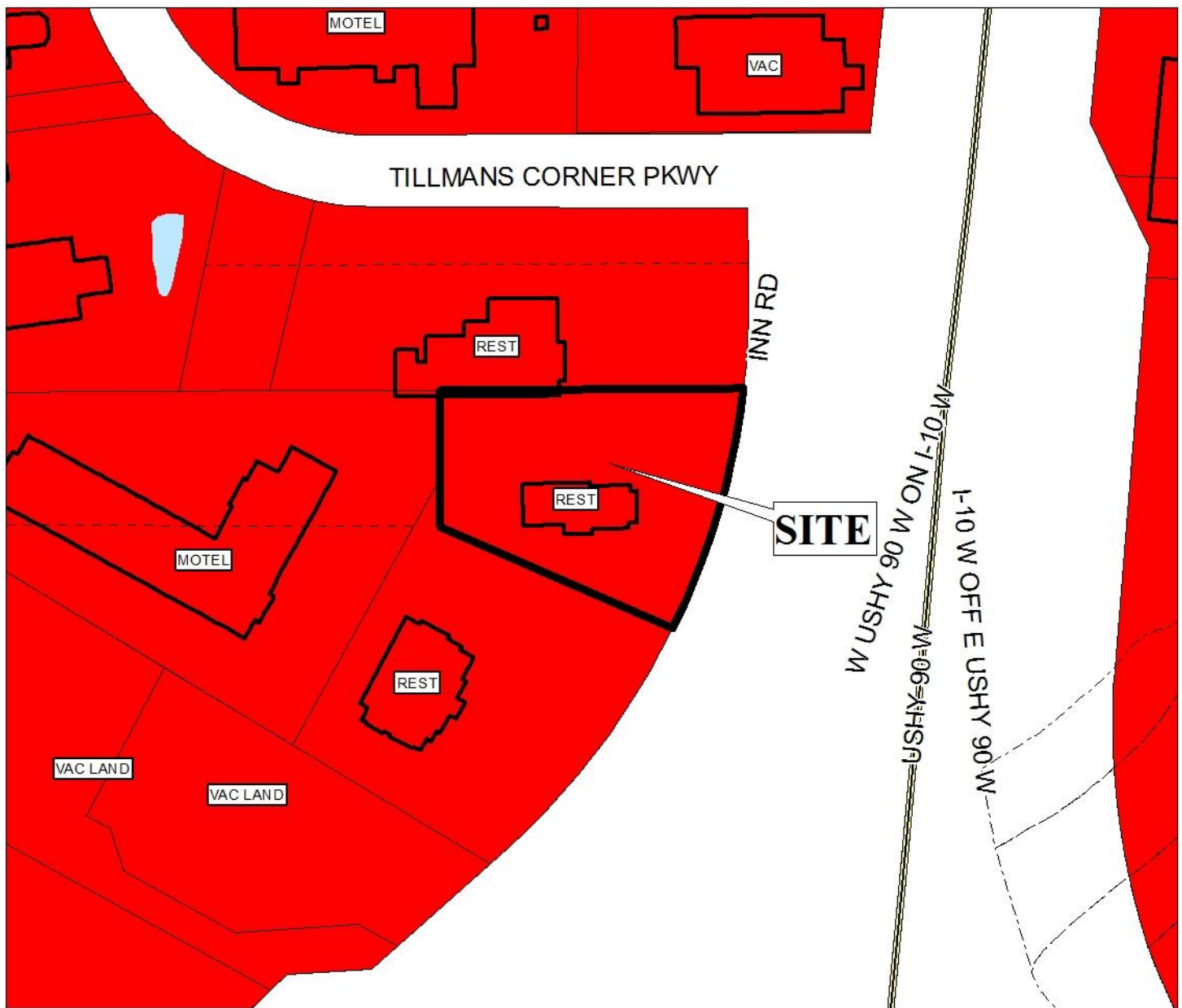
APPLICATION NUMBER 6072 DATE December 5, 2016

APPLICANT Signs Now 144

REQUEST Sign Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

APPLICATION NUMBER 6072 DATE December 5, 2016

APPLICANT Signs Now 144

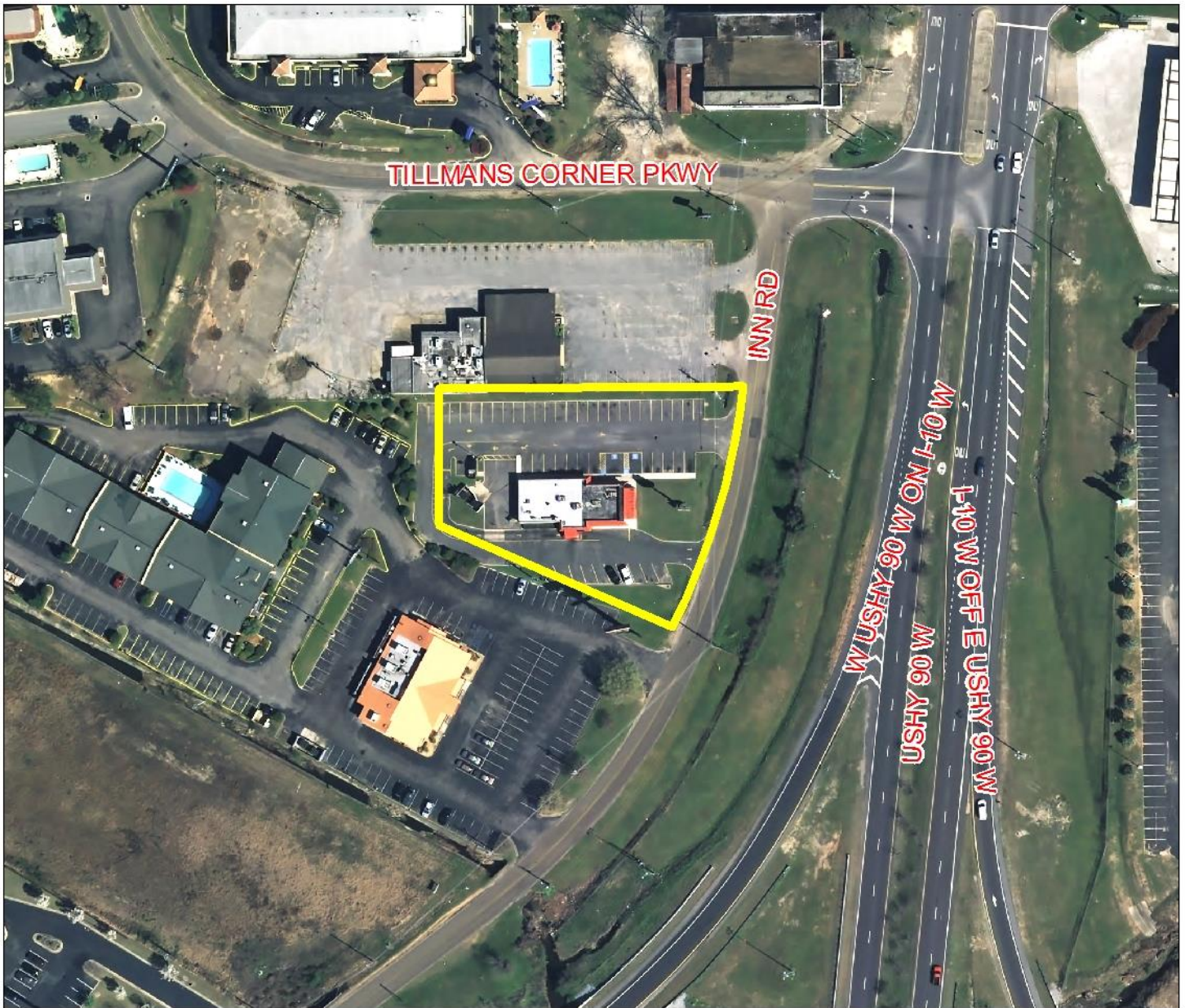
REQUEST Sign Variance

<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-A	<span style="background-color: green; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-3	<span style="background-color: brown; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T-B	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-2	<span style="background-color: blue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-5	<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> MUN	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> SD-WH	<span style="background-color: purple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.1
<span style="background-color: white; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-1	<span style="background-color: pink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-B	<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-1	<span style="background-color: red; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-3	<span style="background-color: lightblue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> I-1	<span style="background-color: lightgreen; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> OPEN	<span style="background-color: pink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T3	<span style="background-color: darkblue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.2
<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-2	<span style="background-color: peachpuff; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> H-B	<span style="background-color: purple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> LB-2	<span style="background-color: brown; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-4	<span style="background-color: gray; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> I-2	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> SD	<span style="background-color: lightpurple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T4	<span style="background-color: darkpurple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T6





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

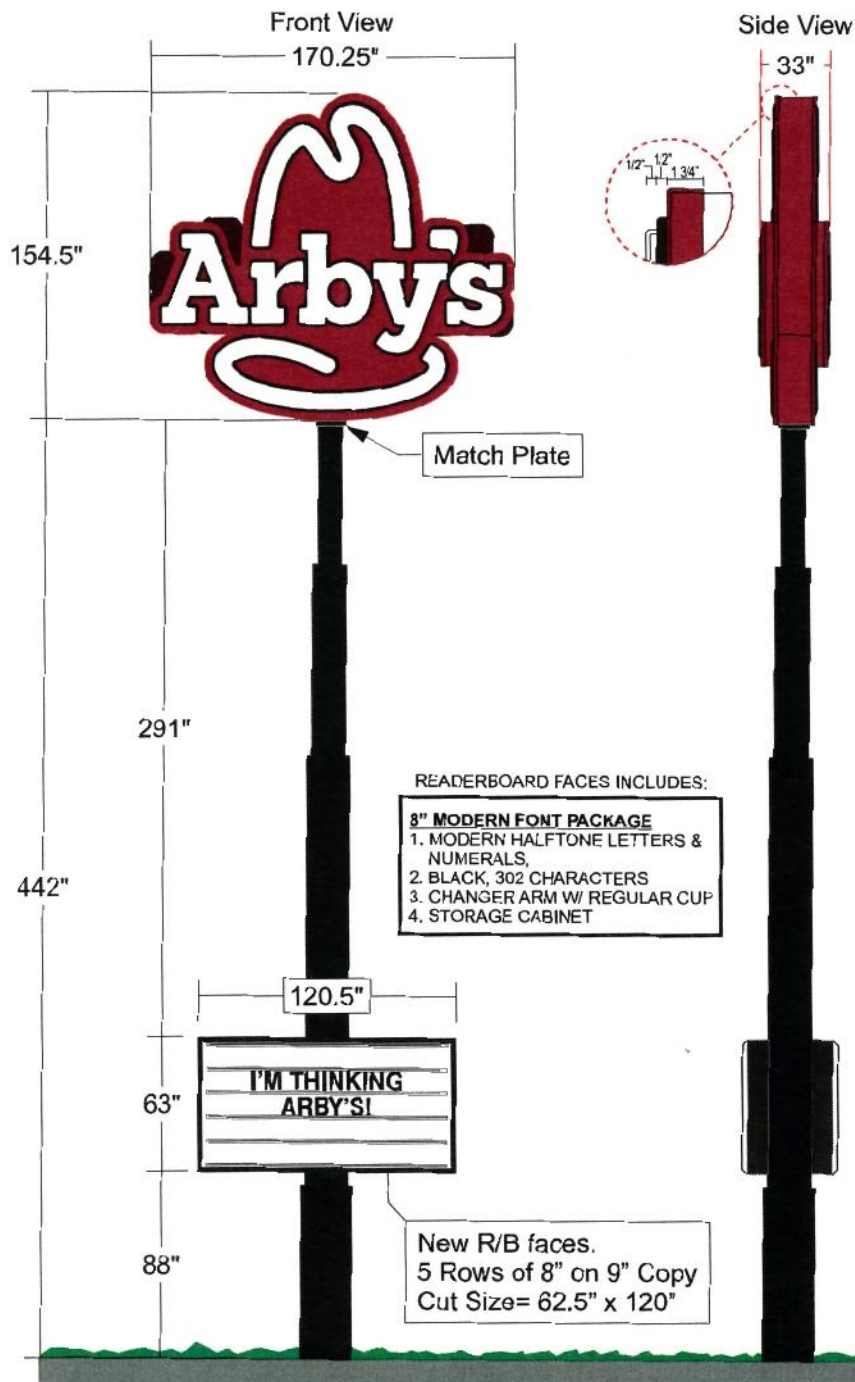


The site is surrounded by commercial units.

APPLICATION NUMBER	6072	DATE	December 5, 2016
APPLICANT	Signs Now 144		
REQUEST	Sign Variance		



# DETAIL SITE PLAN



APPLICATION NUMBER 6072 DATE December 5, 2016

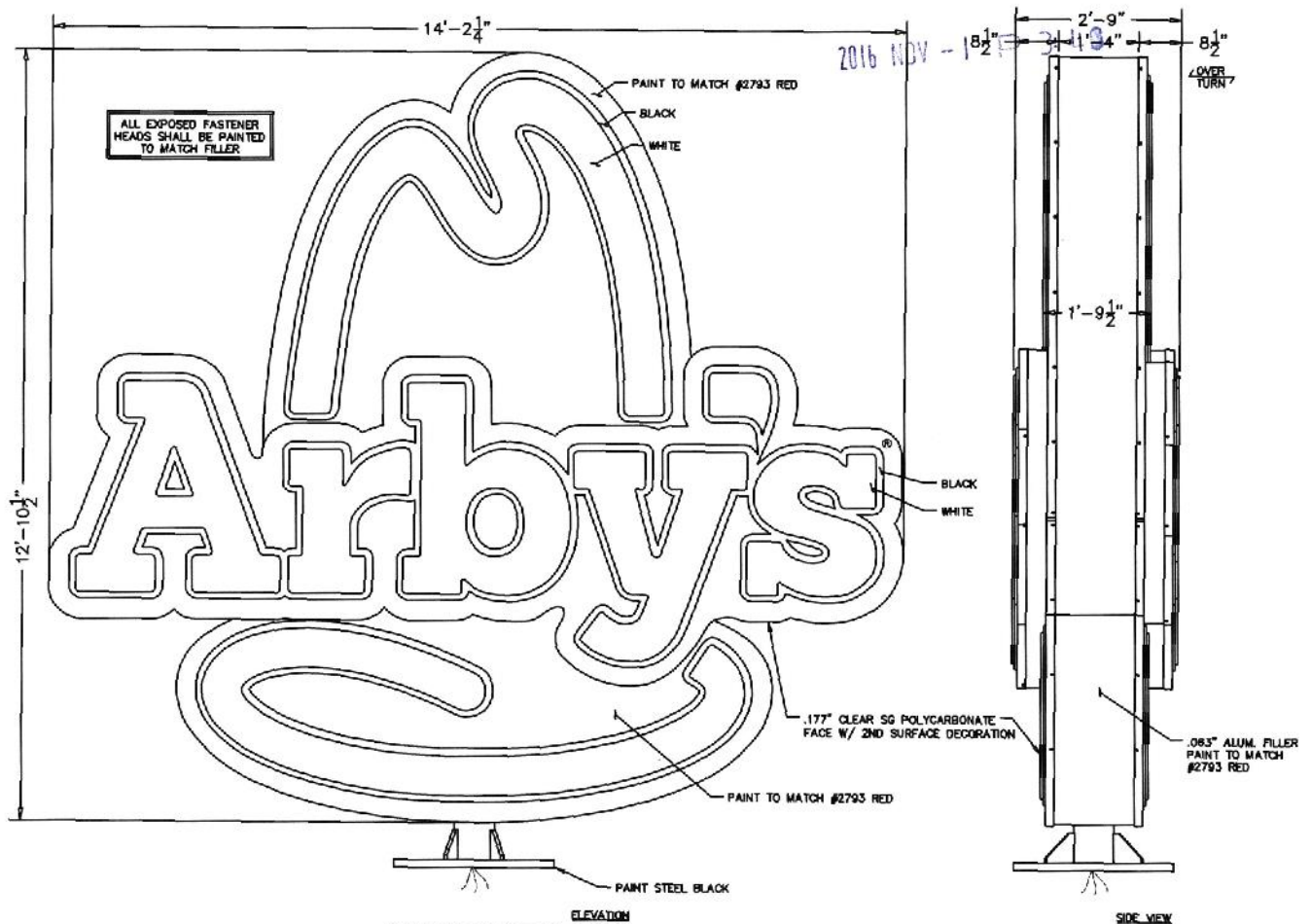
APPLICANT Signs Now 144

REQUEST Sign Variance





# DETAIL SITE PLAN



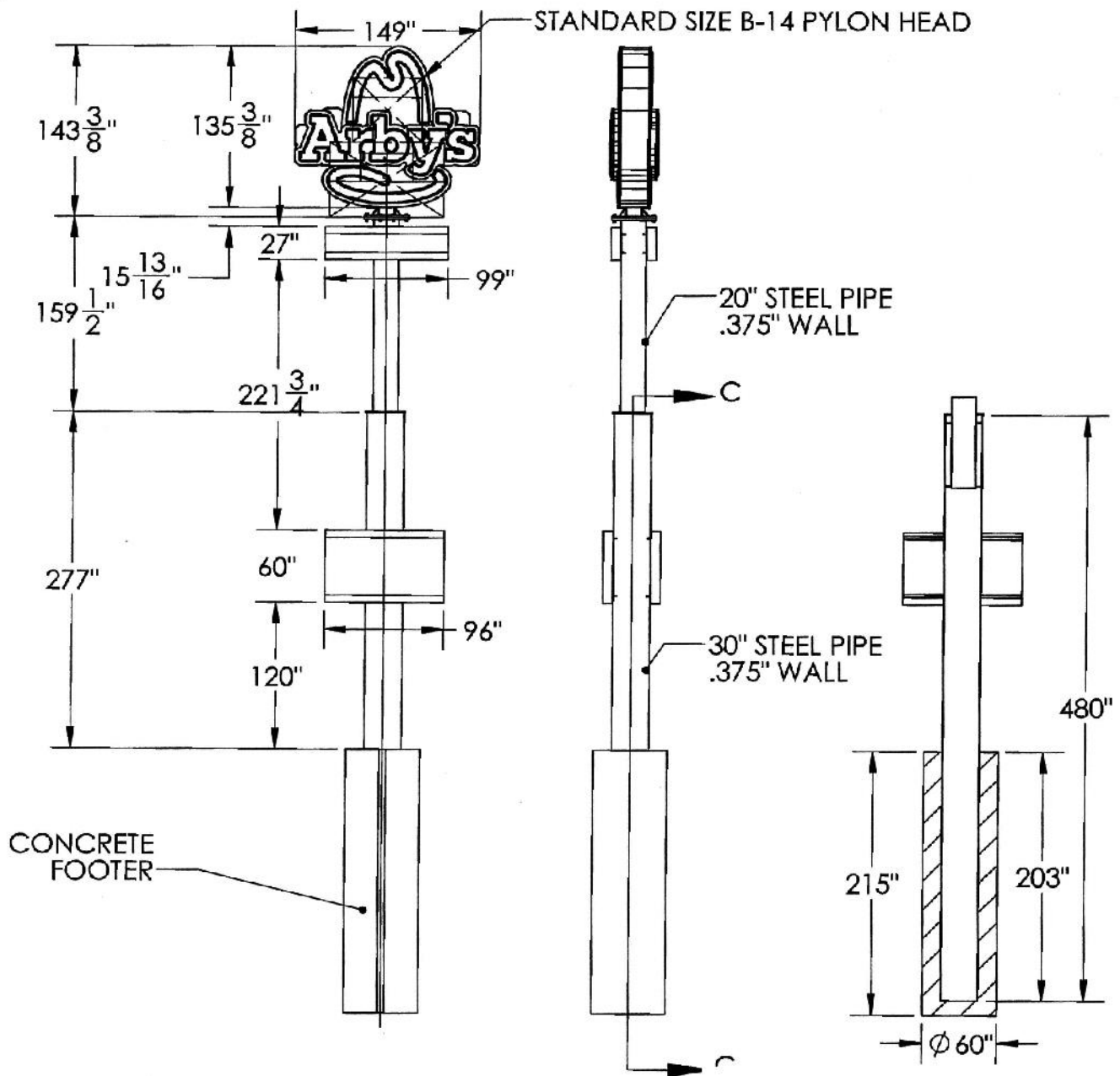
APPLICATION NUMBER 6072 DATE December 5, 2016

APPLICANT Signs Now 144

REQUEST Sign Variance



# DETAIL SITE PLAN



APPLICATION NUMBER 6072 DATE December 5, 2016

APPLICANT Signs Now 144

REQUEST Sign Variance

