



Board of Adjustments

Tuesday, June 25, 2024

6:30 PM

Elk River City Hall

Regular Meeting Agenda

- Regular meeting in Council Chambers
-

1. CALL MEETING TO ORDER

2. PLEDGE OF ALLEGIANCE

3. CONSIDER AGENDA

4. CONSIDER MINUTES

4.1 Board of Adjustments - May 28, 2024

5. PUBLIC HEARINGS

An opportunity for the public to express their opinions and raise questions pertaining to the agenda item. All comments become part of the official public record. For this reason, all comments must be made at the podium so they can be heard and recorded. Comments may also be provided in writing. There will not be deliberations, discussions, or answers to questions until the hearing is closed. It is important to be courteous and allow each presenter to comment before adding additional testimony.

5.1 Variance: Freestanding Sign Size (Height and Area), 18823 Freeport St. NW - Holiday Gas Station

6. MOTION TO ADJOURN REGULAR MEETING



**Meeting of the Board of Adjustments
Held at the Elk River City Hall
Tuesday, May 28, 2024**

Members Present: Chair Perry Beise, Commissioner Dennis Booth, Commissioner Robert Rydberg, Commissioner Tony Mauren, Commissioner Eric Johnson

Members Absent: Commissioner Jill Larson-Vito, Councilmember Matt Westgaard

Staff Present: Community Development Director Zack Carlton, Senior Planner Chris Leeseberg, and Sr. Administrative Assistant/Recording Secretary Jennifer Green

1. CALL MEETING TO ORDER

Pursuant to due call and notice thereof, the meeting was called to order at 6:30 p.m.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

3. CONSIDER AGENDA

Moved by Commissioner Rydberg and seconded by Commissioner Booth to approve the Planning Commission agenda for May 28, 2024.

Motion Carried 5-0.

4. CONSIDER MINUTES

4.1 Board of Adjustments - April 23, 2024

Moved by Commissioner Johnson and seconded by Commissioner Rydberg to approve the Board of Adjustments meeting minutes from April 23, 2024.

Motion Carried 5-0.

5. PUBLIC HEARINGS

5.1 Variance: Wetland Setback, PID 75-00513-0320 - Laura Elkington

Mr. Leeseberg presented the staff report.

Commissioner Booth asked if there were any building plans or was this request due to an effort to sell the property.

Mr. Leeseberg stated the applicant was requesting the variance in an effort to sell the property.

Chair Beise opened the public hearing.

Annie Tevik, 19715 Polk St. NW - stated she lives south of the applicant and expressed concerns about how close her septic system would be to the proposed driveway. She also asked about the culvert that runs into her property to their pond and wondered if there would be a need to enlarge the culvert.

Mr. Leeseberg used the survey to show the distance away from her septic system in relation to the proposed driveway location. He stated the TEP panel reviewed this request and the applicant received approval for the impacts they were making on the wetlands. Mr. Leeseberg stated they would get answers to her culvert questions.

There being no one else to speak, Chair Beise closed the public hearing.

Commissioner Mauren asked if the city allows shared driveways.

Mr. Leeseberg stated the city does not allow shared driveways.

Moved by Commissioner Booth and seconded by Commissioner Johnson to approve a variance reducing the driveway setback from the edge of a delineated wetland as:

- 1. The general purpose and intent of the ordinance are met.**
- 2. The property has a land use of residential and the use is consistent with the Comprehensive Plan.**
- 3. The proposed use is reasonable and is permitted in the zoning ordinance.**
- 4. The plight of the petitioner is due to circumstances unique to the property not a consequence of the petitioner's own action or inaction.**
- 5. The variance will not alter the essential character of the locality.**

**and;
with the following conditions:**

- 1. Documentation that primary and secondary septic areas can be supported shall be provided prior to the variance being recorded.**
- 2. Construction shall meet all other standards of the ordinance (vegetation maintenance, grading, etc.).**

Motion Carried 5-0.

5.2 Variance: Required Apartment Parking, PID 75-00011-1204 - Duffy Development

Mr. Carlton presented the staff report. He indicated the applicant had requested 1.5 stalls per unit as requested or if the board feels the 2 stalls per unit as showed with proof of parking.

Commissioner Mauren asked for more information regarding the proof of parking document.

Mr. Carlton explained if the project proceeds based upon straight zoning, the developer would enter into a Proof of Parking agreement outlining how many parking issues the project has had then allows the city to direct the applicant to construct those parking stalls to correct the issues. If the applicant chooses not to correct and construct the needed stalls, the city constructs them. The city council approves the agreement.

Chair Beise opened the public hearing.

Brian Rucks –10296 209th Avenue NW - asked what kind of housing this would be as he was not familiar with the project, and wondered how many of our tax dollars were being used.

Mr. Carlton explained the applicant will be requesting affordable housing low income tax credits from the state. He stated it's a state-run program and doesn't include city TIF or tax abatement. If they do decide to proceed with requesting TIF or tax abatement, it would require city council approval through resolution.

There being no one else to speak, Chair Beise closed the public hearing.

Commissioner Johnson stated he was in favor of reducing the outdoor parking requirements to 2:1 to align with other recently constructed properties and their parking requirements.

Mr. Carlton clarified that the total requirement would be 2 stalls per dwelling unit, 40 covered stalls and the remaining covered would be exterior surface stalls. The commission concurred.

Moved by Commissioner Johnson and seconded by Commissioner Rydberg to approve the variance reducing the number of required parking stalls, a reduction to 2:1 with 2 stalls per dwelling unit, 40 covered stalls and the remaining covered stalls would be exterior surface stalls as:

1. The general purpose and intent of the ordinance are met.
2. The property has a land use of residential and the use is consistent with the Comprehensive Plan.
3. The proposed use is reasonable and is permitted in the zoning ordinance.
4. The plight of the petitioner is due to circumstances unique to the property not a consequence of the petitioner's own action or inaction.
5. The variance will not alter the essential character of the locality.

and;

with the following conditions:

1. The approval of the variance does not constitute final approval of the layout, building plans, or proposed use. The applicant must submit additional applications for all required land use, zoning, and building permit requirements.

-
2. **Final site plans must include turning radii for fire trucks, garbage trucks, and delivery vehicles.**
 3. **The city must approve a proof of parking agreement, and it must be signed and recorded by the developer prior to issuance of a building permit.**

Motion Carried 5-0.

5.3 Variances: Driveway Setback & Number of Trees, 17994 Zane Street NW- Les Schwab Tire Center

Mr. Leeseberg presented the staff report.

Chair Beise opened the public hearing. There being no one present to speak, Chair Beise closed the public hearing.

Moved by Commissioner Johnson and seconded by Commissioner Booth to approve a variance approving a reduced side property line driveway setback of 0.5 feet (6") from the required 10 foot setback as:

1. **The general purpose and intent of the ordinance are met.**
2. **The property has a land use of residential and the use is consistent with the Comprehensive Plan.**
3. **The proposed use is reasonable and is permitted in the zoning ordinance.**
4. **The plight of the petitioner is due to circumstances unique to the property not a consequence of the petitioner's own action or inaction.**
5. **The variance will not alter the essential character of the locality.**

and;

Moved by Commissioner Johnson and seconded by Commissioner Booth to approve a variance approving reduced landscaping requirements from 32 trees to 14 trees as:

1. **The general purpose and intent of the ordinance are met.**
2. **The property has a land use of residential and the use is consistent with the Comprehensive Plan.**
3. **The proposed use is reasonable and is permitted in the zoning ordinance.**
4. **The plight of the petitioner is due to circumstances unique to the property not a consequence of the petitioner's own action or inaction.**
5. **The variance will not alter the essential character of the locality.**

Motion Carried 5-0.

6. MOTION TO ADJOURN REGULAR MEETING

Moved by Commissioner Johnson and seconded by Commissioner Rydberg to adjourn the Board of Adjustments meeting.

The meeting adjourned at 7:01 p.m.

Minutes prepared by Jennifer Green.

Perry Beise, Chair

Tina Allard, City Clerk

DRAFT



Request for Action

To
Board of Adjustments

Item Number
5.1

Meeting Date
June 25, 2024

Prepared By
Chris Leeseberg, Senior Planner

Item Description
Variance: Freestanding Sign Size (Height and Area),
18823 Freeport St. NW - Holiday Gas Station

Reviewed by
Zack Carlton

Action Requested

Deny, by motion, the sign size variance for the following reasons:

1. The general purpose and intent of the ordinance is not met.
2. Installing a sign that exceeds the commercial zoning district limits by 80% and taller than the recently established sign height ordinance is not reasonable.
3. The interchange at Highway 169 and School Street is not a unique circumstance to the property as a 150 square foot sign would still be visible.
4. A sign that is 276 square feet would be the largest and tallest sign in the area and would alter the essential character of the area.

Background/Discussion

The property is zoned Highway Commercial (C3) which limits the height of freestanding signs to 40 feet above the adjacent highway and the size of freestanding signs to 150 sq.ft. The applicant is requesting a variance to exceed the allowed height and size of signage by 126 sq.ft. (144 sq.ft. main sign, 132 sq.ft. gas pricing, 276 sq.ft. total). During construction of the interchange at Highway 169 and School Street, the existing freestanding sign on the property was removed and has not yet been replaced.

The applicant completed a “flag test” to evaluate the proposed sign height and area. This information is attached.

During the recent sign ordinance amendment discussions, the commission endorsed a minor increase in the allowed heights for signs but were not supportive of an increase in sign sizes during those discussions. The approved amendment limits sign heights to 40 feet above the adjacent highway grade.

Variances may be granted when the petitioner establishes that the variance satisfies all five of the criteria described below. The variance is:

1. Is in harmony with the general purpose and intent of the ordinance, and
The purpose and intent of the sign ordinance is to balance the advertising needs of the business community against adverse effects on the public. The maximum sign size for commercial districts (C3) is 150 square feet and 40 feet

The Elk River Vision

A welcoming community with revolutionary and spirited resourcefulness, exceptional service, and community engagement that encourages and inspires prosperity



tall. Exceeding the maximum sign area by ~184% and exceeding the recently adopted height limit is not in harmony with the general purpose and intent of the ordinance.

2. Is consistent with the City of Elk River comprehensive plan.

The property is guided as Highway Business where commercial businesses with signage are expected. The proposal is consistent with the comprehensive plan.

Variances may be granted when the petitioner establishes that there are practical difficulties in complying with the zoning ordinance. Practical difficulties means that:

3. The petitioner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

Signage that exceeds the sign size limits by 80% and the height standard by 12 feet is unreasonable. Significant deviations from the established regulations can disrupt the visual harmony of the area, potentially creating an imbalance in the aesthetics and functionality intended.

4. The plight of the petitioner is due to circumstances unique to the property not a consequence of the petition's own action or inaction; and

The recent reconstruction of the interchange at Highway 169 and School Street is a unique circumstance to the property. A freestanding sign meeting the 150 square foot size limit is still visible from Highway 169, and while plight is unique, the request does not satisfy other standards for issuance of a variance at the requested size and height.

5. The variance, if granted, will not alter the essential character of the locality.

If approved, the proposed 276 square foot sign would be the largest, by square footage, freestanding sign in the area and would alter the essential character of the locality. While nearby signs are at or near 50 feet tall, the combination of height and sign area would not fit the character of the immediate area or the Highway 169 corridor through Elk River.

Financial Impact

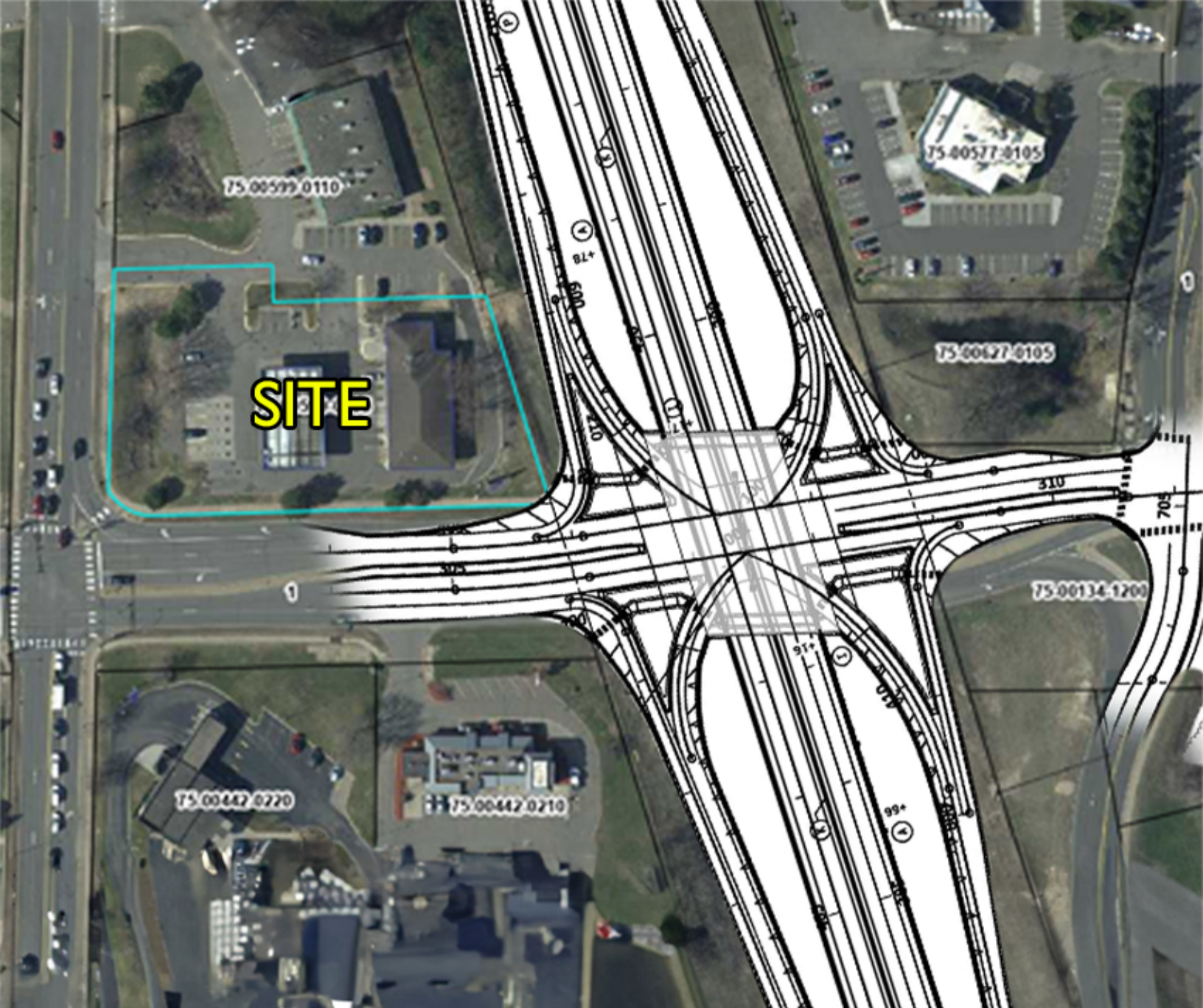
None

Mission/Policy/Goal

Ethical, efficient, and responsible.

Attachments

1. Location Map
2. Narrative
3. Sign Plans
4. Case Study



Project Location Map

Holiday Gas Station

Variance &
Conditional Use Permit

Case No: V 24-08 & CU 24-09

V 24-08 Narrative

Following the removal of Holiday's former monument sign and the construction of the School St NW bridge over HWY 169, the southbound off ramp is encroaching onto Holiday's property. The only place left to install a new sign on Holiday's property with visibility from HWY 169 is at the southwest corner of their property. The combined height of the finished bridge including its railing is 24'-5" above the grade of HWY 169. Per sign code allowances, the top side of the sign cabinet can only be 5'-7" higher than the bridge and the offramp railing. The sign must be taller to make sure both the Holiday sign cabinet and their price signs are visible to both southbound and northbound commuters, prior to reaching their respective off ramps for School St NW.

A variance may be granted by the board only if it finds that:

The variance is in harmony with the general purpose and intent of the ordinance

The new sign is in harmony with the purpose of the sign ordinance because it enhances communication.

The variance is consistent with the City of Elk River Comprehensive Plan (discuss with city staff in needed)

Variances may be granted when the petitioner establishes that there are practical difficulties in complying with the zoning ordinance. Practical difficulties means that:

The petitioner proposes to use the property in a reasonable manner not permitted by the zoning ordinance

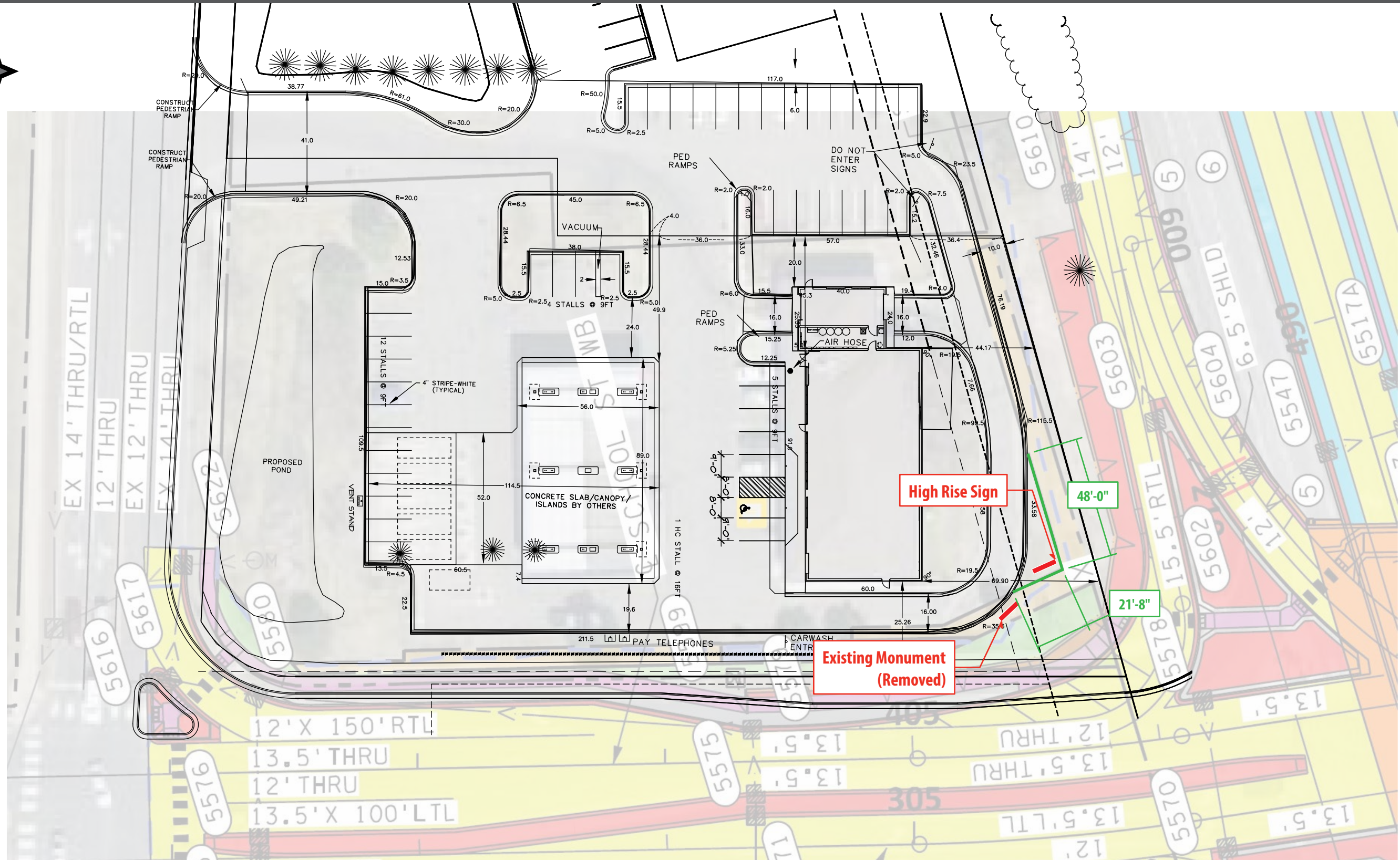
Provide gas and facilities

The plight of the petitioner is due to circumstances unique to the property not a consequence of the petition's own action or inaction; and

Reconstruction

The variance, if granted, will not alter the essential character of the locality

Correct



CORPORATE IDENTIFICATION SOLUTIONS

CUSTOMER
HOLIDAY STORES

SITE NUMBER
0313

LOCATION
ELK RIVER, MN

ACCOUNT REP
BEN DEHAYES

DRAWN BY
MH

DATE
05/28/24

REVISION
04

SCALE
NTS

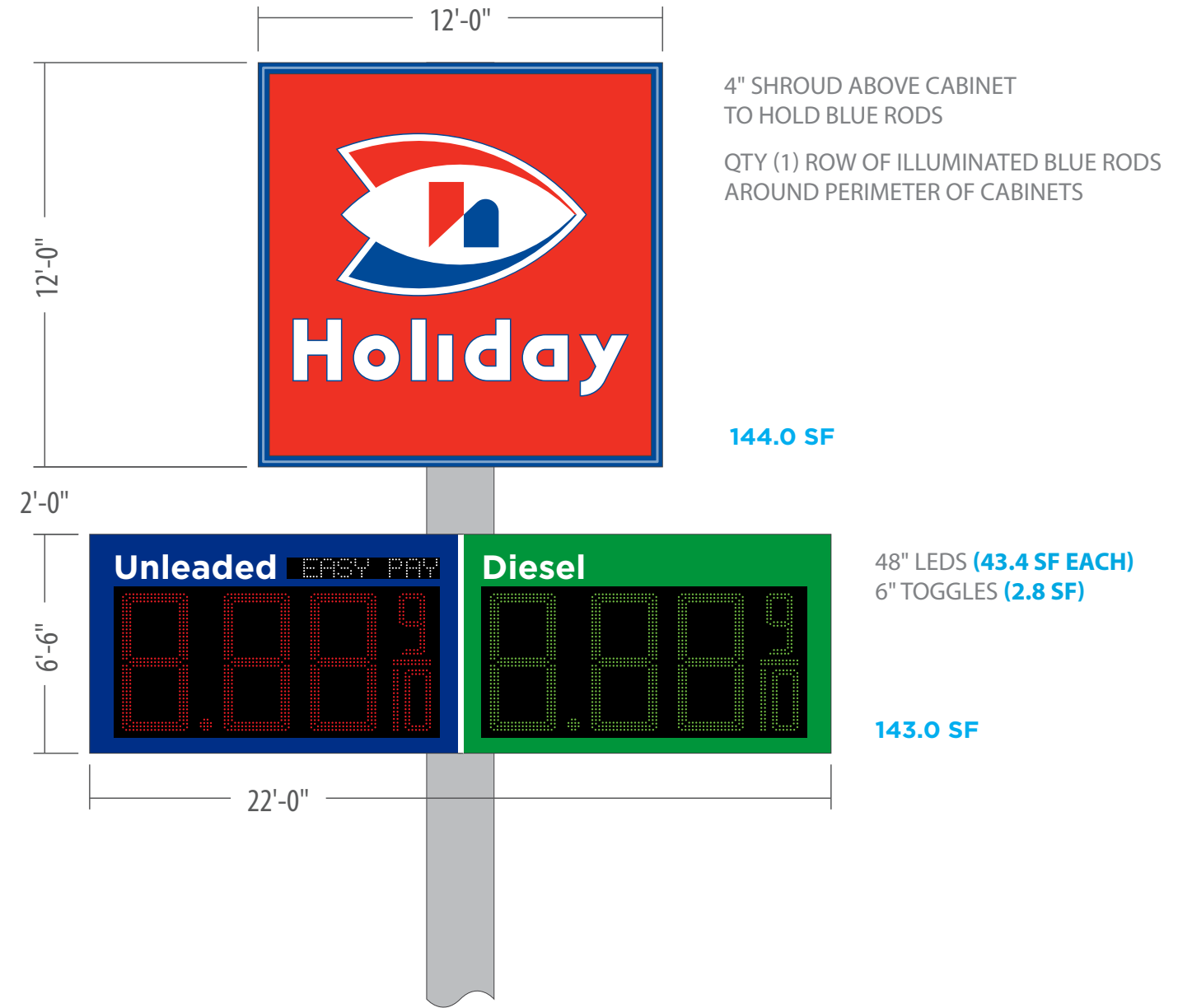
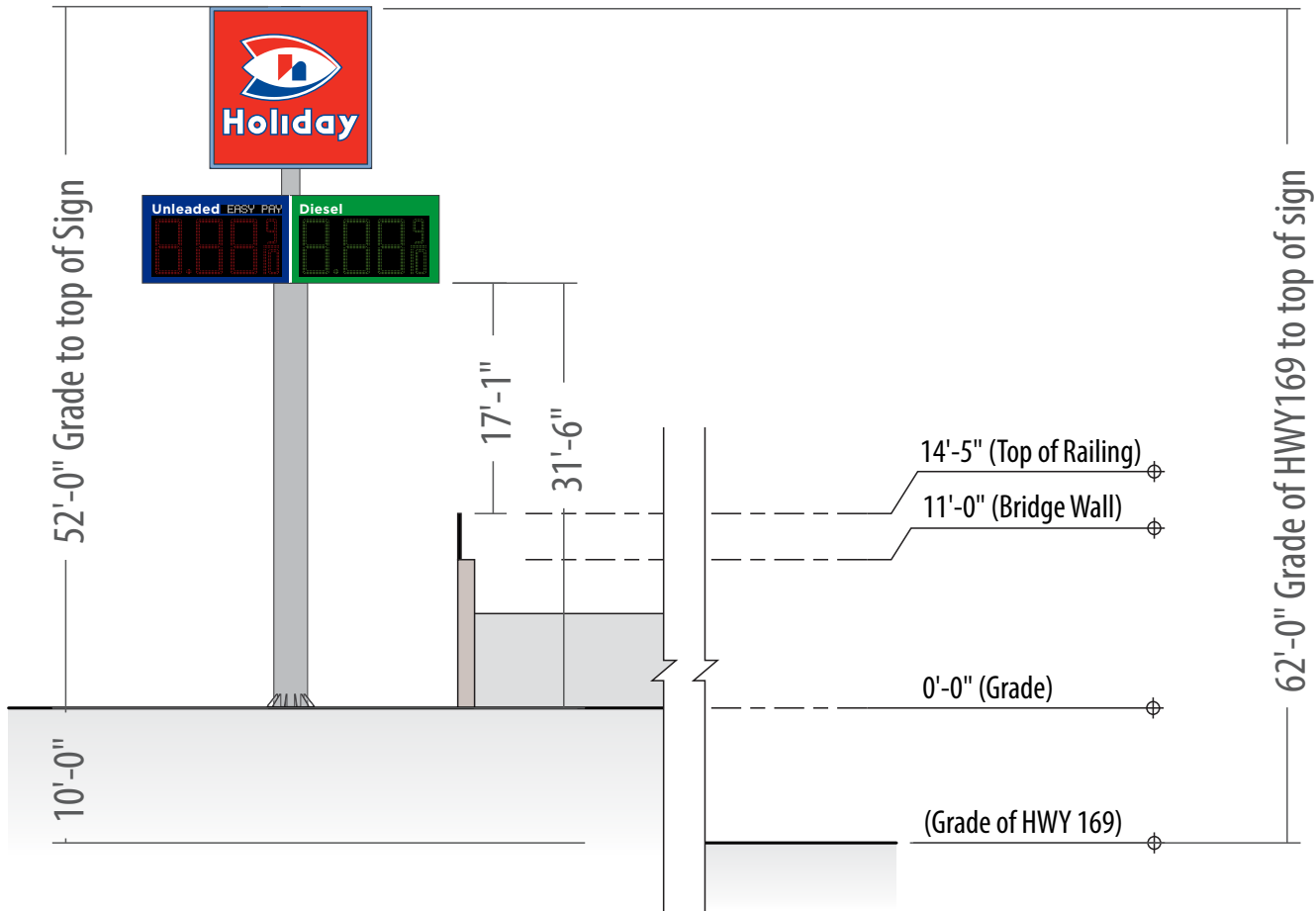
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5563 N ELSTON AVE.
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SIGNATURE _____ **DATE** Page 11 of 31

DIESEL PRICER ALWAYS
TOWARDS ROAD →



PROPOSED HIGH RISE
287.0 SF



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HOLIDAY STORES

SITE NUMBER
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ELK RIVER, MN

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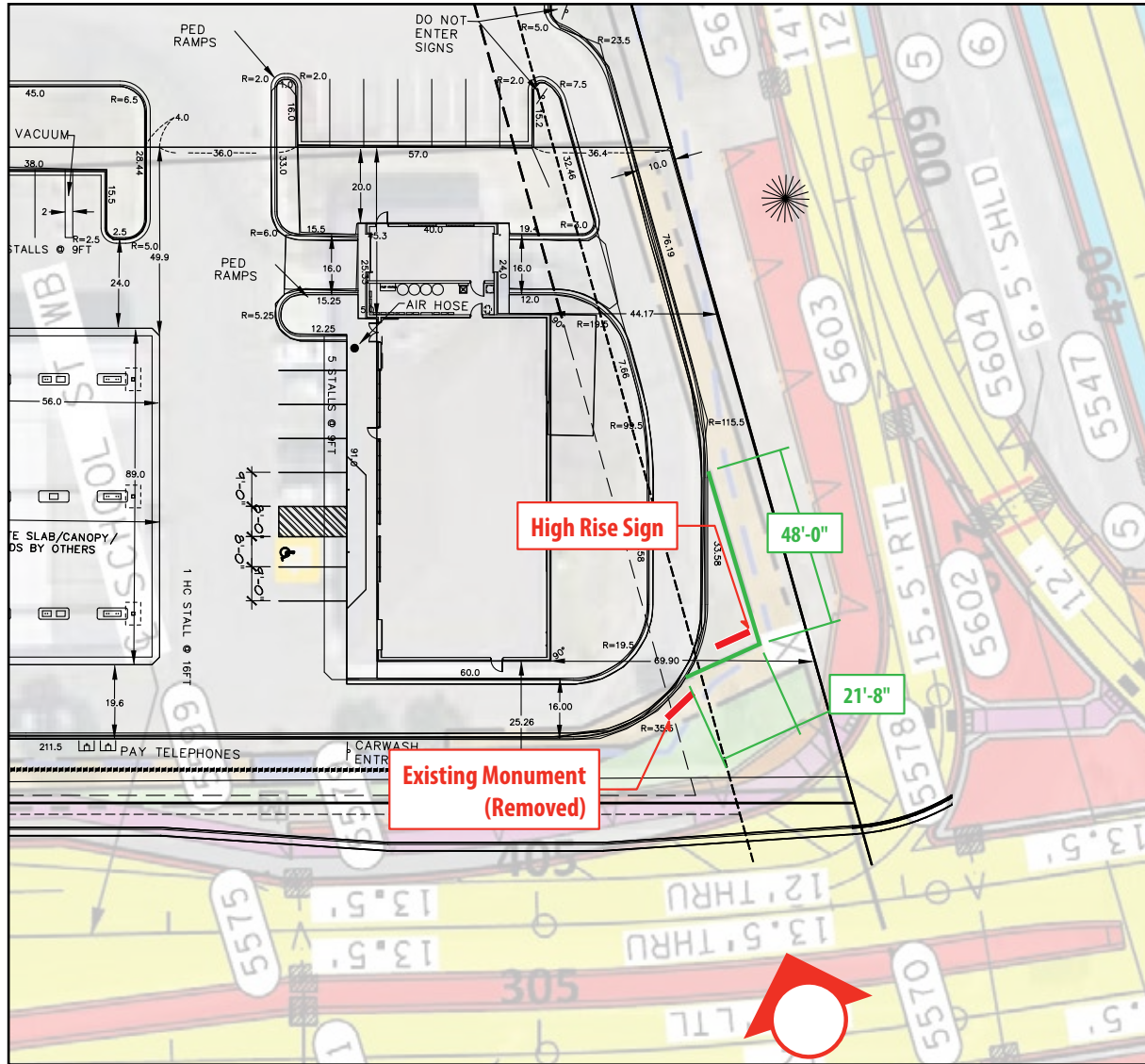
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SIGNATURE _____ DATE **Page 12 of 31**



APPROXIMATE CONCEPTUAL RENDERING
NOT TO SCALE



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CUSTOMER
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SITE NUMBER
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LOCATION
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MH

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APPROVED FOR CONSTRUCTION

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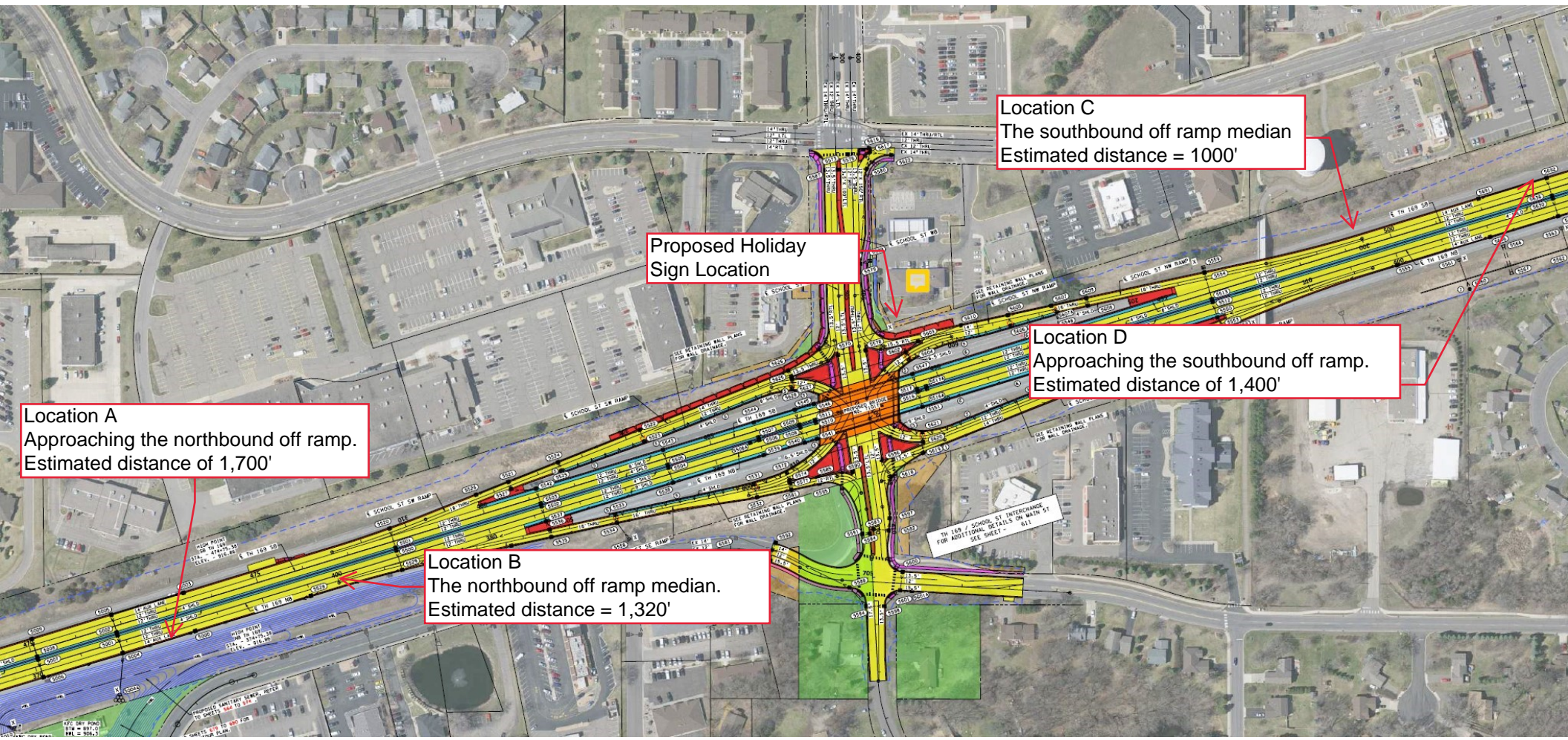
Holiday Station Store – 18823 Freeport St NW

Sign Height and Sign Area Variance Case Study

Prepared by James Clements with Corporate Identification Solutions on 5/28/24.

Case Study for the Proposed High Rise Sign Height and Sign Area

In preparation for our current variance application, we executed a “Flag Test” starting at 9:00 AM on Monday, May 20th, 2024. This included JDI Signs & Graphics suspending scaled banners representing the proposed high-rise sign cabinet and price cabinet while (2) representatives from Holiday Stationstores LLC-Northern Tier Division of Circle K executed drive byes to test the visibility and the line of site for the proposed sign at (3) different heights. Please review Exhibits 1, 2 & 3. Our primary test locations were for potential customers approaching the HWY 169 offramps for School St NW.



Location A
Approaching the northbound off ramp.
Estimated distance of 1,700'

Location B
The northbound off ramp median.
Estimated distance = 1,320'

Proposed Holiday
Sign Location

Location C
The southbound off ramp median
Estimated distance = 1000'

Location D
Approaching the southbound off ramp.
Estimated distance of 1,400'

Exhibit 1 - Sign Height of 37'

The sign height tested above grade for the proposed sign location was 37'.

The sign height above the grade of HWY 169 was 47'.

Northbound Photos (37') – Please note that the existing laneways have are currently shifted due to active construction.

Photo 1 of 3



Photo 2 of 3



Photo 3 of 3



Southbound Photos (37')

Photo 1 of 3



Photo 2 of 3



Photo 3 of 3



Flag Test Results for a 37' High Sign

The line of site is partial obstructed from northbound commuters.

Southbound commuters cannot see the sign until after they have exited HWY 619.

Holiday's Conclusion – A 37' (H) sign was not acceptable from any vantage point.

Exhibit 2 - Sign Height of 47' – *This is the same height as the existing Burger King High Rise Sign.*

The sign height tested above grade for the proposed sign location was 47'.

The sign height above the grade of HWY 169 was 57'.

Northbound Photos – *Please note that the existing laneways have are currently shifted due to active construction.*

Photo 1 of 2



Photo 2 of 2



Southbound Photos (47')

Photo 1 of 3



Photo 2 of 3



Photo 3 of 3



Flag Test Results for a 47' High Sign

The sign height is acceptable for northbound commuters.

Southbound commuters cannot see the sign until after they have exited HWY 169.

Holiday's Conclusion – A 47' (H) sign was not acceptable for southbound HWY 169.

Exhibit 3 - Sign Height of 52'

The sign height tested above grade for the proposed sign location was 52'.

The sign height above the grade of HWY 169 was 62'.

Northbound Photos – *Please note that the existing laneways have are currently shifted due to active construction.*

Photo 1 of 2



Photo 2 of 2



Southbound Photos (52')

Photo 1 of 3



Photo 2 of 3



Photo 3 of 3



Flag Test Results for a 52' High Sign

The sign height is acceptable for both northbound and southbound commuters.

Holiday's Conclusion – The proposed 52' (H) is an acceptable height for all HWY 169 commuters.