



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

July 31, 2014 – 7:00 P.M.

First Floor Conference Room, 301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Monday prior to the meeting to make arrangements.

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board
3. Reading of the statement of the documents to be entered into the record

B. CONSENT CALENDAR

1. Approval of the minutes of June 26, 2014.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100(c)(1) pertaining to the height of building mounted signs for a large-scale tenant located in the General Commercial (GC) zoning district located at 4455 Fairgrounds Avenue, Lot 1, Block 1, Eagle Crossing Subdivision, Second Filing in the Town of Windsor – Nick Cashion, Applicant – Paul Hornbeck
 - a. Motion to open public hearing to receive evidence and comment regarding the variance request and second
 - b. Presentation of variance request by applicant
 - c. Receipt of any comments from the public regarding the variance request
 - d. Staff report and Recommendation
 - e. Questions and answers to/from BOA members to/from applicant, public, staff, legal counsel
 - f. Motion to close public hearing and second
 - g. Motion on variance and second
 - h. Board discussion
 - i. Board action on variance request

D. COMMUNICATIONS

1. Communications from the Board Members
2. Communications from staff
3. Communications from the Town Attorney

E. ADJOURN

STATE LAW DICTATES THAT A FAVORABLE VOTE OF 4 OUT OF 5 MEMBERS OF THE BOARD OF ADJUSTMENT IS REQUIRED TO GRANT ANY VARIANCE. A SIMPLE MAJORITY VOTE IS NOT SUFFICIENT.

NOTE TO APPLICANTS: This agenda is considered tentative and may be revised at any time prior to the meeting. Applicants are advised to be present at 7:00 p.m. Final agendas will be available at the meeting.

Applicants may discuss the requests and the recommendations with staff during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. For the convenience of the applicants, appointments are recommended.

Upcoming Meeting Dates

<u>Thursday, August 28, 2014</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, September 25, 2014</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, October 23, 2014</u>	7:00 P.M.	Regular Board of Adjustment Meeting*

* All regular and special meetings of the Board of Adjustment are subject to the receipt of an item of business to be placed on the meeting agenda.



BOARD OF ADJUSTMENT/APPEALS REGULAR MEETING

June 26, 2014 – 7:00 P.M.

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Monday prior to the meeting to make arrangements.

Minutes

1. The meeting was called to order by Chairman Danny Horner at 7:00 p.m.

2. **Roll Call**

The following members were present:

Chair - Danny Horner
Cindy Scheuerman
Dr. Jose Valdes
Dr. Benjamin George
Jim McIntyre

Also Present: Director of Planning
Associate Planner
Associate Planner

Joe Plummer
Josh Olhava
Paul Hornbeck

3. Review of Agenda by the Board and Addition of items of New Business to the Agenda for Consideration by the Board.

There were no changes to the agenda.

4. Reading of the statement by Chairman Horner of the documents to be entered into the record:

I enter into the record the Town's Comprehensive Plan, the Town's Zoning Ordinance, the staff report regarding the action items of this hearing, and all of the testimony received at this hearing.

5. Public Invited to be Heard

There was no public comment.

B. CONSENT CALENDAR

1. Approval of the minutes of February 27, 2014

Dr. Valdes moved to accept the Consent Calendar as presented; Ms. Scheuerman seconded the motion. Motion carried unanimously.

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-12-40 pertaining to setback requirements in the Single-Family Residential (SF-1) zone district at 1021 Pinyon Drive in the Mountain View Subdivision, Second Filing in the Town of Windsor - Eric and Sonja Yauk, applicants – Joe Plummer

Dr Valdes moved to open the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Mr. Plummer stated that the applicants, Eric and Sonja Yauk, are requesting a variance from Municipal Code Section 16-12-40 (Building Location). Mr. Plummer explained that the applicant applied and paid for a building permit and constructed a 26' x 30' detached workshop on the subject property. The building permit application included a drawing depicting the workshop 19-feet from the eastern property line. Mr. Plummer stated that unfortunately, the eastern property line happens to coincide with the western edge of right-of-way for 7th Street but was not identified as such on the drawing. Therefore, the building permit was reviewed under the misconception that Pinyon Drive was the only street right-of-way from which the minimum setback applied.

Mr. Plummer stated that the minimum setback of 20-feet should have been applied from the eastern property line to provide the required setback from the 7th Street right-of-way. Instead the permit was issued in error, the applicant proceeded to build the workshop and the Town's mistake was only discovered after construction had been completed. Mr. Plummer explained that according to the setback exhibit which the Town had prepared, the encroachment is minimal at approximately 2-feet and, unlike most setbacks which are at the front of the property, this encroachment is in the rear yard where it has no impact on public health, safety or welfare.

Mr. Plummer stated that staff considers that the literal enforcement of the Code would result in an unnecessary hardship or a practical difficulty and therefore is recommending approval of the variance request based upon the following findings of fact:

1. The applicant applied and paid for a building permit in good faith, but the Town issued the permit in error.
2. The detached workshop only encroaches into the setback by approximately two (2) feet, resulting in a setback of approximately eighteen (18) feet from 7th Street.
3. The location of the detached workshop meets the spirit of the zoning code setback regulation and does not impede pedestrian movement.
4. The location of the workshop does not have a negative impact on public health, safety and welfare.

Dr. Valdes moved to close the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Dr. Valdes moved to approve the request for a Variance of Municipal Code Section 16-12-40 pertaining to setback requirements in the Single-Family Residential (SF-1) zone district; Ms. Scheuerman seconded the motion. Motion carried unanimously.

2. Public Hearing – Variance of Municipal Code Section 16-9-120(1)b.1. pertaining to the height of a freestanding sign located adjacent to an arterial street in the I-25 Corridor in the General Commercial (GC) zoning district located at 4455 Fairgrounds Avenue, Lot 1, Block 1, Eagle Crossing Subdivision, Second Filing in the Town of Windsor - Summit Entertainment Centers of Northern Colorado, applicant; Nick Cashion, applicant’s representative – Josh Olhava

Dr. Valdes moved to open the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Nick Cashion with Summit Entertainers, 23474 E Heritage Parkway Aurora 80016, stated that there was some confusion about what they could have for a sign, and that the sign being proposed was designed at 16’ to mirror the architecture of the building. Mr. Cashion also explained how large the building is and that the building may not have been designed this way if they knew the sign wouldn’t be approved.

Mr. Olhava stated that the applicant, Summit Entertainment Centers of Northern Colorado, is proposing to construct a new monument sign on the southwest corner of the subject property located at 4455 Fairgrounds Avenue, at the corner of Fairgrounds Avenue and Stallion Drive, within the Eagle Crossing Subdivision. Mr. Olhava explained that the proposed sign would be sixteen feet (16’) high by eleven feet – two and one half inches (11’ 2½”) wide, with an estimated sign area of approximately one hundred twelve (112) square feet. The sign is proposed to include an LED display and ground lighting, with a monument style base and various architectural features to reflect those used on the Summit building’s entry feature. Mr. Olhava noted that the subject property is zoned General Commercial (GC) and surrounded by commercially zoned properties in Windsor and across Fairgrounds Avenue to the west in Loveland.

Mr. Olhava continued explaining that the Summit site as a whole encompasses one block totaling 206,031 square feet or 4.73 acres, with approximately 400 feet of frontage along Fairgrounds Avenue. The building footprint, as depicted on the approved site plan encompasses 49,818 square feet or 1.14 acres, with a height of 38’6”.

Mr. Olhava stated that the project site, 4455 Fairgrounds Avenue, is located within the Interstate 25 (I-25) Corridor Plan area, and therefore, any proposed signage within the Town of Windsor, and within this corridor area are subject to the signage subarea requirements of Sec. 16-9-120 of the Municipal Code.

Sec. 16-9-120. Subarea requirements

Interstate 25 (I-25) Corridor subarea requirements. In addition to all other sign criteria contained in this Section, the I-25 Corridor, defined as that one-mile area east of I-25 to Larimer County Road 5, shall also be subject to the following subarea requirements:

a. Maximum sign area. The maximum sign area of any freestanding sign that is located adjacent to an arterial street within the I-25 Corridor subarea shall be forty-eight (48) square feet per side if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be sixty (60) square feet per side.

b. Maximum sign height.1. The maximum height of any freestanding sign that is located adjacent to an arterial street within the I-25 subarea shall be ten (10) feet.

Mr. Olhava continued stating that staff conducted a field visit to the immediate vicinity of the subject site, as well as the I-25/HWY 392 interchange. Mr. Olhava displayed pictures of signs located in the subarea through PowerPoint.

Mr. Olhava explained that Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. Staff has reviewed the application materials, zoning code, and the site vicinity. Mr. Olhava continued explaining that staff has analyzed whether special site specific conditions exist; the impact on public interest, safety, and welfare; impacts to neighborhood character; and whether an unnecessary hardship exists. Mr. Olhava reminded the board that economic considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the Zoning Code. Variances will not be granted contrary to the public interest and will only be considered when the spirit of the zoning code can be observed and public safety and welfare secured. Municipal code Section 16-1-10 (Declaration of Purpose) provides guidance on the purpose and *spirit* of the zoning code. Section 16-1-10 states the following:

The regulations contained in this Chapter shall be held to be minimum requirements enacted to promote the health, safety and general welfare of the Town. To these ends such regulations have been prepared in accordance with the Comprehensive Development Plan for the Town and are designed to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population.

Section 16-6-60(b) of the Municipal Code states that, “Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship” and that, “Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured.”

Mr. Olhava stated that staff considers that the literal enforcement of the Code will not result in an unnecessary hardship or a practical difficulty, and therefore is recommending that the variance request for the proposed sign size as presented in the application not be approved based upon the following findings of fact:

1. The granting of this variance would not be consistent with the requirements for other signs that are existing or may be proposed within the I-25 subarea;
2. Denial of the sign height variance request will not place an unnecessary hardship on the applicant, as defined in the municipal code; and
3. The granting of this variance has the potential to alter the essential character of the surrounding neighborhood for existing and future properties.

Mr. Olhava explained that all motions are to be made in the affirmative; staff recommends that the following motion, second and action on the petition be made as follows:

- 1 A motion to approve the request for a variance from Section 16-9-120(1)b.1. of the Municipal Code to allow the construction of the monument sign to be sixteen feet (16') high as depicted in the variance application;
- 2 A second; and
- 3 The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Mr. Olhava Stated that based on staff's analysis of existing signs along the corridor and Section 16-9-110(b) of the Municipal Code, staff would support an alternative sign size that is comparable to those existing within the corridor and compliant with Commercial zoned – Large-scale Tenants within the community and as written in the Municipal Code, based upon the following findings of fact:

1. The current structure, as site planned, most closely fits the requirements of a Large-scale tenant, which is defined in the code as: *"any commercial or industrial use that exceeds fifty thousand (50,000) square feet of gross leasable area (GLA)";*
2. If the structure was built in another location within the community, without specific corridor requirements, it would be evaluated as a Large-scale tenant;
3. Section 16-9-110(b) of the Municipal Code, under Large-scale tenants, allows for signs up to fourteen feet (14') in height and a sign area up to eighty-four (84) square feet, per side, when adjacent to arterial streets with over one hundred feet (100') of street frontage;
4. The granting of this alternative variance request would not alter the essential character of the surrounding neighborhood; and
5. The granting of this alternative variance request would most closely align the specific site characteristics of this property with language and requirements from the municipal code.

Mr. Olhava stated that staff would recommend conditional approval of an alternative variance request for the sign size as follows: the sign shall comply with Section 16-9-110(b)(1)a. for Maximum sign area and Section 16-9-110(b)(2)a. for Maximum sign height.

Sec. 16-9-110. Freestanding signs

(b) Large-scale tenants. Large-scale tenants shall be eligible for one (1) freestanding sign per street frontage adjacent to the lot upon which the use is located, up to a maximum number of two (2) freestanding signs for any single commercial or industrial use.

(1) Maximum sign area.

a. The maximum sign area of any freestanding sign that is located adjacent to an arterial street shall be seventy-two (72) square feet per side of sign if the street frontage along the lot upon which the use is located does not exceed one hundred (100) feet. If the street frontage along the lot upon which the use is located exceeds one hundred (100) feet, the maximum advertising area of any such sign shall be eighty-four (84) square feet per side of sign.

(2) Maximum sign height.

a. The maximum height of any freestanding sign that is located adjacent to an arterial street shall be fourteen (14) feet.

Staff and the board discussed the size of the building and the corridor requirements.

The board asked if this sign had already been constructed.

Mr. Cashion stated that the sign has not been constructed.

Dr. Valdes moved to close the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Ms. Shuerman moved to approve the request for a variance from Section 16-9-120(1)b.1. of the Municipal Code to allow the construction of the monument sign to be sixteen feet (16') high as depicted in the variance application; Dr. Valdes seconded the motion.

Yeas – Ms. Scheuerman

Nayes – Mr. Horner, Dr. Valdes, Dr. George, Mr. McIntyre. Motion Denied.

Ms. Shuerman moved to approve approve the alternative request for a variance from Section 16-9-120(1)b.1. of the Municipal Code to allow the construction of the monument sign to be fourteen feet (14') with a maximum sign area of eighty-four (84) square feet, per side to comply with Sections 16-9-110(b)(1)a. and 16-9-110(b)(2)a. of the Municipal code; Dr. Valdes seconded the motion. Motion carried unanimously.

3 Public Hearing – Variance of Municipal Code Sections 16-18-20(1)o and 16-12-40 pertaining to Building Location for residential dwellings in the Central Business (CB) zone district located at 721 Main Street in the Bowman's Addition in the Town of Windsor - Blayne St. James, applicant – Josh Olhava

Dr. Valdes moved to open the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Cliff Diamond, 1564 Basildon Ct, stated that he is representing the applicant who is asking for a 5 ½' setback from the Main Street property line at 721 Main St for an ADA compatible ramp to access the business.

Mr Olhava stated that the applicant, Mr. Blayne St. James, is requesting a variance from Municipal Code Section 16-18-20(1)o. (Use regulations) and Municipal Code Section 16-12-40 (Building location) for his property located at 721 Main Street within the Central Business (CB) zoning district. Mr. Olhava explained that properties that were once historically residential homes within the CB zoning district are subject to certain regulations set forth in the Single Family (SF-1) zoning district in Article XII of the Municipal Code.

Municipal Code Section 16-18-20(1)o. states that:

One-family residential dwellings subject to the regulations set forth in Sections 16-11-70, 16-12-20(2), 16-12-30, 16-12-40, 16-12-50 and 16-12-60 of this Chapter.

Municipal Code Section 16-12-40 states that:

Minimum setback shall be twenty (20) feet. Minimum offset shall be five (5) feet.

Mr. Olhava stated that the applicant is proposing to construct an ADA accessible ramp off the northern stair stoop into the building, adjacent to Main Street (SH 392). Mr. Olhava further explained that the existing stair stoop will remain and the ramp will be built around the stoop; first extending to the west, turning to the north and descending to the east to meet the existing driveway.

Mr. Olhava stated that as presented in the variance application, the northern edge of the proposed accessibility ramp will be fourteen and a half feet (14.5') from the north property line, and approximately twenty feet (20') to the south edge of the sidewalk. The subject property is zoned CB and surrounded by both commercial and residential uses.

Mr. Olhava continued explaining that Section 16-6-60(b) of the Municipal Code states that, "Variances may be considered where, due to special conditions, a literal enforcement of the provisions of this Chapter would result in unnecessary hardship" and that, "Variances will not be granted contrary to the public interest and will only be considered when the spirit of this Chapter can be observed and public safety and welfare secured."

Mr. Olhava stated that staff considers that the literal enforcement of the Code will result in an unnecessary hardship or a practical difficulty, and therefore is recommending approval of the variance request based upon the following findings of fact:

1. The distance between the northern property line and edge of curb of Main Street (SH392) is approximately ten feet (10');
2. Locating the northern most edge of the ramp structure as close as fourteen feet (14') from the northern property line would be consistent with existing structures along the corridor;
3. Granting of this variance does not appear to be contrary to the public interest and does not appear to adversely impact public safety and welfare;
4. Granting of this variance does provide for accessibility entrance into the building to meet ADA and building code requirements; and
5. The granting of this variance will not alter the essential characteristic of the surrounding neighborhood or the existing structure.

Mr. Olhava stated that therefore, based upon the aforementioned findings of fact, staff recommends conditional approval of the variance request for the ADA accessibility ramp setback location as follows: the northern most edge of the ramp structure shall maintain a minimum setback of fourteen feet (14') from the property line.

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for the variance from Sections 16-18-20(1)o. and 16-12-40 of the Municipal Code to allow the construction of the ramp structures northern most edge to be fourteen feet (14') from the northern property line;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Mr. Valdes asked what the purpose of the ramp is.

Mr. Diamond stated that the ramp is for future business and needing to meet the ADA requirements.

Dr. Valdes moved to close the Public Hearing; Ms. Scheurman seconded the motion. Motion carried unanimously.

Ms. Shurman moved to approve the variance from Sections 16-18-20(1)o. and 16-12-40 of the Municipal Code to allow the construction of the ramp structures northern most edge to be fourteen feet (14') from the northern property line; Dr. Valdes seconded the motion. Motion carried unanimously.

4. Public Hearing – Variance of Municipal Code Sections 16-24-40(1) pertaining to Residential Density, Setback and Offset Requirements and Section 16-4-45 pertaining to Non-obstruction of Easements in the Residential Mixed Use (RMU) zone district located at 8234 South Loudon Crossing Court in the Shutts Subdivision Second Filing the Town of Windsor - Rebecca A. Mergner, applicant – Paul Hornbeck

Dr. Valdes moved to open the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

Rebecca Mergner 8234 South Loudon Crossing Ct 80550 stated that she was unaware that a shed of this size would need a permit. Ms. Mergner stated that the shed is 6' by 10' and is a moveable structure. Ms. Mergner stated that although her property is large in size she would be required to pull out some of her landscaping to be able to put this shed in any other location. Ms. Mergner continued explaining that if she were to move the shed forward so that it was no longer on an easement that the shed would then be sitting in the middle of the yard. Ms. Mergner asked the board to consider letting her keep the shed where it is and she could move it if at any time someone needed to get into the easement it sits on.

Mr. Leroy Hurd, 8256 Loudon Cir, 80550, stated that he did send a letter into staff which explained why he does not feel that the shed should stay where it's currently located. Mr. Hurd explained that throughout the years many people have requested sheds and since the Town required the 5' setback the HOA upheld this and only approved sheds that were located at least 5' from the property line. Mr. Hurd requested that the board not approve this variance.

Steve Nash 8209 Loudon Circle stated that he is currently the president of the HOA for Country Farm and on the architecture review committee. Mr. Nash stated that his statements tonight do not represent the board or the committee. Mr. Nash explained that the architecture review committee has started to dissolve since the subdivision has been built out for years and that except for an occasional shed there is not a purpose for the architecture review committee. Mr. Nash continued stating that because of the size of the shed it is moveable and it does not obstruct anyone's view of the mountains. Mr. Nash stated that he thinks the shed should be able to stay in its current location.

Mr. Hornbeck stated that the applicant, Rebecca A. Mergner, is requesting a variance from Municipal Code Section 16-12-40 (Building Location) and Section 16-4-45 (Nonobstruction of Easements). Mr. Hornbeck noted that the applicant is requesting the variance to allow an existing storage shed to remain within an offset of 18" from the side/rear property line and to remain located within a drainage and utility easement.

Mr. Hornbeck explained that the applicant recently purchased the storage shed and placed it on the property unaware of the offset and easement requirements. Mr. Hornbeck continued stating that the dimensions of the shed are 6' by 10' with an interior roof height of 9'. The shed is not located on a permanent foundation. The single family home is zoned Residential Mixed Use (RMU) and is therefore subject to the setback and offset

requirements of the Single Family Residential (SF-1) zone district per Municipal Code Section 16-24-40(1) which states:

All residential uses shall meet all of the density, setback and offset requirements set forth in this Code for each respective type of dwelling unit. For example, all single-family dwelling units in an RMU zoning district shall have a minimum lot size of six thousand (6,000) square feet, a minimum setback requirement of twenty (20) feet and a minimum offset requirement of five (5) feet.

Municipal Code Section 16-12-40 deals with offsets, stating:

*Minimum setback shall be twenty (20) feet. **Minimum offset shall be five (5) feet*** (emphasis added).

Mr. Hornbeck stated that accessory structures that do not exceed 120 square feet in area or 8' in height are exempt from the location requirements of the zone district. However, in this case the shed is over 8' in height and therefore must meet the 5' offset requirement, per Municipal Code Section 16-8-30

Mr. Hornbeck stated that staff considers that the literal enforcement of Municipal Code Section 16-12-40 will not result in an unnecessary hardship and therefore is recommending denial of the variance request based upon the following findings of fact:

1. The subject parcel is not dissimilar in size or shape to other corner lots within the Town of Windsor.
2. A review of the enclosed plot plan indicates that there are other locations in the rear yard which could accommodate a storage shed.

Mr. Hornbeck stated that therefore, based upon the aforementioned findings of fact, staff recommends denial of the variance request for a storage shed with a reduced offset of 18".

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-12-40 of the Municipal Code to allow a reduced offset of 18" for the storage shed;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Non obstruction of Easements Variance Request

Mr. Hornbeck stated that staff considers that the literal enforcement of Municipal Code Section 16-4-45 will not result in an unnecessary hardship and therefore is recommending denial of the variance request based upon the following findings of fact:

1. The subject parcel is not dissimilar in size or shape to other corner lots within the Town of Windsor.
2. A review of the enclosed plot plan indicates that there are other locations in the rear yard which could accommodate a storage shed.
3. The 10' drainage and utility easement is typical of most new developments.

Mr. Hornbeck stated that therefore, based upon the aforementioned findings of fact, staff recommends denial of the variance request for a storage shed located in an easement.

Please further note that since all motions are to be made in the affirmative, staff also recommends that the following motion, second and action on the petition be made as follows:

1. A motion to approve the request for a variance from Section 16-4-45 of the Municipal Code to allow a storage shed to be located in an easement;
2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

The board discussed the issues of keeping the shed in current location and moving the shed to another location.

Dr. Valdes moved to close the Public Hearing; Ms. Scheuerman seconded the motion. Motion carried unanimously.

The board continued to discuss the issues of moving the shed. Staff explained that a building permit is required for any shed 120sf and/or over 8ft tall and that this shed should have had a building permit before it was constructed and placed on the property.

Ms. Shuerman moved to approve the request for a variance from Section 16-12-40 of the Municipal Code to allow a reduced offset of 18" for the storage shed; Dr. Valdes seconded the motion. Motion carried unanimously.

Ms. Shuerman moved to approve the request for a variance from Section 16-4-45 of the Municipal Code to allow a storage shed to be located in an easement; Dr. Valdes seconded the motion. Motion carried unanimously.

D. COMMUNICATIONS

1. Communications from the Board Members

Mr. Valdes asked how someone might know if they need a permit.

Mr. Plummer stated that they could call the planning office, look at the handouts online or come in for the handouts. Mr. Plummer continued stating that the property owners have the responsibility to obtain the information that is required.

Mr. McIntyre added that if a homeowner hires a quality builder the first thing they will do is ask if the homeowner has gone to the Town and inquired about building permits.

Mr. Horner asked if staffed had received any variance for July.

Mr. Plummer stated that at this time staff had not received any, but the due date had not passed.

Dr. Benjamin George asked if he could get a paper copy of the packet from here on out instead of the electronic copy.

Mr. Olhava took a vote on who wanted a paper copy of the packet and the entire board stated that they would like to receive their packets in paper form.

2. Communications from staff

Mr. Plummer introduced Paul Hornbeck as the new Associate Planner for the Town of Windsor.

E. ADJOURN

Upon a motion duly made and seconded, the meeting was adjourned at 9:00 p.m.

CERTIFICATION

Approved by the Board of Adjustment/Appeals this 31st day of July 2014.



Submitted By:
Joy Liberty-Anglado
Secretary



MEMORANDUM

Date: July 31, 2014
To: Board of Adjustment
Via: Joseph P. Plummer, AICP, Director of Planning
From: Paul Hornbeck, Associate Planner
Re: Variance of Municipal Code Section 16-9-100(c)(3) pertaining to the height of a building mounted sign in the General Commercial (GC) zoning district
Location: East side of Fairgrounds Avenue at 4455 Fairgrounds Avenue, Windsor, CO
Item #: C.1

Background/Discussion:

The applicant, Mr. Nick Cashion, Summit Entertainment Centers of Northern Colorado, is requesting a variance to the Municipal Code sign height requirements for building mounted signs in order to construct two new signs on the subject property located at 4455 Fairgrounds Avenue. The subject property encompasses one block totaling 206,031 square feet or 4.73 acres, with approximately 400 feet of frontage along Fairgrounds Avenue. The building footprint, as depicted on the approved site plan totals 49,818 square feet or 1.14 acres. The subject property is zoned General Commercial (GC) and surrounded by commercially zoned properties in Windsor and across Fairgrounds Avenue to the west in Loveland.

This variance requested is from Municipal Code Section 16-9-100(c)(3) for a building mounted sign, which states the following:

Large-scale tenant. The height of building-mounted signs for large-scale tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed twenty (20) feet in height.

The applicant is proposing to construct two wall mounted signs, one on the south elevation and one on the east elevation. The proposed signs would each be 8'11" high by 20' wide with an area of approximately 178 square feet. The building elevations upon which the signs are mounted have a height of 30'; therefore, a maximum sign height of 7'6" is allowed. The sign on the south elevation would use fluorescent illumination while the no illumination is proposed for the sign on the east elevation. The applicant has already received approval of eight other wall mounted signs totaling 568 square feet and one free standing sign of 84 square feet (per side).

Municipal Code Section 16-6-60 (Variances) outlines the regulations and provisions for granting variances. Staff has reviewed the application materials, zoning code, and the site vicinity. Staff has analyzed whether special site specific conditions exist; the impact on public interest, safety, and welfare; impacts to neighborhood character; and whether an unnecessary hardship exists. Unnecessary hardship is defined in the code as a situation where the property cannot be reasonably used under the conditions of the zoning code. The situation shall result from circumstances unique to the property and shall not be created by the landowner. Economic

considerations alone shall not constitute an unnecessary hardship if a reasonable use for the property exists under the provisions of the zoning code. Variances will not be granted contrary to the public interest and will only be considered when the spirit of the zoning code can be observed and public safety and welfare secured. The Board of Adjustment is empowered to approve or deny variances based on the criteria listed above.

Recommendation:

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship and practical difficulty, and therefore is recommending that the variance request for the proposed sign height as presented in the application for both of the subject signs be approved based upon the following findings of fact:

1. The proposed increase in height of the subject signs is in proportion to the size of each building wall upon which each sign will be mounted;
2. The applicable sign regulation does not appear to adequately address large-scale commercial uses relative to Finding No. 1 above;
3. The building is situated along Fairgrounds Avenue which is an arterial street with a 45 mile-per-hour speed limit, which could cause safety concerns with motorists slowing down to try and read a smaller size sign that is allowed by sign regulations;
4. The building is situated approximately 800 feet north of Crossroads Boulevard which is an arterial street with a 45 mile-per-hour speed limit, which could cause safety concerns with motorists slowing down to try and read a smaller size sign that is allowed by sign regulations;
5. The granting of this variance request will not alter the character of the surrounding neighborhood since all activities within this neighborhood will be commercial developments;
6. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
7. The granting this variance will not pose any public safety or welfare concerns.

Staff recommends that the following motion, second and action on the petition be made as follows:

- 1) A motion to approve the request for a variance from Section 16-9-100(c)(3) of the Municipal Code as depicted in the variance application to allow the construction of two wall mounted signs with a height of 8'11" based upon the aforesaid findings of fact and the applicant obtaining the applicable sign permits;
- 2) A second; and

- 3) The Chair calling for the vote as follows: All members in favor of the variance request vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.

Notification:

July 15, 2014	development sign posted on the subject property
June 14, 2014	public hearing notice placed on the Town of Windsor's website
June 18, 2014	public hearing notice posted in the paper

Enclosures: Application Materials
PowerPoint slides

pc: Nick Cashion, Summit Entertainment Centers of Northern Colorado, applicant
Planning Department staff



APPLICATION FOR VARIANCE

(Please see the Town of Windsor Fee Schedule for Application Fees)

TOWN OF WINDSOR
301 Walnut Street
WINDSOR, CO 80550

Office: (970) 674-2415
Fax: (970) 674-2456
www.windsorgov.com

TO BE COMPLETED BY APPLICANT

A request is hereby made for a variance of the Town of Windsor ordinances due to special conditions where a literal enforcement of the ordinance would result in unnecessary hardship on the property located at:

Street Address*: 4455 Fairgrounds Ave

Lot: 1 Block: 1 Subdivision: Eagle Crossing Subdivision Second Filing

Describe the nature of the request for variance and the restriction(s) imposed by the ordinance(s). Attached additional sheet(s) if necessary*:

We are requesting the City to allow taller signs than is currently allowed by the Code. The Code would currently allow for the signs to be 7'-6" tall and we are asking for a Variance to 8'-11" tall.

Describe the specific conditions, practical difficulties or undue hardship believed to justify this request* Attached additional sheet(s) if necessary:

This is a very large building and Summit would be allowed up to 2796 total square feet of building signage, if they wanted, but has chosen to only ask for a total of 874.3 sq ft, including these signs. (See separate sheet for more)

SCALED DRAWINGS AND SPECIFICATIONS NECESSARY FOR THE PROPER CONSIDERATION OF THIS VARIANCE SHALL BE SUBMITTED WITH THIS APPLICATION. WITH NEW CONSTRUCTION PROJECTS YOU MUST CONTACT SAFEbuilt COLORADO, INC (970-686-7511) TO DETERMINE IF ANY SPECIAL REQUIREMENTS EXIST ACCORDING TO THE INTERNATIONAL BUILDING CODE.

I hereby depose and state under the penalties of perjury that all statement, proposals and plans submitted within this application are true and correct to the best of my knowledge.

Submitted this 15 day of July, 2014

Nick Cashion
Applicant (please print)

[Signature]
Applicant's Signature

9085 E. Mineral Circle #240, Centennial, CO
Mailing Address (street, city, state, zip)

303-759-9161
Telephone Number (during the day)

Fax Number: 303-759-8909

Email: Ncashion@summitcompanies.net

Applicant's Representative (if any):

Name: Chuck Hand (YESCO LLC)

Address: 11220 E 53rd Ave, Suite 300, Denver Co 80239

Telephone: (720) 458-7105 Fax: (303) 375-9111

Email: chand@yesco.com

Summit Entertainment of Northern Colorado
Property Owner* (please print)

[Signature]
Property Owner's Signature*

9085 E. Mineral Circle #240, Centennial, CO
Mailing Address* (street, city, state, zip)

303-759-9161
Telephone Number* (during the day)

Fax Number: 303-759-8909

Email*: Ncashion@summitcompanies.net

* indicates required fields

Additional Specific Conditions sheet

On the South elevation, the main entrance, they could have had 741 total square feet, but have elected to propose only 219.3 sq ft while the East elevation would have been allowed 657 total square feet and they are only proposing 167 sq ft. The point is they are not trying to maximize their square footage, they want to let the building to look fashionable while still letting the customers know what the business is offering.

We were unaware of the 7'-6" height limitation when these signs were designed and the concern was that the Summit logo signage would be dwarfed by the size of the building so the logo was designed to fit the building as much as possible, without making it too big. The South elevation sign uses just 2.25% of the wall surface while the East elevation sign uses just 2.5% of the wall surface and is not illuminated.



VARIANCE REQUEST

4455 FAIRGROUNDS AVENUE

EAGLE CROSSING SUBDIVISION, 2ND FILING
LOT 1, BLOCK 1

Paul Hornbeck, Associate Planner
July 31, 2014

Board of Adjustment

Item C.1



VARIANCE REQUEST

Municipal Code Section 16-6-60 outlines the regulations and provisions for granting variances.

Variance request from Section 16-9-100(c)(3):

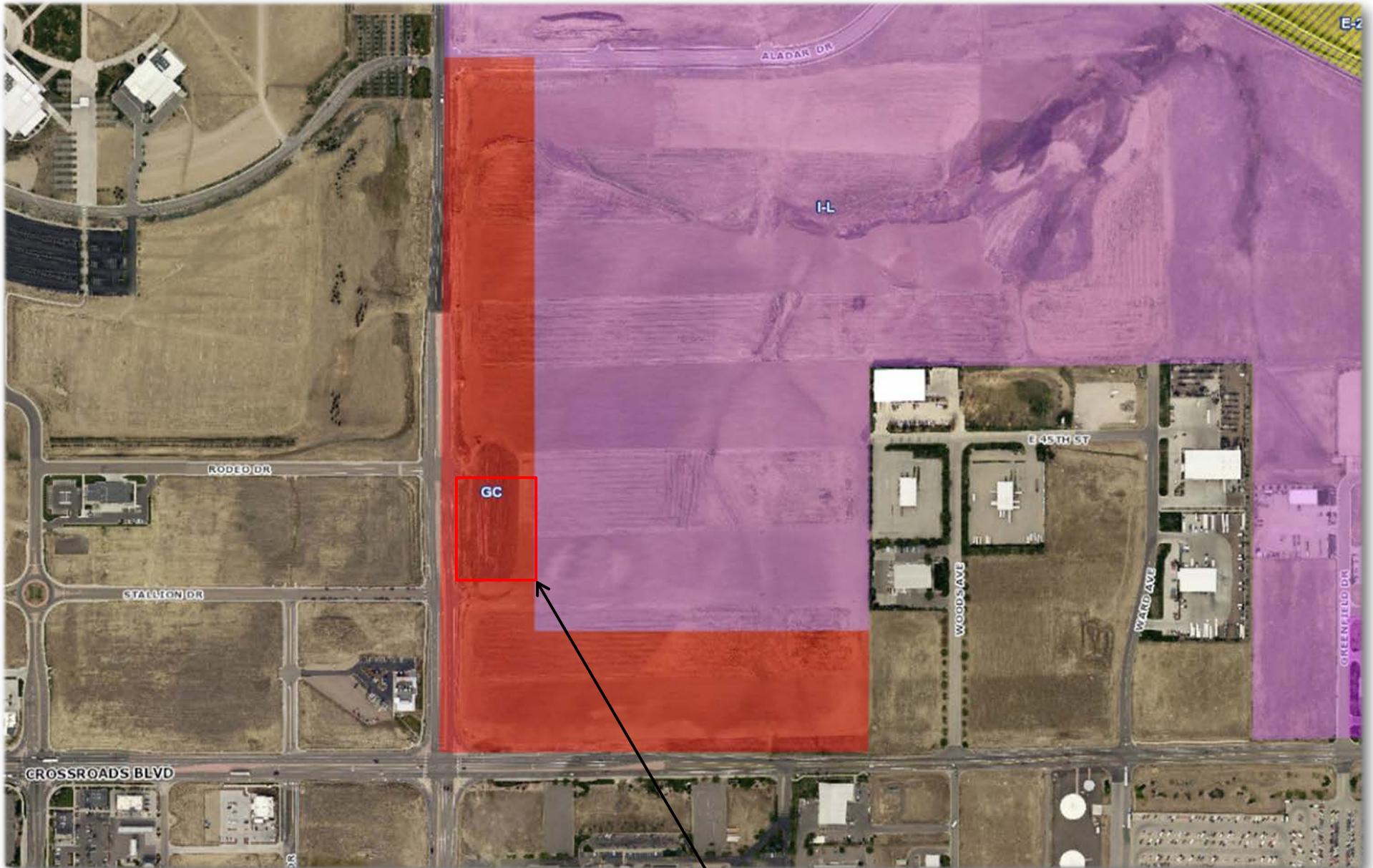
The height of building-mounted signs for large-scale tenants shall not exceed twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted. However, in no event shall such sign exceed twenty (20) feet in height.

SITE VICINITY MAP



Site Location

SITE PROXIMITY ZONING MAP



Site Zoned General Commercial (GC)

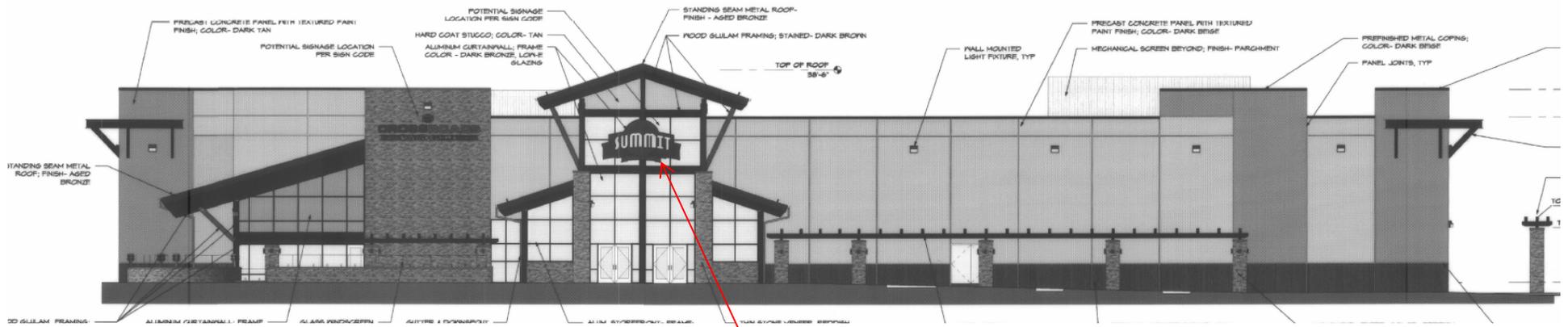
PROPOSED SIGN



8 S/F FLAT CUT OUT NON-ILLUMINATED WALL SIGN
QUANTITY: 1 MANUFACTURE & INSTALL

SCALE: 3/8" = 1'-0"

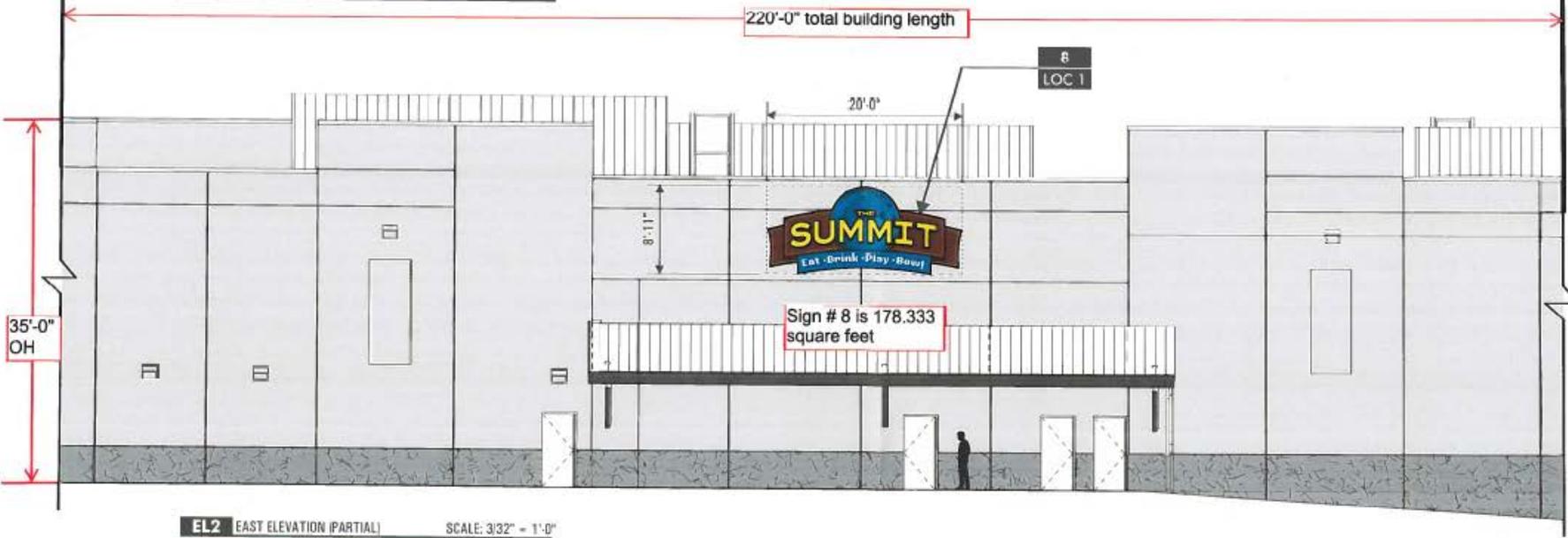
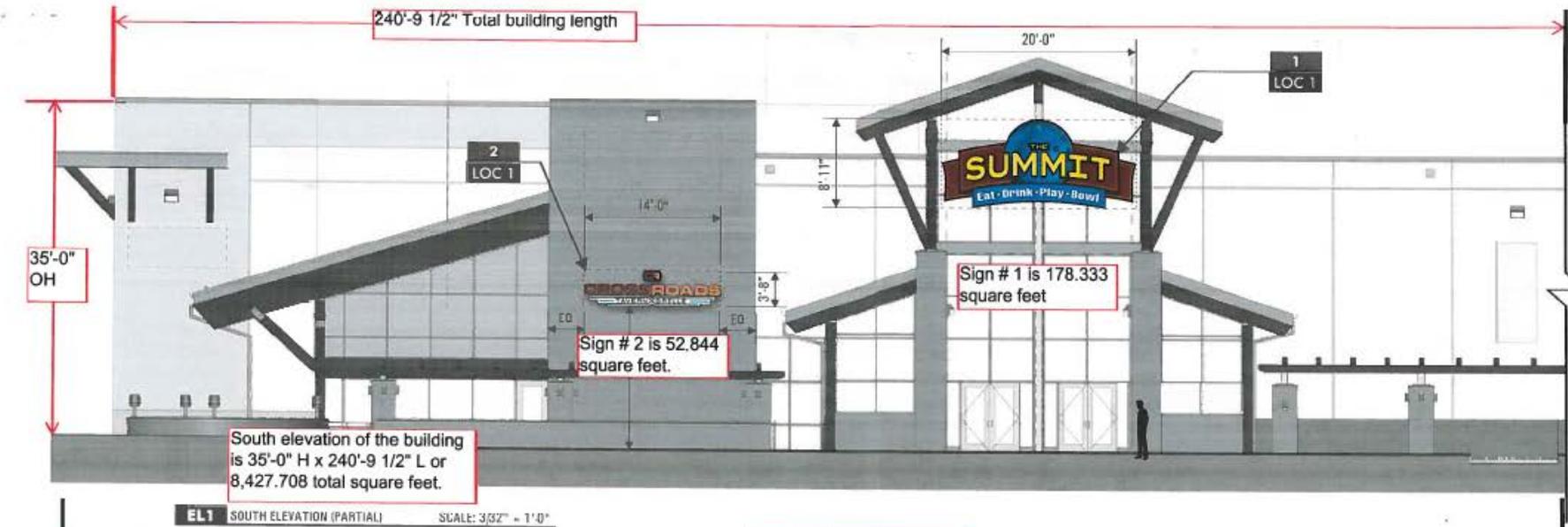
SOUTH ELEVATION



South Elevation

Proposed Sign Location

PROPOSED SIGNS



East elevation of the building is 35'-0" H x 220'-0" L or 7,700,000 total square feet.

YESCO
Rocky Mountain Region

Salt Lake City
1625 South Emeryway Road
Salt Lake City, UT 84114
801-467-8411

Bozeman
3778 38th St.
Bozeman, CO 80228
303-375-8620

If a drawing was created in more than one viewing, the viewer should print the drawing from the viewer. The drawing will be printed in PDF format. The drawing will be printed in PDF format. The drawing will be printed in PDF format.

© 2013 YESCO LLC
All rights reserved.
www.yesco.com

CLIENT: **THE SUMMIT**
ADDRESS: **4455 N. FAIRGROUNDS AVE WINDSOR, CO**

ACCOUNT EXECUTIVE: **CHUCK HAND**
DESIGNER: *[Signature]*

ISSUE DATE: **08.18.2013**
ISSUE (DATE APPROVAL)

Client Signature | Date
Landlord Signature | Date

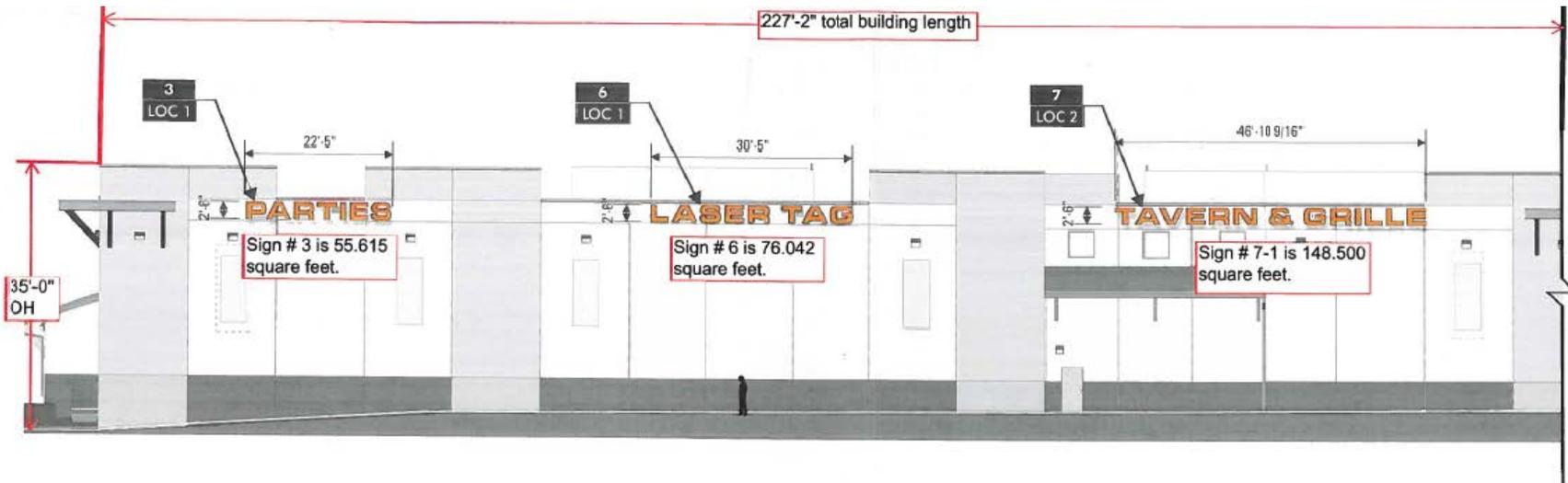
NOTE: UNLESS OTHERWISE NOTED, ELECTRICAL SYMBOLS OR TAGS, ELECTRICAL CONNECTIONS, AND ALL ELECTRICAL SYMBOLS AND TAGS SHALL BE AS SHOWN FOR THE VOLTAGE AND AMPERAGE INDICATED.

VOLTS	AMPS
120	15
120	20
120	25
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120	995
120	1000

702257H10

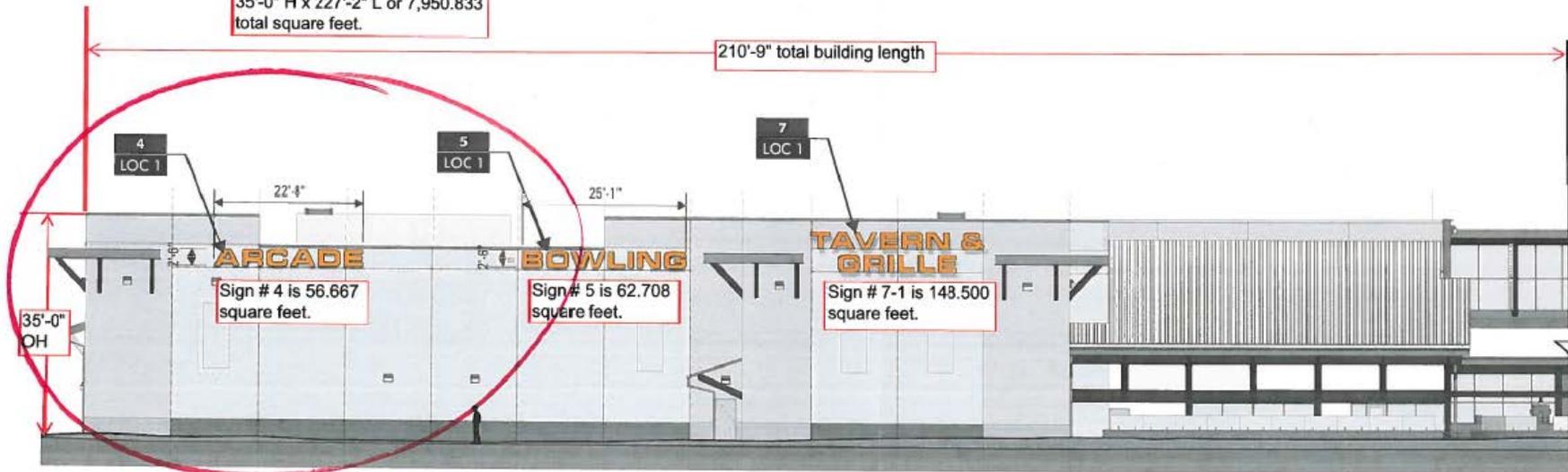
PAGE 2 OF 10

PREVIOUSLY APPROVED WALL MOUNTED SIGNS



EL3 NORTH ELEVATION (PARTIAL) SCALE: 1/16" = 1'-0"

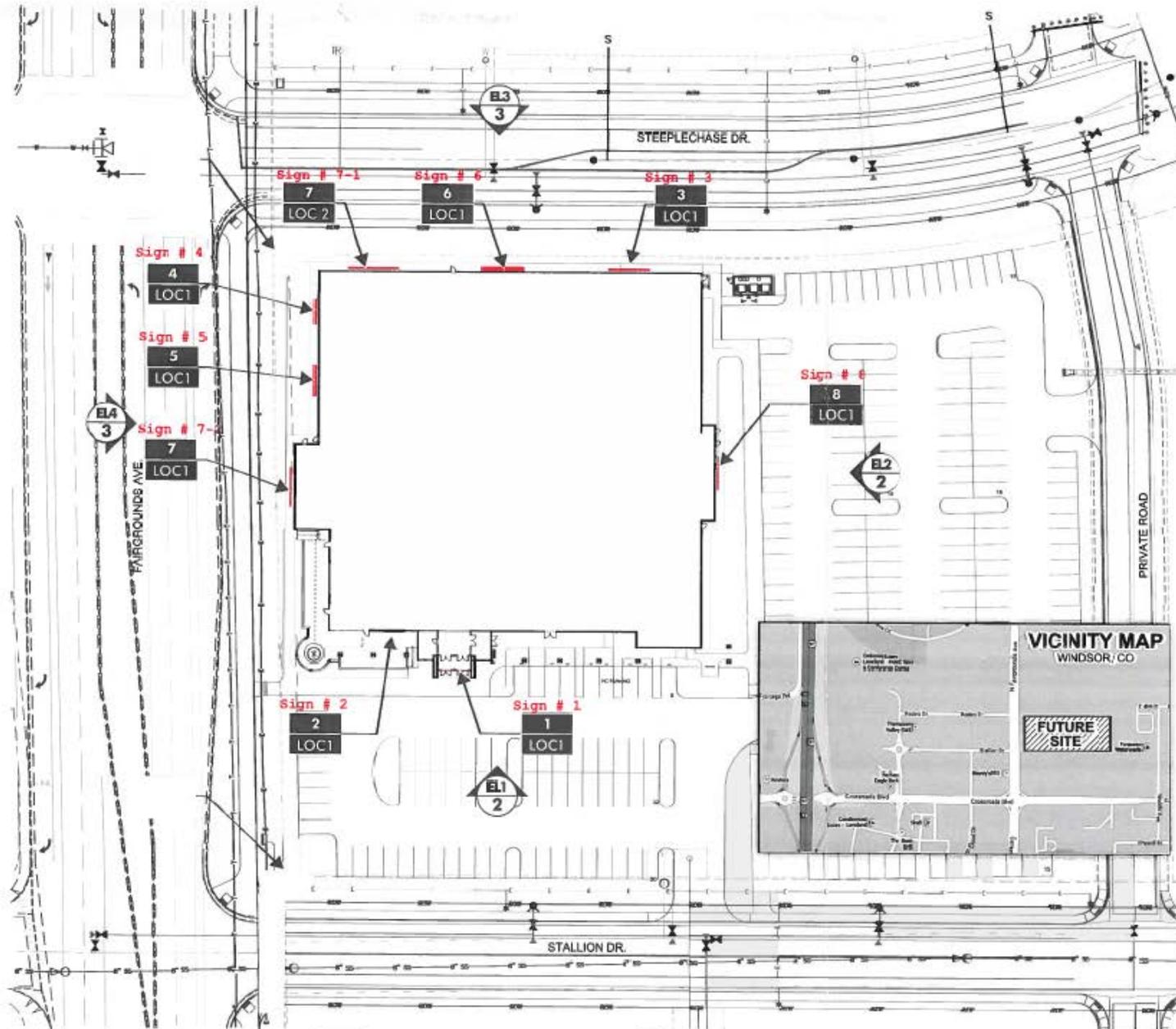
North elevation of the building is 35'-0" H x 227'-2" L or 7,950.833 total square feet.



EL4 WEST ELEVATION (PARTIAL) SCALE: 1/16" = 1'-0"

West elevation of the building is 35'-0" H x 210'-9" L or 7,376.250 total square feet.

SIGN PLAN



SIGN FAMILY

- 1  **SUMMIT**
Eat · Drink · Play · Bowl
- 2  **CROSSROADS**
COURT OF COURTESY
- 3 **PARTIES**
- 4 **ARCADE**
- 5 **BOWLING**
- 6 **LASER TAG**
- 7 **TAVERN & GRILLE**
- 8  **SUMMIT**
Eat · Drink · Play · Bowl





SOUTH ELEVATION





SOUTH ELEVATION





EAST ELEVATION





EAST ELEVATION





RECOMMENDATION

Staff considers that the literal enforcement of the Code will result in an unnecessary hardship and practical difficulty, and therefore is recommending that the variance request for the proposed sign height as presented in the application for both of the subject signs be approved based upon the following findings of fact:

1. The proposed increase in height of the subject signs is in proportion to the size of each building wall upon which each sign will be mounted;
2. The applicable sign regulation does not appear to adequately address large-scale commercial uses relative to Finding No. 1 above;
3. The building is situated along Fairgrounds Avenue which is an arterial street with a 45 mile-per-hour speed limit, which could cause safety concerns with motorists slowing down to try and read a smaller size sign that is allowed by sign regulations;
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2. A second; and
3. The Chair calling for the vote as follows: All members in favor of the variance request vote "yes"; all opposed to the variance request vote "no", with a minimum of four "yes" votes required to approve the variance request.



BOARD OF ADJUSTMENT/APEALS WORK SESSION

July 31, 2014

(Immediately Following Regular Meeting Which begins at 7:00 P.M.)

First Floor Conference Room, 301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Monday prior to the meeting to

GOAL of this Work Session is to have the Board of Adjustment receive information on Town topics from Town staff in order to exchange ideas and opinions regarding these topics.

Members of the public in attendance are asked to be recognized by the Chairman before participating in any discussions of the Board of Adjustment.

AGENDA

1. Discussion of Draft 2014 – 2016 Strategic Plan – J. Plummer



MEMORANDUM

Date: July 31, 2014
To: Board of Adjustment
From: Joseph P. Plummer, AICP, Director of Planning
Re: Review of Draft 2014-2016 Strategic Plan
Item: Work Session

Background / Discussion:

Every two years the Town Board updates the Strategic Plan for the Town. As part of this process, the Town Board seeks input and feedback from the community-at-large as well as from the other boards which are associated with the Town.

As such, the enclosed draft 2014-2016 Strategic Plan will be discussed at this work session. Staff will then share the input and feedback received during this discussion with the Town Board during the next few weeks.

As it may be seen from the timeline shown on the first page of the draft, the adoption of the strategic plan has been tentatively scheduled to be presented to the Town Board on September 8, 2014 for adoption.

Recommendation: None at this time.

Attachment: Draft 2014-2016 Strategic Plan

pc: Kelly Arnold, Town Manager



Draft 2014-2016 Strategic Plan

2014-2016 Strategic Plan Timeline

During the months of July and August the Town Board will be sharing the Strategic Plan Goals and Priorities through the venues identified below; the public is invited to attend meetings and provide their comments and ideas!

- July and August – Advisory Board/Commission meetings
- July 26, 7:30 – 9:00 a.m. – Coffee with the Mayor @ The Bungalow
- August 5, 4:30-8:30 p.m. – National Night Out host locations
- August 18, 6:00 p.m. – Town Hall Meeting
- Windsor Severance Fire District
- Weld RE-4 School District
- Thompson RJ-2 School District
- Poudre School District

Additionally, Community Voice, which is an online forum through the Town of Windsor website, will be available July 15 through August 15 for citizens to communicate their ideas:

www.windsorgov.com/CommunityVoice.

The 2014-2016 Strategic Plan has tentatively been scheduled to be presented to the Town Board on September 8, 2014 for adoption.

301 Walnut Street · Windsor, Colorado · 80550
phone 970-674-2400 · fax 970-674-2456
www.windsorgov.com

Citizens are invited to attend the Town Hall Meeting on August 18 at 6:00 p.m. to participate in the discussion of the Town of Windsor 2014-2016 Goals & Priorities. The meeting will be held at the Windsor Town Hall, 301 Walnut Street, Windsor, CO. Comments can also be provided through the Town's website at www.windsorgov.com/CommunityVoice from July 15 to August 15, 2014.

MISSION STATEMENT

The Town of Windsor strengthens community through the fiscally responsible and equitable delivery of services, support of hometown pride, and encourages resident involvement.

VISION STATEMENT

1. Windsor's hometown feel fosters an energetic community spirit and pride that makes our town a special place in Northern Colorado.
2. Windsor has a strong local economy with diverse business sectors that provide jobs and services for residents.
3. Windsor promotes quality development.
4. Windsor enjoys a friendly community with a vibrant downtown, housing opportunities, choices for leisure, cultural activities, recreation and mobility for all.
5. Windsor is a good environmental steward.

301 Walnut Street · Windsor, Colorado · 80550
phone 970-674-2400 · fax 970-674-2456
www.windsorgov.com



2014-2016 Goals & Priorities

GOAL 1: Build Community Spirit and Pride

- A. Promote safety and security
- B. Provide opportunities for residents to be involved and informed in Town governance and in community service
- C. Encourage healthy, family-friendly neighborhoods for all ages
- D. Promote a “One Windsor-One Community” philosophy
- E. Lead through stewardship of natural resources
- F. Improve appearance and aesthetics of main corridors
- G. Support Windsor’s youth
- H. Encourage historic preservation

GOAL 2: Promote Windsor as a Destination

- A. Provide diverse and healthy choices in leisure, culture, and recreation
- B. Promote creative and artistic outlets

GOAL 3: Diversify, Grow, and Strengthen the Local Economy

- A. Foster business attraction tools and promote the business retention and expansion program
- B. Strengthen retail strategies for all commercial corridors
- C. Advance employment opportunities
- D. Support the Downtown Development Authority

GOAL 4: Develop and Maintain Effective Infrastructure

- A. Identify and address barriers to traffic flow
- B. Support multiple forms of alternative transportation
- C. Make street maintenance a priority
- D. Pursue water independence