



BOARD OF ADJUSTMENT/APPEALS
REGULAR MEETING
July 23, 2015 - 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 Thursday 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:
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.

B. CONSENT CALENDAR

1. Approval of the minutes of March 26, 2015

C. BOARD ACTION

1. Public Hearing – Variance of Municipal Code Section 16-9-100(c)(1) pertaining to the height of a building mounted sign in the Central Business (CB) zoning district – Davinci Signs, Applicant
 - Staff presentation: Paul Hornbeck, Associate Planner
 - 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 27, 2015</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, September 24, 2015</u>	7:00 P.M.	Regular Board of Adjustment Meeting*
<u>Thursday, October 22, 2015</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

March 26, 2015 – 7:00 P.M.

Third Floor Council 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

A. CALL TO ORDER

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

1. **Roll Call**

The following members were present:

Chairman Danny Horner
Cindy Scheuerman
Jim McIntyre
Ken Gerlach
Jose Valdes

Absent:

Benjamin George

Also present:

Associate Planner
Interim Director of Planning
Safebuilt Building Official
Permit Technician

Paul Hornbeck
Scott Ballstadt
Russ Weber
Robin Volner

2. 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.

3. Reading of the statement 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.

4. Public invitation to be heard

Chairman Horner opened the meeting for public comment to which there was none.

B. CONSENT CALENDAR

1. Approval of the minutes of January 22, 2015

Ms. Scheuerman motioned to approve the February 26, 2015 meeting minutes; Mr. McIntyre seconded the motion. Motion carried unanimously.

C. BOARD ACTION

1. Public Hearing –Variance of Municipal Code Section 16-10-20(1)i pertaining to a home occupation involving tutoring or instruction of more than two students at any one time in the Single Family Residential (SF-1) zoning district – Robin Flores, Applicant

- Staff presentation: Paul Hornbeck, Associate Planner

Dr. Valdes motioned to open the Public Hearing; Mr. McIntyre seconded the motion. Motion carried unanimously.

Robin Flores, applicant/owner stated her business, teaching small group piano and music classes, involves teaching more than 2 students at a time. Most of the classes are 4-8 children at a time. My piano studio benefits the community, because I am able to offer reasonably priced music education, since I teach in my home studio, rather than using commercial space. The restriction imposed by the ordinance would only allow 2 children to attend class at a time, which is not as beneficial for the child. The Let's Play Music curriculum is a complete musicianship course. Our program is intentionally broad, and covers more than basic piano skills. We focus on movement, singing, and instruments to explore basic musical concepts such as tempo, rhythm, dynamics, phrasing, form, notation, and melody. Creating and developing complete musicianship skills, is one factor that differentiates our curriculum from other methods, and has been found to produce better long-term results than private piano lessons alone. Having to teach in a commercial location would not allow my business to be profitable which benefits the economy. I offer at least 1 scholarship per year for complete or partial tuition, based on financial need. This program allows parents to give their children quality music and piano instruction at an affordable and competitive rate. Ms. Flores gave a complete history of this program and why it is so important to teach these classes in small groups. Ms. Flores presented pictures of the area and street. She indicated that if she is only allowed to teach 2 students at a time the traffic would be worse because there would be more classes during the day and more days a week that classes would be held. More classes would mean more traffic.

Public Comments: No public comment

Associate Planner Paul Hornbeck stated the applicant is requesting a variance from Municipal Code Section 16-10-20(1)i pertaining to a home occupation involving tutoring or instruction of more than two students at any one time in the Single Family Residential (SF-1) zoning district. The subject property is located at 4630 Freehold Dr. Windsor, CO 80550. The variance request is a result of a complaint by someone in the neighborhood about the impacts of parking and traffic generated by the music lessons. It was found that the applicant was operating without a business license and associated home occupation registration. Upon submittal of the home occupation registration by the applicant, it was revealed that more than two students were present at any one time, prompting this variance request. The Municipal Code states the following:

In the event a home occupation involves tutoring or instruction, no more than two (2) students may be present at the dwelling unit at any one (1) time.

Staff does not consider that the literal enforcement of the Code will result in an unnecessary hardship as defined by the Municipal Code and therefore is recommending denial of the variance request with the following findings of fact:

1. An unnecessary hardship has not been proven by the landowner;
2. The property could reasonably be used as a private residence without the variance and;
3. The situation is a result of circumstances created by the landowner.

If the Board is inclined to approve this request, staff recommends parking be addressed to in some manner as that is primary basis for the complaint on the use.

Dr. Valdes asked staff when was this ordinance created and under what circumstances were they created for two or less?

Mr. Hornbeck stated he didn't have the history for when and why but it isn't unusual for a limit to be put in place.

Mr. McIntyre asked the rational for limiting the number of students.

Mr. Hornbeck stated for this exact reason, the traffic impact.

Dr. Valdes stated you suggested if the board approved this request that parking would need to be addressed. Does the staff have a recommendation for parking?

Mr. Hornbeck stated staff recommends denial.

Chairman Horner ask for a motion to close the Public Hearing

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

Chairman Horner ask for a motion on the variance and a second

Ms. Scheurman moved to approve the variance for a temporary period of (9) nine months; Mr. Gerlach seconded the motion.

Motion was approved.

D. COMMUNICATIONS

1. Communications from the Board Members
None
2. Communications from staff
Discussion on setback certifications
3. Communications from the Town Attorney
None

E. ADJOURN

Mr. McIntyre motioned to adjourn; Ms Scheurman seconded the motion. Motion carried unanimously.

The meeting was adjourned at 7:50 p.m.

Robin L Volner, Permit Technician



MEMORANDUM

Date: July 23, 2015
To: Board of Adjustment
Via: Scott Ballstadt AICP, Director of Planning
From: Paul Hornbeck, Associate Planner
Re: Variance of Municipal Code Section 16-9-100(c)(1) pertaining to the height of a building mounted sign in the Central Business (CB) zoning district
Location: 205 ½ 4th Street
Item #: C.1

Background/Discussion:

The applicant, Davinci Sign Systems, representing the Hearth Restaurant & Pub 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 205 ½ 4th Street. The subject building is 3750 square feet in size, with 100 feet of frontage along Main Street and 45 feet along 4th Street. The business occupies the second floor, and being less the 5000 square feet, is classified as a minor tenant. The subject property is zoned Central Business (CB) and surrounded by other CB zoned properties.

The variance requested is from Municipal Code Section 16-9-100(c)(1) for a building mounted sign, which states the following:

Minor tenant. The height of building-mounted signs for minor tenants shall not exceed either twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted or five (5) feet in height, whichever is less.

The applicant is proposing to construct one wall mounted sign on the west elevation and one wall mounted sign on the north elevation. The proposed signs would each be 3'6" wide by 11' in height, for an area of 38.5 square feet. The building elevations upon which the sign would be mounted have a height of 31 feet; therefore, a maximum sign height of 5 feet is allowed. The signs would be made of aluminum with wood overlays and use LED illumination.

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 signs be approved based upon the following findings of fact:

1. The applicable sign regulation does not appear to adequately address vertically oriented signs;
2. The overall size of the signs are in proportion to the size of each building wall upon which each sign will be mounted;
3. The granting of this variance request will not alter the character of the surrounding neighborhood;
4. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
5. 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)(1) of the Municipal Code as depicted in the variance application to allow the construction of two wall mounted signs with a height of 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 1, 2015	development sign posted on the subject property
July 2, 2015	public hearing notice placed on the Town of Windsor's website
July 3, 2015	public hearing notice posted in the paper

Enclosures: Application Materials
PowerPoint slides

pc: Davinci Sign Systems, applicant
Planning Department staff



APPLICATION FOR VARIANCE

TOWN OF WINDSOR
301 Walnut Street
WINDSOR, CO 80550

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

Office: (970) 674-2415
Fax: (970) 674-2486
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*: 205 1/2 4th Street Windsor CO, 80550

Lot: Block: Subdivision:

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

Sign exceeds vertical height requirement. We are asking for an exception as we feel the code does not adequately address these types of signs. Technically the sign will pass code by rotating 90deg, only the clients logo is not oriented that way. The sign would be too small to read if held to the strict interpretation to which the code is written. The code penalizes any use of vertical signage disproportionately.

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

described as above.

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 23 day of June, 20 15

Danielle Llewellyn
Applicant (please print)

Danielle Llewellyn
Applicant's Signature

4496 Bents Drive Windsor CO 80550

Mailing Address (street, city, state, zip)
(970) 203-9292

Telephone Number (during the day)

Fax Number: (970) 203-9293

Email: danielle.l@davincisign.com

Applicant's Representative (if any):

Name: Davinci Sign Systems, Inc

Address: 4496 Bents Drive Windsor, CO 80550

Telephone: (970) 203-9292 Fax: (970) 203-9293

Email: danielle.l@davincisign.com

ERIC PERATT
Property Owner* (please print)

Eric Peratt
Property Owner's Signature*

7230 SPANISH BAY DR, WINDSOR, CO

Mailing Address* (street, city, state, zip) WINDSOR, CO 80550

970-481-7722
Telephone Number* (during the day)

Fax Number:

Email*: pinkees@frii.com

* indicates required fields

5-15-024

APPLICATION FEE: \$50.00

TOWN OF WINDSOR
SIGN PERMIT APPLICATION
BUILDING MOUNTED SIGN

THIS APPLICATION MUST BE ACCOMPANIED WITH THE APPLICATION FEE AND A PICTURE OR DRAWING OF THE PROPOSED SIGN. SEE BACK OF APPLICATION FOR SPECIFIC SIGN SUBMITTAL INSTRUCTIONS AND EXAMPLES. COMPLETE ONE APPLICATION FOR EACH PROPOSED SIGN.

TO BE COMPLETED BY APPLICANT

Applicant Information:
 Name of Applicant: DAVINCI SIGN SYSTEMS, INC Phone: 970-203-9292
 Mailing Address: 4496 Bentz Drive Fax: 970-203-9293
Windsor, CO 80550
Business Information:
 Name of Business: J & J Inc dba Hearth Restaurant Pub Phone: #
 Address of Business: 205 1/2 4th St Fax: _____
Windsor CO 80550

SIGN and BUILDING INFORMATION

TOTAL SQUARE FOOTAGE OF BUILDING: 7500 SQUARE FOOTAGE OF UNIT: 3750

LOCATION OF SIGN: North Corner Sign
BUILDING ELEVATION (north, south, east or west)

SIGN SIZE: Width 3'6" x Height 11' = 38.50 Total Square Feet

WALL SIZE: Width 8' x Height 31' = 2511 Total Square Feet

75 Bidg + Elevator 6' x 2' = 2511

VALUATION OF SIGN: 5,793.61

LETTER HEIGHT(S): 1'7"

NUMBER OF SIGNS EXISTING ON THIS WALL: 0

DISTANCE SIGN WILL PROJECT FROM WALL: 8 1/2" inches

SIGN MATERIALS: Aluminum wood overlay

ILLUMINATION TYPE (if illuminated): LEDs

Owner agrees that if the sign is in need of repair or if the building becomes vacated, owner will repair, replace or remove the sign at the owner's expense.

Signature: Danielle Jewell Date: 6.11.15

Print Name: Danielle Jewell

Office use only

ZONING: <u>CB</u>	TENANT CLASSIFICATION (Sec.16-2-20): SQUARE FOOTAGE OF BUILDING: <u>7500</u>	LANDLORD APPROVAL RECEIVED: <input type="checkbox"/>
SUBAREA INFORMATION: <u>Downtown Old Town Windsor</u>	MAJOR TENANT: <input type="checkbox"/> MINOR TENANT: <input checked="" type="checkbox"/>	TOTAL HEIGHT(S) OF LETTERS: <u>19" Logo 27.75"</u>
STREET CLASSIFICATION: <u>Artery Local</u>	TOTAL HEIGHT OF SIGN: <u>11' > 5'</u>	SIGN CRITERIA RECEIVED: (IF APPLICABLE) <input type="checkbox"/>
Application revised 12/24/2013		Reviewing Staff Initials: _____

w/m D 25' allowable 11' Sec 16-2-20 (X) (7.75 25' height 5' max mountant)

APPLICATION FEE: \$50.00

TOWN OF WINDSOR
SIGN PERMIT APPLICATION
BUILDING MOUNTED SIGN

515-025

THIS APPLICATION MUST BE ACCOMPANIED WITH THE APPLICATION FEE AND A PICTURE OR DRAWING OF THE PROPOSED SIGN. SEE BACK OF APPLICATION FOR SPECIFIC SIGN SUBMITTAL INSTRUCTIONS AND EXAMPLES. COMPLETE ONE APPLICATION FOR EACH PROPOSED SIGN.

TO BE COMPLETED BY APPLICANT

Applicant Information:
 Name of Applicant: DAVINCI SIM SYSTEMS, INC Phone: 970-203-9292
 Mailing Address: 4496 Bandy Drive Fax: 970-203-9793
Windsor CO 80550
 Business Information:
 Name of Business: J&J Inc. dba Health Restaurant & Pub Phone: _____
 Address of Business: 205 1/2 4th Street Fax: _____
Windsor, CO 80550

1 corner sign

SIGN and BUILDING INFORMATION

TOTAL SQUARE FOOTAGE OF BUILDING: 7500 SQUARE FOOTAGE OF UNIT: 3750

LOCATION OF SIGN: North West (Corner Sign) BUILDING ELEVATION (north, south, east or west)
North - 1749 SF
West -

SIGN SIZE: Width 3'6" X Height 11' = 38.5 Total Square Feet
 WALL SIZE: (N) 6'6" X Height 2'78" = 1550 Total Square Feet
 (W) 9'8" X Height 1589" = 331550 Total Square Feet

VALUATION OF SIGN: 5,793.61

LETTER HEIGHT(S): 1'7"

NUMBER OF SIGNS EXISTING ON THIS WALL: 0

DISTANCE SIGN WILL PROJECT FROM WALL: 8 1/2" Inches

SIGN MATERIALS: ALUMINUM, WOOD OVERLAY

ILLUMINATION TYPE (If illuminated): LED'S

Owner agrees that if the sign is in need of repair or if the building becomes vacated, owner will repair, replace or remove the sign at the owner's expense.

Signature: Danielle Hewerlyn Date: 6-11-15
 Print Name: Danielle Hewerlyn



Office use only

ZONING: <u>CB</u>	TENANT CLASSIFICATION (Sec.16-2-20): SQUARE FOOTAGE OF BUILDING: <u>7500</u>	LANDLORD APPROVAL RECEIVED: <input type="checkbox"/>
SUBAREA INFORMATION: <u>Old Town Windsor</u>	MAJOR TENANT: <input checked="" type="checkbox"/> <u>3750</u>	TOTAL HEIGHT(S) OF LETTERS: <u>19" Logo 27.75"</u>
STREET CLASSIFICATION: <u>Arterial Local</u>	MINOR TENANT: <input checked="" type="checkbox"/> <u>3750</u>	SIGN CRITERIA RECEIVED: (IF APPLICABLE) <input type="checkbox"/>
	TOTAL HEIGHT OF SIGN: <u>11' 75"</u>	Reviewing Staff Initials: <u>N/A</u>

Application revised 12/24/2013

1550 9/10/16 11' Sec 16.9.100 (EX) Max E



VARIANCE REQUEST

205 ½ 4TH STREET

TOWN OF WINDSOR SUBDIVISION
LOTS 26-32, BLOCK 11

Paul Hornbeck, Associate Planner
July 23, 2015

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)(1):

Minor tenant. The height of building-mounted signs for minor tenants shall not exceed either twenty-five percent (25%) of the height of the building elevation upon which the sign is mounted or five (5) feet in height, whichever is less.

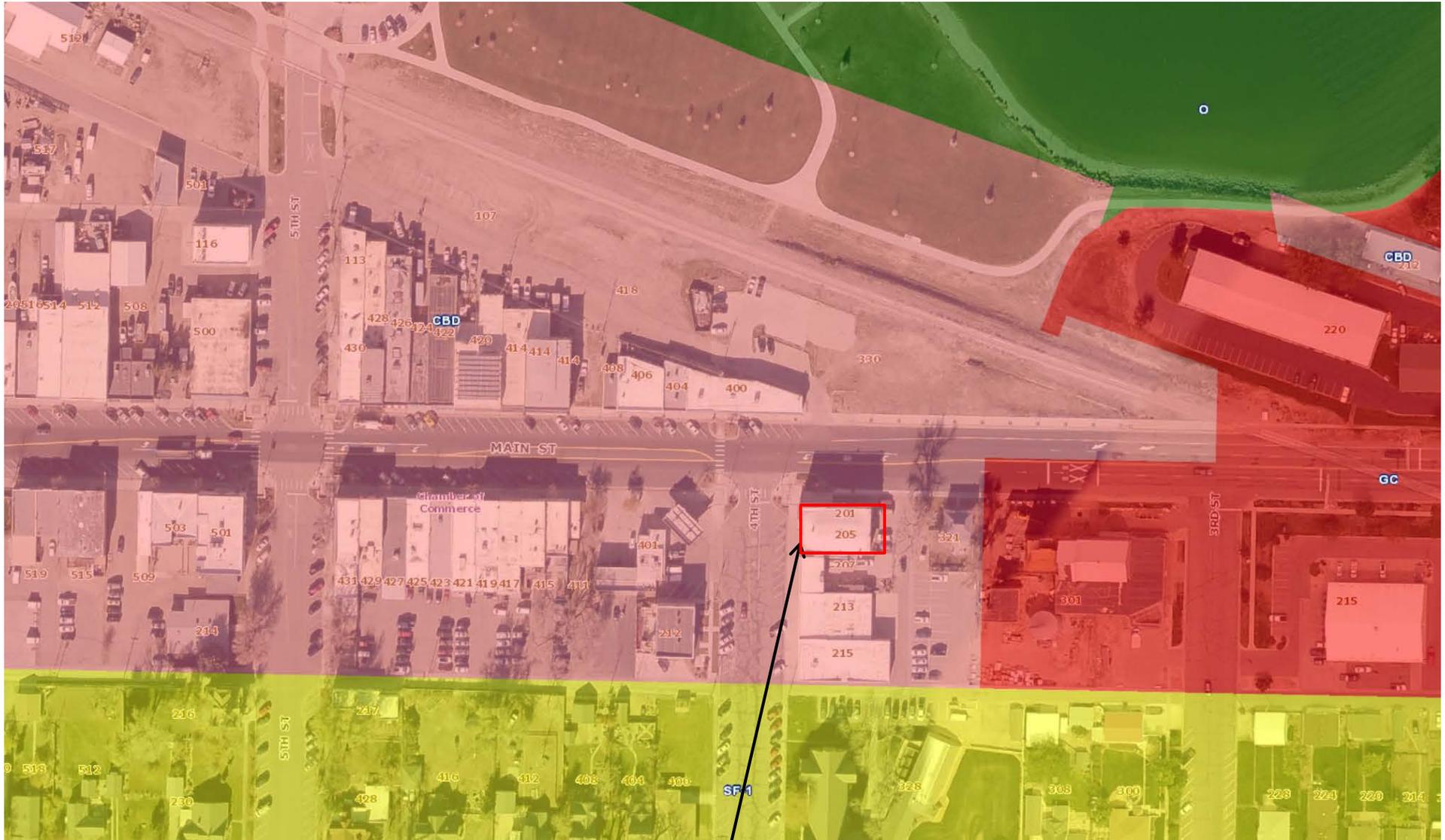
SITE VICINITY MAP



Site Location

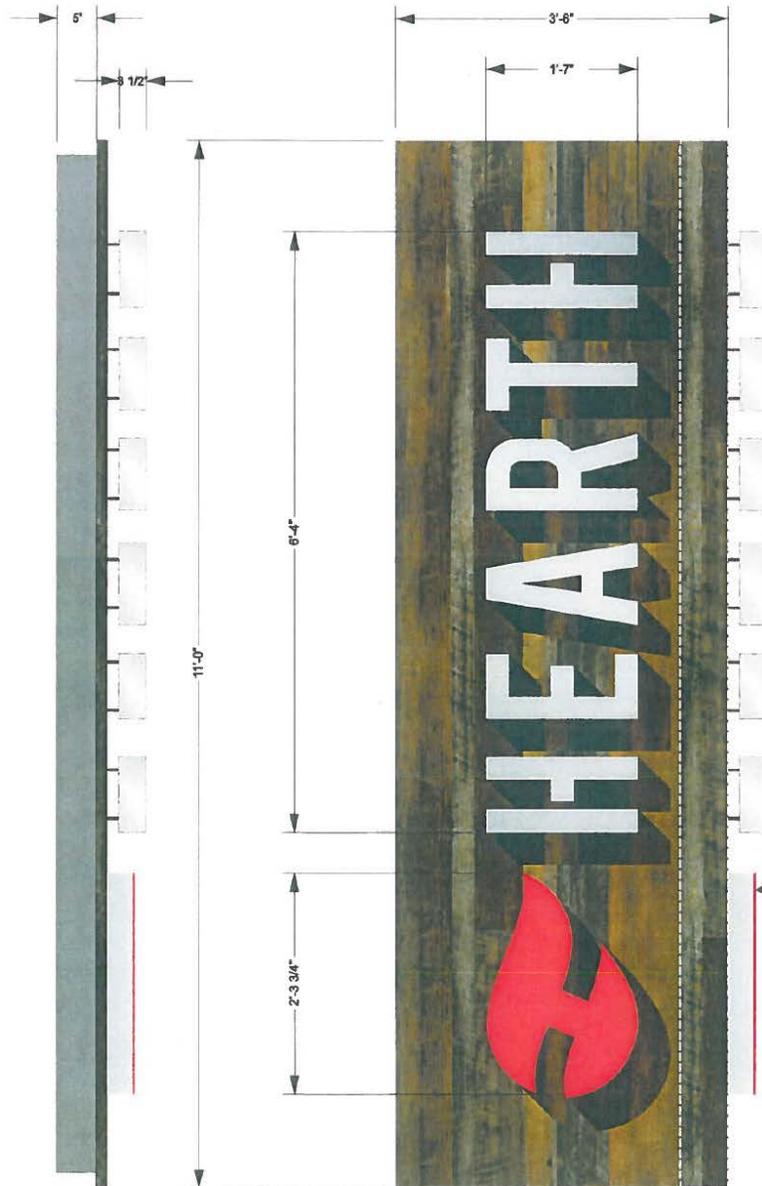


SITE PROXIMITY ZONING MAP

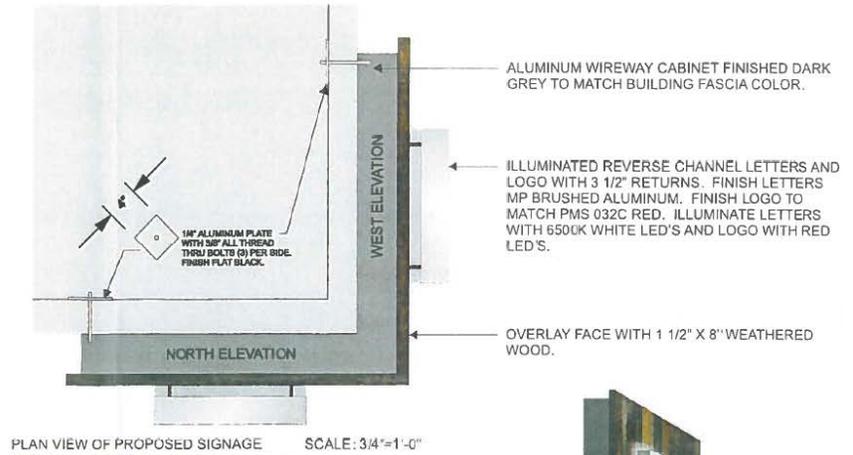


Site Location

PROPOSED SIGNS



1 ILLUMINATED V-SHAPED WALL SIGN DISPLAY SCALE: 3/4"=1'-0"
QUANTITY: 1 MANUFACTURE AND INSTALL



LOGOS ARE CONSTRUCTED OF ALL ACRYLIC. RETURNS ARE 3 1/2" DEEP CONSTRUCTED OF #2447 FROSTED WHITE AND FACE IS #2793 RED. ILLUMINATE WITH SAMSUNG 6500K WHITE LED'S. FLUSH MOUNT.



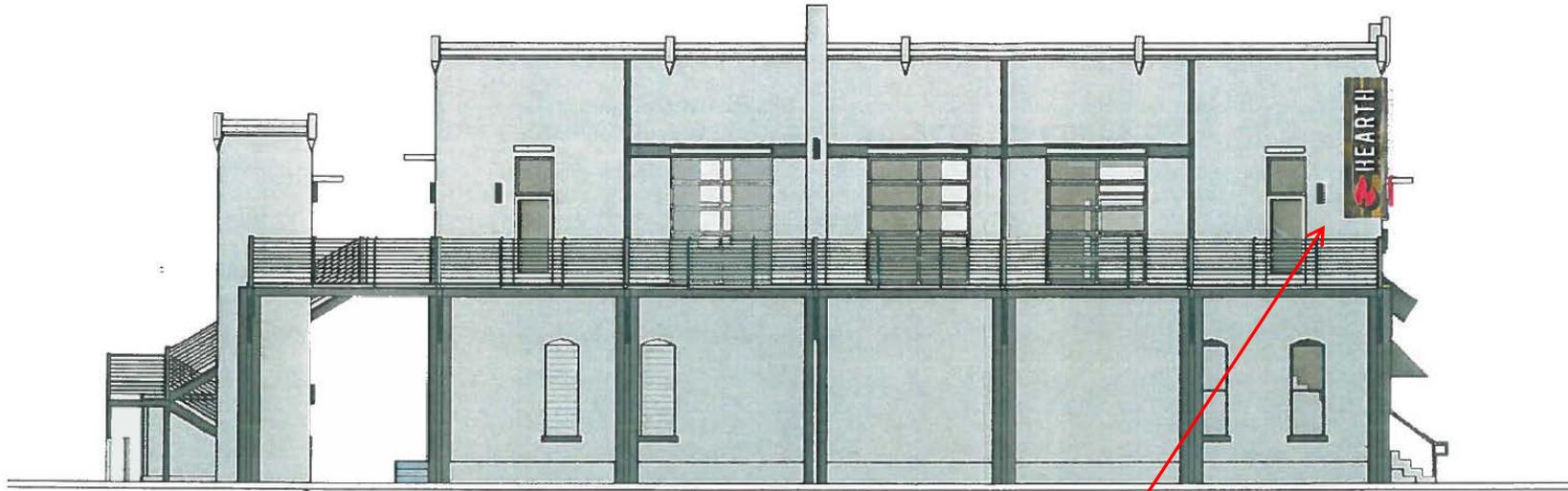
CONCEPTUAL NIGHT VIEW



COLOR KEY	
PAINT	MP BRUSHED ALUMINUM
ACRYLIC	#2793 RED

THE COLORS SHOWN ON THESE PRINTS MAY NOT MATCH THE ACTUAL COLORS OF THE FINAL PRODUCT. FOR MORE INFORMATION, PLEASE REFER TO SPECIFIED SAMPLES OR COLOR CHARTS OR APPROVED COLOR SPECIFICATIONS.

BUILDING ELEVATIONS



NORTH ELEVATION

Proposed Sign Locations



WEST 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 signs be approved based upon the following findings of fact:

1. The applicable sign regulation does not appear to adequately address vertically oriented signs;
2. The overall size of the signs are in proportion to the size of each building wall upon which each sign will be mounted;
3. 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;
4. The proposed height of the subject signs meets the spirit and intent of the sign regulations; and
5. 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)(1) of the Municipal Code as depicted in the variance application to allow the construction of two wall mounted signs with a height of 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.