

**Notice of Public Hearing
City of Chesterfield
Board of Adjustment**

NOTICE IS HEREBY GIVEN that the Board of Adjustment of the City of Chesterfield will hold a Public Hearing on Thursday, November 6, 2008 at 7:00 p.m. in the City Council Chambers at the City of Chesterfield City Hall, 690 Chesterfield Parkway West, Chesterfield, Missouri 63017.

The Board will consider the following:

B.A. 11-2008 16851 North Outer 40 Road (Hardees Iceplex): A request for a variance from City of Chesterfield Zoning Ordinance Section 1003.168E.2(3). to permit an existing "PC" Planned Commercial District-zoned recreational facility to maintain an electronic message center.



All interested parties are invited to appear and be heard at the hearing.

Copies of the request are available for review at the City Government Center Monday through Friday, from 8:30 a.m. to 4:30 p.m. If you should need additional information about this project, please contact Annissa McCaskill-Clay, Lead Senior Planner via telephone at 636-537-4737 or by email at amccaskill@chesterfield.mo.us

City of Chesterfield

Annissa McCaskill-Clay, AICP
Lead Senior Planner



IV. B.

690 Chesterfield Pkwy W • Chesterfield MO 63017-0760
Phone: 636-537-4000 • Fax 636-537-4798 • www.chesterfield.mo.us

October 28, 2008

Board of Adjustment
690 Chesterfield Parkway West
Chesterfield, MO 63017

Re: **B.A. 11-2008 16851 North Outer 40 Road (Hardees Iceplex)**: A request for a variance from City of Chesterfield Zoning Ordinance Section 1003.168E.2(3) to permit an existing “PC” Planned Commercial District-zoned recreational facility to maintain an electronic message center.

Dear Board Members:

Summit Development Group, the owners of Hardee’s Iceplex) has submitted for review a request to the Board of Adjustment for the above-mentioned variance. In review of the petitioner’s request, the Department of Planning submits the following report:

Background

- The subject parcel is located at 16851 North Outer 40 Road. It also has frontage along North Outer Forty Road.
- This parcel was zoned “NU” Non-Urban District prior to incorporation of the City of Chesterfield.
- Conditional Use Permit (CUP) #19 was approved for the site on on November 16, 1993.
- On October 19, 1999, the City of Chesterfield approved Ordinance 1564, which zoned the property to “PC” Planned Commercial. Ordinance 1564 requires signage to adhere to the criteria set forth in the City of Chesterfield Zoning Ordinance.
- On August 26, 2008, an application for an electronic message center was rejected by the City of Chesterfield.

- Section 1003.168E.2(3) of the Zoning Ordinance classifies electronic message centers as a type of prohibited sign.¹
- The City of Chesterfield Zoning Ordinance defines an electronic message center as "A sign whose alphabetic, graphic or symbolic informational content can be changed or altered on a fixed display surface, composed of electrically illuminated or mechanically-driven changeable segments either by means or pre-programming or by computer-driven electronic impulses.

Petitioner's Request

The Petitioner has provided a packet to outlining their request for the Board's review.

Approval Criteria

1. In order to grant a variance, there must be proof that the applicant did not bring the burden upon himself through some action, but instead had the burden imposed on him.
2. An individual cannot create a situation and then claim he needs a variance. *Wolfner v. Board of Adjustment of City of Warson Woods*, 114 S.W.3d 298 (Mo.App.E.D.,2003).
3. The burden of proving the elements is on the applicant.
4. Missouri Revised Statute Chapter 89.090 requires that a Board of Adjustment may only grant variances when the applicant has established the necessary "practical difficulties or unnecessary hardship" and when "the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done."
5. Section 2-216 of the City of Chesterfield Municipal Code states that the Board of Adjustment shall have the following powers:

"To permit a variation in the yard requirements of any zoning district or the building or setback lines from major highways as provided by law where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided that such variance will not seriously affect any adjoining property or the general welfare of the public;"

¹ It should be noted that the sign is over 6ft. tall and exceeds 50 sq. ft. in height. Additionally, the base of the sign exceeds 3 ft. However, the sign is not being brought forward for these issues, as the Zoning Ordinance permits review and approval by the Planning Commission.

6. Section 2-216 (5) of the City of Chesterfield Municipal Code states that,

“In making its decision, the Board must be satisfied that the granting of such a variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unusual hardship or difficulty which is unique to the petitioner in his use, so great as to warrant a variation from the sign regulations as established by the City of Chesterfield Zoning Code or Zoning Ordinance enacted by the City of Chesterfield and at the same time place conditions upon said variance, if necessary, so that the surrounding property will be properly protected.”

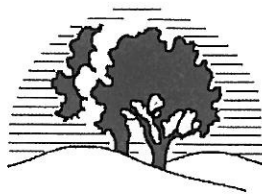
Respectfully Submitted,

Annisca McCaskill-Clay

Annisca G. McCaskill-Clay, AICP
Lead Senior Planner

Exhibits:

1. City of Chesterfield Zoning Ordinance (not in packet)
2. Notice of Publication
3. Affidavit of Publication (not in packet)
4. Staff Report
5. Petitioner's Application
 - i. Application to Board of Adjustment
 - a. Exhibits A – U (see petitioner's index)
6. City of Chesterfield Zoning Ordinance Section 1003.168E with pertinent section highlighted(2)



City of Chesterfield

DEPARTMENT OF PLANNING

APPLICATION TO THE BOARD OF ADJUSTMENT FOR A VARIANCE

The Board of Adjustment is a local body consisting of volunteers appointed by the Mayor. Its responsibility is to hear appeals from decisions of the City of Chesterfield Department of Planning and to consider requests for variances and exceptions. A variance is an approved departure from the provisions of the zoning requirements for a specific parcel, without changing the zoning ordinance underlying zoning of the parcel. A variance usually is granted only upon demonstration of hardship based on the peculiarity of the property in relation to other properties in the same zone district. For questions about this application, please contact the "Planner of the Day" at 636-537-4733. For information about this and other projects under review by the Department of Planning, please visit "Planning Projects" at www.Chesterfield.mo.us.

Check (✓) the type of variance for which you are applying:

Area (bulk) variance: A request to allow deviation from the dimensional (i.e. height, bulk yard) requirements of a zoning district.

Appeal of an Administrative determination

Note: A \$70 fee applies

Please note areas in gray will be completed by the Department of Planning.

STATE OF MISSOURI)

BOA NUMBER _____

)

HEARING DATE _____

CITY OF CHESTERFIELD)

Petition for Appeal from Zoning Regulations

I. APPLICANT INFORMATION

Owner(s) of record of the hereinafter described property according to St. Louis County Assessor's

Record: Summit Ice Center Investors LLC

Address: 100 S. Brentwood Blvd., Suite 222

City: St. Louis

State: MO Zip: 63105

Tel.: 314-863-9991

Fax: 314-863-4407

Petitioner, if other than owner(s): _____

Address: _____

City: _____

State: _____ Zip: _____

Tel.: _____

Fax: _____

Legal Interest: _____

(Provide date of contract and date of expiration of contract)

*Attach additional sheets as necessary for other Parties of Interest (Architect, Engineer, etc.)

690 Chesterfield Parkway West, Chesterfield, MO 63017-0760
Ph. (636)537-4746 Fax (636)537-4798 www.chesterfield.mo.us

II. PROPERTY INFORMATION

Project Address: 16851 North Outer 40 Road

Locator Number(s): 17 T-51-0041

(List additional locator numbers on separate sheet and attach to petition)

Acreage: 12.87 (To the nearest tenth of an acre)

Subdivision Name (If applicable): Long Estate

Current Zoning District: PC Planned Commercial with a Conditional Use Permit

Legal Description of Property:

See Attached Exhibit A

III. NATURE OF REQUEST FOR VARIANCE

Unique physical characteristics of the lot (e.g., size, slope, etc.):

See Attachment Item #1.

Do deed restrictions or subdivision trust indentures for the property prohibit the use or construction which is requested by this petition? Check (✓) one [] Yes [X] No

Specify the action to which the appeal is sought: Two actions are requested of the BOA:

- 1) Allow a sign with a base height of 9'-1.5"
2) Allow an electronic digital message center

(Attach additional sheets as necessary)

Description of the effect or impact on neighboring properties: See Attachment Item #4 for information.

(Attach additional sheets as necessary)

Statement of any other hardship or information for this appeal: See Attachment Item #5 for Hardship Statement.

(Attach additional sheets as necessary)

Please complete the sections below as applicable:

A. Setbacks/Height: There are no setback issues with this sign per review of planning staff

The Petitioner(s) request the following setback(s):

Front yard: Not Applicable
Side yard:
Rear yard:
Height:

The City of Chesterfield Zoning Ordinance Regulations require the following setback(s) for this site:

Front yard: Not Applicable
Side yard:
Rear yard:
Height:

The following information correctly presents the true conditions and also describes the practical difficulties and unnecessary hardships warranting action by the Board.

See Attachment Item #6 for information.

Include two (2) completed copies of this application with original signatures and two (2) copies of the following:

1. A site development plan showing:
 - The dimensions and location (including distance from property lines) of all existing and proposed buildings and structures. See Exhibit C
 - Letters from abutting property owners stating their position. See Exhibit Q and R
2. A \$70.00 fee. (Checks/money orders to be made payable to the City of Chesterfield.)
3. A copy of the City of Chesterfield rejection or denial. See Exhibit S (Eight Pages)

B. Signage:

Number and size of allowable attached business signs by ordinance: _____

One sign on any two walls / 5% of wall space allowed

This center has one existing 73.75 sqft front wall sign (per code, the sign is allowed to be 300 sqft in area)

Number and size of allowable freestanding business signs by ordinance: _____

One per lot facing each roadway in which lot has frontage / 50 sqft in area / 6' tall

This center has one road frontage & currently does not have a freestanding sign on the lot

The petitioner further represents that the increased sign size or height would not be injurious to the neighborhood, or otherwise be detrimental to the public welfare for the following reasons: The requested height of the base does not obstruct site lines of drivers, it does not obstruct the view of any property or natural resource of great beauty, it does not contribute to visual clutter & does not cause a nuisance.

Include two (2) completed copies of this application with original signatures and two (2) copies of the following:

1. A site plan showing:
 - The subject property with adjoining streets, existing buildings, major parking lot, and distance to property lines.
 - The location of proposed signs.
 - If attached wall signs, the cross section of wall on which sign is to be placed with dimensions and total square feet (or portion of total wall that will contain petitioner's business)

2. A detail sign plan indicating:
 - Dimension of signs with detail sign lettering layout.
 - Total square feet of signs. If attached, what percent of wall.
 - Light detail, if any.

See Exhibit B

3. Letters from abutting property owners stating their position.

4. A \$70.00 fee. (Checks/money orders to be made payable to the City of Chesterfield.)

5. A copy of the City of Chesterfield rejection or denial.

III. COMPLIANCE

Is property in compliance with all previous conditions of approval of all applicable Ordinance requirements?

] Yes [] No. If no, please explain: _____

Is property in compliance with all Zoning, Subdivision, and Code requirements?

] Yes [] No. If no, please explain: _____

[THIS SPACE INTENTIONALLY LEFT BLANK]



HARBEE'S ICEPLEX

Project Name: 16851 N. OUTER PORTY CHESTERFIELD MO Ward: _____

STATE OF MISSOURI, CITY OF CHESTERFIELD

[we], Julie H. George (a duly licensed attorney or title insurance company
(print, type or stamp name of attorney or title company) attorney for Title Partners Agency, LLC

in the State of Missouri), do hereby certify to the Council of the City of Chesterfield that [we] have examined the title to the herein described property; that [we] find the title to the property is vested to Summit Ice Center Investors, LLC; that there are no fines and/or liens of record on the property (name of owner(s))

by or owed to the City of Chesterfield [or] that the following fines and/or liens are owed to the City of Chesterfield:

1. NO fine or lien of record filed by City of Chesterfield
2. _____
3. _____
4. _____

Julie H. George
(Attorney-at-law licensed in Missouri)
Missouri Bar # 52153

10/21/08
Date

-or-

Julie H. George
(Officer of title insurance company)
Julie H. George
Print, type or stamp name and title

10/21/08
Date

[THIS SPACE INTENTIONALLY LEFT BLANK]

690 Chesterfield Parkway West, Chesterfield, MO 63017-0760
Ph. (636)537-4746 Fax (636)537-4798 www.chesterfield.mo.us

XI. STATEMENT OF CONSENT

Consent is required from the property owner(s) and contract purchaser, if applicable, to their agent if the property owner(s) or contract purchaser do not intend to attend all meetings and public hearings and submit in person all material pertaining to the application. A separate form is required from each owner/contract purchaser. Consent to a firm shall be deemed consent for the entire firm, unless otherwise specified. Consent is valid for one year from date of notary, unless otherwise specified. Attach copy of last recorded warranty deed for subject property.

STATEMENT OF CONSENT

I hereby give CONSENT to Not Applicable (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge of the property I have an ownership interest in is the subject of this application. I further certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the City of Chesterfield, Missouri, and will not be returned. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the City of Chesterfield to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

OWNER/CONTRACT PURCHASER INFORMATION:

I am the [] owner [] contract purchaser. (check (✓) one)

(Name- type, stamp or print clearly)

(Signature)

(Name of Firm)

(Address, City, State, Zip)

Note: Attach additional sheets as necessary.

NOTARY PUBLIC INFORMATION: STATE OF MISSOURI, CITY OF CHESTERFIELD

The foregoing instrument was subscribed and sworn to before me this _____ day of _____, 20 _____ .

Signed _____ Print Name: _____
Notary Public

Seal/Stamp:

My Commission Expires: _____

690 Chesterfield Parkway West, Chesterfield, MO 63017-0760
Ph. (636)537-4746 Fax (636)537-4798 www.chesterfield.mo.us

XII. AFFIDAVIT OF COMPLETENESS AND ACCURACY

INSTRUCTIONS: To be completed by individual submitting application (property owner, petitioner with consent, or authorized agent).

Project Name: Hardee's IcePlex

Submittal Date: 10/22/08

STATEMENT OF COMPLETENESS AND ACCURACY

I hereby certify all property owners have full knowledge the property they own is the subject of this application. I hereby certify that all owners and petitioners have been provided a complete copy of all material, attachments and documents submitted to the City of Chesterfield relating to this application. I further certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related application material and all attachments become official records of the City of Chesterfield, Missouri and will not be returned. I understand that any knowingly false, inaccurate or incomplete information provided by me will result in the denial, revocation or administrative withdrawal of this application, request, approval or permit. I further acknowledge that additional information may be required by the City of Chesterfield to process this application. I further represent and warrant that I have not made any arrangement to pay any commission, gratuity, or consideration, directly or indirectly, to any official, employee, or appointee of the City of Chesterfield with respect to this application. I further consent to the City of Chesterfield to publish, copy or reproduce any copyrighted documents submitted as a part of this application for any third party. I further agree to all terms and conditions which may be imposed as part of the approval of this application.

Check (✓) one: I am the property owner. I am the contract purchaser.
 I am the duly appointed agent of the petitioner.

John S. Ross

(Name- type, stamp or print clearly)

Summit Ice Center Investors LLC

(Name of Firm)

JSR

(Signature)

100 S. Brentwood Blvd., Suite 222

St. Louis, MO 63105

(Address, City, State, Zip)

Note: Attach additional sheets as necessary.

NOTARY PUBLIC INFORMATION: STATE OF MISSOURI, CITY OF CHESTERFIELD

The foregoing instrument was subscribed and sworn to before me this _____ day of _____, 2008.

21st day of October

Signed _____

Notary Public

Diane Favier

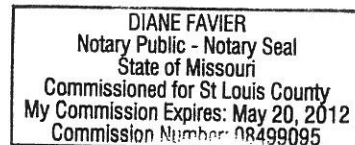
Print Name: _____

Diane Favier

My Commission Expires: _____

Seal/Stamp:

May 20, 2012



STAFF / BOA USE ONLY

Intake Date: _____

This petition is granted / denied (circle one) on the _____ day of _____ 20 _____

Signed: _____

Chairman

[THIS SPACE INTENTIONALLY LEFT BLANK]

HARDEE'S ICEPLEX
16851 North Outer 40 Road
Chesterfield, MO

Board of Adjustment Variance Application

Attachment Information

Item #1: Unique physical characteristics of the lot

The lot is typical of many in Chesterfield Valley. It is flat and accessed from N. Outer Forty. It is adjacent to the Missouri River levee to north and the Interstate I-64 borders to the south. The lot frontage has excellent visibility to I-64. The Hardees Iceplex building is screened from I-64 by a row of mature trees along N. Outer Forty. As a result, signs on the Iceplex building are barely visible to N. Outer Forty and I-64, necessitating a sign at the North Outer 40 entrance to the site.

Item #2: Description of necessity of the proposed improvement

The Hardees Iceplex hosts many regional sports events throughout the year and therefore has need for signage sufficient to provide adequate way-finding for visitors coming from inside and outside of the greater St. Louis metropolitan area. The distance from the Iceplex building to the eastbound lanes of I-64 (480 feet) make it impractical to provide wayfinding with a building sign; in order to be legible, the size of the sign would far surpass that allowed by the City of Chesterfield. Even if such a sign were allowed, it could not be seen because the Iceplex building is mostly obstructed from view by the row of mature trees along the N. Outer Forty right of way (see Exhibit D photograph). To achieve visibility of the proposed sign for travelers on I-64 the base of the sign must be tall enough for travelers to see the sign over the highway median barrier. Therefore, the sign base is proposed to be 9' as opposed to 3' maximum in the City code. A site line section is included as Exhibit E that demonstrates the sign base needs to be 9' tall.

Good way-finding can prevent waste generated by unnecessary driving and traffic on the roadways. Lost and confused drivers present a potential safety hazard. Reduced travel time and miles helps to prevent athletes and fans from being late for scheduled events and delays of competition.

In addition to providing a way-finding tool, an electronic message board message board is incorporated into the sign to notify the public of important local and regional sporting events taking place at the Iceplex.

Attached are Exhibits F through G. These Exhibits are two renderings which demonstrate what the sign will look like to travelers on I-64, and an aerial photograph indicating the distance to neighboring properties and landmarks, which is attached as Exhibit H.

Item #3: Basis for appeal of the above action

The Hardees Iceplex is an important asset to the people of the St. Louis metropolitan area and the region. Thousands of youth from all over the St. Louis area use the Iceplex for fitness activities, competitive sports, and recreation, as well as many adults. Local and regional sports championships are determined at the Iceplex. The Iceplex is home to 650,000 visitors per year.

The Iceplex is located ideally for those travelling long distances. But, the Iceplex is not served by public transportation. Most athletes, family, friends, and spectators arrive via personal vehicles. Many have difficulty finding the Iceplex because of its distance from the highway. A sign to help people find the facility must be tall enough to be visible above the I-64 median. For this reason the sign base needs to be 9' above grade (as opposed to 3' allowed by Ordinance). Additionally, there are many signs in the City of Chesterfield that have bases in excess of the 3' requirement. Nine (9) such signs are located in Chesterfield Commons across I-64 from the Iceplex. Exhibits I through L includes a photograph of each sign.

The Iceplex fills a public need for athletes, their families, and spectators. The message board improves the resource for the community by keeping them informed of the opportunity to participate and witness athletic events. There are at least seven (7) such signs located in the city of Chesterfield. They are depicted in Exhibits M through P.

Item #4: Description of the effect or impact on neighboring properties

There is no adverse effect on neighboring properties. To the north is the Missouri River levy; no one resides north of the levy. Exhibits Q and R are attached; they are letters from the neighbors to the west and east. To the south is I-64; neighbors beyond I-64 are distant by 400' or more and unaffected by the sign. Please see attached Exhibit H which indicates the sign location and distances to neighboring properties.

Item #5: Statement of any other hardship or information for this appeal

The Hardees Iceplex is a significant community resource for the residents of Chesterfield, people of the region, and the St. Louis metropolitan area to participate in competitive athletics, fitness, and recreation, primarily for youth. It is a resource for families and friends to enjoy these activities together, and for everyone to be a sports spectator. It is important that community resources be identifiable and accessible; those are the purposes of the sign and message board. If the resource is not identifiable and accessible people and communities suffer the hardship of waste, delay, and emotional trauma. Lost people in automobiles contribute to accidents and traffic congestion. Because of the traffic on I-64 the message board provides a meaningful source of information for the community and improves the likelihood that people will take advantage of the opportunities at the Iceplex.

Additionally, the Iceplex will participate in the "Amber Alert" system to notify the community when a child is suspected of being abducted.

Item #6: The following information correctly presents the true conditions and also describes the practical difficulties and unnecessary hardships warranting action by the Board

1. Public venues such as the Hardees Iceplex should be accessible and visible. Way-finding signage and a message board contribute to these goals.
2. The nature of the use of the Iceplex serves a public and community need that results in many first-time visits. Many visitors come from the fringes of the St. Louis metropolitan area and the region. See the User Exhibits T and U that lists the continental, national, regional, and local events.
3. Lost travelers can create hardships. They create traffic hazards and contribute to congestion.
4. The location of the Iceplex building makes it impractical to use building signs for way-finding. The sign size would far surpass the limits of the existing City codes.
5. The I-64 median obstructs the view of signs that meet the requirement of a base not to exceed 3', therefore the sign base must be taller to be seen by those attempting to locate the Iceplex.
6. Neighboring properties are long distances from the sign and are unaffected.

There are several signs in the City which have bases in excess of 3', and there are several electronic message boards within the City.

EXHIBITS

- A. LEGAL DESCRIPTION
- B. PROPOSED SIGN
- C. PROPOSED SIGN LOCATION & SITE PLAN
- D. TREES OBSTRUCTING ICEPLEX
- E. SITE LINE SECTIONS
- F. RENDERING
- G. RENDERING
- H. AERIAL PHOTO WITH DISTANCES
- I. TALL SIGNS
- J. TALL SIGNS
- K. TALL SIGNS
- L. TALL SIGNS
- M. DIGITAL MESSAGE BOARDS
- N. DIGITAL MESSAGE BOARDS
- O. DIGITAL MESSAGE BOARDS
- P. DIGITAL MESSAGE BOARDS
- Q. LETTER FROM LEVY DISTRICT
- R. LETTER FROM SUMMIT OUTER FORTY
- S. COPY OF REJECTION OR DENIAL
- T. USERS
- U. USERS



EXHIBIT A

File No. 6219470F

The land referred to is situated in the State of Missouri, County of St. Louis and is described as follows:

A tract of land being part of Lots 5 and 6 of the James Long Estates, according to the plat attached to deed recorded in Book 445 page 354 of City of St. Louis (former County) Records in U.S. Survey 2031, Township 45 North, Range 4 East, City of Chesterfield, St. Louis County, Missouri and further described as follows: Beginning at the intersection of the West line of said Lot 5 with the North right of way of Missouri, State Highway Route 40 TR Relocated, per Deed Book 6343 page 868 of St. Louis County Records, said point being 190 feet North of the center line of said highway; thence along the West line of said Lot 5, North 1 degree 00 minutes 00 seconds East 288.52 feet to a point on the South line of a tract of land conveyed to Wayne D. and Ruthann E. Haynes per Deed Book 9054 page 2041 of the St. Louis County Records; thence along said South line the following; North 66 degrees 15 minutes 54 seconds East, 42.84 feet, North 52 degrees 18 minutes 53 seconds East 83.69 feet, North 42 degrees 59 minutes 19 seconds East, 119.08 feet, North 38 degrees 04 minutes 08 seconds East, 130.29 feet, North 49 degrees 54 minutes 52 seconds East, 128.51 feet, North 84 degrees 06 minutes 38 seconds East, 44.91 feet, South 87 degrees 36 minutes 50 seconds East, 188.72 feet, South 87 degrees 34 minutes 39 seconds East, 209.16 feet and North 87 degrees 03 minutes 05 seconds East, 260.46 feet to a point; thence leaving said South line, South 5 degrees 17 minutes 12 seconds West, 726.78 feet to a point on the North line of Highway 40 TR, as aforementioned, said point being 190 feet North of the center line of said highway; thence along said North line, North 84 degrees 42 minutes 48 seconds, West 1,010.00 feet to the point of beginning.

Tax Locator No. 17T-51-0041 and 17T-52-0062
Commonly known as 16851 N. Outer 40 Road

EXHIBIT B PROPOSED SIGN

UNIT: HARDEE'S ICE CENTER
 1001 CHESTERFIELD, MO
 63043-4708
 PHONE: 636.15.2030
 FAX: 636.494.9598
 PROJECT: Brian Balko

APPROVED

Signs shall be installed and securely anchored into place with the appropriate size and type anchoring device in strict accordance with the manufacturer's instructions and manufacturer's recommendations. Sign manufacturer shall be responsible for the design of the sign and shall be responsible for the installation of the signs.

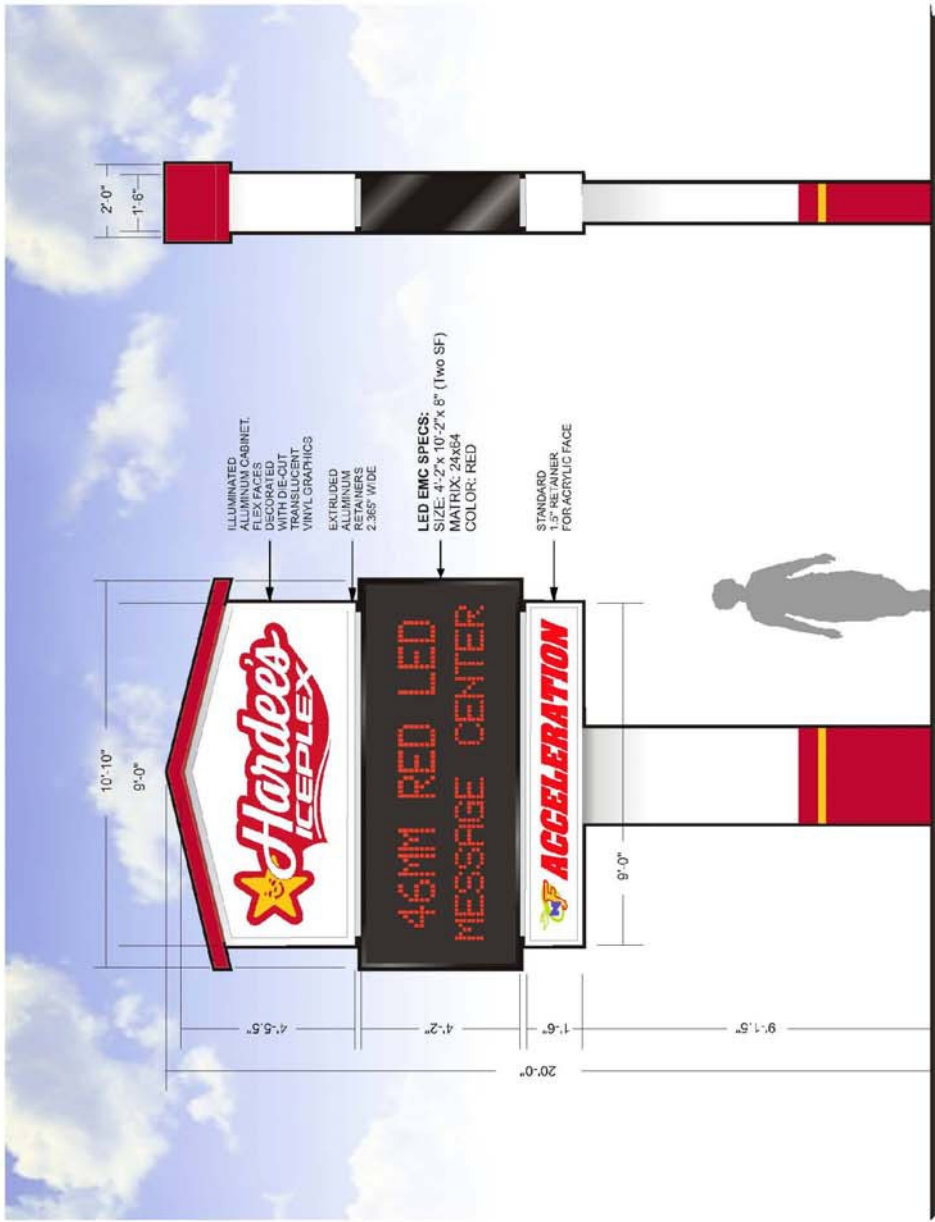


This drawing has been prepared by the architect and is the property of Warren Sign. It may not be reproduced, copied, or used without written permission or by right of purchase.

SPECIFICATIONS

Fabricate and install:

- One (1) double-face illuminated pylon sign with two (2) single-face LED displays mounted back to back.
- Main ID cabinet to be extruded aluminum flex face retainer with 18" deep aluminum cabinet and illuminated with HO fluorescent lamps and ballasts as necessary.
- Flex faces to be decorated with translucent vinyl graphics.
- Cabinet and retainer to be painted White.
- Cap to be fabricated aluminum, painted Red.
- LED displays to be mounted back to back with aluminum skin on returns unifying both displays.
- Pole cover to be painted White, Yellow and Red.
- A 120V primary circuit to sign shall be provided by other.

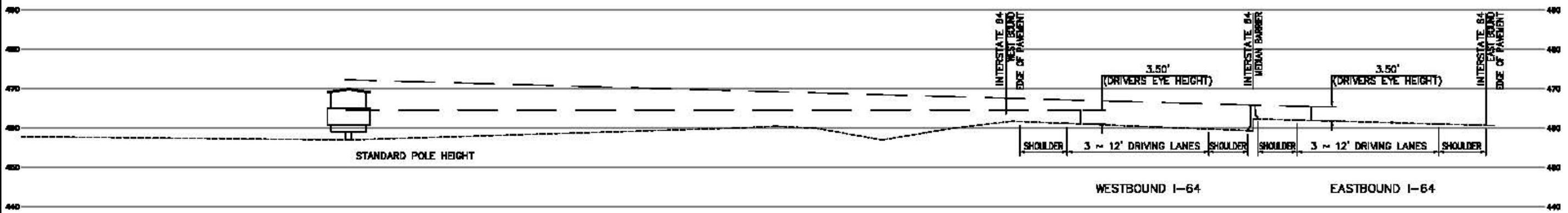


DF ILLUMINATED PYLON SIGN: 36" = 1'-0" TOTAL AREA: -40.13 (LD) + 42.4 (EMC) + 13.5 (TENANT) = 96.03 SQFT TOTAL HEIGHT: 20'-0"

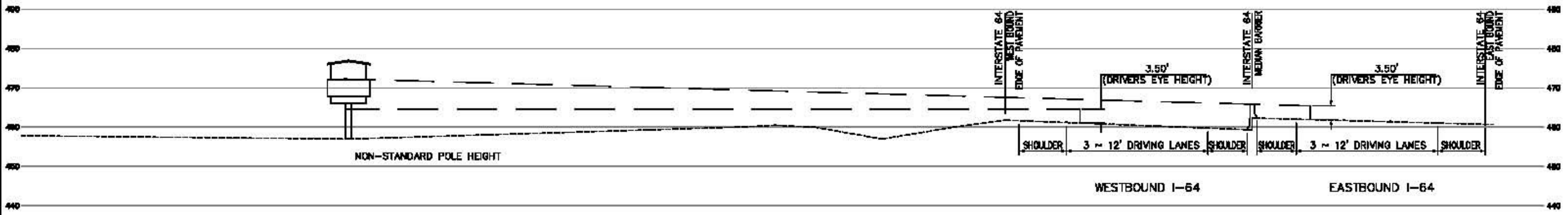


**EXHIBIT D
TREES OBSTRUCTING ICEPLEX**





SIGN VISIBILITY SECTION WITH 3 FT POLE HEIGHT
SCALE: H: 1"=10' V: 1"=10'



SIGN VISIBILITY SECTION WITH 10 FT POLE HEIGHT
SCALE: H: 1"=10' V: 1"=10'



WARREN'S SIGN
1101 CHERRYWOOD RD.
COLUMBIA, MD 21046
TEL: (410) 730-1100
WWW.WARRENSIGN.COM

PRINTERS
1101 CHERRYWOOD RD.
COLUMBIA, MD 21046
TEL: (410) 730-1100
WWW.WARRENSIGN.COM

SPECIFICATIONS
Fabricate and install:
One (1) double face illuminated
sign sign with two (2) single
face LED display mounted back
to back.
Pylon ID column to be installed
aluminum fix bracket with
1/2" deep aluminum column and
surrounded with HD fluorescent
lamp and ballast as necessary.
Fix face to be decorated with
speculative vinyl graphics.
Column and runner to be
painted White.
Cap to be finished aluminum,
painted Red.
LED display to be mounted
back to back with aluminum sign
on return unlight both
display.
Pole cover to be painted White,
Yellow and Red.
A 120V primary circuit to sign
shall be provided by other.



SIGN VISIBILITY SECTIONS			
SUMMIT DEVELOPMENT GROUP - HARDEE'S ICEPLEX			
Stock & Associates		Consulting Engineers, Inc.	
267 Chesterfield Executive Parkway St. Louis, MO 63005 PH: (636) 593-2100 FAX: (636) 593-2100 e-mail: general@stockandassociates.com Web: www.stockandassociates.com			
DATE: 10/20/08	DATE: 10/20/08	208-4370	1 of 1

IF ILLUMINATED PYLON SIGN 30"X1'0" TOTAL AREA: 40.13 (0.1) + 42.4 (BNC) + 13.3 (TENANT) = 95.83 SQFT. TOTAL HEIGHT: 20'0"





Wayne O. &
Ruthanne E. Haynes

Hardee's Iceplex

Summit Outer Forty
Investors, LLC

Monarch Chesterfield
Levy District

1875'

2100'

560'

940'

260'

940'

560'

750'

1200'

Chesterfield Commons

Smokehouse

Chesterfield Commons Dr

Old Olive St Rd

THF Blvd

Chesterfield Commons Dr E

Edison Ave

Chesterfield Airport Rd

Baxter Rd

Wiegand Dr

N Outer 40

40

64

1500 ft

© 2008 Tele Atlas

© 2007 Google

EXHIBIT H
AERIAL PHOTO WITH DISTANCES

**EXHIBIT I
TALL SIGNS**



**EXHIBIT J
TALL SIGNS**



**EXHIBIT K
TALL SIGNS**



**EXHIBIT L
TALL SIGNS**



**EXHIBIT M
DIGITAL MESSAGE BOARDS**



EXHIBIT N
DIGITAL MESSAGE BOARDS



EXHIBIT O
DIGITAL MESSAGE BOARDS



EXHIBIT P
DIGITAL MESSAGE BOARDS



**SUMMIT OUTER FORTY INVESTORS LLC
100 SOUTH BRENTWOOD, SUITE 222
ST. LOUIS, MO 63105
314.863.9991**

October 21, 2008

Mr. John Ross
Summit Development Group
100 S. Brentwood Blvd., Suite 222
St. Louis, MO 63105

RE: Hardees Iceplex
Proposed Sign

Dear John:

I have reviewed the information you provided for the proposed sign (illustration dated September 15, 2008) at the Iceplex driveway entrance along N. Outer Forty. I understand that you are requesting variances for the sign from the City of Chesterfield Board of Adjustment for the sign base height and the message board. The Summit Outer Forty Investors have no objection to the sign or the electronic message board. Please feel free to share our approval with the City of Chesterfield.

Please contact me if I can be of any further assistance to you in this matter.

Sincerely,

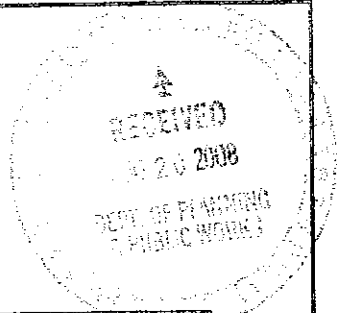
SUMMIT OUTER FORTY INVESTORS LLC

Scott M. Reese
Authorized Member



City of Chesterfield

DEPARTMENT OF PLANNING



APPLICATION FOR A SIGN PERMIT

Signs are permitted in accord with the regulations of the City of Chesterfield Zoning Ordinance. Some sites have regulations for signs that are more restrictive as part of the conditions of the ordinance governing a particular Planned Commercial District, Planned Industrial District, Mixed Use Development District, Conditional Use Permit, Commercial-Industrial Designed Development Procedure, Planned Environmental Development Procedure, or Landmark Preservation Area.

For questions about this application, please contact the "Planner of the Day" at 636-537-4733.

I. APPLICANT INFORMATION

Project Address: 16851 North Outer 40 Road (Hardee's IcePlex)
City: Chesterfield State: MO Zip: 63005

Property Owner(s) of record of the hereinafter described property according to St. Louis County Assessor's Record: The Summit Center, LLC C/O Bill Peick PH: 314-863-9991
Address: 16851 N. Outer 40 Road
City: Chesterfield State: MO Zip: 63005

Applicant Name: Warren Sign Company (C/O Sue Winter)
(If different than owner)
Address: 2955 Arnold Tenbrook Road
City: Arnold State: MO Zip: 63010
Tel.: 636-282-1300 Fax: 636-282-3388

II. SIGN PACKAGE

Is a Sign Package required for this project site? Check (✓) one [] Yes [] No
If yes, does the requested sign conform to the Sign Package? Check (✓) one [] Yes [] No

[THIS SPACE INTENTIONALLY LEFT BLANK]

III. TYPE OF SIGN

- Temporary Post Date: _____ Remove Date: _____
- Directional
- Informational
- Free-Standing
- Building
- Other: _____

IV. DESCRIPTION OF SIGN

Size (Dimensions): 20' tall x 10'-10" wide (110.25 sqft sign area)
 Color(s): Red / Yellow / White / Blue / Green / Black
 Estimated Cost: \$40,880.00

V. TYPE OF STRUCTURE ON WHICH SIGN WILL BE LOCATED

- | | | | | | |
|----------------------|-------------------------------------|--------------------------|--------------------------|--------------------|--------------------------|
| Amusement/Recreation | <input checked="" type="checkbox"/> | Office/Bank/Professional | <input type="checkbox"/> | School/Educational | <input type="checkbox"/> |
| Church/Religious | <input type="checkbox"/> | Industrial | <input type="checkbox"/> | Service Station | <input type="checkbox"/> |
| Hospital/Institution | <input type="checkbox"/> | Parking Garage | <input type="checkbox"/> | Common Area | <input type="checkbox"/> |
| Store/Retail | <input type="checkbox"/> | Public Works/Utility | <input type="checkbox"/> | Free standing/Pole | <input type="checkbox"/> |

VI. SUBMITTAL REQUIREMENTS

The following documents are to be submitted to the City of Chesterfield:

- 1) Completed *Application for Sign Permit* for each sign proposed.
- 2) For free standing/directional/informational signs: A copy of the approved site development plan showing the location of the sign.
- 3) For building signs: Scaled drawing of the approved/existing building elevation showing location of the sign.
- 4) Scaled drawings showing size, color, and material of the sign.
- 5) If St. Louis County approval is required:
 - a) Completed Application for Municipal Zoning Approval
 - b) Five sets of application materials

VII. AUTHORIZATION TO APPLY

I, Warren Sign Company (PRINT NAME) certify that I am the owner in fee or agent authorized to apply for this permit.

Owner/Agent: *Sue Winter, Warren Sign Co.* (SIGN NAME)

Tel.: 636-282-1300

690 Chesterfield Parkway West, Chesterfield, MO 63017-0760
Ph. (636)537-4746 Fax (636)537-4798 www.chesterfield.mo.us

(FOR CITY OF CHESTERFIELD AND ST. LOUIS COUNTY STAFF USE ONLY)

Municipal Zoning Classification: FC

Is this project located within a Flood Plain: (Check one) Yes No

Status 1: APPROVED REJECTED (circle one)

Approved/Rejected by: [Signature] Date: 8/26/08

Print Name and Title: Donna Redwood - Planning Tech

Comments: _____

Status 2: APPROVED REJECTED (circle one)

Approved/Rejected by: _____ Date: _____

Print Name and Title: _____

Comments: _____

EXTERIOR FIRE PROTECTION

Approved by: _____ Date: _____

Print Name and Title: _____

Fire Protection Provided By: _____

ST. LOUIS COUNTY PERMIT APPLICATION NUMBER: _____

Notes: _____

HARDEE'S ICE CENTER
 CHESTERFIELD, MO
 41708
 CP040508
 Brian Bulluck

Sign shall be installed and securely anchored into place with the appropriate size and type anchoring devices in strict accordance with approved shop drawings. Contractor shall submit approved shop drawings to building inspector prior to installation of the signs.



This drawing has been prepared for your information only. It may not be reproduced in whole or in part without written permission or by right of purchase.

SPECIFICATIONS

Fabricate and install:

One(1) double-face illuminated pylon sign with two(2) single-face LED displays mounted back to back.

Main ID cabinet to be extruded aluminum flex face retainer with 18" deep aluminum cabinet and illuminated with HO fluorescent lamps and ballasts as necessary. Flex faces to be decorated with translucent vinyl graphics.

Cabinet and retainer to be painted White. Cap to be fabricated aluminum, painted Red.

LED displays to be mounted back to back with aluminum skin on returns unifying both displays.

Pole cover to be painted White, Yellow and Red.

A 120V primary circuit to sign shall be provided by other.

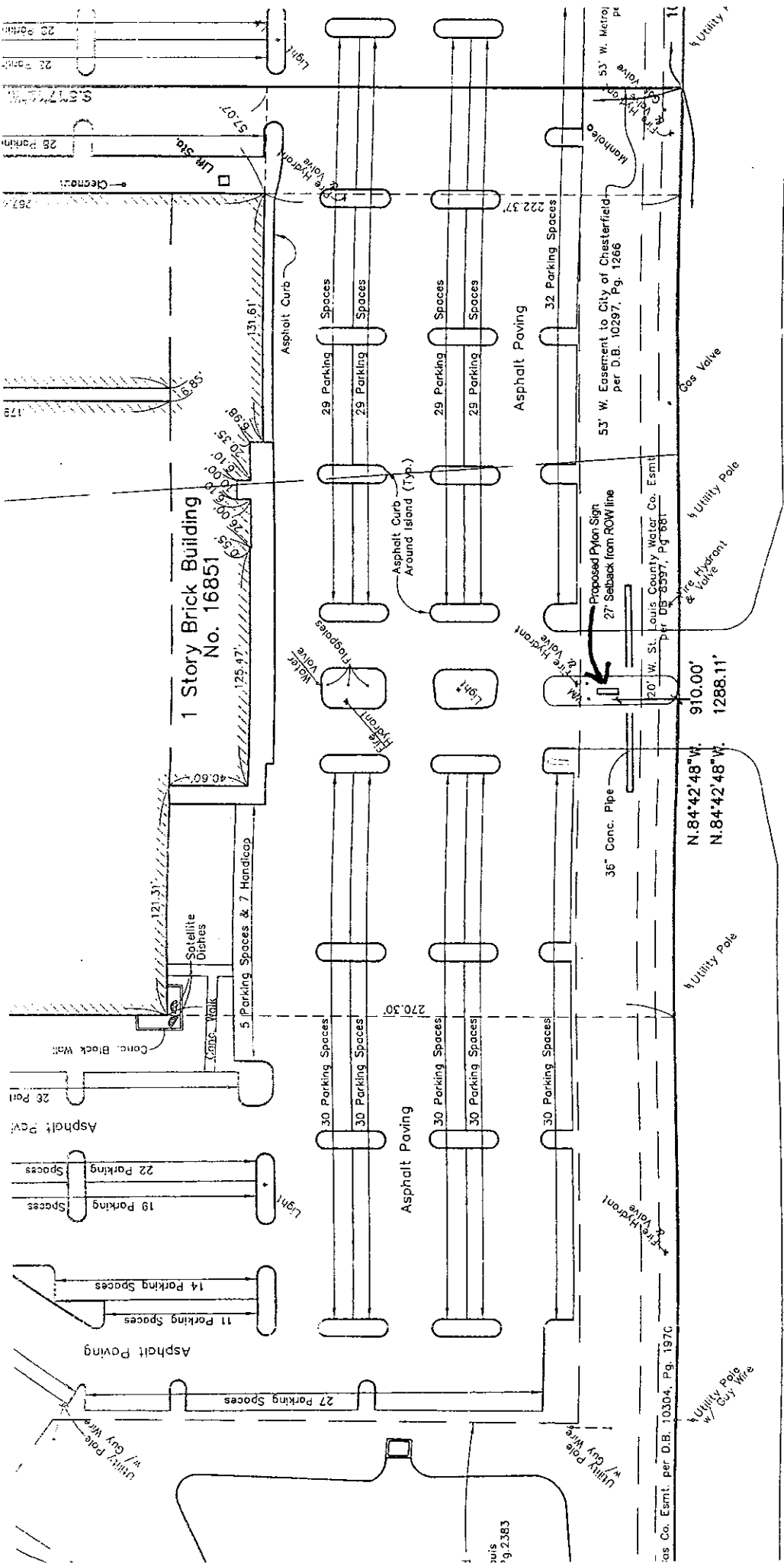
LED EMC SPECS:
 SIZE: 4'-2" x 10'-2" x 8" (Two SF)
 MATRIX: 24x64
 COLOR: 64MM RED



DF ILLUMINATED PYLON SIGN, 3/8" = 1'-0" TOTAL AREA: 52.6 (ID) + 42.4 (EMC) + 15.25 (TENANT) = 110.25 SQFT TOTAL HEIGHT: 20'-0"



WARREN
 2955 Ashland Lakeshore Rd., Annapolis, MD 21401
 Phone: 410-291-1100 www.warrensign.com



North Outer 40 Road

MISSOURI STATE HIGHWAY 40 T.R.

SCALE: 1" = 50'

COMPOSITE PROPERTY DESCRIPTION

GENERAL NOTES

- 10. Easement granted to St. Louis County Water Company according to instrument recorded in Book 8597, page 681 is on the subject parcels and is shown
- 11. Easement Agreement for ingress and egress according to instrument recorded in Book 9034, page 7617 is partially on parcel 1 and is shown

650,000 VISITORS PER YEAR

CONTINENTAL CHAMPIONSHIPS

- 2006 Special Hockey North American Tournament

NATIONAL CHAMPIONSHIPS & EVENTS

- 2005 Special Hockey Championships
- 2006 USA Hockey Central District Bantam Camp
- 2007 Youth Excellence in Sports Program as part of the 2007 Frozen Four NCAA Championships
- 2007 NCAA YES Clinic (in conjunction with 2007 NCAA Ice Hockey Championships)
- 2008 Robertson Cup Jr. A National Championships
- 2008 US Speedskating Sr. National Championships
- 2009 USA Hockey Youth National Championships

ANNUAL EVENTS & TOURNAMENTS

- The Arctic Blast MLK Holiday Tournament
- MidWest Prospects Fall Classic
- St. Louis AAA Blues Labor Day Tournament
- Arch March Recreational Tournament
- North American League Midget Showcase
- Top Flight February Tournament
- Northern Edge Elite Hockey Schools
- Puckfest Adult Tournament
- St. Louis Blues Alumni Charity Game
- Missouri High School Hockey State Semi-Finals



EXHIBIT U USERS

USER GROUPS

- Chesterfield Hockey Association- CHA accounts for almost 50% of all ice sold at the facility, and serves as the only ice hockey participation opportunity for the residents of the city of Chesterfield. With over 500 members, CHA is one of the largest youth hockey clubs in St. Louis.
- St. Louis AAA Blues- The AAA Blues are the elite hockey club in St. Louis and call the Hardee's Iceplex home. The AAA Blues account for 12% of all ice sold at the facility.
- High Schools- High schools that regularly practice at the facility include:
 - Marquette
 - Lafayette
 - Chaminade
 - Desmet
 - CBC
 - Whitfield
 - Westminster
 - Priory
 - Parkway Central
 - Parkway West
- Adult Leagues- We have more than 30 teams that participate in our adult league, making it the largest USA Hockey sanctioned league in St. Louis. This represents almost 500 participants.
- Northern Edge Elite Hockey School- We offer beginner lessons for over 300 families per year and host the Metro Edge Synchronized Skating Teams as well as Creve Coeur Skating Club.
- Speed Skating- We are a practice rink for the Metro Speed Skating Club
- St. Louis Blues Alumni- The former Blues players have a dedicated facility on property and call the facility home by practicing 1- 2 times per week and hosting several charity events throughout the year.
- St. Louis Bandits Jr. A Hockey Club- The Bandits are a developmental program for the best 16-20 year old players in the country. Over the past 3 seasons, the Bandits have sent more than 30 players on to major college teams with scholarships, and have had 5 players drafted in the National Hockey League, all while winning back to back National Championships.



8. *Attention Getting Devices (on-premises)*

- (1) *General.* Attention-getting devices which shall include, but are not limited to balloons, beacons, festoons, pennants and streamers shall be allowed in conjunction with a grand opening for each business. Said devices shall be in use for a period not to exceed fifteen (15) consecutive days and only upon the initial opening of each business. Attention-getting devices, with the exception of balloons, may be used in conjunction with a special promotion for a period not to exceed forty-five (45) days per calendar year. A temporary zoning authorization is not required for a attention-getting device.

1003.168E. Sign Regulations--Exempt and Prohibited Signs

1. *Exempt signs*

The following signs shall be exempt from the provisions of this ordinance. However, setback and height requirements for all structures, where applicable, shall be in accord with the regulations of the particular zoning district in which the structure is located.

- (1) Official traffic or government signs, including memorial plaques and signs of historical interest.
- (2) Flags of any nation, government or non-commercial organization.
- (3) Scoreboards on athletic fields.
- (4) Display window signs, not attached to a window, incorporated and related in content to such a display.
- (5) Temporary signs indicating a potential danger.
- (6) Public notices and legal notices required by law.
- (7) Holiday or seasonal display. Property Owners and tenants shall be permitted to put up and display decorations and displays celebrating or denoting religious holidays or events, the seasons of the year, state and national holidays, and similar occasions; provided, however, that this shall not allow balloons or similar devices prohibited herein; nor shall such Seasonal Displays be in place for a period longer than thirty (30) days. Should any Seasonal Display fail to meet these criteria, it shall be considered a Sign under this Section. If any Seasonal Display conveys a commercial advertising message or bears the name of the business, it shall be considered a Sign.
- (8) Gravestones.

- (d) A zoning authorization shall be obtained from the City of Chesterfield for the erection of all subdivision promotion, display house promotion and subdivision direction signs. In addition to the normal structural sign permit fee required by the City of Chesterfield Building Code, the applicant shall make a cash deposit with the Department of Planning of fifty dollars (\$50.00) for sign in excess of twenty (20) square feet in area, and of twenty-five dollars (\$25.00) for a sign of twenty (20) square feet, or less, in area, together with a written consent authorizing the removal of said sign. If such sign is not removed within five (5) days of the expiration of its permit period the applicant shall forfeit said deposit to cover the cost of removal.
 - (e) All subdivision direction signs, display house promotion and subdivision promotion signs shall be removed from the site on which they are located within one (1) year of the date the authorization was issued for said sign. Application for one (1) year extensions may be made through the Department of Planning at any time within to the last thirty (30) days of expiration.
- (8) *Real estate signs.* Real estate signs advertising the sale, rental or lease of a property or portion thereof may be erected on the property being offered. Each property may have no more than one such sign facing each roadway on which the property has frontage. These signs may be either freestanding or attached wall signs or banners. Such signs shall be confined to the property in question and shall be removed within fourteen (14) days after the sale, rental or lease being advertised. A sign permit shall not be required for freestanding real estate signs which are not greater than twenty-five (25) square feet in outline area; however, a zoning authorization is required for all real estate signs.
- (a) Real estate signs in the "FP" Flood Plain District, "PS" Park and Scenic District, "NU" Non-Urban District, or any "R" Residence District on vacant, undeveloped property containing five (5) or more acres in area shall not exceed thirty-two (32) square feet in outline area per facing.
 - (b) Other real estate signs located in the "FP" Flood Plain District, "PS" Park and Scenic District, "NU" Non-Urban District, and all "R" Residence Districts shall not exceed sixteen (16) square feet in outline area per facing.
 - (c) Real estate signs located in any "C" Commercial District, "M" Industrial District, or "MXD" Mixed Use Development District shall not exceed thirty-two (32) square feet in outline area per facing.

- (9) Statues.
- (10) Commemorative tablets and monument citations of less than ten (10) square feet that are an integral part of a permanent structure.
- (11) Incidental signs such as signs placed on vending machines, mailboxes, or service station pumps. Any sign such as a sandwich board with a commercial message that cannot be understood from a position off-site shall be considered incidental.
- (12) Accessory signs not exceeding four (4) square feet in outline area, which have an accessory use with respect to the lot on which the sign is located.
- (13) Identification signs which shall consist of lettering permanently attached to a wall or building, not exceeding four (4) square feet in outline area, which announce the name, and/or occupation, of the building occupant and is absent of any illumination.
- (14) Post Office Address.
 - (a) All buildings and structures having a post office address, shall list the street number of such post office address on the front of the building or structure in a type of sufficient size as to be clearly visible from any street adjacent to the property. In any case where the building or structure is not visible from the street that is adjacent to the property, or if the building is more than one hundred fifty (150) feet from the street adjacent to the property, the street number must be placed at some location on said property within fifty (50) feet of the adjacent street. This number need not always be on a mailbox, but a number on the mailbox on said property will satisfy the requirements of this statute. In the case of buildings or structures which are adjacent to more than one street, the number shall be visible from the street to which the post office address corresponds.
 - (b) All buildings or structures which are used for business, commercial, industrial, manufacturing or public purposes which have post office addresses shall list the street number of such post office address on the front of the building in a type of sufficient size (minimum three [3] inches, maximum twelve [12] inches) as to be clearly visible from a street adjacent to the property and on the rear of the building on the right edge of the building when facing the rear of the building and not less than six (6) feet nor more than eight (8) feet above the ground level.

2. *Prohibited Signs*

All signs not expressly permitted under this ordinance or expressly exempt from regulation hereunder in accordance with the above section are prohibited within the City of Chesterfield. Such signs shall include:

- (1) Abandoned signs.
- (2) Balloons.
- (3) **Electronic message centers.**
- (4) Off-premises signs.
- (5) Portable signs, unless used to convey public, not-for-profit, or civic information.
- (6) Projecting signs.
- (7) Rooftop signs.
- (8) Signs attached or painted on vehicles parked and visible from the public right-of-way unless said vehicle is used in the normal day-to-day operations of a business.
- (9) Signs affixed to bus stop shelters or other similar structures.

1003.168F. Sign Regulations - Nonconforming Signs.

1. *Scope of provisions*

The provisions of this section shall apply to all nonconforming signs. A nonconforming sign is one which existed lawfully whether by variance or otherwise, on the date this Zoning Ordinance or any amendment thereto became effective, and which fails to conform to one or more of the applicable regulations of the Zoning Ordinance or such amendment thereto.

Such non-conformities may be incompatible with permitted land uses and structures in the zoning districts in which they are situated; and they confer upon their owners and users a position of unfair advantage.

2. *Statement of intent*

Non-conformities are not to be expanded, and they should be abolished or reduced to conformity as quickly as the fair interest to the parties will permit.