

**CITY OF ST. HELENS PLANNING DEPARTMENT**  
**STAFF REPORT**  
**Variance V.5.22**

**DATE:** September 6, 2022  
**TO:** Planning Commission  
**FROM:** Jennifer Dimsho, AICP, Associate Planner

**APPLICANT:** St. Helens OR, LLC  
**OWNER:** St. Helens II LLC

**ZONING:** Highway Commercial, HC  
**LOCATION:** Vacant lot north of Howard Street & US 30  
**PROPOSAL:** Variance (Sign Adjustment) to allow two freestanding signs on the subject property

**SITE INFORMATION / BACKGROUND**

The subject property is Lot 4 of a 4-lot commercial subdivision (SUB.1.21). The site is the location of a proposed Burger King which was approved with SDR.2.22 in April 2022. The applicant (Burger King) would like to apply for a sign permit to install a freestanding pole sign along US 30 in the near future. The subject property also has a sign easement from 2003 located on the south corner of the property. The sign easement alone does not vest the right to construct a freestanding sign. If Burger King applies for a sign permit and constructs their freestanding pole sign in the short term, this Variance/Sign Adjustment would allow the benefitting party of the sign easement to be able to construct a **second** freestanding sign on the property in the future.



*Subject property taken from Howard Street looking towards the location of the sign easement on the south corner of the property. Burger King's proposed sign location is along US 30, approximately 20 feet from the sign easement.*

## PUBLIC HEARING & NOTICE

**Public hearing** before the Planning Commission: September 13, 2022

**Notice** of this proposal was sent to surrounding property owners within 100 feet of the subject properties on August 25, 2022 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

**Notice** was published on August 31, 2022 in The Chronicle newspaper.

## AGENCY REFERRALS & COMMENTS

As of the date of this staff report, no relevant agencies have provided feedback on this proposal.

## APPLICABLE CRITERIA, ANALYSIS & FINDINGS

### DISCUSSION:

Burger King would like the benefitting party of the sign easement (the abutting property owner) to be able to construct a second freestanding sign in the location of the easement after they have received approval for a freestanding pole sign on the same property. The applicable sign rules are below.

### SHMC 17.88.060 (a) Monument or Ground-Mounted Signs

- (i) For principal uses, one single- or double-faced monument or ground-mounted sign shall be permitted for each lot along the primary street frontage. Where a use has multiple street frontages, this signage may be permitted along each building frontage that abuts a TSP designated arterial or collector street. Sign area shall not exceed 40 square feet for each sign face.

Although there are two street frontages on the property (Howard Street and US 30), only US 30 is an arterial, so Howard Street would not be eligible for a second sign.

### SHMC 17.88.095 Freestanding Signs (5)

- (5) Only one freestanding sign is allowed for each street frontage unless multiple signs are approved through a comprehensive sign plan.

A comprehensive sign plan is for multi-tenant projects per SHMC 17.88.110 and would not be an option for one principal use as proposed (Burger King).

**Note:** Sign permit(s) have not yet been submitted. If granted, this Variance would allow two freestanding sign permits to be granted on the property, subject to conformance of all other sign permit approval criteria. Sign permits are required for any new sign.

**CRITERIA:**

**SHMC 17.88.135 Sign Adjustments**

- (2) The approval criteria per Chapter 17.108 SHMC shall apply, in addition to the following:
  - (a) Any reference to “zoning district” shall be substituted with “sign districts” per SHMC 17.88.050;
  - (b) The requested adjustment shall not result from actions of the applicant, owner(s) or previous owner(s), or from personal circumstances of the applicant, owner(s) or previous owner(s), such as physical condition, age or financial situation; and
  - (c) Approval of the adjustment will not adversely affect the function or appearance of the development and use of the subject property and surrounding properties; and will not impose limitations on other properties and signage in the area including signage that would be allowed on adjacent properties.
- (3) The planning commission shall conduct a public hearing on the request for adjustment. The commission shall approve, approve with conditions, or deny the adjustment, based upon the evidence at the hearing. The commission may impose such conditions as are deemed necessary to mitigate any adverse impacts which may result from approving the adjustment. The hearing shall be conducted under the procedures used by the commission for a quasi-judicial land use hearing.

**FINDINGS**

(a) This has been done in the next section.

(b) The sign easement was established in 2003 and did not involve the current property owner (St. Helens II LLC) or the applicant (St. Helens OR, LLC) of this variance. When the sign easement was established, it was between St. Helens Partners (a Washington general partnership) and Columbia Commons LLC (an Oregon limited liability company).



In addition, there is a similar sign easement located at the northern end of the lot where a ground mounted “Columbia Commons” sign was constructed, but no similar sign was constructed in the southern easement. The Commission could find that the requested adjustment is not the result of personal circumstances related to physical condition, age, or financial situations of the applicant, owners, or previous owners.

(c) The minimum distance requirement between freestanding pole signs is 80 feet. Based on the proposed location of Burger King’s pole sign, another pole sign could not be placed within the sign easement. However, if this variance is granted, approval of a ground-mounted sign or monument sign, similar to the existing “Columbia Commons” sign, could be granted (assuming conformance of all other signage approval criteria). The Commission could find that approval

will **reduce** a limitation on the adjacent property, allowing a second freestanding sign to be constructed.

**SHMC 17.108.050 (1) – Criteria for granting a Variance**

- (a) The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same **sign** district or vicinity;
- (b) There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same **sign** district;
- (c) The use proposed will be the same as permitted under this code and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;
- (d) Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code; and
- (e) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

**FINDINGS:**

**(a) This criterion requires a finding that the variance will not be detrimental.**

- See applicant’s narrative.
- Staff comments: Approval of the variance allows the adjacent property owner (the benefitting party of the easement) to construct a second freestanding sign on the property. The Commission could find that approval of this sign variance reduces a detrimental impact to an adjacent property owner by allowing a second freestanding sign to advertise the larger Columbia Commons complex.

**(b) The criterion requires a finding that there are special and unique circumstances.**

- See applicant’s narrative.
- Staff comments: The Commission could find that the sign easement is a special circumstance specific to this lot and is not applicable to other properties in the same sign district.

**(c) This criterion prohibits a use variance and requires a finding that the applicable standards are maintained to the greatest extent that is reasonably possible.**

- See applicant’s narrative.
- Staff comments: The Commission can find that this is not a use variance. There are other rules which permit multiple freestanding ground-mounted signs on each street frontage for the same property, but they do not apply in this case. The Commission could find that the standards are being maintained to the greatest extent possible.

**(d) This criterion requires a finding that existing physical and natural systems will not be adversely affected as a result of the requested Variance.**

- See applicant's narrative.
- Staff comments: There is no evidence that there are adverse impacts related to traffic, drainage, landforms, or parks that would be affected any more than if development were located as specified in the code.

**(e) This criterion requires a finding that the variance issue is not self-imposed and that the variance is the minimum necessary to alleviate the hardship.**

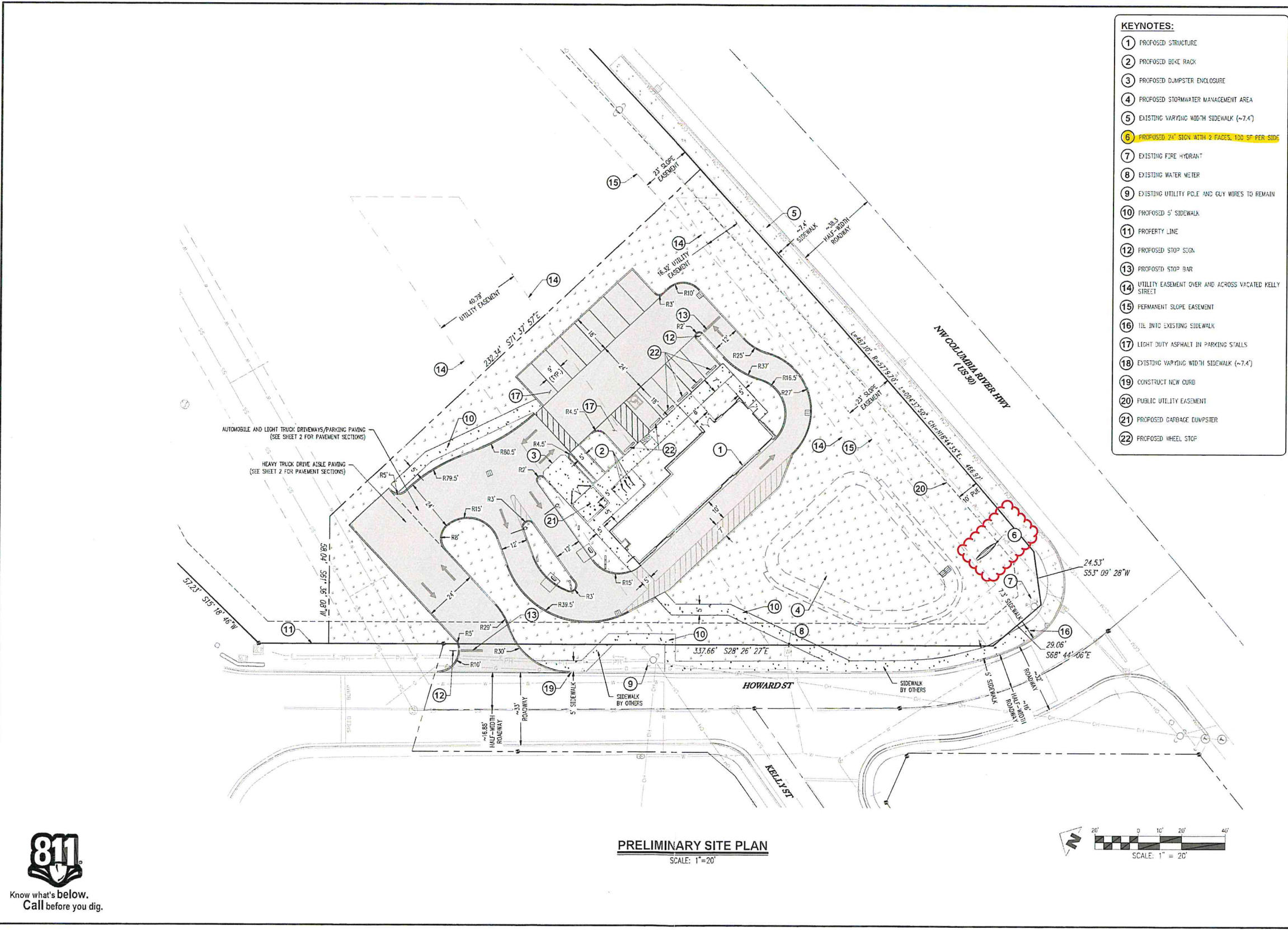
- See applicant's narrative.
- Staff comments: The Commission must find that this issue is not self-imposed and that the variance is minimum necessary to alleviate the hardship.

### **CONCLUSION & RECOMMENDATION**

**Based upon the facts and findings herein, staff recommends approval of this Variance/Sign Adjustment with the following conditions:**

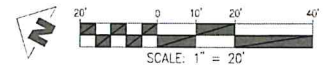
1. This Variance approval is valid for a limited time pursuant to SHMC 17.108.040. The sign easement may be used for the second sign if the proposed sign outside of the easement is established within the validity period of this Variance.
2. Any sign requires a sign permit prior to installation. This Variance **is not** a substitute for a sign permit.
3. This Variance is only valid as long as the existing sign easement is in place.
4. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17), except for the Variance(s) granted herein.

**Attachments:** *Alta Land Title Survey, Preliminary Site Plan, Applicant's Narrative*



- KEYNOTES:**
- 1 PROPOSED STRUCTURE
  - 2 PROPOSED BIKE RACK
  - 3 PROPOSED DUMPSTER ENCLOSURE
  - 4 PROPOSED STORMWATER MANAGEMENT AREA
  - 5 EXISTING VARYING WIDTH SIDEWALK (~7.4')
  - 6 PROPOSED 24" SIGN WITH 2 FACES, 120 SF PER SIDE
  - 7 EXISTING FIRE HYDRANT
  - 8 EXISTING WATER METER
  - 9 EXISTING UTILITY POLE AND GUY WIRES TO REMAIN
  - 10 PROPOSED 5' SIDEWALK
  - 11 PROPERTY LINE
  - 12 PROPOSED STOP SIGN
  - 13 PROPOSED STOP BAR
  - 14 UTILITY EASEMENT OVER AND ACROSS VACATED KELLY STREET
  - 15 PERMANENT SLOPE EASEMENT
  - 16 TIL INTO EXISTING SIDEWALK
  - 17 LIGHT DUTY ASPHALT IN PARKING STALLS
  - 18 EXISTING VARYING WIDTH SIDEWALK (~7.4')
  - 19 CONSTRUCT NEW CURB
  - 20 PUBLIC UTILITY EASEMENT
  - 21 PROPOSED GARBAGE DUMPSTER
  - 22 PROPOSED WHEEL STOP

**PRELIMINARY SITE PLAN**  
SCALE: 1"=20'



**HOWARD STREET**  
TAX MAP 4104-BA  
TAX LOT 3600  
CITY OF ST. HELENS, OREGON

**SITE PLAN**

REVISIONS	
NO.	DESCRIPTION
0	AGENCY SUBMITTAL
1	8/2/2022

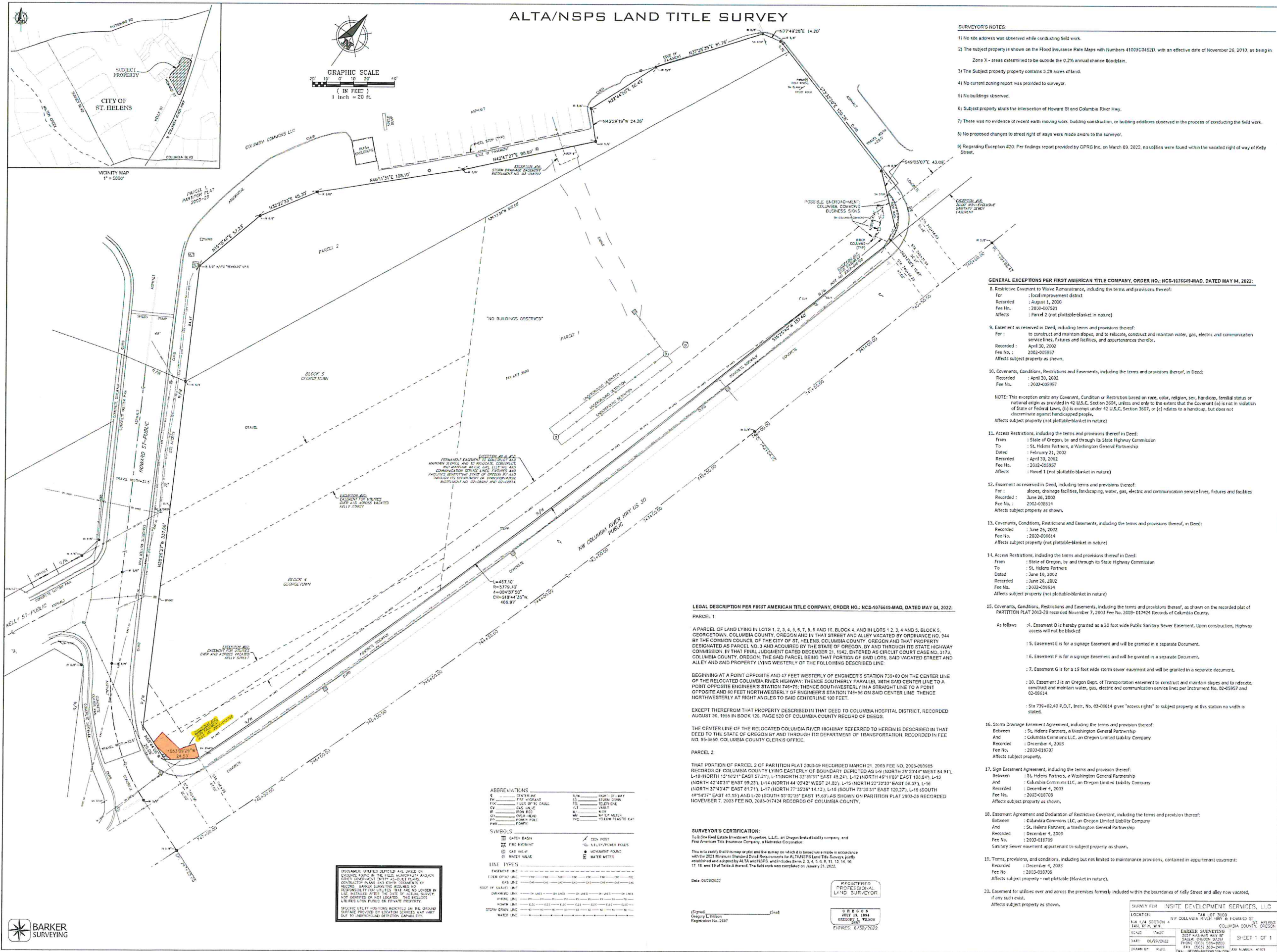
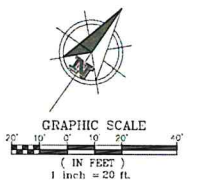
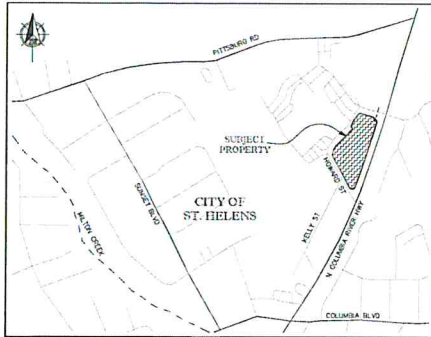
**EMERIO**  
ENGINEERING - SURVEYING - DESIGN  
6445 SW FALLERON PLACE, SUITE 100  
BEAVERTON, OREGON 97008  
TEL: (503) 638-0100  
FAX: (503) 638-0102  
www.emeriodesign.com



SHEET  
**04**  
OF  
**12**

P.L.E.P. 10990-001 Howard and US-30 Restaurant/Temp Lot/0990-001\_04 Site Plan, Plot Date: 8/2/2022 3:51 PM, by: Kellan Smith

ALTA/NSPS LAND TITLE SURVEY



- SURVEYOR'S NOTES:**
- 1) No site address was observed while conducting field work.
  - 2) The subject property is shown on the Flood Insurance Rate Maps with Numbers 41002C0452D with an effective date of November 26, 2010, as being in Zone X - areas determined to be outside the 0.2% annual chance floodplain.
  - 3) The Subject property contains 3.29 acres of land.
  - 4) No current zoning report was provided to surveyor.
  - 5) No buildings observed.
  - 6) Subject property abuts the intersection of Howard St and Columbia River Hwy.
  - 7) There was no evidence of recent earth moving work, building construction, or building additions observed in the process of conducting the field work.
  - 8) No proposed changes to street right of ways were made aware to the surveyor.
  - 9) Regarding Exception #20: Per findings report provided by GPRG Inc. on March 09, 2022, no utilities were found within the vacated right of way of Kelly Street.

**GENERAL EXCEPTIONS PER FIRST AMERICAN TITLE COMPANY, ORDER NO.: NCS-1676649-MAD, DATED MAY 04, 2022:**

8. Restrictive Covenant to Waive Remonstrance, including the terms and provisions thereof:  
For: Local Improvement District  
Recorded: August 1, 2000  
Fee No.: 2000-009521  
Affects: Parcel 2 (not plottable-blanket in nature)
9. Easement as reserved in Deed, including terms and provisions thereof:  
For: to construct and maintain slopes, and to relocate, construct and maintain water, gas, electric and communication service lines, fixtures and facilities, and appurtenances therefor.  
Recorded: April 30, 2002  
Fee No.: 2002-009597  
Affects subject property as shown.
10. Covenants, Conditions, Restrictions and Easements, including the terms and provisions thereof, in Deed:  
Recorded: April 30, 2002  
Fee No.: 2002-009597
- NOTE: This exception omits any Covenant, Condition or Restriction based on race, color, religion, sex, handicap, familial status or national origin as provided in 42 U.S.C. Section 3604, unless and only to the extent that the Covenant (a) is not in violation of State or Federal Law, (b) is exempt under 42 U.S.C. Section 3607, or (c) relates to a handicap, but does not discriminate against handicapped people.  
Affects subject property (not plottable-blanket in nature)
11. Access Restrictions, including the terms and provisions thereof in Deed:  
From: State of Oregon, by and through its State Highway Commission  
To: St. Helens Partners, a Washington General Partnership  
Dated: February 21, 2002  
Recorded: April 30, 2002  
Fee No.: 2002-009597  
Affects: Parcel 2 (not plottable-blanket in nature)
12. Easement as reserved in Deed, including terms and provisions thereof:  
For: slopes, drainage facilities, landscaping, water, gas, electric and communication service lines, fixtures and facilities  
Recorded: June 26, 2002  
Fee No.: 2002-008614  
Affects subject property as shown.
13. Covenants, Conditions, Restrictions and Easements, including the terms and provisions thereof, in Deed:  
Recorded: June 25, 2002  
Fee No.: 2002-008614  
Affects subject property (not plottable-blanket in nature)
14. Access Restrictions, including the terms and provisions thereof in Deed:  
From: State of Oregon, by and through its State Highway Commission  
To: St. Helens Partners  
Dated: June 15, 2002  
Recorded: June 26, 2002  
Fee No.: 2002-006614  
Affects subject property (not plottable-blanket in nature)

**LEGAL DESCRIPTION PER FIRST AMERICAN TITLE COMPANY, ORDER NO.: NCS-1676649-MAD, DATED MAY 04, 2022:**

**PARCEL 1**  
A PARCEL OF LAND LYING IN LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9 AND 10, BLOCK 4, AND IN LOTS 1, 2, 3, 4 AND 5, BLOCK 5, GEORGETOWN, COLUMBIA COUNTY, OREGON AND IN THAT STREET AND ALLEY VACATED BY ORDINANCE NO. 944 BY THE COMMON COUNCIL OF THE CITY OF ST. HELENS, COLUMBIA COUNTY, OREGON AND THAT PROPERTY DESIGNATED AS PARCEL NO. 3 AND ACQUIRED BY THE STATE OF OREGON, BY AND THROUGH ITS STATE HIGHWAY COMMISSION, IN THAT FINAL JUDGMENT DATED DECEMBER 31, 1942, ENTERED AS CIRCUIT COURT CASE NO. 3173, COLUMBIA COUNTY, OREGON, THE SAID PARCEL BEING THAT PORTION OF SAID LOTS, SAID VACATED STREET AND ALLEY AND SAID PROPERTY LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT OPPOSITE AND 47 FEET WESTERLY OF ENGINEER'S STATION 739+00 ON THE CENTER LINE OF THE RELOCATED COLUMBIA RIVER HIGHWAY; THENCE SOUTHERLY PARALLEL WITH SAID CENTER LINE TO A POINT OPPOSITE ENGINEER'S STATION 746+75; THENCE SOUTHWESTERLY IN A STRAIGHT LINE TO A POINT OPPOSITE AND 60 FEET NORTHWESTERLY OF ENGINEER'S STATION 749+96 ON SAID CENTER LINE; THENCE NORTHWESTERLY AT RIGHT ANGLES TO SAID CENTERLINE 100 FEET.

EXCEPT THEREFROM THAT PROPERTY DESCRIBED IN THAT DEED TO COLUMBIA HOSPITAL DISTRICT, RECORDED AUGUST 05, 1955 IN BOOK 126, PAGE 520 OF COLUMBIA COUNTY RECORD OF DEEDS.

THE CENTER LINE OF THE RELOCATED COLUMBIA RIVER HIGHWAY REFERRED TO HEREIN IS DESCRIBED IN THAT DEED TO THE STATE OF OREGON BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, RECORDED IN FEE NO. 89-3659, COLUMBIA COUNTY CLERK'S OFFICE.

**PARCEL 2**  
THAT PORTION OF PARCEL 2 OF PARTITION PLAT 2003-09 RECORDED MARCH 21, 2003 FEE NO. 2003-003865 RECORDS OF COLUMBIA COUNTY LYING EASTERLY OF BOUNDARY DEPICTED AS L-9 (NORTH 26°29'44" WEST 84.91'), L-10 (NORTH 12°16'21" EAST 57.21'), L-11 (NORTH 32°35'31" EAST 45.24'), L-12 (NORTH 46°11'09" EAST 102.84'), L-13 (NORTH 42°46'31" EAST 69.23'), L-14 (NORTH 44°37'42" WEST 24.02'), L-15 (NORTH 22°22'33" EAST 56.37'), L-16 (NORTH 37°43'47" EAST 81.71'), L-17 (SOUTH 77°32'35" EAST 14.13'), L-18 (SOUTH 73°23'31" EAST 120.37'), L-19 (SOUTH 48°54'37" EAST 43.15') AND L-20 (SOUTH 00°02'23" EAST 15.89') AS SHOWN ON PARTITION PLAT 2005-28 RECORDED NOVEMBER 7, 2005 FEE NO. 2005-017424 RECORDS OF COLUMBIA COUNTY.

**SURVEYOR'S CERTIFICATION:**  
To: St. Helens Real Estate Investment Properties, LLC, an Oregon limited liability company and First American Title Insurance Company, a Nebraska Corporation  
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2001 Minimum Standards and Procedures for ALTA/NSPS Land Title Surveys as established and adopted by ALTA and NSPS and include Items 2, 3, 4, 5, 6, 8, 11, 13, 14, 16, 17, 18, and 19 of Table A in said Standards. The field work was completed on January 21, 2022.

Deed: 06292022  
GREGORY L. WILSON  
REGISTERED PROFESSIONAL LAND SURVEYOR  
EXPIRES: 6/30/2023

**ABBREVIATIONS**

S	SPRING	N/W	NO. OF WAY
W	WATER	TL	TOWNSHIP
FC	FOOT OF CURB	RL	RANGE
CV	CORNER	HT	HIGHWAY
BY	BY	MT	MOUNTAIN
ST	STREET	ML	MILE
PS	PUBLIC SQUARE	MS	METERS
PK	POWER	YD	YARDS

**SYMBOLS**

□	CATCH BASIN	○	IRON POST
▣	PAVEMENT	○	UTILITY/POLE
○	GAS VALVE	○	MONUMENT FOUND
○	WATER VALVE	○	WATER METER

**LINE TYPES**

FAZMNT DPT  
 FIDER OF NO. L&C  
 GAS L&C  
 FOOT OF CURB L&C  
 DRAINAGE L&C  
 POWER L&C  
 HIGHWAY L&C  
 STORM DRAIN L&C  
 WATER L&C

STANDARD MAPS DEPICED ARE BASED ON LOCATIONS IN THE FIELD. WHEREAS A SURVEYOR ENTERS COMPASS BEARING AND DISTANCE INFORMATION FOR LINES AND CORNERS TO BE RECORDED, BEARING SURVEYS ARE ASSUMED TO BE CORRECT UNLESS THE STATE OF OREGON SURVEY NOTIFICATION IS NOT LOCATED. THE HIGHEST LATITUDE LIES ON PUBLIC OR PRIVATE PROPERTY. SPECIFIC UTILITY LOCATIONS NOTED ON THE GROUND SURFACE PROVIDED BY LOCATION SERVICES MAY VARY DUE TO UNRECORDED DEVIATIONS.



**SURVEY FOR: INSITE DEVELOPMENT SERVICES, LLC**

LOCATION: NW CORNER N. VICTORY & HOWARD ST. ST. HELENS, OR  
 N. 1/4 SECTION 4 T4S, R. 12E, S. 12E COLUMBIA COUNTY, OREGON

DATE: 06/30/2022 SHEET 1 OF 1

PHONE: (503) 326-2483 FAX: (503) 326-2483

August 23, 2022

Jacob Graichen, AICP  
City Planner  
City of St. Helens  
265 Strand Street  
St. Helens, OR 97051

Dear Mr. Graichen,

Below are itemized responses to each of the criteria listed in St. Helens Municipal Code Title 17, Chapter 108, Section 040, as it relates to the proposed variance allowing two (2) signs on one (1) property located at 405 N. Columbia River Hwy.

**Criteria for Granting a Variance:**

(a) The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same zoning district or vicinity;

**RESPONSE:** The proposed variance will not be significantly detrimental to the overall purpose of the code, as there is an unnecessary hardship posed to the piece of land by an existing sign easement located on the property. Currently, there is an easement allowing the owner of the adjacent property, located at 500 North Columbia River Highway, the rights to construct a sign within the easement area, which is restricted to roughly 10' from the southern property corner, at the intersection of Howard St. and Columbia River Highway. A similar sign has already been constructed at the northern corner of the existing property, located at the southwest corner of the intersection of Wyeth St. and Columbia River Highway. Now, the overall property is being re-developed into four (4) separate parcels for commercial uses, however, the southernmost parcel is currently restricted, regarding signage improvements, because of the existing sign easement in the southern corner. The proposed variance will allow for construction of the proposed fast food restaurant sign, while maintaining the rights for the sign, which were granted to the adjacent property owner.

(b) There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;



**RESPONSE:** Previously, a sign was allowed to be constructed at the north end of the existing lot, and an easement for a second sign was provided on the southern corner of the existing, single lot. Now, the lot is being divided into four (4) separate parcels, each of which will likely contain a commercial development with individual signs. The southernmost lot would like to construct a commercial sign, similar to the rest of the properties within the development but would also like for the adjacent property owner to maintain their rights to construct a sign on the property as well.

(c) The use proposed will be the same as permitted under this code and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;

**RESPONSE:** The proposed variance will not have any effect on the use permitted by City Code and Standards.

(d) Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code; and

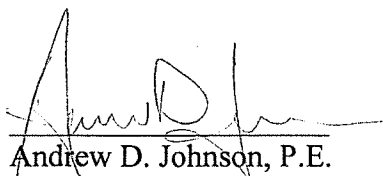
**RESPONSE:** The proposed variance will not have any effect on traffic, drainage, dramatic landforms or parks.

(e) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

**RESPONSE:** The hardship is not self-imposed, as the sign easement existed prior to any commercial development interest. The variance requested is the minimum scope of work required to allow the proposed restaurant sign to be constructed. To clarify, only the restaurant sign will be constructed in the near future, while the sign for the adjacent property exists only by-right via the easement.

Please don't hesitate to contact me if you have any questions or concerns regarding the information presented above.

Sincerely,



Andrew D. Johnson, P.E.  
Project Manager