



## **CITY OF RACINE DEPARTMENT OF CITY DEVELOPMENT STAFF REPORT**

**Meeting Date:** 5/8/2019

**To:** Zoning Board of Appeals Members

**From:** City Development Department, Division of Planning and Redevelopment

**Division Manager:** Matt Sadowski – (262) 636-9152 [matthew.sadowski@cityofracine.org](mailto:matthew.sadowski@cityofracine.org)

**Case Manager:** Jeff Hintz

**Location:** 4620 Washington Avenue

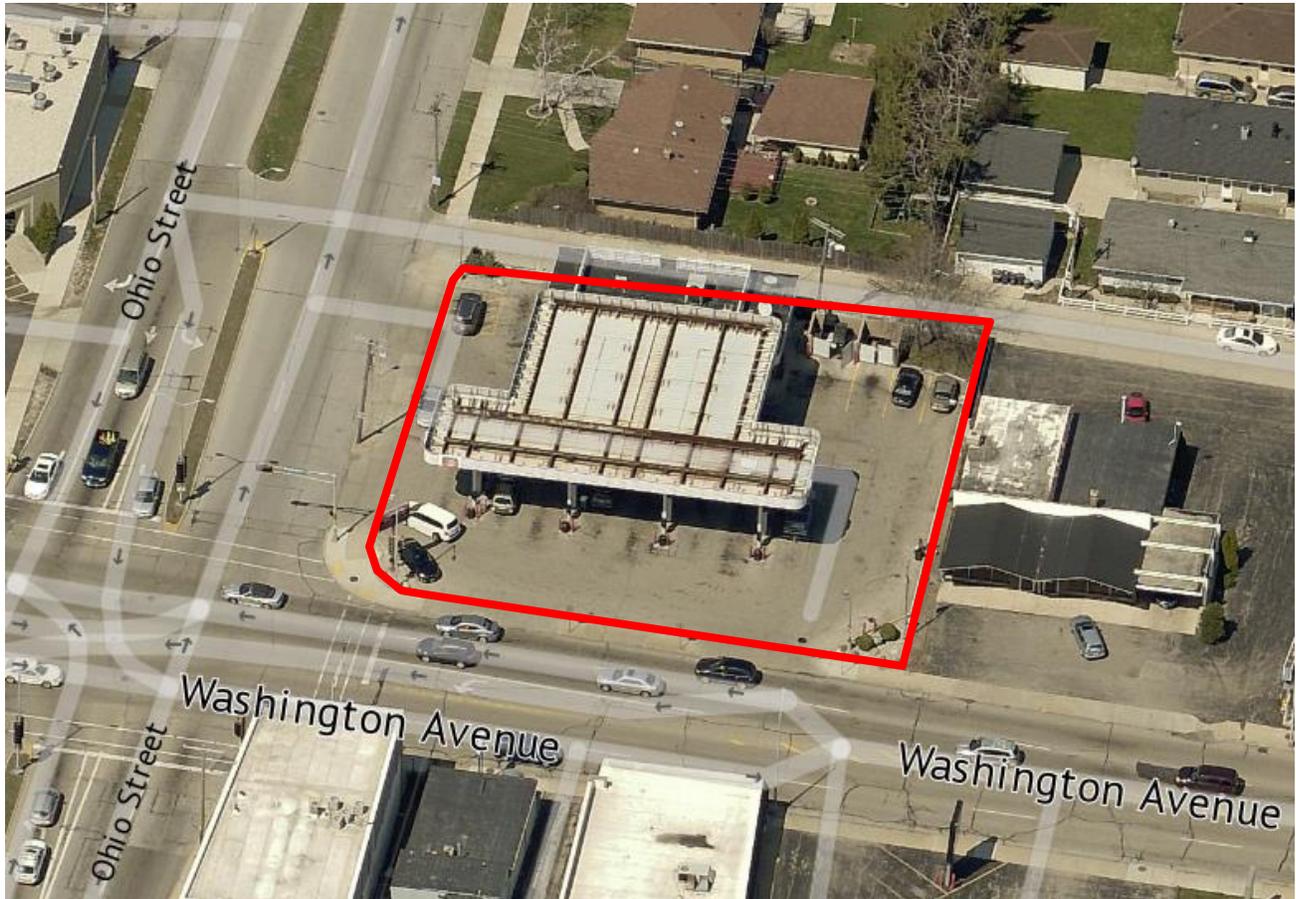
**Applicant:** Todd Farris, Agent for Speedway LLC

**Property Owner:** EMRO MARKETING COMPANY

**Request:** Consideration of a variance in which the applicant seeks to exceed the maximum height of a sign structure as allowed by [Sec. 114-1078\(1\)c](#) of the Municipal Code. The maximum allowable height is 15 feet and the proposed signage would be 22 feet in overall height. The proposed sign is the existing sign which is required to be removed for a road construction project.

**BACKGROUND AND SUMMARY:** The applicant seeks to reinstall an existing pole sign on the property after the Highway 20 reconstruction project is completed. A construction easement necessitates the removal of this sign for a temporary period. Any sign being reinstalled would need to comply with all development standards; the applicant seeks to reinstall the existing sign on the property once the construction project is completed. As a result, the overall height would be seven (7) feet taller than what is allowed by Sec. 114-1078(1)c of the Municipal Code.

The Zoning Ordinance establishes the maximum height of freestanding signage in the B-2 Community Shopping Zone District as 15 feet above the curb level.



Birdseye view of the property, indicated in red (image from City Pictometry).

## GENERAL INFORMATION

**Parcel Number:** [10803011](#)

**Property Size:** .4344 acres

**Comprehensive Plan Map Designation:** Commercial

**Consistency with Adopted Plans:**

The [Racine Comprehensive Plan](#) states that:

- The plan should encourage the redevelopment of older areas and commercial areas.
- Maintain and develop a land use pattern that strengthens the character and livability of the City's downtown core, commercial and industrial areas, and neighborhoods.
- Promote redevelopment and infill in areas with existing infrastructure and services, enhancing existing residential, commercial, and industrial areas.

**Corridor or Special Design District?:** N/A

**Historic?:** N/A

**Current Zoning District:** B-2 Community Shopping

**Purpose of Zone District:** The B2 community shopping district is intended to accommodate the needs of a much larger consumer population than is served by the neighborhood convenience district, thus a wider range of uses and structure sizes is permitted for both daily and occasional shopping.

**Proposed Zoning:** No change proposed

**Existing Land Use:** Gas station with convenience store.

**Surrounding Zoning and Land Uses:**

<b>North</b>	R-2 Single Family Residence	Detached dwelling units
<b>East</b>	B-2 Community Shopping	Dry cleaning business
<b>South</b>	B-1 Neighborhood Convenience	Available storefront
<b>West</b>	B-2 Community Shopping	Shopping center

## **ANALYSIS:**

Development Standards:

**Sign Regulations:** (114-Article X): The existing signage on the parcel is 22 feet in total height, which is seven feet above the maximum for this zone district. The existing sign is legal non-conforming as it predates the requirement that signs be 15 feet in maximum height. When the existing signage is removed, any new signage would need to comply with this requirement, (regardless of how the existing signage is removed) and thus the request for a variance.

## **REQUIRED FINDINGS OF FACT ZONING BOARD OF APPEALS:**

STANDARDS FOR VARIANCES - Sec. 114-48(a)

The board of appeals shall not vary the regulations of this chapter unless it shall make findings based upon the evidence presented to it in each specific case that:

- 1) **Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;**

Staff Comments: There is nothing particularly unique topographically or because of the physical surroundings which create a hardship on the lot. The variance sought is related to height and is not related to an x or y plane dimensional issue, but a z variable (height) issue if thought about in three dimensions. There isn't anything particular to this lot which would not allow the height requirement to be met. It is true that if maintained in its existing state and not required to be moved for the construction project that the sign could remain so long as it was maintained. That being said, the fact has nothing to do with this criteria, as there is nothing special about this lot which would not allow a pole sign to be placed. At some point, the sign would be taken down and a new one would be required to comply with whatever development standards are in place. Utilizing the existing sign is more convenient for the applicant, but complying with this provision in the code is not impossible.

- 2) The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;**

Staff Comments: There are dozens of properties in the City with this zoning designation and located on a corner lot. The variance request is not for a factor which is unique to this property. There are fewer properties along Washington Avenue and subject to this construction project, but a similar situation is likely anytime there is construction of a major roadway through a business district. Whether or not the reason for removing the signage is by self-choice, an accident, highway project, or some other cause, the requirement would be the same and there is nothing unique to this lot or circumstance which prevents the 15 foot maximum height from being met.

- 3) The purpose of the variance is not based exclusively upon a desire to increase financial gain;**

Staff Comments: Staff has found that the variance is generally based upon financial gain and/or convenience. The existing sign is there and being required to be removed during construction of the roadway, however the property owner is also being compensated for this temporary construction easement. It is also true that if not for the construction project, the signage would not have to be removed; while true, at some point in the future due to age, desire for a new sign, an accident or unforeseen circumstance, the replacement sign would be required to meet development standards. No one disagrees what is proposed is the most practical, it appears to be rooted exclusively in the area of financial gain/convenience of using the same signage again.

- 4) The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently having an interest in the property;**

Staff Comments: The hardship isn't caused by the provisions of the Zoning Ordinance, but rather in the fact that there is a highway project which requires the sign be removed to accommodate roadway construction. This is certainly not the fault of the property owner, agent or sign company which would be doing this work or anyone else with interest in the property. In the sense that the business wouldn't otherwise plan on taking this sign down in the coming months, yes there is a hardship not

caused by anyone with an interest in the property. However, at some point that sign would be removed and compliance with whatever signage requirements were in place at that time, would be required. Exactly when that time of sign replacement would have been in the future, no one can be certain of; but regardless of what that time would be, a new sign would be placed. What is certain is that time has come, through no fault of the owner, but at the same time, also not through a hardship caused by the provisions of the chapter. There are dozens of signs throughout the City which are taller than 15 feet and predate the existing development requirements; whenever a change is adopted, it is with the intent that eventually compliance will occur. A change of this nature takes decades to achieve citywide, but is something that would eventually occur. While perhaps not convenient or ideal for signage which is existing, compliance with current standards is something that is required to occur.

- 5) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and**

Staff Comments: This request would be detrimental to the public welfare in the sense that others with noncompliant signage have made changes to signage and been required to comply with development standards, including the 15 foot height requirement, when installing a new sign. Yes, there are other signs in the community which are taller than 15 feet, and as those are replaced, they will be required to meet the current development standards. To allow this sign to be reinstalled has the potential to send a message that this development standard is optional and doesn't need to be adhered to; that would be detrimental to the public welfare and injurious to those who have complied with this development requirement.

- 6) The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

Staff Comments: The granting of this variance is not expected to impair light and air to advance properties or cause congestion on the streets. The signage would be more beneficial to the property owner if the messaging were located closer to the ground at eye level with passing drivers. As the sign becomes more readable from a distance perspective, the height increases to that those stopped at the light may not be able to actually easily see it. While this is not something the regulation pertains to, readability and driver eye level is something the applicant would be concerned about. Will leaving the sign at 22 feet in overall height impair light or air, increase congestion or cause problems for adjacent properties? The answer is that no, it is not likely or anticipated.

## **POSSIBLE ACTIONS FOR THE ZONING BOARD OF APPEALS**

1. Approve the request as submitted; or
2. Approve the request with conditions deemed necessary to mitigate any adverse impacts that could arise from the project; or
3. Deny the request; or
4. Defer the request to obtain more specific information about the request.

## **STAFF DOES NOT SUPPORT THE APPLICATION FOR THE FOLLOWING REASONS:**

- Variance is grounded in convenience (financial gain) as opposed to a hardship or unique feature(s) about the property.
- Staff does not find that all the criteria for the Zoning Board of Appeals to grant a variance have been met.

**STAFF RECOMMENDATION:** BASED ON THE FINDINGS OF FACT IN THIS REPORT, THAT THE REQUEST FROM SPEEDWAY LLC., SEEKING A 7 FOOT VARIANCE FROM SEC. 114-1078(1)c TO CONSTRUCT A 22 FOOT SIGN, AT 4620 WASHINGTON AVENUE BE DENIED.

## **ATTACHMENTS:**

- 1) Property owner notification map indicating the subject property;
- 2) Aerial Photo indicating the subject property;
- 3) Zoning Map indicating the subject property;
- 4) Land Use Map from Comprehensive Plan, indicating the subject property;
- 5) Site photos of the property and general area; and
- 6) Submittal documents ([click to view](#)).

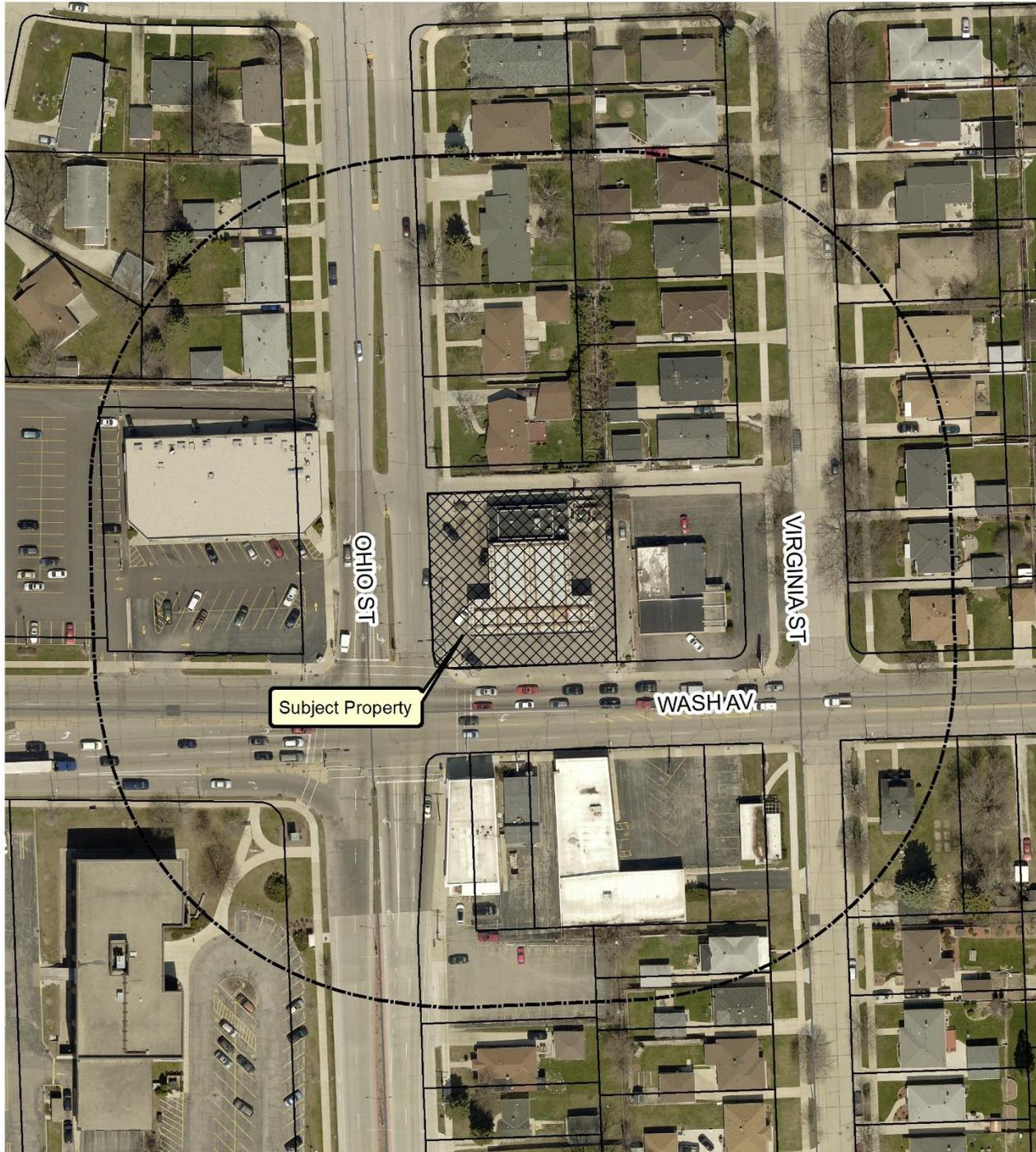


# Variance Request - 4620 Washington Avenue

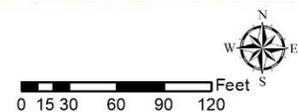




# Variance Request - 4620 Washington Avenue



-  Subject Property
-  Notification Area
-  Street Centerline
-  Tax Parcel Boundary



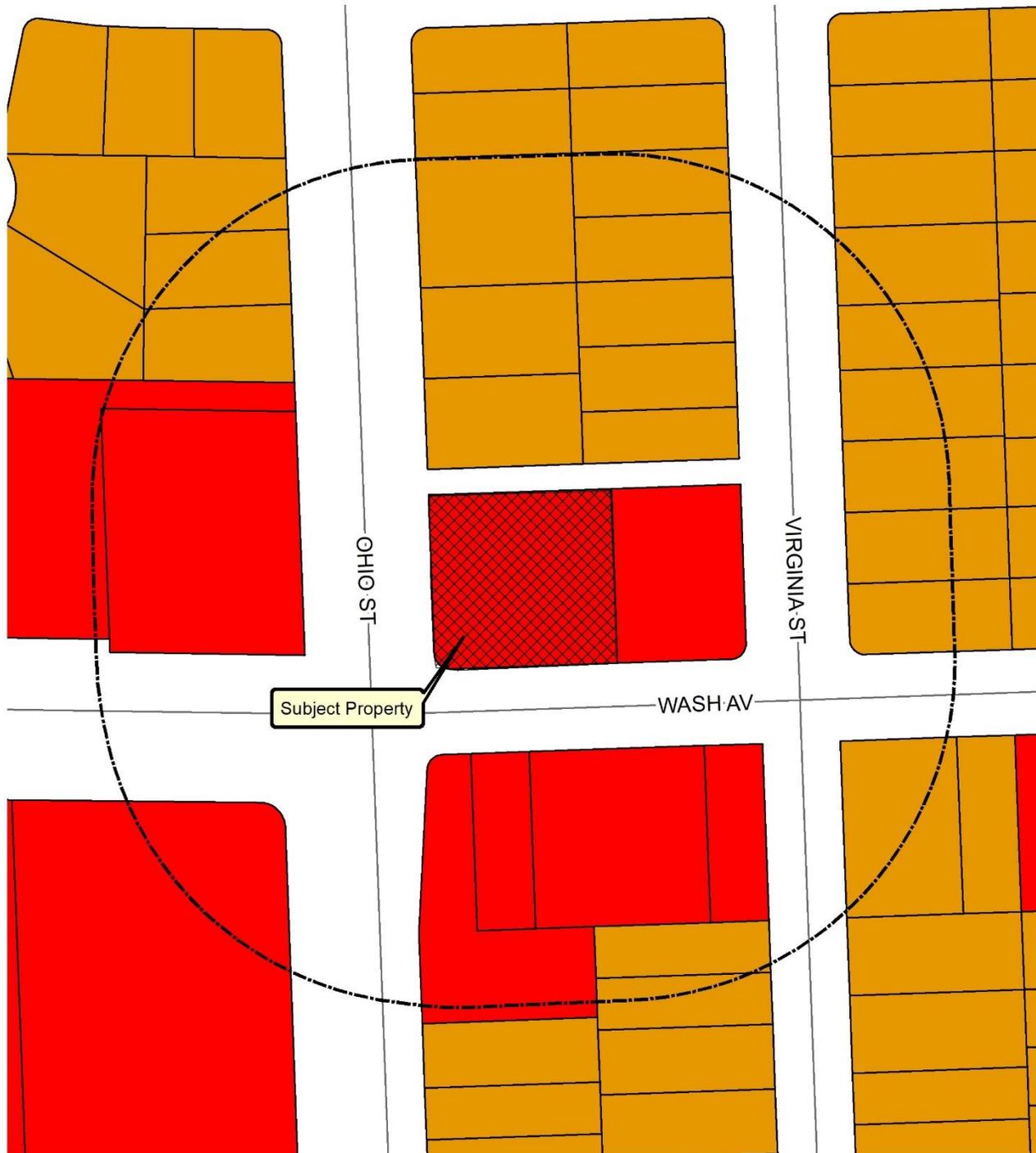


# Variance Request - 4620 Washington Avenue





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### Land Use Designation

Commercial Medium Density Residential

Subject Property Notification Area  
 Street Centerline Tax Parcel Boundary

0 15 30 60 90 120 Feet

### Site Photos



Looking west at signage subject to variance request



Looking south from subject property



Looking east from subject property along Washington Avenue



Looking south from property down Ohio Street



Looking north along Ohio Street from subject property



Looking south at signage subject to variance request