



Board of Adjustment Meeting Agenda

**Tuesday,
August 09, 2022
5:30 p.m.**

**Commerce City Civic Center
Council Chambers
7887 East 60th Avenue**

**CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL**

APPROVAL OF MINUTES: March 08, 2022 **Pg. 3**

NEW CASES:

1. **A-1760-V-22:** Ware Malcomb is requesting the approval of two sign variances of (66 sq. ft. in size and 4-ft. in height) to allow a 166 sq. ft. and 24-ft. tall sign, for the property located at the NEC of E. 104th Ave. & Joliet St., zoned I-2 (Medium Intensity Industrial District). **Pg. x**

**BOARD BUSINESS:
ATTORNEY BUSINESS:
STAFF BUSINESS:
ADJOURNED**

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Commerce City

7887 E. 60th Ave.
Commerce City, CO 80022
c3gov.com

Meeting Minutes

Zoning Board of Adjustment

Tuesday, March 8, 2022

5:30 pm Council Chambers, 7887 E. 60th Ave Commerce City, CO 80022. The meeting will be live on Channel 8 and c3gov.com/video. Zoom Registration: https://c3gov.zoom.us/webinar/register/WN_NrO86MJLRbW17QeZK2nANQ

This meeting will be held in person in the City Council Chambers (location above). There will be general public physical access to this meeting or virtual participation by using the Zoom link above.

1 Call to Order

Chairman Leffel called the meeting to order at 5:37pm

2 Pledge of Allegiance

3 Roll Call

Katelyn Memmer called roll.

Present 4 - Board Member Chris Gronquist, Board Member David Brinkerhoff, Board Member Gene Leffel, and Alternate Board Member Robert Benzel

Absent 1 - Benjamin Huseman

Staff in Attendance:
Sarah Geiger, Deputy City Attorney
Jennifer Jones, Principal Planner
Anita Riley, Principal Planner
Omar Yusuf, Planner
Stacy Wasinger, Planner
Tricia Mason, Community Development Manager
Katelyn Memmer, Administrative Specialist

4 City Manager Roger Tinklenberg's Vision

5 Presentation Item:

[Pres 22-175](#)

Special Election and Redistricting Process

Attachments: [Community Information Session](#)

6 Approval of Minutes:

[Min 22-54](#)

Minutes of the February 08, 2022 Board of Adjustment Meeting

Attachments: [Minutes](#)

A motion was made by Alternate Board Member Benzel, seconded by Board Member Brinkerhoff, that this Minutes be approved VOTE:

Ayes: 4 - Board Member Gronquist, Brinkerhoff, Board Member Leffel and Alternate Board Member Benzel

7 Case(s):

[Pres 22-152](#)

A-1757-U-21: Casa Carrera Real Estate, LLC is requesting the approval of a Use-by-Permit for a religious institution in an R-3 district for the property at 5651 E. 62nd Ave, generally located at the northeast corner of E. 62nd Ave and Holly St. zoned R-3 (Multiple-Family-Residential District).

Attachments: [BOA Staff Report](#)
[Vmap](#)
[Narrative](#)

Sarah Geiger, Deputy City Attorney, introduced the case.

Omar Yusuf, Planner, presented the case A-1757-U-21 and noted DRT recommendation of approval.

Discussion from the board involved if this case would have to go through the planning and development process, Planner, Omar Yusuf confirmed it would and the us-by-permit has to be approved first.

Board Member Benzel asked if the basement will have bathrooms/facilities. Chairman Leffel pointed out that one part of the packet says the basement will include a community room, kitchen, and restrooms. But, in another part of the packet it says the basement will be unfinished. Omar confirmed basement level will be community rooms, and the main level will be the congregation area. Omar stated that over time, there are plans to expand, but will defer to applicant. Cara Grauer, RNN Architects, stated that ideally the entire project will be completed, but with funding, the main level with the sanctuary is priority and then moving into the basement as funding allows.

Chairman Leffel asked why there was no site plan included in the packet. Omar pulled up a site plan for the Board to review.

Seeing no further comments, Chairman Leffel invited the public to speak.

Austin Gonzales, 6200 Holly St- Stated he would prefer to see a church go in this location as opposed to more housing.

A motion was made by Board Member Gronquist, I move that the Board of Adjustment find that the requested use-by-permit for the property located at

5651 E. 62nd Avenue, containing case A-1757-U-21 meets the criteria for the Land Use Code and based upon such findings approve the use-by-permit, subject to the advisory as outlined in the staff report, seconded by Alternate Board Member Benzel, that this Presentation be recommended for approval
VOTE:

Ayes: 4 - Board Member Gronquist, Brinkerhoff, Board Member Leffel and Alternate Board Member Benzel

[Pres 22-153](#)

A-1761-U-22: Anders Beverage Co, LLC is requesting the approval of a Use-by-Permit for a distillery in an I-1 district for the property at 6340 E 58th Ave. Unit I and J, zoned I-1 (Light Intensity Industrial District).

Attachments: [Staff Report](#)
[Vmap](#)
[Site and Floor Plans](#)
[Economic Development Department Letter](#)
[Narrative](#)

Sarah Geiger, Deputy City Attorney, introduced the case.

Stacy Wasinger, Planner, presented the case A-1761-U-22 and noted DRT recommendation of approval.

Discussion from the board members included what the final make-up of the facility would look like. As there was no sketch of Unit I, which could be a future tasting room or a full bar. And, has parking been looked at for the future since it is now based off of industrial. Planner, Stacy Wasinger, said Unit I will primarily be for storage but when the business grows, they could use it for a tasting room. The applicant is not looking at it for tasting room purposes right now but if/when that does happen it would have to meet all of those requirements.

Board Member Gronquist stated he is okaying the production of alcohol but not the tasting of the alcohol. So, when they go to make that Unit a tasting room, would it would be a separate process? Stacy stated they would have to meet any liquor requirements when that happens.

Richard Anders, Anders Brewing Co, stated if the business does do a tasting room the plan would be for that to be off-site. The current use is for production to send to wholesalers.

Chairman Leffel clarified that the board would be approving the distillery and not the tasting room.

A motion was made by Board Member Brinkerhoff, I move that the Board of Adjustment find that the requested use- by-permit for distillery for the property located at 6340 E. 58th Avenue, Units I and J in Commerce City, contained in case A-1761-U-22 meets the criteria of the Land Development Code and based upon such findings approve the use-by-permit, seconded by Board Member Gronquist that this Presentation be recommended for approval VOTE:

Ayes: 4 - Board Member Gronquist, Brinkerhoff, Board Member Leffel and Alternate Board Member Benzel

8 Action Items:

9 Board Business:

10 Attorney Business:

11 Staff Business:

Board of Adjustment for next month is pending if we will have a case ready or not.

12 Adjournment

This meeting was adjourned at 6:55pm.

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STAFF REPORT

Board of Adjustment

CASE # A-1760-V-22

BOA Date:	August 9, 2022	Planner:	Nathan Chavez	Phone:	303-289-3670
Location:	NEC of E. 104 th Ave. & Joliet St.				
Applicant:	Steve Smith Ware Malcomb	Owner:	104 Commerce Park 1, LLC		
Address:	900 S. Broadway Suite 320 Denver, CO 80209	Address:	1225 17 th Street Suite 3175 Denver, CO 80202		

Case Summary

Request:	The applicant is requesting the following sign variances: 1. Sign height variance of 4-ft; 2. Sign size variance of 66 sq. ft./side
Project Description:	Ware Walcomb proposes a 24-ft. tall and 166-s.f. sign along I-76 for a 90 acre, 5 building development. A Variance is required in order to allow a Sign that exceeds the height and size requirements.
Issues/Concerns:	None
Key Approval Criteria:	<ul style="list-style-type: none">The use will not result in substantial or undue adverse effect on adjacent property.The hardship is not self-imposed
Staff Recommendation:	Approval
Current Zone District:	I-2 (Medium Intensity Industrial)
Comp Plan Designation:	Office/Flex

Attachments for Review:

☒ Site Plan & Elevations

☒ Vicinity Map

Background Information

Site Information	
Site Size:	90.20 acres / 3,929,112 S.F.
Current Conditions:	Under Development
Existing Right-of-Way:	Joliet St. / E. 104 th Ave. / I-76
Neighborhood:	N/A
Existing Buildings:	Under Construction
Buildings to Remain?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site in Floodplain?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Surrounding Properties

	<u>Existing Land Use</u>	<u>Occupant</u>	<u>Zoning</u>
North	Industrial	Vacant industrial buildings, Derr & Gruenewald Construction (General Contractor)	I-1
South	Industrial, & Vacant	Kea Corporation (corporate office), & Cummins (manufacturer)	I-1
East	Canal & Residential	O'Brian Canal & Aberdeen Subdivision	PUD
West	Industrial	WillScot Denver (Equipment rental agency)	I-2

Case History

In June of 2021, this site received subdivision (S-785-21) and development plan (D-470-21) approval to construct five warehouse buildings totaling approximately 1.15M square feet. As a part of the subdivision plat and in coordination with FRICO, the existing Burlington Ditch, which bisects the property, will be relocated to the eastern side of the site, adjacent to the O'Brian Canal. Access is provided from Joliet Street as well as a right-in/right-out from E. 104th Avenue. Internal access easements provide all internal lot connections. The lots within the development range from 8.9 acres to over 18 acres, with an aggregate of 90-acres.

<u>Case</u>	<u>Date</u>	<u>Request</u>	<u>Action</u>
D-470-21	June 3, 2021	Development Plan for an industrial park (includes relocation for the Burlington Ditch)	Approved
S-785-21	June 3, 2021	Final Plat	Approved

Applicant's Request

Per [Section 21-8300, Table VIII-2 of](#) the Land Development Code (LDC) the development is classified as *Industrial Uses: Multiple Businesses in Multiple Buildings within a larger than 10-acre industrial center* and is permitted a 20-ft. tall and 100 sq. ft. large Monument Sign. The applicant has proposed 24-ft. tall and 166 sq. ft. large Monument Sign and therefore requires a 4-ft. sign height (Variance #1) and a 66 sq. ft. large (Variance #2) sign variances.

According to the applicant, *"There are a couple of factors to consider that make this site unusual compared to the majority of similarly zoned industrial developments including the size/depth of site, exposure to the I-76 corridor, constraint created by the O'Brian canal, right-of way width, and setback of property line along with speeds of travel. The 104th Commerce Park development is bounded by the O'Brian canal to the east, I-76 to the northwest, E. 104th Ave to the south, and Joliet St. to the west. These boundary defining features caused two of the five buildings to have no frontage along I-76 and three of the five building to have no frontage along E 104th Ave, hiding any proposed building signage from vehicular traffic (Figure 3). Because no Monument Signs are proposed for the individual lots and buildings, increasing the visibility of the sign along I-76 becomes absolutely necessary."*

In addition, the applicant states that a sign size of 166 sq. ft. is beneficial due to the decreased visibility from the nearest adjacent right-of-way: *"The distance from the closet lane of travel to the property line is 75-ft. The City's requirement for monument sign setback is 25' so the sign is a total of 100' from traffic. This is a result of the large right-of-way that are typical for an interstate but not for arterial or collector road that the signage code is written for. Similar industrial zones located on smaller street sections are not dependent on providing larger signage due to the smaller setback from traffic and the lower speeds. The I-76 corridor sees speeds in the 65 mph to 75+ mph range. Per the United States Sign Council, these speeds should result in sign type size even larger than what is being proposed in this variance request."*

The applicant stated that the proposed signage is necessary in order to advertise all of the buildings on the subject property, and make drivers aware of the tenants hidden from view. As part of the requested variance, the applicant has agreed that no other Monument or ground mounted signs will be allowed on the property, with the exception of those included in D-470-21.

Figure 1: Proposed Sign

SIGN 1 CENTER NAME + TENANT PANELS = 166 SF

Fabrication Specs

Tenant section to project 3" from body of sign
 2½" aluminum retainers and 2½" divider bars to be Painted SW 7005
 Tenant faces: 3/16" white acrylic reverse weed opaque vinyl – exact color TBD
 Internally illuminated with white LEDs

Body of sign / pole cover sections:
 Red section are .090" aluminum fabrication (Red to match PMS 7626)
 Light colored sections are .090" aluminum fabrication
 Painted SW 7005

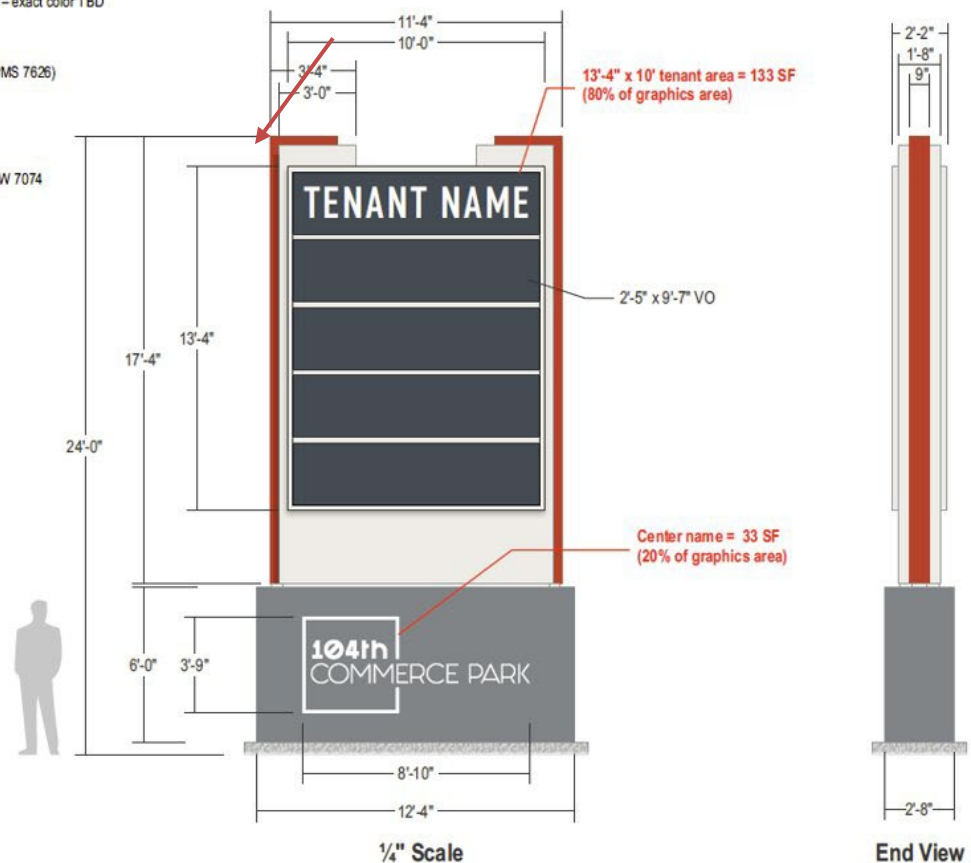
2" high x 1" deep reveals painted SW 7005

Base: .090" aluminum fabrication Faces and filler painted SW 7074
 Center name graphics: routed into face and backed
 with 3/16" white acrylic
 Internally illuminated with white LEDs

Concrete pad at bottom: 6" larger all around
 min 6" above grade / min 6" below

Support/foundation: see following page

Electrical Specifications:
 Who Makes Electrical Connection: GC
 Power Requirement: 120V 20A Dedicated Circuit
 Power Usage: 7 Amps (typical, verify)



Development Review Team Analysis

Per [Section 21-8300, Table VIII-2 of](#) the Land Development Code (LDC) the development is classified as *Industrial Uses: Multiple Businesses in Multiple Buildings within a larger than 10-acre industrial center* and is permitted a 20-ft. tall and 100 sq. ft. large Monument Sign. The applicant has proposed 24-ft. tall and 166 sq. ft. large Monument Sign and therefore requires a 4-ft. sign height (Variance #1) and a 66 sq. ft. large (Variance #2) sign variances.

The Development Review Team (DRT) reviewed the circumstances of the subject property and applicable sections of Articles III and VIII of the LDC as they relate to these variance cases. Specifically, four items have been identified by the DRT for consideration of this submittal. First, Table VIII-2 within the LDC breaks down signage for industrial properties into single business properties, and multi-tenant or multiple building properties. Of note, is that each building/lot is allowed a Monument Sign by right. However, the applicant has instead opted to only have two signs; one along their 2,100-ft. of frontage

along the I-76 corridor and one along the E 104th Avenue right-of-way, thereby reducing sign clutter and centralizing their advertising to a location where it is most visible. Second, it is also important to note, that although the five buildings are allowed wall signage, due to the distance from the rights-of-way, irregular configuration of the development, and overall large size (90-acres) of the development, various building's wall signage cannot reasonably be visible. Specifically, Building 2 is approximately 870-ft. from the nearest I-76 travel lane while Building 4 is approximately 470-ft. separated (Figure 3). These distances are to the corners of the buildings, not even a façade that can support visible signage. Third, any allowable monument sign is required to be setback at least 100-ft. from the nearest travel lane. This is due to the 25-ft. LDC setback requirement and CDOT right-of-way (Figure 2).

Fourth, the property is located in an area of mostly industrial uses with some adjacent residential. Specifically, to the northwest are recently constructed industrial buildings and a general contractor yard, to the southwest is an equipment rental agency, and to the south are a self-storage facility, manufacturing plant, and corporate office. To the north is the River Oak subdivision and to the east is the Aberdeen Subdivision, 1,335-ft. and 1,467-ft. from the subject sign respectively. There is also a large berm and buildings that screen dwellings from the sign as well. The Future Land Use Plan designations are quite diverse in this area of the City and as such, Staff has referred to the specific uses when evaluating this petition.

On July 21, 2022, the Development Review Team (DRT) reviewed this item. The executive team provided unanimous support for the application. All comments have been addressed and the applicant has been made aware of next steps regarding permitting. In conclusion, the DRT believes that the large size of the site (90-acres), odd and unique shape of the development, and distance from buildings to the right-of-ways create an undue hardship in comparison to other properties of the same zoning and classification. By adhering strictly to the standards of the LDC in this circumstance, the development is not able to reasonably advertise.

Figure 2: Contour and Setback Exhibit of Subject Sign (Sign 1)

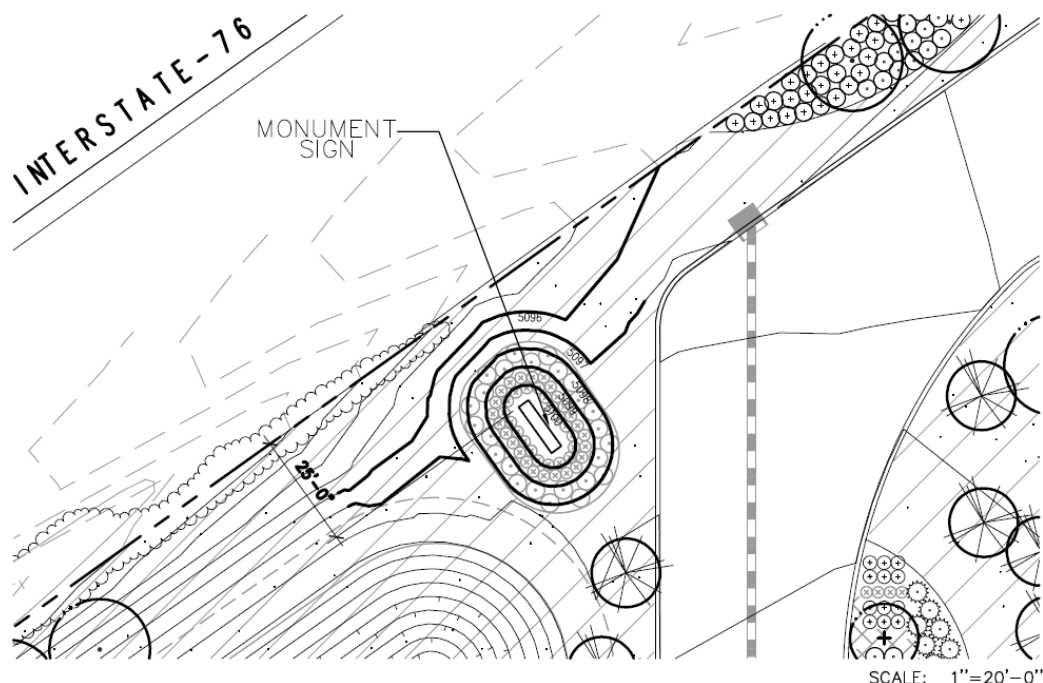


Figure 3: Site Aerial with approximate location of subject sign (Sign 1)



Comprehensive Planning Documents

ANALYSIS: Section 21-3222 of the Zoning Ordinance outlines the criteria used when evaluating Variances.

An application for a variance may be approved if:

All of the following criteria are met:

1. **The physical character of the property, including dimensions, topography or other extraordinary situation or condition of the property, create a situation where the strict enforcement of the standards in this land development code will deprive the property of privileges generally enjoyed by property of the same classification in the same zoning district (hardship);**

Staff Analysis: Variances 1-2) The 104th Commerce Park development is bounded by the O’Brian canal to the east, I-76 to the northwest, E. 104th Ave to the south, and Joliet St. to the west. These boundary defining features create an irregular shaped development. This irregular shape coupled with the large 90-acre size of the development and the planning to size buildings appropriately with the necessary orientation for tenant use resulted in two of the five buildings to have no frontage along I-76 and three of the five building to have no frontage along E. 104th Ave, hiding any proposed building signage from vehicular traffic. Because no Monument Signs are proposed for the individual lots and buildings, increasing the visibility of the sign along I-76

becomes necessary. In addition, the distance from the closest lane of travel to the property line is 75-ft. The City's monument sign setback requirement for this particular classification is 25-ft, meaning the sign is a total of 100-ft. from traffic.

2. **The hardship is not self-imposed;**

Staff Analysis: Variances 1-2) The overall configuration of the subdivision is such, that it prevents a number of lots within the development from attaining any effective type of signage. In addition, various buildings are located so far from the any right-of-way that a wall sign cannot reasonably be visible from the right-of-way. Specifically, Building 2 is approximately 870-ft. from the nearest I-76 travel lane while Building 4 is approximately 470-ft. separated.

3. **The variance will not be of substantial detriment to adjacent property; and**

Staff Analysis: Variances 1-2) The proposed sign is located in the middle of the subject property along the I-76 corridor directly across from similar industrial uses and zoning, is not adjacent to unlike property to the north and west, is approximately 1,335-ft. from the residential neighborhood to the north, will not be visible from the property to the east, and is not internally illuminated. Lastly, when taken in the context of the overall site, it is a very small component of a 90-acre site containing 1,159,646 square feet of industrial floor area.

One of the following criteria is met:

4. **The variance granted is the minimum needed for the reasonable use of the land, building, or structure; or**

5. **The character of the district will not be changed by the granting of the variance.**

Staff Analysis: Variances 1-2) The site is over 90-acres is size. The subject of this variance is to add a sign that only has a footprint of 33 sq. ft., a minor component of the site in comparison to the large scale of the buildings being constructed. The proposed sign has no impact on the industrial zoning district. An additional 66-s.f. and 4-ft. in height will not alter the emerging industrial district in this area.

Development Review Team Recommendation

Based upon the analysis above, the Development Review Team believes that the application meets the criteria for a Variance set forth in the Land Development Code and recommends the following for the Board of Adjustment:

1. Variance #1: The Development Review Team recommends approval.
2. Variance #2: The Development Review Team recommends approval.

Recommended Motion

To recommend approval with conditions:

I move that the Board of Adjustment find that the requested Variances for the property located at the **NEC of E. 104th Ave. & Joliet St.** contained in case **A-1760-V-22** meets the criteria of the Land Development Code and, based upon such finding, approve the Variances subject to the following condition:

1. **Condition:** No other Monument or ground mounted signs will be allowed on the property, with the exception of those included in D-470-21.

Alternative Motions

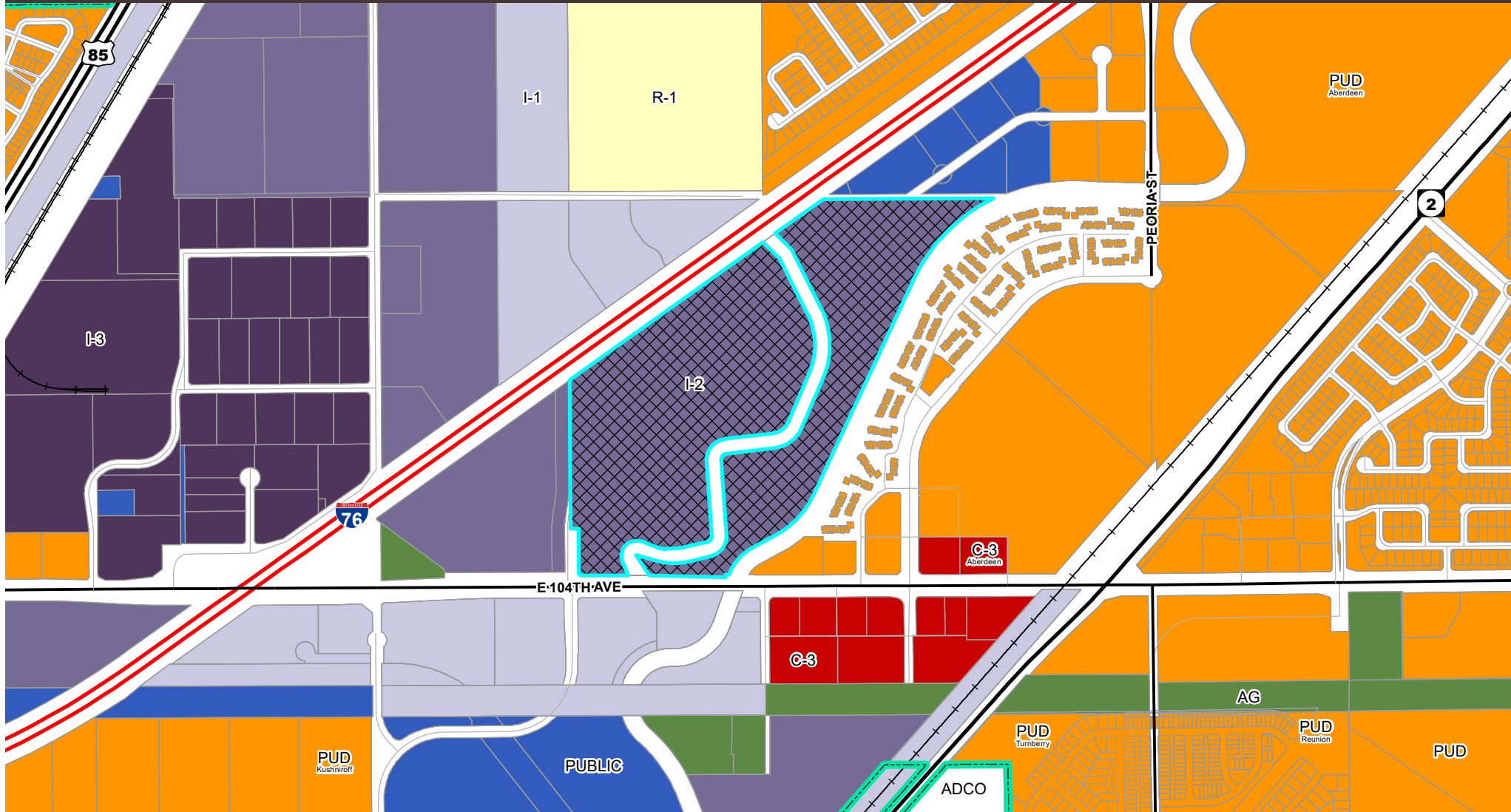
To recommend approval:

I move that the Board of Adjustment find that the requested Variances for the property located at the **NEC of E. 104th Ave. & Joliet St.** contained in case **A-1760-V-22** meets the criteria of the Land Development Code and, based upon such finding, approve the Variances.

To recommend denial:








I move that the Board of Adjustment deny the requested Variances for the property located at the **NEC of E. 104th Ave. & Joliet St.** contained in case **A-1760-V-22** because it fails to meet the following criteria of the Land Development Code:






List the Criteria Not Met



0 500 1,000 2,000 Feet

Zone District

-  Subject Property
-  AG - Agricultural District
-  I-1 - Light Intensity Industrial District
-  I-3 - Heavy Intensity Industrial District
-  C-3 - Regional Commercial District
-  I-2 - Medium Intensity Industrial District
-  PUBLIC - Public District

-  PUD - Planned Unit Development District
-  R-1 - Single-Family Detached Residential District
-  ADCO - Unincorporated Adams County
-  City Limit Boundary
-  IGA Annexation Growth Boundary

PIN: [172111400001]

Commerce City Planning Division
Prepared By: CD_CHAVEZ
Date Saved: 4/1/2021
Document Path: C:\Users\CD_CHAVEZ\OneDrive - City of Commerce



Site Plan: 1" = 400'-0"

SIGN 1 CENTER NAME + TENANT PANELS = 166 SF

Fabrication Specs

Tenant section to project 3" from body of sign
2½" aluminum retainers and 2½" divider bars to be Painted SW 7005
Tenant faces: 3/16" white acrylic reverse weed opaque vinyl – exact color TBD
Internally illuminated with white LEDs

Body of sign / pole cover sections:
Red section are .090" aluminum fabrication (Red to match PMS 7626)
Light colored sections are .090" aluminum fabrication
Painted SW 7005

2" high x 1" deep reveals painted SW 7005

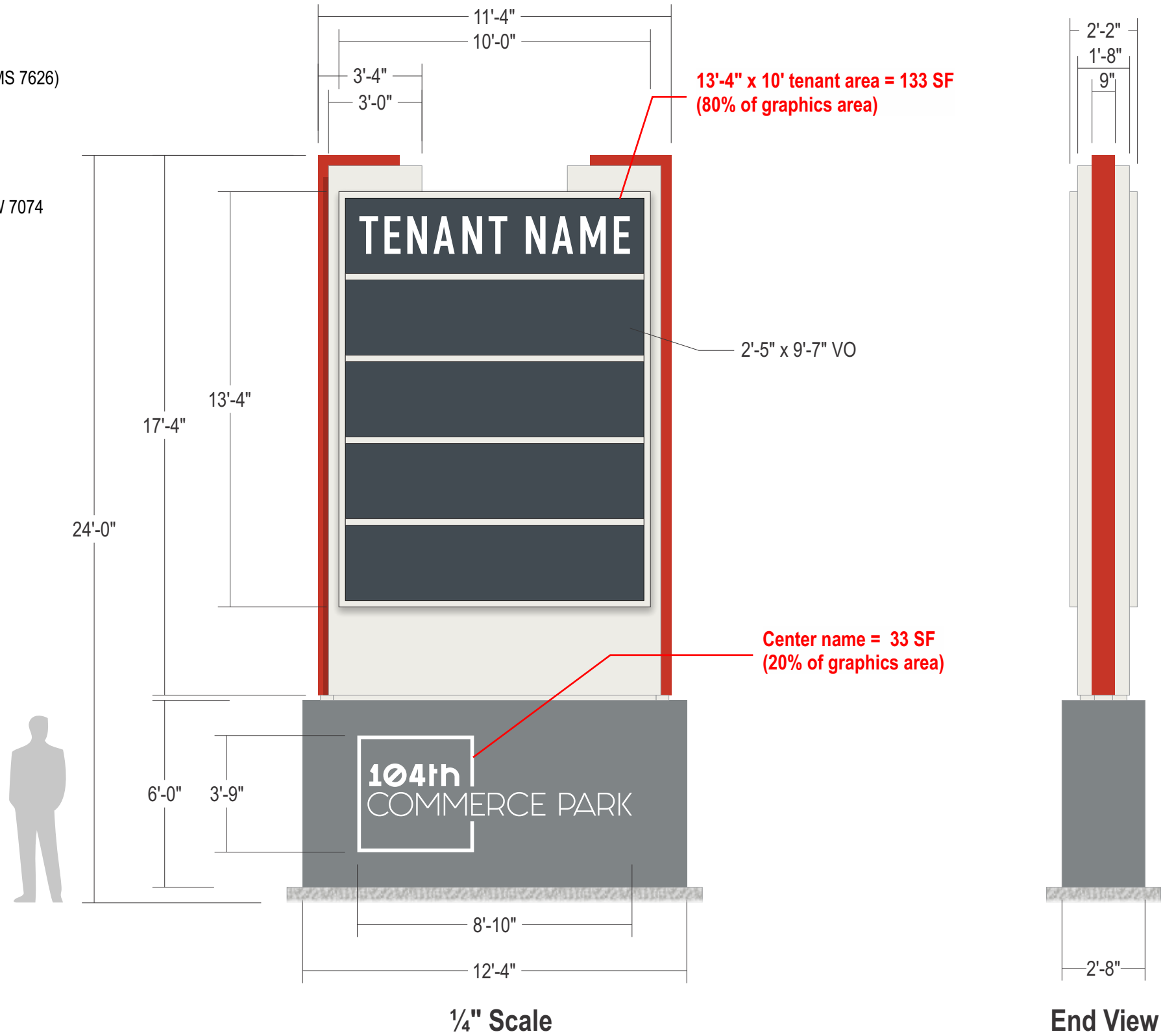
Base: .090" aluminum fabrication Faces and filler painted SW 7074
Center name graphics: routed into face and backed
with 3/16" white acrylic
Internally illuminated with white LEDs

Concrete pad at bottom: 6" larger all around
min 6" above grade / min 6" below

Support/foundation: see following page

Electrical Specifications:

Who Makes Electrical Connection: GC
Power Requirement: 120V 20A Dedicated Circuit
Power Usage: 7 Amps (typical, verify)



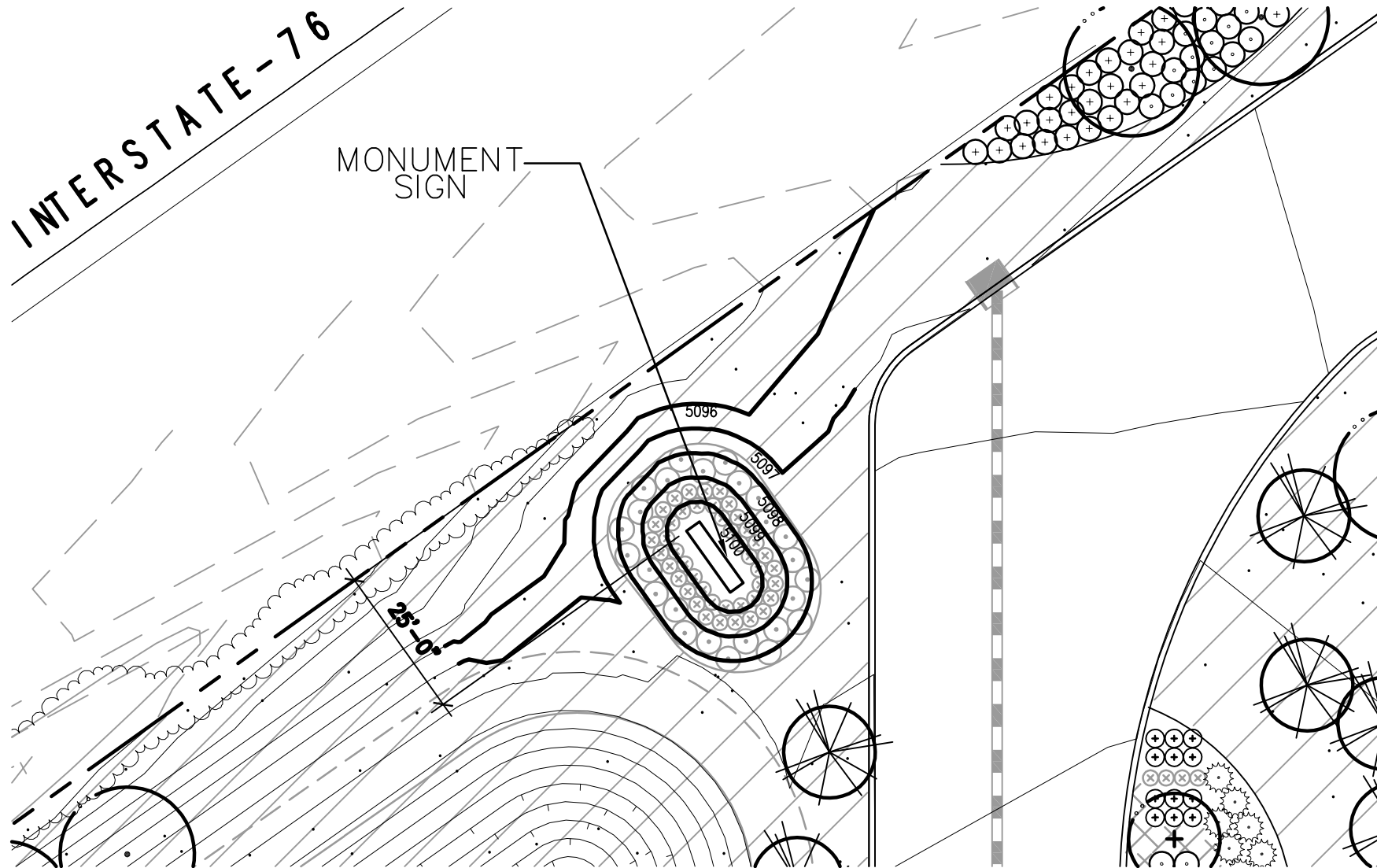
SIGN 1 CENTER NAME + TENANT PANELS = 166 SF

Newly Proposed Signage: Viewing Distance at 300' From Sign



INTERSTATE-76

MONUMENT
SIGN



SCALE: 1"=20'-0"