

**Board of Zoning Adjustment**  
**Staff Report**  
 September 17, 2018



<b>Case No:</b>	18VARIANCE1080
<b>Project Name:</b>	W. Kenwood Drive Variances and Waivers
<b>Location:</b>	425 W. Kenwood Drive
<b>Owner(s):</b>	Roman Catholic Bishop of Louisville
<b>Applicant:</b>	Smart LED Signs & Lighting – Karla Hill
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	21 – Vitalis Lanshima
<b>Case Manager:</b>	Chris French, AICP, Planning Supervisor

**REQUEST**

- **Variance** from Land Development Code table 8.3.2 to allow a sign to exceed the allowable height in the Traditional Neighborhood Form District
- **Variance** from Land Development Code table 8.3.2 to allow a sign to exceed the allowable area in the Traditional Neighborhood Form District
- **Waiver** from Land Development Code section 8.2.1.D.4.a to allow the changing image panel of a sign to exceed 30% of the total area of the sign
- **Waiver** from Land Development Code section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residential properties

Location	Requirement	Request	Variance
Sign Height	6 ft.	7.15 ft.	1.15 ft.
Sign Area	32 sq. ft.	59.57 sq. ft.	27.57 sq. ft.

**CASE SUMMARY/BACKGROUND**

The subject property is located on W. Kenwood Drive at the intersection with Laughlin Avenue. A freestanding sign currently exists on the property. The applicant proposes to remove the existing sign and replace it with a monument style sign to contain a static image panel and a changing image panel.

The existing sign is 16 feet tall and exceeds the allowable height in the Traditional Neighborhood Form District by 10 feet. The proposed monument style sign is 7.15 feet tall and would exceed the maximum height by 1.15 feet.

The existing sign has a total area of 67 sq. ft. and exceeds the maximum area by 35 sq. ft. The proposed sign has an area of 59.57 sq. ft. and would exceed the maximum area by 27.57 sq. ft. The changing image panel is proposed to be 26.46 sq. ft. in area, or 44.42% of the overall area of the sign, which exceeds the allowed 30%.

The location of the sign is approximately 100 feet from the nearest residentially zoned property which is being used residentially. This is less than the required 300-foot separation. There are 11 properties partially or fully within 300 feet of the proposed sign.

## **STAFF FINDING**

Staff finds that the requested variance for maximum height is adequately justified and meets the standard of review. Staff finds that the requested variance for maximum area is adequately justified and meets the standard of review. Staff finds that the requested waiver from section 8.2.1.D.6 is adequately justified and meets the standard of review. Staff finds that the requested waiver from section 8.2.1.D.4.a is adequately justified and meets the standard of review. Based upon the information in the staff report, and the testimony and evidence provided at the public hearing, the Board of Zoning Adjustment must determine if the proposal meets the standards for granting a variance established in the Land Development Code from table 8.3.2 to allow a sign to exceed the allowable height and area, and if the proposal meets the standards for granting a waiver from the Land Development Code from section 8.2.1.D.4.a to allow a changing image panel to exceed 30% of the area of a sign, and from section 8.2.1.D.6 to allow a changing image sign to be closer than 300 feet to residential properties.

## **TECHNICAL REVIEW**

- No technical review was undertaken.

## **INTERESTED PARTY COMMENTS**

Staff received an email on September 4, 2018 inquiring about the dimensions of the proposed sign and resulting variances.

## **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 8.3.2**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance to exceed the maximum height will not adversely affect the public health, safety, or welfare as the existing sign is nonconforming in that it currently exceeds the height allowance and has caused no known adverse effects. The existing sign is also taller than the proposed sign.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance to exceed the maximum height will not alter the essential character of the general vicinity as the existing sign has been in place for many years and has become part of the character of the neighborhood. Also, the proposed sign is smaller in height and area and is closer in compliance to the Land Development Code.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance to exceed the maximum height will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians as the proposed sign would be shorter and would have a lesser impact than the existing sign.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed sign is shorter than the existing sign.

ADDITIONAL CONSIDERATIONS:

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises in part from special circumstances which do not apply to land in the general vicinity or the same zone because the site is used for a school and the existing building setback and parking location increase the importance of a freestanding sign.

2. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the applicant could make the new sign comply with the Traditional Neighborhood Form District height restrictions. However, the existing parking conditions would make a shorter monument style sign less visible than the existing pole sign.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM TABLE 8.3.2**

- (a) The requested variance will not adversely affect the public health, safety or welfare.

STAFF: The requested variance to exceed the maximum area will not adversely affect the public health, safety or welfare as the existing sign is nonconforming in that it currently exceeds the area allowance and has caused no known adverse impacts. The existing sign is also larger than the proposed sign.

- (b) The requested variance will not alter the essential character of the general vicinity.

STAFF: The requested variance will not alter the essential character of the general vicinity as the existing sign has been in place for many years and has become part of the character of the neighborhood; therefore, a new sign that is smaller in size would have less impact on the character of the neighborhood.

- (c) The requested variance will not cause a hazard or nuisance to the public.

STAFF: The requested variance to exceed the maximum area will not cause a hazard or nuisance to the public as the sign will not obstruct views for drivers or pedestrians as the proposed sign would be smaller than the existing sign.

- (d) The requested variance will not allow an unreasonable circumvention of the zoning regulations.

STAFF: The requested variance will not allow an unreasonable circumvention of the zoning regulations as the proposed sign will be in the same location as the existing sign and will be smaller than the existing sign.

**ADDITIONAL CONSIDERATIONS:**

1. The requested variance arises from special circumstances which do not generally apply to land in the general vicinity or the same zone.

STAFF: The requested variance arises in part from special circumstances which do not apply to land in the general vicinity or the same zone because the site is used for a school and the existing building setback and parking location increase the importance of a freestanding sign.

2. The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or create an unnecessary hardship on the applicant because the applicant could make the new sign comply with the Traditional Neighborhood Form District height restrictions. However, the existing parking conditions would make a shorter monument style sign less visible than the existing pole sign.

3. The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

STAFF: The circumstances are not the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought as the applicant is requesting the variance and has not begun construction.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 8.2.1.D.4.a**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the proposed sign would be located on a frontage road off of W. Kenwood Drive behind a row of trees.

- (b) The waiver will violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver may violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 states that signs should be compatible with the form district pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with

or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. The changing image portion of the sign may violate the aforementioned guidelines, however, the setback of the structures on the site do not typically meet the standards set forth in the form district. Also, the subject property has a large street frontage not typically found in the form district.

- (c) The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is not the minimum necessary to afford relief to the applicant as the sign could be designed so as to comply with the regulations. However, the land use and structures on the subject property are not typical for the form district. Also, the property has a large street frontage and is setback from the main road.

- (d) Either:  
(i) The applicant has not incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
(ii) The strict application of the provisions of the regulation would not deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The applicant has changed the design of the sign from a pole sign to a monument style sign, which is what Cornerstone 2020 requires. The applicant has agreed to make the white portion of the static section of the sign opaque, while the lettering and logo of the static portion of the sign will be illuminated. The current sign does not provide this opaque background. The applicant could have requested a reface of the existing sign, which would be less compliant with Land Development Code guidelines. Also, the proposed sign is a reduction in height and size than the existing sign.

#### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF SECTION 8.2.1.D.6**

- (a) The waiver will not adversely affect adjacent property owners; and

STAFF: The waiver will not adversely affect adjacent property owners as the sign must comply with the requirement that the image change no more frequently than once per twenty seconds and be equipped with automatic dimming technology. The sign is also setback from the main road and the subject property has a large street frontage. The vegetation and parking location also lessen the impact of the proposed sign.

- (b) The waiver will not violate specific guidelines of Cornerstone 2020; and

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020 as Cornerstone 2020 states that signs should be compatible with the form district pattern and contribute to the visual quality of their surroundings. Promote signs of a size and height adequate for effective communication and conducive to motor vehicle safety. Encourage signs that are integrated with or attached to structures wherever feasible; limit freestanding signs to monument style signs unless such design would unreasonably compromise sign effectiveness. Give careful attention to signs in historic districts, parkways, scenic corridors, design review districts and other areas of special concern. These guidelines are not violated because the proposed sign is a monument style sign and it is located on a frontage road behind a number of trees.

- (c) The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant; and

STAFF: The extent of the waiver of the regulation is the minimum necessary to afford relief to the applicant as there is no location on the property where a sign could be reasonably placed that is not within 300 feet of residential properties. The subject property is also an institutional use (school) with the existing buildings being setback further than what is allowed in the form district.

- (d) Either:  
 (i) The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); OR  
 (ii) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

STAFF: The strict application of the provisions of the regulation would create an unnecessary hardship on the applicant by requiring the applicant to place the sign in a location that would not be visible from the road in order to comply with the regulation.

**NOTIFICATION**

Date	Purpose of Notice	Recipients
08/30/2018	Hearing before BOZA	1 <sup>st</sup> tier adjoining property owners Registered Neighborhood Groups in Council District 21
09/05/2018	Hearing before BOZA	Notice posted on property

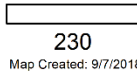
**ATTACHMENTS**

1. Zoning Map
2. Aerial Photograph
3. Site Plan
4. Elevation
5. Existing Sign
6. 300-Foot Buffer Around Sign
7. Site Photos

1. **Zoning Map**



425 W Kenwood Drive  
feet



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2. Aerial Photograph



425 W Kenwood Drive  
feet

230

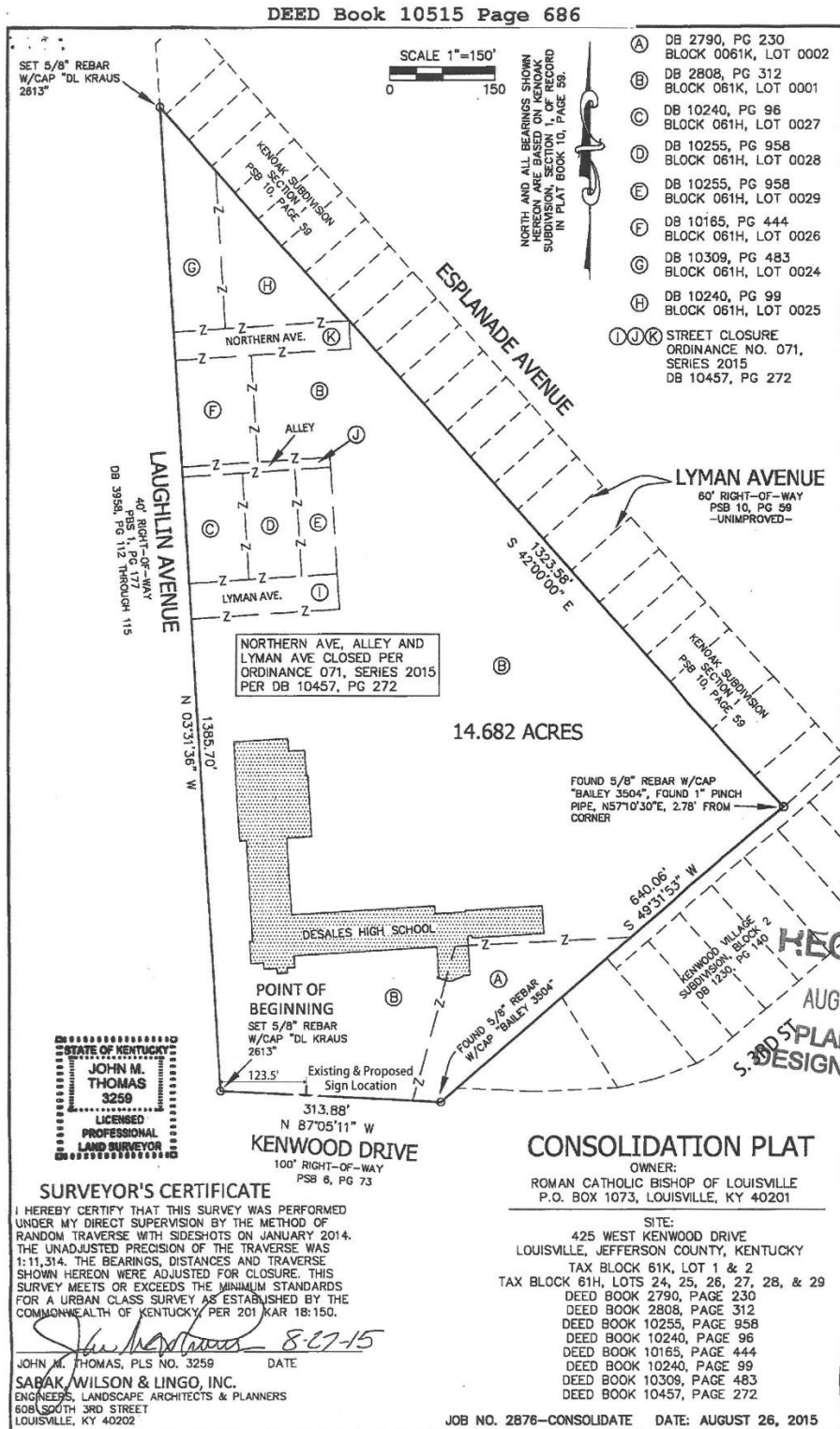
Map Created: 9/7/2018



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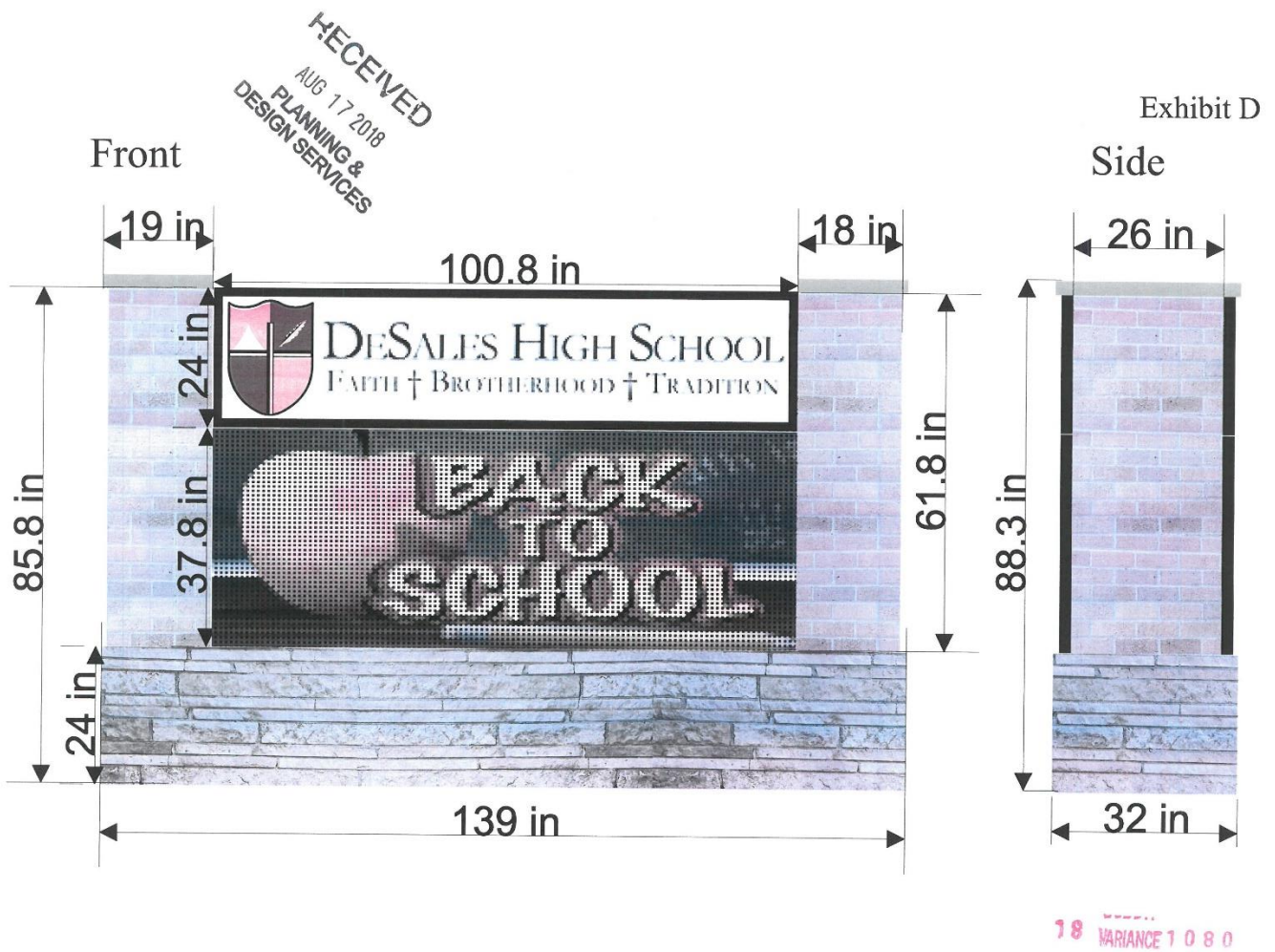
3. Site Plan



END OF DOCUMENT

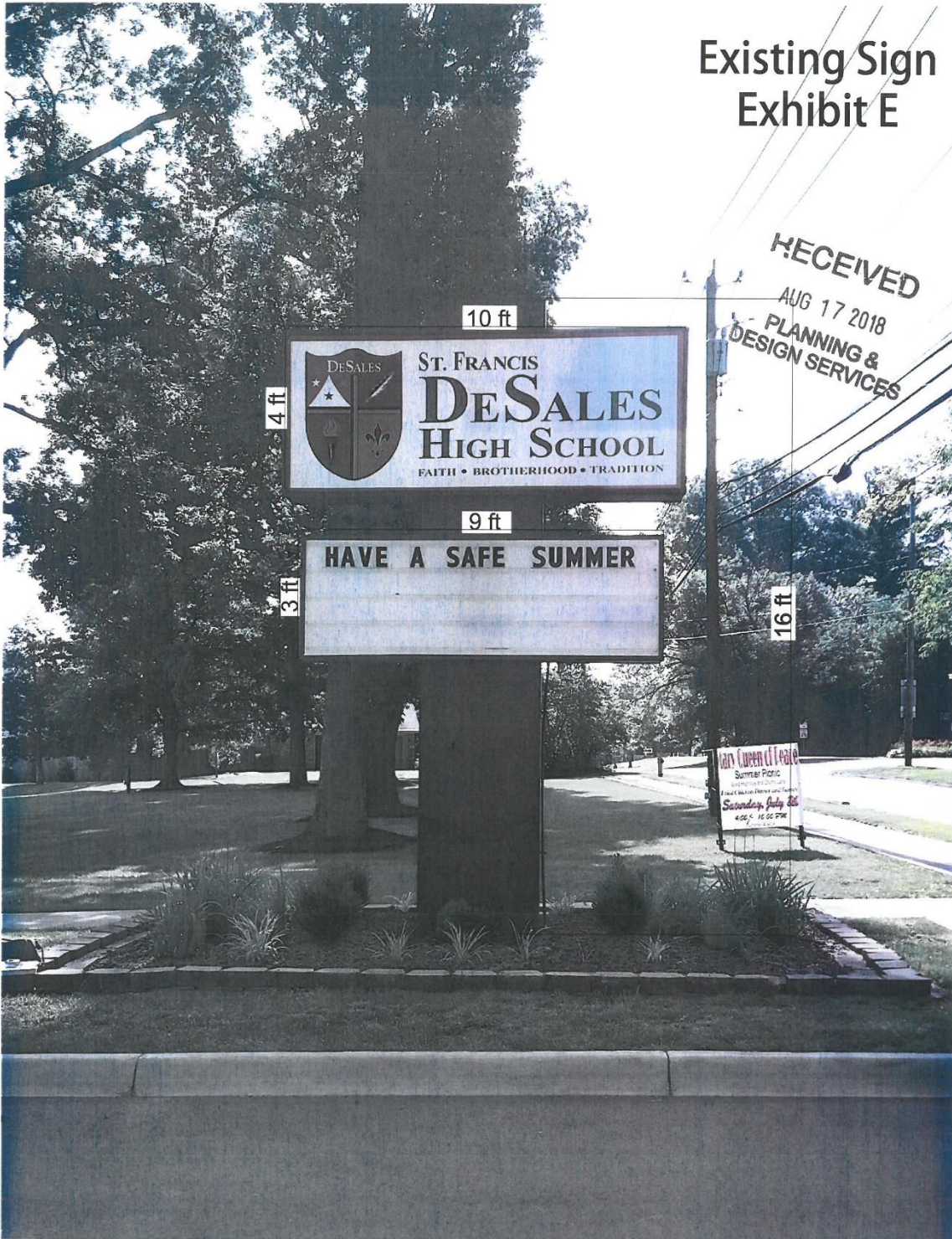
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4. Elevation



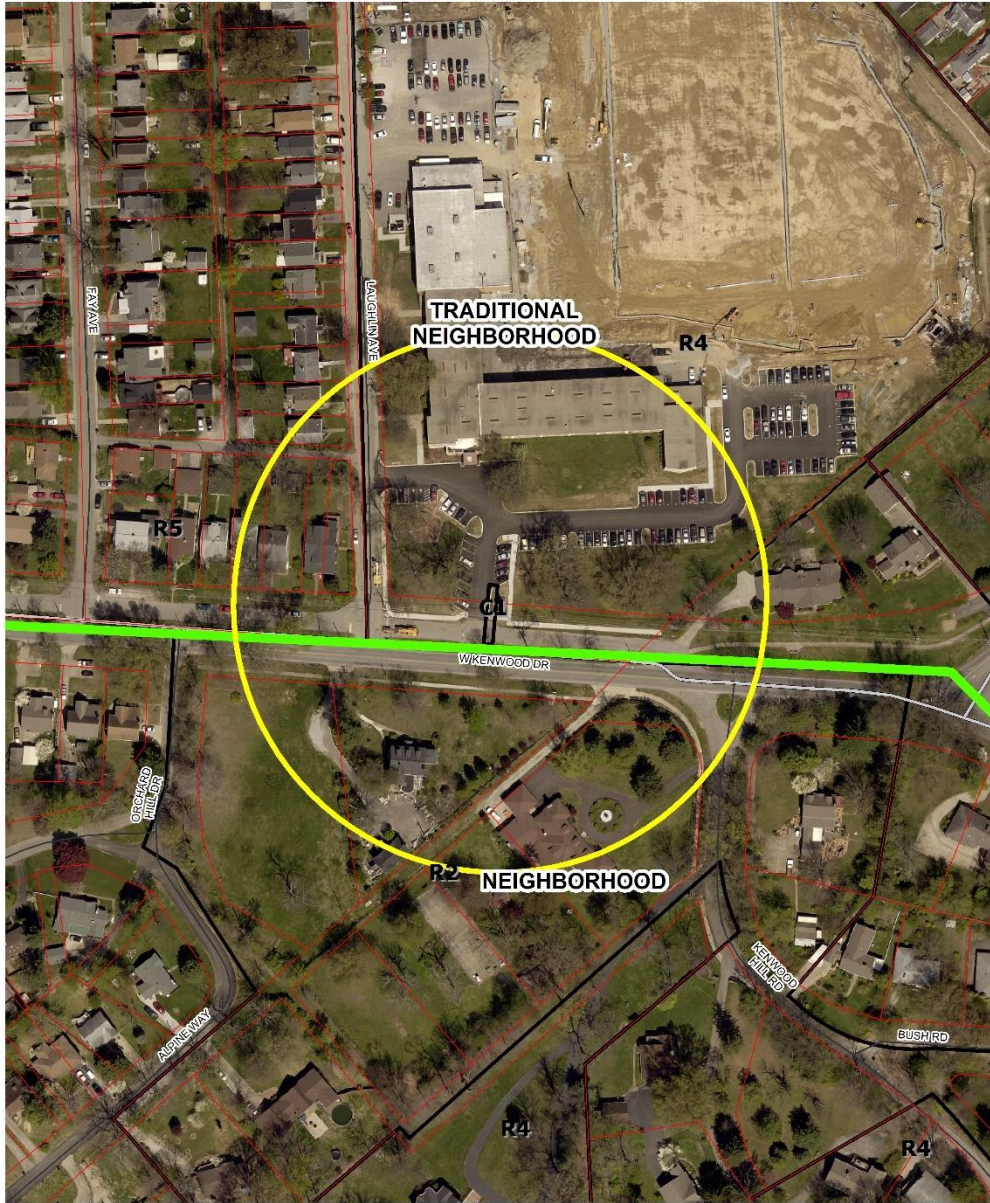


5. Existing Sign

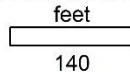




6. 300-Foot Buffer Around Sign



300 Foot Buffer Around Sign



Map Created: 9/7/2018



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7. Site Photos



The front of the subject property with the sign to be replaced.





The sign to be replaced.





The properties directly across Kenwood Drive.



Looking west down Kenwood Drive.





Public hearing notice sign.