

**Board of Zoning Adjustment**  
**Staff Report**  
 May 7, 2018



<b>Case No:</b>	18VARIANCE1031
<b>Project Name:</b>	Derby City Gaming
<b>Location:</b>	4520 Poplar Level Road
<b>Owner:</b>	Churchill Downs, Inc.
<b>Applicant:</b>	Churchill Downs, Inc.
<b>Jurisdiction:</b>	Louisville Metro
<b>Council District:</b>	21—Vitlas Lanshima
<b>Case Manager:</b>	Steve Hendrix, Planning Coordinator

**REQUESTS**

**Variances** from Land Development Code to allow a proposed freestanding LED changing image sign to exceed the maximum height and area, Chapter 4.2.7.B. and to allow the entrance walls to be 10 feet at their highest point, Chapter 4.4.3.A.1. a.i.

<b>Location</b>	<b>Requirement</b>	<b>Request</b>	<b>Variance</b>
<b>Freestanding Sign</b>	10 foot maximum height	24 feet	14 feet
<b>Freestanding Sign</b>	100 square feet	168.6 square feet	68.6 square feet
<b>Entrance Walls</b>	4 feet high	10 feet high	6 feet

**Waiver** from the Land Development Code to allow the changing image sign to be 88.9 % of the freestanding sign instead of 60%. Chapter 8.2.1.D.4.b.

**CASE SUMMARY/BACKGROUND**

Last year the Board approved, 17CUP1055 the construction of a para-mutuel wagering facility, related improvements and landscape waivers. The entrance and existing freestanding signage along Poplar Level Road are addressed in this request. The proposed freestanding LED changing image sign will replace an existing freestanding sign. The LED portion of the sign is 150 square feet and the “Derby City” on the median is 18.6 square feet, for a total of 168.6 square feet. The LED portion of the sign is 15 feet tall and the brick median portion is 9 feet with the aluminum coping. The new sign will be approximately four, (4) feet shorter. The brick walls will add to the overall entrance in connection with the white four board wood fencing.

**STAFF FINDING**

Staff finds that the requested variances and waiver are adequately justified and meet the standards 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 proposals meet the standards for granting variances and waiver established in the Land Development Code.

### **TECHNICAL REVIEW**

- None.

### **INTERESTED PARTY COMMENTS**

No interested party comments were received.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Chapter 4.2.7.B (Sign Height)**

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

STAFF: The requested variance for the sign height will not adversely affect the public health, safety, or welfare, but will allow unfamiliar patrons easier identification of the entrance.

- (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 since the previous sign has been at this location for several years and was approximately 4 feet higher than the sign being proposed.

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

STAFF: The proposed height of the new sign will not cause a hazard or nuisance to the public; since the new sign has a similar height and the existing sign has been at this location for several years without any known negative impact.

- (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, but allows for an updated and more attractive signage.

### **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 from having a limited amount of frontage along Poplar Level Road and the need for entrance to be easily found.

2. The strict application of the provisions of the regulation would 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 create an unnecessary hardship on the applicant by limiting the ability to adequately advertise not only the business, but its entrance.

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 regulations, since this is part of the revitalization of this facility.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Chapter 4.2.7.B (Sign Area)**

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

STAFF: The requested sign area will not adversely affect the public health, safety or welfare, but will help the traveling public locate the entrance to Derby City Gaming.

- (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, since the new signage will be replacing a sign that was similar in size and had been there for some time.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public, since the new sign will be similar in size to the previous freestanding 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, since the size of the sign helps the public determine the location of the entrance.

### **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 does arise from special circumstances, since there is only 116 feet of street frontage along Poplar Level Road.

2. The strict application of the provisions of the regulation would 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 create an unnecessary hardship not only on the applicant, but potential patrons as well.

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 regulations, but are part of the new gaming facility.

### **STANDARD OF REVIEW AND STAFF ANALYSIS FOR VARIANCE FROM Chapter 4.4.3.A.1.a.i. (Wall Height)**

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

STAFF: The requested will not adversely affect the public health, safety or welfare, since the entrance wall is located well behind the property line and the entrance to the new facility; therefore not a sight distance concern

- (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, since the brick wall will be painted white and enhance the street view.

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

STAFF: The requested variance will not cause a hazard or nuisance to the public, but the white painted brick wall will help visitors identify the entrance location.

- (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, since the brick wall height helps bring attention to the entrance.

### **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 does arise from special circumstances, since there is a limited amount of street frontage and the proposed wall helps identify the entrance.

2. The strict application of the provisions of the regulation would 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 create an unnecessary hardship upon the general public, since the heightened wall helps identify the entrance.

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 regulations, but due to the limited amount of street frontage along Poplar Level Road.

**STANDARD OF REVIEW AND STAFF ANALYSIS FOR WAIVER OF Chapter 8.2.1.D.4.b. the amount of a freestanding sign that may be composed of a changing image sign shall be restricted to 60% in the Suburban Workplace Form District, request is for 88.9%**

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

STAFF: The waiver will not adversely affect adjacent property owners, since the entrance sign will be located on Poplar Level Road which is a major arterial and surrounded by M-2 zoned property. A Thornton's is north of the entrance and a proposed storage facility is south.

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

STAFF: The waiver will not violate specific guidelines of Cornerstone 2020; since the proposal will still be required to mitigate any adverse impacts on nearby properties, (Guideline 3. Compatibility, Policy 8 Light and Visual Impacts, Policy 9 and Policy 28. Signs, since the proposal promotes a sign size and height adequate for effective communication and conducive to motor vehicle safety.

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

STAFF: The extent of waiver of the regulation is the minimum necessary to adequately identify the entrance to Derby City Gaming.

- (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 applicant has incorporated other design measure that exceed the minimums of the district and compensate for the waiver such as the entrance wall, the wooden fence and the overall appearance along this portion of Poplar Level Road.

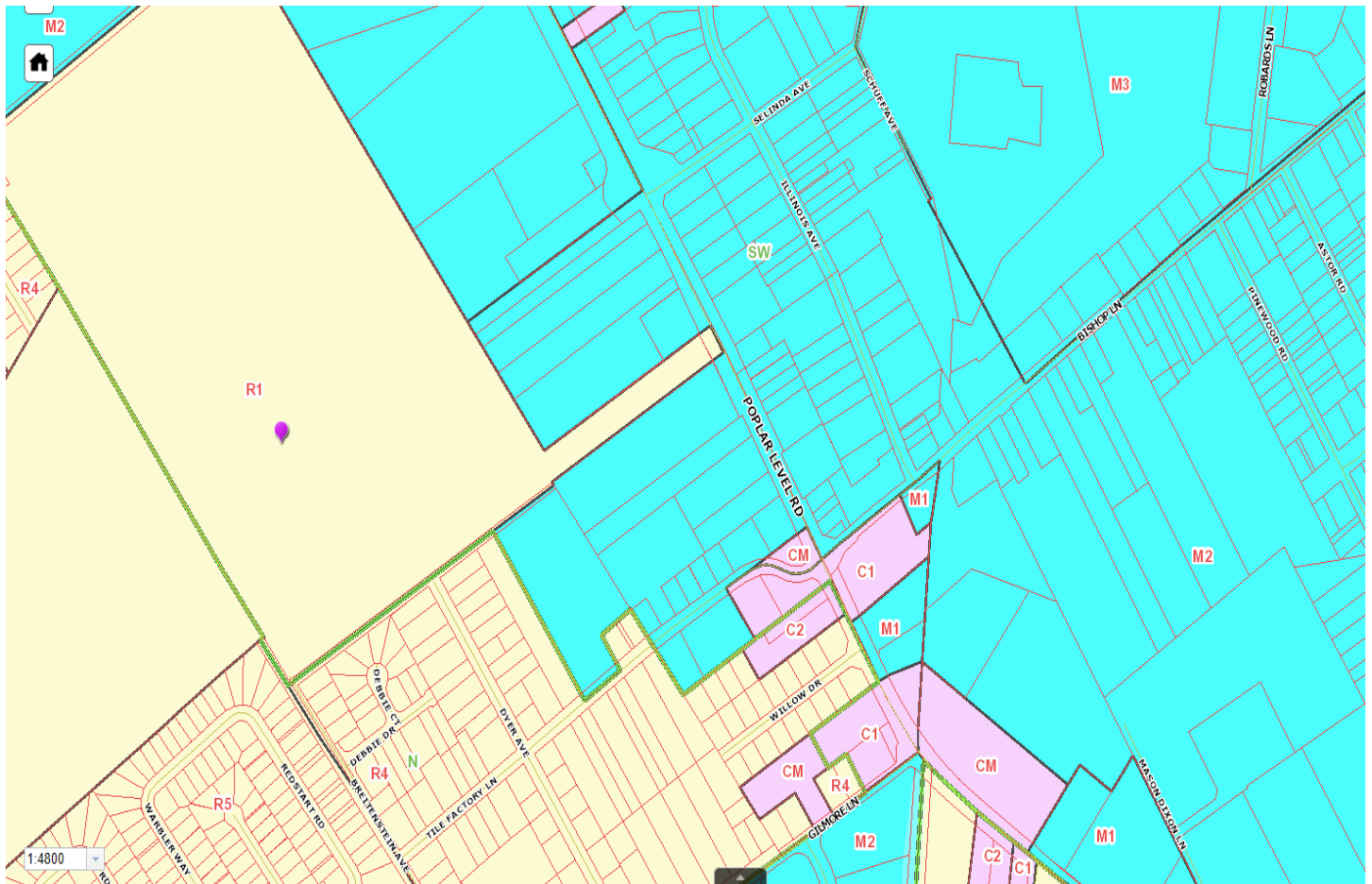
**NOTIFICATION**

Date	Purpose of Notice	Recipients
April 16, 2018 April 26, 2018	Hearing before BOZA	1 <sup>st</sup> Tier Adjacent Property Owners Registered Subscribers of Council District 21 Notifications of Development Proposals
April 19, 2018	Hearing before BOZA	Sign Posting

**ATTACHMENTS**

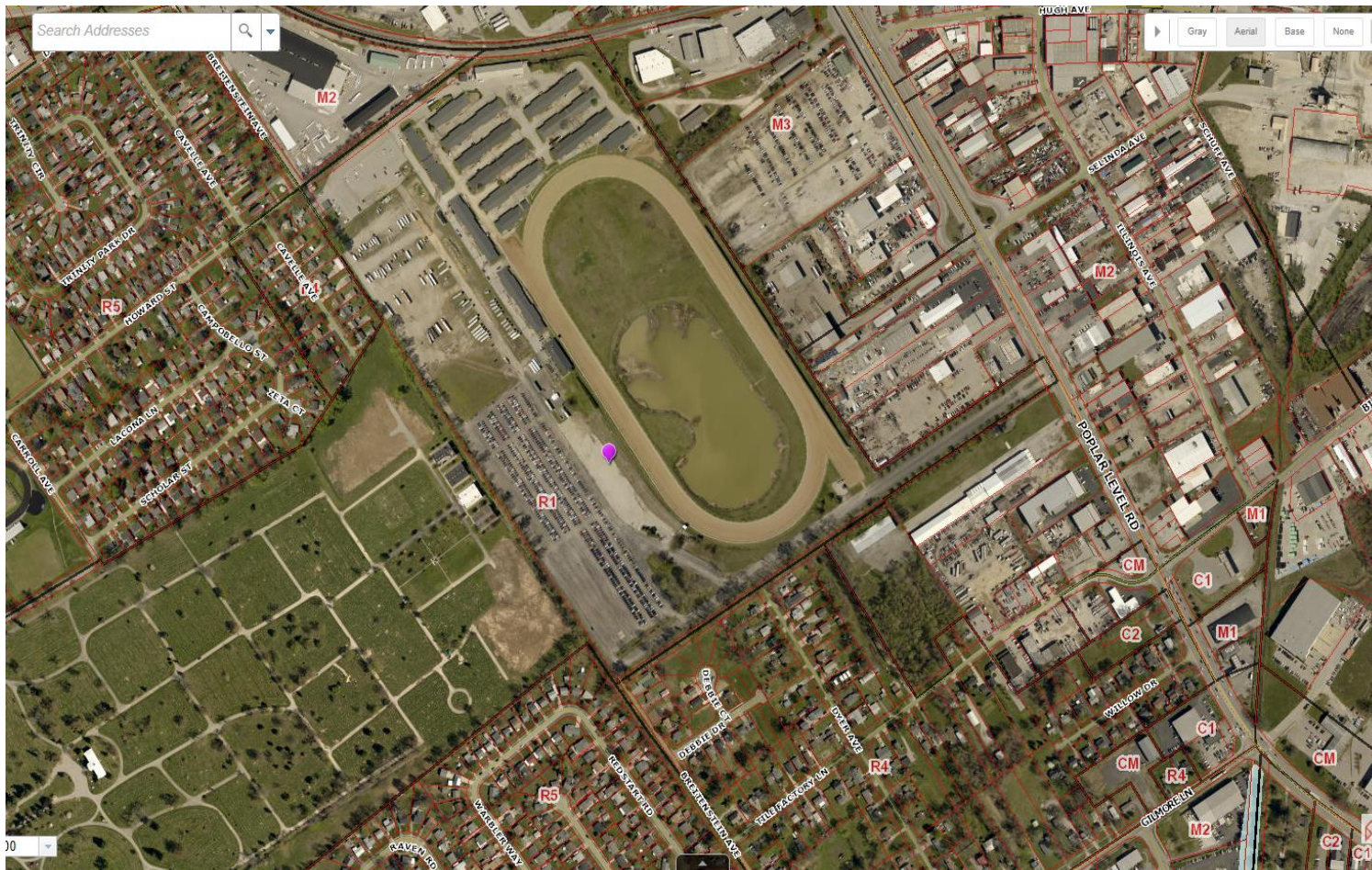
1. Zoning Map
2. Aerial Photographs
3. Existing Sign
4. Proposed Signage

# Zoning Map



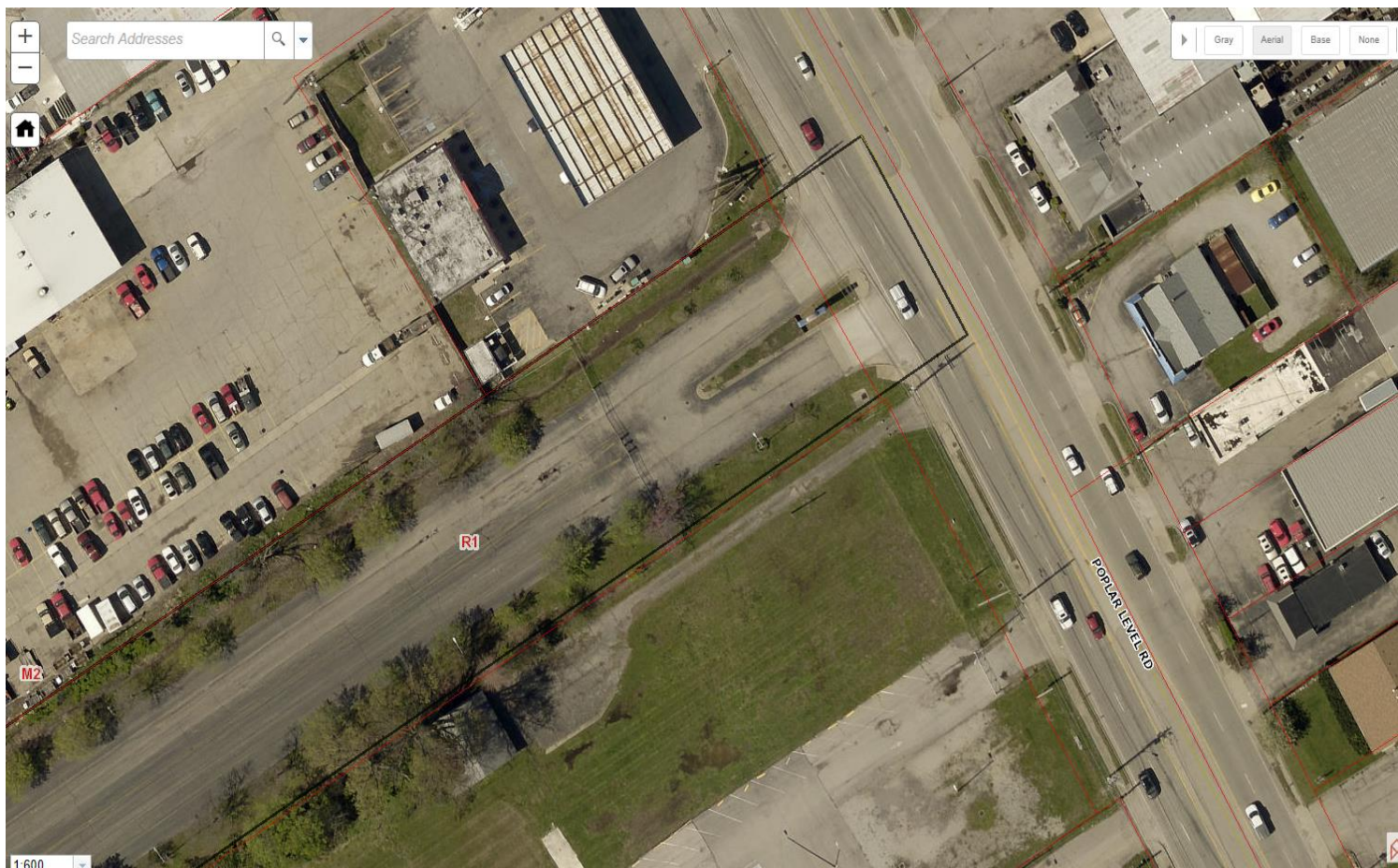


Aerial Map





Aerial Map  
Entrance



Existing Sign





RECEIVED

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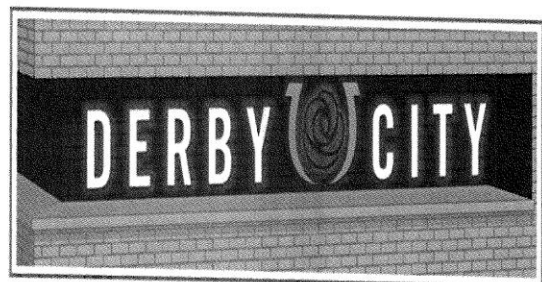
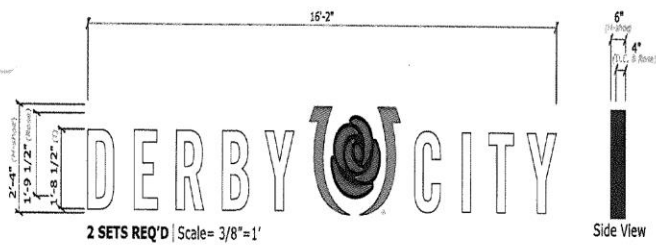
PLANNING &  
DESIGN SERVICES

LED DISPLAYS & EXTERIOR LOGO SIGNAGE - DF PYLON

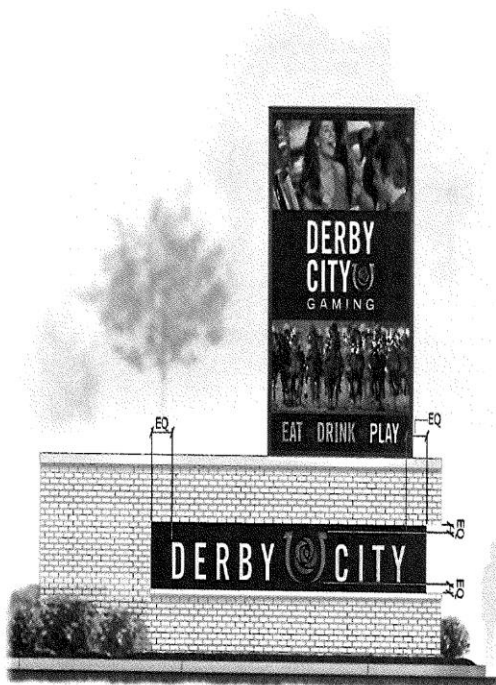
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General Notes for Letters, Horseshoe, Rose

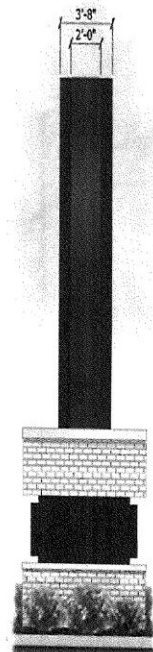
- Fab'd Aluminum Letters, Horseshoe, & Rose Internally Illuminated by Leds.  
Satin Black Painted Returns
- All: Translucent Sign Faces with Translucent Graphic Film.  
1" Black Trimcap.



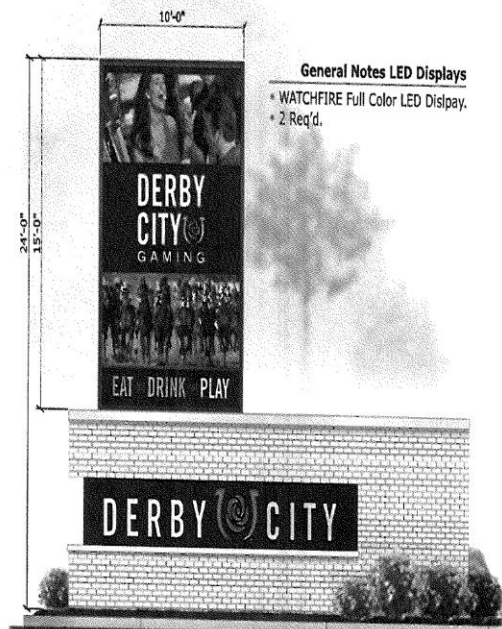
Nighttime Illumination



Side Elevation A | Scale: 3/16"=1'



Front View | Scale: 3/16"=1'



Side Elevation B | Scale: 3/16"=1'

General Notes LED Displays

- WATCHFIRE Full Color LED Display.
- 2 Req'd.