



Interoffice Memorandum

December 14, 2021

TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jon V. Weiss, P.E., Director
Planning, Environmental, and Development Services
Department

CONTACT PERSON: Ted Kozak, AICP, Chief Planner
Zoning Division
(407) 836-5537

SUBJECT: January 11, 2022 Board Called Hearing
Applicant: Walgreen's (Mark Brenchley)
BZA Case #VA-21-11-109, November 4, 2021; District 2

Board of Zoning Adjustment (BZA) Case # VA-21-11-109, located at 5601 N. Hiawassee Road, Orlando, Florida, 32818, in the Planned Development district, in District 2, is a Board called public hearing. The applicant is requesting a variance to allow 265.83 sq. ft. of wall signage in lieu of 207 sq. ft. The subject property is located on the east side of N. Hiawassee Rd., the south side of Clarcona Ocoee Rd., and is west of N. Powers Rd.

At the November 4, 2021 BZA hearing, staff recommended denial of the variance request. The BZA recommended approval of the variance, subject to four conditions.

The application for this request is subject to the requirements of Article X, Chapter 2, Orange County Code, as may be amended from time to time, which mandates the disclosure of expenditures related to the presentation of items or lobbying of items before the BCC. A copy is available upon request in the Zoning Division.

If you have any questions regarding this matter, please contact Ted Kozak, AICP at (407) 836-5537.

ACTION REQUESTED: Deny the applicant's request; or approve the applicant's request with conditions. District 2.

**PLANNING, ENVIRONMENTAL, AND DEVELOPMENT SERVICES DEPARTMENT
ZONING DIVISION PUBLIC HEARING REPORT**

January 11, 2022

The following is a public hearing before the Board of County Commissioners on January 11, 2022 at 2:00 p.m.

APPLICANT: WALGREENS (MARK BRENCHLEY)

REQUEST: Variance in the P-D zoning district to allow 265.83 sq. ft. of wall signage in lieu of 207 sq. ft.

LOCATION: 5601 N. Hiawassee Road, Orlando, Florida, 32818, East side of N. Hiawassee Rd., south side of Clarcona Ocoee Rd., west of N. Powers Rd.

TRACT SIZE: 3.19 acres

ZONING: P-D

DISTRICT: #2

PROPERTIES NOTIFIED: 131

BOARD OF ZONING ADJUSTMENT (BZA) HEARING SYNOPSIS ON REQUEST:

Staff described the proposal, including the location of the property, the site plan, and photos of the site. Staff provided an analysis of the six (6) criteria and the reasons for a recommendation for denial. Staff noted that no comments were received in support or in opposition.

The applicant stated that the property is a flag shaped lot with limited signage visibility. He also stated that this is the new design for all Walgreens as part of a national branding and he felt that they were being deprived of the right to reasonable visibility.

The BZA felt that there are special conditions and circumstances and that the request is not unreasonable, and the also noted that vegetation has grown to block views and that a similar variance had been granted across the street.

There was no one present to speak in favor or in opposition to the request.

The BZA made a motion to deny the application, which failed. A second motion was made to recommend approval of the requested variance, which passed with a 3-1 vote, subject to the four (4) conditions found in the staff report.

BZA HEARING DECISION:

A motion was made by Roberta Walton Johnson, seconded by Wes Hodge and carried to recommend APPROVAL of the Variance request in that the Board made the finding that the requirements of Orange County Code, Section 30-43(3) have been met; further, said approval is subject to the following conditions; (3 in favor, 1 opposed, 1 abstained and 2 absent).

1. Development shall be in accordance with the site plan and sign details dated September 8, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
4. A permit shall be obtained within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.

BZA STAFF REPORT

Planning, Environmental & Development Services/ Zoning Division

Meeting Date: **NOV 04, 2021**

Commission District: **#2**

Case #: **VA-21-11-109**

Case Planner: **Nick Balevich (407) 836-0092**

Nick.Balevich@ocfl.net

GENERAL INFORMATION

APPLICANT(s): WALGREENS (MARK BRENCHLEY)

OWNER(s): WALGREEN CO

REQUEST: Variance in the P-D zoning district to allow 265.83 sq. ft. of wall signage in lieu of 207 sq. ft.

PROPERTY LOCATION: 5601 N. Hiawassee Road, Orlando, Florida, 32818, east side of N. Hiawassee Rd., south side of Clarcona Ocoee Rd., west of N. Powers Rd.

PARCEL ID: 36-21-28-0000-00-019

LOT SIZE: 3.19 acres

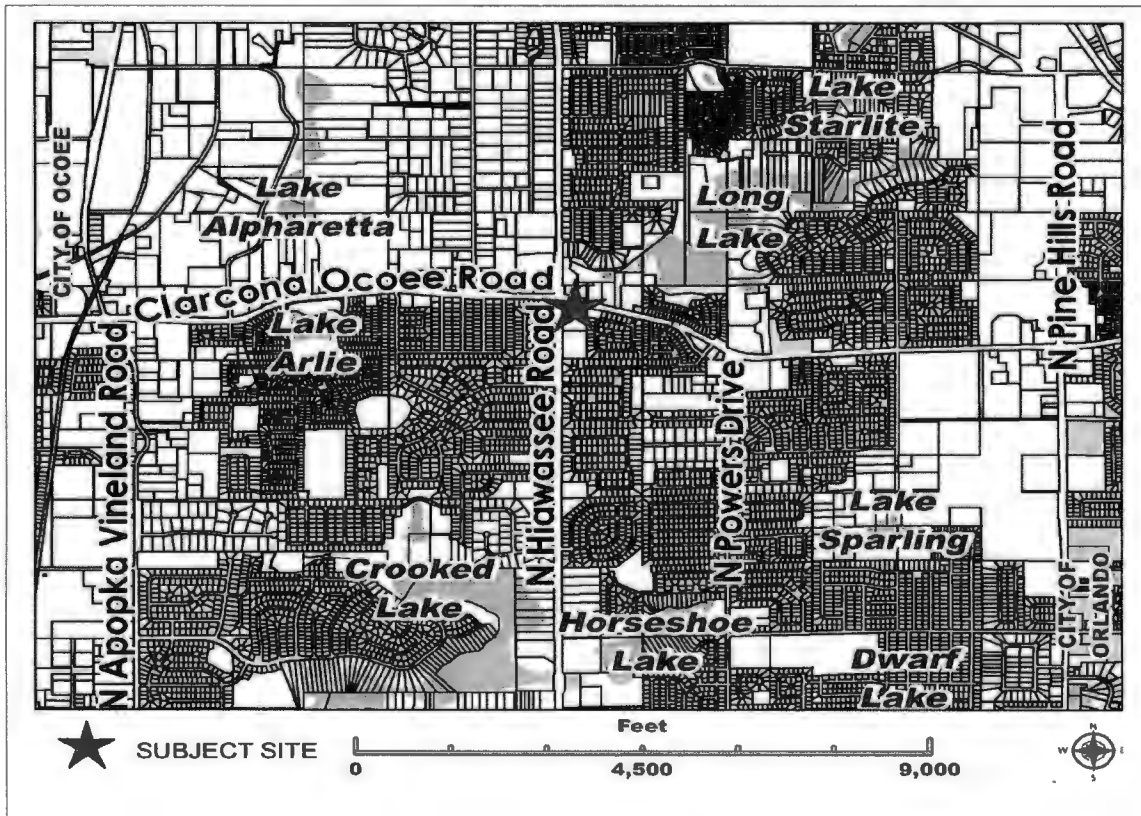
NOTICE AREA: 500 ft.

NUMBER OF NOTICES: 131

STAFF RECOMMENDATIONS

Denial, however, should the BZA find that the applicant has satisfied the criteria necessary to grant a variance, staff recommends that the approval be subject to the conditions in this report.

LOCATION MAP



SITE & SURROUNDING DATA

	Property	North	South	East	West
Current Zoning	Walgreens at Hiawassee PD	C-1	A-1	R-1A	R-1A
Future Land Use	PD-C	C	LDR	LDR	LDR
Current Use	Walgreens drug store	Commercial	Central Christian University	Single-family residences	Single-family residences, and commercial

BACKGROUND AND ANALYSIS

DESCRIPTION AND CONTEXT

The subject property is located in the Walgreens at Hiawassee Planned Development (PD) district, which allows commercial uses.

The area around the subject site consists of commercial uses to the north, a religious use university to the south and single-family homes to the east and west. The subject property is a 3.19 acre unplatted lot that is considered to be conforming. The property is developed with a 16,174 sq. ft. Walgreens retail drug store that was built in 2003. Although the subject property is located in the Walgreens at Hiawassee PD. There are no specific design standards that differ from code.

In October 2002, permit B02015221 was issued to install 149.6 sq. ft. of signage on the north and west elevations of the building. In June 2021, permit B21010114 was issued to remove 10.4 sq. ft. of signage on the west elevation of the building. In June 2021, permit B21010117 was issued to replace 75 sq. ft. of signage on the west elevation of the building. In June 2021, permit B21010126 was issued to add 72 sq. ft. of signage on the west elevation of the building. The building has 147.33 sq. ft. of wall signage on the west façade, and 61 sq. ft. of wall signage on the east façade, for a total of 208.33 sq. ft.

Orange County Sign Code Section 31.5-15 (a)(2) allows 1.5 sq. ft. of wall signage per linear foot of building frontage, which is calculated using the building frontage where the main entrance is located. The main entrance for this property is at an angle between the north and west frontages, but the majority of the parking, including the handicapped spaces are located on the north frontage, which is thus considered to be the frontage with the main entrance, and has 138 ft. in length. Using this calculation, the applicant is allowed up to 207 sq. ft. of copy area for their wall signs. The applicant is proposing to add 57.5 sq. ft. of signage behind a window, above the front entry, facing northwest. The proposed signage will be located approximately 80 feet from the nearest street frontage along Hiawassee Rd.

The site also has 2 existing ground signs at each of the entrances, on N. Hiawassee Rd., and on Clarcona Ocoee Rd. Also, as shown in the photos, the existing building has a significant amount of signage already. Removal of existing signage to accommodate the new desired corner sign could be done within code requirements and would reduce the sign clutter.

At the time of writing this report, no comments have been received in favor or opposition to the request.

STAFF FINDINGS

VARIANCE CRITERIA

Special Conditions and Circumstances

There are no special conditions or circumstances particular to this site, as it has over 189 ft. of road frontage adjacent to Clarcona Ocoee Rd., and over 217 ft. of road frontage adjacent to N. Hiawasse Rd. with good visibility. There is already wall and ground signage on the site, and if the corner sign is desired, they could remove other existing wall signs to accommodate, specifically the existing signage on the north façade which is not visible from the street.

Not Self-Created

The need for additional signage is over and above what the sign code permits, and is self-created.

No Special Privilege Conferred

Granting this variance will confer a special privilege, and potentially establish a precedent.

Deprivation of Rights

Failure to grant this variance will not deprive the applicant of the ability to install signage, which the property has on 2 facades, and as well as ground signs.

Minimum Possible Variance

The applicant has maximized available wall copy area, this is not the minimum possible variance.

Purpose and Intent

The purpose of the sign code is to ensure that a consistent amount of signage is permitted for all properties, and to avoid sign clutter. The granting of a variance for an additional 57.5 sq. ft. of wall sign copy area will exceed the amount of signage above which is allowed by the sign code. This would be contrary to the purpose and intent of the code since the request is not a proven hardship.

CONDITIONS OF APPROVAL

- Development shall be in accordance with the site plan and sign details dated September 8, 2021, subject to the conditions of approval, and all applicable laws, ordinances, and regulations. Any proposed non-substantial deviations, changes, or modifications will be subject to the Zoning Manager's review and approval. Any proposed substantial deviations, changes, or modifications will be subject to a public hearing before the Board of Zoning Adjustment (BZA) where the BZA makes a recommendation to the Board of County Commissioners (BCC).
2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
 3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of County Commissioners shall be resubmitted for the Board's review or the plans revised to comply with the standard.
 4. A permit shall be obtained within 180 days of final action on this application by Orange County or this approval is null and void. The zoning manager may extend the time limit if proper justification is provided for such an extension.
- C: Mark Brenchley
3790 Beacon Ridge Way.
Clermont, FL 34711

Variance Criteria

Walgreens 5601 N. Hiawasse Road, Orlando, Florida

Interior wall sign variance/clarification of ordinance

36-21-28-0000-00-019

Revised 9.30.2021 in response to staff comments

Description of Proposed Interior sign:

Walgreens is proposing an interior national branding (logo) wall sign to be installed inside the bump-out entrance tower at the north west corner of the retail store building. The sign is non illuminated. It measures 5' in height and 11'6" wide, totaling 57.5 SF. It is located on an interior wall 64" behind the front building wall and window through which it can be viewed from the outside. The bottom of the sign is approximately 15' above the floor elevation of the main entrance.

Sign Varlance Proposal: This application seeks relief from, and a determination of *31.5-15 (a)(2) Maximum copy area. Sec. 31.5-15(a)(2)* limits wall signs to 1.5 SF of sign area per 1 lineal foot of building frontage. This Walgreens building has 106' of building (west) frontage on Hiawasse Rd. and 138' building (north) frontage on Clarcona Ocoee Rd, though a portion of this greater corner lot's frontage is an out parcel owned by 7 Eleven/Mobile etal. (36-21-28-0000-00062). Pursuant to said code and the provision of the PD, only one frontage shall determine the maximum wall sign area of the building. Using the greater 138' frontage of the north elevation, the maximum wall sign area is 208.5 SF. The existing signage on the west 106' wide elevation is 147 SF; the existing sign area on the north 138' wide elevation is 61 SF with the total existing sign area of 208 SF-- .5 SF short of the maximum sign area

Therefore the sign area variance for the proposed Walgreens Interior sign is 57 SF.

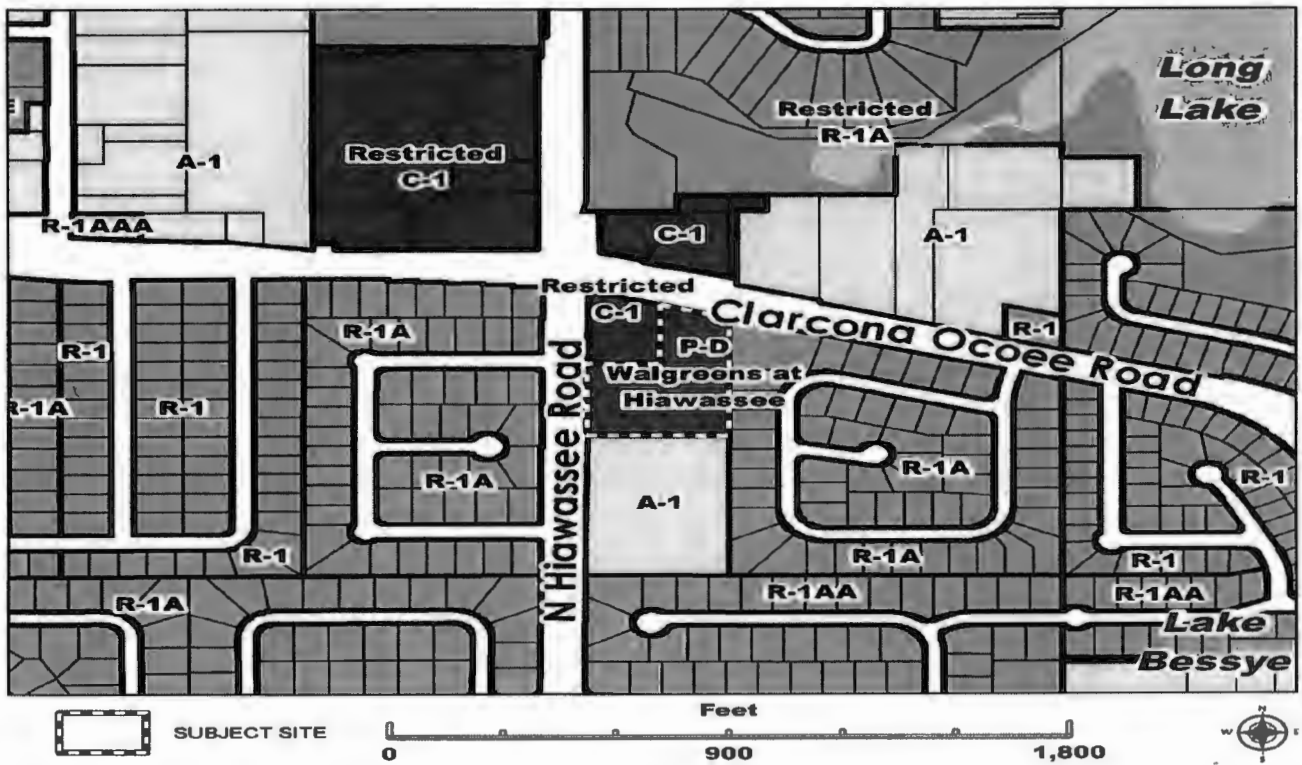
Pursuant to *Section 30-43 (3)* of the Orange County Code the required standards are shown to be met as follows:

1. **Special Conditions and Circumstances:** As described above, the location of the sign is proposed within a tower which fronts two streets and is included within both architectural building elevations as a tower element which is significant to the design of the building... but has become an identifiable national branding feature in and of itself. The special condition created by the tower complicates the determination of the maximum sign area of each of the two elevations.

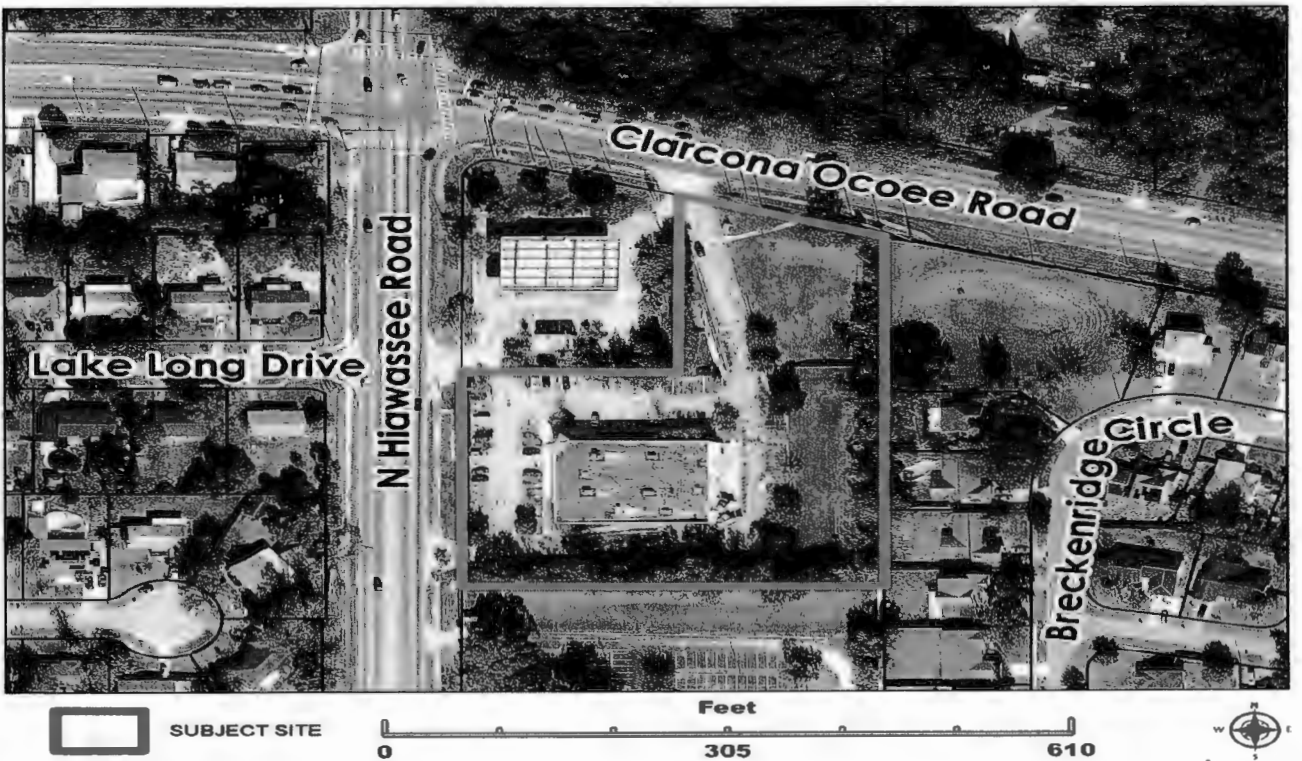
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2. **Not self-created:** Because of the ambiguity of the definition of building frontage when it comes to an angled tower structure such as this, the ordinance has created the issue not the applicant. The definition needs to be revised, certainly expanded.
3. **No Special privilege conferred:** No special privilege will be conferred upon the applicant that is denied to other lands or structures in the same zoning district because the total maximum sign area allowed by code for the building will not be exceeded, it is simply where.....and on what elevation.....is the proposed sign to be assigned thereby considering the maximum sign area of said elevation and if required, the discretionary decision of the board would grant a variance if it determined that the maximum sign area of the west elevation has been exceeded.
4. **Deprivation of Right:** This is the most obvious issue at hand...the literal interpretation of the sign code deprives the applicant of a signage right enjoyed by other properties in the same zoning district because the definition of frontage does not exactly consider the building and its entrance tower juxtaposition and thus challenging the determination of maximum sign area.
5. **Minimum possible variance:** The proposed minimal signage branding and given its somewhat remote location is the minimum possible variance and still provide the most reasonable identification of the use of the building.
6. **Purpose and Intent:** This sign variance proposal promotes and complies with *Sec. 31.5-3 Purpose* as it will authorize signage that will "maintain, enhance and improve the beauty of the county while recognizing the right of the business community both to reasonably identify and advertise its existence."

ZONING MAP



AERIAL MAP



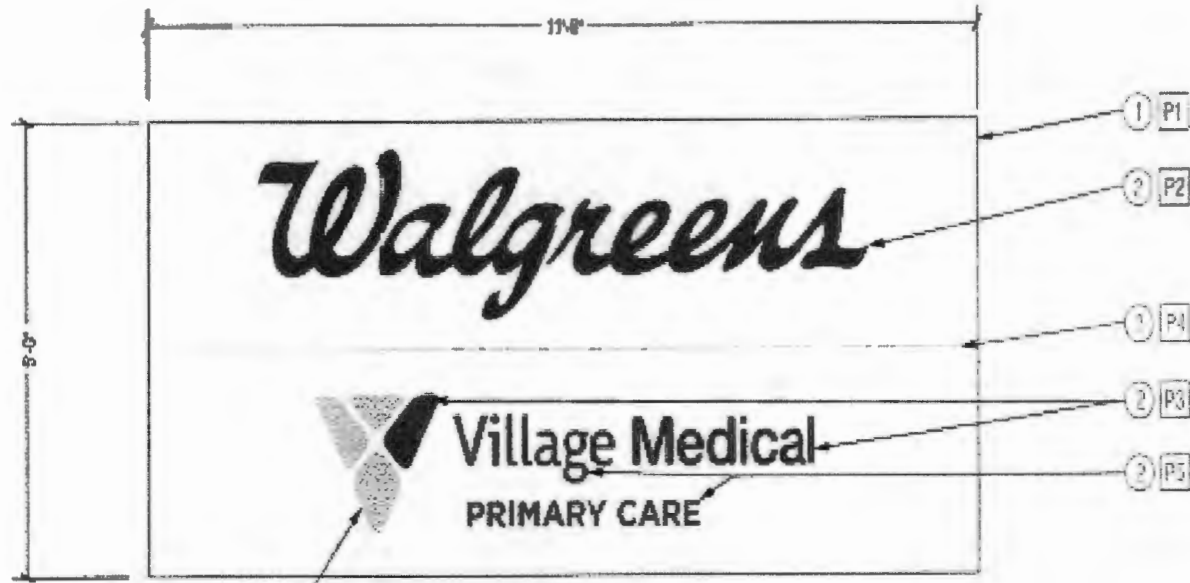
SITE PLAN



SIGN LOCATION AT NORTHWEST ELEVATION

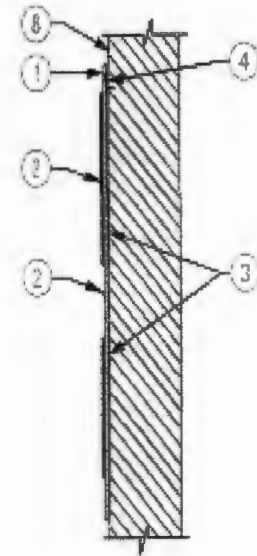


SIGN DETAIL



10 INTERIOR NON-ILLUMINATED WALL SIGN
SCALE 1/2" = 1'-0"

(1) REQ'D



SECTION
SCALE 1/2" = 1'-0"

SITE PHOTOS



Site from Hiawasse Rd. facing east



North elevation of building, facing south

SITE PHOTOS



New sign location facing southeast



New sign location facing southeast