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Sep 06 2023

ZHB Case # 230013

MOUNT JOY TOWNSHIP

## Mount Joy Township

8853 Elizabethtown Rd

Elizabethtown, PA 17022

Phone: (717)367-8917 - Fax: (717)367-9208

# Zoning Hearing Board Application

### 1. Applicant Information

Name: Rheems Retail Center, LLC

Address: 1083 Bluegrass Road City/State/Zip: Lancaster, PA 17601

Phone: 215-971-1200 x10 Fax:

E-mail: ar.ap@fcgit.com

### 2. Landowner Information (if different from the Applicant)

Name:

Address: City/State/Zip:

Phone: Fax:

E-mail:

### 3. Property Information

Property Address: 2040 West Main Street

City/State/Zip: Mount Joy, PA 17552

Existing Use: convenience store with fuel pumps and a retail building Proposed Use: convenience store with fuel pumps and a retail building

Total Property Area (Sq. Ft. or Acres): 1.79 acres

### FOR TOWNSHIP USE ONLY

Date Application Received: September 6, 2023

Date Application to be heard: October 4, 2023

Tax Parcel #: 461-02867-0-0000

Zoning District: General Commercial (C-2)

Application Denied/Approved:

#### 4. Request for Special Exception

Section(s) of Zoning Ordinance for which a Special Exception is requested:

Section 135-333.C(9) and, if needed, special exception pursuant to Section 135-334.E (signs within the right-of-way)

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Provide an explanation of your proposal, particularly, why you need a special exception and for what type of use the special exception is being requested for:

Replace an existing nonconforming electronic message center sign with a proposed dynamic display sign of a similar size and in the same location. Please see attached Supplement.

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This site is suitable for a Special Exception Use because:

Please see attached Supplement.

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How will the request affect adjacent properties? (Dust, noise, fumes, odors, glare, increased traffic, character of the neighborhood etc.):

Please see attached Supplement.

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#### 5. Expansion of Special Exception Uses

Are there any existing nonconformities on the lot, if so list them:

Nonconforming electronic message center sign

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Existing and proposed square footage of the structure:

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Percentage of Expansion:

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Existing front, side and rear yard setbacks:

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Proposed front, side and rear yard setbacks:

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## 6. Request for a Variance

Section(s) of the Zoning Ordinance for which a Variance is requested:

Sections 135-333.C(9)(b) and 135-333.C(9)(c) and, if needed, variance from Section 135-334.H  
(height of freestanding sign)

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Why do you need a variance and what is your proposed alternative from the requirements of the Township Zoning Ordinance?

Please see attached Supplement.

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What physical characteristics of the property prevent it from being used for any of the permitted uses in your zoning district? (Topography, size and shape of lot, environmental constraints, etc.):"

Please see attached Supplement.

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Explain how the requirements of the Zoning Ordinance would result in difficulties or undue hardships in the use of your property, buildings and/or structures:

Please see attached Supplement.

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Explain how the granting of a variance will not be a substantial detriment to the public good or a substantial impairment of the intent and purpose of the Zoning Ordinance:

Please see attached Supplement.

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## 7. Certification

I/we, the undersigned, do hereby certify that:

1. The information submitted here in is true and correct to the best of my/our knowledge and upon submittal becomes public record.
2. Fees are not refundable, and payment does not guarantee approval of the Zoning Hearing Board Application.
3. All additional required written graphic materials are attached to this application



Applicant Signature

September 6, 2023

Date Signed

Sheila V. O'Rourke, Esq. as Attorney for Applicant  
Applicant's Name (Printed)

\_\_\_\_\_  
Landowner Sign (if different from Applicant)

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Landowner's Name (Printed)

# **Supplement to Zoning Application for Replacement of Sign Rheems Retail Center, LLC**

## **I. Introduction**

This Zoning Application requests zoning relief to replace an existing nonconforming electronic message center sign with a proposed dynamic display sign of a similar size and in the same location. Specifically, Applicant requests special exception relief pursuant to § 135-333.C(9) for the dynamic display sign, along with variances from § 135-333.C(9)(b) (30-foot setback from right-of-way), and § 135-333.C(9)(c) (one dynamic display sign per property), along with any other variances the Board may deem necessary. In addition, if needed, Applicant requests a special exception pursuant to § 135-334.E (signs within the right-of-way) and a variance from § 135-334.H (height of freestanding sign).

In support of its Application, Application provides as follows.

## **II. Background**

Rheems Retail Center, LLC (“Applicant”) owns the property at 2040 West Main Street, Mount Joy, Pennsylvania 17552 (Property ID No. 461-02867-0-0000) (the “Property”). The Property is located in the Township’s C-2 General Commercial District and consists of approximately 1.79 acres. The Property is a corner lot with right-of-way frontage on West Main Street (SR 230) and Colebrook Road (SR 4025). There are vehicular entrances to the Property both on West Main Street and Colebrook Road. The Property is improved with two separate buildings: a convenience store with fuel pumps and a retail building with five (5) shops known as Rheems Retail Center. An aerial image of the Property is attached as Exhibit “A.”

The Property has been the subject of prior zoning decisions. In 2021, Applicant sought zoning relief from this Board to construct a drive-through facility to serve the convenience store (Case No. 210007). In a written decision dated May 10, 2021, the Board granted the application. In 2022, Applicant sought a special exception to reduce the number of off-street parking spaces calculated pursuant to the Ordinance (Case No. 220014). In a written decision dated November 7, 2022, the Board granted the Application.

Following the zoning approvals, land development plans for the convenience store drive-through facility were approved by the Township and recorded on May 24, 2023 (Document No. 2023-0167-J).

The Property has three (3) existing free-standing signs:

1. The sign that is the subject of this Application advertises the Sunoco fueling station. This sign is located along West Main Street (SR 230) near the fuel canopies on the Property. The sign is a business sign with an electronic message center component, in that the sign has an electronic display with the price of gas. A photo of the Sunoco sign is attached as Exhibit “B.”

2. The second sign advertises the businesses that are part of Rheems Retail Center and is also located along West Main Street. This sign does not have any electronic display.
3. The third sign is located along Colebrook Road. The Colebrook Road sign is a dynamic display sign.

A site plan for the Property showing the locations of the existing signs is attached as Exhibit “C.”

The Sunoco sign and Rheems Retail sign along W. Main Street are located within areas of additional public right-of-way that Applicant dedicated to the Township in 2017 and 2023 (*see* Site Plan, Ex. C). However, the Township specifically permitted the signs to remain in their existing locations in the recorded Agreement Providing for Grant of Public Right-of-Way, recorded in the Lancaster County Recorder of Deeds Office at Document No. 6736689.

The purpose of this Application is to request zoning relief to replace the existing Sunoco sign with a new sign in the same location. The existing sign and proposed sign would have substantially similar dimensions. Both the existing sign and the proposed sign would be 23 feet in height. The area of the existing sign is approximately 128.7 square feet (9 ft. wide x 14.3 ft. tall), and the proposed sign would be smaller with a sign area of 126.9 square feet (9 ft. wide x 14.1 ft. tall). The main difference between the signs is that the proposed sign would be a dynamic display sign, whereas the existing sign is an electronic message center sign.

A rendering of the existing and proposed signs is attached as Exhibit “D.”

### **III. Relief Requested for Replacement of Sign**

Article XXIV of the Mount Joy Township Zoning Ordinance sets forth Regulations for Signs.

Section 135-335 relates to nonconforming signs, which “may be replaced with a similar sign as long as the sign will not be expanded or placed in a manner that would not conform to this chapter or which would allow the existing nonconformity to worsen.” The existing Sunoco sign is nonconforming in that it is located within the right-of-way and is greater than 20 feet in height (§135-334.H). In general, Applicant is simply requesting to replace a nonconforming electronic message center sign with a proposed dynamic display sign of a similar size in the same location.

To the extent Applicant would require zoning relief for the proposed sign, Applicant requests a special exception for a dynamic display sign, along with related variances, as set forth below.

#### **A. Special Exception for Dynamic Display Sign & Variances**

Dynamic display signs are permitted in the C-2 District by special exception pursuant to § 135-333.C(9). The performance criteria for a dynamic display sign are set forth and applied below.

- a) The proposed sign is more than 300 ft. from any residential zoning district. § 135-333.C(9)(a). Adjacent properties are zoned C-2 and C-1. Adjacent uses include a Burger King fast-food restaurant, a Turkey Hill convenience store and fueling station, and a veterinary office.
- b) The Ordinance requires that a dynamic display sign be set back a minimum of 30 feet from a street right-of-way. § 135-333.C(9)(b). The proposed sign would be located in the same location as the existing Sunoco sign, which is within the areas of public right-of-way that were dedicated to the Township in 2017 and 2023. In other words, the proposed sign would not be located any closer to the existing cartway and would not encroach further in to the public right-of-way. Importantly, based on the existing configuration of the drive aisle and fuel canopies on the Property, there is no possibility of moving the sign farther from the right-of-way. Accordingly, Applicant requests a dimensional variance to § 135-333.C(9)(b) to replace the existing sign with the proposed sign in the same location within the public right-of-way.
- c) Section 135-333.C(9)(c) of the Ordinance permits one (1) dynamic display sign per property and requires that any dynamic display sign be located at least 200 feet from any other dynamic display sign. Applicant requests a variance from the requirement that there be only one (1) dynamic display sign per lot in order to permit two such signs on the Property. Notably, the proposed sign is more than 200 feet from the existing dynamic display sign on Colebrook Road. A variance is warranted based on the unique characteristics of the site, which has road frontage along two state roads and contains two separate commercial buildings with separate uses (convenience store / fueling station and a retail center). In addition, from an area and bulk perspective, the Property far exceeds the minimum lot size of 10,000 square feet (0.23 acre) and could accommodate the two separate uses (and two dynamic display signs) as if they were on separate lots. As stated, the two dynamic display signs would be more than 200 feet apart and would be on two different public roads. For these reasons, Applicant requests a variance from § 135-333.C(9)(c) to permit two (2) dynamic display signs on the Property.
- d) Applicant also would meet the technical display requirements for the proposed sign:
- The display would change, at minimum, at ten (10) second intervals. § 135-333.C(9)(d).
  - The images displayed on the proposed sign would be static, and the change to another static image would be instantaneous without any special effects. § 135-333.C(9)(e).
  - The proposed sign would have a light detector or photocell by which the sign's brightness could be dimmed. § 135-333.C(9)(f). The sign would not cause objectionable glare. Applicant intends to submit a lighting diagram

or other documentation at the time of the zoning hearing to demonstrate compliance with the technical lighting requirements.

- If the sign malfunctions so as to violate the requirements of the Zoning Ordinance, Applicant agrees to turn off the sign until it can be repaired. § 135-333.C(9)(g).
- Applicant will obtain a sign permit and a UCC permit as required by the Ordinance. § 135-333.C(9)(h).

To the extent necessary, Applicant requests a special exception pursuant to § 135-334.E to allow the proposed sign to the encroach in to the public right-of-way, however, Applicant does not believe a special exception is needed since Applicant is replacing an existing sign in the same location.

Similarly, if needed, Applicant requests a variance from § 135-334.H, which limits the height of a freestanding sign to 20 feet. The existing sign is 23 feet high, and the proposed sign would be the same height. Accordingly, it is Applicant's position that the existing sign is nonconforming as to height, and Applicant may erect a replacement sign of the same height without zoning relief. However, a small variance related to height is requested if needed.

In general, the proposed sign meets the special exception criteria of § 135-383.B. For example, the proposed sign would not affect the amount of traffic generated by the underlying use, and traffic will continue to be safely accommodated. § 135-383.B(2). The underlying use of the Property is properly designed with regard to internal circulation, parking, and other elements of proper design, as approved in prior zoning decisions and the recorded land development plans for the Property. § 135-383.B(3). The proposed sign will not harm or detract from the use of neighboring properties. § 135-383.B(4). The Property is located within a commercial corridor, and other nearby uses have similar types of signage. Finally, the proposed sign will not create any significant hazard to the public health and safety. § 135-383.B(5).

An exhibit with adjoining property owners is attached as Exhibit "E."

In light of the above, Applicant respectfully requests that the Mount Joy Township Zoning Hearing Board grant appropriate zoning relief to replace the existing electronic message center sign with the proposed dynamic display sign.



GIBBEL KRAYBILL & HESS LLP

Dated: Sept. 6, 2023

By: 

Sheila V. O'Rourke

Atty. I.D. #313842

2933 Lititz Pike

P.O. Box 5349

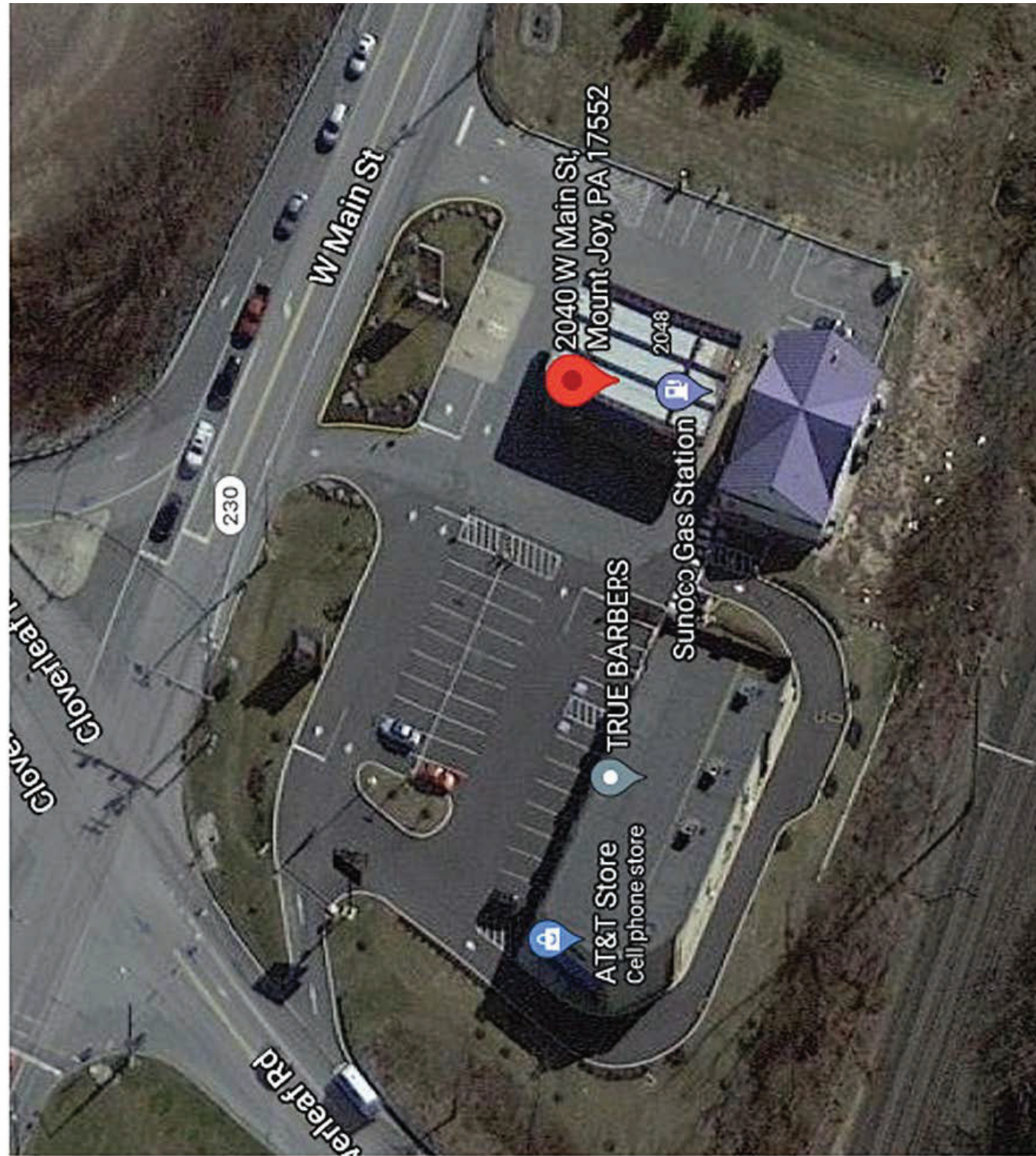
Lancaster, PA 17606

(717) 291-1700

*sorourke@gkh.com*

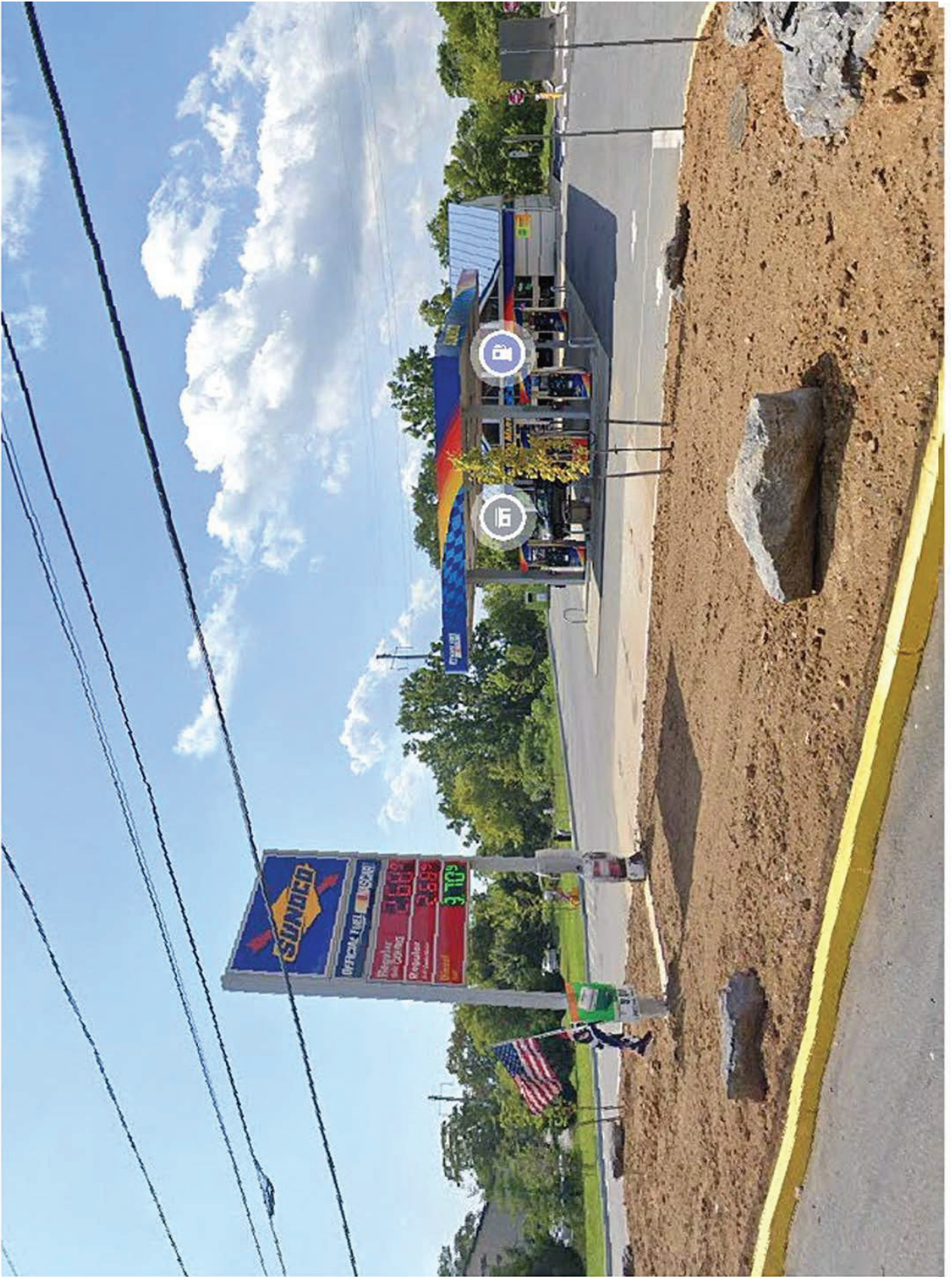
*Attorney for Applicant*

# **EXHIBIT A**



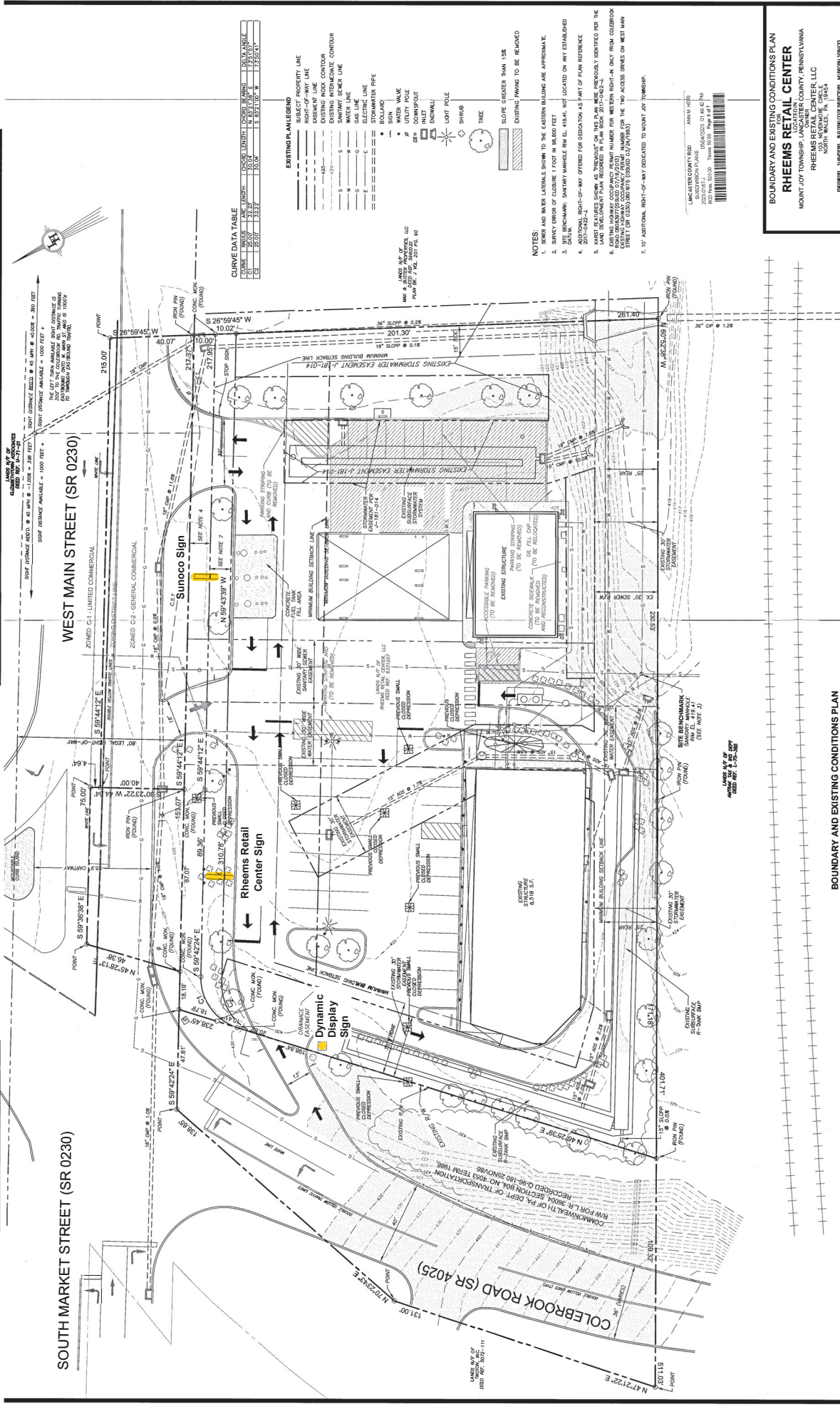
# **EXHIBIT B**





# EXHIBIT C





BOUNDARY AND EXISTING CONDITIONS PLAN  
SCALE: 1" = 20'



Know what's below.  
Call before you dig.

BOUNDARY AND EXISTING CONDITIONS PLAN  
RHEEMS RETAIL CENTER  
MOUNT JOY TOWNSHIP, LANCASTER COUNTY, PENNSYLVANIA  
RHEEMS RETAIL CENTER, LLC

PROJECT: RHEEMS RETAIL CENTER, LLC  
LOCATION: MOUNT JOY TOWNSHIP, LANCASTER COUNTY, PENNSYLVANIA  
DATE: 05/24/2023  
DRAWN BY: J. L. B. / J. L. B.  
CHECKED BY: S. M. / S. M.  
JOB NO.: 2023-0167-J  
SHEET NO. 3 OF 13

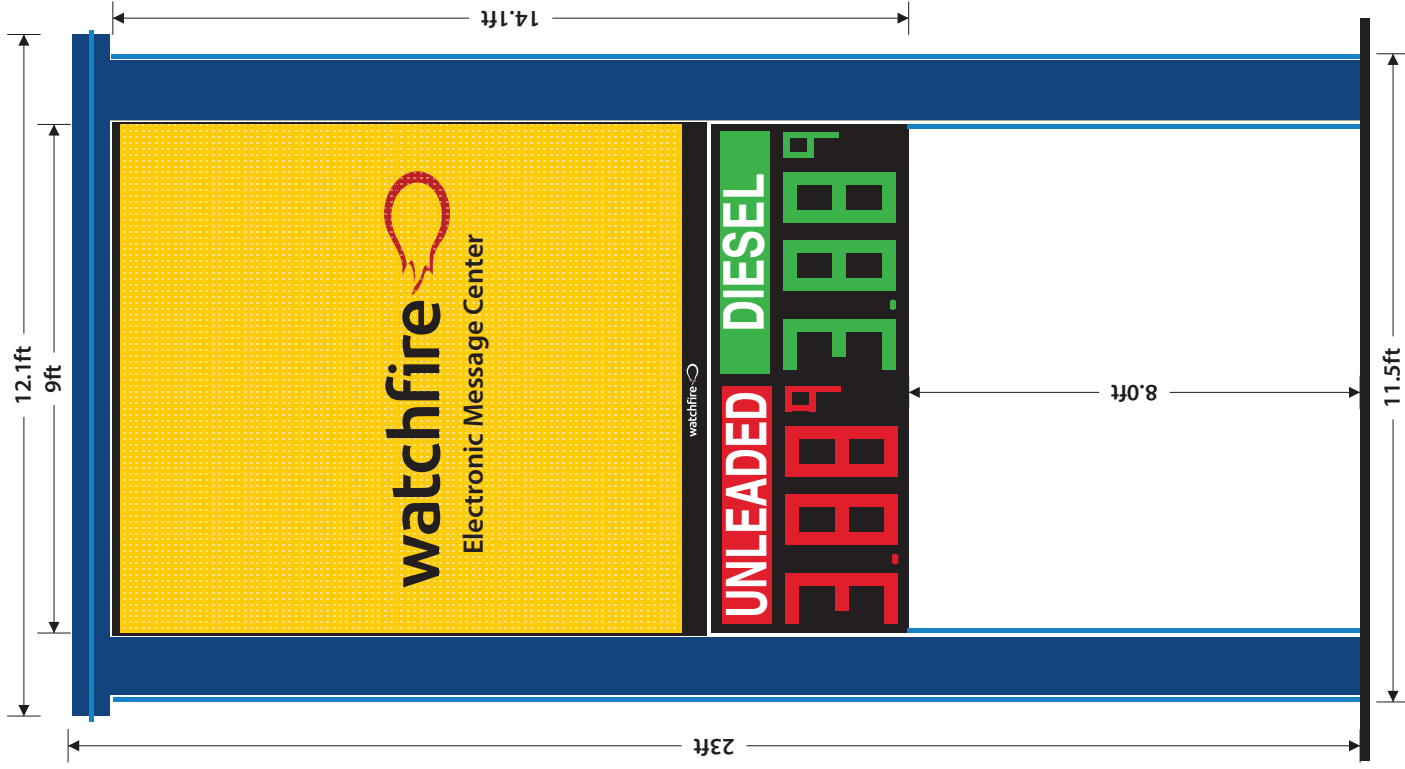
FOR MORE INFORMATION, CONTACT:  
LIGHT-HEIGEL & ASSOCIATES, INC.  
1717 EBP 1351 FAX (717) 858-2521 WWW.LIGHT-HEIGEL.COM  
LANCASTER, PA 17602-1351  
HARRISBURG, PA 17101-1351  
PHILADELPHIA, PA 19101-1351

DATE: 05/24/2023  
DRAWN BY: J. L. B. / J. L. B.  
CHECKED BY: S. M. / S. M.  
JOB NO.: 2023-0167-J  
SHEET NO. 3 OF 13

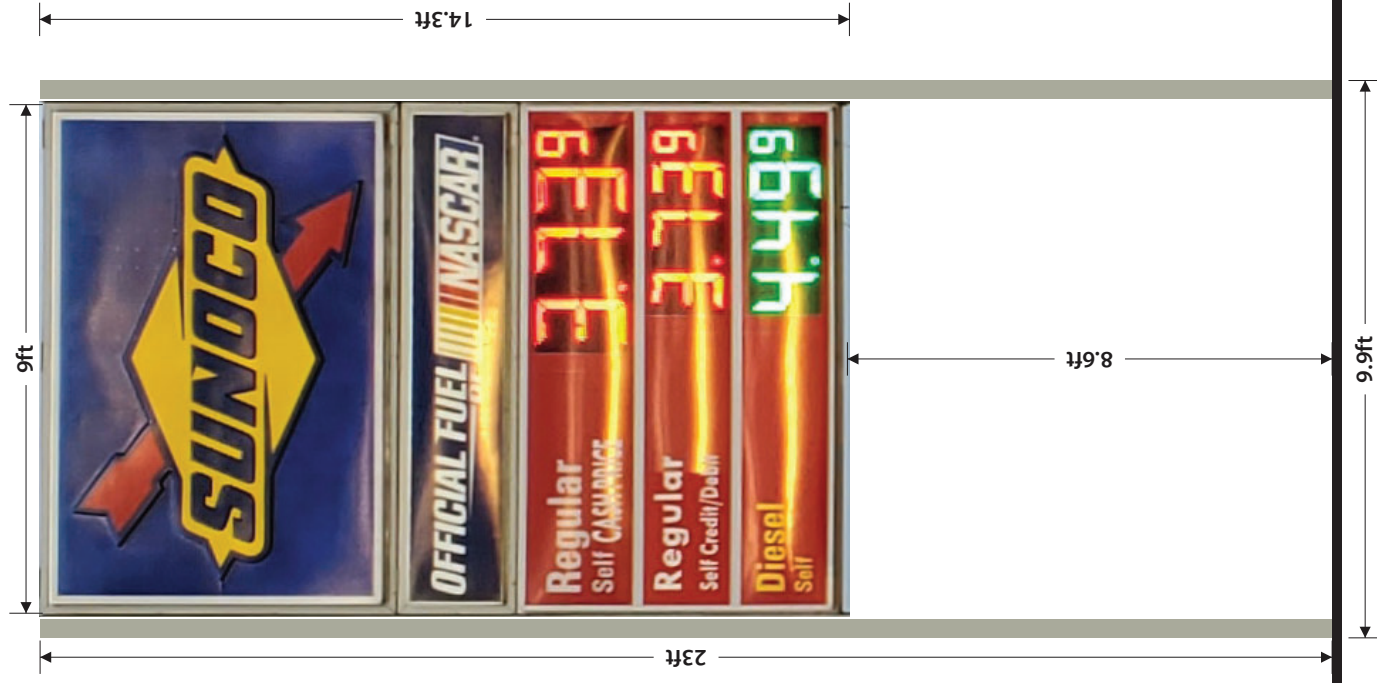
# **EXHIBIT D**



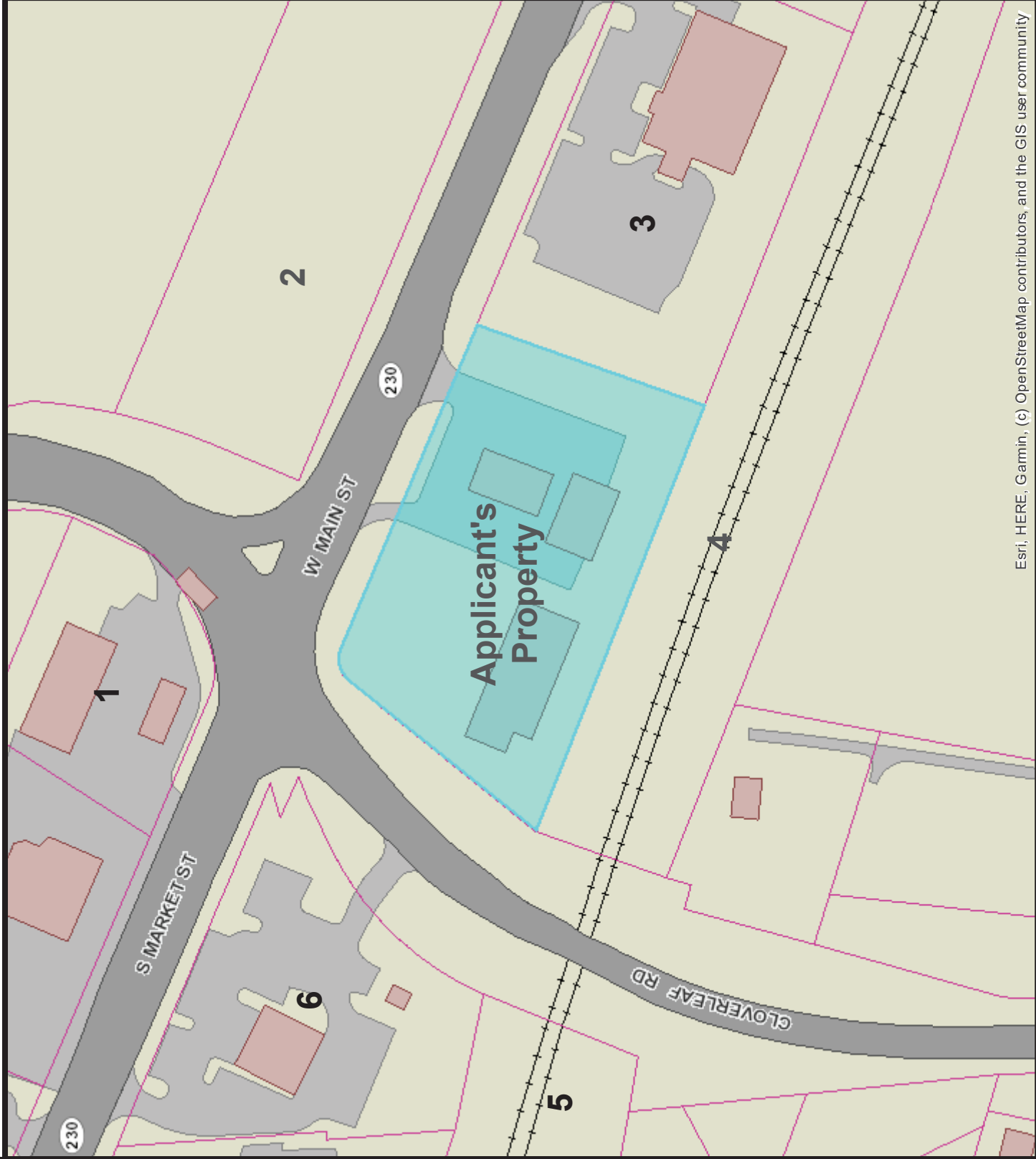
## Proposed



## Existing



# **EXHIBIT E**



**County View Map Features**

Parcel Boundary	Water Line	Water Body	County Boundary
Zoning	Wastewater Line	Building	
School District Boundary	Interstate	Park	
US Route	PA Route	Forested	
Minor Road	Road Surface	Agricultural	
Parking Lot	Drive	Borough or City	
10' Index Contour	2' Intermediate Contour	Township	
Stream	Water Body		

Scale: 1:1,897



1 in = 158 ft  
Date Created: 10/4/2022

Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community

### **Adjoining Property Owners**

1. 460-17927-0-0000 – 2389 Market Street  
Soe Family Trust UDT  
Garwin B. Soe, Trustee  
Lisa H. Soe, Trustee  
603 Creekmore Court  
Walnut Creek, CA 94598  
  
Garson C. Soe  
Doreen E. Louie  
Attn: Property Tax Dept.  
165 Flanders Road  
Westborough, MA 01581
2. 461-82176-0-0000 – Harrisburg Pike  
Elizabethtown Association  
1000 Germantown Road  
Suite A-2  
Plymouth Meeting, PA 19462
3. 461-55456-0-0000 – 2034 W. Main Street  
Max & Buster Properties, LLC  
231 Prospect Road  
Elizabethtown, PA 17022
4. 461-32511-0-0000 – Harrisburg Pike Rear  
Amtrack Tax & Ins. Dept.  
400 N. Capital Street NW  
Washington, DC 20001
5. 460-39552-0-0000 – 239 Ersu Drive  
Amtrack Tax & Ins. Dept.  
400 N. Capital Street NW  
Washington, DC 20001
6. 460-88454-0-0000 – 2370 S. Market Street  
Twoton Inc.  
PO Box 305  
Willow Street, PA 17584



# MOUNT JOY TOWNSHIP

• Lancaster County, Pennsylvania •

8853 Elizabethtown Road, Elizabethtown, PA 17022

717.367.8917 • 717.367.9208 fax

www.mtjoytp.org

September 14, 2023

Certified Mail # 9407 1118 9876 5413 8408 11

Rheems Retail Center, LLC  
1083 Bluegrass Road  
Lancaster, PA 17601

Re: Proposed Dynamic Display Sign  
Property Located at 2040 West Main Street, Mount Joy, PA 17552  
Tax Parcel Account #461-02867-0-0000  
Case #230013

Dear Sir or Ms.:

I have reviewed the above-referenced zoning hearing application submitted to Mount Joy Township on September 6, 2023. The hearing for the application is scheduled for **6:00 P.M. on Wednesday, October 4, 2023** at the Mount Joy Township Municipal Building located at 8853 Elizabethtown Road, Elizabethtown, PA 17022. I offer the following comments on the application:

- An aerial image and a street view image has been provided with the application under tabs A and B, respectively.
- The subject property is located within the C-2, General Commercial District, consisting of approximately 1.79 acres. A convenience store with gas pumps and a multi-unit retail building are currently located on the property.
- The applicant proposes to replace an existing sign along West Main Street and replace it with a dynamic display sign.
- The applicant is seeking and has requested approval of the proposed project via Chapter 135 of the Code of Ordinances of the Township of Mount Joy, i.e. the Mount Joy Township Zoning Ordinance of 2012. The following special exception requests have been made pursuant to Chapter 135, as noted below:

- (1) Chapter 135, Article XXIV, §135-333.C(9) to permit a dynamic display sign
- (2) Chapter 135, Article XXIV, §135-334.E to permit a sign within the street right-of-way

Variances from the following sections have also been requested:

- (3) Chapter 135, Article XXIV, §135-333.C(9)(b) regarding the front setback for dynamic display signs
- (4) Chapter 135, Article XXIV, §135-333.C(9)(c) regarding a second dynamic display sign on the same property
- (5) Chapter 135, Article XXIV, §135-334.H regarding the maximum height for signs

The applicant has provided a supplement to the application addressing the criteria specific to dynamic display signs. In regard to the general criteria for special exceptions and variances, I have enclosed a copy of §135-383 for your use in preparing for the scheduled hearing.

In the event the Mount Joy Township Zoning Hearing Board would approve the application, the Township recommends the following conditions be applied to any approvals:

1. Applicant and/or the owner(s) of the subject property shall comply with all other provisions contained in Chapter 135 of the Code of Ordinances of the Township of Mount Joy for which relief has not been requested or granted.

2. Applicant shall obtain all applicable permits for the construction of the proposed sign, including a Pennsylvania Uniform Construction Code permit.
3. Applicant and any representatives of the Applicant shall comply with and adhere to the testimony and any evidence presented to the Mount Joy Township Zoning Hearing Board at the hearing held on October 4, 2023 and any continued hearings, if applicable, except to the extent modified by the conditions imposed by the Mount Joy Township Zoning Hearing Board herein.

The Township reserves its right to revise, amend and/or extend the aforementioned list of recommended conditions of approval based upon the testimony presented at the hearing. Please note that these conditions are a recommendation from the Township. If the Mount Joy Township Zoning Hearing Board approves the application, they may change or add conditions if they determine such actions are appropriate based on the testimony and evidence presented and submitted at the hearing.

Should you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Justin S. Evans". The signature is fluid and cursive, with the first name "Justin" and last name "Evans" clearly legible.

Justin S. Evans, AICP  
Township Manager/Zoning Officer  
Mount Joy Township

Copy: Rheems Retail Center, LLC – First Class Mail  
Sheila O'Rourke, Esq. – Email  
MJT Zoning Hearing Board  
File

Enclosures