



New Albany Board of Zoning Appeals Agenda
February 28, 2022 7:00pm

Members of the public must attend the meeting in-person to participate and provide comment at New Albany Village Hall at 99 West Main Street. The meeting will be streamed for viewing purposes only via Zoom Webinar. There is no public participation via the Zoom Webinar.

Join this meeting on your computer, tablet or smartphone.

<https://us02web.zoom.us/j/88459012531>

Or dial in using your phone: 646-558-8656

Access Code: 884-5901-2531

Information and directions for logging into this meeting can be found at www.newalbanyohio.org

I. Call To Order

II. Roll Call

III. Action of Minutes: December 20, 2021

IV. Additions or Corrections to Agenda

Swear in All Witnesses/Applicants/Staff whom plan to speak regarding an application on tonight's agenda. "Do you swear to tell the truth and nothing but the truth".

V. Hearing of Visitors for Items Not on Tonight's Agenda

VII. Cases:

VAR-16-2022 Variance

Variance to C.O. 1169.16(d) to allow two wall signs to be installed on three buildings with one street frontage where code allows a maximum of one wall sign per frontage at 9005 and 8900 Smith's Mill Road and 8886 Innovation Campus Way for Axiom Packaging (PIDs: 095-112104-00.005 and 095-111744-00.003).

Applicant: Axiom Packaging, LLC c/o Saad Zaidi

Motion of Acceptance of staff reports and related documents into the record for - VAR-16-2022.

Motion of approval for application VAR-16-2022 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VIII. Other Business

IX. Poll members for comment

X. Adjournment


**NEW
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New Albany Board of Zoning Appeals
December 22, 2021 DRAFT Minutes

New Albany Board of Zoning Appeals met in the Council Chamber of Village Hall, 99 W. Main Street and was called to order by Board of Zoning Appeals Chair, Mr. Gallagher, at 4:30 p.m.

Those answering roll call:

Ms. Andrea Wiltrout	Present
Mr. Everett Gallagher	Present
Mr. Kirk Smith	Absent
Ms. Kerri Mollard	Present
Mr. Shaun LaJeunesse	Present
Ms. Marlene Brisk (Council Rep)	Present

Staff members present: Steven Mayer, Development Services Coordinator; Chris Christian, Planner; Mitch Banchefsky, City Attorney.

Moved by Ms. Wiltrout to approve the November 22, 2021 meeting minutes, seconded by Mr. Gallagher. Upon roll call: Ms. Wiltrout, yea; Mr. Gallagher, yea Mr. LaJeunesse, yea; Ms. Mollard, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Ms. Wiltrout asked if there were any additions or corrections to the Agenda.

Mr. Christian stated none from staff.

Ms. Wiltrout swore all who would be speaking before the Board of Zoning Appeals (hereafter, "BZA") to tell the truth and nothing but the truth.

Ms. Wiltrout asked if anyone wanted to discuss items not on tonight's Agenda. (No response).

Mr. Christian noted that the applicant for VAR-124-2021 had entered Village Hall just as the cases were to be heard.

Ms. Wiltrout stated they could begin with VAR-126-2021.

VAR-126-2021 Variance

Variance to allow a playground and a fence to be located within a platted buffer area at 7365 Milton Court(PID: 222-002043-00).

Applicant: Oakland Design Associates c/o Lori Francisco Botkins

Mr. Christian presented the staff report.

Ms. Wiltrout asked if the applicant would like to speak.

Ms. Michelle Singh, 7365 Milton Court, stated they were requesting the variance and noted they no longer wanted the playground but were requesting the fence. Ms. Singh stated that, due to the setback, the fence would cut their yard in half without the variance. Ms. Singh stated they would keep the fence as natural as possible and it would not be seen due to vegetation.

Ms. Wiltrout asked how large the pool was.

Ms. Singh stated it would not be in that thirty (30) foot setback area at all, only the fence would be in the setback area.

Ms. Wiltrout asked when the applicant had purchased the property.

Ms. Singh stated 2016.

Ms. Wiltrout asked if the applicant knew of the setback when the property was purchased.

Ms. Singh stated they had not known.

Ms. Wiltrout asked when they learned about it.

Ms. Singh stated it was when they started to consider this, around last summer.

Ms. Wiltrout asked if the current plan would work with a fifteen (15) foot setback.

Ms. Singh stated she thought so.

Ms. Wiltrout asked what were the conditions the applicant understood were on the lot when they started this project.

Ms. Singh stated they did not know about the setback.

Ms. Wiltrout asked how old the children were.

Ms. Singh state they were ten (10), seven (7), and one (1).

Ms. Mollard asked what was existing and what was proposed.

Ms. Singh stated the pool did not exist.

Ms. Mollard asked if the hot tub existed.

Ms. Singh stated no.

Ms. Mollard asked if the intent of the fence was to meet the pool fencing requirement.

Ms. Singh stated yes.

Ms. Mollard asked what had happened with the playground equipment.

Ms. Singh stated they had purchased it in 2017 and the Home Owners Association (HOA) had approved it. Ms. Singh stated they now believed it was best to take it down.

Ms. Mollard asked if the playground would be removed.

Ms. Singh stated it would be taken down.

Mr. LaJeunesse asked staff if the removal of the playground changed their position on the variance.

Mr. Mayer stated the fence and playground were two (2) different things, but certainly a factor the BZA could consider.

Mr. LaJeunesse asked about surrounding neighbors.

Ms. Wiltrout asked if there had been cases where fences had been allowed in the buffer zone for pools.

Mr. Mayer stated not that staff was aware of.

Mr. Gallagher stated it was his understanding that the buffer zone provided privacy. Mr. Gallagher stated that if such buffer zones were lost then people would begin to lose their enjoyment of their properties.

Mr. Mayer stated it was on private property and did not give access for others to use. Mr. Mayer stated he thought the visual intent for other neighbors was to have that natural space preserved.

Ms. Singh stated they would work to keep it as natural as possible.

Mr. Gallagher stated he had reviewed the area.

Ms. Wiltrout asked staff if other properties had this type of buffer zone and, if so, did any of them have fences or any fences in the buffer zone.

Mr. Christian stated the buffer zone was shared with other properties but did not know if they had fences in the buffer zone.

Mr. Mayer stated there were not any other encroachments they were aware of.

Ms. Wiltrout stated she was seeing if the variance was necessary for the applicant to enjoy the home.

Mr. Mayer stated the pizza-slice-shaped lot on this property did reduce the back yard space.

Ms. Mollard stated the fencing was primarily for the pool and not for the property and asked if the fencing could not just be around the pool.

Ms. Singh said that due to the lot it would be easier to not have the fence around the pool.

Ms. Wiltrout asked members of the public to speak if they wished.

Mr. Roy Gottlieb, 6294 Jason Court, stated the area should continue to be a buffer zone for the quiet and enjoyment of neighbors. Mr. Gottlieb stated areas like these were protected with deed and other restrictions and needed to be maintained. Mr. Gottlieb stated the thirty (30) foot buffer zone was for all, not just the owner and should not be intruded into.

Ms. Wiltrout stated the thirty (30) foot buffer zone was on the applicant's property.

Mr. Gottlieb stated yes, but there was a deed restriction.

Ms. Wiltrout asked Mr. Gottlieb to explain more about the interruption of his use and enjoyment due to the placement of the fence.

Mr. Gottlieb stated it would decrease the buffer zone deed restriction, which provided a visual barrier to others' properties and homes and protected privacy.

Ms. Mollard asked if the clearing of vegetation had recently occurred.

Mr. Gottlieb discussed incidents on certain lots where clearing had occurred.

Mr. LaJeunesse asked staff about any restoration plans.

Mr. Mayer stated the City zoning officer and forestry officer had visited the site to work with the owners to create a restoration plan. Mr. Mayer stated the City had approved the plan, which was expected to be planted in the spring and restore understory and trees over time.

Mr. Banchevsky stated this meeting was to discuss the variance, not the restoration. Mr. Banchevsky stated that if residents had an issue with the restoration they should follow the procedures for that matter.

Ms. Wiltrout stated thank you.

Mr. Frank Sudol, 6280 Jason Court, handed out a letter from neighbors to BZA members. Mr. Sudol discussed the letter, the site, and the buffer zone.

Ms. Wiltrout asked to focus the discussion on the variance.

Mr. Sudol stated there would be a play area.

Mr. LaJeunesse stated the applicant had withdrawn the playground equipment.

Ms. Mollard asked if even without the playground area the applicant wanted an area for the children to play.

Mr. Sudol stated yes and, as it was now, no children could play in that area.

Mr. John Reiner, Landscape Architect for Oakland Nursery, discussed the site and the design. Mr. Reiner noted the applicant's plan included restoration of the area to its natural vegetation.

Ms. Wiltrout stated thank you.

Ms. Mollard asked staff that, given fences were required for a pool due to safety concerns, how would the proposed fence around the property serve to protect children from falling into the pool.

Ms. Wiltrout noted the fence would prevent children from outside the applicant's lot from entering the pool area.

Ms. Brisk noted it would otherwise present an attractive nuisance to others.

Ms. Mollard asked if the fence proposed by the applicant would meet the fencing requirements.

Mr. Mayer stated there was not a specific location the fence had to be placed in, but it needed to surround the pool.

Ms. Mollard asked if this fence were installed, would it be acceptable fencing for a future pool.

Mr. Mayer stated it would need to connect up to the house, but if so, then yes.

Ms. Brisk noted Mr. Banchefsky had made a good point, and they should focus back on the variance request. Ms. Brisk added that, for the record, the applicant was withdrawing the request for the playground equipment.

Ms. Singh noted they were going to take it out, there would not be play equipment in the buffer zone.

Ms. Brisk stated the only thing left for the variance request this evening was the placement of the fence within the buffer zone.

Ms. Singh stated correct.

Ms. Brisk asked if the spirit of the buffer zone would be impacted by the installation of the fence and the applicants using that part of the lot as their own.

Mr. Gallagher stated he believed that if there was a fence blocking the natural view of the landscape it would alter that area, which had been designed to provide privacy for all owners.

Mr. LaJeunesse asked if staff could verify this had not been previously done.

Mr. Mayer stated not that they were not aware of any and they had not found prior requests for any.

Ms. Wiltrout stated she shared Mr. Gallagher's concerns and noted that the property could still be enjoyed and still honor the spirit of the zoning laws. Ms. Wiltrout stated she was concerned about this setting a precedent and she did not see any special conditions which would require this variance so that the applicant could enjoy the property.

Ms. Singh stated they had done a lot of work to the vegetation in that area and had improved it. Ms. Singh noted the fence would not interfere with that vegetation and would be covered by it so as not to interrupt anyone's view.

Ms. Wiltrout stated that buffer zones were planned protections for land and it was important to keep those promises.

Moved by Mr. Gallagher to accept the staff report for VAR-126-2021 into the record, seconded by Mr. LaJeunesse. Upon roll call vote: Mr. Gallagher, yea; Mr. LaJeunesse, yea; Ms. Wiltrout, yea; Ms. Mollard, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Moved by Ms. Mollard to accept the neighbor's letter into the records, seconded by Ms. Wiltrout. Upon roll call vote: Ms. Mollard, yea; Ms. Wiltrout, yea; Mr. Gallagher, yea; Mr. LaJeunesse, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Moved by Ms. Wiltrout to approve variance VAR-126-2021 with the conditions listed in the staff report, seconded by Mr. Gallagher. Upon roll call vote: Ms. Wiltrout, no; Mr. Gallagher, no; Ms. Mollard, no; Mr. LaJeunesse, no. Yea, 0; Nay, 4; Abstain, 0. Motion failed by a 0-4 vote.

Ms. Wiltrout stated her vote was due to her previously stated comments.

Mr. Gallagher stated no for the reasons he had previously stated and noted that he agreed that a promise was a promise.

Ms. Mollard stated she agreed with those thoughts.

Mr. LaJeunesse stated he agreed.

VAR-124-2021 Variance

Variance to Harrison South L-GE zoning text section F(8) to eliminate the mounding and screening requirements adjacent to residentially owned properties along a portion of the Worthington Road frontage and the eastern boundary of a site generally located south of Worthington Road and west of Harrison Road (PIDs: 094-107463-00, 094-107064-00 and 094-107514-00).

Applicant: VTRE Development LLC c/o Pete Gray

Mr. Christian presented the staff report.

Ms. Wiltrout asked if the applicant had comments to provide.

Mr. Pete Gray, VTRE Development, LLC, discussed the site and application.

Mr. LaJeunesse asked if the path still crossed over to Worthington Road.

Mr. Christian stated yes.

Mr. LaJeunesse stated it was being installed.

Mr. Gallagher asked about the mounding and grading.

Mr. Gray stated their parking lot would be six (6) to eight (8) feet below the grade so mounding would not be needed.

Mr. Gallagher noted someone driving by the road would see the building. Mr. Gallagher asked why not place the mounding at the road height.

Ms. Nagy, Civil Engineer, stated the purpose of mounding was to screen the parking lot and in this case it would be above the parking lot.

Mr. Mayer stated mounding would typically be measured at the property line and noted this property had unique constraints and sank down by eight (8) feet. Mr. Mayer noted traffic might be able to see into the parking lot but perhaps not the building.

Mr. Gallagher noted that on Smith's Mill Road the mounding and landscaping provided a screening for all buildings behind it, even if they were further set back.

Mr. Mayer stated that was the intent of the mounding and noted the extent of the landscaping provided here, staff believed, would provide that screening. Mr. Mayer said that any type of headlight screening would not be needed here as the headlights would not be at grade.

Ms. Wiltrout asked what the variance being sought was in this application.

Mr. Mayer stated the zoning text required six (6) feet of mounding and 75% opacity screening along, and on, that mounding. Mr. Mayer stated the applicant was asking for a variance to the mounding requirement along portions of Worthington Road, on the eastern edge of the property.

Ms. Wiltrout stated okay and asked if the six (6) feet would be in addition to the grading that was there now.

Mr. Mayer stated he believed that was correct.

Ms. Wiltrout asked if the property was then below grade.

Ms. Nagy stated it was along those two areas.

Mr. Mayer stated, yes, along select portions of the property.

Ms. Mollard asked how many stories the building would have.

Mr. Gray stated it would be one (1) story.

Mr. Gallagher stated it could probably be seen from certain areas.

Mr. Mayer stated the hardship was that as the property was eight (8) feet under, creating the mounding became a hardship as it would need to be a fourteen (14) foot mounding.

Ms. Mollard asked where that mounding would be required.

Mr. Christian illustrated where the mounding was required on the presentation screen and noted the mounding challenge was only on the north edge.

Ms. Nagy a member of the public stated her backyard looked over the area. Ms. Nagy stated that her office was at the back of her home and she could see all the headlights and activity going on during the construction. Ms. Nagy stated New Albany had worked with Jersey Township and made promises to residents and this promise was being broken and was affecting the neighborhood.

Mr. Gallagher asked if the mounding required was part of the promise.

Ms. Nagy stated yes.

Ms. Mollard asked if the stream corridor that was present on the lot helped at all.

Ms. Nagy stated it went downhill and her property was above the hill.

Ms. Mollard asked if the stream corridor then provided no screening from her perspective.

Ms. Nagy said no, she was seeing everything going on with the construction.

Ms. Wiltrout asked staff if mounding could be built into the stream corridor.

Mr. Mayer stated no, the City's flood plain ordinance did not allow any commercial activity to occur within 100 yards.

Ms. Wiltrout asked if they needed to build mounding, then where would it go.

Mr. Mayer stated it would go in the green shaded area.

Ms. Mollard asked if the mounding were required, would it be to the east or west of the stream corridor.

Ms. Wiltrout stated it would need to bisect it.

Mr. LaJeunesse asked why mounding could not occur in the flood plain.

Mr. Mayer stated the flood plain had been approved by the stated and typically did not permit it.

Mr. Bob Farr, a resident in the area, stated the applicant knew what surrounded the property when they purchased it. Mr. Farr stated New Albany was jamming a lot of buildings into Jersey Township. Mr. Farr stated no one wanted to see it and the mounding should be required.

Ms. Mollard asked where Mr. Farr lived.

Mr. Farr showed where he lived on the presentation screen.

Ms. Michelle Farr, a resident in the area, stated the integrity of the natural setting should be maintained.

Ms. Wiltrout asked if there would be mounding, how much land would it take up along that side.

Ms. Nagy stated the slope was 3:1.

Ms. Wiltrout asked where that would be on this property.

Ms. Nagy stated it would depend on the grade, but they could lose parking in some areas as well as additional challenges.

Ms. Wiltrout asked if there was mounding to the south as well.

Ms. Nagy stated correct and discussed the mounding for the site.

Ms. Wiltrout asked if it would be possible for the BZA to have a set of plans that included the mounding to see what could be done.

Ms. Nagy stated it would not make a difference in the one corner.

Ms. Wiltrout stated she understood that, but they could see what was possible.

Mr. Gallagher stated mounding was a requirement here. Mr. Gallagher stated he heard what the neighbors were saying about a promise being a promise. Mr. Gallagher said he believed this would be a substantial change and he was a 'no' vote on this.

Mr. Farr asked about breaks in the mounding.

Ms. Nagy stated they could not go straight across.

Mr. Farr stated he was asking the BZA to be consistent.

Ms. Wiltrout stated she wanted to understand where the alternative placements would be for the mounding.

Ms. Mollard asked if the mounding all along the eastern border, indicated by Mr. Gallagher, was an undue hardship.

Mr. Gray asked if they did mounding would it just need to be six (6) feet.

Mr. Mayer stated that was the requirement.

Mr. Gray asked if that would require them to build that area up to grade.

Ms. Wiltrout stated it would be six feet above grade.

Mr. Mayer stated he did not think it was necessarily roadway grade, but it would be at least six feet along and within it.

Ms. Mollard asked if that would be fourteen (14) feet above.

Mr. Gray stated that their parking lot would be screened from most areas.

Mr. Mayer stated that it was typical for roadways to be built up above grade and then have view below that. Mr. Mayer stated they had never required that the mounding be at the roadway as it was usually raised, but noted it was typically along frontage and property lines. Mr. Mayer said they would need to work with the City Engineer to establish where the mounding would need to be.

Ms. Mollard stated that along the east the mounding would be along the front of the building, not related to the stream corridor.

Mr. Gray asked if the zoning spoke to the property line.

Mr. Mayer stated they were not looking strictly at property lines.

Mr. Gallagher asked if it would not just need to be mounded to screen.

Mr. Mayer stated he agreed, it was generally along and above the roadway, but that was not set in stone.

Mr. Gallagher stated that was what he had always envisioned was part of the Code, so people do not see what is within the mounding.

Ms. Mollard asked if it was possible for the applicant to return with a plan that would show mounding and what was possible.

Ms. Farr stated the applicant knew what the rules were before this meeting. Ms. Farr stated members of the public had already taken time out of their lives to come to this meeting and it did not seem fair.

Ms. Wiltrout stated the BZA was asking the applicant to provide a different plan to see if any compromise was possible.

Ms. Farr stated she appreciated the attempt to compromise, but Jersey was always compromising.

Mr. Farr stated the area dropped off sharply on this lot. Mr. Farr stated the applicant needed to screen and add trees and should be required to do that.

Mr. Gray stated they could take a look at some of these areas and come back.

Mr. Gallagher stated this should be on the record.

Ms. Wiltrout stated yes.

Mr. Mayer stated this would be tabled during this special BZA meeting and would then go to the regular BZA January meeting. Mr. Mayer stated that meeting would be held at 7:00 pm.

Ms. Brisk stated that if it was tabled the applicant would have the right to return, however, even if it was voted down tonight, the applicant could still re-file this application.

Moved by Ms. Wiltrout to accept the staff report for VAR-124-2021 into the record, seconded by Mr. Gallagher. Upon roll call vote: Ms. Wiltrout, yea; Mr. Gallagher, yea; Mr. LaJeunesse, yea; Ms. Mollard, yea. Yea, 4; Nay, 0; Abstain, 0. Motion carried by a 4-0 vote.

Moved by Ms. Wiltrout to table variance VAR-124-2021 until the next scheduled meeting for the applicant to return with a plan with additional mounding that reflected public comments made this evening, seconded by Mr. LaJeunesse. Upon roll call vote: Ms. Wiltrout, yea; Mr. LaJeunesse, yea; Ms. Mollard, no; Mr. Gallagher, no. Yea, 2; Nay, 2; Abstain, 0. Motion failed by a 2-2 vote.

Moved by Mr. Gallagher to approve variance VAR-124-2021, seconded by Ms. Mollard. Upon roll call vote: Mr. Gallagher, no; Ms. Mollard, no; Ms. Wiltrout, no; Mr. LaJeunesse, no. Yea, 0; Nay, 4; Abstain, 0. Motion failed by a 0-4 vote.

Other Business

Mr. Christian thanked all members of the BZA and reviewed the work completed by BZA members during 2021. Mr. Christian stated staff was working on simplifying and improving staff reports going forward and was also working to obtain only electronic submissions from applicants. Mr. Christian asked BZA members if they would prefer paper or electronic packets.

Ms. Wiltrout stated she preferred paper.

Mr. Gallagher stated he preferred paper.

Mr. Mayer stated they would still be able to print paper copies out. Mr. Mayer stated staff might send out a survey in the new year asking what members would find helpful to have on an electronic version.

Ms. Mollard noted some of the text on plans was very small and being able to zoom in on it would be good.

Mr. Christian stated this was Ms. Wiltrout's last BZA meeting as she was moving to City Council in January. Mr. Christian stated this would also be Mr. Banchefsky's final BZA meeting as he would be retiring. Mr. Christian thanked them both for their hard work.

Ms. Wiltrout polled members for comment. (No response.)

Ms. Wiltrout adjourned the meeting.

Meeting adjourned at 6:18 p.m.

Submitted by Josie Taylor.

APPENDIX



Board of Zoning Appeals Staff Report December 20, 2021 Meeting

BRS-3 (CUPERTINO) MOUNDING VARIANCE

LOCATION: South of Worthington Road, east of Ganton Parkway, and west of Harrison Road SW. (PIDs: 094-107436-00, 094-107064-00, 094-107370, 094-107514-00).

APPLICANT: VTRE Development c/o Pete Gray

REQUEST: Variance to Harrison South Zoning District text section F(8) to eliminate the mounding requirements adjacent to residential properties along a portion of the Worthington Road frontage and the eastern boundaries of the development site.

ZONING: L-GE (Limited General Employment), Harrison South Zoning District

STRATEGIC PLAN: Employment Center District

APPLICATION: VAR-124-2021

Review based on: Application materials received November 22, 2021.

Staff report prepared by Chris Christian, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a variance to the Harrison South Zoning District text section F(8) to eliminate the mounding requirements adjacent to residential properties along a portion of the Worthington Road frontage and the eastern boundaries of the development site as part of the construction of a new commercial building.

II. SITE DESCRIPTION & USE

The site is located on 32+/- acres in Licking County and includes four parcels on the south side of Worthington Road, east of Ganton Parkway and west of Harrison Road. The neighboring uses and zoning districts include L-GE to the west and south and unincorporated residentially zoned properties to the east and north. The site was previously comprised of two residential properties and ancillary buildings.

This parcel is zoned L-GE, Limited General Employment. Permitted uses within this L-GE district includes manufacturing and production, warehouse and distribution, research and production, general office activities, personal service, retail product sales and services.

III. ASSESSMENT

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The property owners within 200 feet of the property in question have been notified.

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*
3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

III. EVALUATION

Variance to Harrison South Zoning District text section F(8) to eliminate the mounding landscaping requirements along Worthington Road and Harrison Road NW.

The following should be considered in the Board’s decision:

1. Harrison South zoning text section F(8) states that for perimeter boundaries within the zoning district that abut properties where residential uses are permitted, that are not owned by the developer, a minimum 6 foot tall mound is required to be installed along the property line. In addition to mounding, a landscape buffer is required to be installed on the mound that achieves 75% opacity screening and a total height of 10 feet within 5 years of planting.
2. The applicant is meeting or commits to meet the landscaping requirements and is requesting a variance to only the mounding. As part of the construction of a new commercial building, the applicant requests a variance to the mounding requirements where they are required along a portion of the Worthington Road frontage and along the eastern boundary of the development site. Exhibit A demonstrates where the applicant requests a variance.
3. In their justification statement, the applicant states that they are seeking the variance along Worthington Road due to the significant grade change along this frontage. The proposed parking lot and building pad will sit approximately 6-8 feet below the centerline elevation of the road once constructed. The applicant states that they intend to use this grade change in lieu

- of mounding and install trees within the setback area to provide screening for residentially zoned properties along this frontage.
4. Additionally, there is a stream, with a corresponding 100-year flood plain, in the northeastern area of the site. The applicant seeks a variance to providing the screening requirements in this area due to this site constraint and will utilize this area to provide a greater setback from adjacent residential uses in addition to new and existing trees to provide screening.
 5. The city landscape architect has reviewed the proposed landscape plan for the project provided comments, see Exhibit B. Staff recommends a condition of approval that the city landscape architect comments be met. The city landscape architect recommends that additional plantings be added along both the Worthington Road frontage and the eastern boundary of the site in order to achieve 75% opacity and reach a total planting height of 10 feet within five years of planting. These plantings will be installed in addition to street trees.
 6. It appears that there are special conditions and circumstances peculiar to the land that justify the variance request. There is a significant grade change from the centerline elevation of Worthington Road to the finished elevation of the parking lot and building pad. The parking and building sit 6-8 feet lower than the road, putting a constraint on the buildable area of the site and thereby limits the applicant's ability to install 6-foot-tall mounding in this area. There is also a stream, with a corresponding 100-year flood plain, that runs along the northeastern property area of the site which also limits the buildable area of the site and where the applicant is able to install a 6-foot-tall mound. These special conditions and circumstances do not appear to be a result of any action of the applicant.
 7. It appears that the spirit and intent of the zoning text requirement will still be met if the variance is granted which is to provide visual separation between this commercially zoned property and adjacent residential properties. Factors contributing to providing visual separation/screening from adjacent residentially zoned properties are:
 - The 75% opacity screening will be provided along all boundaries where residences are located both of these site boundaries.
 - The parking lot and building pad is 6-8feet below Worthington Road and the building across the street which provides a similar level of visual screening along this frontage as would a new mound.
 - The applicant is preserving the stream corridor area and existing trees along the eastern side of the site. Additional landscaping is proposed to be added to ensure there is 75% opacity screening throughout the entire parcel boundary.
 - There are large setbacks (330-390 feet) from adjacent residential uses to the east.
 8. Granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

IV. RECOMMENDATION

Staff recommends approval of the variance application should the Board of Zoning Appeals finds that the application has sufficient basis for approval. The intent of the screening requirements found in the zoning text is to provide visual separation/screening between commercial and residential properties. The significant change in grade along the Worthington Road frontage and the stream corridor and corresponding floodway along the eastern portion of the site limit the applicant's ability to provide screening as originally contemplated in the zoning text. With these unique site constraints in mind and the city landscape architect conditions of approval, the applicant is able to provide an alternative screening plan that meets the spirit and intent of the zoning requirements.

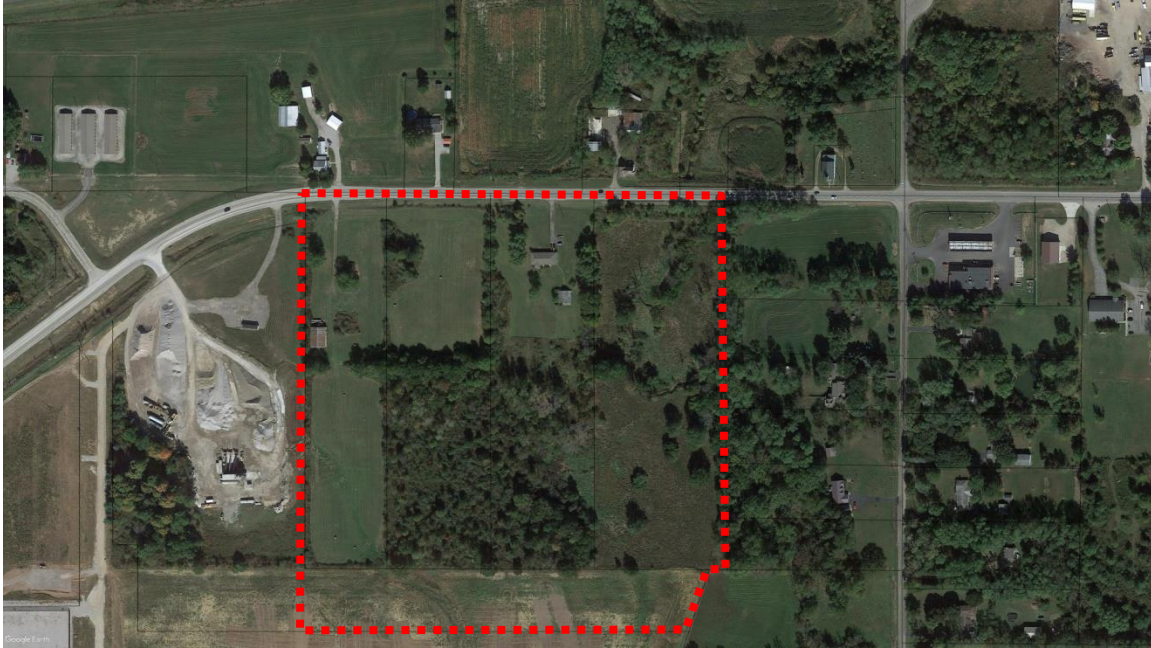
V. ACTION

Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate (conditions may be added):

Move to approve application VAR-124-2021 with the following condition of approval (conditions of approval may be added).

1. The city landscape architect comments must be addressed.

Approximate Site Location:



Source: Google Earth



**Board of Zoning Appeals Staff Report
December 20, 2021 Meeting**

**7365 MILTON COURT
BUFFER ZONE VARIANCE**

LOCATION: 7365 Milton Court (PID: 222-002043).
APPLICANT: Oakland Design Associates c/o Lori Francisco Botkins
REQUEST: (A) Variance to allow a playground and a fence to be located within a platted buffer area.
ZONING: R-2
STRATEGIC PLAN: Residential
APPLICATION: VAR-126-2021

Review based on: Application materials received November 22, 2021.

Staff report prepared by Chris Christian, Planner.

V. REQUEST AND BACKGROUND

The applicant requests a variance to allow a fence and a playground to be located within a platted buffer zone where no work is permitted to occur that would alter the natural state of the area.

VI. SITE DESCRIPTION & USE

The .52-acre property is located within section 15 of the New Albany Country Club community, contains a single-family residential home and is surrounded by residentially zoned and used properties.

In response to a code complaint, staff investigated and found that the buffer zone on the property had been altered. It appears that trees and undergrowth were removed and replaced with turf grass. The city zoning officer and forester have approved a restoration plan with the property owner to restore the trees and undergrowth for the area that was altered by the current property owner.

VII. ASSESSMENT

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The property owners within 200 feet of the property in question have been notified.

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

13. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.

14. Whether the variance is substantial.

15. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a "substantial detriment."*
16. *Whether the variance would adversely affect the delivery of government services.*
17. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
18. *Whether the problem can be solved by some manner other than the granting of a variance.*
19. *Whether the variance preserves the "spirit and intent" of the zoning requirement and whether "substantial justice" would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (Section 1113.06):

20. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
21. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
22. *That the special conditions and circumstances do not result from the action of the applicant.*
23. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
24. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

III. EVALUATION

(A) Variance to allow a playground and a fence to be located within a platted buffer area.

The following should be considered in the Board's decision:

9. As part of the construction of a new pool, the applicant proposes to install a new fence within a platted buffer area. Additionally, the applicant proposes to allow an existing playground to remain in the same buffer area.
10. There is a platted buffer area that extends 30 feet into the property beginning at the rear lot line. The playground will sit approximately 13+/- feet from the rear property line and the fence will be located approximately 5+/- feet away.
11. The plat states that no structure or building shall be located in a buffer zone nor shall any work be performed within the buffer zone that would alter the natural state of the zone. The plat does allow for maintenance within easements located within the buffer zone and the removal of dead and diseased trees and/or vegetation.
12. There are special conditions and circumstances of this property that justify the variance request. The property is located on a cul-de-sac so the width of the front of the lot is smaller than a lot that is not located on a cul-de-sac. The width of the front of the property is 160+/- feet and widens to approximately 390 feet at the rear. Cul-de-sac lots are typically wider at the rear of the property to account for the bend in the road. This shape necessitates the home be built further from the street yard in order to provide adequate space to construct a home while meeting other setback requirements. This constraint, in addition to the 30-foot buffer zone in the rear yard creates unique conditions and circumstances with smaller rear yards that limit where fences and playgrounds are able to be located on this property. Homes that are located on rectangular shaped lots, do not have these same design challenges which allows for the home to be located closer to the street, thereby creating larger rear yards for recreational amenities that can meet the setback requirement.
13. It does not appear that the spirit and intent of the requirement will be met if the variance is approved. The intent of the buffer is to allow that area to remain in its natural state and be undisturbed. While not required by city code, this buffer zone provides screening for adjacent properties in the vicinity and preserves existing natural features of the site. While the applicant

- is encroaching into this buffer zone, they are remediating landscape that they previously removed to reestablish the screening for adjacent property owners.
14. Approving the variance request is substantial and may be precedent setting for future, similar variance applications. While the fence and playground are minimally invasive improvements, locating them in this buffer zone will alter the natural state of the area.
 15. It does appear that the issue can be solved in another manner other than granting the variance request. The fence could be relocated to be directly adjacent to the proposed pool on the site. However, the property owners desire to fence in the easement area to create a space for their young children to play. Additionally, it appears that there is sufficient space on the site for the playground to be located outside of the buffer area in the backyard. For these reasons, it appears that there can also be a beneficial use of the property without the variance.
 16. Granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.
 17. Granting the variance will not adversely affect the delivery of government services.

VIII. RECOMMENDATION

Staff is not supportive of the variance request. There are conditions and circumstances that are unique to this property which reduce the amount of space in the rear yard to place improvements such as the playground and fence. However, the intent of this buffer zone area is for it to remain undisturbed in order to preserve existing natural features that provide screening for adjacent properties. While the applicant only proposes to install a fence and a playground in this area, it appears that the request can be solved in another manner as there is sufficient room on the site to relocate these improvements outside of the buffer area. Approving this variance may set a precedent for future, similar cases.

If the variance request is approved, staff recommends a condition of approval that all other areas within the buffer zone be undisturbed and allowed to grow and reestablish the zone as it has existed historically.

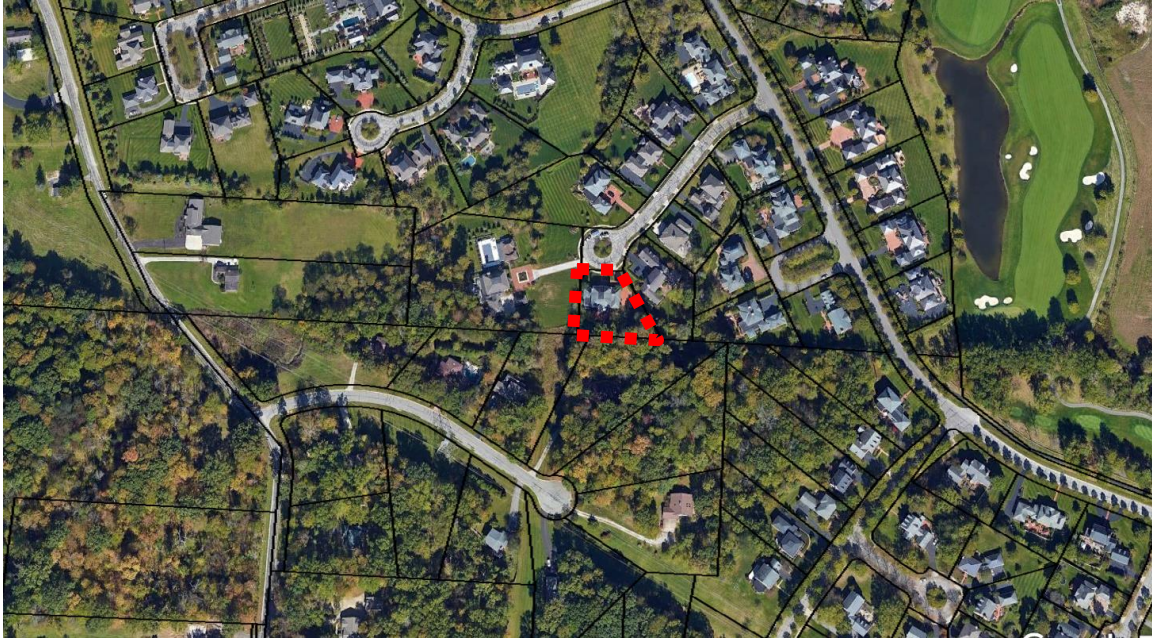
V. ACTION

Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate (conditions may be added):

Move to approve application VAR-126-2021 (conditions of approval may be added).

2. All other areas within the buffer zone must remain undisturbed and allowed to grow overtime to reestablish the zone as it has existed historically.

Approximate Site Location:



Source: Google Earth



**Board of Zoning Appeals Staff Report
February 28, 2022 Meeting**

**AXIUM PACKAGING
CAMPUS SIGN VARIANCE**

LOCATION: 9005, 8900 Smith’s Mill Road and 8886 Innovation Campus Way (PIDs: 095-112104-00.005 and 095-111744-00.003)
APPLICANT: Axiom Packaging, LLC c/o Saad Zaidi
REQUEST: (A) Variance to C.O. 1169.16(d) to allow each building (total of three) to have two wall signs where code allows a maximum of one wall sign for each building.
ZONING: Limited General Employment (L-GE)
STRATEGIC PLAN: Employment Center
APPLICATION: VAR-16-2022

Review based on: Application materials received January 27 and February 11, 2022

Staff report prepared by Chris Christian, Planner

I. REQUEST AND BACKGROUND

The applicant requests the following variance related to a new sign package for all of the Axiom buildings in the New Albany Business Park.

The city sign code allows a maximum of one wall sign per street frontage for each building. Each building fronts onto a single street so each building is permitted one wall sign. The applicant requests to allow two wall signs on each of the three buildings.

II. SITE DESCRIPTION & USE

The three Axiom buildings are located on two commercially zoned and used properties in the Licking County portion of the New Albany Business Park. The city sign code regulations are based on buildings, not sites.

III. EVALUATION

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The property owners within 200 feet of the property in question have been notified.

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*
3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

III. ASSESSMENT

Considerations and Basis for Decision

(A) Variance to C.O. 1169.16(d) to allow a second wall sign to be installed on the Beech Road building elevation where code allows one per building frontage.

The following should be considered in the Commission’s decision:

1. C.O. 1169.16(d) states that one wall sign, up to 75 sq.ft. in size is permitted to be installed per building frontage. The applicant submitted a new sign package plan for all of the operating Axium plants in the New Albany Business Park (see Exhibit A). The applicant proposes to install two wall signs and one address sign on each plant. Address signs are permitted by city code as a by-right sign, not as a wall sign and therefore are approvable by city staff. Plants 1, 2 and 5 all have one building frontage therefore only one wall sign is permitted for each building. This variance application is required to allow a second wall sign on plants 1, 2 and 5.
2. The variance requests do not appear to be substantial and meet the spirit and intent of the zoning text requirement. The city sign code permits one wall sign per building frontage, with an area of up to 75 sq. ft. based on the building linear frontage. While the applicant proposes to allow more wall signs than permitted by right, the combined area of both signs on each plant is far below what is permitted by right for just one wall sign.
Plant 1 (two wall signs): combined area of 14+/- sq. ft.
Plant 2 (two wall signs): combined area of 16+/- sq.ft.
Plant 3 (two wall signs): combined area of 14+/- sq. ft.
3. It appears that there are special conditions and circumstances that justify the variance request. The city sign code provides a maximum number allowable size of single wall signs but does

not consider multiple, smaller sized wall signs. The sign regulations do not take into account the size of building when determining the allowable number of signs. These plants are larger warehouse buildings where additional wall signs are most appropriate and the proposed signs will provide additional wayfinding between the multiple Axiom plants in the business park.

4. The spirit and intent of the zoning requirement still appears to be met by granting the variance which is to ensure that buildings are not “over signed.” Due to smaller size of the proposed sign, the additional wall sign is appropriate and the building elevation does not appear to be “over signed.” The additional sign meets the context and compatibility requirements of the city sign code which states that signs must not create an appearance of competition between adjacent signs. All of the proposed wall signs have a similar scale, placement and proportions to create harmony.
5. It does not appear that the essential character of the immediate area will be altered if the variance is granted. This variance request does not eliminate the architectural, screening, and landscaping requirements for this property.
6. Granting the variance will not adversely affect the health, safety or general welfare of persons living in the immediate vicinity.
7. Granting the variance will not adversely affect the delivery of government services.

IV. RECOMMENDATION

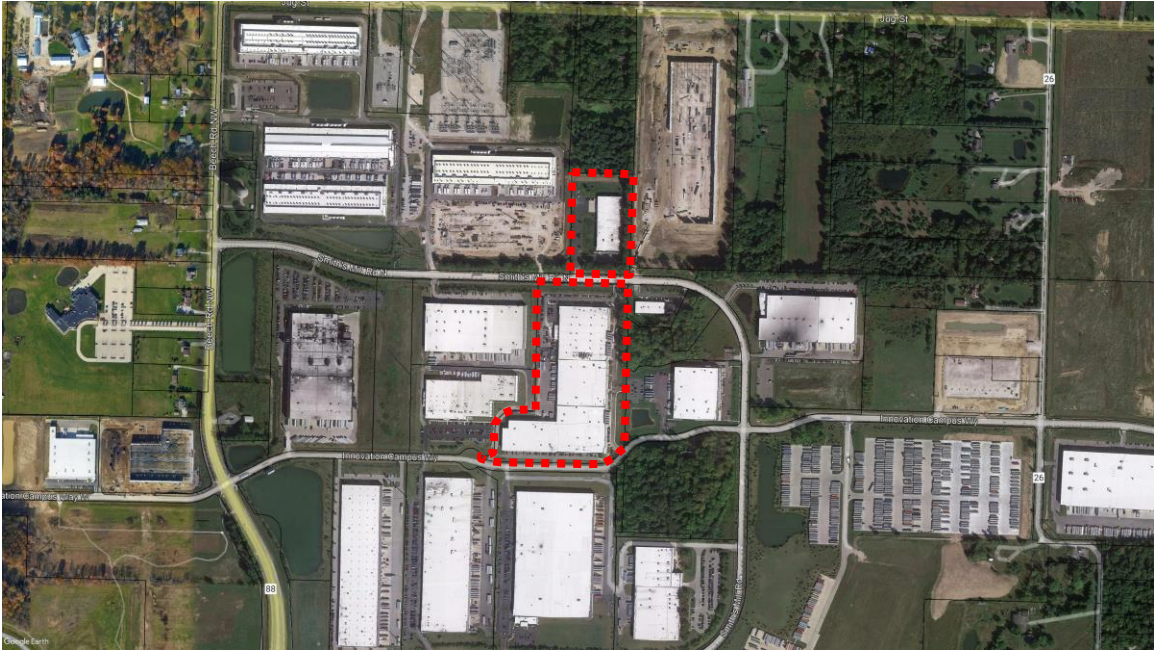
Staff recommends approval of the requested variances should the Board of Zoning Appeals find that the application has sufficient basis for approval. The city’s sign code contains context, compatibility, and execution requirements for all permanent signage in the city. In addition to these requirements, the city sign code contains “one-size fits all” number and height requirements for all commercial and warehouse developments that does not address unique situations. Axiom Plastics is the only company in the New Albany Business Park with multiple plants which is a unique condition. While the applicant proposes an additional wall sign on each plant, the combined total area of both signs is far below what is permitted for one wall sign by right for each site. All of the proposed signs are appropriate in this case as they are all scaled, located and designed appropriately on the building and provide additional wayfinding for users of each site.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motions would be appropriate (The Planning Commission can make one motion for all variances or separate motions for each variance request):

Move to approve application V-16-2022.

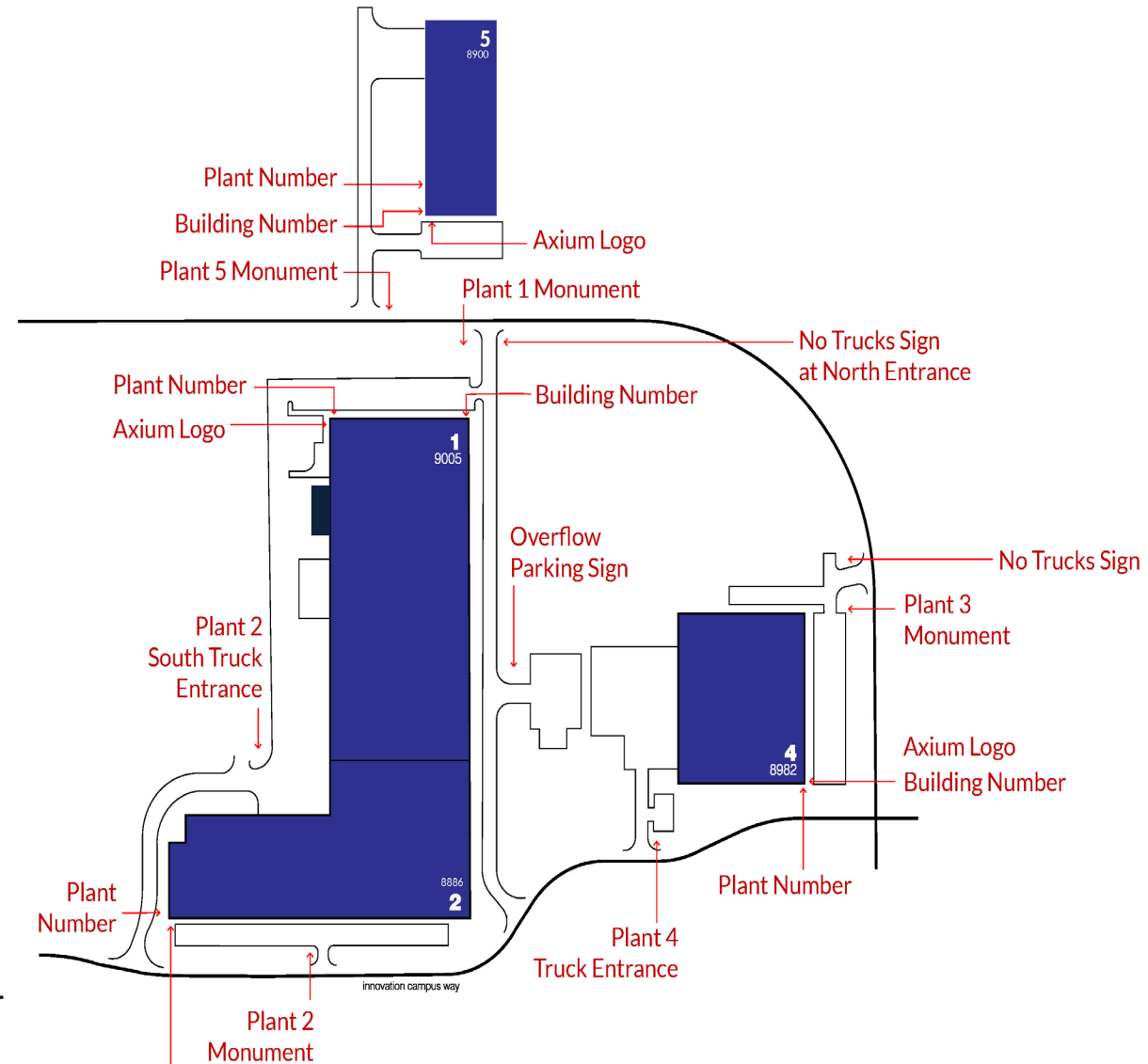
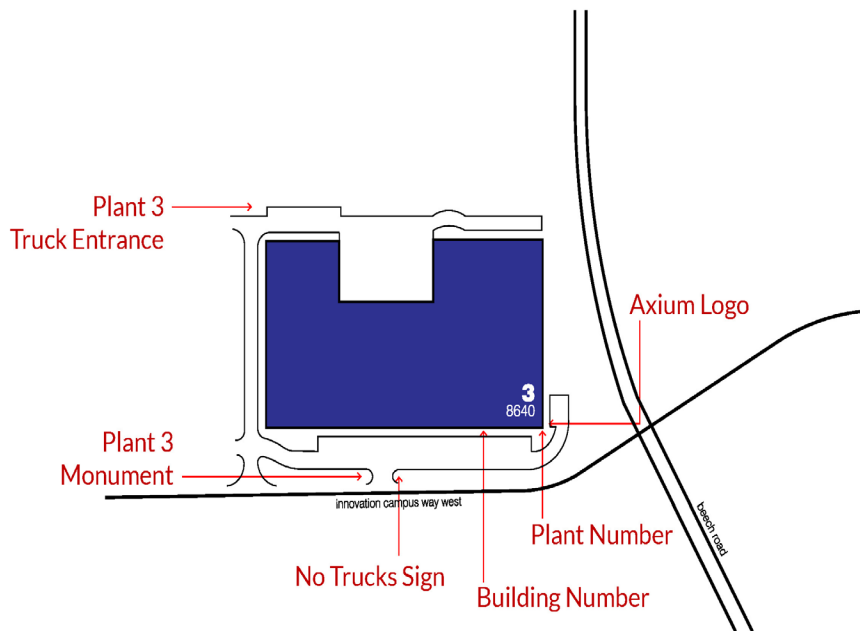
Approximate Site Location:



Source: Google Earth

EXHIBIT A
VAR-16-2022

Signage Blueprint

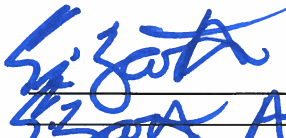

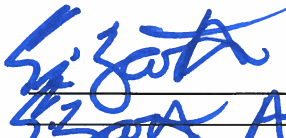

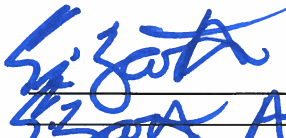



*Plants 3 and 4 are not subject to this application

Permit # _____
Board _____
Mtg. Date _____



Community Development Planning Application

Project Information	Site Address <u>Please see attached list.</u>																																																												
	Parcel Numbers <u>Please see attached list.</u>																																																												
	Acres <u>Please see attached list.</u> # of lots created <u>5 existing lots.</u>																																																												
	<table border="1"><thead><tr><th>Choose Application Type</th><th colspan="4">Circle all Details that Apply</th></tr></thead><tbody><tr><td><input type="checkbox"/> Appeal</td><td></td><td></td><td></td><td></td></tr><tr><td><input type="checkbox"/> Certificate of Appropriateness</td><td></td><td></td><td></td><td></td></tr><tr><td><input type="checkbox"/> Conditional Use</td><td></td><td></td><td></td><td></td></tr><tr><td><input type="checkbox"/> Development Plan</td><td>Preliminary</td><td>Final</td><td>Comprehensive</td><td>Amendment</td></tr><tr><td><input type="checkbox"/> Plat</td><td>Preliminary</td><td>Final</td><td></td><td></td></tr><tr><td><input type="checkbox"/> Lot Changes</td><td>Combination</td><td>Split</td><td>Adjustment</td><td></td></tr><tr><td><input type="checkbox"/> Minor Commercial Subdivision</td><td></td><td></td><td></td><td></td></tr><tr><td><input type="checkbox"/> Vacation</td><td>Easement</td><td></td><td>Street</td><td></td></tr><tr><td><input checked="" type="checkbox"/> Variance</td><td></td><td></td><td></td><td></td></tr><tr><td><input type="checkbox"/> Extension Request</td><td></td><td></td><td></td><td></td></tr><tr><td><input type="checkbox"/> Zoning</td><td>Amendment (rezoning)</td><td></td><td>Text Modification</td><td></td></tr></tbody></table>	Choose Application Type	Circle all Details that Apply				<input type="checkbox"/> Appeal					<input type="checkbox"/> Certificate of Appropriateness					<input type="checkbox"/> Conditional Use					<input type="checkbox"/> Development Plan	Preliminary	Final	Comprehensive	Amendment	<input type="checkbox"/> Plat	Preliminary	Final			<input type="checkbox"/> Lot Changes	Combination	Split	Adjustment		<input type="checkbox"/> Minor Commercial Subdivision					<input type="checkbox"/> Vacation	Easement		Street		<input checked="" type="checkbox"/> Variance					<input type="checkbox"/> Extension Request					<input type="checkbox"/> Zoning	Amendment (rezoning)		Text Modification	
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<input type="checkbox"/> Zoning	Amendment (rezoning)		Text Modification																																																										
	Description of Request: <u>The Applicant proposes a set of wall graphics as depicted on the submitted exhibits.</u>																																																												
	<u>The Applicant seeks to install wall graphics on five of its plants and three of the plants require graphics variances. The wall graphics include plant number, company name, and building address number. The wall graphics are externally illuminated PVC letters. While the total graphic area proposed is less than what is allowed by the code, the number of wall graphics exceeds the number allowed by the code. The Applicant requests certain variances to allow the wall graphics as proposed.</u>																																																												
Contacts	Property Owner's Name: <u>PJP Holdings LLC</u>																																																												
	Address: <u>9005 Smiths Mill Road North</u>																																																												
	City, State, Zip: <u>New Albany, OH 43054</u>																																																												
	Phone number: _____ Fax: _____																																																												
	Email: _____																																																												
	Applicant's Name: <u>Axiom Packaging, LLC c/o Saad Zaidi</u>																																																												
	Address: <u>9005 Smiths Mill Road North</u>																																																												
	City, State, Zip: <u>New Albany, OH 43054</u>																																																												
	Phone number: <u>614.716.8612</u> Fax: _____																																																												
	Email: <u>szaidi@axiumpastics.com</u>																																																												
Signature	Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information here within and attached to this application is true, correct and complete.																																																												
	<table><tr><td>Signature of Owner</td><td></td><td>Attorney for Owner</td><td>Date: <u>2-11-22</u></td></tr><tr><td>Signature of Applicant</td><td></td><td>Attorney for Applicant</td><td>Date: <u>2-11-22</u></td></tr></table>	Signature of Owner		Attorney for Owner	Date: <u>2-11-22</u>	Signature of Applicant		Attorney for Applicant	Date: <u>2-11-22</u>																																																				
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Signature of Applicant		Attorney for Applicant	Date: <u>2-11-22</u>																																																										

Fees & Submittal Information

Appeal		250.00	
Certificate of Appropriateness			
ARB – single and two family residential		100.00	
ARB – All other residential or commercial		300.00	
ARB - Signage		75.00	
Conditional Use		600.00	
Development Plan – Preliminary PUD or Comprehensive			
Planning fee	First 10 acres	750.00	
	Each additional 5 acres or part thereof	50.00 / each	
Engineering fee	1-25 lots	155.00 / each	
	Minimum fee	1000.00	
Engineering fee	26 – 50 lots	3875.00	
	Each additional lot over 26	75.00 / each	
Engineering fee	Over 51 lots	5750.00	
	Each additional lot over 51	50.00 / each	
Development Plan – Final PUD			
Planning fee	First 10 acres	650.00	
	Each additional 5 acres or part thereof	50.00	
Engineering fee	1-25 lots		
	(minimum fee \$1,000.00)	155.00 / each	
Engineering fee	26 – 50 lots	3875.00	
	Each additional lot over 26	75.00 / each	
Engineering fee	Over 51 lots	5750.00	
	Each additional lot over 51	50.00 / each	
Development Plan – Non-PUD		300.00	
Development Plan / Text Amendment		600.00	
Plat – Road Preliminary			
Planning fee		350.00	
Engineering fee	no lots on either side of street	1.00 / LF	
	lots on one side of street	.50 / LF	
	Minimum fee	1,000.00	
Plat – Road Final			
Planning fee		350.00	
Engineering fee	no lots on either side of street	1.00 / LF	
	lots on one side of street	.50 / LF	
	Minimum fee	1,000.00	
Plat – Subdivision Preliminary			
Planning		650.00	
	Plus each lot	50.00 / each	
Engineering fee	1-25 lots		
	(minimum fee \$1,000.00)	155.00 / each	
Engineering fee	26 – 50 lots	3875.00	
	Each lot over 26	75.00 / each	
Engineering fee	Over 51 lots	5750.00	
	Each lot over 51	50.00 / each	

Fees & Submittal Requirements

Plat – Subdivision Final

Planning		650.00	_____
	Plus each lot	15.00 / each	_____
Engineering fee	1-25 lots (minimum fee \$1,000.00)	155.00 /each	_____
Engineering fee	26-50 lots	3875.00	_____
	Each lot over 26	75.00 / each	_____
Engineering fee	Over 51 lots	5750.00	_____
	Each lot over 51	50.00 / each	_____

Lot Changes

200.00

Minor Commercial Subdivision

200.00

Vacation (Street or Easement)

1200.00

Variance

Non-single family, commercial, subdivision, multiple properties

600.00

Single Family residence

250.00

In conjunction with Certification of Appropriateness

100.00

Extension Request

0.00

Zoning

Rezoning - First 10 acres

700.00

Each additional 5 acres or part thereof

50.00 / each

Rezoning to Rocky Fork Blacklick Accord

250.00

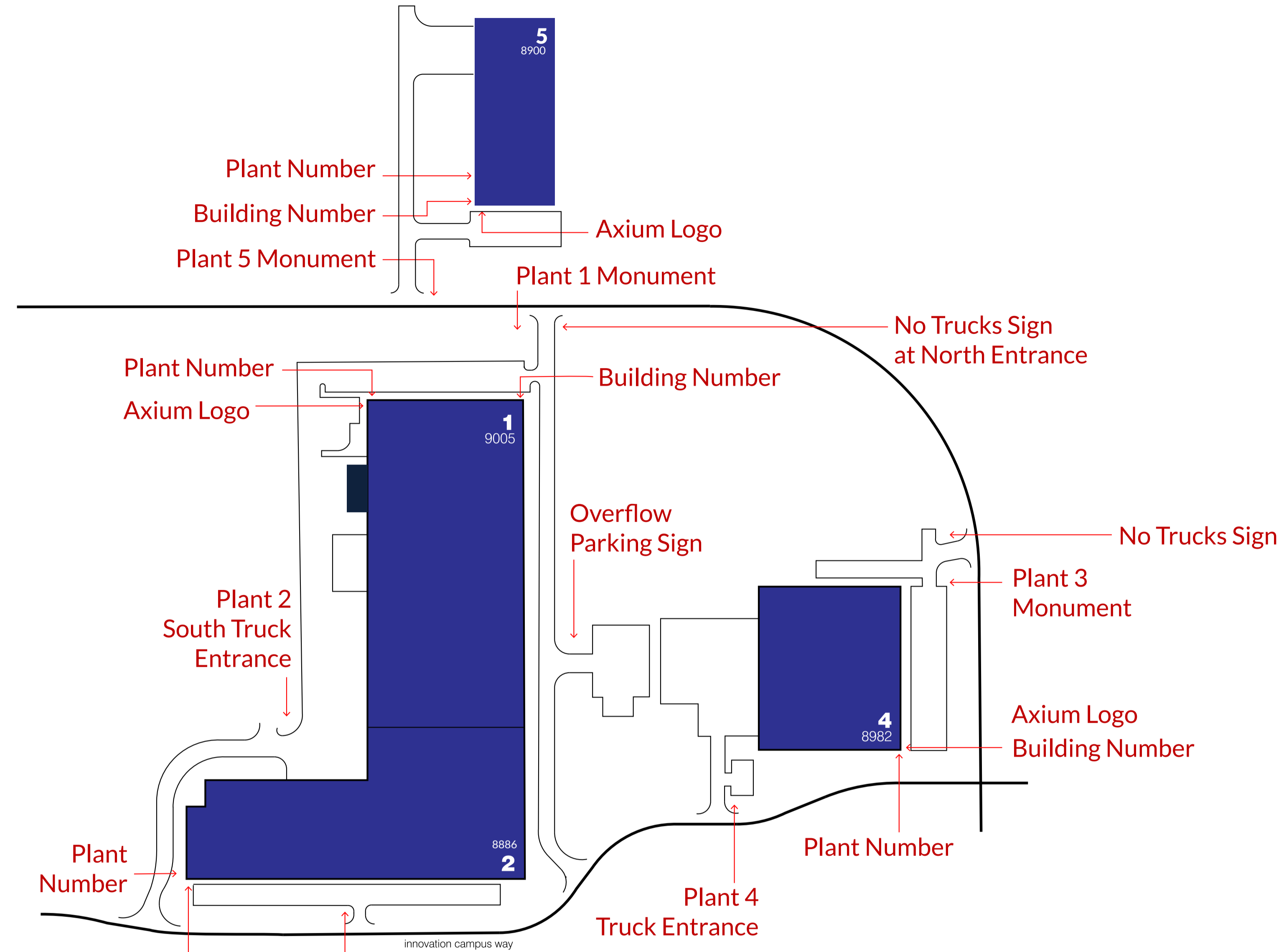
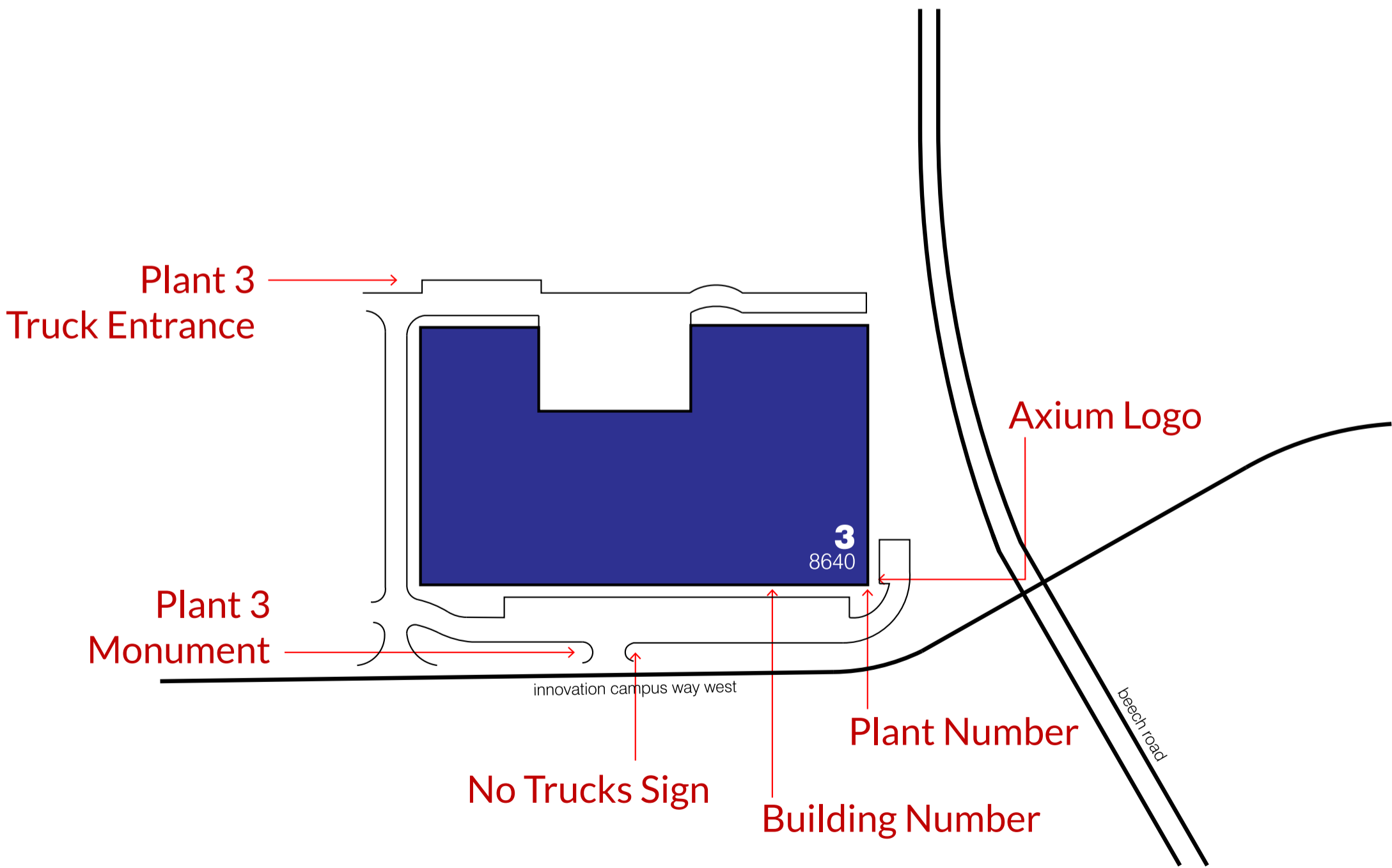
Text Modification

600.00

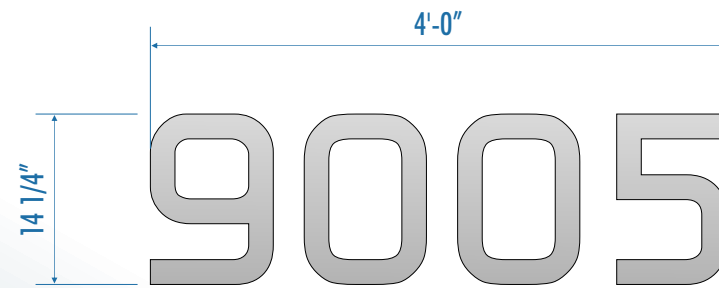
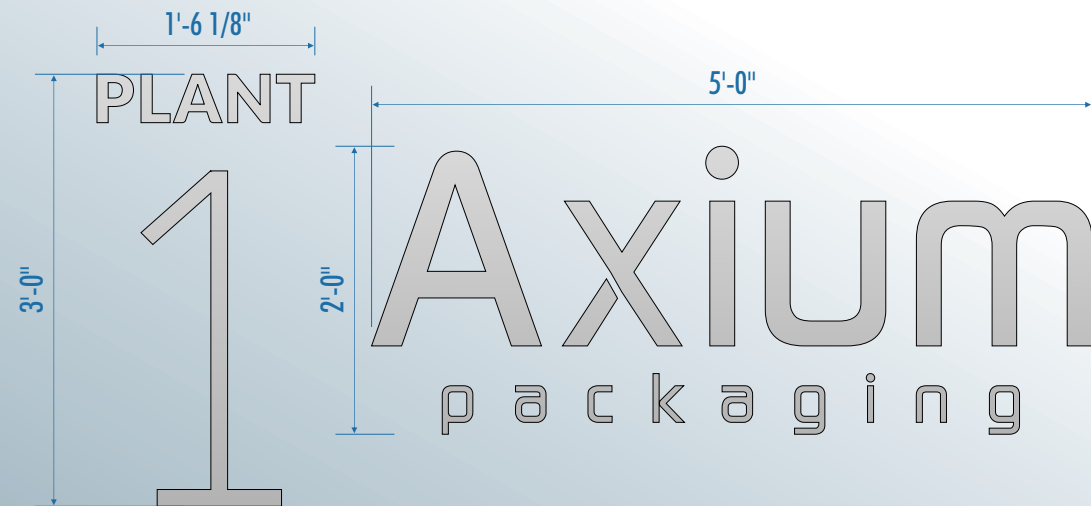
Easement Encroachment

800.00

Signage Blueprint

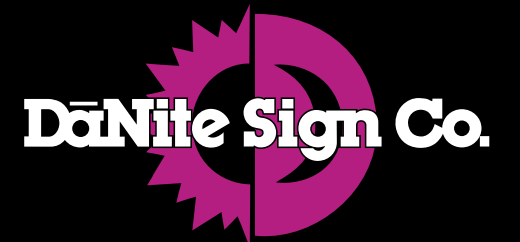


*Plants 3 and 4 are not subject to this application



#S6-40387-R3: EXTERNALLY ILLUMINATED PVC LETTERS 3/4" = 1'-0"

- GRAPHICS: ROUTED 1" THICK PVC PAINTED MATTHEWS BRUSHED ALUM.
- ALL SIGNS TO BE LIT WITH SPOTLIGHTS FROM ABOVE (QTY 5)



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UL APPLIES TO ILLUMINATED SIGNS ONLY.

COLORS

APPROVED-CUSTOMER DATE



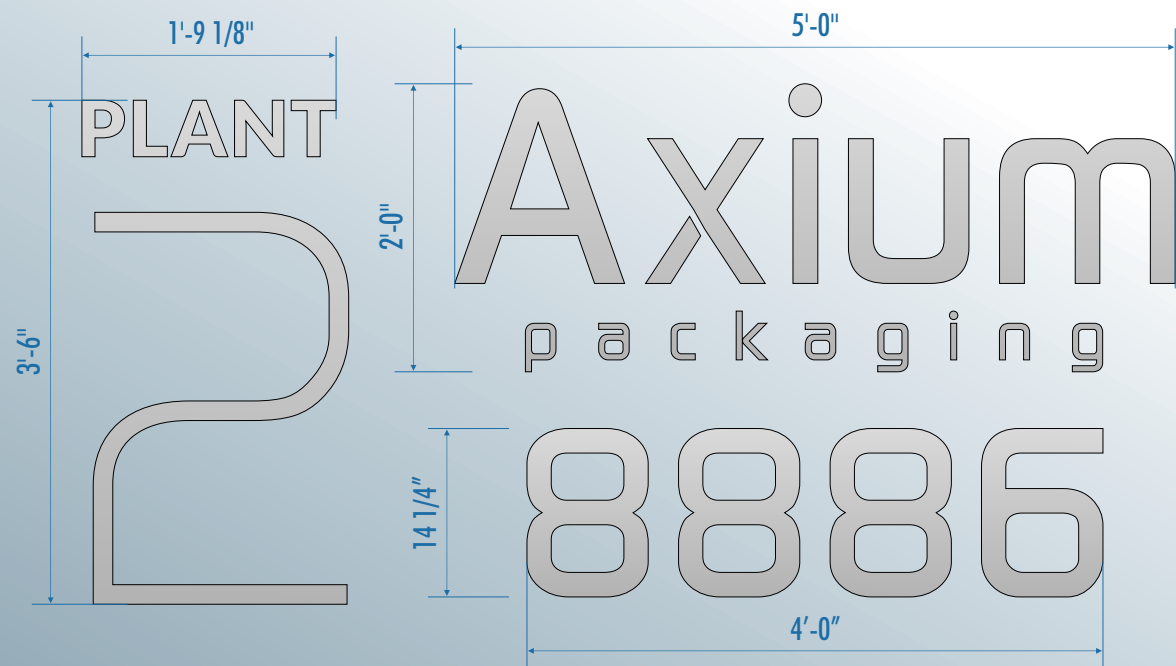
JOB NAME AXIUM PACKAGING #S6-40387
STREET 9005 SMITH'S MILL RD NORTH
CITY, STATE NEW ALBANY, OH
SIGN TYPE PVC LETTERS

DATE 6/4/21 REV. DATE:
FILE NAME AXIUM PACKAGING.CDR
DIRECTORY ANYA > 2021 > A

SCALE AS NOTED SALE OH DESIGNER AG

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#S7-40387-R3: EXTERNALLY ILLUMINATED PVC LETTERS 3/4" = 1'-0"

- GRAPHICS: ROUTED 1" THICK PVC PAINTED MATTHEWS BRUSHED ALUM.
- ALL SIGNS TO BE LIT WITH SPOTLIGHTS FROM ABOVE. (QTY 3)



Proudly Serving Central Ohio Since 1954
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FILE NO:E60042 DaNITE SIGN CO.

UL APPLIES TO ILLUMINATED SIGNS ONLY.

COLORS

APPROVED-CUSTOMER DATE



JOB NAME AXIUM PACKAGING #S7-40387
STREET 9005 SMITH'S MILL RD NORTH
CITY, STATE NEW ALBANY, OH
SIGN TYPE PVC LETTERS

DATE 6/4/21 REV. DATE:
FILE NAME AXIUM PACKAGING.CDR
DIRECTORY ANYA > 2021 > A

SCALE AS NOTED SALE OH DESIGNER AG

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#S12-40387-R2: EXTERNALLY ILLUMINATED PVC LETTERS 3/4" = 1'-0"

- GRAPHICS: ROUTED 1" THICK PVC PAINTED MATTHEWS BRUSHED ALUM.
- ALL SIGNS TO BE LIT WITH SPOTLIGHTS FROM ABOVE. (QTY 5)



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1640 Harmon Ave, Columbus, Ohio, 43223
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COLORS

☐ MATTHEWS BRUSHED ALUMINUM

APPROVED-CUSTOMER DATE



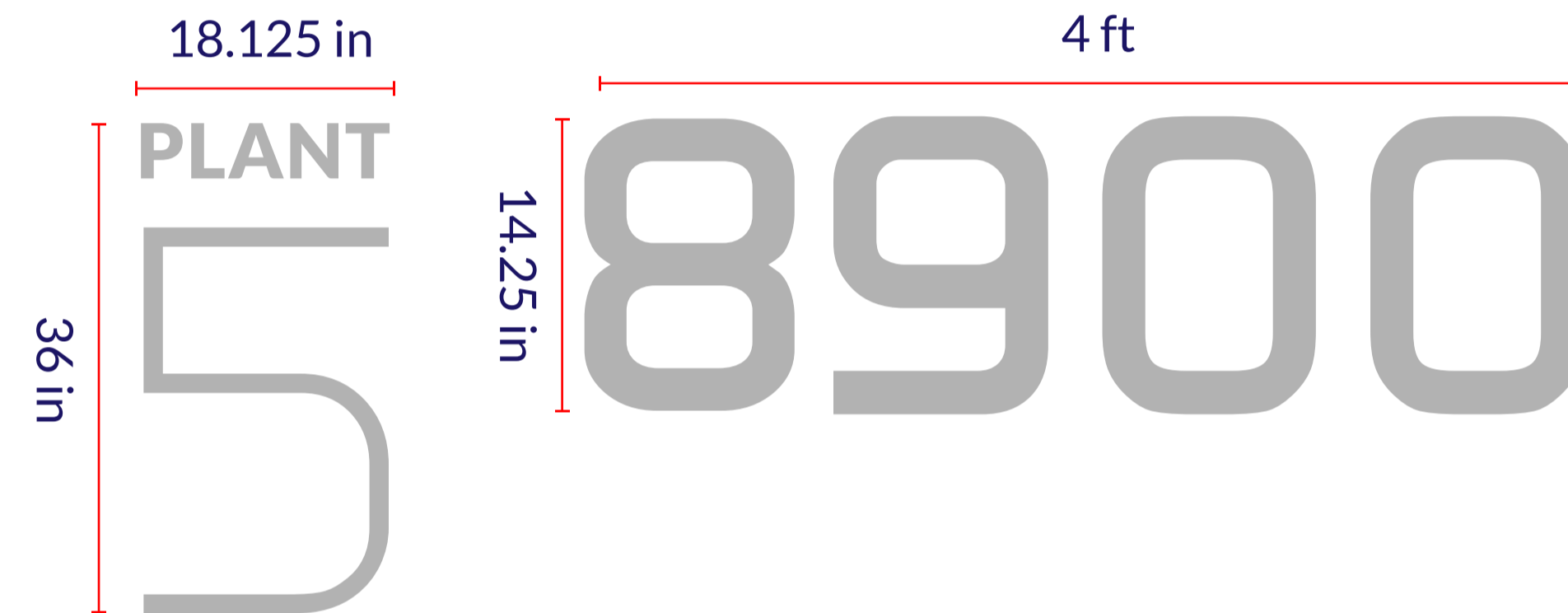
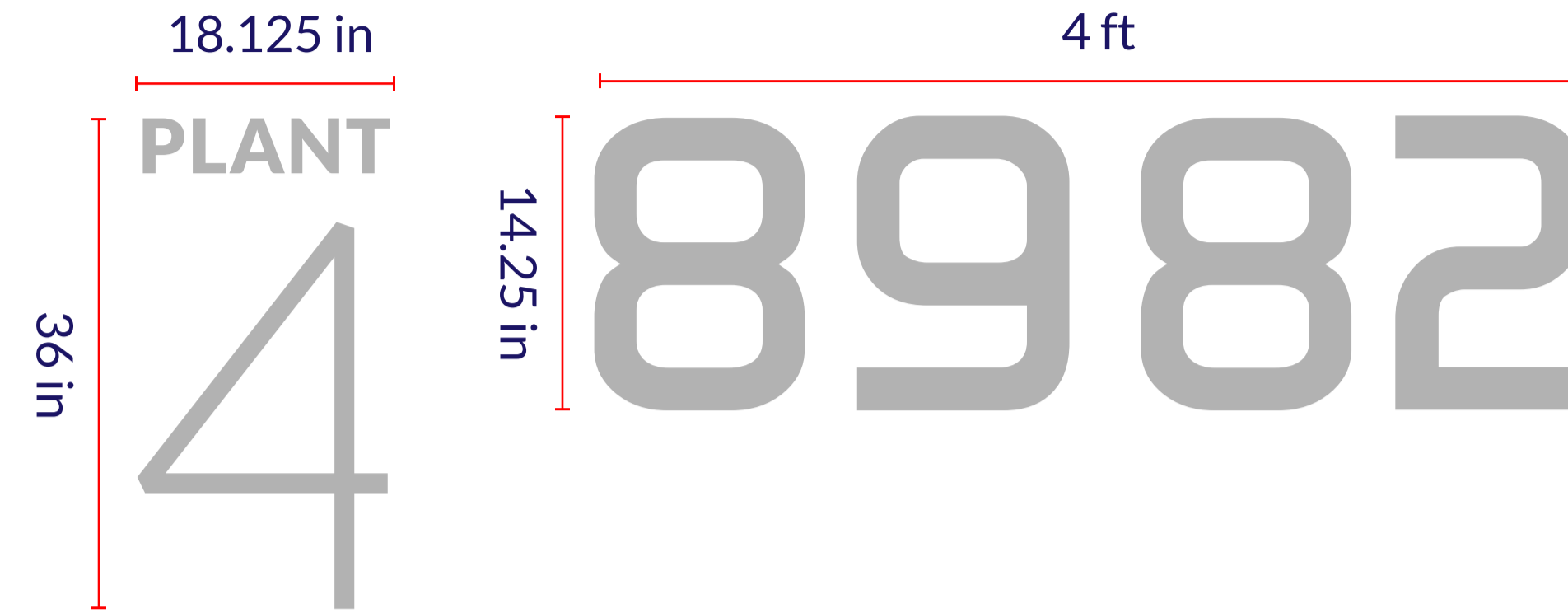
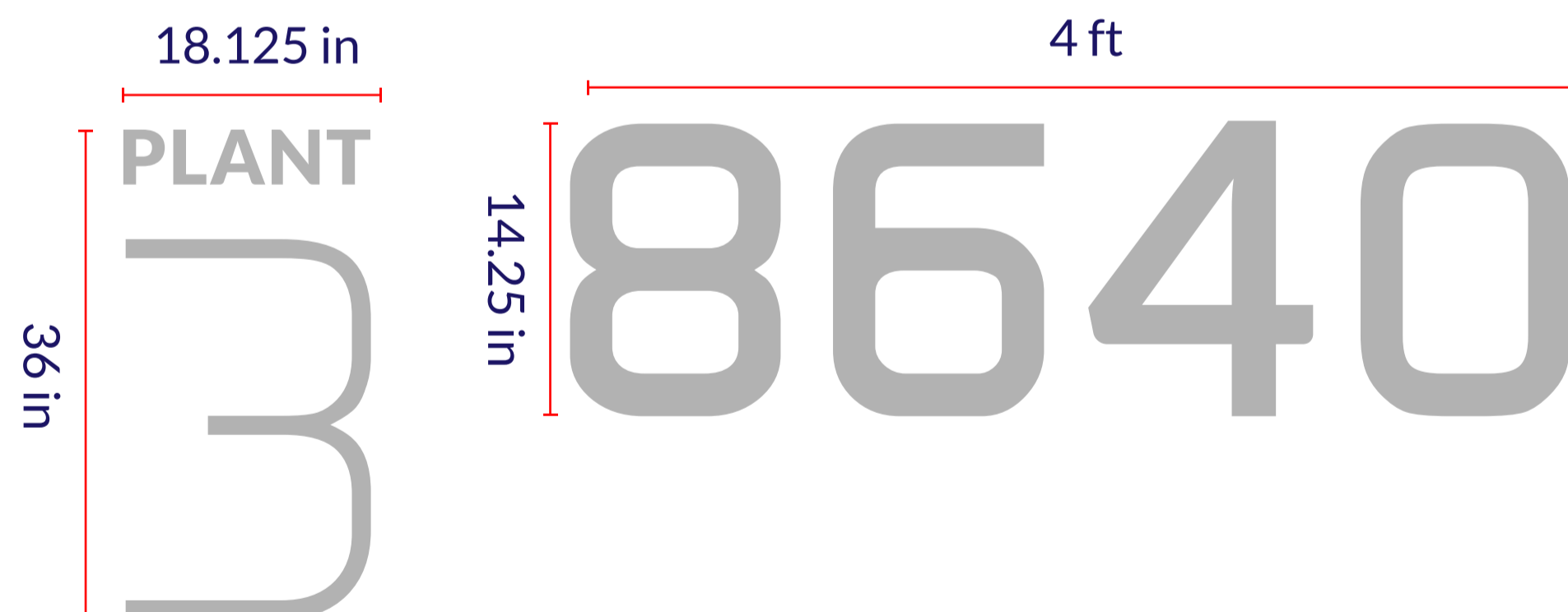
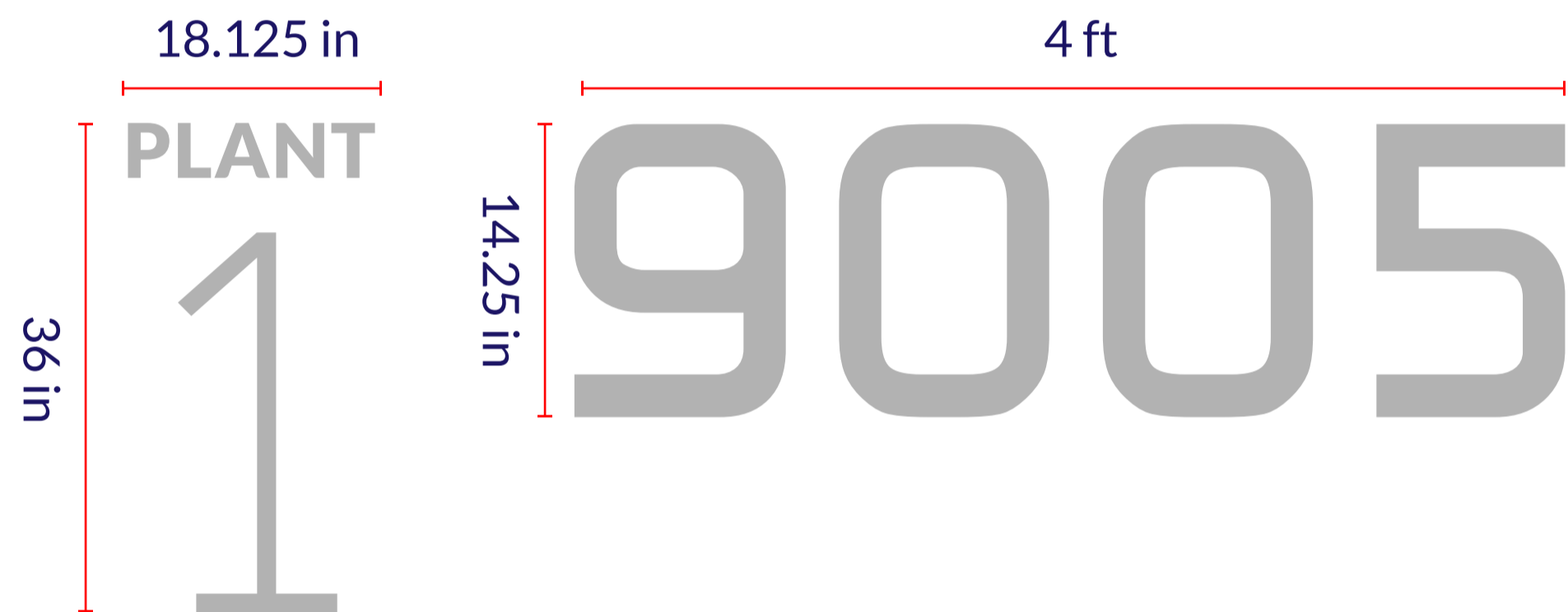
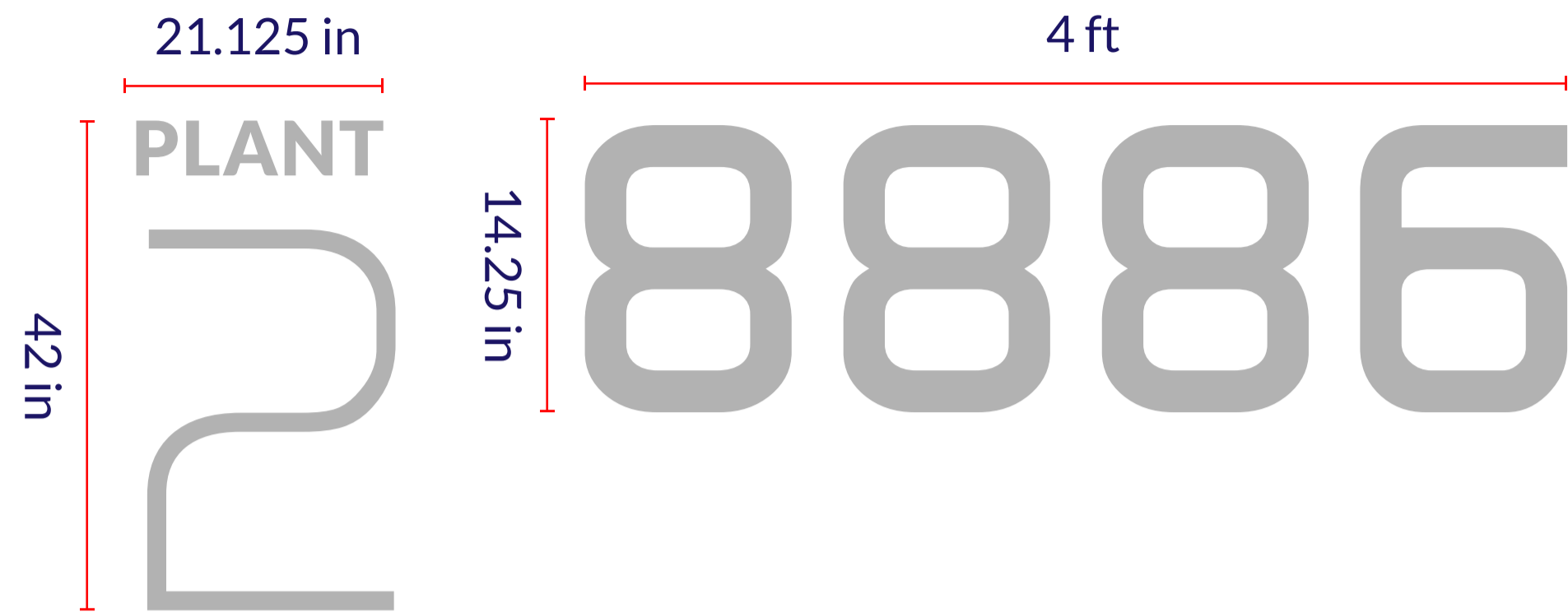
JOB NAME AXIUM PACKAGING #S12-40387
STREET 9005 SMITH'S MILL RD NORTH
CITY, STATE NEW ALBANY, OH
SIGN TYPE PVC LETTERS

DATE 1/28/22 REV. DATE:
FILE NAME AXIUM PACKAGING.CDR
DIRECTORY ANYA > 2021 > A

SCALE AS NOTED SALE OH DESIGNER AG

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Wall Signs (Down-lit)

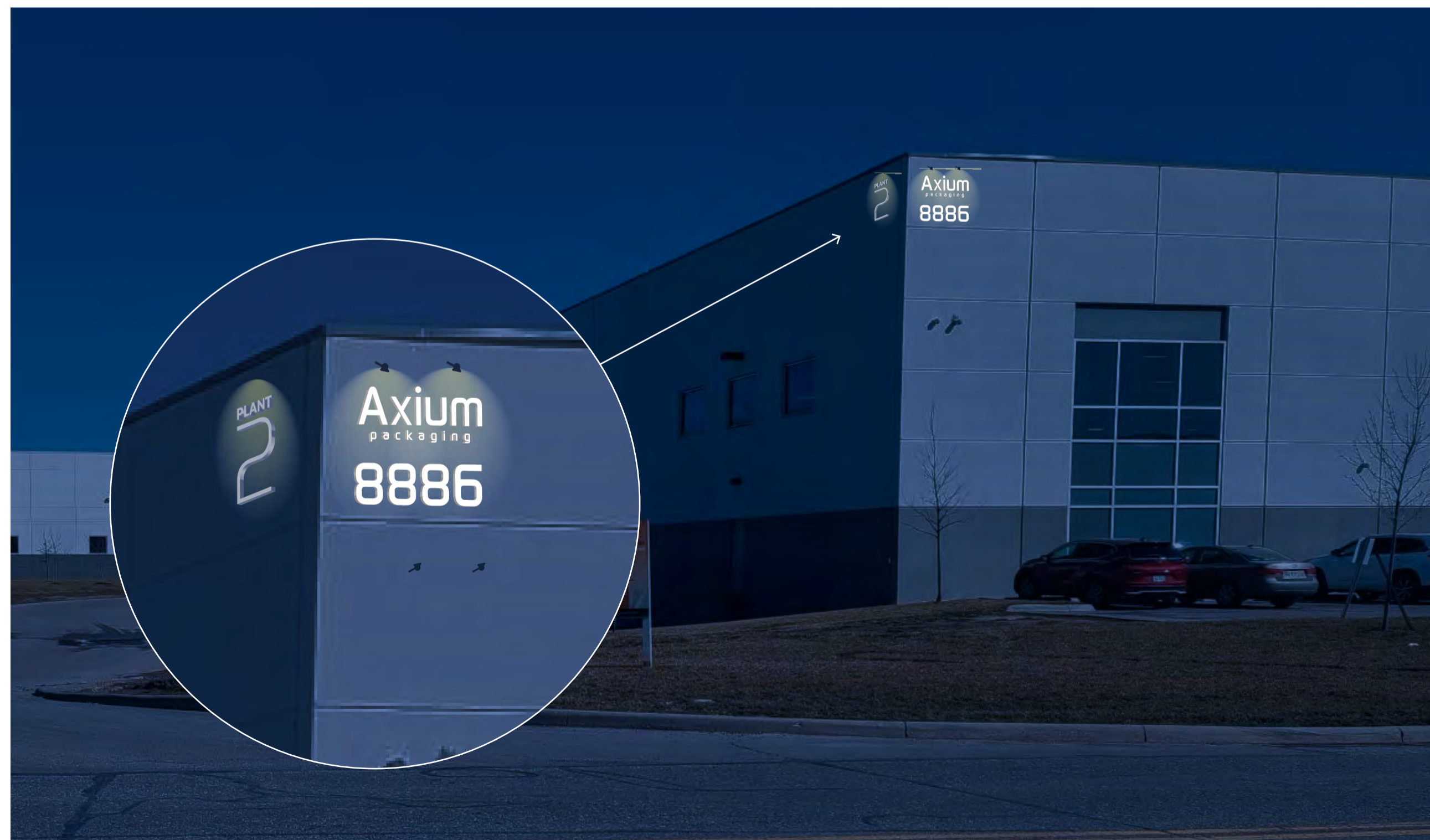
*Plants 3 and 4 are not subject to this application

Plant 1 Wall signs Down-Lit





Plant 2
Wall signs
Down-Lit





Plant 5
Wall signs
Down-Lit

**NEW ALBANY
COMMUNITY DEVELOPMENT PLANNING APPLICATION**

Statement in Support:

The Applicant Axium Packaging was established in 2011 and is one of the leading producers of high quality plastic packaging for personal-care, food, home, hygiene, and other products. The Applicant manufactures injection molded plastics and specializes in decorating technologies. It is headquartered in New Albany, Ohio and has spread all over United States and Canada.

The Applicant seeks to install wall graphics on five of its plants located in New Albany. Plants 1, 2, and 5, require a variance to allow the wall graphics as proposed. The wall graphics include plant number, company name, and building address number. The wall graphics are externally illuminated PVC letters, as depicted in the submitted exhibits.

These graphics are both important to the company's branding and to functionality between plants. The Applicant operates several plants within close proximity. The proposed graphics are not excessive or obnoxious but they will help ensure that the public, customers, and public services can easily distinguish between buildings that are otherwise indistinguishable. To allow the wall graphics as proposed, the Applicant respectfully requests the following variances:

1. Section 1169.16(d) – Number of Wall Signs. Under this section, a building is permitted one wall sign per building frontage. The Applicant proposes plant number signs and building number signs at a corner of each building. This constitutes two wall signs with one building frontage. The Applicant requests a variance to allow two wall signs with one building frontage for each plant. Please note that the third address wall graphic is permitted under the zoning code.

In *Duncan v. Middlefield*, 491 N.E.2d 692 (Ohio 1986), the Ohio Supreme Court set forth the following, nonexclusive list of factors to be considered and weighed to determine whether a property owner has encountered practical difficulties in the use of property. New Albany likewise considers these factors upon consideration of a variance request. It is important to note that these factors are nonexclusive and also a balancing test. This means that other factors may be considered and that not every *Duncan* factor must be met to warrant the finding of a practical difficulty. The Applicant and this property suffer from many factors which warrant granting of the requested variances.

- Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.

The property will realize a higher return on value if the requested variances are granted. These wall signs were specifically designed as part of the Applicant's branding and to increase the buildings' visibility.

- Whether the variance is substantial.

The requested variances are not substantial. The combined total graphic area for each building is far below the allowable graphic area under the zoning code. The additional wall sign on each building does not create a condition where the total graphic area becomes excessive. The plant number sign and the company name sign effectively wrap around a corner of each building with complimentary style and materials. Wrapping the graphics around the corner technically creates two separate graphics and the reason for this variance request. Wall signs on both sides of the corner allow the building to be identifiable from more angles which improves traffic.

- Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a "substantial detriment."

The essential character of the neighborhood will not be substantially altered and adjoining properties will not suffer a substantial detriment. These buildings and its neighbors are located within a commercial warehousing district. Wall signs are not uncommon and a neighbor between Plants 2 and 4 has an additional wall sign on the corner of its building, much like what the Applicant now proposes.

- Whether the variance would adversely affect the delivery of government services.

The requested variances will not adversely affect the delivery of government services. Indeed, the variances will allow the buildings to become more visible for the delivery of government services.

- Whether the property owner purchased the property with knowledge of the zoning restriction.

The property owner was not aware of the zoning restrictions when the properties were purchased.

- Whether the problem can be solved by some manner other than the granting of a variance.

The Applicant's predicament cannot be resolved by some other manner while still achieving the Applicant's desired aesthetic and building visibility.

- Whether the variance preserves the "spirit and intent" of the zoning requirement and whether "substantial justice" would be done by granting the variance.

The spirit and intent of the zoning requirements will be preserved because the requested variances are minor, they will not cause neighbor or the neighborhood any detriment, and they will allow the Applicant to enjoy the same property rights as certain neighbors within this commercial industrial district.

The New Albany Board of Zoning Appeals also considers additional factors when granting a variance.

That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.

The Applicant has a special condition and unique circumstance because it has several plants within the immediate vicinity. It is for this reason that visibility for each individual plant is critical for the safe and efficient operation of the business and also for the public attempting to locate the buildings. The requested variances significantly increase the individual buildings' identity from one another and from other similar buildings within the commercial industrial district.

That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.

As discussed above, these buildings and its neighbors are located within a commercial warehousing district. Wall signs are not uncommon and a neighbor between Plants 2 and 4 has an additional wall sign on the corner of its building, much like what the Applicant now proposes. Denial of the requested variances would deprive the Applicant of rights enjoyed by its neighbors in the same zoning district.

That the special conditions and circumstances do not result from the action of the applicant.

The variances are not requested to alleviate a condition that the Applicant has already caused. The Applicant submits this application with a proposal for graphics which achieve the desired aesthetic and visibility for the individual buildings.

That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.

The requested variance will not confer on the Applicant a special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district because there are other structures in the same zoning district that enjoy the requested condition.

That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

The requested variance will not adversely affect the health and safety of persons in the neighborhood nor be materially detrimental to public welfare because the requested variances are not substantial. The Applicant proposes wall graphics with a total graphic area far below the allowable graphic area under the zoning code. The wall signs were designed with a specific aesthetic that is attractive and functional without being obnoxious or detrimental to the public welfare.

Plant 1 and 2 Legal Description

Exhibit A

PRE-APPROVAL	
LICKING COUNTY ENGINEER	
APPROVED <input checked="" type="checkbox"/>	CONDITIONAL <input type="checkbox"/>
APPROVED BY: <i>[Signature]</i>	<i>[Signature]</i>
DATE: 2-17-16	

CITY OF NEW ALBANY
NO PLAT REQUIRED
APPROVED

[Signature] 17 Feb 2016
Signature Date
LC 20150048

18.141 ACRES

Situated in the State of Ohio, County of Licking, City of New Albany, in Lot 32, Quarter Township 2, Township 2, Range 15, United States Military Lands, being all of those tracts of land conveyed to PJP Holdings, LLC by deeds of record in Instrument Numbers 201105250009751 and 201311120027831 (all references are to the records of the Recorder's Office, Licking County, Ohio) and more particularly bounded and described as follows:

Beginning, for reference, at a mag nail set at the terminus of the centerline of Innovation Campus Court, as shown on the plat of record in Instrument Number 201012090025358;

Thence South 89° 33' 18" East, crossing the right of way of said Innovation Campus Court, a distance of 70.00 feet to an iron pin set in the easterly right of way line of said right of way, the TRUE POINT OF BEGINNING for this description;

Thence said easterly right of way line and with the arc of a curve to the left, having a central angle of 19° 43' 41", a radius of 70.00 feet, an arc length of 24.10 feet, a chord bearing of North 09° 25' 09" West and chord distance of 23.98 feet to an iron pin set at a southeasterly corner of that 8.904 acre tract conveyed to Herm Wango Investments LLC by deed of record in Instrument Number 201201270001913;

Thence with the boundary of said 8.904 acre tract the following courses and distances:

South 86° 31' 49" East, a distance of 17.95 feet to an iron pin set at a point of curvature to the left;

with the arc of said curve, having a central angle of 90° 00' 00", a radius of 60.00 feet, an arc length of 94.25 feet, a chord bearing of North 48° 28' 11" East and chord distance of 84.85 feet to an iron pin set;

North 03° 28' 11" East, a distance of 120.37 feet to an iron pin set at a point of curvature to the right;

with the arc of said curve, having a central angle of 90° 00' 00", a radius of 140.00 feet, an arc length of 219.91 feet, a chord bearing of North 48° 28' 11" East and chord distance of 197.99 feet to an iron pin set; and

South 86° 31' 49" East, a distance of 125.72 feet to an iron pin set at a corner thereof;

Thence North 03° 28' 11" East, with the easterly lines of said 8.904 acre tract and that 10.569 acre tract conveyed to Sonoco Plastics, Inc. by deed of record in Instrument Number 201109060016557, a distance of 817.56 feet to an iron pin set in the southerly right-of-way line of Smith's Mill Road North, of record in Instrument Number 201108120014948.

Thence South 86° 31' 49" East, with said southerly right-of-way line, a distance of 590.00 feet to an iron pin set at the northwesterly corner of that 2.101 acre tract conveyed to Molineta Investments, LLC by deed of record in Instrument Number 201306280016613;

Thence South 03° 28' 11" West, with the westerly line of said 2.101 acre tract, a distance of 218.31 feet to an iron pin set at the southwesterly corner thereof;

Thence South 54° 58' 33" East, with the southerly line of said 2.101 acre tract, a distance of 7.37 feet to an iron pin set at a northwesterly corner of the remainder of an original 124.591 acre tract conveyed to MBJ Holdings, LLC by deed of record in 200010300034307;

Thence South 03° 12' 17" West, with the westerly lines of said 124.591 acre tract and that 7.719 acre tract conveyed to SR Packaging USA LLC by deed of record in Instrument Number 201508190017515, a distance of 827.69 feet to an iron pin set in the northerly right of way line of Innovation Campus Way, of record in Instrument Number 201508180017452;

Thence with said northerly right-of-way line the following courses and distances:

With the arc of a curve to the left, having a central angle of 04° 04' 28", a radius of 230.00 feet, an arc length of 16.36 feet, a chord bearing of South 40° 31' 38" West and chord distance of 16.35 feet to an iron pin set;

CITY OF NEW ALBANY
NO PLAT REQUIRED
APPROVED

Steph Mayn 17 Feb 2016
Signature Date
LC20150048

18.141 ACRES

- 2 -

South 38° 29' 24" West, a distance of 51.29 feet to an iron pin set at a point of curvature to the right;

with the arc of said curve, having a central angle of 54° 58' 47", a radius of 170.00 feet, an arc length of 163.13 feet, a chord bearing of South 65° 58' 47" West and chord distance of 156.94 feet to an iron pin set;

North 86° 31' 49" West, a distance of 650.76 feet to an iron pin set at a point of curvature to the right;

with the arc of said curve, having a central angle of 14° 25' 47", a radius of 370.00 feet, an arc length of 93.18 feet, a chord bearing of North 79° 18' 55" West and chord distance of 92.94 feet to an iron pin set; and

North 72° 06' 01" West, a distance of 17.51 feet to the TRUE POINT OF BEGINNING, containing 18.141 acres of land, more or less, of which 12.132 acres is in Parcel Number 095-112104-00.005 and 6.009 acres is in Parcel Number 095-112104-00.010.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

The bearings herein are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected Franklin County Engineering Department monuments Frank 80 and Frank 180. The portions of the centerline of Beech Road, having a bearing of North 03°25'04" East, is designated the "basis of bearing" for this description.

EVANS, MECHWART, HAMBLETON & TILTON, INC.

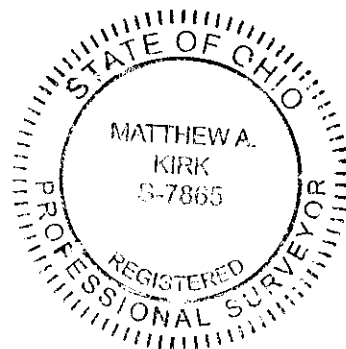
Matthew A. Kirk

Matthew A. Kirk
Professional Surveyor No. 7865

12 FEB 16

Date

MAK:iep
18_141 ac 20150174-VS-BNDY-01.doc



Plant 3 Legal Description

Exhibit A

7.893 ACRES

LC-43-2016
CITY OF NEW ALBANY
NO PLAT REQUIRED
APPROVED

[Signature]

Situated in the State of Ohio, County of Licking, City of New Albany, lying in Lot 33, ~~and~~ 32, Quarter Township 2, Township 2, Range 15, United States Military Lands, being part of that 10.598 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201410090019758, the remainder of that 9.809 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201410090019757, all of that 0.751 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 201605230010258 and that 0.255 acre portion of Beech Road vacated by Ordinance Number O-10-2016, of record in Instrument Number 201605230010261, (all references are to the records of the Recorder's Office, Licking County, Ohio) and being more particularly described as follows:

Beginning, for reference, in the northerly line of Half Section 15, Quarter Township 3, Township 2, Range 15 and the common corner of said Lot 33 and Lot 32, Quarter Township 2, Township 2, Range 15;

thence North 03° 27' 32" East, with the line common to said Lots 33 and 32, a distance of 206.51 feet to an iron pin set in the southerly line of said 0.255 acre tract, the northerly line of the remainder of that 1.046 acre tract conveyed to City of New Albany by deed of record in Instrument Number 201604270008177, the TRUE POINT OF BEGINNING;

thence South 64° 28' 13" West, with the southerly line of said 0.255 acre tract, the northerly line of the remainder of said 1.046 acre tract, a distance of 4.66 feet to an iron pin set at a point of curvature;

thence with the southerly line of said 0.255 and 2.432 acre tracts, the northerly line of the remainder of said 1.046 acre tract and the northerly right-of-way line of Innovation Campus Way West, of record in Instrument Number 201601250001384, with the arc of said curve to the right, having a central angle of 28° 34' 04", a radius of 270.00 feet, an arc length of 134.62 feet, a chord bearing of South 78° 45' 15" West and chord distance of 133.23 feet to a permanent marker set;

thence North 86° 57' 43" West, with the southerly line of said 2.432 acre tract, said northerly right-of-way line, a distance of 569.63 feet to an iron pin set at the southeasterly corner of that 8.463 acre tract conveyed to CCL Label, Inc. by deed of record in Instrument Number 201512140026993;

thence North 03° 02' 17" East, with the westerly line of said 2.432 acre tract, the remainder of said 10.598 acre tract and said 0.751 acre tract, the easterly line of said 8.463 acre tract and the remainder of said 8.463 acre tract, a distance of 499.50 feet to an iron pin set in the southerly line of that 22.622 acre tract conveyed to Faith Life Church by deeds of record in Instrument Number 199802020003125 and Instrument Number 200708100020872;

thence South 86° 57' 43" East, with the northerly line of said 0.751 acre tract, the southerly line of said 22.622 acre tract and that 2.000 acre tract conveyed to Walter S. Barrett and Carole J. Barrett by deed of record in Instrument Number 200404050011539, (passing at 205.91 feet a 1/2 inch rebar found) a total distance of 652.90 feet to a 5/8 inch rebar with aluminum cap marked "ODOT" found in the westerly right-of-way line of Beech Road, being the common corner of that 0.499 acre tract conveyed as Parcel 51-WDV to Licking County by deed of record in Instrument Number 200601260002471 and that 0.190 acre tract conveyed as Parcel 52-WDV to Licking County by deed of record in Instrument Number 200508100024518;

thence South 00° 33' 40" East, with said westerly right-of-way line, the easterly line of said 0.751 acre tract and the remainder of said 10.598 acre tract, the westerly line of said 0.499 acre tract, a distance of 54.50 feet to an iron pin set at a point of curvature in the westerly right-of-way line of said Beech Road (as defined by said vacation), being the northerly corner of said 0.255 acre tract;

thence continuing with said westerly right-of-way line, the easterly line of said 0.255 acre tract, the westerly line of the remainder of said 0.499 acre tract and the remainder of that 6.681

7.893 ACRES

-2-

acre tract conveyed as Parcel No. 7-WDV5 to Board of Commissioners of Licking County, Ohio by deed of record in Instrument Number 200510280034382, with the arc of a curve to the left, having a central angle of $20^{\circ} 22' 52''$, a radius of 1009.93 feet, an arc length of 359.25 feet, a chord bearing of South $10^{\circ} 45' 06''$ East and chord distance of 357.36 feet to an iron pin set at a point of reverse curvature at the northeasterly corner of the remainder of said 1.046 acre tract;

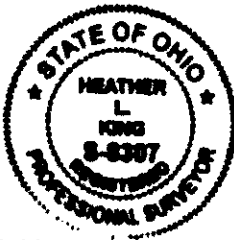
thence with the line common to said 0.255 acre tract and the remainder of said 1.046 acre tract, with the arc of a curve to the right, having a central angle of $85^{\circ} 24' 45''$, a radius of 40.00 feet, an arc length of 59.63 feet, a chord bearing of South $21^{\circ} 45' 51''$ West and chord distance of 54.26 feet to an iron pin set at a point of tangency;

thence South $64^{\circ} 28' 13''$ West, continuing with said common line, a distance of 24.17 feet to the TRUE POINT OF BEGINNING, containing 7.893 acres, more or less, of which 2.432 acres are all of the remainder of said 9.809 acre tract (Auditors Parcel Number 095-112122-00.000), 4.455 acres are all of the remainder of said 10.598 acre tract (Auditors Parcel Number 095-111304-00.000), 0.751 acre is all of said 0.751 acre tract (Auditors Parcel Number 095-_____-_____) and 0.255 acre is all of said 0.255 acre tract (Auditor's Parcel Number 095-_____-_____).

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC. Permanent Markers set, where indicated, are one-inch solid iron pins with aluminum cap stamped EMHT INC.

The bearings herein are based on the Ohio State Plane Coordinate System South Zone as per NAD83 (1986 adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected Franklin County Engineering Department monuments Frank 80 and Frank 180. The portion of the centerline of Beech Road, having a bearing of North $03^{\circ} 25' 04''$ East, is designated the "basis of bearing" for this description.



EVANS, MECHWART, HAMBLETON & TILTON, INC.

Heather L. King
Heather L. King
Professional Surveyor No. 8307

5/23/16
Date

Plant 4 Legal Description

EXHIBIT A

Situated in the State of Ohio, County of Licking, City of New Albany, in Lot 17, Quarter Township 2, Township 2, Range 15, United States Military Lands, being part of that original 124.591 acre tract conveyed to MJB Holdings, LLC by deed of record in Instrument Number 200010300034307, (all references refer to the records of the Recorder's Office, Licking County, Ohio) and more particularly bounded and described as follows:

Beginning, for reference, at a $\frac{3}{4}$ " iron pin found at the northerly common corner of Lots 17 and 32, and in the southerly line of Lot 31, of said Quarter Township 2;

thence South 03° 12' 17" West, with the line common to said Lots 17 and 32, a distance of 655.51 feet to an iron pin set in the easterly line of that 6.009 acre tract conveyed to PJP Holdings, LLC by deed of record in Instrument Number 201311120027831, the TRUE POINT OF BEGINNING for this description;

thence crossing said 124.591 acre tract the following courses and distances: South 70° 35' 34" East, a distance of 57.53 feet to an iron pin set;
North 38° 51' 31" East, a distance of 39.63 feet to an iron pin set; North 82° 10' 13" East, a distance of 44.94 feet to an iron pin set; South 82° 46' 44" East, a distance of 90.00 feet to an iron pin set; North 74° 53' 28" East, a distance of 75.49 feet to an iron pin set; North 79° 16' 17" East, a distance of 87.40 feet to an iron pin set; North 83° 17' 39" East, a distance of 68.09 feet to an iron pin set; South 76° 42' 57" East, a distance of 35.77 feet to an iron pin set; and South 86° 31' 49" East, a distance of 285.82 feet to an iron pin set in the westerly right of way line of Smith's Mill Road North, of record in Instrument Number 201108120014948, on the arc of a curve to the right;

thence with said westerly right of way line and with the arc of said curve, having a central angle of 02° 29' 30", a radius of 495.00 feet, an arc length of 21.53 feet, a chord bearing of South 02° 13' 26" West and chord distance of 21.52 feet to an iron pin set;

thence South 03° 28' 11" West, with said westerly right of way line, a distance of 367.84 feet to an iron pin set;

thence crossing said 124.591 acre tract (with the proposed northerly right-of-way line of Innovation Campus Way) the following courses and distances:

with the arc of a curve to the right, having a central angle of 90° 00' 00", a radius of 30.00 feet, an arc length of 47.12 feet, a chord bearing of South 48° 28' 11" West and chord distance of 42.43 feet to an iron pin set;

North $86^{\circ} 31' 49''$ West, a distance of 119.58 feet to an iron pin set at a point of curvature to the left;

with the arc of said curve, having a central angle of $24^{\circ} 24' 58''$, a radius of 430.00 feet, an arc length of 183.24 feet, a chord bearing of South $81^{\circ} 15' 42''$ West and chord distance of 181.86 feet to an iron pin set at a point of reverse curvature;

with the arc of said curve, having a central angle of $24^{\circ} 07' 37''$, a radius of 370.00 feet, an arc length of 155.80 feet, a chord bearing of South $81^{\circ} 07' 01''$ West and chord distance of 154.66 feet to an iron pin set;

North $86^{\circ} 49' 10''$ West, a distance of 98.90 feet to an iron pin set at a point of curvature to the left; and

with the arc of said curve, having a central angle of $50^{\circ} 36' 58''$, a radius of 230.00 feet, an arc length of 203.19 feet, a chord bearing of South $67^{\circ} 52' 21''$ West and chord distance of 196.64 feet to an iron pin set at a southeasterly corner of said 6.009 acre tract;

thence North $03^{\circ} 12' 17''$ East, with an easterly line of said 6.009 acre tract, a distance of 505.52 feet to the TRUE POINT OF BEGINNING, containing 7.719 acres of land, more or less.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths ($13/16$) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected Franklin County Engineering Department monuments Frank 80 and Frank 180. The portions of the centerline of Beech Road, having a bearing of North $03^{\circ} 25' 04''$ East, is designated the "basis of bearing" for this description.

Plant 5 Legal Description

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Situated in the State of Ohio, County of Licking, City of New Albany, located in Lots 31 and 32, Quarter Township 2, Township 2, Range 15, United States Military Lands, being out of that 89.077 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200206100021774, part of the remainder of that 79.132 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 199912010048764 and part of the remainder of that 124.591 acre tract conveyed to MBJ Holdings, LLC by deed of record in Instrument Number 200010300034307 (all references refer to the records of the Recorder's Office, Licking County, Ohio), and being described as follows:

Beginning, for reference, at the centerline intersection of Smith's Mill Road North (60') of record in Instrument Number 201108120014948 and Beech Road (width varies);

thence South 03° 25' 04" West, with the centerline of said Beech Road, a distance of 130.00 feet to a common corner of said Farm Lots 31 and 32, Lot 33 and 34;

thence South 87° 19' 54" East, across said original 89.077 acre tract and with the line common to said Lots 31 and 32, a distance of 1388.41 feet to a point at a common corner of said 79.132 and 89.077 acre tracts;

thence South 87° 26' 51" East, with a line common to said 79.132 and 89.077 acre tracts, and with the line common to said Lots 31 and 32, a distance of 977.35 feet to an iron pin set at the TRUE POINT OF BEGINNING;

thence North 03° 28' 11" East, across said 89.077 acre tract, a distance of 609.50 feet to an iron pin set in the southerly line of that 4.859 acre tract conveyed to John K. Wagner and Joyce L. Wagner by deed of record in Instrument Number 199907230030772;

thence South 86° 32' 09" East, with the northerly line of said 89.077 acre tract, the southerly line of said 4.859 acre tract, a distance of 396.43 feet to an iron pin set in the westerly line of that 20.000 acre tract conveyed to Maria A. Herman, Trustee by deed of record in Official Record 466, Page 877;

thence South 04° 05' 38" West, with the easterly line of said 89.077 acre tract, the westerly line of said 20.000 acre tract, partially across said 124.591 acre tract, a distance of 654.78 feet to an iron pin set in the northerly right-of-way line of said Smith's Mill Road North;

thence North 86° 31' 49" West, with the southerly line of a remainder of said 124.591 and 79.132 acre tracts, the northerly right-of-way line of said Smith's Mill Road North, a distance of 389.29 feet to an iron pin set;

thence North 03° 28' 11" East, across said 79.132 acre tract, a distance of 45.21 feet to the TRUE POINT OF BEGINNING, and containing 5.906 acre of land, of which 5.473 acres is out of said 89.077 acre tract (P.N. 095-111744-00000), 0.407 acres is out of said 79.132 acre tract (P.N. 095-112104-00000), and 0.026 acre is out of said 124.591 acre tract (P.N. 095-111372-00000).

The above description was prepared from a field survey completed by EMH&T in May 2009.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, NAD83 (1986 Adjustment). Said bearings originated from a field traverse which was tied (referenced) to said coordinate system by GPS observations and observations of selected Franklin County Engineering Department monuments Frank 80 and Frank 180. The portions of the centerline of Beech Road, having a bearing of North 03°25'04" East, is designated the "basis of bearing" for this plat.