

**TOWN OF WINDSOR
TOWN BOARD
RESOLUTION 2014-25**

**RESOLUTION APPROVING
VARIANCE FROM HEIGHT RESTRICTION
FOR SPEEDWAY SIGN (6340 LAKE ROAD)**

WHEREAS, Site Enhancement Services, Inc. ("SES"), on behalf of the Speedway located at 6340 Lake Road in the Town of Windsor ("Speedway"), has requested approval of a replacement and relocation of the existing on-premise sign at the Speedway in order to provide motorists traveling along STH 19 and CTH CV with adequate notification of Speedway's fuel pricing and to bring the sign into compliance with industry standards; and

WHEREAS, Speedway's proposed sign meets Dane County's sign standards except that it exceeds the height restrictions by three (3) feet; and

WHEREAS, on or about March 27, 2014, Speedway obtained approval from the Dane County Board of Appeals ("Appeal 3654") to allow for an additional three (3) feet of height for the proposed sign; and

WHEREAS, the Town Planner has reviewed Speedway's request and has summarized his findings in the Staff Report dated April 10, 2014 and an updated report for the May 15, 2014 Town Board meeting (collectively, "Staff Report"); and

WHEREAS, following consideration of the Staff Report, relevant sections of the Dane County ordinances, Appeal 3654, the presentation by the representative from SES and the Town's policies and interests, the Town Board finds that a variance is appropriate due to unique geographical and topographical issues outside of Speedway's control, including but not limited to the design of the freeway exit in conjunction with visual barriers such as the height of semis and over-the-road trucks; and

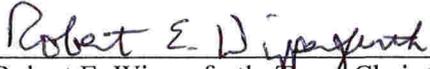
NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Windsor as follows:

1. The Town Board approves the Sign Variance subject to the conditions set forth in the Staff Report, which are hereby incorporated by reference.
2. The petitioner has reimbursed the Town of Windsor for all costs and expenses incurred by Windsor in connection with the review and approval of the CSM, including, but not limited to, the cost of professional services incurred by the Town of Windsor for the review and preparation of required documents, attendance at meetings or other related professional services.
3. The Town Board's approval expires six (6) months from the date of adoption of this Resolution. Time is of the essence. The Town Board's approval expires six (6) months from the

date of adoption of this Resolution. Time is of the essence. If the petitioner has not met all of the conditions set forth above prior to expiration, then this matter shall be re-referred to the Plan Commission prior to further action by the Town Board.

The above and foregoing Resolution was duly adopted at a regular meeting of the Town Board of the Town of Windsor on the 15th day of May, 2014.

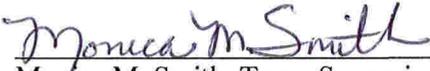
TOWN OF WINDSOR



Robert E. Wipperfurth, Town Chairperson



Bruce Stravinski, Town Supervisor



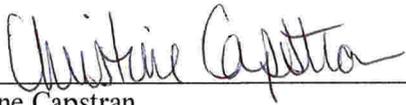
Monica M. Smith, Town Supervisor



Donald G. Madelung, Town Supervisor



Alan Buchner, Town Supervisor

Attest: 

Christine Capstran
Clerk

TO: Town of Windsor Board

CC: Robert Wipperfurth, Chairman
Tina Butteris, Office Manager
Amy Anderson Schweppe, Planning & Development Coordinator
Kevin Richardson, Engineer
Constance Anderson, Attorney

FROM: Jamie Rybarczyk, Planning Consultant

RPT DATE: April 10, 2014

MTG DATE: April 22, 2014

FOTH FILE: 12W027.01/21

RE: Speedway Superamerica, LLC. – Sign Variance

BACKGROUND:

1. Property Owner/Petitioner: Speedway Superamerica, LLC.
2. Agent: Brent Eads
3. Location/Address: 6340 Lake Road, Windsor, WI 53598
4. Taxkey Number: 0910-323-9241-2
5. Area: 1.0 ac
6. Existing Zoning: C-2 Heavy Commercial
7. Proposed Zoning: N/A
8. Future Land Use: Regional Commercial

OVERVIEW:

The petitioner wishes to replace and relocate an existing ground on-premise sign on the property in order to provide motorists traveling along STH 19 and CTH CV adequate notification of fuel pricing. The proposed sign will also replace the old manual changeable copy with a LED (light-emitting diode) display to bring the sign into compliance with industry standards.

PLANNING COMMENTS:

The applicable requirements for a sign in the C-2 Heavy Commercial zoning district include:

- Minimum Required Setback – Five (5) Feet
- Maximum Sign Size – Sixty Four (64) Square Feet
- Maximum Sign Height – Sixteen (16) Feet
- Minimum Required Height from Ground to Bottom of Sign – Six (6) Feet
- Maximum Required Height from Ground to Bottom of Sign – Eight (8) Feet
- Minimum Distance from STH 19 & CTH CV Intersection – Two Hundred (200) Feet

The proposed sign meets the above mentioned requirements except for the maximum sign height. The proposed sign is nineteen (19) feet in total height. As such the petitioner is requesting a variance per Sections 10.88 *Variances*, 10.89 *Variance Standards*, and 10.90 *Conditions of Variances* of the Dane County Code of Ordinances. According to the petitioner having the proposed sign at the proposed location and height where it is not blocked

by traffic and clearly visible from all decision points would allow Speedway to remain consistent and competitive with other fuel stations in the area. The petitioner has provided documentation (Exhibit A) explaining the rationale for requesting the variance. It should be noted that four (4) points identified in the petitioner's letter dated March 3, 2014 do not necessarily coincide with the six (6) points identified in Section 10.89 *Variance Standards* of the Dane County Code of Ordinances.

On April 17, 2014 the Town Plan Commission approved the sign variance based on the finding that the sign height at nineteen (19) feet will enable the current pricing to be visible from all decision making points of east and west bound along STH 19 as well as advance notification for those traveling south bound on CTH CV and those entering STH 19 from IH-39/90/94.

STAFF RECOMMENDATION(S):

Depending on confirmation by the Town of Windsor Board of the above described comments, the Town of Windsor Board may take the following action:

The Town of Windsor Board **Approves** of the Sign Variance for Speedway Superamerica, LLC. located at 6340 Lake Road, Windsor, WI 53598 subject to the following conditions:

1. The petitioner shall construct the sign in accordance with the plans and specifications identified in Exhibit A attached herein by reference.
2. The petitioner has reimbursed the Town of Windsor for all costs and expenses incurred by Windsor in connection with the review and approval of the CSM, including, but not limited to, the cost of professional services incurred by the Town of Windsor for the review and preparation of required documents, attendance at meetings or other related professional services.

DANE COUNTY BOARD OF APPEALS:

On March 27, 2014 the Dane County Board of Appeals approved Appeal 3654 for Speedway Superamerica, LLC to allow for the additional three (3) feet in height for the proposed sign.

EXHIBITS:

- A. Sign Variance Application

MARCH 27, 2014 BOA PUBLIC HEARING STAFF REPORT

Appeal 3654. Appeal by Speedway Superamerica LLC (Brent Eads, Site Enhancement Services, agent) for variance from maximum height of a ground on-premise sign as provided by Section 10.74(5), Dane County Code of Ordinances, to permit the replacement and relocation of an existing sign at 6340 Lake Rd being located in the SW ¼ of the SW ¼, Section 32, Town of Windsor.

OWNER: Speedway Superamerica LLC
AGENT: Brent Eads, Site Enhancement Services
LOCATION: 6340 Lake Rd, Town of Windsor
ZONING DISTRICT: C-2 Commercial

COMMUNICATIONS: Town of Windsor, acknowledgement: March 5, 2014 (Unable to publically notice a hearing before the Town Board by BOA Public Hearing date.

Wisconsin DOT, Denny Drier, March 12, 2014: "The department is satisfied that the proposed signing along IH 39/90/94 and STH 19 meets the state laws as described in State Statute 84.30 and Wisconsin Administrative Code Trans 201." (The department also provided a list of state regulations which apply to such a sign)

Dane County Highway Department: "The sign does not impact county highway"

Facts of the Case:

Existing: The existing use of the property is a retail store and gas station.

Proposed: Replacement and relocation of an existing ground sign with a LED display sign.

Zoning Notes:

The following regulations apply to the proposed sign:

Minimum required setback from front and east property lines: 5 feet

Maximum sign size: 64 sq feet

Maximum sign height: 16 feet

Minimum required height from ground to bottom of sign: 6 feet

Maximum height from ground to bottom of sign: 8 feet

Minimum distance from STH 19 & CTH CV intersection: 200 feet

10.75(5) Calculation for ground mounted signs, except billboards, directory or pylon signs, the height shall be measured from ground level beneath the sign to the top edge of the sign.

DCCO Sign Code Sections 10.88 Variances, 10.89 Variance Standards, and 10.90 Conditions on Variances have been included in meeting packet.

History:

1984- Variance appeal 1226 requesting relief from required highway setback to allow for a gas pump canopy **GRANTED**.

1984- Variance appeal 1306 related to a pylon sign was **DENIED** as applicant/agent did not appear at the BOA meeting.

1988- Variance appeal 1787 requesting 10 foot variance to maximum height of pylon sign and 70 foot variance to distance to an intersection for a pylon sign **GRANTED**.

1988- Permit S88-518-519 issued for pylon sign.

1989- Permit S89-525 - 528 issued for various on-premise advertising signs.

1990- Variance appeal 1824 requesting relief from setback to intersections for 2 free standing signs
GRANTED.

1992- Variance appeal 2326 requesting relief from highway setback to reconstruct gas pump canopy
GRANTED.

1993- Zoning permit for canopy

1994- CUP for drive-in establishment – fast food restaurant approved

1994- Zoning permit for convenience store/restaurant

1995- Variance appeal 2652 requesting various relief to allow for a pylon sign **DENIED.**

1995- Zoning permit for tank remediation

1995- Zoning permit S95-738 – 741 issued for various wall signs.

2000- Permit S00-1049 – 1052 issued for pylon sign and various wall signs on canopy.

2001- Permit S01-1098 issued for an on-premise ground sign.

2005- Variance appeal 3348 requesting second pylon sign, and or a larger and higher second ground sign.
DENIED.

2005- Zoning permit for existing ground on premise sign issued.

VARIANCES REQUESTED: Purpose: Replacement/relocation of ground on-premise sign

Height Variance:

Maximum height allowed: 16 feet

Proposed height: 19 feet

VARIANCE NEEDED: 3 feet



03 March 2014

Speedway
6340 Lake Road
Windsor, WI 53598

Dane County Planning & Development: Division of Zoning
Variance Application
Attachment A

Speedway is respectfully requesting a variance from section 10.74(5) requiring that all ground on premise signage in the 36 to 45 mile per hour zones to not exceed a total of 16' in overall height to allow for a freestanding sign with an overall height of 19'. The granting of this variance will allow for better visibility of the sign to those traveling east and west bound along state road 19 as well as advance notification for those traveling south bound on Lake Road/Co Hwy Cv or those entering SR 19 from Highway 90/94. This request will also replace the old sign which utilizes manual changeable copy as its method for displaying price, bringing this property more into conformance with the precedence that is being set within this corridor.

This sign is being proposed in order to provide motorists traveling in this area adequate notification of pricing. Given the nature of the fuel industry, the vast majority of patrons will be unfamiliar with the offerings of similar establishments and require notification of such pricing as the decision to purchase fuel is often still made while inside the car. Having a sign at the appropriate height to which it is not blocked by traffic and clearly visible from all decision points would allow for Speedway to remain consistent and competitive with other fuel stations in the area.

1. Describe alternatives to your proposal such as other locations, designs and construction techniques
 - a. Moving the sign closer to the roadway will place the sign within the restricted five foot setback area. The proposed location will not interfere with visibility at the intersection of 19 and Lake Road allowing for a clear visibility triangle.

2. Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?
 - a. Limiting the height of the sign to the code allotment of 16 feet will make visibility of the sign more difficult for those travelling east bound on State Road 19 as well as for those exiting northbound highway 90/94. Those exiting Hwy 90/94 and turning left will have a limited amount of time to decide whether they want to make the appropriate maneuver to the access road that allows for the right hand turn onto lake road, or if they would like to continue west on SR19. The current sign is also obstructed from visibility in certain vantage points by the utility post as well as the railroad crossing mechanism. Increasing the height will help negate this.
3. Do unique physical characteristics of your property prevent compliance with the ordinance?
 - a. The roadways that the property fronts are fairly unique as there is a vast degree of separation between east and west bound lanes. East bound traffic will have a much larger difficult degree of accurately identifying the price of the gas station while navigating through this extensive intersection. Also, as previously mentioned, those who choose to utilize the gas station must be notified early enough to make the safe and appropriate traffic maneuver to gain access to the road adjacent to SR19 for the right hand turn.
4. What would be the effect on this property, the community or neighborhood, and the general public interest if the variance were granted? Describe how negative impacts would be mitigated.
 - a. Granting this variance will allow for Speedway to clearly and accurately display price at a height that is visible to all decision making points of the intersection. The ability to display price allows the driver to make the decision of whether or not they would choose to utilize the services of the gas station as this is a decision that is still made while inside the vehicle and on an as needed or convenience basis. Increasing the height will not have a negative impact on the community or neighborhood as it increases visibility of information that is important to those travelling within the area.

In conclusion, granting the variance to allow for an increase in height of 3 feet will enable the current pricing to be visible from all decision making points of east and west bound along state road 19 as well as advance notification for those traveling south bound on Lake Road/Co Hwy Cv or those entering SR 19 from Highway 90/94. Studies conducted by the United States Sign Council show that an area with a road speed of 45 miles per hour requires approximately 10 seconds to detect a sign, recognize the message, decide the appropriate course of action, respond, and maneuver. 10 seconds at that rate of speed constitutes 660 feet. With those measurements, we want to ensure that the sign is in a position that allows the most visibility for the safe maneuvering of vehicles in the area. Lastly, this sign is more aesthetically pleasing than what is currently at the property. Utilizing LED rather than changeable copy will allow the sign to remain consistent with similar businesses within the corridor and will not impede safety, but rather improve it and the property values of the surrounding area.

Brent Eads
Site Enhancement Services



Dane County Planning & Development

Division of Zoning

Appeal No. _____
 Date Received _____
 Date of Public Hearing _____

VARIANCE APPLICATION:

Owner: Speedway Superamerica LLC
Mailing Address: 539 S Main St
Findlay, OH 45840
Phone Number(s): _____
Email Address: _____

Assigned Agent: Brent Eads (Site Enhancement Services)
Mailing Address: 6001 Nimitz Parkway
South Bend, IN 46228
Phone Number(s): 574-232-2529
Email Address: bwe@sesbranding.com

To the Dane County Board of Adjustment:
Please take notice that the undersigned was refused a permit by the Dane County Zoning Division, Department of Planning and Development, for lands described below for the reason that the application failed to comply with provisions of the Dane County Code of Ordinances: Chapters 10 – Zoning, 11 – Shoreland, Shoreland-Wetland & Inland-Wetland, 17 – Floodplain Zoning, and/or 76 – Airport Height Regulations. The owner or assigned agent herewith appeals said refusal and seeks a variance.

Parcel Number: 0 9 1 0-3 2 3 -9 2 4 1 - 2 **Zoning District:** C-2 **Acreage:** 1
Town: Windsor **Section:** 32 1 / 4 S W 1 / 4 S W
Property Address: 6340 Lake Rd
CSM: _____ **Lot:** _____ / **Subdivision:** _____ **Block/Lot(s):** _____
Shoreland: Y / N / **Floodplain:** Y / N / **Wetland:** Y / N / **Water Body** _____
Sanitary Service: Public / Private (Septic System)

Current Use: Gas Station

Proposal: Replacement and relocation of current ground on-premise sign at a height of 19' to display price electronically via LED.

NOTE: You are encouraged to provide a complete and detailed description of the existing use and your proposed project on an attached sheet.

REQUIRED BY ORDINANCE

Section	Description	Required	Proposed or Actual	Variance Needed
10.74(5)	Ground on-premise sign in 36-45MPH zone	16' OAH	19' OAH	Yes (Additional 3' OAH)

PRESENTING YOUR CASE TO THE BOARD OF ADJUSTMENT:

An Area Variance may be authorized by the Dane County Board of Adjustment to vary one or more of the dimensional or physical requirements of the applicable ordinance in connection with some proposed construction.

The burden will be on you, as property owner or authorized agent, to provide information upon which the board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. You or your agent must convince the zoning board to make a ruling in your favor. The board must make its decision based only on the evidence submitted to it at the time of the hearing, including the staff report. Unless you or your agent is present, the board may not have sufficient evidence to rule in your favor and may then deny your application.

Please answer the four questions below. You are encouraged to attach a separate sheet, labeling the answers (1) through (4), to provide enough detail to support your appeal:

(1) Describe alternatives to your proposal such as other locations, designs and construction techniques. *Attach a site map showing alternatives you considered in each category below:*

(A) Alternatives you considered that comply with existing standards: If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons you rejected them.

See Attachment

(B) Alternatives you considered that require a lesser variance: If you reject such alternatives, provide the reasons you rejected them.

See Attachment

(2) Will there be an unnecessary hardship to the property owner to strictly comply with the ordinance?

Unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome.

An applicant may not claim unnecessary hardship because of conditions which are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home or claiming that they need more outbuilding space than that permitted to store personal belongings). Courts have also determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel. The property owner bears the burden of proving unnecessary hardship.

See Attachment

- (3) Do unique physical characteristics of your property prevent compliance with the ordinance? If yes, please explain. **The required Site Plan and/or Survey submitted with your application must show these features.**

Unique physical limitations of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with the ordinance requirements. The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance.

See Attachment

- (4) What would be the effect on this property, the community or neighborhood, and the general public interest if the variance were granted? Describe how negative impacts would be mitigated. **The required Site Plan and/or Survey submitted with your application must show any proposed mitigation features.**

These interests may be listed as objectives in the purpose statement of an ordinance and may include: Promoting and maintaining public health, safety and welfare; protecting fish and wildlife habitat; maintaining scenic beauty; minimizing property damages; ensuring provision of efficient public facilities and utilities; requiring eventual compliance for nonconforming uses, structures and lots; drainage; visual impact; fire safety and building code requirements; and any other public interest issues.

See Attachment

REQUIRED PLANS AND SPECIFICATIONS:

In addition to providing the information required above, you must submit:

1. **Site Plan:** Complete and detailed plans of your lot or lots, drawn to a standard and easily readable scale. **In most cases, a survey by a Registered Land Surveyor is needed.** The Site Plan/Survey should include the following, as applicable, as well as any unique existing features of the lot and any proposed mitigation features, as described above:
 - Scale and North arrow
 - Road names and right-of-way widths
 - All lot dimensions
 - Existing buildings, wells, septic systems and physical features such as driveways, utility easements, sewer mains and the like, including neighboring properties and structures.
 - Proposed new construction, additions or structural alterations.
 - For property near lakes, rivers or streams:
 - Location of Ordinary High Water Mark (OHWM) Elevation
 - Location of Floodplain Elevation
 - For property near Wetlands, a Wetland Boundary determination by a qualified professional consultant may be required.
 - Topographic survey information may be desirable or necessary.
 - Setbacks from any existing or proposed structures (building) to lot lines, right-of-way lines, Ordinary High Water Mark, and/or Wetland Boundary, as applicable.
 - For setback from Ordinary High Water Mark Variance Appeals, the setbacks of the two neighboring structures from the OHWM may be required.

2. Floor Plans and Elevations: Professionally-prepared plans and elevations are not required, but the plans submitted must be drawn to a standard and easily readable scale, must show each story of the building or structure, and must include all parts of existing and proposed structures, including any balconies, porches, decks, stoops, fireplaces and chimneys. Exterior dimensions must be included. Show all exit door locations, including sliding doors, and any windows or other features that are pertinent to your appeal. The plans may be a preliminary version, but are expected to represent your actual proposal for the use of your lot.

Please consult with the Assistant Zoning Administrator regarding required plans for non-conventional structures such as signs, construction cranes, etc.

3. Town Acknowledgment: Obtain a signed, dated memo or letter from the Town Clerk or Administrator of the Town where the variance is needed, acknowledging that you have informed them of your intention to apply for the variance(s). You probably will need to appear before the Town Board and/or Plan Commission, which will provide advisory input requested by the Board of Adjustment.

APPLICANT SIGNATURE:

The undersigned hereby attests that all information provided is true and accurate, and further gives permission to Planning & Development staff and Board of Adjustment members to view the premises, in relation to the Appeal request made herein, during reasonable daylight hours.

Signature Required: _____ Date: 2/27/2014

Print Name: Brent Eads (Site Enhancement Services)

Specify Owner or Agent: Agent

Agent must provide written permission from the property owner

STAFF INFORMATION:

Date Zoning Division Refused Permit (if different from filing date)

Filing Date

Filing Materials Required:

Site Plan

Floor Plans

Elevations

Fee _____ Receipt No. _____

Town Acknowledgement Date

Notices Mailed Date

Class II Notices Published Dates

Site Visit Date

Town Action Received Date:

Public Hearing Date

Action by B.O.A. _____

Approved by: _____ **Date:** _____

Director, Division of Planning Operations, Department of Planning and Development

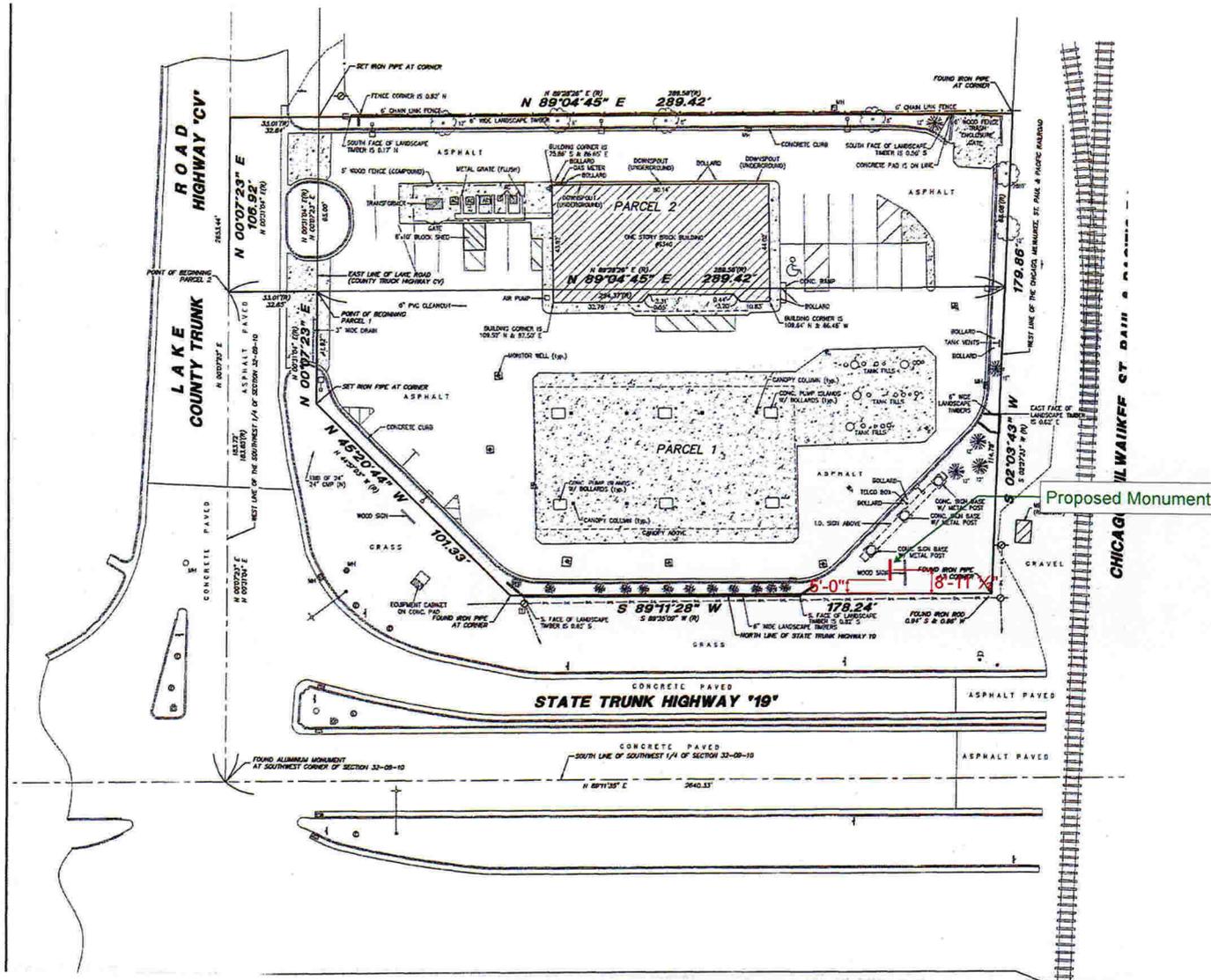


6340 Lake Road
Windsor, WI

March 3, 2014

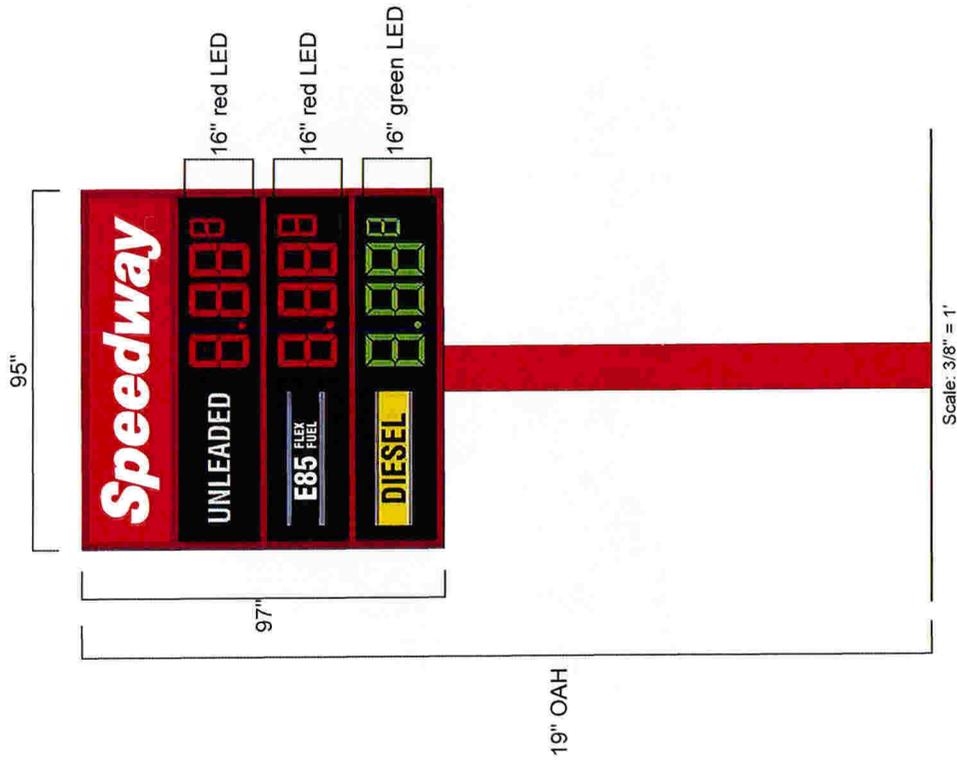


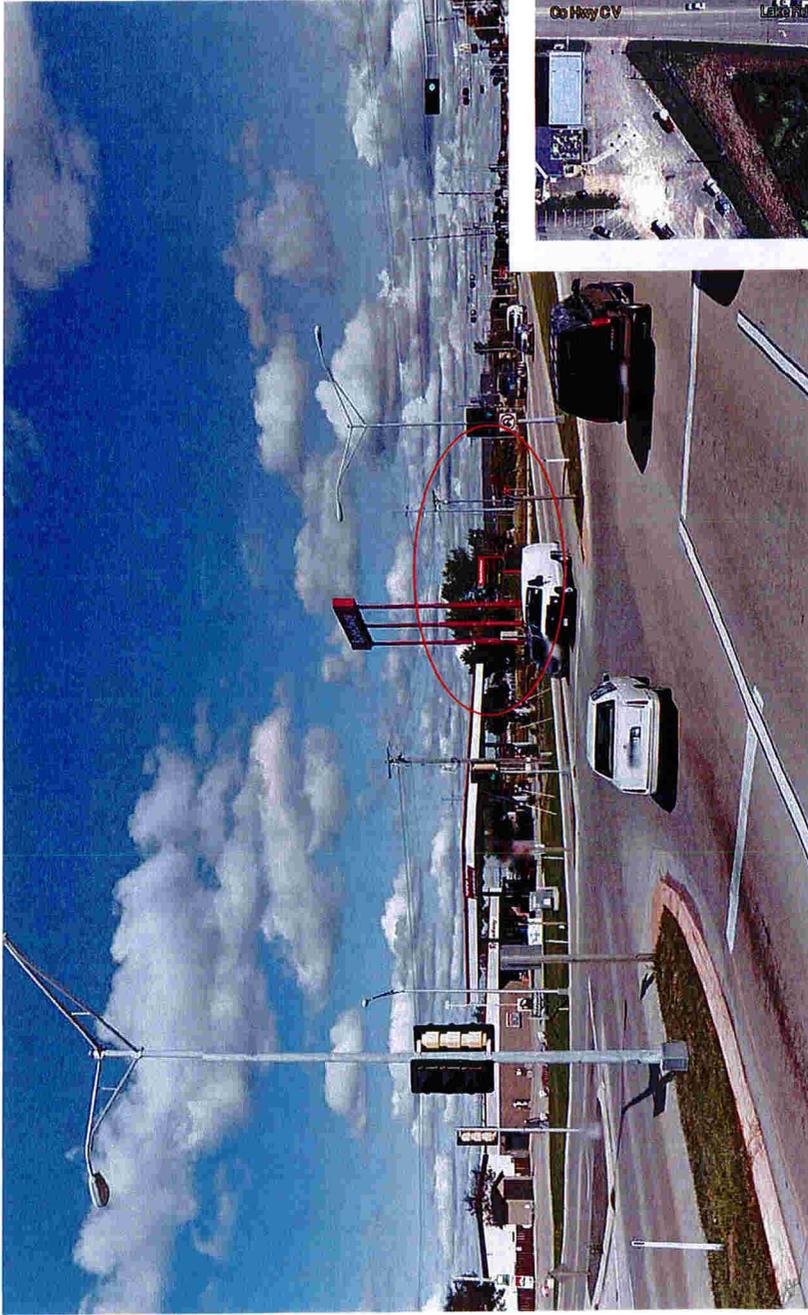
Ph: 1.888.660.1298
Fax: 1.574.237.6166
www.siteenhancementservices.com



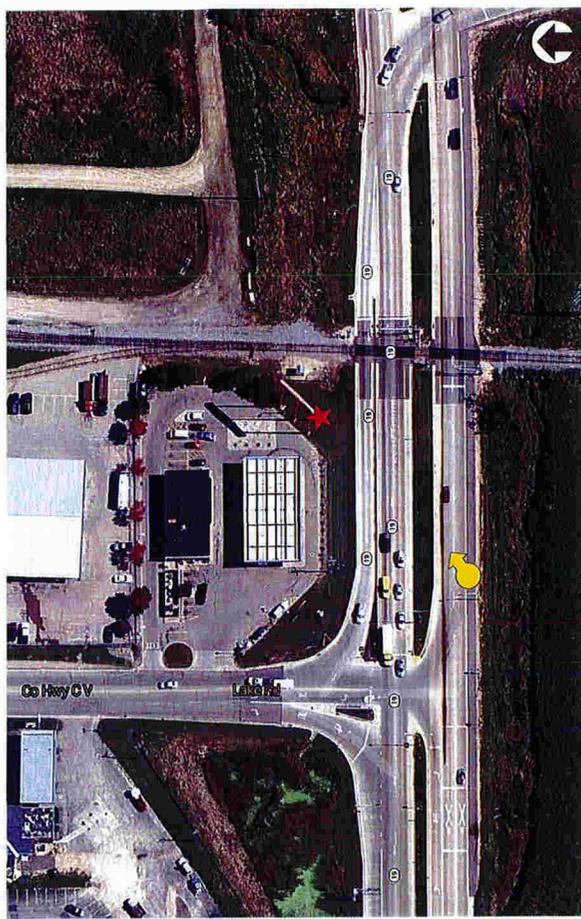
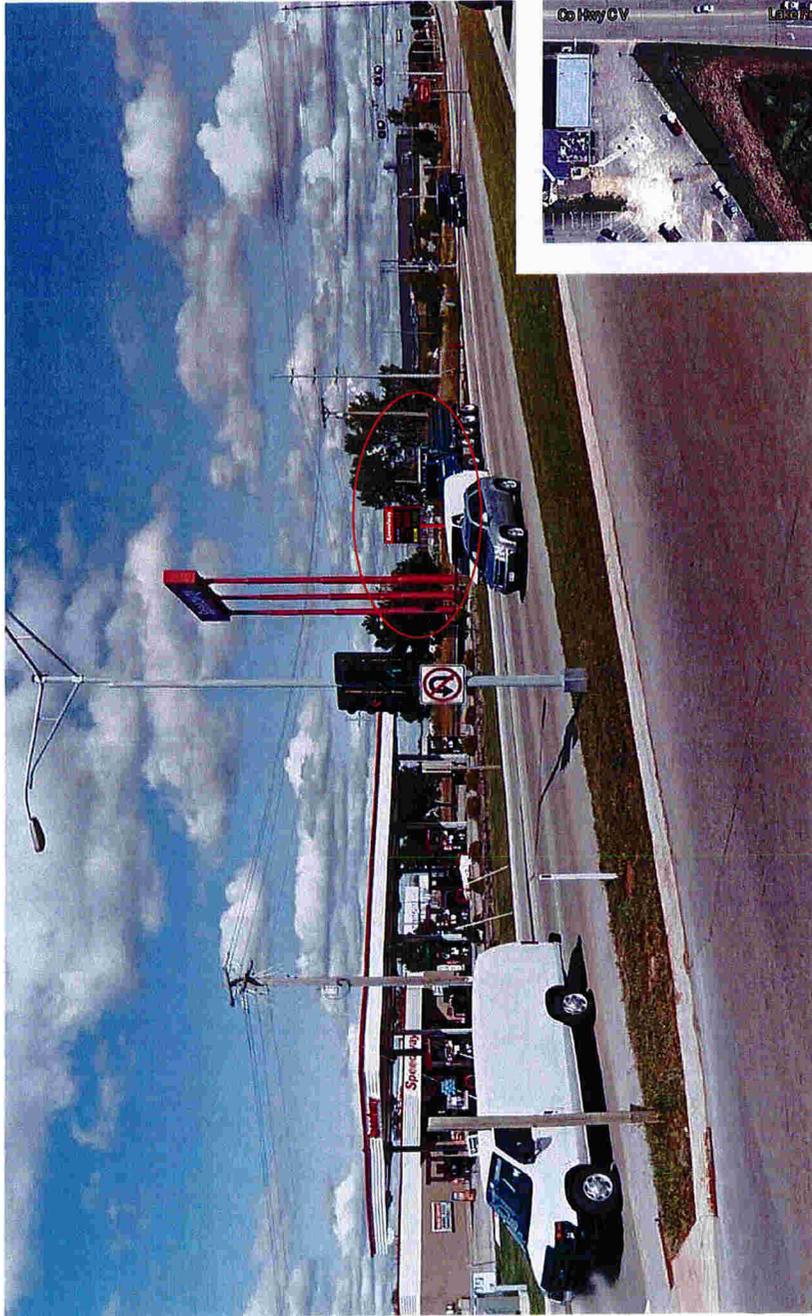
Proposed Monument

Scale: 1" = 40'





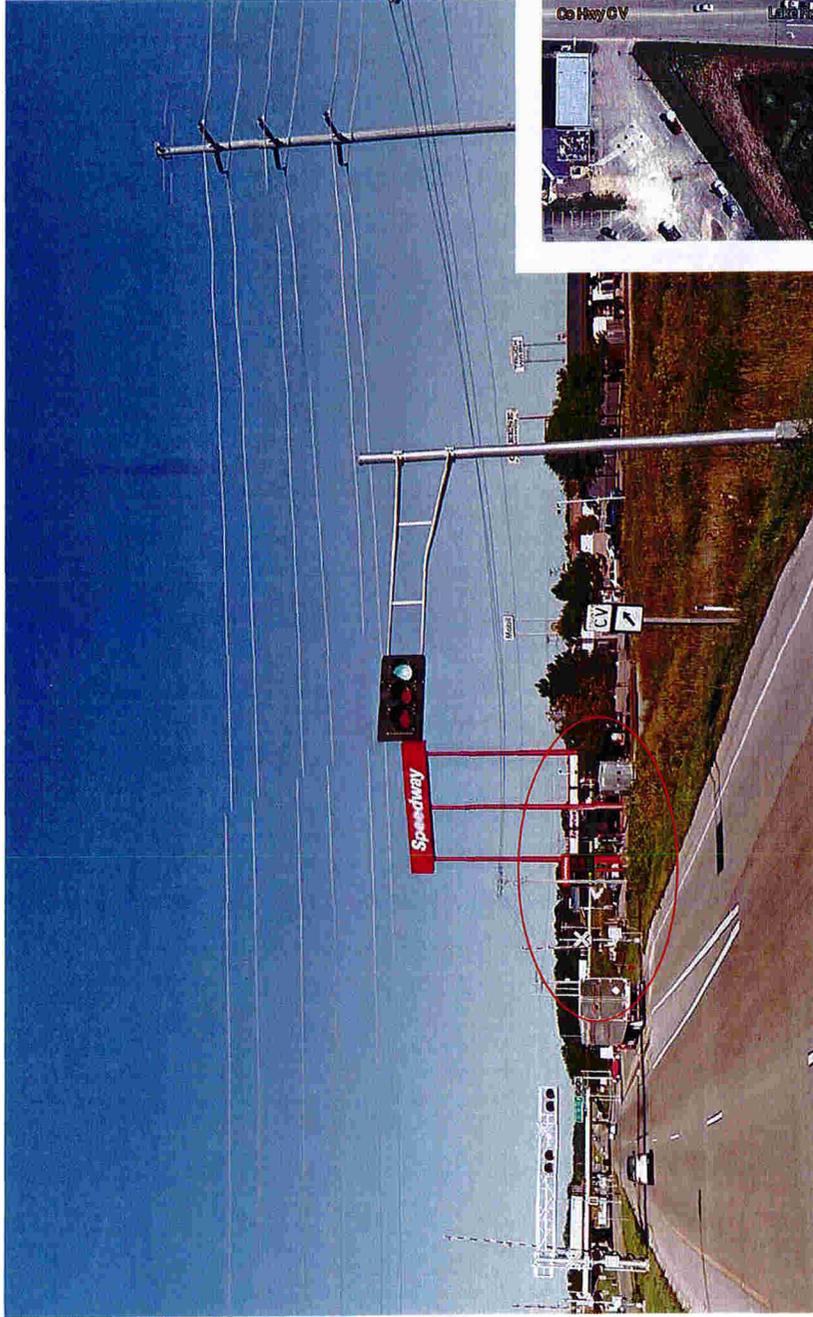
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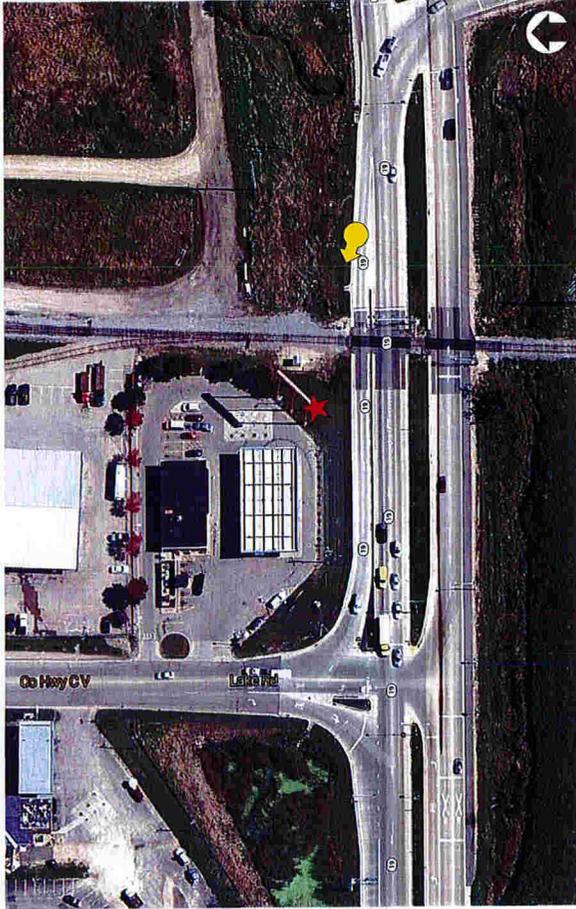
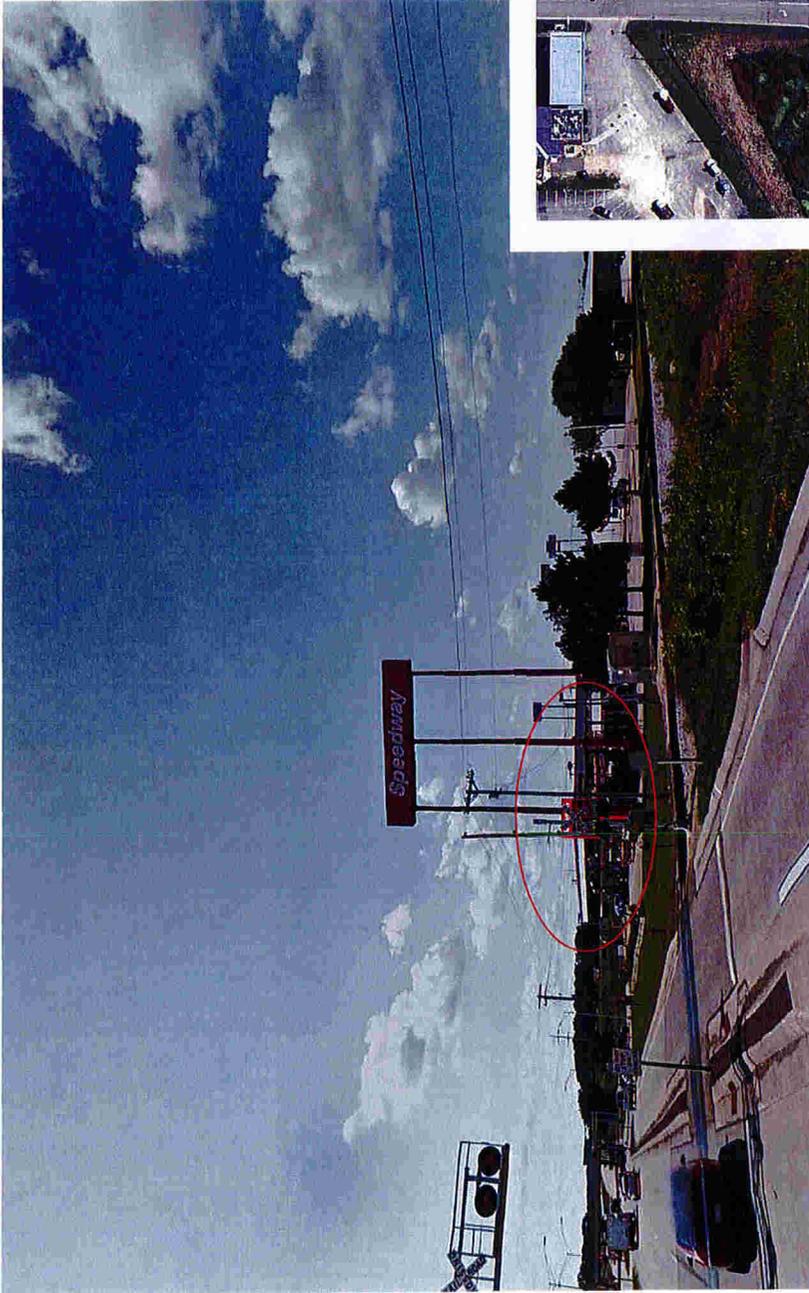
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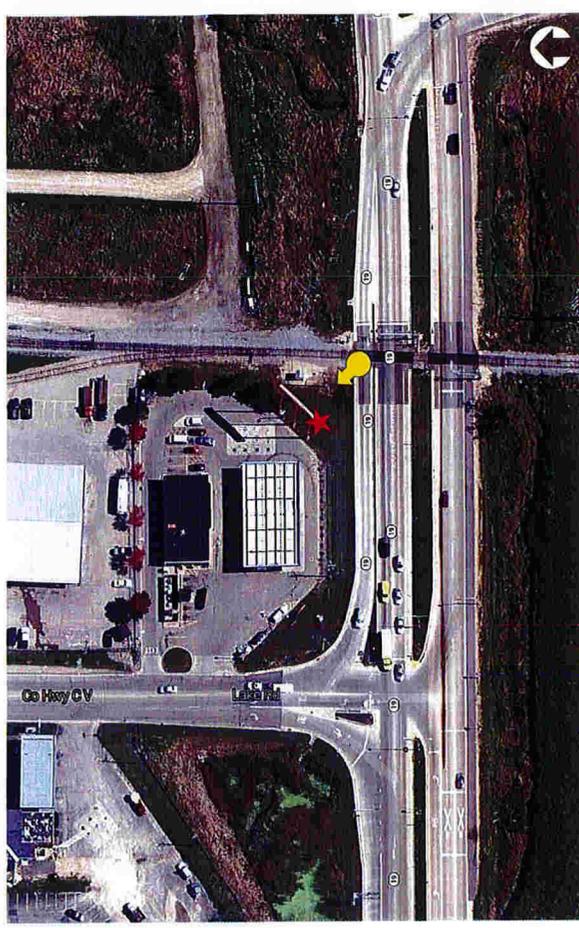
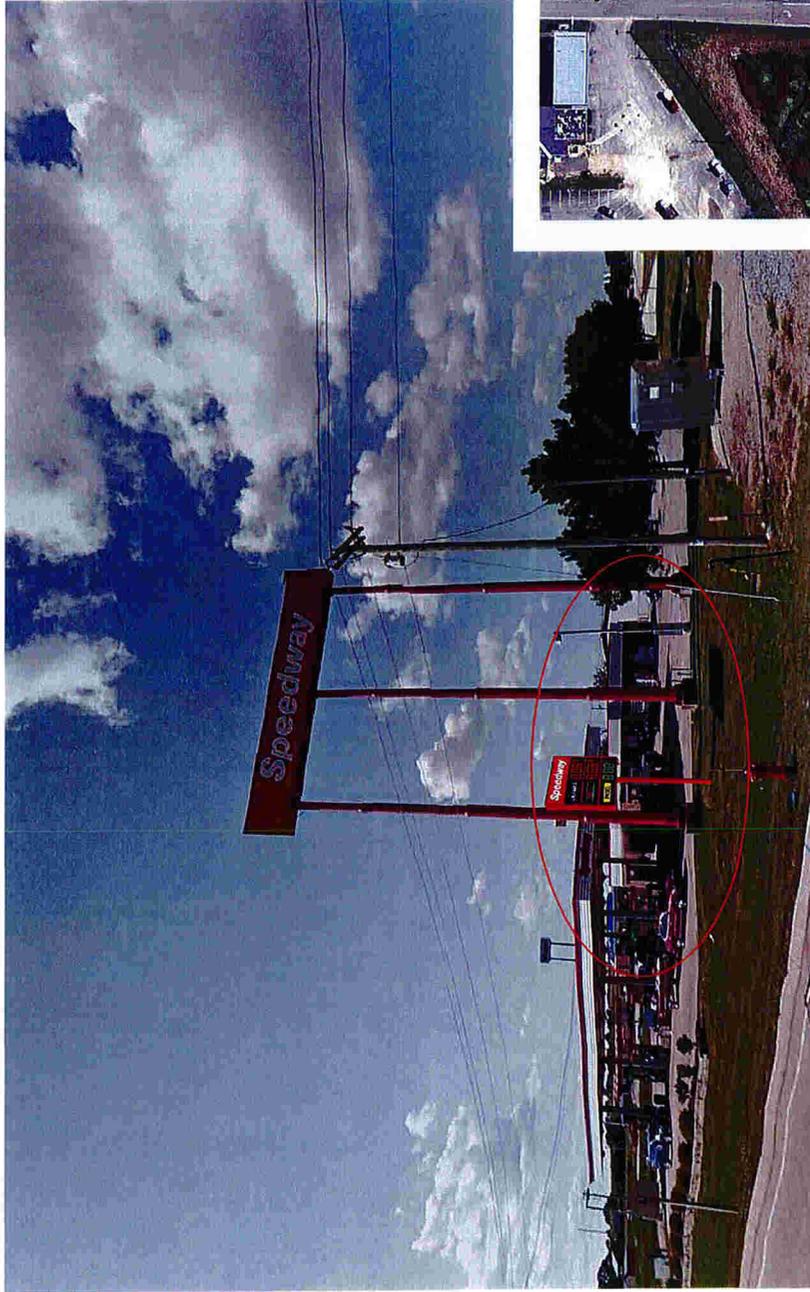
-  - Location of Photograph
-  - Location of Pylon



-  - Location of Photograph
-  - Location of Pylon



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 - Location of Pylon



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