



DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Planning Division

m e m o r a n d u m

TO: Bruce K. Walden, Chief Administrative Officer

FROM: Elizabeth H. Tyler, AICP, Director/City Planner

DATE: August 29, 2002

SUBJECT: ZBA-02-MAJ-5: A request for a major variance filed by David Nall of Family Video Movie Club, Inc. for a reduction in the required front yard setback from 15 feet to 8 feet along Hill Street at 801 North Lincoln Avenue in the B-1, Neighborhood Business Zoning District.

ZBA-02-MAJ-6: A request for a major variance filed by David Nall of Family Video Movie Club, Inc. to increase the size of a freestanding sign from the maximum of 32 square feet per sign to 80 square feet at 801-811 North Lincoln Avenue in the B-1, Neighborhood Business Zoning District.

Introduction and Background

Family Video Movie Club, Inc. is requesting two variances to the zoning ordinance regarding the properties at 801-811 North Lincoln Avenue. The subject property consists of four parcels zoned B-1, Neighborhood Business, and are located west of Lincoln Avenue between Hill Street and Fairview Avenue (see Exhibit "A" attached to this memorandum). The petitioner intends to construct a video rental/retail store on the subject property.

One variance request is for a reduction in the required front yard from 15 feet to 8 feet along Hill Street. This area is proposed to be used for employee parking, and the remaining portion of the setback will be landscaped. The second request is for an increase in the size of a freestanding sign from the maximum of 32 square feet per sign to 80 square feet. The Urbana Zoning Ordinance permits one sign per frontage with up to 32 square feet in area each in the B-1, Neighborhood Business Zoning District. Since the site contains three frontages, Family Video can technically erect one 32-square foot sign on Hill Street, Fairview Avenue and Lincoln Avenue. The petitioner is requesting approval to construct one sign with an area of 80 square feet at the northeast corner of the property.

On August 21, 2002 the Zoning Board of Appeals held a public hearing in regard to these variance requests. The Zoning Board heard from the petitioner regarding the proposed use of the

site, and was presented with corporate profile and sign profile brochure from Family Video. The Zoning Board voted 6-0 to recommend approval of Case # ZBA-MAJ-5-02 regarding the setback reduction on Hill Street and voted 5-1 to recommend approval of Case # ZBA-MAJ-5-02 as requested regarding the increase in area of a freestanding sign. The Zoning Board also granted a minor variance to allow a 3-foot reduction in the required front yard setback along Lincoln Avenue (Case #ZBA-02-MIN-2). Please see the draft minutes from the August 21, 2002 ZBA meeting and the August 16, 2002 staff memorandum for more information regarding the public hearing.

Discussion

The proposed video store would contain approximately 7,000 square feet. The site contains an irregular layout due to three front yards and two easement encumbrances, which limit the available space for parking. For this reason, the proposed building must be located on the southern portion of the four lots along Hill Street. This creates a scenario where an encroachment into the setback becomes necessary in order to accommodate parking demand. The petitioner indicates that during peak hours there is demand for approximately 60 parking spaces.

The Zoning Ordinance technically allows three, 32-square foot signs on the property since the site has three frontages (Lincoln Avenue, Fairview Avenue, and Hill Street). However, the petitioner does not wish to construct three signs and has instead requested a variance to allow one larger sign of 80 square feet. The petitioner indicates that if the variance is granted, the sign would be located at the corner of Lincoln Avenue and Fairview Avenue.

Variance Criteria for Case #ZBA-02-MAJ-5

In order to review a potential variance, Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals and City Council to make findings based on variance criteria. At the August 21, 2002 meeting, the ZBA cited the following findings for their recommendation for approval of the requested variance:

- 1. Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

In this case, there is a special circumstance related to the parcels concerned due to the fact that the site contains three front yards. In the B-1 Zoning District, the required front yard is 15 feet. In the B-2, B-3, B-3U, and IN Zoning Districts, parking is permitted to encroach ten feet into the required front yard setback provided that a five-foot landscaping buffer is maintained, however, in the B-1 Zoning District there is no provision for parking in the setback. While this is an appropriate regulation for many parcels in the B-1 District, in this case the encroachment should be adequately mitigated since the properties west of the subject property along Hill Street are required to be screened from the parking area.

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

In this case, there is a special practical difficulty due to the existence of two easement encumbrances that run with 907 West Fairview to the west. The easements include an 18-foot easement along the West property line and an 11-foot easement along the South. The easements do not allow the building to be located on the northern portion of the property. Location of the building or parking lot is prohibited on these easements, although they may be used for access. The fact that the property has three frontages and two constricting easements makes redevelopment of the property difficult without a variance for setback.

3. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The need for the variance has not yet been created. The petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance.

4. *The variance will not alter the essential character of the neighborhood.*

The variances should not alter the essential character of the neighborhood. Several properties contained within the site have remained vacant for many years. Required screening with a fence to the west will help to soften the intensity of the parking lot, and should help to preserve the residential character of the neighborhood to the west along Hill Street.

5. *The variance will not cause a nuisance to the adjacent property.*

The variances should not cause a nuisance to adjacent properties. Properties along Hill Street should not be affected by the reduction in setback, as it will only be used for employee parking and should not see excessive in-and-out traffic. The building will be set back 34 feet from the property line fronting Hill Street.

6. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The petitioner is only requesting the amount of variances needed to accommodate the proposed parking lot for the video store.

Variance Criteria for Case #ZBA-02-MAJ-6

In order to review a potential variance, Section XI-3 of the Urbana Zoning Ordinance requires the Zoning Board of Appeals and City Council to make findings based on variance criteria. At the August 21, 2002 meeting, the ZBA cited the following findings for their recommendation for approval of the requested variance:

1. *Are there special circumstances or special practical difficulties with reference to the parcel concerned, in carrying out the strict application of the ordinance?*

The special circumstance in this case relates to the shape of the parcel and its location at the intersection of Lincoln Avenue, Fairview Avenue, and Hill Street. The Urbana Zoning Ordinance permits one sign per frontage with up to 32 square feet in area each in the B-1, Neighborhood Business Zoning District. Since the site contains three frontages, Family Video can technically erect one 32-square foot sign on Hill Street, Fairview Avenue and Lincoln Avenue. Because of the shape of the lot at this location, three signs are not practical as it would be at site with greater visibility. The petitioner proposes just one sign with 80 square feet rather than up to three separate signs with a total of 96 square feet.

2. *The proposed variance will not serve as a special privilege because the variance requested is necessary due to special circumstances relating to the land or structure involved or to be used for occupancy thereof which is not generally applicable to other lands or structures in the same district.*

The proposed variance, with the conditions added, would not serve as a special privilege because according to the ordinance, the petitioner is permitted to have three separate signs at 32 square feet each, or 96 square feet in total. As stated previously, the proposal for one individual sign is requested because the configuration of the building on the lot makes it impractical to utilize more than one sign effectively. For this reason, it can be justified that some additional area for a freestanding sign is reasonable. The requested variance would allow a total area of signage less than the allowance for three freestanding signs in the B-1 District.

3. *The variance requested was not the result of a situation or condition having been knowingly or deliberately created by the Petitioner.*

The need for the variance has not yet been created. The petitioners were aware of the requirements of the Zoning Ordinance and have applied for a variance.

4. *The variance will not alter the essential character of the neighborhood.*

As stated previously, signage for the B-1 District should reflect the general residential character of the neighborhood. With this in mind, staff is recommending that the area be limited to 60 square feet. One sign with an area larger than is permitted by right may be more appropriate for the neighborhood than up to three signs on different frontages.

5. *The variance will not cause a nuisance to the adjacent property.*

The variance as modified should not cause a nuisance to adjacent properties. If the petitioner elects to construct a sign larger than 32 square feet upon granting of a variance, staff is recommending that no other signs be allowed on the site to avoid the potential of a nuisance to neighboring residential properties.

6. *The variance represents generally the minimum deviation from requirements of the Zoning Ordinance necessary to accommodate the request.*

The petitioner is only requesting the amount of variance needed to accommodate the proposed sign.

Options for #ZBA-02-MAJ-5

The City Council has the following options this case:

- a. The Council may grant the variance as requested based on the findings outlined in this memo; or
- b. The Council may grant the variance subject to certain terms and conditions. If the Council elects to impose conditions or grant the variance on findings other than those presented herein, they should articulate these additional findings in support of the approval and any conditions imposed; or
- c. The Council may deny the variance request. If the Council elects to do so, they should articulate findings supporting this denial.

Options for #ZBA-02-MAJ-6

The City Council has the following options this case:

- d. The Council may grant the variance as requested based on the findings outlined in this memo; or
- e. The Council may grant the variance subject to certain terms and conditions. If the Council elects to impose conditions or grant the variance on findings other than those presented herein, they should articulate these additional findings in support of the approval and any conditions imposed; or
- f. The Council may deny the variance request. If the Council elects to do so, they should articulate findings supporting this denial.

Recommendations

Regarding Case#ZBA-02-MAJ-5,

Based on the findings outlined herein, the Zoning Board of Appeals voted 6-0 to forward the variance request to the City Council with a recommendation for approval. Staff concurs with the ZBA and recommends that City Council **GRANT** the variance as requested.

Regarding Case#ZBA-02-MAJ-6,

Based on the findings outlined herein, the Zoning Board of Appeals voted 5-1 to forward the variance request for an 80 square foot sign to the City Council with a recommendation for approval, with the condition that no other freestanding signs be placed on the site, and that the sign conform to the same quality, general shape, and design as pictured in the brochure (identified as Exhibit "D" attached to this document).

Staff recommends that the City Council not approve case #ZBA-02-MAJ-5 as requested for the reason that a larger sign would be inconsistent with the essential character of the B-1, Neighborhood Zoning District. However, staff recommends that a request for an increase in maximum area of one freestanding sign from 32 square feet to 60 square feet be **GRANTED**, with the **CONDITION** that no other freestanding signs be placed on the site.

Attachments: Proposed Ordinance
 Draft Minutes of August 21, 2002 ZBA Public Hearing
 Exhibit A Location Map
 Exhibit B: Area Zoning Map
 Exhibit C: Photos of signage at Champaign store
 Exhibit D: Family Video Sign Profile Brochure
 Exhibit E: Family Video Corporate Profile Brochure
 Exhibit F: Site Plan

Prepared by:

Tim Ross, AICP, Senior Planner

c: Dave Nall, Family Video; 1022 E. Adams St.; Springfield, IL 62703
Jane Wiles, 907 North Busey Ave., Urbana, IL 61801

ORDINANCE NO.2002-09-102

AN ORDINANCE APPROVING A MAJOR VARIANCE

(Request for a major variance to reduce the required front yard setback along Hill Street from 15 feet to 8 feet at 801 North Lincoln Avenue in the B-1, Neighborhood Business Zoning District - Case No. ZBA-02-MAJ-5)

WHEREAS, the Zoning Ordinance provides for a major variance procedure to permit the Zoning Board of Appeals and the City Council to consider criteria for major variances where there are special circumstances or conditions related to the parcel of land or the structure; and

WHEREAS, the petitioner, Family Video Movie Club, Inc., has submitted a petition requesting a major variance to allow a 7-foot encroachment into the required 15-foot front yard setback in the B-1, Neighborhood Business Zoning District at 801 North Lincoln Avenue; and

WHEREAS, said petition was presented to the Urbana Zoning Board of Appeals in Case #ZBA-02-MAJ-5; and

WHEREAS, after due publication in accordance with Section XI-10 of the Urbana Zoning Ordinance and with Chapter 65, Section 5/11-13-14 of the Illinois Compiled Statutes (65 ILCS 5/11-13-14), the Urbana Zoning Board of Appeals (ZBA) held a public hearing on the proposed major variance on August 21, 2002 and the ZBA by a unanimous vote of its members (6-0) recommended to the City Council approval of the requested variance; and

WHEREAS, after due and proper consideration, the City Council of the City of Urbana has determined that the major variance referenced herein conforms with the major variance procedures in accordance with Article XI, Section XI-3.C.3.d of the Urbana Zoning Ordinance; and

WHEREAS, the City Council agrees with the following findings of fact adopted by the ZBA in support of its recommendation to approve the application for a major variance:

1. In this case, there is a special circumstance related to the parcels concerned due to the fact that the site contains three front yards. In the B-1 Zoning District, the required front yard is 15 feet. In the B-2, B-3, B-3U, and IN Zoning Districts, parking is permitted to encroach ten feet into the required front yard setback provided that a five-foot landscaping buffer is maintained, however, in the B-1 Zoning District there is no provision for parking in the setback. While this is an appropriate regulation for many parcels in the B-1 District, in this case the encroachment should be adequately mitigated since the properties west of the subject property along Hill Street are required to be screened from the parking area.

2. In this case, there is a special practical difficulty due to the existence of two easement encumbrances that run with 907 West Fairview to the west. The easements include an 18-foot easement along the West property line and an 11-foot easement along the South. The easements do not allow the building to be located on the northern portion of the property. Location of the building or parking lot is prohibited on these easements, although they may be used for access. The fact that the property has three frontages and two constricting easements makes redevelopment of the property difficult without a variance for setback.

3. The need for the requested variance has not yet been created. The petitioner was aware of the requirements of the Zoning Ordinance and has applied for a variance.

4. The variance should not be unreasonably injurious or detrimental to the general public, should not alter the essential character of the neighborhood, and should not cause a nuisance to the adjacent properties. Several properties contained within the site have remained vacant for many years. Required screening with a fence to the west will help to soften the intensity of the parking lot, and should help to preserve the residential character of the neighborhood to the west along Hill Street. Properties along Hill Street should not be affected by the reduction in setback, as it will only be used for employee parking and should not see excessive in-and-out traffic. The building will be set back 34 feet from the property line fronting Hill Street.

5. The petitioner is only requesting the amount of variance needed to accommodate the proposed encroachment into the required yard.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

The major variance request by Family Video Movie Club, Inc. in Case #ZBA-02-MAJ-5 is hereby approved to allow a 7-foot encroachment into the required 15-foot front yard setback in the B-1, Neighborhood Business at 801 North Lincoln Avenue, in the manner proposed in the application.

The major variance described above shall only apply to the southern portion of the site located at 801-811 North Lincoln Avenue, Urbana, Illinois, more particularly described as follows:

LEGAL DESCRIPTION: Lots 1, 2, and 3 of Sarah A. Sims Addition and the North 3.4 feet of Lots 39 and 40 of Sarah A. Sims addition. Lots 39 and 40 of Sarah A. Sims Addition except the North 3.4 feet.

PERMANENT PARCEL #: 91-21-07-428-021, 91-21-07-428-020, 91-21-07-428-019, 91-21-07-428-022

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the ____ day of _____, 2002.

PASSED by the City Council this ____ day of _____, _____.

AYES:

NAYS:

ABSTAINS:

Phyllis D. Clark, City Clerk

APPROVED by the Mayor this ____ day of _____, _____.

Tod Satterthwaite, Mayor

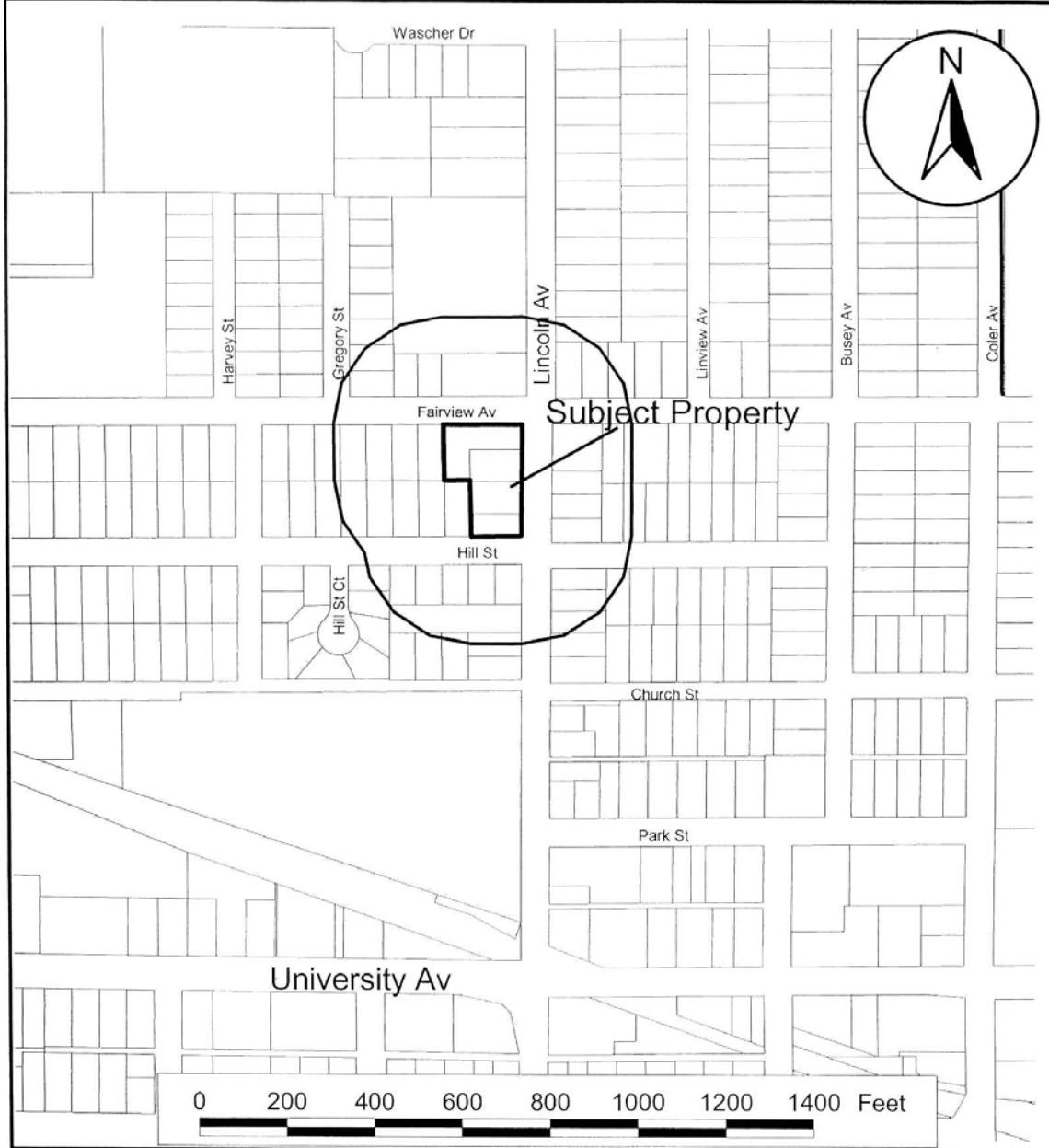
CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis D. Clark, certify that I am the duly elected and acting
Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the _____ day of _____, 2002, the corporate
authorities of the City of Urbana passed and approved Ordinance No.

_____, entitled "AN ORDINANCE APPROVING A MAJOR VARIANCE
(Request for a major variance to reduce the required front yard setback along
Hill Street from 15 feet to 8 feet at 801 North Lincoln Avenue in the B-1,
Neighborhood Business Zoning District - Case No. ZBA-02-MAJ-5)" which
provided by its terms that it should be published in pamphlet form. The
pamphlet form of Ordinance No. _____ was prepared, and a copy of such
Ordinance was posted in the Urbana City Building commencing on the _____
day of _____, 2002, and continuing for at least ten (10) days
thereafter. Copies of such Ordinance were also available for public
inspection upon request at the Office of the City Clerk.

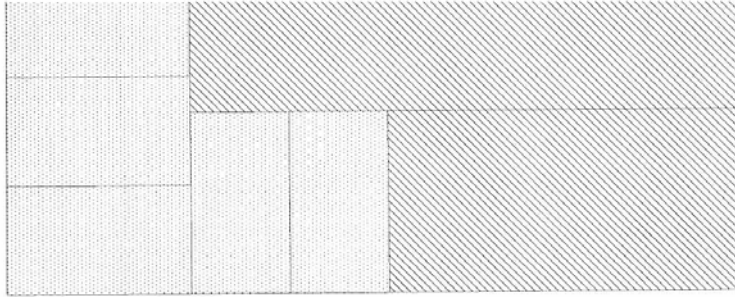
Exhibit "A": Location Map



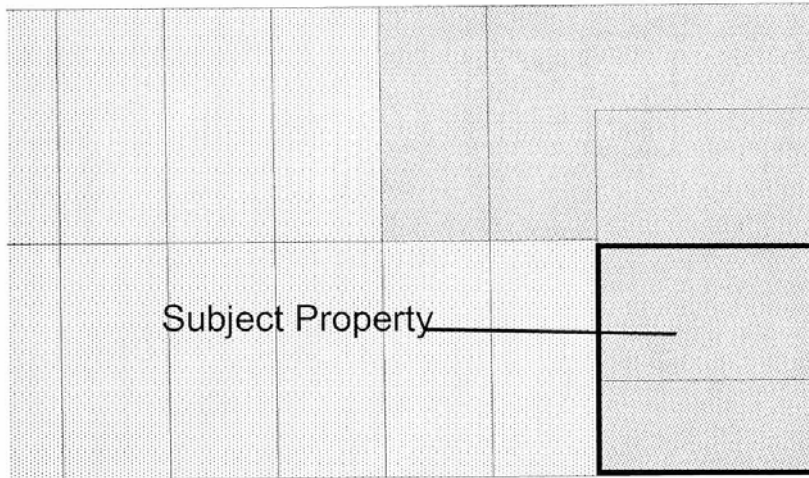
ZBA-02-MAJ-5, ZBA-02-MIN-2, ZBA-02-MAJ-6
801-811 N. Lincoln Av (Corner of Lincoln, Hill, Fairview)
Reduction in Front Yard Setback, Increase in Max. Area of Freestanding Sign
Petitioner: David Nall, Family Video Movie Club, Inc.

Prepared August 8, 2002 by Community Development Services - tdr

Exhibit "B": Zoning Map



Fairview Av



Lincoln Av

Subject Property




Hill St

0 250 Feet



Family Video Movie Club, Inc.
801 & 803 N. Lincoln Av
1833-M-02

Prepared August 29, 2002 by Community Development Services - lk

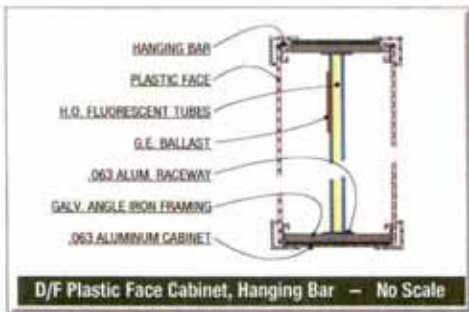
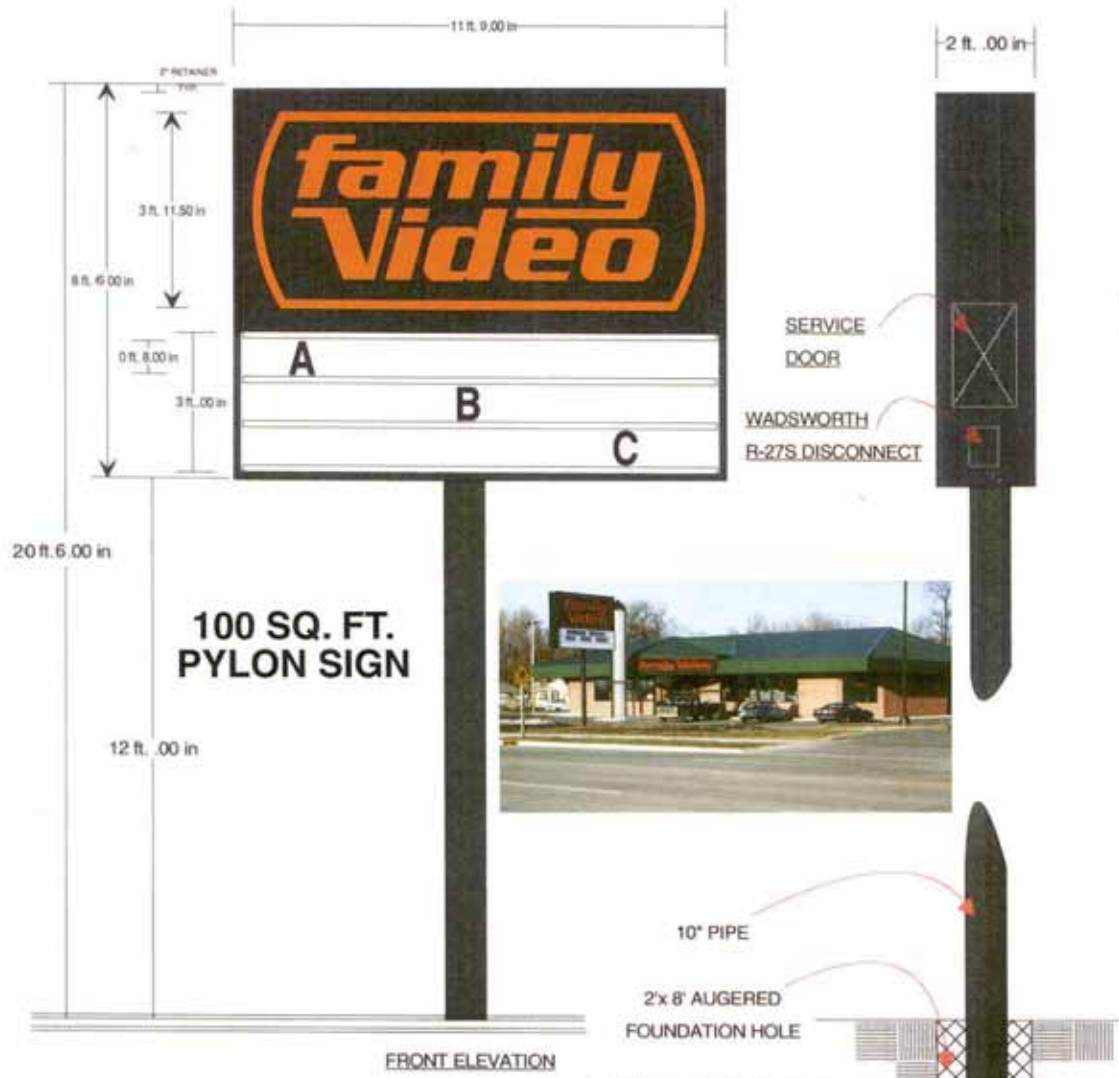
-  B1- Neighborhood Business
-  R2 - Single Family
-  R5 - Medium High Density Multiple-Family

family Video



**Sign
Profile**





"ONE D.F. SIGN/ INTER ILLUM/ INTER PTD CLEAR LEXAN W/CCB/ MTD TO BLDG FASCIA"

SIGNCASE, T-BAR & POLE: GREEN SIMILAR TO GREEN CHROMATIC 148

TOP BKGD: GREEN SIMILAR TO GREEN CHROMATIC 148 (OPAQUE)

FAMILY VIDEO - ORANGE SIMILAR TO CHROMATIC 124

CCB BKGD - WHITE

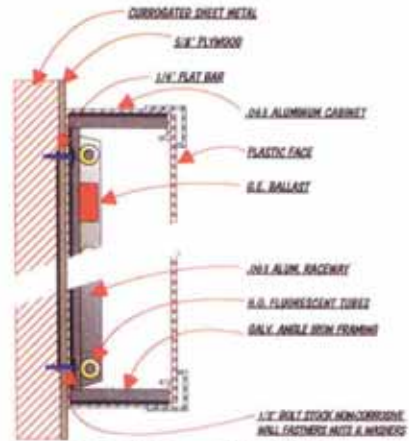
ZIP RAILS - CLEAR

ZIP COPY - 8" STANDARD BLACK LETTERS

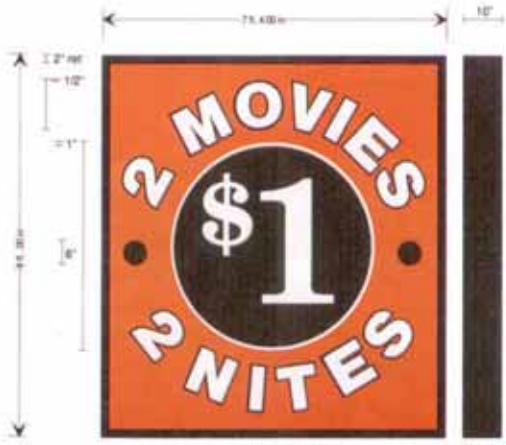
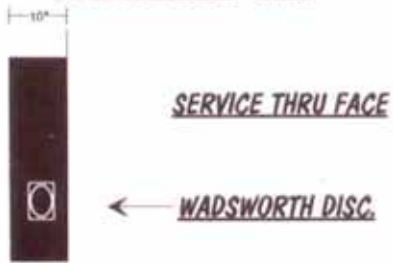


MARQUEE SIGN

S.F. SIGNS/ INTER. ILLUM. / INTER. PTD. CLEAR LEXAN / MTD. TO BLDG. FASCIA.
CABINET - GREEN SIMILAR TO CHROMATIC 148
CABINET RETAINER FRONT ONLY - ORANGE SIMILAR TO CHROMATIC 124
FAMILY VIDEO & 1 1/2" BORDER - ORANGE SIMILAR TO CHROMATIC 124
BKGD - GREEN SIMILAR TO CHROMATIC 148 OPAQUE



TYPICAL SECTION N.T.S.



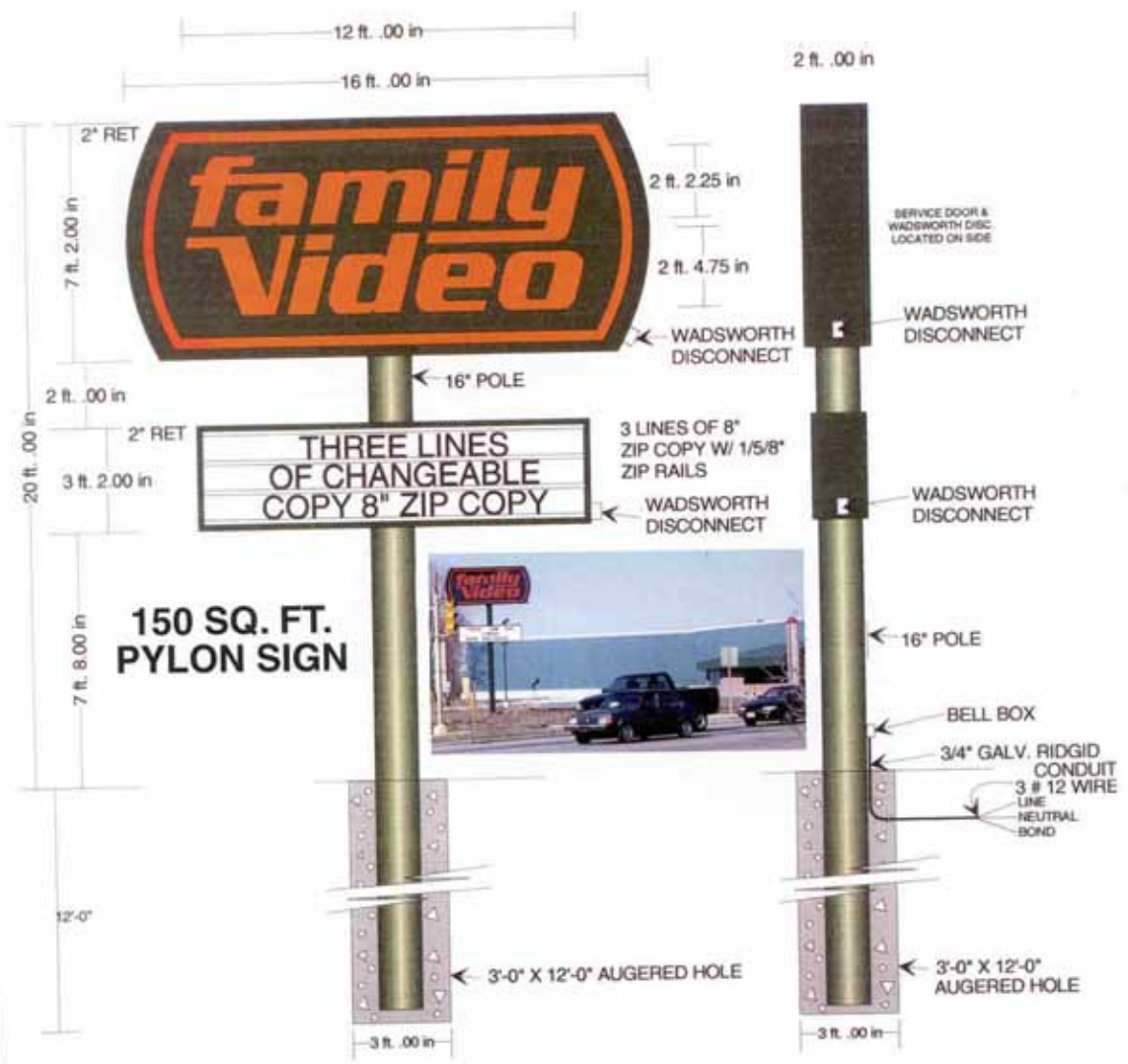
FRONT VIEW

SIDE VIEW

SLOGAN SIGN

S.F. SIGNS/ INTER ILLUM/ INTER PTD LEXAN (CLEAR) / SIGNCASE - GREEN SIMILAR TO CHROMATIC GREEN (148) BKGD - PUMPKIN OANGE (421-OR) \$1 CIRCLE BKGD - GREEN SIMILAR TO CHROMATIC GREEN (148) OPAQUE W/ WHITE OUTLINE 6\"/>

**FLUSH DISCONNECT
 LOCATED ON SIDE OF SIGN**



"ONE D.F. SIGN/ INTER. PTD. CLEAR LEXAN FACES W/ 3 LINE CCB"

- SIGNCASE** = GREEN SIMILIAR TO (148) CHROMATIC
- RETAINERS** = GREEN SIMILIAR TO (148) CHROMATIC
- BKGD** = OPAQUE GREEN SIMILIAR TO (148) CHROMATIC
- FAMILY VIDEO** = PUMPKIN ORANGE (421-0)
- CCB SIGNCASE** = GREEN SIMILIAR TO (148) CHROMATIC
- CCB BKGD** = WHITE PLEX
- ZIP RAILS** = CLEAR
- ZIP COPY** = 8" BLACK LETTERS
- POLE** = GREEN SIMILIAR TO (148) CHROMATIC - ROUND

