

Hearing Request Application - Form 1
Zoning Board of Adjustment
City of Charlotte

Date Filed: 4/23/09 Case Number: 09-019 Received by: B. Mesley
/ Kennedy

Instructions

This form must be filled out completely. Please attach the appropriate additional form depending on your request type along with required information as outlined in the appropriate checklist. Please type or print legibly. All property owners must sign and consent to this application, attach additional sheets if necessary. If the applicant is not the owner, the owners must sign the Designation of Agent section at the bottom of this form.

The Applicant Hereby (check all that apply):

- ☒ Requests a variance from the provisions of the Sign Ordinance as stated on Form 2
- ☐ Appeals the determination of a zoning official as stated on Form 3
- ☐ Requests an administrative deviation as stated on Form 4

Applicant or Agent's Name: Lance, Inc. c/o John Carmichael

Mailing Address: Hearst Tower, 47th Floor, 214 North Tryon Street

City, State, Zip: Charlotte, NC 28202

Daytime Telephone: 704-331-7509

Home Telephone: _____

Interest in this Case (please circle one):

Owner

Adjacent Owner

Other

Property Owner(s) [if other than applicant/agent]: Lance, Inc. c/o Nathan Adams

Mailing Address: P.O. Box 32368

City, State, Zip: Charlotte, NC 28232

Daytime Telephone: 704-557-8029

Home Telephone: _____

Property Address: 8600 South Boulevard

Tax Parcel Number: 205-211-07

Zoning District: I-2

Subdivision Name: N/A

Conditional District:

YES

NO

Applicant Certification and Designation of Agent

I (we) certify that the information in this application, the attached form(s) and documents submitted by me (us) as part of this application are true and correct. In the event any information given is found to be false, any decision rendered may be revoked at any time. I (we) hereby appoint the person named above as my (our) agent to represent me (us) in this application and all proceedings related to it. I (we) further certify to have received, read and acknowledged the information and requirements outlined in this packet.

4-22-09
Date

Lance, Inc.

By: *Nathan Adams*
Property Owner

Hearing Request Application - Form 2
Zoning Board of Adjustment
City of Charlotte

Date Filed: _____ Case Number: _____ Fee Collected: _____

Has work started on this project? YES ☐ NO ☒

If yes, Did you obtain a building permit? YES ☐ NO ☐ If yes, attach a copy.

Have you received a Notice of Violation for this project? YES ☐ NO ☒ If yes, attach a copy.

Has this property been rezoned? YES ☐ NO ☒ If yes, Petition Number: _____

- (1) What zoning ordinance section numbers are you seeking a variance from? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement	Variance Request
<i>Example</i>	<i>9.205(1)(g)</i>	<i>45 foot rear yard</i>	<i>35 foot rear yard (10 foot reduction from required)</i>
A	13.108(1)(a)	See Below	See Below
B			
C			
D			
E			

- (2) Please describe why the variance requested is necessary.

The Applicant, Lance, Inc. ("Lance"), is the owner of an approximately 108.12 acre parcel of land located at 8600 South Boulevard that is designated as Tax Parcel No. 205-211-07 on the Mecklenburg County Tax Maps (the "Site"). A tax map depicting the Site is attached hereto as *Exhibit A* and incorporated herein by reference. Lance produces and sells snack foods, and Lance operates a manufacturing facility on the Site. Lance has produced snack foods on the Site for approximately 50 years.

A portion of the Lance manufacturing facility known as the flour tower is located on the Site approximately 600 feet from the edge of South Boulevard. Attached hereto as *Exhibit B* and incorporated herein by reference is a site plan depicting the location of the flour tower on the Site and its relationship to South Boulevard. A wall sign (the "Wall Sign") bearing the Lance logo is located on the eastern side of the flour tower facing South Boulevard. Photographs of the Wall Sign are attached hereto as *Exhibits C through I* and incorporated herein by reference. A prior version of the Wall Sign was installed on the flour tower in 1960, and the prior version of the Wall Sign had a sign surface area of approximately 630 square feet. The prior version of the Wall Sign was grandfathered under the City of Charlotte Sign Ordinance (the "Ordinance").

In 1997, Lance desired to modify and update the prior version of the Wall Sign with Lance's new corporate logo. In connection therewith, Lance sought a variance from the City of Charlotte Zoning Board of Adjustment at a hearing held on November 25, 1997. The variance request was for a 911 square foot variance from the maximum allowed sign surface area for a wall sign of 200 square feet under Section 13.108(1)(a) of the Ordinance. The new corporate logo was approximately the same size as the

corporate logo Lance sought to replace, however, a blue background that would be located behind the new corporate logo would cause the total sign surface area to be approximately 1,111 square feet in size. The variance request was denied by the City of Charlotte Zoning Board of Adjustment.

The 1960 version of the Wall Sign was ultimately replaced with a new corporate logo, which included a blue background. This is the version of the Wall Sign that is currently located on the flour tower and is depicted in *Exhibits C through I*.

Lance has recently updated its corporate logo, and Lance desires to replace the existing version of the Wall Sign with a Wall Sign depicting its new corporate logo (the "Proposed Wall Sign"). Attached hereto as *Exhibit J* and incorporated herein by reference is a rendering of the Proposed Wall Sign and a picture depicting the new Wall Sign as it would appear after it is installed on the flour tower. As depicted on *Exhibit J*, the maximum size of the sign surface area of the Proposed Wall Sign is 600 square feet. Under Section 13.108(1)(a) of the Ordinance, the maximum sign surface area of the Proposed Wall Sign may be 200 square feet. As a result, to be able to install the Proposed Wall Sign on the flour tower, a 400 square foot variance from the requirements of Section 13.108(1)(a) of the Ordinance is necessary.

Accordingly, Lance hereby respectfully requests a 400 square foot variance from the requirements of Section 13.108(1)(a) of the Ordinance to allow it to install the Proposed Wall Sign on the flour tower.

(3) **THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE.** The courts have developed three rules to determine whether, in a particular situation, "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

- (a) If the property owner/applicant complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

If Lance complies with the provisions of Section 13.108(1)(a) of the Ordinance, Lance will be unable to install the Proposed Wall Sign on the flour tower, or to otherwise replace the current version of the Wall Sign with a wall sign having a sign surface area in excess of 200 square feet. As noted above, the flour tower is located approximately 600 feet from South Boulevard, and the visibility from South Boulevard of a wall sign on the flour tower with a sign surface area of 200 square feet would be diminished due to the 600 foot distance. Additionally, the light rail line runs adjacent to the Site and the light rail trains and the supporting structures provide some impediments to the view of the Wall Sign from South Boulevard. In summary, a larger wall sign is needed by Lance for visibility to South Boulevard.

Moreover, since 1960, Lance has had a wall sign on the flour tower with a sign surface area of at least 630 square feet, and the Wall Sign has become a recognizable Charlotte landmark as you drive down South Boulevard. If the variance request is denied, the Wall Sign cannot be updated with Lance's new corporate logo and have a sign surface area in excess of 200 square feet, which would diminish the unique character of the Wall Sign.

- (b) The hardship of which the Applicant complains results from unique circumstances related to the Applicant's land. (Note: Hardships common to an entire neighborhood, resulting from overly restrictive zoning regulations, should be referred to the Charlotte-Mecklenburg Planning Commission. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

The hardship of which Lance complains results from the following unique circumstances. The Proposed Wall Sign would be located approximately 600 feet from South Boulevard, and this distance would reduce the visibility of the Proposed Wall Sign from South Boulevard. Additionally, factors unique to the Site such as the light rail line would reduce the visibility of the Proposed Wall Sign from South Boulevard. A version of the Wall Sign has been located on the flour tower since 1960, and each version has had a sign surface area of at least 630 square feet, thereby enhancing its visibility to South Boulevard. The Wall Sign is unique in its own right and has been a recognizable landmark on South Boulevard for almost 50 years. The unique character of the Wall Sign is due in part to its location on the flour tower, its size and its visibility to South Boulevard.

- (c) The hardship is not the result of the Applicant's own actions.

The hardship is not the result of Lance's own actions. The hardship is the result of the adoption of the Ordinance after the original Wall Sign was installed in 1960, and the unique circumstances described above, such as the location of the flour tower on the Site.

- (4) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

Lance is informed and believes that the requested variance is the least possible deviation from the Ordinance to enable it to install the Proposed Wall Sign on the flour tower. If the requested variance is granted, Lance will be able to modify and update the Wall Sign with the Proposed Wall Sign while maintaining the unique character of the existing Wall Sign, which is a recognizable landmark on South Boulevard. The installation of the Proposed Wall Sign would not detract from the character of the neighborhood or adversely impact the health and safety of the community. The Proposed Wall Sign would not directly face any adjoining property but rather, it would generally face South Boulevard, which is located approximately 600 feet from the flour tower. Moreover, as a result of the distance of the Proposed Wall Sign from South Boulevard, the Proposed Wall Sign would appear to be smaller than 600 square feet in size from South Boulevard. Additionally, the 600 square foot maximum sign surface area of the Proposed Wall Sign is smaller than the sign surface area of the 1960 version of the Wall Sign and the sign surface area of the current Wall Sign.

Lance believes that the Proposed Wall Sign would continue to be a recognizable landmark on South Boulevard and it would maintain and enhance the character of the surrounding area.

- (5) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

If the requested variance is denied, Lance will be harmed without any benefit to the public in Lance's view. If the variance is denied, Lance will be unable to modify and update the Wall Sign with the Proposed Wall Sign with a sign surface area greater than 200 square feet, and Lance will not be able to maintain the unique and recognizable character of this signage. As noted above, the Wall Sign has become a recognizable landmark on South Boulevard. Denying the variance request will not benefit the public because the Proposed Wall Sign, like its predecessors, will not detract from the character of the surrounding area and it will not pose any threat to the public health or welfare. A version of the Wall Sign has been in place for almost 50 years without any apparent or known adverse impact on the surrounding area.

If the requested variance is granted, Lance will be able to install the Proposed Wall Sign and to maintain the unique character of this signage.

■ The additional factors to be considered by the City of Charlotte Zoning Board of Adjustment in passing upon this variance request pursuant to Section 13.114(1) of the Ordinance are addressed in the attached document.

**ADDITIONAL FACTORS TO CONSIDER UNDER SECTION 13.114(1) OF THE
ORDINANCE**

(a) A VARIANCE IS NECESSARY BECAUSE OF UNIQUE FEATURES OF THE SITE SUCH AS ITS TERRAIN OR EXISTING LANDSCAPING, OR BECAUSE OF UNIQUE STRUCTURAL CIRCUMSTANCES INVOLVED THAT ARE NOT APPLICABLE TO OTHER STRUCTURES IN THE SAME ZONING DISTRICT. THE FACT THAT THE SIGN MAY BE UTILIZED MORE PROFITABLY SHOULD A VARIANCE BE GRANTED WILL NOT BE CONSIDERED GROUNDS FOR A VARIANCE.

A variance is necessary to enable Lance to modify and update the Wall Sign with the Proposed Wall Sign because the maximum sign surface area of the Proposed Wall Sign shall be 600 square feet, which exceeds the 200 square foot limit set out in Section 13.108(1)(a) of the Ordinance. The larger sign surface area is necessary because the structure to which the Proposed Wall Sign would be attached, the Lance manufacturing facility's flour tower, is located approximately 600 feet from South Boulevard, and the visibility of the Proposed Wall Sign would be impacted by this distance and the light rail line and its supporting structures among other things. The existing Wall Sign and a prior version thereof both exceed 600 square feet in terms of their sign surface areas, and the prior version of the Wall Sign was installed on the flour tower in 1960. Therefore, a larger wall sign has been on the flour tower for almost 50 years.

The Wall Sign has become a unique and recognizable landmark on South Boulevard, and the variance is necessary to enable Lance to update the Wall Sign with the Proposed Wall Sign while maintaining the size and unique character of the Wall Sign.

The maximum sign surface area of the Proposed Wall Sign is smaller than the sign surface area of the existing Wall Sign and the 1960 version of the Wall Sign.

(b) THE SPECIAL CIRCUMSTANCES DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT OR OF A PREVIOUS OWNER OF THE PROPERTY.

The special circumstances do not result from the actions of Lance. Rather, they result from the adoption of the Ordinance subsequent to the installation of the Wall Sign in 1960 and the unique circumstances of the Wall Sign and the Site. The unique circumstances include that the Wall Sign is a recognizable landmark on South Boulevard and that the Proposed Wall Sign would be located 600 feet from South Boulevard.

(c) GRANTING THE VARIANCE REQUESTED SHALL NOT CONFER ON THE APPLICANT ANY SPECIAL PRIVILEGE THAT IS DENIED BY THESE REGULATIONS TO OTHER LANDS, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT.

Granting the requested variance will not confer upon Lance any special privileges that are denied to other lands, buildings or structures in the same zoning district. Granting the requested variance will enable Lance to modify and update the Wall Sign with the Proposed Wall Sign while allowing Lance to maintain the unique characteristics of the Wall Sign, such as a sign

surface area in excess of 200 square feet and the location of the Wall Sign on the flour tower. Lance is not aware of any wall signs in Charlotte with a similar history to the Wall Sign and that are a recognizable landmark in their surrounding area.

(d) GRANTING THE VARIANCE REQUESTED SHALL NOT CONFER ON THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT UNDER THE TERMS OF THE ORDINANCE AND WOULD WORK UNNECESSARY AND UNDUE HARDSHIP ON THE APPLICANT.

A denial of the requested variance will work an unnecessary and undue hardship on Lance as it would prevent Lance from modifying and updating the Wall Sign with the Proposed Wall Sign while maintaining the unique character of the Wall Sign.

(e) THE VARIANCE GRANTED IS THE MINIMUM VARIANCE THAT SHALL MAKE POSSIBLE THE REASONABLE USE OF THE LAND, BUILDING, OR STRUCTURE.

Lance is informed and believes that the requested variance, if granted, is the minimum variance that shall make it possible to install the Proposed Wall Sign on the flour tower.

(f) GRANTING A VARIANCE SHALL NOT CONFLICT WITH THE STATED PURPOSES OF THESE REGULATIONS.

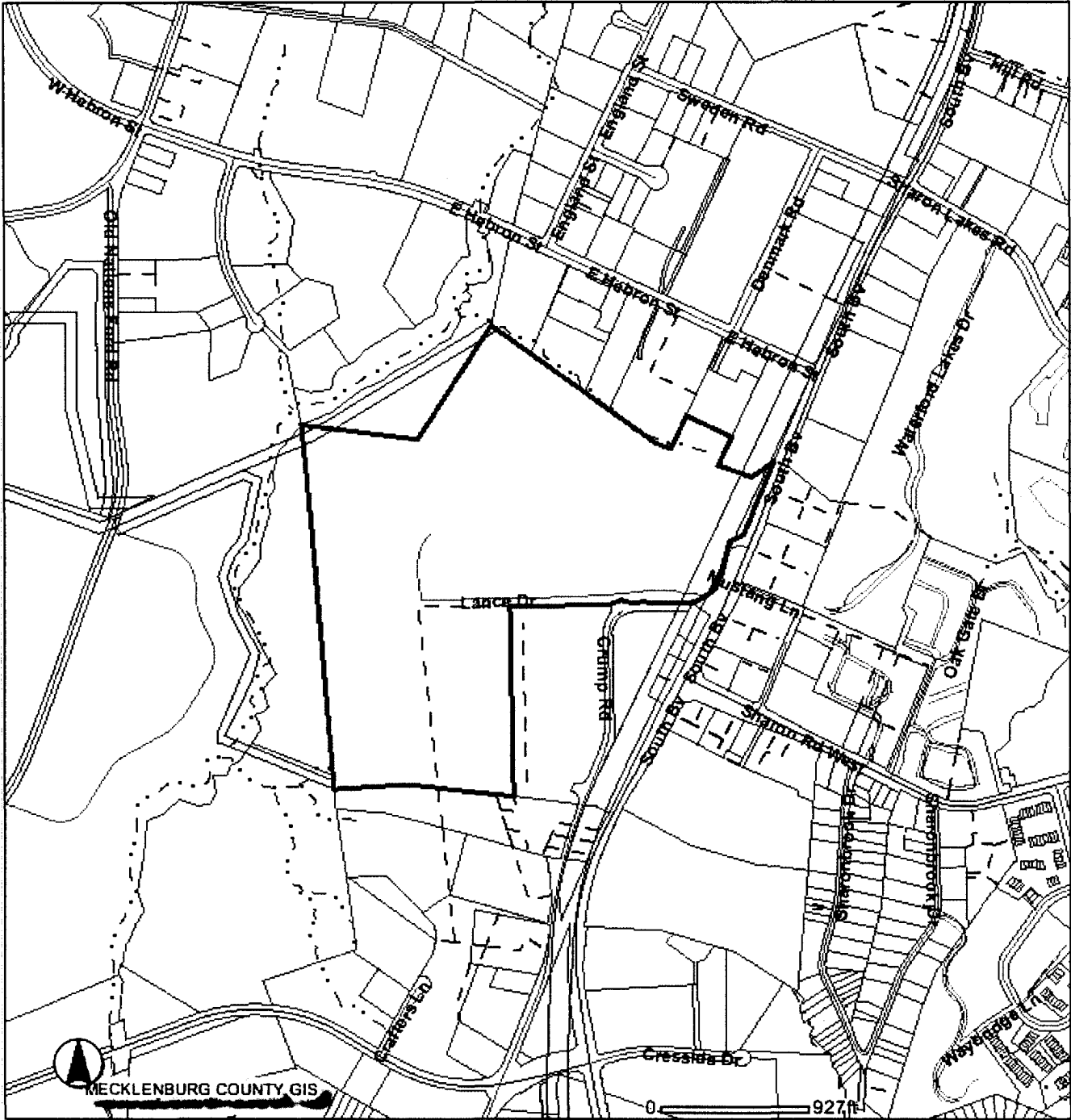
The granting of the requested variance will not conflict with the stated purposes of the sign regulations, which purposes are set forth in Section 13.101 of the Ordinance. The Proposed Wall Sign would not adversely impact public safety and traffic safety, as it would be located approximately 600 feet from South Boulevard; the Proposed Wall Sign would not distract drivers or obstruct their views, such that the Proposed Wall Sign would not contribute to traffic hazards; the Proposed Wall Sign is attractive and well designed, and it would enhance the aesthetic appearance and attractiveness of the surrounding area and it would create an aesthetic environment that contributes to the economic development and growth of the community; the Proposed Wall Sign, given its location, would not dominate the visual appearance of the area; and the Proposed Wall Sign would help to identify Lance's manufacturing facility to emergency responders.

(g) GRANTING A VARIANCE SHALL NOT HAVE AN ADVERSE IMPACT UPON NEIGHBORING PROPERTIES.

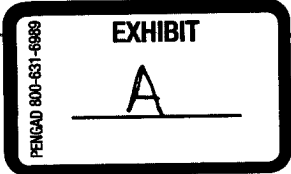
The granting of the variance will not have an adverse impact on neighboring properties. The Proposed Wall Sign would not directly face any adjoining property but rather, it would generally face South Boulevard, which is located approximately 600 feet from the flour tower. The Wall Sign has been on the flour tower for almost 50 years, and the Proposed Wall Sign has a smaller sign surface area than the 1960 version of the Wall Sign and the current version of the Wall Sign. Lance is not aware of any adverse impacts on adjoining properties resulting from the existence of the Wall Sign over the years.

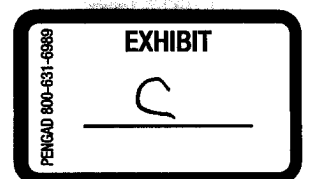
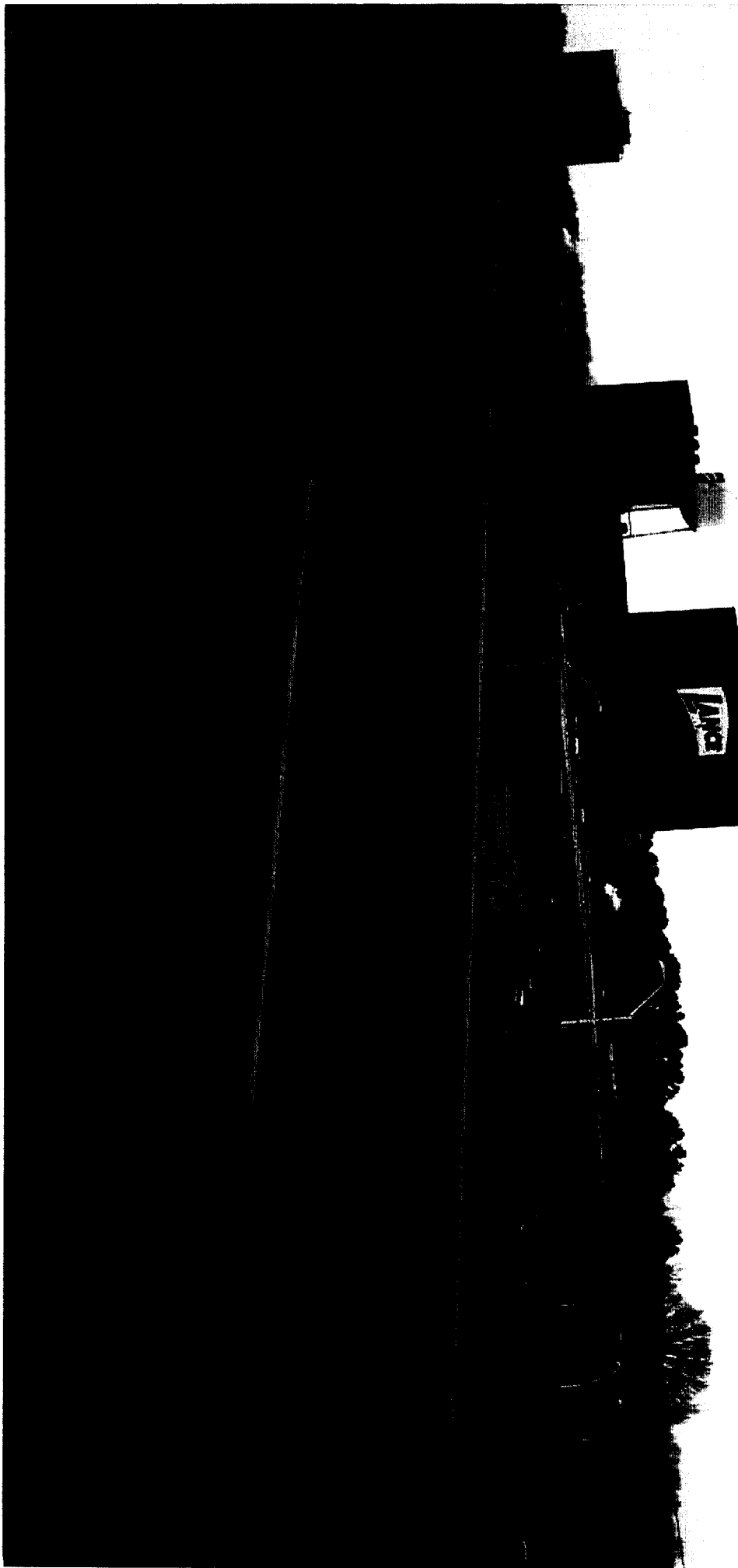
Mecklenburg County, North Carolina
POLARIS
Property Ownership Land Records Information System
Date Printed: Wed Apr 22 10:14:02 EDT 2009

Lance



This map is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.







PEMSAD 800-631-6888

EXHIBIT

D



PENGAD 800-631-6089

EXHIBIT

7



PENGAD 800-631-6888

EXHIBIT

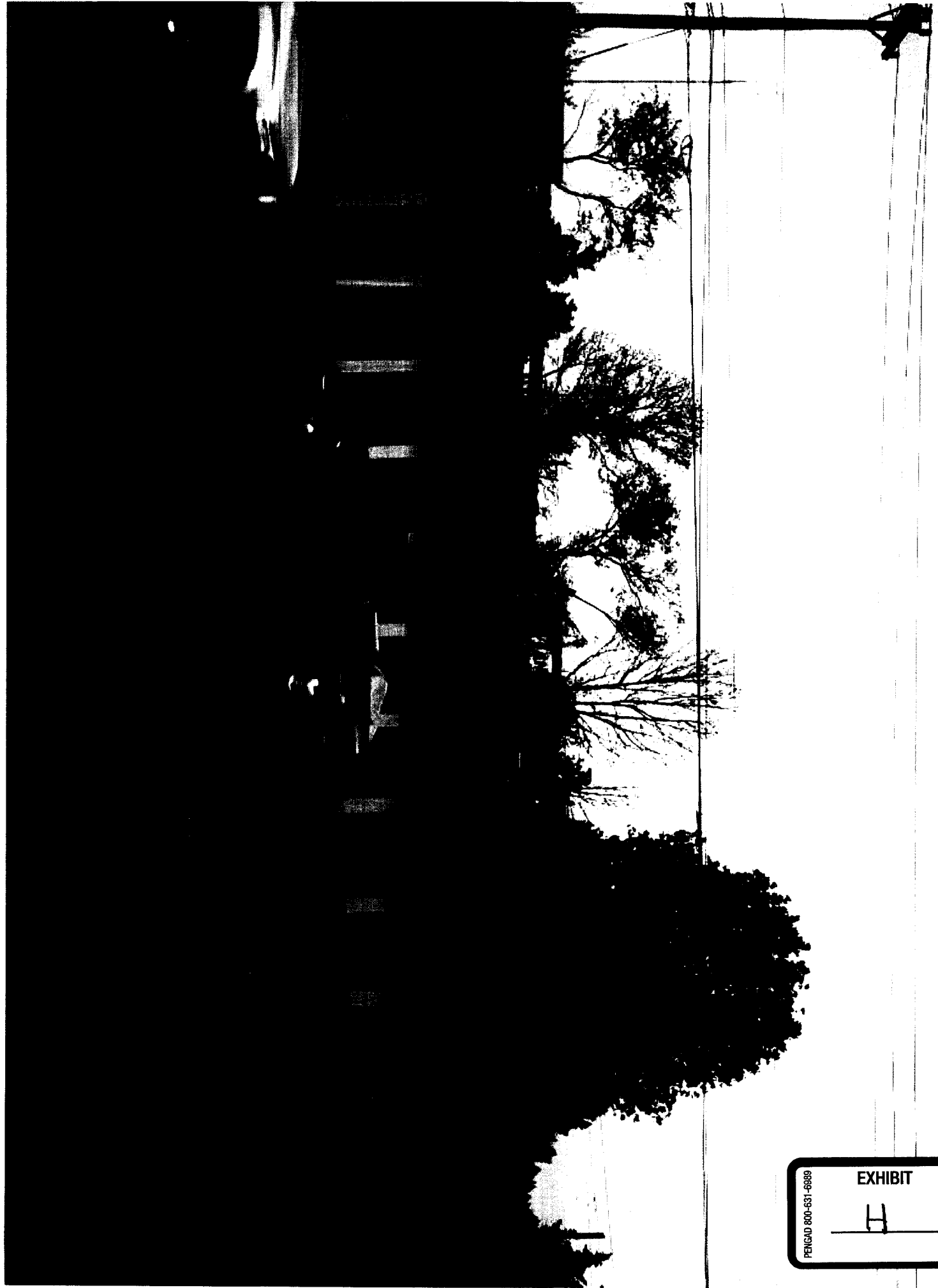
F



PENGAD 800-631-6989

EXHIBIT

G



PENGAD 800-631-6889

EXHIBIT

H



PENGAD 800-631-6989

EXHIBIT

I

EXHIBIT

RITE SIGNS
 1000 Biscayne Dr.
 Concord, NC 28027
 6889-163-008 (VONED)

Client: _____

Job Location: **Charlotte, NC**

Designer: SAS	Salesperson: TC
Project #: 13798	Date: 22 January 08

Revision Data:

16 March 08as
23 March 08as
24 March 08as
27 March 08as

Revision # & File Location:

08.21 abo/Vance

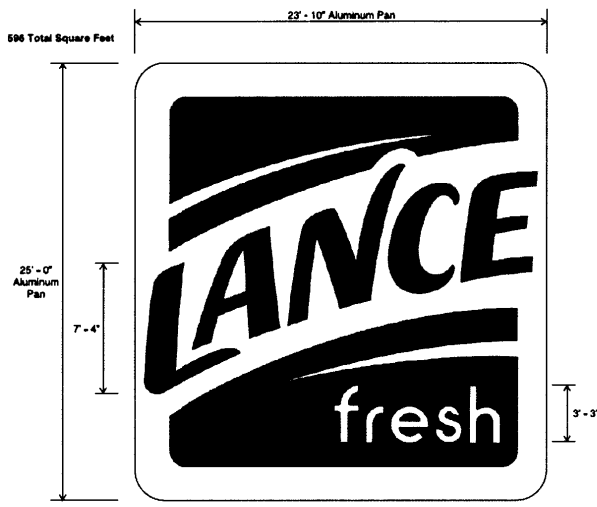
Customer Approval: _____ Date: _____

Lead/Lord Approval: _____ Date: _____

Production Approval: _____ Date: _____

This original design is the exclusive property of Rite Life Signs, Inc. and is protected by federal copyright laws. Any reproduction or construction of a sign similar to the one embodied herein is expressly forbidden. Should such construction occur, Rite Life Signs, Inc. is due \$500 as compensation for their time & effort in creating each drawing.

UNDERWRITERS LABORATORIES



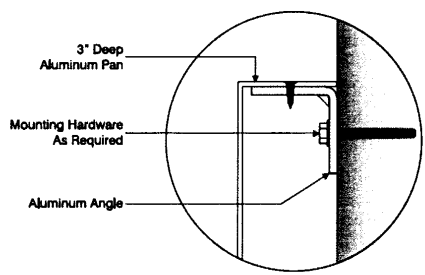
3" Deep Aluminum Pan w/ painted graphics
 Scale: 3/16" = 1' - 0"

Color Notes:

- Aluminum Pan: _____ White
- Painted Graphics: _____ Blue & Red (Color Specs Required)

Notes:

- Accurate Field Dimensions Required Prior to Production.
- Sign Placement for Visual Purposes Only & May not Represent Actual Size.



Detail: Aluminum Pan
 Not to Scale



Photographic Rendering
 Not to scale