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## Variance Staff Report

**TO:** ZONING HEARING OFFICER

**FROM:** SAMANTHA NOVOTNY, PLANNER I *SN*  
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**THROUGH:** ASHLEE MACDONALD, AICP, PRINCIPAL PLANNER *Am*  
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**MEETING DATE:** MARCH 8, 2023

**SUBJECT:** V22-07 VALOR CHRISTIAN CENTER: REQUEST TO DEVIATE FROM THE TOWN OF GILBERT LAND DEVELOPMENT CODE (LDC) REQUIREMENTS CONTAINED IN SECTION 5.6 SIGN REGULATIONS TO INCREASE THE SIGNAGE DIMENSIONS OF ONE (1) FREESTANDING MONUMENT SIGN ALONG WARNER ROAD FROM EIGHT (8) FEET IN HEIGHT AND THIRTY-TWO (32) SQUARE FEET IN SIGN AREA TO FOURTEEN (14) FEET IN HEIGHT AND SIXTY-FOUR (64) SQUARE FEET IN SIGN AREA ALLOTTED FOR ELECTRONIC CHANGING MESSAGE DISPLAY. THE SUBJECT REAL PROPERTY IS LOCATED AT 3015 E WARNER ROAD, WHICH IS ZONED SINGLE FAMILY-8 (SF-8).

**STRATEGIC INITIATIVE:** N/A

### RECOMMENDED MOTION

Unable to make the Findings of Fact, and deny V22-07 Valor Christian Center: Request to deviate from the Town Of Gilbert Land Development Code (LDC) requirements contained in Section 5.6 Sign Regulations to increase the signage dimensions of one (1) freestanding monument sign along Warner Road from eight (8)

feet in height and thirty-two (32) square feet in sign area to fourteen (14) feet in height and sixty-four (64) square feet in sign area allotted for Electronic Changing Message Display. The subject real property is located at 3015 E Warner Road, which is zoned Single Family-8 (SF-8).

**APPLICANT**

Company: Provident Law  
 Name: Erik Stanley  
 Address: 14646 N Kierland Blvd, Scottsdale, AZ 85254  
 Phone: (480) 388-3343  
 Email: [erik@providentlawyers.com](mailto:erik@providentlawyers.com)

**BACKGROUND/DISCUSSION**

**History**

<b>Date</b>	<b>Description</b>
<i>July 30, 1996</i>	Town Council adopted Ordinance No. 988 (A96-6), which annexed approximately 190 acres into the Town jurisdiction, which included the subject site.
<i>September 11, 1997</i>	The Design Review Board approved DR97-53 for the Celebration Christian Center. This approval has since expired.
<i>December 9, 1999</i>	The Design Review Board approved DR99-109 for the Celebration Christian Center. This approval has since expired.
<i>February 1, 2005</i>	Town Council reclassified all properties with the Town of Gilbert to zoning districts in the 2005 Land Development Code. The subject site was reclassified from R1-8 to SF-8.
<i>November 10, 2005</i>	The Design Review Board approved DR05-63, a site plan, grading and drainage plan, elevations, landscaping, architecture, and lighting plan for a conceptual 4-phase church master plan along with Phase I for Oasis Family Church.
<i>September 11, 2008</i>	The Design Review Board approved DR05-63-S, a Comprehensive Sign Program for Oasis Family Church.
<i>August 9, 2018</i>	Staff administratively approved DR05-63-A, a picnic ramada addition for Valor Christian Center.
<i>February 2, 2022</i>	The Planning Commission reviewed GP21-07 and Z21-09 as a Study Session item.

**Overview**

The subject site is comprised of approximately 6.7 acres generally located at the southeast corner of Claiborne Avenue and Warner Road in the Single Family-8 (SF-8) zoning district. The existing use is a church and is considered a non-residential use in a residential zoning district. The Land Development Code (LDC) provides for non-residential uses in residential zoning districts in various sections of the code. The applicant is requesting to address Section 5.6 Sign Regulations to increase the signage dimensions of one (1) freestanding monument sign along Warner Road from eight (8) feet in height and thirty-two (32) square feet in sign area to fourteen (14) feet in height and sixty-four (64) square feet in sign area allotted for Electronic Changing Message Display. A project narrative has been provided in the attachments, which explains how the applicant believes the variance request meets the Findings of Fact.

**Surrounding Land Use & Zoning Designations:**

	<b>Existing Land Use Classification</b>	<b>Existing Zoning</b>	<b>Existing Use</b>
North	Residential >3.5-5 DU/acre	Single Family-6 (SF-6)	Warner Road, then residential homes
South	Residential >5-8 DU/acre	Single Family-Detached (SF-D)	Residential homes
East	General Commercial	General Commercial (GC)	Vacant land and Life Storage
West	Residential >3.5-5 DU/acre	Single Family-8 (SF-8)	Claiborne Avenue, then residential homes
Site	Residential >3.5-5 DU/acre	Single Family-8 (SF-8)	Valor Christian Center and partial improvements and vacant land

**Project Data Table**

	<b>Freestanding Monument Sign of a Non-Residential Use in a Residential District</b>	<b>Proposed</b>
Maximum Number	1 for any lot or parcel with a min. of 100 feet of street frontage  1 additional Monument Sign is permitted for any lot or parcel with street frontage ≥250 feet but <400 feet	1

	1 additional Monument Sign is permitted for each additional 300 feet of street frontage  Based on the linear frontage along Warner Road, 3 monument signs are allowed; 1 sign is allowed along Claiborne Avenue	
Maximum Height	8 feet	14 feet
Design	Solid Base	
Manual Changing Message	½ of the sign area may be used for MCM display	
Electronic Changing Message	½ of the sign area may be used for ECM display	All of the sign area will be used
Maximum Sign Area	32 square feet; only one side is counted	64 square feet
Setback from Right-of-Way	3 feet	3 feet

**FINDINGS**

In order to approve a variance, the Zoning Hearing Officer is required to make four findings per Section 6.5.3 of the LDC. The findings are listed here, along with the reasons why staff considers that the findings are or are not met in this case. These findings are:

***A. There are special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, whereby the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district;***

The reasons described in the project narrative would not qualify as a special circumstance. Staff finds the property shape is not irregular. The building being set farther back to the southern area was a phasing plan choice and not a product of special circumstance due to size, shape or topography. The front setback in the SF-8 zoning district is 20 feet, and there was no encumbrance found that required the building to be set farther back than the 20 feet.

Staff informed the applicant of some examples that are considered special circumstances, such as:

- Utility easements or infrastructure in an abnormal location
- Irregular-shaped lots
- Private/civil encumbrances and restrictions on land use and development
- Being in a floodplain zone
- Developing on difficult topography, such as sunken or steep terrain.

Such circumstances were not applicable to the subject site, and the applicant has not provided evidence of other types of special circumstances. The applicant is concerned that smaller signage is not visible enough to high-speed motorists. Even on arterial roads adjacent to commercial zoning districts, the maximum signage allowance is 12 feet and 60 square feet, whereas the applicant is requesting more than what is allowed in a commercial zoning district (i.e. requesting 14 feet in height and 64 square feet). Staff has suggested to maximize the current sign allowance, as is shown in the table below, rather than pursue the variance:

	<b>Existing On Site</b>	<b>Maximum Allowance</b>
Height	5 feet	8 feet
Sign Area	22 square feet	32 square feet
Number	1	3

During the review, the applicant acknowledged staff’s suggestion and respectfully declined.

*Staff finds that special circumstances not present. Staff finds that the strict application of the Land Development Code would not deprive the specific property of privileges enjoyed by similar property in the SF-8 zoning district.*

***B. Such special circumstances were not created by the current or previous owner or applicants;***

Prior to the variance request, the applicant pursued a rezoning request to change from SF-8 to Neighborhood Commercial (NC). Staff brought forth the rezoning request to a Study Session with the Planning Commission, who found the NC rezoning to be an appropriate request for the area. However, staff and Planning Commission advised the applicant and property owner to carefully review the differences between SF-8 and NC before pursuing a finalization of the rezoning. Upon realizing the differences and potential limitations of changing from SF-8 to NC, the applicant paused the rezoning request because certain provisions were found to be too limiting as compared to their existing zoning. One example of this

is that the NC district limits building square footage to 25,000 square feet, while their original master plan approvals allowed upwards of 42,000 square feet in the SF-8 district.

In the narrative, the special circumstances are claimed to be due to the mere existence of the LDC's sign code provisions. Staff is of the opinion that the existence of the LDC is not evidence of special circumstances. There are many pros and cons to each zoning district that should be carefully weighed if a property owner is to consider changing zoning districts. The analysis of the pros and cons does not equal to being a special circumstance. The applicant has not provided other evidence of special circumstances thus far.

*Staff finds that the special circumstances present are "self-imposed".*

***C. The variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located; and***

The applicant believes the property is unique due to being residentially zoned while simultaneously containing characteristics of a commercial property. Additionally, the narrative goes on to say that a larger sign would not be out of character with the neighboring properties or the current zoning district.

A church use in a residential zone is not a unique development scenario in the Town of Gilbert. Staff has found at least nine churches in residential zones in Town records. The LDC is equipped to regulate such scenarios with specific provisions designed to maintain development at a smaller scale as compared to a typical commercial zoning district. The LDC states "Non-residential uses in a residential district provide neighborhood services and have been determined to be complimentary, in scale, hours of operation, and intensity, with minimal impact to the surrounding neighborhoods."

*Staff finds the variance would grant special privileges inconsistent with limitations on nearby or comparable properties.*

***D. The variance will not be materially detrimental to persons residing or working in the vicinity, to abutting property, to the neighborhood, or the public welfare in general.***

The narrative statements largely focus on wanting to increase the sign size. Staff believes this is still possible. The existing sign is smaller than what is allowed in the

sign code. Therefore, if a larger sign is desired, the applicant should make use of the sign code maximum allowances for freestanding monument signs.

Although staff agrees that if a rezoning to NC were to be granted, the larger sign dimensions would be allowed by right and would not be a detrimental addition. However, the applicant is requesting dimensions larger (14 feet in height and 64 square feet in sign area) than is allowed in commercial zoning, and that the entire sign area be allowed for Electronic Changing Message Display. The LDC only allows in commercial zoning districts for 12 feet in height and 64 square feet in sign area, and only ½ the sign area for Electronic Changing Message Display. Staff is of the opinion that the requested dimensions are larger than the least amount of relief necessary and would be negatively impactful to abutting properties.

*Staff finds that the proposed variance will be detrimental to the enjoyment of adjacent properties, land uses or the greater community's welfare and safety.*

Pursuant to the above analysis, Staff finds the variance request does not meet all the four (4) findings required by LDC Section 6.5.3 and ARS § 9-462.06.G.

### **PUBLIC NOTIFICATION AND INPUT**

A notice of public hearing was published in a newspaper of general circulation in the Town, an official notice was posted in all the required public places within the Town, and neighborhood notice was provided per the requirements of the LDC Section 6.2.6.

Staff has not received public comment at this time.

### **PROPOSITION 207**

An agreement to “Waive Claims for Diminution in Value” pursuant to A.R.S. § 12-1134 was signed by the landowners of the subject site, in conformance with the Town of Gilbert LDC. This waiver is located in the case file.

### **STAFF RECOMMENDATION**

Make the determination that the Findings of Fact are not met, and deny V22-07 Valor Christian Center: Request to deviate from the Town Of Gilbert LDC requirements contained in Section 5.6 Sign Regulations to increase the signage dimensions of one (1) freestanding monument sign along Warner Road from eight (8) feet in height and thirty-two (32) square feet in sign area to fourteen (14) feet in height and sixty-four (64) square feet in sign area allotted for Electronic Changing

Message Display. The subject real property is located at 3015 E Warner Road, which is zoned Single Family-8.

Should the Zoning Hearing Officer be inclined to make the findings and approve the variance request, it should be subject to the following condition:

1. The variance only modifies those standards specifically identified; all other standards of the Land Development Code must be met.

Respectfully submitted,



Samantha Novotny  
Planner I

**Attachments and Enclosures:**

- 1) Notice of Public Hearing/Vicinity Map
- 2) Aerial Photo
- 3) Applicant's Narrative
- 4) Sign Elevation/Rendering



# Notice of Public Hearing

V22-07 Valor Christian Center  
Attachment 1: Notice of Public Hearing

VARIANCE HEARING DATE:

Wednesday, March 8, 2023\* TIME: 5:00 PM

LOCATION: Council Chambers  
Municipal Building I  
50 East Civic Center Drive

\*Call Planning Division to verify date and time: (480) 503-6602

The application is available to the public for review at the Town of Gilbert Planning Division Monday - Thursday 7AM - 6PM.

## REQUESTED ACTION:

V22-07 VALOR CHRISTIAN CENTER: Request to deviate from the Town Of Gilbert Land Development Code (LDC) requirements contained in Section 5.6 Sign Regulations to increase the signage dimensions of one (1) freestanding monument sign along Warner Road from eight (8) feet in height and thirty-two (32) square feet in sign area to fourteen (14) feet in height and sixty-four (64) square feet in sign area allotted for Electronic Changing Message Display. The subject real property is located at 3015 E Warner Road, which is zoned Single Family-8 (SF-8).

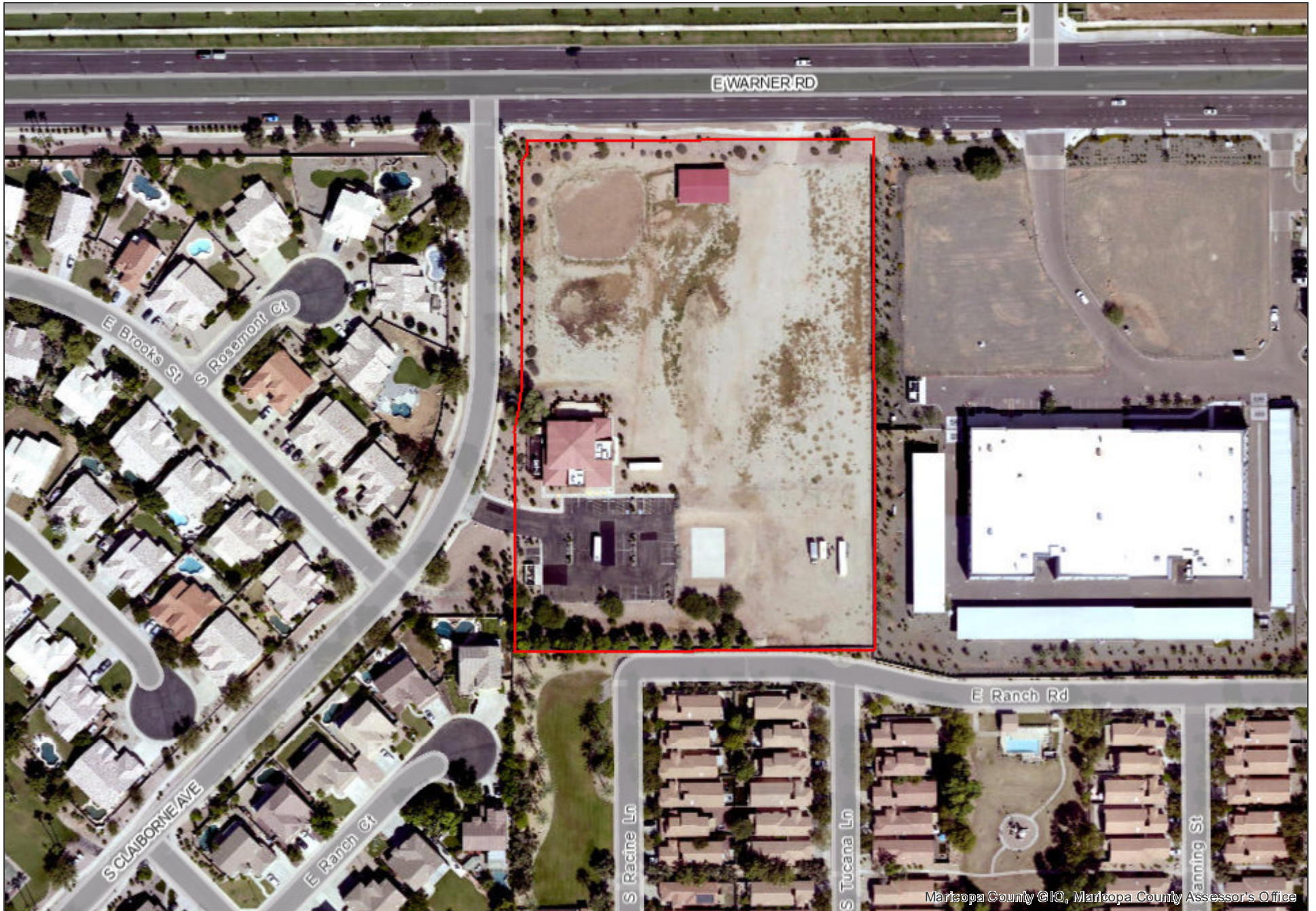
## SITE LOCATION:



APPLICANT: Provident Law  
CONTACT: Erik Stanley  
ADDRESS: 14646 N Kierland Blvd  
Scottsdale, AZ 85254

TELEPHONE: (480) 388-3343  
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# Aerial Photo





**PROVIDENT LAW**

February 1, 2023

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**Project Narrative for Valor Christian Center Variance Application**

Valor Christian Center (the “Church”) applies for a variance for a larger electronic sign along Warner Road. Specifically, the Church seeks a variance to have one freestanding monument sign on its Property that is 14 feet in height and that has 64 square feet allotted to an Electronic Changing Message Display. This variance application will only apply to one freestanding monument sign.

Valor Christian Center’s Property (the “Property”) is a 6.06-acre parcel at the intersection of East Warner Road and South Claiborne Avenue. A church sanctuary building and a parking lot



currently exist on the Southwest corner of the Property as depicted in the aerial below:

The Property is currently zoned SF-8 with a General Plan Land Use Classification of Residential 3.5-5 du/ac. Within the Church's current zoning district, a freestanding monument sign is allowed but only at a maximum height of 8 feet. Additionally, an Electronic Changing Messaging Display is allowed as a non-residential use in a residential district, but the maximum signage area allowed is 32 square feet. The Church is submitting this Variance Application because the limitations on the sign height and signage area would defeat the ability for the Church to have a sign that can be seen by passing motorists on Warner Road and the Property's particular characteristics lend themselves to a sign of the type the Church is proposing.

The Church offers the following evidence in support of its Variance Application:

- 1. Evidence showing why, due to special circumstances applicable to the property, including its size, shape, topography, location or surroundings, strict application of the zoning ordinance would deprive the property owner of privileges enjoyed by other property owners of the same classification in the same zoning district.**

The Church's Property is over 6 acres and the main church building is set back from Warner Road such that it almost cannot be seen from Warner Road. The Church currently has one small sign along Warner Road as depicted below:



The size and shape of the Property combined with the setback of the main church building counsel for a larger sign along Warner Road that can be seen. Moreover, traffic passing along Warner Road will have a difficult time seeing a smaller electronic changing message display sign that advertises events and church activities. Warner Road is a major arterial which the General Plan defines as "high capacity roadways that carry large volumes of traffic between areas of high residential density, employment, retail and commercial land uses." The speed limit along Warner Road in front of the Church is 45 mph and, because the Church's main entrance is off Claiborn Avenue and not directly from Warner Road, vehicles traveling by the Church's Property will not be able to see an electronic changing message display at 45 mph that is only 16 square feet (the current limit of an ECM display). At a limit of 16 square feet, the Church will be severely limited in the messages it can display to passing motorists. Similar properties where

buildings are located as far back from a main arterial should be allowed to draw attention to events and messages happening on the Property through larger signs such as the size the Church applies for in this Application.

**2. Evidence showing that the requested variance will not constitute a grant of special privileges inconsistent with limitations upon other properties in the vicinity and district in which the property is located.**

The Church's Property is unique in that, even though it is residentially zoned, it contains characteristics of a commercially zoned property. It is a large piece of property and much of it is currently unused. The Property contains over 425 feet of frontage on Warner Road and serves as a transition from the GC properties to the East of the Church to the residential properties to the West of the Church. An ECM Display sign is already allowed in the SF-8 district where the Church's Property is located thus such a sign, even at the slightly larger scale proposed by the Church would not be inconsistent with the other properties in the vicinity and district where the Church's Property is located.

**3. Evidence that the special circumstances applicable to the property were or are not self-imposed by the current or previous property owner or applicant.**

The special circumstances that exist are a result of the Town's sign code and are not self-imposed by the Church. Indeed, if the Property were zoned commercial the Church would be able to have a larger ECM display sign as allowed in commercially zoned properties. However, the Church finds itself in a double bind. It had originally begun pursuing a rezone of its Property to Neighborhood Commercial (NC) but learned that it would be required to give up the amount of square footage it would be able to have in a proposed expansion. The original approval the Church has from the Town would allow 42,204 square feet of building coverage. However, to rezone its Property, the Church would be limited to 25,000 square feet of building coverage in the NC zoning district. Town staff prepared a report proposing approval of the Church's application to rezone its Property to NC, thus acknowledging that the Church's Property meets the requirements to be zoned NC and to have a 14 foot high ECM Display sign with a maximum sign area of 64 square feet. It was only when the Church learned that it would have to give up its proposed expansion plans that it turned to this Variance Application and has put its rezoning application on hold. The Church should not be required to give up square footage of buildings it wants to build in the future just to have a larger sign that the Town staff acknowledges it could have and that the staff acknowledges the Property is suited for. In short, the requirements of the Town's code have imposed the current state of affairs on the Church and the burden is not self-imposed.



**4. Evidence showing why granting the variance:**

**a. Substantially meets the intent and purpose of the zoning district in which the property is located**

Granting the variance will meet the intent and purpose of the SF-8 district. The Land Development Code allows for places of worship in the SF-8 district and also allows for ECM Display signs as non-residential use of residentially zoned property. Thus, the Code already has determine that use of residentially zoned property and signage associated with that use meets the purpose and intent of the SF-8 zoning district.

**b. Will not be detrimental to the health, safety, and general welfare of persons living or working in the neighborhood**

A larger sign with ECM Display along Warner Road will not be detrimental to the health, safety, and general welfare of the persons living and working in the neighborhood. The Church has sufficient frontage and space along Warner Road to locate the sign so that it does not shine light directly to nearby houses and the Church will abide by the Code's requirement that the ECM Display sign not have a brightness level greater than 0.3 foot candles above ambient light conditions at the property line as measured by foot candle meter. See §5.6.10(D)(2)(c).

**c. Will not be detrimental to the general welfare of the Town**

There is no indication or argument that a larger sign for the Church along Warner Road will in any way pose a detriment to the general welfare of the Town. In fact, it will contribute to the general welfare of the Town. The Church is committed to being a good neighbor and Town citizen. It holds events for the Town throughout the year including an antique car show, yard sales, Easter Egg hunts, Trunk or Treat at Halloween, and numerous other events for the community. Allowing a larger sign will contribute to Goal CM-3 of the General Plan to "Foster Vibrant Gathering Places," and to CM-7 of the General Plan to "Bring us Together." Specifically, Policy 25 of Goal CM-7 is to "Expand and promote opportunities for all residents to connect socially and participate fully in the vitality of Gilbert." The Church is an important part of the way resident of Gilbert connect socially as evidenced by the events the Church has for the community. A larger sign will contribute to the general welfare of the Town.

**d. Is the least amount of relief necessary to permit use of the property similar to other properties in the district**

Granting the Variance Application is the least amount of relief necessary. The Town's willingness to acknowledge that the Church could rezone its Property to NC, make no other physical changes



to its Property, and thereby install a larger sign that is allowed in commercial districts is an acknowledgment that the Church could have a larger sign such as what it requests here in this Application. But rezoning to NC allows for a more intensive use of the Church's Property than leaving the zoning as it is currently and simply allowing a variance for one larger sign along Warner Road. Allowing this variance is also the least amount of relief necessary because it allows the Church one larger sign as opposed to three smaller signs.

The Church has a Property of over 261,000 square feet. It has over 425 feet of frontage along Warner Road. When the current church building was constructed, it was built as part of a larger plan with the anticipation of further development of the Property which was approved by the Town. However, the Church's economic conditions have prevented the next phases of development from starting, this leaving most of the Church's Property as vacant land with the actual building set back quite a distance from Warner Road.

Even though the current code allows for 3 freestanding monument signs, the size of the allowed signs are small and are not visible from Warner Road as motorists pass by. When the original monument sign was installed, there was no obstruction of landscaping vegetation and Warner Road was two lanes with no median divider. Traffic was closer and a shorter sign could be more easily seen. The speed limit along Warner Road is now 45mph, not 25 or 35, and most traffic passes by the Church Property at average speeds of 50 or more. Additionally, there are not two lanes of slow-moving traffic as originally existed, but Warner Road now has six lanes of moving traffic at much further distances from the Church's Property. Instead of having three very small freestanding monument signs, the Church requests a variance for only one larger freestanding monument sign that can be seen by passing motorists and that provides the Church the opportunity to effectively communicate its message.

The Church should not be put to the choice of limiting its building coverage to 25,000 square feet on such a large piece of Property in exchange for having a larger sign along Warner Road. This Variance Application is the least intrusive way for the Church to maintain its Property and its approved plans while having a larger sign that other similar properties are allowed to have.



FRONT ELEVATION

