



Board of Adjustment / Appeals Agenda
Civic Center 2 Park Drive South, Great Falls, MT
Commission Chambers, Civic Center
October 3, 2019
3:00 PM

OPEN MEETING

1. Call to Order 3:00 P.M.
2. Roll Call- Board Introductions

Jule Stuver- Chair
Krista Smith- Vice Chair
Joe McMillen
Aspen Northerner
Kyle Palagi

3. Recognition of Staff
4. Postponement of Meeting Minutes July 11, 2019 - On future agenda

CONFLICT DISCLOSURE/EX PARTE COMMUNICATIONS

BOARD ACTIONS REQUIRING PUBLIC HEARING

5. 4100 10th Avenue South - Variance from § 17.60.4.050B of the Official Code of the City of Great Falls (OCCGF) regarding the allowed separation distance between freestanding signs and the number of signs allowed on Premises Exceeding 50,000 square feet.

BOARD ACTIONS NOT REQUIRING PUBLIC HEARING

COMMUNICATIONS

PUBLIC COMMENT

PUBLIC COMMENT ON ANY MATTER AND THAT IS WITHIN THE JURISDICTION OF THE BOARD OF ADJUSTMENT/APPEALS. PLEASE KEEP YOUR REMARKS TO A MAXIMUM OF FIVE (5) MINUTES. SPEAK INTO THE MICROPHONE, AND STATE YOUR NAME AND ADDRESS FOR THE RECORD.

ADJOURNMENT

PLEASE EXIT THE CHAMBERS AS QUICKLY AS POSSIBLE. CHAMBER DOORS WILL BE CLOSED 5 MINUTES AFTER ADJOURNMENT OF THE MEETING. BOARD OF ADJUSTMENT/APPEALS MEETINGS ARE TELEVISED ON CABLE CHANNEL 190. IF A RECORDING IS AVAILABLE, IT WILL BE POSTED ON THE CITY'S WEBSITE AT [HTTPS://GREATFALLSMT.NET/MEETINGS](https://greatfallsmt.net/meetings). BOA MEETINGS ARE RE-AIRED ON CABLE CHANNEL 190 THE FOLLOWING FRIDAY MORNING AT 10 A.M.



Date: October 3,
2019

**CITY OF GREAT FALLS
BOARD OF ADJUSTMENT AGENDA REPORT**

Item: 4100 10th Avenue South - Variance from § 17.60.4.050B of the Official Code of the City of Great Falls (OCCGF) regarding the allowed separation distance between freestanding signs and the number of signs allowed on Premises Exceeding 50,000 square feet.

Applicant: Taylor's AutoMax

Representative: Steve Taylor, Taylor's AutoMax

Presented By: Brad Eatherly, Planner I, Planning and Community Development

Action Requested: Consideration of a variance from standards contained in Chapter 60, Sign Code, of Title 17 – the Land Development Code

Public Hearing:

1. Chairperson conducts public hearing, pursuant to OCCGF § 1.2.050 and Title 17, Chapter 16, Article 6.
2. Chairperson closes public hearing and asks the will of the Board.

Suggested Motion:

1. Board Member moves:
 - I. "I move that the Board of Adjustment, based on the Findings for the Basis of Decision (approve/deny) the application of Taylor's AutoMax for the requested variance from City Code Title 17, Chapter 60, Sign Code."
 2. Chairman calls for a second, discussion, and calls for the vote.
-

Summary:

The applicant owns Taylor's AutoMax, an automobile dealership located at 4100 10th Avenue South. The subject property is zoned C-2 General Commercial and is 9.72 acres in size. The applicant erected a free-standing Nissan franchise sign in 2014 when they acquired the Nissan franchise. In June of 2019, the dealership acquired a GMC/Buick franchise as well. The automobile manufacturer owns the signs that sit on a dealership's property, and each franchise has specific rules that their sign must be separate and apart from any other sign on the property. Along with the Nissan freestanding sign, the property also has a legal non-conforming sign advertising the name of the dealership, Taylor's AutoMax. In order to erect the Buick/GMC sign, staff has determined that the applicant must receive the following variance from Chapter 60 of the Land Development Code (Title 17 – Sign Code).

Background Information:

REQUESTED VARIANCE

Chapter 60 – Sign Code

17.60.4.050 – Premises exceeding 50,000 square feet

B. Freestanding signs including monument signs and other low profile signs.

2. One (1) freestanding sign of no more than two hundred (200) square feet is allowed per street frontage. A perimeter separation of two hundred fifty (250) feet is required between any two (2) freestanding signs on any premise.

Applicant’s Requested Variance: The applicant is requesting a variance to allow two deviations from the requirements in § 17.60.4.050(B). First, the applicant is requesting approval to have three freestanding signs along 10th Avenue South. The subject property has roughly 390 feet of street frontage along 10th Avenue South and roughly 40 feet of street frontage on 13th Avenue South. This allows Taylor’s AutoMax to have the two existing signs that have been erected on the subject property. The applicant actually received approval from the City in 2014 to have three free-standing signs along 10th Avenue South. However, since the applicant decided to remove the third sign from the property (a Volkswagen franchise sign), the right to have a third sign can only be accomplished through a zoning variance.

Additionally, § 17.60.4.050(B) requires a perimeter separation of 250 feet between any two signs on any premise. Currently, the two freestanding signs along 10th Avenue South have a perimeter separation of roughly 100 feet. Although this separation does not conform to code, the situation is pre-existing and allowed to remain. However, the proposal to add another freestanding sign requires the third sign to comply with the 250 foot perimeter separation requirement. The requested Buick/GMC sign is proposed to be approximately 230 feet from the existing Taylor’s AutoMax sign and approximately 140 feet from the existing Nissan sign.

Findings for the Basis of Decision:

The basis for decision for a variance request is listed in § 17.16.32.040 of the OCCGF Land Development Code. The decision of the Board of Adjustment shall consider the three Basis of Decision criteria. Staff provides the following Basis of Decision for consideration by the Board:

1. The variance is not contrary to the public interest.

According to OCCGF § 17.60.1.020 (Intent and Purpose), the intent of the Sign Code is to provide for a well-maintained and aesthetically pleasing appearance of the community. The purpose of the Sign Code is to establish parameters for size, location, type, maintenance and construction of signs and sign structures within the City of Great Falls in order to:

- A. Promote a positive economic and business climate through distinctive and effective signage.
- B. Improve Great Falls’ community image by eliminating sign clutter.
- C. Encourage signage of a scale and character consistent with building, site, streetscape, and neighborhood.

- D. Ensure protection of pedestrians and motorists from injury and/or damages attributable to distractions and obstructions caused by improperly placed signs.
- E. Provide a comprehensive and cohesive code that is readily understood and consistently applied.
- F. Provide effective and binding code implementation and enforcement measures.

Like many purpose sections in the City's Land Development Code, an argument can be made to support or not support the variance. On one hand, signage should support business needs, and the applicant has stressed that each franchise must have its own individual sign display. On the other hand, the code provisions on free standing sign numbers and spacing are clearly designed to reduce excessive sign clutter. After weighing the purpose and intent statements in the sign code, staff concludes that the variance request is contrary to the greater public interest - specifically with § 17.60.1.020(B) which intends to "Improve Great Falls' community image by eliminating sign clutter." The placement of a third sign along 10th Avenue South would not be consistent with the code's intent to reduce the number and spacing of free-standing signs over time.

2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.

The applicant asserts that hardship is present due to three conditions: 1) the unique demands placed upon the business by its dealer requirements regarding signs, 2) large 9-acre property size which creates the need to accommodate multiple dealers and multiple individual signs, and 3) relatively limited 10th Avenue frontage (394 feet) in comparison to the overall lot depth of 1,026 feet.

Staff understands these arguments, but notes that the dealer requirements regarding the need for individual signs are a business-related hardship rather than something unique to the configuration or location of the property itself. These business requirements do not override a local community's reasonable need to regulate sign clutter for commercial uses. Most importantly, the applicant is not without a pathway to comply with code and still meet dealer requirements for individual signs. The applicant has the option, although not ideal, to remove or modify the existing Taylor's AutoMax sign. The business name could be transferred to the building or combined with the new GMC/Buick sign. This would allow the two dealers to have separate signs while addressing sign code requirements.

3. The spirit of this Title would be observed and substantial justice done by granting the variance.

Staff concludes that the spirit of this Title would not be observed by granting the requested variance. As noted in Variance Criterion #1, § 17.60.1.020(B) of the Sign Code contains an intent statement to "Improve Great Falls' community image by eliminating sign clutter." The requested sign variance would increase sign clutter by allowing three signs on a property that by code should only have two. Additionally, there is not enough street frontage to allow three signs along 10th Avenue South while maintaining the required perimeter separation distance of 250 feet between any two signs. Despite the applicant's large property size and dealership sign requirements, the code's requirements are reasonable and can be met with some compromise from the applicant.

Alternatives:

The Board of Adjustment could approve the variance request allowing the third sign and eliminating the perimeter separation requirement of 250 feet between any two signs. For such action, the Board of Adjustment must provide separate Basis of Decision findings to support the approval.

Recommendation:

Based on the findings for the basis of decision, Staff recommends denial of the variance.

Attachments:


Aerial Map

Variance Application

Applicant's Narrative

EXHIBIT A



 Subject Property

 City Limits

360 180 0 360 Feet



CITY OF GREAT FALLS
PLANNING & COMMUNITY DEVELOPMENT DEPT.
P.O. BOX 5021, GREAT FALLS, MT, 59403-5021
406.455.8431 • WWW.GREATFALLSMT.NET

Date:

Application Number:

\$1,250 Application Fee

Public Hearing Notice

Paid (Official Use ONLY):

VARIANCE APPLICATION

CONDITION FOR VARIANCE

Montana Statutes require an **unnecessary hardship** as a condition for a variance. "Variance" means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

J&M AUTOS INC. / STEVE TAYLOR
Owner / Representative Name:

4100 10th AVE SO
Mailing Address:

406-868-1544 Phone: sdmtmontana@gmail.com Email:

Requested Action: A variance from Title: 17.60.4.05D B 2d3 Chapter: Article:

Basis for Request: Request for a freestanding sign
to rebrand + market our newly acquired
GMC + Buick franchise's!

PROPERTY DESCRIPTION LOCATION:

RICE TARGETS 3RD
Mark/Lot/Block: Addition: Section: Township: Range:
4100 10th AVE SO, GREAT FALLS
Street Address:

ZONING:

Commercial
Current:

LAND USE:

Commercial
Current:

I (We) the undersigned understand that the filing fee accompanying this application is not refundable. I (We) further understand that the fee pays for the cost of processing, and the fee does not constitute a payment for approval of the application. I (We) further understand that public hearing notice requirements and associated costs for land development projects are my (our) responsibility. I (We) further understand that other fees may be applicable per City Ordinances. I (We) also attest that the above information is true and correct to the best of my (our) knowledge. NOTE: If the applicant is not the owner of record, the signature of the owner of record must also be obtained.

James L. Taylor
Property Owner's Signature: 7-29-19 Date:

[Signature]
Representative's Signature: 7-29-19 Date:

Variance Application Checklist

A complete Variance Application shall include but is not limited to the requirements listed in Table 1 below. Additional information may be required prior to a Variance Application being deemed complete.

Table 1: Application Requirements		Staff	App.
Variance Application	Complete basic applicant and project information included on page 1.	<input type="checkbox"/>	<input type="checkbox"/>
Application Fee	Non-refundable Variance Application Fee - \$1,250	<input type="checkbox"/>	<input type="checkbox"/>
Variance Description	Condition for variance: Montana statutes mention "unnecessary hardship" as a condition for a variance. Please attach a description that includes: Requested action: state Title and Section specifically related to the request Basis for the request: specifically state the reason for the request	<input type="checkbox"/>	<input type="checkbox"/>
Complete Site Plan	2 Copies	<input type="checkbox"/>	<input type="checkbox"/>

Variance Site Plan Requirements

Table 2, below, contains the requirements for a complete Variance application site plan. The requirement must be submitted unless waived by a planner at a pre-submittal meeting. City Staff will place an X in the box for all required submittal items. Applicant will complete the checklist by placing an X in the App. box of each item to indicate that it has been submitted.

Table 2: Site Plan Requirements		Staff	App.
Project Information	(a) Project name (b) Developer and landowner name (c) Preparation date (d) Name of preparer	<input type="checkbox"/>	<input type="checkbox"/>
Survey Information	(a) North arrow (b) Graphic scale (c) Legal description (d) Property boundaries (bearings, lengths, curve data) (e) Acreage of subject property	<input type="checkbox"/>	<input type="checkbox"/>
Project Development Information	(a) Easements/rights-of-ways (location, width, purpose, ownership) (b) No build/alteration zones, if any (c) No ingress/egress zones, if any	<input type="checkbox"/>	<input type="checkbox"/>
Setting	(a) Property boundaries within 150' of subject parcel (b) Names of property owners within 150' of subject parcel (c) Adjacent land uses within 150' of subject parcel (d) Municipal boundaries, if applicable	<input type="checkbox"/>	<input type="checkbox"/>
Site Features (Existing and Proposed)	(a) Wetlands (b) Woodlands (c) Wildlife habitat, including critical wildlife habitat (d) Environmentally sensitive features (e) Water resources (rivers, ponds, etc.) (f) Floodplains (g) Irrigation canals including diversion point(s), etc. (h) Other hazards including brownfields, contaminated sites, unstable soils, high groundwater, bedrock, high-pressure natural gas lines, and others as appropriate.	<input type="checkbox"/>	<input type="checkbox"/>

Site Plan Requirements Cont.

GENERAL INFORMATION		Staff	App.
Transportation Facilities (existing and proposed)	(a) Roads (names, ownership, etc)	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Driveways and road access onto public and private roads		
Buildings/ structures (footprint, use, etc.)	(a) Existing and proposed within project	<input type="checkbox"/>	<input checked="" type="checkbox"/>

HEIGHT
DISTANCE
3RD

Citizen's Guide to Zoning Variances

Introduction

A city does not stand still; it is constantly changing and thus requires guidance for orderly growth to take place. The City of Great Falls Land Development Code and several detailed community plans provide guidance, and the zoning ordinance is the principal tool used to actually control growth and protect property values through regulating land uses. However, it is occasionally necessary to allow situations contrary to the strictest interpretation of the zoning ordinance. A variance is such a degree of leniency without which, an unnecessary hardship would be suffered by the property owner. Such variance cases are decided by the Board of Adjustment.

The Board of Adjustment and its Authority

Montana State Law grants the Board its authority. The Board consists of five voting members appointed by the City Commission for three year terms. These Board members are lay citizens not City Staff, selected from various walks of life.

Examples of Variance Requests that may be Justifiable

An extra wide utility easement which interferes with the buildable area of a lot may justify encroachment into a required area. Unusual size, shape or topography of a lot may justify some variance from what would normally be required under the ordinance.

Application Procedures

Fill out the application, in preparing your application, be as detailed and specific as possible. Incomplete information may result in your case being delayed to another hearing date or denied. You are required to define your hardship and list your justification for the variance request.

You must submit a plot plan (two copies) drawn to scale (1"=20' minimum). It should include the following information: Actual lot dimensions; size and location of all existing and proposed structures including proposed additions; locations of all hard surfacing, including driveways and parking areas; distances to nearest dwelling on adjoin properties.

A certified survey is required if there is a property line dispute.

Building elevations, floor plans and any other pertinent information should be submitted if applicable.

There is a \$1,250.00 filing fee to help defray the costs of administrative research and paperwork involved in processing the application. This fee is non-refundable whether the request is approved or not. No processing will be performed until this fee has been paid.

Requests that are Not Considered Justifiable

A hardship is not a problem that you create yourself. For instance, if you build your house in such a manner that you cannot expand the living room without encroaching into a required yard, you have created that situation and the ordinance does not recognize that as a legitimate hardship. Likewise, the fact that it might cost you less money to add an extension in a required front yard rather than adding to the house where the addition would be permitted outright, is not a hardship. If you purchased a sloping hillside lot, and wish to excavate or fill to create a flat lot and reduce building costs, you do not have a justifiable hardship. Similarly, if you purchased a home with an attached garage and the side yard is too narrow to be able to drive through to the rear yard, you may not justifiably request a variance to convert the garage into living area. By doing so you would be eliminating your required off-street parking with no way to legally provide for it.

The important point is whether you would be deprived of property rights, not desires. Financial hardship is not considered a legitimate reasons for seeking a variance.

Citizen's Guide to Zoning Variances Cont.

Processing the Application

The Board of Adjustment meets on an as needed basis. Hearings are typically conducted at 3:00 p.m. in the City Commission Chambers, however the time may be changed to accommodate scheduling. All concerned are notified of applicable times and dates.

All property owners within 150' of the subject variance are notified by letter of the request and the date and time of the hearing. They may address any comments, questions or concerns at the hearing or send written material to the Planning & Community Development Department.

All information and supporting documents become the property of the City and cannot be returned to you. They will be filed with your property file.

Appealing a Board of Adjustment Decision

Under Montana Stat Law, you have the option of appealing any ruling made by the Board of Adjustment. The applicant an/or aggrieved person may appeal a final decision, made by the Board of Adjustment, by filing an appeal with a court of competent jurisdiction within 30 days of the final decision. (See: 76-2-327(1), MCA)

The Board of Adjustment

The powers of the Board of Adjustment: City ordinance provides that the Board of Adjustment has the power to interpret ambiguous zoning codes and to hear request for variances that are dimensional in nature.

Variances: The purpose of a variance, the sole legitimate purpose, is to so modify the application of a zoning ordinance as it applies to the property in question to bring the privileges of that property to a parity with other properties similarly located and classified. A variance can be tested for validity by various known criteria including:

1. There are exceptional or extraordinary circumstances applicable to the property or to the intended use that do not apply generally to other property in the same vicinity and zoning district.
2. The variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and zone, but which is denied to the property in question.
3. The strict application of the ordinance would constitute unnecessary hardship.
4. The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity or zoning in which the property is located.
5. The board is bound to accept the zoning ordinance and map as correct, and should abide by its purpose and spirit.

Additional Criteria

1. The board is bound to accept the zoning ordinance and map as correct, and should abide by its purpose and spirit.
2. The financial situation of a particular individual or pecuniary hardship upon a single owner is NOT adequate grounds for the granting of a variance, if the granting of the variance will impair the intent and purpose of the zoning regulations. Both the private hardship and lack of injury to the public interest must occur.
3. Inability of the owner to rent or use the property if the zoning regulations are strictly applied may be considered, but is not in itself sufficient. The fact that the variance will depart but slightly from the intent and purpose of the law is, however, by itself a substantial argument in its favor.
4. The plight of the owner must be unique; if many lots in the same neighborhood are in need of the same variance, the remedy would be a change in the boundary of the zoning district, not a wholesale grant of variances.
5. The public need of the use of property in accordance with the variance sought is a ground for favorable consideration in granting a variance, and conversely, the fact that there is no such public need is a reason why a petition for a variance should be denied.
6. The good faith of the applicant, his ignorance of the zoning restrictions, or his expectations of a grant of a variance when he acquired the property are NOT GROUNDS for granting a variance.
7. The hardship which justifies a variance must be a hardship which arises out of the application of a particular provision of the ordinance to a particular lot or parcel of land. A variance in the use of one lot cannot be granted to alleviate hardship upon another.



4100 Tenth Avenue South, Great Falls MT 59405 • (406) 727-0380 • Toll Free: 1-800-448-5734 • Fax: (406) 727-0356
www.taylorsautomax.com

September 9, 2019

City of Great Falls
Planning & Community Development Dept.
P.O. Box 5021, Great Falls, Mt 59403-5021

Dear Sirs,

Taylor's Automax Buick/GMC Nissan, is requesting a variance for our sign application. In 2014 we were given a variance to install two new signs. We erected a Nissan sign and Volkswagen sign to be compliant with the requirements of each different manufacturer.

In late summer of 2018 we relinquished ownership of the Volkswagen franchise because of their international fraud debacle and poor business model. Since that time we removed the Volkswagen sign and started working on acquiring the Buick/GMC franchise. After months of negotiations, and planning, we announced to the public our acquisition of the Buick/GMC franchise in early June of 2019.

We are now in the same position as we were in 2014. To be compliant with General Motors, we are required to have a stand alone Buick/GMC sign. We are simply requesting to erect a Buick/GMC sign where we took down the Volkswagen sign.

We are requesting a variance in:

1. Number of allowable signs (3)
2. Distance between signs (100')

The 100' distance between signs is chosen because of the existing Automax and Nissan signs are already in place and the base for the new Buick/GMC sign already exists, as it is the location of the earlier Volkswagen sign. These 3 locations were selected because of our existing landscaping, ingress and egress areas, and best placement for vision and as not to encroach visibly on our neighbor's signs.

The size of the sign would be 25' tall (custom cut short P137, see sign addendum) and 11' 3 1/4" square.

The new automobile business is unique in the fact that the manufacturer owns the signs they require us to install. They control the manufacturing, maintenance, the base engineering and the

installation. We the dealer are required to have them installed and are bound to a continuous monthly lease payment.

Our hardship in property is that we only have 390' of 10th Avenue South frontage compared to 1,026' of property depth. With over 9 acres of property Taylors operates a large business with multiple demanding franchises with comparable small frontage to accommodate some of the requirements of the city sign code.

Sincerely,

A handwritten signature in black ink that reads "James L. Taylor Jr." The signature is written in a cursive style with a large, looping initial "J".

James L Taylor Jr

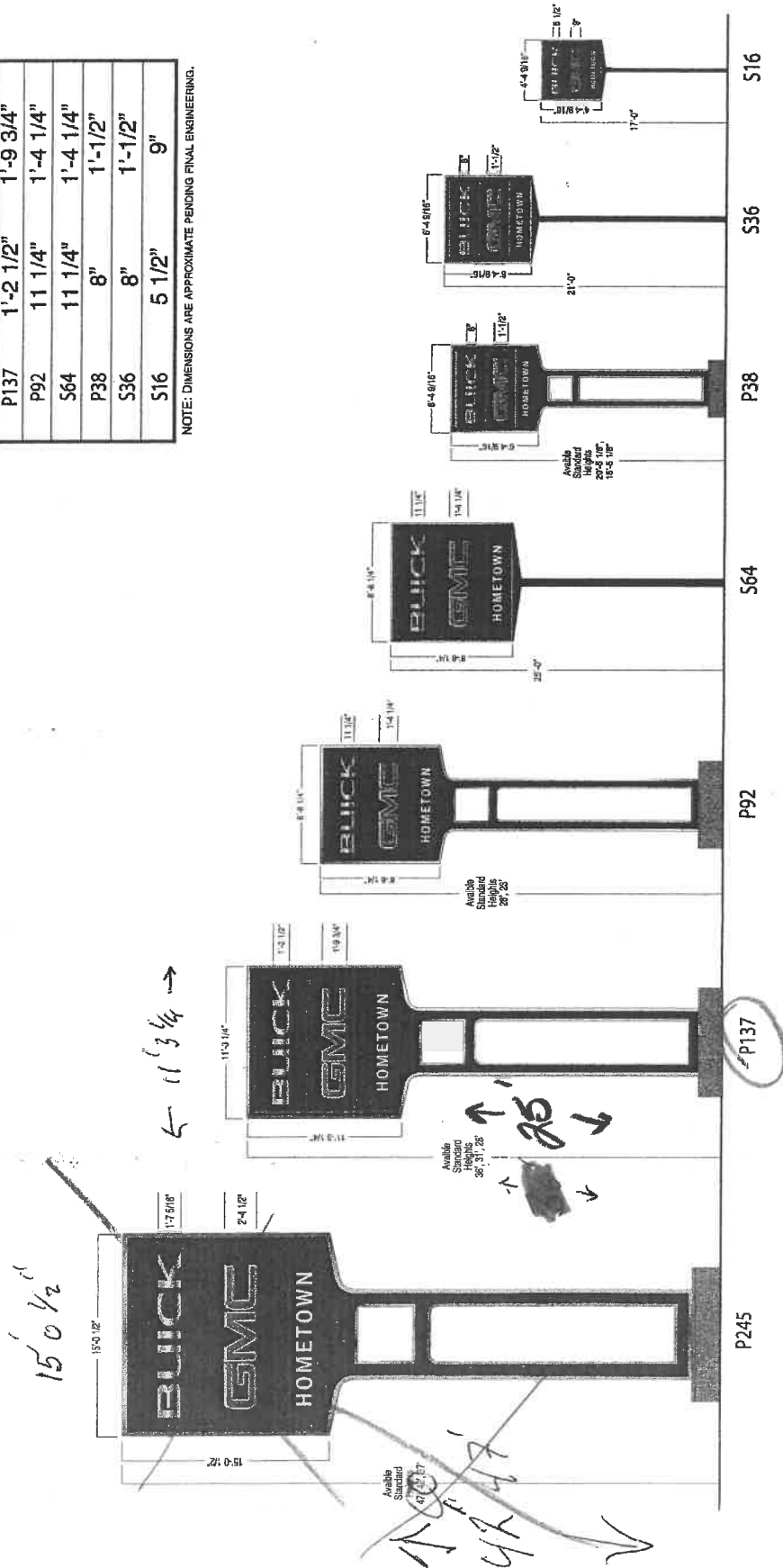
Dealer

Taylors Automax Buick/GMC Nissan

Buick GMC Sign Family

COPY SIZE BY SIGN			
SIGN	BUICK	GMC	
P245	1'-7 5/16"	2'-4 1/2"	
P137	1'-2 1/2"	1'-9 3/4"	
P92	11 1/4"	1'-4 1/4"	
S64	11 1/4"	1'-4 1/4"	
P38	8"	1'-1/2"	
S36	8"	1'-1/2"	
S16	5 1/2"	9"	

NOTE: DIMENSIONS ARE APPROXIMATE PENDING FINAL ENGINEERING.



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