



LAWRENCE BOARD OF ZONING APPEALS  
AGENDA FOR **SEPTEMBER 5, 2019**  
1<sup>ST</sup> FLOOR OF CITY HALL, 6 E. 6<sup>TH</sup> STREET, CITY COMMISSION MEETING ROOM  
**6:30 PM**

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**TAKE A ROLL CALL TO DETERMINE IF THERE IS A QUORUM OF MEMBERS PRESENT**

**ITEM NO. 1      COMMUNICATIONS**

- A. Acknowledge communications to the come before the Board.
- B. Disclosure of ex-parte communications and/or abstentions for specific agenda items.
- C. Announce any agenda items that will be deferred.

**BEGIN PUBLIC HEARING:**

**ITEM NO. 2      OUTDOOR LIGHT CONTAINMENT VARIANCE FOR A NEW  
AUTOMOTIVE SALES DISPLAY LOT; SW Corner of W. 29<sup>th</sup> Street and  
Iowa Street**

**B-19-00333:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance from the Outdoor Lighting Standards relating to Spillover Light, which is listed in Section 20-1103(d)(3)(ii) of the City Code. This code provision states that spillover light from a development site shall not exceed 3 foot-candles measured at the lot line onto public street rights-of-way or other properties in a nonresidential zoning district. The property is located on the southwest corner of W. 29<sup>th</sup> Street between Iowa Street and the Iowa Street frontage road. Submitted by David Hamby, P. E. with BG Consultants, Inc., for GLM LAND II, LLC, the property owner of record.

**ITEM NO. 3      APPEAL OF AN ADMINISTRATIVE DECISION WHICH FOUND THAT  
THE SITE IS CURRENTLY BEING UTILIZED FOR *MINING* USE; 5851  
Overland Drive**

**B-19-00393:** Consider an appeal filed by Matthew S. Gough, Barber Emerson, L.C., representing JAL LLC, LLC, property owner of record of the real property at 5851 Overland Drive. The appeal challenges an administrative determination issued by letter dated July 12, 2019, by the Planning & Development Services Director, which found that the site is currently being utilized for Mining use. The appeal was filed under the guidelines of Section 20-1311 in the Land Development Code of the City of Lawrence, Kansas, 2018 edition. Reasons for filing this appeal are cited by the

Deferred

appellant in their appeal packet dated July 25, 2019, and received in the Planning Office on July 26, 2019.

**ITEM NO. 4      MISCELLANEOUS**

- A.      Consider any other business to come before the Board.

**ITEM NO. 2      OUTDOOR LIGHT CONTAINMENT VARIANCE FOR A NEW AUTOMOTIVE  
SALES DISPLAY LOT; SW CORNER OF W. 29<sup>TH</sup> STREET AND IOWA STREET  
(2100 BLK OF W. 29<sup>TH</sup> TERR.) [KEW]**

**B-19-00333:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2018 edition. The request is for a variance from the Outdoor Lighting Standards relating to spillover light, which is listed in Section 20-1103(d)(3)(ii) of the City Code. This code provision states that spillover light from a development site shall not exceed 3 foot-candles measured at the lot line onto public street rights-of-way or other properties in a nonresidential zoning district. The property is located on the southwest corner of W. 29<sup>th</sup> Street between Iowa Street and the Iowa Street frontage road. Submitted by David Hamby, P. E. with BG Consultants, Inc., for AFAD, Inc., the property owner of record.

**B.      REASON FOR REQUEST**

*Applicant's Request – "A variance from Article 20-1103.d.3.ii is requested. That section of the code prohibits spillover light onto Public Street rights-of-way in a non-residential district from exceeding 3 foot-candles at the lot line. We request that the requirement be waived due to the unique situation on the site and the fact that the excess light at the lot line will only spill light onto public streets."*

**C.      ZONING AND LAND USE**

Current Zoning & Land Use:                      CS (Commercial Strip) District; vacated street right-of-way currently in turf grass

Surrounding Zoning and Land Use:              CS District in all directions; commercial uses in all directions.

**D.      ZONING ORDINANCE REQUIREMENTS**

All of Section 20-1103, "OUTDOOR LIGHTING", is shown below to provide context for the applicant's variance request. Section 20-1103(d)(3)(ii) is the specific code standard the applicant is requesting to vary, which limits spillover light to not exceed 3 foot-candles, measured at the lot line of the property in nonresidential zoning districts.

## 20-1103 OUTDOOR LIGHTING

### (a) Purpose

The outdoor lighting standards of this section are intended to eliminate spillover light and light glare on motor vehicle operators, pedestrians, and land uses near light sources. Safety considerations are a primary basis for the regulations, especially pedestrian, motor vehicle and traffic safety. In other cases, the regulations are intended to protect property values and the general welfare by controlling the nuisance aspects of glare or spillover light.

### (b) Applicability

The regulations of this section apply to all uses except:

- (1) [Public Street](#) lights, which are exempt from the standards of this section but are subject to all applicable standards of the Kansas Department of Transportation and the City of Lawrence Public Works Department;
- (2) residential uses, which are exempt from the outdoor lighting standards of this section except that spot lights or flood lights that create a glare on neighboring property are prohibited. [Off-Street Parking Lots](#) associated with residential uses are not exempt from the outdoor lighting standards of this section;
- (3) holiday lighting;
- (4) outdoor recreation uses, which are subject only to the standards of Section 20-1103(e); and
- (5) [Telecommunication Towers](#) and [Antennas](#).

### (c) Exterior Lighting (Photometric) Plan

#### (1) When Required

An outdoor lighting plan shall be submitted to the [Planning Director](#) whenever outdoor lighting is to be installed or whenever Site Plan Review is required. The lighting plan shall be reviewed to determine whether the proposed outdoor lighting complies with the standards of this section.

#### (2) Information Required

Outdoor lighting plans shall include a photometric plan and data on the types of lighting fixtures to be used. The photometric plan includes all of the following unless the [Planning Director](#) determines that a thorough review and determination is possible without such information:

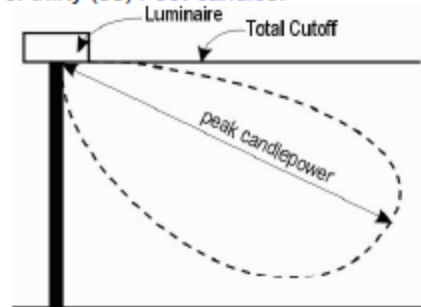
- (i) Scaled drawing of the site with all outdoor lighting fixture locations identified;
- (ii) Fixture specifications, such as catalog cut-sheets. The lighting fixture data shall be based on the photometric plan and shall indicate type of fixture, Height, shielding, luminaire type and wattage.
- (iii) Lamp type and size.

- (iv) A point-by-point illumination array for the major [Parking Area](#) or areas. The point-by-point array shall indicate site illumination along the [Lot Line](#) at 10-foot intervals and on the interior of the site at 20-foot intervals.

(d) **Lighting Standards**

(1) **Light Confinement**

- (i) All outdoor lights shall, to the maximum extent feasible, confine emitted light to the property on which the light is located and not be directed upwards toward the sky.
- (ii) All fixtures shall be cut-off fixtures that confine lighting to the subject site and shield the light source from view. Cut-off fixtures are not required when the luminaries are less than 150 watt incandescent.
- (iii) Under-Canopy or downcast, roof-mounted lights shall be recessed from the lowest point of the ceiling plane and shall not exceed a maximum of thirty (30) [Foot-candles](#).



(2) **Visible Light Sources**

Outdoor light sources that are visible within the normal range of vision from any R-zoned property are prohibited, unless the luminaries are less than 150 watt incandescent.

(3) **Spillover Light**

Spillover light is measured at [Grade](#) and is regulated as follows:

- (i) Spillover light onto R-zoned property may not exceed 0.2 [Foot-candles](#), measured at the residential [Lot Line](#).
- (ii) Spillover light onto [Public Street](#) rights-of-way or properties in a nonresidential [Zoning District](#) may not exceed 3 [Foot-candles](#), measured at the [Lot Line](#) of the illuminated site.
- (iii) When outdoor lighting is used on property that is across the Street from R-zoned property, the maximum illumination at the [Lot Line](#) (abutting the Street right-of-way) of the illuminated site may not exceed one [Foot-candle](#).

(e) **Special Standards for Outdoor Recreation Uses**

Because of their unique requirements for nighttime visibility and their limited hours of operation, outdoor recreation uses are exempt from the preceding outdoor lighting standards of this section. Instead, outdoor recreation uses are subject to the following standards:

- (1) Lights at outdoor recreation uses may not exceed a maximum permitted post height of 60 feet.
- (2) No flickering or flashing lights are permitted.
- (3) Lights may not be illuminated after 11:30 p.m.
- (4) As-built lighting and photometric plans are required.
- (5) Lighting shall be designed, to the maximum extent feasible, to minimize adverse impacts on traffic safety and nuisance impacts on R-zoned property. Mitigation can be required via extra Landscaping, earlier shut-off times for the lights, cutoff fixtures (where feasible) and other techniques.

**E. SPECIFIC ANALYSIS**

Section 20-1309(g)(1) in the Land Development Code lists the five requisite conditions that have to be met for a variance to be approved.

**1. The variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zone or district; and are not created by an action or actions of the property owner or applicant.**

Applicant response: *"The property is unique in that the existing dimensions limit how the parcel can be lit with lights. The parcel was obtained by the property owner from KDOT in 2012. KDOT determined the dimensions of the property. The existing width of the property is 36.75' which is not ordinarily found in the same zoning district. The existing width of 36.75' creates a situation where the proposed lights will have spillover greater than the 3 foot-candles allowed at the lot line."*

The subject property was formerly public right-of-way for Iowa Street/U.S. 59 Highway. In 2012, the former property owner initiated contact with Kansas Department of Transportation (KDOT) and the City of Lawrence with interest in acquiring some of the public right-of-way for a car display lot. The decision was made by KDOT officials to sell a portion of the public right-of-way, which is now the subject of this variance request. The variance request is directly tied to actions of the previous property owner by virtue of their initiating and pursuing the purchase of some of the public right-of-way. Had this parcel not been sold but retained as public right-of-way this variance request would not be possible.

Finding – The property was created through the sale of a piece of the Iowa Street/U.S. 59 Highway right-of-way by KDOT. The former property owner pursued the sale of this property from KDOT with the intention to use it as a display lot for cars. The variance request is a direct result of the actions of the property owners, former and present. The current property owner has acquired this parcel with the purchase of the car dealership and wishes to also utilize this acquired property for the same purpose that the property was acquired, to display vehicles. The previous property owner also requested a variance from the spillover light requirements in 2016, (B-16-00338). This variance request was ultimately withdrawn by the applicant prior to the November 2016 meeting. The current property owner now wishes

to pursue the modifications on the site to include a vehicle display area on the parcel and has re-applied for the variance from the lighting requirements specified in the application. The variance request is the same as was requested in 2016 but has not been heard by the board.

**2. That the granting of the variance will not adversely affect the rights of adjacent property owners or residents.**

Applicant response: *"Granting the variance will not adversely affect the rights of adjacent property owners as the spillover light will only be located on the public rights-of-way adjacent to the lot line."*

In staff's opinion, granting the requested variance to let spillover light surpass the code standard 3 foot-candle maximum at the property line will not adversely affect the rights of adjacent property owners or residents. The applicant's lighting plan displays the proposed light distribution pattern, which primarily shows excess spillover light will be to the west of the parcel where the frontage road exists. This design is the same design that was presented in 2016 with the previous site plan and variance request. Because the property is surrounded by other commercial development there are no residential dwellers who will be impacted by the brighter light pattern. The most directly affected property is the automotive dealership (Honda), also owned by the applicant; the display lot to the east of their building, which may benefit from the additional illumination coming from this project.

Finding - Granting the variance to let spillover light surpass the code standard 3 foot-candle maximum at the property line will not have any adverse effect upon the rights of adjacent property owners or residents.

**3. That the strict application of the provisions of this chapter for which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**

Applicant response: *"Strict application of the code will prevent the applicant from sufficiently lighting his property. We have looked at various alternatives to meet the code and worked with the lighting manufacturer's to develop an adequate solution but it is not possible to meet the code requirements on this site."*

In staff's opinion, strict adherence to the code standard may be a hardship for the property owner. The proposed lighting plan shows light amounts ranging from 6 to 26 foot-candles along the west property line (east edge of the frontage road). These readings still exceed the code standard along the west side of the frontage road, although they are less intense. While it may be difficult to retain spillover light dispersion so it does not exceed the maximum 3 foot-candles code standard past the property line, other lighting options available to the applicant that do a better job of containing more light from leaving the property. There should be many options for light fixtures, internal and external fixture shields for light containment, adjustable lens angles, light pole heights, etc. that can be used to reduce the amount of spillover light.

Finding - Strict adherence to the 3 foot-candle code standard for spillover light beyond the property line may be an unnecessary hardship for the property owner. However, what is proposed by the property owner is not acceptable and other design options may exist to satisfy the Land Development Code and applicant's need to utilize the parcel for the intended purpose.

**4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.**

Applicant response: *"If the variance was granted there would be no adverse effects and the additional light would actually create more visibility at night on the adjacent public streets."*

In staff's opinion, granting the variance will allow too much outdoor light beyond the property boundaries onto the adjacent frontage road and property on the west side of the frontage road, which may result in an adverse effect to the public health, safety, morals, order, convenience, prosperity or general welfare. The brighter light illumination may create a nuisance factor for nearby property owners and it could also be a distraction for motorists. If granted, other commercial property owners in this area may want to do the same thing with their outdoor site lighting, which is counterproductive to the community's goal of eliminating light glare and spillover light on motor vehicle operators, pedestrians, and nearby land uses.

Finding - Granting the variance, as requested, will have an adverse effect on the public health, safety, morals, order, convenience, prosperity or general welfare.

**5. That granting the variance desired will not be opposed to the general spirit and intent of this chapter.**

Applicant response: *"The purpose of the code as stated in Article 20-1103.a is primarily for safety considerations. The granting of the variance will actually provide a safer situation than not allowing lighting on the lot. The additional light will not have an adverse effect on safety."*

In staff's opinion, the proposed lighting plan for the car display lot does not meet the general spirit and intent of the Land Development Code. The applicant's plan shows lighting levels approximately 2-9 times more than the code permits just off the west property line of this site. Reducing the amount of spillover light to a level much closer to the code compliant level of 3 foot-candles is necessary for the project to be consistent with the general spirit and intent of the code.

Finding - The applicant's lighting plan does not meet the general spirit and intent of the development code. The spillover lighting shown on the plan ranges from 4-10 times the code allowed maximum of 3 foot-candles.

**Conclusions:**

Staff's analysis concludes the variance request does not meet the five conditions set forth in Section 20-1309(g)(1) of the Land Development Code which the Board must find present to grant a variance for the building setbacks. Specifically, the applicant's request does not meet the stated purpose of conditions 1, 4, and 5.



**Recommendation:**

Staff recommends denial of the variance for spillover outdoor site lights exceeding the code maximum 3 foot-candles measured at the lot line based upon the findings in the staff report that conclude this request does not meet the 5 conditions outlined in Section 20-1309(g)(1) required for variance approval.



6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

## Hardship Variance Packet



**City of Lawrence  
Douglas County**  
PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County  
Metropolitan Planning Office**  
6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

**Description of variance requested:**

A variance from Article 20-1103.d.3.ii is requested. That section of the code prohibits spillover light onto Public Street rights-of-way in a non-residential district from exceeding 3 foot-candles at the lot line. We request that the requirement be waived due to the unique situation of the site and the fact that the excess light at the lot line will only spill light onto public streets.



### UNNECESSARY HARDSHIP CRITERIA

The Board of Zoning Appeals may approve a zoning variance if it finds that all of the following criteria have been met. The Development Code places the burden on the applicant to show that an application complies with such criteria. Please respond to each criterion to the best of your knowledge. (Attach additional sheets if needed.)

**1. That the variance request arises from such conditions which are unique to the property in question and not ordinarily found in the same zoning or district and are not created by action(s) of the property owner or applicant:**

The property is unique in that the existing dimensions limit how the parcel can be lit with lights. The parcel was obtained from the previous property owner from KDOT in 2012. KDOT determined the dimensions of the property. The existing width of the property is 36.75' which is not ordinarily found in the same zoning district. The existing width of 36.75' creates a situation where the proposed lights will have spillover greater than the 3 foot-candles allowed at the lot line.

**2. That granting the variance would not adversely affect the rights of adjacent property owners or residents:**

Granting the variance will not adversely affect the rights of adjacent property owners as the spillover light will only be located on the public rights-of-way adjacent to the lot line.



**3. That strict application of the provisions of this chapter for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application:**

Strict application of the code will prevent the applicant from sufficiently lighting his property. We have looked at various alternatives to meet the code and worked with the lighting manufacturer's to develop an adequate solution but it is not possible to meet the code requirements on this site.

**4. That the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare:**

If the variance was granted there would be no adverse affects and the additional light would actually create more visibility at night on the adjacent public streets.



City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

**Lawrence Douglas County  
Metropolitan Planning Office**  
6 East 6<sup>th</sup> Street, P.O. Box 708, Lawrence, KS 66044  
(785) 832-3150 Fax (785) 832-3160  
<http://www.lawrenceks.org/pds/>

**5. That granting the variance desired would not be opposed to the general spirit and intent of the Development Code:**

The purpose of the code as stated in Article 20-1103.a is primarily for safety considerations. The granting of the  
variance will actually provide a safer situation than not allowing lighting on this lot. The additional light will not  
have an adverse affect on safety.

**SIGNATURE**

I/We, the undersigned am/are the **(owner(s))**, **(duly authorized agent)**, **(Circle One)** of the  
aforementioned property. By execution of my/our signature, I/we do hereby officially apply for  
variances as indicated above.

Signature(s):  Date 6/24/19

\_\_\_\_\_  
Date \_\_\_\_\_

\_\_\_\_\_  
Date \_\_\_\_\_

**STAFF USE ONLY**

Application No. \_\_\_\_\_

Date Received \_\_\_\_\_

BZA Date \_\_\_\_\_

Fee \$ \_\_\_\_\_

Date Fee Paid \_\_\_\_\_



### PROPERTY OWNERSHIP LIST CERTIFICATION

As required by Article 13, Section 20-1301(q) of the Development Code, the applicant is responsible for providing certified Ownership information (including names and mailing addresses) of all real property owners within a defined radius from the subject property. The Planning Department is required by the Development Code to use the submitted Ownership list to mail notice of the public hearing to surrounding property owners regarding this Application.

#### Ownership Information

The applicant is responsible for providing certified Ownership information. Current Ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if it is **no more than 30 days old** at the time an application is submitted to the Planning Department.

#### Radius of Notification

The Ownership list shall include the record Owner of the subject property and all Owners of property located within 400 feet of the subject property. If the subject property is adjacent to the City limits the area of notification shall be extended to at least 1,000 feet into the unincorporated area.

A map of the "Radius of Notification" can be obtained **at the Applicant's request** at the Planning Office. The map indicates ownership of each property and can be used to check the accuracy and completeness of the Ownership List. The map will be supplied **at the Applicant's expense. Allow 10 business days** to receive the map.

#### THE FOLLOWING IS TO BE COMPLETED AND SUBMITTED BY THE APPLICANT.

I certify that I have read and understood the above information and that the submitted Ownership list:

1. was a) obtained from and b) certified by the Douglas County Clerk,
2. is current (**no more than 30 days old**), and
3. includes all property owners within the required notification radius of the subject property.

  
\_\_\_\_\_  
Signature

6/24/19  
\_\_\_\_\_  
Date

David J. Hamby  
\_\_\_\_\_  
Printed Name

#### Legal Description

A tract of land in Lot 1, Replat of Lot 6, Auto Plaza Subdivision, according to the recorded plat thereof, situated in the Southeast Quarter of Section 11, Township 13 South, Range 19 East of the 6th P.M., described as follows: BEGINNING at the Southeast corner of said Lot 1; FIRST COURSE, thence on an assumed bearing of North 88 degrees 00 minutes 08 seconds West, 36.75 feet along the South line of said Lot; SECOND COURSE, thence North 02 degrees 18 minutes 24 seconds East, 222.19 feet; THIRD COURSE, thence South 87 degrees 41 minutes 36 seconds East, 36.75 feet to the East line of said Lot; FOURTH COURSE, thence South 02 degrees 18 minutes 24 seconds West a distance of 221.99 feet along said East line to the POINT OF BEGINNING. The above described tract contains 8162 square feet, more or less.





### OWNER AUTHORIZATION

I/WE Greg Maurer, GLM LAND II LLC, hereby referred to as the "Undersigned", being of lawful age, do hereby on this 28<sup>th</sup> day of June, 2019, make the following statements to wit:

1. I/We the Undersigned, on the date first above written, am/are the lawful owner(s) in fee simple absolute of the following described real property:

See "Exhibit A, Legal Description" attached hereto and incorporated herein by reference.

2. I/We the undersigned, have previously authorized and hereby authorize BG Consultants, Inc. (David Hamby) (Herein referred to as "Applicant"), to act on my/our behalf for the purpose of making application with the Planning Office of Lawrence/Douglas County, Kansas, regarding 2901 Iowa Street, Lawrence (common address), the subject property, or portion thereof. Such authorization includes, but is not limited to, all acts or things whatsoever necessarily required of Applicant in the application process.
3. It is understood that in the event the Undersigned is a corporation or partnership then the individual whose signature appears below for and on behalf of the corporation or partnership has in fact the authority to so bind the corporation or partnership to the terms and statements contained within this instrument.

IN WITNESS THEREOF, I, the Undersigned, have set my hand and seal below.

Greg Maurer  
Owner

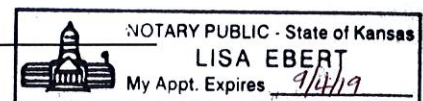
Owner

STATE OF KANSAS  
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on this 28<sup>th</sup> day of JUNE, 2019,  
by LISA EBERT.

My Commission Expires: 9/4/19

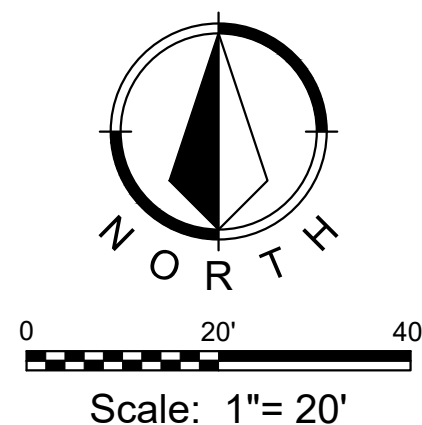
Lisa Ebert  
Notary Public



## Legal Description

A tract of land in Lot 1, Replat of Lot 6, Auto Plaza Subdivision, according to the recorded plat thereof, situated in the Southeast Quarter of Section 11, Township 13 South, Range 19 East of the 6th P.M., described as follows: BEGINNING at the Southeast corner of said Lot 1; FIRST COURSE, thence on an assumed bearing of North 88 degrees 00 minutes 08 seconds West, 36.75 feet along the South line of said Lot; SECOND COURSE, thence North 02 degrees 18 minutes 24 seconds East, 222.19 feet; THIRD COURSE, thence South 87 degrees 41 minutes 36 seconds East, 36.75 feet to the East line of said Lot; FOURTH COURSE, thence South 02 degrees 18 minutes 24 seconds West a distance of 221.99 feet along said East line to the POINT OF BEGINNING. The above described tract contains 8162 square feet, more or less.





## OWNER/APPLICANT

GLM LAND II LLC  
2840 IOWA STREET  
LAWRENCE, KS 66046

## ENGINEER

DAVID J. HAMBY, P.E. (KS #15594)  
BG CONSULTANTS, INC.  
1405 WAKARUSA DRIVE  
LAWRENCE, KS 66049  
785.749.4474

## LEGAL DESCRIPTION

A TRACT OF LAND IN LOT 6, REPLAT OF LOT 6, AUTO PLAZA SUBDIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, SITUATED IN THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 13 SOUTH, RANGE 19 EAST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1; FIRST COURSE, THENCE ON AN ASSUMED BEARING OF NORTH 88 DEGREES 00 MINUTES 08 SECONDS WEST, 36.75 FEET ALONG THE SOUTH LINE OF SAID LOT, SECOND COURSE, THENCE NORTH 02 DEGREES 18 MINUTES 24 SECONDS WEST, 36.75 FEET ALONG THE WEST LINE OF SAID LOT, THIRD COURSE, THENCE SOUTH 36 SECONDS EAST, 36.75 FEET TO THE EAST LINE OF SAID LOT; FOURTH COURSE, THENCE SOUTH 02 DEGREES 18 MINUTES 24 SECONDS WEST A DISTANCE OF 221.99 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED TRACT CONTAINS 8162 SQUARE FEET, MORE OR LESS.

## FLOODPLAIN DATA

THE SUBJECT PROPERTY IS NOT LOCATED WITHIN THE 100 YEAR FLOODPLAIN. RE: THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL INSURANCE ADMINISTRATION PUBLICATIONS: FLOOD INSURANCE RATE MAP, MAP NUMBERS 20045C0167D, EFFECTIVE DATE AUGUST 5, 2010.

## GENERAL NOTES

1. TOPOGRAPHIC INFORMATION SHOWN HEREON WAS DERIVED FROM ACTUAL FIELD SURVEY.
2. THIS DOCUMENT IS FOR PLAN APPROVAL NOT FOR CONSTRUCTION.
3. CITY OF LAWRENCE SHALL NOT BE RESPONSIBLE FOR PAVEMENT DAMAGE DUE TO THE WEIGHT OF REFUSE COLLECTION VEHICLES.
4. APPROVAL OF PROPOSED LIGHTING SHALL REQUIRE THE SUBMISSION AND APPROVAL OF A PHOTOMETRIC PLAN SUBJECT TO SECTION 200-1103 OF THE LAND DEVELOPMENT CODE.
5. ACCESS TO THE DISPLAY AREA SHALL ONLY BE FROM THE FRONTAGE ROAD WHERE TYPE II CURB AND GUTTER IS LOCATED AND NOT WITHIN 10' OF THE EXISTING STORM SEWER INLET.

## BUILDING INFORMATION

NO BUILDING PROPOSED

## PARKING DATA

- 0 REQUIRED STALLS  
 DISPLAY AREA IS ACCESSORY USE TO ADJACENT CAR DEALERSHIPS  
 0 REQUIRED BICYCLE PARKING SPACES

SITE CHARACTERISTICS TABLE:




EXISTING BUILDINGS	0	S.F.	PROPOSED BUILDINGS	0	S.F.
EXISTING PAVEMENT	0	S.F.	PROPOSED PAVEMENT	0	S.F.
EXISTING IMPERVIOUS	0	S.F.	PROPOSED IMPERVIOUS	0	S.F.
EXISTING PERVIOUS	8,162	S.F.	PROPOSED PERVIOUS	8,162	S.F.
PROPERTY AREA	8,162	S.F.			

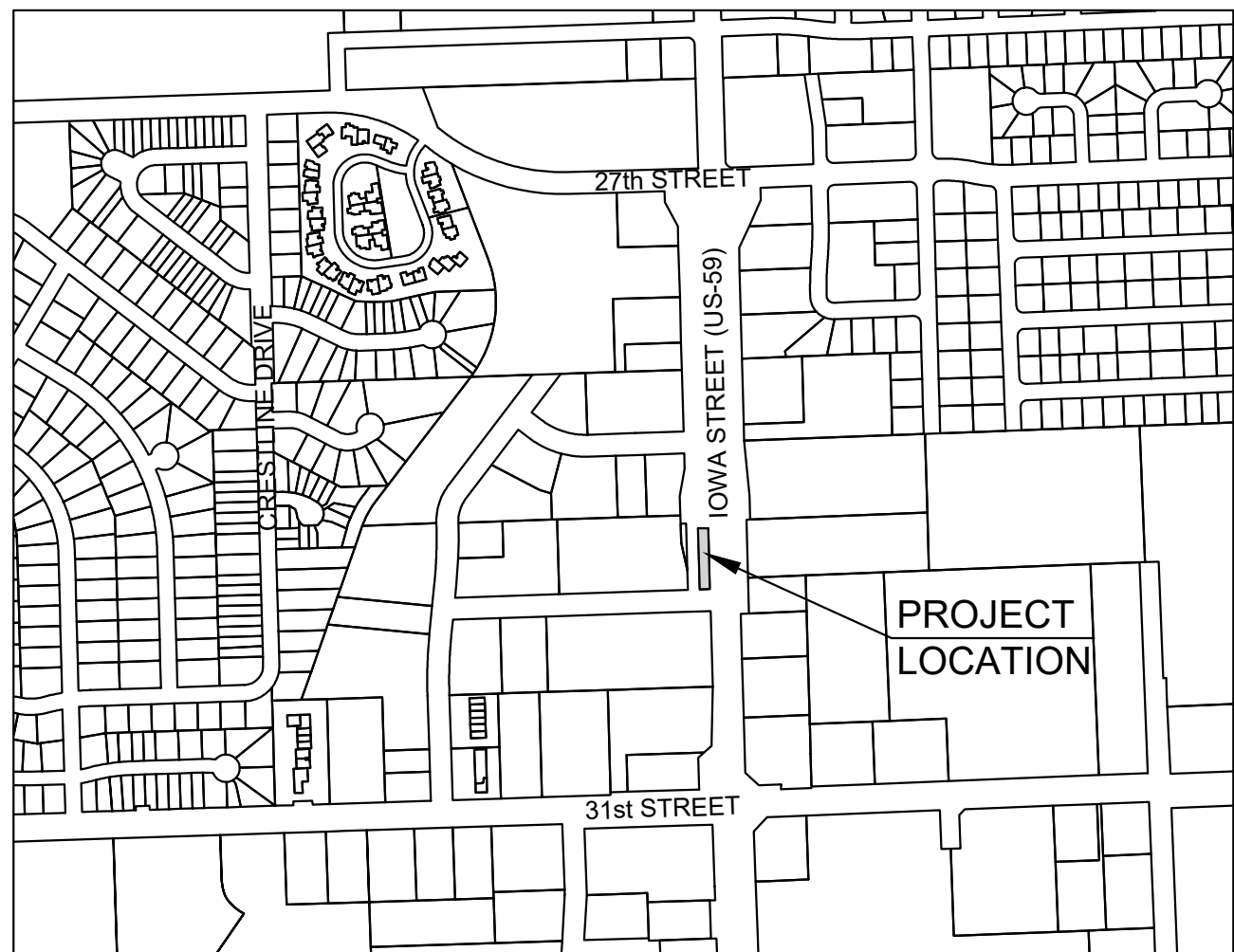
## ZONING AND DENSITY

THE CURRENT ZONING FOR THE PROPERTY IS CS.

## INTERIOR PARKING LOT LANDSCAPING

- 20 STALLS \* 40 S.F./STALL = 800 S.F. REQUIRED  
3,792 S.F. PROVIDED
- 1 SHADE TREE AND 3 SHRUBS REQUIRED PER 10 PARKING SPACES  
2 TREES AND 6 SHRUBS REQUIRED  
1 SHADE TREE AND 6 SHRUBS PROVIDED FOR INTERIOR PARKING LOT  
LANDSCAPING PLUS EXISTING VEGETATION

COMMON NAME	SCIENTIFIC NAME	SYMBOL	SIZE	QTY	MATURE HT.
HOLBERT JUNIPER	JUNIPERUS CHINENSIS 'HOLBERT'		2 GALLON 6" HIGH(min.)	6	2'
PYRAMIDAL HORNBEAM	CARPINUS BETULUS 'FASTIGIATA'		10 GALLON	2	30'
JAPANESE ZELKOVA	ZELKOVA SERRATA 'GREEN VASE'		2.5" CALIPER	6	60'



## LOCATION MAP

**Approved and Released**



City of Lawrence  
Douglas County  
PLANNING & DEVELOPMENT SERVICES

Case No. \_\_\_\_\_  
Approval Date: \_\_\_\_\_  
Release Date: \_\_\_\_\_  
Planner: \_\_\_\_\_  
\_\_\_\_\_ of \_\_\_\_\_ Sheets  
Asst./Director: \_\_\_\_\_

**LAWRENCE BOARD OF ZONING APPEALS**  
**Meeting Minutes of November 3, 2016 – 6:30 p.m.**

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Members present: Clark, Gascon, Holley, Mahoney, Wilbur  
Staff present: Cargill, Crick, Guntert

**ITEM NO. 1      COMMUNICATIONS**

- a) Acknowledged communications that were included in the packet.
- b) There were no Board member disclosures of any ex parte contacts and/or abstentions from the discussion and vote on any agenda item under consideration.
- c) Announced that agenda item 3 had been withdrawn by the applicant; and, item 5 will be deferred from consideration at the request of the applicant.

**ELECTION OF OFFICERS FOR 2016-2017- deferred**

Accept nominations for and elect Chair and Vice-Chair for the coming year.

**ACTION TAKEN**

Motioned by Holley, seconded by Gascon, to elect Josh Mahoney as Chair.

Unanimously approved 5-0.

Motioned by Gascon, seconded by Wilbur to elect Jonathan Holley as Vice Chair.

Unanimously approved 5-0.

**ITEM NO. 2      MINUTES**

Consider approval of the minutes from the October 6, 2016 meeting of the Board.

**ACTION TAKEN**

Motioned by Holley, seconded by Wilbur, to approve the minutes from the October 6, 2016 meeting of the Board.

Motion carried 4-0-1; Gascon abstained.

**BEGIN PUBLIC HEARING:**

**ITEM NO. 3      OUTDOOR LIGHT CONTAINMENT VARIANCE FOR A NEW AUTOMOTIVE SALES DISPLAY LOT; SW CORNER OF W. 29<sup>TH</sup> STREET AND IOWA STREET [DRG]**

**B-16-00338:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance from the Outdoor Lighting Standards relating to Spillover Light, which is listed in Section 20-1103(d)(3)(ii) of the City Code. This code provision states that spillover light from a development site shall not exceed 1 foot-candles measured at the lot line onto public street rights-of-way or other properties in a nonresidential zoning district. The property is located on the southwest corner of W. 29<sup>th</sup> Street between Iowa Street and the Iowa Street frontage road. Submitted by David Hamby, P. E. with BG Consultants, Inc., for AFAD, Inc., the property owner of record. Deferred from the September 1<sup>st</sup> and October 6<sup>th</sup> meetings by the applicant.

**ITEM NO. 4      AUTOMOTIVE SALES DISPLAY AREA VARIANCE FROM A PUBLIC STREET RIGHT-OF-WAY; 2851 IOWA STREET [JSC]**

**B-16-00339:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance to reduce the code required 15 feet minimum off-street parking area setback from public street rights-of-way, which is required in Section 20-908(c) of the City Code, to a minimum of 0 feet along the property's frontage on W. 28<sup>th</sup> Terrace and Iowa Street frontage road. The property is located at 2851 Iowa Street. Submitted by David Hamby, P. E. with BG Consultants, Inc., for AFAD, Inc., the property owner of record. Deferred from the September 1<sup>st</sup> and October 6<sup>th</sup> meetings by the applicant.

**STAFF PRESENTATION**

Crick presented the item.

Mahoney asked if staff would recommend approval with an amendment to the parcel line.

Crick said staff would not approve because the addition of the land would allow space for additional vehicle parking and would still need to comply with the 15 feet setback.

Clark asked for clarification as to what the applicant was requesting the Board to approve.

Crick explained using the figures in his presentation.

Wilbur asked what the setbacks are for the two variances approved under the 2006 code.

Crick explained the history of those properties, noting the east and west sides of Iowa Street have different right-of-way due to the frontage roads.

Wilbur asked what the setbacks are for the two properties.

Crick said 14-15 feet for both.

Wilbur asked if the current request is for a zero foot setback.

Crick said that was correct.

Gascon asked what staff believes the purpose was for the setback in this location.

Crick said it's mainly for consistency along the frontage road, but typically they're installed to accommodate any road widening.

Gascon asked if there's a chance for road widening in this location.

Crick said he couldn't speak for the City Engineer but it didn't seem likely.

Mahoney disagreed.

Clark asked if this can be used as traditional parking as opposed to a display.

Crick said the code interprets both scenarios the same.



## **APPLICANT PRESENTATION**

Mr. David Hamby, BG Consultants, explained the variance request. He mentioned the setbacks for surrounding properties, particularly the other dealerships in the area.

Mr. Russ Briggs, property owner, explained that their alternative was to raze the building and use all of the property for display parking. He said that alternative was not desirable.

Gascon asked how much they pay in property tax.

Briggs did not know what it was for this property but thought it was about \$700,000 a year he paid to the county for all of his businesses in Lawrence.

Wilbur asked when Briggs purchased the property.

Briggs said a little less than a year ago.

## **No public comment**

## **ACTION TAKEN**

Motioned by Holley, seconded by Wilbur, to close public comment for the item.

Unanimously approved 5-0.

## **BOARD DISCUSSION**

Mahoney said he particularly likes when people use existing structures, but he is struggling to meet all five conditions. He believes this request met the condition of uniqueness.

They discussed which criteria they felt the variance did and did not meet. They were mostly hung up on the unnecessary hardship criteria.

Gascon felt the alternative to demolish the building was unnecessary.

Mahoney questioned whether that was the only alternative, and enough to grant a variance.

Clark said the property was purchased a year ago with the knowledge that a variance would be needed to meet their needs. He thought that should be taken into consideration. There should be conditions tied to this variance and use if it was approved.

Gascon said that seemed reasonable.

Crick said the request is for a parking setback, not a building setback.

Mahoney questioned whether another owner in the future could make the display parking area into traditional parking. He asked staff if the variance could be tied only to its current ownership.

Guntert said variances run with the land and not ownership. If in the future the property was redeveloped, the developer would be expected to comply with the applicable development code standards in effect at that time.

Holley said he could support the variance with a condition tied to future redevelopment of the property.

### **ACTION TAKEN**

Motioned by Holley, seconded by Gascon, to approve the variance request based on meeting all five conditions with a condition that the variance is tied to the east structure and any redevelopment will nullify the variance.

Motion carried 4-1 with Clark dissenting.

### **ITEM NO. 5      VARIANCE FROM THE MAXIMUM ACCESSORY DWELLING UNIT SIZE; 1535 MASSACHUSETTS STREET [JSC]**

**B-16-00440:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance from the code permitted maximum size accessory dwelling unit in a residential dwelling structure defined in Section 20-534(2)(ix) of the City Code. The code standard limits the size of an accessory dwelling unit to not more than 33 percent of the living area of the primary dwelling or 960 square feet, whichever is less. The proposed size of the accessory dwelling unit is 960 square feet. The living area in the principal dwelling is 2,106 square feet which limits the size of an accessory dwelling unit to 695 square feet. The property is located at 1535 Massachusetts Street. Submitted by Leticia Cole with Paul Werner Architects for Joann E. Qandil, the property owner of record.

### **ITEM NO. 6      PERIMETER BUILDING SETBACK VARIANCE FOR ARTERRA EVENT GALLERY; 2161 QUAIL CREEK DRIVE [DRG]**

**B-16-00441:** A request for a variance as provided in Section 20-1309 of the Land Development Code of the City of Lawrence, Kansas, 2015 edition. The request is for a variance from the minimum 30 feet perimeter building setback requirement from the boundary of a planned commercial development district (approved under the terms and conditions of the previous zoning code) as required by reference in Section 20-222(e) of the City Code. The applicant seeks variance approval to reduce the perimeter building setback to a minimum of 10 feet from the west property boundary so they can build an addition on the west side of the existing commercial structure. The property is located at 2161 Quail Creek Drive. Submitted by Allen Belot, Allen Belot Architects, for Arterra, LLC, the property owner of record.

### **STAFF PRESENTATION**

Guntert presented the item.

### **APPLICANT PRESENTATION**

Mr. Allen Belot explained why the original variance expired before work began, and recapped the reason for the variance request.

### **No public comment**

### **ACTION TAKEN**

Motioned by Gascon, seconded by Holley, to close public comment for the item.

Unanimously approved 5-0.

### **BOARD DISCUSSION**

Mahoney said he understands the concern from one neighbor but doesn't feel the variance contributes to those concerns.

**ACTION TAKEN**

Motioned by Wilbur, seconded by Holley, to approve the variance based upon staff's findings and recommendation that the request meets the required conditions necessary to grant a variance from the development code.

Unanimously approved 5-0.

**ITEM NO. 7 MISCELLANEOUS**

a) No other business to come before the Board.

**ADJOURN 7:23 PM**





Board of Zoning Appeals  
Lawrence, Kansas

August 30, 2019

Re: B-19-00333 (2100 Block of W. 29<sup>th</sup> Terr.)

Dear Board Members:

We have reviewed the staff report prepared by City staff and appreciate the effort that went into the report. We have prepared the following information below to help the Board understand the difficulties in meeting the lighting requirements of the City Code on this unique property.

**Supplemental Information**

- The fixtures are proposed to be installed on 20' tall poles, which are shorter than most in similar applications, specifically to help reduce light trespass and limit lighting power used.
- These fixtures are designed with a Type II (wide/shallow forward throw) light distribution pattern, and already have an internal back-light shield installed to limit light spill behind (east) of the fixtures, which is evidenced by the lighting at the east property line being well below the 3.0 footcandle level. Factory shields (internal or external) are not available to limit the forward throw of the fixtures. The only shielding option for the fixtures would be a field-fabricated external shield that would likely void the manufacturer's fixture warranty.
- Per Condition #3, in order to achieve the IES-recommended lighting levels for the display of front-line automobiles in this environment (an already bright commercial district), the only other possible lighting solutions might be:
  - Having more, shorter poles with lower wattage fixtures, reducing the effectiveness of the lighting due to shallow lighting angles and increasing the cost and energy usage.
  - Using adjustable flood-light style fixtures with barn-door style external shields to shape the light pattern. These shields are not designed for this type of rough service (up in the air on a pole) and are not sufficiently durable to provide a maintainable long-term solution to light trespass. The proposed solution is a fixed fixture/pattern that is not subject to movement and future changes like a flood light with barn doors is.
  - The Owner and Engineer considered other fixtures, shields, angles, pole heights, etc. prior to submitting this application, and came to the conclusion that there are not other reasonable options to light this unique site that are sufficiently functional and durable.
- Per Condition #4, while the proposed lighting levels at the west property line are above the 3.0 footcandle light trespass allowed by the ordinance, they are in fact less bright than the lighting levels seen at the same distance from the street-side property lines of other auto dealerships in the area. The uniqueness of this proposed installation is not in the lighting levels, but rather in the location of the back property line and the frontage road. Therefore, the lighting levels are not unique to the area and will not seem out of place in context. They will seem no different to adjacent property owners or passing motorists than the lighting on other properties in the area, and thus will not introduce a new or unique distraction.
- Also per Condition #4, this proposed lighting installation does not set a precedent for other property owners in the area, because there is not a similar property occupying former KDOT Right-of-Way between Iowa and the frontage road.

- Per Condition #5, the spirit and intent of this chapter are to prevent creation of light trespass that would be objectionable to the public and to adjacent property owners. The lighting proposed (fixture types and illumination levels) is typical for the area in which it will be installed (in the area of multiple auto dealerships). The public and surrounding property owners expect property in this area to be used to display autos for sale. Since the use of the site is consistent with expectations for the area, any trespass is not likely to be considered unusual or objectionable by adjacent property owners or passing motorists. The spirit of the code in this context should be to prevent installations that are out of line with the surrounding areas and uses, rather than applying a single lighting value (3.0 footcandles) without regard to the specific location or context. The proposed site plan meets this spirit.

Thank you for your time in reviewing this additional information. I will be available at the meeting to answer any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. J. Hamby', with a stylized flourish at the end.

David J. Hamby, P.E., CFM  
Vice President