**Wichita-Sedgwick County Metropolitan Area Planning Department**

8 June 2018

David Mollhagen
Ashby Street Outdoor, LLC
2901 S. Kansas Ave.
Wichita, KS 67216

**RE: BZA2018-00027 – City modified site plan review for an approved variance (BZA2017-00046) for an off-site sign relocation; generally located about one-quarter mile west of South West Street and less than a quarter mile south of West Kellogg (US-54 (4424 W. Irving St.).**

Dear Mr. Mollhagen,

At its regular meeting on **June 7, 2018**, the Wichita - Sedgwick County Board of Zoning Appeals considered the above captioned request. The action of the BZA was to **APPROVE** the request.

Enclosed is a signed copy of the above referenced BZA Resolution adopted by the Board of Zoning Appeals. This resolution reflects the official actions of the Board and is forwarded for your information and files.

This is a reminder that the zoning notification signs should now be removed from the property. If you have any questions concerning this application, please contact our office at 268-4421.

Sincerely,

Kyle C Kobe

Kyle C. Kobe
Associate Planner

Copies to: MABCD
Kansas Candy and Tobacco Inc., Scott Larkin, 4430 W. 29th Cir. South.

**BZA RESOLUTION NO. BZA2018-00027**

**WHEREAS**, David Mollhagen (Agent), on behalf of Kansas Candy and Tobacco Inc. (Applicant); pursuant to Kansas Statutes Annotated 12-759, requests a Variance to a modification of an approved site plan to relocate a billboard at 4424 West Irving and legally described as follows:

Legal Description: Lot 3, Except the west 23 feet thereof and the abandoned railroad right of way adjacent on the north, Block 1, West 54 Industrial Addition to the City of Wichita, Sedgwick County, Kansas.

**WHEREAS,** proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

**WHEREAS**, the Board of Zoning Appeals did, at the meeting of June 7, 2018, consider said application; and

**WHEREAS**, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Kansas Statutes Annotated 12-759 *et. seq.*; and

**WHEREAS,** this situation is unique to this property because the Kansas Department of Transportation acquired part of this property for additional right of way area for Kellogg. During the acquisition, Clear Channel Outdoor negotiated an agreement with KDOT and the property owner for the property owner to keep a part of the lot to use for the replacement of the offsite sign. This unique situation was not caused by Clear Channel Outdoor or the property owner and is unique to this property.

**WHEREAS,** there were several off-site signs on the property for many years that were condemned per KDOT's expansion of Kellogg. There is not residential property that is close to this sign. This is a commercial and industrial area with numerous signs and both commercial and industrial uses. The property owner adjacent to this parcel to the north is KDOT.

**WHEREAS,** Clear Channel negotiated an agreement with KDOT and the property owner in good faith to re-build the sign on the parcel that remains. With the taking of the lot, the parcel became a through lot. The property owner would have had a completely different position if they knew an off-site sign could not be constructed on the reconfigured parcel.

**WHEREAS,** there were off-site signs in place and had been for decades. This area has been developed as an industrial area and is suited for the continuance of the off-site sign. It would be a detriment to the prosperity of the property owner to not be able to continue with the best use practices for his parcel.

**WHEREAS,** approval of this application will not violate the spirit and intent of the sign code as there are several off-site signs along the Kellogg corridor.

**WHEREAS,** each of the five conditions required by Kansas Statutes Annotated 12-759, are found to be present for a variance to be granted.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals, pursuant to Kansas Statutes Annotated 12-759, a Variance to allow a modification of an approved site plan to relocate a billboard at 4424 West Irving and legally described as follows:

Legal Description: Lot 3, Except the west 23 feet thereof and the abandoned railroad right of way adjacent on the north, Block 1, West 54 Industrial Addition to the City of Wichita, Sedgwick County, Kansas.

The variances are hereby GRANTED, subject to the following conditions:

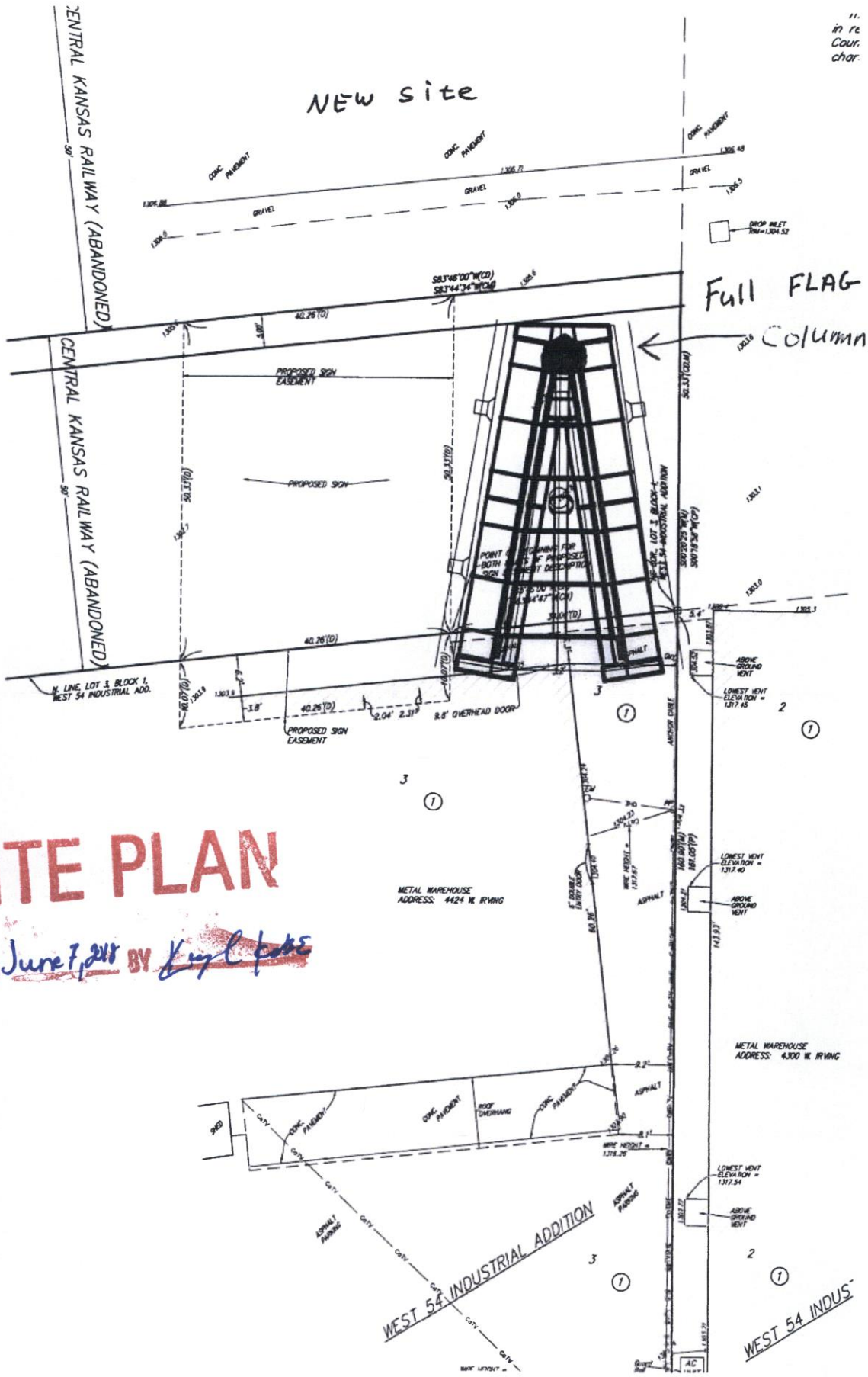
- The site shall be constructed in substantial conformance with the approved site plan.
- The applicant shall obtain all permits necessary for the billboard sign within one year of the issuance of this variance, and develop the sign in accordance with all relevant codes pertaining to signage in the City of Wichita.

ADOPTED AT WICHITA, KANSAS, this 7th Day of June 2018.

BZA Board Chair, Joseph A. Johnson

ATTEST:

David L. Yearout,
BZA Secretary




# SITE PLAN

APPROVED June 7, 2018 BY Kay L Cooke

The Wichita Eagle
Kansas.com
825 E. Douglas | Wichita, KS 67202 | 316-268-6000



# LEGAL PROOF OF PUBLICATION

| Account # | Ad Number | Identification | PO | Amount | Cols | Lines |
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| 453868 | 0003664785 | Published in the Wichita Eagle on May 17, 2018 ( | | $33.60 | 1 | 56 |

**Attention:** ana lopez

CITY OF WICHITA/PLANNING DEPT
271 WEST THIRD ST., 2ND FL, SU 203
WICHITA, KS 67202

## LEGAL PUBLICATION

Published in the Wichita Eagle
on May 17, 2018 (3664785)
**BZA June 7, 2018**
**OFFICIAL HEARING NOTICE**

NOTICE IS HEREBY GIVEN that on **Thursday, June 7, 2018 no earlier than 1:30 p.m.**, the Wichita-Sedgwick County Board of Zoning Appeals will consider the following applications in the Planning Commission Conference Room, 271 West Third Street, 2nd Floor, Ste #203, Wichita, Kansas. **If you have any questions regarding the meeting or items on this notice, please call the Wichita-Sedgwick County Board of Zoning Appeals at (316)-268-4421.**

**BZA2018-00027** City modified site plan review for an approved variance (BZA2017-00046) for an off-site sign relocation generally located about one quarter mile west of South West Street and less than a quarter mile south of West Kellogg (US-54) (4424 W Irving St).

**BZA2018-00029** City variance to reduce side yard setback for a carport to less than three feet on property zoned TF-3 Two Family Residential, generally located south of 15th Street North and North Volutsia Avenue (1541 North Volutsia Avenue).).

Complete legal descriptions are available for public inspection at the Metropolitan Area Planning Department, 271 West Third St., Ste #201. As provided in Section V of the Wichita-Sedgwick County Unified Zoning Code, the same will then and there be discussed and considered by the said Wichita-Sedgwick County Board of Zoning Appeals, and all persons interested in said matters will be heard at this time concerning their views and wishes in the premises, and any protest against any of the provisions of the proposed changes to the zoning regulations will be considered by the Wichita-Sedgwick County Board of Zoning Appeals as by law provided.

WITNESS MY HAND on May 14, 2018
**David L. Yearout, Secretary**
**Wichita-Sedgwick County Board of Zoning Appeals**

In The STATE OF KANSAS
In and for the County of Sedgwick
AFFIDAVIT OF PUBLICATION

1 Insertions

Beginning issue of: 05/17/2018

Ending issue of: 05/17/2018

STATE OF KANSAS)
.SS
County of Sedgwick)

Dale Seiwert, of lawful age, being first duly sworn, deposeth and saith: That he is Record Clerk of The Wichita Eagle, a daily newspaper published in the City of Wichita, County of Sedgwick, State of Kansas, and having a general paid circulation on a daily basis in said County, which said newspaper has been continuously and uninterruptedly published in said County for more than one year prior to the first publication of the notice hereinafter mentioned, and which said newspaper has been entered as second class mail matter at the United States Post Office in Wichita, Kansas, and which said newspaper is not a trade, religious or fraternal publication and that a notice of a true copy is hereto attached was published in the regular and entire Morning issue of said The Wichita Eagle from **5/17/2018** to **05/17/2018**.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dale Seiwert

(Signature of Principal Clerk)
DATED: 5/17/2018

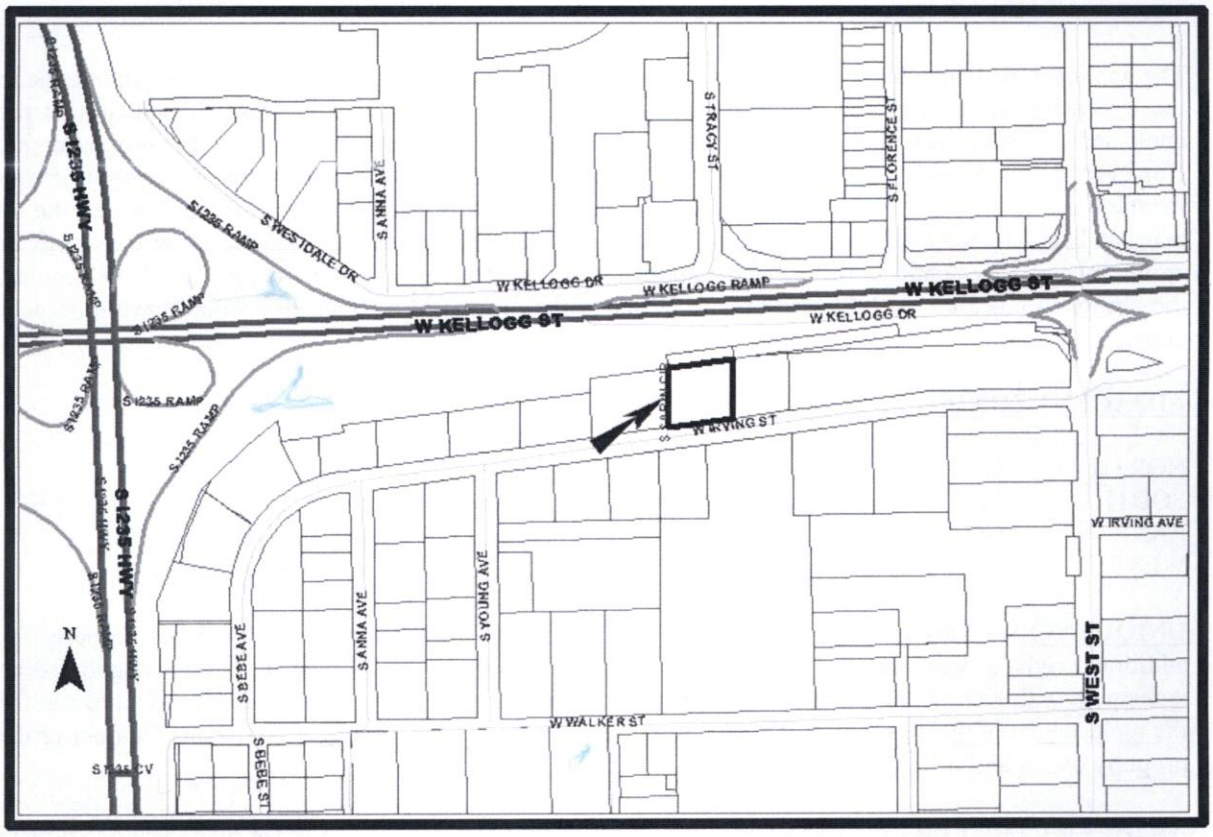
Notary Public Sedgwick County, Kansas

JENNIFER RAE BAILEY
Notary Public - State of Kansas
My Appt. Expires 6/14/2021

**Wichita-Sedgwick County Zoning Board of Appeals** AGENDA ITEM NO. **2**
June 7, 2018

**SECRETARY'S REPORT**

| | |
|---|---|
| CASE NUMBER: | BZA2018-00027 |
| APPLICANT/AGENT: | David Mollhagen with Ashby Street Outdoor LLC (Agent), Kansas Candy and Tobacco Inc. (Applicant) |
| REQUEST: | Modified site plan review for a variance to reduce the front setback for a billboard from 20 to 5 feet. |
| CURRENT ZONING: | GC General Commercial |
| SITE SIZE: | 1.12 acres |
| LOCATION: | Generally located south of Kellogg, west of West Street (4424 West Irving) |




**JURISDICTION:** The Board has jurisdiction to consider the variance request under the provisions outlined in Kansas Statutes Annotated 12-759 *et. seq.* The Board may grant the request when all five conditions, as required by the statutes, are found to exist.

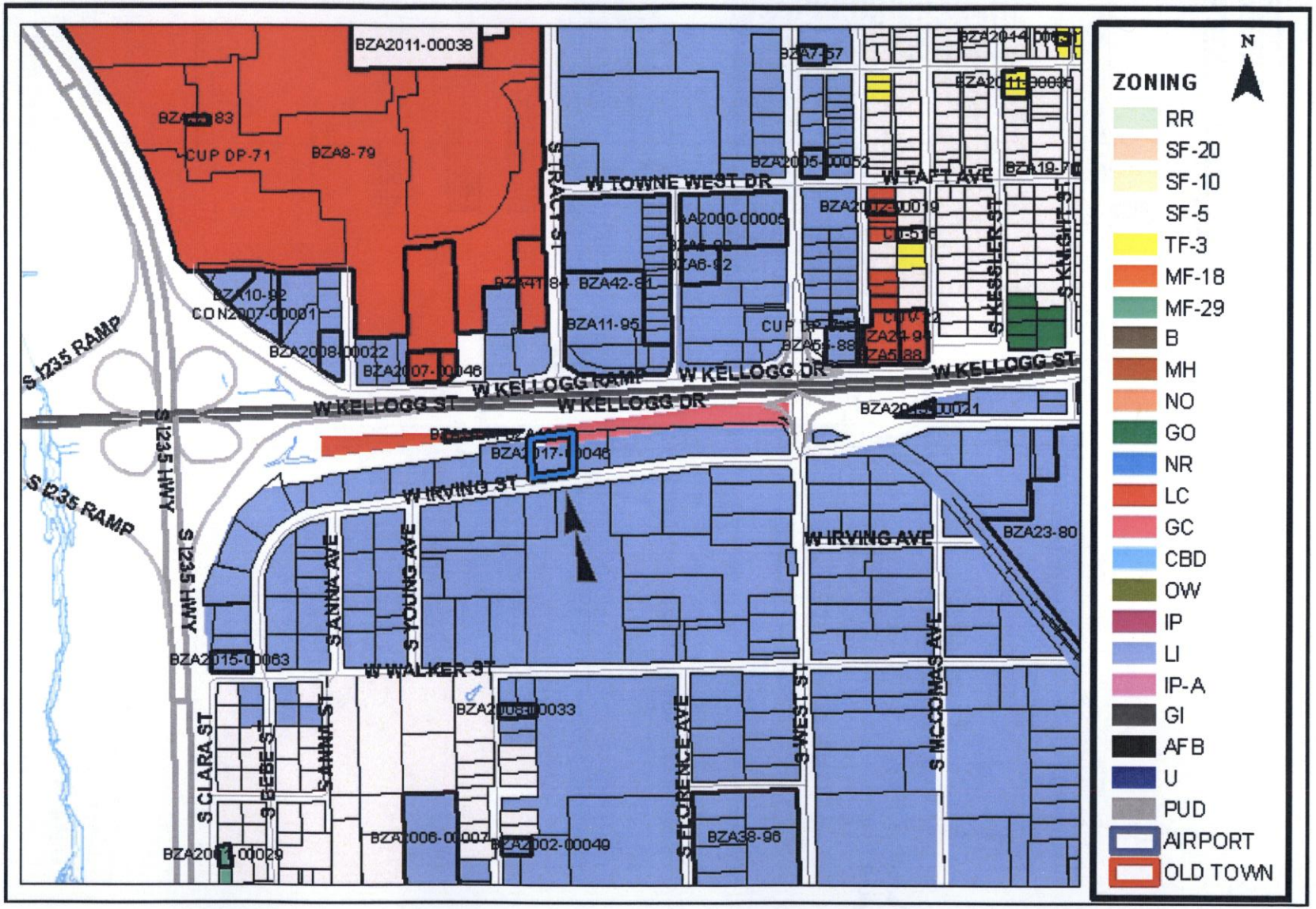
**HARDSHIP**: Clear Channel negotiated an agreement with KDOT and the property owner in good faith to re-build the sign on the parcel that remains. With the taking of the lot, the parcel became a through lot. The property owner would have had a completely different position if they knew an off-site sign could not be constructed on the reconfigured parcel.

**PUBLIC INTEREST**: There were off-site signs in place and had been for decades. This area has been developed as an industrial area and is suited for the continuance of the off-site sign. It would be a detriment to the prosperity of the property owner to not be able to continue with the best use practices for his parcel.

**SPIRIT AND INTENT**: Approval of this application will not violate the spirit and intent of the sign code as there are several off-site signs along the Kellogg corridor.

**RECOMMENDATION**: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to allow a five foot setback for the proposed billboard be *GRANTED*, subject to the following conditions:

1. The variance granted shall be for only the reduction of front setback from 20 feet to 5 feet for a billboard.
2. The sign shall be as depicted in the drawing as submitted as part of this application, or as approved by the Director of Planning prior to the issuance of a sign permit.
3. The applicant shall obtain all permits necessary for the billboard sign within one year of the issuance of this variance, and develop this sign in accordance with all relevant codes pertaining to signage in the City of Wichita.



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S WEST ST
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BZA38-96
BZA2002-00049

ASHBY ST.
OUTDOOR ADVERTISING

April 27, 2018

Dale Miller, Director
Metropolitan Area Planning Department
271 W. Third St., 2nd Floor
Wichita, KS 67202

RE: Request for an adjustment to BZA2017-00046 for property located at 4424 W. Irving St.

Dear Mr. Miller:

Attached is an application for an adjustment to BZA2017-00046. The adjustment requested is to move the approved site approximately 37 feet to the east and to go from a center mount structure to a full flag structure

We are doing this to accommodate the land owner and a prospective buyer of this parcel. The prospective buyer has indicated that he would like to be able to expand the building footprint. With the approved site, this would limit his ability to accomplish this. We are working in good faith with the property owner to re-locate the sign on the parcel that will help accommodate the future development of this site. We feel it would be a detriment to the property owner to not be able to continue with the best use practices for his parcel.

We hope that the staff and the BZA will support our application and the adjustment be granted. If you have any questions or concerns, please contact me.

Sincerely

David W. Mollhagen
Real Estate Manager, Wichita Division
Ashby St. Outdoor LLC
e-mail dmollhagen@ashbystoutdoor.com

MAILING
2901 S. Kansas Ave
Wichita, KS 67216

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ashbystoutdoor.com