CITY OF WICHITA

Wichita-Sedgwick County Metropolitan Area Planning Department

August 3, 2015

Clear Channel Outdoor, Inc
3405 N. Hydraulic Avenue
Wichita, KS 67219

RE: BZA2015-00028 – City Variance to the sign code to increase height of an off-site sign from 30 feet to 41.3 feet, located northeast of the intersection of Knight Street and McCormick Avenue (648 South Knight St.)

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **July 23, 2015.** This resolution reflects the official action of the Board, it is forwarded for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

Derrick Slocum
Asst. BZA Secretary

cc: Tom Stolz, MABCD
Mike Gable, MABCD
JR Cox, MABCD
Jeff Blubaugh, WCC IV CM
Case Bell, CL IV

BZA RESOLUTION NO. BZA2015-00028

WHEREAS, Clear Channel Outdoor, Inc. c/o David Mollhagen (owner/applicant) pursuant to Kansas Statutes Annotated 12-759 *et. seq.*, request to increase the height of an off-site sign from 30 to 41.3 feet; generally located south of Kellogg and east of West Street (648 S. Knight St.)

Legal Description: Lot 15 EXCEPT beginning at the Northwest corner; thence East to the Northeast corner; thence South 25 feet; thence West 78.3 feet; thence Southwesterly to the West line; thence North 48.3 feet to the point of beginning for CC A-29960 and 84 C 2867 along with all of lot 16, Block 5, Eureka Gardens Addition to 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 July 23, 2015, 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, the Board of Zoning Appeals has found that this property is unique inasmuch that the north property line is being moved further from Kellogg to allow for the expansion of the freeway and thus decreasing visibility of the subject off-site sign by having to relocate it 24 feet south of its present site. This relocation will cause the sign to lose direct sight from the east approach due to being obstructed by an existing structure.

WHEREAS, the Board of Zoning Appeals has found that the requested variances would not adversely affect the rights of adjacent property owners inasmuch that the off-site sign is located along an expressway and adjacent properties are zoned LI Limited Industrial and developed with industrial type uses. The sign has been at this location since 1998 with no issues and is a legal, conforming sign.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the code would constitute a hardship upon the applicant inasmuch as the relocation of the off-site sign was not the fault of the applicant/owner. This relocation is the result of right-of-way acquisition for the I-235/US-54 interchange improvement. This sign relocation, if the sign is kept at the current height, will experience significant obstruction and would not be visible from the east approach on US-54.

WHEREAS, the Board of Zoning Appeals has found that the requested variances for a side setback reduction from six to zero feet will not adversely affect the public interest inasmuch as the expansion of the I-235/US-54 interchange is in the public interest, permitting a sign with adequate visibility for this site, due to right-of-way acquisition for said expansion, is also in the public interest.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance for a side setback reduction from six to zero feet does not oppose the general spirit and intent of the Sign Code

inasmuch that the spirit and intent of the Sign Code is for adequate visibility of signs without negative impacts on surrounding properties. The Sign Code does not anticipate such situations such as right-of-way acquisition that could be detrimental to existing signage.

WHEREAS, each of the five conditions required by Kansas Statutes Annotated 12-759 *et. seq.*, 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 *et. seq.*, request to increase the height of an off-site sign from 30 to 41.3 feet; generally located south of Kellogg and east of West Street (648 S. Knight St.)

Legal Description: Lot 15 EXCEPT beginning at the Northwest corner; thence East to the Northeast corner; thence South 25 feet; thence West 78.3 feet; thence Southwesterly to the West line; thence North 48.3 feet to the point of beginning for CC A-29960 and 84 C 2867 along with all of lot 16, Block 5, Eureka Gardens Addition to Wichita, Sedgwick County, Kansas.

The variance is hereby GRANTED, subject to the following conditions:

1. The sign shall be developed in conformance with the approved site plan and elevation drawing.
2. The variance shall be to increase the height of the subject sign from 30 to 41.3 feet only; the sign shall conform to all other Sign Code requirements unless a separate variance or adjustment is granted.
3. The applicant shall obtain all permits necessary to relocate/construct the sign and the sign shall be completed within one year of the variance granting, unless such time period is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

ADOPTED AT WICHITA, KANSAS, this 23th Day of July, 2015.

BZA Board Chair, Matt Goolsby

ATTEST:

Derrick Slocum
Asst. BZA Secretary

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
July 23, 2015

SECRETARY'S REPORT

CASE NUMBER: BZA2015-00028

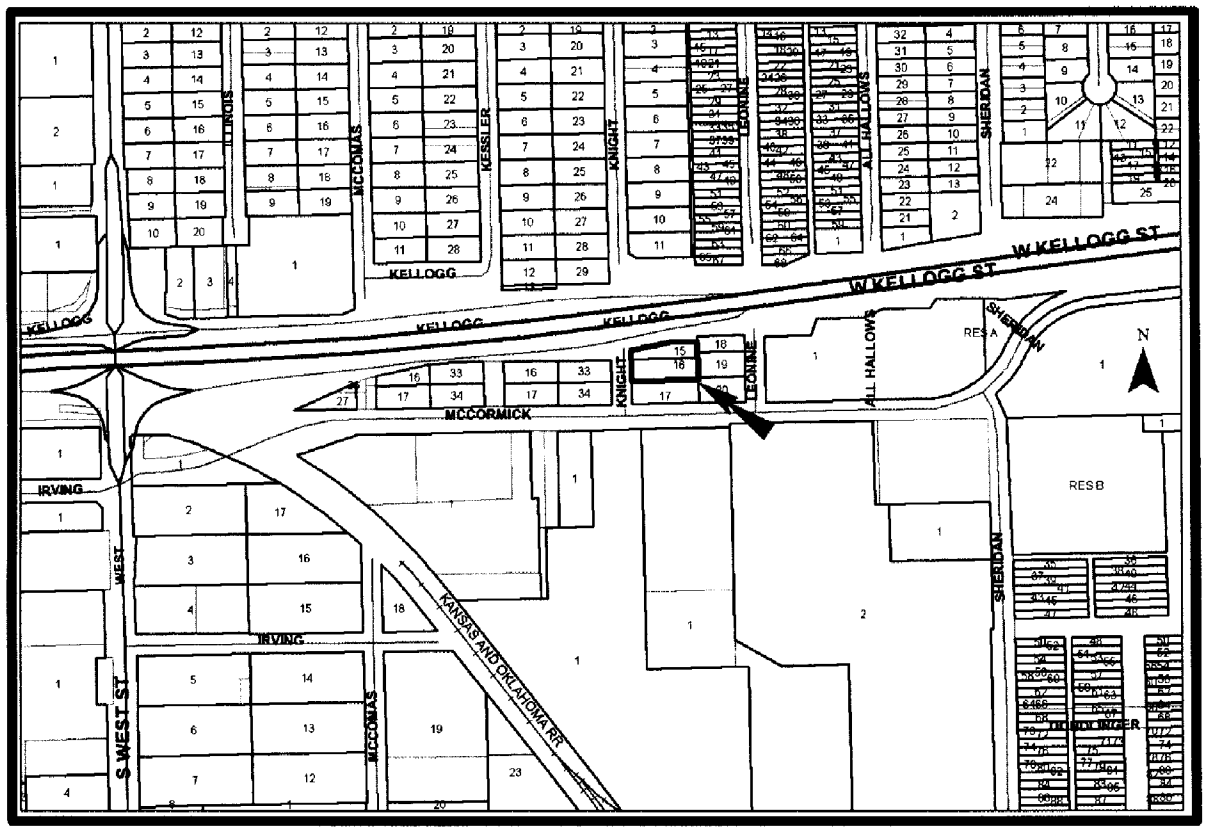
APPLICANT/AGENT: Clear Channel Outdoor, Inc. c/o David Mollhagen (owner/applicant)

REQUEST: City Sign Code variance to increase the height of an off-site sign from 30 to 41.3 feet

CURRENT ZONING: LI Limited Industrial

SITE SIZE: 0.30 acres

LOCATION: Generally located south of Kellogg and east of West Street (648 S. Knight St.)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant's company, Clear Channel Outdoor, has a 30-foot high off-site sign at the location of 648 S. Knight Street, right along the south side of Kellogg (US-54). The applicant is requesting a variance to increase the height of the off-site sign to 41.3 feet. The applicant is requesting this variance because the sign will need to be moved to the south 24 feet due to the acquisition of additional right-of-way for Kellogg to make room for turn lanes for the future improvement of the I-235/US-54 interchange. The sign at its new location would be obstructed from the east approach by an existing structure. The height increase to 41.3 feet would allow for the sign to be seen from the east approach unobstructed. The sign has been in its present location since 1998.

Section 24.04.222 (3) of the Sign Code limits off-site signs in LI Limited Industrial ("LI") zoning to 35 feet in height. Section 24.04.251 of the Sign Code permits increasing the maximum allowed height of an off-site sign located within seventy-five feet of a zoning lot line that directly abuts the right-of way of an elevated portion of a highway structure to a height at the top of the sign that does not exceed twenty feet above the height of the top of the highest railing or barrier along the traffic deck or decks within the right-of-way at a point perpendicular the sign. However, the location of the subject off-site sign is not located along the elevated portion of the Kellogg Expressway, thus the variance request on the increase in height.

All property surrounding the application area is zoned LI and developed with warehouses, offices salvage yard, recycling center, sports complex and US-54/Kellogg Expressway.

ADJACENT ZONING AND LAND USE:

NORTH	US-54/Kellogg	Kellogg Expressway
SOUTH	LI	Warehouse-Office, Sports Complex
EAST	LI	Salvage, Recycling Center
WEST	LI	Warehouse-Retail, Future expressway expansion

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is staff's opinion that this property is unique inasmuch that the north property line is being moved further from Kellogg to allow for the expansion of the freeway and thus decreasing visibility of the subject off-site sign by having to relocate it 24 feet south of its present site. This relocation will cause the sign to lose direct sight from the east approach due to being obstructed by an existing structure.

ADJACENT PROPERTY: It is staff's opinion that the requested variance would not adversely affect the rights of adjacent property owners inasmuch that the off-site sign is located along an expressway and adjacent properties are zoned LI Limited Industrial and developed with industrial type uses. The sign has been at this location since 1998 with no issues and is a legal, conforming sign.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the Sign Code would constitute a hardship upon the applicant inasmuch as the relocation of the off-site sign was not the fault of the applicant/owner. This relocation is the result of right-of-way acquisition for the I-235/US-54 interchange improvement. This sign relocation, if the sign is kept at the current height, will experience significant obstruction and would not be visible from the east approach on US-54.

PUBLIC INTEREST: It is staff's opinion that the requested variance is not adverse to the public interest inasmuch as the expansion of the I-235/US-54 interchange is in the public interest, permitting a sign with adequate visibility for this site, due to right-of-way acquisition for said expansion, is also in the public interest.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance does not oppose the general spirit and intent of the Sign Code inasmuch that the spirit and intent of the Sign Code is for adequate visibility of signs without negative impacts on surrounding properties. The Sign Code does not anticipate such situations such as right-of-way acquisition that could be detrimental to existing signage.

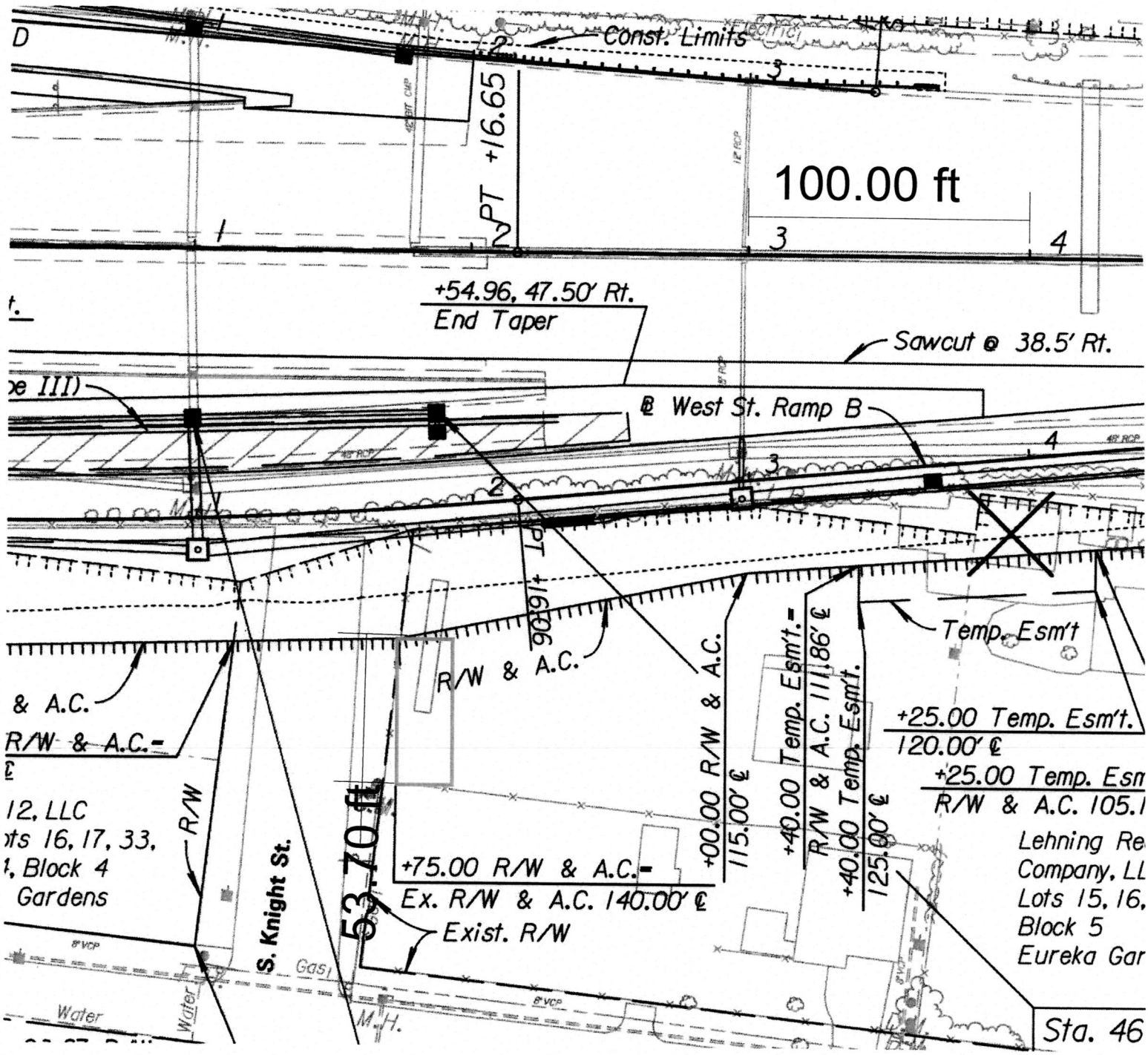
RECOMMENDATION: Should the Board determine that the conditions necessary for the requested variance exist, the Secretary recommends that a variance to increase the height of an off-site sign from 35 to 41.3 feet in LI Limited Industrial ("LI") zoning be GRANTED, subject to the following conditions:

1. The sign shall be developed in conformance with the approved site plan and elevation drawing.
2. The variance shall be to increase the height of the subject sign from 25 to 41.3 feet only; the sign shall conform to all other Sign Code requirements unless a separate variance or adjustment is granted.
3. The applicant shall obtain all permits necessary to relocate/construct the sign and the sign shall be completed within one year of the variance granting, unless such time period is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

11.3 ft
14 ft
Fidelity
54
400

EXHIBIT A

L#838, Lehning, 3693 W. Kellogg



Legal Description: LOT 16 BLOCK 5 EUREKA GARDENS