



A Capital City Government Working For You...

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City Council Agenda

**City Council Chambers
214 SE 8th Street
Topeka, Kansas 66603**

September 25, 2007
6:00 PM

City Manager: Norton N. Bonaparte, Jr.

Mayor: William W. Bunten

Councilmembers

Lana Kennedy	District No. 1	Deborah Swank	District No. 6
John Alcala	District No. 2	Brett Blackburn	District No. 7
Sylvia E. Ortiz	District No. 3	Jeff Preisner	District No. 8
Jack Woelfel	District No. 4	Richard Harmon	District No. 9
Bill Haynes	District No. 5		

Addressing the Council: No person shall address the Council during a Council Meeting, unless they have notified the City Clerk by 5:00 P.M. on the day of any Council Meeting of their desire to speak on a specific matter on the published meeting agenda or during the public comment portion of the Council Meeting. This limitation shall not apply to items added during the course of a meeting. The Council does not take action with respect to any subject not on the agenda unless added to the agenda by a two-thirds vote of the Council

Persons addressing the City Council will be limited to four (4) minutes of public address on a particular agenda item. Debate, question/answer dialogue or discussion between Councilmembers will not be counted towards the four (4) minute time limitation. The Chair may extend time with the unanimous consent of the Council or the Council by affirmative vote of five (5) members may extend the four (4) minute limitation.

Persons will be limited to addressing the City Council one (1) time on a particular matter unless otherwise allowed by an affirmative vote of five (5) members of the City Council.

Citizens wishing to offer Public Comment may sign up by phoning the City Clerk's office at 368-3940.

(Agendas are available on Thursday afternoon in the City Clerk's office, 215 SE 7th – Room 166 and on the City's web site at <http://www.topeka.org>)

INVOCATION:

PLEDGE OF ALLEGIANCE:

- 1. **PROCLAMATIONS:**
"Financial Planning Week"
- 2. **PRESENTATIONS:**
"ICS-402: Incident Command System Overview
for Executives and Senior Officials"

3. **ROLL CALL:**

4. **CONSENT AGENDA:**

A. Communication - Jayhawk Area Agency on Aging Advisory Council

A COMMUNICATION recommending the re-appointment of Noda Preston to the Jayhawk Area Agency on Aging Advisory Council for a term that would expire on September 30, 2010. (Council District No. 4)

B. Resolution - Sacred Heart - Noise Exception

 [ATTACHMENTS](#)

A RESOLUTION introduced by Councilmember Lana Kennedy granting Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. (Council District No. 1)

(The Autumnfest Celebration will take place during the hours of 12:00 p.m. and 5:00 p.m. on September 30, 2007.)

C. MINUTES of the regular meeting of September 18, 2007

D. APPLICATIONS:

5. **PUBLIC HEARINGS:**

A. Public Hearing and Ordinance - Roy V. Uhl Company, Inc. (V07A/4)

 [ATTACHMENTS](#)

A PUBLIC HEARING relating to vacation request V07A/4 by Roy V. Uhl Company, Inc., requesting to vacate a portion of a 16-foot wide public improvement alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a portion of a 16-foot wide public unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas. Final Reading. (V07A/4) (Council District No. 3) (Deferred from the meeting of September 18, 2007.)

(Approval would vacate a portion of a 16-foot wide unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property.)

6. **UNFINISHED BUSINESS:**

A. Resolution - Ellite Investments, L.L.C. (CU07/3)

 [ATTACHMENTS](#)

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas. (CU07/3) (Council District No. 9) (Planning

Commission recommended conditional approval.)(Planning Department recommended conditional approval.)(Deferred from the meeting of September 18, 2007.)

(Approval would allow for the replacement of a 35 foot tall two sided billboard sign, comprising of 672 square feet per sign face, with a 50 foot tall all-steel monopole.)

7. NEW BUSINESS:

A. Ordinance - Weekly Expenditures - September 3-9, 2007

 [ATTACHMENTS](#)

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 3, 2007, through September 9, 2007, and enumerating said expenditures therein. First and Final Reading.

8. MISCELLANEOUS:

-

9. PRESENTATIONS BY THE CITY MANAGER, MAYOR AND MEMBERS OF THE COUNCIL:

-

10. PUBLIC COMMENT:

-

11. ADJOURNMENT:

-



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 21, 2007

 [+ Back](#)  [Print](#)

DATE: September 25, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 3, 2007

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DATE: September 25, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"Financial Planning Week"

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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August 21, 2007

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SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

"ICS-402: Incident Command System Overview
for Executives and Senior Officials"

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 5, 2007

+ Back Print

DATE: September 25, 2007

CONTACT PERSON: Celeste Benton **DOCUMENT #:**

SECOND PARTY/SUBJECT: Jayhawk Area Agency on Aging Advisory Council **PROJECT #:**

CATEGORY/SUBCATEGORY 006 Communication / 003 Requests

CIP PROJECT: No

ACTION OF COUNCIL: **JOURNAL #:**

PAGE #:

DOCUMENT DESCRIPTION:

A COMMUNICATION recommending the re-appointment of Noda Preston to the Jayhawk Area Agency on Aging Advisory Council for a term that would expire on September 30, 2010. *(Council District No. 4)*

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

The Mayor is recommending the re-appointment of Noda Preston, 2143 SE Carnahan, to a three-year term on the Jayhawk Area Agency on Aging Advisory Council that will end September 30, 2010. The Council has an attendance policy which states that a member may be requested for removal if they attend less than half of the regularly scheduled meetings, or if they have two consecutive unexcused absences. Ms Preston has one excused absence and is eligible for re-appointment.

The Jayhawk Area Agency on Aging Advisory Council is a statutory board and requires that nominees come from the Mayor with approval by the City Council.

BACKGROUND:

KSA 75-5926 et seq and Ordinance 18382. The Jayhawk Area Agency on Aging Advisory Council is a statutory board that advises the Jayhawk Area Agency on Aging Board of Directors concerning policies and programs that affect older citizens in Douglas, Jefferson and Shawnee counties, and promotes the ability of older citizens to secure and maintain independence and dignity in their community.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

Item #6



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 6, 2007

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DATE: September 25, 2007
CONTACT PERSON: Lana Kennedy DOCUMENT #:
SECOND PARTY/SUBJECT: Joe Singer PROJECT #:
CATEGORY/SUBCATEGORY 020 Resolutions / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: JOURNAL #:
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by Councilmember Lana Kennedy granting Sacred Heart-St. Joseph Parish an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions. *(Council District No. 1)*

(The Autumnfest Celebration will take place during the hours of 12:00 p.m. and 5:00 p.m. on September 30, 2007.)

POLICY ISSUE:

None

STAFF RECOMMENDATION:

None

BACKGROUND:

Noise exception for amplified music and sound located at 227 SE Van Buren Street during specified date and time.

BUDGETARY IMPACT:

None

SOURCE OF FUNDING:

None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION introduced by Councilmember Lana Kennedy, granting Sacred Heart-St. Joseph Parrish an exception to the provisions of City of Topeka Code Section 54-148 concerning noise prohibitions.

WHEREAS, City of Topeka Code Section 54-148 makes it unlawful for any person to make, continue or cause to made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety or others within the limits of the city; and

WHEREAS, City of Topeka Code Section 54-148 authorizes the City Council to grant exceptions to the prohibitions of this code section upon request and a showing that the proposed activity does not offend the spirit of the findings of City of Topeka Code Section 54-146; and

WHEREAS, Sacred Heart-St. Joseph Parrish has requested that it be granted an exception to the provisions of City of Topeka Code Section 54-148 for the purposes, dates and times described herein, and

WHEREAS, upon review of the application of Sacred Heart-St. Joseph Parrish, the Council of the City of Topeka does hereby find that the requested activity does not offend the spirit of the findings of City of Topeka Code Section 54-146.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka that Sacred Heart-St. Joseph Parrish is hereby granted an exception from the provisions of City of Topeka Code Section 54-148 for amplified music

26 and sound during the Autumnfest celebration located at St. Joseph Church, 227
27 SE Van Buren Street during the hours of 12:00 noon and 5:00 p.m. on
28 September 30, 2007.

29 ADOPTED and APPROVED by the City Council _____.

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William W. Bunten, Mayor

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Brenda Younger, City Clerk

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Topeka, Kansas 66603

August 21, 2007

 + Back  Print

DATE: September 25, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 19, 2007

+ Back Print

DATE: September 25, 2007

CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:**

SECOND PARTY/SUBJECT: Roy V. Uhl Company, Inc. **PROJECT #:** V07A/4

CATEGORY/SUBCATEGORY: 014 Ordinances – Non-Codified / 006 Vacations

CIP PROJECT: No

ACTION OF COUNCIL: 09/11/07 First Reading **JOURNAL #:** 07
09/25/07 Deferred One Week

PAGE #:

DOCUMENT DESCRIPTION:

A PUBLIC HEARING relating to vacation request V07A/4 by Roy V. Uhl Company, Inc., requesting to vacate a portion of a 16-foot wide public improvement alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka Shawnee County, Kansas.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a portion of a 16-foot wide public unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas. **Final Reading.** (V07A/4) (Council District No. 3) (Deferred from the meeting of September 18, 2007.)

(Approval would vacate a portion of a 16-foot wide unimproved alley right-of-way while providing for a public utility and sanitary sewer easement to be established over the described property.)

POLICY ISSUE:

N/A

STAFF RECOMMENDATION:

The Planning Department Staff has evaluated this proposal relative to the existing land uses and plat of subdivision, and, recommends **APPROVAL** of the proposed vacation of unimproved alley right-of-way while establishing a public utility and sanitary sewer easement over the described property.

BACKGROUND:

- The Kansas Statutes and Topeka City Code Section 130-476(b) requires a public hearing in conjunction with proposed vacation petitions which have been filed in accordance with a prescribed procedure.
- The property owner wishes to vacate the existing unimproved alley right-of-way which bisects their property in order to provide for better utilization of the property. **Item #10**
- A public utility and sanitary sewer easement will be retained.
- Approval of the vacation should not be construed to imply support for any existing or subsequent land development.

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Aerial](#)

[Vicinity Map](#)

[Application \(4 pages\)](#)

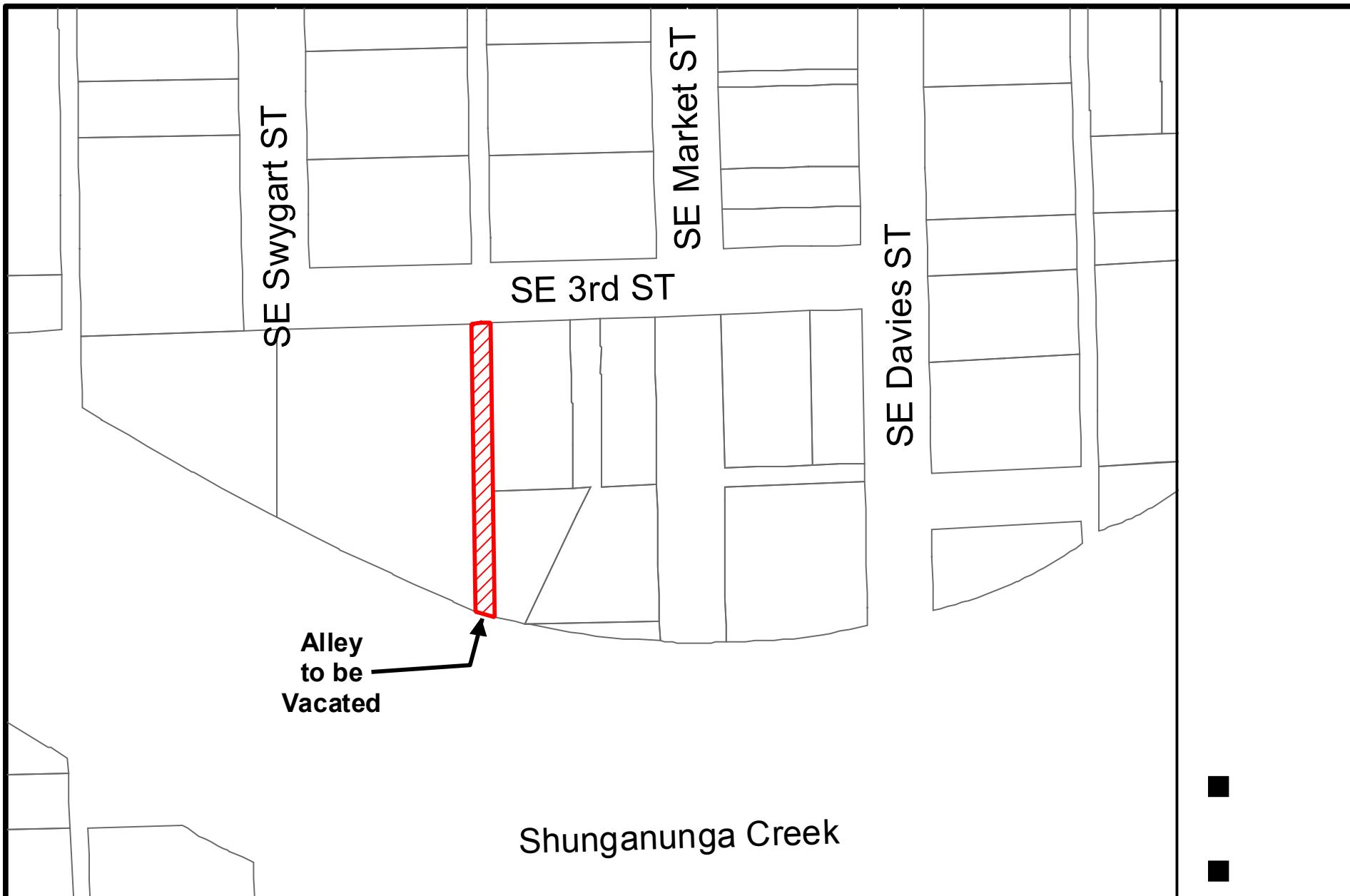
[Department Comments](#)

[Ordinance](#)

[Legal Ad](#)



V07A/4 by Roy V. Uhl Company, Inc.



V07A/4 by Roy V. Uhl Company, Inc.

CITY OF TOPEKA PLANNING DEPARTMENT

620 SE Madison Street-3rd Floor
Topeka, Kansas 66607

Office: (785) 368-3728
Fax: (785) 368-2535

PLANNING OFFICE USE ONLY

Date Submitted <u>2-6-07</u>	Date Advertised _____
Application No. <u>1187A/4</u>	Date of Public Hearing _____
TO BE COMPLETED BY CITY CLERK'S OFFICE	
Filing Fee \$ <u>250.00</u>	Receipt No. <u>10053</u>

APPLICATION

City Vacation of Streets, Alleys and Easements

- Applicant(s): ROY V. UHL COMPANY, INC.
- Applicant's Mailing Address: P.O. BOX 1461
City TOPEKA State: KS Zip: 66601-1461
- Telephone: Area Code: 785 No.: 286-0500
- Legal description of property requested to be vacated as prepared by the City of Topeka Department of Public Works: SEE ATTACHED
- Check type of vacation: Street _____ Alley ☒ Easement ☒ Other _____
- Legal description of property owned by the applicant which adjoins the street, alley or easement to be vacated: SEE ATTACHED
Lots _____ Block No. _____
In _____ Subdivision _____

Metes and Bounds Description, if unplatted: _____

RECEIVED
CITY CLERK
TOPEKA, KS
2007 FEB -6 A 11:45

7. Are there other owners of land who own property adjoining the subject street, alley or easement proposed to be vacated who, pursuant to K.S.A. 12-504, would be a property party to the petition to vacate?

Yes _____ No X

If yes, please list said owner's name(s) and mailing address.

8. Briefly, describe the proposed development of the subject property and your reasons for vacating the property: NO DEVELOPMENT PLANNED - REQUIRED TO PREVENT REMOVAL OF FENCE.

9. Will the area proposed for vacation preclude, restrict, hamper or lessen ingress-egress to other similarly abutting properties? NO

10. Do you concur with the retention of the subject area as an easement should the reviewing utility or public agency request such to cover existing or proposed utility lines? _____

EASEMENT NO LONGER NECESSARY.

11. Will any permanent structures be constructed within the area proposed for vacation? _____

NONE PLANNED AT THIS TIME.

12. Will the area proposed for vacation create any unique, adverse or undesirable traffic conditions? NO

13. How are adjoining properties used? PART OF COMPANY SHOP PREMISES - USED FOR STORAGE OF JOB MATERIALS.

14. In your opinion, would the proposed vacation injure or endanger any private rights? _____

NO

15. In your opinion, would the public suffer any loss or inconvenience should the petition to vacate be approved? NO

16. In the event this proposed vacation is to vacate street or alley right-of-way, are you aware of the applicability of the district zoning on the subject property? Please briefly explain: _____

RE-ZONING REQUESTED ALSO.

Signature of Applicant(s)



DENNIS R. UHL

(Please Attach Any Additional Information)

If the owner(s) of record is to be represented by legal counsel or an authorized agent, please complete the following so that communications pertaining to this application may be forwarded to the appropriate individual.

Name of Representative ARTHUR E. PALMER (GOODELL, STRATTON, EDMONDS & PALMER, L.L.P.)

Street Address 515 S. KANSAS AVENUE

City TOPEKA

State KS

Zip Code 66603

Telephone No. (785) 233-0593

Fax No. (785) 233-8870

V07A/4
Alley Vacation
Legal Description

A portion of an alley in Western Land and Lot Company's Addition to the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 301 on Market Street; thence southerly on the East line of an alley to a point on the West line of Lot 321 on Market Street which is 112.78 feet northerly distant from the Southwest corner of Lot 329 on Market Street; thence northwesterly on a non-tangential curve which is concave northeasterly and having a radius measure of 732.56 feet, to a point on the West line of said alley which is 7.35 feet southerly distant from the Northeast corner of Lot 322 on Swygart Street; thence northerly on the West line of said alley to the Northeast corner of Lot 302 on Swygart Street; thence easterly to the point of beginning.

V07A/4 by ROY V. UHL COMPANY, INC., VACATION REQUEST

REVIEW COMMENTS:

Ken Bass, City Water Department

1. Water Department has no objections to this alley vacation.

Joe Singer, City Engineering

1. There is a sanitary sewer located in most of the North part of the alley, we should retain at least part as a utility easement and to accommodate Westar it should be retained as a public utility easement.

Steve Bolton, Shawnee County Refuse

1. It is our opinion that the requested vacation will have no adverse effect on our ability to provide refuse service.

Michelle Conway, Fire Inspector

1. The Fire Department has no objections to this alley vacation.

Kent Cowhick, Police Department

1. The Police Department has no objections to this alley vacation.

Kimball E. Parker, AT&T (SWBT)

1. AT&T has no objections to this alley vacation.

Pam Solis, Westar Energy

1. Westar Energy only has one existing overhead guy pole and anchor located along the street right-of-way on the south side of SE 3rd Street that appears to extend into the described alley right-of-way. If our existing facilities are located within the described alley, Westar Energy will request that the applicant agree to one of the following requirements: 1) An easement is granted to Westar Energy for the continued operation, maintenance and replacement of our electric facilities, or 2) The applicant, agrees to pay all costs associated with the relocation of our electric facilities. If the applicant chooses option 2, adequate time needs to be allowed for design and construction of the relocation project. This time frame will depend on the work involved.

Lyndon Henry, Cox Communication

1. No comments received.

Dawn Hecker, Kansas Gas Service

1. Kansas Gas Service has no objections to this alley vacation.

(Published in the Topeka Metro News _____)

ORDINANCE NO.

AN ORDINANCE introduced by City Manager, Norton N. Bonaparte, Jr., relating to the vacation of a portion of 16-foot wide public unimproved alley right-of-way located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas. **(V07A/4) (Council District No. 3)**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That pursuant to the requirements of K.S.A. 12-504 as amended, a petition by Roy V. Uhl Company, Inc., as property owners, has been filed with the office of the City Clerk, requesting the vacation of the following described platted unimproved alley right-of-way located within the City of Topeka, Shawnee County, Kansas:

A portion of an alley in Western Land and Lot Company's Addition to the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 301 on Market Street; thence southerly on the East line of an alley to a point on the West line of Lot 321 on Market Street which is 112.78 feet northerly distant from the Southwest corner of Lot 329 on Market Street; thence northwesterly on a non-tangential curve which is concave northeasterly and having a radius measure of 732.56 feet, to a point on the West line of said alley which is 7.35 feet southerly distant from the Northeast corner of Lot 322 on Swygart Street; thence northerly on the West line of said alley to the Northeast corner of Lot 302 on Swygart Street; thence easterly to the point of beginning.

Section 2. That said petition has been duly published for two (2) consecutive weeks in a newspaper of general circulation and on September 18, 2007, the petition is ready for determination by the Council of the City of Topeka, Kansas.

Section 3. That the Council of the City of Topeka, after being duly informed and hearing the evidence presented finds that:

- a. Legal notice was given as required by K.S.A. 12-504 as amended.
- b. No private rights will be injured or endangered by such vacation.
- c. The public will suffer no loss or inconvenience by such vacation.

Section 4. That the Council of the City of Topeka does hereby find that justice requires the petition of vacation be granted and does hereby order the vacation of the below described platted unimproved alley right-of-way located within the City of Topeka, Kansas:

A portion of an alley in Western Land and Lot Company's Addition to the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 301 on Market Street; thence southerly on the East line of an alley to a point on the West line of Lot 321 on Market Street which is 112.78 feet northerly distant from the Southwest corner of Lot 329 on Market Street; thence northwesterly on a non-tangential curve which is concave northeasterly and having a radius measure of 732.56 feet, to a point on the West line of said alley which is 7.35 feet southerly distant from the Northeast corner of Lot 322 on Swygart Street; thence northerly on the West line of said alley to the Northeast corner of Lot 302 on Swygart Street; thence easterly to the point of beginning.

Section 5. That the Council of the City of Topeka does hereby find that justice further requires the provision for a public utility and sanitary sewer easement to be established over the described property as set forth in Section 4 and does hereby order the retention of the below described area as a public utility easement:

A portion of a platted alley in Western Land and Lot Company's Addition to the City of Topeka, Shawnee County, Kansas, described as: Beginning at the Northwest corner of Lot 301 on Market Street; thence southerly on the East line of an alley 114 feet; thence westerly, to a point on the West line of said alley which is 114 feet southerly distant from the Northeast corner of Lot 302 on Swygart Street; thence northerly on the West line of said alley to the Northeast corner of Lot 302 on Swygart Street; thence easterly to the point of beginning.

Section 6. This vacation shall not affect any other underlying easements or restrictions whether platted or by instrument.

Section 7. The City Clerk is hereby directed to certify a copy of this ordinance to the Shawnee County Register of Deeds Office for appropriate recording.

Section 8. This ordinance shall take effect and be in force from and after its passage, approval and publication in the official city newspaper.

PASSED AND APPROVED by the Council of the City of Topeka _____, 2007.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

To Be Codified __

Not To Be Codified X

Please have the attached published in the Topeka Metro News in the Legal Advertising Section on August 24, 2007 and again on August 31, 2007.

IN THE MATTER OF THE PROPOSED VACATION OF:

A portion of 16-foot wide public unimproved alley right-of-way located south of SE 3rd Street between SE Swygart Street and SE Davies Street, City of Topeka, Shawnee County, Kansas. **(V07A/4) (Council District No. 3)**

NOTICE OF PUBLIC HEARING

(Pursuant to K.S.A. 12-504 et seq.)

To Whom It May Concern:

Public notice is hereby given that a petition has been filed by Roy V. Uhl Company, Inc., owners of the concerned property, praying that the above stated alley located on said property be vacated.

The petition will be presented to the Council of the City of Topeka for hearing on September 18, 2007, at 6:00 P.M. or as soon thereafter as the same may be heard in the City Council Chambers, Municipal Building, 2nd Floor, 8th and Monroe Streets, Topeka, Kansas, at which time and place all interested persons may appear and be heard, either for or against granting the prayer of said Petition.

**BY THE GOVERNING BODY,
CITY OF TOPEKA, KANSAS**



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 20, 2007

+ Back Print

DATE: September 25, 2007
CONTACT PERSON: Bill Fiander/David Thurbon **DOCUMENT #:**
SECOND PARTY/SUBJECT: Ellite Investments, L.L.C. **PROJECT #:** CU07/3
CATEGORY/SUBCATEGORY: 020 Resolutions / 001 Special Permits
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., in accordance with Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas. (CU07/3) (Council District No. 9) (Planning Commission recommended conditional approval.)(Planning Department recommended conditional approval.)(Deferred from the meeting of September 18, 2007.)

(Approval would allow for the replacement of a 35 foot tall two sided billboard sign, comprising of 672 square feet per sign face, with a 50 foot tall all-steel monopole.)

POLICY ISSUE:

New billboards in C-4 zoning districts are permitted up to 300 sq. ft. per sign face and 55' in height. The rebuilding of this billboard with a CUP increases the height from 35' to 50' but keeps the sign area the same at 672 sq. ft. per sign face. This proposal increases the non-conforming nature of the sign and creates a precedent to increase the height of non-conforming billboards in the future.

STAFF RECOMMENDATION:

The Planning Commission recommended this proposal be conditionally **APPROVED** by a vote of **7-1-0** at their August 20, 2007 meeting as referenced in their attached minutes. The Planning Department recommended that this request be **APPROVED** based on two options as referenced below, neither of which the Planning Commission choose.

Construction of an all steel single monopole billboard sign not exceeding a total of thirty-five (35') feet in height and comprising a total of two (2) sign faces not exceeding six hundred seventy two (672) square feet per sign face;

OR

Construction of an all steel single monopole billboard sign not exceeding a total of fifty-five (55') feet in height and comprising a total of two (2) sign faces not exceeding three hundred (300) square feet per sign face.

Item #11

BACKGROUND:

- See Staff Report.

- City Council options:
 - **Adopt** the recommendation of the Planning Commission by Resolution;
 - **Override** the Planning Commission's recommendation by a two-thirds majority (6 votes) of the City Council membership; or,
 - **Return** such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove

BUDGETARY IMPACT:

N/A

SOURCE OF FUNDING:

N/A

ATTACHMENTS:

[Resolution](#)

[Staff Report](#)

[Aerial](#)

[Aerial Large](#)

[Exhibits ABC](#)

[Existing Sign](#)

[Application \(4 pages\)](#)

[Planning Commission Minutes](#)

[Planning Commission Minutes](#)

RESOLUTION _____

CONDITIONAL USE PERMIT

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr. in accordance with Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas. **(CU07/3) (Council District No. 9)**

BE IT RESOLVED by the Council of the City of Topeka, Kansas, that the application of City of Topeka under the provisions of Section 48-18.02(c)(8) of the Code of the City of Topeka, approving a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard, on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane in the City of Topeka, Kansas, and legally described as follows:

Block D, Lot 4, Shawnee Hills Village Subdivision No. 2, in the City of Topeka, Shawnee County, Kansas.

be, and the same is hereby approved, **subject to:**

- 1. Construction of an all steel single monopole billboard sign not exceeding a total of fifty (50') feet in height and comprising a total of two (2) sign faces not exceeding six hundred seventy two (672) square feet per sign face.**

ADOPTED AND APPROVED by the Council of the City of Topeka, _____, 2007.

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk

CONDITIONAL USE PERMIT REPORT

TOPEKA PLANNING DEPARTMENT

CASE NO: CU07/3

by: Elite Investments, L.L.C.

PROPOSAL: Requesting a Conditional Use Permit "CUP" to relocate, remodel or rebuild a legal non-conforming billboard sign on property currently zoned "C-4" Commercial District.

LOCATION: east of I-470 Highway and west of SW Drury Lane.

PARCEL ID NUMBER: 1420402004004000.

PRESENT USE: An approximate 87,710 square foot vacant lot presently occupied by a thirty-five foot (35') two (2) sided billboard sign comprising six hundred seventy two (672) square feet per sign face.

PROPOSED USE: As provided for by Section 48-18.02 (c)(8) and being subject to the requirements of Article XXVI, Section 48-26.00(n)(1)(a-j) of the Comprehensive Zoning Regulations, the applicant seeks a Conditional Use Permit to rebuild a thirty-five foot (35') tall two (2) sided billboard sign comprising six hundred seventy two (672) square feet per sign face. Each sign face is to measure fourteen (14') feet in height by forty-eight (48') feet in length, with the bottom edge of the sign being thirty-six (36') feet from the ground. The sign is to be all steel construction.

CHARACTER OF NEIGHBORHOOD: The neighborhood is predominately commercial and office uses.

ZONING CLASSIFICATION AND USE OF SURROUNDING PROPERTIES:

	ZONING CLASSIFICATION	PRESENT LAND USE
North:	"C-4" Commercial District	Cracker Barrel
South:	Right-of-Way	Highway I-470
East:	"C-4" Commercial District	Vacant and KCC Office
West:	Right-of-Way	Highway I-470

GUIDELINES FOR EVALUATION: In considering an application for a conditional use permit to relocate, remodel or rebuild a legal non-conforming billboard, the Governing Body, after review of the

August 20, 2007
Agenda Item #F-1

recommendation of the Planning Commission, shall determine that the proposed billboard is appropriate in the location proposed based upon its consideration of the following "*General Standards*":

1. **The structural members of all billboard materials shall be constructed entirely of non-combustible materials excepting only the sign face, ornamental molding and platform and shall be installed only on single-pole structures:** The entire structure is to be all steel construction and a single pole design (please refer to attached graphic marked Exhibit "A").
2. **The proposed sign shall not be larger than the existing billboard proposed to be replaced, but not to exceed seven hundred fifty (750) square feet including extensions; nor shall such sign have more than two (2) sign faces:** As indicated the replacement billboard sign may be no larger than the original. The proposed billboard is to be a two (2) sided billboard sign comprising six hundred seventy two (672) square feet per sign face same as the original (please refer to attached graphic marked Exhibit "B"). However, the original billboard is only thirty-five feet (35') in height whereas; the proposed billboard sign is to be fifty feet (50') in height.

The subject site is currently zoned "C-4" Commercial District. Normally to have a billboard sign which is the dimension of the current sign, that sign would need to be located in an area zoned "I-1" Light Industrial which allows for a billboard sign to be no taller than thirty-five feet (35') in height, limited to two (2) sign face's with each sign face being no more than six hundred seventy two (672) square feet in size. Staff can support a billboard sign at this location which meets the "*General Standards*" as contained within this staff report providing the sign does not exceed the dimension of the current sign being replaced. Should the applicant desire to construct a billboard sign that is fifty feet (50') in height staff could support such a sign only if the sign face dimension's were reduced to a maximum of three hundred (300) square feet per sign face. This would be in keeping with the size limitations of the underlying "C-4" Commercial District.

3. **No billboard is to be erected upon a roof of any building or attached to any building:** The proposed billboard sign is to be a freestanding structure (please refer to attached graphic marked Exhibit "A").
4. **No billboard to be relocated shall be setback less than twenty (20') feet from any public right-of-way line:** The signs proposed location shall be set a minimum of twenty (20') feet from the public right-of-way of I-470 Highway (please refer to attached graphic marked Exhibit "B").
5. **No billboard shall be relocated less than either one thousand three hundred twenty (1,320') feet from any other such sign on the same street or closer than a four hundred (400') foot radius on different streets:** The proposed billboard sign location meets both of these criteria (please refer to attached graphic marked Exhibit "C").
6. **No billboard to be relocated shall be less than two hundred (200') feet from any underpass, overpass or bridge structure:** The proposed billboard sign location meets all of these criteria (please refer to attached graphic marked Exhibit "C").

August 20, 2007
Agenda Item #F-1

7. **No billboard to be relocated shall be placed within three hundred (300') feet of a residential dwelling, which fronts on the same street right-of-way, nor within five hundred (500') of any religious assembly or public or private elementary or secondary school on the same street:** There are no residential dwellings, religious assembly, public or private elementary or secondary schools within the prescribed distances which front on the same street right-of-way as the proposed billboard sign.
8. **No billboard shall result in loss or damage of natural, scenic, or historic features of significant importance; and shall be constructed and operated with minimal interference of the use and development of neighborhood property:** No adverse affects have previously been reported to staff regarding the existence of the current sign which has occupied the site for almost a quarter century. There are therefore, no adverse effects anticipated by the continuation of a billboard sign of this size at this location. The new sign as proposed being of less structural mass should be less intrusive upon the environs than that which currently exists.
9. **No billboard shall be so designed to include the vertical stacking of billboards on the sign pole. Each billboard shall be comprised of a single sign face oriented in a given direction:** The proposed billboard is complaint with this provision.

COMPLIANCE WITH ZONING AND SUBDIVISION REGULATIONS:

Platting: **Compliant** – Lot 4, Block "D" – Shawnee Hills Village Subdivision No. 2.

CONCERNS OF STAFF AND REVIEWING AGENCIES: This request has been submitted to all applicable reviewing agency staff for consideration and comment. No significant issues or concerns were expressed by reviewing staff relative to code compliance or the provisions of public services.

ADDITIONAL FACTORS:

1. Neighborhood Improvement Association: Not Applicable.
2. Capitol Plaza Area: Not Applicable.
3. Flood Hazard Area: Not Applicable.
4. Airport Hazard Area: Not Applicable.
5. Historic Properties: No Registered Properties within 500-feet.

STAFF RECOMMENDATION:

The proposed billboard does not conform to the size regulations in any zoning district or the conditional use permit standards. The Planning Commission is not authorized to grant variances to the size and height limitations as provided for in the conditional use permit regulations for this type of sign therefore, based upon the above findings and analysis Planning Staff recommends **APPROVAL** of this proposal, based on one of the following options:

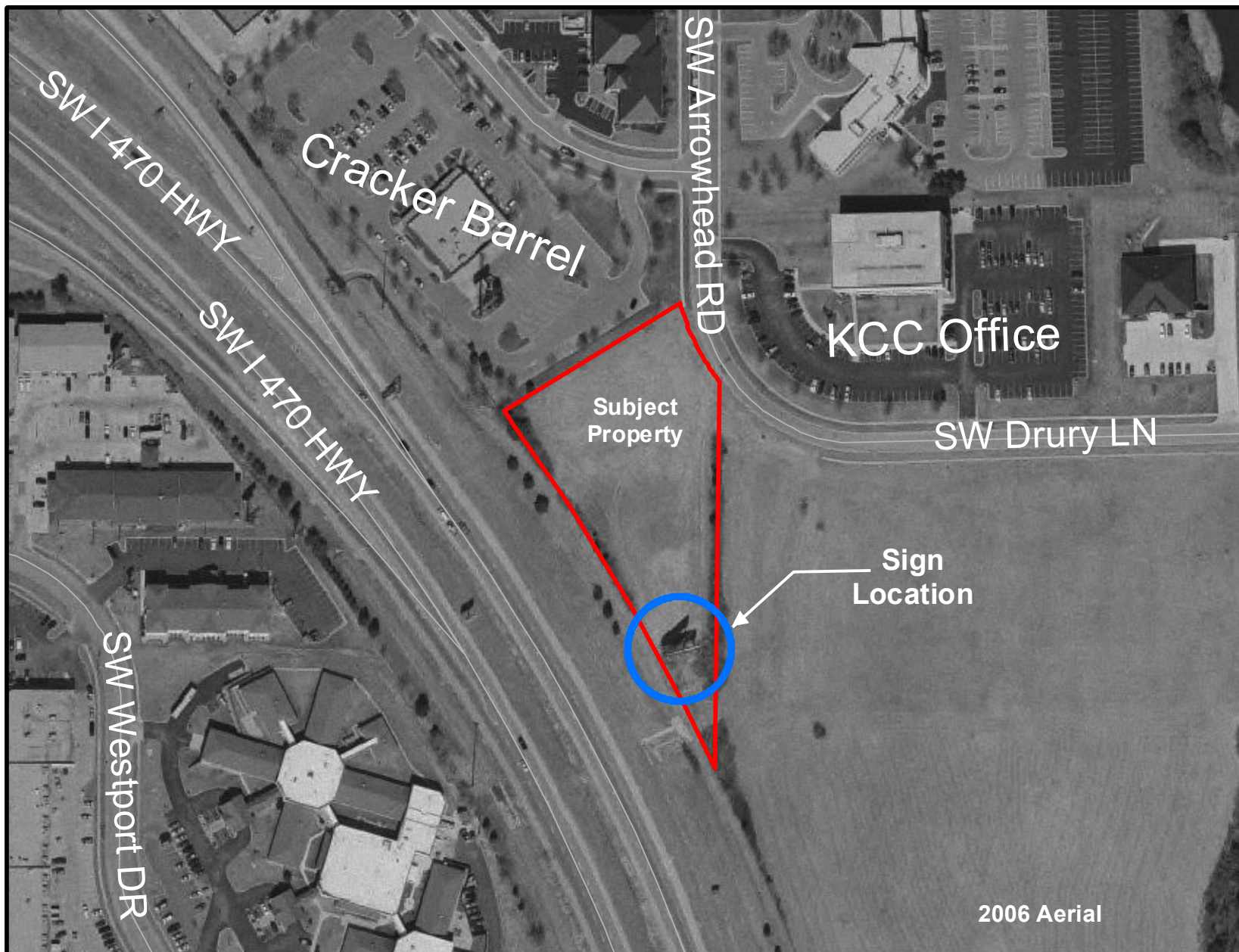
August 20, 2007
Agenda Item #F-1

1. Construction of an all steel single monopole billboard sign not exceeding a total of thirty-five (35') feet in height and comprising a total of two (2) sign faces not exceeding six hundred seventy two (672) square feet per sign face;

OR

2. Construction of an all steel single monopole billboard sign not exceeding a total of fifty-five (55') feet in height and comprising a total of two (2) sign faces not exceeding three hundred (300) square feet per sign face.

Prepared by: Dean W. Diediker
Planner II



CU07/3 by Ellite Investments, L.L.C.



CU07/3 by Ellite Investments, L.L.C.



We Are Outdoor.

Sign Dimensions for Remodeled Sign Located at

SW Drury Lane

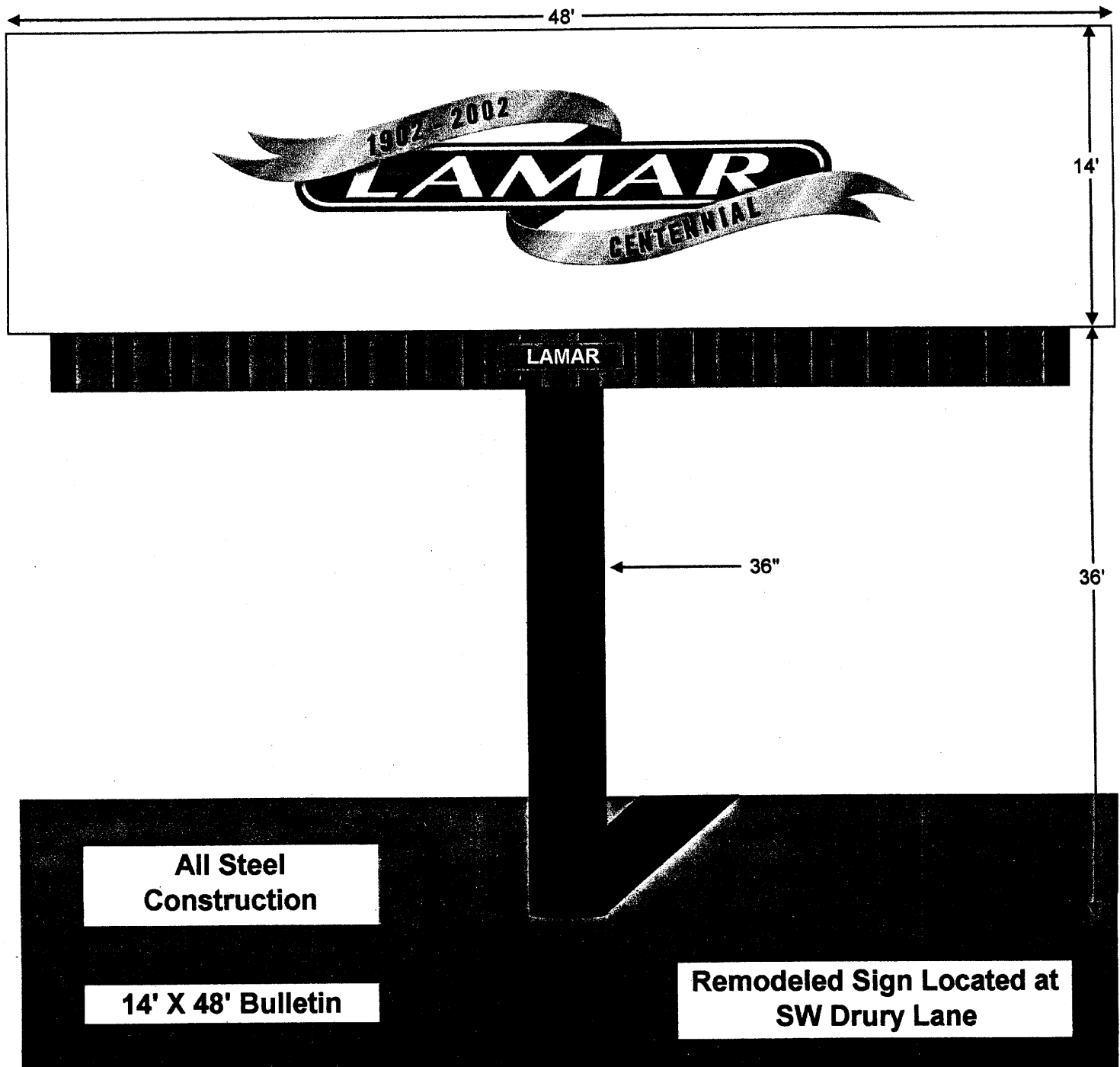


Exhibit "A"



Remodeled Structure Located at

SW Drury Lane

Sign type: Single Pole, V-shape
Sign Size: 14' X 48'
Sign Height: 50' overall
Illuminated: Yes
Structure Material: All Steel Construction

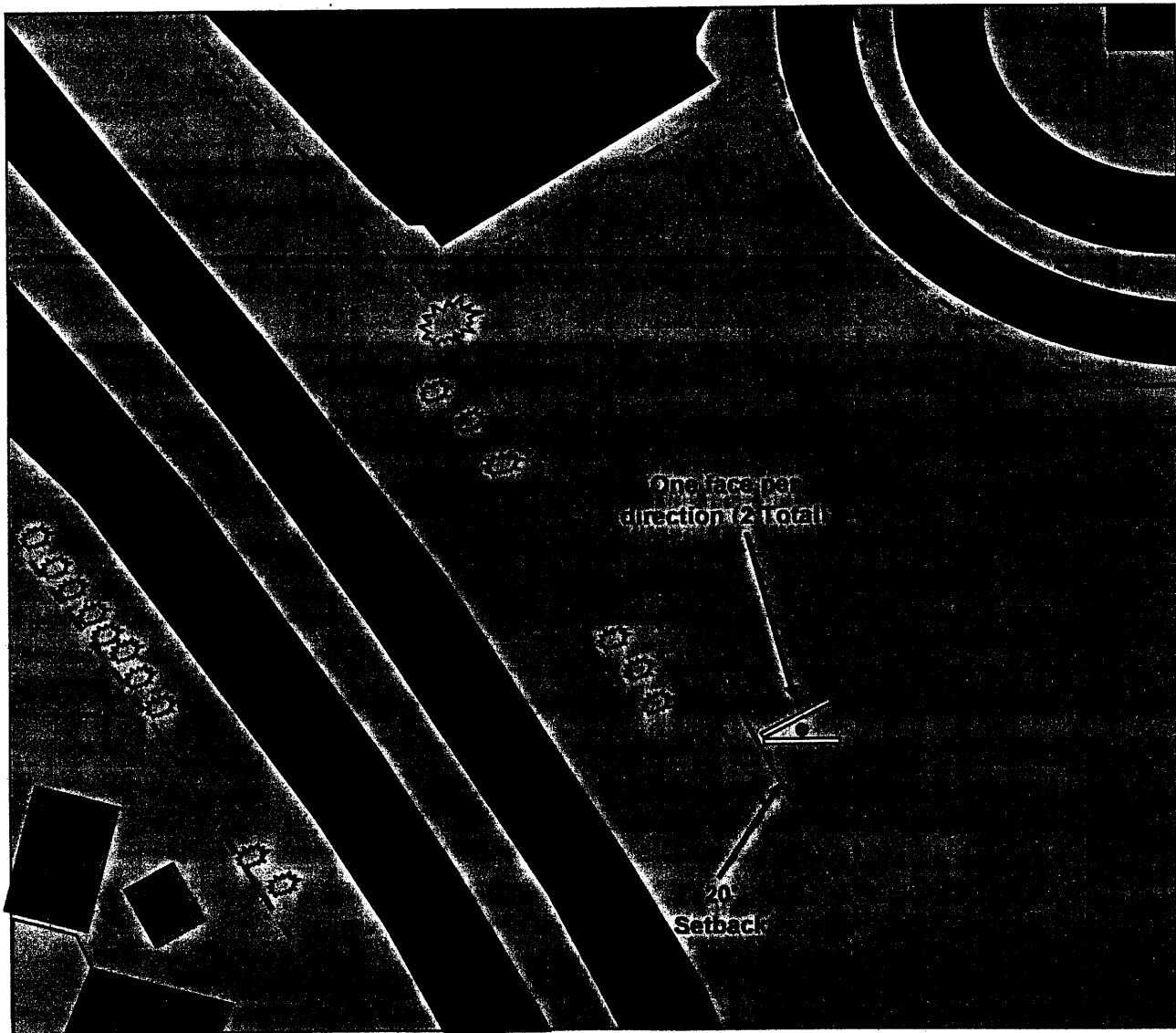
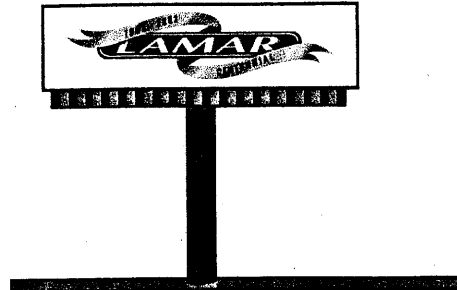
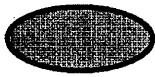


Exhibit "B"

**Aerial of Existing sign at
 [REDACTED] SW Drury Lane**



Bridges and Overpasses



Existing Sign to be rebuilt



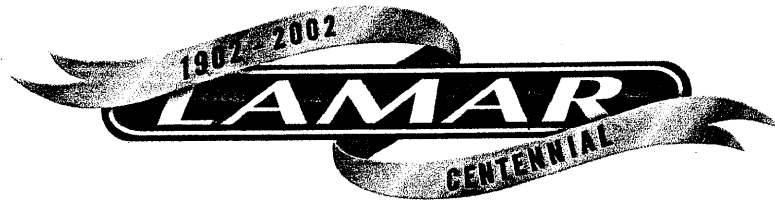
Existing Signs in general area



Demonstration of 200' Radius



Demonstration of 1320' Radius



We Are Outdoor.



Existing Structure Located at SW Drury Lane (Viewed from I-470)



Application Form Re-Zoning or Conditional Use Permit

City of Topeka Planning Department
620 SE Madison, 3rd Floor
Topeka, KS 66607
Phone 785-368-3728 Fax 785-368-2535

Applicant Information

Property Owner(s): Elite Investments, LLC.

Street Address: 15015 Roxburghe

City: Olathe State: KS Zip: 66061 E-mail: _____

Business phone: (913) 226-2106 Home phone: _____ Fax: (913) 393-1110

Authorized Owner Representative (if any): _____

Street Address: _____

City: _____ State: _____ Zip: _____ E-mail: _____

Business phone: _____ Home phone: _____ Fax: _____

Authorized Professional Agent (Engineer, Architect, Attorney, etc.) – If different from above

Geoff Cook, Real Estate Manager for Lamar Advertising of Topeka

Street Address: 2501 NE Meriden Rd.

City: Topeka State: KS Zip: 66617 E-mail: gcook@lamar.com

Business phone: 234-0501 Home phone: 608-0479 Fax: 234-1518

Authorization

I (we) am (are) the owner(s) of record for the subject property and hereby authorize filing of this application and posting of signage on the property by the City of Topeka for the requested zoning change. I (we) declare that all required materials are submitted along with this application and that the information submitted is complete and accurate. I (we) hereby acknowledge that all appropriate procedures, policies and regulations have been reviewed and understood, including authorization of any agent as listed in this application.

Owner 1 Name: _____

Owner 1 Signature: _____ Date: _____

Owner 2: Geoff Cook Real Estate Manager for LAMAR Advertising

Owner 2 Signature: Geoff Cook Date: 5/9/07

Requested Action and Site Information

Address of Property to be Re-Zoned (or if vacant, describe general location): 1515 SW Drury Lane & 1-470

Legal Description of Property: lot(s) 4 block X DLM subdivision Shawnee Hills Village #2
(if unplatted, attach metes and bounds description)

Total Area (acres/square feet): 2.09 Acres 10# 1420402004004000

Type of Application:

1. Re-zoning from: _____ to: _____
2. Conditional Use Permit proposed use: Rebuild existing Billboard on Monopole as described herein.

Existing Use (# of dwelling units, square feet, etc.): Currently developing a Hotel

How long has the existing use been on the property? New

Proposed Use (# of dwelling units, square feet, etc.): _____

Was a Pre-Application Meeting or Zoning Inquiry completed with Staff? _____ If Yes, when? _____

FOR OFFICE USE ONLY

Date submitted: 5/9/07
Application no.: CU07/3
Filing fee: 700⁰⁰ Receipt no.: 11571
Quarter section map no.: A-1

Date notice sent: 5/25/07
Date advertised: 5/25/07
Date of hearing: 6/18/07
Council district: #9

CHECK YES OR NO

Capital Plaza Area: Yes _____ No ☒

Within Historic Site Environs: Yes _____ No ☒

If Yes, what is it?: _____

100 yr Floodplain: Yes _____ No ☒

National/State Historic Register: Yes _____ No ☒

Local Historic Resource: Yes _____ No ☒

Airport Hazard Area: Yes _____ No ☒

Neighborhood Association: Yes _____ No ☒

Name of N.I.A./N.A.: none

Applicant Justification

For re-zoning applications:

This section is intended to provide you with the opportunity to present information in support of your request. It is important to bear in mind that the presumption of validity rests with the present zoning and use of the property. It is the burden of the applicant to demonstrate that the proposed change in zoning classification or proposed conditional use permit is appropriate.

Please attach additional sheets if necessary.

1. Why is the land not suitable for the uses to which the property is currently zoned?

The property is currently zoned C-4, which does not allow signs of 672 square feet or more to exist without the existence of a conditional use permit. This sign is of the status legal nonconforming as it is legal to exist, however we are required to apply for a permit to rebuild the structure to modern code compliance.

2. What effect would the proposed zone change have on the character of the neighborhood and surrounding properties?

The remodeling of the existing billboard at 1515 SW Drury Lane would provide the neighborhood with a modernized structure that is up to Lamar and the City of Topeka's high standards. In the same fashion as other signs in the area, Cracker Barrel, Rib Crib and our sign located farther South on I-470, Lamar will provide a new monopole structure and eliminate the multi pole structure that exists today.

The introduction of the new hotel on this property will bring new life to this growing area. Lamar wishes to contribute to the revitalizing of this highly visible part of town with a new monopole structure. As Drury lane develops, it meets new standards. Lamar values the existing billboard, but realizes that it falls below our standards and those of the City. Our only desire is to raise up to the modern standards that have developed since the construction of this sign and maintain the value of our sign location.

3. How does this request relate to any adopted neighborhood/land use plans by the City?

The city has granted a permit for a new hotel on the property and the sign in it's current condition will prevent the property owner from accessing his entire property. The new monopole structure will allow the use of more of this property and allow access to the far South portion of the property. The landowner has requested that Lamar rebuild this sign on a monopole, as they will be able to manuver vehicles under the sign to access their entire property. The pavement and sidewalk will accomodate the single pole structure and will be easy to work around during construction and thereafter.

Infrastructure Availability

Please consult the Engineering Division of Topeka Public Works Department for information below (368-3842)

1. Water

- a. Location and size of water main serving site:
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
- c. If other than City of Topeka, identify water district provider: _____

2. Sanitary Sewer

- a. Location and size of sewer main serving site:
- b. Does the current system have adequate capacity? If not, are improvements anticipated?
- c. If other than City of Topeka, identify sewer district provider: _____

3. Storm Drainage

- a. How will storm water run-off be handled on site?
- b. Does the current storm sewer system have adequate capacity for proposed use?

4. Traffic Circulation

- a. Does the site have public street frontage access? What is the pavement width of any adjoining public streets?
- b. What are the site's existing or proposed access points?
- c. Will any street improvements or traffic control improvements be required?

DRAFT

**Minutes of the
Topeka Planning Commission
June 18, 2007**

CU07/3 by Ellite Investments, L.L.C. requesting a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane. **(Diediker)** Bill Fiander summarized the staff report.

Discussion by members:

Theron Sims asked if staff had visited with the applicant after the staff recommendation was sent to them? Mr. Fiander replied no.

Proponents:

Geoff Cook, Lamar Advertising, spoke in favor of the proposal. He said Lamar has purchased the signs and are improving them. Lamar's requirements are similar to city code. We like single pole structures. This one is a multi pole structure that we would make a single pole. Michelle Hoferer asked if there is a preference in the two options that were listed in the staff report? Mr. Cook said he would prefer the size of sign be 50 feet high with a 672 square foot sign face.

Ralph Skoog said since you only have two choices which would you prefer. Mr. Cook said he would prefer the sign be larger. He referred to a sign located on South Topeka Boulevard that is the size he is requesting. Mark Boyd said the extra height is just for visibility? Mr. Cook replied yes, the trees in the area have grown up and are beginning to block the sign. Mr. Skoog asked if the trees were in the State right of way? Mr. Cook replied yes. There has been a lot of deliberation between KDOT and the State about the trees.

Kimberly Scott said there is a sign on Topeka Boulevard that is bigger than what we are allowing him? Mr. Thurbon said different zoning districts allow different signs. Ms. Hoferer asked Mr. Cook if he knew what the size of the sign is and the zoning on the property for the property he referred to on Topeka Boulevard? Mr. Cook replied it is 672 square foot sign and it is in the C-4 zoning. Mr. Fiander asked what the height was prior to the new sign that is there? Mr. Cook replied 53 feet in height. Mr. Fiander said sounds like they replaced a 53 feet tall sign with a 53 feet sign. He said in this case they are requesting an increase in height from 35 feet to 50 feet. Fred Sanders asked if the sign is constructed at 35 feet would the trees block the sign? Mr. Cook said they are currently growing into the sign and it will deteriorate the sign further. Mr. Sanders asked if they have contacted the State about the trees? Mr. Cook said he is trying to work with them for a solution. Mr. Thurbon said KDOT is working on a tree trimming program. Mr. Cook said he was confused - the city had already issued the building permit for this sign and then I was told to come here. We were issued a permit for the 50 foot sign with a 672 square foot sign face. Mr. Thurbon said during review of the permit we found it not compliant. Mr. Sanders said is there a communication error between staff and permits? Mr. Thurbon said he will have to check why the permit was issued. Mr. Fiander said our department makes the final check prior to issuance of sign permits.

1st motion:

Terry Simnitt moved to approve the sign 53 ft high with a 672 square foot sign face, seconded by Fred Sanders.

Substitute motion:

Mark Boyd said he would like to make a substitution motion allowing a sign that is 35 feet high with a 672 square foot sign face, seconded by Ralph Skoog.

Theron Sims asked if there would be any legal problems since the permit was already issued? Mr. Thurbon said there hasn't been any construction started. Also they were advised they needed the conditional use permit. I am not sure why they applied for the building permit knowing they needed the conditional use permit. I will follow up and see why the permit was issued. Mr. Sims said when they applied for the building permit they would have been advised C-4 only allows 35 feet in height. Mr. Thurbon agreed. He stated he would like to comment on the first motion. He said a conditional use permit can't increase the standards of the base zoning. That would require a variance by the Board of Zoning Appeals.

Mr. Thurbon stated a conditional use permit can not be used to allow a larger sign than what is allowed in zoning code. Mr. Simnitt said the sign on Topeka Boulevard is as large as they are requesting, why can't this one be? Mr. Thurbon said it was probably a grandfathered use. He added we allow a billboard to be replaced if it isn't increased in size or height. In this case a variance would have to be requested by the Board of Zoning Appeals to increase the height.

Mr. Boyd asked if Mr. Cook would go to the Board of Zoning Appeals to ask for a variance to get the taller sign? Mr. Cook said he felt he had met the criteria needed to get what we requested. Mr. Boyd said he suggested running through the Board of Zoning Appeals and if they deny come back here for the conditional use permit. Ms. Hoferer said we would just hold off on the conditional use permit. Mark said he would withdraw his motion. Mr. Cook said he feels this new structure would only benefit us if we get the height we are requesting.

Mr. Boyd asked Mr. Cook if he understands what happened. Mr. Cook replied yes, I need to apply for a variance for the height with the Board of Zoning Appeals. Mr. Skoog withdrew his second to the motion and informed Mr. Cook staff would help him with the variance application.

Chairwoman Hoferer said all previous motions have been withdrawn.

Final motion:

Theron Sims moved to continue the proposal to the August Planning Commission hearing pending outcome from the Board of Zoning Appeals, seconded by Ralph Skoog. **CONTINUED to the August 20, 2007 Planning Commission meeting. (9-0-0)**

DRAFT

**Minutes of the
Topeka Planning Commission
August 20, 2007**

CU07/3 by Ellite Investments, L.L.C. requesting a Conditional Use Permit to relocate, remodel or rebuild a legal non-conforming billboard on property currently zoned "C-4" Commercial District and located east of I-470 Highway and west of SW Drury Lane. **(Diediker) Continued from the June 18th, 2007 Planning Commission meeting.** Dean Diediker summarized the staff report.

Discussion by members:

David Thurbon stated normally a conditional use permit can not be more permissive than the base zoning. That is why we sent the case to the Board of Zoning Appeals. It was found however there is a section in the code that deals with this situation specifically. Mr. Thurbon added staff thinks the spirit and intent of the zoning code should be followed, but in this case the Commission can vary from the base zoning.

Braxton Copley, City Attorney's office, stated a prior city council created a process that would allow for the rebuilding of billboards but the owner had to apply for a conditional use permit. Criteria stated the size of the sign could not change but it didn't address height. It only applies to the sign face. He said Legal's answer is the Planning Commission can allow the sign to be re-built to the same size and allow the height they have requested. The question is, is it feasible?x He said planning staff has given two viable options and are listed in the staff report. Howard Blackmon asked if the commission could give them what they applied for? Mr. Copley replied yes.

Fred Sanders asked if KDOT maintains the trees on their property where billboard is located? Mr. Thurbon said it is his understanding that KDOT will trim the trees. Mr. Sanders asked if that is an option? Mr. Thurbon said KDOT has a tree trimming program but not sure if they will trim the trees in front of this sign. Mr. Sanders said if they have to cut this one down they could always plant another.

Proponents:

Geoff Cook, Lamar Advertising, spoke in favor of the proposal. He said he has been reviewing the sign code and it appears size and height are two different things. The code says we have to keep the same size but can increase the height to avoid the trees that have become a problem. Terry Simnitt said you want to raise the height but keep the same sign face? How high? Mr. Cook replied from 35 feet to 50 feet. Theron Sims asked what about tree trimming? Mr. Cook said he is working with KDOT but part of it is his company can't bother purposely planted trees. Some of these trees have more value than ones that grow up out of no where. They invest the money for these trees. Mr. Sims asked if KDOT could trim them? Mr. Cook said the whole industry is working with the state on this problem.

Mr. Sanders asked if wind will be an issue with the additional height? Mr. Cook said the new monopole unit can withstand a higher amount of wind than the one there right now. A single pole unit is stronger than the multi- pole units of the past. We want to maintain the same visibility we had when the sign was put there many years ago.

No exparte communications.

Howard Blackmon move to approve the conditional use as it was applied for allowing for a sign height of 50 feet, seconded by Terry Simnitt. **APPROVAL. (7-1-0) Commissioner Boyd voted no.**



A Capital City Government Working For You...

www.topeka.org

Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

September 12, 2007

+ Back Print

DATE: September 25, 2007
CONTACT PERSON: Jim Langford/kej **DOCUMENT #:**
SECOND PARTY/SUBJECT: Weekly Expenditures **PROJECT #:**
CATEGORY/SUBCATEGORY 014 Ordinances – Non-Codified / 005 Miscellaneous
CIP PROJECT: No
ACTION OF COUNCIL: **JOURNAL #:**
PAGE #:

DOCUMENT DESCRIPTION:

AN ORDINANCE introduced by City Manager Norton N. Bonaparte, Jr., allowing and approving City expenditures for the period of September 3, 2007, through September 9, 2007, and enumerating said expenditures therein. First and Final Reading.

POLICY ISSUE:

Approve and allow weekly payments of valid operating expenditures, pursuant to Resolution No. 7607.

STAFF RECOMMENDATION:

Adopt as presented.

BACKGROUND:

Pursuant to Resolution No. 7607, adopted on April 12, 2005, which provides authorization to pay for certain expenditures prior to approval by the Council in an expenditure ordinance, the expenditures being authorized by this ordinance have been previously paid, in accordance with established procedures and policies for such payments.

BUDGETARY IMPACT:

Approves expenditures for the period September 3, 2007, through September 9, 2007, in the amount of \$195,656.04.

SOURCE OF FUNDING:

Appropriated funds and fees-for-service revenues of various City departments.

ATTACHMENTS:

[Weekly Expenditures for Week Ending September 9, 2007](#)

(Published in the Topeka Metro News _____)

ORDINANCE NO. _____

AN ORDINANCE introduced by City Manager Norton N. Bonaparte Jr., allowing and approving City expenditures for the period of September 3, 2007, through September 9, 2007, and enumerating said expenditures herein.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF TOPEKA, KANSAS:

Section 1. All expenditures made or authorized to be made by issuance of checks or electronic transfers as enumerated herein, are in accordance with City of Topeka Resolution No. 7607.

Section 2. The claims and expenditures listed in Exhibit A, which is on file in the City Council Office and the City Clerk's Office and incorporated herein by said reference, are hereby allowed and approved for payment.

<u>Section 3.</u>	Total for 83 vendor checks written in this period	\$100,332.32
	Total vendor checks voided in this period (net)	(0.00)
	Total electronic transfers to vendors in this period	95,323.72
	Total net payroll to employees this period	0.00
	Total payroll related electronic transfers this period	<u>0000.00</u>
	Total for expenditures in this period	<u>\$195,656.04</u>

Section 4. This ordinance shall take effect and be in force after its passage, approval and publication in the official city newspaper.

PASSED and APPROVED by the City Council _____.

ATTEST:

William W. Bunten, Mayor

Brenda Younger, City Clerk



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Council Action Form

Council Chambers
214 SE 8th Street
Topeka, Kansas 66603

August 1, 2007

 + Back  Print

DATE: September 25, 2007

CONTACT PERSON:

DOCUMENT #:

SECOND PARTY/SUBJECT:

PROJECT #:

CATEGORY/SUBCATEGORY

CIP PROJECT: No

ACTION OF COUNCIL:

JOURNAL #:

PAGE #:

DOCUMENT DESCRIPTION:

POLICY ISSUE:

STAFF RECOMMENDATION:

BACKGROUND:

BUDGETARY IMPACT:

SOURCE OF FUNDING:

ATTACHMENTS:

No Attachments Available



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August 21, 2007

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