

**EDGERTON BOARD OF ZONING APPEALS
MEETING AGENDA
EDGERTON CITY HALL - 404 EAST NELSON STREET
September 13, 2022
8:00 P.M.**

The City of Edgerton encourages public participation in local governance issues. To facilitate an efficient and effective meeting, persons wishing to address the Board of Zoning Appeals must sign-up before the meeting begins. During public hearings, comments must be limited to three (3) minutes per speaker. The maximum time limit for all speakers during each public hearing will be one (1) hour.

The chair may modify these provisions, as necessary. Speakers should state their name and address and then make comments that pertain to the public hearing item.

The chair may limit any unnecessary, off-topic, or redundant comments or presentations. Speakers should address their comments to Board of Zoning Appeals members only and should not speak to fellow audience members. Board members will not engage in a dialogue or debate with speakers. Speakers and audience members should conduct themselves in a civil and respectful manner. Disruptive conduct may result in removal from the meeting.

Call to Order

1. **Roll Call** ____ Daley ____ Draskovich ____ Crooks ____ Little
2. **Welcome**
3. **Pledge of Allegiance**

Consent Agenda *(Consent Agenda items will be acted upon by one motion unless a Planning Commissioner requests an item be removed for discussion and separate action.)*

4. Approve Minutes from the August 11, 2020 Board of Zoning Appeals Meeting.

Motion: _____ Second: _____ Vote: _____

Regular Agenda

5. **Declaration.** At this time Board of Zoning Appeals members may declare any conflict or communication they have had that might influence their ability to impartially consider the agenda items.

Business Requiring Action

New Business

6. **PUBLIC HEARING REGARDING APPLICATION VA2022-01 REQUESTING A VARIANCE FROM THE EXTERIOR LIGHTING SPECIFICATION REQUIRED UNDER THE UNIFIED DEVELOPMENT CODE ARTICLE 10, SECTION 10.1.G(9.e) FOR JB HUNT LOCATED AT 30650 TO 30700 W 191ST STREET** Applicant: Derek Kennemer, Agent – JB Hunt Transport, Inc.

7. **CONSIDER APPLICATION VA2022-01 REQUESTING A VARIANCE FROM THE EXTERIOR LIGHTING SPECIFICATION REQUIRED UNDER THE UNIFIED DEVELOPMENT CODE ARTICLE 10, SECTION 10.1.G(9.e) FOR JB HUNT LOCATED AT 30650 TO 30700 W 191ST STREET** Applicant: Derek Kennemer, Agent – JB Hunt Transport, Inc.

Motion: _____ Second: _____ Vote: _____

8. **PUBLIC HEARING REGARDING APPLICATION VA2022-02 REQUESTING A VARIANCE FROM THE CARGO CONTAINER STORAGE SETBACKS ABUTTING A RESIDENTIALLY ZONED PARCEL REQUIRED UNDER THE UNIFIED DEVELOPMENT CODE ARTICLE 7, SECTION 7.2.G(7.j.3) FOR JB HUNT LOCATED AT 30650 TO 30700 W 191ST STREET**

Applicant: Derek Kennemer, Agent – JB Hunt Transport, Inc.

9. **CONSIDER APPLICATION VA2022-02 REQUESTING A VARIANCE FROM THE CARGO CONTAINER STORAGE SETBACKS ABUTTING A RESIDENTIALLY ZONED PARCEL REQUIRED UNDER THE UNIFIED DEVELOPMENT CODE ARTICLE 7, SECTION 7.2.G(7.j.3) FOR JB HUNT LOCATED AT 30650 TO 30700 W 191ST STREET** Applicant: Derek Kennemer, Agent – JB Hunt Transport, Inc.

Motion: _____ Second: _____ Vote: _____

10. **Adjourn**

EDGERTON COMMUNITY BUILDING
EDGERTON BOARD OF ZONING APPEALS
August 11, 2020
6:30 PM
Minutes

The Edgerton Board of Zoning Appeals (the Board) convened with Chairman John Daley calling the meeting to order at 6:30 p.m.

The Roll Call was answered, indicating those present were Board member Jeremy Little, Board member Charlie Crooks, and Board member Deb Lebakken. Board member Tim Berger and Chairman John Daley were absent from the meeting. Also present were Development Services Director Katy Crow and Planning and Zoning Coordinator/City Clerk Chris Clinton.

The Planning and Zoning Coordinator/City Clerk indicated a quorum was present.

MINUTES

The approval of the minutes from the meeting held on July 14, 2020 were considered. Motion by Board member Lebakken, seconded by Mr. Crooks, to approve the minutes. The minutes were approved, 3-0.

PUBLIC HEARING – VARIANCE REQUEST FOR 32501 W 200TH ST – VA2020-02

Ms. Katy Crow, Development Services Director, stated this variance is request is for signage at the truck stop that is being constructed at Interstate 35 (I-35) and Homestead Lane. She stated Mr. Kent Jurgersen is presenting for CAT Scales in replacement of the applicant, Mr. Ryan Duncan.

Board member Little, acting as Chair, stated the Board has convened to conduct a public hearing to consider Application VA2020-02 requesting approval of a variance from the signage regulations allowing one (1) pole sign per parcel under the Unified Development Code (UDC) Article 12, Section 12.12.C for On the Go Travel located at 32501 West 200th Street, Edgerton, Kansas. This request for a variance is allowed by the City of Edgerton UDC which requires that such a matter be heard by the Board of Zoning appeals. The Board is composed of all five (5) members of the Edgerton Planning Commission. He stated all hearings before the Board of Zoning Appeals shall be open to the public. He explained the Chair of the Board may establish reasonable limitations on the length of testimony and shall have the power to rule on objections and other points of order raised by a board member, an applicant, or member of the public.

Board member Little stated the variance requests heard before the Board take into consideration the following criteria:

1. The variance arises from a condition unique to the property in question and is not a general condition found in the neighborhood.
2. That granting the variance will not adversely affect the rights of adjacent property owners or residents.

3. That strict adherence to the regulations in the specific case will constitute unnecessary hardship upon the property owner requesting the variance. The board must determine that the hardship is greater than an economic disadvantage, and in fact extends to a means of livelihood, a matter of protecting title to property, or if left uncorrected, would result in a severe and irrevocable change in the applicant's ability to transfer property. A hardship may also be construed to be "honest error" imposed upon a property owner by a ministerial official, or licensed professional, or through eminent domain or zoning resulting in a substantial a near taking loss of property rights.
4. The variance desired will not adversely affect the public health, safety, morals or welfare, convenience, prosperity, or general order.
5. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the Zoning Ordinance provisions that are in question.

In consideration of this item this evening, the following parameters will be in place:

- Each criterion will be addressed one at a time.
- Each criterion must pass by a majority vote.
- Should any one of the five criteria not pass with a majority vote, the item fails.
- The vote for each criterion will be by voice vote and the Planning and Zoning Coordinator will poll each board member individually.

Board member Crooks motioned to open the public hearing. Board member Lebakken seconded the motion. The public hearing was opened, 3-0.

Mr. Jurgensen spoke before the Board. He pointed out where the scale is to be located on the Site Plan and explained how the traffic will flow for trucks needing to use the scale. Mr. Jurgensen showed the Board photos of what the scale looks like in Olathe, Kansas and another location that does not have the pole signs above the entrance of the scale. He explained how the scale looks and operates. CAT Scales wants to make sure the trucks are street legal before the trucks get onto the roads too far and cause damage to the roadways. He stated truck drivers will be able to get the weight inside the store or on CAT Scale's mobile application. Mr. Jurgensen stated trucks are on the scales for less than a minute then the drivers know if they can add more fuel or increase the load they are moving. There are two (2) cameras so that attendants in an adjacent building may monitor for correct placement of the truck on the scale. The scales are typically near the end of the fuel stations and elevate approximate 4" – 6" above the ground. Mr. Jurgensen explained that safety concerns about the location of the scale have led to the request of the variance.

Mr. Jurgensen stated in regard to the first criterion, the travel center and facility will house services for trucks. The CAT Scale is a separate entity from the travel center with no structures for signs and uses an intercom system on the pole which communicates to the attendant inside the shop to aid the driver. He stated there is a long-term lease to put the scale on the site.

Mr. Jurgensen addressed criterion number two. He stated the installation of the signs will not affect adjacent residents. The scale provides a service that is needed in this area. The signs will help navigate drivers to the scale and that in turn would help reduce overweight truck loads on

roadways. The signs would also aid in traffic circulation and prevent the recycling of traffic within the site.

Mr. Jurgensen explained the third criterion. He stated without the signs, it is hard for drivers to see the scale as it is only 4 to 6 inches above the surrounding pavement and there are no structures around it. The proposed sign will increase the public's safety and increased response time for traffic to prevent recycling within the site that can cause traffic jams.

Mr. Jurgensen spoke about the fourth criterion. He explained there would be no adverse effects to the public health, safety, morals, order, convenience, prosperity, or general welfare if the sign were approved. The signs will be installed meeting all local codes with no line of sight issues as it is not near an access point. He stated the scale would reduce the number of overweight loads on roadways.

Mr. Jurgensen addressed the fifth criterion. He said the approval of the variance would not be opposed to the general spirit and intent of the zoning regulations. He explained there are going to be many businesses at this location that have buildings to where they can hang up signs, but there are no buildings for the CAT scales. The signs would help drivers find and locate the scale easily.

Ms. Crow spoke before the Board to present City Staff's findings. She said the UDC was updated last fall, increasing the allowable height of pole signs and the overall sign area for pole signs was increased to 900 square feet. The Planning Commission discussed the look and feel of commercial areas within Edgerton when discussing the changes to the UDC. The property owner has indicated they wish to construct a pole sign that will display the fuel prices on the southwest corner of the lot. This would make the CAT Scale pole sign the second one on the parcel, which is not allowed per the UDC, and has led to the request for the variance.

Ms. Crow presented City Staff's response for the first criterion. She stated Article 12, Section 12.12.C, Table 12-3 of the UDC states that a C-2 zoned parcel is allowed a maximum 1 pole sign per parcel. The parcel owner has indicated a large pole sign is to be constructed on the southwest corner of the parcel which will show fuel pricing. While the proposed pole sign by CAT Scale is for another entity on the same parcel, the UDC does not allow the exemption for multiple pole signs for multiple tenants on a property. She explained the request for a pole sign is not unique to this parcel as each C-2 and C-3 zoned parcel has to meet the one pole sign requirement. Ms. Crow explained City Staff believes a scale house, a canopy covering the scale, or masonry style supports for the sign are all available options which would not require a variance. The metal supports proposed by the applicant are by definition what make it a pole sign. If the design was altered it could be defined as another type of signage and thus alleviate the need for the variance.

Ms. Crow addressed the second criterion. She stated the approval of multiple pole signs will create a precedence for future developments that wish to do the same. City Staff has also explained to the applicant that there are other types of signage allowed by the Edgerton UDC that could be utilized with no variance required.

Ms. Crow spoke on the third criterion. She said the UDC does not ban signage, but it requires signage to meet the approved guidelines for installation. The safety information shown on the proposed sign can be displayed on a different type of sign that would not need a variance. Ms. Crow stated City Staff also stated this for their response to the fourth criterion.

Ms. Crow present City Staff's response on the fifth criterion. She said Article 12 of the UDC has been revised and updated within the last year. It was the intent during that code revision that development projects in all zoning designations, meet a standard that was both functional and attractive. She said due to the parcel's adjacency to Logistics Park Kansas City (LPKC), the City has been very deliberate in enforcing the requisite design standards which keep LPKC an attractive asset to the Edgerton community. Ms. Crow explained the established limit of one pole sign per parcel was an included requirement in order to keep the air space clear of clutter. Branding for individual businesses operating on the parcel could be added to the fuel pole sign through a coordination of efforts between the owner and onsite tenants. The safety information can be displayed on approved signage which does not require a variance.

Board member Crooks inquired if the round metal poles are what make the proposed sign a pole sign. Ms. Crow answered yes. Board member Crooks asked if there were masonry pillars, then there would not need a variance. Ms. Crow replied that is correct. Board member Crooks asked the applicant what the height of the scale is off the ground. Mr. Jurgensen answered the scale is about 4 to 6 inches higher than grade. Board member Crooks inquired if there would be many signs. Mr. Jurgensen replied there would only be the 1 sign. Mr. Jurgensen inquired if a canopy or if the pole was wrapped in brick if the need for the variance would be eliminated. Ms. Crow replied that was correct asked for clarification on what an item is that is shown on a photo. Mr. Jurgensen answered it is a turn block that would block a truck turning into the sign. He explained CAT Scales tries to install standard signage at all project so that there is no wait for manufacturing and the signage is always in stock. Ms. Crow stated the poles could be kept and masonry would just need to be kept up around the supports.

There were no further comments from the applicant, City Staff, or the public. Board member Little closed the public hearing.

Board member Little stated after hearing the information provided, the Board will now address each criterion individually. As the Board finishing discussing each item, they will vote on each criterion by a voice vote. He explained a yes vote indicates the board member agrees with the statement and a no vote indicates the board member disagrees with the statement. In order for an item to pass, it must receive a yes majority vote.

Board member Little read the first item as the variance arises from a condition inquire to the property in questions and is not a general condition found in the neighborhood. The item did not pass as all the board members disagreed with the statement, 0-3.

Ms. Crow stated the variance is not granted as all items must be found true. With the failure of the first item, no further votes were taken. Mr. Jurgensen stated that CAT Scale will provide drawings for a canopy with signage.

ADJOURNMENT

Motion to adjourn the meeting was made by Board member Crooks, seconded by Board Lebakken. The motion was approved, 3-0.

The meeting adjourned at 7:00 PM.

Submitted by:

Chris Clinton
Planning and Zoning Coordinator/City Clerk

DRAFT

JB HUNT TRANSPORT

Application VA2022-01

30650/30700 W. 191st Street (Northeast corner of 191st Street and Montrose Street)

QUICK FACTS

PROJECT SUMMARY AND REQUESTED APPROVALS

The Applicant is requesting a variance from the site plan requirements in Article 10, Section 10.1.G(9.e) of the Edgerton Unified Development Code for parcels located just east of 30650/30700 W. 191st Street (northeast corner of 191st Street and Montrose Street).

**This application requires a
Public Hearing.**

Owner and Applicant

JB Hunt Transport, Inc. represented by Derek Kennemer, Agent and Property Owner

Zoning and Land Use

L-P (Logistics Park) which has been developed with a cargo container storage lot on the eastern side of the property.

Legal Description

The S ½ of the SW ¼ of Section 35, Township 14 S, Range 22 E, in the City of Edgerton, Johnson County, Kansas; please see attached application for complete Legal Description

Parcel Size

10.05 acres

Staff Report Prepared by

Chris Clinton



BACKGROUND

Subject Site

The parcel is located within the Bull Creek watershed and was annexed into the City of Edgerton on June 10, 2021.

Utilities and service providers:

- a. Water Provider - Johnson County Rural Water District #7.
- b. Sanitary Sewer - City of Edgerton.
- c. Electrical Service - Evergy.
- d. Gas Service – Kansas Gas Service.
- e. Police protection is provided by the City of Edgerton through the Johnson County Sheriff's Office.
- f. Fire protection is provided by Johnson County Fire District #1.

Zoning and Land Uses

	ZONING	LAND USE	USER/OWNER
SITE	L-P, Logistics Park District	Vacant	JB Hunt Transport Inc
NORTH	RUR, Johnson County Rural	Residential	Robert S Murphy Revocable Trust
SOUTH	L-P, Logistics Park District	Vacant	Cohlmia LLC
EAST	A, City of Gardner Agricultural	Vacant/Agricultural	SMS Ventures, Inc
WEST	L-P, Logistics Park District	Cargo Container Storage	JB Hunt Transport Inc

Site History and Past Approvals

The Edgerton City Council gave final approval to rezone the original platted parcel from Johnson County *RUR* to Edgerton *L-P, Logistics Park* zoning on January 9, 2014. The Planning Commission approved Final Site Plan FS-11-18-2013 on December 10, 2013 and Amended Final Site Plan FS2016-05 on August 9, 2016. These Final Site Plans were for a cargo container storage facility. A Conditional Use Permit was approved by the Governing Body on January 9, 2014 and approved the cargo container facility for ten (10) years.

On August 8, 2021, the City of Edgerton Planning Commission approved Applications ZA2021-07 and ZA2021-08 for the rezoning of the two (2) eastern parcels from Johnson County *RUR* to Edgerton *L-P, Logistics Park* zoning. Edgerton City Council granted final approval for this rezoning on September 9, 2021. On December 14, 2021, the Planning Commission approved the Preliminary Plat and recommended approval of the Final Plat to the Governing Body. The Final Plat has not been presented to the Governing Body as the applicant was finalizing easements and other information related to this Final Site Plan. The Final Plat updates do not require reapproval as they were listed as stipulations by the Planning Commission.

The Edgerton Planning Commission will hear Final Site Plan Application FS2022-03 on September 13, 2022 prior to the Board of Zoning Appeals hearing this application.

Proposed Use

This Final Site Plan request is being made in preparation for expansion of the current JB Hunt facility and operations. These operations include an existing cargo container storage lot (Application CU-11-18-2013, approved on January 9, 2014). Expansion of these operations would

require the issuance of a new Conditional Use Permit (CUP) that would encompass existing and new operations on the site. Understanding this requirement, the applicant has submitted application CU2022-01 which will be presented to the Planning Commission on September 13, 2022.

Current access to the site is from W. 191st Street and it will remain that way.

Project Timeline

- Application submitted to the City: February 23, 2022
- Public Hearing Notice Published: August 24, 2022
- Public Hearing Notices Mailed: August 23, 2022 (sent to 13 properties)

VARIANCE

On February 23, 2022, City staff received Board of Zoning Appeals (BZA) Application VA2020-01 requesting a variance from the site plan requirements of the Unified Development Code (UDC). The requirements for a site plan are governed by the UDC under Article 10, Section 10.1.G.

Article 10, Section 10.1.G (9.3) specifically states the site plan submittal must contain, "*Exterior lighting specifications including a preliminary photometric plan. A final photometric plan will be required at the time the applicant applies for a Building Permit. Lighting should be installed in an effort to minimize spillover onto adjacent properties and streets. The maximum light level at any point on a property line shall not exceed 0.0 foot-candles when adjacent to an agricultural or residential property or 0.2 foot-candles when adjacent to a nonresidential district, measured five (5) feet above grade. Lights shall be aimed away from adjacent properties and streets and may need to be shielded to meet the foot-candle requirements. The maximum height for luminaires shall not exceed 25 feet as measured between the bottom of the luminaire and grade.*"

The applicant is requesting they be allowed to locate 46 foot tall light poles along the perimeter of the proposed lot.

Per the Kansas State Statute 12-759 and the City of Edgerton Organization and Bylaws of the Board of Zoning Appeals, there are five factors the Board of Zoning Appeals must consider when approving a variance from the Unified Development Code (UDC).

All five of these factors must be considered in light of the applicant's responses and City Staff's comments during deliberation and **all five** factors must be found to be true by a majority of the Board for a variance to be granted. If any one factor does not receive a majority of Board member votes, the variance shall not be approved.

Each factor is listed below with the applicant's response from their submitted variance application. City Staff has provided comment regarding each factor.

BZA Factors

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

Applicant: *For the safety and security of employees operating equipment, light poles located in the parking lot create a hazardous work condition. To prevent accidents and injuries to employees as well as being able to monitor operational safety with camera coverage, we would like to locate 46 ft. light poles along the perimeter of the proposed lot. 25 ft. light poles will not provide enough lighting and visibility on-site for employees to navigate and operate equipment or monitor operational safety with camera coverage.*

City Staff: This request is not unique to the property in question. This requirement is required for all new development, regardless of zoning designation. The Board of Zoning Appeals (BZA) did deny a similar request on a parcel requesting luminaires at a height of sixty (60) feet on July 14, 2020. There are other parcels that are zoned L-P that are able to perform similar functions with the luminaries being installed at the required height. The applicant has created the action by not proposing more luminaries at the height noted in the UDC.

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

Applicant: *Proposed lighting will be shielded and constructed to minimize light pollution to adjacent developments. See attached photometric plan for additional details. Additionally, the owner will be providing enhanced screening, fencing, and landscaping to minimize sound and visibility of parked chassis and storage containers.*

City Staff: The provided photometric plan does show instances where the maximum foot candles are exceeded along property lines shared with residentially zoned property. This does create excess light pollution on to neighboring properties. The requested height of 46 feet is almost double the allowed height of 25 feet. The area where the light poles would be located is directly adjacent to occupied residential property. Other parcels with the same L-P zoning designation are able to conduct operations while meeting the required foot candles and height of luminaires.

3. **That the strict applications of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**

Applicant: *If the owner is to follow the current lighting ordinance, employee's safety could be risk, and create a hazardous working situation. The property functions 24 hours a day. A 25' light pole will not provide adequate light for these operations once the container height exceeds the top of the light pole.*

City Staff: There are other solutions that the applicant can consider ensuring employee safety. Additional luminaries could be installed to provide adequate lighting throughout the property versus installing taller luminaries. Other facilities have been able to perform similar operations under the provisions of the UDC. It is the property owner's decision to operate the facility for twenty-four (24) hours per day and does not constitute as an unnecessary hardship as additional luminaires could achieve proper illumination needed to perform duties at all hours of the day.

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

Applicant: *The variance request for lighting is based on providing safe and secure working condition to the owner's employees. The variance request for the setbacks is based on providing the owner functionality of their property while maintaining public's health, safety, general welfare.*

City Staff: As was previously noted, there are other solutions the applicant could have pursued to ensure lighting was adequate throughout the lot. The applicant has not provided enough data to illustrate a safety concern which would warrant the need of the variance, and any safety concern brought forward could be mitigated by increasing the number of lights poles at the allowed height limit. There have not been any complaints to City staff regarding the operations at the location the BZA denied the request for.

5. **That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations; and to grant exceptions to the provisions of the zoning regulation in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning regulation.**

Applicant: *The general spirit and intent of the ordinance is to limit exposure of adjacent developments from industrially zoned properties. The owner is proposing to construct additional features (landscaping, screening, etc.) to maintain the general welfare of the surrounding developments while still being able to develop their property.*

City Staff: The applicant has not addressed this factor in their response. The provided photometric plan does indicate an increased amount of light at the property line, which would be opposed to the general spirit and intent of the zoning regulations. City staff did revise and update Article 10 of the UDC in 2020 to have development projects in all zoning designation to meet a standard that was both function and attractive. Logistics Park Kansas City (LPKC) is a very important development to the City and as such, the City has been very deliberate in enforcing the requisite design standards which keep LPKC an attractive asset to the Edgerton community.

DOCUMENTS INCLUDED IN PACKET

Sheet #	Title	Date on Document
Application	Application for VA2022-01	2/18/2022
1	Variance Request Letter	2/22/2022
3	Article 10, Section 10.1.G (9.e)	5/26/2022
5	Preliminary Photometric Plan	Undated

Application is made for:

☐**APPEAL**FROM A DECISION OF THE CODE ENFORCEMENT OFFICER,
ZONING ADMINISTRATOR, OR OTHER CITY STAFF, IN THE
ENFORCEMENT OF THE UNIFIED DEVELOPMENT CODE☒**VARIANCE**FROM SPECIFIC SECTION(S) OF THE UNIFIED
DEVELOPMENT CODE

Legal Description: (If property is not platted, please provide an electronic copy of legal description in a Microsoft Word document)

JB Hunt Addition Final Plat located in South Half of the Southwest Quarter of Section 35, Township 14 South, Range
22 East, in the City of Edgerton, Johnson County, KansasLocation or address of subject property: 30700 W 191st Street Edgerton, KS 66030Zoning on subject property: L-P Current land use: Storage Container Yard & Undeveloped

Request: (cite specific section and subsection of the Unified Development Code from which appeal or variance is requested)

Request to construct exterior light poles (luminaries) with height of 46 ft. City of Edgerton Unified Development Code (UDC Sec.
10.1.G.9.e) allows for maximum height of 25 ft proposed lighting. Proposed lighting would be located along the perimeter of the
parking lot. Request to storing cargo containers no closer than 175 feet from the north, east and south property lines adjacent to
residential/RUR, but may park chassis there as long as no closer than 50 feet of the property line. (Similar to north buffer on the
current approved CUP).Property owner name(s): Derek KennemerPhone: 479.659.6852Company: JB Hunt Transport, IncEmail: Derek.Kennemer@jbhunt.comMailing address: 705 A North Bloomington Street Lowell, AR 72745Applicant/agent's name(s): Brandon WaldrumPhone: 972.488.3737Company: CEI Engineering Associates, IncEmail: bwaldrum@ceieng.comMailing address: 3030 LBJ Freeway, Ste 100 Dallas, TX 75234Signature of owner or agent: 

If not signed by owner, authorization of agent must accompany this application.

FOR OFFICE USE ONLYApplication No.: VA2022-01Received by: Christopher ClintonPermit Fee Paid: \$ 250Date Fee Paid/Receipt #: 3-3-2022 63210Publication Fee Paid: \$ 184Date Fee Paid/Receipt #: 8-9-2022 80838269Hearing Date: Sep. 13, 2022

CERTIFIED LETTERS: The applicant will be responsible for mailing notices (see attached form letter) of the public hearing for the requested appeal or variance by certified mail, return receipt requested to all owners of land within the notification area: two hundred (200) feet within the city limits; one thousand (1,000) feet in the unincorporated area of the subject property. These notices must be sent a minimum of ten (10) days prior to the public hearing. Information regarding ownership of the land within the notification area can be obtained from the Johnson County Department of Records and Tax Administration, or through a title insurance company (preferred method). A list of property owners within the notification area must be submitted with the application.

AFFIDAVIT OF COMPLIANCE: An affidavit (see attached form) concerning the mailing of property owner notification letters must be returned to the office of the City Clerk by no later than the Thursday preceding the Board of Zoning Appeals hearing.

BOARD OF ZONING APPEALS REVIEW AND DECISION: The Edgerton Board of Zoning Appeals meets in the City Hall. The agenda and staff reports will be available the Thursday preceding the Board of Zoning Appeals hearing. The chairperson will open the public hearing for each case to hear presentations by the city staff, the owner or authorized agent, and the audience, respectively. After everyone has had the opportunity to speak, the Board of Zoning Appeals will close or continue the public hearing to a later date.

In hearing an appeal, the Board of Zoning Appeals is asked to make a judgment regarding a city official's interpretation of the Unified Development Code. The Board of Zoning Appeals may reverse or affirm the official's decision in whole or in part.

In hearing a variance, the Board of Zoning Appeals must decide whether the request meets all five of the following criteria:

1. That the variance requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by the action(s) of the property owner(s) or the applicant(s); and
2. That the granting of the variance will not adversely affect the rights of the adjacent property owners or residents; and
3. That the strict application of the provisions of the ordinance of which variance is requested will constitute unnecessary hardship upon the property owner(s) represented in the application; and
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of this ordinance.

NOTE: Decisions of the Board of Zoning Appeals may be appealed to the district court within thirty (30) days of the action.

Attach additional sheets if necessary. Please print or type.

1. Does the request arise from a condition, which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by an action(s) of the property owner(s) or applicant(s)? Explain:
For the safety of employees operating equipment, light poles located in the parking lot are hazardous. To prevent injuries to employees, we would like to locate light poles along the perimeter of the parking lot. 25 ft light poles will not provide enough lighting on-site for employees' safety and visibility required to secure the property with camera coverage.
2. Will granting a variance adversely affect the rights of adjacent property owners or residents? Explain:
With the required buffer and screening (landscape berm, fencing, and landscaping), adjacent property owner should not be adversely affected.
3. Will strict application of the provisions of this ordinance constitute unnecessary hardship upon the property owner(s) represented in the application? Explain:
If the owner is to follow the current ordinance, employee's safety could be at risk and is the main concern for light poles. Additional enhanced landscaping and screening will be provided for eastern landscape buffer abutting residential.
4. Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare? Explain:
The variance request for lighting is based on providing safe and secure working condition to the owner's employees. The variance request for the setbacks is based on providing the owner functionality of their property while maintaining public's health, safety and general welfare.
5. Will the variance be opposed to the general spirit and intent of this ordinance? Explain:
The general spirit and intent of the ordinance is to limit exposure of adjacent developments from industrially zoned properties. The owner is proposing to construct additional features (landscaping, screening, etc.) to maintain the general welfare of the surround developments while still being able to develop their property.

Brandon Waldrum, CEI

Prepared by: Engineering Associates, Inc.

Date: 2/18/22

Attach a list of names and addresses of all owners of land within the notification area (two hundred (200) feet within the city limits; one thousand (1,000) feet in the unincorporated area) of the subject property.

It is the applicant's responsibility to demonstrate that all of these conditions have been met at the time of application. Applicants are encouraged to submit any materials that will support their case, including sketch plans, photographs, studies, letters of support, etc.



NOTE: This signed affidavit is to be returned by the Thursday before the scheduled hearing.

Application No.: CU- 2022-01

I, Brandon Waldrum of lawful age being first duly sworn upon oath, state:

That I am the agent (agent, owner, attorney) for the property for which the application was filed and did, not later than twenty (20) days prior to the date of the public hearing scheduled before the Edgerton Planning Commission, mail certified notice to all persons owning property within the notification area (two hundred (200) feet in the City of Edgerton, one thousand (1,000) feet in the unincorporated area of the subject property) in compliance with the Unified Development Code.

These notices were mailed on the 18th day of July, 2022.

Brandon Waldrum

Signature of Agent, Owner, or Attorney

Subscribed and sworn to before me this 21st day of July, 2022.

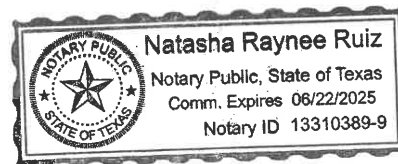
Natasha Raynee Ruiz

Notary Public

My Commission Expires:

6/22/2025

(SEAL)





February 22, 2022

City of Edgerton
404 E. Nelson St.
Edgerton, KS 66201
913.893.6231

**Re: JB Hunt Facility – Variance Request - Applications VA2022-01 & VA2022-02
30700 W 191st Street Edgerton, KS 66030**

The City of Edgerton Planning Staff & Board of Zoning Appeals,

On behalf of the owner (J.B Hunt Transport, Inc.), we (CEI Engineering Associates, Inc.) would like to submit a request for a variance for the proposed expansion and existing development located at 30650 W 191st St, Gardner, KS 66030. The subject property is currently zoned as L-P (Logistics Park District) with a “Storage Container Yard” land use. Regulations for zoning and the land use can be found in the City of Edgerton’s Unified Development Code – Article 5 and 7. In 2021, the owner acquired the adjacent property to the east of the subject property to expand the existing development. Since then, the additional property has been annexed into the City of Edgerton and rezoned to L-P. Currently, the owner is in the processing of submitting for a Preliminary/Final Plat, Conditional Use Permit (CUP), and Site Plan Review. Please see the attached documents and below information for the variance requests.

Legal Description: JB Hunt Addition Final Plat located in South Half of the Southwest Quarter of Section 35, Township 14 South, Range 22 East, in the City of Edgerton, Johnson County, Kansas

Variance Requests:

- Construction of exterior light poles (luminaries) with height of 46 ft. Proposed light poles would be a 6 ft structural base and 40 ft. tall pole. City of Edgerton Unified Development Code (UDC Sec. 10.1.G.9.e) allows for maximum height of 25 ft for newly proposed lighting.
- Storage of cargo containers no closer than 175 feet from the north, east and south property lines adjacent to residential/RUR, but may park chassis there as long as no closer than 50 feet of the property line. (Similar to existing buffer on the current approved CUP). City of Edgerton Unified Development Code (UDC Sec. 7.2.G.7.j.3) allows for When abutting residentially zoned property, such parking and storage shall be setback a minimum of 250 feet from the nearest property line of the residentially zoned property

Variance Request Criteria:

1. That the variance requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by the action(s) of the property owner(s) or the applicant(s)

Response: For the safety and security of employees operating equipment, light poles located in the parking lot create a hazardous work condition. To prevent potential accidents and injuries to employees as well as being able to monitor operational safety with camera coverage, we would like to locate 46 ft. light poles along the perimeter of the proposed parking lot. 25 ft light poles will not provide enough lighting and visibility on-site for employees to navigate and operate equipment or monitor operational safety with camera coverage.

Per the UDC, the 250 ft setback on the new property addition would only allow for approximately 30% of the newly acquired property to the east to be utilized for cargo stacking. The owner would like to request a variance to the setbacks similar to the existing approved CUP of the subject property:

Storage of cargo containers no closer than 175 feet from the north, east, and south property lines adjacent to residential/RUR, but may park chassis there as long as no closer than 50 feet of the property line. The owner will construct additional enhanced screening, fencing, and landscaping that is above and beyond the UDC requirements. Similar to what is existing along the south property line of the existing development.

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

Response: Proposed lighting will be shielded and constructed to minimize light pollution to adjacent developments. See attached photometric plan for additional details. Additionally, the owner will be providing enhanced screening, fencing, and landscaping to minimize sound and visibility of parked chassis and storage containers.

3. That the strict application of the provisions of the ordinance of which variance is requested will constitute unnecessary hardship upon the property owner(s) represented in the application

Response: If the owner is to follow the current lighting ordinance, employee's safety could be at risk, and create a hazardous working situation. The property functions 24 hours a day. A 25' light pole will not provide adequate light for these operations once the container height exceeds the top of the light pole.

The required 250 ft setback on this property would only allow for approximately 30% (+/- 3 out of 10 acres) of the total space to be utilized for stacking purposes, which is our clients primary purpose for acquiring this land.

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

Response: The variance request for lighting is based on providing safe and secure working conditions to the owner's employees. The variance request for the setbacks is based on providing the owner functionality of their property while maintaining public's health, safety and general welfare.

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

Response: The general spirit and intent of the ordinance is to limit exposure of adjacent developments from industrially zoned properties. The owner is proposing to construct additional features (landscaping, screening, etc.) to maintain the general welfare of the surrounding developments while still being able to develop their property.

J.B Hunt Transport, Inc. and CEI Engineering Associates thanks you for your time and consideration in the above variance request. If there is any questions or further information is needed, please notify or reach out. We'd be gladly to provide.

Respectfully Submitted,



Brandon Waldrum, P.E.
Project Manager
bwaldrum@ceieng.com
CEI Engineering Associates, Inc
Firm: E- 427

I certify that I have reviewed this SITE PLAN and will comply with all specifications, changes, conditions required during Site Plan approval and amendments herein, and that this instrument creates a legally enforceable obligation to build and develop in accordance with all final agreements.

Applicant signature : _____ Date: _____
Title: _____ Organization _____

G. Contents of Site Plan Drawings. All materials shall be adequately labeled and should provide complete details which show compliance with District requirements.

1. A scale vicinity map showing the relationship of the site to surrounding neighborhoods, zoning of surrounding properties, roads and other physical features.
2. A project title, zoning designation and applicant name.
3. A street, lot or tract address of the project.
4. An index of content pages.
5. A data table which, at a minimum, includes: acreage of the site and number of units per acre (if applicable), gross square feet of the building(s) area, the proposed use of each building, number of employees and the total number of parking spaces to be provided.
6. The name of the architect, engineer, surveyor and landscape architect, all licensed in the State of Kansas, who prepared the Site Plan.
7. Engineer's seal with original signature.
8. All Site Plan submissions shall include a landscape plan sealed by a landscape architect licensed to practice in the state of Kansas which is in conformance with applicable zoning district requirements. All landscape features shall be shown in relation to sidewalks, paths, lawns, parking areas and drives. The submitted landscape plan drawn to scale, shall show the following:
 - a. All sides of the parcel site;
 - b. Name/type and size of existing trees to be retained;
 - c. Proposed building locations;
 - d. Planting timetable and seeding/sodding schedules;
 - e. All landscaping and screening;
 - f. A table entitled "Planting Schedule" which lists botanical name, the common name, size and condition of all planting materials.
9. The submitted Site Plan shall include the following features.
 - a. Existing and proposed topography including contours at two (2) foot intervals unless the property is too flat and then spot elevations shall be provided;
 - b. Exterior lot lines with any survey pins;
 - c. Location of buildings, proposed and existing if existing buildings will remain;
 - d. Parking areas, paths, sidewalks with sizes and surface material specifications;
 - e. Exterior lighting specifications including a preliminary photometric plan. A final photometric plan will be required at the time the applicant applies for a Building Permit. Lighting should be installed in an effort to minimize spillover onto adjacent properties and streets. The maximum light level at any point on a property line shall not exceed 0.0 foot-candles when adjacent to an agricultural or residential property or 0.2 foot-candles when adjacent to a nonresidential district, measured five (5) feet above grade. Lights shall be aimed away from adjacent properties and streets and may need to be shielded to meet the foot-candle requirements. The maximum height for luminaries

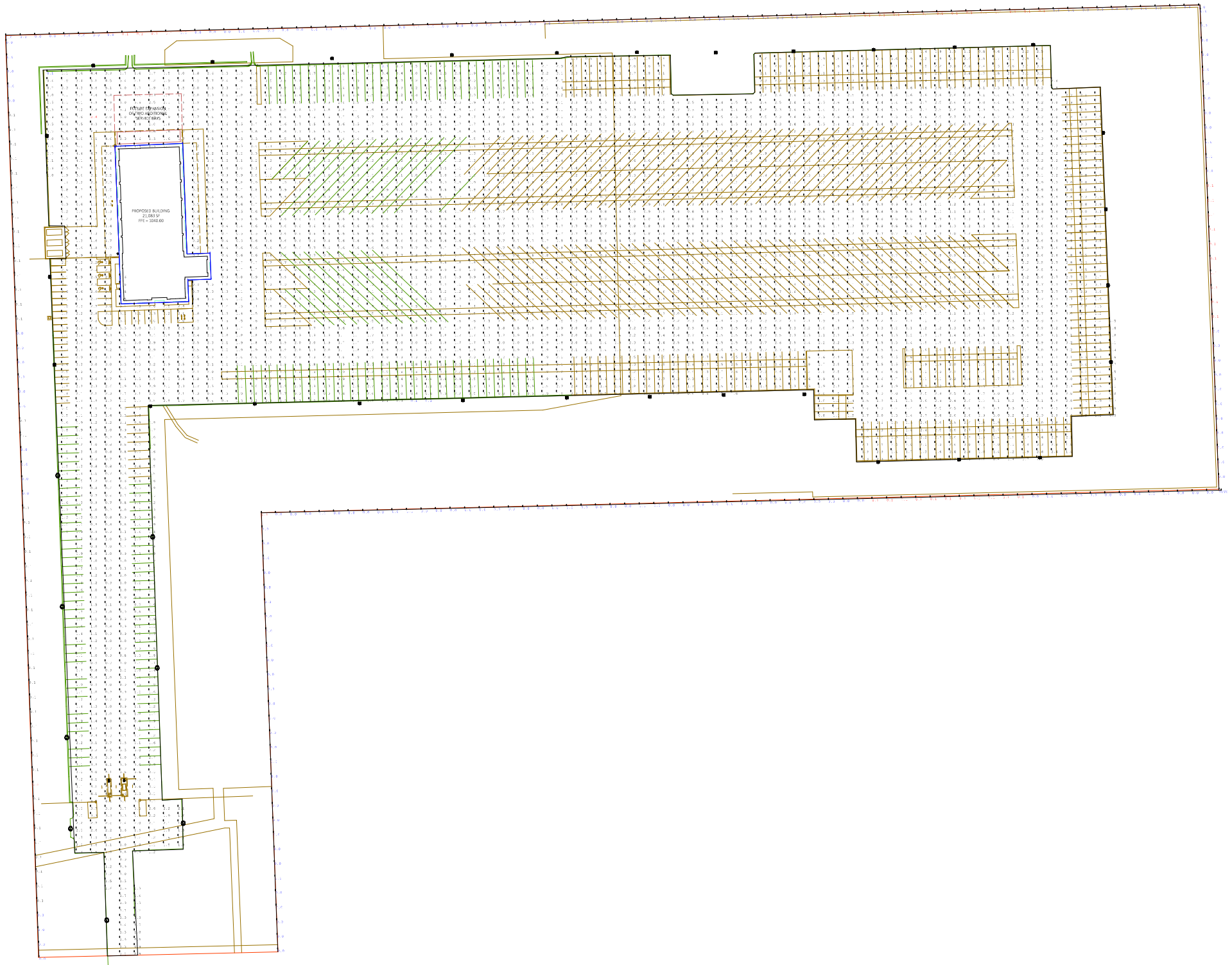
shall not exceed 25 feet as measured between the bottom of the luminaire and grade;

- f. Site entrance and connections to streets;
- g. The location of existing and proposed easements;
- h. Connection point for utilities and the location and size of all utility lines including but not limited to sewer lines and manholes; water lines and fire hydrants; telephone, cable, fiber, and electrical systems; and storm drainage systems including inlets, catch basins, lines and other appurtenances, existing and proposed;
- i. Vehicular and pedestrian circulation within the site, entrances and exits, loading and unloading areas, and adjacent curb cuts;
- j. Storm Drainage Systems and Facilities shall be provided in connection with the proposed development of land in accordance with the Kansas City Metropolitan chapter of the American Public Works Association Construction and Material Specifications Section 5600 Storm Drainage Systems and Facilities. Said Site Plan shall show, by use of directional arrows, the proposed flow of storm drainage from the site. A summary table shall be provided on the Site Plan in the following format:

<u>PROPERTY SURFACE SUMMARY</u>			
<u>Summary of Existing Conditions</u>		<u>Summary after project completion</u>	
<u>Total Buildings</u>	<u># ft.²</u>	<u>Total Buildings</u>	<u># ft.²</u>
<u>Total Pavement</u>	<u># ft.²</u>	<u>Total Pavement</u>	<u># ft.²</u>
<u>Total Impervious</u>	<u># ft.²</u>	<u>Total Impervious</u>	<u># ft.²</u>
<u>Total Pervious</u>	<u># ft.²</u>	<u>Total Pervious</u>	<u># ft.²</u>
<u>Total Property Area</u>	<u># ft.²</u>	<u>Total Property Area</u>	<u># ft.²</u>

A Storm Water Pollution Prevention Plan (SWPPP) shall also be provided and shall meet the known requirements of the National and Kansas General Permit. A signed and dated copy of the NOI shall be provided to the City prior to any disturbance of the soil on the construction site;

- k. Scale drawings of all proposed signage including location, height, size, area, materials and design to be used on the premises with construction drawings required when applying for a sign permit in accordance with Article 12, *Sign Regulations*, of the Unified Development Code;
- l. Features to facilitate handicapped access;
- m. Profile and detail for roads the location and width of sidewalks and the location of trails;
- n. Scale drawing of building floor plans with dimensions and square foot calculations;
- o. Scale drawings in full color with dimensions of all building facades or elevations including the labeling of exterior materials and color;
- p. Roof pitch and materials;
- q. The location of any HVAC systems (roof or ground), utility boxes and any other above ground facilities. Include line of sight drawings which indicate view from the street, right of way, and/or adjacent properties. Ground-based mechanical equipment shall be located away from property lines adjacent to public streets and residential property. Include type of screening that will be used around equipment;



JB HUNT TRANSPORT

Application VA2022-02

30650/30700 W. 191st Street (Northeast corner of 191st Street and Montrose Street)

QUICK FACTS

PROJECT SUMMARY AND REQUESTED APPROVALS

The Applicant is requesting a variance from the site plan requirements in Article 7, Section 7.2.G (7.j.3) of the Edgerton Unified Development Code for parcels located just east of 30650/30700 W. 191st Street (northeast corner of 191st Street and Montrose Street).

**This application requires a
Public Hearing.**

Owner and Applicant

JB Hunt Transport, Inc.
represented by Derek Kennemer,
Agent and Property Owner

Zoning and Land Use

L-P (Logistics Park) which has
been developed with a cargo
container storage lot on the
eastern side of the property.

Legal Description

The S ½ of the SW ¼ of Section
35, Township 14 S, Range 22 E,
in the City of Edgerton, Johnson
County, Kansas; please see
attached application for complete
Legal Description.

Parcel Size

10.05 acres

Staff Report Prepared by

Chris Clinton



BACKGROUND

Subject Site

The parcel is located within the Bull Creek watershed and was annexed into the City of Edgerton on June 10, 2021.

Utilities and service providers:

- a. Water Provider - Johnson County Rural Water District #7.
- b. Sanitary Sewer - City of Edgerton.
- c. Electrical Service - Evergy.
- d. Gas Service – Kansas Gas Service.
- e. Police protection is provided by the City of Edgerton through the Johnson County Sheriff's Office.
- f. Fire protection is provided by Johnson County Fire District #1.

Zoning and Land Uses

	ZONING	LAND USE	USER/OWNER
SITE	L-P, Logistics Park District	Vacant	JB Hunt Transport Inc
NORTH	RUR, Johnson County Rural	Residential	Robert S Murphy Revocable Trust
SOUTH	L-P, Logistics Park District	Vacant	Cohlmia LLC
EAST	A, City of Gardner Agricultural	Vacant/Agricultural	SMS Ventures, Inc
WEST	L-P, Logistics Park District	Cargo Container Storage	JB Hunt Transport Inc

Site History and Past Approvals

The Edgerton City Council gave final approval to rezone the original platted parcel from Johnson County *RUR* to Edgerton *L-P, Logistics Park* zoning on January 9, 2014. The Planning Commission approved Final Site Plan FS-11-18-2013 on December 10, 2013 and Amended Final Site Plan FS2016-05 on August 9, 2016. These Final Site Plans were for a cargo container storage facility. A Conditional Use Permit was approved by the Governing Body on January 9, 2014 and approved the cargo container facility for ten (10) years.

On August 8, 2021, the City of Edgerton Planning Commission approved Applications ZA2021-07 and ZA2021-08 for the rezoning of the two (2) eastern parcels from Johnson County *RUR* to Edgerton *L-P, Logistics Park* zoning. Edgerton City Council granted final approval for this rezoning on September 9, 2021. On December 14, 2021, the Planning Commission approved the Preliminary Plat and recommended approval of the Final Plat to the Governing Body. The Final Plat has not been presented to the Governing Body as the applicant was finalizing easements and other information related to this Final Site Plan. The Final Plat updates do not require reapproval as they were listed as stipulations by the Planning Commission.

The Edgerton Planning Commission will hear Final Site Plan Application FS2022-03 on September 13, 2022 prior to the Board of Zoning Appeals hearing this application.

Proposed Use

This Final Site Plan request is being made in preparation for expansion of the current JB Hunt facility and operations. These operations include an existing cargo container storage lot (Application CU-11-18-2013, approved on January 9, 2014). Expansion of these operations would

require the issuance of a new Conditional Use Permit (CUP) that would encompass existing and new operations on the site. Understanding this requirement, the applicant has submitted application CU2022-01 which will be presented to the Planning Commission on September 13, 2022.

Current access to the site is from W. 191st Street and it will remain that way.

Project Timeline

- Application submitted to the City: February 23, 2022
- Public Hearing Notice Published: August 24, 2022
- Public Hearing Notices Mailed: August 23, 2022 (sent to 13 properties)

VARIANCE

On February 23, 2022, City staff received Board of Zoning Appeals (BZA) Application VA2020-02 requesting a variance from the conditional use requirements of the Unified Development Code (UDC). The requirements for a conditional are governed by the UDC under Article 7, Section 7.2. The requirements for a cargo container storage lot are governed by the UDC under Article 7, Section 7.2.G (7).

Article 7, Section 7.2.G (7.j) specifically states *"All buildings, structures, parking and other uses on the property, shall be subject to the setback requirements in Article 5.2 L-P District Setback, Yard, Regulations, except, however, the parking or storage of cargo containers or semi-trailers (either on or off a chassis), and chassis (racked or stacked) shall be subject to the following setback standards that may be varying upon the difference scenario set forth below."* The UDC then lists the setbacks based on what the adjacent property is zoned. Article 7, Section 7.2.G (7.j.3) specifies *"When abutting (touching), or across the street from, residentially zoned property, such parking and storage shall be setback a minimum of 250 feet from the nearest property line of the residentially zoned property."*

The applicant has requested a variance from the required setback distance of 250 feet when adjacent to residential property.

Per the Kansas State Statute 12-759 and the City of Edgerton Organization and Bylaws of the Board of Zoning Appeals, there are five factors the Board of Zoning Appeals must consider when approving a variance from the Unified Development Code (UDC).

All five of these factors must be considered in light of the applicant's responses and City Staff's comments during deliberation and **all five** factors must be found to be true by a majority of the Board for a variance to be granted. If any one factor does not receive a majority of Board member votes, the variance shall not be approved.

Each factor is listed below with the applicant's response from their submitted variance application. City Staff has provided comment regarding each factor.

BZA Factors

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

Applicant: *Per the UDC, the 250 ft setback on the new property addition would only allow for approximately 30% of the newly acquired property to the east to be utilized for cargo stacking the owner would like to request a variance to the setback similar to the existing approved CUP of the subject property:*

Storage of cargo container no closer than 175 feet from the north, east, and south property lines adjacent to residential/RUR, but may park chassis there as long as no closer than 50 feet of the property line. The owner will construct additional enhance screening, fencing, and landscaping that is above and beyond the UDC requirements. Similar to what is existing along the south property line of the existing development.

City Staff: This is a uniquely shaped flag parcel. A vast majority of the operations will take place north of the access point to 191st Street. The uniqueness is furthermore pointed out with the residentially zoned parcel that abuts the subject site. As Logistics Park Kansas City (LPKC) continues to develop, there are fewer and fewer residentially zoned parcels. The applicant is unable to control the zoning of a parcel that the developer does not own.

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

Applicant: *Proposed lighting will be shielded and constructed to minimize light pollution to adjacent developments. See attached photometric plan for additional details. Additionally, the owner will be providing enhanced screening, fencing, and landscaping to minimize sound and visibility of parked chassis and storage containers.*

City Staff: The original conditional use permit (CUP) did allow for the 175-foot setback. The ordinance that approved the CUP was approved on January 9, 2014 for ten (10) years and would need to be renewed by January 9, 2024. City staff has not received any complaints regarding the existing setbacks on the parcel since the adoption of that ordinance.

3. **That the strict applications of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.**

Applicant: *The required 250 feet setback on this property would only allow for approximately (+/- 3 out of 10 acres) of the total space to be utilized for stacking purposes, which is the developer's primary purpose for acquiring the land.*

City Staff: The Edgerton Planning Commission considered a new CUP for the extended facility. The new CUP does incorporate the operations on the current CUP and therefore replace the CUP that the facility operates under. Without approval of this variance request, the entire site would need to be reconfigured due to it not being in compliance with the UDC.

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

Applicant: *The variance request for lighting is based on providing safe and secure working condition to the owner's employees. The variance request for the setbacks is based on providing the owner functionality of their property while maintaining public's health, safety, general welfare.*

City Staff: As was previously noted, there have not been any concerns regarding the public health, safety, order, convenience, prosperity, or general welfare for the current setbacks on this parcel.

5. **That granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations; and to grant exceptions to the provisions of the zoning regulation in those instances where the board is specifically authorized to grant such exceptions and only under the terms of the zoning regulation.**

Applicant: *The general spirit and intent of the ordinance is to limit exposure of adjacent developments from industrially zoned properties. The owner is proposing to construct additional features (landscaping, screening, etc.) to maintain the general welfare of the surrounding developments while still being able to develop their property.*

City Staff: The applicant has proposed proper landscaping to screen the operations from public views, as is required by the UDC. The granting of this variance still meets the general spirit and intent of the zoning regulations by having a setback that would still avoid the possibility of a stacked cargo container falling onto an adjacent parcel. A standard cargo container is eight (8) feet and six (6) inches. The regulations allow stacking of up to five (5) containers maximum, making the maximum height forty-two (42) feet and 6 inches.

DOCUMENTS INCLUDED IN PACKET

Sheet #	Title	Date on Document
Application	Application for VA2022-02	2/18/2022
1	Variance Request Letter	2/22/2022
3	Article 7 Section 7.2.G (7.j.3)	9/12/2019
4	CUP Site Plan	8/4/2022


Application is made for:

☐**APPEAL**FROM A DECISION OF THE CODE ENFORCEMENT OFFICER,
ZONING ADMINISTRATOR, OR OTHER CITY STAFF, IN THE
ENFORCEMENT OF THE UNIFIED DEVELOPMENT CODE☒**VARIANCE**FROM SPECIFIC SECTION(S) OF THE UNIFIED
DEVELOPMENT CODE

Legal Description: (If property is not platted, please provide an electronic copy of legal description in a Microsoft Word document)

JB Hunt Addition Final Plat located in South Half of the Southwest Quarter of Section 35, Township 14 South, Range
22 East, in the City of Edgerton, Johnson County, KansasLocation or address of subject property: 30700 W 191st Street Edgerton, KS 66030Zoning on subject property: L-P Current land use: Storage Container Yard & Undeveloped

Request: (cite specific section and subsection of the Unified Development Code from which appeal or variance is requested)

Request to construct exterior light poles (luminaries) with height of 46 ft. City of Edgerton Unified Development Code (UDC Sec.
10.1.G.9.e) allows for maximum height of 25 ft proposed lighting. Proposed lighting would be located along the perimeter of the
parking lot. Request to storing cargo containers no closer than 175 feet from the north, east and south property lines adjacent to
residential/RUR, but may park chassis there as long as no closer than 50 feet of the property line. (Similar to north buffer on the
current approved CUP).Property owner name(s): Derek KennemerPhone: 479.659.6852 Company: JB Hunt Transport, IncEmail: Derek.Kennemer@jbhunt.comMailing address: 705 A North Bloomington Street Lowell, AR 72745Applicant/agent's name(s): Brandon WaldrumPhone: 972.488.3737 Company: CEI Engineering Associates, IncEmail: bwaldrum@ceieng.comMailing address: 3030 LBJ Freeway, Ste 100 Dallas, TX 75234Signature of owner or agent: 

If not signed by owner, authorization of agent must accompany this application.

FOR OFFICE USE ONLYApplication No.: VA2022-02Received by: Christopher ClintonPermit Fee Paid: \$ 250Date Fee Paid/Receipt #: 3-3-202263210Publication Fee Paid: \$ 184Date Fee Paid/Receipt #: 8-9-202280838269Hearing Date: Sep 13, 2022

CERTIFIED LETTERS: The applicant will be responsible for mailing notices (see attached form letter) of the public hearing for the requested appeal or variance by certified mail, return receipt requested to all owners of land within the notification area: two hundred (200) feet within the city limits; one thousand (1,000) feet in the unincorporated area of the subject property. These notices must be sent a minimum of ten (10) days prior to the public hearing. Information regarding ownership of the land within the notification area can be obtained from the Johnson County Department of Records and Tax Administration, or through a title insurance company (preferred method). A list of property owners within the notification area must be submitted with the application.

AFFIDAVIT OF COMPLIANCE: An affidavit (see attached form) concerning the mailing of property owner notification letters must be returned to the office of the City Clerk by no later than the Thursday preceding the Board of Zoning Appeals hearing.

BOARD OF ZONING APPEALS REVIEW AND DECISION: The Edgerton Board of Zoning Appeals meets in the City Hall. The agenda and staff reports will be available the Thursday preceding the Board of Zoning Appeals hearing. The chairperson will open the public hearing for each case to hear presentations by the city staff, the owner or authorized agent, and the audience, respectively. After everyone has had the opportunity to speak, the Board of Zoning Appeals will close or continue the public hearing to a later date.

In hearing an appeal, the Board of Zoning Appeals is asked to make a judgment regarding a city official's interpretation of the Unified Development Code. The Board of Zoning Appeals may reverse or affirm the official's decision in whole or in part.

In hearing a variance, the Board of Zoning Appeals must decide whether the request meets all five of the following criteria:

1. That the variance requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by the action(s) of the property owner(s) or the applicant(s); and
2. That the granting of the variance will not adversely affect the rights of the adjacent property owners or residents; and
3. That the strict application of the provisions of the ordinance of which variance is requested will constitute unnecessary hardship upon the property owner(s) represented in the application; and
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
5. That granting the variance desired will not be opposed to the general spirit and intent of this ordinance.

NOTE: Decisions of the Board of Zoning Appeals may be appealed to the district court within thirty (30) days of the action.

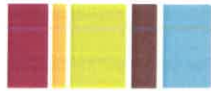
Attach additional sheets if necessary. Please print or type.

1. **Does the request arise from a condition, which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by an action(s) of the property owner(s) or applicant(s)? Explain:**
For the safety of employees operating equipment, light poles located in the parking lot are hazardous. To prevent injuries to employees, we would like to locate light poles along the perimeter of the parking lot. 25 ft light poles will not provide enough lighting on-site for employees' safety and visibility required to secure the property with camera coverage.
2. **Will granting a variance adversely affect the rights of adjacent property owners or residents? Explain:**
With the required buffer and screening (landscape berm, fencing, and landscaping), adjacent property owner should not be adversely affected.
3. **Will strict application of the provisions of this ordinance constitute unnecessary hardship upon the property owner(s) represented in the application? Explain:**
If the owner is to follow the current ordinance, employee's safety could be at risk and is the main concern for light poles. Additional enhanced landscaping and screening will be provided for eastern landscape buffer abutting residential.
4. **Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare? Explain:**
The variance request for lighting is based on providing safe and secure working condition to the owner's employees. The variance request for the setbacks is based on providing the owner functionality of their property while maintaining public's health, safety and general welfare.
5. **Will the variance be opposed to the general spirit and intent of this ordinance? Explain:**
The general spirit and intent of the ordinance is to limit exposure of adjacent developments from industrially zoned properties. The owner is proposing to construct additional features (landscaping, screening, etc.) to maintain the general welfare of the surround developments while still being able to develop their property.

Prepared by: Brandon Waldrum, CEI
Engineering Associates, Inc. Date: 2/18/22

Attach a list of names and addresses of all owners of land within the notification area (two hundred (200) feet within the city limits; one thousand (1,000) feet in the unincorporated area) of the subject property.

It is the applicant's responsibility to demonstrate that all of these conditions have been met at the time of application. Applicants are encouraged to submit any materials that will support their case, including sketch plans, photographs, studies, letters of support, etc.



NOTE: This signed affidavit is to be returned by the Thursday before the scheduled hearing.

Application No.: CU- 2022-01

I, Brandon Waldrum of lawful age being first duly sworn upon oath, state:

That I am the agent (agent, owner, attorney) for the property for which the application was filed and did, not later than twenty (20) days prior to the date of the public hearing scheduled before the Edgerton Planning Commission, mail certified notice to all persons owning property within the notification area (two hundred (200) feet in the City of Edgerton, one thousand (1,000) feet in the unincorporated area of the subject property) in compliance with the Unified Development Code.

These notices were mailed on the 18th day of July, 2022.

[Signature]

Signature of Agent, Owner, or Attorney

Subscribed and sworn to before me this 21st day of July, 2022.

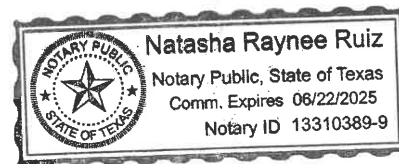
[Signature]

Notary Public

My Commission Expires:

6/22/2025

(SEAL)





February 22, 2022

City of Edgerton
404 E. Nelson St.
Edgerton, KS 66201
913.893.6231

**Re: JB Hunt Facility – Variance Request - Applications VA2022-01 & VA2022-02
30700 W 191st Street Edgerton, KS 66030**

The City of Edgerton Planning Staff & Board of Zoning Appeals,

On behalf of the owner (J.B Hunt Transport, Inc.), we (CEI Engineering Associates, Inc.) would like to submit a request for a variance for the proposed expansion and existing development located at 30650 W 191st St, Gardner, KS 66030. The subject property is currently zoned as L-P (Logistics Park District) with a “Storage Container Yard” land use. Regulations for zoning and the land use can be found in the City of Edgerton’s Unified Development Code – Article 5 and 7. In 2021, the owner acquired the adjacent property to the east of the subject property to expand the existing development. Since then, the additional property has been annexed into the City of Edgerton and rezoned to L-P. Currently, the owner is in the processing of submitting for a Preliminary/Final Plat, Conditional Use Permit (CUP), and Site Plan Review. Please see the attached documents and below information for the variance requests.

Legal Description: JB Hunt Addition Final Plat located in South Half of the Southwest Quarter of Section 35, Township 14 South, Range 22 East, in the City of Edgerton, Johnson County, Kansas

Variance Requests:

- Construction of exterior light poles (luminaries) with height of 46 ft. Proposed light poles would be a 6 ft structural base and 40 ft. tall pole. City of Edgerton Unified Development Code (UDC Sec. 10.1.G.9.e) allows for maximum height of 25 ft for newly proposed lighting.
- Storage of cargo containers no closer than 175 feet from the north, east and south property lines adjacent to residential/RUR, but may park chassis there as long as no closer than 50 feet of the property line. (Similar to existing buffer on the current approved CUP). City of Edgerton Unified Development Code (UDC Sec. 7.2.G.7.j.3) allows for When abutting residentially zoned property, such parking and storage shall be setback a minimum of 250 feet from the nearest property line of the residentially zoned property

Variance Request Criteria:

1. That the variance requested arises from a condition which is unique to the property in question, is not ordinarily found in the same zone or district, and is not created by the action(s) of the property owner(s) or the applicant(s)

Response: For the safety and security of employees operating equipment, light poles located in the parking lot create a hazardous work condition. To prevent potential accidents and injuries to employees as well as being able to monitor operational safety with camera coverage, we would like to locate 46 ft. light poles along the perimeter of the proposed parking lot. 25 ft light poles will not provide enough lighting and visibility on-site for employees to navigate and operate equipment or monitor operational safety with camera coverage.

Per the UDC, the 250 ft setback on the new property addition would only allow for approximately 30% of the newly acquired property to the east to be utilized for cargo stacking. The owner would like to request a variance to the setbacks similar to the existing approved CUP of the subject property:

Storage of cargo containers no closer than 175 feet from the north, east, and south property lines adjacent to residential/RUR, but may park chassis there as long as no closer than 50 feet of the property line. The owner will construct additional enhanced screening, fencing, and landscaping that is above and beyond the UDC requirements. Similar to what is existing along the south property line of the existing development.

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

Response: Proposed lighting will be shielded and constructed to minimize light pollution to adjacent developments. See attached photometric plan for additional details. Additionally, the owner will be providing enhanced screening, fencing, and landscaping to minimize sound and visibility of parked chassis and storage containers.

3. That the strict application of the provisions of the ordinance of which variance is requested will constitute unnecessary hardship upon the property owner(s) represented in the application

Response: If the owner is to follow the current lighting ordinance, employee's safety could be at risk, and create a hazardous working situation. The property functions 24 hours a day. A 25' light pole will not provide adequate light for these operations once the container height exceeds the top of the light pole.

The required 250 ft setback on this property would only allow for approximately 30% (+/- 3 out of 10 acres) of the total space to be utilized for stacking purposes, which is our clients primary purpose for acquiring this land.

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

Response: The variance request for lighting is based on providing safe and secure working conditions to the owner's employees. The variance request for the setbacks is based on providing the owner functionality of their property while maintaining public's health, safety and general welfare.

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

Response: The general spirit and intent of the ordinance is to limit exposure of adjacent developments from industrially zoned properties. The owner is proposing to construct additional features (landscaping, screening, etc.) to maintain the general welfare of the surrounding developments while still being able to develop their property.

J.B Hunt Transport, Inc. and CEI Engineering Associates thanks you for your time and consideration in the above variance request. If there is any questions or further information is needed, please notify or reach out. We'd be gladly to provide.

Respectfully Submitted,



Brandon Waldrum, P.E.
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CEI Engineering Associates, Inc
Firm: E- 427

- j. Setbacks and Separation Distance: All buildings, structures, parking and other uses on the property, shall be subject to the setback requirements in Article 5.2 L-P District Setback, Yard, Area Regulations, except, however, the parking or storage of cargo containers or semi-trailers (either on or off a chassis), and chassis (racked or stacked) shall be subject to the following setback standards that may vary depending upon the difference scenarios set forth below:
1. When abutting (touching), or across the street from non-residentially zoned property, such parking or storage shall be setback from any exterior property line of the subject property a distance equal to the height of the cargo container or semi-trailer (either on or off a chassis), and chassis (racked and stacked);
 2. When abutting (touching) public right-of-way, such parking or storage shall be setback from any exterior property line of the subject property a distance equal to the height of the cargo containers or semi-trailers (either on or off a chassis), and chassis (racked or stacked);
 3. When abutting (touching), or across the street from, residentially zoned property, such parking and storage shall be setback a minimum of 250 feet from the nearest property line of the residentially zoned property;
 4. When abutting (touching), or across the street from, a habitable dwelling, such parking and storage shall be setback a minimum of 300 feet from the nearest dwelling; and
 5. For purposes of Stipulations 3 and 4 above, measurements shall be made between the nearest property line of the residentially zoned property or the nearest edge of a dwelling, and the nearest cargo container, semi-trailer (either on or off a chassis), or chassis.
- k. Signage: Business signs shall be allowed according to Article 5.2 L-P District Signage regulations. No signage, other than shipping company identification logos and placards, shall be allowed on any cargo container, semi-trailer or chassis.
- l. Site Plan: A site plan shall be submitted with the application. The site plan shall be prepared in accordance with the requirements of Article 9.1 (B) (3) of these regulations.
- m. Other Rules and Regulations. All facilities shall abide by any and all governmental rules, regulations, codes and specifications now in effect or hereafter adopted that would be applicable to this permit or the use of the property by the applicant/landowner.
- n. Deviations: In the event that an applicant desires to deviate from the above performance standards and provisions for certain Conditional Uses, the applicant shall submit written information to the Governing Body indicating the circumstances which are believed to necessitate the need for a deviation(s), and the applicant shall provide a list of alternative materials, designs or methods that are equivalent to the performance standards and provisions for the L-P Zoning District, Section 5.4, Sections G through Q in the regulations. The application may only be approved if findings are made by the Governing Body that 1) due to the circumstances of the application, it would be unnecessary to impose the standards(s) and equivalent alternatives should be allowed, b) that the spirit and intent of the regulations are being met, c) that granting the deviation shall not adversely affect adjacent or



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