

EDGERTON BOARD OF ZONING APPEALS
Edgerton City Hall
December 11, 2018
6:45 PM

1. Call Meeting to Order
2. Roll Call
3. New Business

MINUTES

- A. Consideration of the meeting minutes of May 8th, 2018.

Action requested: Consider motion to approve minutes.

PUBLIC HEARINGS

**PUBLIC HEARING – VARIANCE REQUEST FOR 32180 W. 191st STREET,
BZA2018-01**

- B. Consideration of opening a public hearing in regards to an application requesting consideration and approval of a variance from the signage requirements in L-P District districts required under the Unified Development Code Article 5, Section 5.2.P (17.e) Applicant/Agent: Bucky Brooks, Midwest Gateway Ventures, LLC

Action requested: Open the public hearing, receive comments, and consider motion to close or continue.

Consider motion to recommend approval or denial.

4. Adjournment

EDGERTON COMMUNITY BUILDING
EDGERTON BOARD OF ZONING APPEALS
May 8, 2018
Minutes

The Edgerton Board of Zoning Appeals convened with Chair John Daley calling the meeting to order at 7:00 p.m.

The Roll Call was answered, indicating those present were: Commissioners John Daley, Katee Smith, Josh Beem, Andrew Merriman (via telephone) and Erik Erazo (via telephone). Also present were: City Administrator Beth Linn, Assistant City Administrator Scott Peterson, Development Services Director Katie Crow, and Recording Officer Debra Gragg.

Chair Daley indicated at quorum present.

UNIFIED DEVELOPMENT CODE – BOARD OF ZONING APPEALS BY-LAWS – Continued
from February 13, 2018

Resolution No. BZA2018-01 amending the Organization and Bylaws of the Edgerton Board of Zoning Appeals to reflect approved changes to Article 8, Section 8.2A of the Uniform Development Code regarding size and composition of the Board of Zoning appeals was considered. Applicant: City of Edgerton

Motion by Smith, seconded by Beem, to approve the resolution. Motion was approved, 5-0.

ADJOURNMENT

Motion by Beem, seconded by Smith, to adjourn the meeting. Motion was approved, 5-0.

The meeting adjourned at 7:02 p.m.

Submitted by:

Debra S. Gragg
Recording Officer

STAFF REPORT

December 11, 2018

To: Edgerton Board of Zoning Appeals
 Fr: Katy Crow, Development Services Director/Zoning Administrator
 Re: **Application BZA2018-01** - Variance Request for Deviation from L-P District Signage Requirements.

APPLICATION INFORMATION

Applicant/Property Owner: Bucky Brooks, Midwest Gateway Ventures, LLC

Requested Action: Variance – Deviation from signage requirements provided in Article 5, Section 5.2.P (14) and Section 5.2.P (17.e) of the Unified Development Code of the City of Edgerton.

Legal Description: Midwest Gateway, Lot 2

Site Address/Location: 32180 W. 191st Street

Site Size: Approximately 11.07 acres

Existing Improvements: Warehouse – 186,000 SF

Zoning and Land Uses:

	ZONING	LAND USE	USER/OWNER
<i>SITE</i>	L-P, Logistics Park District	Warehouse/Logistics Park	Midwest Gateway Ventures, LLC
<i>NORTH</i>	LP, Logistics Park District	Warehouse/Logistics Park	Midwest Gateway Ventures, LLC
<i>SOUTH</i>	RUR, Agricultural	Agricultural	Prairie Tree, LLC
<i>EAST</i>	I-H	Vacant	Delong Co., Inc.
<i>WEST</i>	LP, Logistics Park District	Warehouse/Logistics Park	Flexsteel Industries, Inc.

Background:

On April 11, 2017, the Edgerton Planning Commission approved the Final Site Plan for the Midwest Gateway project located at 32180 and 32190 W. 191st Street, subject to various staff recommendations. The Midwest Gateway project is comprised of two buildings. The north building (Building 1) contains 301,000 SF and the south building (Building 2) contains 186,000 SF. The south building abuts 191st Street, approximately a quarter mile west of Kill Creek

Road. The Building 1 sits directly north of Building 2 adjacent to BNSF Railway operations.



On October 29, 2018, City Staff received Board of Zoning Appeals Application BZA2018-01 for a variance related to the size and placement of signage on Building 2 of the Midwest Gateway Development. Signage regulations related to L-P (Logistics Park) Zoning, are governed in the Unified Development Code under Article 5, Section 5.2.P.

Article 5, Section 5.2.P (14) specifically states, "No cloth, paper, banner, flag, device, or other similar advertising matter shall be permitted to be attached, suspended from or allowed to hang loose from any sign, building, or structure, except as allowed by other provisions of this Section."

Article 5, Section 5.2P (17e) with regards to *Portable Signs, Temporary Banners, Flags or Inflatable Signs*, specifically states, "The maximum size of any such sign is 12 square feet. A permit for such signs can only be issued for a maximum continuous period of fourteen (14) days, and for a maximum number of four (4) times per calendar year. A minimum time of sixty (60) days must be elapsed between expiration and issuance of such permits."

The applicant is proposing one 10 ft x 50 ft (500 square feet) banner to be attached to the facing of Building 2 (facing 191st Street), for a period of one year. All 3 of these requests (attachment, size and duration of signage display) are not allowed under the Edgerton UDC without a variance from the Board of Zoning Appeals.

Variance:

Per the Organization and Bylaws of the Board of Zoning Appeals, there are five factors the Board of Zoning Appeals must consider when approving a variance. **All five** factors must be found to be true for a variance to be granted. The factors for consideration are as follows:

1. **The variance arises from a condition unique to the property in question and is not a general condition found in the neighborhood.** In the attached application, the applicant states that the request is due to the large building face at the Midwest Gateway site and the signage being requested will only be 1.5% of the south facing elevation of the south facing elevation on W. 191st Street.
2. **That granting the variance will not adversely affect the rights of adjacent property owners or residents.** The applicant states that granting the variance will not adversely affect the rights of adjacent property owners or residents as it will not contain any wording or imagery that refers to any other property other than Midwest Gateway.
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.** The applicant states that leasing the property is dependent on marketing, and signage plays a significant role in leasing the property which in turn attracts tenants and jobs to Edgerton.
4. **The variance desired will not adversely affect the public health, safety, morals or welfare, convenience, prosperity or general order.** According to the applicant the variance, if granted, would only describe their building and would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare of surrounding parcels.
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.** The applicant states that the proposed variance is only requested while a lessor is being sought for the property. Once fully leased, the signage would be removed.

Possible Findings of Fact:

After considering the above factors, the Board will need to decide if the variance request should be:

- Approved,
- Approved with conditions, or
- Denied.

The following are two sets of POSSIBLE findings of fact based upon the information submitted as part of the application, which is contained in this staff report. The set of possible findings of fact provided in the middle column support the approval of the variance requested while the second set of possible findings provided in the column on the right side of the table below

provide facts supporting denial of the variance request. The Board should accept a set of findings of fact they deem most appropriate for either approval or denial based upon the information provided in this staff report and at the public hearing.

Please note, however, that in order to **approve** a variance, **ALL** of the factors described in the middle column must be met. If one or more of the findings in the middle column are not found to be true, then the application cannot legally be approved. It should be noted, that the following possible findings of fact are solely based upon the information contained in this staff report. Additional information could be presented at the public hearing, which may alter the following findings of fact. If additional information is presented at the public hearing, which alters the findings contained below, the applicable set of findings of fact need to be modified at the meeting to reflect the additional information presented so that the Board may use it as a basis in making a decision on the variance application.

FACTORS	POSSIBLE FINDINGS OF FACT FOR APPROVAL OF THE REQUESTED VARIANCE	POSSIBLE FINDINGS OF FACT FOR DENIAL OF THE REQUESTED VARIANCE
<u>Uniqueness</u> <i>(The variance arises from a condition unique to the property in question, and is not a general condition found in the neighborhood.)</i>	The application is unique in that the Midwest Gateway warehouse is large and the sign limit of 12 square feet does not provide adequate marketability for leasing the property. For best visibility and safety reasons, a banner of the proposed size is best attached to the building and not placed on the adjacent ground like other real estate signage. The length of the request, 1 year, is a great deal longer than the 64 calendar days allowed by the UDC (14 days x 4 times per year), therefore staff recommends a period of 180 days for this request.	No other warehouses in the Logistics Park currently contain signage of this type, therefore this request is unnecessary as other warehouse leasing is occurring without extremely large signage, attached to the building, in place. Appropriately sized real estate signage on site would achieve the same results and is already present on the parcel. The applicant is creating their own hardship by not accommodating the sign requirements of the UDC.
<u>Effect on Adjacent Properties</u> <i>(That granting the variance will not adversely affect the rights of adjacent property owners or residents)</i>	Midwest Gateway is an approved use for this parcel per the Unified Development Code. The property is currently vacant and having it leased would positively affect the adjacent property owners and the City of	A banner as large as the one proposed, would be considered an eyesore if not maintained. Should it become ripped or torn it could separate from the building causing a safety concern.

	Edgerton by bringing jobs to the community.	
<u>Hardship</u> <i>(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)"</i>	A hardship is being placed upon the applicant by requiring a very restrictive sign size that is not comparable to uses of its type in neighboring municipalities.	While the warehouses are currently vacant, the applicant is creating their own hardship through the design of their banner. The applicant could use appropriate sized real estate signage and achieve the same results.
<u>Spirit and Intent of the Zoning Ordinance</u> <i>(The variance desired will not adversely affect the public health, safety, morals or welfare, convenience, prosperity or general order.)</i>	The proposed variance meets the spirit and intent of the zoning ordinance because at the size being proposed (500 SF), it is smaller than what would be allowed as a wall sign (building frontage length of 738 feet length equates to 738 SF allowed signage area per UDC)	The proposed variance violates the intent of the ordinance to provide an aesthetic standard for signage in parcels with LP zoning designations.
<u>Minimum Amount / Size of Variance Necessary</u> <i>(That the variance, if granted, is the minimum variance that will afford</i>	The proposed variance is the absolute minimum necessary according to the applicant's business plan and belief that this is necessary for the	The proposed variance is significantly larger than what is allowed, so granting the variance would not be an

<i>relief and is the least modification possible of the Zoning Ordinance provisions that are in question)</i>	property to be leased in a timely manner.	incremental step above the maximum allowed size.
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ATTACHMENTS

- Application
- Article 5, Section 5.2 P - Unified Development Code, L-P Zoning Signage
- Notice of Public Hearing
- List of Neighboring Properties Notified of Public Hearing

CITY OF EDGERTON, KANSAS
APPLICATION FOR BOARD OF ZONING APPEALS

Please print or type

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: Midwest Gateway, Lot 2

LOCATION OR ADDRESS OF SUBJECT PROPERTY: 32180 W 191st Street, Edgerton, Kansas 66030

ZONING ON SUBJECT PROPERTY: LP CURRENT LAND USE: Industrial Building

REQUEST: (CITE SPECIFIC SECTION, BY SECTION AND SUBSECTION, OF THE UNIFIED DEVELOPMENT CODE FROM WHICH APPEAL OR VARIANCE IS BEING REQUESTED.)

Section 5.2 - P - 17E

Section 5.2 - P - 14

PROPERTY OWNER'S NAME(S): Bucky Brooks PHONE: 816-701-5000

COMPANY: Midwest Gateway Ventures, LLC FAX: 816-701-5099

MAILING ADDRESS: 1100 Walnut Street, Suite 2000 Kansas City MO 64106
STREET CITY STATE ZIP

APPLICANT/AGENT'S NAME(S): Bucky Brooks PHONE: 816-701-5000

COMPANY: Copaken Brooks FAX: 816-701-5099

MAILING ADDRESS: 1100 Walnut Street, Suite 2000 Kansas City MO 64106
STREET CITY STATE ZIP

SIGNATURE OF OWNER OR AGENT: 
If not signed by owner, authorization of agent must accompany this application.

FOR OFFICE USE ONLY

Case No.: BZA-_____ Amount of Fee Paid: \$_____ Date Fee Paid: _____

Received By: _____ Date of Hearing: _____

CITY OF EDGERTON, KANSAS

BOARD OF ZONING APPEALS INSTRUCTIONS

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 Monday 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.

CITY OF EDGERTON, KANSAS

SUBMISSION REQUIREMENTS FOR A VARIANCE

(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: The request is due to the large building face at the Midwest Gateway site. The sign being requested will only be 1.5% of the South facing elevation on W. 191st Street.

2. Will granting a variance adversely affect the rights of adjacent property owners or residents?

Explain: NO. The sign will not contain any wording or imagery that refers to any other property other than Midwest Gateway and will not adversely affect the rights of adjacent property owners residents.

3. Will strict application of the provisions of this ordinance constitute unnecessary hardship upon the property owner(s) represented in the application?

Explain: The property is dependant on marketing in order to get fully leased and signage plays a significant role in helping attract tenants and jobs to Edgerton. The strict application of the ordinance would hamper marketing efforts.

4. Will the variance adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare?

Explain: No. The variance only allows for a sign to be put up that describes the building.
The sign shall not affect public health or contain any language that affects the safety, morals, convenience, order, prosperity, or general welfare.

5. Will the variance be opposed to the general spirit and intent of this ordinance?

Explain: No. The sign is temporary until the building is fully leased, and once leased the ordinance would again take precedence.

Prepared by: Bucky Brooks, SIOR, CCIM, LEED AP Date: 10-29-2018

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.



BUILDING 2 - SOUTH ELEVATION

SCALE: 1" = 60'-0"

A



10'x50' Banner

FOR LEASE OR SALE

Bldg 1: Up to 301,603 SF

Bldg 2: Up to 186,107 SF

copaken  brooks

(816) 701-5000

NAIHeartland

(913) 890-2001

MIDWEST  GATEWAY

www.midwestgatewaykc.com

CO-EXCLUSIVE

right-of-way shall be located within a Parkway Buffer or a Right-of-Way Buffer as described in this Section.

10. **Alternative Landscape Plan.** In lieu of the requirements set forth in Section 1.1., Landscaping Standards, an Alternative Landscape Plan (ALP) may be submitted to the Planning Commission for approval. An ALP shall utilize an innovative use of plant materials and design techniques in response to the unique characteristics of a particular site. At a minimum, an ALP shall contain equivalent landscaping as is required by these regulations.
11. **Xeriscaping Credit.** Landscape Plans developed with sound xeriscaping principles as outlined in Kansas Smartscape® or other published materials shall be eligible for a reduction of landscaping up to 20% of the overall requirements. Applicants wishing to request credit must prepare an ALP, clearly outlining the xeriscaping principles being utilized. The final determination of credit granted shall be discretionary and based upon the final determination made by the City Administrator or designee.

P. Signage

1. **General.** The intent of this article is to promote the health, safety, welfare, convenience, and enjoyment of the public, and in part, to achieve the following:
 - a. The safety of the citizens of the City by prohibiting signs which create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or to read traffic signs.
 - b. To preserve landscape quality in the protection of the public welfare and to enhance the appearance and economic value of the landscape by providing that a sign does not create a nuisance to occupancy of adjacent and contiguous property by its brightness, height, size, or movement.
2. **Applicability and Effect.** A sign may be erected, placed, established, painted, created or maintained in the L-P District only in conformance with the standards, procedures, exemptions and other requirements of this ordinance. These regulations apply to all signs and their effect is:
 - a. To establish a permit system to allow a variety of types of signs subject to the standards and the permit procedures of the code; and
 - b. To prohibit all signs not expressly permitted by these regulations, except as approved through the appeals process established by these regulations.
3. **Exempted Signs.** The following signs shall be exempt from the requirements of this article with the exception of set back from property lines.
 - a. Signs of a duly constituted governmental body, including traffic or similar regulatory services, legal notices, warnings at railroad crossings, and other institutional or regulatory signs having to do with health, hazards, parking, swimming, dumping and of a similar nature.
 - b. Scoreboards, municipal golf course tee signs, sports field fencing, and park signs.
 - c. Signs incorporated on inside of the building/lease space on a window that is not readable from right-of-way.
 - d. Permanent signs designating historic tours, permanent direction signage, government facility or operation locations.
 - e. All City and State directional and traffic control signs.
 - f. One temporary sign not exceeding twelve (12) square feet in area.
 - g. The changing of messages or copy of signs designed and intended to be

changed on a regular basis provided the sign is not altered. Examples of these type signs are theater marquees, menus, fuel prices, directories, and the like.

- h. Signs which display date, time and temperature are permitted, providing they do not exceed six (6) square feet in addition to other signage on the property.
- i. On-site directional signs necessary for the movement and circulation of traffic which are three (3) square feet or less in size.
- j. Signs which display "help wanted," and do not exceed six (6) square feet.

4. Prohibited Signs.

- a. Off-Premise Billboards. Off-premise pole signs and billboards are prohibited in the L-P District.
- b. Trailer Mounted and Portable Read-a-Board Signs. Trailer mounted and portable read-a-board signs are strictly prohibited, and subject to the following:
 - 1. **Enforcement**. The owner or occupant of any property upon which there is located a trailer mounted, or non-trailer mounted, portable read-a-board sign in violation of this Sub-Section or the owner or lessee of any trailer mounted, or non-trailer mounted, portable sign which is in violation of this Sub-Section as herein defined shall be given notice by the Building Official or designee, stating the nature of the violation and ordering that the violation be corrected or removed from said property within seventy two (72) hours.
 - 2. **Notice**. Notice shall be given by one of the following methods:
 - a. A written notice may be attached to the sign in violation of this Sub-Section, or
 - b. Verbal notification may be made by telephone or in person.
 - c. No Response. If the owner, lessor, lessee, or the representative of the lessor of the trailer mounted or non trailer mounted portable sign fails to remove such sign within seventy two (72) hours of the notification, the owner, lessor or lessee shall be issued a citation.
 - d. Entrance onto Property. The Building Official or any duly authorized agent may enter upon private property which is accessible to the public for the purposes specified in this SubSection to examine signs or their location, obtain information as to the ownership of such signs and to declare the sign to be a violation pursuant to this Sub-Section.
- c. Obscene and Immoral Matter. It shall be unlawful for any person to display upon any sign any obscene, indecent or immoral behavior, as defined in the Black's Law Dictionary Fifth Edition.
- d. Painting or marking or streets, sidewalks or utility poles. No person shall attach any sign, paper or other material, or paint, stencil or write any name, number (except address numbers) or otherwise mark on any sidewalk, curb, gutter, street, utility pole, public building, fence or structure except as otherwise allowed by the code.
- e. Hand Bills and Placards. No person, firm, corporation or association of persons, shall paste, stick, tack, nail or otherwise place any advertisement, handbill, placard or printed, pictured or written matter or thing for any purpose upon any fence, railing sidewalk or public telephone, electric or other utility pole, or any other public property, including trees thereon.
- f. Flashing Signs. Signs of any type with flashing, revolving or rotating lights shall not be permitted.
- g. Pole Signs/Pylon Signs. Pole signs shall be prohibited in the L-P District.

5. Illuminated signs are permitted in nonresidential districts, provided that they shall not be erected within one hundred (100) feet of any residential zoning district unless properly and adequately shielded so that light from such sign is not directed toward such residential district.
6. In no case can a sign be placed closer than fifteen (15) feet from a residential property.
7. No high intensity lights shall be permitted as part of a sign display visible from an adjacent street.
8. No sign shall be illuminated to intensity greater than two hundred (200) foot-candles. The restrictions of luminance in this Sub-Section shall be determined from any other premise or from any public street right-of-way other than an alley.
9. The maximum size of any temporary construction/development sign, that is not adjacent to a highway, is ninety (90) square feet per side, with a maximum height of twenty (20) feet and a maximum length of fifteen (15) feet.
10. The maximum size of a temporary construction/development sign adjacent to a highway is three hundred twenty five (325) square feet per side, with a maximum height of thirty (30) feet and maximum length of fifteen (15) feet.
11. No sign shall be located as to obstruct the vision or sight distance of vehicle operators or pedestrians at any intersection or street crossing. In order to maintain visual clearance and sight distance for vehicle operators and pedestrians:
 - a. A 20' x 20' Visibility Triangle shall be provided.
 - b. A sign in direct line of vision of any signal light, traffic control sign, or any other such device from any point in a moving traffic lane must be at least fifty (50) feet from such device, unless the Superintendent of Public Works, or designee, approves the placement of such sign.
12. No sign shall be constructed nearer than three (3) feet from any public or private underground utilities. No ground sign or accessories to such sign shall be located within ten (10) feet vertically and six (6) feet horizontally of electrical wires or conductors in free air carrying more than forty eight (48) volts, whether or not such wires or conductors are insulated or otherwise protected.
13. Signs Posted on Poles and Fences. No sign shall be posted upon any tree, utility pole, fence post, or any style or type of fence. No detached sign shall be suspended over any building or structure.
14. No cloth, paper, banner, flag, device, or other similar advertising matter shall be permitted to be attached, suspended from or allowed to hang loose from any sign, building, or structure, except as allowed by other provisions of this Section. Such advertising matter shall be a violation of this Section and shall be removed immediately upon notice by the Building Official. No person shall place on, or suspend from any building, pole, structure, sidewalk, parkway, driveway, or parking area, any goods, wares, merchandise, or other advertising object or structure for the purpose of advertising such items, except as otherwise permitted.
15. No portion of any sign shall be erected upon or over public property or public right-of-way, except as otherwise specifically permitted.
16. No signs shall be attached to a motorized vehicle, where the primary use of such vehicle is for sign purposes. Signs attached to or upon any motorized vehicle shall be prohibited where any such vehicle is allowed to remain parked in the same location or in the same vicinity, at frequent or extended periods of time where the intent is apparent to be one of using the vehicle for signage. Vehicles operating under a city Franchise shall be excluded from this provision. This provision does not restrict the identification signing or vehicles used for delivery service, interstate commerce, or any bona fide transportation activity.
17. **Specific Sign Regulations**
 - a. **Attached Sign.** A sign attached to, painted on, or erected against a wall of a

building which extends no more than twelve (12) inches from the wall surface upon which it is attached and whose display surface is parallel to the face of the building to which the sign is attached and may not extend above the roof line or roof façade, and must be at least eight (8) feet from grade.

b. **Directional Signs.**

1. Directional signs shall be allowed in the L-P District subject to the following:
 - a. Directional signs shall be limited to six (6) square feet in area for institutional uses, with one (1) sign per street entrance allowed.
 - b. Identification of services is permitted on such a sign, such as “emergency services entrance.” Such signs are limited to two (2) square feet or less in area for non-institutional uses, with no limit on the number of signs permitted for such uses. For non-institutional uses, identification of services is not permitted on such sign.

c. **Monument Signs.**

1. Maximum height: Fifteen (15) feet including monument base along thoroughfares with an ultimate typical right-of-way width of seventy-two (72) feet or greater, measured to ground level at base; and eight (8) feet elsewhere in the L-P District.
2. Maximum area allowe: Sixty (60) square feet of sign area.
3. Placement: Fifteen (15) feet from property lines from out board edge of sign face or sign edge abutting a street. Twenty five (25) feet on corners for Visibility Triangles.
4. Maximum Number: One (1) per six hundred (600) feet of each frontage, or fraction thereof, along thoroughfares with an ultimate right-of-way width of seventy-two (72) feet or greater, and five hundred (500) feet in the remainder of the L-P District.

d. **Wall Signs.**

1. Construction: Attached signs that are illuminated internally shall be constructed only of materials that are noncombustible or slow burning in the case of plastic inserts and faces.
2. Maximum height: A wall sign shall not extend above the roofline or facade of a building.
3. Maximum area:
 - a). Frontage: Total square footage is equal to one (1) times the length of the building frontage or lease space frontage;
 - b). Sides: Total square footage is equal to one half (0.5) times the length of the side wall of building.
4. Minimum area: A wall sign shall be a minimum of twenty four (24) square feet.
5. Depth: A wall sign shall not extend more than twelve (12) inches from the building wall to which it is attached.
6. Placement: Painted or attached directly on the wall surface on a building intended to be viewed from the ground. Signs above roofline, fascia, or top of roofs are strictly prohibited.

- e. **Portable Signs, Temporary Banners, Flags, or Inflatable Signs.** Prior to the use or placement of any portable sign, temporary banner, flags or inflatable signs, a permit must be obtained from the City. The maximum size of any such sign is 12 square feet. A permit for such signs can only be issued for a maximum continuous period of fourteen (14) days, and for a maximum number of four (4) times per calendar year. A minimum time of sixty (60) days must be elapsed between expiration and issuance of such permits. None of these signs shall be located in city rights-of-way, in any Visibility Triangle, or in any other location so as to impair traffic or pedestrian vision or safety. All such signs must be set back

a minimum distance of five (5) feet from the property line. Such signs may be internally lighted; however, such lighting shall not be flashing or intermittent. Temporary electrical requirements shall be subject to the adopted electrical code.

1. Banners and other wind devices shall be securely attached to a wall surface or building element and shall not project above the apparent roof or building eave line. A fence or railing shall not be considered to be a building element. A banner shall not be used in lieu of a permanent sign, except in the case of new businesses where it may be used for a period not exceeding thirty (30) days. Banners shall be secured at all points of attachment. Torn or severely weathered banners shall not be permitted.
2. The number of banners displayed on any premises shall not exceed two (2).
3. No individual banner shall contain more than forty (40) square feet of area.
4. Banners found in violation of this Section must be removed or made to conform within 24 hours of notification.

f. **Kiosk Signs.**

1. Kiosk signs provide a uniform, coordinated method of providing information while minimizing the negative impacts to the City and its residents. A Kiosk sign is a sign containing individual panels and is generally used to provide direction to residential subdivisions from major thoroughfares or to provide direction to schools, amenities, information centers, community facilities and neighborhoods within a residential subdivision. Kiosk signs shall conform to the requirements set forth below. A "Sign Panel" is an individual sign placard displaying directional information on a kiosk sign.
2. All kiosk signs must have approval by the Planning Commission. Placement of Kiosk signs shall not distract traffic or create a traffic hazard. The Superintendent of Public Works must approve the placement of all kiosk signs prior to installation. Kiosk sign structures shall not exceed 12 feet in height and 4 feet in width. Kiosk sign structures shall be ladder type with individual sign panels of uniform design. The color of all kiosk sign structures and panel background color will be approved by the City. The City may, by a duly executed services contract, grant to a qualified person or company the right to design, erect and maintain directional kiosk signs within the City.

18. **Maintenance of Signs.** All signs and sign support structures, together with all of their supports, braces, guys and anchors, shall be maintained in a proper state of preservation. No sign will be allowed to be kept in a dilapidated or deteriorated condition. Signs with broken or missing faces shall be repaired or replaced within fifteen (15) days of notice by the Building Official.

- a. Freestanding sign panels advertising a business that has vacated the premises must be replaced with the new business or a blank panel within thirty (30) days of vacancy.
- b. Any sign which the Building Official determines no longer serves a bona fide use conforming to this code, shall be removed by the owner, agent or person having the beneficial use of the land, buildings or structure upon which such signs is located within fifteen (15) days after written notification to do so from the Building Official. Upon failure to comply with such notice, the Building Official is hereby authorized to cause the removal of such sign, and any expense incident thereto shall be paid by the owner of the land, building or structure to which such sign is attached or upon where it is erected.
- c. If the Building Official shall determine that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the person or persons responsible for such sign. If the permittee, owner, agent or person having the beneficial use of the premises fails to remove or repair the sign

within fifteen (15) days after such notice, such sign may be removed by the Building Official at the expense of the permittee or owner of the property upon which it is located. The Building Official may cause any sign that is an immediate hazard to persons to be removed summarily and without notice.

19. **Illegal Signs.** An illegal sign is any sign that meets any of the following criteria:
- a. A sign erected without first obtaining a permit from the City and complying with all regulations in effect at the time of its construction or use;
 - b. A sign that was legally erected but whose use has ceased because the business it identifies is no longer conducted on the premises;
 - c. A nonconforming sign for which the amortization period has expired;
 - d. A sign that was legally erected but which later became nonconforming and then was damaged to the extent of 50% or more of its current replacement value;
 - e. A sign that is a danger to the public or is unsafe; or
 - f. A sign that pertains to a specific event that has not been removed within five (5) days after the occurrence of the event.
20. **Non-Conforming Signs.**
- a. Non-conforming signs, except as otherwise provided by these regulations, may be continued subject to the following limitations:
 - 1). The owner of a non-conforming sign, upon receipt of a notice of non-conformity, may register the sign with the City as an existing, non-conforming sign.
 - 2). Registered, non-conforming signs may be maintained and repaired with like materials and the sign message may be changed, provided that there is no extension, enlargement, change in location, or structural modification to any non-conforming aspects of the sign.
 - 3). When a non-conforming sign is demolished or damaged to the extent that the cost of repairing the sign is more than 60% of the cost of erecting a new sign of the same type at the same location, such sign shall be eliminated or made to conform to the current sign regulations.
 - b. Removal of Non-conforming Signs. The following non-conforming signs shall be eliminated or made to conform to the current sign regulations within thirty (30) days of the receipt of a notice of nonconformity. Signs subject to this Section are those whose characteristics constitute a public safety hazard.
 - 1). Signs that violate the sight triangle provision.
 - 2). Signs using the words "stop," "slow," "caution," "danger" or any other word, phrase, symbol or character in such a manner as is reasonably likely to be confused with traffic, directional and regulatory signs.
 - 3). Signs erected so that by their location, color, nature or message are likely to be confused with or obstruct the view of traffic signals or signs, or is likely to be confused with the warning lights or an emergency or public safety vehicle.
 - 4). Strings of lights not permanently mounted to a rigid background.
 - 5). Signs affixed to trees or utility poles.
 - 6). Temporary and portable signs, except those provisionally exempt signs listed in this Section as Exempted Signs, which violate building code provisions for wind loading, structural stability, electrical wiring or other code provisions.
21. **Forfeiture of Signs.** Any sign installed or placed on public property, except in conformance with the requirements of these regulations, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

22. Computation of Area of Individual Signs

- a. The area of a sign shall be computed as the entire advertising area of the sign, including any framing or trim, contained within the respective sign cabinet. For the purposes of this computation the sign cabinet shall be defined as the structure or border used to differentiate a sign face from the structure against which a sign face is placed.
- b. Where a sign consists of individual letters, words or symbols attached to a surface, building, canopy, awning or wall and all such elements are located in the same plane, the sign area shall be the area of the smallest rectangle which completely encompasses all such letters, words or symbols and any accompanying background of a color different than the natural color of the wall.
- c. The permitted area for all monument signs shall not include the sign base or sign structure. In no case shall the overall sign structure, including the base, exceed the maximum allowed height nor the maximum allowed sign area. In no case shall the sign face of a monument sign exceed 50% of the overall sign structure.

23. Computation of Area of Multi-faced Signs. The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces visible from any one point. When two identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are substantially similar, and when such sign faces are part of the same sign structure the sign area shall be computed by the measurement of one of the faces.

24. Computation of Height. The height of a sign shall be computed as the mean distance from the base(s) of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

25. Computation of Sign Setback. The spacing between a sign and a lot line or two (2) signs. The distance is measured horizontally from a vertical plane at the outer extremity of each sign.

26. Computation of Maximum Number of Signs. Pursuant to the standards provided in the L-P District, each lot is allocated the maximum number of signs allowed. Where indicated, additional signs beyond the identified allowance shall be determined by the lineal frontage of the lot or of the "artificial lot".

27. Sign Permits, Applications and Inspections.

- a. It shall be unlawful for any person to paint on any wall or surface, construct, erect, alter, enlarge or repair any sign within the legal boundary of the L-P District without first obtaining a permit from the Building Official and paying the fee as listed elsewhere in the City Code.
- b. Signs to be illuminated are subject to the electrical code, permit and fee requirements.
- c. Applications for permits shall be made upon forms provided by the Building Official, and shall contain or have attached thereto the following information:
 - 1). Name, address and telephone number of the applicant.
 - 2). Location of building, structure, or lot to which or upon the sign or other advertising structure is to be attached or erected.
 - 3). Two (2) sets of plans to scale shall be submitted showing the sign location in relation to nearby buildings or structures, signs, property lines, driveways,

public streets, fences, and sidewalks, and two sets of plans and specifications showing method of construction and attachment to the building or ground, size, type, height, construction materials, and such other information as the Building Official may require. The plans shall be one-eighth inch (1/8") to one foot (1'). Signs over ten (10) feet in height shall be engineered design.

- 4). Name and address of person, firm, corporation, or association erecting any structure.
 - 5). Electrical permit shall be required for illuminated sign.
 - 6). Zoning classification carried by the property.
 - 7). Such other information as the Building Official may require in order to show full compliance with this and all other laws and ordinances of the city and state.
- d. The Building Official may require plans to be prepared by a registered professional engineer. Original signature of engineer required. Engineer shall be certified by the State of Kansas.
 - e. It shall be the duty of the Building Official upon the filing of an application for a sign permit to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign, and if it shall appear that the proposed structure is in compliance with all the requirements contained in the building code, and all other laws and ordinances of the City of Edgerton. The Building Official shall then issue the sign permit. If the work authorized under a sign permit has not been completed within ninety (90) days after issuance, the said permit shall become null and void.
 - f. The Building Official shall be notified by the permittee when erection of the sign is complete and he shall make an inspection to determine if the sign conforms to city ordinances and codes.
 - g. Signs or signs with moving parts shall be approved by the Planning Commission.
 - h. Signs shall meet all adopted building codes and fire codes.
 - i. Signs in excess of fifty (50) square feet in area and taller than ten feet in height shall be designed by a structural engineer registered in the State of Kansas; these signs shall be constructed to withstand a minimum wind load of thirty (30) pounds per square foot and a minimum dead load as required by the adopted building code.

Q. Diesel Emission Requirements The following diesel emission requirements shall apply to warehouse/distribution, manufacturing including heavy duty diesel trucking and courier services, warehousing and storage, and motor freight transportation terminals, truck stops, and maintenance facilities located within the L-P (Logistics Park Zoning) District:

1. Except for loading/unloading operations, heavy duty diesel vehicles with a gross vehicle weight of over 14,001 pounds shall be restricted from idling on-site for no more than 5 minutes in any 60 minute period. For loading/unloading operations, idling shall be restricted to no more than 30 minutes in any 60 minute period. The following exceptions shall apply to this section:
 - a. Emergency vehicles performing their emergency duties;
 - b. Vehicles that must idle to operate auxiliary equipment to accomplish the intended use of the vehicles such as mixing, refrigerating, or operating a hydraulic lift. The exemption does not apply when the vehicle idling is solely for cabin comfort or to operate non-essential equipment such as air conditioning, heating, microwave ovens, or televisions except in the case of a safety or health emergency;
 - c. Vehicles in extreme hot or cold weather;

CITY OF EDGERTON, KANSAS
NOTICE OF HEARING FOR VARIANCE TO UNIFIED DEVELOPMENT CODE
Case No: BZA 2018-01

Notice is hereby given that the Board of Zoning Appeals of the City of Edgerton, Kansas, will hold a Public Hearing on Tuesday, December 11, 2018 at Edgerton City Hall, 404 E. Nelson Street, Edgerton, Kansas at 6:45 p.m. at which time and place the public may be heard in regards to application BZA 2018-01 for the following described real property situated in the City of Edgerton, Johnson County, Kansas to wit:

Midwest Gateway Ventures, LLC, applicant representative for the property located at 32180 W. 191st Street, requests approval of a variance to the Unified Development Code for signage size and signage location on the following real property, as noted and described:

Midwest Gateway, Lot 2

Dated this 21st day of November 2018.

John Daley, Chairperson
Edgerton Board of Zoning Appeals

City of Edgerton, P.O. Box 255, 404 E. Nelson St., Edgerton, KS 66021

From: [Edna Martinson](#)
To: [Katy Crow](#)
Cc: [Alexandria Clower](#)
Subject: RE: Edgerton Board of Zoning Appeals Packet
Date: Thursday, November 15, 2018 1:18:09 PM
Attachments: [image004.png](#)

Hi Katy,

I will be mailing out the certified letters to these companies this afternoon. Can I come by the office to pick up the notice sign tomorrow?:

Delong Co, Inc
P.O.Box 552
214 Allen Street
Clinton, WI 53525

BNSF Railway Company
P.O.Box 961089
Fort Worth, TX 76131

Edgerton Land Holdings Company
4825 NW 41st Street
Suite 500
Riverside, MO 64150

Flexsteel Industries Inc
385 Bell Street
Dubuque, IA 52001

C Y Edgerton LLC
20012 W South Arsenal Rd
Wilmington, IL 60481

Omar J Holtgraver
1979 Haskell Road
Ottawa, KS 66067

Prairie Tree, LLC
6701 W 167th Street
Stilwell, KS 66085

Michael A. Gifford
13995 W 157th Terrace
Olathe, KS 66062

EDNA MARTINSON

Sales Support and Marketing Analyst
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