

EDGERTON PLANNING COMMISSION
REGULAR SESSION
Edgerton City Hall
September 10, 2019
7:00 P.M.

1. Call Meeting to Order
2. Pledge of Allegiance
3. Roll Call

4. **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.)

- A. MINUTES** - Consideration of Minutes for Regular Planning Commission Session of August 13, 2019.

5. **NEW BUSINESS**

A. PUBLIC HEARING – CONDITIONAL USE PERMITS – APPLICATIONS
CU2019-02 AND CU2019-03

Hold a public hearing in consideration of Applications CU2019-02 and CU2019-03 for two billboards located at 36450 Frontage Road.

Applicant: Curtis Peterson
Agent: Polsinelli PC

6. Future Meetings
 - Regular Session – October 8, 2019 at 7:00 PM
7. Adjourn

EDGERTON CITY HALL
PLANNING COMMISSION MEETING
REGULAR SESSION
August 13, 2019

The Edgerton Planning Commission met in regular session with Chair John Daley calling the meeting to order at 7:00 p.m.

All present participated in the Pledge of Allegiance.

The Roll Call was answered, indicating those present were Chair John Daley, Commissioner Tim Berger, Commissioner Jeremy Little, and Commissioner Charlie Crooks. Commissioner Josh Beem was absent from the meeting. Also present were Mayor Donald Roberts, City Administrator Beth Linn, Development Services Director Katy Crow, and Planning and Zoning Coordinator Chris Clinton.

The Planning and Zoning Coordinator announced a quorum was present.

CONSENT AGENDA

MINUTES

The approval of the minutes from the Regular Session held on July 9, 2019 were considered.

APPLICATION TU2019-07 – TEMPORARY CONSTRUCTION USE

The approval of Application TU2019-07, expanded use of the concrete batch plant located at 20520 Waverly Road operated by Concrete Strategies for the Phase II expansion of 207th Street east of Waverly Road.

Mr. Berger motioned to approve the items as presented in the Consent Agenda, Mr. Crooks seconded. The consent agenda was approved, 4-0.

NEW BUSINESS

PUBLIC HEARING – PRELIMINARY PLAT – APPLICATION PP2019-03

Chairman Daley stated this application was continued from the July 9, 2019 Planning Commission meeting. Ms. Crow, Development Services Director, introduced Application PP2019-03 as a Preliminary Plat for On the Go Travel Center and presenting the application is Mr. Judd Clausen of Phelps Engineering, Incorporated. Mr. Clausen came before the Planning Commission (the Commission). He stated this project is brought forth by the civil engineers from Phelps Engineering, the architects at BCS Architecture, and will be constructed by KBS Construction. Mr. Clausen thanked the Commission for the opportunity to present and appreciated the hard work and time commitment by City Staff to aid them in putting this project together and in compliance with the Unified Development Code (UDC).

Mr. Clausen stated this project is located on the northeast corner of Homestead Land and Interstate 35 (I-35). The Preliminary Plat shows Kansas Department of Transportation (KDOT) right-of-way to the south and west of the parcel. The northern property line abuts another parcel but there is a proposed road that will go to the eastern end of the parcel. At this time, the road will go about halfway into the parcel and stop at what will be the eastern property line of Lot 1 on the Final Plat. Mr. Clausen explained there is a land swap in progress between the northern neighbor and the property owner to get the curvature correct of the new road.

Ms. Crow informed the Commission City Staff is aware of the land swap and one condition of approval of the Preliminary Plat requires the appropriate paperwork documenting the land swap be prepared and provided to the City before any construction can start on the site. The proposed road will also need to meet City standards. She reminded the Commission the plat is about the division of the land and not what is going to be built. Ms. Crow also stated the water line easement location and other easement details need to be finalized, but City Staff is working with the applicant on those details. City Staff recommends approval for Preliminary Plat Application PP2019-03.

Chairman Daley reopened the public hearing. There were no public comments. Mr. Berger motioned to close the public hearing, Mr. Little seconded. The public hearing was closed, 4-0.

Chairman Daley asked if the Commission had any questions for City Staff or Mr. Clausen. No questions were raised. Mr. Berger motioned to approve Preliminary Plat Application PP2019-03 with the following stipulations:

1. Documentation be provided to dedicate the right-of-way along the proposed road, any additional easements not listed, and the water easement;
2. The Planning Commission Secretary and City Clerk signature block be removed from the Certification on the Preliminary Plat;
3. All infrastructure requirements of the City shall be met;
4. All City Engineer comments related to Stormwater Management Plan must be address;
5. Preliminary Plat shall be approved for a one-year period and shall be extended for an additional year upon the approval of a Final Plat for the same parcel of land or any part thereof. If a Final Plat is not approved for a portion or all of the land covered under the Preliminary Plat within one year, the Preliminary Plat shall be ruled null and void. The Planning Commission, upon submittal and approval of a written request, may grant a one-year extension on the approval of the Preliminary Plat.

Mr. Little seconded the motion to approve with stipulations. Preliminary Plat Application PP2019-03 was approved, 4-0.

FINAL PLAT – APPLICATION FP2019-03

Chairman Daley introduced Final Plat Application PP2019-03 for the same parcel as Preliminary Plat Application PP2019-03. Mr. Clausen came forward to present the Final Plat that is one page and will set the lot lines of the western half of the parcel. This plat will also dedicate the road right-of-way once it is constructed. Tract A, which is located on the southern part of the plat will be dedicated for storm detention only. This detention basin is to be used for the whole parcel. He stated there are other easements dedicated on the final plat, including a 12-foot utility and pedestrian easement. Mr. Clausen stated that with the restricted access from KDOT, no other curb cut will be needed off of Homestead Lane, and the existing entrance will be utilized. Chairman Daley asked if the one access point will be an issue. Ms. Linn, City Administrator, explained KDOT has done a traffic study for this intersection and are considering full access at this intersection. KDOT and the City are still in discussion when it comes to the exact design of this intersection.

Ms. Crow said during their review, City Staff noted there is to be one lot and one tract. The name of the proposed road will be West 200th Terrace, not East Nelson Street as noted in the Staff Report. City Staff recommends approval for Final Plat Application FP2019-03.

Chairman Daley asked if the Commissioners had any questions for Staff or the applicant. Mr. Berger asked if it was the stipulations for approval are as follows:

1. The commencement of any improvements shall not occur prior to the approval and endorsement of the Final Plat and the submittal to and approval of construction plans for all streets, sidewalks, storm water sewer, sanitary sewers, and water mains contained within the Final Plat by the Governing Body. The property owner and/or developer shall work with City Staff to determine the best possible placement for a storm water easement and shall dedicate said storm water easement on the Final Plat;
2. A Public Improvement Inspection Fee, established by the Fee Schedule for the UDC, shall be submitted with the document of financial assurance as defined in Section 13.7 prior to the commencement of any improvements;
3. The applicant shall meet all requirements of Recording a Final Plat as defined in Section 13.5 of the Edgerton UDC, including payment of excise tax;
4. The applicant shall meet all requirements of Financial Assurance as defined in Section 13.7 of the Edgerton UDC;
5. All City Engineer comments related to the Stormwater Management Plan must be addressed;
6. All Final Plat requirements of the City listed in the Staff Report shall be met or addressed prior to recording the Final Plat. Those requirements are:
 - a. Confirm monuments have been set after the plat has been recorded with Johnson County Register of Deeds;
 - b. Prior to road construction, applicant is required to submit public infrastructure plans for West 200th Terrace. Additional right-of-way width may be needed, and additional easements may be required by utilities. City Engineer will review infrastructure plans when submitted to ensure City standards are met. If the applicant is unable to provide documentation to dedicate right-of-way, any necessary easements and private property construction, the project will need to be revised to be located entirely on this property;
 - c. Upon filing the Final Plat with Johnson County Register of Deeds Certificate (Book/Page) will need to be added.
7. If the Final Plat is not recorded with the Johnson County Register of Deeds within one year after acceptance by the Governing Body, the plat will expire. Planning Commission re-approval and Governing Body re-acceptance is required for expired Final Plats.

Ms. Crow stated those are the stipulations for approval including the requirement of providing the documentation of the land swap. Mr. Berger motioned to approve Final Plat Application FP2019-03 with the stipulations. Mr. Little seconded. Final Plat Application FP2019-03 was approved, 4-0.

PUBLIC HEARING – PRELIMINARY SITE PLAN – APPLICATION PS2019-01

Chairman Daley introduced Preliminary Site Plan Application PS2019-01. Mr. Clausen explained there is more detail on the Final Site Plan than the Preliminary Site Plan. He stated the Preliminary Plan does show the part that is and is not part of Final Plat Application FP2019-03. Mr. Clausen pointed out the general location of the buildings that will be located in the area that is part of the Final Plat. The western most entrance is a right in only. A full access entrance for personal vehicles is available at the middle drive and a truck service entrance will be the eastern most entrance. Mr. Clausen explained there is truck parking along the eastern and western lot lines. The southern area of the site is where a truck fueling station and truck service station will be located. The northern area will be for smaller vehicles with the convenience store and vehicle pumps. There is a detention basin along the south

property line of the lot. Mr. Clausen informed the Commission the proposed road will go to the eastern lot line then be extended to the east as development occurs. Water service will come from existing lines from the north located on 199th Street and will service the whole development as well as the property to the north. Another possible road is shown going north to 199th Street to allow drivers to go south on Homestead Lane to I-35 if full access is not granted at West 200th Terrace and Homestead Lane. Pad sites are shown to the east as a possible layout of future development.

Chairman Daley clarified there is no way for traffic to turn left to get back to I-35 from the development. Ms. Linn stated not at this time but KDOT is looking into allowing full access at the intersection and it will be decided in the near future. Mr. Clausen also replied the proposed road to 199th is on the Preliminary Site Plan as well. This road would allow traffic to turn south on Homestead Lane and provide access to I-35 if needed.

Ms. Crow stated the staff report does reference the Final Site Plan often. The applicant acknowledges any additional right-of-way and easements will need to be decided on with City Staff and properly documented. Documentation of the land swap will also be required before any work on the site can begin. The signage will be considered with the newly adopted version of the UDC. There are metal awnings proposed and the UDC states only fabric may be used for awnings, however there is revision to the UDC being brought forth to the Planning Commission by the City about including metal as an approved material for awnings. Ms. Crow explained all right-of-way and KDOT improvements will be found on the Final Site Plan.

Chairman Daley re-opened the public hearing. Mr. Cliff Cole, 19911 Pepper Tree Lane, approached the Commission and stated if Homestead Lane is not made to allow full access or if the other proposed road to access 199th Street west of Homestead Lane is not built, then traffic will most likely go down to 199th Street and turn left towards his property and traffic will be a nightmare. There were no further comments. Mr. Berger motioned to close the public hearing, Mr. Crooks seconded. The public hearing was closed, 4-0.

Ms. Linn replied to Mr. Cole's concern by stating KDOT has shown, through a traffic study, that the intersection could handle full access. However, because it is KDOT right of way, the site plan must be submitted to KDOT before approval for a full access intersection will be allowed. Additionally, KDOT will look at the alignment of the drive for this parcel and the one due west across Homestead Lane, to determine which one will need to relocate to balance the distance from I-35 and 199th Street. Ms. Linn does not see an issue with there being full access before this development would be opened.

Chairman Daley asked if this parcel is currently neighbored by farmland. Ms. Crow showed on a map where the location of the project is and explained there are nearby residences that are all across a street, not directly adjacent to the parcel. Mr. Berger motioned to approve Preliminary Site Plan Application PS2019-01 with the following stipulations:

1. The recommendations stated in the Staff Report are stipulated as a part of an approval and are incorporated into the Preliminary Development/Site Plan document set;
2. A Final Site Plan must be submitted and approved prior to commencement of uses and the property shall be developed in accordance with the approved Final Site Plan, Landscaping Plan, Photometric Plan, Stormwater Study and SWPPP as required by City approval of the submitted Preliminary Site Plan, as amended by the stipulations listed and approved by the City;
3. All Preliminary Development/Site Plan requirements of the City listed shall be met or addressed during Final Development/Site Plan submittal as identified;

4. No signage is proposed with Application PS2019-01. Signage proposed later shall receive separate approval according to the provisions of the UDC;
5. All construction plans for any public infrastructure shall be prepared to City standards and approved by the City.

Mr. Little seconded approval with stipulations. Preliminary Site Plan Application PS2019-01 was approved, 4-0.

FINAL SITE PLAN – APPLICATION FS2019-04

Chairman Daley introduced Final Site Plan Application FS2019-04. Mr. Clausen started by showing where access is from Homestead Lane to the development. He explained the Travel Center will be the most northern building and is planned with possible future expansion for a quick serve restaurant. The first entrance that will be available for traffic is a right in only entrance that can be used by both trucks and smaller vehicles. The next driveway is in the middle where drivers can enter and leave. This entrance will be utilized by smaller vehicle to get to 16 fueling stations, 2 rows of 8 double-sided pumps. There are spaces that could be utilized as possible employee parking to the east of the fuel pumps. A truck entrance is the eastern most entrance. The proposed road, West 200th Terrace, will start at the existing entrance from Homestead Lane and end on the eastern lot line until further development warrants the expansion of the road. Mr. Clausen stated there is a sidewalk proposed along the northern line of the lot to allow for safe pedestrian travel. There are single-sided pumps for the trucks. The trucks will use the eastern driveway to enter and leave. Mr. Clausen explained there is proposed truck parking that will border the site. He explained the route trucks can enter the wash and service station, by stating the entrance will be on the west side of the facility and trucks will leave by using the eastern driveway. Mr. Clausen showed the dumpster is proposed to be in the northwestern corner of the lot.

Mr. Clausen continued to walk through the Final Site Plan by showing the grading plan and explained it shows how the land will be finished. He stated the grade will match the entrance at the north and slowly drop to the south and the east and west sides will taper. This will allow stormwater to drain to the southeast and southwest and allow the curb and gutter to take the water to the detention basin to the south. A berm will be on the western property line to provide screening from Homestead Lane. Mr. Clausen showed the landscape plan with deciduous and evergreen trees placed along the perimeter as well as in the traffic islands of the parking lot. Mr. Clausen feels the landscape plan meets the requirements of the UDC.

Mr. Jeff Shinkle with BCS Architects came before the Commission to go through what the buildings could possibly look like by showing renderings he created. He stated there are three architectural components to the project. The first component is the convenience store (C-store) that will have a quick serve restaurant, trucker lounge, restrooms, laundry services and showers. The façade of the building is proposed to be made stone and stucco with metal, possibly acrylic, awnings to meet requirements. Customers will be able to utilize 2 entrances, 1 on the east for vehicles at the fueling pumps and an entrance on the south closer to the truck services. The second component is the truck wash/service station. The proposed station is to be made of 2 washing bays, 3 service bays, an office area and a screened storage area. The façade will be made by using the same materials as the c-store. The fueling station canopies are the final components. The vender of the canopies will have a certain branded look. The color scheme or branded look will be used to match the c-store and truck service stations.

Chairman Daley asked if there would be a truck scale. Mr. Clausen replied it will be located between the truck service station and the truck fueling station but will not have another building associated with the weigh station.

Mr. Crooks wanted clarification as to what vehicles will use the right in only entrance. Mr. Clausen replied all vehicles will be able to use the right in only entrance.

Mr. Berger inquired about the number overall truck parking spaces and how exhaust breaking will be monitored. Ms. Linn answered exhaust breaks are prohibited by Edgerton City Ordinance. Mr. Berger requested the number of truck parking spaces. Mr. Clausen replied the counts for truck parking show about 80-90 spaces.

Chairman Daley inquired as to why the dumpster is near the entrances. Mr. Clausen responded it is best to have it close to the c-store. Placing it to the north would not allow expansion once a tenant is brought on board and it will be the most visible. Mr. Clausen explained the location was chosen so it would be possible to have landscape surrounding the enclosure as well. He stated there is a masonry enclosure that is proposed to ensure screening from the Homestead Lane right-of-way. Chairman Daley asked if a man door was going to be provided on the enclosure. Mr. Clausen ensured a man door can be added into the designs. Mr. Clausen agreed the man door is becoming more and more popular. Ms. Crow concurred and stated it helps ensure the door used for emptying the dumpster remain closed and the dumpster stays screened.

Ms. Crow stated there are items that City Staff wanted to bring to the attention of the Commission. She stated there is an ongoing conversation with the applicant regarding the sanitary sewer location and connection. The City Engineer stated the proposed sidewalks do not meet Public Rights-Of-Way Accessibility Guideline requirements but can be brought into compliance when designed on the infrastructure plans. The signage package will be reviewed using the newly adopted UDC Article 12. City Staff does recognize the ADA requirement has been met but City Staff does recommend more ADA stalls be designated to the north as the expansion of the C-store happens so there are more accessible routes available. The same land swap condition is applied to this application and documentation of this swap is required before any construction activities can begin. City Staff will continue to monitor to ensure proper screening of roof-top equipment and other HVAC systems. Ms. Crow stated the awnings that are mentioned are attached to the building. The canopy will be detached from the building and be over the fuel pump. American Public Works Association requires the detention basin to have a 2% slope. The exterior storage area is required to be screened by the masonry wall. Ms. Crow explained the gate is to remain closed and there is to be no stacking of items that will go above the wall. Mr. Crooks requested clarification of the height of the wall. Mr. Clausen replied the proposed height is 8 feet. Mr. Crooks inquired if anything will be higher than that. Ms. Crow affirmed it is a stipulation for approval to have all equipment and items below the height of the wall so it will not be visible.

Chairman Daley recalled seeing something about a hotel mentioned in a local newspaper. Ms. Crow stated the article might be referring to a project that has not been brought forth to the Planning Commission at this time. Mr. Clausen replied there are future pads that could be available on the eastern lot for a hotel but not with this application. Ms. Crow stated there is one other item, the height of the light poles. Edgerton UDC states the height of a luminary shall not exceed 25 feet, but the proposed luminaries are shown at 35 feet. Pole height correction is necessary along with a revised lighting plan.

Chairman Daley stated a man door should be added to dumpster enclosure. He is also concerned about the limited access at Homestead Lane and not allowing traffic to make a left turn, but he is aware this issue is being addressed with KDOT.

Mr. Berger motioned to approve Final Site Plan Application FS2019-04 with the following stipulations:

1. The Staff recommendations and comments noted related to infrastructure, landscaping, the stormwater plan and all else discussed as included in the Staff Report are included as stipulations as part of approval of this Final Site Plan;
2. All construction plans for any public infrastructure shall be prepared to City standards and approved by the City;
3. Any items added must comply with the Edgerton UDC and it is the building owner's ultimate responsibility to ensure code compliance;
4. Applicant/Owner Obligation. The site plan, a scale map of proposed buildings, structures, parking areas, easement, roads and other City requirements (landscaping/berm plan, lighting plan) used in physical development, when approved by the Planning Commission shall create an enforceable obligation to build and develop in accordance with all specifications and notation contained in the site plan instrument. The applicant, prior to the issuance of any development permit, shall sign all site plans. A Final Site Plan filed for record shall indicate that the applicant shall perform all obligations and requirements contained therein;
5. Any requirements on public or private property by the City of Edgerton or KDOT determined necessary for the improvement of the intersection shall be adhered to;
6. A man door is to be added to the trash dumpster enclosure.

Mr. Crooks seconded the motion to approve with the stipulations. The question of where the water would go from the truck wash station was raised. Mr. Clausen answered all of the water used in the facilities will go through a sand and oil separator then into the sanitary sewer. Mr. Cole inquired about the lighting that could spread to neighboring properties. Ms. Linn replied the UDC does have requirements to minimize the amount of light that can be shed upon neighboring properties and the applicant will have to take appropriate measures to ensure they are meeting the UDC requirements. Final Site Plan Application FS2019-04 was approved, 4-0.

PUBLIC HEARING – APPLICATION UDCA2019-02 – AMENDMENTS TO THE UNIFIED DEVELOPMENT CODE (UDC)

Chairman Daley introduced Application UDCA2019-02 being brought forward by the City of Edgerton and consisting of amendments to Article 4 and 7 of the UDC. Ms. Crow stated this application is a continuation of the undertaking of revisions to the UDC. Application UDCA2019-02 consists of updates to all of Article 7 and a small section of Article 4.

Ms. Crow stated the updates to Article 4 are minor. On page 4-19, the list of conditional uses has been updated to include the correct language for Interstate pole signs now that the article on signage has been adopted. The same update was made to page 4-30. Page 4-41 has been updated to state the distinction of an awning and an extended awning. Ms. Crow explained an awning would be an apparatus which extends over one window or door, while an extended awning would extend over several windows or doors. This was clarification was necessary as there is a distinction between extended awnings and canopies, with different requirements for each. The allowed materials for

canopies have also been updated to include matte finish standing seam metal. Ms. Crow stated more updates may be needed as staff works with the UDC while reviewing plans.

Chairman Daley stated there are not many changes to Article 4. Mr. Berger requested information about drive through signage. Ms. Crow answered all the signage requirements are included in Article 12.

Chairman Daley opened the public hearing regarding Application UDCA2019-02.

Ms. Crow presented the updates to Article 7. She stated Article 7 addresses conditional uses. The updates to Article 4 – Commercial Districts, which was approved by the Governing Body, removed some conditional uses while adding others. Staff focused on updates in the section regarding conditional uses in commercial districts. Article 7 outlines what is required for each conditional use permit, and what is required to be submitted for consideration. The other changes in Article 7 are to increase the flow and readability of the article as a whole.

Ms. Crow stated the first major update to Article 7 occurs on page 7-4. The C-D, Downtown Commercial District needed to be added to the article. The only conditional use that is allowed in this district is a parking lot detached from principal use.

The C-1, General Commercial District needed to be included. As with the C-D District, only parking lots detached from the principal use is the only conditional use allowed in the C-1 District.

In the C-2, Heavy Service Commercial District, the 3 different uses needed to be added. There are also additional requirements added to adult entertainment and sex-oriented businesses that were not in the original Article 7. Interstate pole signs is a new conditional use for this district, so it was added with the requirements and stipulations. The requirements for wireless facility and wireless support structures are the same.

Conditional uses in the C-3, Highway Service Commercial District, are wireless facilities/wireless support structures, campgrounds, outdoor amusement establishments, interstate pole signs, motor vehicle repair, and outdoor display and sales of merchandise and equipment.

Ms. Crow informed the Commission to voice any additional requirements or changes to City Staff so Article 7 can be amended.

Mr. Berger inquired about the requirements for adult entertainment business and if there are any additional requirements for adult bookstore signage, specifically billboards. Ms. Linn stated that per the sign code billboards are no longer allowed, but that sign content related to obscene material is governed by state statute and the City Attorney has recommended that these types of businesses remain a conditional use in this district with the added requirements and stipulations so both the Planning Commission and Governing Body will have a chance to review.

Ms. Crow stated there are no major changes in any other section of Article 7. The signage in Article 12 and conditional uses in Article 7 will be updated after the articles for each zoning district is updated.

Mr. Crook inquired about existing homes with businesses located in them. Ms. Crow answered that a transitional use district will be brought forth as a zoning designation for these types of buildings. She

explained as the zoning level use intensity goes up, the requirements for landscaping and screening increases as well. She used the example of On the Go Travel Center and the change Staff saw from the initial plan to what was brought forth to the Commission.

Mayor Roberts came before the Commission and stated transitional zones used to be heavily sought after by communities, but it seems to be slowly drifting away. He explained there are other ways to ease the transition between in-home businesses from the surrounding residential or commercial buildings they neighbor through the use of berms and landscaping. Ms. Linn stated berms are used in LPKC to help screen the projects from residences nearby. Mayor Roberts stated every homeowner has rights and the Planning Commission gets to choose if a project will be a good use for the land and if it infringes on the rights of the neighboring homeowner. He used the example of a neighbor who does not want a garage built. It may be legal for a garage to be established, but the Planning Commission gets to decide if the location and use of the land is a good use and does not intrude on the neighbor's rights as well as the homeowner's rights.

Mayor Roberts stated the same goes with zoning. The Planning Commission has to ask itself if it is a useful change. He understands these topics can become heated and personal, but the Commission has a massive responsibility to minimize the impact against neighboring residential properties. Mayor Roberts explained the Constitution allows others the rights to want things that we may personally disagree with - things like adult entertainment and adult bookstores, but the Planning Commission has to look at all property owners' rights, even those who want to develop land for a sex orientated business. He understands this part of the Planning Commission isn't necessarily the most exciting thing to consider but it is best to look at the community as a whole and not for their personal gain or their own personal beliefs. Mayor Roberts explained the City is unable to decide who or what company decides to purchase land in the City. The investor and property owner get to decide what they invest in.

Ms. Linn stated the hard work of the Planning Commission has come to fruition with the travel center project that was presented at this meeting. City Staff and the members of the Commission could see the difference the Commission was making. Mr. Berger commended Staff on how amazing of a job and the great work that has been put forth on the UDC updates and the plan reviews. Mayor Roberts agreed this allows the City to be a good neighbor to nearby communities. He stated it is difficult for people to spend their money in the City as there is little commercial space, but the City has come a long way, and this is what must be done so Edgerton can continue to grow and prosper. He feels the approval of a travel center is a monumental step forward. Mayor Roberts commented that the City Council has been impressed with the Planning Commission and Staff with the work everybody has put into the community.

Mr. Berger motioned to close the public hearing and Mr. Crooks seconded. The public hearing was closed, 4-0.

Mr. Berger motioned to recommended approval of Application UDCA2019-02 to the Governing Body, Mr. Little seconded. Application UDCA2019-02 was recommended for approval to the Governing Body, 4-0.

Ms. Crow stated a copy of the amended Articles will be provided to the Governing Body at the August 22, 2019 meeting and be voted at the September 12, 2019 meeting.

Ms. Crow informed the Commission that Article 12 regarding the sign code went to the Governing Body. There was one change the Governing Body requested. The minimum height of an interstate pole sign was changed to a minimum of 60 feet and the maximum stayed the same at 100 feet.

FUTURE MEETING

The next meeting is scheduled for September 10, 2019 at 7:00 p.m.

ADJOURNMENT

Motion by Mr. Berger, seconded by Mr. Little, to adjourn. Motion was approved, 4-0.

The meeting adjourned at 8:24 p.m.

Submitted by: Chris Clinton, Planning and Zoning Coordinator

STAFF REPORT

September 10, 2019

To: Edgerton Planning Commission
Fr: Chris Clinton, Planning and Zoning Coordinator
Re: **CU 2019-02 (North)** and **CU2019-03 (South)** for Conditional Use Permit Request for
Billboard Signs at 36450 Frontage Road, Edgerton, KS

APPLICATION INFORMATION

Applicant: Curtis Petersen, Agent
Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, MO 64112

Property Owners: Robert Blachly
Mico, Inc
307 N Oak Street
Paola, KS 66071

Requested Action: Conditional Use Permit approval for two Billboard Signs currently in existence on the parcel. Approval is sought for two individual Conditional Use Permits so that each billboard will have its own permit.

Legal Description: SE Quarter of Section 18, Township 15 South, Range 22 East; see attached application for complete legal description.

Site Address/Location: 36450 Frontage Road

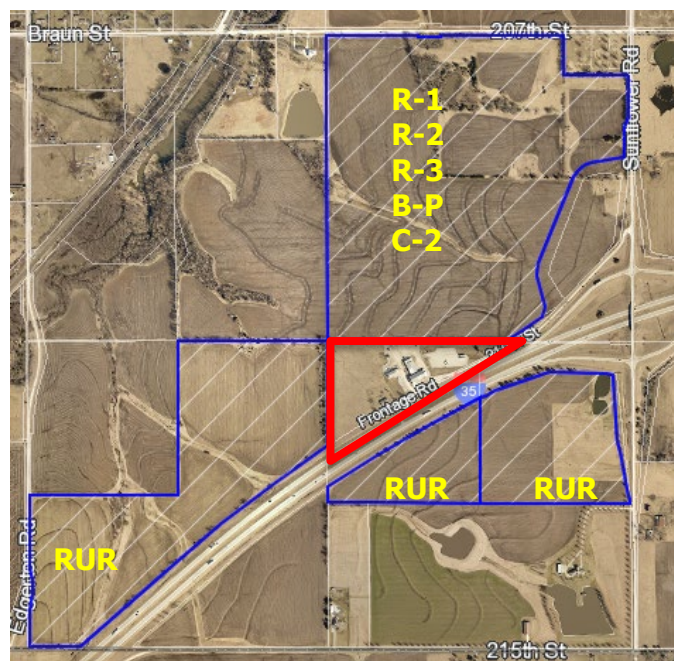
Site Size: Approximately 16.09 Acres

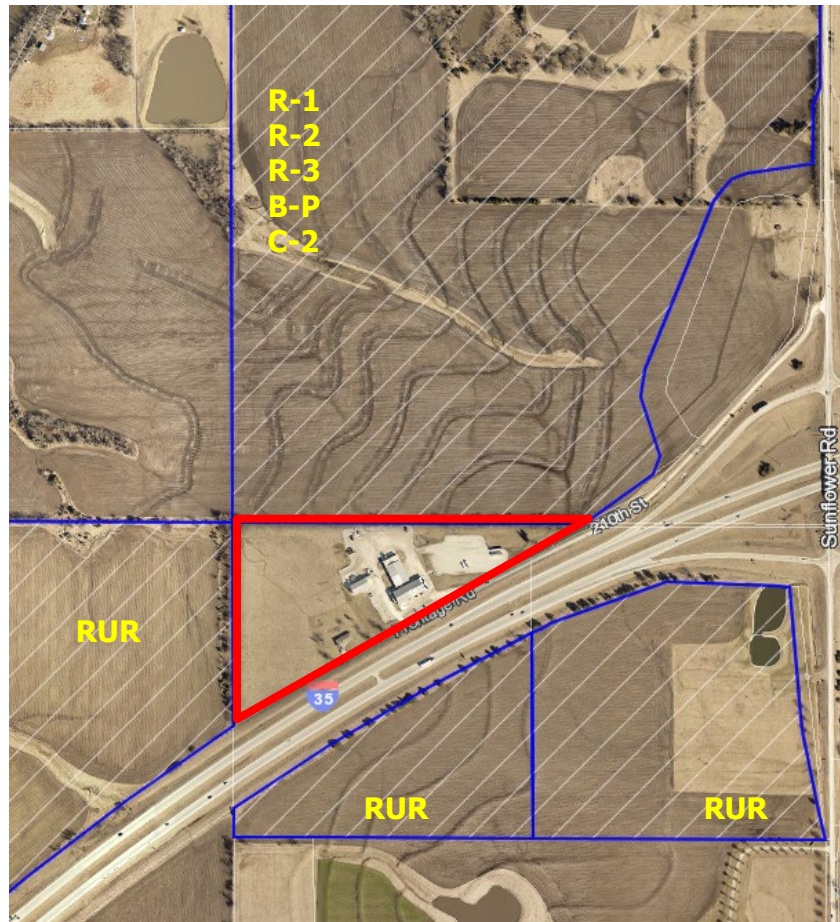
Existing Improvements: Residential house and accessory buildings



Current Zoning and Land Uses:

	<i>ZONING</i>	<i>LAND USE TODAY</i>	<i>USER/OWNER</i>
<i>SITE</i>	C-2, Heavy Service Commercial District	Current use is residential, trailer sales and rental, trucking operations, and cargo container storage	Mico, Inc
<i>NORTH</i>	R-1, Single Family Residential District R-2, Two Family Residential District R-3, Multi-Family Residential District B-P, Business Park District C-2, Heavy Service Commercial District	Agricultural	THS Investments LLC
<i>DIRECTLY SOUTH</i>	Interstate 35	Interstate	Kansas Department of Transportation
<i>SOUTH AND EAST-ACROSS I-35</i>	Johnson County RUR, Rural, Agricultural uses and single family dwellings, 10-acre minimum lot size	Agricultural	Ronald and Rosalie Sims
<i>DIRECTLY EAST</i>	Interstate 35	Interstate	Kansas Department of Transportation
<i>WEST</i>	Johnson County RUR, Rural, Agricultural uses and single family dwellings, 10-acre minimum lot size	Agricultural	72 AC, LLC





BACKGROUND AND PROJECT DESCRIPTION:

This parcel was annexed into the City of Edgerton on February 28, 2008 and rezoned to C-2 (Heavy Service Commercial) on April 24, 2008. On March 25, 2010 the City of Edgerton Governing Body considered and approved Ordinance 884 allowing a Conditional Use Permit for two billboards to be on display for five years at 36450 Frontage Road. That Conditional Use Permit, **CUP-02-05-10**, expired in 2015.

On August 2, 2019 city staff received applications **CU2019-02 (North)** and **CU2019-03 (South)**, requesting to renew the Conditional Use Permit for the billboards located on the parcel outlined in red on the maps above. This is the first time an application for renewal has been presented to and reviewed by the Planning Commission related to this item.

Per the application, the current operations on the parcel are sales and services. There is also an occupied, residential home located on the subject property. The parcel is surrounded by agricultural land to the north and west. The south property line is adjacent to Interstate 35 (I-35). Across I-35 is more agricultural land. The parcel to the north contains five different zonings (R-1, R-2, R-3, C-1 and B-P), so it could be developed in a variety of ways. The zoning designation for the other parcels is Johnson County RUR.

Applicant has a lease agreement in place with the owner of the billboards, Ad Trend. This lease was entered into in 2009 and has a remaining twenty (20) year term. The applicant has requested that the Conditional Use Permit be allowed through the end of the lease term, thus the

request is for a twenty (20) year use period. City staff has required two applications be filed, one for each billboard. Should a future sale result in the splitting of the parcel, each sign would have its own permit which would stay with the sign.

INFRASTRUCTURE AND SERVICES:

The subject parcel is located within the limits of the City. Currently there is a gravel road, Frontage Road, that runs from Sunflower Road to the parcel. KCP&L provides electricity. City of Edgerton is the water service provider and there is a septic tank onsite. It is within the Sunflower Benefit District.

STAFF ANALYSIS

Due to recent revisions made to Article 12 – *Sign Regulations* of the Unified Development Code (UDC), billboards are no longer allowed in the City of Edgerton. However, city staff was in discussions with the property owner to bring the parcel into compliance before the updates to Article 12 were adopted by the Governing Body on August 8, 2019. Therefore, staff reviewed the applications under the scope of the version of Article 12 that was in place on June 28, 2019 when the City sent notification to the property owner of the steps to take to become compliant with the UDC. That version of the UDC listed signs which exceed a total (single face) area of 125 square feet be issued a Conditional Use Permit. Applicant is unable to provide the square foot area of the sign face.

The Planning Commission, in accordance with the procedures and standards of the UDC, may authorize buildings, structures, and uses as conditional uses in specific instances and in particular zoning districts provided that:

- the location is appropriate and consistent with the Comprehensive Plan;
- that the public health, safety, morals, and general welfare will not be adversely affected;
- the necessary safeguards will be provided to surrounding property, persons, and neighborhood values; and
- may further provide that additional standards of this Article be specified as a condition of approval.

No Conditional Use shall be authorized unless the Planning Commission finds that the establishment, maintenance, or operation of the Conditional Use meets the standards set forth in the UDC. The burden of proof and the burden of persuasion is on the applicant to bring forth the evidence on all questions of fact that are determined by the Planning Commission.

Staff has reviewed the Conditional Use application for compliance with the requirements in Section 7.1(C) of Article 7 – *Conditional Uses* of the Edgerton UDC as it relates to the issuance of Conditional Use Permits. Review comments are listed below.

GENERAL CRITERIA

- a. The extent to which there is a need in the community for the proposed use. The Planning Commission recently approved a travel center at the Homestead Lane exit, approximately 2 miles north of this parcel on I-35. Having signage adjacent to the interstate can help direct travelers to businesses established within the Edgerton city limits. Staff determination:
Positive
- b. The character of the neighborhood, including but not limited to: zoning, existing and approved land use, platting, density (residential), natural features, and open space. The location of the

billboards is on a parcel of land which borders I-35. The parcels adjacent to this one that actually face the signs are all zoned Johnson County RUR and are across a four-lane divided interstate. The closest residence to the billboard signs is the one on the same parcel owned by the applicant. There are no restrictions posed by the neighboring area. Staff determination: **Positive**

- c. The nature and intensity of the proposed use and its compatibility with the zoning and uses of nearby properties. Such determination should include the location, nature, and height of structures, walls, fences, and other improvements connected with the proposed use, their relation to adjacent property and uses, and the need for buffering and screening. The immediate property to the south is an actual interstate highway, I-35. There are no other structures, other than those on the applicant's parcel, near the billboards. The applicant was unable to provide the billboard height or sign face square footage to staff. However, highway adjacency is the most appropriate location for this signage of this size and type. Staff determination: **Positive**
- d. Suitability of the uses of the property without the proposed conditional use permit. The parcel is zoned C-2. In the current UDC, Article 4 – *Commercial Zoning Districts*, several permitted uses are allowed – all seventy-two uses allowed in C-1 zoning districts is also allowed in C-2, plus nine additional C-2 specific uses. There are also four Conditional Uses allowed. Should the property not be used for placement of a billboard, there are many other property uses available to the owner. Staff determination: **Neutral**
- e. Length of time the subject property has remained vacant without the proposed conditional use permit. Per the Johnson County AIMS system, there has been a structure on the parcel since at least 1993. The applicant has provided staff with a copy of the lease agreement in place with an Ad Trend, the owner of the billboard signs. This agreement was signed in 2009 and has a 30-year term. Currently the residence is occupied on the parcel. The trailer sales business closed earlier this year. Two trucking operations on the parcel are non-permitted uses per the C-2 zoning designation and they will be ceasing operations upon expiration of their current leases. Because the Conditional Use permit is for a sign and not for a business operation, the property being vacant is not a consideration for this type of use. Staff determination: **Neutral**
- f. The extent to which the proposed use may detrimentally affect nearby property. The nearby properties are not affected detrimentally to the billboards. City staff has not received a complaint in regard to the content, the lighting, or the aesthetics of the billboard from neighbors. Staff determination: **Positive**
- g. The adequacy of ingress and egress to and within the site of the proposed use, traffic flow and control, the adequacy of off-street parking and loading areas, the adequacy of required yard and open space requirements and sign provisions. Because this application is for a sign and not a business type, the ingress, egress, traffic flow, parking, etc. is not applicable. With regards to sign provisions, under the former version of the UDC being used to consider this application, the code requires that signs which exceed a total single face sign are of 125 square feet require a Conditional Use Permit. Additionally, all billboards must be of a metal monopole type. Applicant was unable to provide the square footage size of the billboards. The signs are monopoles. Staff determination: **Neutral**
- h. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water,

electrical and gas service, police and fire protection, schools, parks and recreation facilities and services, and other similar public facilities and services. The only utility this Conditional Use Permit would require is electrical for possible lighting. KCP&L provides service to the parcel. Staff determination: **Positive**.

- i. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the proposed use, or present parking problems in the vicinity of the property. The billboards are out of any adjacent roadway and at this time, they are not in a parking lot of any onsite operations. Their placement does not impact access for the residential dwelling. Staff determination: **Positive**
- j. The environmental impacts that the proposed use would create (if any) including, but not limited to, excessive storm water runoff, water pollution, air pollution, noise pollution, excessive nighttime lighting or other environmental harm. The only environmental impact related to the signage could potentially be excessive nighttime lighting. There have not been any complaints about nighttime lighting in this area. Staff determination: **Positive**
- k. The economic impact of the proposed use on the community. As was stated previously, the billboards could be utilized to attract businesses into Edgerton, as well as travelers, depending on what is advertised on the sign face. Staff determination: **Positive**
- l. The relative gain (if any) to the public health, safety, and welfare from a denial of the application for conditional use permit as compared to the hardship imposed upon the conditional use applicant from such denial. There would be no gain to public health, safety, and welfare from denial. Nor would there be any hardship imposed in the permit was denied. Staff determination: **Neutral**
- m. Consistency with the Comprehensive Plan, Capital Improvement Plan, ordinances, policies, and applicable City Code of the City of Edgerton, and the general safety, health, comfort and general welfare of the community. The UDC has recently been updated to prohibit billboards. Because discussions with the applicant regarding parcel compliance began before the UDC updates were adopted, these Conditional Use Permits, if approved, would be a legal non-conforming use as described in Article 9, Section 9.7 of the UDC. This permit could be seen as consistent with the current zoning under the previous version of UDC. Staff determination: **Positive**
- n. In addition to the above criteria, the recommendation of professional staff is also required per Ordinance 798 (2005). Staff recommendation is addressed in the Recommendations Section of this Staff Report.

Staff has also reviewed Applications **CU2019-02 (North)** and **CU2019-03 (South)** for compliance with the requirements in Section 7.2(B) of Article 7 of the Edgerton UDC as it relates to uses within an area with a C-2 Zoning District designation.

Section 7.2 (B)(1) indicates that the applicant must provide a Site Plan which gives special emphasis to parking and circulation, screening of outdoor materials, and the conditions listed in Section 7.1(C). The applicant provided an aerial view of the parcel with the billboards outlined. This photo is included as an attachment to this staff report. The conditions listed in 7.1(C) are all addressed above.

RECOMMENDATION

Based upon the above staff analysis, City staff recommends **approval** of Applications **CU2019-02 (North)** and **CU2019-03 (South)** for the two billboards as shown on the attached site plan for a period of 5 (five) years with the following stipulations:

1. Conditional Use Permits **CU2019-02 (North)** and **CU2019-03 (South)** are each attached to one sign as described in this report. If ownership of the parcel changes, each Conditional Use Permit allowance will run with the billboard sign to which it is assigned with any change of ownership reported to the City so that permit records may be updated;
2. Each sign must be kept in good condition and should repairs be required, repaired in accordance with the time frame of the City of Edgerton UDC in effect at the time the repair is needed. Failure to properly maintain the sign shall be cause for revocation of the Conditional Use Permit(s);
3. Any major modifications to the billboard sign, as defined by City Staff, will render Conditional Use Permits **CU2019-02 (North)** and **CU2019-03 (South)** null and void. Should the Conditional Use Permit be determined to be null and void, the billboards would then need to be removed within 60 days after notification to the property owner by the City;
4. As a legal non-conforming use, these Conditional Use Permits are subject to the restrictions outlined in Article 9, Section 9.7;
5. This Conditional Use Permit shall be valid for 5 (five) years from date of approval by the City of Edgerton Governing Body, regardless of ownership;
6. Should either of the Conditional Use Permits not be renewed and approved by the Governing Body prior to their expiration date, then the billboards will be considered non-compliant with the UDC and will be required to be removed within 60 days of written notification to the property owner by the City.

ATTACHMENTS

- Application **CU2019-02 (North)** and **CU2019-03 (South)**
- Photo of Billboards
- Lease Agreement with Ad-Trends
- Future Land Use Map

Please print or type.

PROPERTY INFORMATION

Requesting Conditional Use Permit For: Billboard Signs
Location or Address of Subject Property: 36450 Frontage Road

Legal Description: See attached.

Zoning on Subject Property: C-2 Current Land Use: Sales and Service

PROPERTY OWNER INFORMATION

Property Owner's Name(s): Robert Blachly Phone: 913-449-4054
Company: Mico, Inc. Fax: _____
Mailing Address: 307 N. Oak Street
City: Paola State: KS Zip: 66071


APPLICANT/AGENT INFORMATION

Applicant/Agent's Name(s): Curtis Petersen Phone: 913-234-7458
Company: Polsinelli PC Fax: _____
Mailing Address: 900 W. 48th Place, Suite 900
City: Kansas City State: MO Zip: 64112

ENGINEER/ARCHITECT INFORMATION

Engineer/Architect's Name(s): N/A Phone: _____
Company: _____ Fax: _____
Mailing Address: _____
City: _____ State: _____ Zip: _____

SIGNATURE

Signature of Owner or Agent: 

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

FOR OFFICE USE ONLY

Case No.: CU-2019-02 & CU2019-03
Amount of Fee Paid: \$ 250 Ref 13545123 Date Fee Paid: 8-13-19
Received By: Christopher Clinton Date of Hearing: 9-10-19

v.09.25.18

Please print or type.

PROPERTY INFORMATION

Requesting Conditional Use Permit For:

Billboard Signs

Location or Address of Subject Property:

36450 Frontage Road

Legal Description:

See attached.

Zoning on Subject Property:

C-2

Current Land Use:

Sales and Service

PROPERTY OWNER INFORMATION

Property Owner's Name(s):

Robert Blachly

Phone:

913-449-4054

Company:

Mico, Inc.

Fax:

Mailing Address:

307 N. Oak Street

City:

Paola

State:

KS

Zip:

66071

APPLICANT/AGENT INFORMATION

Applicant/Agent's Name(s):

Curtis Petersen

Phone:

913-234-7458

Company:

Polsinelli PC

Fax:

Mailing Address:

900 W. 48th Place, Suite 900

City:

Kansas City

State:

MO

Zip:

64112

ENGINEER/ARCHITECT INFORMATION

Engineer/Architect's Name(s):

N/A

Phone:

Company:

Fax:

Mailing Address:

City:

State:

Zip:

SIGNATURE

Signature of Owner or Agent:

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

FOR OFFICE USE ONLY

Case No.: CU- 2019-02 & CU2019-03

Amount of Fee Paid: \$ 250 R# 13575123

Date Fee Paid: 8-13-19

Received By: Christopher Clinton

Date of Hearing: 9-10-19

v.09.25.18

Case No.: CU- 2019-02 and 2019-03

I, Amy Grant 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 21st day of August, 2019.

Amy Grant, Agent
Signature of Agent, Owner, or Attorney

Subscribed and sworn to before me this 27th day of August, 2019.

Tracy L. Harrington
Notary Public

TRACY L. HARRINGTON
NOTARY PUBLIC-NOTARY SEAL
STATE OF MISSOURI
CLAY COUNTY
MY COMMISSION EXPIRES 12/5/2020
COMMISSION # 12450513

My Commission Expires:

(SEAL)

12-5-20

Case No.: CU- 2019-02 and 2019-03

Dear Sir or Madam:

This letter is to notify you that a public hearing will be held at the Edgerton City Hall, 404 E. Nelson St., Edgerton, Kansas, to consider a Conditional Use Permit request for two billboards on the following described tract of land:

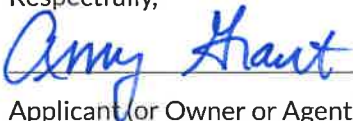
Legal Description: See attached.General Location: 36450 Frontage Road

A public hearing will be held to consider the Conditional Use Permit request on the above-described tract at 7:00 p.m. on September 10, 20 19. Any interested persons or property owners are invited to attend. Information regarding this Conditional Use Permit request is available in the office of the City Clerk at City Hall or by phone at (913) 893-6231. You may also contact the undersigned for additional information regarding this Conditional Use Permit request.

A fourteen (14) day protest period begins at the conclusion of the public hearing during which you may file a protest petition in the office of the City Clerk. If a valid protest petition is received from twenty (20) percent of the property owners within the notification area, a three-quarters ($\frac{3}{4}$) vote of the Governing Body is required to approve this Conditional Use Permit request.

Copies of the protest petition are available in the office of the City Clerk.

Respectfully,



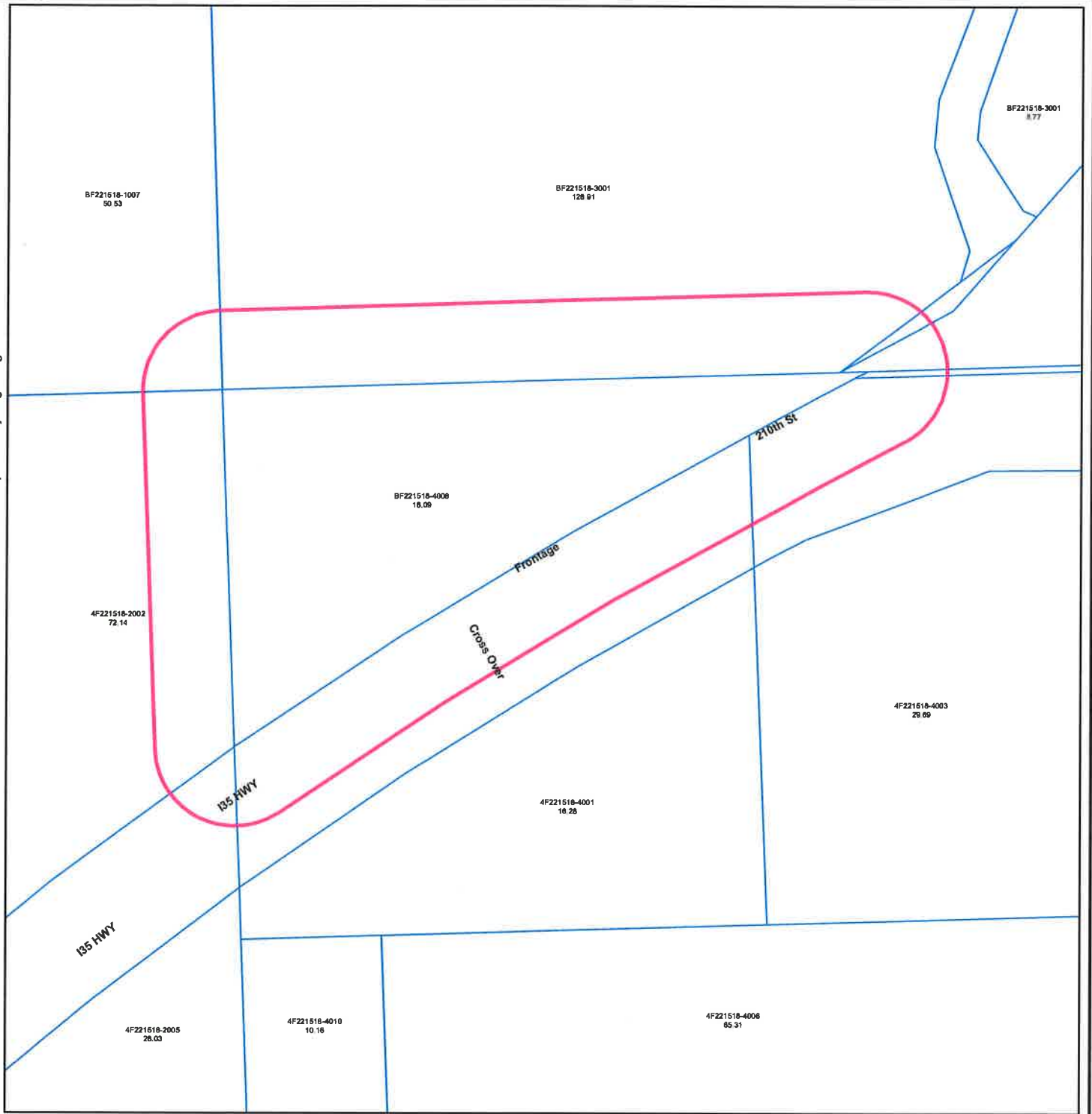
, Amy Grant - agent for applicant (816) 572-4503

Applicant (or Owner or Agent)

Mailing Address: 900 W. 48th Place, Suite 900City: Kansas City State: MO Zip: 64112

LEGAL DESCRIPTION

All that part of the Southeast Quarter of Section 18, Township 15 South, Range 22 East, Johnson County, Kansas, more particularly described as follows: Beginning at the intersection of the Westerly right of way line of I-35 Highway and the North line of the southeast Quarter of Section 18, Township 15 South, Range 22 East, said point being 1,017.6 feet West of the Northeast corner of said Southeast Quarter for a point of beginning; thence West along the North line of said Southeast Quarter a distance of 1,631.0 feet to the Northwest corner of said Quarter; thence South along the West line of said Quarter Section a distance of 904.4 feet to the Northerly right of way line of I-35 Highway; thence Northeasterly along said right of way along a curve to the right having a radius of 11,609.2 feet for a distance of 1,516.2 feet to a point 153.7 feet South of the Northeast corner of the Northwest Quarter of said Southeast Quarter; thence continuing Northeast along said right of way a distance of 344.8 feet to the point of beginning.



- Lot Line
- Section Line
- Plat Perimeter

0 350 700
Feet 1 inch = 350 feet



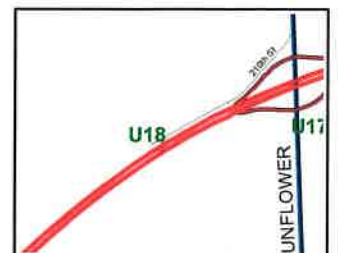
JOHNSON COUNTY
KANSAS
AIMS GIS & Mapping
Section Tiles

200 ft Buffer Map

MAP/DATA DISCLAIMER: It is understood that, while the AIMS participating agencies and information suppliers have no indication and reason to believe that there are inaccuracies in information incorporated in the basemap, AIMS AND ITS SUPPLIER MAKE NO REPRESENTATION OF ANY KIND, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, NOR ARE ANY SUCH WARRANTIES TO BE IMPLIED WITH RESPECT TO THE INFORMATION, DATA, OR SERVICE FURNISHED HERIN. MapRequestID: 291784

8/19/2019

Requester: #maprequest



report

PARCELS WITHIN 200 FEET OF PARCEL BF221518-4008

Produced August 19, 2019 at 10:07:42 AM

4F221518-2002

BF221518-1007

BF221518-4008

BF221518-3001

report_clerk

PARCELS WITHIN 200 FEET OF PARCEL BF221518-4008
Produced August 19, 2019 at 10:07:42 AM

Parcel 1 of 4:

4F221518-2002 (0 NS NT)
(OWNER[S] NAME/ADDRESS)
72 AC, LLC
PO BOX 266
GARDNER, KS 66030

Parcel 2 of 4:

BF221518-1007 (0 NS NT)
(OWNER[S] NAME/ADDRESS)
THS INVESTMENTS LLC
1701 E 147TH ST
KANSAS CITY, MO 64146

Parcel 3 of 4:

BF221518-4008 (36450 FRONTAGE RD)
(OWNER[S] NAME/ADDRESS)
MICO, INC.
307 N OAK ST
PAOLA, KS 66071

Parcel 4 of 4:

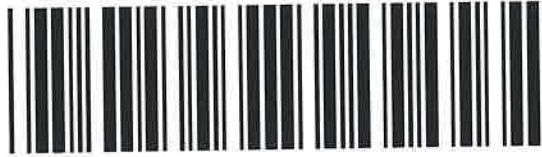
BF221518-3001 (20920 SUNFLOWER RD)
(OWNER[S] NAME/ADDRESS)
THS INVESTMENTS LLC
1701 E 147TH ST
KANSAS CITY, MO 64146

Ship Date	TrackingNumber	Client Matter	Status	Signature?
08/21/2019	9214890163503900027119	094965-598254	Delivered	08/26/19
State of Kansas		State of Kansas		
08/21/2019	9214890163503900027102	094965-598254	Delivered	
72 AC, LLC		72 AC, LLC		
08/21/2019	9214890163503900027096	094965-598254	Delivered	08/26/19
THS Investments, LLC		THS Investments, LLC		
08/21/2019	9214890163503900027089	094965-598254	Delivered	
MICO, Inc.		MICO, Inc.		

Ship Request Form

9214 8901 6350 3900 0271 19

Ship Request #: 017899



Sender

Name: Curtis J. Petersen / Amy Grant
Matter #: 094965-598254
Phone: 816-572-4503
Email: agrant@polsinelli.com
Mail Stop:
Building
Floor:
Tracking #: 9214890163503900027119

Recipient

Attn To: State of Kansas
Company: State of Kansas
Address: State House

City: Topeka
State: KS
Zip: 66612
Country: US

Shipping Instructions

Address Validated

Items

Units	Description	Code	Origin	Unit Value	Total Value
-------	-------------	------	--------	------------	-------------



August 27, 2019

Dear Amy Grant:

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 6350 3900 0271 19.

Item Details

Status:	Delivered
Status Date / Time:	August 23, 2019, 9:49 am
Location:	TOPEKA, KS 66618
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	State of Kansas

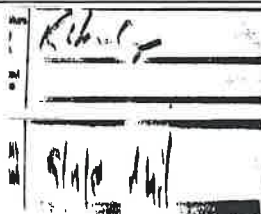
Shipment Details

Weight:	0.7oz
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Recipient Signature

Signature of Recipient:

Address of Recipient:



Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

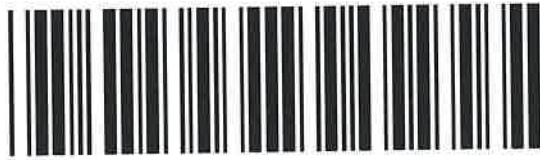
Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Ship Request Form

9214 8901 6350 3900 0271 02

Ship Request #: 017898



Sender

Name: Curtis J. Petersen / Amy Grant
Matter #: 094965-598254
Phone: 816-572-4503
Email: agrant@polsinelli.com
Mail Stop:
Building
Floor:
Tracking #: 9214890163503900027102

Recipient

Attn To: 72 AC, LLC
Company: 72 AC, LLC
Address: PO Box 266

City: Gardner
State: KS
Zip: 66030-0221
Country: US

Shipping Instructions

Address Validated

Items

Units	Description	Code	Origin	Unit Value	Total Value
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August 27, 2019

Dear Amy Grant:

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 6350 3900 0271 02.

Item Details

Status:	Delivered
Status Date / Time:	August 26, 2019, 9:59 am
Location:	GARDNER, KS 66030
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	72 AC LLC

Shipment Details

Weight:	0.7oz
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Recipient Signature

Signature of Recipient:

Matt Murphy
MATT MURPHY
PO BOX 266

Address of Recipient:

GARDNER, KS 66030-0266

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

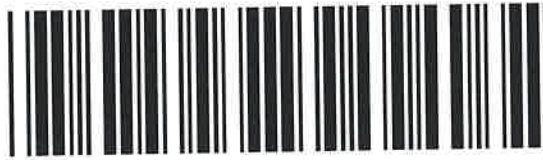
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Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Ship Request Form

9214 8901 6350 3900 0270 89

Ship Request #: 017896



Sender

Name: Curtis J Petersen / Amy Grant
Matter #: 094965-598254
Phone: 816-572-4503
Email: agrant@polsinelli.com
Mail Stop:
Building:
Floor:
Tracking #: 9214890163503900027089

Recipient

Attn To: MICO, Inc.
Company: MICO, Inc.
Address: 307 N. Oak Street

City: Paola
State: KS
Zip: 66071-1560
Country: US

Shipping Instructions

Address Validated

Items

Units	Description	Code	Origin	Unit Value	Total Value
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August 27, 2019

Dear Amy Grant:

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 6350 3900 0270 89.

Item Details

Status:	Delivered
Status Date / Time:	August 26, 2019, 3:12 pm
Location:	PAOLA, KS 66071
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	MICO Inc

Shipment Details

Weight:	0.8oz
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Recipient Signature

Signature of Recipient:



Address of Recipient:

307 N OAK ST
PAOLA, KS 66071-1560

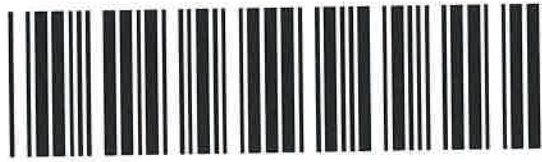
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Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Ship Request Form

9214 8901 6350 3900 0270 96

Ship Request #: 017897**Sender**

Name: Curtis J. Petersen / Amy Grant
Matter #: 094965-598254
Phone: 816-572-4503
Email: agrant@polsinelli.com
Mail Stop:
Building
Floor:
Tracking #: 9214890163503900027096

Recipient

Attn To: THS Investments, LLC
Company: THS Investments, LLC
Address: 1701 E. 147th Street

City: Kansas City
State: MO
Zip: 64146-2001
Country: US

Shipping Instructions

Address Validated

Items

Units	Description	Code	Origin	Unit Value	Total Value
-------	-------------	------	--------	------------	-------------



August 27, 2019

Dear Amy Grant:

The following is in response to your request for proof of delivery on your item with the tracking number:
9214 8901 6350 3900 0270 96.

Item Details

Status:	Delivered
Status Date / Time:	August 24, 2019, 11:29 am
Location:	KANSAS CITY, MO 64145
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic
Recipient Name:	THS Investments LLC

Shipment Details

Weight:	0.7oz
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Recipient Signature

Signature of Recipient:

THOMAS H. SMITH

Address of Recipient:

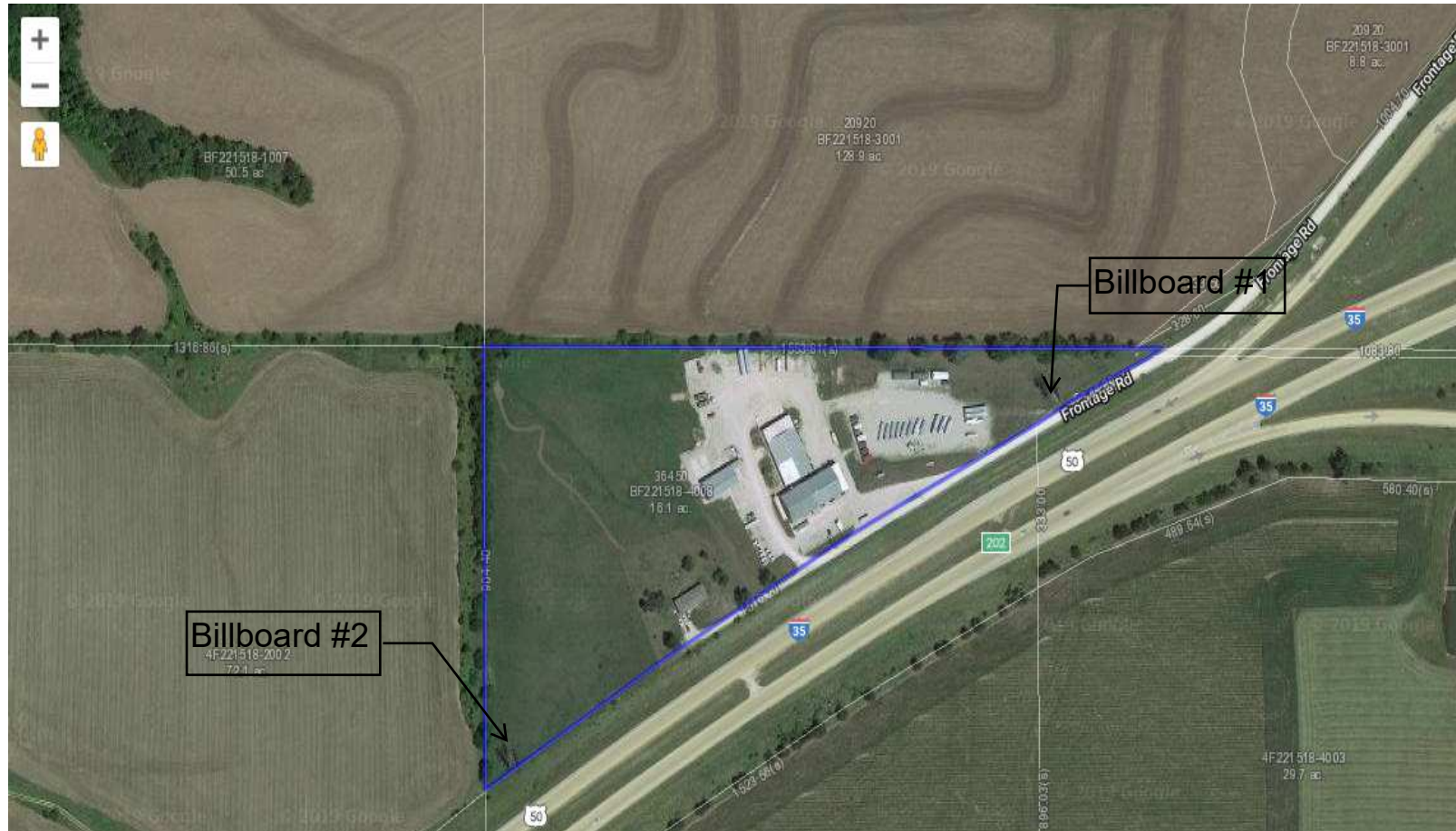
1701 OUTER BELT RD
KANSAS CITY, MO 64146-2004

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004

Site Plan for 36450 Frontage Road





**30 FOOT
INFLATABLES**
For Rent
Ad-Trend.com
816-283-0600

AD TREND

INFLATABLES
FOR RENT

REAL ESTATE LEASE

1. The undersigned, as Lessor, hereby leases and grants exclusivity to Ad Trend, LLC, ("Lessee") to use the property located at 36450 Frontage Road ("Property"), with free access to and upon same, in the City of Edgerton, Johnson County, State of Kansas, effective on 09/16, 2009, for the purpose of erecting and maintaining an advertising sign in the location depicted on Exhibit A, supporting structures, illumination facilities and connections, service ladders, and other appurtenances thereon ("Sign").
2. Lessee shall pay Lessor rent of Two Thousand Six Hundred Fifty and no/100 Dollars (\$2,650.00) per year payable in monthly installments of Two Hundred Twenty and 83/100 Dollars (\$220.83) per month, beginning at the completion of construction of Lessee's Sign. These payments shall be increased by Fifteen (15%) percent at the end of each five year period.
3. Lessor represents and warrants that Lessor is the master lease holder or owner of the of the above described real estate and has full authority to make this Lease; and that the Lessee shall have the right to make any necessary applications with, and obtain permits from governmental bodies for the construction and maintenance of Lessee's Sign's, at the sole discretion of Lessee. All such permits shall always remain the property of Lessee. Lessor will indemnify, defend and hold Lessee harmless from any claim or demand that undersigned Lessor does not have authority to lease the premises described to Lessee. Lessor agrees Lessee may trim or remove any trees or vegetation on the leased property as often as Lessee deems necessary to prevent obstructions.
4. Lessee shall hold Lessor harmless from all damage to persons or Property resulting from the negligent or willful acts on the Property of Lessee's agents, employees, or others employed in the construction, maintenance, repair or removal of its Sign on the Property.
5. This agreement is a Lease, and all Sign's, permits, structures and improvements placed on the Property by or for Lessee shall remain the property of Lessee and be paid for by Lessee. Lessee shall have the right to remove the same at any time during the term of the Lease, or after the expiration of the Lease.
6. The term of this Lease will be Thirty (30) years commencing at the completion of construction of Lessee's Sign. This Lease shall continue in full force and effect for its term and thereafter for subsequent successive like terms unless terminated at the end of such term or any successive like term upon written notice by the Lessor or Lessee served not less than one-hundred and eighty (180) days before the end of such term or subsequent like term.
7. Lessee shall be entitled to recover from any condemning authority payment for the loss of its leasehold interest, loss of its Sign, and for all other losses for which Lessee is otherwise entitled to recover under applicable law.
8. In the event that (a) any of Lessee's Sign on the Property become entirely or partially obstructed or destroyed in Lessee's opinion; (b) the Property cannot safely be used for the erection or maintenance of Lessee's Sign's thereon for any reason; (c) the value of the location for advertising purposes becomes diminished in Lessee's sole opinion; (d) the Lessee is unable to obtain any necessary permit for the erection and/or maintenance of such Sign as the Lessee may desire; (e) the Lessee is prevented by law from construction and/or maintaining on the Property such Sign as the Lessee may desire; then the Lessee, may at its option, terminate the Lease on Thirty (30) days notice in writing, and Lessor agrees thereupon to return to the Lessee any rent paid in advance for the unexpired term; provided, however, that if the conditions described in (a), (b), and (c) thereof, or any of them, shall at any time temporarily exist, then Lessee shall at its option, in lieu of such termination of this lease, be entitled to an abatement of the rent payable hereunder, for and during the period of the existence of such conditions, or any of them, and to the return of any rent paid in advance for the period of such abatement.

9. Lessee shall be responsible for any permits or fees arising from the construction or maintenance of the Sign.
10. In the event Lessee desires the use of electricity for advertising, Lessee shall obtain and pay for electricity for the Sign. Lessor shall allow Lessee to install and maintain an above-ground or underground electrical supply line to the Sign. The electricity supply line to the Sign shall be metered, installed, operated, and maintained at the sole cost of Lessee. Lessor shall cooperate with Lessee in obtaining electricity for the Sign. Lessor hereby grants to Lessee easement for the utility service for purposes of illuminating the Sign and agrees to execute any necessary easement documents required by the local utility company for said electricity for the Sign.
11. This Lease shall constitute the sole agreement of the parties relating to the Sign. Neither party will be bound by any terms, oral or written, not set forth specifically in this Lease. This Lease is binding upon and inures to the benefit of the heirs, executors, successors, and assigns of Lessee and Lessor.
12. In the event of any change of ownership of the Property herein leased, the Lessor agrees to notify the Lessee promptly of such change and also agrees to give the new owner formal written notice of the existence of this lease and to deliver a copy thereof to the new owner.
13. Lessor hereby grants to the Kansas Department of Transportation and City of Edgerton the right to enter the leased premises for the purposes of inspecting Lessor's outdoor advertising Sign.
14. Lessee may assign this Lease and enter into agreements for the use of the Sign without the prior consent of Lessor. Lessee may license the use of the Sign or any part thereof.
15. All terms of this Lease shall remain confidential, and Lessor, nor any agent to such party, shall disclose its substance or content without prior written consent from Lessee. In the event of any dispute regarding this Lease, whether or not such dispute results in legal proceedings, the prevailing party is entitled to recover its reasonable attorney's fees and costs from the non-prevailing party.
16. Lessor hereby agrees to execute any necessary documents required for said recording of Lease.
17. All rent to be paid pursuant to this Lease, and all notices are to be forwarded to the undersigned Lessor at the address noted below the Lessor's signature.
18. All notices sent under this lease shall be by certified mail, return receipt requested, at the addresses hereinafter set out and such other addresses as either the Lessor or Lessee shall hereafter designate in writing to the other. All notices shall be deemed to have been given when deposited in the U.S. Mail in a sealed envelope, properly addressed, with postage prepaid thereon.

LESSOR:

Mico Inc.
(Please Sign Here)
By: [Signature]
Its: Sec Treas
Phone: (913) 397-1151
Date: 7/28/09
Address: Box 1200

Olathe, KS
66051-1200

LESSEE:

Ad Treas LLC

[Signature]
By: Michael Leo Dahir, Jr.
Its: Manager
Phone: 913-485-5000
Date: 7/28/09
Address: 12804 Maple Street
Overland Park, KS 66209

