



# City of Columbia, Missouri

## Meeting Minutes

### Board of Adjustment

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Tuesday, April 9, 2024  
7:00 PM

Regular Meeting

City Council Chambers  
Columbia City Hall  
701 E. Broadway

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#### I. CALL TO ORDER

MR. NORGDARD: The April 9, 2024 Board of Adjustment meeting shall come to order.

#### II. INTRODUCTIONS

MR. NORGDARD: Mr. Liaison -- Mr. Zenner, would you please call the roll?

MR. ZENNER: Yes, I will. Mr. Norgard?

MR. NORGDARD: I am present.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN; Excuse me.

MR. CREW: Bless you.

MS. HAMMEN: Allergies. But I'm here.

MR. ZENNER: Mr. Minchew?

MR. MINCHEW: Present.

MR. ZENNER: Ms. Olsen?

MS. OLSEN: Present.

MR. ZENNER: And Mr. Crew?

MR. CREW: Here.

MR. ZENNER: You have five, you have a quorum, sir.

**Present:** 5 - Janet Hammen, Peter Norgard, Jefferson Crew, Linda Olsen and Randy Minchew

**III. APPROVAL OF AGENDA**

MR. NORGARD: All right. Do I have a motion and a second to approve the agenda.

MR. CREW: So motioned. Crew.

MR. MINCHEW: Second. Minchew.

MR. NORGARD: Are there any comments you want to make? Anybody have any comments on this? Okay. Excuse me. All in favor, say aye. None opposed.

(Unanimous voice vote for approval.)

MR. NORGARD: Okay.

**Approve the agenda**

**IV. APPROVAL OF MINUTES**

**March 12, 2024 Regular Meeting**

MR. NORGARD: So the March 20 -- March 12, 2024 minutes were distributed to the members of the board. Are there any corrections or additions to the minutes? Is there a motion and a second to approve the minutes?

MS. HAMMEN: So moved. Hammen.

MR. CREW: Seconded. Crew.

MR. NORGARD: All right. All those in favor say aye. Any opposed? None opposed. (Unanimous voice vote for approval.)

MR. NORGARD: All right. Would the court reporter please swear in staff?

(Staff sworn.)

MR. NORGARD: All right.

**Move to approve**

**V. PUBLIC HEARINGS**

**Case # 120-2024**

An appeal of Phebe LaMar (attorney), on behalf of MFL Golf, LLC (owner) and Midway Golf and Games, LLC (tenant), seeking approval of a variance to allow the installation of a 80 sq. ft. digital sign on property addressed as 5500 W. Van Horn Tavern Road which is not permitted per Section 29-4.8(c)(12) of the Unified Development Code.

MR. NORGARD: Said real estate being a tract of land located in northeast quarter of Section 7 and the northwest corner -- quarter of Section 8, Township 48 North, Range 13 West, Boone County, Missouri, and being part of the tract of land shown by the survey recorded in Book 5133, page 83, and described by the warranty deed located in Book 5145, page 147, and further being all of Lot 2 of MFL Golf Plat 1, recorded in Plat Book 57, page 9, and containing 107.80 acres know as or located at 5500 West Van Horn

Tavern Road. Are there any board members that have anything to disclose regarding this case, would you do so now? Seeing none. Mr. -- Mr. Zenner, has the notice been property advertised?

MR. ZENNER: Yes, it was.

MR. NORGDARD: And has the property been posted with a notice of public hearing?

MR. ZENNER: Yes, it has.

MR. NORGDARD: Have the parties in interest been notified?

MR. ZENNER: Yes, they were.

MR. NORGDARD: And have there been any inquiries?

MR. ZENNER: No, there have not.

MR. NORGDARD: All right. Would the person making application please come forward? State your name and address and be sworn in.

**PUBLIC HEARING OPENED**

MS. LAMAR: Good evening. My name is Phebe LaMar; I have offices at 111 South Ninth Street.

(Witness sworn.)

MS. LAMAR: Good evening. I'm here this evening on behalf of the applicants, which are Midway Golf and Games, LLC, as well as MFL Golf, LLC, which owns the property that's at issue here this evening. The property is nearly 120 acres with significant frontage on I-70, and currently incorporates three businesses that are intertwined and owned by the same company. There's Top Tracer, which is the brand-new sort of like Top Golf, only designed for smaller -- smaller markets than Top Golf, 44 Tavern Restaurant, which was started by the same person that used to have 44 Stone and still has 44 Canteen, and also the games portion which includes miniature golf, go-carts, batting cages, ax throwing, among other things. The properties are right at the edge of Columbia city limits, and fronts on I-70 such that just out -- such that it is just out -- such that just outside of the city limits and very close to this property, there's already a digital sign for another business. The property could have been split up to accommodate a number of businesses, and allowing multiple large signs serving those business -- businesses would have been permitted along I-70 as people enter Columbia. In an effort to minimize the size of the signage for these businesses and allow for signage for each of them, it has been my client's desire, and they are requesting that they be allowed to build what would be a smaller sign than would be permitted and a shorter sign than could be permitted in order to allow for signage of all three of these and yet still keep it smaller. This is, as staff points out, the 80 feet is smaller than would have otherwise been permitted. It's also shorter. Since the reason for requesting a digital sign is to permit

signage for each of the businesses on this large tract while also still providing -- also still avoiding large and cluttered signage, my client is amenable to the restrictions on the speed of the changes in the sign and the light emissions as was mentioned by staff and has no issue with the MoDOT regulations that were referenced by City staff in their report. Staff has raised concerns about the allowance of a digital sign in this location on several grounds. They have -- they have mentioned that they tie back in substantial part to the fact that these signs are specifically prohibited by ordinance legislatively adopted. The concern, however, could legitimately be raised with regard to any variance that might be requested of this Board. There would be no variance necessary if the ordinance did not specifically preclude what was requested by the applicant. The purpose of the creation of this Board is to address the instances where the ordinances adopted by the Council cannot possibly take into account the specific facts pertaining to every piece of property in the City of Columbia. Staff, for example, cite to the possibility that permitting the sign could result in additional requests from other businesses with I-70 frontage closer to the heart of Columbia. It's important to note, however, that the location and the improvements to the property surrounding the location at issue tonight, and also throughout the City of Columbia, differs substantially from the properties elsewhere along the I-70 corridor. The only property that is a similar size along that corridor within the city limits is on the very east side of the city and is developed as a solar farm. There is no other property that comes even close to being the same size as this property that's along the I-70 corridor and within the city limits. The other properties are substantially smaller, are closer to residential properties, have less frontage on I-70, and do not have the same signage needs. Even the solar farm, which obviously doesn't need the same type of signage, differs from this one in its proximity to residential properties because it actually abuts residential properties where as this one has no residential properties abutting it. As a result, there is no risk that this sets a precedent for variances for other properties in the city of Columbia because this property is the only one of its kind in the city of Columbia. In addition, it's important to note that the properties in the immediate vicinity of this property are not at all similarly situated. The improvements on the property right next to this are actually right next to the road, and so this discussion with regard to a sign like this would not be -- would not be something that could even come up with regard to that property. And then when you go to the -- to the other side of this property, it's actually owned by the City of Columbia. They can do what they want to, but, once again, this conversation would not be coming up. My client is not seeking to animate the sign, quote, unquote, insofar -- except insofar as that that extends to the ability to switch between signs according to the regulations propagated by MoDOT and has requested to

do this in order to minimize the height and the size of its sign. Moreover, as previously addressed, the request is, in fact, requested to address a hardship that is specific to this property, including its size and the amount of frontage, as well as its location at the edge of the city limits. The uses for the property are already present and permitted by ordinance. We're not changing anything about the use of this property except we're looking to make a -- to request a variance in the type of sign that's allowed on this property. The area in which this sign is proposed is not in the same vicinity as areas that are quote, unquote, livable neighborhoods, nor is it proposed to be under the comprehensive plan. As such, discussions about that in relation to the signage is irrelevant. In this case, the property at issue differs significantly from any other property in the city of Columbia. As such, requesting a text change to the City's ordinance should not be necessary or even advisable. Rather, that's what this Board is created for as far as requesting a variance because by its very nature, the minimum change necessary and the nature of the actual purpose of the creation is within the -- is within the scope of this Board's creation and admission. This application meets all of the criteria prescribed in the City's ordinance for approval of a variance. As such, we request that you permit construction and maintenance of a sign as proposed. Tim Rost from Midway Gold, as well as his general manager, and I are all happy to answer any questions that you may have.

MR. NORGARD: Are there any questions from -- thank you. Are there any questions from the Board?

MR. CREW: I have what may be a very simple question. It says that the proposed sign locations are 110 to 120 feet south of the site's property line.

MS. LAMAR: Correct.

MR. CREW: So is that still in the city? Is this the tract of land that he wrote about, or is there -- is there, like, the tract of land --

MS. LAMAR: There's --

MR. CREW: -- where, like, Midway, is, but then there are other tracts or --

MS. LAMAR: So there's a tract of -- there's a tract of land that is between what is the current roadway and the property itself.

MR. CREWS: Okay.

MS. LAMAR: -- that is left for additional roadway easement or whatever for I-70.

MR. CREWS: Yeah.

MS. LAMAR : So we're just talking about from the property line.

MR. CREWS: Okay.

MS. LAMAR: And, yes, it would still be within the city.

MR. CREWS: Yeah. Okay. Okay.

MS. HAMMEN: So why is it important to consider the size of the property?

MS. LAMAR: Because, at the end of the day, what we're trying to do is to provide signage for all of the three businesses that are currently on the property. And in order to do that, we either have to go big or we have to -- which is really not ideal, and it results in a cluttered and, frankly, probably relatively unattractive sign, or we have to -- or we have to do what we proposed this evening. And we wouldn't have that issue if it weren't for the fact that this is a very large tract that actually incorporates three businesses.

MS. HAMMEN: I don't understand the size still, but the three businesses, I understand. You're saying the sign would be big enough to advertise all three businesses?

MS. LAMAR: If we're going to go with something besides the digital sign, we would have to do that. What we are proposing is that it be the smaller size sign --

MS. HAMMEN: Right.

MS. LAMAR: -- and we can cycle through the signs for the three businesses.

MS. HAMMEN: And -- and why is it important that it's not close to residences?

MS. LAMAR: Because of lighting issues that were raised by staff, and because, frankly, that's the general -- that's generally the objection that's raised to digital signs is that they're too close to homes.

MS. HAMMEN: Oh, that's the glow effect?

MS. LAMAR: Correct.

MS. HAMMEN: And -- and so you said -- something was mentioned that there's evidence that the sign would have minimal impact on surrounding environment, the glow effect. So what's that evidence?

MS. LAMAR: The evidence is the fact that there are few -- there are few homes in that area. They are on the other side of I-70 where they've already got the glow effect because of headlights, et cetera.

MS. HAMMEN: And would this -- what's the impact on drivers on I-70?

MS. LAMAR: Actually, it's interesting, because we did a bunch of research this afternoon to try and figure that out, and MoDOT actually uses digital signs. MoDOT actually has ordinances -- regulations that govern how these should work, which we're agreeing that we have no issue with you incorporating those requirements into if you were to adopt this and grant this variance, adopt those as though -- and they have to be followed. And MoDOT, interestingly, there are no studies that show that, at least not that we could find, that show that this causes issues with driving, and, in fact, this is the type of sign that MoDOT chooses.

MS. HAMMEN: Like they say, buckle up or they say accident ahead or -- but those never change. I mean --

MS. LAMAR: Actually, many of them do.

MS. HAMMEN: When I'm driving, I've never seen one change.

MS. LAMAR: I've seen the ones on the side of the road that go through, you know, there's going to be construction on whatever date --

MS. HAMMEN: Oh, you're right.

MS. LAMAR: -- and it does cycle.

MS. HAMMEN: Yeah. Yeah. Okay. Because then you can't read it all the way through, and it's very aggravating.

MS. LAMAR: That's why we want to keep it --

MS. HAMMEN: (Inaudible.)

MS. LAMAR: -- small. That's why we want to keep the sign small.

MR. MINCHEW: So if it were -- if it were larger, it would be like one of those kiosk signs where you have three businesses and you'd put them -- stack them --

MS. LAMAR: Or we'd have to do --

MR. MINCHEW: -- or you would have to put three different signs --

MS. LAMAR: Or we'd have to do, you know, if we end up with four businesses out there, we'd have to have them in quarters or something. I mean --

MR. MINCHEW: Right.

MS. LAMAR: -- it's -- it's not going to be particularly attractive, and it's going to be big.

MR. NORGARD: So does MoDOT regulate the light intensity output from these signs?

MS. LAMAR: I'm not sure. The best I could tell, it -- it regulates the cycling speed. You can't have it up for any less than -- well, you can't have it up for any less than eight seconds and then it has to cycle over two seconds, I believe, such that you have the sign up for approximately ten seconds at a time. I don't think it regulates the light intensity, but to the extent that you want to impose some kind requirement as far as the light intensity, we have no issue with that.

MR. NORGARD: Okay. And so just to be clear about the MoDOT signs that you're speaking about, those are sort of dot matrix style signs where they illuminate only the light necessary to create the letter or symbol. I assume your sign will be lit 100 percent, every -- every pixel is on, so to speak, 100 percent of the time?

MS. LAMAR: I don't know that 100 percent of the pickle -- pixels will be on all the time, but there will be pixels on all the time, yes.

MR. MINCHEW: And -- but that would still meet what you're saying would meet MoDOT standards?

MS. LAMAR: Correct.

MR. NORGARD: Insofar as MoDOT has standards.

MR. MINCHEW: Well, they probably know more about it than I do, so if I were going to make up something, I think I would probably go with MoDOT's requirement -- recommendation rather than, you know, me coming up with some mathematical pixel thing.

MR. CREW: Right. And you said it, but I just want to ask to, I guess, ask, but as regards animation. You said it's not that we're going to have animation, like, moving light --

MS. LAMAR: We're not intending to put -- we're not intending to put a golf ball that's being hit across the screen.

MR. CREW: Yeah. Right. Right.

MS. LAMAR: We're not intending to put a road runner going across. We're not intending to do fireworks going across the screen.

MR. CREW: Right.

MS. LAMAR: We want to have separate signs.

MR. CREW: Yeah.

MS. OLSEN: I have a question about the location of the sign since --

MS. LAMAR: Sure.

MS. OLSEN: -- there's flood plains there in the area.

MS. LAMAR: Uh-huh. Sure.

MS. OLSEN: The fringe and the floodway. Is it -- has it been looked into that the sign will be developed in the fringe rather than the floodway portion of the flood plain?

MS. LAMAR: I'm not sure of the answer to that question. Tim can answer that here in a second.

MS. OLSEN: Thank you.

MS. LAMAR: Sure.

MR. NORGARD: And I have one final question for now.

MS. LAMAR: Sure.

MR. NORGARD: What is the specific hardship that you're pointing out here? Like, specifically, if you could put a pin in it.

MS. LAMAR: The pin that would go in the fact that this is such a large tract, and it has three separate businesses that aren't separate -- separated out in ownership, but they are separate businesses that need to have their own signage. And in order to



accommodate that, and not have a very large sign that people like to complain about because it's too big, we're trying to make a smaller sign, and in order to do that, we need to do it digitally.

MR. NORGDARD: All right.

MR. MINCHEW: Was there any -- on the application, was there any -- just on the idea of the flood plain, was there any rejection on this based on where you had it located?

MS. LAMAR: No.

MR. MINCHEW: So the City didn't have a problem with where it was?

MS. LAMAR: No, they did not.

MS. HAMMEN: Let me just -- so there's no correlation between the digital sign that's in Boone County and what you want you want to do? You're not --

MS. LAMAR: No.

MS. HAMMEN: Okay.

MS. LAMAR: No. We're -- we're looking to do a relatively small for the location digital sign.

MR. NORGDARD: Further questions?

MR. MINCHEW: We wanted an answer for --

MS. LAMAR: Yeah.

MR. MINCHEW: -- on the --

MS. LAMAR: Tim will come up -- Tim will come up next.

MR. NORGDARD: Yeah.

MR. MINCHEW: Oh, I'm sorry. Okay. Yeah.

MS. LAMAR: Anything further?

MR. NORGDARD: I think we're good. Thank you.

MS. LAMAR: Okay. Thank you.

MR. MINCHEW: Thank you.

MR. NORGDARD: If there is anybody else wishing to speak in favor of this application, please come forward. State your name and address, and then be sworn in.

MR. ROST: Thanks for having us. Tim Rost; I'm the owner of the business that's established there. To answer your flood plain question --

MR. NORGDARD: Hang on a second. Sir, could I get you to state your address and get sworn in.

MR. ROST: 2450 North Trails West.

(Witness sworn.)

MR. ROST: So to answer the flood plain question, it is in the floodway -- or, I mean, the flood plain, not the floodway. Okay? And then everything that we build, including

what we have out there now, has to be built per ordinance above the flood plain elevation, and this -- this would be too, so -- as planned. So just to follow up a little bit on what she said, we struggle to -- we set back from the highway relatively far, and we struggle to -- we still have people today go, well, I didn't even know what was going on out there. I just thought it was mini-golf, and so we're trying to figure out signage with all these different things we're doing out there, how can we -- how can we have 66,000 cars a day go by and know that there's three different things that are out there. And that's -- that's really what our struggle is, and that's really, since we're so unique, that's really why we are asking for the variance to go with a digital sign. We have them right in Boone County on both sides of the city limits and right there, and just kind of how we sit. I understand the residential area, digital sign, I really wouldn't want one at my house there. But we've actually decreased the amount of light there. That whole par three was lit and is grandfathered in to be lit at night so they can play golf at night. We no longer do that. So we've taken a great deal of light actually out of that whole property.

MR. NORGDARD: Questions?

MR. CREW: On a very personal note, I miss playing golf at night.

MR. ROST: Okay.

MR. ROST: Thank you.

MR. NORGDARD: Thank you. Is there anybody else in the audience wishing to speak in favor of this application, please come forward and speak now. Is there anybody in opposition to this application? Now is your chance to speak. All right. I see none. I guess we'll take comments from staff.

MR. ZENNER: So I will provide some commentary as it relates to MoDOT standards to answer a couple of the questions. Dalton, I don't need the computer. So first and foremost, as Ms. LaMar has pointed out, you know, I mean, this is an LED. It's an electronic digital display board specifically precluded from the ordinance, has been since the '80s, and this is the second request that we have had in probably the last five years, if my recollection serves me correctly, for a similar type board. So this is an EMC, it's an electronic message center board. It does have electric diodes associated with it, so that is what's emanating the light from behind the board. Animation is the perceptible movement of messaging. It does not necessarily mean that we're going to have a roadrunner or a golf ball flying off of the screen at you. That actually is precluded specifically by MoDOT in animated similar boards -- no flashing or movement, no projected images or messages are to appear as being animated. That is a specific exclusion in the documentation that I provided you. There is also an illuminance requirement established by MoDOT at 300 candelas. I did not look up what a candela

was -- maybe Mr. Norgard knows, but that is the standard that is utilized by MoDOT. They also provide a reference as it relates to the U.S. Naval Observatory as being the purveyor of that information or -- and that's per square meter in full light mode. So that's - you know, the issue here with the projection of light, the type of sign, and the impact that the sign creates is principally the concern that exists. Obviously, we have not, as a staff, been directed by Council to introduce animated or digital display boards inside the city's corporate limits at all in any location. The only boards as pointed out in the staff report that are permitted right now are time and temperature boards which do have a perceptible movement, but it is so minimal, it is almost as though it is imperceptible. We also have digital display boards that deal with gas stations. And as many of you have probably traveled the interstate, you notice the lottery board which tells us we have a lot of money to be won if you want to buy tickets. So that, however, is considered more akin to a gas station, or a keyboard that has prices per gallon for gas. It is not considered an animated board. The only animated -- true animated board we have, which we all have probably experienced at one point or another in our lives, is driving past the end of Faurot Field during a football -- not even during a football game. It could be any time of the week, and watching it light up the dormitory facilities across the way. The University is exempt from our regulation and from MoDOT's, and so they are capable of doing whatever they would like to do irrespective of the impact that it may create on MoDOT's roads or with inside the city's corporate limits, so we really can't use that as the comparable. I think Ms. LaMar brings up some very interesting points. Yes, this is a very large tract of land. It has multiple users. However, the same could be said for the Mall. It's a very large tract of land. Now it does not have interstate frontage, so what would we do if we had the Mall? Based on the way that the current code is written, we'd have a large marquee sign. Forty-five feet tall, 288 square feet. Now that would be the maximum amount that it could have. It would be based upon setbacks. So are there other options that exist other than granting something that is expressly prohibited in the Code to achieve the objectives of the applicant, that is true. Now when we look at aesthetics, which is not necessarily, I think, a hardship here, the aesthetic component of this and how we maybe -- the applicant would like to reduce the aesthetic impact by creating one sign that has multiple opportunities for advertising their businesses, again, a creative way of utilizing this sign and the footprint and trying to reduce what we would consider as professionals and most likely driving along the interstate, sign clutter. The sign, as Ms. LaMar pointed out, is significantly smaller. It's 80 square feet versus the minimum out of the box by the regulations, 128 square feet that's permitted, 30 feet tall. So it is going to be a smaller sign on a very large frontage, and I'm not going to dispute the fact that the

parcels configuration is different. Its use is highly restricted, given that it is zoned open space, which means only outdoor activities are allowed. Now those outdoor activities do include potentially concert venues and other things of that nature that would be permissible. Not that that is what the applicant's intent is. The applicant has a very successful business. And, yes, the property has been platted into a single 107-acre lot. That is what is known as Lot 2 of MFL Golf Plat 1, and then there is an unplatted portion that is in the northwest corner containing the remaining roughly 11 acres on the north side of a future extension of I-70 Drive Southwest, which would be the extension basically of Van Horn Tavern Road eastward across the creek connecting back over towards our park off on Strawn Road. So -- and our property is the eastern boundary. And then, of course, the properties to the west include industrial uses that are inside the county in a planned zone. So the ability to be able to utilize a different type of signage on the property to the west off of Van Horn Tavern is not necessarily something that I think we would need to be concerned about. The truck stop, of course, is outside of the City's corporate limits, and what happens at the truck stop happens at the truck stop without our ability to manage. We have about ten miles of roadway frontage -- a frontage of the interstate that runs through the city of Columbia. And we do have other parcels that the City would be concerned may choose to utilize this type of signage given an opportunity be created for it at this particular location, and potentially claim some of the same arguments that, well, I have a large property, and I'm in a hole along the interstate. I need to garner more attention to my land. I'd point to what is Rick Ball outside of Boonville as a car dealer. We have three, four major car dealers along the interstate; Bob McCosh being one of them, the Machens Group being another. We have other businesses along the interstate such as Starbuck's and such as Dobbs Tire and Auto Center which probably would love to have this type of opportunity to advertise \$39.99 oil change special or buy a cup of coffee on go and get one free. I mean, I don't think that we want to start to try to encourage that, and hence the reason why we have our regulations the way that we have them. One is signage pollution. I come from environment which was Little Las Vegas on the East Coast, and neon and moving signs and a variety of other things could be very gaudy and not necessarily the way we want to present ourselves. However, on the flip side of that, as Ms. LaMar points out, and as the applicant would like to do, you don't want to overpopulate your parcel with individual signage either. And so there is this balancing act that you, as a Board, need to determine what is appropriate. What I can tell you is is the Code specifically precludes this. We've been given no direction to change the preclusion. I have no indications and no sense that we are interested in opening up more advertising that could be more garish than what we already may have.

We do not allow a billboard inside the City's corporate limits for a reason, and we don't allow digital signs for a reason. We have eliminated the ability, as we discussed at the end of our last meeting in comments of the Board, the opportunity to have a sign similar to that that is at the A.W. Smith Law Offices. That was done in 2012 or '13, as I note in the staff report. That type of sign is no longer going to be permitted, and it is a result of the reaction that was had after that structure was built. And so that, in our mind, shows very clear intent of our City Council to not be interested in opening up this particular avenue of technology within our community, but living within the signage standards that we currently have, be that right, wrong, or indifferent. Signage has moved a long way since 1991, and it continues to advance. And as we are trying to keep up with that, it is possible that we may be making revisions, but we have not been asked to do so at this point. So of the criteria that I provided you in the attachment from MoDOT, it specifically indicates that for a static display, the static display time for each message is a minimum of eight seconds. There is a transition time from one message to the next for an automatic changeable display of two seconds. And so that is, I believe, when we talk about automatic changeable display, that is something that's more of the mechanical type of display, not necessarily digital because the next phrase I'm going to read to you is moving from one message to the next for a digital technology is instantaneous. There is no delay. So for every eight seconds, there is an instantaneous change from message to message to message. And as I pointed out in the staff report, that yields on just a ten-second change, which I didn't read that section closely enough, we get quite a number of changes in a 24-hour period of time, that rotation of signage and messaging. Applicants indicated that they're willing to consent to some restriction on that. However, one must have -- one must take into account, if you're going to apply restrictions, what are they based on. And furthermore, give the size of the sign, unlike what MoDOT would normally approve, which is a sign that is close to 75 percent larger than what we are talking about here, 80 square feet, you normally have greater opportunity to be able to absorb what that message is from a longer distance. And therefore, trying to reduce the number of sign changes for this smaller sign may create other issues similar to what Ms. Hammen mentioned, which is you don't get through the whole MoDOT message because you're by it already before it pops up the next message because the delay is maybe too long, and it defeats then the purpose of what the applicant is trying to do. That's one thing to keep in mind. The change has to be on the entire face of the sign, so the advertising for each of these individual businesses would have to be occupying the entire face. This is not split-sign design. You're filling all of it. You need to meet all of the other requirements that are established within sections 22 -- 226.500 to 226.600 of the

Revised Missouri Statutes. It needs to freeze in one position if there was a malfunction that occurs, so that's another one of the provisions here. The image cannot flash or flicker. The image needs to be projected onto a securely fixed substantial structure built in accordance to again Sections 26 -- 226.500 to 226.600 of the Revised Missouri Statutes. And then, as I indicated, the projected images cannot move or be animated, and then the illuminance factor. Those are the criteria that should this body decide that it believes that the information that has been presented is substantial, there is a hardship on the property, those would be the minimum requirements. We do not have requirements inside the city of Columbia as it relates to these types of signs because they are expressly prohibited. With that, I will answer any questions that you may end up having.

MR. MINCHEW: Would the -- the other way that they could do the signs, would they be backlit or face lit. I mean, they wouldn't be sitting in the dark. Right? They would have some sort of light on them?

MR. ZENNER: That is correct. So the way that MoDOT -- MoDOT has -- so these are supplemental standards that I just read from. These are out of Chapter 6 of Division 10 of the Missouri Department of Transportation's rules. And then within the State's statute, there are provisions that talk about actual lighting and how that lighting has to be positioned such that it could be gooseneck lighting, it could be up lighting to the sign. It can't point out into the trafficway. So they're -- these signs would not be at all precluded from being able to be lit. That's not a problem. So if you went to a conventional sign, that would likely -- a conventional sign would likely be backlit. That's typical for something of this scale. Maintenance is probably less because you don't have as much of the elements affecting the lighting itself. But again, you're looking at a -- as Ms. LaMar points out, you're looking potentially at a more substantial structure at that point, but you are also looking at a structure that's larger that may be able to, given the scale of the property, signage of that particular size, 288 square feet and 35 or 40 feet tall, proportionally when you look at the scale of the property, that is not that out of proportion. It actually would make sense when you look at a commercial development, and there is, again, all of the uses are under one ownership, therefore, the sign, in and of itself, it may have multiple tenants on it. It would be similar to what we could consider a shopping center sign where you could take that allocation of sign area and divide it up amongst your anchor tenants, if you would like, or you can divide it up amongst your inline tenants however you want just as long as you don't exceed the maximum.

MR. MINCHEW: I guess what I was thinking, though, is like in some of the other things that we had -- you know, recently we had a coffee shop that wanted to go in on

Providence. And -- and if we said no, then there's no coffee shop there. So in this instance, they're asking for a variance on the type of sign that they're going to put in. If we say no, if we voted no as a Board, they're still going to put a sign in. The sign is still going to be lit, so it's not as if we say, well, we just don't want any more light and any more, you know, light traffic out there. We don't want any more disturbance as you're going down MoDOT. We're going to get it. We're going to get something lit, so really it's -- I mean, I guess in my mind what I'm questioning is, what looks more presentable, what's -- what's more effective, and I do appreciate what you said about, you know, all the car dealers are going to be at your office the next day after that goes up going we want one of these digital signs. I think there's some justification to it, given the size of the property, the number of businesses, what we are -- how many signs we're eliminating by allowing them to put one sign up as opposed to multiple signs. So I think there would be some rationale to -- to a yes, and given the fact that we're -- even if we said no to that, they're still going to put large face lit or backlit signs. We're going to get a whole variety of signs out there for each one of the businesses or a kiosk with multiple signs on it, so --

MR. ZENNER: That is a -- that's a very correct statement. I would like to reiterate, and our law staff may do this as well, The decisions that this Board makes are not precedent setting. They are specific to the facts to the case that you have before you. So as just raised by Mr. Minchew, this particular site may have attributes that you feel are defensible, whereas if we were to go into and just using the Machens Toyota dealership lot, for example, that particular location may not have the same set of facts and therefore, what works in this location may not be applicable in another. And that is also to support what Ms. LaMar has indicated, that this particular parcel may be unique in the respect that it does maybe warrant a slightly different treatment. But the Board does not set precedent. It makes decisions based upon the facts that are site specific. So just as a --

MR. CREW: I -- I have a question I'm going to jumble through a little bit here, so bear with me. You mentioned that the use is highly restrictive, namely, because most of it's in a flood plain, I guess, is a little bit of my understanding there, but you can expound on that. But then I think about, like, the side of town where, like, Hawthorne is, and like that portion was annexed into the city. And I'm just trying to think sort of long term, like, what's the potential that the city would continue to grow in that area or that additional future residential might be built in adjoining areas or parcels, given that that is a significant aspect of the sort of lighting signs and whatnot is its impact on residential. I'm just trying to -- you know, I know we've annexed land into the city, and I don't know, you know, how the city is growing in terms of its actual physical size, but could you talk a

little bit about that, just -- if that made sense, if I made sense there.

MR. ZENNER: Let me shake up my magic eight ball here, and I'll give you a prognostication for what the future may look like. So at this point, the city of Columbia has, with the exception of Midway Golf and Games, which needed sewer for an expansion of their facilities, we have made a choice that we are not going over the Perche Ridge. So when you head westward, the Perche Ridge right now at this particular location is a defined demarcation point for urbanized development and a more rural environment. However, we have been previously looking at and may, upon the County's completion of its updated comprehensive plan, looking at area planning that deals with the area in what we generally refer to as the Perche Flats out to UU, which is the next major roadway west of this particular site. There are some significant restrictions to development. The utility infrastructure is one of them, and then road network is another. And therefore, what you may end up seeing long term are more rural environments, but more residentially utilized. Right now, there are a limited number of landholders that have significant land holdings that are west of the Perche, and therefore, they're not interested in developing. But that is not to say that at some point, as infrastructure expansion and the desire to be close to the urban environment but still in the country, you're not going to see conversion. So that's on the south side of 70. Along the 70 corridor, as a result of some of the improvements that we have right now with the three-laning [sic] of the interstate and frontage road construction that may be occurring associated with that, there is the potential for, at least on the north side across from this particular parcel, road networks being connected back to State Route 40 where the truck stop is, and that may spur some development on the north side of the interstate, as well. We have made recently an annexation off of Gibbs Road, which by all stretches of the imagination would be the most rural property that we probably could imagine in the city of Columbia at this point, though it is not because it is almost immediately adjacent to and served by some significant public infrastructure. Moving further west from that, however, it does start to taper off, and that goes towards 40 -- Highway 40. There has also been discussion of extending sanitary sewer out to Midway and to the truck stop. And with -- if that were to be reactivated as a capital project in coordination with the sewer district, it would definitely change the complexion of that particular area. How long that will take is unknown. However, those are issues that we have to be considering. There are other political issues associated with why the truck stop has not been annexed previously, fireworks, primarily, and a variety of other activities that go on at the truck stop, as well as the fact that the bond that was associated with that sewer we redirected funding for. That also, though, explains a lot about why the rural nature of the area exists today. And



what I will tell you is we've run out of development opportunity to the southwest of the City of Columbia. We have extended our sewer as far as we can at this point. We do not have capacities. The northwest is a challenging area due to water availability. And then as you move out east, which is our most fertile environment, that is where we will probably see short-term growth filling in from Old Hawthorne back eastward -- or, I'm sorry -- westward back in towards the City's corporate limits. So, you know, we're going to see some development not probably out there for a decade is what I would imagine, but we're going to see development because at some point, it's going to be serviced. It is off the Perche line since the Perche runs down along its western boundary, which can be extended to the west, and those are opportunities. But we haven't foreclosed on anything at this point.

MR. CREW: Okay. Thank you.

MR. MINCHEW: If we were to -- let's -- what -- (inaudible) -- was talking about, annex in to -- to the west, would we pull the signs -- would we make those the digital signs that are out there now come down?

MR. ZENNER: They would be considered legal nonconforming, so actually if this approved -- if this variance is approved, those signs are considered legal on that property. Anything that may have been authorized by either MoDOT or Boone County that does not otherwise comply with our requirements would be potentially considered legal non-conforming, but that would have to be evaluated on a case-by-case basis.

MR. MINCHEW: I'm just saying if we did extend out that way, the -- forget about the noise of I-70, but the lights or whatever is going on with the other digital signs would still exist --

MR. ZENNER: Yeah. That is correct.

MR. MINCHEW: -- irrespective of this one. Okay.

MS. HAMMEN: So I have two questions. So would you on your -- in the staff report, number D -- number -- letter D, would you -- would you put that up on our computers and -- and talk about that a minute, please?

MR. ZENNER: I think is that --

MS. HAMMEN: That is about modifying legislative created provisions where no hardship has been proven, on the process of doing that. And I think Ms. LaMar touched on that, about a text change. And -- and my question, would that apply to other types of variances, also? And the other one is, maybe while you're looking, when was this property annexed to the City, and were there signs then and are there signs now on the property?

MR. ZENNER: There are no signs on the property today, and there were none when

it was annexed, so the property, if I am not incorrect, was annexed in 2018 or '19. And then it was we did have a rezoning action -- so there was permanent zoning assigned to the property at the time of annexation. The majority of the property, as I indicated, is in the open space district, the O district. Where Tracer Top Golf is, a portion of the administrative facilities that previously existed for the operation for Midway Golf and Games, and then an area to the west was annexed M-N -- or was annexed and permanently zoned M-N, so there is about a five-acre tract of land in the middle of the 120, and that was done specifically to accommodate the more commercialized nature of the non-open space related uses. So a restaurant and a couple of other things are not principally permitted in the O district. The O district is basically a conservation, open-space zoning district that allows golf courses and some outdoor activities and assorted accessory uses. So to the fact that it's highly restricted due to the environmental related impacts, that's a little bit of a different -- that's a horse of a different color. That impacts how we build stuff out there, however, that does not necessarily impact land uses. The land uses are impacted more by the underlying zoning that's applied to the specific areas. And there were, as a result of the rezoning request, and I'd have to pull the ordinance up because it was unique, we called out a number of uses as being legally nonconforming and then authorized a percentage increase, if I recall correctly, in that legislation to which they could be modified without triggering the necessity to become compliant from a zoning perspective. So there was a lot of acknowledgment at the time that this property was annexed and permanently zoned as to some of the implications of the uses. Access was one of them specifically because the bridge is privately maintained. If any of you have been out to the facility, the bridge is privately maintained and it does not, to the best of my knowledge and recollection, support fire apparatus crossing it. So the fire district serves the property at this point, if I'm not incorrect, even though it's inside the City's corporate limits as first responder. But let me see, Ms. Hammen, if I can get to what you're asking here. If you go to the variance provisions --

MS. HAMMEN: Do you want me to read it to you?

MR. ZENNER: Well, no. I've got it here.

MS. HAMMEN: Okay.

MR. ZENNER: I've got here in my -- in the staff report. I'm looking to find -- why don't you -- why don't you, Ms. Hammen, if you will, please?

MS. HAMMEN: Well, the -- let's see. Ideally the process of modifying legislative -- legislatively created provisions where no hardship has been proven is to seek a formal text change through a public process. And -- and that's what you've commented on, that

there's been no appetite, if you will, from City Council asking for that; is that correct? Is that what that means?

MR. ZENNER: Yes.

MS. HAMMEN: Okay. Okay.

MR. MINCHEW: But that's if no hardship has been proven.

MR. ZENNER: Yeah. That would be correct. And so if a hardship is proven, if the hardship is believed to have been proven, the Board, within its purview, can authorize the variance to be granted. If it is not, without specific guidance from Council, which is often where we will receive our directives from in order to make Code provision changes, we do not have any, you know, a text change is a very, very lengthy and laborious process. It is not normally the easiest way to get to an end result. And if it is not supported by Council, which, given their silence as it relates to this topic in general, I'm not quite sure it's a fruitful activity because we're not going to begin a -- well, first and foremost, we, as a staff, will not begin a text amendment process without first seeking guidance and authorization to do so. And if we are told no, we don't do it. And I think the applicant reserves the right to petition Council to have a text change depending on the outcome here, and if Council wants to have us investigate that, that process may take several months just given the fact that the Commission is responsible to make amendments to the Code. The signed Code is one of those elements of our municipal code that is like a ball of thread. You pull one string or one strand, and you may unravel the whole thing by the time we're done. And therefore, we -- we acknowledge that there are issues with our sign code internally, though we have learned how to live with the sign code. And until the issues become so paramount that they need to be resolved, which, at this point, again, we're not being given a tremendous amount of guidance to do so, we just don't want to really go down that path.

MR. NORGARD: So you state that there is no sign regulation -- no electronic digital signs permitted. Is that for all zoning districts, inclusive within the city?

MR. ZENNER: That is correct, with the exception of what the University of Missouri owns and operates their facilities on.

MR. NORGARD: And the legal non-conformities?

MR. ZENNER: Yes.

MR. NORGARD: And then --

MR. ZENNER: A few of them.

MS. HAMMEN: What would be a legal nonconformity that -- the Smith sign, I guess?

MR. ZENNER: That is -- that is probably about the only one that is a legal

non-conformity at this point because it has been -- that particular -- that and Walgreen's, most likely, if Walgreen's still has its digital scrolling sign. It used to have one in its window on the Providence frontage -- one of the first, it's behind the glass.

MR. NORGARD: Okay. Second question. So it's kind of rhetorical question. So if I have a problem with a building height on a new construction, and I -- my course of action is to take that to the -- the Planning -- or the Building and Site Development group within the City; is that not correct?

MR. ZENNER: Describe -- describe the problem that you're -- the height problem that you have.

MR. NORGARD: What I'm driving at is if I have a problem with -- if I see a specific violation of our zoning regulation, per -- for instance, I take that to the Building and Site Development office and I make them aware of it and then they have some formal process that they go through internally, I assume, to correct that.

MR. ZENNER: So there's -- the Construction Codes Commission and the Board of Adjustment are semi-parallel bodies of -- judicial bodies. The Construction Codes Commission, which is part of our Building and Site Development division, doesn't have anything to do with violations of the dimensional standards of the zoning code.

MR. NORGARD: No. But what I'm getting at, not as taking it to a -- a body of some sort. I'm talking about if I have a problem, I take that problem to some specific department within the City, and they look at it and make a resolution of some sort; is that not correct?

MR. ZENNER: That is correct. So this applicant came, indicated that they would like this type of sign, came to the Building Department --

MR. NORGARD: No. I'm driving at specifically how -- if there were a violation, if I observe or I believe that this sign is in violation of MoDOT regulations, who do I complain to? Like, formally, within the City, since it's -- since we're -- let's say we grant this variance --

MR. ZENNER: Uh-huh.

MR. NORGARD: -- so now the City has become responsible of sorts. Is there a staff specialist that deals with sign light issues? Is there somebody within --

MR. ZENNER: Yeah. So the building -- the Building Regulation division, our Building and Site Development Division of Community Development has -- has inspectors that, based upon a complaint of a violation, that violation complaint will be registered within our system. It will be investigated, and then a course of action will need to be taken by the property owner or violator, so to speak, as it relates to that. And that action, there may be multiple paths of action. It may be resolving the problem by making adjustments to

the amount of luminance that is coming off of the sign. Again, there is a significant concern as it relates to this technology sitting at somebody's desk, not at the City, and all of a sudden, now, well I want to dial that up because it's a real bright sunny day, and then they forget to dial it down when they go home at night. That doesn't need to be happening, and that's part of the concern as you -- as we create regulations, you have to, you know, you adopt regulations understanding that -- and hoping everybody will play by the rules, because you've established what they are. There will obviously be times in which people will want to push the rules to the boundary. And what we have to do then is be reactive. We can only be proactive to the extent that the regulations that have been created are based on something that has been utilized and is proven to be effective in other locales. And given MoDOT utilizes these particular standards, one could conclude that they are sufficient because they are followed by those that get permits from the State in order to put signage up along their roadway network. I think the same could be said here that if want to keep your permit, you are not going to be probably trying to test the City of Columbia's enforcement, because it doesn't do you, as a property owner, any value to have us visiting you and having to take certain types of actions, but that's not to say that it cannot happen. Hence, the reason why when we go into this technology, it's one of those things in the back of our mind, it's how much enforcement will we have should folks, as an example, such as yourself, come and say, well, that sign was too bright last night. I want you to go out and park your vehicle there at 9:30 and sit there for three hours with a light meter. I mean, that's the type of stuff that we have to do, or we take the more civil manner, we go and we say we have a complaint, Mr. Business Owner. Let me take a look at your computer and let me figure out how you have your settings set. Oh, how did that happen? Well, I must have nudged it with my elbow. We tell them to turn it down, we put them on notice, and we may come back and do a periodic inspection unless you call us again and say it's bright again. And that's the type of -- I mean, that's -- that's a never-ending circle. That's enforcement. We do the same thing with our Neighborhood Services Division. You know, we receive complaints, we log complaints, we then address complaints. So unfortunately, that's just our lot in life as government employees. Yours is to determine do you want to subject us to that lot in life, so to speak.

MR. NORGARD: So would you say that the City currently possesses the technical expertise to be able to verify if the regulations are being followed as it pertains to luminosity?

MR. ZENNER: I would suggest that if we don't, we could become familiarized enough with them to do so. We have staff that has the wherewithal. And again, it's a

matter of the approach you take, multiple ways to, you know, get honey out of the beehive.

MR. MINCHEW: Was a notice posted for this? I mean, are the neighbors aware that

--

MR. ZENNER: There aren't many neighbors because this is in a relatively rural location and so there were, if I'm not incorrect, in your packet the property owners and interest, I believe there were about seven or eight that received mailed notice.

MR. MINCHEW: Okay.

MR. ZENNER: The property was posted not only on Van Horn Tavern Road, once you were on the east side of the bridge on their property. It was posted on the interstate frontage -- now should you be able to see that doing 55 miles an hour, that's a different story -- on their property as well. We do have it there, so --

MR. MINCHEW: Could we -- should we consider that in our -- when we're thinking about how to vote on this? This may be one of the few times that we've had something in front of us that I remember that there wasn't some opposition or additional people here speaking against it. Should we consider that, the fact that there's no verbal opposition to

--

MR. ZENNER: You consider what facts you believe to be relevant. What I can tell you is property immediately to the south of this particular location is all agricultural land. Property immediately to the east of it is a city park, Strawn Park. Property immediately to the west of the property is occupied by, if I'm not incorrect, a single residential dwelling, and then we have Midway Arms, which is further towards UU and the interchange. And on the south side of Van Horn Tavern Road just immediately west of this property is also a residential dwelling. The majority of the land environment is agricultural in nature. It is not surprising to me that we did not have any inquiries, but that does not necessarily mean that it may not impact others that are not directly impacted. I think that that is something that we have to look at as a committee.

MR. MINCHEW: Yeah. I just wondered, because usually we have people in opposition when we start talking about changing things or granting things, so -- yeah. Well then, I think that speaks too to the impact on the citizens of Columbia. I mean, they -- the people driving by on I-70 is one thing, but the -- there's not, you know, a hundred neighbors there, so, to me, that seems to matter in my thinking that we're --

MR. NORGARD: Further questions for staff? Would the applicant like to come up and make any closing remarks?

MR. ROST: Just -- just a couple of things. As far as residential development, you would be --

MR. NORGARD: Oh. Could I get your name once again, just for the record?

MR. ROST: Okay. Tim Rost.

MR. NORGARD: You don't have to swear in again.

MR. ROST: All right. So speaking to the residential development question, you would be excess of a half mile from that sign before you would be out of a flood plain or out of a commercial district already built up before there would be any houses. Directly north, you have to go across I-70. Directly north of us is more flood plain. All the way to the south of us is flood plain. City to the east, and commercial to it, so there's -- there is no development of residential that could even see that sign except possibly across the interstate three-quarters of a mile away, and that's already all developed up through there. So the second thing that we talk about when we talk about proportion, and you talked about the Machens and stuff, those are not in proportion to what this property is. Those are -- those are businesses that are stacked on top of each other all through a downtown busy district, so quite a bit -- quite a bit different in there. But -- and then the other thing on the amount of displays, we have -- our intention is not to try to get all three of these businesses advertised to a car going by there at 70 miles an hour. That's -- that's not our intention. Our intention is that people that commute, we're not looking to pull people off the highway. That's not our business. But it's for people that commute -- Boonville, Sedalia, all these people as they go back and forth throughout the -- throughout their business and throughout the year, know what is actually down there at Midway Golf and Games.

MR. NORGARD: Questions?

MR. ROST: Thank you.

MR. NORGARD: All right. Thank you. All right. I'm going to close the hearing.

**PUBLIC HEARING CLOSED**

MR. NORGARD: Would the Legal Department like to make some comments?

MS. WIBBENMEYER: Thank you. First, I would like to introduce into evidence City's Exhibit 1, Code Sections 29-1.11, 29-4.8, 29-6.3, and 29-6.4.

MR. NORGARD: So moved.

MS. WIBBENMEYER: Also the -- I'm sorry.

MR. NORGARD: Yeah. Go ahead.

MS. WIBBENMEYER: Exhibit 2, the staff report from the agenda, and Exhibit 3 from the agenda, the public hearing advertisement, the parties in interest notice, and the parties in interest list. The -- that's the evidence I want to introduce in.

MR. NORGARD: All right. So moved.

MS. WIBBENMEYER: This is a variance request, and so the applicable provisions

are in 29-6.4(d)(2). The Board may approve an application for a variance if it determines that all of the following are true: (A) the variance is required to address practical difficulties or unnecessary hardships related to the size, shape, terrain, location, or other factors of the applicant site. Those difficulties or hardships are not generally applicable to the property in the area, and the difficulties or hardships were not created by the actions of the applicant. (B) The variance will not have the effect of permitting a use of land that is not indicated as a permitted or conditional use in Section 29-3.1, the Permitted Use Table in the zoned district where the property is located, nor shall a variance be granted to modify a standard that operates as part of the definition of any use. (C) The variance will not permit a development that is inconsistent with the adopted comprehensive plan. (D) The variance is the least change from the requirements of this chapter necessary to relieve the difficulty of the hardship. And (E) The variance will not harm the public health, safety or welfare, or be injurious to other property or improvements in the area where the property is located. With regard to sign variances in particular, in addition to those requirements, you also have to determine that the variance will not change both the maximum size and the maximum height of the freestanding signs. There was a question earlier about City enforcement. In the past when there has been some questions about how the City ordinances interplay with MoDOT's requirements and State statutes, the City inspectors have worked and the City prosecutors have worked cooperatively with MoDOT and their team there in sorting those things out. So I -- I agree with Mr. Zenner that we would have the expertise to learn it, but if this is the one and only thing like this, well, we would probably then call our partner agency and ask for their assistance, if needed. Also, the thing to factor in about this, variances run with the land. That's why there is that requirement that there is something unique about the property that requires the variance to be granted. So if this business closes down or sells and somebody else moves there, that variance, if granted, would continue on.

MR. NORGARD: Thank you. Do you have anything further?

MS. WIBBENMEYER: No.

MR. NORGARD: Discussion?

MS. OLSEN: I want to clarify something about the flood plain. While there's flood plains there at the fringe, we don't -- federal regulations do not say people can't build residential areas in the flood fringes, they just have to build them to certain standards. So while that's not the intent now, if development goes that way, there could be residential development out there in flood plains, so that should not be part of this, I don't think. And the other thing that I see here is that other statement that I kind of been going to is there's other -- the staff has looked at other ways to accommodate the same things



that they want to accomplish and the staff report offers solutions to what is not presently on site, while at the same time ensuring the integrity of the current regulatory standards.

MR. MINCHEW: My question on the flood plain, I -- just from 40 years of being in the building and construction business, and my wife 40 years in the mortgage business, I don't know that you could get a mortgage on a home that's build in a flood plain, so --

MS. OLSEN: You can.

MR. MINCHEW: -- you know.

MS. OLSEN: Yeah. That's a -- you can't --

MR. MINCHEW: Huh

MS. OLSEN: You can't prohibit them -- federal mortgage companies loan money to property owners in the high-risk flood plains all the time.

MR. MINCHEW: Yeah, but -- well, I understand. But you -- I mean, growing up in Houston, there are certain areas you can't get flood insurance, and so them getting a -- huh?

MS. OLSEN: Unless that's a City ordinance, that's not in the federal statutes.

MR. MINCHEW: Well, I'm not saying it is. I'm just --

MS. OLSEN: Yeah.

MR. MINCHEW: -- my personal experience from living in a town that was six feet above sea level, that you -- there were certain areas you could not get flood insurance. So, yeah, you could build there, but -- so I'm just talking about the likelihood --

MS. OLSEN: Get flood insurance.

MR. MINCHEW: The likelihood that someone would build in a flood plain -- build a neighborhood in a flood plain --

MS. OLSEN: It happens all the time in Missouri. And I know that because I work for the State in that area, so --

MR. MINCHEW: Yeah. Okay. Well, maybe we do, but I haven't seen that in Columbia, but that may be.

MR. CREW: I'm struck by the precedent of -- and this particular topic having come up with Council in '85, '91, 2013, and sort of continually have been decided, you know, in particular where, as I understood staff said in their testimony, and I believe in the report, regarding, like, the legal non-conforming. Right? And the reaction of the community to not only the Smith Law Firm sign, but, you know -- you know, whatever frustrations or -- or, you know, exceptions that people have with the University sign. Right? I mean, it's come up more than once is the -- is the -- Right? It's come up multiple times, you know. Again, I know we don't set precedent and you -- I get your point where you were going, Peter, around, well, if they, you know, light the heck out of this thing, like, who goes and

looks and looks at that. Right? And does it take somebody to complain, and, like, what's the infrastructure to -- I don't know that that necessarily fits with the criteria we have, but I -- you know, I understood the point, because it was exactly the same discussion we were having when the sign came up for Boone Hospital. Right? And that was about, like, Covid productions. Right? Now I got the sense that they were using that moment in time to, you know, have a good -- a better case to get a lighted sign. But it just strikes me that this is something that has come up repeatedly in -- in other bodies of the government, and that was the reason when they wrote the Code, they said, like, I don't think digital signs is something that we want, and I don't know that -- and -- and then, yeah, I mean, I -- you know, just the future potential of, well, I don't -- I don't know what's going to happen in 20 years. Right? And if this runs with the land, no matter who owns it, no matter what's there, no matter how far the businesses are set back, I don't know. I'm thinking out loud as I talk through some of these things.

MR. MINCHEW: I think you'd have to tear down the truck stop, though, if you're going to, like, get the most unappealing thing out of the way so you could build a neighborhood right there. You'd have to move the truck stop before you would move their sign. And like we said earlier, they're going to put a sign up --

MR. CREW: (Inaudible) -- would accept the right amount of money to do that, you know.

MR. MINCHEW: Well, I'm just -- some of the likelihood of it.

MR. CREW: Yeah.

MR. MINCHEW: And the other -- I guess the other question is, and maybe we could know, that when it's come up, the half a dozen times that it's come up, the specifics of that piece of property. Right? Because if it was at West Broadway and -- and Providence, then it's not going to happen. Right?

MR. CREW: Yeah.

MR. MINCHEW: But if -- so because it is a variance specific to, you know, a particular piece of property, and I can't say it the way the legal counsel said it, but it is -- it is decided based on the piece of property, not just if it said no to 100 times, yeah, because we asked for it in neighborhoods, you know. Somebody asked for this variance in a neighborhood, it was turned down every time.

MR. NORGARD: Randy, if -- if the City wanted us to put these signs in special areas, I mean, there's all sorts of areas that are not bounded by residential areas, so --

MR. MINCHEW: Yeah. And I'm -- my point was that it's been turned down a half a dozen times, but we don't know the specifics of the property where it was turned down.

MR. CREW: Right.

MR. MINCHEW: So the City right now, the reason this Board exists is because they can't know everything when they say nothing can happen, but if it needs to, we've got a process that you can go to. So my point always in saying, well, it's not the norm, but we exist because some things just don't fit the norm. That's the reason for this Board. It -- you know, so --

MR. CREW: And I do believe the case was made that there is, you know, practical difficulties and, you know, unnecessary hardship right in particular, like, the highly restrictive nature of what could ever be done with this land. Like, I get that. And even though it's not necessarily particular to the criteria, because I think I can go through the criteria and I've sort of been checking those off. Right? But then I'm left to, like, well, what was the intent and the precedent and sort of these other questions I ask myself. What I dislike is having to make a decision about this, knowing that they're sort of a competing business outside of town in Ashland that, you know, can probably do whatever the hell it wants --

MR. MINCHEW: Right. Well, there's one up there on the way if you're heading south. Yeah.

MR. CREW: Yeah. And I would rather promote businesses that are trying to grow inside of Columbia. And so I'm -- I think that's worth saying. Right?

MR. MINCHEW: Yeah.

MR. CREW: You know, I don't know if it sways the decision, but I think it's worth saying.

MS. HAMMEN: Well, I'm going to talk just a little bit about a little different aspect. You know, those highway signs that MoDOT has are for here's construction, here -- now they do say, you know, fasten your seat belt, but these are not advertising signs. You know, I don't believe MoDOT ever on those digital signs are advertising --

MR. MINCHEW: They're not advertising hamburgers at the next stop.

MS. HAMMEN: Right. And I don't know about you all, I don't really watch television, but I've been hearing on the radio and I think I did see a television thing about somebody texting while they're driving and there's a great white shark that they're looking at, and all of a sudden, they're hitting somebody in their car. Not texting, but this is looking at a sign. You know, is that diverting attention? So -- and maybe that's not an apt comparison, but -- but I made it --

MR. NORGARD: And actually, to your point, there are signs out there that say made you look.

MS. HAMMEN: Oh, right.

MR. NORGARD: They are literally saying that. So they're intentionally drawing your

attention --

MR. MINCHEW: Yeah. Well, and we're not saying no to any sign, we're just saying no to this type of sign. So they're going to put a sign up there with four different businesses up there, which one -- and I think that was the point the attorney made earlier was that this -- you see what you're going to see faster with this type of sign than if you have to read, you know, everything that's up there not in a lit text, so --

MR. NORGARD: I don't know. I see this is conferring a privilege that's not generally available to other businesses that front the interstate, specifically because they don't have, you know, the -- the comment was made about the solar farm might be the only other large-scale piece of land that could support a sign of this type, or that they would recommend for this type of sign. But a car dealership might not be, or Starbuck's or Dobbs might -- you know, they might be interested, but -- and they might even fall into the same category of not being bounded by residential districts. So are we going -- if we say yes to this, are we now going to be -- I'm not saying -- I'm not saying we're creating a precedent, but it is -- it does create pressure to vote in favor of future signs with -- more within the city limits than this particular sign. You know, if I say yes to this, then I really should be saying yes to that, and I should be saying yes to that.

MR. MINCHEW: If -- if multiple people walked in and they had a hardship, we should consider their hardship.

MS. HAMMEN: I can't see where this is a hardship.

MR. NORGARD: I don't see a hardship.

MR. MINCHEW: Well, that's a different question though.

MS HAMMEN: There's many -- okay.

MR. MINCHEW: The question is is because I can see the hardship --

MS. HAMMEN: Uh-huh.

MR. MINCHEW: -- and I say, well, there's other people that may have hardships, as well. Then good, bring it to us. Right? Following your -- ask for your permit, you know, bring it -- make it go through the process to get it to this Board.

MR. NORGARD: So we grant -- we grant something that nobody else in the City can get just because they -- (inaudible) --

MR. MINCHEW: How do we know they can't get it?

MR. NORGARD: -- a hardship?

MS. HAMMEN: Well, they haven't so far, at least.

MR. MINCHEW: Well, that -- that's different than saying they can't.

MR. CREW: I don't know that that's a reason, just because they haven't so far. I mean, that's the reason -- we've had this debate. Right? In some sense, that's why this

body exists.

MR. MINCHEW: Sure.

MR. CREW: So, like, we -- we recognize that --

MR. MINCHEW: We would have to say no to every single thing that ever comes in front of us --

MR. CREW: -- we say not to every -- yeah.

MR. MINCHEW: -- because nobody else could have it. Right?

MR. CREW: Right.

MR. MINCHEW: But they haven't applied for it. They haven't asked us. They haven't told us what their hardship is.

MR. CREW: That's because the regulations say no signs.

MR. MINCHEW: No. That's the reason they would bring it to us is because if it didn't say no signs, there would be no reason for the Board of Adjustment. Everybody would just put their signs up. Why would we exist? Why would we need to give them an adjustment? It says no. No is the standard. There's this thing called the Board of Adjustment because you need to tweak or make an adjustment sometimes. So to say, well, no has been norm, we have to say no, but we exist because sometimes hardships exist and we -- and we would make an adjustment to the existing Code. So that's just my convoluted way of looking at it maybe, but --

MR. NORGARD: All right. Any more comments? All right. Is there -- let's see. All right. Is there a motion to --

MR. MINCHEW: I make a motion.

MR. NORGARD: All right. Make a motion as written?

MR. MINCHEW: As written.

MR. NORGARD: Is there a second? I'll second. All right. Mr. Liaison, would you read the request and take the vote?

MR. ZENNER: I'm -- I'm a little bit confused here as to what the motion is.

MR. NORGARD: We're moving to accept the variance as written.

MR. ZENNER: Okay. With the -- subjected to the standards that we've got. Okay.

MR. NORGARD: Yeah. The standards that are in the -- the standards that I read at the beginning of this hearing.

MS. HAMMEN: Can I make a -- ask a question? Do we want --

MR. NORGARD: Oh, yeah. We have discussion. Sorry. Yeah. Go for it.

MS. HAMMEN: Do we want to put in the motion that will impose a light intensity and speed limitation?

MR. ZENNER: I'm assuming the way that this motion has been made, and we know

what assume may mean, hence the clarification. You're wanting the motion to be read as identified in the last paragraph of the staff report; is that correct -- with the conditions?

MR. MINCHEW: Right.

MS. HAMMEN: Oh.

MR. NORGARD: Conditioned on the State regulations.

MR. ZENNER: Yeah. The State regulations.

MR. MINCHEW: We'll let MoDOT decide what the light standard should be or the speed and --

MR. ZENNER: Yeah. Those are --

MR. NORGARD: By the way, just for the record, the -- the Rick Ball sign that was mentioned is visible well over two miles away from the exit -- the Love's Exit, and it's bright as all get out even from there. If that sign meets the standard, then we're talking about a very bright sign. Just saying.

MR. ZENNER: So --

MR. MINCHEW: I have no idea.

MR. ZENNER: Those standards -- those standards, those are -- and I don't know if those are the standards that applied to the Ball sign, sir --

MR. NORGARD: That's true.

MR. ZENNER: -- so what I'm telling you, this is what the State's --

MR. NORGARD: That's why I said it -- if the standards apply.

MR. ZENNER: If it applies. Okay.

MR. MINCHEW: It's also on the freeway.

MR. NORGARD: Yeah.

MR. ZENNER: So a motion has been made and seconded as it relates to Case Number 120-2024 that the request for variance to permit a digital display sign at 5500 West Van Horn Tavern Road be approved subject to the digital display sign meeting the minimum standards established in Title VII, CSR 10-6.040 4(a) through (h) of the rules of the Missouri Department of Transportation with respect to outdoor advertising.

MS. HAMMEN: Does that include the 80-foot digital -- 80 square foot digital sign? Does that include that in that qualification?

MR. ZENNER: Very good point, Ms. Hammen. So this would be -- this is as requested by the applicant, 80 -- maximum 80 square feet, 30 feet tall. Mr. Norgard?

MR. NORGARD: No.

MR. ZENNER: Ms. Hammen?

MS. HAMMEN: No.

MR. ZENNER: Mr. Minchew?

MR. MINCHEW: Yes.

MR. ZENNER: Ms. Olsen?

MS. OLSEN: No.

MR. ZENNER: Mr. Crew?

MR. CREW: No.

MR. ZENNER: The motion fails four votes to one.

MR. NORGARD: Thank you.

**Approve the request for a variance to permit an 80 square foot, 30-foot tall digital display sign at 5500 West Van Horn Tavern Road be approved subject to the digital display sign meeting the minimum standards established in Title VII, CSR 10-6.040 4(a) through (h) of the rules of the Missouri Department of Transportation with respect to outdoor advertising.**

**Yes:** 1 - Minchew

**No:** 4 - Hammen, Norgard, Crew and Olsen

## VI. GENERAL COMMENTS BY PUBLIC, MEMBERS AND STAFF

MR. NORGARD: All right. Is there anybody in the public who would like to speak?

Seeing none. Are there any other items for the Board that we need to discuss?

## VII. NEXT MEETING DATE - June 11, 2024 @ 7 pm (tentative)

MR. ZENNER: You do not have a meeting in the month of May, so we are waiting on our June application deadline, which occurs at the end of this month to determine if there will be a meeting in June.

## VIII. ADJOURNMENT

MR. NORGARD: All right. Is there a motion to adjourn?

MR. MINCHEW: I make a motion.

MR. NORGARD: Second?

MS. OLSEN: I'll second it.

MR. CREW: I don't think this is official business. I know some of you introduced yourself, but I didn't meet our new lawyer. Can I hear -- can we --

MR. ZENNER: I apologize we didn't do that.

MR. CREW: Yeah. Yeah.

MR. ZENNER: So as you all know, Rose, and I told you at last month's meeting, we would have Rose's replacement and that is Jesse Craig who sits next to her at this point. I'll let Jesse do his own bio introduction, but Jesse will be joining us here for the rest of the foreseeable future.

MR. CRAIG: Well, thank you, Pat. Yeah. Jesse Craig. Started last week, started

on the 1st. I'm coming to you from the private sector. I lived in Columbia for 23 years, but I worked at a private firm in Jefferson City called Brydon, Swearngen, England, where I did criminal defense, utilities regulation, and was general counsel and litigation counsel for several state boards licensure. So I was there for five years and made the jump into the -- into the public sector. So I'm glad to be working with you, and I want to thank you in advance for being patient with me while I learn the ropes with all these regs and -- and I get my bearing. So thank you. It's a pleasure.

MR. NORGDARD: Welcome. Thank you. Welcome.

(The meeting adjourned at 8:27 p.m.)

(Off the record.)

**Move to adjourn**