

AGENDA OF THE BOARD OF ADJUSTMENT

Historic City Hall
840 Boonville Avenue

DATE: March 6, 2018

TIME: 1:30 pm

MEMBERS: Matt Cologna, (Chair); Robert Sweere (Vice-Chair); Ed Alden, Derek Lee, and Bryan Fisher.

ROLL CALL:

INTRODUCTION OF ZONING ORDINANCE AS EVIDENCE:

APPROVAL OF MINUTES: December 5, 2017

COMMUNICATIONS:

UNFINISHED BUSINESS: None

OTHER BUSINESS:

Appeal 70
715 N. West Bypass

Patricia Johnson

ADJORNMENT

You are welcome to speak to any item on this agenda. The Board of Adjustment Chairperson will invite anyone who wishes to speak to an item after staff makes its presentation. When you address the Board of Adjustment, please step to the microphone at the podium and state your name and address. All meetings are tape recorded. Please limit your remarks to five minutes unless the Board of Adjustment allows a longer time. In accordance with ADA guidelines, if you need special accommodations when attending any City meeting, please notify the City Clerk's Office at 864-1443 at least three days prior to the scheduled meeting.

MINUTES OF THE BOARD OF ADJUSTMENT

DATE: December 5, 2017

TIME: 1:30 p.m.

The regular meeting and public hearing of the Board of Adjustment was held on the above date and time in 2 West Conference Room, Busch Building with the following members and personnel in attendance: Matt Cologna (Chair), Robert Sweere (Vice-chair), Ed Alden, and Lee Derek. Absent: Bryan Fisher. Staff: Daniel Neal, Senior Planner, Duke McDonald, Assistant Attorney.

Roll call:

INTRODUCTION OF ZONING ORDINANCE AS EVIDENCE: N/A

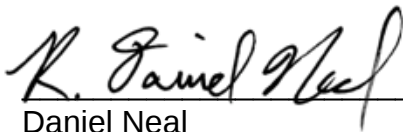
APPROVAL OF MINUTES: The minutes of June 6, 2017 approved unanimously.

COMMUNICATIONS: None

UNFINISHED BUSINESS: None

OTHER BUSINESS:

Mr. Robert Sweere motioned to APPROVE the **2018 Board of Adjustment Schedule** and keep the current officers for **2018 Election of Officers**. Mr. Ed Alden seconded the motion. The motion carried as follows: Ayes: Alden, Sweere, Lee, Cologna, and Fisher. Nays: None. Abstain: None. Absent: None.



Daniel Neal
For Executive Secretary

Development Review Staff Report



BOARD OF ADJUSTMENT PUBLIC HEARING:

MARCH 6, 2018



CASE NUMBER:

Appeal 70

LOCATION:

715 North West Bypass

ACRES:

3 acres

EXISTING LAND USE:

Industrial and commercial uses

APPLICANT:

Patricia Johnson

STAFF:

Daniel Neal, 864-1036

SUMMARY OF APPEAL:

Request to appeal the Director of Building and Development Services' determination relating to Section 36-454 (20) Scenic Corridor Overlay District to revoke an off-premise sign permit issued to Pioneer Outdoor, LLC on December 21, 2017 and a related stop work order for the construction of off-premise sign.

EXTENT OF THE BOARD'S APPEAL POWERS:

1. Affirm the Director's decision wholly or in part;
2. Reverse the Director's decision;
3. Modify the Director's decision, or;
4. Make such new decision, as the Board deems appropriate.

STAFF FINDINGS:

1. In this appeal, the Board of Adjustment exercises appellate jurisdiction as a quasi-judicial body, and its task is to determine what the section of the ordinance means and how the Ordinance applies to a factual situation. In this case, the Board of Adjustment must review the Director of Building Development Service's decision and determine whether it is consistent with Section 36-454 (20), Scenic Corridor Overlay District of the Zoning Ordinance.
2. West Bypass and US 160 is one of the designated Scenic Corridor Overlay Districts in the City and includes any property within 660 feet off the nearest edge of the right-of-way of the designated scenic roadway. The current ordinance only allows an off-premise sign in the Scenic Corridor Overlay District when they are spaced at least 2,500 feet from each other. The Scenic Corridor Overlay District only allows a maximum of 128 square feet of effective area and a maximum height of 20 feet.

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3. This partially constructed off-premise sign does not meet the separation requirements per section 36-454 (20) Scenic Corridor Overlay District regulations which requires a separation of 2,500 feet from other off-premise signs (see attached map).
4. This partially constructed off-premise sign if constructed will have approximately 360 square feet of effective area and have a height of 40 feet. This does not meet the effective sign area of 128 square feet nor does it meet the height requirement of 20 feet per section 36-454 (20) Scenic Corridor Overlay District regulations.
5. Patricia Johnson, formerly known as Patricia Bridgeforth, is the current owner of the subject property and Pioneer Outdoor, LLC, is leasing an area for the off-premise sign at 715 North West Bypass.
6. Pioneer Outdoor, LLC, applied and received a sign permit from MoDOT on November 2, 2017.
7. Pioneer Outdoor, LLC, applied and received a sign permit from City of Springfield's Building Development Services on December 21, 2017 for an off-premise sign for property located at 715 N. West Bypass. Construction plans were submitted and approved by BDS on December 26, 2017.
8. Building Development Services inspected and approved the sign structure footings on January 9, 2018.
9. Building Development Services notified the applicant on January 10, 2018 that a stop work order was being issued for the off-premise sign. A letter revoking the sign permit and issuing a stop work order proceeded this notification. The letter stated that the sign permit for the off-premise sign was issued in error and that it was in violation of the Scenic Corridor Overlay District requirements (Section 36-454(20)).
10. As stated in their letter (Exhibit 2), the applicant is requesting that the application for appeal be approved and that the Board overturn the decision to revoke the off-premise sign permit. They ask that the City sign permit be re-issued to Pioneer Outdoor, LLC, the stop work order be rescinded and for such other and further relief to which Pioneer Outdoor, LLC, may be entitled.
11. Where the board has determined there was an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article, the director of planning and development shall also refund the appeal application fee to the appellant.
12. If the appeal is approved; the partially constructed sign shall be considered a nonconforming structure and use and will be subject to the provisions in Section 36-457 of the Zoning Ordinance.
13. If the appeal is denied; the decision of the board of adjustment may be taken in the manner provided by State Statute.

SURROUNDING ZONING AND LAND USES:

	NORTH	SOUTH	EAST	WEST
ZONING	IC	GM	HM	IC
LAND USE	Stormwater drainage channel	Railroad and General Manufacturing uses	Heavy Manufacturing uses	Stormwater drainage channel

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SURROUNDING LAND USES (GOOGLE MAP AERIAL VIEW):

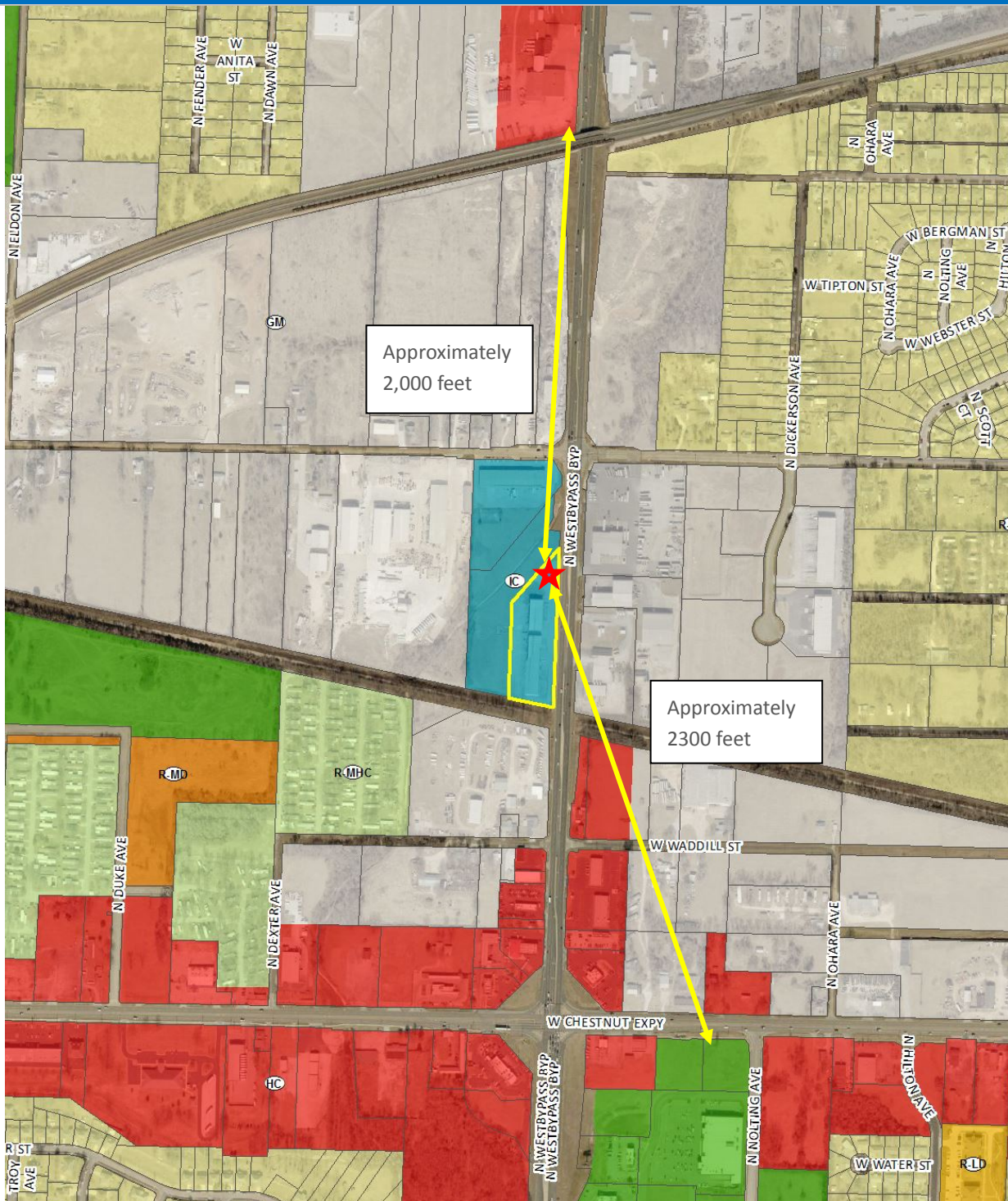


GOOGLE MAPS STREET VIEW:



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EXISTING OFF-PREMISE SIGN LOCATION MAP:



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BOARD OF ADJUSTMENT ORDINANCE AUTHORIZATION:

The following excerpt from the Zoning Ordinance lists the limits of the Board of Adjustment's authorization in this instance:

Sec. 36-364. - Appeals.

- (1) (a) *Appeals from administrative ruling.* The board of adjustment shall be empowered to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article. In this capacity, the board exercises appellate jurisdiction as a quasi-judicial body, and its task is to determine what the article means and how the article applies to a particular fact situation.
- (2) *Extent of the board's appeal powers.* In exercising the authority herein granted, the board may, in conformity with the provisions of this article, reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as the board deems appropriate and to that end shall have all powers of the administrative official from whom the appeal is taken.
- (3) *When appeals may be taken.* Appeals to the board of adjustment may be taken by any person aggrieved or by an officer, department, board, or agency of the City of Springfield affected by a decision of an administrative officer. Appeals shall be taken within 30 days after the decision has been rendered by an administrative officer, by filing with the officer from whom the appeal is taken and with the secretary of the board of adjustment a notice of appeal specifying the grounds of the appeal. The officer from whom the appeal is taken shall forthwith forward to the secretary of the board all the papers constituting the record upon which the action appealed from was taken.
- (4) *Burden on applicant.* The applicant for an appeal shall bear the burden of producing evidence establishing the grounds of the appeal.
- (5) *When appeals to stay proceedings.* A notice of appeal properly filed as herein provided shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal has been filed with him that by reason of acts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a proper court order.
- (6) *Hearing on appeals.* Notice of appeals shall be submitted not less than 28 days prior to a regularly scheduled board meeting. The appellant shall be notified in writing by registered mail of the date, time, and place of the hearing.
- (7) *Decision on appeal.* Within 30 days after the hearing on an appeal, the board of adjustment shall file with the director of planning and development its findings of fact and conclusions with respect to the appeal. The director of planning and development shall send by first-class mail a copy of the decision to the appellant and upon each other person who requests in writing to be notified. Where the board has determined there was an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article, the director of planning and development shall also refund the appeal application fee to the appellant.
- (8) *Appeal from decision of board of adjustment.* Appeals from decisions of the board of adjustment may be taken in the manner provided by statute.

Sec. 36-351. - Board of adjustment.

In considering and deciding appeals and applications for variances and special exceptions, the board acts in a quasi-judicial capacity.

- (4) *Conduct of hearings by board of adjustment.* Public hearings conducted by the board of adjustment on any matter over which it has jurisdiction shall be subject to the following rules.

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(a) Any person, or his agent, who has an interest in the subject matter of the hearing shall be afforded an opportunity to present evidence, exhibits and argument, and to question, through the chairman of the board of adjustment, witnesses on all relevant issues, subject to the chairman's imposition of reasonable limitations on the number of witnesses, and the nature and length of testimony and questioning.

(b) All testimony at the hearing shall be under oath, or by affirmation, administered by the chairman.

(c) The board of adjustment shall have a written record of each public hearing and the deliberations of the board kept.

(d) Members of the board of adjustment shall base their consideration of matters on which the board conducts a public hearing upon the following information and evidence:

1. Testimony, exhibits, and argument presented at the hearing, and not upon direct or indirect communication with any party or representative of such party made outside of the hearing;
2. Reports, memoranda and other materials prepared by the director of planning and development, director of building development services, director of public works, other employees of the City of Springfield or consultants in connection with the application and made a part of the record at the time of hearing; and
3. Inspections of the site when all interested parties or their representatives have the opportunity to be present, or when no such parties or their representatives are present.

(e) The board of adjustment shall adopt, and may from time to time amend, such additional procedural rules as it may deem necessary or desirable for the efficient and orderly conduct of its business. Copies of such rules shall be available in the office of the director of building development services.

(5) Required vote. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official of the city, or to decide in favor of the applicant on any matter upon which it is required to act under this article, such as granting a variance or allowing a special exception.

(6) Limitation on refiling. No appeal, request, or application to the board of adjustment shall be allowed with respect to the same parcel of land, building, or structure prior to the expiration of six months from the date of the ruling of the board unless a substantial change of circumstances or conditions can be demonstrated by the applicant.

(7) Recordation of orders of the board. Whenever the board of adjustment shall have acted upon an appeal, application for special exception, or variance the board shall cause its order granting or denying said appeal or application to be recorded in the land records of the county recorder of deeds, however, no order shall be recorded until the order has become final by the passage of 30 days from the date said order is filed in the department of planning and development without an action being filed in a court of competent jurisdiction challenging the issuance of said order or until a court of competent jurisdiction upholds said order if it is challenged within said 30-day period.

ZONING ORDINANCE SECTIONS SUBJECT TO THE APPEAL:

The following excerpts contain pertinent passages from the Zoning Ordinance:

Sec. 36-454. - Signs.

(20) *Scenic corridor overlay district.*

- (a) *Purpose.* The scenic corridor overlay district is intended to promote the health, safety, and general welfare of the public by encouraging the conservation, preservation and enhancement of the scenic qualities and landscape of scenic roadway areas. The purposes of this district are to:

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1. Preserve the scenic character of designated roadways and, where possible, preserve scenic views from the roadways and to implement the parkway concept as set forth in the city's comprehensive plan;
 2. Maintain the natural beauty of the landscape as it currently exists along designated roadways;
 3. Encourage development this is compatible with and, where possible, enhances such natural beauty; and
 4. Encourage safe and efficient traffic flow along designated scenic roadways for all modes of travel.
- (b) *General provisions.* Off-premises signs located within a scenic overlay district shall conform to the standards and regulations set forth in subsections (17)(a) and (d) unless such regulations are in conflict with the regulations set forth in this section. In the event of a conflict in regulations, the regulations contained in this section shall control. No off-premises advertising shall be oriented toward James River Expressway.
- (c) *Location.* These regulations shall apply to any property within 660 feet off the nearest edge of the right-of-way of the designated scenic roadway, notwithstanding any other provision of this article. Off-premises detached signs that would be oriented towards streets other than the designated scenic corridor are permitted only if the signs surface containing copy is not visible or oriented towards the designated scenic corridor. The ARC, in consultation with the Missouri Highway and Transportation Department, shall publish a map showing those properties falling within the 660 feet of the right-of-way within the scenic corridors.
1. No off-premises sign along any scenic corridor shall be closer than 2,500 feet from any other off-premises sign including those outside the scenic corridor overlay district as measured radially from the nearest portion of the signs or sign structures.
 2. The maximum effective area of the sign shall be 128 square feet.
 3. The maximum height of the sign and sign structure along any designated scenic corridor shall be 20 feet above the highest paved portion of right-of-way adjacent to the property where the sign is installed.
 4. These roadways where the city is mandated by state law to allow off-premises signs shall be included in the "scenic corridor overlay district:"
 - a. James River Freeway and U.S. 60;
 - b. West By-Pass and U.S. 160; and
 - c. Kansas Expressway north of the nearest paved area of I-44 and south of the nearest paved area of the James River Freeway and U.S. 60.
- (d) *Exceptions.*
1. Off-premises signs oriented towards streets not within the "scenic corridor overlay district" shall be permitted within any scenic corridor overlay district. The administrative review committee shall review all proposed off-premises detached signs within the "scenic corridor overlay district" to determine whether the requirements of this section are met. An off-premises detached sign shall be permitted if it is oriented generally perpendicular to a street not within the "scenic corridor overlay district" and the sign cannot be read from a roadway within the "scenic corridor overlay district" down its length for an extended distance.
 2. The city shall have the option to allow the relocation of existing off premises detached signs impacted by a state or city highway improvement project within the "scenic corridor overlay district," irrespective of the provisions of subsection (21), based on the requirements of subsection (18). If the sign is allowed to be relocated, the provisions of subsection (21) shall not apply to the sign, except as provided in subsection (17).

COMPREHENSIVE PLAN:

The *Growth Management and Land Use Plan* element of the *Comprehensive Plan* identifies this as an appropriate area for Medium-Intensity Retail, Office or Housing. This mixed category indicates that a variety of office, commercial and/or mid-or high-density housing may be appropriate at major intersections or along certain roadway corridors.

The Major Thoroughfare Plan element of the *Comprehensive Plan* classifies West By-Pass as an Expressway roadway.

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The *Community Physical Image* Plan element of the *Comprehensive Plan* recommended amending the city zoning ordinance for off-premise signs to reduce the zoning districts in which they may be located, introduce minimum spacing requirements, prohibit roof-top billboards, and generally decrease their allowable number.

PUBLIC NOTIFICATION:

The property was posted by the applicant at least 10 days prior to the public hearing. Public notice letters were sent out at least 10 days prior to the public hearing to all property owners within 185 feet.

Notices sent to property owners within 185 feet: Mailed: 6 Returned: 1

DEPARTMENT COMMENTS

BUILDING DEVELOPMENT SERVICES COMMENTS:

No comments.

CITY UTILITIES:

City Utilities has no opinion on this.

CLEAN WATER SERVICES COMMENTS:

No conflict with public sewer.

FIRE DEPARTMENT COMMENTS:

No comments.

MODOT COMMENTS:

No comments.

PUBLIC WORKS TRAFFIC DIVISION COMMENTS:

No comments.

STORMWATER COMMENTS:

This is in the floodplain but not in the floodway. There is no city stormwater infrastructure that might be in conflict.

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PROPERTY DESCRIPTION:

EXHIBIT 1 APPEAL A-70

A tract of land situated in the NE1/4 of the SE1/4 of Section 17, Township 29N Range 22W, City of Springfield, Greene County, Missouri and more particularly as follows: commencing at the NW corner of said NE1/4 of the SE1/4 of Section 17; thence S 89°32'1"E along the N line of said NE1/4 of the SE1/4 a distance of 859.74' to a point; thence S 1°41'1" W a distance of 1109.01' to a point on the N right of way line of Burlington Northern Railroad, thence S 78°19'00" E along said N right of way line a distance of 209.48' to the point of beginning; thence N 01°58'00" E a distance of 449.49' to a point for corner; thence N 41°39'5" E a distance of 344.52' to a point of the W right of way line of US Highway 66 Bypass; thence S 1°58'00" W along said W right of way line a distance of 752.30' to a point on said N right of way line of Burlington Northern Railroad; thence N 78°19'00" W along said N right of way line a distance of 223.20' to said point of beginning and containing 3.03 acres or land more or less, subjection to all easements and/or rights of way.



Application for Board of Adjustment Appeal of Administrative Decision

E-PLANS INSTRUCTIONS

PLEASE FOLLOW STEPS 1 & 2 BEFORE SUBMITTING THIS APPLICATION

1. Pre-apply and, if needed, pay your processing fees online at this [LINK](#)
2. Wait for a "pre-screen complete" e-mail from the City of Springfield with instructions for e-plans review process.
3. Complete this application and upload a digital (pdf) copy through e-plans.

Office Use Only

Case No.	
Date Filed	
Received By	
Receipt No.	

Fee Amount Paid? \$ _____

*See Fee Schedule

The signers of this application appeal to the Board of Adjustment of the City of Springfield, Missouri, that the determination of Darren Neal revoking Sign permit # SGN2017-00460 made on the 10th day of January, 2018, is in error because of the following facts (attach separate sheets if necessary):

See suggestions of Pioneer Outdoor, LLC in support of its application for Board of Adjustment Appeal of Administrative Decision.

This appeal involves the following described property:

LAND DESCRIPTION (an attached sheet may be used):

2.95A M/L BEG 859.74 FT E & 1109.01 FT S & 209.48 FT E NW CO R NE1/4 SE1/4 17/29/22 N 449.49 FT NELY 344.52 FT S 752.30 FT WLY TO BEG (EX NEW R/W)

It is requested that a hearing be held in this matter, in which the applicant may appear in person or by agent or by attorney, and present to the Board sufficient evidence so that the Board may reverse the decision of the administrative official.

We, the undersigned, do attest to the truth and correctness of all facts and information presented with this application.

Applicant's Information:

Name of current property owner: Pioneer Outdoor, LLC / Springfield Sign

If corporation: Corporate Official: Mark Wessell

Mailing Address: 4825 E Kearney Street Springfield, MO Zip Code: 65803

Telephone: 417.862.2454 Fax: 417.862.1887 E-mail: loram@springfieldsign.com

APPLICANT'S SIGNATURE: _____

Owner:

Patricia Johnson aka Patricia Bridgeman Patricia Johnson

(if corporation, need signature of one official)

CHECKLIST FOR BOARD OF ADJUSTMENT APPEAL OF ADMINISTRATIVE DECISION

This checklist is designed to help you make sure that you submit everything that is required for a complete appeal application and that you fill out the application form completely. Applications must be in the Development Review Office no later than deadline day (see Processing Time Schedule). Applications received after the deadline will be processed for the following Board of Adjustment meeting. This application must be complete or it will be returned to the applicant and will not be placed on the agenda. Close attention to the checklist will help avoid a delay in your case being heard by the Board of Adjustment.

APPLICATION FORM:	
☒	Have you listed the name and title of the Administrative Official who made the decision you are appealing? Have you listed the date of that decision? You have 30 days from the date of that decision to file an appeal with the Development Review Office.
☒	Have you included the legal description of the land involved in the appeal? You may attach the description on a separate sheet.
☒	Have you listed the address of the property?
☒	Have you explained why you believe the administrative official made an error in his/her decision? The applicant shall bear the burden of producing evidence establishing the grounds of the appeal. If you need additional space, you may use additional pages.
☒	Have you listed the name, address and telephone and fax numbers of the applicant?
☒	Has the applicant signed the application form? If the applicant is a corporation, have you put the corporate seal on the application?
APPLICATION FEE:	
☒	Have you determined your application fee from the Fee Schedule and entered it into the Fee Amount Paid box on page 1. (Fees are non-refundable) The application fee, recording fee, a mailing list fee can be paid when you submit the application on the City's Fee Payment site at this LINK .

SUGGESTIONS OF PIONEER OUTDOOR, LLC IN SUPPORT OF ITS APPLICATION FOR BOARD OF ADJUSTMENT APPEAL OF ADMINISTRATIVE DECISION

Applicant: Pioneer Outdoor, LLC, and its contractor Springfield Sign

Property Location: 715 N. West Bypass, Springfield, Missouri

Appeal: January 10, 2018 Revocation of SIGN PERMIT No. SGN2017-00460, by Darren Neal, Sign Enforcement Officer, City of Springfield Office of Building Development Services

COMES NOW, Pioneer Outdoor, LLC, for its suggestions in support of its Application for Board of Adjustment Appeal of Administrative Decision states as follows:

This appeal concerns the revocation of an off-premises sign permit issued to Pioneer Outdoor, LLC on December 21, 2017, Sign Permit No. SGN2017-00460, and a related stop work order for the construction of the sign. The revocation and stop work order were issued by Darren Neal, Sign Enforcement Officer, City of Springfield Office of Building Development Services on January 10, 2018 (the "Decision").

This appeal is timely pursuant to Section 36-364 of the Land Development Code of the City of Springfield, Missouri, having been filed by the Applicant within thirty (30) days of the Decision of an administrative officer of the City, Darren Neal.

The subject off-premises sign and the permits for the sign are for a property located at 715 N. West Bypass in the City of Springfield (the "Property"). The record owner of the Property is Patricia Bridgeforth, and a portion of the Property has been leased to Pioneer Outdoor for purposes of constructing and maintaining the sign.

On November 2, 2017 Pioneer Outdoor received a Sign Permit No. 205247 from MODOT, pursuant to R.S. MO. Chapter 266, for the sign on the Property (the "MODOT Permit"). **See Exhibit A.** The Property being adjacent to West Bypass/U.S. 160 is a roadway under the jurisdiction of MODOT. **See Exhibit A-1**, current MODOT Greene County, Missouri map of ODA Billboard Controlled Routes.

On December 21, 2017 Pioneer Outdoor received a Sign Permit from the City of Springfield Building Development Services, No. SGN2017-00460 (the "City Permit") for the sign to be located on the Property. **See Exhibit B.** The construction plans for the sign were approved by the City of Springfield Building Development Services on December 26, 2017.

In reasonable reliance on the MODOT Permit and the City Permit, Pioneer Outdoor proceeded with its plans to acquire and construct the sign on the Property. This included site work conducted by Pioneer Outdoor's contractor, Springfield Sign, the delivery and unloading of the sign structure on the Property, payment of the manufacturing of the digital signboard, and advance rent on the Property for the sign, and related expenses. Through January 10, 2018, the date of the Decision that is the subject of this appeal, Pioneer Outdoor has incurred expenses in excess of \$156,000.00. A detailed time line of work and expenses incurred by Pioneer Outdoor is set forth on the following summary.

On January 9, 2018, the sign structure footing work performed by Springfield Sign on the Property was inspected and approved by the City of Springfield. **See Exhibit D.**

On January 10, 2018, Springfield Sign received an email from Darren Neal containing the revocation of the City Permit and the stop work notice relating to the sign on the Property. **See Exhibit E.** A letter followed with this email from Darren Neal received by Springfield Sign on January 18, 2018. **See Exhibit F.** In the Decision revoking the City Permit and issuing the stop work order, Darren Neal admitted that the City Permit was “issued in error” purportedly in violation of the Scenic Corridor Overlay District contained in Section 36-454 (20) of the Land Development Code (the “Scenic Corridor”), which permits by its terms off-premises signs as required by R.S. MO Sections 266.500 to 266.600, but with separation and size requirements more restrictive than Sections 266.500 to 266.600.

Pioneer Outdoor reasonably relied on the issuance of the MODOT Permit and the City Permit in proceeding with its sign on the Property, and as a result of its reasonable reliance Pioneer has suffered and will continue to suffer damages arising from this detrimental reliance. Under the facts of this matter it would be inequitable to allow the Decision to stand. Further in balancing the equities of this matter, Pioneer Outdoor has acted without fault and in full compliance with the City’s requirements as contained in the City Permit, and the City has admittedly acted with fault and in error. The equities clearly favor Pioneer Outdoor, and as such the City should be estopped from revoking the City Permit and entering the stop work order as provided in the Decision, and the appeal of the Decision should be decided in favor of Pioneer.

In addition to the equities that favor Pioneer Outdoor in this appeal, the purposes of the Scenic Corridor to the extent that this applies to the Property, will not be harmed by this one instance of a new sign being allowed that exceeds the height and size requirements of 36-454 (20). The Property is located in a manufacturing and commercial area with no particular scenic views, and no implemented parkway concept, as distinguished, generally, from U.S. 160/ West Bypass, which, on the whole, has natural and scenic views sought to be protected by the Scenic Corridor.

Based on the these suggestions Pioneer Outdoor respectfully requests that this application for appeal be determined in favor of Pioneer Outdoor, that the Board overturn the Decision and require that the City Permit be reinstated or re-issued to Pioneer Outdoor, that the stop work order be rescinded, and for such other and further relief to which Pioneer Outdoor may be entitled.

To further assist the Board in its determination, Pioneer Outdoor has prepared the following summary of events and expenditures resulting from the City’s error.

SUMMARY OF EVENTS AND EXPENDITURES

10-25-17 Permission of Property Owner, Patricia Johnson, for sign application to MODOT for 715 N. West Bypass, Springfield, Missouri, by Pioneer Outdoor, LLC.

11-2-17 MODOT Sign Permit issued No. 205247 on Johnson Bridgeforth property, 715 N. West Bypass, Springfield, Missouri for Pioneer Outdoor, LLC. **See Exhibit A.**

11-17-17 Sign Plans by Productivity Fabricators, Inc. sealed.

12-7-17 Sign Board ordered from Watchfire Signs, LLC Base Price \$82,000.00.

12-7-17 Pioneer Outdoor and Springfield Sign enter agreement for Sign Construction costs of \$16,875.00.

12-11-17 Sign Structure Ordered from Productivity Fabricators, Inc. \$30,900.00 plus freight \$1900.00, and 50% balance paid by Pioneer Outdoor on 12-21-17, balance of \$17,350.00 remains due from Pioneer Outdoor.

12-20-17 Pioneer Outdoor deposit of \$43,000.00 for Sign Board received by Watchfire Signs, balance paid 1-23-18 \$38,464.50.

12-21-17 City of Springfield, Building Development Services SIGN PERMIT No. SGN2017-0040 Issued for Pioneer Outdoor Off Premises Sign, Bridgeforth property, 715 N. West Bypass. **See Exhibit B.**

12-21-17 Pioneer Outdoor advance payment of rent on sign location lease for Bridgeforth property, 715 N. West Bypass, \$10,000.0

12-26-17 City of Springfield Building Services, by Chris Straw, approves Sign Plans by Productivity Fabricators, Inc., for Pioneer Outdoor Sign, 715 N. West Bypass. **See Exhibit C.**

12-29-17 Dig Rite performs site inspection for excavation.

1-4-18 Springfield Sign marks hole location for Pioneer Outdoor Sign Structure.

1-5-18 Excavation for Pioneer Sign Structure started.

1-8-18 Excavation for Pioneer Sign Structure completed. Sign Structure from Productivity Fabricators unloaded at 715 N. West Bypass. Work performed on setting the rebar case. Hydro Crane brought on site to set the Sign Structure Column Base.

1-9-18 Sign Structure Footing inspection approved by the City of Springfield. **See Exhibit D.** In excess of 49 cubic yards of concrete poured for Pioneer Sign Structure base and finished.

1-10-18 Email from Darren Neal to Lora Martinson of Springfield Sign notifying of error in issuing sign permit and posting of stop work order. **See Exhibit E.**

1-18-18 Stop Work Notice received by Springfield Sign from City of Springfield, Certified Mail, by Darren Neal, Sign Enforcement Officer. Undated, with reference to January 10, 2018 email. See Exhibit F.

DAMAGES TO PIONEER OUTDOOR BASED ON ITS DETRIMENTAL RELIANCE ON THE ACTIONS OF THE CITY.

OUT OF POCKET DAMAGES

Sign Board	\$81,464.50
Sign Construction Costs	\$16,875.00
Sign Structure	\$32,800.00
Sign Location Rent	\$10,000.00
Sign Electrical	\$15,000.00
Misc. Permitting	\$370.00
Total	\$156,509.50

LOST PROFIT DAMAGES

Loss of anticipated Sign Rent Annually	\$30,000.00
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EXHIBIT A



MISSOURI DEPARTMENT OF TRANSPORTATION

OUTDOOR ADVERTISING PERMIT

MoDOT Permit Number: 205247

Expiration Date: 11/2/2019

☒ Conforming Permit ☐ Conforming Out of Standard ☐ Nonconforming Permit

In accordance with Section 226.550 RSMo and 7 CSR 10-6.070, this BILLBOARD permit is being issued to PIONEER OUTDOOR LLC, 520 S UNION AV, SPRINGFIELD, MO 65802 for a CONFORMING sign in a(n) COMMERCIAL area located along US 160 E at county log mile 20.22 on the RIGHT side of the road in GREENE County on property owned by PATRICIA BRIDGFORTH, 1630 BRADFORD PARKWAY , SPRINGFIELD, MO 65804.

This permit is conditioned upon the accuracy and continued existence of the material facts as represented by the applicant in the "Missouri Department of Transportation Application for Permit to Erect and/or Maintain Outdoor Advertising" (Permit Application) and on the applicant's complete compliance with Sections 226.500 to 226.600 RSMo, as amended and 7 CSR 10-6, as amended. This Outdoor Advertising Permit incorporates by reference the Permit Application and any written amendments thereto, as if restated herein word for word. At any time after the permit is issued, the Missouri Highways and Transportation Commission reserves the right to remove the sign at the applicant's expense if it finds, in its sole determination, that the applicant misrepresented the facts in the Permit Application, the material facts represented in the Permit Application cease to exist, or the applicant failed to comply with the above referenced statutes and regulations. If at any time, this sign is completely destroyed, this permit becomes void and the sign cannot be rebuilt until a new permit is issued.

Ed Hassinger
Chief Engineer

Date Printed: 11/2/2017

Additional forms and information available at http://www.modot.org/business/Outdoor_Advertising

Our mission is to provide a world-class transportation experience that delights our customers and promotes a prosperous Missouri.

Revised 04/2014



SIGN PERMIT

Site Address: **715 N WESTBYPASS BYP**

Parcel #:

Project: **PIONEER OUTDOOR BILLBOARD**

Project #: **PRJ2017-01695**

Permit #: **SGN2017-00460**

Created by: **jlayton**

Issued: **12/21/2017**

Expires: **06/19/2018**

Issued by: **jlayton**

CONTRACTOR

SPFD SIGN & NEON INC
LORA MARTINSON
2531 N PATTERSON AVE
SPRINGFIELD, MO 65803
862-2454

OWNER

BRIDGEFORTH, PATRICIA LEE
(GEORGE)
BRIDGEFORTH, PATRICIA LEE (GE
BRIDGEFORTH, PATRICIA LEE
(GEORGE)
1630 E BRADFORD PKWY H
SPRINGFIELD, MO 65804

TENANT

PERMIT DESCRIPTION:

PIONEER OUTDOOR BILLBOARD - 715 N WEST BYPASS EXPY

OFF PREMISE SIGN.

LEGAL DESCRIPTION:

Type of Sign: Off Premise Type of Work: NEW Illuminated: ☒ Flashing: ☐ Animated: ☐ Zoning District:	Sign Dimensions: 40' X 36' Sign Area: 360 SF Project into ROW: ☐ Existing Signs: Attached to Existing Sign: ☐ Type of Material: STEEL / EMC Estimated Value: 50000	Temporary Signs Permit Duration: Display Date: Removal Date: Location of Sign:
--	---	---

Fee Description	Payment Method	Check / Confirmation Number	Amount Paid
Permit Fee Payment	PAID IN PRJ		229.00
Total:			\$229.00

REQUEST AN INSPECTION ONLINE AT: www.springfieldmo.gov/inspect OR CALL 864-1066.
YOU MAY ALSO CHECK PERMIT STATUS & INSPECTION ACTIVITY AT www.springfieldmo.gov/permitstatus

I HEREBY CERTIFY THAT THE PROPOSED WORK IS AUTHORIZED BY THE OWNER OF RECORD AND I AM THE OWNER OR HAVE BEEN AUTHORIZED BY THE OWNER AS HIS AUTHORIZED AGENT TO APPLY FOR THIS PERMIT.

PRINT NAME

SIGNATURE

Please check appropriate box: ☐ Contractor ☐ Designer ☐ Owner / Lessee

EXHIBIT D

Permit Status and Project Summary

[Go Back](#)

City of Springfield Permit Summary

FOR INFORMATIONAL PURPOSES ONLY - NOT A VALID PERMIT

Permit No.: SGN2017-00460 **Project No.:** PRJ2017-01695 ?

Permit Type: Sign **Status:** Issued ?

Name: BRIDGEFORTH, PATRICIA LEE (GEO BRIDGEFORTH, PATRICIA LEE (GEORGE) **Received:** 12/21/2017 ?

Address: 715 N Westbypass Byp **Issued:** 01/26/2018 ? **Finalized:** ?

Description: PIONEER OUTDOOR BILLBOARD - 715 N WEST BYPASS EXPY OFF PREMISE SIGN.

Use: Off Premise **Work:** New sign

Illuminated: Y

Sign Dimensions: 40' X 36' **Sign Area:** 360 SF

Estimated Value: \$50,000.00

People Involved

Role	Name	Primary
Property Owner	BRIDGEFORTH, PATRICIA LEE (GEO BRIDGEFORTH, PATRICIA LEE	Y

PAIRICIA LEE
(GEORGE)

Contractor LORA
MARTINSON

Activities

Description	Received	Completed	Disposition	Done By
(F) Issue permit	12/21/2017			jlayton
Application received	12/21/2017			jlayton
Inspection Requested				
Notes: FOOTING	1/8/2018			bpears
Early Afternoon - 12:30 p.m.				
Telephone call				
Notes:	1/8/2018			bpears
Canceled by Contractor.				
Inspection				
Notes: footing. As per plan	1/9/2018	1/9/2018	Approved	daderhold
Inspection Requested				
Notes: FOOTING	1/9/2018			daderhold
Around 10:00 A.M.				
(F) Re-Issue permit				
Notes: Copy for DNeal	1/26/2018			bdouglas

Fees

Fee	Amount	Paid	Due
Permit Fee	\$229.00	\$229.00	\$0.00
Total:	\$229.00	\$229.00	\$0.00

EXHIBIT E

From: Neal, Darren [<mailto:dwneal@springfieldmo.gov>] **Sent:** Wednesday, January 10, 2018 11:47 AM **To:** Lora Martinson **Cc:** Gonseth, Vicki **Subject:** 715 N Westbypass PRJ2017-01695

Lora, we made an error issuing a permit on this sign as does not meet the requirements of the Scenic Corridor Overlay District 36-454 (20). The maximum height is restricted to 20' and the maximum area allowed is 128 square feet. The sign must also be 2500' from any other off premise signs. I will be posting a stop work order on the sign in a few minutes. We will be forwarding a formal notice to you outlining the specific ordinances that would not be in compliance and the procedures for you to file an appeal with the Board of Adjustment.



EXHIBIT F

Springfield Sign and Neon
4825 E Kearney St
Springfield, Mo 65803

Re: (SGN2017-00460)
715 N. Westbypass
Springfield, Mo

Dear Mark Wessel,

This correspondence is a follow up to the email sent on January 10, 2018, notifying Springfield Sign and Neon that sign permit SGN2017-00460 was issued in error on 12-21-2017. A stop work order was posted on January 10, 2018 and the permit has been revoked as authorized in Section 36-133 of the Land Development Code.

The location referenced above is within the Scenic Corridor Overlay District and off premise signs within this district must comply with city ordinance 36-454 (20). Section 36-454 (20) allows a maximum height of 20', total area of 128 square foot and requires a minimum 2500' separation from all other off premise signs.

Revised plans can be submitted under the current project number PRJ2017-01695 and a review will be conducted to verify compliance with all applicable ordinances. If compliance is achieved, a new sign permit will be issued and the stop work order lifted at that time.

You also have the option of filing a no cost appeal to the Board of Adjustment as outlined in ordinance 36-364. The appeal must be filed within 30 days of your notice of the decision on January 10, 2018. For information regarding the appeal process contact the Planning and Zoning Department at 417-864-1611.

Sincerely

A handwritten signature in black ink, appearing to read 'Darren Neal', written over the word 'Sincerely'.

Darren Neal

Sign Enforcement Officer

Office of Building Development Services
Busch Municipal Building • 840 Boonville Avenue
Springfield, Missouri 65802 • 417-864-1059 • springfieldmo.gov

County Name:
GREENE



Legend

- ODA Billboard Controlled Routes
- State Routes
(IS, US, MO, RT, LP, BU)
- Other State Routes
- County Road
- City Street
- Urban Area
- County

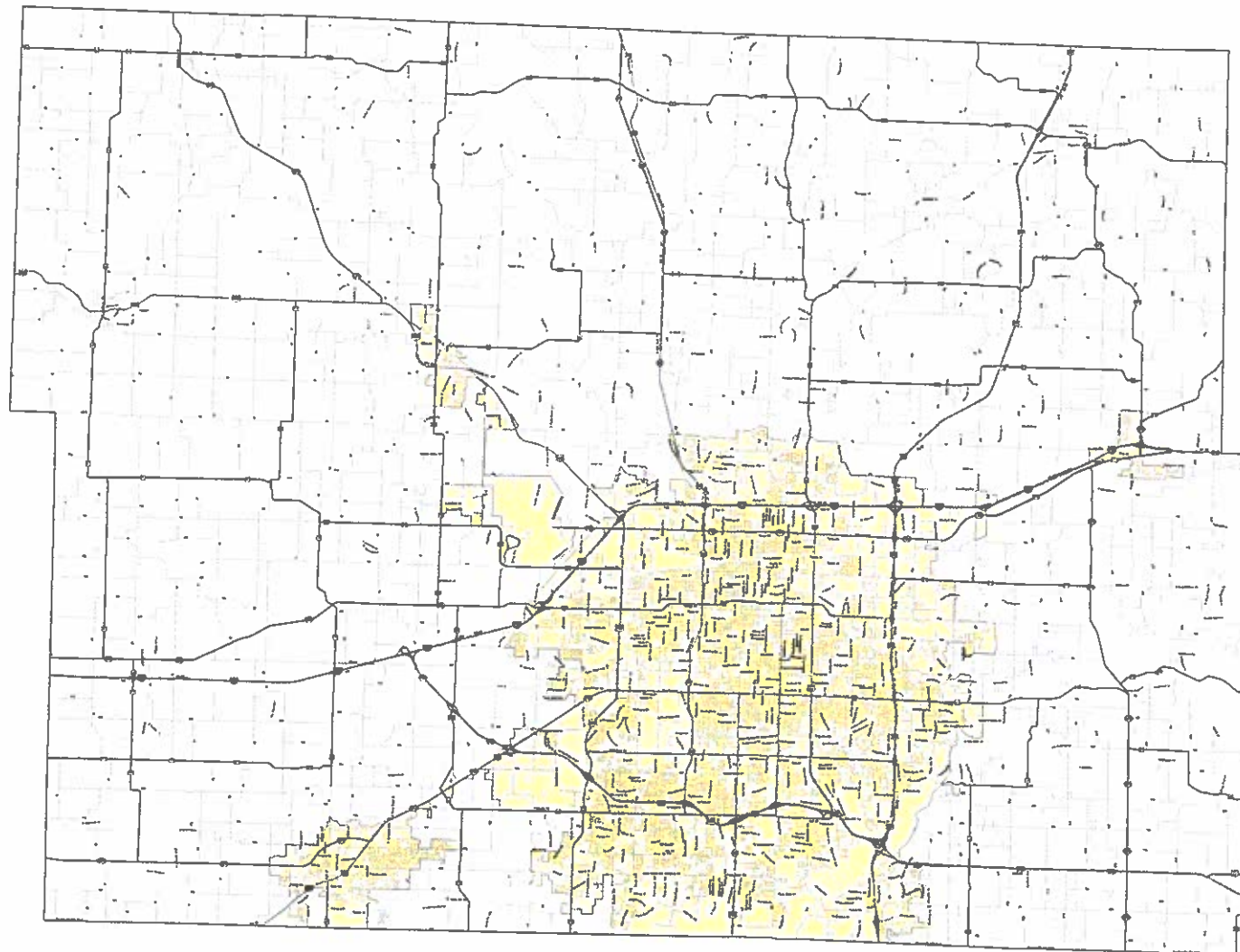


Exhibit A-1



Missouri Department of Transportation
Transportation Planning
1-888-ASK-MODOT
WWW.MODOT.ORG
Date: 3/4/2015

REVIEWED FOR COMPLIANCE WITH THE CITY CODE, ADOPTED BUILDING
 CODE, AND ORDINANCES. THIS REVIEW AND
 APPROVAL DOES NOT RELIEVE THE DEVELOPER OR HIS AGENTS OF ANY
 RESPONSIBILITY FOR COMPLIANCE WITH ALL APPLICABLE REQUIREMENTS,
 ORDINANCES OR OVERLEAFING REQUIREMENTS OF OTHER JURISDICTIONS
 OR AGENCIES. ALSO SEE SPECIALLY NOTED REQUIREMENTS.

12/26/17

LEGAL DESCRIPTION: 2.95A M/L BEG 859.74 FT E
 & 1109.01 FT S & 209.48 FT E NW CO R NE1/4
 SE1/417/29/22 N 449.49 FT NELY 344.52 FT S
 752.30 FT WLY TO BEG (EX NEW R/W)

NEW BILLBOARD
 (CORNER ON R)

PRJ2017-01695

12
4 43

15
2 27

25'
OFF OF R/W
(REQUIRED FOR
BILLBOARDS)

65'
OFF OF
R/W &
(REQUIRED FOR
ALL SIGNS)

WEST BYPASS
(EXPRESSWAY)



SCALE 1" = 60'

Project No.: 15181
 Drawn By: DB
 Reviewed By: VM
 Date: 12-09-17
1 OF 1
PIONEER OUTDOOR ADVERTISING
NEW SIGNAGE
715 N. WEST BYPASS
SPRINGFIELD, MO 65802
SIGN PLACEMENT PLAN

LOCATION:
SPRINGFIELD, MO

SPRINGFIELD SIGN
 4825 E. Kearney
 Springfield, MO 65803
 (417) 862-2454

DATE: 11/16/17	DATE IN: 11/16/17
12' x 30' EXT. FLAG (LE), 15V, 25' MAGL	
PIONEER OUTDOOR	66-9264