

**WHITLEY COUNTY BOARD OF ZONING APPEALS
STAFF REPORT**

23-W-VAR-15 DEVELOPMENT STANDARDS VARIANCE
80/20, LLC
1701 S. 400 East

JULY 25, 2022
AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning: IPM, Industrial Park/Manufacturing
Property area: 17.7± acres

The petitioner, owner of the subject property, is requesting a development standards variance to permit an electronic message center (EMC). The property is located at the northeast corner of US 30 and 400 East in Section 16 of Union Township.

As proposed, an existing freestanding sign with a static electronic sign would be modified to include a new EMC that would permit more frequent message changes and colors. The double-sided EMC would be approximately 3'x8', for a total electronic sign area of just over 48 sq. ft. No other dimensional changes are proposed and the overall sign area would be compliant.

The zoning code prohibits EMCs under Section 8.3(K), so signs using an EMC require a variance.

REVIEW CRITERIA

Indiana Code §36-7-4-918.5 and Section 10.10 of the Zoning Code state the criteria listed below upon which the Board must base its review. Staff's comments/proposed findings of fact under each criterion.

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

The requested variance will not likely be injurious to the public health or morals, as non-obscene signs generally have negligible effect on those factors. If the EMC is regulated to minimize flashing/motion and glare that could cause unusual distraction or harmful brightness, then it is unlikely to impact the public safety. The granting of a variance for an electronic sign may affect the general welfare, as it could be viewed as a precedent for construction of more electronic signs. If granted, well-defined conditions should be included that reflect the circumstances of the site and the use so that any other requests may be held to similar standards dependent on their particular sites.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

The proposed sign encroachment may not substantially nor adversely affect the use and value of the area adjacent to the property since the proposed sign does not significantly change an existing situation.

3. The strict application of the terms of the Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction or restriction of economic gain.

Electronic message centers are becoming more commonplace throughout the country and region, and regulations have been adopted in many communities that effectively mitigate the adverse effects that the digital signs have. If the proposed EMC is reasonably regulated to mitigate those effects, the strict application of the code would likely cause practical difficulties.

SUGGESTED CONDITIONS

If the Board moves to grant the variances, the following are suggested conditions of the approval:

1. The sign shall not appear to flash, undulate, pulse, or portray explosions, fireworks, flashes of light or blinking or chasing lights.
2. Electronic messages may not change more rapidly than once every one and one-half (1.5) seconds.
3. Electronic messages may not require more than ten (10) seconds to display in its entirety.
4. The sign shall have a sensor or other device that automatically determines the ambient illumination and be programmed to automatically dim according to ambient light conditions.

Date report prepared: 7/11/2023

BOARD OF ZONING APPEALS ACTION

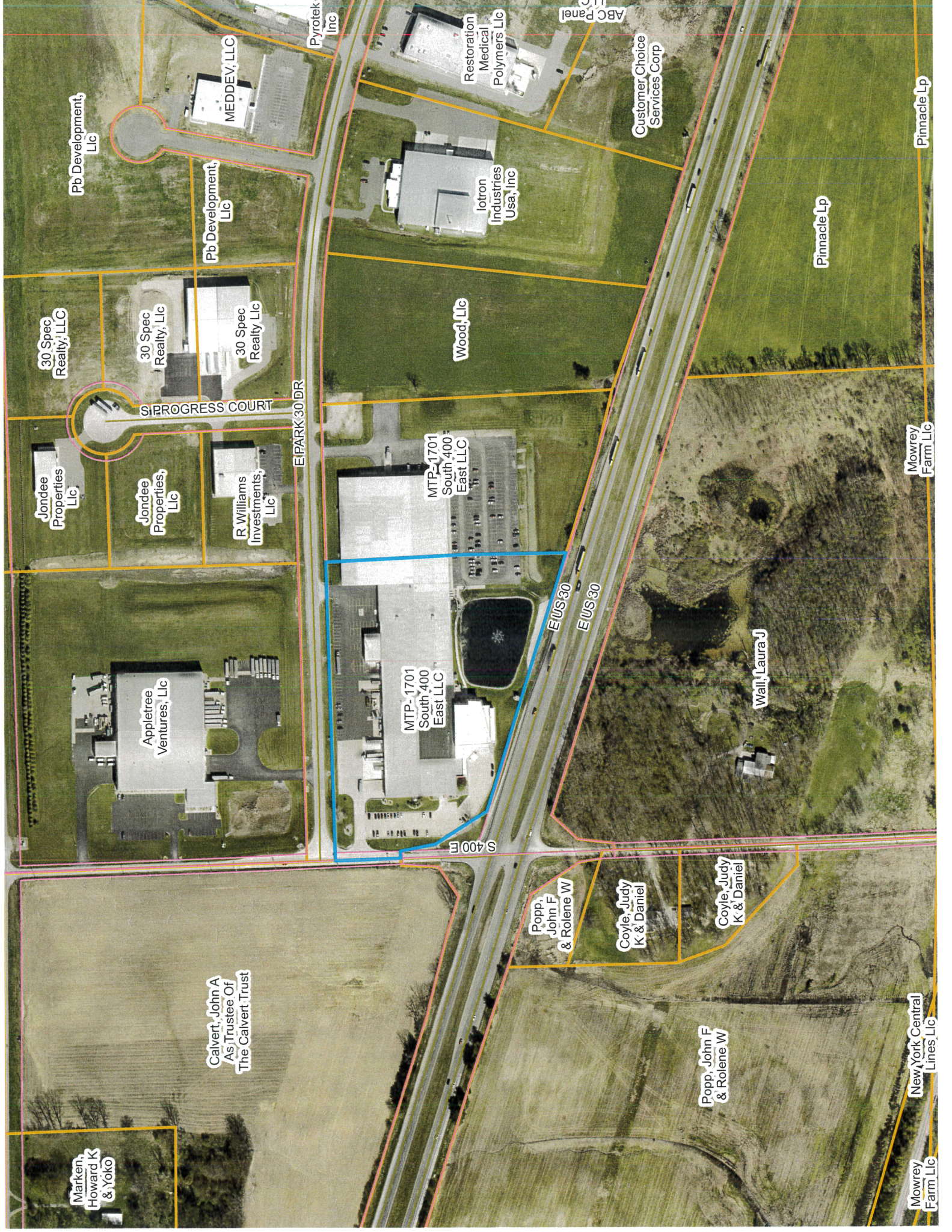
Findings of Fact Criteria

	Vote: Green		Sheiss		Wilkinson		Wolf		Wright	
	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>	<i>Yes</i>	<i>No</i>
<i>Criterion 1</i>										
<i>Criterion 2</i>										
<i>Criterion 3</i>										

Motion: Grant
 Grant w/conditions
 Deny

By: _____ Second by: _____

Vote:	Green	Sheiss	Wilkinson	Wolf	Wright
<i>Yes</i>					
<i>No</i>					
<i>Abstain</i>					



Marken,
Howard K
& Yoko

Calvert, John A
As Trustee Of
The Calvert Trust

Appletree
Ventures, LLC

Jondee
Properties
Lic.

Jondee
Properties,
LIC

R Williams
Investments,
LIC

30 Spec
Realty, LLC

30 Spec
Realty, Lic

30 Spec
Realty Lic

Pb Development,
Lic

Pb Development,
Lic

MEDDEV, LLC

Pyrotek
Inc

MTP- 1701
South 400
East LLC

MTP-1701
South 400
East LLC

Wood, Lic

Iotron
Industries
Usa, Inc

Restoration
Medical
Polymers Lic

ABC Panel
LLC

Customer Choice
Services Corp

S 400 E

E US 30

E US 30

EIPARK 30 DR

SIPROGRESS COURT

Wall, Laura J

Popp,
John F
& Rolene W

Coyle, Judy
K & Daniel

Coyle, Judy
K & Daniel

Popp, John F
& Rolene W

Mowrey
Farm Lic

New York Central
Lines, Lic

Mowrey
Farm Lic

Pinnacle Lp

Pinnacle Lp